

## MINUTES

### MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

#### CONFERENCE COMMITTEE ON SENATE BILL 362

Call to Order: By CHAIRMAN LARRY TVEIT, on April 7, 1995, at  
11:31 a.m.

#### ROLL CALL

##### Members Present:

Sen. Larry J. Tveit, Chairman (R)  
Rep. Bill Tash, Co-Chairman (R)  
Sen. Thomas A. "Tom" Beck (R)  
Sen. Linda J. Nelson (D)  
Rep. Paul Sliter (R)

Members Excused: None

Members Absent: Rep. Carley Tuss (D)

Staff Present: Todd Everts, Environmental Quality Council  
Carla Turk, Secretary

#### Discussion:

CHAIRMAN TVEIT explained that the amendments SB036205.ate, offered by the Health Department, went beyond the scope of the amendments which were transmitted by the House. He added the amendments would require a Free Conference Committee.

SENATOR TOM BECK asked the Department to describe why the amendments were necessary. John Arrigo, Department of Health, replied one concern was that under current language it was unclear whether the Bill referred only to groundwater discharge permits. He stated the Department wished to avoid any confusion among those required to obtain permits.

SENATOR BECK referred to "discharges of sewage, industrial waste or other waste into state ground water," and clarified that the Department wanted to reinsert "groundwater" in front of "permit requirements". He wondered if that was necessary. Claudia Massman, Attorney, Department of Health, stated it was necessary because there were two permit programs: groundwater and surface water. She explained the Department was aware that the Legislation referred to groundwater discharge permits but they wished to make it clear to the public that these exemptions refer to the groundwater discharge permit requirement not the surface water discharge requirement.

**SENATOR BECK** asked about amendment #2. **Ms. Massman** explained the second amendment struck the language beginning with "described" through "Montana", in Title 16, Chapter 20, Subchapter 10, deleting the reference to the Administrative Rules of Montana.

**SENATOR BECK** asked why they wanted to strike the reference to the rules. **Ms. Massman** replied there was concern that, legally, the Administrative Rules could not be referred to in statute. She explained the amendment would strike specific reference to the Administrative Rules and just generally refer to groundwater permits which were adopted under the rulemaking provisions. She stated amendment #4 was to clarify and make the language consistent and she added it may not be necessary.

**Todd Everts** explained amendments numbers 1, 3, & 4 would require a dissolution of the Conference Committee and the formation of a Free Conference Committee. He added amendment 2 applied to the amendment which came over from the House, Amendment 1 to the House Standing Committee Report of March 15, 1995.

**CHAIRMAN TVEIT** asked the Department what the effect would be if the Committee only adopted Amendment #2. **Ms. Massman** stated the Department would prefer the Committee become a Free Conference Committee and adopted all of the amendments. **SENATOR BECK** said he agreed.

**John Bloomquist, Montana Stockgrowers Association**, stated he understood the Department's desire to clarify the language. He stated amendment #2 was the only necessary amendment to clarify the House Amendment but he had no objection to amendments 1, 3, & 4.

**SENATOR BECK** stated he agreed with Amendment #2 and the need to remove Administrative Rules from the statute. He explained they should not be included in the statute because Administrative Rules can be changed but the statute cannot be changed without legislative approval. He asked if the oil industry had a problem with the amendments. **Gail Aberchrombie, Executive Director, Montana Petroleum Association**, stated they had understood the Legislation to only refer to groundwater permits. She added some of the members had surface water permits through the Department and wanted to be sure that those were not disturbed.

**John Arrigo** stated the surface water discharge permit program was delegated to the state by the federal government and the state could get rid of surface water permits but the EPA would always require them. He explained that the EPA did not have a ground water discharge permit program so the state had some flexibility in that area and the Department could say this particular industry does not need a ground water permit but they did not have that option for surface water permits.


Motion/Vote:

SENATOR BECK'S MOTION THAT THE CHAIRMAN AND CO-CHAIRMAN OF THE CONFERENCE COMMITTEE REQUEST A FREE CONFERENCE COMMITTEE CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: CHAIRMAN TVEIT adjourned the meeting at 11:46 a.m.

  
\_\_\_\_\_  
SENATOR LARRY TVEIT, Chairman

  
\_\_\_\_\_  
CARLA TURK, Secretary

LJT/cmt

Conference Committee  
on SB 362  
Report No.1, April 7, 1995

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Conference Committee on SB 362, met and considered:

the House Committee on Natural Resources amendments dated  
March 14, 1995.

We recommend the following on SB 362 (reference copy - salmon)  
and the standing committee amendments:

Your conference committee moved to ask dissolutionment and  
request free conference committee appointments from each chamber  
to consider the amendments proposed.

And that this Conference Committee report be adopted.

For the Senate:

Tveit

Chair

Beck

L. Nelson

Amd. Coord.

Sec. of Senate

For the House:

Tash

Chair

Slieter

Tuss

ADOPT

REJECT

801250CC.SRF

Conference Committee  
on SB 362  
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L. Nelson Linda Nelson  
LN  
Amd. Coord.

                      
Sec. of Senate

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Tash Bill Tash  
Chair

Slieter Gael Slieter

Tuss Carly Tuss

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Amendments to Senate Bill No. 362  
Reference Bill as Amended

For the Free Conference Committee

Prepared by Todd Everts  
April 10, 1995

1. Page 2, line 1.

Following: "the"

Insert: "ground water"

2. Page 2, line 2.

Strike: "DESCRIBED" through "MONTANA"

Insert: "adopted under subsections (1) through (4)"

3. Page 3, line 3.

Following: "the"

Insert: "ground water"

4. Page 3, line 4.

Strike: "authorized"

Insert: "adopted"

Strike: "subsection (1)"

Insert: "subsections (1) through (4)"



# SENATE CONFERENCE COMMITTEE

BILL NO. SB 362

☒

CONFERENCE COMMITTEE

☐

FREE CONFERENCE COMMITTEE

## ASSIGNED MEMBERS

### HOUSE MEMBERS

1. Bill Tish  
2. Paul Hays  
3. Robert L. Hays

### SENATE MEMBERS

1. Trent  
2. Beck  
3. Nelson

DATE COMMITTEE REPORT ADOPTED: \_\_\_\_\_

DATE COMMITTEE REPORT REJECTED: \_\_\_\_\_

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CONFERENCE COMMITTEE

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## HOUSE STANDING COMMITTEE REPORT

March 14, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 362 (third reading copy -- blue) be concurred in as amended.

Signed: \_\_\_\_\_

*Dick Knox*  
Dick Knox, Chair

Carried by: Rep. Sliter

And, that such amendments read:

1. Page 2, lines 1 and 2.

Strike: "authorized" on line 1 through "(1)" on line 2

Insert: "described in Title 16, chapter 20, subchapter 10,  
Administrative Rules of Montana"

2. Page 3, line 16.

Strike: "discharges"

Insert: "permit exclusions"

-END-

SB 362

Committee Vote:

Yes 12, No 6.

HOUSE

## SENATE BILL NO. 362

INTRODUCED BY TVEIT

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN ACTIVITIES FROM GROUND WATER DISCHARGE PERMIT REQUIREMENTS; AND AMENDING ~~SECTION~~ SECTIONS 75-5-401 AND 75-5-605, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 75-5-401, MCA, is amended to read:

**"75-5-401. Board rules for permits -- ground water exclusions.** (1) ~~The~~ Except as provided in subsection (5), the board shall adopt rules:

(a) governing application for permits to discharge sewage, industrial wastes, or other wastes into state surface waters and ground waters, including rules requiring the filing of plans and specifications relating to the construction, modification, or operation of disposal systems;

(b) governing the issuance, denial, modification, or revocation of permits.

(2) The rules ~~shall~~ must allow the issuance or continuance of a permit only if the department finds that operation consistent with the limitations of the permit will not result in pollution of any state waters, except that the rules may allow the issuance of a temporary permit under which pollution may result if the department ~~insures~~ ensures that ~~such~~ the permit contains a compliance schedule designed to meet all applicable effluent standards and water quality standards in the shortest reasonable period of time.

(3) The rules ~~shall~~ must provide that the department may revoke a permit if the department finds that the holder of the permit has violated its terms, unless the department also finds that the violation was accidental and unforeseeable and that the holder of the permit corrected the condition resulting in the violation as soon as was reasonably possible.

(4) The board may adopt rules governing reclamation of sites disturbed by construction, modification, or operation of disposal systems for which a bond is voluntarily filed by a permittee pursuant to 75-5-405, including rules for the establishment of criteria and procedures governing release of the bond or other surety and release of portions of a bond or other surety.

(5) Discharges of sewage, industrial wastes, or other wastes into state ground waters from the

*amended*

1 following activities or operations are not subject to the permit requirements ~~authorized under subsection~~

2 ~~(1) DESCRIBED IN TITLE 16, CHAPTER 20, SUBCHAPTER 10, ADMINISTRATIVE RULES OF MONTANA:~~

3 ~~(a) discharges or activities AT WELLS INJECTING FLUIDS ASSOCIATED WITH OIL AND GAS~~  
4 ~~EXPLORATION AND PRODUCTION regulated under the federal underground injection control program;~~

5 ~~(b) disposal by solid waste management systems licensed pursuant to 75-10-221;~~

6 ~~(c) individuals DISPOSING of their own normal household wastes on their own property;~~

7 ~~(d) hazardous waste management facilities permitted pursuant to 75-10-406;~~

8 ~~(e) water injection wells, reserve pits, and produced water pits used in oil and gas field operations~~  
9 ~~and approved pursuant to Title 82, chapter 11;~~

10 ~~(f) agricultural irrigation facilities;~~

11 ~~(g) storm water disposal or storm water detention facilities;~~

12 ~~(h) subsurface disposal systems for sanitary wastes serving individual residences;~~

13 ~~(i) subsurface disposal systems reviewed and approved by the department pursuant to Title 50,~~  
14 ~~chapters 50 through 52, and systems reviewed and approved by the local or department authorities under~~  
15 ~~Title 76, chapters 3 and 4;~~

16 ~~(j) existing treatment works reviewed and approved by the department prior to October 29, 1982;~~

17 ~~(k) public water supply, distribution, or treatment facilities approved by the department pursuant~~  
18 ~~to Title 75, chapter 6;~~

19 ~~(l) in situ mining of uranium facilities controlled under Title 82, chapter 4, part 2;~~

20 ~~(m) mining operations subject to operating permits or exploration licenses in compliance with~~  
21 ~~The Strip and Underground Mine Reclamation Act, Title 82, chapter 4, part 2, or the metal mine reclamation~~  
22 ~~laws, Title 82, chapter 4, part 3; or~~

23 ~~(n) projects reviewed under the provisions of the Montana Major Facility Siting Act, Title 75,~~  
24 ~~chapter 20.~~

25 ~~(6) NOTWITHSTANDING THE PROVISIONS OF 75-5-301(4), MIXING ZONES FOR ACTIVITIES~~  
26 ~~EXCLUDED FROM PERMIT REQUIREMENTS UNDER SUBSECTION (5) OF THIS SECTION MUST BE~~  
27 ~~ESTABLISHED BY THE PERMITTING AGENCY FOR THOSE ACTIVITIES IN ACCORDANCE WITH~~  
28 ~~75-5-301(4)(A) THROUGH (4)(C).~~

29 ~~(6)(7) Notwithstanding the exclusions set forth in subsection (5), any excluded source that the~~  
30 ~~department determines may be causing or is likely to cause violations of ground water quality standards~~

1 may be required to submit monitoring information pursuant to 75-5-602.

2 ~~(7)~~(8) The board may adopt rules identifying other activities or operations from which a discharge  
3 of sewage, industrial wastes, or other wastes into state ground waters is not subject to the permit  
4 requirements authorized under subsection (1)."

5  
6 **SECTION 2. SECTION 75-5-605, MCA, IS AMENDED TO READ:**

7 **"75-5-605. Prohibited activity. (1) It is unlawful to:**

8 (a) cause pollution as defined in 75-5-103 of any state waters or to place or cause to be placed  
9 any wastes in a location where they are likely to cause pollution of any state waters;

10 (b) violate any provision set forth in a permit or stipulation, including but not limited to limitations  
11 and conditions contained in the permit;

12 (c) site and construct a sewage lagoon less than 500 feet from an existing water well;

13 (d) cause degradation of state waters without authorization pursuant to 75-5-303;

14 (e) violate any order issued pursuant to this chapter; or

15 (f) violate any provision of this chapter.

16 (2) ~~Except for the discharges~~ **PERMIT EXCLUSIONS identified in 75-5-401(5),** it is unlawful to  
17 carry on any of the following activities without a current permit from the department:

18 (a) construct, modify, or operate a disposal system which discharges into any state waters;

19 (b) construct or use any outlet for the discharge of sewage, industrial wastes, or other wastes into  
20 any state waters; or

21 (c) discharge sewage, industrial wastes, or other wastes into any state waters."

22 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0362, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act exempting certain activities from ground water discharge permits.

ASSUMPTIONS:

1. SB0362, as introduced, would codify the permit exclusions. If SB0362 passes in its introduced form, the number of facilities requiring ground water discharge permits would not increase.

FISCAL IMPACT:

Passage of SB0362 will have no fiscal impact on state government.

David Lewis 2-15-95  
DAVID LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

Sen. Tveit 2-15-95  
LARRY TVEIT, SPONSOR DATE

Fiscal Note for SB0362, as introduced

SB 362