

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN DICK KNOX, on April 12, 1993, at
3:00 p.m.

ROLL CALL

Members Present:

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

Members Excused: None

Members Absent: Rep. Vivian Brooke
Rep. Dore Schwinden

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

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

Committee Business Summary:

Hearing: SJR 29
Executive Action: SJR 29, HB 692, SB 389, SB 401, SB 338

HEARING ON SJR 29

Opening Statement by Sponsor:

SEN. CECIL WEEDING, SD 14, Jordan, stated SJR 29 was prompted by two water quality bills, SB 388 and SB 408, both of which propose to relax water quality standards. Since legislation has not been successful in reaching a consensus, this resolution was drafted in an effort to achieve consensus.

Proponents' Testimony:

Dennis Olson, Northern Plains Resource Council (NPRC), spoke in support of the legislation. He stated the study will allow thorough discussion on the non-degradation water policy during the biennium and promote development of rational recommendations, as well as allow time for unanswered questions. He also asked that the resolution be amended to include EQC enforcement.

Jim Jensen, Montana Environmental Information Center, expressed support for the resolution.

Stan Bradshaw, Montana Trout Unlimited, stated support for the bill.

Kim Wilson, Clark Fork-Pend Oreille Coalition, said the Coalition supported the resolution.

Leo Berry, Entech, voiced support for the resolution, but asked that it not replace SB 401.

Gary Langley, Montana Mining Association, concurred with previous testimony supporting the resolution but also asked for support for SB 401.

Mona Jamison, Mikelson Land Company, stated support for SJR 29 and opposition to SB 401.

Peggy Trenk, WETA, expressed support for SJR 29 and SB 401.

Dan Fraser, Department of Health and Environmental Sciences (DHES), voiced support for SJR 29 and SB 401.

Opponents' Testimony: None

Questions From Committee Members and Responses:

The committee questioned proponents on their positions for and against SB 401, the need for SJR 29, and the impact of both pieces of legislation.

Closing by Sponsor:

SEN. WEEDING closed and asked committee support for the resolution.

EXECUTIVE ACTION ON SJR 29

Motion: REP. RUSSELL FAGG MOVED SJR 29 BE CONCURRED IN.

Motion: REP. BOB GILBERT moved to amend SJR 29. EXHIBIT 1

Discussion: The committee discussed the amendment and the number

of issues directed to EQC.

Vote: TO AMEND SJR 29. The motion carried.

Motion/Vote: REP. BROOKE moved the amendment offered by Northern Plains Resource Council, page 3, line 19, insert "and enforcement". The motion carried.

Motion/Vote: MOTION THAT SJR 29 BE CONCURRED IN AS AMENDED. The motion carried.

EXECUTIVE ACTION ON HB 692

Motion: REP. GILBERT MOVED HB 692 DO PASS.

Discussion: REP. GILBERT asked the committee to consider this bill and pass without amendments.

Motion/Vote: REP. WAGNER moved amendments to HB 692 and distributed an explanation of the amendments. EXHIBITS 2 and 3 There was extensive discussion on the amendments and the intent.

Motion: REP. BIRD moved to segregate amendments 1 and 2, 3 through 6, and 7 through 9.

Discussion: Discussion continued on the amendments and input was solicited from opponents and proponents. EXHIBIT 4 was presented for the record.

Vote: The motion to segregate amendments 1 and 2 failed on a voice vote.

Vote: The motion to segregate amendments 3 through 6 failed on a voice vote.

Vote: The motion to segregate amendments 7 through 9 failed on a voice vote.

Motion/Vote: REP. WAGNER moved a conceptual amendment dealing with Glacier Park to remove the North and Middle Fork of the Flathead River Drainage. The motion failed on a voice vote.

Motion: REP. RANEY moved to amend the bill. EXHIBIT 5

Discussions: Barb Cosens, Legal Counsel, Reserved Water Rights Compact Commission, Department of Natural Resources, explained housekeeping amendments.

Vote: TO AMEND HB 692 PER EXHIBIT 5. The motion carried unanimously.

Motion/Vote: REP. TOOLE moved to amend the bill by inserting a definition of municipality on page 7, line 19. The definition of

EXECUTIVE ACTION ON SB 338

Previous executive action on SB 338 on March 26 ended in a tie vote.


Motion: REP. RANEY MOVED SB 338 BE CONCURRED IN.

Motion/Vote: REP. GILBERT moved a substitute motion to adjourn. The motion failed on a 6 to 10 vote.

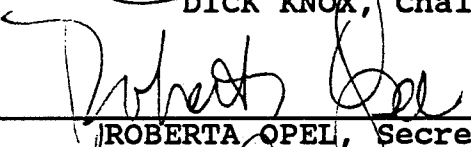
Vote: SB 338 BE CONCURRED IN. The motion failed on an 8 to 8 tie vote.

ADJOURNMENT


Adjournment: The meeting was adjourned at 6:45 pm.



DICK KNOX, Chairman



ROBERTA OPEL, Secretary



GAYLE CARPENTER, Transcriber

DK/ro

an unincorporated municipality was also added on page 9. The motion carried unanimously.

Motion/Vote: REP. GILBERT MOVED HB 692 BE CONCURRED IN AS AMENDED. The motion carried on a 14 to 2 roll call vote.

EXHIBIT 6 was presented for the record.

EXECUTIVE ACTION ON SB 389

Motion/Vote: REP. FOSTER MOVED TO TABLE SB 389. The motion carried unanimously.

EXECUTIVE ACTION ON SB 401

Motion: REP. ORR MOVED SB 401 BE CONCURRED IN and moved amendments to the bill. EXHIBIT 7

Discussion: The Department of Natural Resources and Conservation (DNRC) commented on the amendments.

Vote: Motion to amend SB 401 carried.

Motion/Vote: REP. TOOLE moved to amend SB 401. EXHIBIT 8 Motion failed on an 8 to 8 tie vote.

Motion: REP. SWANSON moved to amend SB 401. EXHIBIT 9

Discussion: The committee discussed the proposed amendment, HB 571, short term water degradation, and the review process.

Vote: TO AMEND SB 401 PER EXHIBIT 9. Motion failed on a 9 to 7 voice vote.

Motion/Vote: REP. TOOLE moved to amend SB 401. EXHIBIT 10 Motion failed.

Motion/Vote: REP. TOOLE moved to amend the bill. EXHIBIT 11 Motion failed.

Discussion: The committee discussed concerns with the bill, SJR 29, mounting water quality violations, and departmental commitment.

Motion/Vote: REP. HARPER moved to strike section 9. The motion failed on a 10 to 6 vote.

Motion/Vote: MOTION THAT SB 401 BE CONCURRED IN AS AMENDED. The motion carried on a 10 to 6 vote.

HOUSE OF REPRESENTATIVES

Natural Resources COMMITTEE

BILL NO.

ROLL CALL

DATE 4-12-93

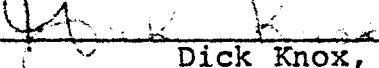
NAME	PRESENT	ABSENT	EXCUSED
Jody Bird	✓		
Vivian Brooke		✓	
Rugg Fagg	✓		
Gary Feland	✓		
Mike Foster	✓		
Bob Gilbert	✓		
Hal Harper	✓		
Scott Orr	✓		
Bob Raney	✓		
Dore Schwinden		✓	
Jay Stovall	✓		
Emily Swanson	✓		
Howard Toole	✓		
Doug Wagner	✓		
Rolph Tunby, Vice Chairman	✓		
Dick Knox, Chairman	✓		

HOUSE STANDING COMMITTEE REPORT

April 13, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 401 (third reading copy -- blue) be concurred in as amended.

Signed: 
Dick Knox, Chair

And, that such amendments read:

Carried by: Rep. Orr

1. Title, line 14.

Strike: "A FEE"

Insert: "FEES"

2. Page 4, line 14.

Following: "75-5-301."

Insert: "All waters are high-quality water unless classified by the board within a classification for waters that are not suitable for human consumption or not suitable for growth and propagation of fish and associated aquatic life."

3. Page 9, line 16.

Following: "75-5-303(3)."

Insert: "These criteria must be established in a manner that generally:

(i) equates significance with the potential for harm to human health or the environment;

(ii) considers both the quantity and the strength of the pollutant;

(iii) considers the length of time the degradation will occur; and

(iv) considers the character of the pollutant so that greater significance is associated with carcinogens and toxins that bioaccumulate or biomagnify and lesser significance is associated with substances that are less harmful or less persistent."

4. Page 12, lines 5 through 10.

Strike: "THE" on line 5 through "SECTION." on line 10

Insert: "Every 5 years, the department shall review authorizations to degrade state waters. To enable the department to adequately review authorizations as required

Committee Vote:

Yes ____, No ____.

811624SC.Hpf

under this section, the authorization holder shall revise the initial authorization application no sooner than 3 1/2 years and no later than 4 years after the date of the authorization or the date of the latest department review. The specific revised information required must be determined by the department. If, based on the review, the department determines that the standards and objectives of 75-5-303 or the rules adopted pursuant to 75-5-303 are not being met, it shall revoke or modify the authorization. A decision by the department to revoke or modify an authorization may be appealed to the board."

5. Page 13, lines 12 through 15.

Strike: Section 6 in its entirety

Insert: "NEW SECTION. Section 6. Fees required for nondegradation application, monitoring, and enforcement.
(1) Application fees for authorization to degrade state waters and fees for authorization review under 75-5-303(6) may not exceed the following:
(a) \$2,500 for domestic sewage treatment plant discharges;
(b) \$5,000 for industrial discharges; and
(c) \$200 per lot for subdivisions reviewed under Title 76, chapter 4.
(2) The minimum annual monitoring and enforcement fee for degradation authorizations is \$250 and may not exceed \$2,500 per million gallons discharged per day."

6. Page 13.

Following: line 20

Insert: "NEW SECTION. Section 8. Coordination instruction. If House Bill No. 388 is passed and approved and if it requires the department of health and environmental sciences to impose and collect fees for authorizations to degrade state waters, then [section 6 of this act] is void.

NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

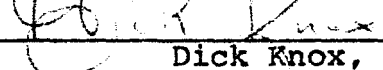
-END-

HOUSE STANDING COMMITTEE REPORT

April 13, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 692 (first reading copy -- white) do pass as amended .

Signed: 
Dick Knox, Chair

And, that such amendments read:

1. Page 4, line 21.

Following: "consumptive"

Insert: "use"

2. Page 9.

Following: line 17

Insert: "(33) "Unincorporated municipality" includes but is not limited to a rural special improvement district or any other entity that serves community water needs."

Renumber: subsequent subsections

3. Page 20, line 23.

Strike: "85-2-212"

Insert: "85-2-226"

4. Page 42, line 10.

Following: "Jule"

Insert: ", Rubideau,"

5. Page 77, line 3.

Following: "or"

Insert: "until the Department"

-END-

Committee Vote:
Yes ____, No ____.

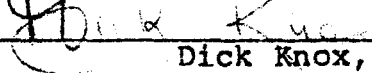
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HOUSE STANDING COMMITTEE REPORT

April 13, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report
that Senate Joint Resolution 29 (third reading copy -- blue)
be concurred in as amended .

Signed: 
Dick Knox, Chair

And, that such amendments read:

Carried by: Rep. Schwinden

1. Title, line 7.

Strike: "DIRECTING"

Insert: "REQUESTING"

2. Page 3, line 19.

Following: "implementation"

Insert: "and enforcement"

-END-

Committee Vote:

Yes ___, No ___.

811628SC.Hpf

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2/13/93
4/13/93

EXHIBIT 1
DATE 4.12.93
HB SJR 29

Amendments to Senate Joint Resolution No. 29
Third Reading Copy

Requested by Committee on Natural Resources
For the Committee on Natural Resources

Prepared by Todd Everts
April 13, 1993

1. Title, line 7.

Strike: "DIRECTING"

Insert: "REQUESTING"

2. Page 3, line 19.

Following: "implementation"

Insert: "and enforcement"

Amendments to House Bill No. 692
1st Reading Copy

EXHIBIT 2
DATE 4-12-93
HB 692

Requested by Rep. Wagner
For the Committee on Natural Resources

Prepared by Todd Everts
April 12, 1993

1. Page 5, line 9.

Following: "II."

Insert: "In calculating the amount of water consumed by a consumptive use, the amount must be the quantity diverted or withdrawn less the quantity of reusable return flow or recharge to a hydrologically connected source of water."

2. Page 21, line 17.

Strike: "along"

Insert: "in"

3. Page 50, line 6.

Following: "plus"

Insert: "newly acquired water rights with priority dates after December 31, 1992, equaling an additional amount of water of 40%; (b) "

4. Page 50, line 7.

Following: "rights"

Insert: ", in addition to the sum of the rights under (a),"

5. Page 50, line 9.

Strike: "(b) "

Insert: "(c) "

6. Page 50, line 10.

Strike: "(c) "

Insert: "(d) "

7. Page 51, line 11.

Following: "domestic"

Insert: "or commercial"

8. Page 51, line 13.

Following: "municipality,"

Insert: "a rural special improvement district, or any other entity serving community water needs,"

9. Page 102, line 9.

Strike: "and"

Insert: "(d) establishment, administration, water measurement, and enforcement of any type of conservation of water distribution plan contemplated under Article II, section G, including but not limited to the establishment, administration, and enforcement of a water conservancy district created under Title 85, chapter 9, MCA; and"

Renumber: subsequent subsection

House Bill No. 692 --- Rep. Wagner's Amendment Explanations:

Explanation of Amendment 1:

The bill does not expressly take into account that the use of water will normally result in some return flow or accretion to the same or hydrologically connected source of water. This is important when calculating whether the caps set up in Table 8 in the bill on pages 50 and 51 are reached. This amendment clarifies that return flows and accretions must be taken into account.

Explanation of Amendment 2:

This amendment clarifies that an impoundment may be built off the mainstem of a Category 2, 3, or 4 stream. As introduced, the bill prohibits impoundments which are built "along" such a stream. In the case of the Cooke City area, it is likely that a waste treatment impoundment will be built to treat the community waste, and it may be built "along" Soda Butte Creek.

Explanation of amendments 4 through 6:

As worded, the bill subordinates the federal reserved water right to existing water rights on Soda Butte Creek recognized under state law with priority dates before January 1, 1993 only until the amount of those rights reach the levels set forth in Table 8 on pages 50 and 51, although that is not the stated intent of the drafters of the Compact. These amendments rearrange the wording in subsection i. on pages 49 and 50 to clarify this point.

In addition, these amendments add 40% to the sum of the water rights with priority dates before January 1, 1993. This amendment is to allow for future development in the Soda Butte Creek drainage. The sponsors of this bill have themselves stated that the existing water rights already exceed the maximum levels of development set forth in Table 8. Therefore, unless and until a conservation of water distribution plan is adopted for the area which measures the actual use of water as contemplated in Article II, section G of the bill, such as through a water conservancy district, the amount of water claimed under the water rights will be used to determine if the levels have been reached. This means that little future development of water can occur, since the cap has already been reached. This is apparently not true for any other drainages affected by the Compact. The 40% number is derived from the fact that 40% of the private parcels of land in the area are currently undeveloped.

Explanation of Amendment 7:

Subsection (2) on page 51 of the bill overrides the effect of subsection (1) on pages 49 and 50 providing for subordination of the federal reserved right to existing water rights on Soda Butte Creek, because it says that subordination under subsection (1) is effective only if the flows of Soda Butte Creek exceed the

"low stream levels" set forth in Table 9 on page 52. The "low stream flow levels" in Table 9 are 95% of the monthly average flow estimated for Soda Butte Creek at the Park boundary. Therefore, the "low stream flow levels" will be reached almost 50% of the time.

Since the subordination of the federal reserved right under subsection (1) will be effective only about 50% of the time, it is reasonable to modify subsection (2) so that the federal reserved right is at least always subordinate to both domestic and commercial water rights. Without this amendment, there would be little opportunity for development of additional water supplies for commercial use in the area, which in turn will severely limit the growth of commercial establishments such as motels, lodges, restaurants and bars. The subordination to commercial water rights under this amendment will still be limited to rights for 35 gpm or less. There are also some mining rights in the Soda Butte drainage, and the federal water right will not be subordinate to them under this amendment, unless they are non-consumptive.

Explanation of Amendment 8:

The community water systems in Cooke City, and possibly Silvergate, are run by rural special improvement districts, not the municipalities. This amendment clarifies that the federal reserved water right will always be subordinate to the water rights of these communities.

Explanation of Amendments 9 and 10:

These amendments will allow the funding of water conservancy districts or other entities that might be created to measure and conserve water in an area affected by the Compact, such as the Soda Butte area. Funds under this section will come only from federal funds, if available.



United States Department of the Interior

NATIONAL PARK SERVICE

Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525

April 12, 1993

IN REPLY REFER TO:

L54(479)
General

EXHIBIT 4
DATE 4-12-93
HB 692

Rep. Dave Wanzenried, NPS Negotiating Team Chairman
Montana Reserved Water Rights Compact Commission
1520 East Sixth Avenue
Helena, Montana 59620-2301

Re: Proposed Amendments to the National Park Service/Montana Reserved Water Rights Compact

Dear Rep. Wanzenried:

We have been advised that amendments to HR 692 will be offered to the Montana House Natural Resources Committee today when it meets in executive session on the National Park Service/Montana Reserved Water Rights Compact. At this writing, we have not reviewed the specific proposed amendments. However, the amendments which we understand will be offered include a reopener provision for the Soda Butte Creek drainage and a change in the amount of water set aside for present and future private (state based) use in the Soda Butte Creek drainage from five percent to 10 percent of estimated monthly flow. We understand other amendments may also be offered.

The NPS opposes amendment of the compact. We believe that the compact, as agreed upon, allows future modification upon the agreement of both parties as provided in Article VI.A.2. and further provision for reopener is unnecessary. We also believe that protection of Yellowstone National Park resources will not allow an increase of private consumptive use outside the park on Soda Butte Creek above that agreed on in the negotiations. In addition, we believe that the proposed increase from 5 percent to 10 percent in allowable consumptive use will not provide appreciably increased water supplies in most months.

We would appreciate an opportunity to comment on any other proposed amendments. If you have any questions, please feel free to call me at (303) 225-3505.

Sincerely,

for Owen R. Williams
Chief, Water Rights Branch

Amendments to House Bill No. 692
1st Reading Copy

Requested by Rep. Wanzenried
For the Committee on Natural Resources

Prepared by Todd Everts
April 12, 1993

EXHIBIT 5
DATE 4-12-93
HB 692

1. Page 4, line 21.
Following: "consumptive"
Insert: "use"
2. Page 20, line 23.
Strike: "85-2-212"
Insert: "85-2-226"
3. Page 42, line 10.
Following: "Jule"
Insert: ", Rubideau"
4. Page 77, line 3.
Following: "or"
Insert: "until the Department"

FLATHEAD BASIN COMMISSION

EXECUTIVE DIRECTOR
OFFICE OF THE GOVERNOR
CAPITOL STATION
HELENA, MONTANA 59620
(406) 444-3111

723 FIFTH AVENUE EAST
KALISPELL, MONTANA 59901
(406) 732-0061

April 7, 1993

Chair
House Natural Resources Committee
Montana State Legislature
Capitol Station
Helena, Montana 59620

EXHIBIT 6
DATE 4-12-93
HB 692

Dear Sir:

The work of the Reserved Water Rights Compact Commission in negotiating reserved water rights between the State of Montana and the National Park Service has addressed several fundamental concerns of the Flathead Basin Commission.

First, it has demonstrated a high level of cooperation between state and non-state entities, a growingly important factor in resolving issues that involve multiple parties.

Second, it reflects a concerted effort to use the best scientific data available to determine management strategies for precious aquatic resources in Montana.

Third, it has incorporated the element of a well-planned public involvement process to insure the effective participation of the public and the protection of their interests.

The process, as it relates to Glacier National Park, appears to have successfully addressed a number of key concerns of the Flathead Basin Commission, including consumptive use and instream flow rights. Given the importance of these aquatic resources, both in terms of the Flathead Basin itself and in the larger context of the headwaters of the Columbia River system, the efforts expended through the negotiation and public involvement portions of the process have done much to insure the responsible future use of this critical resource.

Both the State of Montana and the National Park Service should be commended for working so effectively to accomplish this task.

Although the Flathead Basin Commission has not had the opportunity to formally consider the final negotiated agreement, it has been periodically updated on the progress of the negotiations and had the opportunity to monitor the public involvement portion of the process. We look forward to formal adoption of the negotiated agreement and encourage the House Natural Resources Committee to give the implementing legislation serious consideration.

Respectfully,

Amendments to Senate Bill No. 401
Third Reading Copy

Requested by Rep. Orr
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
April 6, 1993

1. Title, line 14.

Strike: "A FEE"

Insert: "FEES"

2. Page 4, line 14.

Following: "75-5-301."

Insert: "All waters are high-quality water unless classified by the board within a classification for waters that are not suitable for human consumption or not suitable for growth and propagation of fish and associated aquatic life."

3. Page 9, line 16.

Following: "75-5-303(3)."

Insert: "These criteria must be established in a manner that generally:

(i) equates significance with the potential for harm to human health or the environment;

(ii) considers both the quantity and the strength of the pollutant;

(iii) considers the length of time the degradation will occur; and

(iv) considers the character of the pollutant so that greater significance is associated with carcinogens and toxins that bioaccumulate or biomagnify and lesser significance is associated with substances that are less harmful or less persistent."

4. Page 12, lines 5 through 10.

Strike: "THE" on line 5 through "SECTION." on line 10

Insert: "Every 5 years, the department shall review authorizations to degrade state waters. To enable the department to adequately review authorizations as required under this section, the authorization holder shall revise the initial authorization application no sooner than 3 1/2 years and no later than 4 years after the date of the authorization or the date of the latest department review. The specific revised information required must be determined by the department. If, based on the review, the department determines that the standards and objectives of 75-5-303 or the rules adopted pursuant to 75-5-303 are not being met, it shall revoke or modify the authorization. A decision by the department to revoke or modify an authorization may be appealed to the board."

5. Page 13, lines 12 through 15.

Strike: Section 6 in its entirety

Insert: "NEW SECTION. Section 6. Fees required for nondegradation application, monitoring, and enforcement.

(1) Application fees for authorization to degrade state waters and fees for authorization review under 75-5-303(6) may not exceed the following:

(a) \$2,500 for domestic sewage treatment plant discharges;

(b) \$5,000 for industrial discharges; and

(c) \$200 per lot for subdivisions reviewed under Title 76, chapter 4.

(2) The minimum annual monitoring and enforcement fee for degradation authorizations is \$250 and may not exceed \$2,500 per million gallons discharged per day."

6. Page 13.

Following: line 20

Insert: "NEW SECTION. Section 8. Coordination instruction. If House Bill No. 388 is passed and approved and if it requires the department of health and environmental sciences to impose and collect fees for authorizations to degrade state waters, then [section 6 of this act] is void.

NEW SECTION. Section 9. {standard} Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Renumber: subsequent sections

DRAFT

SENATE
Amendments to ~~House~~ Bill No. 401
Third Reading Copy

Requested by Rep. Toole
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
April 7, 1993

EXHIBIT 8
DATE 4-12-93
~~HB~~ SB 401

1. Page 8, line 25.
Strike: "and"

2. Page 9, line 16.
Following: 75-5-303(3)

Insert: "; and (6) to the extent practicable, ensure that the rules adopted under subsection (5) establish objective and quantifiable criteria for various parameters. These criteria must, to the extent practicable, establish presumptive bases for granting or denying applications for authorization to degrade high-quality waters under the policy established in 75-5-303(2) and (3)."

DRAFT

Amendments to Senate Bill No. 401
Second Reading Copy

EXHIBIT 9
DATE 4-12-93
~~HB~~ SB 401

Requested by Rep. Swanson
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
April 6, 1993

1. Page 9, line 16.

Following: "75-5-303(3)."

Insert: "These criteria must be established in a manner that does not include activities or classes of activities [, unless authorized under [section 2 of House Bill No. 571],] that violate water quality standards and in a manner that generally:

- (i) equates significance with the potential for incremental impacts or cumulative impacts to human health or the environment;
- (ii) considers both the quantity and the strength of the pollutant;
- (iii) considers the length of time the degradation will occur; and
- (iv) considers the character of the pollutant so that greater significance is associated with carcinogens and toxins that bioaccumulate or biomagnify and lesser significance is associated with substances that are less harmful or less persistent."

2. Page 13.

Following: line 20

Insert: "

NEW SECTION. Section 8. Coordination instruction. If House Bill No. 571 is not passed and approved with language that authorizes the department of health and environmental sciences to grant short-term exemptions from the water quality standards, then the bracketed language in 75-5-301(5)(c), as amended by [this act], is void."

Renumber: subsequent sections

Amendments to Senate Bill No. 401
Third Reading Copy

EXHIBIT 10

Requested by Rep. Toole
For the Committee on Natural Resources ~~HB~~ SB 401

DATE 4-12-93

Prepared by Michael S. Kakuk
April 6, 1993

1. Page 13.

Following: line 8

Insert: "

NEW SECTION. Section 5. Mixing zone guidelines. The department may deny a mixing zone if necessary to protect beneficial uses. The department must carefully consider the appropriateness and extent of a mixing zones where the discharge contains carcinogens or toxins that bioaccumulate or biomagnify. Renumber: subsequent sections

2. Page 13, lines 17 and 20.

Following: "5"

Strike: "AND 6"

Insert: "through 7"

Amendments to Senate Bill No. 401
Third Reading Copy

Requested by Rep. Toole
For the Committee on Natural Resources

EXHIBIT 11
DATE 4-12-93
~~HB~~ SB 401

Prepared by Michael S. Kakuk
April 6, 1993

1. Page 8, line 21.

Following: "IDENTIFIED."

Insert: "complying with the requirements of [section 5],"

2. Page 13.

Following: line 8

Insert: "

NEW SECTION. Section 5. Mixing zone requirements. (1)

Mixing zones granted by the department must comply with the requirements of this section.

(2) Mixing zones may not restrict passage of aquatic life. Pollutants in a mixing zone may not create objectionable bottom deposits.

(3) Chronic toxicity may not occur in a mixing zone.

(4) For discharges to lakes or reservoirs, the area of a mixing zones that exceeds water quality standards may not extend more than 25 feet in any direction from the point of discharge. No more than 5% of the volume of a lake or reservoir may be allocated for the sum of mixing zones in that water body.

(5) To ensure rapid mixing, for mixing zones that involve a discharge to a river or stream the area of the mixing zone that exceeds water quality standards may not exceed 250 feet from the point of discharge or be located less than 500 feet from an adjacent mixing zone. Mixing zones for discharges to rivers or streams must be based on a designated volume or percentage of stream flow, as determined by the board."

Renumber: subsequent sections

3. Page 13, lines 17 and 20.

Following: "5"

Strike: "AND 6"

Insert: "through 7"

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Nat. Res. COMMITTEE BILL NO. STR 29
DATE 4-12-93 SPONSOR(S) Sen. Weeding
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
COOK City Mt Dorlene Robert	Self		HB 692
Kenneth Hufford	Self		#692
Jim Jensen	MAC	X	STR 29
Stan Badshen	RT. T.U.	✓	
Brent Darkey	Gov. Stan Racco	✓	✓
Michael Jamison	Milliken Land Co.	✓	
GARY LANGLEY	MONTANA MINING ASSN.	✓	
Peggy Trenk	WETA	✓	
Wennis Olsen	NPRC	✓	

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