

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chair Bianchi, on March 26, 1993, at 3:17 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: HB 374, HB 419, HB 448, HB 571, HB 592
Executive Action: HB 448, HB 571, HB 423, HB 512, HB 532,
HB 442, HB 599, SJR 29, HB 408, HB 280,
SB 401

HEARING ON HOUSE BILL 374

Opening Statement by Sponsor:

Representative Ewer, House District 45, Helena, said House Bill 374 was introduced by request of the Department of Health and Environmental Sciences (DHES). The bill provides for an administrative penalty in the Montana water quality laws. This bill was amended on the floor and he said they would like to work

with Representative Cobb to change those amendments. The amendments would provide a mechanism whereby a person in noncompliance, as far as the Department of Health and Environmental Science (DHES) is concerned, would be given some kind of notice. He handed out copies of the proposed amendments (Exhibit #1).

Proponents' Testimony:

Dan Fraser, chief, DHES Water Quality Bureau, said the Department is in support of this bill and the amendments that were proposed by Representative Ewer. He handed in written testimony (Exhibit #2).

Clay Laundry, Montana Trout Unlimited said his organization supports this bill and the amendments.

Leo Barry, Burlington Northern Railroad (BNRR), said he had not had an opportunity to look at the amendments and would reserve comment on those. BNRR would support the concept in this bill to provide for authority within the Department to assess administrative penalties.

David Ross, Montana Audubon Legislative Fund, said they support HB 374. He said this bill was very precise and they did not find any pitfalls in it.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Swysgood asked how the penalties are currently assessed for noncompliance. Mr. Fraser said currently they only have the ability to assess penalties through civil actions, so they have to go to court to be able to assess any penalties under the Water Quality Act.

Senator Swysgood asked if this bill was doing basically the same thing with water quality as an earlier bill did with underground tanks and Mr. Fraser said he believed it did.

Senator Keating said the bill levies \$10,000 each day a violation continues and asked if there was the presumption in this that if one tests on Monday and again on Friday, then Tuesday, Wednesday and Thursday are in violation. Mr. Fraser said typically that is the assumption if both tests were out of compliance. Senator Keating asked if there had been steps to ameliorate this. Mr. Fraser said the amendments that Representative Cobb introduced were specifically for that purpose and in most cases where

administrative penalties would be used there would be a series of violations with warning letters. The legislation specifically requires a letter of notification that lets violators know they are liable to an administrative penalty further down the road if they don't take corrective action.

Senator Weeding asked if, on the administrative penalties, the intent is there to remedy a particular action, or is it strictly a punitive action to ensure that it doesn't continue or recur. Mr. Fraser said the intent of all enforcement actions is compliance and there is an impact, not only against the person that violated but also the other part of the regulated community that recognizes they can not take advantage of the financial benefits of noncompliance. He said the administrative penalties would be used more for permit violations and refusal to report on self-monitoring. If there was a permit violation that was not corrected, a penalty would be assessed, and the violator would have to make corrections in the waste water plant as well.

Chair Bianchi referred to the amendments and asked Mr. Fraser to tell the Committee how they would work. Mr. Fraser said as he recalled the amendments, it is required that the notice be made by a certified letter. Representative Cobb's original amendments required the Department to make an administrative order first, but what he wanted was just notification of a penalty. With this amendment, violators will be notified by certified mail of the violation and that a penalty will be assessed if the violation continues.

Senator Swysgood said he believed Mr. Fraser said that the Department does not currently pursue minor infractions through the civil process, and asked if the Department would become more aggressive with passage of this bill. Mr. Fraser said to some extent he believed that was accurate. The Department sends investigators out on between 400 and 500 water quality violation complaints annually, over 90% of which are actually violations of the Water Quality Act. They would probably assess administrative penalties on some of those. In addition, many of the permittees regularly violate their permits either by not doing their self monitoring or by exceeding the authorized effluent levels, and some of those would have penalties assessed.

Senator Swysgood asked what the frequency of noncompliance is after a letter is sent. He also asked what the follow-up is at the present time. Mr. Fraser said most people comply with the law, but this bill would allow the Department to act against those who refuse to comply, resulting in less expense for them and for the department, than going to court. He said the bill grants the right to appeal to the Board of Health or they can go to district court.

Closing by Sponsor:

Representative Ewer said he trusted people were all in support of water quality laws that are on the books, and the purpose of this bill is to give some additional clout to the department. When there is a backlog of cases there is more ability for noncompliance. Rep. Ewer stated there is due process in the bill and the Department will alert violators that they are subject to penalties.

HEARING ON HOUSE BILL 419**Opening Statement by Sponsor:**

Representative Grady, House District 47, Canyon Creek, said HB 419 was introduced at the request of DHES. It would provide an administrative penalty for violation of the Underground Storage Tank Act. He said the maximum penalty may not exceed \$100,000 for any series of violations.

Proponents' Testimony:

Don Vidrine, Manager of the Hazardous Waste Program, DHES, handed out written testimony (Exhibit #3).

Leo Barry, Burlington Northern, said BNRR supports this bill for the same reason they supported HB 374. It is a more efficient use of both the administrative and judicial processes if there is administrative penalty capability. Mr. Barry said there are several of these bills going through and there are different administrative appeals procedures. He said he believes the bills should be consistent with each other regarding how an appeal should be taken so there is one standard mechanism.

David Ross, Montana Audubon Legislative Fund, said his organization supports HB 419 for the same reasons they had given for Representative Ewer's HB 374.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Chair Bianchi said he agrees with Mr. Barry's comment that the appeal process should be consistent in these bills. He asked Paul Sihler how the Underground Storage Tank appeal was written. Mr. Sihler said there is a process lined out which follows the contested case in the Montana Administrative Procedures Act. Chair Bianchi asked Mr. Sihler to research this and make sure all

three of the bills are somewhat consistent.

Closing by Sponsor:

Representative Grady closed by saying there did not seem to be any resistance to this bill in the House, and he agreed that there should be some consistency in these bills in regard to the appeal process. He said he had no objection to that being amended into his bill.

HEARING ON HOUSE BILL 571

Opening Statement by Sponsor:

Representative Dave Brown, House District 72, Butte, Silver Bow, said he was appearing on behalf of all those representing Butte, Silver Bow. He handed in written testimony (Exhibit #4).

Proponents' Testimony:

Dan Fraser, chief, DHES Water Quality Bureau, spoke in support of House Bill 571 and handed in written testimony (Exhibit #5).

John Sesso, planning director, Butte-Silver Bow County, and representing the county's Public Works Water Utility Division, said the county has been using copper sulfate and citric acid in small doses to treat algae blooms in July and August of each year. The Division needs to continue to treat the blooms and appealed to DHES for the opportunity to do so. He believed this was the best, most cost-effective way to control the algae bloom, which if gone unchecked, would lead to deterioration of water quality and lead to problems in complying with the consent decree they are presently operating under.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Keating asked if this use of copper sulfate and citric acid is a form of degradation to pristine waters and Mr. Fraser said it is. This issue was discussed in the nondegradation subcommittee and is one of those operations that, under Department rules, is deemed to be nonsignificant.

Senator Keating asked if DHES takes steps to make sure that blending doesn't exceed the standards. He asked if this was

scattered over the top of the water rather than pouring it in at one end. Mr. Fraser said in most activities standards have to be violated in order to achieve the ends of water quality.

Senator Keating said if SB 401 were passed the way it is supposed to be, HB 571 would not be needed. Mr. Fraser said he believed the bill would still be needed because DHES needs the ability to give an exemption from the standards without going through the whole review process.

Senator Weeding asked if the copper sulfate-citric acid solution was what they poisoned fish with. Mr. Fraser said no, these are algaecides. They are specifically used to kill the algae fungus.

Senator Swysgood asked if it would be possible to violate standards without mixing zones. Mr. Fraser said the mixing zone issue is really an issue with permitted discharges. Standards are being violated, but there really isn't a mixing zone and it is not an issue.

Closing by Sponsor:

Representative Brown closed by saying he appreciated the questions asked and said if this bill is passed, Senator Jacobson would be willing to carry the bill.

HEARING ON HOUSE BILL 448

Opening Statement by Sponsor:

Representative Scott Orr, House District 2, Libby, said House Bill 448 would prohibit the construction of a sewage lagoon within 500 feet of an existing well. DHES currently has administrative rules that require sewage lagoons be located at least 1300 feet away from wells or structures, mainly for odor concerns. The Department has granted variances lower than 500 feet, but they are comfortable in not going lower than that. This applies only to new construction of a sewage lagoon, not to an existing lagoon, or to a septic system that has a drain field or a dry well.

Proponents' Testimony:

Steve Mandeville, Legislative Chairman for the Montana Association of Realtors, handed out a sketch (Exhibit #6) giving the size of a lagoon and assured the Committee this barred putting a lagoon within 500 feet of an existing well but did not bar putting a well next to an existing lagoon. He pointed out the size of the lagoon plus the distance to an existing well will take 25 acres and makes the land in between useless.

Pete Story, former senator, said he wants to put into statute a rule which would be a little easier to maintain. He felt this might help to protect people in the Emigrant area in regard to degradation.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Weldon asked if lagoons currently have to be 1300 feet away from a well. Rep. Orr said if someone wants to put in a sewage lagoon, it must be 1300 feet away from a well or a structure.

Senator Weeding asked for the definition of a sewage lagoon, other than what was stated in the opening remarks. He asked if this was a public disposable system, or could it be a farm house. Rep. Orr said a sewage lagoon would normally only be used where a drain field or a dry well system could not be used. A high water table would make an underground on-site sewage system unacceptable. It is used in very few cases, and for obvious reasons is not the preferred method of treatment. Sewage lagoons must have fences around them to keep children and animals out, and they are infrequently used. In some industrial uses as well as a city or town which would go through a whole treatment process, a lagoon could be a part of the sewage treatment process.

Senator Weeding mentioned that evaporative systems percolate up, and asked if those systems are lagoons. Rep. Orr said a sewage lagoon is more of a treatment system. He said he empties his septic tank truck and his portable toilet truck into an open pit which does not receive any treatment. When the pit gets full it is covered. The pits are not clay or concrete lined, there is percolation that takes place, the liquids leave and when it is full of solids the pits are covered. He added this is a contained system.

Closing by Sponsor:

Representative Orr closed and said he had written testimony he would leave with the Chair for whoever was designated to carry the bill on the floor.

EXECUTIVE ACTION ON HOUSE BILL 448

Motion/Vote:

Senator Swift moved House Bill 448 BE CONCURRED IN. The motion CARRIED. Senator Grosfield agreed to carry the bill on the floor.

EXECUTIVE ACTION ON HOUSE BILL 571

Discussion:

Senator McClernan moved House Bill 571 BE CONCURRED IN. The motion CARRIED. Senator Jacobson will carry the bill on the floor.

EXECUTIVE ACTION ON HOUSE BILL 423

Motion/Vote:

Senator Weeding moved House Bill 423 BE CONCURRED IN. Motion CARRIED. Senator Weeding agreed to carry the bill on the floor.

EXECUTIVE ACTION ON HOUSE BILL 512

Motion/Vote:

Senator Weldon moved House Bill 512 BE CONCURRED IN. Motion CARRIED. Senator Weldon agreed to carry the bill on the floor.

EXECUTIVE ACTION ON HB 532

Motion/Vote:

Senator Weeding moved House Bill 532 BE CONCURRED IN. Motion CARRIED. Senator Bruski-Maus will carry the bill on the floor.

DISCUSSION ON HB 442

Chair Bianchi said Jim Jensen had been asked to get together with Gary Langley and bring some suggestions back to the Committee for amendments to HB 442. Dennis Olson, Northern Plains Resource Council (NPRC) discussed Mr. Jensen's efforts to draft amendments acceptable to Mr. Langley. Mr. Sihler said this bill has a conflict with SB 320 and needs amendments. The Committee decided to postpone action on HB 442.

DISCUSSION ON HB 599

Senator Weeding suggested the Committee strike language on page 1, lines 17-18.

Senator Keating said there are some minor changes that do not require an Environmental Assessment (EA), but require some form of review. He said the Department should be allowed a certain amount of discretion.

Senator Swift said he recalled that John North, Department of State Lands (DSL) said the Department already has the authority to conduct an EIS.

The Committee deferred action on the bill until further information could be obtained.

HEARING ON HOUSE BILL 592**Opening Statement by Sponsor:**

Representative Duane Grimes, House District 75, Clancy, said HB 592 would establish hazardous waste management permit fees and a special revenue account. He said these fees would transfer part of the cost for facility permitting to the applicant. His main concern is that resources are not available to properly oversee and manage the permitting process for facilities that are burning these types of fuels.

Proponents' Testimony:

Don Vidrine, manager, DHES Hazardous Waste Program, submitted written testimony (Exhibit #7).

Brian McNitt, Montana Environmental Information Center, said MEIC strongly supports HB 592. MEIC believes the bill will allow the Department to get the kind of expertise and up-front information necessary to do an adequate job processing applications. MEIC also thinks the industry supports HB 592 because it will allow DHES to complete the application process in a timely manner.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Grosfield asked Mr. Vidrine if DHES already has the

ability to collect fees in this area. Mr. Vidrine said yes. Senator Grosfield asked if the fees go to an earmarked account. Mr. Vidrine said one of the effects of this bill would be to put all fee money into an earmarked fund instead of into the general fund. He said presently they collect approximately \$30,000 a year in fees.

Senator Grosfield asked if there is a way to fix this bill so that at least the \$30,000 continues to flow into the general fund. Mr. Vidrine said he did not know how much reconstruction of the bill would be needed to do that.

Senator Swift asked if he understood correctly that no part of the initial \$10,000 deposit would be refunded. Mr. Vidrine said the first portion of the three classifications of facilities that are required is non-refundable. The purpose of the bill is to get the resources needed to do the work. Hopefully it will force a facility to be serious when they submit an application.

Senator Swysgood asked about the cement kilns that are proposing to burn hazardous waste and whether they had already submitted some kind of application. He asked if the bill would affect them or if they would be grandfathered. Mr. Vidrine said this bill has a retroactive clause and it would affect the cement companies.

Senator McClernan asked if this bill would cover the R&D facility in Butte. Mr. Vidrine said it would. If the facility requires a hazardous permit, it would be affected by this bill.

Senator Swysgood said the fiscal note indicates the permit will include NEWTTECH and it will cost them \$50,000.

Senator McClernan said as active as the lobbyist is for New Tech, he thought this might have slipped by him. He said he would like to hold action on the bill for a day or so if possible. Chair Bianchi said he would hold action on the bill tomorrow.

Closing by Sponsor:

Representative Grimes closed and encouraged the Committee to confer with industry representatives. Rep. Grimes said he believes the industry was supportive of the bill and was instrumental in having the per ton fee lowered from 8 to 4.

DISCUSSION ON SJR 29

SJR 29 was discussed briefly. Mr. Sihler said Senator Grosfield had some amendments and handed out the fiscal note for SJR 29 (Exhibit #8). The Committee decided to wait on the bill until Senator Grosfield arrived from a Taxation Committee meeting.

EXECUTIVE ACTION ON HOUSE BILL 408

Motion:

Senator Weldon moved House Bill 408 BE CONCURRED IN.

Substitution Motion:

Senator Swift moved House Bill 408 BE AMENDED (Exhibit #9).

Discussion:

Senator Swift said this amendment involves water facilities (Exhibit #9).

Chair Bianchi asked if he could give an example of water user facilities that are not agricultural. Senator Swift said currently there is a question regarding a couple of these subdivision bills which are in conflict with agriculture. He said irrigation districts deal with laterals, canals, or head gates and conflicts may arise from land splits. He said this would be a consideration in the review.

Senator Keating pointed out an example of a subdivision in Billings where there is a main canal, laterals, and a head gate.

Chair Bianchi said his question is why the broader term of agriculture would not cover those kinds of facilities.

Senator Hockett said an irrigation ditch certainly relates to agriculture and if this reasoning is carried on further then local services should be defined and you could list a whole host of things. He said he felt the amendment was unnecessary.

Vote:

The substitute motion to amend HB 408 (Exhibit #9) failed 5 members voting yes, 6 voting no, roll call vote.

Substitute Motion:

Senator Swift moved TO AMEND HB 408 (Exhibit #10).

Discussion:

Senator Swift explained the amendments to the Committee. He said this would give people who have non-agricultural property the same opportunity as those who have agricultural property.

Senator Bartlett said in her experience this generally occurs where there is not zoning. Senator Swift said this is in regard to the splitting of land and HB 280 and HB 408 allow tracts to be split if they are not being used for residential purposes. He wants the same consideration as in agricultural splits for other splits as well, as long as they are not used for a domicile or residential purposes.

Senator Bartlett said she believed there are commercial purposes that would require water and sewer and have an impact that would be substantially different from agricultural land. Senator Swift said a division must be reviewed by law if used for domestic purposes which require septic systems.

Senator Bartlett said she could understand what Senator Swift was saying, but the particular sections Senator Swift wants to amend relate to the agricultural exemption. At the present time the statute says "a change in use of the land". She said she believes this amendment would limit that to be a change in the land to residential and would subject that change and that division to the provisions of the Subdivision and Platting Act. If one wanted to change to commercial, she said she believes it would not be subject to review under the Subdivision and Platting Act.

Senator Swift said if that seems to be too much of a sticking point the amendments can be segregated.

Motion:

Senator Swysgood MOVED TO SEGREGATE amendments #1, #6, #7 and #8 from the rest of the amendments.

Vote:

The vote on amendments #2, #3, #4 and #5, (Exhibit #10) FAILED with 4 voting yes, 7 voting no, roll call vote.

Discussion:

Senator Swift asked to withdraw his amendment rather than voting on #1, #6, #7 and #8 and revert to the original motion.

A letter from Michael S. Kakuk, Environmental Quality Council, in regard to HB 408 on the silviculture issue was given to the Committee (Exhibit #11). Chair Bianchi requested the letter become a part of the official record saying the intent of the Committee is that silviculture is also a part of agriculture. He asked for a vote from the Committee that this is the intent.

Motion/Vote:

Senator McClernan moved the letter be placed in the record and that the Committee go on record as saying agriculture is intended to include silviculture. Motion CARRIED.

Motion/Vote:

Senator Weldon moved House Bill 408 BE CONCURRED IN. Motion passed 8 yes, 5 no, roll call vote. Senator Doherty was assigned to carry the bill on the floor of the Senate.

DISCUSSION ON HB 280:

There was discussion on HB 408 and 280 as to whether both would be heard on the floor. Chair Bianchi indicated if 408 failed the Committee would discuss 280. Senator Swysgood asked the Chair to take action on HB 280 tonight.

Chair Bianchi said there are a lot of motions on HB 280 to be taken into consideration.

Motion:

Senator Swysgood moved the Committee take action on HB 280.

Discussion:

Senator Hockett said he interpreted Senator Swysgood's motion as one to appeal the ruling of the chair and he does not believe the Committee could debate the bill, only the motion.

Senator Weeding asked about the timing of sending HB 408 to the floor the next day. He asked if there would be time to get HB 280 out of the Committee. Chair Bianchi answered yes.

Senator Hockett asked if it was Chair Bianchi's intention to not discuss HB 280 if HB 408 receives favorable action in the Senate. Chair Bianchi said that was his intention since he believed there would be a lot of problems if both passed.

Senator Swift said there is a coordinating language in HB 408 which says if HB 280 passes it is void.

Mr. Sihler clarified that there is a coordinating instruction in Section 6 in HB 408 that says if both bills passed, then 408 is void.

Senator Swysgood said he would like to see both bills on the floor at one time since the language is coordinated.

Vote:

Motion to take executive action on HB 280 failed 5 voting yes, 8 voting no, roll call vote.

EXECUTIVE ACTION ON SENATE BILL 401**Motion:**

Senator Doherty moved to AMEND Senate Bill 401 (Exhibit #12).

Discussion:

Senator Doherty said following line 22, the amendment inserts language that requires an analysis be done by someone who seeks a nondegradation exemption. He said he believes the Department's rules were good and he would feel more comfortable having it in the statute.

Mr. Sihler said this puts in evaluation criteria to degrade high quality waters.

Senator Keating asked DHES to comment. Mr. Fraser said this amendment is lifted from the rules. In the rules, DHES may require information, but he did not think the whole laundry list would apply in all cases where somebody may be seeking authorization to degrade. It has been the position of the Department that the issue is better handled in the rules.

Senator McClernan asked if in their working groups they had reviewed and talked about this language. Mr. Fraser said yes, but the group was unable to reach agreement.

Senator Hockett said he had no idea what the amendment would do to the bill and asked Mr. Fraser to comment. Mr. Fraser said he believes the amendments are not fully understood and that worries him.

Senator Doherty said if there was no reason for the proposed effluent limitation then all that needs to be done is to put in that there is none. He wants them in statute because they are in the rules and that would give the Department discretion. He said he does not want the Department to be subject to political pressure to make a decision which may not be in the long-term interest of Montana.

Mr. Fraser said DHES did not object to that, but is concerned about being backed into a corner with a requirement in a situation that is not foreseen.

Senator McClernan said he is not comfortable with these

amendments as he does not understand them.

Senator Weeding said if these are currently the rules, he does not see why DHES would oppose putting them into law. He stated there are some pretty strong requirements such as identifying the effluents and discharges. Senator Weeding said that is the sort of thing DHES should look at and account for when they grant a waiver of a standard.

Senator Grosfield said he would expect, if this bill passes the Legislature, it will mean a change in the nondegradation law, and whatever form it passes in does not matter. He said he was not sure the Legislature could put in rules that may not coordinate with everything else in the bill.

Vote:

The motion to amend SB 401 (Exhibit #12) FAILED, 5 voting yes, 8 voting no, roll call vote.

Motion:

Senator McClernan moved to RECONSIDER the vote on an amendment (Exhibit #13).

Discussion:

Senator McClernan said this amendment deals with the definition of high quality water. The amendment reflects federal law and he said he believes it is a step in the right direction.

Senator Weeding said he resists the motion because it equates water standards to a use, in this case being fish and wildlife. He added it has nothing to do with parameters and what is in the water. It would reduce the quality of water to meet those standards.

Senator Tveit said this would not reduce standards to the point where humans cannot drink the water.

Senator Grosfield said he did not feel that was the issue, as it is not a matter of degrading down to the point where fish can just barely live. This only deals with the definition of high quality water and page 10, lines 5, 6 and 7 describes the quality of water which must be maintained unless authorized by DHES.

Vote:

The motion to reconsider the amendment (Exhibit #13) CARRIED, 7 voting yes, 6 voting no, roll call vote.

Motion:

Senator McClernan moved to amend SB 401 (Exhibit #13).

Discussion:

Senator Kennedy asked for a brief explanation of the standards in 75-3-301. Mr. Sihler said there is a drafting error in the bill and a misreference. It should be 75-5-301 and if this amendment fails there should be a motion to correct that. 75-5-301 is the list of classifications for state waters.

Senator Doherty spoke against the amendment because it changes the whole thrust, definition and intent of nondegradation from protecting high quality waters to protecting uses of water. He added it is a significant weakening of Montana's water nondegradation standards and a step backward.

Senator Weeding said he does not believe the amendments offer any protection for truly high quality water and is a mediocre level.

Vote:

The motion to amend SB 401 (Exhibit #13) FAILED, 6 voting yes, 7 voting no, roll call vote.

Motion:

Senator Weeding moved to amend SB 401 (Exhibit #14).

Discussion:

Senator Weeding said these amendments would reinstate language on the bottom of page 9. He read and explained the amendments. He said this is existing law and the amendments are just putting current language back into the bill. He said this is in the context with the statement of intent and with the Constitution.

Senator McClernan asked Senator Weeding if the amendments he and Senator Doherty had are as substantive as this one. Senator Weeding said there will be more substantive amendments.

Substitute Motion:

Senator McClernan made a substitute motion that Senate Bill 401 DO PASS as it is now.

Discussion:

Senator Hockett asked if he could assume if the motion failed the bill would be dead. Chair Bianchi said if this motion fails the Committee will still have to move final action on the bill.

Senator Weeding said he does not know the real purpose of this motion. He said amendments are always entertained and he would expect the same thing be done here.

Senator Swift said he believed the motion is valid and should be voted on it's merits.

Vote:

Motion that SB 401 Do Pass FAILED, 6 voting yes, 7 voting no, roll call vote.

Discussion:

Senator Kennedy said he was concerned about waste water treatment plants in Kalispell and asked Senator Weeding to discuss this as well as mixing zones. Senator Weeding said this amendment does not deal with mixing zones or existing sources, only with new and expanded sources or uses. He said amendment #6 expands sources to include activity.

Chair Bianchi said he believed the waste water treatment in Kalispell is already grandfathered in so it would not be affected.

Senator Doherty said it was his understanding that existing sources can use the nondegradation process. Most of the testimony regarding confusion in the law refers to subsection 2.

Chair Bianchi said a waste water treatment plant is an existing source and could apply for a degradation permit.

Senator Weeding said if the Kalispell treatment plant has put in a secondary treatment system and improved its output since 1972, it has bought some leeway since the bill would only hold them to the 1972 standards.

Senator Kennedy asked what would happen if changes were made to the treatment plant. Senator Weeding said he assumed it would be affected if there was greater output, but there would still be a cushion if the plant upgraded its treatment system.

Senator Grosfield said this issue has been discussed in terms of its impact on the mining industry but this amendment does not apply specifically to the mining industry. He said the amendment would apply to mines, other industries, municipalities with run-off, agricultural producers, and septic systems. He read from amendment #2, then read from page 6 of the bill regarding the

definition of pollution. He said a society cannot function with that kind of unrealistic limitation.

Senator Keating said the amendment would preclude starting a feed lot or putting in a septic tank. Senator Grosfield said that is not quite correct, as those projects could be initiated without providing waste water treatment.

Senator Swysgood said he agreed with Senator Grosfield. It would not preclude a person from putting in a septic tank. He said the problem would be the cost of treating the water.

Senator Doherty said he believed the Committee and DHES must deal with the question. He stated it is state policy to not degrade water.

Senator Weeding reminded the Committee that language in the amendment is in current law.

Senator Grosfield said SB 401 was introduced to try to clarify confusion over the law. With this amendment, water at the end of a septic system drain field should be drinkable. This would mean putting waste water treatment at the end of every new septic tank being installed in the state of Montana. He said he did not think this was a realistic idea.

Senator Hockett asked DHES about the amendment. Mr. Fraser said if the law is interpreted to say that new or enlarged sources cannot degrade, and if the current definition of degradation is used, meaning any calculable change for any parameter, then it is impossible. He added the only way to make the amendment work would be to redefine degradation.

Senator Weeding closed on his motion by saying he does not intend to change the game plan for the existing sources, this would be for the new and expanded sources. There is not much sense in having a nondegradation policy if it will not be adhered to.

Vote:

The motion to amend SB 401 (Exhibit #14) FAILED, 6 voting yes, 7 voting no, roll call vote.

Motion/Vote:

Senator Keating moved on page 4, line 12 to change 75-3-301 to 75-5-301. Motion CARRIED unanimously.

Motion:

Senator Weeding moved to AMEND Senate Bill 401 (Exhibit #15).

Discussion:

Senator Weeding read and explained the amendments.

Senator Keating said this amendment was much the same as the previous one and felt it was a waste of time. Senator Weeding assured him it was not the same amendment.

Senator Doherty said the amendment is a very significant step backward from the present rules. This amendment says if a facility does not pollute or degrade and can prove it is for some necessary economic or social development, a permit may be issued. This is a statement of policy that backs off substantially from the previous amendment.

Senator McClernan said this amendment appears to be a stronger amendment than the one the Committee just voted down. He urged the Committee to not adopt this amendment.

Senator Hockett said he believed this amendment was weaker than the first. He suggested that the opponents of this amendment were attempting to move the quality of water back to that in the Berkeley pit.

Senator Swysgood asked for DHES's views about the amendment. Mr. Fraser said he believes the amendment contains exactly the same language that is currently in statute.

Senator Keating said the purpose of SB 401 is to allow DHES to use its expertise to preserve a level of water quality that would be enjoyable to all, while permitting activities that economically support a lot of people. The Berkeley pit is the result of 100 years of mining, but there are areas where nature has cleaned up the results of mining or people have done so. He said feed lots have been around without the water being degraded to a point less than the definition of high quality water that was offered in the bill. In a general, common sense way, people in Montana have protected their water for a long time. Senator Keating stated these amendments will make it impossible for anybody to do any economic project in Montana without having to treat the water to the extent that it must be returned to its original state. He said the idea of the original bill was to allow certain changes in the parameters of the water, maintain it for human use, while allowing economic activity.

Senator Weeding closed on his amendment saying he did not see that the amendments placed an unrealistic obstacle in the law when they simply reinstate the language that has been in there. He said he believes SB 401 was introduced because DHES has misapplied the law and gotten into trouble. He said he thinks DHES would like to weaken the law so it fits the action they have taken.

Vote:

The motion to amend Senate Bill 401 (Exhibit #15) FAILED with 6 members voting yes, 7 voting no, roll call vote.

Motion:

Senator Weeding moved to amend Senate Bill 401 (Exhibit #16).

Discussion:

Senator Weeding read and explained the language which would strike mixing zones. He said the current definition of mixing zones has no limit, it is just a way to degrade below standards.

Senator McClernan said this is the point the proponents and opponents could not get together on. Work with DHES convinced him this is the most important point in the bill. He said if the language is removed, there will be problems for the average citizen. He urged rejection of this amendment.

Senator Kennedy asked DHES to comment on this amendment. Mr. Fraser said this amendment was discussed at length, as no degradation would be allowed for new sources. He stated mixing zones are necessary. In most cases, technology is available to meet water quality standards but if someone discharges surface water, technology is not available to avoid needing a mixing zone. There are over 200 different parameters that are constantly changing and the target is often unclear.

Senator Kennedy asked if Senator Weeding's statement that pollution would be allowed with mixing zones was correct. Mr. Fraser said no, there are minimum treatment requirements established for existing sources. He added those treatment requirements are significantly less than the water quality protection practices being discussed for new or enlarged sources in SB 401. Most existing sources of publicly owned treatment works have to apply secondary treatment. Mr. Fraser stated this is a long way from meeting water quality standards, but a lot better than they were 15 or 20 years ago.

Senator Kennedy asked if he could get an estimate of how much more it would cost a city to build a treatment plant if there were no mixing zones. Mr. Fraser said discharging surface water in a publicly owned treatment works would not be possible given the way degradation is being viewed, parameter by parameter, with any calculable change.

Senator Keating said he believed the key thought in the mixing zone is that it is only a temporary situation. It is a concentration for a short duration and then dilution restores water to its higher quality.

Senator Hockett asked if Senator Keating's statement would be correct if the discharge included heavy metals. Mr. Fraser said the mixing zone is designed to be small in size, but not necessarily temporary in terms of time. If the discharge is continuous, then the mixing zone would be continuous.

Senator Hockett said he assumes the nature of the mixing zone would depend on what is being discharged, adding the arsenic levels on the Missouri are not temporary. Mr. Fraser said that is true, some things biocumulate and biomagnify, and those kinds of things can get worse. That is why, in the guidance and consensus amendments, criteria was established to show how to handle those kinds of things.

Senator Bartlett said Mr. Fraser had talked about mixing zones in relation to surface water, and asked him to address mixing zones in relation to ground water. Mr. Fraser said ground water moves slower, so there is not as much of a changing target, and changes are much less significant.

Senator Weeding said ground water is not covered under the Clean Water Act and the only protection ground water has is the state water act. He added there is no federal protection for ground water. Mr. Fraser said that is true unless ground water is hydrologically connected to surface water.

Senator Weeding said the amendment would not prevent mixing zones, it would only prevent mixing zones that violate water quality standards.

Vote:

The motion to amend Senate Bill 401 (Exhibit #16) FAILED, 6 voting yes, 7 voting no, roll call vote.

Motion:

Senator Weeding moved to amend Senate Bill 401 (Exhibit #17).

Discussion:

Senator Weeding read the amendment and explained it to the Committee.

Senator Grosfield said this amendment is the same as the last the Committee considered. He said mixing zones will not be possible with this amendment.

Senator Doherty said he believes this to be a significant departure from the last amendment. He stated with this amendment, degradation and pollution would be allowed if the

operation has necessary economic and social impacts. But in the mixing zone, however DHES defined it, water standards could not be violated. Senator Doherty said he believes this is necessary to tighten up the whole idea of mixing zones, but does not think polluting below the water quality standards should be allowed anywhere in Montana.

Senator McClernan said he agrees with Senator Grosfield and asked Mr. Fraser if these amendments eliminate mixing zones. Mr. Fraser said the amendments allow mixing zones, but prohibit violation of water quality standards. He said for many current dischargers, that is technologically possible, but costly. Mr. Fraser added in some cases it would not be possible.

Senator Doherty asked if DHES would require tertiary treatment if it was determined, after looking at the economic analysis, that a mixing zone should be expanded. Mr. Fraser said if the effluent does not meet water quality standards, there would have to be a mixing zone that violates water quality standards.

Senator Doherty asked Mona Jamison if she had a comment. Ms. Jamison said with mixing zones, sewage treatment facilities in some instances will provide tertiary treatment and in others will not. She stated in looking at the rules, the mixing zone should be the smallest practicable with the smallest practicable impact on uses. Ms. Jamison said practicable has been determined by DHES to be really quite large, and she urged the Committee to consider how this relates to mining. At the present time, DHES does not prescribe the mixing zones for mining, as the Department has delegated that duty to the Department of State Lands (DSL). DSL has determined that mixing zones are the size of the permit boundary and permit boundaries change and increase. Ms. Jamison said this amendment allows for mixing zones, but not violation of water quality standards.

Senator Grosfield said Montana has very strict water quality standards.

Senator Weeding closed by saying there is no definition of a mixing zone in SB 401, and it does not address ground water. He said SB 401 as introduced amends current law to make it more lenient.

Vote:

The motion to amend Senate Bill 401 (Exhibit #17) FAILED, 6 members voting yes, 7 voting no, roll call vote.

Motion:

Senator Doherty moved to amend Senate Bill 401 (Exhibit #18).

Discussion:

Senator Doherty explained the amendments.

Senator Kennedy asked Mr. Fraser to comment on Senator Doherty's amendments. Mr. Fraser said there are so many things that cause degradation, he does not believe DHES will ever have the resources to review all of them. He does not think it would be practical to investigate individual septic tanks, drain fields, and other sources considered to be insignificant.

Vote:

The motion to amend Senate Bill 401 (Exhibit #18) FAILED, 4 voting yes, 9 voting no, roll call vote.

Motion:

Senator McClernan moved Senate Bill 401 DO PASS AS AMENDED. (amendments are Exhibits #1 and #2, dated 3/25/93).

Discussion:

Senator Bartlett suggested the Committee remove the fee amendment. Chair Bianchi said the House will probably take care of it. He said the fee must remain in the bill for it to be accepted in the House.

Senator Doherty said he believes SB 401 was introduced because DHES caved in to political pressure, granted special exemptions which were not needed and became involved in law suits. He said SB 401 is covering for the Department and taking a significant step backwards.

Senator Swysgood said the Department's testimony and answers to the Committee's questions had been knowledgeable and he believes DHES will make the concerns of Montanans a priority when they make decisions on nondegradation issues.

Senator Grosfield said he does not view this as getting the Department off the hook. He said he is thinking of what the nondegradation laws will mean to his ranching business if they are not fixed. Senator Grosfield also expressed concern for municipalities and homebuilders putting in septic systems.

Senator Weeding said the law has been in place for 25 years and has not stopped economic development. He added SB 401 is a new act for the mining industry.

Senator Hockett said he agreed with Senator Weeding. He believed

the bill should be killed and current law left in place.

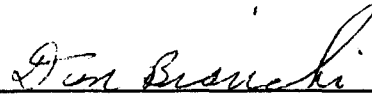
Senator Swift said he is voting for SB 401 to protect the Department.

Vote:

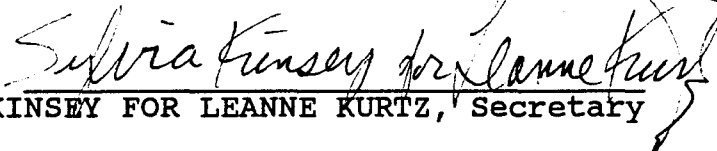
The motion that Senate Bill 401 do pass as amended, CARRIED, 7 voting yes, 6 voting no, roll call vote.

ADJOURNMENT

Adjournment: 9:32 p.m.



SENATOR DON BIANCHI, Chair



SYLVIA KINSEY FOR LEANNE KURTZ, Secretary

DB/lk

ROLL CALL

SENATE COMMITTEE Natural Resources DATE 3/26/93

NAME	PRESENT	ABSENT	EXCUSED
Bianchi	✓		
Hockett	✓		
Bartlett	✓		
Doherty	✓		
Grosfield	✓		
Keating	✓		
Kennedy	✓		
McClerman	✓		
Swift	✓		
Swysgood	✓		
Treit	✓		
Weeding	✓		
Weldon	✓		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 26, 1993

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 448 (third reading copy -- blue), respectfully report that House Bill No. 448 be concurred in.

Signed: Don Bianchi
Senator Don Bianchi, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 26, 1993

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 571 (third reading copy -- blue), respectfully report that House Bill No. 571 be concurred in.

Signed: Don Bianchi
Senator Don Bianchi, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 26, 1993

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 423 (third reading copy -- blue), respectfully report that House Bill No. 423 be concurred in.

Signed: Don Bianchi
Senator Don Bianchi, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 26, 1993

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 512 (third reading copy -- blue), respectfully report that House Bill No. 512 be concurred in.

Signed: Don Bianchi
Senator Don Bianchi, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 26, 1993

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 532 (third reading copy -- blue), respectfully report that House Bill No. 532 be concurred in.

Signed: Don Bianchi
Senator Don Bianchi, Chair

M- Amd. Coord.
M Sec. of Senate

Bruski-Mans
Senator Carrying Bill

681728SC.Sma

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 27, 1993

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 408 (third reading copy -- blue), respectfully report that House Bill No. 408 be concurred in.

Signed: *Don Bianchi*
Senator Don Bianchi, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 3
March 27, 1993

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration Senate Bill No. 401 (first reading copy -- white), respectfully report that Senate Bill No. 401 be amended as follows and as so amended do pass.

Signed: *Don Bianchi*
Senator Don Bianchi, Chair

That such amendments read:

1. Title, line 13.

Following: "AUTHORIZATION;"

Insert: "ESTABLISHING A FEE;"

2. Page 1, lines 19 and 20.

Strike: "gives" on line 19

Insert: "requires"

Strike: "authority" on line 20

3. Page 4, line 12.

Strike: "75-3-301"

Insert: "75-5-301"

4. Page 4, line 18.

Following: "submitted"

Insert: "oral or written"

5. Page 8, line 16.

Following: "the"

Strike: "use"

Insert: "granting"

6. Page 8, lines 16 and 17.

Following: "zones" on line 16

Strike: the remainder of line 16 and line 17 in their entirety

Insert: ", requiring that mixing zones granted by the department
be specifically identified, and requiring that mixing zones
have:"

7. Page 10, line 12.

Page 10, line 20

Following: "economically"

Insert: ", environmentally,"

8. Page 10, line 16.

Following: "waters"

Insert: "and exceeds the costs to society of allowing degradation of high-quality waters"

9. Page 11, line 1.

Following: "._"

Insert: "The department's preliminary and final decisions must include:

(a) a statement of the basis for the decision; and
(b) a detailed description of all conditions applied to any authorization to degrade state waters, including, when applicable, monitoring requirements, required water protection practices, reporting requirements, effluent limits, designation of the mixing zones, the limits of degradation authorized, and methods of determining compliance with the authorization for degradation."

10. Page 11, line 4.

Following: "within"

Strike: "20"

Insert: "30"

11. Page 11, lines 7 through 11.

Strike: "Every" on line 7 through "authorization" on line 11

Insert: "The department may issue an authorization to degrade high-quality waters under the provisions of this section for a period not to exceed 5 years. The holder of an authorization may apply for reauthorization under the provisions of this section"

12. Page 12, line 11.

Following: "board"

Strike: "may"

Insert: "shall"

13. Page 12.

Following: line 11

Insert:

"NEW SECTION. Section 6. Fee required. A request to degrade state waters pursuant to 75-5-301 must include a \$25,000 nonrefundable fee payable to the department upon application."
Renumber: subsequent sections

14. Page 12, line 13.

Strike: "[Section 5] is"

Insert: "[Sections 5 and 6] are"

15. Page 12, line 15.
Strike: "section 5"
Insert: "sections 5 and 6"

-END-

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 408

DATE 3-26 TIME 6:58 A.M. P.M.

NAME	YES	NO
Chairman Bianchi		✓
Vice Chairman Hockett		✓
Sen. Bartlett		✓
Sen. Doherty		
Sen. Grosfield		
Sen. Keating	✓	
Sen. Kennedy		✓
Sen. McClellan		✓
Sen. Swift	✓	
Sen. Swysgood	✓	
Sen. Treit	✓	
Sen. Weeding		✓
Sen. Weldon		✓
	4	7

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: Am # 23, 45
on sub 10 favor

ROLL CALL VOTE

SENATE COMMITTEE

NATURAL RESOURCES

BILL NO.

408

DATE

3-26-93

TIME

A.M. P.M.

NAME

YES

NO

Chairman Bianchi		✓
Vice Chairman Hockett		✓
Sen. Bartlett		✓
Sen. Doherty	absent	
Sen. Grosfield	absent	
Sen. Keating	✓	
Sen. Kennedy		✓
Sen. McClellan	✓	
Sen. Swift	✓	
Sen. Swysgood	✓	
Sen. Treit	✓	
Sen. Weeding		✓
Sen. Weldon		✓
	5	6

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION:

42
Swysgood #9

Carroll

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 408

DATE 3/26/93

TIME _____ A.M. P.M.

A.M. P.M.

YES

NO

5

SECRETARY

CHAIR

MOTION: _____

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 401

DATE 3-26-93 TIME 6:35 A.M. P.M.

NAME	YES	NO
Chairman Bianchi	✓	
Vice Chairman Hockett	✓	
Sen. Bartlett		✓
Sen. Doherty	✓	
Sen. Grosfield		✓
Sen. Keating		✓
Sen. Kennedy		✓
Sen. McClellan		✓
Sen. Swift		✓
Sen. Suysgood		✓
Sen. Treit		✓
Sen. Weeding	✓	
Sen. Weldon	✓	
	5	8

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: to Announce Doherty with 12
L (April 12)

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 451

DATE 3/26-93 TIME 7:22 A.M. P.M.

NAME	YES	NO
Chairman Bianchi		✓
Vice Chairman Hockett		✓
Sen. Bartlett		✓
Sen. Doherty		✓
Sen. Grosfield	✓	
Sen. Keating	✓	
Sen. Kennedy		✓
Sen. McClellan		✓
Sen. Swift	✓	
Sen. Suysgood	✓	
Sen. Treit	✓	
Sen. Weeding		✓
Sen. Weldon		✓
	5	8

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: lyc action on 280 @
L

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 401

DATE 3/26 TIME 7:44 A.M. P.M.

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

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: Motion to reconsider action
Mr. Cavanaugh

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 601

DATE 3-26-93 TIME 2:47 A.M. P.M.

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

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: L
Amend # 13

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 401

DATE _____ TIME 7:49 A.M. P.M.

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

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: Sub Motion Do Pass - McClellan

L

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 401

DATE 3-28 TIME 8: A.M. P.M.

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

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: Weeding Am. #14

✓

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 401

DATE 3-26 TIME 8:25 A.M. P.M.

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

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: Weeding Am # 15

2

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES BILL NO. 401

DATE 3-26 TIME 8:40 A.M. P.M.

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

Leanne Kurtz
SECRETARY

Sen. Bianchi
CHAIR

MOTION: Weeding # amen # 16

ROLL CALL VOTE

SENATE COMMITTEE Natural Resources ^{Senate} BILL NO. 401

DATE 3-26-93 TIME 8+ A.M. P.M.

NAME	YES	NO
Bianchi	✓	
Hockett	✓	
Bartlett	✓	
Doherty	✓	
Grosfield		✓
Keating		✓
Kennedy		✓
Swift		✓
Suysgood		✓
McClernan		✓
Tveit		✓
Weeding	✓	
Weldon	✓	
	6	7

Leanne Kurtz
SECRETARY

SEN Bianchi
CHAIR

MOTION: Weeding Amend #17

Final

ROLL CALL VOTE

SENATE COMMITTEE Natural Resources ^{Sen} BILL NO. 401

DATE 3-26-93 TIME _____ A.M. P.M.

NAME	YES	NO
Bianchi	✓	
Hockett		✓
Bartlett		✓
Doherty	✓	
Grosfield		✓
Keating		✓
Kennedy		✓
Swift		✓
Swissgood		✓
McClernan		✓
Tveit		✓
Weeding	✓	
Weldon	✓	
	4	9

Leanne Kurtz Bianchi
SECRETARY CHAIR

MOTION: amend # 18

failed

ROLL CALL VOTE

SENATE COMMITTEE Natural Resources ^{Sen} BILL NO. 401

DATE 3-26-93 TIME 9:29 A.M. P.M.

NAME	YES	NO
Bianchi		✓
Hockett		✓
Bartlett		✓
Doherty		✓
Grosfield	✓	
Keating	✓	
Kennedy	✓	
Swift	✓	
Suysgood	✓	
McClernan	✓	
Tveit	✓	
Weeding		✓
Weldon		✓
	7	6

SECRETARY CHAIR
MOTION: Concur in As Amended

Passed

Amendments to House Bill No. 374
Third Reading Copy

Requested by Rep. Ewer
For the Committee on Natural Resources

Prepared by Paul Sihler
March 25, 1993

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 3/26
✓ BILL NO. 374

1. Page 4, line 13.
Page 4, line 15.
Strike: "and order"
Insert: "letter"

2. Page 4, lines 22 through 24.
Strike: subsections (D) and (E) in their entirety.
Renumber: subsequent subsections

3. Page 4, line 25.
Following: "(F)"
Insert: "as applicable,"

4. Page 5, line 1.
Following: "ASSESSED"
Insert: "by order under subsection (2)"

5. Page 5, line 2.
Strike: "(1)(G)"
Insert: "(1)(e)"

6. Page 5, line 5.
Strike: "THAT"

7. Page 5, line 7.
Following: "RECEIPT."
Strike: "AN"
Insert: "Except as provided in subsection (2)(a)(ii), an"

8. Page 5.
Following: line 9
Insert: "(2)(a) The department may issue an administrative notice and order in lieu of the notice letter provided under subsection (1) if the department's action:
(i) does not involve assessment of an administrative penalty; or
(ii) seeks an administrative penalty only for an activity that it believes and alleges has violated or is violating 75-5-605.
(b) A notice and order issued under this section must meet all of the requirements specified in subsection (1)."
Renumber: subsequent subsections

- OVER -

EXHIBIT NO. 2
DATE 3-26-93

H BILL NO. 374

**TESTIMONY IN SUPPORT OF HB 374
AS REFERRED**

AND WITH THE AMENDMENTS PROPOSED BY REP. DAVE EWER


**PRESENTED BY
THE DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES
MARCH 26, 1993**

THE DEPARTMENT WISHES TO ADVISE THE COMMITTEE THAT IT SUPPORTS HB 374 AS REFERRED TO THE SENATE, AND SPECIFICALLY WITH THE AMENDMENTS PROPOSED BY THE SPONSOR, REP. DAVE EWER.

THE ADDITION OF AN ADMINISTRATIVE PENALTY ASSESSMENT AUTHORITY TO THE MONTANA WATER QUALITY ACT WILL ALLOW THE DEPARTMENT TO RESOLVE ENFORCEMENT ISSUES, INCLUDING PENALTY ASSESSMENTS, INVOLVING COOPERATIVE DEFENDANTS, THROUGH ADMINISTRATIVE PROCEDURES. THE CONSIDERABLE EXPENSES TO ALL PARTIES ASSOCIATED WITH DISTRICT COURT LITIGATION, MAY BE MINIMIZED WHEN THERE IS AGREEMENT AMONG THOSE PARTIES, AND WHEN THE ADMINISTRATIVE ROUTE TO RESOLUTION IS AVAILABLE AS AN ALTERNATIVE TO THE COURT. THE USE OF VALUABLE DISTRICT COURT TIME CAN BE RESERVED FOR COMPARABLY MORE SERIOUS AND COMPLEX ISSUES.

THIS BILL PRESERVES IN ALL CASES EACH PERSON'S RIGHT TO APPEAL AN ADMINISTRATIVE PENALTY DECISION MADE BY THE DEPARTMENT, AND THE AMENDMENTS PRESENTED TODAY BY REP. EWER CLARIFY FOR THE PUBLIC THE PROCEDURES UNDER WHICH THE DEPARTMENT WILL OPERATE IN ASSESSING ADMINISTRATIVE PENALTIES. THE AMENDMENTS PROVIDE FOR A WRITTEN NOTICE TO PERSONS, INCLUDING A REASONABLE OPPORTUNITY TO ACCOMPLISH CORRECTIVE ACTION, BEFORE A PENALTY IS ASSESSED, IN ALL BUT THE MOST SERIOUS INCIDENTS OF POLLUTION OF STATE WATERS.

A COPY OF THE SPECIFIC AMENDMENTS ARE ATTACHED TO THIS TESTIMONY.


**DAN L. FRASER, CHIEF
WATER QUALITY BUREAU**

Montana law provides the Department of Health and Environmental Sciences with the authority and the responsibility of protecting public health and the environment from the harmful effects of improperly managed hazardous waste. Hazardous wastes are generated from various sources in Montana including dry cleaners, automotive service centers, petroleum refineries, schools, and a variety of manufacturing, service and other industries. Some hazardous wastes are extremely toxic and persistent in the environment causing them to be a significant threat to public health and to critical environmental resources, such as groundwater, if mismanaged.

The Department has adopted administrative rules which are intended to provide proper hazardous waste management from the point of generation to the point of final disposition. These rules are preventive in nature. They include such things as proper identification, storage, transportation and disposal of hazardous waste. Compliance with these requirements increases public health and environmental protection and decreases the risk that new Superfund sites will be created in the state.

During its recent adoption of rules pertaining to the burning of hazardous waste in boilers and industrial furnaces, the Department received many comments from the public expressing an expectation that the Department would initiate effective enforcement actions which would include fines for hazardous waste

management violations. This bill is responsive to those public comments.

It has been the Department's experience that most individuals in the state affected by hazardous waste management requirements voluntarily comply with those requirements. The Hazardous Waste Program has been very successful in working with hazardous waste handlers to assist them in understanding the requirements and allowing violators an opportunity to gain compliance without having to initiate formal enforcement actions. However, we know from experience that there is a small percentage of individuals who will not comply with the regulations unless they believe there is a risk of monetary penalty for noncompliance.

Initiation of enforcement actions to correct violations and to minimize economic gain from noncompliance is an important element of the Hazardous Waste Program. Penalties for serious violations of the laws and regulations play a key role in enforcement by acting as a deterrent to violators and by ensuring that regulated entities are treated fairly and consistently, with no one gaining a competitive advantage by violating hazardous waste management requirements.

The only mechanism currently available to the Department for the assessment of penalties for hazardous waste management violations is the filing of lawsuits notwithstanding the severity of the violations. Use of the judicial system to collect penalties is a very slow and extremely resource intensive process. Consequently, the Program is forced to seek penalties from violators only in extreme circumstances and must defer from seeking

EXHIBIT #3
DATE 3-26-93
XL HB-419

penalties in cases that should otherwise merit penalties. This inability to seek penalties in some cases fails to provide a deterrence to continued noncompliance and provides some violators with an unfair advantage over competing businesses who expend resources and money to properly manage their hazardous waste.

HB 419 would allow the Department to seek penalties in cases where administrative actions such as warning letters or orders have been ineffective in gaining compliance. Administrative penalty authority would allow the Department greater discretion in choosing administrative versus judicial routes as tools for enforcement.

HB 419 has been designed to allow the Department to consider the seriousness of the violation in concert with the degree of care exercised by the violator in seeking penalties. Assessment of penalties must be made in conjunction with an order or other administrative action. Penalties collected will be deposited in the State General Fund. The Program intends that no administrative penalty will be assessed without prior Department Director approval.

In conclusion, administrative penalty authority will allow the Hazardous Waste Program to better utilize its limited resources and be more effective in the enforcement of hazardous waste management requirements which in turn translates into greater protection of public health and the environment. The Department requests your favorable consideration of this bill.



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE DAVE BROWN

HOUSE DISTRICT 72

HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620

HOME ADDRESS:
3040 OTTAWA
BUTTE, MONTANA 59701
PHONE: (406) 782-3604
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SENATE NATURAL RESOURCES

EXHIBIT NO. 4

DATE 3-26-93

H BILL NO. 571

COMMITTEES:
JUDICIARY
LOCAL GOVERNMENT
RULES

TESTIMONY

TO: Senate Natural Resources Committee
Senator Don Bianchi (Belgrade), Chair

FROM: Representative Dave Brown, District 72

DATE: March 26, 1993 (3pm)

RE: Support for HB 571

On behalf of all co-sponsors of HB 571 and my fellow members of the Butte-Silver Bow legislative delegation, I appear before you in support of HB 571 and ask for the support and endorsement from the Senate Natural Resources Committee.

The main purpose of HB 571 is to allow the Department of Health and Environmental Sciences to authorize short-term exemptions from the water quality standards. The Committee should be assured that such exemptions may only be granted under specific conditions, for example, as stated in Section 2, during construction of a water treatment facility or during an emergency environmental remediation activity.


In Butte-Silver Bow county, a short-term exemption is needed each year to eliminate undesirable and nonactive aquatic species from our Basin Creek Reservoir. This reservoir is one of the major water sources for the City of Butte. The reservoir impounds the waters of Basin Creek and provides water of such high quality that filtration is unnecessary. Safeguarding the purity of Basin Creek water is a top priority for the Butte-Silver Bow Water Utility Division, particularly since deterioration of the water quality would necessitate the construction of an \$8 million filtration plant.

**MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL
SCIENCES' TESTIMONY ON HB 571**

**"AN ACT CLARIFYING THE TERM "POLLUTION";
AUTHORIZING SHORT-TERM EXEMPTIONS FROM THE
WATER QUALITY STANDARDS; AND AMENDING
SECTION 75-5-103, MCA."**

The department supports the passage of HB 571 because it provides clear authority for short-term authorizations which are now provided in Montana and nation-wide. Though it can be argued that authority currently exists in the general rule-making provisions of the Water Quality Act, we would prefer that the act be amended to make that authority clear and specific. Some of the short-term authorizations that would be provided for by this act include:

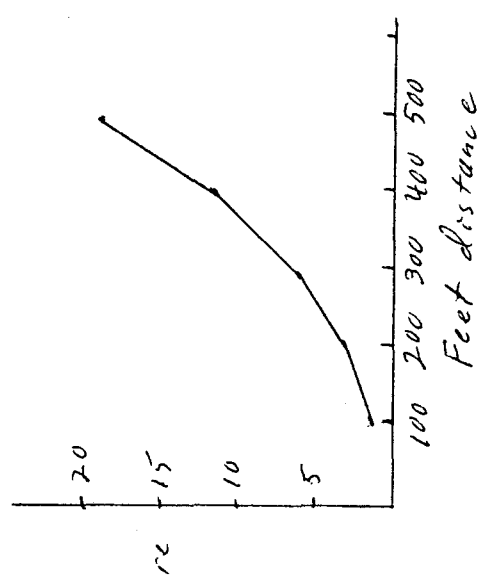
- *Exemptions from the turbidity standard for purpose of construction activities in or near state waters (irrigation diversions, bridges, culverts, etc.).*
- *Environmental remediation which could include removal of trucks, trains and spills of contaminants from state waters.*
- *Pesticide applications including the application of pesticides for mosquito control.*
- *Elimination of undesirable fish species by the Department of Fish Wildlife and Parks.*
- *Treatment of public water systems' water storage facilities with copper sulphate for the purpose of controlling algae blooms and the associated tastes, odors and disinfection by-product precursors.*



**Dan L. Fraser, P.E., Chief
WQB, DHES**

Geometric use of land when measured as a distance from a point

Radius	Acres used
100'	.72 ac
200'	2.88 ac
300'	6.49 ac
400'	11.53 ac
500'	18.07 ac



Example:

Lagoon size 100' x 200'

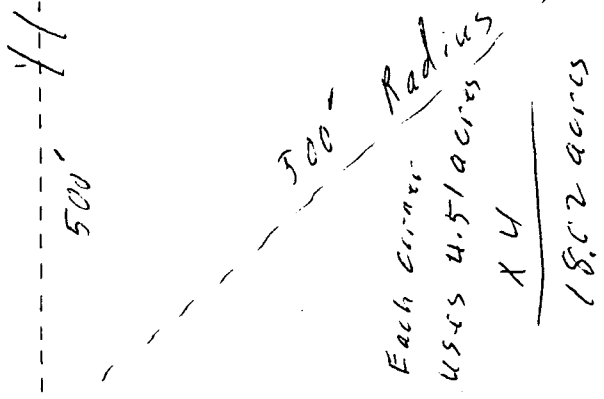
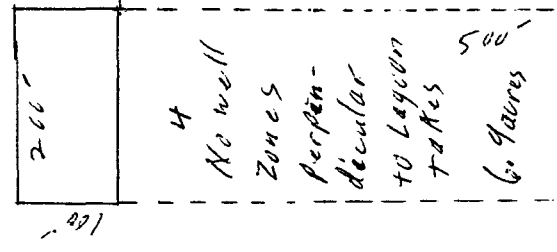
corners space = 18.02 acres

perpendicular = 6.9 acres

24.92 acres

plus Lagoon .5 ± acres

25.42 acres



SLIP 6

EXHIBIT NO. 3-26-93

DATE 4-4-8

BILL NO.

The Department regulates the management of hazardous waste from the point of generation to the point of final disposition. Facilities that treat, store or dispose of hazardous waste are required to obtain a permit from the Department. Businesses that generate hazardous waste but do not treat or dispose of those hazardous waste on-site or store hazardous waste for long periods of time are not required to be permitted (although they are subject to regulatory controls). Permit applications for hazardous waste treatment, storage or disposal facilities undergo exhaustive review to insure that the permit applicant has developed a clear and comprehensive plan which complies with all applicable hazardous waste management requirements for the life of the facility and for its eventual closure. Permitted facilities are currently inspected at least annually to insure that they are complying with permit conditions. Compliance with these requirements provides protection of public health and the environment from the harmful effects of improperly managed hazardous waste.

During its recent adoption of rules pertaining to the burning of hazardous waste in industrial boilers and furnaces, the Department received considerable public comment covering many aspects of hazardous waste management in the state that were outside of the scope of that rule-making process. Included were over 30 comments expressing an expectation that the Department would provide an increased level of oversight of burners of hazardous waste and a belief that facilities subject to permitting should bear a greater cost associated with permit processing and

oversight. HB 592 addresses both of those public comments as they apply to all hazardous waste management facilities.

The Department currently has rules which establish a schedule of fees for hazardous waste management facility permits and for the registration of hazardous waste generators. HB 592 clarifies the current statutory language to specifically include authority to assess fees for hazardous waste facility permit application review, reissuance and modification, establishes a schedule of fees for review of new permit applications, and gives the Department additional authority to assess fees on operating commercial hazardous waste facilities. Hazardous waste facility permitting activities are very time consuming and resource intensive. In cases of complex and controversial new commercial facilities, several years may be required to complete technical reviews of applications, fulfill public participation requirements and issue permits. The Hazardous Waste Program anticipates receiving at least two permit applications to operate commercial hazardous waste management facilities before the end of this fiscal year. HB 592 would allow the Department to assess fees to new permit applicants which would be commensurate with costs associated with permit application review and processing. These fees would be used to fund the resources necessary to adequately review hazardous waste management facility permit applications and to make final decisions associated with permit issuance or denial within reasonable time frames. HB 592 would have the effect of transferring much of the cost associated with permit application processing from the Hazardous Waste Program to the permit applicant.

EXHIBIT #7
DATE 3-26-93
31 HB-592

The provision in the bill which requires owners or operators of hazardous waste management facilities that are primarily commercial in nature to submit to the Department a fee based upon the amount of hazardous waste received would provide funding for personnel resources to enable the Hazardous Waste Program to increase and enhance compliance monitoring at commercial facilities thereby fulfilling Department responsibilities and meeting public expectations. The counties in which these commercial facilities are located will benefit from receipt of 15% of fees collected by the Department for use in implementing their hazardous material or hazardous waste monitoring and response programs.

An essential element of this bill is the provision for the creation of a special revenue account for deposit of fees collected under the provisions of this bill for use in the administration of the Department's Hazardous Waste Program.

In conclusion, the provisions of this bill would assist the Department in executing its responsibilities associated with permitting and oversight of hazardous waste management facilities by providing an additional revenue source to fund the Hazardous Waste Program. The Department requests your favorable consideration of this bill.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SJR029, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: A resolution directing the Environmental Quality Council (EQC) to give priority to the study of the nondegradation provisions of the Montana water quality laws and the implementation of those provisions. The EQC is required to report its findings and recommendations to the 54th Legislature.

ASSUMPTIONS:

Environmental Quality Council:

1. The EQC gives highest priority to its statutory obligations under the Montana Environmental Policy Act (MEPA) and has undertaken a MEPA implementation program involving training for state agencies which must implement MEPA. In the past biennium, the EQC gave first priority to this project, and the project is less than 50% complete and will continue into the 1995 biennium.
2. The EQC, at the close of the 1992 interim, recommended the conduct of two studies for the 1993-94 interim, including an evaluation of water quality and quantity monitoring and an evaluation of the state's hazardous waste management programs.
3. During the 1992 interim, in a seven-month period, the EQC conducted a study of residential energy efficiency in Montana using a collaborative process and utilizing a contracted professional facilitator. The cost of that study was \$26,500.
4. As of March 24, 1993, the EQC budget has been reduced below the agency request by approximately \$63,000 for the 1995 biennium, primarily in personal services. Using the costs of the residential energy efficiency study as a basis for comparison, the EQC may need additional resources to complete this study. The EQC will weigh all study requests and statutory mandates. The EQC will prioritize those obligations within the limits of the funds provided for the 1995 biennium.

Department of Health and Environmental Sciences:

5. The Water Quality Bureau staff will serve on various task forces and attend public meetings during the duration of this study. It will require the equivalent of three months for 1.00 FTE combined staff effort to participate in the study. This will require time away from other tasks such as processing nondegradation authorization requests but will not require any additional FTE.

FISCAL IMPACT:

No specific material fiscal impact.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The study may lead to improved processing of nondegradation authorizations by the Water Quality Bureau.

Dave Lewis 3-25-93

DAVE LEWIS, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE

Cecil Weeding 3/26/93

CECIL WEEDING, PRIMARY SPONSOR

DATE

Fiscal Note for SJR029, as introduced

DATE

NO

STR 29

Amendments to House Bill No. 408
Third Reading Copy

Requested by Sen. Swift
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 20, 1993

1. Page 10, line 8.

Following: "agriculture,"

Insert: "water user facilities,"

Amendments to House Bill No. 408
Third Reading Copy

Requested by Sen. Swift
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 18, 1993

EXEMPTION NO. 10
DATE 3-28
BILL NO. 408

1. Title, line 10.

Following: "EXEMPTION;"

Insert: "EXEMPTING CERTAIN NONRESIDENTIAL DIVISIONS FROM
SUBDIVISION REVIEW;"

2. Page 4, line 23.

Strike: "160"

Insert: "40"

3. Page 4, line 24.

Following: "AS"

Insert: "one-quarter of"

4. Page 5, line 24.

Strike: "160"

Insert: "40"

5. Page 5, line 25.

Following: "AS"

Insert: "one-quarter of"

6. Page 6, line 24.

Following: "will"

Insert: "not"

7. Page 6, line 25.

Strike: "exclusively"

Strike: "agricultural"

Insert: "residential"

8. Page 7, line 20.

Strike: "for" through "agricultural"

Insert: "to residential"



STATE OF MONTANA
ENVIRONMENTAL QUALITY COUNCIL

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3742

Deborah B. Schmidt, Executive Director

3-26
11
408

OV. STAN STEPHENS
Designated Representative
Art Wittich

HOUSE MEMBERS
Jerry Driscoll, Chairman
Ed Grady
David Hoffman
Bob Raney

SENATE MEMBERS
Jerry Noble, Vice Chairman
Steve Doherty
Dave Rye
Bill Yellowtail

PUBLIC MEMBERS
Doug Crandall
John Fitzpatrick
Mona Jamison
Helen Waller

March 24, 1993

TO: Representative Fagg
FROM: Michael S. Kakuk, Staff
RE: HB 408 Silviculture Issue

This memo is in response to your question regarding options to clarify that the use of the word "agriculture" HB 408 includes silviculture practices. You have expressed a desire not to amend HB 408 at this time so that option, while arguably being the cleanest approach, will not be addressed.

Current subdivision law does not define agriculture nor does it mention silviculture or forestry practices. After a quick review of legislative history I could find no indication one way or the other regarding legislative intent on this issue. Therefore it is unclear as to whether a landowner could divide land without local government subdivision review for silvicultural purposes under the "exclusively for agricultural purposes" exemption under 76-3-207(1)(c).

Anecdotal evidence suggests that local governments have considered forestry practices as included under the agricultural use exemption and have allowed divisions for silvicultural purposes without local government subdivision review. Additionally, the state has clearly identified timber harvested from state school trust land and certain other timber as a crop.

AN ACT ACCEPTING AN AMENDMENT TO THE ENABLING ACT IN
ORDER TO ALLOW CERTAIN TIMBER TO BE TREATED AS A CROP;
TREATING TIMBER HARVESTED FROM SCHOOL TRUST LANDS AS A
CROP; . . .

OVER

Section 1. Acceptance of amendment. . . . Rentals on leased lands, proceeds from the sale of timber and other crops, . . .

Chapter 14, Montana Special Session Laws, January 1992 Special Session. Emphasis added.

Also, section 35-17-103(1), Montana Code Annotated states, "*The term "agricultural products" shall include . . . forestry . . . and any farm products.*"

Finally, some counties in Montana use *The Illustrated Book of Development Definitions* when interpreting undefined language for planning, zoning or subdivision review issues. This book defines "agriculture" as:

The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man; including but not limited to: . . . trees and forest products, . . . or lands devoted to a . . . forestry management program.

H. Moskowitz & C. Lindbloom, The Illustrated Book of Development Definitions 23-24 (1981) Emphasis added.

Therefore, it would appear that a precedent at both the local and state levels has been set allowing a local government to consider silviculture as included in the word agricultural for the purposes of the exemption under 76-3-207. This interpretation does not appear to conflict with any other provision of state law.¹

A strong statement in the record clearly indicating that it is the intent of the legislature that agriculture include silviculture for the purposes of 76-3-207, would serve as one more piece of supporting evidence for that interpretation.

I hope this brief memo answers your questions. As usual I would have liked to have had more time to adequately research this topic. If I can be of further assistance, please contact me.

¹ Federal policy may also be viewed, albeit somewhat superficially, as supporting this interpretation - the U. S. Forest Service is located in the U. S. Department of Agriculture.

EXHIBIT NO. 12

Amendments to Senate Bill No. 401

First Reading Copy

DATE 3-26

H BILL NO. 401

Requested by Sen. Doherty

For the Committee on Natural Resources

Prepared by Michael S. Kakuk

March 19, 1993

1. Page 10.

Following: line 22

Insert: "(4)(a) The department shall consider the information submitted under subsection (4)(b) in making the determinations required under subsection (3).

(b) A person requesting authorization to degrade high-quality waters under subsection (2) shall submit the following applicable information:

(i) any proposed effluent or discharge limitation;

(ii) a statement of reasons for the proposed effluent or discharge limitation;

(iii) an analysis of alternatives to the proposed effluent or discharge limitation, with justifications for not using alternatives that would result in no degradation or less degradation;

(iv) an analysis of the quality of the proposed discharge;

(v) an analysis of the existing quality of the receiving water, including natural variations and fluctuations in a water quality parameter for which an authorization is requested;

(vi) a complete description of the proposed development for which an authorization is requested;

(vii) the distribution of existing flows and their expected frequency;

(viii) an analysis demonstrating the expected stream or ground water quality for all alternatives;

(ix) an analysis of the impacts of the proposed water quality changes on present and future beneficial uses, including any calculable monetary or other losses to the users;

(x) a showing that the change will not result in violations of water quality standards, preclude existing beneficial uses, or diminish anticipated beneficial uses of the receiving waters;

(xi) a detailed statement of economic or social need for the proposed development;

(xii) a description of alternatives to the proposed development that would equally meet the economic or social need of the development but that would not require water quality degradation;

(xiii) an analysis showing that the public would benefit from the development and lower quality water; and

(xiv) a description and analysis of past, present, and anticipated development in the area that justify a change in water quality and use, including existing or anticipated residential, agricultural, industrial, natural resource, or other development, and that explain in each case why the development is necessary and why maintenance of existing water quality is no longer of optimum benefit to the public."

Renumber: subsequent subsections

Amendments to Senate Bill No. 401
First Reading Copy
Requested by Senator McClernan
For the Committee on Natural Resources
Prepared by Paul Sihler
March 26, 1993

Amendment No. 13
DATE 3-26
BILL NO. 401

1. Page 4, lines 10 through 12.

Following: "state waters" on line 10

Strike: the remainder of lines 10 through 12 in their entirety

Insert: "in which water quality exceeds the level necessary for recreation or necessary to support the propagation of fish, shellfish, and wildlife or waters that are suitable for human consumption. All state waters are high-quality waters unless classified by the board as a class that does not support these uses."

SENATE NATURAL RESOURCES

EXHIBIT NO. 14

Amendments to Senate Bill No. 401

First Reading Copy

DATE 3-26

BILL NO. 401

Requested by Sen. Weeding

For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 19, 1993

1. Page 9, line 11.
Strike: "(3)"

2. Page 10, line 2.
Following: "quality"

Insert: "(1) The department shall require any industrial, public, or private project or development that would constitute a new or increased source of pollution to high-quality waters to provide the degree of waste treatment necessary to maintain that existing high water quality."

Renumber: subsequent subsections

3. Page 10, line 6.
Strike: "(3)"
Insert: "(4)"

4. Page 10, line 9.
Following: "waters"
Insert: "by existing sources"

5. Page 10, lines 12 and 13.
Strike: "to" on line 12 through "project" on line 13

6. Page 10, line 14.
Strike: "proposed"
Following: "project"
Insert: "or activity"
Strike: "will result"
Insert: "results"

Amendments to Senate Bill No. 401
First Reading CopyRequested by Sen. Weeding
For the Committee on Natural ResourcesPrepared by Michael S. Kakuk
March 23, 1993

1. Page 9, line 11.

Strike: "(3)"

2. Page 10, line 2.

Following: "~~quality~~."

Insert: "(1) The department shall require:

(a) that any state waters whose existing quality is higher than the established water quality standards be maintained at that high quality unless it has been affirmatively demonstrated to the department that a change is justifiable as a result of necessary economic or social development and will not preclude present and anticipated use of these waters; and

(b) any industrial, public, or private project or development which would constitute a new source of pollution or an increased source of pollution to high-quality waters, referred to in subsection (1)(a), to provide the degree of waste treatment necessary to maintain that existing high water quality."

Renummer: subsequent subsections

3. Page 10, line 6.

Strike: "(3)"

Insert: "(4)"

4. Page 10, lines 12 and 13.

Strike: "to" on line 12 through "project" on line 13

5. Page 10, line 14.

Strike: "proposed"Following: "project"

Insert: "or activity"

Strike: "will result"

Insert: "results"

SENATE NATURAL RESOURCES

EXHIBIT NO. 16

DATE 3-26-93

BILL NO. 401

Amendments to Senate Bill No. 401
First Reading Copy

Requested by Sen. Weeding
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 19, 1993

1. Title, line 11.

Strike: "MIXING ZONES AND"

2. Page 3, lines 1 through 5.

Strike: "It" on line 1 through "minimized." on line 5

3. Page 3, line 21.

Strike: "(5)(c)"

Insert: "(4)(c)"

4. Page 4, line 25 through page 5, line 4.

Strike: subsection (13) in its entirety

Renumber: subsequent subsections

5. Page 8, line 15.

Following: "i"

Insert: "and"

6. Page 8, lines 16 through 20.

Strike: subsection (4) in its entirety

Renumber: subsequent subsection

SENATE NATURAL RESOURCES
EXHIBIT NO. 17
DATE 3-26-
BILL NO. 401

Amendments to Senate Bill No. 401
First Reading Copy

Requested by Senator Weeding
For the Committee on Natural Resources

Prepared by Paul Sihler
March 25, 1993

1. Page 5, line 1.

Following: "department"

Strike: "where water quality standards may be exceeded"

2. Page 8, line 17.

Following: "zones"

Insert: "may not violate water quality standards and must"

Amendments to Senate Bill No. 401
First Reading Copy

Requested by Sen. Doherty
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 23, 1993

1. Page 3, lines 20 and 21.

Strike: "The" on line 20 through "(5)(c)." on line 21

strikes nonsignificant in defn. degradation

2. Page 8, line 25.

Following: "degradation;"

Insert: "and"

3. Page 9, line 6.

Strike: "; and"

Insert: "."

4. Page 9, lines 7 through 11.

Strike: subsection (c) in its entirety

strikes subsection that directs DUES to adopt rules to determine nonsign.

ANDS

DATE 3-26-93

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB 374, HB 419, HB 448
HB 571, HB 592

Name	Representing	Bill No.	Check One	
			Support	Oppose
Don Vidrine	DHES	419 592	✓	
Pete Story	myself	448	✓	
David Ross	Mt. Audubon Legislative Fund	374	✓	
Clay Landry	Montana Trout anglers	374	✓	
Jon Sesso	Butte-Silver Bow	571	✓	
David Ross	Mt. Audubon Legislative Fund	419	✓	
David Ross	" " " "	592	✓	
Les Berry	BWRR	374	✓	
"	"	419	✓	
Don Stone	DHES	374, 571	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY