

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chair Bianchi, on February 16, 1993, at 5:10 p.m.

ROLL CALL

Members Present:

Sen. Don Bianchi, Chair (D)
Sen. Bob Hockett, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Lorents Grosfield (R)
Sen. Tom Keating (R)
Sen. Ed Kennedy (D)
Sen. Bernie Swift (R)
Sen. Chuck Swysgood (R)
Sen. Henry McClernan (D)
Sen. Larry Tveit (R)
Sen. Cecil Weeding (D)
Sen. Jeff Weldon (D)

Members Excused: None.

Members Absent: None.

Staff Present: Paul Sihler, Environmental Quality Council
Leanne Kurtz, Committee Secretary

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

Committee Business Summary:

Hearing: SB 388
Executive Action: SB 339, SB 284, SB 294, SB 319, SB 334,
SB 343

HEARING ON SB 388

Announcement:

Chair Bianchi announced that because SB 388 had not been printed until Monday, February 15, the Committee would follow a different hearing procedure for SB 388. He said the Committee will hear all proponents in attendance for SB 388, and the hearing will remain open until Wednesday, 2/17 when the Committee hears SB 401. At that time, the Committee will hear opponents for SB 388

as well as proponents and opponents for SB 401.

Opening Statement by Sponsor:

Senator Charles Swysgood, SD 37, stated SB 388 clarifies water quality nondegradation policy. He said SB 388 defines degradation, allows for mixing zones, and requires the Board of Health to adopt rules governing the use of mixing zones. Sen. Swysgood stated the current nondegradation policy is defined in 75-5-303, MCA. He said Department of Health and Environmental Sciences (DHES) rules, not statute, currently define degradation. Sen. Swysgood said the current definition is so broad, that it can be interpreted to mean any change in water quality. He added the definition proposed in Section 1 is in line with the Environmental Protection Agency's (EPA) most recent guidance document on nondegradation, which states that only statistically significant changes in water quality should be subject to regulatory proceedings. Sen. Swysgood discussed the definition of high quality waters and mixing zones in SB 388. He said mixing zones are a "necessary part of any system which is based on setting a standard for receiving waters", but the current statute does not provide for them.

Proponents' Testimony:

Alan Joscelyn, Helena attorney, said SB 388 contains common sense suggestions for changes offered by people who have had experience with the current nondegradation statute. He said he does not believe SB 388 contains contentious material. Mr. Joscelyn said Section 4 restates the current statute in its entirety, similar to SB 401, DHES's proposed nondegradation bill. He explained Section 2, noting it is important that the Board have the authority to delegate various functions to DHES.

John Fitzpatrick, Pegasus Gold, described how the nondegradation process works. He discussed the water quality standards developed by Montana and the federal government, including instances which would trigger a nondegradation review. Mr. Fitzpatrick said when a developer seeks to discharge an effluent, discharge and nondegradation standards must be met. He said the current nondegradation law has not been enforced and needs to be updated. Mr. Fitzpatrick added nondegradation does not only apply to the mining industry, but to anybody with a potential point source discharge. He said current law contains no clear definition of nondegradation, which makes the law impossible to administer. Mr. Fitzpatrick said all water in Montana could presently be considered "high quality water", irrespective of the water's chemical nature. He stated all water should not be treated as pristine, and the "law needs to reflect the reality of what's out there on the ground". Mr. Fitzpatrick stated the law should protect "true high-quality streams and true high-quality ground water resources", but recognize that different uses require different qualities of water.

Peggy Trenk, Western Environmental Trade Association (WETA), read from written testimony (Exhibit #1). She also distributed the results of a water quality opinion poll and a copy of a Board of Health presentation from 01/24/1992 (attached to Exhibit #1).

Janelle Fallan, executive director, Montana Petroleum Association (MPA), said her organization does not object to environmental regulation or to environmental protection. She said MPA does object to a permitting process which will stifle activity and not do anything to protect the environment. Ms. Fallan said the current law is unworkable.

Don Allen, Montana Wood Products Association (MWPA), said MWPA participated in discussions regarding water nondegradation, and stated MWPA is concerned about the future implications on major and minor point sources. Mr. Allen added MWPA is also concerned about best management practices (BMPs) as they relate to timber harvesting.

Ted Doney, representing ASARCO, Inc. and the Montana Dairymen's Association, said the current law is unclear and unworkable.

John Bloomquist, Montana Stockgrowers' Association, said he is concerned with the nondegradation policy as it relates to feed lots. He said SB 388 is an attempt at clarity, and urged the Committee's support.

David Owen, Montana Chamber of Commerce, said SB 388 would allow Montana to move ahead economically in an environmentally safe way.

Informational Testimony:

Dan Fraser, chief, Montana Water Quality Bureau, Department of Health and Environmental Sciences (DHES), read from written testimony (Exhibit #2).

Opponents' Testimony:

Dennis Olsen, Northern Plains Resource Council (NPRC), said NPRC members will be arriving to testify against SB 388 on Wednesday, 2/17. He said members of the Cottonwood Resource Council (an organization affiliated with NPRC) have been dealing with nondegradation issues as they relate to mine permitting for about 4 years. Mr. Olsen stated NPRC believes that new or expanded sources should not be eligible for exemptions from nondegradation rules. He added a new federal rule adopted by the Board of Health stipulates that if a company wants an exemption, DHES must conduct an assessment of all upstream non-point sources of pollution. Mr. Olsen said SB 388 is "shifting the burden of nondegradation from new or increased point sources of pollution onto existing non-point sources of pollution" (farmers, ranchers,

loggers, etc.). He said DHES was not able to answer questions about how it would handle requests for exemptions. Mr. Olsen stated that there are some waters, particularly in eastern Montana, that are not very high quality. He added NRPC members in the Bull mountains are facing a mine permitting situation where the Water Quality Bureau has not dealt with the issue of nondegradation. He stated that springs in the upper areas of the mountains are Class I ground waters which feed streams in the lower reaches of the mountains and prevent them from becoming too contaminated.

Questions From Committee Members and Responses:

Sen. Doherty asked Mr. Joscelyn who he represented and what the status is of nondegradation lawsuits in which he is involved. Mr. Joscelyn said he is associated with Gough, Shanahan, Johnson and Waterman, a Helena law firm. He added current litigation involves applications of Stillwater Mining Company and Stillwater PGM Resources, which has proposed a mine on the East Boulder River. Mr. Joscelyn stated that both companies have been through nondegradation proceedings. He said NRPC and the Cottonwood Resource Council have brought suit against the Stillwater PGM application, and a separate group has brought the same lawsuit against the Stillwater application. Mr. Joscelyn said his interpretation of the current statute is different from Mr. Olsen's interpretation. Sen. Doherty asked if someone from DHES could provide a historical overview of the number of people who have applied for exemptions and received them. Mr. Joscelyn said he believes the number of those cases is limited. Sen. Doherty asked if the court has made any rulings regarding disputes over interpretation of the statute. Mr. Joscelyn said the court has stopped the Board of Health from proceeding with hearing the Stillwater petition on the allegation that it is outside the Board's jurisdiction. He added no substantive rulings have been made to clarify interpretation of the current law.

Dan Fraser admitted he does not know the exact number of nondegradation authorizations granted, but named Sun Prairie Village near Great Falls, the City of Anaconda, and Stone Container as specific entities that have received them.

Sen. Hockett asked Mr. Fraser how he would define "reasonable land, soil, and water management conservation practices" referred to on p. 2 of SB 388. Mr. Fraser said the Water Quality Standards include that definition, and noted the phrase comes from the Water Quality Act. He added that the language "equates very closely with what we now consider to be best management practices". Referring to page 9 of SB 388, Sen. Hockett said the "important economic or social development" language seems subjective, and asked Mr. Fraser how he would decide what is important. Mr. Fraser replied the language is subjective, and added the intent of the original act was to balance economic and

social development with water quality.

Sen. Grosfield asked Mr. Fraser to provide an example of narrative standards, and discuss whether there might be both numeric and narrative standards with respect to a particular chemical. Mr. Fraser discussed the standards for nitrate as it pertains to risk to humans. He said the narrative standard for nitrate prohibits addition of contaminants that cause objectionable aquatic growth or harmful conditions. Mr. Fraser said nitrate or another chemical could be discharged without violating numeric standards, but would violate narrative standards if it caused an algae bloom. He added the conditions under which violations may occur vary from stream to stream.

Sen. Doherty said up until about 2 years ago, the policy in Montana was that if an individual wanted to be a new or expanded source of pollution, a pollution (nondegradation) exemption could not be obtained. He continued that the policy has since changed, and under SB 388 or SB 401, pollution would be allowed "within certain very strict parameters". Mr. Fraser said he does not think there has been a change in policy and DHES's interpretation has been that the policy applies to new and expanded sources.

Sen. Bianchi asked Mr. Fraser if the Environmental Protection Agency (EPA) has established nondegradation quality standards for Montana. Mr. Fraser said EPA has minimum requirements for its anti-degradation policy. He added that a year ago DHES's rules had not been approved by EPA, but the Department revised them and EPA had since accepted them. Sen. Bianchi stated Montana is currently in compliance with EPA regulations and asked if SB 388 or SB 401 would change that status. Mr. Fraser stated he does not believe SB 388 is as protective of water quality as SB 401, adding he does not know what EPA's position would be. He said if either bill passes, a number of nondegradation implementation rules will have to be written. Sen. Bianchi asked Mr. Olsen for his opinion.

Mr. Olsen stated Bob Erickson at EPA told him that the rules approved by the Board of Health have been submitted, but not yet approved by the EPA. Mr. Olsen said EPA had problems with the rules over 4 years ago, and failed to make the state correct the problems within 90 days. NPRC filed a notice of intent to sue under the Federal Clean Water Act to prompt the state to upgrade the rules. Mr. Olsen stated EPA has since pressured DHES to draft rules, which Mr. Erickson told him had not yet been submitted to EPA.

Mr. Fraser said DHES's attorney had just informed him that Mr. Olsen was correct in that EPA has not formally approved the rules.

Closing by Sponsor:

Sen. Swysgood agreed to close after the rest of the opponents testified on Wednesday, February 17.

EXECUTIVE ACTION ON SB 339**Motion:**

Sen. Weeding MOVED TO AMEND SB 339 (SB033901.PCS).

Discussion:

Sen. Weeding said his suggested amendments would make a public referendum just one criteria of the Megalandfill Siting Act. The Department of Health would not be bound to comply with the referendum, but would have to consider it during the permitting process. He continued the amendments also clarify that SB 339 addresses commercial dangerous waste incineration. Sen. Weeding asked Mr. Sihler to explain the amendments.

Mr. Sihler said individuals from the DHES solid waste program saw an earlier conceptual draft of the amendments, but had not yet evaluated them. He said the two significant points of the amendments are: 1) it would apply only to incineration of dangerous waste, rather than disposal, and; 2) DHES's permitting decision would no longer be vetoed by the results of a referendum, rather DHES would have to consider the referendum during the permitting process. Mr. Sihler stated the amendments define a commercial dangerous waste incineration facility, clearly excluding hospitals and oil refineries. He explained amendments #10 and #11 stipulate that a referendum must be conducted at the end of an environmental review, and must be held if a permit application is amended. Mr. Sihler said the amendments require DHES to explain how the referendum affected its decision whether or not to issue a license. He said New Section 5 deals with DHES's issuance of air quality permits. Mr. Sihler stated a commercial incineration facility accepts dangerous waste from other sources.

Sen. McClernan asked who would pay for the referenda. Sen. Weeding stated the county would conduct and pay for the elections.

Sen. Swysgood said he opposes SB 339 because multiple referenda would be costly to local governments and discouraging to business. He added SB 339 as amended should have a fiscal note because of the impacts on local governments.

Sen. Keating said SB 339 as amended would require that a new referendum automatically be held each time an application is changed, adding a 15% petition would not be necessary. Sen.

Keating stated applications are often amended because the applicant must conform with environmental protection regulations. Sen. Weeding said he thinks the public should be able to vote with each new application revision. Sen. Keating said SB 339 would allow the public to pass judgement on proposals before the experts have had time to deal with the facts.

Sen. Weeding said the Megalandfill Siting Act requires the permitting entity to consider social factors and local sentiment during the permitting process. He added SB 339 simply places more emphasis on those factors.

Sen. Bartlett said she shared Sen. Keating's concerns before the amendments were proposed. She said the amendments place the referendum at a point in the permitting process where an environmental review has been conducted and sufficient factual information is present. Sen. Bartlett said the substantive nature of the amendments have met her original objections to the bill.

Sen. Hockett asked Jerome Anderson, Holnam Inc., to comment on the amendments. Mr. Anderson said the amendments do nothing to improve SB 339, and only exacerbate the difficulty of the application process. Sen. Hockett asked who would review the referenda as part of a permitting process.

Mr. Sihler stated the Board of Health would review a referendum in the case of a megalandfill, and DHES would evaluate a referendum involving a commercial dangerous waste incineration facility. Sen. Hockett said the state agencies are somewhat isolated from local communities, so they would not be subject to local political pressures.

Mr. Anderson advised the Committee that the permitting process as it is includes ample opportunity for public comment.

Sen. Bianchi asked if amendments to applications are common. Roger Thorvilson, DHES, said it is typical for permit applications to be changed in the review process. Sen. Weeding stated the referendum would occur only after final review. Sen. Bianchi asked if there were often changes after the final application is made. Mr. Sihler clarified that the "timing of the referendum is after the environmental review is conducted". Mr. Thorvilson said there would be relatively few significant changes to applications between completion of an environmental review and the decision to issue a permit.

Mr. Olsen said the intent of the amendments is to allow companies to address people's concerns about siting and try again to locate in an area.

Sen. Tveit said tying a voting procedure to the siting act sets a dangerous precedent.

Sen. McClernan said Butte considered allowing Ross Electric to locate in the area, so he sympathizes with residents in Baker, but he is concerned about allowing public referenda.

Vote:

The MOTION TO AMEND SB 339 CARRIED with Sen. Grosfield, Sen. Tveit, Sen. Swysgood, Sen. McClernan, Sen. Keating, and Sen. Swift voting NO.

Motion/Vote:

Sen. Weeding MOVED SB 339 DO PASS AS AMENDED. The MOTION CARRIED with Sen. Grosfield, Sen. Tveit, Sen. Swysgood, Sen. McClernan, Sen. Keating, and Sen. Swift voting NO.

EXECUTIVE ACTION ON SB 284

Motion:

Sen. Weldon MOVED TO AMEND SB 284 (SB028401.PCS).

Discussion:

Sen. Weldon said John Geach, section supervisor, DHES Solid and Hazardous Waste Bureau, suggested amending SB 284 to correct a wording discrepancy. Sen. Weldon distributed a memo from Mr. Geach explaining the suggested amendments (Exhibit #2E).

Vote:

The MOTION TO AMEND SB 284 CARRIED UNANIMOUSLY.

Motion/Vote:

Sen. Weldon MOVED SB 284 DO PASS AS AMENDED. The MOTION CARRIED with Sen. Swysgood, Sen. Tveit, and Sen. Grosfield voting NO.

EXECUTIVE ACTION ON SB 294

Motion:

Sen. Keating MOVED TO AMEND SB 294 (SB029402.ATE).

Discussion:

Sen. Keating said the amendments change the definition of coal to comply with the request of the Department of State Lands (DSL). He added the amendments adjust subdivision language, and deal with waste of methane gas.

Vote:

The MOTION TO AMEND SB 294 CARRIED UNANIMOUSLY.

Motion:

Sen. Keating MOVED TO AMEND SB 294 (SB029403.ATE).

Discussion:

Sen. Keating said the Department of Revenue requested the amendments, discussing the definition of "gas" as added on p. 4 into the Department of Revenue's codes. He added the rest of the amendments are existing language.

Vote:

The MOTION TO AMEND SB 294 CARRIED UNANIMOUSLY.

Motion/Vote:

Sen. Keating MOVED SB 294 DO PASS AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 319

Motion:

Sen. Hockett MOVED TO AMEND SB 319 (SB031901.PCS).

Discussion:

Sen. Hockett explained the amendments (Exhibit #5E). Sen. Bartlett asked if the amendments replaced definitions in the current law. Sen. Hockett said definitions were replaced where applicable.

Vote:

The MOTION TO AMEND SB 319 CARRIED with Sen. Bartlett voting NO.

Motion/Vote:

Sen. Hockett MOVED SB 319 DO PASS AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 334**Motion:**

Sen. Grosfield MOVED TO AMEND SB 334 (SB0330401.PCS).

Discussion:

Sen. Grosfield explained his amendments (Exhibit #6E), noting Sen. Beck suggested the additions in amendment 3 to address concerns about Section 4 of SB 334. Sen. Grosfield said amendment 3 allows a local government to petition the Department of Agriculture to adopt rules which address specific local conditions.

Sen. Doherty said SB 334 as amended would still preempt local authority.

Sen. Grosfield discussed how unique local situations would be dealt with.

Sen. Weeding asked Gary Gingery, Department of Agriculture, what the difference is between this issue and a control area under the Agriculture Chemical Control Act. Mr. Gingery said under the Act, the department can create specific management plans to control local situations. He continued that the amendments allow a local entity to petition the department to pass rules local governments could implement.

Sen. Doherty asked if local governments could adopt standards different from the Department of Agriculture's standards. Mr. Gingery said he does not believe local governments would have that authority.

Sen. Hockett said he interprets the amendments differently from Mr. Gingery. Mr. Gingery said he misunderstood Sen. Doherty's question. He stated local governments would have to show valid reasons for wanting to adopt different standards, and if the department agreed with the science, it could adopt rules to allow the change.

Motion:

Sen. Bianchi MADE A SUBSTITUTE MOTION TO AMEND SB 334 (SB033401.PCS).

Discussion:

Sen. Grosfield stated he will oppose Sen. Bianchi's amendments (Exhibit #7E) because he believes his own amendments are a compromise which address concerns about local governments losing control.

Vote:

The MOTION CARRIED with Sen. Hockett, Sen. Grosfield, Sen. Keating, Sen. Swift, Sen. Swysgood, and Sen. Tveit voting NO.

Motion/Vote:

Sen. Grosfield MOVED TO AMEND SB 334 (SB033403.DBS). The MOTION CARRIED UNANIMOUSLY.

Motion/Vote:

Sen. Grosfield MOVED SB 334 DO PASS AS AMENDED. The MOTION CARRIED with Sen. Swysgood voting NO.

EXECUTIVE ACTION ON SB 343

Motion:

Sen. Swift MOVED TO AMEND SB 343 (SB034301.AMK).

Discussion:

Sen. Swift explained his amendments (Exhibit #9E).

Sen. Bartlett said she has worked with exemptions for 8 years, and is concerned that amendment 10 could be interpreted differently in each county. Sen. Swift responded he thinks the amendment is straightforward.

Sen. Keating stated SB 343 as amended would shorten the review process on additional tracts.

Vote:

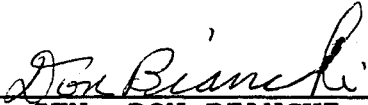
The MOTION TO AMEND SB 343 CARRIED UNANIMOUSLY.

Motion/Vote:

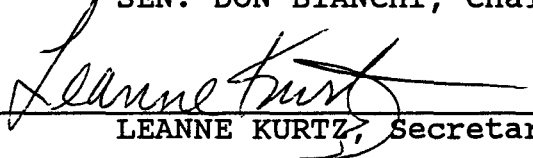
Sen. Hockett MOVED TO TABLE SB 343. The MOTION CARRIED with Sen. Keating, Sen. Swift, Sen. Swysgood, and Sen. Tveit voting NO.

ADJOURNMENT

Adjournment:



SEN. DON BIANCHI, Chair



LEANNE KURTZ, Secretary

DB/lk

ROLL CALL

SENATE COMMITTEE

Natural Resources

DATE

2/16

NAME	PRESENT	ABSENT	EXCUSED
Bianchi	✓		
Hockett	✓		
Bartlett	✓		
Doherty	✓		
Grosfeld	✓		
Keating	✓		
Kennedy	✓		
Swift	✓		
Gwynsgood	✓		
McClernan	✓		
Tulit	✓		
Weeding	✓		
Weldon	✓		

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
February 17, 1993

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration Senate Bill No. 339 (first reading copy -- white), respectfully report that Senate Bill No. 339 be amended as follows and as so amended do pass.

Signed: Don Bianchi
Senator Don Bianchi, Chair

That such amendments read:

1. Title, line 5.

Following: "OR"

Insert: "COMMERCIAL"

2. Title, line 6.

Following: "WASTE"

Insert: "INCINERATION"

Following: ";

Insert: "AMENDING SECTIONS 75-10-929 and 75-10-935, MCA;"

3. Page 1.

Following: line 10

Insert: "(1) (a) "Commercial dangerous waste incineration facility" means a facility that accepts, for the purpose of incineration, dangerous waste generated by a different person.

(b) Commercial dangerous waste incineration facility does not mean:

(i) a hospital or other medical facility that accepts dangerous waste for the purpose of incineration from another hospital or medical facility in Montana or a state contiguous to Montana; or

(ii) an oil refinery that accepts dangerous waste from an oil company for the purpose of incineration."

Renumber: subsequent subsections

4. Page 2, line 11.

Page 2, line 18.

Strike: "25"

Insert: "15"

5. Page 2, line 12.

Page 2, line 16.

Following: "or"

Insert: "commercial"

Following: "waste"

Insert: "incineration"

6. Page 2, line 13.

Following: "whether"

Insert: "the public supports the licensing of"

7. Page 2, line 13.

Page 2, line 18.

Following: "or"

Insert: "commercial"

8. Page 2, line 14.

Page 2, line 19.

Following: "facility"

Strike: "may be licensed"

9. Page 2, line 14.

Page 2, line 19

Following: "waste"

Insert: "incineration"

10. Page 2.

Following: line 16

Insert: "(2) A petition for a referendum may be submitted at any time prior to a determination by the department that an application for a license required pursuant to 75-2-211 or for a certificate required pursuant to 75-10-916 is complete.

(3) The referendum must be held subsequent to:

(a) the completion of any environmental review document required pursuant to Title 75, chapter 1, part 2; and

(b) a hearing conducted pursuant to 75-10-924, if required."

Renumber: subsequent subsections

11. Page 2, line 21 through page 3, line 9.

Strike: subsections (3) through (5) in their entirety

Insert: "(4) A new referendum must be held each time an applicant amends an application. The petition required under subsection (1) is not required in order to conduct a referendum under this subsection."

Renumber: subsequent subsections

12. Page 3.

Following: line 9

Insert:

"Section 3. Section 75-10-929, MCA, is amended to read:

"75-10-929. Decision of board -- findings necessary for certification. (1) Within 90 days after submission of the recommended decision by the department, the board shall make complete findings, issue an opinion, and render a final decision

upon the record, either granting or denying the application for a certificate as filed or granting it upon terms, conditions, or modifications of the siting of the facility as the board considers appropriate.

(2) The board may not grant a certificate either as proposed by the applicant or as modified by the board unless it finds and determines:

- (a) the nature of the probable environmental impact;
 - (b) that the facility minimizes adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives;
 - (c) that the location of the facility as proposed conforms to applicable state and local laws and regulations, except that the board may refuse to apply any local law or regulation if it finds that, as applied to the proposed facility, the law or regulation is unreasonably restrictive in view of the existing technology, of factors of cost or economics, or of the needs of consumers, whether located inside or outside of the directly affected government subdivisions;
 - (d) that the facility will serve the public interest;
 - (e) any impacts of the facility according to each of the criteria listed in 75-10-920;
 - (f) the solid waste disposal needs listed in 75-10-920(4);
- and
- (g) that the applicant has fully mitigated the loss of wildlife habitat, through either onsite or offsite habitat improvements.

(3) In determining that the facility will serve the public interest, the board shall consider:

- (a) the items listed in subsections (2)(a) and (2)(b);
 - (b) the benefits to the applicant and the state resulting from the proposed facility;
 - (c) the effects of the economic activity resulting from the proposed facility;
 - (d) the effects of the proposed facility on the public health, welfare, and safety; ~~and~~
 - (e) the results of the referendum conducted pursuant to [section 2]; and
- ~~(e)~~ (f) any other factors that it considers relevant."

Section 4. Section 75-10-935, MCA, is amended to read:

"75-10-935. Opinion issued with decision -- contents. (1) In rendering a decision on an application for a license for a megalandfill, the department shall issue an opinion stating its reasons for the action taken.

(2) In addition to the requirements of 75-10-221, any license issued by the department shall include the following:

- (a) an environmental evaluation statement related to the megalandfill being certified. The statement must include but not be limited to analysis of the following information:
- (i) the environmental impact of the proposed facility;
 - (ii) any adverse environmental effects that cannot be avoided by issuance of the license;
 - (iii) problems and objections raised by other federal and state agencies and interested groups; and
 - (iv) alternatives to the proposed facility.
- (b) a plan for monitoring environmental effects of the proposed facility;
- (c) a plan for monitoring the certified megalandfill site between the time of certification and completion of construction; and
- (d) a statement signed by the applicant showing agreement to comply with the requirements of 75-10-901 through 75-10-945 and the conditions of the certificate; and
- (e) an explanation of how the results of the referendum conducted pursuant to [section 2] affected the licensing decision.

NEW SECTION. Section 5. Commercial dangerous waste incineration -- referendum. (1) As used in this section, the following definitions apply:

(a) "Commercial dangerous waste incineration facility" has the meaning as defined in [section 1].

(b) "Dangerous waste" has the meaning defined in [section 1].

(2) When issuing a permit pursuant to 75-2-211 for a commercial dangerous waste incineration facility, the department shall:

(a) require the applicant to provide public notice of intent to construct a commercial dangerous waste incineration facility at least 6 months prior to the submission of an application; and

(b) consider the results of the referendum conducted pursuant to [section 2] in making the decision to grant, deny, or modify a permit."

Renumber: subsequent sections

13. Page 3.

Following: line 18

Insert: "(3) [Section 5] is intended to be codified as an integral part of Title 75, chapter 2, part 2, and the provisions of Title 75, chapter 2, part 2, apply to [section 5]."

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 17, 1993

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration Senate Bill No. 284 (first reading copy -- white), respectfully report that Senate Bill No. 284 be amended as follows and as so amended do pass.

Signed: Don Bianchi
Senator Don Bianchi, Chair

That such amendments read:

1. Page 9, line 22.

Following: "operator"

Insert: "or the owner's or operator's designated licensed underground storage tank installer or remover"

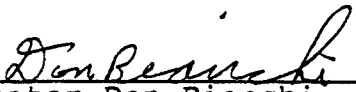
-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 6
February 17, 1993

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration Senate Bill No. 294 (first reading copy -- white), respectfully report that Senate Bill No. 294 be amended as follows and as so amended do pass.

Signed: 
Senator Don Bianchi, Chair

That such amendments read:

1. Title, line 5.

Following: "OIL";

Insert: "CLARIFYING THAT THE DEFINITION OF "GAS" IN THIS ACT ALSO APPLIES TO TITLE 15;"

2. Title, line 7.

Strike: "SECTION"

Insert: "SECTIONS 15-1-101 AND"

3. Page 1, lines 13 through 15.

Strike: "all" on line 13 through "formation" on line 15

Insert: "a combustible carbonaceous rock formed from the compaction and induration of variously altered plant remains. Coal does not include:

(a) methane gas or any other natural gas that may be found in any coal formation;
(b) oil shale; or
(c) gilsonite"

4. Page 5, line 18.

Following: "(16)"

Insert: "(a)"

5. Page 5, line 19.

Strike: "(a)"

Insert: "(i)"

6. Page 5, line 21.

Strike: "(b)"

Insert: "(ii)"

7. Page 5, line 23.

Strike: "(c)"

Insert: "(iii)"

8. Page 6, line 5.

Strike: "(d)"

Insert: "(iv)"

9. Page 6.

Following: line 10

Insert: "(b) The loss of gas to the atmosphere during coal mining operations is not waste within the meaning of this definition.

Section 4. Section 15-1-101, MCA, is amended to read:

"15-1-101. (Temporary) Definitions. (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and profit margin shown in national appraisal guides and manuals or the valuation schedules of the department of revenue.

(d) (i) The term "commercial", when used to describe property, means any property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except that property described in subsection (ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and, beginning January 1, 1994, forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation;

(D) mobile homes used exclusively as a residence except when held by a distributor or dealer of trailers or mobile homes as his stock in trade;

(E) all property described in 15-6-135; and

(F) all property described in 15-6-136.

(e) The term "comparable property" means property that has similar use, function, and utility; that is influenced by the

same set of economic trends and physical, governmental, and social factors; and that has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

(h) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

(i) The term "livestock" means cattle, sheep, swine, goats, horses, mules, and asses.

(j) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

(k) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements".

(l) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(m) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

(n) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8; all timber belonging to individuals or corporations

growing or being on the lands of the United States; and all rights and privileges appertaining thereto.

(o) "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(p) The term "taxable value" means the percentage of market or assessed value as provided for in Title 15, chapter 6, part 1.

(q) The term "weighted mean assessment ratio" means the total of the assessed values divided by the total of the selling prices of all area sales in the stratum.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board.

15-1-101. (Effective July 1, 1993) Definitions. (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and profit margin shown in national appraisal guides and manuals or the valuation schedules of the department of revenue.

(d) (i) The term "commercial", when used to describe property, means any property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except that property described in subsection (ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and, beginning January 1, 1994, forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation;

(D) mobile homes used exclusively as a residence except when held by a distributor or dealer of trailers or mobile homes as his stock in trade;

(E) all property described in 15-6-135; and

(F) all property described in 15-6-136.

(e) The term "comparable property" means property that has similar use, function, and utility; that is influenced by the same set of economic trends and physical, governmental, and social factors; and that has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) The terms "gas" and "natural gas" are synonymous and mean gas as defined in [section 1(2)]. The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas found in any coal formation.

(g)(h) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

(h)(i) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

(i)(j) The term "livestock" means cattle, sheep, swine, goats, horses, mules, and asses.

(j)(k) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

(k)(l) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements".

~~(l)~~(m) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

~~(m)~~(n) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

~~(n)~~(o) The term "real estate" includes:

- (i) the possession of, claim to, ownership of, or right to the possession of land;
- (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8; all timber belonging to individuals or corporations growing or being on the lands of the United States; and all rights and privileges appertaining thereto.

~~(o)~~(p) "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

~~(p)~~(q) The term "taxable value" means the percentage of market or assessed value as provided for in Title 15, chapter 6, part 1.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board."

Renumber: subsequent sections

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
February 17, 1993

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration Senate Bill No. 319 (first reading copy -- white), respectfully report that Senate Bill No. 319 be amended as follows and as so amended do pass.

Signed: *Don Bianchi*
Senator Don Bianchi, Chair

That such amendments read:

1. Title, line 4.

Strike: "CLARIFYING THE FEES FOR"

Insert: "EXEMPTING CONTAINER SITES FROM THE DEFINITION OF A"

2. Title, line 5.

Following: "MANAGEMENT"

Insert: "SYSTEM"

3. Title, line 5.

Following: "75-10-103"

Insert: ", 75-10-112,"

4. Title, line 6.

Strike: "75-10-115"

Insert: "75-10-203"

5. Page 3, line 17.

Following: "."

Insert: "For the purposes of this definition, a container site is not a component of a solid waste management system."

6. Page 3, lines 21 through 24.

Strike: "subsection (13) in its entirety"

7. Page 3, line 25 through page 4, line 24.

Strike: section 2 in its entirety

Insert:

"Section 2. Section 75-10-203, MCA, is amended to read:

"75-10-203. Definitions. Unless the context requires otherwise, in this part the following definitions apply:

(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(2) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(3) "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing of any solid waste into or onto the land so that the solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters, including ground water.

(4) "Household hazardous waste" means products commonly used in the home that due to corrosivity, ignitability, reactivity, toxicity, or other chemical or physical properties are dangerous to human health or the environment. Household hazardous waste includes but is not limited to cleaning, home maintenance, automobile, personal care, and yard maintenance products.

(5) "Household waste" means any solid waste derived from households, including single and multiple residences, hotels, and motels, crew quarters, and campgrounds and other public recreation and public land management facilities.

(6) "Municipal solid waste landfill" means any publicly or privately owned landfill or landfill unit that receives household waste or other types of waste, including commercial waste, nonhazardous sludge, and industrial solid waste. The term does not include land application units, surface impoundments, injection wells, or waste piles.

(7) "Person" means an individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private entity, whether organized for profit or not.

(8) "Resource recovery" means the recovery of material or energy from solid waste.

(9) "Resource recovery facility" means a facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

(10) "Resource recovery system" means a solid waste management system which provides for the collection, separation, recycling, or recovery of solid wastes, including disposal of nonrecoverable waste residues.

(11) "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage; rubbish; refuse; ashes; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; and wood products or wood byproducts and inert materials. "Solid waste" does not mean municipal sewage, industrial wastewater effluents, mining wastes regulated under the mining and reclamation laws administered by the department of state lands, slash and forest debris regulated under laws administered by the department of state lands, or marketable byproducts.

(12) "Solid waste management system" means a system which controls the storage, treatment, recycling, recovery, or disposal of solid waste. For the purposes of this definition, a container site, as defined in 75-10-103, is not a component of a solid waste management system.

(13) "Storage" means the actual or intended containment of wastes, either on a temporary basis or for a period of years.

(14) "Transport" means the movement of wastes from the point of generation to any intermediate points and finally to the point of ultimate storage or disposal.

(15) "Treatment" means a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any solid waste so as to neutralize the waste or so as to render it safer for transport, amenable for recovery, amenable for storage, or reduced in volume."

Section 3. Section 75-10-112, MCA, is amended to read:

"75-10-112. Powers and duties of local government. A local government may:

(1) plan, develop, and implement a solid waste management system consistent with the state's solid waste plan and propose modifications to the state's solid waste plan;

(2) upon adoption of the state plan by the board, pass an ordinance or resolution to exempt the local jurisdiction from complying with the state plan and subsequent rules implementing the state plan. The ordinance or resolution must include a means to provide solid waste disposal to the citizens of the jurisdiction as required in part 2 of this chapter.

(3) employ appropriate personnel to carry out the provisions of this part;

(4) purchase, rent, or execute leasing agreements for equipment and material necessary for the implementation of a solid waste management system;

(5) cooperate with and enter into agreements with any persons in order to implement an effective solid waste management system;

(6) receive gifts, grants, or donations or acquire by gift, deed, or purchase land necessary for the implementation of any provision of this part;

(7) enforce the rules of the department or a local board of health pertaining to solid waste management through the appropriate county attorney;

(8) apply for and utilize state, federal, or other available money for developing or operating a solid waste management system;

(9) borrow from any lending agency funds available for assistance in planning a solid waste management system;

(10) finance a solid waste management system through the assessment of a tax as authorized by state law;

(11) sell on an installment sales contract or lease to a person all or a portion of a solid waste management system which the local government plans, designs, or constructs, for such consideration and upon such terms as are established by the local governments and consistent with the loan requirements as set forth in this part and rules;

(12) procure insurance against any loss in connection with property, assets, or activities;

(13) mortgage or otherwise encumber all or a portion of a solid waste management system when the local government finds the action is necessary to implement the purposes of this part, as long as the action is consistent with the loan requirements set forth in this part and rules;

(14) hold or dispose of real property and, subject to agreements with lessors and lessees, develop or alter the property by making improvements or betterments for the purpose of enhancing the value and usefulness of the property;

(15) finance, design, construct, own, and operate a solid waste management system or contract for any or all of the aforementioned powers;

(16) control the disposition of solid waste generated within the jurisdiction of a local government;

(17) enter into long-term contracts with local governments and private entities for:

(a) financing, designing, constructing, and operating a solid waste management system;

(b) marketing all raw or processed material recovered from solid waste;

(c) marketing energy products or byproducts resulting from processing or utilization of solid waste;

(18) finance an areawide solid waste management system through the use of any of the sources of revenue available to the implementation entity for public works projects, by the use of revenue bonds issued by the city or county, or by fees levied by a refuse disposal district, whichever is appropriate;

(19) enter into interlocal agreements in order to achieve and implement the powers enumerated in this part;

(20) regulate the siting and operation of container sites."
Renumber: subsequent sections

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 17, 1993

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration Senate Bill No. 334 (first reading copy -- white), respectfully report that Senate Bill No. 334 be amended as follows and as so amended do pass.

Signed: Don Bianchi
Senator Don Bianchi, Chair

That such amendments read:

1. Title, lines 15 and 16.

Strike: "ESTABLISHING" on line 15 through ";" on line 16

2. Title, line 18.

Following: "PROVIDING"

Insert: "EFFECTIVE DATES AND"

3. Page 2, line 16.

Strike: "9"

Insert: "8"

4. Page 10, line 21 through page 11, line 3.

Strike: section 4 in its entirety

Re-number: subsequent sections

5. Page 25.

Following: line 9

Insert: "(c) A government agency may not be required to pay more than \$600 annually for the licensing of employees as applicators and operators."

Re-number: subsequent subsection

6. Page 26, line 3.

Strike: "[Sections 3 and 4] are"

Insert: "[Section 3] is"

7. Page 26, line 5.

Strike: "[sections 3 and 4]"

Insert: "[section 3]"

8. Page 26.

Following: line 5

Insert: "NEW SECTION. Section 12. Effective date. [Section 4(9)(b) and this section] are effective on passage and approval."

Re-number: subsequent section

9. Page 26, lines 7 and 8.

Strike: "6(5), 7(2), 8(4), 9(7), and 10(3)(a)(ii), (3)(b)(ii) and
(3)(c)"

Insert: "5(5), 6(2), 7(4), 8(7), and 9(3)(a)(ii), (3)(b)(ii), and
(3)(d)"

-END-

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES BILL NO. SB 339AA

DATE 2/16 TIME 7:00pm A.M. P.M.

NAME	YES	NO
Chairman Bianchi	X	
Vice Chairman Hockett	X	
Sen. Bartlett	X	
Sen. Doherty	X	
Sen. Grosfield		X
Sen. Keating		X
Sen. Kennedy	X	
Sen. McClellan		X
Sen. Swift		X
Sen. Suysgood		X
Sen. Treit		X
Sen. Weeding	X	
Sen. Weldox	X	
	7	6

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: SB 339 Carries Do Pass

ROLL CALL VOTE

Amendment #1

SENATE COMMITTEE NATURAL RESOURCES BILL NO. SB 339

DATE 2/16 TIME 7: A.M. P.M.

NAME	YES	NO
Chairman Bianchi	X	
Vice Chairman Hockett	X	
Sen. Bartlett	X	
Sen. Doherty	X	
Sen. Grosfield		X
Sen. Keating		X
Sen. Kennedy	X	
Sen. McClellan		X
Sen. Swift		X
Sen. Suysgood		X
Sen. Treit		X
Sen. Weeding	X	
Sen. Weldox	X	
	7	6

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: TO Amend SB 339 (SB033901.PCS)
Carries

ROLL CALL VOTE

Amendment
SB 033401.PCS

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 334

DATE _____ TIME _____ A.M. P.M.

NAME	YES	NO
Chairman Bianchi	X	
Vice Chairman Hockett		X
Sen. Bartlett	X	
Sen. Doherty	X	
Sen. Grosfield		X
Sen. Keating		X
Sen. Kennedy	X	
Sen. McClellan	X	
Sen. Swift		X
Sen. Swysgood		X
Sen. Treit		X
Sen. Weeding	X	
Sen. Weldox	X	
	7	6

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: To Amend SB 334 Carries
SB 033401.PCS

ROLL CALL VOTE

Table

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 343

DATE 2/16/93 TIME _____ A.M. P.M.

NAME	YES	NO
Chairman Bianchi	X	
Vice Chairman Hockett	X	
Sen. Bartlett	X	
Sen. Doherty	X	
Sen. Grosfield	X	
Sen. Keating		X
Sen. Kennedy	X	
Sen. McClellan	X	
Sen. Swift		X
Sen. Suysgood		X
Sen. Treit		X
Sen. Weeding	X	
Sen. Weldon	X	
	9	4

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: To Table SB 343

WETA

Western Environmental Trade Association

*Aspen Court, 33 South Last Chance Gulch, Suite 2B
Helena, Montana 59601
Phone (406) 443-5541
Fax # 443-2439*

TESTIMONY BEFORE THE
SENATE NATURAL RESOURCES COMMITTEE
SB 388 WATER NONDEGRADATION

FEBRUARY 16, 1993

Mr. Chairman, Members of the Committee, my name is Peggy Olson Trenk and I am here today representing the Western Environmental Trade Association in support of Senate Bill 388.

WETA became involved in the nondegradation issue a little over a year ago when we were made aware of the difficulties mining companies were encountering in gaining variances for water quality in conjunction with their permits. Company representatives were frustrated by the Department of Health and Environmental Sciences apparent difficulty in determining exactly what the requirements were, a practice which had affectionately become known as the "theory of the week."

As a result of that, we took a look at existing law and at the rules adopted in 1982 and in doing so, discovered that while it had yet to be enforced, every industry, as well as municipal services and some recreational activities would ultimately be impacted. They just didn't know it yet.

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 2/16/93
BILL NO. SB 388

At about that same time, we received a copy of a memo drafted by Abe Horpestad in the DHES Water Quality Bureau that gave an overview of the nondegradation policy. Mr. Horpestad affirmed what we already anticipated...nondegradation is designed to address all activities of man, examples of which include new housing construction, cattle feedlots and family ranching operations, and timber harvests.

That being the case, given our broad membership representing many of those areas listed, WETA took on the task of bringing together those diverse interests to see if we could work with DHES and others to review existing rules and determine a rational process for implementing the intent of the nondegradation law in a manner that would not bring economic activity to a halt in Montana.

To that end, last May we provided the Department with suggested changes to the rules that we felt would assist in this effort and continued to encourage DHES to initiate a process for reviewing and revising the existing rules. We recognized that this input should be part of a larger public process and looked forward to participating in that as appropriate.

Meanwhile, a couple of other things happened. More industries and even municipalities recognized they too needed to take a look at the scope of the nondegradation law. Some met with DHES staff to

EXHIBIT #1
DATE 2-16-93
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discuss their concerns. DHES response continued to be, "Yes it does apply to you, but we just don't know how yet." Please understand I'm not finding fault with the Department for that statement. They are unclear as to how best to proceed.

At the same time as these activities were taking place, the Board of Health and Environmental Sciences, which must now hear all requests for a variance from the nondegradation policy, was finding itself holding lengthy hearings, one of which lasted 12 hours. Anyone who watched that process had to have misgivings as to how the Board would ever be able to handle the workload if every entity which should legitimately fall under this policy were to request a variance.

Thus, by last fall, it was abundantly clear that Montana was on a collision course with its nondegradation policy and WETA, along with others came to recognize that legislation was needed to give all of us, the Department, the regulated community and the public a clear and rational process to follow to protect water quality and to protect the economy.

That very worthy goal, we believe, is represented in the legislation you have before you today. This legislation is not an attempt to repeal the nondegradation law, nor is it an attempt to endanger water quality by giving anyone a blanket license to

"pollute". We just want workable and realistic water quality regulations that are fairly applied to all activities. This bill lays the groundwork for accomplishing that task.

Not only do we believe this process is important, but so do a majority of Montanans. I'd like to call your attention to a copy of the results of an opinion poll we commissioned last April to explore public concerns with regard to water quality, and most specifically the nondegradation issue.

The results illustrate that the public does support the nondegradation law, but also supports the exemption process for those activities that provide economic and social benefit. (Page 7). Those surveyed also made it emphatically clear that they did not favor regulations imposed under the nondegradation law that could limit or stop many development activities. (Pages 14-15)

To quote the conclusion set forth on page 19 of the survey, "Montanans believe the quality of their water is high. They want to keep it that way. They believe there should be a rational process for exemptions to water quality standards that meet social and economic needs while protecting quality of drinking water and aquatic life and habitat. They do not support a rigid, strict interpretation of the nondegradation standard to the detriment of

EXHIBIT #1
DATE 2-16-93
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the state's major industries."

That's all we're asking for with this legislation and we respectfully ask that you give it your approval.

Thank you again for the opportunity to testify.

This presentation is an attachment to Exhibit #1. The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

MONTANA BOARD of HEALTH

PRESENTATION

JANUARY 24, 1992

by

ABE HORPESTAD¹

¹ Department of Health and Environmental Sciences
Water Quality Bureau, Special Projects & Standards Section

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES'

TESTIMONY ON SB 388;

**"AN ACT CLARIFYING THE WATER QUALITY
NONDEGRADATION POLICY; DEFINING 'DEGRADATION' AND CERTAIN
OTHER TERMS; ALLOWING THE BOARD OF HEALTH AND ENVIRONMENTAL
SCIENCES TO ADOPT RULES GOVERNING THE USE OF MIXING ZONES
AND NONDEGRADATION POLICY IMPLEMENTATION; AND AMENDING
SECTIONS 75-5-103, 75-5-202, 75-5-301 AND 75-5-303 MCA."**

The Department of Health and Environmental Sciences recognizes the need for legislation to clarify the Water Quality Act's nondegradation policy. We are, however, concerned about the existing language in SB 388 because it is our belief that it may not be consistent with the Montana Water Quality Act, antidegradation rules promulgated under the Federal Clean Water Act and, lastly, we believe it to not be as protective of the quality of Montana waters as it should be. The department has a very similar bill which is scheduled to be heard by this committee tomorrow and we would respectfully request that you defer any action on SB 388 until you have the opportunity to compare the two bill in terms of their ability to achieve protection of the state's waters.

Some of the specific areas we would like to draw your attention to are as follows:

Page 2, line 13: "existinguses" should be defined and they should be defined in terms of uses that existed, or potentially could have existed, at the time of the passage of the Water Quality Act's original nondegradation policy.

Page 2, lines 16 & 17: We believe these two lines should be deleted because, arguably, land soil and water conservation practices which violate water quality standards should not be considered to be "reasonable".

Page 3, lines 21 - 24: This definition of high quality waters could conceivably eliminate many of Montana's surface waters from the "high quality" category, thereby, not affording them the protection of the nondegradation policy. This may not be acceptable to the U.S. EPA (we don't honestly know) and it, we believe, would not ensure that future generations enjoy the same quality of water that we now have.

Page 4, line 10: Numeric should be deleted. We have narrative standards which need to be used, in addition to numeric, to determine whether or not a lowering of water quality has occurred.

Page 4, lines 11 - 15: This section should be deleted after 'adopted,'. It makes an assumption

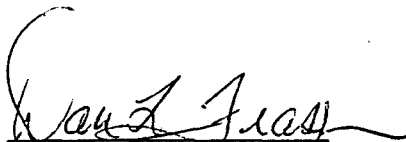
that is not accurate. Numeric criteria are not sufficient to protect water quality or uses of water. This was recognized by Congress when PL 92-500 was passed in 1972. It is, in part, why narrative standards exist and why biological standards are being developed.

Page 7, Section 2: We don't particularly object to this language but we'd prefer that the committee consider the procedural changes the department and administration is proposing in SB 401. The changes in SB 401 give the department the first decision with the right of appeal by interested parties to the board.

Page 9, line 10: We would prefer that "in the area in which the waters are located" be deleted and the wording changed such that it shows ownership of state waters by all the people of the state pursuant to the constitution.

Page 9, line 12: Again, here we'd like to see a definition of "existing uses".

This bill is, in many respects, very similar to our own. We, however, believe that additional clarification and guidance in terms of implementation of the policy is needed. SB 401 provides some of that clarification and guidance, therefore, we recommend that you wait until you have had the opportunity to compare the two before you take action on either.



*Dan L. Fraser, Chief
Water Quality Bureau*

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES
Solid and Hazardous Waste Bureau
Underground Storage Tank Program

MARC RACICOT, GOVERNOR (406) 444-5970

FAX # (406) 444-1499



STATE OF MONTANA

OFFICE LOCATION 836 Front Street
Helena, Montana

MAILING ADDRESS: Cogswell Building
Helena, MT 59620

MEMORANDUM

February 16, 1993

To: Senator Jeff Weldon

From: John C. Geach, Section Supervisor

Subject: Proposed Amendment to SB 284

During the Senate Natural Resources Committee hearing on SB 284, Senator Sue Bartlett pointed out a wording discrepancy in Section 4 and Section 7 of the proposed UST Installer Permitting Bill. Section 4, lines 3, 4 and 5 of page 7 state " A person may not install or close, or cause to be installed or closed, an underground storage tank system without a permit issued by the department as provided in 75-11-21."

Section 7, lines 21, 22, 23 and 24 of page 9 state " Before the installation or closure of an underground storage tank system, the owner or operator of an underground storage tank shall file a permit application with the department on forms provided by the department." Senator Bartlett asked if these two sections of the bill were in conflict with each other and the department's intent of the proposed legislation.

In reviewing these sections, I would like to offer the following amendment to Section 7, lines 22 and 23 on page 9 of SB 284:

"Before the installation or closure of an underground storage tank system, the owner or operator ~~or the owner's or operator's designated licensed underground storage tank installer or remover~~, shall file a permit application with the department on forms provided by the department."

This wording would bring Section 7 more into line with the department's intent of Section 4 and would allow the department to act on permit applications submitted by a licensed UST installer or remover on behalf of the underground storage tank owner or operator.

cc: Paul Sihler, Resource Scientist, Environmental Quality Council

SENATE NATURAL RESOURCES
EXHIBIT NO. 2E
DATE 2/16/93
BILL NO. SB 284

Amendments to Senate Bill No. 294
1st Reading Copy

Requested by Sen. Keating
For the Committee on Natural Resources

Prepared by Todd Everts
February 16, 1993

1. Page 1, lines 13 through 15.

Strike: "all" on line 13 through "formation" on line 15

Insert: "a combustible carbonaceous rock formed from the
compaction and induration of variously altered plant
remains. Coal does not include:

- (a) methane gas or any other natural gas that may be found
in any coal formation;
- (b) oil shale; or
- (c) gilsonite"

2. Page 5, line 18.

Following: "(16)"

Insert: "(a)"

3. Page 5, line 19.

Strike: "(a)"

Insert: "(i)"

4. Page 5, line 21.

Strike: "(b)"

Insert: "(ii)"

5. Page 5, line 23.

Strike: "(c)"

Insert: "(iii)"

6. Page 6, line 5.

Strike: "(d)"

Insert: "(iv)"

7. Page 6, line 10.

Following: line 10

Insert: "(b) The loss of gas to the atmosphere during coal mining
operations is not waste within the meaning of this
definition."

SENATE NATURAL RESOURCES
EXHIBIT NO. 3E
DATE 2/16/93
BILL NO. SB294

Amendments to Senate Bill No. 294
1st Reading Copy

Requested by Sen. Keating
For the Committee on Natural Resources

Prepared by Todd Everts
February 16, 1993

SENATE NATURAL RESOURCES

EXHIBIT NO. 4E

DATE 2/16/93

BILL NO. SB 294

1. Title, line 5.

Following: "OIL";

Insert: "CLARIFYING THAT THE DEFINITION OF "GAS" IN THIS ACT ALSO
APPLIES TO TITLE 15;"

2. Title, line 7.

Strike: "SECTION"

Insert: "SECTIONS 15-1-101 AND"

3. Page 6.

Following: line 10

Insert: " Section 4. Section 15-1-101, MCA, is amended to read:

"15-1-101. (Temporary) Definitions. (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and profit margin shown in national appraisal guides and manuals or the valuation schedules of the department of revenue.

(d) (i) The term "commercial", when used to describe property, means any property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except that property described in subsection (ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and, beginning January 1, 1994, forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation;

(D) mobile homes used exclusively as a residence except when held by a distributor or dealer of trailers or mobile homes as his stock in trade;

(E) all property described in 15-6-135; and

(F) all property described in 15-6-136.

(e) The term "comparable property" means property that has similar use, function, and utility; that is influenced by the same set of economic trends and physical, governmental, and social factors; and that has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

(h) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

(i) The term "livestock" means cattle, sheep, swine, goats, horses, mules, and asses.

(j) The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

(k) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements".

(l) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(m) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

(n) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8; all timber belonging to individuals or corporations growing or being on the lands of the United States; and all rights and privileges appertaining thereto.

(o) "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose

principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(p) The term "taxable value" means the percentage of market or assessed value as provided for in Title 15, chapter 6, part 1.

(q) The term "weighted mean assessment ratio" means the total of the assessed values divided by the total of the selling prices of all area sales in the stratum.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board.

15-1-101. (Effective July 1, 1993) Definitions. (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and profit margin shown in national appraisal guides and manuals or the valuation schedules of the department of revenue.

(d) (i) The term "commercial", when used to describe property, means any property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except that property described in subsection (ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and, beginning January 1, 1994, forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation;

(D) mobile homes used exclusively as a residence except when held by a distributor or dealer of trailers or mobile homes as his stock in trade;

(E) all property described in 15-6-135; and

(F) all property described in 15-6-136.

(e) The term "comparable property" means property that has

similar use, function, and utility; that is influenced by the same set of economic trends and physical, governmental, and social factors; and that has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) The terms "gas" and "natural gas" are synonymous and mean gas as defined in [section 1(2)]. The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas found in any coal formation.

~~(g)~~(h) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

~~(h)~~(i) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

~~(i)~~(j) The term "livestock" means cattle, sheep, swine, goats, horses, mules, and asses.

~~(j)~~(k) The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

~~(k)~~(l) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements".

~~(l)~~(m) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

~~(m)~~(n) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

~~(n)~~(o) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8; all timber belonging to individuals or corporations growing or being on the lands of the United States; and all rights and privileges appertaining thereto.

~~(o)~~(p) "Research and development firm" means an entity

incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

~~(p)~~(q) The term "taxable value" means the percentage of market or assessed value as provided for in Title 15, chapter 6, part 1.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board."

{Internal References to 15-1-101:

- | | | | |
|----------------|--------------|-------------|----------------|
| x 15-1-201 | x 15-6-133 | x 15-6-134 | x 15-6-145 (3) |
| x 15-7-202 | x 15-8-201 | x 15-16-202 | x 15-24-202 |
| x 15-24-901 | x 20-15-403 | x 61-3-303 | x 61-3-502 (2) |
| x 61-3-503 (2) | x 69-12-331} | | |

Amendments to Senate Bill No. 319
First Reading Copy

Requested by Senator Hockett
For the Committee on Natural Resources

Prepared by Paul Sihler
February 15, 1993

1. Title, line 4.
Strike: "CLARIFYING THE FEES FOR"
Insert: "EXEMPTING CONTAINER SITES FROM THE DEFINITION OF A"

2. Title, line 5.
Following: "MANAGEMENT"
Insert: "SYSTEM"

3. Title, line 5.
Following: "75-10-103"
Insert: ", 75-10-112,"

4. Title, line 6.
Strike: "75-10-115"
Insert: "75-10-203"

5. Page 3, line 17.
Following: "."

Insert: "For the purposes of this definition, a container site is not a component of a solid waste management system."

6. Page 3, lines 21 through 24.
Strike: "subsection (13) in its entirety"

7. Page 3, line 25 through page 4, line 24.
Strike: section 2 in its entirety
Insert:

"Section 2. Section 75-10-203, MCA, is amended to read:
"75-10-203. Definitions. Unless the context requires otherwise, in this part the following definitions apply:
(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.
(2) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.
(3) "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing of any solid waste into or onto the land so that the solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters, including ground water.
(4) "Household hazardous waste" means products commonly used in the home that due to corrosivity, ignitability, reactivity, toxicity, or other chemical or physical properties are dangerous to human health or the environment. Household hazardous waste includes but is not limited to cleaning, home

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EXHIBIT NO. 5E
DATE 2/16/93
BILL NO. SB 319

maintenance, automobile, personal care, and yard maintenance products.

(5) "Household waste" means any solid waste derived from households, including single and multiple residences, hotels, and motels, crew quarters, and campgrounds and other public recreation and public land management facilities.

(6) "Municipal solid waste landfill" means any publicly or privately owned landfill or landfill unit that receives household waste or other types of waste, including commercial waste, nonhazardous sludge, and industrial solid waste. The term does not include land application units, surface impoundments, injection wells, or waste piles.

(7) "Person" means an individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private entity, whether organized for profit or not.

(8) "Resource recovery" means the recovery of material or energy from solid waste.

(9) "Resource recovery facility" means a facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

(10) "Resource recovery system" means a solid waste management system which provides for the collection, separation, recycling, or recovery of solid wastes, including disposal of nonrecoverable waste residues.

(11) "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage; rubbish; refuse; ashes; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; and wood products or wood byproducts and inert materials. "Solid waste" does not mean municipal sewage, industrial wastewater effluents, mining wastes regulated under the mining and reclamation laws administered by the department of state lands, slash and forest debris regulated under laws administered by the department of state lands, or marketable byproducts.

(12) "Solid waste management system" means a system which controls the storage, treatment, recycling, recovery, or disposal of solid waste. For the purposes of this definition, a container site, as defined in 75-10-103, is not a component of a solid waste management system.

(13) "Storage" means the actual or intended containment of wastes, either on a temporary basis or for a period of years.

(14) "Transport" means the movement of wastes from the point of generation to any intermediate points and finally to the point of ultimate storage or disposal.

(15) "Treatment" means a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any solid waste so as to neutralize the waste or so as to render it safer for transport, amenable for recovery, amenable for storage, or reduced in volume."

{Internal References to 75-10-203:

Section 3. Section 75-10-112, MCA, is amended to read:

"75-10-112. Powers and duties of local government. A local government may:

(1) plan, develop, and implement a solid waste management system consistent with the state's solid waste plan and propose modifications to the state's solid waste plan;

(2) upon adoption of the state plan by the board, pass an ordinance or resolution to exempt the local jurisdiction from complying with the state plan and subsequent rules implementing the state plan. The ordinance or resolution must include a means to provide solid waste disposal to the citizens of the jurisdiction as required in part 2 of this chapter.

(3) employ appropriate personnel to carry out the provisions of this part;

(4) purchase, rent, or execute leasing agreements for equipment and material necessary for the implementation of a solid waste management system;

(5) cooperate with and enter into agreements with any persons in order to implement an effective solid waste management system;

(6) receive gifts, grants, or donations or acquire by gift, deed, or purchase land necessary for the implementation of any provision of this part;

(7) enforce the rules of the department or a local board of health pertaining to solid waste management through the appropriate county attorney;

(8) apply for and utilize state, federal, or other available money for developing or operating a solid waste management system;

(9) borrow from any lending agency funds available for assistance in planning a solid waste management system;

(10) finance a solid waste management system through the assessment of a tax as authorized by state law;

(11) sell on an installment sales contract or lease to a person all or a portion of a solid waste management system which the local government plans, designs, or constructs, for such consideration and upon such terms as are established by the local governments and consistent with the loan requirements as set forth in this part and rules;

(12) procure insurance against any loss in connection with property, assets, or activities;

(13) mortgage or otherwise encumber all or a portion of a solid waste management system when the local government finds the action is necessary to implement the purposes of this part, as long as the action is consistent with the loan requirements set forth in this part and rules;

(14) hold or dispose of real property and, subject to agreements with lessors and lessees, develop or alter the property by making improvements or betterments for the purpose of enhancing the value and usefulness of the property;

(15) finance, design, construct, own, and operate a solid waste management system or contract for any or all of the aforementioned powers;

(16) control the disposition of solid waste generated within the jurisdiction of a local government;

(17) enter into long-term contracts with local governments and private entities for:

(a) financing, designing, constructing, and operating a solid waste management system;

(b) marketing all raw or processed material recovered from solid waste;

(c) marketing energy products or byproducts resulting from processing or utilization of solid waste;

(18) finance an areawide solid waste management system through the use of any of the sources of revenue available to the implementation entity for public works projects, by the use of revenue bonds issued by the city or county, or by fees levied by a refuse disposal district, whichever is appropriate;

(19) enter into interlocal agreements in order to achieve and implement the powers enumerated in this part;

(20) regulate the siting and operation of container sites."

{Internal References to 75-10-112:

x 7-13-215 x 7-13-301 x 7-13-305}

Renumber: subsequent sections

Amendments to Senate Bill No. 334
First Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Deborah Schmidt
February 15, 1993

1. Title, line 16.

Following: "STATE;"

Insert: "ALLOWING LOCAL REGULATION OF PESTICIDES UNDER CERTAIN
CONDITIONS;"

2. Page 10, line 22.

Following: "regulation."

Strike: "The"

Insert: "(1) Except as provided in subsections (2) and (3), the"

3. Page 11.

Following: line 3

Insert: "(2)(a) A unit of local government may petition the
department in writing to adopt rules to address specific
local conditions as provided under 80-8-105(3)(a). The
petition must document and justify:
(i) the need for the specific local rules;
(ii) that a situation exists that threatens or is likely
to threaten public health or environmental quality in the
jurisdiction of the unit of local government; and
(iii) provisions for the administration, enforcement, and
financing of the specific local rules under a cooperative
agreement with the department as provided under subsection
(3).

(b) Within 30 days of receiving the petition, the
department shall respond to the unit of local government
stating:

(i) whether the proposed rules conform to the purposes
of Title 80, chapter 15, and this chapter; and
(ii) if the proposed rules are determined to conform to
those purposes, the procedures and time period for their
promulgation.

(3) The department may enter into a cooperative agreement
with a unit of local government for the administration and
enforcement of local rules adopted under 80-8-105(3)(a) and
subsection (2) of this section. The department may require
the unit of local government to adequately administer and
enforce the local rules and to assume financial
responsibility for the administration and enforcement of the
local rules."

SENATE NATURAL RESOURCES

EXHIBIT NO. 6E

DATE 2/16/93

BILL NO. SB 334

Amendments to Senate Bill No. 334
First Reading Copy

Requested by Senator Bianchi
For the Committee on Natural Resources

Prepared by Paul Sihler
February 13, 1993

1. Title, lines 15 and 16.

Strike: "ESTABLISHING" on line 15 through ";" on line 16

2. Page 2, line 16.

Strike: "9"

Insert: "8"

3. Page 10, line 21 through page 11, line 3.

Strike: section (4) in its entirety

Renumber: subsequent sections

4. Page 26, line 3.

Strike: "[Sections 3 and 4] are"

Insert: "[Section 3] is"

5. Page 26, line 5.

Strike: "[sections 3 and 4]"

Insert: "[section 3]"

6. Page 26, lines 7 and 8.

Strike: "6(5), 7(2), 8(4), 9(7), and 10(3)(a)(ii)"

Insert: "5(5), 6(2), 7(4), 8(7), and 9(3)(a)(ii) "

SENATE NATURAL RESOURCES
EXHIBIT NO. 7E
DATE 2/16/93
BILL NO. SB 334

Amendments to Senate Bill No. 334
First Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Deborah Schmidt
February 15, 1993

1. Title, line 18.

Following: "PROVIDING;"

Insert: "EFFECTIVE DATES AND"

2. Page 25.

Following: line 9

Insert: "(c) A government agency may not be required to pay more than \$600 annually for the licensing of employees as applicators and operators."

Renumber: subsequent subsection

3. Page 26.

Following: line 5

Insert: "NEW SECTION. Section 13. Effective date. [Sections 4, 5(9)(b), and this section] are effective on passage and approval."

Renumber: subsequent section

4. Page 26, line 8.

Strike: "(3)(c)"

Insert: "(3)(d)"

SENATE NATURAL RESOURCES

EXHIBIT NO. SE

DATE 2/16/93

BILL NO. SB 334

Amendments to Senate Bill No. 343
First Reading Copy

Requested by Sen. Swift
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
February 16, 1993

SEN
EXHIBIT NO. _____
DATE _____
BILL NO. _____

1. Page 5, lines 1 through 3.
Strike: subsection (11) in its entirety
Renumber: subsequent subsections
2. Page 10, line 22.
Following: "landowner;"
Insert: "and"
3. Page 11, lines 5 through 8.
Strike: ";" on line 5 through "division" on line 8
4. Page 13, lines 24 and 25.
Strike: ":" on line 24 through "1993," on line 25
5. Page 14, lines 2 through 4.
Strike: "or" on line 2 through "access." on line 4
Insert: "; and"
6. Page 34, line 19.
Strike: "informational"
Insert: "public"
7. Page 38, line 7.
Strike: "Minor"
Insert: "Except as provided in subsection (5), minor"
8. Page 38, line 10.
Strike: "the first"
Insert: "a"
Strike: "from"
9. Page 38, line 11.
Strike: "a tract of record"
10. Page 39.
Following: line 8
Insert: "(5) (a) Notwithstanding the provisions of subsections (1) through (4), a minor subdivision that creates only 1 additional parcel from a tract of record, when no other parcels have been created from that tract in any 2-year period following any previous division, must be reviewed by the governing body under the provisions of this subsection (5) only.
(b) A single division of a parcel qualifying under this subsection (5) must be reviewed for:
(i) the statement regarding legal and physical access

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OVER

as required under 76-3-302;

(ii) utility easements as required under 76-3-608; and
(iii) compliance with water supply and sewage
treatment requirements under Title 76, chapter 4.

(c) The governing body shall complete the review under
this subsection (5) within 10 working days from the
date of the subdivision application."

DATE 2/14/93

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: SB 388

Name	Representing	Bill No.	Check One	
			Support	Oppose
Peggy Alsow Trenk	WETA	388	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alan Joycelyn	self	388	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Bob Hoffmann	Ag Pres. Assoc	388	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Constance Sorensen	LURBAN America	388	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jim Mockler	MT. Coal Council	388	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Don Jurek	OHES	388	<input type="checkbox"/>	<input checked="" type="checkbox"/>
David Owen	MT Chamber of Commerce	388	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John Bloomquist	MT State Parks	388	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jon Allen	MT Wood Products Assn	388	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Janelle Fallon	MT Petroleum	388	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mona Jamison	Mikelson Land Co	388	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Brian McNitt	MEIC	388	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY