

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

SUBCOMMITTEE ON SB 401

Call to Order: By Chair Doherty, on March 20, 1993, at 10:40 a.m.

ROLL CALL

Members Present:

Sen. Steve Doherty, Chair (D)
Sen. Bernie Swift (R)
Sen. Larry Tveit (R)
Sen. Cecil Weeding (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: None.
Executive Action: None.

DISCUSSION ON WORKING GROUP'S PROGRESS

Bob Robinson, director, Department of Health and Environmental Sciences, said there was no consensus within the working group on the definition of high quality waters on page 4, paragraph 9. He said the industry groups plan to propose a definition which would tie into the federal definition. Mr. Robinson stated no consensus has been reached on mixing zones, adding DHES believes the language is essential to SB 401. Referring to page 9, line 11, he said all parties agree that the Legislature needs to establish criteria to give DHES more direction as to policy and standards from which rules will be developed. Mr. Robinson said new language directs that "there has to be an analysis of the cost of the impact to the waters tied back to the economic value" of the applicant's activities. He discussed the mitigation language in SB 401.

Mona Jamison, Michaelson Land Company, stressed no consensus was reached on mixing zones, or on the rewrite of the nondegradation policy. Ms. Jamison added the working group did not agree on the

rewrite of "high quality waters", adding industry's proposal, which representatives will present during executive action, reorients the definition towards use and away from quality. She said she objects to the deletion of "parameter" in several parts of the bill, as it takes away the tool by which degradation and pollution are measured.

Ted Doney, representing industry and agricultural groups, said he agrees with all the changes the working group has suggested for SB 401 and with the new mitigation language. Mr. Doney stated industry plans to present an amendment regarding the definition of high quality waters during executive action.

Mr. Robinson discussed the environmental groups' lack of trust in DHES. He stated DHES will not support any future amendments to SB 401 on the Senate or House floors.

Dennis Olson, Northern Plains Resource Council (NPRC), said agreement was reached on water quality protection practices referred to on page 7, line 17. He said he does not object to mixing zones if they apply only to existing sources, adding he approves of the clarification of procedural issues. Mr. Olson discussed other areas of contention already articulated by Ms. Jamison and Mr. Robinson.

Mona Jamison said DHES is a regulatory agency, not a permitting agency, and its role should be to protect water resources.

Ted Doney said the groups he represents would support SB 401 with the changes Mr. Robinson discussed, and would not attempt to amend it on the floor.

Senator Weeding asked about the meaning of nonsignificant. Mr. Robinson said if an activity is ruled nonsignificant, "there isn't an impact and it's not degradation," so a permit would not be necessary.

Jim Jensen, Montana Environmental Information Center (MEIC) said mines are currently exempt from the permitting process if they discharge into ground water.

Dennis Olson stated NPRC is concerned that SB 401 would leave DHES the discretion to allow violation of water quality standards through rule.

Mona Jamison said she is concerned that nonsignificant criteria will be used to support violation of water quality standards in mixing zones.

Dan Fraser said there are nonsignificant events that do violate water quality standards, but it is not DHES's intent to allow mining companies to severely degrade the water. He commented that there are thousands of possibilities that nobody can anticipate regarding degradation and SB 401 will help DHES

identify its role and clarify its job.

Senator Tveit and Ms. Jamison discussed the definition of a parameter. Ms. Jamison said to eliminate the word "parameter" would complicate the analysis. She said she believes there could be reasonable degradation that would be considered nonsignificant, but added nonsignificant degradation should not be allowed to violate water quality standards.

Senator Swift commented that nothing can be discharged without the existence of mixing zones or recognition of some change in water quality.

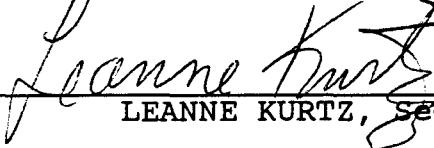
Senator Doherty stated the Subcommittee would recommend SB 401 be amended to reflect the areas of consensus, and the full Committee would have to vote the remaining contentious issues up or down.

ADJOURNMENT

Adjournment: 11:30 a.m.



SENATOR STEVE DOHERTY, Chair



LEANNE KURTZ, Secretary

SD/lk

ROLL CALL

SENATE COMMITTEE SB 401 SUBCOMMITTEE DATE 3/20/92

[illegible]

F08

Attach to each day's minutes