

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on February 15, 1995, at 1:00 p.m..

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Jeff Weldon (D)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

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

Committee Business Summary:

Hearing: SB 344, SB 347, SB 349, SB 386, SB 391,
SJR 15
Executive Action: SB 225, SB 234, LC 1463 (Committee Bill)

EXECUTIVE ACTION ON SB 225

Motion/Vote: SEN. MACK COLE MOVED TO TAKE SB 225 OFF OF THE TABLE FOR FURTHER CONSIDERATION OF AMENDMENTS. MOTION CARRIED WITH SEN. JEFF WELDON VOTING NO.

Discussion: CHAIRMAN GROSFIELD explained the amendments to the committee members.

SEN. VIVIAN BROOKE asked if 4% was the average statewide. She stressed for the sake of discussion purposes Daniels County should be reviewed.

CHAIRMAN GROSFIELD stated the bill started off selling all the state land in three counties and the big concern is for Daniels County.

SEN. KEATING said the purpose of this proposed legislation is to try to get more fee land in Daniels, Valley and Phillips Counties. He suggested the committee consider the amount of federal acreage which is in those counties. He affirmed 4% will allow them to attempt the sale of some of those lands allowing a trial basis to see whether there is a market for state lands.

SEN. KEATING commented fee land would which help the economy of these grass counties more than state land.

SEN. COLE questioned if there was a way to set the figure at 6% rather than 4%.

CHAIRMAN GROSFIELD responded that using the 6% figure the total would be 221,000 acres.

SEN. CRISMORE said Phillips County will have 5.7%, Valley County 6.7% and Daniels County 23.9%.

SEN. COLE stated at 5% every county would get something.

Motion: SEN. MILLER MOVED TO ADOPT THE AMENDMENTS NO. sb022507.ate AS CONTAINED IN EXHIBIT 2.

Substitute Motion/Vote: SEN. COLE MOVED A SUBSTITUTE MOTION TO AMEND THE AMENDMENT BY STRIKING 4% AND INSERTING 5%. MOTION CARRIED 6 - 5. EXHIBIT 1.

Vote: ON THE ORIGINAL MOTION OF SEN. MILLER AS AMENDED BY SEN. COLE'S SUBSTITUTE MOTION, WITH SEN. WELDON VOTING "NO", AND ONLY 5 VOTING "YES", CHAIR. GROSFIELD said they were going to have to leave that open, until they get another member or two, to vote.

Motion: SEN. KEATING MOVED TO AMEND SB 225 BY INSERTING LANGUAGE ON PAGE 1, LINE 18 THAT SAYS, "except that 1% of those interests must be transferred ..." to read: "except that a 1% royalty interest must be transferred...".

He said just the word "royalty" was sufficient to determine that the 1% is from the sale of the proceeds of the production, and does not establish mineral ownership.

CHAIRMAN GROSFIELD asked if his motion was to strike, "of those interests", and insert the words "royalty interest". SEN. KEATING said that was right.

Discussion: CHAIRMAN GROSFIELD questioned SEN. KEATING in regard to mineral interest rather than royalty interest. SEN. KEATING responded if it were a fee title, different language would be used. He commented the state is required to reserve the minerals and the state has the right to lease 100% of the property.

CHAIRMAN GROSFIELD stated that it was state land and there were special safeguards which will take care of the situation.

Vote: SEN. KEATING'S MOTION CARRIED 8 - 0.

CHAIRMAN GROSFIELD explained he was holding open the vote on SEN. MILLER'S MOTION waiting for additional members which were now present.

Vote: MOTION CARRIED 6 - 2.

CHAIRMAN GROSFIELD explained final executive action on this bill will take place after the scheduled hearings today.

HEARING ON SENATE JOINT RESOLUTION 15

Opening Statement by Sponsor:

SEN. JOHN HARP stated SJR 15 asks the Environmental Protection Agency to consider regulations for primacy for certain environmental programs that affect the management of hazardous waste produced in Montana. He explained that the Columbia Falls Aluminum Plant, one of the largest employers in Columbia Falls, ran into a dilemma as far as taking care of their hazardous waste and their potliners. SEN. HARP commented that the State of Montana has to reach a conclusion on hazardous waste. He acknowledged that currently hazardous waste is being disposed of in Oregon. He explained a national ban on hazardous waste being disposed of in landfills will start in 1996. He stated that this resolution encourages our Congressional Delegation to become more active in this endeavor by working with the President of the United States, EPA Administrator Browner, and former Senator Yellowtail, who is now Administrator of EPA Region 8. SEN. HARP declared that there needs to be positive movement in this area in order for Montana to move ahead.

Proponents' Testimony:

Allen Barkley, Columbia Falls Aluminum Company presented written testimony. EXHIBIT 3.

Tom Daubert, representing Ash Grove Cement Company, spoke in support of this resolution. He professed this bill will simplify the permitting process.

Opponents' Testimony: Ann Hedges, Montana Environmental Informational Center, spoke in opposition to this legislation

because it isn't necessary at all. She encouraged the committee to table SJR 15.

Paul Johnson, Montanans for a Healthy Future, commented he rises in opposition to SJR 15 because it was just introduced this morning and he wasn't able to study the contents. He stated there appear to be errors in the resolution where it states that a state can enforce environmental standards that protect public health just as well as a federal agency can. He explained this issue has become a very close call in recent years in Montana due to dwindling resources for the State Department of Health, and an increasing case load for that same department.

Mr. Johnson encouraged the committee to amend the Resolution by providing a subsection that emphasizes the need for the federal agency, in making a primacy determination, to keep public health and the protection of public health as provided by law as being the primary standard, and the primary condition for creating state primacy.

Sarah Barnhard, Montanans Against Toxic Burning, stated SJR 15 is inaccurate and encouraged a do not pass vote.

Questions From Committee Members and Responses:

SEN. WELDON asked **SEN. HARP** if it is true that this Resolution was introduced this morning and noticed only two hours ago.

SEN. HARP responded it was not true. **SEN. WELDON** asked **SEN. HARP** when the Resolution was introduced. **SEN. HARP** responded two days ago. **CHAIRMAN GROSFIELD** stated the hearing was scheduled shortly before yesterday's meeting.

SEN. BROOKE questioned **SEN. HARP** in regard to the transport of hazardous waste to the State of Oregon asking him what their policy is currently. **SEN. HARP** stated the national ban will be in effect in 1996. He commented the next option will be to move the hazardous waste to Arkansas.

CHAIR. GROSFIELD asked **Roger Thorvilson** to address **SEN. BROOKE'S** question in regard to when the national ban date will go into effect. **Roger Thorvilson, Acting Administrator of the Waste Management Division, State Health Department**, commented the effective date of the national ban is January 1, 1996.

CHAIR. GROSFIELD asked **Mr. Thorvilson** if hazardous waste or primacy is being addressed in this Resolution. **Mr. Thorvilson** said he couldn't speak to the issues of updating, or seeking primacy outside of the Waste Management Division. He acknowledged the drafter of the Resolution spoke with representatives from his Department in order to have correct provisions within the Resolution. He explained the way Congress and the EPA have designed the primacy arrangement there needs to be an updating of primacy arrangements, when changes are made in the federal program.

Closing by Sponsor:

SEN. HARP stated there is absolutely nothing in this Resolution that changes any of our state standards, or any of our health requirements, or any of our environmental laws. He said all this Resolution does is ask the EPA to take notice, to recognize the delays in the area of granting primacy, and for a response from the Congressional Delegation and former Sen. Yellowtail.

HEARING ON SB 347

Opening Statement by Sponsor:

SEN. BILL CRISMORE, SD 41, LIBBY, said SB 347 deals with easements across state land and access onto private land. He acknowledged Western Montana has had many problems with this issue. He stated recent petitions for access across forest land have met with opposition from environmental groups, who suggest that the state is obligated not only to analyze the impact on state lands associated with the easement, but also to analyze the impact on adjacent property. **SEN. CRISMORE** remarked the state doesn't want to end up in court cases so they haven't been granting easements in a timely manner. He commented this bill alleviates the problem. He reported the State Lands Department will present amendments.

Proponents' Testimony:

Ronald Buentemeier, Land Manager, F.H. Stoltze Land & Lumber Company, Columbia Falls, gave a brief history of the Stoltze Sawmill and land holdings. He urged support for this legislation. **EXHIBIT 4.**

{Tape: 1; Side: B}

Nancy Kostman and Charlene O'Neal, Managing Partners for Montana Forest Products Limited Partnership, commented they anticipate SB 347 will take away some of the complications of trying to manage forest lands, as well as giving the state access to manage their forest lands which is an important, common sense and neighborly thing to do.

Paul Davis, Superintendent of Timberlands from Plum Creek Timber Company in Missoula, Montana stated streamlining access serves to increase the efficiency for all parties and provides an incentive to good long term forest management. He urged support for this legislation.

Bud Clinch, Commissioner, Department of State Lands, affirmed support for this bill with the amendments. He stated SB 347 will clarify some things that the department has had trouble with internally in the past and will enhance the policy and procedure in regard to easements.

Opponents' Testimony:

Debby Smith, Attorney, the Sierra Club, remarked this bill has been referred to as a common sense and good neighbor bill. She stated in opposing this bill she hoped it wouldn't make her a bad neighbor. She insisted this is another attempt to do a runaround of the MEPA process. **Ms. Smith** urged a do not pass vote on SB 347.

Steve Kelly, Friends of the Wild Swan, maintained this is a form of blackmail, opening up a Pandora's Box. He urged the committee to deny this request.

Questions From Committee Members and Responses:

SEN. FOSTER asked **Commissioner Clinch** if he was correct in assuming this just applies to state lands governed by the Department of State Lands, as opposed to Fish, Wildlife and Parks governed land. **Commissioner Clinch** stated he is correct and it is further delineated to refer only to the forested trust lands. He explained there are 5.2 million acres of state land of which 600,000 are forested lands, primarily west of the Continental Divide.

SEN. CHRISTIAENS asked **Commissioner Clinch** if he was referring to the last Land Board Act decision in his testimony. **Commissioner Clinch** said the bill refers to whether an entity is required to do MEPA analysis on the activities that occur on the adjacent lands as a result of their easement. He commented that this is referring to activities other than forestry activities. He explained MEPA requires analysis of the impacts of any easement or access across state land as it pertains to the impact on state land, as well as to endangered species and all the other regulatory laws that are in effect.

SEN. CHRISTIAENS questioned if the purpose of this bill was to acknowledge that the Department of State Lands has either been slow in doing this kind of thing or is hampered from doing it at all because of the location of land. **Commissioner Clinch** responded the department has been slow because they are addressing other issues which are of higher priority, as well as there has been some lack of understanding relative to the issues he discussed. He stated relative to the degree of analysis that is necessary regarding this idea of reciprocal access, along with the increasing need to gain permanent access to state lands, the department is going to shift priorities in how it views various easement applications.

SEN. BROOKE asked **Commissioner Clinch** to respond to concerns in regard to **SEN. MESAROS'** bill which involves private property rights. **Commissioner Clinch** said **SEN. MESAROS'** bill mandates that the department must examine impacts relative to regulating private property rights.

SEN. BROOKE questioned **Commissioner Clinch** in regard to the proposed amendments expanding the Department of State Lands activities. **SEN. BROOKE** asked if it was intentional that the word "reciprocal" on Line 11 wasn't deleted. **Commissioner Clinch** said the amendments were merely an attempt to clarify what the intent of the bill is in order to operate in concert with the way the department currently does business. He explained the department currently negotiates access agreements.

CHAIR. GROSFIELD commented one of the opponents talked about corporate extortion. He stated he was familiar with another kind of extortion, and that is government extortion, where the United States Forest Service can tie permits to the granting of reciprocal access. He gave the example of a land owner who might want a road permit, or might want a grazing permit, or a special use permit on Forest Service lands, and the Forest Service might issue it but only if it involves some kind of reciprocal access across the owner's private land. **CHAIR. GROSFIELD** said Line 11, refers to the department negotiating reciprocal accesses. He asked **Commissioner Clinch** if the department in the future may end up with this sort of extorting access in exchange for permits, much as the Forest Service does. **Commissioner Clinch** said it certainly wasn't the intent of the drafters, nor the interpretation of the department this would be used in any sort of extortion. He commented it is the department's intention to use this as another management tool to facilitate prudent management of state land, and a way of streamlining the process of service of government to the various constituencies that approach the department for right-of-way applications.

CHAIR. GROSFIELD asked **Commissioner Clinch** if Line 13 alleviates any departmental responsibilities with regard to MEPA compliance on state lands or just lands that are not state lands. **Commissioner Clinch** responded nothing in this language changes the department's existing compliance with MEPA, nor into the future. He stated the department will continue to fulfill the requirements of MEPA relative to the impacts of state land. He explained currently it has been the policy not to apply MEPA to the impacts off of state land and this merely codifies the current policy.

Closing by Sponsor:

SEN. WILLIAM CRISMORE stated this is a good bill for people that are doing business in Eastern Montana, as well as in Western Montana. He attested big companies, medium sized companies, and individuals have property rights. He said state land is important to the State of Montana, it is land that is needed to produce and take care of money for the school trust. He urged passage of this legislation.

HEARING ON SB 349

Opening Statement by Sponsor:

SEN. MIKE FOSTER, SD 20, Townsend, declared SB 349 was his "Plan C" for addressing hazardous waste burning, Plans A and B having already been rejected by the Committee. He presented amendments no. sb034901.ate as contained in **EXHIBIT 5.** **SEN. FOSTER** stated assuming the amendments would be adopted, Section 1 would remain in the bill, except for the last part of Section 1. He explained Section 1 requires the owner or operator of a commercial hazardous waste incinerator, or an applicant for a permit for such a facility to submit a plan that requires the cessation of the burning of hazardous waste if site specific monitoring determines there are inversion weather conditions. He explained this requirement is similar to wood stove burning. **SEN. FOSTER** acknowledged there are rules that address this issue on file at the Department of Health informing the applicant or operator to submit to the department the proximity of waste burners to populated areas. He further explained there will be a telemetering device that would provide immediate notification if emissions are approaching the limits of what is acceptable or they have exceeded the limits. **SEN. FOSTER** explained Section 3, requires the lowest achievable emission rate. He stated the department will explain allowable daily intakes.

Proponents' Testimony:

Paul Johnson, Montanans For A Healthy Future, commented he supported SB 349 before the amendments and supports it as amended. He stated he offers firm support for the provision in Section 1 of the bill that provides a process for determining that when an inversion situation occurs there is a cessation of burning hazardous waste in the interest of public health. He stated many of the association's members are located in the Montana City area where the Ash Grove Cement kiln is proposing to burn 30 million pounds per year of hazardous and toxic waste. He explained the kiln has a very short stack that's about 100 feet tall, and it is located in a fairly narrow mountain valley which experiences inversions frequently in the winter months. **Mr. Johnson** explained that by Ash Grove's own admission, not all of the emissions from their stack are captured by their only pollution control device, which is the electro-static precipitator. He remarked SB 349 provides some additional necessary guidance for determining when an inversion occurs. He urged support for this legislation.

Ann Hedges, Montana Environmental Information Center, concurred with **Mr. Johnson's** testimony. She suggested changing the language on Page 1, Line 11, to "lowest achievable emission rates."

Bill Allen, Montana Audubon Legislative Fund, concurred with the previous testimony in support of this bill.

J. V. Bennett, Montana Public Interest Research Group, spoke in support of **SEN. FOSTER'S** Plan "C".

Willa Hall, League of Women Voters, stated there are many concerns about hazardous wastes and this bill doesn't totally address them, however, she urged support for SB 349.

Ted Lange, Northern Plains Resource Council, spoke in support of this bill principally on the basis of the concerns of NPRC members in Baker, Montana. He stated they support this legislation because it provides strong protection.

Sarah Barnard, Montanans Against Toxic Burning, went on record in support of this legislation.

Opponents' Testimony:

Tom Daubert, Ash Grove Cement Company, commented he proposed opposing this bill vigorously, however, that was before the amendments. He stated this legislation was born of the same impulse, motivation, and misunderstanding of the technology that Ash Grove proposes to use, that is, the regulatory probing process and regulatory compliance and enforcement process involved. He said the bill originally proposed to regulate cement kiln dust as hazardous waste.

{Tape: 2; Side: A}

He reported Ash Grove has no objection to the principal of telemetering. He questioned if both the applicant and the department need to do telemetering. **Mr. Daubert** said his opposition would be intense without the amendments.

Allen Barkley, Columbia Falls Aluminum Company, spoke in opposition to the original bill because the economics of the situation would probably not allow the cement potliners to be burned in the cement kiln, simply because of the cost of acquiring a permit. He stated with the amendments there is no reason to oppose this bill. **Mr. Barkley** strongly urged the committee to accept the amendments.

Questions From Committee Members:

SEN. WELDON asked **Mr. Knatterud** what the current restrictions and rules are as they apply to hazardous waste burning. **Richard Knatterud, Hazardous Waste Program, Waste Management Division, Department of Health**, responded that the owner or operator has to submit a plan to the department. He stated SB 349 goes a step beyond in its requirements. **SEN. WELDON** asked **Mr. Knatterud** how telemetering works. **Mr. Knatterud** commented he doesn't have any personal experience with telemetering, however, Denver EPA has informed him that telemetering allows people within the EPA to see what the plant operator sees. He explained they would see carbon monoxide levels, and hydracarbon levels.

SEN. FOSTER asked Ms. Sensibaugh to respond also. Jan Sensibaugh, Air Quality Division of the Department of Health, stated the bill doesn't just cover telemetering. She said it also involves instant notification on a 24 hour basis when the emissions approach or exceed the permitted limits. She explained they currently operate an emergency response system for chemical spills with the Disaster and Emergency Services Division, Department of Military Affairs (DES). Ms. Sensibaugh affirmed a that 24 hour notification system has not yet been devised; however, it could be tied into DES.

SEN. CHRISTIAENS asked if there was a fiscal note for tying into the department. SEN. FOSTER said the telemetering would be paid for by the company.

Closing by Sponsor:

SEN. FOSTER commented he doesn't have a plan "D". He stated this is the only plan he has. He remarked if this wasn't put in statute the monitoring would take place at the Helena Airport. He said it is important to have specific language in the statute as to where the site will be located.

HEARING ON SB 344

Opening Statement by Sponsor:

SEN. LARRY TVEIT, SD 50, Fairview, stated SB 344 is an energy conservation bill to promote conservation of fossil fuels and promote energy recovery of wastes that have fuel value. He acknowledged the statement of intent pretty well sums up the bill. He announced in order to promote increased conservation of non-renewable natural resources, the Legislature encourages any regulated hazardous waste treated in Montana to be put to beneficial use. SEN. TVEIT stated it is not the legislative intent to add to the regulatory burden that generators of regulated wastes already have.

Proponents' Testimony:

Tom Daubert, Ash Grove Cement Company, spoke in support of this legislation. He stated it is intended to create an incentive for energy recovery, when and if the day ever comes, that Montana has disposal treatment facilities in the state for hazardous waste. He explained in 1993, the Legislature adopted a tax on waste coming into Montana treatment or disposal facilities. He stated SB 344 will keep the tax where it is and is intended to create the quantity of revenue that the Health Department said it would need to effectively monitor any facility, that it might be pertinent to in the future.

Opponents' Testimony:

Sarah Barnhard, Montanans Against Toxic Burning, rose in opposition to this bill. She commented on the Statement of Intent explaining it proposes waste minimizing and waste treatment and disposal methods that don't decrease the fuel value of certain regulated wastes. She stressed burning hazardous waste for fuel recovery is not waste minimizing. **Ms. Barnard** referred to the EQC report on this issue and stated the goal is to reduce pollution at the source. She stated that there is nothing in this bill that encourages waste minimizing. She commented SB 344 doubles the fees on waste per ton received at most management facilities, but allows a lower rate for cement kilns. She further explained there is no benefit to the state in this bill and urged the committee to consider this bill as favoritism. **Ms. Barnard** respectfully requested that the committee not pass this bill.

Bill Allen, Montana Audubon Legislative Fund, stated conservation of non-renewable energy sources is a worthy goal; however this bill maintains that the burning of hazardous waste is an acceptable manner by which to conserve fossil fuels. He stated from a health and environmental quality stand point, the burning of hazardous waste can never be viewed as an acceptable alternative to anything, even if it is masked to support an energy recovery. He stressed this bill attempts to alleviate one problem by creating an even worse problem in its place.

Ann Hedges, Montana Environmental Information Center, spoke in opposition to the bill. She presented a memo from Elliott Laws, Assistant Administrator of EPA, for Solid Waste. **EXHIBIT 6**. She attested that the Ash Grove Company is not participating in waste minimizing. She urged a do not pass on this bill.

(Meeting recessed at 3:00 PM and reconvened at 7:30 PM)

Continuation of Opponents' Testimony on SB 344

Melissa Case, Montanans' for a Healthy Future, stated the purported intent of this bill is to encourage substitution of hazardous waste for nonrenewable resources. She explained many hazardous wastes have no fuel value at all because the BTU level is so low, or absent. She reported this bill in its present form encourages the burning of hazardous wastes in cement kilns that have little or no fuel value, simply to get rid of the stuff expeditiously without regard to adverse public health consequences. **Ms. Case** encouraged a do not pass vote on this bill.

Ted Lange, Northern Plains Resource Council, commented burning hazardous waste is not a safe way to dispose of waste. He urged committee opposition to this bill.

J. V. Bennett, Montana Public Interest Research Group, concurred with the other opponents of SB 344. He stated he is concerned with exactly what is meant by substitute fuel, because many hazardous wastes don't have fuel value. He presented written testimony. **EXHIBIT 7.**

Questions From Committee Members:

SEN. GROSFIELD asked **Mr. Daubert** if toxic wastes, or heavy metals are distributed into the environment. **Mr. Daubert** said principally it is not true regarding a cement kiln. He stated the rock that's ground up to make cement, as well as traditional fossil fuels, already contain metals and minerals. He explained the metals are bound up much as they are in nature, and they don't escape readily into the environment. They end up in the cement and in the cement kiln dust.

Closing by Sponsor:

SEN. TVEIT said creating a higher cost for disposing of waste without energy recovery also creates an incentive for waste minimizing. He reported there is no subsistence here just a plain incentive, no fee break for anybody, just a higher cost for obtaining the waste. He affirmed an amendment will be prepared for the bill on Line 20 - 21 in regard to proposing a fee of \$8.00 to \$10.00 on hazardous waste received at the facility payable to the Health Department. He urged passage of this legislation.

HEARING ON SB 386

Opening Statement by Sponsor:

SENATOR GERRY DEVLIN, SD 2, Terry, explained SB 386 is a continuation from a bill he had two years ago which had a sunset on it. He stated the EPA never demanded that states have to do anything with the noncommercial 1,100 gallon tanks. He explained by the time the bill was signed people only had about 7 months to get the tanks out of the ground. **SEN. DEVLIN** reported this bill exempts noncommercial tanks. He explained amendments have been prepared by **Mr. Everts**.

Proponents' Testimony:

John Bloomquist, Montana Stockgrowers' Association, stated the bill does have merit enough to support it and urged committee support.

Roger Thorvilson, Acting Administration Waste Management Division, Department of Health and Environmental Sciences, presented written testimony. **EXHIBIT 8.**

Larry Brown, Agricultural Preservation Association, concurred with the testimony presented by **Mr. Bloomquist**.

{Tape: 2; Side: B}

Opponents' Testimony:

Janet Ellis, Montana Audubon Legislative Fund, commented that small underground tanks are as susceptible to leaks as large ones. She stated it is her understanding from the department that up to 25% of the underground tank leaks detected in Montana have been from the small or non-federally regulated tanks. She stressed ground waters in Montana need protection and the current regulation should stay in effect.

Anne Hedges, Montana Environmental Information Center, spoke in opposition to this bill and stated with 2,500 estimated tanks of this size in the state (which is a low estimate) it would not be a very wise decision to stop regulating and only monitor once a year. She stated the system currently in place is not very burdensome and she urged the committee to oppose this bill.

Questions & Responses From Committee Members:

SEN. CHRISTIAENS asked **Mr. Thorvilson** if the reason he is supporting this bill is because his department can't handle the workload. **Mr. Thorvilson** said there is a very large population of tanks in this state and the departments staff is small. He reported his staff isn't able to fully inspect and assure compliance with all tanks. He explained if there is legislation that deals with smaller tanks the preference is to have legislation deregulating the tanks. **Mr. Thorvilson** commented this allows the department to free up resources and deal with the larger tanks, those that have a higher threat to health and environments.

SEN. CHRISTIAENS asked **Mr. Thorvilson** if the department is trying to get out of conducting inspections. **Mr. Thorvilson** said the department itself wouldn't have presented a bill like this. He stated the department's preference is to continue with the program as it exists.

SEN. BROOKE asked **SEN. DEVLIN** if his goal is to eliminate installing underground tanks. **SEN. DEVLIN** said his goal is to get the tanks out of the ground before they start leaking.

SEN. BROOKE asked **SEN. DEVLIN** why he doesn't make it illegal. **SEN. DEVLIN** said that could be done, however, that wouldn't cover the ones that are in the ground now.

Closing by Sponsor:

SEN. DEVLIN stated it is only my desire to get the tanks that are in the ground, out of the ground, and to discourage somebody from ever putting one in the ground again.

{Comments: CHAIRMAN GROSFIELD relinquished the Chair to VICE CHAIRMAN LARRY TVEIT in order to present SB 391.}

HEARING ON SB 391

Opening by Sponsor:

SEN. LORENTS GROSFIELD, SD 13, Big Timber, stated that SB 391 deals with in-stream flow for fisheries. He said it's not a major bill, however, it's significant. He highlighted the mechanics of the bill section by section. He emphasized Section 1, requires the Department of Fish, Wildlife, and Parks to identify stream reaches critical to the fishery and requires the department to calculate specific minimum amounts of water needed by various species. SEN. GROSFIELD suggested a period be inserted after "fisheries" on Page 13, and striking the rest of the language.

Proponents' Testimony:

Bob Lane, Chief Legal Counsel, Department of Fish, Wildlife and Parks, acknowledged support for this bill. He commented one issue which may need some additional clarification is identification of critical stream reaches and flows. He reported the bill provides mechanisms on an emergency basis to find additional water at critical times, helping the water leasing program by reducing some of the administrative steps.

Mr. Lane reported it is unclear in the bill whether the Department of Fish, Wildlife and Parks would be mandated to identify all of the streams considered critical to the fishery resource in one process. He acknowledged the manpower is not available to take on this task in a short period of time.

Larry Brown, Agricultural Preservation Association, stated this is a good bill in a lot of ways. He reported concern for language on Page 2, Line 11, in regard to the Department of Fish, Wildlife, and Parks being in charge of what would seem to be the distributing of water. He explained the language may cause problems with the local water users. Mr. Brown suggested an advisory council, the Department of Natural Resources or possibly the Water Quality Division from the Department of Health be involved in the water quality perspective. He stressed concern for the cost of this program.

Holly Franz, Montana Power Company, offered a few technical suggestions to the bill in regard to adding closure language and proposed amendments. She urged support for this legislation.

Jim Jensen, Executive Director of the Montana Environmental Information Center, stated the most important and desirable aspect of this legislation is the provisions.

Opponents' Testimony:

John Bloomquist, Montana Stockgrowers' Association, commented in his real job, he is a water attorney in Dillon and Helena. He stated he appreciates SEN. GROSFIELD'S efforts, and the intent of this bill. He said the intent of this bill tries to address frustration that a lot of people share. He highlighted his concerns with the bill in regard to how information will be gathered by the department and how it will be used, how correct water levels will be determined, who will make appropriation for emergency instream use of the ground water, and he suggested language be added to tighten up the voluntary process of leaving water in the stream.

Questions & Responses From Committee Members:

SEN. COLE asked SEN. GROSFIELD which stream will be reviewed. SEN. GROSFIELD answered that a list hasn't been drawn up, however, the purpose of Section 1 in the bill is to identify the streams. SEN. GROSFIELD further explained the idea with this bill isn't to spend thousands of dollars to do a study. He stated his idea is to conduct a study slowly over a period of time using the present staffing.

{Tape: 3; Side: A}

Closing by Sponsor:

SEN. GROSFIELD said the concept in the bill is good and it is important. He stated people realize there is a problem in lots of streams and are becoming more and more willing to work together in a voluntary manner to help solve some of these problems. He emphasized this is not an instream sale bill. SEN. GROSFIELD commented this bill won't help every situation, however, there are a few situations where some of the things in this bill might make a difference. He stated voluntary nonuse without fear of abandonment is significant, because it will encourage users on a stream to come together in a voluntary agreement.

CONTINUATION OF EXECUTIVE ACTION ON SB 225

CHAIR. GROSFIELD commented that two amendments were passed on SB 225. SEN. TVEIT wanted the inclusion of Garfield County in the bill. SEN. TVEIT explained several people requested Garfield County be included.

Motion/Vote: SENATOR TVEIT MOVED TO ADOPT AMENDMENTS NO. sb022504.ate AS CONTAINED IN EXHIBIT 9. MOTION CARRIED 7 - 4 on a roll call vote.

Motion: SEN. KEATING MOVED SB 225 TO DO PASS AS AMENDED.

Discussion: SEN. WELDON commented this is a very expensive bill.

Vote: MOTION CARRIED 7 - 4 by roll call vote with SEN. BROOKE, SEN. CHRISTIAENS, SEN. WELDON, and SEN. WILSON voting no.

EXECUTIVE ACTION ON LC 1463, COMMITTEE BILL

CHAIRMAN GROSFIELD announced he was passing copies to the members of the committee of LC 1463, which is a possible Committee Bill. CHAIRMAN GROSFIELD asked Todd Everts to briefly explain the situation. Mr. Everts said basically what this bill will do is amend the environmental quality protection fund to allow for private funds to be donated to the Department of Health, and Environmental Sciences, for immediate specific releases. He further explained that private parties will not be liable under the state's superfund liability statutes, solely as a result of their donation, or contribution. He commented this bill does not require an appropriation, according to the Legislative Fiscal Analyst Office, and Mr. Petesch.

SEN. KEATING stated this is a concept and the committee must decide if it wants to go with this concept.

CHAIRMAN GROSFIELD stressed SEN. KEATING has a good point.

Motion/Vote: SEN. CHRISTIAENS MOVED THAT A COMMITTEE BILL BE PROPOSED FROM NUMBER LC 1463 DRAFT AS CONTAINED IN EXHIBIT 10. MOTION CARRIED UNANIMOUSLY.

{Tape: 3; Side: B}

EXECUTIVE ACTION ON SB 234, CONTINUED

CHAIRMAN GROSFIELD announced the subcommittee has met and has drafted technical amendments. He reported the subcommittee consisted of SEN. KEATING, SEN. WELDON, SEN. CHRISTIAENS, and SEN. GROSFIELD and it was a bi-partisan effort.

Motion: SEN. WELDON MOVED TO ADOPT AMENDMENTS. NO. sb023401.ate AS CONTAINED IN EXHIBIT 11.

Discussion: CHAIRMAN GROSFIELD stated the amendments under discussion are technical amendments. He reported the substantive issues will be dealt with as soon as a vote is taken on all the technical amendments.

Vote: MOTION CARRIED UNANIMOUSLY on voice vote.

Discussion: CHAIRMAN GROSFIELD presented another set of technical amendments (SB023404.ATE).

Mr. Everts explained the amendments.

Motion/Vote: SEN. CHRISTIAENS MOVED TO ADOPT TECHNICAL AMENDMENTS NO. sb023404.ate AS CONTAINED IN EXHIBIT 12. MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. CHRISTIAENS MOVED TO ADOPT TECHNICAL AMENDMENTS NO. sb023409.amc AS CONTAINED IN EXHIBIT 13. MOTION CARRIED UNANIMOUSLY.

Discussion: CHAIR. GROSFIELD stated that the committee had now dealt with all the technical amendments recommended by the subcommittee. He asked if there were further amendments.

SEN. KEATING presented an amendment concerning the Board of Oil and Gas. He explained that the Board of Oil and Gas is made up of people from the industry itself. He stated they are operators, geologists, land owners, mineral and royalty owners, and some land owners without royalty or mineral ownership. The Board has regulated the industry for over 40 years and is very important to the land and mineral owners of the state, as well as to the industry itself. SEN. KEATING stated he wanted to make a motion to restore the staff hiring to the authority of the Board of Oil and Gas.

Motion: SEN. KEATING MOVED TO ADOPT AMENDMENTS NO. sb023406.amc AS CONTAINED IN EXHIBIT 14.

Discussion: SEN. TVEIT said if the amendments don't pass, the Governor's Office will be a Quasi-Board running their department, except they will be given people by the director of the Department of Environmental Quality. He stated the director is going to be the one who is hiring and firing, which is totally wrong, because the department director will likely have little or no idea what's going on with respect to the oil industry. He emphasized the Board of Oil and Gas is a very unique Board with tremendous responsibility.

SEN. KEATING said Page 250, Lines 21 and 22, of the amendment in regard to the Board of Oil and Gas attaches to the Department of Environmental Quality, and his amendment attaches it to the Department of Natural Resource Management instead of the DEQ. He acknowledged the Governor is not necessarily in support of his amendment. He stated the Governor would like to see this bill delivered to him just the way it is, however, he will accept whatever the Legislature sends him. SEN. KEATING further explained his reasoning for attaching the Board to the Department of Natural Resources Management. He stated the business of the oil industry is the development of natural resources.

{Tape: 4; Side: A}

SEN. KEATING stated the industry doesn't want to be attached to the Department of Environmental Quality because that looks like an environmental regulatory board.

SEN. WELDON said when he looks at the Department of Natural Resources Management he sees resources being managed by the state, and when he looks at the Department of Environmental Quality he sees private resources being regulated.

Vote: SEN. KEATING'S MOTION CARRIED by voice vote, with SEN. BROOKE and SEN. WELDON voting in opposition to the motion.

Discussion: SEN. FOSTER stated his amendments have been worked out between those affected and the administration allowing the well drillers to stay in Natural Resources.

Motion/Vote: SEN. FOSTER MOVED TO ADOPT AMENDMENTS NO. sb023402.ate AS CONTAINED IN EXHIBIT 15. MOTION CARRIED UNANIMOUSLY.

Motion: SEN. BROOKE MOVED TO ADOPT AMENDMENTS NO. sb023408.amc AS CONTAINED IN EXHIBIT 16.

Discussion: SEN. BROOKE explained the amendments address concerns presented by the Public Health Department. She stated the amendments put the public water supply program into the Department of Public Health and Human Services. She commented if the other agency reorganization bill doesn't pass the department will be called the Department of Public Health, instead of the new Department of Public Health and Human Services.

CHAIRMAN GROSFIELD asked Mr. Simonich to comment on the amendments. Mr. Simonich responded the public water supply portion involves the Municipal Water Assistance Section. He acknowledged authority comes from a federal act titled the "Safe Drinking Water Act". He emphasized both the public water supply and the waste water section have to move jointly. Mr. Simonich stated under this amendment drinking water is fragmented and separated from waste water and in trying to protect public health the department would resist this kind of amendment.

SEN. CHRISTIAENS asked Joan Miles to comment.

Joan Miles, Lewis and Clark County Health Department, commented none of these programs should be taken out of public health. She insisted that getting involved in public water supplies, or when there is a problem in the water, local health departments have to evaluate what the health risks are and what they should do. She voiced concern with the amendment taking out public health representation on the new Board of Environmental Quality or in the Department of Environmental Quality.

CHAIRMAN GROSFIELD mentioned if this motion fails, the next motion he will make will deal with the Board of Environmental Review requiring one member to have expertise or background as a public health officer, or as a medical doctor to address the concern that Ms. Miles just raised.

Vote: MOTION CARRIED on voice vote, with SEN. GROSFIELD, SEN. FOSTER, SEN. COLE and SEN. CRISMORE voting no.

Motion/Vote: SEN. GROSFIELD MOVED TO ADOPT AMENDMENTS NO. sb023404.adh AS CONTAINED IN EXHIBIT 17. MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. WELDON MOVED TO ADOPT AMENDMENTS NO. sb023405.amc AS CONTAINED IN EXHIBIT 18. MOTION CARRIED with SEN. CRISMORE and SEN. GROSFIELD voting no.

Motion: SEN. BROOKE MOVED TO ADOPT AMENDMENTS NO. sb023402.avb AS CONTAINED IN EXHIBIT 19.

Discussion: SEN. BROOKE said this bill is going to take a lot of trust on the part of all the legislators to vote for it and to get the bill through. She proposed adding a section defining a transition team and recommending legislative oversight. She explained the transition or oversight team would meet to hear from the people how it's going. SEN. BROOKE commented she would like to see the Legislature have some role in the executive reorganization.

CHAIRMAN GROSFIELD asked the Governor's Office to comment on SEN. BROOKE'S motion.

Mr. Robinson, Department of Health and Environmental Sciences, explained that this reorganization plan started with the Renew Government Task Force. He stated nobody told **Governor Racicot** to start the Task Force or how to staff it. He said the Task Force was created and it produced the recommendations that are in this bill. He emphasized this was a very public process with legislative participation and public participation. **Mr. Robinson** further explained when this bill was first drafted, two public open houses were held at the Department of Natural Resources and Conservation. He stated he is upset with the comments and affirmed that the Governor, who has an un-precedent public involvement commitment, has worked to get this bill to this point, and now there is an accusation that the Legislature should change the process.

CHAIRMAN GROSFIELD said it is up to the Governor's Office to organize the Executive Branch and to get it in shape. He stated he would resist this amendment.

SEN. WELDON stated there should be a institutional way to do this. He said he envisions that many of the same things would occur, such as reporting to the EQC at every monthly meeting. He stated there is a check and balance process involved. **SEN. WELDON** commented the record would show the Governor's Office was served a message there should be separation of powers, a check and balance and oversight.

{Tape: 4; Side: B}

SEN. KEATING said the bill is specific as to who goes where and the language is easily understood. He stated all divisions and bureaus have specific obligations in law. He acknowledged it is the Governor's duty to make sure departments are doing their job and that they are placed where the Legislature says they will be placed. He said neither the Governor, nor the Legislature needs any oversight from anybody to accomplish what is being put into statute.

SEN. BROOKE said the fact is the public recommendations resulted in this bill. But the recommendations were general in nature and she stated the details are unclear and she believes in prevention rather than cleaning up the mess afterwards.

Vote: **SENATOR BROOKE'S MOTION FAILED** with **SEN. BROOKE** and **SEN. WELDON** voting for the amendment.

Motion: **SEN. GROSFIELD MOVED TO ADOPT AMENDMENTS NO. sb023403.ate AS CONTAINED IN EXHIBIT 20.**

Discussion: **SEN. GROSFIELD** explained the amendments.

SEN. GROSFIELD asked **Mr. Simonich** if he would comment. **Mr. Simonich** stated this amendment surprises the department more than just a little bit. He said the language in the bill was negotiated specifically between the Governor's Office, the Chairman of the Compact Commission and the Vice Chairman of the Compact Commission, who is the sponsor of this bill and who is now offering this amendment. He emphasized the language was amended in the bill to satisfy some concerns that the Compact Commission brought forward in terms of insuring the department will provide staff to the Commission. **Mr. Simonich** remarked this was the intent of the Governor in having this bill introduced in the form that it is in. He said the Commission in the past has been attached to the Governor's Office, although it has never been located within the Governor's Office; it has been located within the Department of Natural Resources and Conservation.

SEN. COLE said he has been on the other side of the fence for a number of years. He stated the amendment is needed in order to deal with the tribes. The tribes expect to be negotiating with a high profile entity and this amendment accomplishes that.

SEN. FOSTER asked **Mr. Simonich** to respond to **SEN. COLE'S** concern.

Mr. Simonich said this is an effort to fully provide for the Compact Commission to continue to do its work. He commented Governor Racicot, more than any other governor, is involved with implementing some of the Compacts during his tenure in office. He explained the makeup of the Commission is very important in terms of carrying a very high profile. He stated that where the staff is located won't affect the Commission's negotiating power with any tribal entity or federal entity within the State of Montana.

SEN. FOSTER said Mr. Simonich's comments are convincing and suggested the committee oppose this amendment.

SEN. KEATING asked if there was full time work for the staff.

CHAIRMAN GROSFIELD responded there are about nine full time staff members presently.

SEN. CHRISTIAENS said he supports the motion.

Vote: MOTION CARRIED 9 - 1 with SEN. FOSTER voting no.

Motion: SEN. WELDON MOVED SB 234 DO PASS AS AMENDED.

SEN. TVEIT asked Mr. Simonich who will represent the people. Mr. Simonich said a director will be appointed by the Governor.

SEN. TVEIT commented he is uncomfortable about passing this bill. He said there needs to be more work done on the bill.

Substitute Motion: SEN. TVEIT MOVED A SUBSTITUTE MOTION TO TABLE SB 234.

Discussion: SEN. TVEIT said he has been in the Legislature for 8 sessions and he can't push a big bill through this fast.

Vote: MOTION FAILED 8 - 2 on roll call vote.

Discussion: CHAIRMAN GROSFIELD said this is a huge bill, however, the hearing on it was a couple of weeks ago. He explained The Renew Government Task Force had been a very open and public process. He reminded the committee that at least three very thorough summaries have been done by the EQC on the bill, including one summary that was 60 pages long detailing every section of the bill. He said the committee and the subcommittee had spent many hours on the bill and he felt they had taken enough time to do the bill justice. He thanked the committee for their patience and diligence in working with this bill. He said he is comfortable with the bill and hoped the committee would support it.

SEN. CHRISTIAENS stated one of the reasons he voted to table the bill is because he wanted time to meet with the director to discuss The Treasure State Endowment, and how it relates to the bill.

Vote: SEN. WELDON'S MOTION CARRIED WITH SEN. TVEIT VOTING NO.

ADJOURNMENT

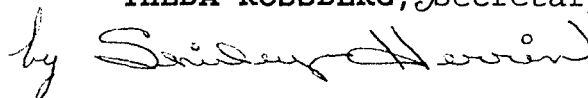
Adjournment: 12:05 A.M., February 16, 1995



LORENTS GROSFIELD, Chairman



THEDA ROSSBERG, Secretary



LG/TR

DATE 2-15-95

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 16, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration SB 225 (first reading copy -- white), respectfully report that SB 225 be amended as follows and as so amended do pass.

Signed: 
Senator Lorents Grosfield, Chair

That such amendments read:


1. Title, line 5.
Following: "VALLEY,"
Insert: "GARFIELD,"

2. Page 1, line 14.
Following: "Valley,"
Insert: "Garfield,"
Following: "counties"
Insert: "that are in excess of 5% of the total land area of a county. The department shall give the highest sale priority to the most isolated tracts of state land and the next highest sale priority to lands generating the lowest return on investment."

3. Page 1, line 17.
Following: "that"
Insert: "a"

4. Page 1, line 18.
Strike: "of those interests"
Insert: "royalty interest"

-END-

 Amd. Coord.
57 Sec. of Senate

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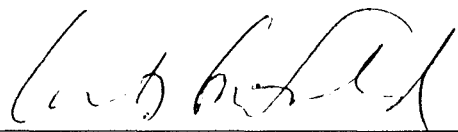
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SENATE STANDING COMMITTEE REPORT

Page 1 of 51
February 16, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration SB 234 (first reading copy -- white), respectfully report that SB 234 be amended as follows and as so amended do pass.

Signed: 
Senator Lorents Grosfield, Chair

That such amendments read:

1. Page 1.

Following: line 2

Insert: "BY REQUEST OF THE GOVERNOR"

2. Title, lines 11 and 12.

Strike: "TRANSFERRING" on line 11 through ";" on line 12

3. Title, line 12.

Following: ";"

Insert: "TRANSFERRING THE BOARD OF LAND COMMISSIONERS' POWERS,
EXCEPT RULEMAKING AUTHORITY, TO THE DEPARTMENT OF
ENVIRONMENTAL QUALITY;"

4. Title, line 14.

Strike: "2-15-3303, 2-15-3306,"

5. Title, line 15.

Strike: "2-18-103,"

6. Title, line 17.

Strike: "15-36-101,"

7. Page 2, line 17.

Following: "81-23-103,"

Insert: "82-4-102,"

8. Page 2, line 17.

Following: "82-4-103,"

Insert: "82-4-111, 82-4-112, 82-4-123,"


9. Page 2, line 17.

Following: "82-4-129,"

Insert: "82-4-141,"

10. Page 2, line 17.

Following: "82-4-203,"


Amd. Coord.
51 Sec. of Senate

401627SC.SPV

Amendments to Senate Bill No. 225
First Reading Copy

Requested by Senator Miller
For the Committee on Natural Resources

Prepared by Todd Everts
February 13, 1995

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 2-15-95
BILL NO. SB 225

1. Page 1, line 14.

Following: "counties"

Insert: "that are in excess of ^{5%}4% of the total land area of a county. The department shall give the highest sale priority to the most isolated tracts of state land and the next highest sale priority to lands generating the lowest return on investment."

Amendments to Senate Bill No. 225
First Reading Copy

SENATE NATURAL RESOURCES
EXHIBIT NO. 2
DATE 2-15-95
BILL NO. SB-225

Requested by Senator Miller
For the Committee on Natural Resources

Prepared by Todd Everts
February 13, 1995

1. Title, line 5.

Following: "VALLEY,"

Insert: "GARFIELD,"

2. Page 1, line 14.

Following: "Valley,"

Insert: "Garfield,"

Following: "counties"

Insert: "that are in excess of 5% of the total land area of a county. The department shall give the highest sale priority to the most isolated tracts of state land and the next highest sale priority to lands generating the lowest return on investment."

3. Page 1, line 17.

Following: "that"

Insert: "a"

4. Page 1, line 18.

Strike: "of those interests"

Insert: "royalty interest"

COMMITTEE ON NATURAL RESOURCES
EXHIBIT NO. 3
DATE 2-15-95
BILL NO. 8 SJR-15

**TESTIMONY PRESENTED TO
THE MONTANA STATE SENATE
COMMITTEE ON NATURAL RESOURCES
BY ALLEN BARKLEY
FEBRUARY 15, 1995**

Mr. Chairman, members of the Committee, for the record, my name is Allen Barkley and I'm representing Columbia Falls Aluminum Company.

We are in strong support of Senate Joint Resolution 15. We feel the intent of this resolution benefits both business and the public of Montana. Both of these groups benefit if the resolution is successful because the solutions to Montana regulatory problems would be Montana solutions-- not Washington D.C. solutions.

Our company deals with nearly all of the environmental regulatory agencies in the state. We have no reservations that our Montana regulators are highly qualified and will protect the public health in our state. The important issue, in our view, is that Montana regulators do have a stake in Montana, working with business, when or if possible, providing there is no threat to the public.

This resolution in no way circumvents all necessary permitting and compliance practices and we urge your support of SJR 15.

February 14, 1995

4.

Mr. Chairman, members of the committee, my name is Ronald Buentemeier, ^{Jim} Lands Manager for F. H. Stoltze Land & Lumber Co. at Columbia Falls, Montana. Stoltze is the oldest family owned Lumber Company in Montana with the mill at Halfmoon being established in 1923. I have been lands manager for 34,000 acres of land in Northwest Montana for the last 31 years.

Today you are considering SB347, which is concerned with granting access across State Trust Lands. As Mr. Crismore mentioned, we should all be good neighbors. Stoltze has been a good neighbor for the past 72 years in dealing with our neighboring landowners and access across our ownership. Under current Montana Law there appears to be some legal implications that the Department of State Lands feel prevents them from granting reciprocal access for Forest Management activities on forested land. Although I have dealt with MEPA from day one, I must confess I do not understand all of the legal requirements of this act. We all recognize that we must be good stewards of our forest lands, one of our most precious resources. However, current use of the MEPA process has done little for the land and much for the bureaucracy.

Much of the State Trust Lands, in the Northwest part of the State, are scattered in many locations similar to some of Stoltze ownerships. This scattered ownership makes

management of any kind, difficult at best. To have any management you must have access to your property. Because of the scattered nature, it is in everyone's best interest to be good neighbors and cooperate by granting single or reciprocal access. It is very shortsighted by either party to deny access because you will most likely pay at some point.

I have been dealing with the Department of State Lands on access for many years. We currently have 7 requests for access filed, dating back to 1989. After two months of frustration, I was able to meet with DSL at the Northwestern Land Office on December 22, to discuss the status of the various requests. Notes of this meeting, and letters I have sent to various people, including Bud Clinch and Governor Racicot, are included with my response. You will find that each request was discussed in detail. Some of the points covered were:

1) The Northwestern Land Office had made the decision about one year ago to concentrate on obtaining easements to State ownership and not spend time on easement request. *A good decision but shortsighted.*

2) Because of Grizzly Bear habitat near the valley edge, one request could not go any further unless Stoltze was willing to do and pay for a MEPA document.

- 3) Another request, near the upper end of Whitefish Lake, needed to be coordinated with a State Timber Sale. If access is granted, there will be timing and operating restrictions imposed.
- 4) A request near Beaver Lake is being delayed for several more years while DSL goes through the MEPA process. DSL has begun the process, but, initial public meetings showed that management will be very controversial and difficult in the area.
- 5) On another, Stoltze and several other private landowners encouraged DSL to improve the road locations out of a riparian area. The landowners had agreed to provide gravel on the road in the new location in exchange for everyone getting easements across State land. This would be a win situation for the resource, the State Trust Lands, private landowners, and Stoltze!!

Everyone is concerned about the quality of Land Management that is being done on our Forest Lands. Industry and private landowners have been working very hard through Best Management Practices and the Streamside Management Act to do a QUALITY land management job. The recent BMP audits show that we are doing a better job. Two audits, of Stoltze Land, show that we exceeded the requirements 6 times and met the 71 times, out of a total possible 77. Stoltze has also been recognized as doing a quality Forest Management job by other forest land owners and many private individuals.

This all shows that DSL should only concern themselves with the access across State

Trust Lands and not management on adjoining ownerships.

Because of the current course of events, Stoltze feels their only recourse ^{is} to deny a current access request by State Trust Lands across Stoltze ownership. This is NOT our preferred alternative. We want to be good neighbors , and have a common sense solution to a mutual access problem. This should be a simple reciprocal easement for timber management purposes!!

Thank you for your time. Are there any questions?

Ronald H. Buentemeier

Timber & Lands Manager

RB/tc

Amendments to Senate Bill No. 349
First Reading CopyRequested by Senator Foster
For the Committee on Natural ResourcesPrepared by Todd Everts
February 13, 1995

1. Title, lines 8 and 9.

Strike: "SPECIFYING" on line 8 through "INCINERATORS;" on line 9

2. Title, lines 11 through 15.

Strike: "CLASSIFYING" on line 11 through "INCINERATORS;" on line 13.

3. Title, line 15.

Strike: "75-2-220,"

Following: "75-2-231"

Strike: ", "

Insert: "AND"

Following: "75-2-413,"

Strike: "AND 75-10-403,"

4. Page 2, lines 10 through 12.

Strike: subsection (3) in its entirety

5. Page 2, line 14 through page 5, line 15.

Strike: Section 2 in its entirety

Renumber: subsequent sections

6. Page ²¹7, line 11 through page 10, line ²⁸23.

Strike: Section 4 in its entirety

Renumber: subsequent sections

EXPEND NO. 6DATE 2-15-95BILL NO. SB 349UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 23 1994

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

Ann Hedley

MEMORANDUM

SUBJECT: RCRA Policy Statement: Clarification of the Land Disposal Restrictions' Dilution Prohibition and Combustion of Inorganic Metal-Bearing Hazardous Wastes

FROM: Elliott P. Laws
Assistant Administrator

TO: Waste Management Division Directors, Regions I - X

I. Introduction

A. Purpose

This memorandum sets out a Statement of Policy under the Resource Conservation and Recovery Act (RCRA) clarifying the application of the Land Disposal Restrictions (LDR) prohibition on dilution (see 40 CFR § 268.3) to combustion of certain inorganic metal-bearing hazardous wastes. Because combustion normally does not represent effective treatment of these wastes, such burning can be considered impermissible dilution. In such cases, these hazardous metal-bearing wastes cannot be combusted legally. This Policy Statement clarifies the general situation regarding combustion of these metal-bearing hazardous wastes, but application of this policy will vary depending on particular circumstances.

B. Regulatory Background

Under RCRA, the LDR prohibition on dilution states generally that no person "shall in any way dilute a restricted waste ... as a substitute for adequate treatment to achieve compliance with [a treatment standard for that waste]". 40 CFR 268.3(a). This prohibition implements the requirement of section 3004(m) of RCRA, which requires that hazardous constituents in hazardous wastes be destroyed, removed or immobilized before these wastes can be land disposed. Hazardous constituents are not destroyed, removed or immobilized if they are diluted. Chemical Waste Management v. EPA, 976 F.2d 2, 16, 17, 19-20 (D.C. Cir. 1992),

Combustion for purposes of this memo does not include metal recovery units engaged in metal reclamation or vitrification units engaged in metal stabilization.

cert. denied 113 S.Ct. 1961 (1993); see also S. Rep. No. 298, 98th Cong. 1st Sess. 17 (1983) ("the dilution of wastes by the addition of other hazardous waste or any other materials during waste handling, transportation, treatment or storage is not an acceptable method of treatment to reduce the concentration of hazardous constituents").

Consistent with these authorities, the Agency has stated that the dilution prohibition serves one chief purpose -- "to ensure that prohibited wastes² are treated by methods that are appropriate for that type of waste." 55 FR at 22532 (June 1, 1990). Impermissible dilution can occur under a number of circumstances. The most obvious is when solid wastes are added to a prohibited waste to reduce concentrations but not volumes of hazardous constituents, or to mask their presence. Impermissible dilution also may occur when wastes not amenable to treatment by a certain method (i.e., treated very ineffectively by that treatment method) are nevertheless 'treated' by that method. 55 FR 22666 (June 1, 1990) (biological treatment does not effectively remove toxic metals from wastes; therefore, prohibited wastes with treatment standards for metals ordinarily would be impermissibly diluted if managed in biological treatment systems providing no separate treatment for the metals). See also 52 FR at 25778-79 (July 8, 1987) (impoundments which primarily evaporate hazardous constituents do not qualify as section 3005(j)(11) impoundments which may receive otherwise-prohibited hazardous wastes that have not met the treatment standard).

EPA is providing guidance today clarifying how the LDR dilution prohibition could apply to certain inorganic metal-bearing hazardous wastes that may be placed in combustion units, other than metal recovery furnaces.

II. General Distinction Between "Adequate Treatment" and Potential Violations of the Dilution Prohibition

This memorandum deals with the question of whether combustion of prohibited inorganic hazardous wastes can be a type of impermissible dilution. An "inorganic hazardous waste" is one for which EPA has established treatment standards for metal hazardous constituents, and which does not otherwise contain significant organic or cyanide content (see further discussion, last paragraph page 3, clarifying what constitutes an insignificant organic or cyanide content).

² A "prohibited" hazardous waste is one which is actually subject to a prohibition on land disposal without first being treated, or disposed in a no-migration unit. See 54 FR 36968 (Sept. 6, 1989).

The Agency has evaluated the listed wastes and has determined that 44 of the RCRA listed wastes (as set forth in 40 CFR § 261) typically appear to be such inorganic hazardous wastes; i.e., they typically do not contain organics, or contain only insignificant amounts of organics, and are not regulated for organics (see Appendix A to this memorandum for a list of these wastes). The Best Demonstrated Available Technology (BDAT) for these inorganic, metal-bearing listed wastes is metal recovery or stabilization. Thus, impermissible dilution may result when these wastes are combusted.

3Dentail
There are eight characteristic metal waste codes; however, only wastes that exhibit both the toxicity characteristic (TC) and the extraction procedure (EP) for D004 - D011 are prohibited now (see 55 FR 22660-02, June 1, 1990). Characteristic wastes, of course, cannot be generically characterized as easily as listed wastes because they can be generated from many different types of processes. For example, although some characteristic metal wastes do not contain organics or cyanide or contain only insignificant amounts, others may have organics or cyanide present which justify combustion, such as a used oil exhibiting the TC characteristic for a metal. Thus, it is difficult to say which D004-D011 wastes would be impermissibly diluted when combusted, beyond stating that as a general matter, impermissible dilution would occur if the D004-D011 waste does not have significant organic or cyanide content but is nevertheless combusted.

EPA ordinarily would not consider the following hazardous wastes to be strictly inorganic (or to contain "significant organic or cyanide content") for which combustion would otherwise be impermissible dilution. Combustion of the following wastes is therefore not prohibited under the LDR dilution prohibition: (1) any of the 44 listed wastes and 8 characteristic wastes in Appendix A that, at point of generation, or after any bona fide treatment such as cyanide destruction prior to combustion, contain hazardous organic constituents or cyanide at levels exceeding the constituent-specific treatment standard for F039, which represents a compilation of numerical limits for hazardous constituents; (2) organic, debris-like materials (e.g., wood, paper, plastic, or cloth) contaminated with an inorganic metal-bearing hazardous waste; and (3) any of the 44 listed wastes and 8 characteristic wastes that, at point of generation, have reasonable heating value such as greater than or equal to 5000 BTU (see 48 FR 11157 (March 16, 1983)). The foregoing three categories of waste typically would contain sufficient organic

To the extent that these wastes or residues of these wastes (i.e., biological treatment sludges) contain significant organic content, combustion may be an appropriate treatment technology. See later discussion regarding this point.

NATURAL RESOURCES

EXHIBIT NO. 6DATE 2-15-95BILL NO. SB 349

content to indicate that combustion can be a reasonable means of treating the wastes prior to land disposal. However, as noted above, mixing practices such as fuel blending to add organics to inorganic metal-bearing hazardous wastes ordinarily would be considered to be impermissible dilution. This is because the dilution prohibition applies at the point a hazardous waste is generated. Chemical Waste Management v. EPA, 976 F.2d at 22-3; also 48 FR 11158, 11159 and nn. 2 and 4 (March 16, 1983); 53 FR at 522 (Jan. 8, 1988) (determinations of legitimacy of recycling are made on a waste-by-waste basis before any blending occurs).

This Policy Statement is also reflective of the Agency's concerns about the hazard presented by toxic metals in the environment. When an inorganic metal-bearing hazardous waste with insignificant organics is placed in a combustion unit, legitimate treatment for purposes of LDR ordinarily is not occurring. No treatment of the inorganic component occurs during combustion, and therefore, metals are not destroyed, removed, or immobilized. Since there are no significant concentrations of organic compounds in inorganic metal-bearing hazardous wastes, it cannot be maintained that the waste is being properly or effectively treated via combustion (i.e., thermally treated or destroyed, removed, or immobilized).

In terms of the dilution prohibition, if combustion is allowed as a method to achieve a treatment standard for these wastes, metals in these wastes will be dispersed to the ambient air and will be diluted by being mixed in with combustion ash from other waste streams. Adequate treatment (stabilization or metal recovery to meet LDR treatment standards) has not been performed and dilution has occurred. It is also inappropriate to regard eventual stabilizing of such combustion ash as providing adequate treatment for purposes of the LDRs. Simply meeting the numerical BDAT standards for the ash fails to account for metals in the original waste stream that were emitted to the air and for reductions achieved by dilution with other materials in the ash. (In most cases, of course, the metal-bearing wastes will have been mixed with other wastes before combustion, which mixing itself could be viewed as impermissible dilution).

These inorganic, metal-bearing hazardous wastes should be and are usually treated by metal recovery or stabilization technologies. These technologies remove hazardous constituents through recovery in products, or immobilize them, and are therefore permissible BDAT treatment methods. However, EPA believes that this statement of policy clarifying application of LDR dilution prohibition is needed because we have observed that some of these wastes may be going to conventional combustion devices such as incinerators or cement kilns. For example, some owners/operators may be willing to accept inorganic lead wastes with insignificant organics at their combustion facilities (which can still apparently meet their air emissions limits at the

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stack). As explained above, land disposal of combustion residuals from these facilities would typically violate the land disposal restrictions prohibition on dilution. Combustion is not usually an appropriate treatment for these wastes because hazardous constituents are not removed, destroyed, or immobilized.

Consequently, the general principles set out in this memorandum, subject to appropriate consideration of individual circumstances, are: (1) that a prohibited inorganic metal-containing hazardous waste (listed in Appendix A to this memorandum) without significant organic content can be considered to be diluted impermissibly when combusted (even if the treatment standards for metals are achieved in part by subsequent treatment of combustion ash); and (2) that the determination of whether a waste is an inorganic metal-bearing hazardous waste is made at the point of generation. This means that, ordinarily, such a waste would be considered to be diluted impermissibly even if it is blended with organic wastes for which combustion would otherwise be an appropriate treatment method.

This is the point at which the waste becomes hazardous.
(See 45 FR 33095-33096, May 19, 1980).

Appendix A. Description of Wastes Affected by this Policy

Waste Code	Listed Wastes
F006 ⁵ *	Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.
F007 *	Spent cyanide plating bath solutions from electroplating operations.
F008 *	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process.
F009 *	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.
F010 *	Quenching bath residues from oil baths from metal treating operations where cyanides are used in the process.
F011 *	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.
F012 *	Quenching waste water treatment sludges from metal heat treating operations where cyanides are used in the process.
F019 *	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum car washing when such phosphating is an exclusive conversion coating process.
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments.
K003	Wastewater treatment sludge from the production of molybdate orange pigments.

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Waste Code	Listed Wastes
K004	Wastewater treatment sludge from the production of zinc yellow pigments.
K005	Wastewater treatment sludge from the production of chrome green pigments.
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).
K007	Wastewater treatment sludge from the production of iron blue pigments.
K008	Oven residue from the production of chrome oxide green pigments.
K061	Emission control dust/sludge from the primary production of steel in electric furnaces.
K069	Emission control dust/sludge from secondary lead smelting.
K071	Brine purification muds from the mercury cell processes in chlorine production, where separately prepurified brine is not used.
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting.
K106	Sludges from the mercury cell processes for making chlorine.
P010	Arsenic acid H_3AsO_4
P011	Arsenic oxide As_2O_3
P012	Arsenic trioxide
P013 *	Barium cyanide
P015	Beryllium
P029 *	Copper cyanide $Cu(CN)_2$
P074 *	Nickel cyanide $Ni(CN)_4$
P087	Osmium tetroxide
P099	Potassium silver cyanide
P104 *	Silver cyanide

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Waste Code	Listed Wastes
P113	Thallic oxide
P114	Thallium (I) selenite
P115	Thallium (I) sulfate
P119	Ammonium vanadate
P120	Vanadium oxide V_2O_5
P121 *	Zinc cyanide
P122	Zinc phosphide
U032	Calcium chromate
U145	Lead phosphate
U151	Mercury
U204	Selenious acid
U205	Selenium disulfide
U216	Thallium (I) chloride
U217	Thallium (I) nitrate

Waste Code	Characteristic Wastes
D004	Arsenic
D005	Barium
D006	Cadmium
D007	Chromium
D008	Lead
D009	Mercury
D010	Selenium
D011	Silver

MontPIRG

Montana Public Interest Research Group

360 Corbin Hall - Missoula, MT - (406) 243-2908

Testimony Against Senate Bill 344, February 15, 1995

Chairman Grosfield and members of the Senate Natural Resources Committee:

For the record, my name is J.V. Bennett, for the Montana Public Interest Research Group, or MontPIRG.

MontPIRG is a non-profit, non-partisan research and advocacy organization working for good government, consumer rights and sound environmental protection. MontPIRG represents over 4000 members in Montana, with 2200 student members students, and is funded with membership donations.

As an organization advocating consumer interests and sound environmental protection MontPIRG rises in opposition to Senate Bill 344.

One problem with this bill is the language in subsection 4 of section 1 defining energy recovery from hazardous waste as a beneficial use. This language does not distinguish between wastes which have adequate fuel values to be useful and blended hazardous waste which contains waste of insufficient fuel value mixed with waste which does.

Some wastes which are classified as hazardous are so classified because of their flammability. Some of these wastes would be an acceptable substitute for fossil fuels. However, a common practice in many facilities claiming to recycle hazardous waste is the blending of hazardous wastes with high fuel values with waste that is classified as hazardous because of its toxicity to gain a net fuel value that is useful.

Ash Grove Cement's proposal is one such example. Ash Grove will receive its hazardous waste fuel from a blending facility run by Cadence Environmental Energy. A number of the waste codes listed on Ash Groves permit have no fuel value. Therefore, this and proposals like it are not just methods to use an alternative fuel, they are proposals to burn highly toxic wastes under the rubric of energy recovery.

Another problem with this bill is the additional monetary incentive created to

burn hazardous waste in boilers and industrial furnaces. Boilers and industrial furnaces, like cement kilns, already have a competitive advantage over commercial incinerators because of legal exemptions regarding liability they receive. It is the liability associated with hazardous waste which has created an effective incentive to decrease the amount of hazardous waste they generate. To further encourage the burning of hazardous waste in BIFs would escalate the undermining of an effective economic incentive to generate less hazardous waste.

The consumers and environment of Montana are most benefitted by minimizing the amount of hazardous waste generated in the first place. During the EQC's study on hazardous waste, we discovered that waste minimization is working. To encourage a practice which undermines this incentive is not in the better interests of Montana.

For these reasons, MontPIRG urges you to table Senate Bill 344.

TESTIMONY FOR SB 386

Although SB 386 reduces the degree of environmental protection relative to current law, DHES can support the proposed deregulation of small farm and residential noncommercial motor fuel and heating tanks and piping as more desirable than an alternative bill request which would have allowed the removal of small farm and residential underground tanks and pipes without regulation. The Department's experience with the implementation of a similar bill enacted during the 1993 Legislature was frustrating with regard to the effective use of the UST Program's limited resources, and that bill did not adequately ensure that releases were identified or dealt with.

If it is this Legislature's intent to deregulate a major component of the management and operation requirements for farm and residential tanks, the Department believes that it is better to totally deregulate this category of tanks than to partially regulate them. Deregulation of the approximately 2,500 tanks affected will allow the UST Program to concentrate its compliance efforts and utilize its limited resources to ensure that those tanks which fall within the federal requirements for the storage of petroleum products and hazardous substances are being effectively regulated. The consistent regulation of these tank systems will pay a higher dividend for public health and environmental protection by preventing releases and ensuring timely and effective mitigation if a release does occur.

Testimony provided by Roger Thorvilson.

MT DHES

Phone # 444-1430

Amendments to Senate Bill No. 225
First Reading Copy

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Requested by Senator Tveit
For the Committee on Natural Resources

Prepared by Todd Everts
February 15, 1995

1. Title, line 5.
Following: "VALLEY,"
Insert: "GARFIELD,"

2. Page 1, line 14.
Following: "Valley,"
Insert: "Garfield,"

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Printed 6:16 pm on February 15, 1995

SENATE NATURAL RESOURCES
EXHIBIT NO. 10
DATE 2-15-95
BILL NO. 2C 1463
10 LC1463

**** Bill No. ****

Introduced By *****

By Request of *****

A Bill for an Act entitled: "An Act clarifying the environmental quality protection fund may allow for private funds to be donated to the department of health and environmental sciences to remediate specific releases; amending section 75-10-704, MCA"

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-10-704, MCA, is amended to read:

"75-10-704. Environmental quality protection fund. (1) There is in the state special revenue fund an environmental quality protection fund to be administered as a revolving fund by the department. The department is authorized to expend amounts from the fund necessary to carry out the purposes of this part.

(2) The fund may be used by the department only to carry out the provisions of this part and for remedial actions taken by the department pursuant to this part in response to a release of hazardous or deleterious substances.

(3) The department shall:

(a) except as provided in subsection (7) establish and implement a system for prioritizing sites for remedial action based on potential effects on human health and the environment; and

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BILL NO. LC-1463

(b) investigate, negotiate, and take legal action, as appropriate, to identify liable persons, to obtain the participation and financial contribution of liable persons for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.

(4) There must be deposited in the fund:

(a) all penalties, forfeited financial assurance, natural resource damages, and remedial action costs recovered pursuant to 75-10-715;

(b) all administrative penalties assessed pursuant to 75-10-714 and all civil penalties assessed pursuant to 75-10-711(5);

(c) funds appropriated to the fund by the legislature; and

(d) funds received from the interest income of the resource indemnity trust fund pursuant to 15-38-202; and

(e) all funds donated or granted from private parties for a specific release.

Private parties are not liable under 75-10-715 solely as a result of their contribution.

(5) Whenever a legislative appropriation is insufficient to carry out the provisions of this part and additional money remains in the fund, the department shall seek additional authority to spend money from the fund through the budget amendment process provided for in Title 17, chapter 7, part 4.

(6) Whenever the amount of money in the fund is insufficient to carry out remedial action, the department may apply to the governor for a grant from the environmental contingency account established pursuant to 75-1-1101."

(7) Funds donated or granted for a specific project pursuant to subsection

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(4)(e) must be accumulated in the fund until the balance is equal to the amount money the department estimates it will take to remediate the site for which the funds are donated. If the balance, as determined by the department, is not achieved within 2 years from the date of the initial contribution, all donated or granted funds, including any interest, must be returned to the grantor or grantors. If the balance for a specific project is equal to the amount of money the department estimates it will take to remediate the site, the department shall give that site high priority for remedial action, using the funds donated under subsection (4)(e). Nothing in this subsection diminishes the authority of the department to investigate, negotiate, and take legal action, as appropriate, to identify liable person, to obtain the participation and financial contribution of liable persons for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.

{Internal References to 75-10-704:

15-38-202x	15-38-202x	75-1-1101x	75-10-701x
75-10-711x	75-10-714x	75-10-722x	77-2-302x}

-END-

{Todd Everts

(406) 444-3742}

Amendments to Senate Bill No. 234
First Reading CopyRequested by Senator Grosfield
For the Committee on Natural ResourcesPrepared by Todd Everts
February 3, 1995

1. Page 1.

Following: line 2

Insert: "BY REQUEST OF THE GOVERNOR"

2. Title, line 11.

Following: "TRANSFERRING"

Insert: "THE RESPONSIBILITIES OF THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION FOR"*(clarification)*

3. Title, line 14.

Strike: "2-15-3306,"

(repeal soil survey advisory council)

4. Title, line 17.

Strike: "15-36-101,"

*(definitions and rate of tax--state severance tax--local government tax--assessment
of interest owner--exemption (board of oil and gas conservation correction))*

5. Title, page 2, line 19.

Strike: "85-1-212,"

*(settlement of disputes over water contracts, creating a forum of appeal where
none existed)*

6. Title, page 2, line 23.

Strike: "85-2-212,"

(order by Supreme Court on water adjudication, leave language in tact)

7. Title, page 2, line 24.

Following: "85-2-512,"

Insert: "85-2-514,"

(a missed section of law changing DHES to DEQ)

8. Title, page 2, line 30.

Following: "85-1-202,"

Insert: "85-1-212,"

(repeal settlement of dispute over water contracts)

9. Page 14, line 32 through page 15, line 7.

Strike: section 21 in its entirety

Renumber: subsequent sections

(repeal soil advisory council)

10. Page 15, line 16.

Strike: "public health"

Insert: "natural resource management"

(board of water well contractors, director of DNRM not DPH appoints member)

11. Page 21, line 16.

Page 49, line 10.

Page 116, line 32.

Page 121, line 15.

Page 129, line 17.

Page 132, line 4.

Page 133, line 9.

Page 134, line 21.

Page 137, line 9.

Page 145, line 10.

Page 148, line 4.

Page 149, line 23.

Page 153, line 12.

Page 215, line 20.

Page 229, line 16.

Page 231, line 20.

Page 243, line 8.

Page 246, line 19.

Strike: "25"

Insert: "24"

(changing internal references to appropriately correspond to changes)

12. Page 31, line 33 through page 36, line 32.

Strike: Section 52 in its entirety

Renumber: subsequent sections

(original language for board of oil and gas conservation)

13. Page 49, lines 12 and 25.

Page 50, line 16.

Page 117, line 6.

Page 119, line 6.

Page 121, line 23.

Page 129, line 23.

Page 132, line 9.

Page 133, line 11.

Page 134, line 23.

Page 137, line 14.

Page 139, line 7.
Page 142, line 23.
Page 144, line 25.
Page 145, line 20.
Page 148, lines 6 and 18.
Page 149, line 27.
Page 151, line 1.
Page 153, line 29.
Page 229, line 18.
Page 232, line 7.
Page 243, line 12.
Page 246, line 22.
Page 250, line 22.

Strike: "24"

Insert: "23"

(changing internal references to appropriately correspond to changes)

14. Page 118, line 24.

Following: "state lands"

Strike: "environmental quality"

Insert: "natural resource management"

(correcting that slash and forest debris regulated by DNRM not DEQ)

(Numbers 15-28 deal with the joint jurisdiction of DEQ and DOC over the waste water treatment revolving fund)

15. Page 123, line 32.

Page 128, line 25.

Following: "conservation"

Insert: "and the department of commerce"

16. Page 124, line 5.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

17. Page 124, line 19.

Following: "department"

Insert: "and the department of commerce"

18. Page 124, line 20.

Following: "within"

Strike: "to implement"

Insert: ", within their respective authorities,"

19. Page 125, line 12.

Following: "department"

Insert: "of commerce as recommended by the department"

20. Page 125, line 17.

Page 127, lines 2, 29, and 31.

Page 128, lines 1, 7, 14, and 28.

Page 129, line 7.

Following: "department"

Insert: "of commerce"

21. Page 125, line 22.

Following: "shall"

Insert: ", after consultation with the department of commerce,"

22. Page 125, line 34.

Page 126, line 10

Following: "department"

Insert: "or the department of commerce"

23. Page 126, line 18.

Strike: "The"

Insert: "After consultation with the department of commerce, the"

24. Page 126, line 32.

Following: "application"

Insert: "by the department"

Following: "department"

Insert: "of commerce"

25. Page 127, line 16.

Following: "department"

Insert: "or the department of commerce"

26. Page 127, line 17.

Strike: "its"

Insert: "their"

27. Page 128, line 4.

Following: "department"

Insert: "of commerce, with the concurrence of the department"

28. Page 129, line 7.

Following: "~~department~~"

Insert: ", department,"

29. Page 132, line 31.

Page 134, line 4.

Page 146, line 2.

Page 211, line 9.

Following: "~~state lands~~"

Strike: "natural resource management"

Insert: "environmental quality"

(correcting that mining wastes under mining and reclamation are administered by DEQ)

30. Page 152, line 10.

Following: "~~de minimis~~"

Strike: "minimal"

Insert: "de minimis"

(legal clean up - keep "de minimis" consistent with definition of "petroleum" and "petroleum products")

31. Page 152, line 18.

Following: "ground"

Strike: ". or The term includes"

Insert: "or"

(clarifying definition to include above ground or underground pipes associated with tanks under 22(b) and 22(c) as a "petroleum storage tank" eligible for reimbursement)

32. Page 173, line 9.

Strike: "quality"

Insert: "review"

(board of environmental review instead of board of environmental quality)

33. Page 187, lines 22 and 23.

Strike: "commerce" on line 22 through "18" on line 23

Insert: "natural resource management"

(Montana rangeland resource program from DNR to DOC)

34. Page 261, lines 1 through 11.

Strike: Section 406 in its entirety

Renumber: subsequent sections

(settlement of disputes over water contracts repealed -- provides avenue of appeal where none existed before)

35. Page 267, lines 31 and 32.

Strike: "Any" on line 31 through "party." on line 32

(leases for small scale hydroelectric power plants creates an appeal to district court that does not currently exist)

36. Page 285, line 31 through page 286, line 21.

Strike: Section 447 in its entirety

Renumber: subsequent sections

(court order should not touch)

37. Page 294, line 12.

Following: "alleging"
Insert: "of environmental quality"
(DEQ instead of DNRM)

38. Page 294, line 19.
Following: "sciences"
Insert: "of environmental quality"
(DEQ instead of DNRM)

39. Page 303.
Following: line 27
Insert: "Section 461. Section 85-2-514, MCA, is amended to read:
"85-2-514. Inspection of wells. The department, the state bureau of mines and geology, or the department of health and environmental sciences quality may enter on the property of any appropriator where a well is situated, at any reasonable hour of the day, for the purpose of investigating any matters in connection with this part.""
Renummer: subsequent sections
(inserting section of law to be corrected from DHES to DEQ)

40. Page 320, line 5.
Following: "department of"
Strike: "natural"
(energy conservation programs, changing DNRC to DEQ)

41. Page 320, line 6.
Strike: "resource management"
Insert: "environmental quality"
(energy conservation programs, changing DNRC to DEQ)

42. Page 323, line 7.
Strike: "natural resource management"
Insert: "environmental quality"
(priorities for impact grants, mining and reclamation correcting DNRM to DEQ)

43. Page 328, line 6.
Following: "85-1-202,"
Insert: "85-1-212,"
(settlement over water contracts, 2-15-3306)

44. Page 328, lines 17 and 18.
Strike: "24 and 25"
Insert: "23 and 24"
(codification)

SENATE NATURAL RESOURCES

Amendments to Senate Bill No. 234
First Reading Copy

EXHIBIT NO. 12

DATE 2-15-95

BILL NO. SB 234

Requested by Senator Grosfield
For the Committee on Natural Resources

12

Prepared by Todd Everts
February 15, 1995

1. Page 17, line 8.

Following: "sciences."

Insert: "One member must have expertise or background as a county health officer
or as a medical doctor."

SENATE NATURAL RESOURCES

Amendments to Senate Bill No. 234
First Reading CopyRequested by Sen. Keating
For the Committee on Natural ResourcesPrepared by Martha Colhoun
February 6, 1995

1. Title, line 14.
Strike: "2-15-3303,"
2. Title, line 15.
Strike: "2-18-103,"
3. Title, line 17.
Strike: "15-36-101,"
4. Title, page 2, line 18.
Strike: "82-11-117,"
5. Page 14, lines 19 through 30.
Strike: Section 20 in its entirety
Renumber: subsequent sections
6. Page 17, line 15 through page 18, line 7.
Strike: Section 26 in its entirety
Renumber: subsequent sections
7. Page 31, line 33 through page 36, line 32.
Strike: Section 52 in its entirety
Renumber: subsequent sections
8. Page 250, lines 21 and 22.
Following: "department of"
Strike: "environmental quality" on line 21 through "[section 24]"
on line 22
Insert: "natural resource management provided for in 2-15-3301"
9. Page 252, lines 5 through 20.
Strike: Section 396 in its entirety
Renumber: subsequent sections
10. Page 21, line 16.
Page 49, line 10.
Page 116, line 32.
Page 121, line 15.
Page 129, line 17.
Page 132, line 4.
Page 133, line 9.
Page 134, line 21.
Page 137, line 9.
Page 145, line 10.

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EXHIBIT NO. 14DATE 2-15-96BILL NO. SB-234

Page 148, line 4.
Page 149, line 23.
Page 153, line 12.
Page 215, line 20.
Page 229, line 16.
Page 231, line 20.
Page 243, line 8.
Page 246, line 19.
Strike: "25"
Insert: "24"

11. Page 49, lines 12 and 25.

Page 50, line 16.
Page 117, line 6.
Page 119, line 6.
Page 121, line 23.
Page 129, line 23.
Page 132, line 9.
Page 133, line 11.
Page 134, line 23.
Page 137, line 14.
Page 139, line 7.
Page 142, line 23.
Page 144, line 25.
Page 145, line 20.
Page 148, lines 6 and 18.
Page 149, line 27.
Page 151, line 1.
Page 153, line 29.
Page 229, line 18.
Page 232, line 7.
Page 243, line 12.
Page 246, line 22.
Strike: "24"
Insert: "23"

12. Page 328, lines 17 and 18.

Strike: "24 and 25"
Insert: "23 and 24"

Amendments to Senate Bill No. 234
First Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Todd Everts
February 9, 1995

1. Page 5, line 18.

Following: "only"

Insert: ", as prescribed in 2-15-121, unless inconsistent with the provisions of Title 85, chapter 2, part 7. A sufficient and appropriate staff must be assigned to serve the commission within the budget established by the legislature. The commission staff is a principal unit within the department, and the commission shall direct and assign the staff"

2. Page 5, lines 19 through 21.

Strike: "The" on line 19 through "legislature."

Amendments to Senate Bill No. 234
First Reading Copy

SENATE NATURAL RESOURCES
ENR. NO. 16
DATE 2-15-95
BILL NO. SB-234
16

Requested by Sen. Brooke
For the Committee on Natural Resources

Prepared by Martha Colhoun
February 10, 1995

1. Page 129, lines 16 and 17.

Following: "and"

Strike: "environmental"

Following: "sciences"

Strike: "review"

Insert: "public health"

Following: "~~2-15-2104~~"

Strike: "[section 25]"

Insert: "2-15-2104"

2. Page 129, lines 22 and 23.

Following: "and"

Strike: "environmental"

Following: "sciences"

Strike: "quality"

Insert: "public health"

Following: "~~part 21~~"

Strike: "[section 24]"

Insert: "2-15-2101"

Requested by Department of Health and Environmental Sciences
For the Committee on Natural Resources

Prepared by Martha Colhoun
February 13, 1995

1. Page 119, line 5.
Following: "~~health and~~"
Strike: "~~environmental~~"
Following: "~~sciences as~~"
Strike: "quality"
Insert: "public health"
2. Page 119, line 6.
Strike: "[section 24]"
Insert: "2-15-2101"
3. Page 119, line 19.
Page 120, line 34.
Following: "~~health and~~"
Strike: "~~environmental~~"
Following: "~~sciences~~"
Strike: "quality"
Insert: "public health"
4. Page 120, line 18.
Following: "~~health and~~"
Strike: "~~environmental~~"
Following: "~~sciences~~"
Strike: "review"
Insert: "public health"
5. Page 120, lines 23 and 24.
Following: "~~health and~~"
Strike: "~~environmental~~"
Following: "~~sciences~~"
Strike: "quality"
Insert: "public health"

Amendments to Senate Bill No.
First Reading Copy

Requested by Sen. Weldon
For the Committee on Natural Resources

Prepared by Martha Colhoun
February 3, 1995

1. Title, lines 11 and 12.
Strike: "TRANSFERRING" on line 11 through ";" on line 12
2. Title, page 2, lines 21 and 22.
Strike: "85-1-601" on line 21 through "85-1-631," on line 22
3. Page 123, line 32.
Page 127, line 17.
Page 128, line 25.
Following: "conservation"
Insert: "and the department of natural resource management"
4. Page 124, line 5.
Following: line 4
Strike: subsection (3) in its entirety
Re-number: subsequent subsections
5. Page 124, line 19.
Following: "department"
Insert: "and the department of natural resource management"
6. Page 125, line 12.
Following: "department"
Insert: "and the department of natural resource management as recommended by the department"
7. Page 125, line 17.
Page 127, lines 2, 29, and 31.
Page 128, lines 1, 7, 14, and 28.
Page 129, line 7.
Following: "department"
Insert: "of natural resource management"
8. Page 125, line 22.
Following: "shall"
Insert: ", after consultation with the department of natural resource management,"
9. Page 125, line 34.
Page 126, line 10.
Following: "department"
Insert: "or the department of natural resource management"
10. Page 126, line 18.

Following: "~~the~~"

Strike: "The"

Insert: "After consultation with the department of natural resource management, the"

11. Page 126, line 32.

Following: "application"

Insert: "by the department"

Following: "department"

Insert: "of natural resource management"

12. Page 127, line 17.

Following: "~~their~~"

Strike: "its"

Insert: "their"

13. Page 128, line 4.

Following: "department"

Insert: "of natural resource management, with the concurrence of the department,"

14. Page 129, line 7.

Following: "~~department,~~"

Insert: "department,"

15. Page 187, lines 22 and 23.

Strike: "commerce provided for in Title 2, chapter 15, part 18"

Insert: "natural resource management provided for in 2-15-3301"

16. Page 187, line 27.

Following: "department"

Strike: "of natural"

Strike: "resource management"

17. Page 268, line 32 through page 278, line 26.

Strike: Sections 424 through 440 in their entirety

Renumber: subsequent sections

18. Page 320, lines 14 and 15.

Strike: "commerce" on line 14 through "18" on line 15

Insert: "natural resource management provided for in 2-15-3301"

Amendments to Senate Bill No. 234
First Reading Copy

SENATE NATURAL RESOURCES
EXHIBIT NO. 19
DATE 2-15-95
BILL NO. SB 234

Requested by Sen. Brooke
For the Committee on Natural Resources

Prepared by Martha Colhoun
February 15, 1995

19

1. Title, line 12.

Following: ";

Insert: "ESTABLISHING A TRANSITION TEAM;"

2. Page 328.

Following: line 1

Insert: "

NEW SECTION. Section 510. Transition team. (1) In implementing the provisions of [sections 1 through 516], the governor shall establish a transition team composed of the following members:

(a) the directors of the departments of natural resources and conservation, state lands, and health and environmental sciences;

(b) a representative of the governor's office;

(c) a member of the environmental quality council;

(d) a representative of industries regulated under the provisions of [sections 1 through 516];

(e) a representative of a conservation or environmental organization;

(f) a staff representative classified at grade 15 or below from each of the affected agencies; and

(g) a staff member of the legislative auditor.

(2) The transition team shall meet as often as necessary to plan and carry out the transition to implement the provisions of [sections 1 through 516]. The transition team shall consider and minimize:

(a) costs of organizational and location changes;

(b) dislocation and disruption of staff functions that affect responsiveness to the public;

(c) uncertainties created by anticipated personnel changes as they affect employee morale; and

(d) changes that affect the timely processing of applications for permits, renewals, leases, or other approvals required under relevant statutes and rules administered by the affected departments.

(3) The transition team shall report its progress at regularly scheduled meetings of a committee consisting of the environmental quality council and two members of the senate and two members of the house, appointed in the same manner as standing committees of the respective houses are appointed."

Renumber: subsequent sections

Amendments to Senate Bill No. 234
First Reading Copy

Requested by ²⁰
For the Committee on Natural Resources

Prepared by Todd Everts
February 9, 1995

1. Page 15, line 16.
Strike: "public health"
Insert: "natural resource management"
2. Page 15, line 24.
Page 50, line 15.
Strike: "environmental quality"
Insert: "natural resource management"
3. Page 50, line 16.
Strike: "[section 24]"
Insert: "Title 2, chapter 15, part 33"

DATE 2-15-95

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: SB-344, SB-347, SB-349
SB-386, SB-386, SB-SJR-15

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Allen Barkley	Columbia Falls Aluminum Co.	SJR15 SB 344	✓	
Allen Barkley	"	SB 349		✓
Bill Allen	MT. Audubon	SB 344		✓
DAN PITMAN	SELF	SB 349 SB 347	✓	✓
Bill Allen	MT Audub.	SB 349	✓	
J.V. Bennett	MontPIRG	SB 349	✓	
Russ Ritter	Mont. Rail Link	SB 349		✓
DOUG HARDY	SELF	-	-	-
LARRY BROWN	UMME - Ag Pres. Assoc	347	✓	
Brad Griffin	MT Tire Dealers	344	✓	
Brad Griffin	MT Tire Dealers	349		✓
Larry Mitchell	Common Sense	SB 386		X
Deborah Smith	Sierra Club		SB 347	SB 347
John Youngberg	MT Grain Growers WIFE MT Farm Bureau	SB 386	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-15-95

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: SB-344, SB 347, SB 349
SB 386, SB 391, SJR-15

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Peggy Truett	WETA	SB 344 SB 347 SJ 15	✓	
Peggy Truett	WETA	SB 344		✓
Paul Davis	Plum Creek	SB 347	✓	
Charlene M. O'Neil	Montana Forest Products	SB 347	✓	
Ronald Buenteleier	F.H. Stollgo Land & Lbr.	SB 347	✓	
Nancy Hartman	Montana Forest Products	SB 347	✓	
Juay Juntunen	Santa Fe Pacific Gold			
Cary Hegreberg	MT Wood Prod.	SB 347	✓	
Tom Daubert	Ash Grove Cement Co	SJ 15 SB 344	✓	
"	"	SB 349		✓
Glen Phillips	D. Lee, M.D. & Parb			
GEORGE OCHENSKI	TROUT UNLIMITED	391	✓	
SARAH BARNARD	MATB	SB 344 SB 349	✓	
J.V. Bennett	Mont PTRC	SB 344		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

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PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Bob Carr	FWP	391	✓	
Jim Jensen	MEIC	391	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

< ■ >

PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Steve Kelly	Friends of the WILD Swan	SB347		X
DAV PETERSON	SOFA	SB349	✓	
Willa Hall	LWV	SB349	✓	
Ted Lange	NPRC	SB349	✓	
Ted Lange	NPRC	SB344		✓
Anne Hedges	MEIC	SB 344 SB 315		X
Anne Hedges	MEIC	SB ³⁸⁶		X
Anne Hedges	MEIC	SB349	X	
Janet Ellis	MT Audubon	SB386		X
BOB ROBINSON	DHES	386	X	
LARRY BROWN	Agr. Pres Assoc	SB 391		
MIKE MURPHY	MT WATER RES ASSN	SB391 SB386	✓	
Roger Thorvilson	MT DHES	SB344 SB349, SB386		
John Blomquist	MT-Stockgrowers	SB 386 SB 391	✓	✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-15-95 BILL NO. SB 225 NUMBER 1

MOTION: Do Pass an Amendment
22504. ate

7-4

NAME	AYE	NO
VIVIAN BROOKE		✓
B.F. "CHRIS" CHRISTIAENS		✓
MACK COLE	✓	
WILLIAM CRISMORE	✓	
MIKE FOSTER	✓	
TOM KEATING	✓	
KEN MILLER	✓	
JEFF WELDON		✓
BILL WILSON		✓
LARRY TVEIT, VICE CHAIRMAN	✓	
LORENTS GROSFIELD, CHAIRMAN	✓	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-15-95 BILL NO. SB 225 NUMBER 2

MOTION: Passed as Amended

7-4

NAME	AYE	NO
VIVIAN BROOKE		✓
B.F. "CHRIS" CHRISTIAENS		✓
MACK COLE	✓	
WILLIAM CRISMORE	✓	
MIKE FOSTER	✓	
TOM KEATING	✓	
KEN MILLER	✓	
JEFF WELDON		✓
BILL WILSON		✓
LARRY TVEIT, VICE CHAIRMAN	✓	
LORENTS GROSFIELD, CHAIRMAN	✓	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-15-95 BILL NO. SB 234 NUMBER 3

MOTION: To Adopt Amendment

56 023408.ame

CARRIED 6-4

NAME	AYE	NO
VIVIAN BROOKE	X	
B.F. "CHRIS" CHRISTIAENS	X	
MACK COLE		X
WILLIAM CRISMORE		X
MIKE FOSTER		X
TOM KEATING	X	
KEN MILLER	X	
JEFF WELDON	X	
BILL WILSON		
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN		X

SEN:1995

wp:rlclvote.man

CS-11

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-15-95 BILL NO. SB-234 NUMBER 4

MOTION: To Table

Failed 2-8

[illegible]