

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By Rep. Dick Knox, Chairman, on February 3, 1995,  
at 3:00 pm.

#### **ROLL CALL**

**Members Present:**

Rep. Dick Knox, Chairman (R)  
Rep. Bill Tash, Vice Chairman (Majority) (R)  
Rep. Bob Raney, Vice Chairman (Minority) (D)  
Rep. Aubyn A. Curtiss (R)  
Rep. Jon Ellingson (D)  
Rep. David Ewer (D)  
Rep. Daniel C. Fuchs (R)  
Rep. Hal Harper (D)  
Rep. Karl Ohs (R)  
Rep. Scott J. Orr (R)  
Rep. Paul Sliter (R)  
Rep. Robert R. Story, Jr. (R)  
Rep. Jay Stovall (R)  
Rep. Emily Swanson (D)  
Rep. Lila V. Taylor (R)  
Rep. Cliff Trexler (R)  
Rep. Carley Tuss (D)  
Rep. Douglas T. Wagner (R)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Michael Kakuk, Environmental Quality Council  
Alyce Rice, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 338  
Executive Action: None

Tape 1, Side A

#### **HEARING ON HB 338**

**Opening Statement by Sponsor:**

**REP. DUANE GRIMES, House District 39, Clancy,** said in 1992 five  
environmental groups sued the Department of State Lands and

Golden Sunlight Mine alleging the state agency granted the mining company a permit to expand its mine without doing an environmental impact statement. Golden Sunlight Mine is located between Bozeman and Butte and northwest of Whitehall. It employs approximately 300 people and has the largest reclamation bond posted (\$32 million) of any open pit mine in the United States. The result of the lawsuit was that District Court Judge Thomas Honzel found a conflict between the Constitution which states that all lands disturbed by the taking of natural resources shall be reclaimed, and the Statute. The statute excludes open pits and rock faces which may not be feasible to reclaim. HB 338 is a solution to the problem. Without the bill the viability of every open pit mine in the state is jeopardized. It will affect 6,000 working families, \$300 million per annum in combined salaries and \$250 million per annum in the purchase of goods and services. The committee will have to decide how open pit mines in Montana should be reclaimed.

**Proponents' Testimony:**

**SENATOR MIKE FOSTER, Senate District 20, Townsend,** said the Golden Sunlight Mine has the support of the community of Whitehall and surrounding areas. HB 338 is a solution to the problem identified by Judge Honzel in his decision. The bill is consistent with the original intent of the Montana Constitution and it reflects common sense. **SENATOR FOSTER** urged passage of HB 338 so the legislature can send a strong message that mining done in a responsible manner is an important part of Montana's economy and that it supports the jobs at those mines.

**REP. BOB PAVLOVICH, House District 37, Butte,** said he supported HB 338 and knew that if former **REP. FRITZ DAILY** were still in the legislature, he would also be testifying in favor of it. If Butte had HB 338 20 years ago, it wouldn't be having the problems it is having now. **REP. PAVLOVICH** urged the committee to pass HB 338.

**Alan Joscelyn, Attorney, Golden Sunlight Mine,** said the Department of State Lands has required consideration of reclamation options for open pit mining in the past. It is important for the legislature to clear up any perceived problem with the bill and make sure it states clearly what reclamation standards are for open pits and rock faces. It is important to people making investment decisions to know what conditions they need to comply with in advance. **Mr. Joscelyn** said he supported the bill for those reasons.

**John Fitzpatrick, Director of Community and Governmental Affairs, Pegasus Gold Corporation,** said Pegasus Gold has four subsidiary companies in Montana with three operating mines and one which is in a reclamation state at present. Each of those operations is an open pit mine. Passage of HB 338 is important so the corporation will understand what form of regulatory requirements it will have to face in order to close those operations sometime

in the future. Reclamation does not mean returning the land to its original condition. That frequently is the position represented by environmental groups. In many instances they carry it to the point of suggesting that all open pits must be reclaimed by backfilling. Reclamation means returning a land to a useful purpose which could be agriculture, wildlife, forestry or a number of activities. **Mr. Fitzpatrick** asked the committee to support the bill.

**Gary Langley, Executive Director, Montana Mining Association,** said HB 338 is an honest and straight-forward approach to clarifying ambiguity surrounding the reclamation of open pits. The bill defines reclamation and complies with the Constitution without diminishing safety or protection of the environment.

**Tammy Johnson, Citizens United for a Realistic Environment (CURE).** Written testimony. **EXHIBIT 1**

**Fess Foster, Ph.D., Director of Geology & Environmental Affairs, Golden Sunlight Mines, Inc.** Written testimony. **EXHIBIT 2**

Tape 1, Side B

**Russ Ritter, Washington Corporation,** supported HB 338.

**Ward Shanahan, Attorney, Stillwater Mining Company,** supported HB 338.

**Leonard Wortman, Chairman, Jefferson County Commission,** said Jefferson County has had a long history of mining activities dating back to the early settlement of Montana. Some of the past mining practices have left scars in the county, however, the recent history of mining has been very positive. Jefferson County has been fortunate to have had three large mining operations in the past few years. One of the mines has ceased operation but a new mine is currently in the permitting process. The mines pay over one-third of the property taxes in the county. In 1994 Montana Tunnel Mining Company had a payroll of \$12.9 million and purchased goods and services in the amount of \$22.7 million. In 1993 Golden Sunlight Mines had a payroll of over \$14 million, paid taxes in excess of \$1.5 million and purchased more than \$30 million worth of goods and services. The mining industry has had a tremendous impact not only in Jefferson County but throughout the state of Montana. The mining industry has very stringent rules it must follow. Some of these requirements place an undue hardship on the mining industry by over-reactors. More and more mining companies are leaving the United States to explore for minerals because of the restrictive regulations. The requirement to completely backfill open pits could be the final nail in the coffin for the mining industry. **Mr. Wortman** asked the committee to support HB 338.

**Neil Gallagher, Mayor, Whitehall.** Written testimony. **EXHIBIT 3**

Glenna Obie, Jefferson County Commissioner, urged the committee to support HB 338.

Robin McCullough, Montana Bureau of Mines, said as soon as an open pit has been backfilled the ability to further mine it as an open pit has been precluded. The ability to come back and mine it from underground has also been just about totally wiped out and on top of that a resource has been wasted. There are only about 8,000 mining properties in the state that are mined at the rate of 12 to 15 mines every 15 years. Mining half of it and backfilling it is the same as throwing it away. From the engineering point of view it is almost impossible to sink a shaft in backfill. Some ground is too unstable to sink a shaft in from an underground point of view. That opportunity is needed to remove the unstable ground in order to sink the shaft in the stable ground and continue employment for another 50 to 100 years. It is very dangerous for people to start mining planning ground sand with conventional equipment because they could be killed. When planning ground sand is put into a pit it becomes a pit full of quicksand. It only took from 1955 to 1981 to mine the Berkeley Pit. It would take 10 to 20 years, at 100,000 tons per day, to backfill it under today's techniques. The operating costs are not only going to increase by 50% to 75%, equipment will become worn out. The Federal and State Statutes say rock that has been taken out cannot be put back in the open pits. The minerals in the rock grade out and it contains lead, arsenic and pyrite. The rock that has been laying outside the pit has become hazardous waste and cannot be put back into the pit. Therefore, that rock can't be used. In order to find the 363 million tons of rock to fill the Berkeley Pit, a pit of waste rock that is unaltered would have to be dug and moved to the site. The pits would just be moved from one place to another. Reclamation should be dealing with stopping the pollution of air and water. If the pits aren't backfilled, it will be easy to see what the water is like in the bottom and it can be pumped out, treated and measured. Once the water is buried, that can't be done.

The following proponents supported HB 338.

Brad Reel, Member, CURE

REP. BILL TASH, House District 34, Dillon

Rick Jordon, Golden Sunlight Mine. Written testimony. EXHIBIT 4

David Owen, Montana Chamber of Commerce

Peggy Trenk, Western Environmental Trade Association

Ken Wilson, Whitehall. Written testimony. EXHIBIT 5

Opponents' Testimony:

**Jim Jensen, Montana Environmental Information Center**, said HB 338 does not remedy the constitutional defect in the metal mining Reclamation Act dealing with open pit mining. If HB 338 is passed in its current form there will continue to be an unconstitutional statute. The bill will also be subject to further litigation if it passes. The various criteria that are proposed in the bill that allow for open pits not to be reclaimed simply continue this unconstitutional exemption.

Tape 2, Side A

**George Ochenski, Trout Unlimited**, opposed HB 338 because it doesn't clarify the law.

**Beth Kaeding, Northern Plains Resource Council**. Written testimony. EXHIBIT 6

**Kim Wilson, Attorney for Plaintiffs in the Golden Sunlight Mine Lawsuit**, said to the extent that reclamation of open pit mines continues to hinge on economical or technological feasibility, HB 338 remains constitutionally suspect as proposed. The bill as drafted does not address the issues and problems that Judge Honzel noted in his Opinion. He urged the committee to vote against HB 338.

**Debra Beaver, Northern Plains Resource Council**. Written testimony. EXHIBIT 7

**Debbie Smith, Sierra Club**, opposed the HB 338 for all the reasons stated by the other opponents.

The following opponents stated their opposition to HB 338:

**Tom Breitbach, Self**

**Richard Parks, Owner, Sporting Goods Store, Gardiner**

**Barbara Varnes, Northern Plains Resource Council, Beartooth Alliance**

**Jim Barrett, Chairman, Beartooth Alliance**

**Betty DuWeese, Business Owner, Gardiner**

**Julia Page, Bear Creek Council**

Informational Testimony: None

Questions From Committee Members and Responses:

**REP. DAVID EWER** referred to lines 19 and 20 of the bill that reads in part "economically and technology feasible under the

circumstances." When permits are issued to mining companies there should be, if there isn't, an understanding as to the requirements of reclamation. The language suggests that there may be a level of reclamation that is below a base line and if some profitability is presumed no reclamation would be economically feasible. He asked **REP. GRIMES** to comment. **REP. GRIMES** said the department, through administrative rules is allowed to create the guidelines necessary for the state to go through the permitting process. The state guidelines are not much different than the federal guidelines. Each mine in the state is very unique and different based on the particular type of ore body, the surrounding geography, and the type of minerals being reclaimed. Some flexibility needs to be allowed in order to make this a multiple use, conscientious and still safe for the environment bill. The bill is constitutional and does meet the original intent. **REP. EWER** asked **REP. GRIMES** if he believed there is any base line of reclamation that should be required that is in the public interest. **REP. GRIMES** replied yes, the criteria is very straight forward in the bill.

**REP. EWER** asked **Gary Langley** if a base line of reclamation is in the public interest and should there be one. **Mr. Langley** said reclamation should be required in the public interest to protect the environment and public safety. That is required. Before a mine obtains a permit it has to submit a reclamation plan detailing exactly how it is going to reclaim the land and post a bond. The only reason for the bill is to clarify a judicial ruling.

**REP. EWER** asked **Dr. Foster** if the Golden Sunlight Mine's mining permit said anything about filling in the pit. **Dr. Foster** said the present permit does not require Golden Sunlight to backfill the open pit. There are certain situations in the hardrock mining business where open pit mining can be backfilled and that is being done in a few places in the state. For example, if there are two or three small ore bodies adjacent to one another waste can be transferred from the current pit into the pre-existing pit. Golden Sunlight has only one large pit and it can't be backfilled.

**REP. BOB RANEY** said the Berkeley Pit is the biggest ecological time bomb in Montana. The rising water in the pit is known to be incredibly hazardous. Somewhere between five and ten years from now the pit will be full and will reach the ground water aquifer. It will start heading down in to the entire Clark Fork River Basin. According to scientists, it has the potential if something isn't done, of destroying the entire river. He referred to **Dr. Foster's** comment about pumping and treating the water in open pits. **REP. RANEY** asked **Dr. Foster** when the pumping and treatment of water would cease and who will be responsible for pumping and treating the water 100 years from now. **Dr. Foster** said through the permitting process with DSL and BLM, Golden Sunlight Mine developed a plan whereby a reclamation bond was posted for the water treatment which is \$2.4 million of the

\$32 million bond. The interest from the bond will be more than sufficient to maintain the water treatment facility into perpetuity if need be. **REP. RANEY** asked **Dr. Foster** if backfilling 300 ft. of a 1,000 ft. deep pit would keep the water from coming in. **Dr. Foster** said there has been a great deal of thought given to alternatives but no one has come up with a plan that will provide better environmental protection than the one the mine currently has. The waste rock in Golden Sunlight's pit is exclusively sulphite and will generate acid rock drainage if subjected to air and water.

**REP. HAL HARPER** asked **Mr. Joscelyn** if he thought the financial integrity or ability of the company have any impact or effect aside from site specific physical factors in determining how the reclamation requirements would be administered. **Mr. Joscelyn** said he didn't think so because the department will use the economics of the deposit that will determine what is reasonable or economic for a particular site as opposed to the financial capability of a particular company. **REP. HARPER** asked **Mr. Joscelyn** if it would be possible to establish baseline requirements without tying it to economic feasibility. **Mr. Joscelyn** said there is a base in the bill and that is the stability to ensure public safety and no violations of the Water Quality Act.

Tape 3, Side A

**REP. RANEY** asked **John North, Attorney, DSL**, how the department is going to decide what is "economically and technologically feasible." **Mr. North** said the department has a grant of rulemaking authority in the Hardrock Act which provides that the Board can adopt rules from time to time that it considers to be necessary in order to administer the Act. The department has reclamation specialists and mining engineers who will determine what the mining company's costs are and then make a determination as to the economic feasibility. The bureau chief and the division administrator would review the determination and the director would make the final decision.

**REP. JON ELLINGSON** asked **Dr. Foster** if there is anything in the Golden Sunlight Mine's existing reclamation plan that provides for anything other than water treatment when the mine is closed. **Dr. Foster** said the water treatment is only one part of the reclamation plan. In addition to that there is a reclamation plan for waste rock dumps which will be covered with approximately 4 feet of material and re-vegetated. There is also a reclamation plan for the tailing impoundment which will be covered with approximately 5.5 feet of cover material that includes two nine-inch compacted clay lifts and re-vegetated. Reclamation success criteria has been established for re-vegetation and erosion rates.

**REP. ELLINGSON** asked **Mr. Jensen** what language he would suggest in the bill that would coincide with the Constitution. **Mr.**

**Jensen** said he would change page 2, section 7, line 12 to read "the reclamation plan must provide for the reclamation of all disturbed land. Proposed reclamation must provide for the reclamation of disturbed land to comparable utility and stability as that of the adjacent areas." The judge said the exemption for open pit mines was unconstitutional so in order to have a constitutional statute the exemption would have to be eliminated.

**Closing by Sponsor:**

**REP. GRIMES** said he hoped the committee understood the magnitude of the issue. **Mr. Jensen's** proposed amendment would mean there would have to be complete restoration with complete backfilling of open pit mines. That is not reasonable and it doesn't need to occur for wise multiple use of the state's resources. HB 338 is the best solution. **REP. GRIMES** asked to keep in mind the thousands of people and the communities that are very dependent on the mining industry in Montana.



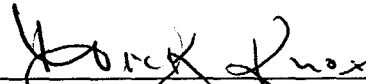
HOUSE NATURAL RESOURCES COMMITTEE

February 3, 1995

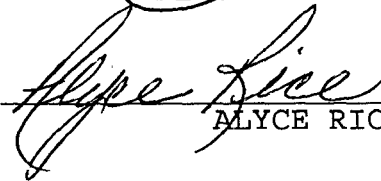
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ADJOURNMENT

Adjournment: 5:10 pm



REP. DICK KNOX, Chairman



ALYCE RICE, Secretary

DK/ar

# HOUSE OF REPRESENTATIVES

## Natural Resources

ROLL CALL

DATE 2-3-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Knox, Chairman	✓		
Rep. Bill Tash, Vice Chairman, Majority	✓		
Rep. Bob Raney, Vice Chairman, Minority	✓		
Rep. Aubyn Curtiss	✓		
Rep. Jon Ellingson	✓		
Rep. David Ewer	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Karl Ohs	✓		
Rep. Scott Orr	✓		
Rep. Paul Sliter	✓		
Rep. Robert Story	✓		
Rep. Jay Stovall	✓		
Rep. Emily Swanson	✓		
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Carley Tuss	✓		
Rep. Doug Wagner	✓		

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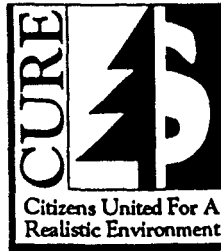


EXHIBIT 1  
DATE 2-3-95  
HB 338

(406) 287-3012  
FAX (406) 287-3242

**TESTIMONY OF TAMARA J. JOHNSON  
HB NO. 338**

Mr. Chairman, Members of the Committee, Representative Grimes, for the record, my name is Tammy Johnson. I am here today on behalf of CURE (Citizens United for a Realistic Environment). Our membership wholeheartedly supports HB 338.

I will not reiterate the details of why this legislation is necessary. You have heard those details in the testimony of Alan Joscelyn. What I would like to do is give you a feel for the rational behind the Constitutional Reclamation section and to point out the Legislative Findings that are part of the Metal Mines Reclamation Act, the statute that HB 338 would amend. With your permission Mr. Chairman, I would like to share with you and the members of the committee some posters that I have brought along with me today.

In 1972, at the Montana Constitutional Convention, there was a proposal for Article IX, Section 2. This proposed Article read as follows: All lands disturbed by the taking of natural resources must be reclaimed 'to a beneficial and productive use'. A motion was subsequently made to delete the words 'to a beneficial and productive use'. One member of the delegation, in support of this motion, made the following statement: "Mr. President. We have all made a serious mistake when we added the words--I quote--'to a beneficial and productive use' to the reclamation section. All of us favor reclamation. We want to recognize this in our constitution, and we should. By the addition of the words 'to a beneficial and productive use' we have gone beyond a Constitutional statement of principle. We have entered into a legislative field. With these words (the hardrock miner or the prospector) is faced with an impossibility." The motion for the deletion of the words 'to a beneficial and productive use' was successful.

Article IX, Section 2 of the Montana Constitution, as adopted, reads: All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

I wonder if we sometimes get confused by the use and meaning of terminology. What we are talking about today is reclamation. Reclamation as defined by the Websters New Collegiate Dictionary means: to make available for human use by changing natural conditions.

Under the section entitled Legislative Findings of the Metal Mines Reclamation Act, that would be amended with HB 338, it says the following: The extraction of minerals by mining is a basic and essential activity making an important contribution to the economy of the state and nation. At the same time, proper reclamation of mined land...is necessary to prevent undesirable land and surface water conditions detrimental to the general welfare, health, safety, ecology, and property rights of the citizens of the state. Mining and exploration for minerals takes place in diverse areas

where geological, topographical, climatic, biological, and sociological conditions are significantly different, and reclamation specifications must vary accordingly. It is not practical to extract minerals or explore for minerals required by our society without disturbing the surface or subsurface of the earth and without producing waste materials, and the very character of the many types of mining operations precludes complete restoration of the land to its original condition.

Let me stop here for just a minute and tell you what the definition of restoration is. As defined by the Websters Dictionary, restoration means: a bringing back to a former position or condition..." I bring this up only to emphasize the point that we are talking about reclamation here today and NOT restoration. Going back to the MMRA Legislative Findings section, it goes on to read: The legislature finds that land reclamation as provided in this part will allow exploration for and mining of valuable minerals while adequately providing for the subsequent beneficial use of the lands to be reclaimed. It goes on in Section 2 to say...the need for and the practicality of reclamation will control the type and degree of reclamation.

HB 338 provides a sound approach to the reclamation of open pits while understanding that the very nature of mining does not lend itself to a one-size-fits-all approach. Every mining operation needs to be considered on an individual basis with a reclamation plan designed exclusively for that particular operation, within the context of the statutes. HB 338 complies with the Montana Constitution and follows the intent of the Legislative Findings of the Metal Mine Reclamation Act.

CURE's membership consist of families and the folks who run our Main Street businesses who are dependent upon maintaining a sound, viable mining industry. We believe that you recognize us as an important part of the Montana economy and tax base. We believe that you understand the importance of the minerals we mine to our state and nation. We urge you to support HB 338 as a realistic common-sense approach to reclamation. The future of our jobs and our families livelihoods are at stake. Please give HB 338 a do pass recommendation.

Thank you for the opportunity to present this testimony on behalf of CURE, and to the extent that I am able, I will be happy to answer any questions you or the committee may have.

EXHIBIT 2  
DATE 2-3-95  
HB 338

**HOUSE NATURAL RESOURCE**  
**COMMITTEE TESTIMONY ON HB338**  
**(OPEN PIT MINE RECLAMATION BILL)**

By

Fess Foster, Ph.D.  
Director of Geology and Environmental Affairs  
Golden Sunlight Mines, Inc., Whitehall, MT

February 3, 1995

**Justification**

An amendment to the Montana Metal Mines Reclamation Act (MMRA) is necessary due to a September 1994 ruling by the Helena District Court. The Montana State Constitution states that "all lands disturbed by the taking of natural resources shall be reclaimed to as good a condition or use as prior to the disturbance". MMRA, as amended in 1985, states that open pits and rock faces which are not feasible to reclaim are not required to be reclaimed "to comparable utility and stability as that of adjacent areas".

The court ruled that this clause in the MMRA violates the constitution because it could be interpreted to mean that open pits do not need to be reclaimed. However, the court did not define what constitutes "reclamation".

**Background**

Montana's mining industry recognizes the need to reclaim open pits. However, we want you to know that different reclamation techniques are required for different types of mine disturbances. For example, waste dumps (piles of broken rock surrounding a mine) are commonly covered with soil and revegetated. Obviously, earth moving equipment cannot be feasibly or safely operated on steep open pit faces to apply soil. Further, the soil would rapidly erode from the steep faces. As a consequence, most pits cannot be covered with soil.

Further, the hole created by pits cannot always be filled. In many cases filling the pit is not economical (in other words, the mine would not operate at a profit if the pit were filled). Some might argue that all pits should be filled, regardless of the economic consequences. But remember that this requirement would put many mines out of business, and force the mining industry to other countries where regulations are less restrictive. Aside from the economic benefits of mining, the U.S. is the largest consumer of natural resources in the world. Don't we have an obligation to extract those resources that we do have in an environmentally sound manner, rather than spoiling other countries' land to obtain raw materials to make our "stuff" from? To do otherwise would be environmental hypocrisy.

No two pits will be reclaimed identically. In some cases, leaving a pit open after mining may actually lessen environmental impacts. As an example, some pits contain water. If they are left open, those waters can be reached with pumps and be treated so that they will not affect any local groundwater. Obviously, mine regulators need flexible statutes in order to develop reclamation plans that are specific to each pit.

### **Solution**

The MMRA should be amended so that there are no questions regarding its compliance with the state constitution, and still allow environmentally sound development of the resources that we all require in order to live a healthy and enjoyable lifestyle. The amendment should also be worded to allow mine regulators flexibility in developing open pit reclamation plans. Each mine is unique geologically and geographically. Regulatory technical staff need to be able to take the site-specific aspects of each mine into consideration in order to develop the most environmentally sound reclamation plan.

Such an amendment has been proposed as House Bill No. 338. It revokes the current exemption from reclamation for open pits and rock faces that are not feasible to reclaim. Instead, it requires that all open pits and rock faces be reclaimed to a condition:

- "a) of stability structurally competent to withstand normal geologic and climatic conditions without significant failure that would be a threat to public safety and the environment;
- b) that affords such utility to humans and the surrounding natural system to the extent economically and technologically feasible under the circumstances; and
- c) that blends with the appearance of the surrounding area to the extend economically and technologically feasible."

Note that the provision in the Montana Constitution applies to "all lands disturbed by the taking of natural resources". It therefore should also apply to reservoirs, roadcuts along highways, and many other disturbances that, like mining, result from using our natural resources for the betterment of society. Certainly there are more disturbed acres from roadcuts than open pits in Montana. We feel that the amendments proposed in House Bill No. 338 require that the mining industry go well beyond other industries to comply with the constitution.

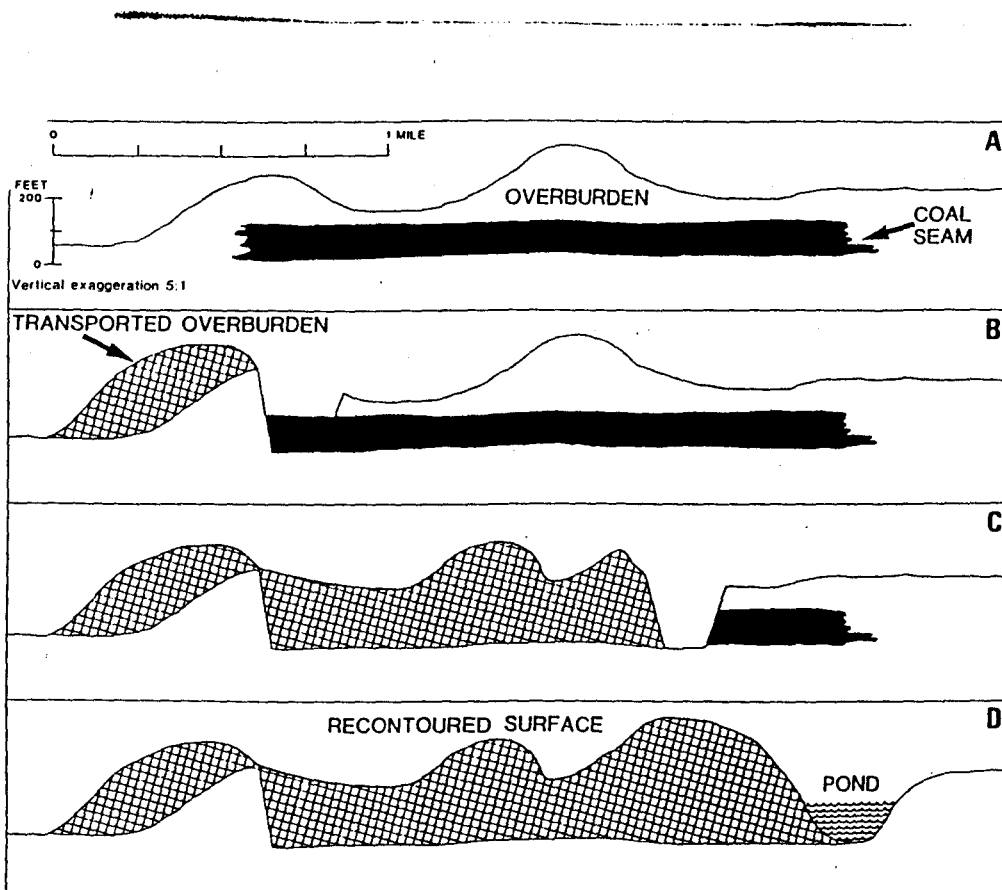


Figure 1. Cross sections of Breakeven's Itsa Mine, a coal mine where a flat-lying coal seam is covered by overburden ranging from 50 to 300 ft in thickness. Note vertical exaggeration. A. Pre-mine cross section, showing the original contour of land before mining begins. B. When the first cut is made, the overburden is built up into a hill until coal is finally exposed for mining. As soon as no new material is to be added to the overburden hill, the hill is contoured, covered with topsoil that was removed from the mine site, and revegetated to make it stable and not prone to landsliding. C. After coal is removed from a portion of the excavation, overburden removed from a different part of the mine is piled into the mined-out area, contoured, topsoiled, and revegetated. This cycle is repeated until the end of the mine is reached. D. The mine after mining has ceased, the land has been restored to the "approximate original contour," and a pond has been created for wildlife or recreational use.

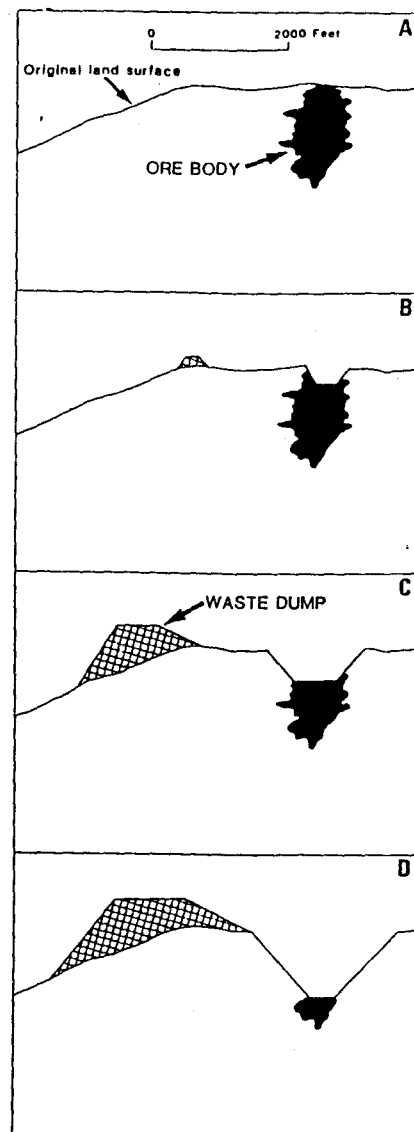


Figure 3. Cross sections of Justa Mine, a western U.S. go mine developing an egg-shaped ore body. A. Pre-mine topograph showing the location and shape of the ore body. B. First cut in the ore body. Note how far away from the ore body the waste material must be transported, so that later excavations will not undercut the waste dump. C. Mine when about half of the ore body has been removed. Note how it is impossible to begin filling the pit at this stage without covering up some of the remaining ore. D. Mine site after the currently economic ore body has been removed. Waste has been piled some distance from the pit, and the waste pile can be contoured and seeded.

February 2, 1995

Chairman Knox And House Natural Resources Committee  
Montana State Legislature  
Helena, MT

Dear Chairman Knox and Committee Members:

I, as the Mayor of Whitehall, would like to convey to you my view of House Bill 338 as it relates to communities in Montana. The bill, as proposed, addresses the lack of reclamation requirements for open pits resulting from mining by directing that mine operators develop and implement pit reclamation plans to the satisfaction of the regulatory agencies. It does so with a common sense, "real world" stipulation that plans be technically and economically feasible. This bill will diminish the impacts of mining to the environment and lead to greater stability in the mining industry and its continued existence.

What is the significance to communities of continuity and stability of the mining industry or any industry for that matter? A community benefits when people in the community have relatively constant incomes and permanence in living. This permanence in living leads to people's involvement in and support of the community and the development of community pride. People's involvement is the essence of "community".

The mining sector of a community's economy has special significance with respect to availability of the natural resources they produce (metals, aggregate, cement, industrial minerals, etc.) . When products are available where they are produced, a community and the surrounding region benefit from lower costs. A producer's resources: people with special skills, equipment, facilities and especially \$\$\$, are many times made available to the community through community service or donation.

For a healthy community there needs to be a balance in economic activities. To balance people with low to moderate incomes (fixed income and most service positions), there is a need for medium to high income jobs (production positions, some service positions, professional positions). The balance is needed to distribute the burden for:

- Community improvements: Water, sewer, drainage, streets, sidewalks, bridges.
- Emergency services: Fire protection, ambulance
- Social services: elderly care, rehabilitative services
- Law enforcement
- Town organization
- Community facilities: Schools, parks, playgrounds, meeting halls, swimming pools, etc.




In Whitehall as in most communities, many improvements and services of the community are based on donated funds and labor. What would the situation be like if in addition to our fixed income population of 55 %, the rest of our population was employed in lower income service positions? The tax base would be low, donations would be low, and the community would have to rely on Federal and State assistance to make any improvements.

In conclusion, I urge you to consider the need of communities for stable, balanced economies and pass House Bill 338 which will lead to stability and continuance of an important sector of Montana's economy, the mining industry.

Thank You.

Sincerely,

  
Neil P. Gallagher  
Mayor Of Whitehall

/npg

EXHIBIT 4  
DATE 2-3-95  
HB 338

Testimony In Support Of House Bill No. 338

Rick S. Jordan  
2425 Harvard  
Butte, MT 59701

February 3, 1995

During each phase of a mining operation, from exploration to laboratory metallurgical feasibility testwork, and through development, mining, mineral processing, and refining, right to termination at the end of the mine life, every operating decision is based on economics, carefully studied data, and precise scientific calculations. A miner can not expect to survive with elevated costs brought about because of unrealistic reclamation requirements and ambiguous governmental regulations defining those requirements.

Existing legislation regarding mine reclamation, however, is both unrealistic and vague. How can a mining company ever be expected to consider any project, even for exploration, if it doesn't know exactly what will be required in terms of mine reclamation or if reclamation requirements are economically impossible? An operation's mine plan and profit are both severely influenced by reclamation costs. And that's fair; but, only if reclamation requirements are fair and the miner knows up front the exact extent of all necessary reclamation.

Because of imprecisions and unrealistic reclamation requirements in the mining law as currently written, the door has been left wide open for anyone, especially those who hunger for the opportunity to put a stop to all mining in Montana, to step in and challenge the granting of a mining permit. Thus, even after millions of dollars are spent in developing a property, misinterpretations of the law can force the closure of an operation which could not only have provided the mineral resources necessary for the manufacture of products demanded by the public, but also stable, high paying jobs for the citizens of Montana.

Mining can survive in this state only if reclamation requirements are within reason and clearly defined. House Bill 338 will introduce reasonable, effective reclamation requirements and clarify Montana's reclamation statute so that everyone, including those opponents of mining, will understand exactly what is required of the miner.

EXHIBIT 5  
DATE 2-3-95  
HB 338

TO THE 54<sup>TH</sup> MONTANA STATE LEGISLATURE

IN REGARDS TO H.B. 338 AMENDING THE  
METALS MINE RECLAMATION LAW,

I SUPPORT THE PROPOSED CHANGES IN  
HB 338, THE CHANGES WILL HELP MAKE  
THE RECLAMATION LAWS REALISTIC AND WORKABLE.  
IT SHOULD HELP STABILIZE THE JOBS IN THE  
MINING INDUSTRY AND HOPEFULLY HELP MINING  
COMPANYS IN OPENING NEW MINES AND CREATE  
MANY NEW JOBS. THE MINING JOBS ARE  
SOME OF THE HIGHEST PAYING JOBS IN THE STATE.

THE MINING COMPANYS ARE VERY RESPONSIBLE  
STEWARDS OF THE LAND. THESE COMPANYS ARE  
OPERATING UNDER MANY LAWS AND REGULATIONS,  
BUT THESE LAWS CREATED BY STATE AND FEDERAL  
GOVERNMENTS, MUST BE WORKABLE.

AFTER READING H.B. 338 I AM IN FULL SUPPORT  
OF THIS BILL, AND HOPE THE MONTANA LEGISLATURE WILL  
SUPPORT AND APPROVE THIS BILL TO HELP THE STATE  
OF MONTANA AND ITS HARD WORKING CITIZENS.

Sincerely

# Northern Plains Resource Council

EXHIBIT 6

DATE 2-3-95

HB 338

## Testimony of Beth Kaeding on HB338

Good afternoon. Mr. Chairman and members of the committee, my name is Beth Kaeding. I live in Gardiner and am a member of Bear Creek Council, an affiliate of Northern Plains Resource Council (NPRC). I am here today to testify on behalf of NPRC on HB338.

Northern Plains Resource Council believes that Montanans, while wanting reasonable development of the state's natural resources are not willing to sacrifice their quality of environment. In 1991 NPRC commissioned a poll concerning reform of the 1872 Mining Law. In that poll Montanans, by an 8 to 1 margin (77% to 10%), said the hard rock mining should be regulated more strictly, or at least as strictly, as coal mining. And, by more than a 4 to 1 margin (75% to 16%) Montanans stated that mining should not be allowed in certain areas if such mining would permanently damage other important natural resource values.

One of the important resources NPRC has long been concerned with is our state's waters. We believe HB338 does not go far enough in protecting Montanan's waters. We believe that just as in the Coal Act, the Metal Mines Reclamation Act should require the reclamation plan to assess the probable cumulative impacts of proposed mining activities on the water resources of the area. As in the Coal Act, the reclamation plan for an open pit mine should at a minimum include provisions for the protection of waters outside the permit area. Northern Plains Resource Council does not believe it is unreasonable to require that an open pit mine operator's reclamation plan ensure that a neighboring landowner's water resources will be protected. We believe that the Coal Act provides a good model to work from to ensure protection of Montanan's water resources, and we would be happy to work with committee members to develop amendment language to this effect.

2/3/95



# Northern Plains Resource Council

TESTIMONY OF DEBRA BEAVER ON HB338,  
A BILL DEFINING RECLAMATION FOR HARD ROCK MINING

EXHIBIT 7

DATE 2-3-95

HB 338

FEBRUARY 3, 1995

Mr. Chairman, members of the committee, for the record, my name is Debra Beaver. I live in Bozeman, and I am speaking today as a member of the Northern Plains Resource Council's Legislative Task Force.

Section 7 of HB 338 addresses reclamation standards for open pit mining, which is required by the Montana Constitution. However a loophole exists in these standards which renders the reclamation criteria laid out in the bill meaningless.

Section 7 states that in the case of open pits and rock faces the reclamation plan must provide for reclamation to a condition that

(b) affords utility to humans and the surrounding natural system to the extent economically and technologically feasible.

(c) blends with the appearance of the surrounding area to the extent economically and technologically feasible.

Economically, and technologically feasible are very subjective words. Who determines what is economically feasible, and how is this done? Does the company get to decide what is economically or technologically feasible? Does the agency administering these rules decide what is economically feasible on a case to case basis. And how will they do this? Are a companies financial records going to be turned over to DSL to determine what is truly economically feasible?

Without a clear definition of what constitutes feasibility, these reclamation standards are meaningless, agencies will be hamstrung on how to carry this out, and state agencies will continue to be subject to laws suits over open pit mining reclamation.

We would urge this committee to define the terms economically and technologically feasible so that the administering agencies have a clear and uniform basis for decision making, and the constitutional requirement to reclaim open pit mines is not violated.

Thankyou for the opportunity to testify here today.

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

*Natural Resources*

COMMITTEE

DATE *2-3-95*

BILL NO. *HB 338* SPONSOR(S) *Rep. Grimes*

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
<i>GEORGE OCHENSKI</i>	<i>TROUT UNLIMITED</i>		<input checked="" type="checkbox"/>
<i>Lemoir Weidman</i>	<i>Golden Sunlight</i>	<input checked="" type="checkbox"/>	
<i>Jo Smith</i>	<i>Golden Sunlight</i>	<input checked="" type="checkbox"/>	
<i>ROBIN CUNNINGHAM</i>	<i>FISHING OUTFITTERS ASSOCIATION OF MONTANA</i>		<input checked="" type="checkbox"/>
<i>Robin McCulloch</i>	<i>MONTANA Bureau of <del>Mines</del> <sup>Geology</sup></i>	<input checked="" type="checkbox"/>	
<i>Harold Sant</i>	<i>Golden Sunlight</i>	<input checked="" type="checkbox"/>	
<i>Bill Senbert</i>			
<i>P.O. Box 27, Cardwell, MT. 59721</i>	<i>Golden Sunlight mines</i>	<input checked="" type="checkbox"/>	
<i>Ward Baucher 33 South East Chance Gulch Helena</i>	<i>STILLWATER MINING Co</i>	<input checked="" type="checkbox"/>	
<i>Peggy Trenk</i>	<i>WETA</i>	<input checked="" type="checkbox"/>	
<i>Rick S. Jordan</i>	<i>Golden Sunlight</i>	<input checked="" type="checkbox"/>	
<i>Beth Kaeding</i>	<i>Northern Plains Res Council</i>		<input checked="" type="checkbox"/>
<i>Debra Beaver</i>	<i>Northern Plains Res Council</i>		<input checked="" type="checkbox"/>
<i>Bob Miller</i>	<i>MT mines</i>	<input checked="" type="checkbox"/>	

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

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HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

Natural Resources

COMMITTEE

DATE 2-3-95

BILL NO. HB 338 SPONSOR Rep. Grimes

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Tom Daubert	Ash Grove Cement Co	X	
Marilyn Bartlett	Golden Sunlight Mine	X	
Dan S. Smith	Golden Sunlight T	X	
Alan Yocelyn	Golden Sunlight	X	
Jama J. Johnson	CURE	✓	
Neil Gallagher, Mayor	Town of Whitehall	✓	
Jim Jensen	MEIC		X
Larry Brown	J Bar D Env. Serv.	✓	
GARY LAAGLEY	MONTANA MINING ASSN.	✓	
John Fitzpatrick	Pegasus Gold Corp	✓	
Rep. Carls	HD 37 Bitter	X	
Brian Rael	SELF	X	
Leonard Wortman	Jefferson County	X	

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HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

*Natural Resources*

COMMITTEE

DATE *2-3-95*

BILL NO. *HB 338*

SPONSOR(S)

*Rep. Grimes*

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
<i>David Owen</i>	<i>MT chambers</i>	✓	
<i>Deborah Smith</i>	<i>Sierra Club</i>		✓
<i>Shenna Obri</i>	<i>Jeff. County</i>	✓	
<i>Russ Ritts</i>	<i>Washington Corp</i>	✓	
<i>Chris J. Gallus</i>	<i>MER Dad</i>	✓	
<i>Andrea Stander</i>	<i>Northern Plains Resource Council</i>		✓
<i>Wade Sikaski</i>	<i>SEMA (NPRC)</i>		✓
<i>Tom Breitbach</i>	<i>Self</i>		✓
<i>Paul C. ...</i>	<i>Bec</i>		✓
<i>Barbara Varnes</i>	<i>NPRC - BT</i>		✓
<i>J. ...</i>	<i>NPRC - BA</i>		✓
<i>Jeff Buchowski 310 Plum Bozeman MT</i>	<i>NPRC</i>		✓
<i>Angela Janacaro</i>	<i>MT Mining Assoc.</i>	✓	

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HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

Natural Resources COMMITTEE DATE 2-3-95  
BILL NO. 338 SPONSOR(S) Rep. Shivers

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Bill Allen	MT Audubon		X

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