

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN LORENTS GROSFIELD, on February 18,
1995, at 7:00 AM

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
Michael Kakuk, 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 415
Executive Action: SB 247, SB 252, SB 330, SB 331, SB 344,
SB 346, SB 362, SB 371, SB 391, SB 415,

*{Tape: 1; Side: A; Comments: Chairman Grosfield relinquished the Chair to Vice
Chairman Larry Tveit to present SB 415.}*

HEARING ON SB 415Opening Statement by Sponsor:

SEN. LORENTS GROSFIELD, SD #13, Big Timber, said SB 415 is the bill requested by the committee that attempts to set up a fund that would allow private parties to contribute donations in order to take care of specific environmental problems. He said on Line 2, Pages 10-11 says: "...private parties are not liable under 75-10-715 solely as a result of their contribution to this account..."

If there were not enough funds contributed to remedy the problem within one year, then all the funds plus interest would be returned to the grantor. If the funds were sufficient the department would give that site high priority for remedial action, using the donated funds.

He said SB 415 was a rush job, in order to get it drafted in time to meet transmittal, and may need some improvements.

Proponents' Testimony:

Florence Orr, Concerned Citizen of Pony, said they very much appreciate the concern that the committee has shown for their problem. They also appreciate the offer from the Montana Mining Association to help remedy the cyanide problem caused by previous mining in the Pony area.

She asked if in Section 7(c) where it says: "...if there are not sufficient funds to remediate the facility within 1 year, the funds will be returned to the donors...", that meant that if after 1 year, and they were \$20 short, they would have to start all over, and if the Zimmermans at Pony would be provided with bottled water in the mean time.

She thanked the committee members and **SEN. GROSFIELD** for their efforts to help the situation in Pony.

Jim Jensen, Executive Director, Montana Environmental Information Center, said they would like to work with the committee and **SEN. GROSFIELD** to come up with some language to allow the Montana Mining Association to help the Great American Gold Company to remedy the problem without encumbering the DHES.

Bob Robinson, Director, Department of Health and Environmental Sciences, said they support the effort of the committee to try to remedy the Pony situation. From the perspective of the department there may be a situation for conflict. He suggested that they leave the responsibility of whether or not to return donated funds up to the department. He said they would work with the grantor and stay in touch with them. If there were two

entities trying to make a decision it could cause conflict and disagreement. The department would make sure that the standards that were in 75-10-721 were followed.

Mr. Robinson suggested that a new section (f) be added that says: "the department shall regularly report to the EQC or the Legislative Finance Committee on the financial status of income into the special revenue account and the results of any analysis or activity related to the specific project." He supported SB 415 with that proposed amendment.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. MIKE FOSTER, asked **Mr. Robinson** if everything was tied to the DHES, wouldn't that lead to a problem of the cost associated with developing the standards, etc. **Mr. Robinson** said the whole bill affects the department, and he was trying to eliminate a possible conflict between the department and the grantor. If they cannot agree that the remediation is appropriate, they end up with a conflict. They would have to do some remediation analysis, and maybe work with the new owners of the facility to see if they were willing to put together a remedial investigative analysis.

SEN. GROSFIELD said he thought that the department made a good point. He said he also had a concern about the language on Line 14. On Lines 10-11 that says: "... private parties not liable", and on Line 14 it says: "as determined by the department and the grantor." He wasn't sure whether or not that language could raise a liability concern to the grantor, which was what they were trying to avoid. Therefore, perhaps the department should be the one to make that determination.

SEN. JEFF WELDON said he would like to see some fund raising. There were some people from the Mining Association present and he wondered if there were any pledges.

SEN. VIVIAN BROOKE said she had the same concern as **Ms. Orr** that if the funds were not sufficient, what would happen? She suggested adding some language that says: "some cleanup is better than none."

Mr. Robinson responded that when there is a remediation or construction problem to be done, there is an estimate of the cost. He said when they receive an estimate of what it might cost, that would be their target. If that target is fairly close, the decision would be made to finish the project. If the project is 85% to 90% completed, it shouldn't be too difficult to solicit the rest of the funds to finish that cleanup.

SEN. BROOKE asked **Mr. Robinson** if he thought that subsection (c) would limit their ability to go forward because of the one year time limit from the date of initial contribution. **Mr. Robinson** said the timeframe does, but a better way would probably be to have people make pledges and have the funds all lined up. When they had the remedial investigation finished, they would ask for the pledges. The timing and coordination could be worked out.

SEN. WILLIAM CRISMORR said some people may be in a position to volunteer their services rather than to give monetary donations. Something to be considered was, if an industry donates \$100,000, they want to know how that would be used. The people who donate funds should have a say in what would be done.

SEN. B. F. "CHRIS" CHRISTIAENS said he didn't think anyone could know the cost would be until they actually got into the reclamation project. Perhaps the project could be started and donations could still be received. He said the Department of Fish, Wildlife, and Parks have a specific fund set up for that kind of problem.

SEN. TOM KEATING said he agreed with **SEN. CRISMORR** that there should be some provision for inkind or voluntary services. There was no provision in the bill for that kind of an allowance. Someone with time, equipment, and the expertise could hurry the process along. He asked **John Arrigo, DHES**, if there was a way the cyanide pond at Pony could be drained.

Mr. Arrigo said the impoundment at Pony had two plastic liners under it, and it was about one-quarter full of tailings and water, some of which was precipitation. There are two general options for cleanup: 1) neutralize the tailings and cyanide in place, pump out the water and fold the liner and bury the site, or 2) remove the tailings and dispose of them in another location, and remove the liner and regrade the site. **SEN. KEATING** asked if there were monitoring wells around the area. **Mr. Arrigo** replied there were monitoring wells in the area, but they have not been monitored for 2 years. They only monitor domestic wells around the impoundment.

SEN. KEATING asked if the wells they had monitored were health threatening. **Mr. Arrigo** replied that the level of solution between the two liners was 50 parts per million. The levels of cyanide in **Mr. Zimmerman's** well was .17 parts per million. However, there was some question about that because there may have been some cross-contamination. At any rate, the proposed maximum level was .2 parts per million and .17 was close enough to be health threatening.

SEN. CHRISTIAENS asked **Mr. Robinson** about donated equipment and help. He replied that there would have to be some cooperative efforts in recognizing that someone may want to donate equipment or an operator for some inkind contribution. If the department

was given the lead they could figure out a way to subcontract with someone so they would not expose the grantor to liability.

SEN. FOSTER asked how much money would the department need to conduct a remedial investigation study. **Mr. Arrigo** replied that it would be a guess, but probably tens of thousands of dollars. It would depend upon whether or not they bury the problem or remove it. Removal would require a much higher cost.

SEN. TVEIT asked **Mr. Arrigo** if that site was on state land and how large it was. He thought it was private land and was not over 5 acres. The impoundment holds about 20,000 tons of tailings. **SEN. TVEIT** asked if there was any sign of vandalism on the liners. **Mr. Arrigo** responded that he had heard that someone was throwing sharp objects into the impoundment that caused the liners to leak. They do not know exactly where the leak was or what actually caused it. **SEN. TVEIT** asked how far the well was from the site that had the cyanide in it. **Mr. Arrigo** said they detected cyanide in a spring about 100 feet below the nob of the site and the domestic wells were near the base of the nob, but go down deeper. He said they may be able to neutralize and bury the contaminated site.

SEN. BROOKE asked if there was a lesson there, and if that could be avoided in the future. **Mr. Arrigo** said the problem was enforcement. If they had monitored the company 2 years ago they may have avoided the situation.

SEN. KEATING said if they agree on language changes and pass the bill, who will make the decision on whether or not to remove the tailings. **Mr. Arrigo** said they would do a feasibility study and decide how to clean up the site. However, the decision would be between the department and the grantor.

Closing by Sponsor:

SEN. GROSFIELD said the bill was a reasonable start for the cleanup at Pony. There needs to be some work done on the language from the liability, expense, and inkind services perspective. He was concerned about the question of how and when the decision would be made and how much of the funds would be spent on that process. He hoped there could be some amendments that would address the concerns stated.

{Comments: CHAIRMAN GROSFIELD RESUMED THE CHAIR.}

EXECUTIVE ACTION ON SB 344

Motion: **SEN. TVEIT** MOVED TO AMEND SB 344.

Discussion: SEN. TVEIT asked Tom Daubert to explain the amendment.

Tom Daubert, Ash Grove Cement Company, said the bill increases an existing tax on waste that might go for nonenergy recovery. Instead of increasing the tax from \$8 per ton to \$16 per ton, the amendment would increase it to \$10 per ton. Montana currently has an \$8 per ton tax on hazardous waste for energy recovery, and \$10 per ton for waste that doesn't produce any beneficial use. SEN. TVEIT said both of the fees go to the DHES for managing waste facilities.

SEN. KEATING asked if there were any facilities in the state that currently burn hazardous waste. Mr. Daubert said the vast majority of the waste is shipped out of state. SEN. KEATING said the department already has enough revenue from the \$8 per ton fee.

CHAIR. GROSFIELD said he didn't think that the people that were shipping the waste out of state were paying the tax. It only applies to regulated land fills, which would be instate. He said one person's tax break is always another person's tax bill.

{Tape: 1; Side: B}

Motion/Vote: MOTION TO APPROVE AMENDMENT TO SB 344 CARRIED 6-5 ON A ROLL CALL VOTE.

Motion: SEN. TVEIT MOVE TO DO PASS SB 344 AS AMENDED.

Discussion:

SEN. WELDON said SB 344 is a do-nothing bill and was based upon a false premise. If hazardous waste is generated, the tax will be the same as in current law.

Substitute Motion/Vote: SEN. WELDON MOVED TO TABLE SB 344. MOTION CARRIED 7-4 WITH A ROLL CALL VOTE.

EXECUTIVE ACTION ON SB 371

Motion: SEN. FOSTER MOVED TO ADOPT AMENDMENT NO. sb037101.ate AS CONTAINED IN EXHIBIT 1.

CHAIR. GROSFIELD explained the amendments to the committee members. The bill clarifies the waters in national parks and wilderness areas. There was some confusion about "areas" in the hearing. The Water Resources Association was concerned about the maintenance, repair, or replacement of existing structures on dams, diversions, etc. There was a concern about a number of

irrigation facilities within wilderness areas, and the amendment would clarify that.

SEN. COLE said there were still some question about water going into a national park or wilderness area. **CHAIR. GROSFIELD** said the amendment addresses water totally within the boundaries. There were very few waters actually flowing into the national parks or wilderness areas that currently exist in Montana. Most of the waters flowing into Yellowstone National Park were coming from wilderness areas. The water coming out of Old Faithful would probably be considered polluted by nature.

SEN. BROOKE said that with the amendments the boundary waters of Glacier National Park would not be classified as Outstanding Resource Waters, so they would have to be classified by the Board, is that right? **CHAIR. GROSFIELD** said that was correct.

SEN. WELDON asked **CHAIR. GROSFIELD** as to what he envisioned as "short term" changes in existing water quality. **CHAIR. GROSFIELD** responded that there was a provision in the bill that addresses "short term" changes. For example, if maintenance had to be done on a dam or something similar, "short term" would cover that activity.

Steven Pilcher, Water Quality Division, said that "short term" does have a specific meaning. Section 75-5-308 of the Water Quality Act provides for an opportunity to recognize that certain essential activities would have some adverse effect on water quality standards, but would result in a "short term" violation of those standards. The "short term" as defined in the surface water standards allows the department to review an activity and impose conditions that would limit the extent of the disturbance and the length of time. An example would be that in order to put in new pilings for a bridge, they have to get into the stream to accomplish that work. Through the permit review process they would have to do that according to the department's guidance.

VOTE: MOTION TO DO PASS AMENDMENTS NO. sb037101.ate AS CONTAINED IN EXHIBIT 1, CARRIED UNANIMOUSLY.

Motion: SEN. WELDON MOVED TO DO PASS AMENDMENT NO. sb037102.ate AS CONTAINED IN EXHIBIT 2.

SEN. WELDON explained the amendment to the committee members.

CHAIR. GROSFIELD said he would oppose the amendment because it would likely become a "Catch 22." He was trying to avoid the situation where there was a project in an area and people who may not like the project look for tools to try to subvert or otherwise frustrate the project. He said he didn't want the bill to be used as that kind of a tool. He felt that the bill, without this amendment, would better serve as an incentive for people interested in getting waters designated for Outstanding Resource Waters.

SEN. BROOKE said she had trouble with the section that says "subject to Legislative approval", because the Legislature won't always be in session when those situations come up. **CHAIR. GROSFIELD** said the bill contemplates Legislative approval of every Outstanding Resource Water designation, because this designation dramatically limits activities on a stream, and he felt the Legislature should be directly involved. That is an important policy question when it comes to shutting down a certain stream.

SEN. BROOKE asked what happens to those waters in between the time when the board approves an Outstanding Resource Water.

CHAIR. GROSFIELD said they wait.

SEN. WELDON asked **CHAIR. GROSFIELD** if he would consider removing Line 18, because if a board had positively acted on an application to designate an ORW and concluded that the water should be designated, the water could not be effectively designated because legislative approval was necessary. He asked if the board would postpone a decision pending legislative action.

CHAIR. GROSFIELD said it was important to keep that in the bill. Removing Line 18 would subvert the purpose.

SEN. WELDON asked if **CHAIR. GROSFIELD** believed removing Line 18 would be detrimental to Lines 12-13. He said if **CHAIR. GROSFIELD** would agree to strike Line 18 he would modify his amendment.

CHAIR. GROSFIELD responded that he would still resist that. He said, suppose the board decides to designate and then the board denies a permit, and then the Legislature says no, they don't think that should be designated as an ORW after all. It is a "catch 22" situation that he would want to resolve in one way and **SEN. WELDON** wants to resolve in another way.

Vote: MOTION TO APPROVE THE AMENDMENT AS CONTAINED IN EXHIBIT 2, FAILED WITH **SEN. BROOKE** AND **SEN. WELDON** VOTING YES.

Motion: **SEN. FOSTER** MOVED AMENDMENT NO. sb037105.ate AS CONTAINED IN EXHIBIT 3.

SEN. FOSTER said the amendments clarify nondegradation of waters. **CHAIR. GROSFIELD** asked the significance of "initiated after April 29, 1993." **SEN. FOSTER** said that was the effective date in SB 401.

SEN. BROOKE asked **Mr. Pilcher** if he would respond to the amendments. **Mr. Pilcher** said nondegradation applies to new sources of pollution. It seems to be further clarification of that language.

Vote: MOTION TO APPROVE AMENDMENT CONTAINED IN EXHIBIT 3 PASSED WITH **SEN. WELDON** VOTING NO.

Motion: CHAIR. GROSFIELD MOVED AMENDMENT NO. sb037102.02.amc AS CONTAINED IN EXHIBIT 4.

CHAIR. GROSFIELD said they were technical amendments. Todd Everts, Environmental Quality Council, explained the amendments to the committee members.

Vote: MOTION TO APPROVE AMENDMENTS AS CONTAINED IN EXHIBIT 4, CARRIED UNANIMOUSLY.

Motion: SEN. BROOKE MOVED FROM AMENDMENT NO. sb037101.amc, AMENDMENTS 1, 4, 5 AND 6, AS CONTAINED IN EXHIBIT 5.

SEN. BROOKE explained the proposed amendments to the committee members.

CHAIR. GROSFIELD said he would have to oppose the amendments. Concerning amendment No. 1, they were only addressing surface waters. The federal EPA rules do not cover groundwater at all in Outstanding Resource Waters. Subsection (b) of the definition does refer to groundwater so in some circumstances, groundwater could be designated by the Board as an ORW. The concern with parks and wilderness areas was groundwater may mean water 2 inches below the surface or water 10,000 feet below the surface. There was a mine that was actually drilling beneath a wilderness area with no surface activities of any kind, and he didn't want this bill to be used to prohibit that kind of project. He said in drafting the bill he met with a number of people and different agencies concerning the bill, and they were only concerned with surface water.

CHAIR. GROSFIELD said pages 9 and 10 regarding nonsignificant activities were taken nearly verbatim from the rules adopted by the Board of Health as part of their nondegradation rules. Most of them involve compliance with other permitting authority on the statutes. For example (l), (m), and (n) say: "...in accordance with Title 82, Chapter 2, or in accordance with Title 75, Chapter 10..." Those sections of law have a rigorous permitting process that they go through that involves consideration of water quality.

Vote: MOTION TO APPROVE AMENDMENTS 1,4,5 AND 6, AS CONTAINED IN EXHIBIT 5, FAILED 7-4 WITH SEN. BROOKE, SEN. CHRISTIAENS, SEN. WELDON, AND SEN. WILSON VOTING YES.

Motion: SEN. FOSTER MOVED TO ADOPT AMENDMENT NO. sb037104.ate AS CONTAINED IN EXHIBIT 6.

SEN. FOSTER explained the amendment to the committee members. He said that during the hearing Mr. Fitzpatrick pointed out that mining had inadvertently been left out of the bill in the lists on Pages 9-10. The amendment adds mining to the list.

CHAIR. GROSFIELD asked if that was in the list of nonsignificant activities in the board rules. **Mr. Arrigo** said hard rock mineral exploration was specifically not included in the nonsignificant category when the rules were promulgated, but coal and uranium were included. The reason was that the state exploration requirements do not specifically identify what materials can or cannot be used for drilling fluids. In hard rock exploration drilling, motor oil is sometimes use as a lubricant and that could lead to a significant change in water quality and should not be excluded. **CHAIR. GROSFIELD** said he thought the board could eliminate the use of motor oil by rule.

Mr. Arrigo said the DSL would have to tighten up their exploration regulations and then the board could add another category to the rules.

SEN. FOSTER asked **Mr. Arrigo** why water well drilling was included as a nonsignificant activity. He responded that when drilling for water wells, great pains are taken to make sure that the chemicals were extracted. Whereas, in hard rock exploration they were only after a rock sample, not a water quality sample. Bentonite is the most common drilling fluid used in sealing water well drilling holes to prevent water from moving out and water moving in, and it was not as toxic as the other lubricants used in hard rock exploration where they use kind of a slurry bentonite.

{Tape: 2; Side: A}

CHAIR. GROSFIELD said the bill did not restrict the board from rule-making to identify nonsignificant activities. If the natural resource agency reorganization bill, SB 234, passes, they would be dealing with the same board that would tighten up some of the drilling procedures. He said he wasn't comfortable adding **SEN. FOSTER'S** amendment to the bill at this time.

SEN. COLE asked **CHAIR. GROSFIELD** what would happen if the amendment was added at this time. He answered that they would be dealing with a different section of law. The hard rock mining section of law was not addressed in this bill.

SEN. FOSTER said in looking at the list there is coal, uranium, oil and gas drilling, hazardous waste management. How can one be more significant than the other? Therefore, he thought the amendment should be in the bill to address metallic and nonmetallic minerals.

Vote: MOTION TO APPROVE THE AMENDMENT AS CONTAINED IN EXHIBIT 6, CARRIED 6-5 ON A ROLL CALL VOTE.

Motion: **CHAIR. GROSFIELD** MOVED TO DO PASS SB 371 AS AMENDED.

Discussion: **SEN. BROOKE** said she had trouble with Legislature approval language and thought that the timeline for designation

was bulky in its mechanism. She didn't see how Legislature approval would work without having annual sessions. Other than that, the bill had some very good qualities.

Vote: MOTION TO APPROVE SB 371 AS AMENDED, CARRIED 9-2 WITH SEN. TVEIT AND SEN. CHRISTIAENS VOTING NO.

EXECUTIVE ACTION ON SB 415

Discussion: Before the committee adjourned to the floor, CHAIR. GROSFIELD instructed Mr. Everts to redraft SB 415 to meet the concerns of the committee.

SEN. KEATING suggested that there be language in the bill giving the department some sort of control of the project and language to allow inkind contributions.

SEN. MILLER said there should be co-participation, in which 50% of a pledge could be inkind services.

SEN. CHRISTIAENS said they may wish to look at how Fish, Wildlife, and Parks handle their donations.

CHAIR. GROSFIELD mentioned to Mr. Everts that he didn't want all of the donations spent on studies.

{Comments: meeting recessed at 9:00 AM and reconvened at 1:45 PM.}

EXECUTIVE ACTION ON SB 346

Motion: CHAIR. GROSFIELD MOVED TO ADOPT SEN. FOSTER'S AMENDMENTS NO. sb034601.ate AS CONTAINED IN EXHIBIT 7.

Discussion:

CHAIR. GROSFIELD reviewed the amendments with the committee members. He said the amendments would provide some clarification to the bill. There were no significant changes with the amendments. In reviewing the amendments with the DHES, they were agreeable to the changes.

Vote: CHAIR. GROSFIELD announced that the vote would be left open until more committee members were present.

Motion: SEN. CHRISTIAENS MOVED TO ADOPT SEN. BROOKE'S AMENDMENTS NO. sb034602.ate AS CONTAINED IN EXHIBIT 8.

Discussion:

SEN. CHRISTIAENS reviewed the amendments with the committee members.

CHAIR. GROSFIELD said item 3. of **SEN. BROOKE'S** amendment should read "Page 3" instead of "Page 2."

SEN. FOSTER asked what "widespread economic and social impact" meant. **Mr. Everts** said he just received the amendment and he wasn't sure what **SEN. BROOKE'S** intentions were.

CHAIR. GROSFIELD asked **Brian Kuehl**, who he believed had helped with **SEN. BROOKE'S** amendments, to respond.

Brian Kuehl, Greater Yellowstone Coalition, explained that under the Federal Clean Water Act, water quality standards can be lowered, but only in 6 specified circumstances that were listed in the Code of Federal Regulations. If a state attempts to lower water quality standards other than in those 6 circumstances, the EPA would be forced to veto that lowering of standards. If the state adopts a rule that violates that provision, the EPA may also try to undo that rule. The language in the amendment is verbatim from the Code of Federal Regulations for the two human-caused types of pollution. Water standards can be lowered only for natural causes.

SEN. CHRISTIAENS asked if the amendments were not adopted, would they end up with a primacy issue. **Mr. Kuehl** said he furnished **SEN. BROOKE** with a copy of the Codes of Federal Regulation provisions, and a letter from the EPA Office of General Counsel stating that the 6 criteria had to be incorporated whenever water quality standards were lowered.

CHAIR. GROSFIELD asked **Mr. Pilcher** to address the situation. **Mr. Pilcher** pointed out that they were not lowering the classifications. The bill deals with those stream segments where the water quality is already limited. EPA does allow variances in water quality standards. He said that the temporary approach that was suggested was workable and would not lower water quality standards. The language in the amendment doesn't significantly change how the bill would be implemented.

CHAIR. GROSFIELD asked **Dr. Horpestad** if he had talked with the EPA about the bill as introduced. **Dr. Horpestad, Technical Studies and Support Section Supervisor, Water Quality Division, DHES**, replied he had discussed the bill as written with EPA, and sees no major problems. Adding the language proposed in the amendment may be acceptable, but he would feel more comfortable if the language was not added.

Vote: MOTION TO APPROVE SEN. BROOKE'S AMENDMENTS CONTAINED IN EXHIBIT 8, FAILED.

Vote: MOTION TO APPROVE SEN. FOSTER'S AMENDMENTS AS CONTAINED IN EXHIBIT 7, PASSED.

Motion/Vote: SEN. WELDON MOVED TO DO PASS SB 346 AS AMENDED.
MOTION CARRIED 6-1, WITH SEN. CHRISTIAENS VOTING NO.

EXECUTIVE ACTION ON SB 252

Motion: SEN. TVEIT MOVED TO ADOPT AMENDMENTS NO. sb025201.ate AS
CONTAINED IN EXHIBIT 9.

Mr. Everts explained the amendments to the committee members.

Discussion: SEN. WELDON said he had a question with the
amendments as they relate to the title of the bill. In the
amendments there was no mention of natural attenuation zones.

Mr. Everts said that was correct. However, one could make the
argument that it was reasonably germane to the original title.

SEN. WELDON said he takes issue with the method that was taken to
amend the bill.

Motion: SEN. WELDON MOVED TO TABLE SB 252.

Discussion: SEN. TVEIT said the title does conform to the bill.

Vote: MOTION TO TABLE SB 252 FAILED 6-1 BY ROLL CALL VOTE.

Mr. Everts explained amendments no. sb025201.ate in the new grey
bill.

Vote: MOTION TO ADOPT AMENDMENTS NO. SB025201.ate AS CONTAINED IN
EXHIBIT 9, CARRIED 6-1, WITH SEN. WELDON VOTING NO.

Motion: SEN. FOSTER MOVED TO ADOPT AMENDMENTS NO. sb025202.ate
AS CONTAINED IN EXHIBIT 10.

CHAIR. GROSFIELD explained the amendments to the committee
members. He said the amendment no. sb025202.ate amends amendment
no. sb025201.ate. The new language to be inserted after
discharger was "...at the time the permit was issued..."

SEN. WELDON said then in effect the land area at the time the
permit was issued would be the maximum pollution zone. If a
company acquires land beyond that, the mixing zone does not
expand with the land acquisition, is that correct? CHAIR.
GROSFIELD replied that was correct.

Vote: MOTION TO ADOPT AMENDMENTS AS CONTAINED IN EXHIBIT 10,
CARRIED UNANIMOUSLY.

Motion: SEN. TVEIT MOVED TO DO PASS SB 252 AS AMENDED.

Discussion: SEN. WELDON said he had trouble with the fact that the original land owned had to be the pollution zone. He didn't think that was functional and he protested the bill.

Vote: MOTION TO DO PASS SB 252 AS AMENDED, CARRIED 6-5 BY ROLL CALL VOTE. (At the time of the vote, some Committee members were out of the room. SEN. KEATING cast a "yes" vote later and SEN. BROOKE and SEN. WILSON cast a "no" vote later. They were included in the final roll call vote)

EXECUTIVE ACTION ON SB 362

Motion: CHAIR. GROSFIELD MOVED TO ADOPT AMENDMENT NO. sb036201.ate AS CONTAINED IN EXHIBIT 11.

Discussion: CHAIR. GROSFIELD said the sb036201.ate was a technical amendment to correct a drafting error in the bill.

Vote: MOTION TO ADOPT THE AMENDMENT AS CONTAINED IN EXHIBIT 11, CARRIED UNANIMOUSLY.

Motion: SEN. TVEIT MOVED TO ADOPT AMENDMENT NO. sb036206.ate AS CONTAINED IN EXHIBIT 12.

Discussion: SEN. TVEIT explained the amendment to the committee members.

Vote: MOTION TO ADOPT THE AMENDMENT AS CONTAINED IN EXHIBIT 12, CARRIED UNANIMOUSLY.

Motion: SEN. WELDON MOVED TO ADOPT AMENDMENTS NO. sb036201.amk AS CONTAINED IN EXHIBIT 13.

Discussion: SEN. WELDON said the amendments were offered on behalf of the DHES, and he asked Mr. Pilcher to explain.

Mr. Pilcher explained amendment no. 2. He said they were trying to avoid any future conflict with an individual being granted a mixing zone for groundwater. Their concern was that they might later find that the activity was also influencing surface water (because it was actually hydrologically connected), and it could therefore require a surface water discharge permit. The amendment would provide some clarification for that situation.

SEN. WELDON said he would like to exclude amendment no. 4 from his motion, because that was the same amendment that SEN. TVEIT introduced. He said amendment no. 5 would be adding a new section if the bill passes.

Mr. Pilcher said they probably would not be in a position to permit all of the facilities that had been previously excluded. However, they would like to obtain the ability to permit as necessary, facilities that do not have an ongoing review by another agency. Those would include the underground injection

control wells, with the exception of Class 2, which are the oil and gas injection wells. He said they would like to retain permit authority for the waste water treatment facilities that are reviewed by the department.

CHAIR. GROSFIELD said that he recalled in a number of different issues, the phrase "hydrologically connected", especially with the compact that he helped develop with the National Park Service concerning geothermal waters.

{Tape: 2; Side: B}

Michael Kakuk, Environmental Quality Council, said that phrase appears in several statutes. It appeared in the basin closures as well as the compact and a number of other places in the Water Use Act. One statute says "directly connected", another one says "immediately connected", and another says "immediately and substantially connected."

Substitute Motion: SEN. TVEIT MADE A SUBSTITUTE MOTION TO SEGREGATE OUT AMENDMENT NO. 2 OF THE AMENDMENTS, AND VOTE ON NO'S 1, 3, and 5.

Discussion: SEN. TVEIT explained why they should be voted upon separately. Since all the groundwaters are, to some degree, hydrologically connected to surface waters, that would gut the bill. In proposing the amendments, DHES was trying to accommodate EPA's position that a surface water discharge permit was required for any discharge to groundwater that was hydrologically connected to the surface waters. EPA's position was not based upon any federal statute or rule, because the Federal Clean Water Act does not apply to groundwater. The EPA was trying to make the Federal Clean Water Act cover groundwater by administrative act. While Congress says it doesn't cover groundwater, EPA has had some success in getting some federal courts to buy their position. The situation was different in Montana because there was a water quality statute that applies to groundwater.

SEN. TVEIT said if they want to have a separate groundwater regulation program with separate permit requirements and provisions, amendment no. 2 should be rejected.

Vote: MOTION TO ADOPT, FROM AMENDMENTS NO. sb036201.amk, AMENDMENTS 1, 3, and 5, CARRIED UNANIMOUSLY.

SEN. WELDON asked **Mr. Pilcher** if he would respond to **SEN. TVEIT'S** explanation of Amendment no. 2. He responded that in Montana, state waters were defined in the Montana Quality Water Act as both surface and groundwater, and they need to be concerned about protecting both. They recognize the concern that **SEN. TVEIT** had raised, that groundwaters were all in some manner, connected to surface waters.

CHAIR. GROSFIELD asked **Mr. Pilcher** to visit briefly with **Mr. Everts** and **Mr. Kakuk** to see if they could come up with some language to clarify that amendment to take care of the concern. **Mr. Pilcher** reported that language could be inserted that said "that do not have a direct hydrological connection."

Amended Motion: **SEN. WELDON** amended his motion to include **Mr. Pilcher's** suggested language in the last sentence in Amendment no. 2.

SEN. TVEIT said oil wells and drilling have a strict set of regulations through the Oil and Gas Commission, and now the Health Department will have another set of regulations. He didn't think that two agencies were necessary to do the same thing, one overseeing the other. With the amendment, it would give the DHES the authority above the Oil and Gas Commission.

CHAIR. GROSFIELD said the hydrologically connected language in the amendment would occur on the bottom of Page 1 of the bill which means that it applies to (a) through (n) to everything from injection wells to agriculture, irrigation facilities, storm water, etc. He asked **Mr. Pilcher** if that language was necessary for the whole list.

Mr. Pilcher responded that it was the department's intent that it be applied to any activities identified in the list which would be excluded under the requirement to have a groundwater permit from the DHES. EPA'S concern would be that the department would not be giving anything to EPA because they operate the only Waste Water Discharge Permit Program in the State of Montana, and that satisfies the requirements of the Montana Water Quality Act and the Federal Clean Water Act. The Class 2 oil and gas injection wells were excluded from a groundwater permit.

CHAIR. GROSFIELD said with that explanation he would oppose the amendment.

Vote: MOTION TO ADOPT FROM AMENDMENT NO. sb036201.amk, AMENDMENT NO. 2, FAILED.

Motion: **SEN. TVEIT** MOVED TO ADOPT AMENDMENT NO. sb036204.ate AS CONTAINED IN EXHIBIT 14.

Mr. Fitzpatrick said the amendment basically makes an agency, who has the responsibility to issue a groundwater permit, responsible for identifying a mixing zone. Under the current rules that the DHES has adopted, a mixing zone can be obtained only through a permit. The amendment will allow an agency such as DSL or other permitting authority to identify groundwater mixing zones.

Mr. Pilcher said the bill would allow the other agencies that have established permitting responsibilities to establish a mixing zone using the guidance of the DHES.

SEN. WELDON asked what other agencies would be affected by the amendment. **Mr. Pilcher** replied the DSL, DHES, individual households, Hazard Waste Bureau of the DHES, and the Oil and Gas Commission, which would have authority over most injection wells.

CHAIR. GROSFIELD asked **Mr. Pilcher** to explain how this amendment would affect irrigation facilities and agriculture with respect to the discharge permit exclusion under subsection (5) (f) of the bill. **Mr. Pilcher** said he had problems with irrigation facilities and agricultural practices requiring mixing zones. He did not see that DNRC would attempt to establish mixing zones for those.

Vote: MOTION TO ADOPT AMENDMENT NO. sb036204.ate, PASSED WITH **SEN. BROOKE, SEN. CHRISTIAENS, AND SEN. WELDON** VOTING NO.

Motion/Vote: **SEN. TVEIT** MOVED TO DO PASS SB 362 AS AMENDED.
MOTION CARRIED 7-4 ON A ROLL CALL VOTE.

EXECUTIVE ACTION ON SB 330

Motion: **SEN. FOSTER** MOVED TO ADOPT AMENDMENT sb033001.amk AS CONTAINED IN EXHIBIT 15.

Discussion: **Mr. Kakuk** explained the amendments no. sb033001.amk to the committee members. He said the amendments were requested by **SEN. SWYSGOOD**, and were developed by the DHES and representatives from the mining industry.

He said on amendment no. 3, he would like to ask a representative from the DHES to comment on that.

CHAIR. GROSFIELD asked **Mr. Pilcher** if he would explain amendment no. 3. He responded that the department was comfortable with the proposed amendments and felt that they improve the bill significantly. In regard to amendment no. 1, there would be some language proposed later when hearing SB 331, that modifies the language shown in SB 330 and SB 331. The committee may want to review that language to be sure of consistency between the two bills.

He said Class 3 and 4 groundwaters may not meet the text of high quality waters, due to the naturally occurring dissolved solids in those groundwaters. Amendment No. 3 would narrow down what was in the original bill with respect to waters to be excluded from protection under the definition of high quality. Subsection (ii) deals with intermittent streams, an issue that has been of concern for quite some time, and it does provide a workable definition of what constitutes an intermittent stream.

CHAIR. GROSFIELD asked **Mr. Pilcher** to explain amendment no. 5 in relationship to the change in amendment no. 3. **Mr. Pilcher** responded that striking "high quality" would restore the language

as it is currently contained in the nondegradation section of the Montana Water Quality Act, such that the state's nondegradation policy would apply to all state waters and would not just apply to high quality waters. EPA requires that for the water quality standards.

CHAIR. GROSFIELD asked what the significance was of changing the definition of "high quality." **Claudia Massman, Environmental Sciences, Attorney, DHES**, said that defines, for instance, that if the waters were impaired or if the waters involved an intermittent stream, they would no longer be "high quality" waters and would not be protected by the nondegradation policy.

Mr. Kakuk said nondegradation only applies to "high quality" waters. He couldn't see any reason for not keeping "high quality" waters in that subsection in the bill since it appears in other subsections of the nondegradation policy statute.

CHAIR. GROSFIELD asked why the number of 270 days was used for intermittent streams instead of some other number. **Mr. Pilcher** said other states used that to determine intermittent streams, and it seemed workable, so they accepted it. If a stream is dry for 270 days out of a year, they were not high quality waters. A stream like the Blackfoot River that is intermittent will generally have surface expression for longer than 270 days, and therefore any beneficial uses would be protected.

SEN. WELDON said he had trouble understanding amendment no. 1. that says: "for a parameter if that change is likely to affect a beneficial use." He asked **Mr. Pilcher** what beneficial use was. He replied that there were a number of beneficial uses identified by the Board of Health and Environmental Sciences such as, agriculture, public water supply, consumptive use, industrial use, and aquatic life.

SEN. WELDON wondered how the language in Amendment no. 1 differed from the current language. **Mr. Pilcher** said the language in the Water Quality Act was very restrictive. It basically says: "if any parameter is altered or degraded in any manner, that is truly degradation." The bill would attempt to remove that restrictive language, and the amendment would attempt to clarify that with a reasonable compromise.

Vote: MOTION TO ADOPT AMENDMENTS AS CONTAINED IN EXHIBIT 15, CARRIED UNANIMOUSLY.

Motion: SEN. BROOKE MOVED TO ADOPT AMENDMENTS No. sb033002.amk AS CONTAINED IN EXHIBIT 16.

SEN. BROOKE reviewed the amendments with the committee members.

{Tape: 3; Side: A}

She said that with respect to Amendment No. 1, what happens to state waters involves a lot of people and residents. All people in the state should be defined as interested persons, not only people with property interests.

CHAIR. GROSFIELD said Page 7 says: "interested person wishing to challenge a final department decision may request a hearing before the Board within 30 days." He asked if that was the only place that the term "interested person" was used in the bill other than in the definitions section. **Mr. Kakuk** said that was his understanding.

CHAIR. GROSFIELD asked **Mr. Pilcher** with respect to **SEN. BROOKE'S** Amendment No. 2, if any of the water quality permits that they issued were irrevocable. He answered that all of the permits that were issued were subject to review and there were provisions to revoke a permit if the permittee fails to comply with the rules.

CHAIR. GROSFIELD asked if the bill would take away the ability of the department to revoke a permit. **Mr. Joscelyn** replied that under SB 401, there was a potential to revoke a permit. In water quality permitting, the ability does exist if the permittee does not comply. But the way SB 401 was written, there was a potential to revoke a permit even though someone was in full compliance. This takes all the control out of the hands of the permittee. The bill is proposing to go beyond the initial degradation authorization hearing and create a contested case before the Board of Health on modification required by the department based on their 5 year reviews.

SEN. FOSTER said there were some protections built into the bill on Lines 21-24, where there can be modifications. In the Public Service Commission hearings anyone could testify. Once there was a final decision, that was it. The point of input was in the examination of the issues, not after the order had been in effect. The way the wording in the amendment was proposed, it would be inconsistent with that. Therefore, he would resist the amendment.

Motion: **SEN. WELDON** MOVED TO SEGREGATE THE AMENDMENTS AND CONSIDER AMENDMENT NO. 2 FIRST.

SEN. WELDON asked if the amendment would take away the power of the DHES to revoke a permit.

SEN. BROOKE said amendment no. 2 changes the bill. She didn't like the bill, so was trying to change it. She didn't like the fact that the department doesn't have the authority to revoke a permit and was trying to take it back to the original intent of the nondegradation statute.

Vote: MOTION TO ADOPT FROM AMENDMENT NO. sb033002.amk, AMENDMENT NO. 2, CARRIED 6-4 ON A ROLL CALL VOTE.

Vote: SEGREGATED MOTION TO ADOPT FROM AMENDMENT NO. sb033002.amk, AMENDMENT NO. 1, FAILED 6-5 ON A ROLL CALL VOTE.

Motion/Vote: SEN. FOSTER MOVED TO DO PASS SB 330 AS AMENDED. MOTION CARRIED 8-3 ON A ROLL CALL VOTE.

EXECUTIVE ACTION ON SB 331

Motion: SEN. FOSTER MOVED TO DO PASS SB 331.

Motion: SEN. FOSTER MOVED TO ADOPT AMENDMENTS NO. sb033102.amk AS CONTAINED IN EXHIBIT 17.

Discussion: Mr. Kakuk said he would try to explain the main intention of the amendments. He said that these amendments were requested by SEN. BECK, and that the Discussion Draft, prepared by staff at the committee's request, EXHIBIT 17 DD, included these amendments and was nearly accurate. There was one change needed with respect to Amendment No. 4 where it says: "and providing an effective date"; that should be changed to: "and providing an immediate effective date." Another error was on Page 13, Lines 7-13 of the Discussion Draft where Items (i), (ii), and (iii) should be stricken and replaced with Amendment No. 22, items (i), (ii), (iii), and (iv). Those amendment items were developed by representatives from the mining industry and the DHES. Mr. Kakuk reviewed the rest of the amendments with the committee members.

SEN. KEATING asked Mr. Pilcher what the difference was between 7.5 milligrams per liter for waste discharge and 5.0 milligrams per liter. He responded that the department rules had stated that conventional septic systems were okay, but once they reached half the standards it meant they were 50% away from the drinking water standards already. They would therefore be required to go to Level 2 treatment which was much more expensive, but would take out those nitrates. The level of nitrates would generally be going up because they would be mixing in with background nitrates already in the groundwater.

SEN. KEATING asked if the mixing zone goes to the edge of the property. Mr. Pilcher replied that currently there was a bill being considered addressing that, and if it passes, the mixing zone would go to the edge of the property. If sewage is discharged and it goes above 5.0, the discharge will be significant and the applicant will have to go through nondegradation review.

{Tape: 3; Side: B}

CHAIR. GROSFIELD asked Mr. Horpestad what was going on with the federal rules, as described on the top of page 15 of the Discussion Draft, and how that relates to nonsignificance under

nondegradation. He answered that the language that was added reflects the fact that under federal law the treatment requirements must be imposed in order for Montana to receive primacy for the permit program. The second part of that says that to the extent the federal government has not adopted minimum treatment standards, the board can adopt them, if they go through the rule-making process and determine that they are economically, technologically and environmentally feasible." It also says if it is nonsignificant under the nondegradation rules, the department cannot require minimum treatment, except where required by the federal requirements.

CHAIR. GROSSFIELD asked **Mr. Horpestad** to explain Section 9, Subsection (b) on page 16 of the Discussion Draft, and the proposed changes beginning on Lines 21-23. He responded that the first change to subsection (b) in the bill (Lines 18-20 of the Discussion Draft) meant that a natural spring does not contain industrial waste, and a permit cannot be required for it. The language on Lines 21-23 was stricken because it left the department in an awkward position because that groundwater would have to be monitored to see if it contained industrial waste such that it could require a permit. The new language beginning after Line 23 says that if you are pumping groundwater and discharging it to surface water, it cannot cause the surface water to violate standards.

SEN. BROOKE said the bill in this subsection (b) says essentially that a groundwater discharge to surface water does not require a permit. She asked **Mr. Horpestad** to further comment on that. He said the problem with that provision was that there are areas in the state where the groundwater is of lower quality than the surface water. The original language of the bill says that they cannot require a permit for discharging that groundwater to surface water. The revised language in the Discussion Draft does not prevent them from determining that the discharge constitutes a significant alteration to the surface water, and therefore could require a permit.

{Comments: there was so much background noise it was difficult to hear.}

SEN. BROOKE said in Missoula the aquifer was under the septic tanks. She asked what that did with respect to the current standards. Would the bill as proposed to be amended be more threatening to the aquifer? **Mr. Horpestad** replied that the proposed amendments raise the nondegradation significance lever for good quality groundwater from the current 2.5 parts per million to 5 parts per million. **SEN. BROOKE** said with all the building in Missoula and more and more septic tanks, it would seem that this would cause more and more degradation to the aquifer. **Mr. Horpestad** said the bill would require alternate water supplies or alternate treatment systems to keep the groundwater at the same level.

Mr. Horpestad said if you start out with zero nitrates in the groundwater, and it is then allowed to go to 10 parts per million of nitrate from human sewage, that means if you drink that groundwater, essentially you are drinking 20% recycled sewage, and there may be other things present besides nitrates.

SEN. CHRISTIAENS asked how that would affect the pricing of housing. If there was already a high level of nitrates in the land, what does it cost to go from one level of treatment to another? **Mr. Horpestad** said that secondary treatment would require biological treatment which converts the nitrates to nitrogen gas. That is usually done with a sand filter or a small treatment plant. He estimated that would cost from \$2,500 to \$7,000 additional per housing unit.

SEN. CHRISTIAENS asked if he could install a septic tank himself. **Mr. Horpestad** replied that he would have to hire a contractor to do that.

SEN. WELDON said he had 3 specific concerns with the bill: 1) the changes in arsenic levels, 2) what happened to the measurement method, and 3) the savings clause. In the savings clause it says: "Section 75-5-614 does not affect proceedings that were begun before (the effective date of this act)." He asked what that meant. **Mr. Pilcher** said that language was put in the bill at the request of the DHES to deal with litigation that was currently in district court relative to violations that took place elsewhere in Montana. They wanted to make sure that the change would not alter those ongoing cases.

Mr. Pilcher said that with respect to the measurement method, it was their understanding that it would be necessary for the committee to act on the original amendments, and then amendments to the amendments would be provided to the committee members to address dissolved vs. total recoverable, and the risk levels that were acceptable to the department.

CHAIR. GROSFIELD said they would have to vote on the first set of amendments before they could change the amendments. He asked if it was correct to say that the amendments to the amendments were much closer to what the department feels comfortable with, with respect to the measurement method. **Mr. Pilcher** said that was correct.

SEN. BROOKE said the memo from the Department of Justice voiced their concern about the total recoverable versus the dissolved measurement methods. **Mr. Kakuk** said the staff's interpretation was that the proposed amendments had just taken the language that caused concern by the DHES and moved it from stricken section 2 into the section where it is now. They move it but have not altered it. The amendments to the amendments, if accepted by the committee, will alter it.

SEN. BROOKE said that on Page 5 of the Discussion Draft, Lines 3-4 where it says: "...permittee, or person potentially liable under any state or federal environmental remediation statute,...", the Department of Justice has serious concern about that. She asked why the site-specific standards were left in the bill. **Mr. Kakuk** said they were concerned about other routes of exposure, and an additional amendment that will be presented to the committee has been prepared to address that. He said that will be Amendment No. SB033103.amk.

Vote: MOTION TO ADOPT AMENDMENT NO. sb033102.amk, CARRIED WITH **SEN. BROOKE** VOTING NO.

CHAIR. GROSFIELD asked **Mr. Pilcher** to explain the amendments to the amendments called "Concept amendments to SB 331 as amended by **SEN. BECK** (SB033102.amk), which were from the DHES as contained in EXHIBIT 18. **Mr. Pilcher** reviewed the amendments with the committee.

Motion: **SEN. WELDON** MOVED TO APPROVE THE CONCEPT AMENDMENTS AS CONTAINED IN EXHIBIT 18.

SEN. TVEIT asked **Sandy Stash, ARCO**, if she would comment on the amendments. **Ms. Stash** said she did not see a real issue with the amendments to **BECK** Amendment 10 and to **BECK** Amendment 33. The amendment to **BECK** Amendment 21 gets to the heart of dissolved vs. total recoverable and would not be acceptable.

SEN. BECK, Sponsor of SB 331, said he would like to reject the amendment to **BECK** Amendment 10 because that was already in SB 330. On the Amendment to **BECK** Amendment 21, when it comes to the carcinogen rates, he would support that. He said he did not agree with the section of the amendment that takes "(c) for all metal parameters,...", etc., out of the bill. With respect to the amendments to **BECK** Amendment 33, he asked why the department had added: "...and the department has the opportunity to participate in the review of the activity."

Mr. Pilcher said they were only attempting to recognize that some of the other agencies that have that decision-making responsibility may not have the same level of technical expertise on all the issues that the DHES could offer.

CHAIR. GROSFIELD asked **Mr. Pilcher** regarding the amendment to **BECK** Amendment 21 what the significance of striking subsection (a) was. He responded it was intended to eliminate the maximum contaminant levels for groundwater.

Motion: **SEN. WELDON** WITHDREW HIS MOTION TO APPROVE ALL THE CONCEPT AMENDMENTS AND MOVED TO ADOPT THE CONCEPT AMENDMENT TO **BECK** AMENDMENT 10.

SEN. BROOKE asked why the language wasn't the same as in SB 330. **Mr. Horpestad** said the problem with the language in Amendment 10

is that it was unclear the way it was written. Does it say "the parameter likely to be affected", or does it mean "level likely to be affected?" If it means "level", that is approaching standards and it goes beyond the concept of nondegradation. The proposed change that they suggest would be: "the parameters likely to be affected by the activity" and the nonsignificance section in the law would be used to determine if that would result in a significant change.

SEN. TVEIT said the problem seems to be that the proposed language in the amendment to **BECK** Amendment 10 is not the same as in SB 330, is that right? **CHAIR. GROSFIELD** said if the language was different that would have to be rectified. The proposed language was contrary to language in SB 330.

SEN. KEATING said he didn't see where the language in one bill was contrary to the language in the other bill. It was just approached from a different angle. The language in SB 330 deals with improving the quality and the amendment to **BECK** Amendment 10 says: "...a parameter likely to be affected..." Those aren't different ideas.

SEN. FOSTER said he would oppose that amendment because the language they wanted was adopted in SB 330, and they should be consistent.

Vote: MOTION TO ADOPT THE CONCEPT AMENDMENT TO BECK AMENDMENT 10 FAILED WITH SEN. BROOKE, SEN. CHRISTIAENS, AND SEN. WELDON VOTING YES.

Motion/Vote: SEN. WELDON MOVED TO STRIKE SUBSECTION (a) IN BECK AMENDMENT 21. MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. WELDON MOVED TO ADOPT THE LANGUAGE IN THE CONCEPT AMENDMENTS TO BECK AMENDMENT 21 IN THE SUBSECTIONS WHERE (b) AND (d) WERE STRUCK. MOTION CARRIED UNANIMOUSLY.

Motion: SEN. WELDON MOVED TO STRIKE SUBSECTION (c) IN BECK AMENDMENT 21.

Mr. Horpestad reviewed dissolved vs. total recoverable as he previously stated.

Vote: MOTION TO STRIKE SUBSECTION (c) FROM BECK AMENDMENT 21, FAILED ON A ROLL CALL VOTE OF 6-5.

Motion/Vote: SEN. WELDON MOVED TO ADOPT THE NEW SUBSECTION (c) IN THE CONCEPT AMENDMENTS TO BECK AMENDMENT 21. MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. WELDON MOVED TO ADOPT THE CONCEPT AMENDMENT TO BECK AMENDMENT 33. MOTION CARRIED WITH SEN. CRISMORE VOTING NO.

Motion: SEN. CHRISTIAENS MOVED TO ADOPT AMENDMENTS NO. sb033103.amk AS CONTAINED IN EXHIBIT 19.

Mr. Pilcher explained the amendments to the committee members.

SEN. TVEIT asked why "shall" was struck and replaced by "may" in amendment no. 1. Mr. Pilcher replied that was a decision that the board made and this amendment gives them the flexibility to consider and decide on a case-by-case basis the appropriateness of replacing surface water quality standards with site specific standards. The intent was to allow the board to consider the information that would be submitted in response to the guidance made available to an applicant.

SEN. TVEIT asked Mr. Pilcher to explain, "...other routes of exposure" in amendment no. 2. He replied that they would be considering things other than just what was dissolved in the water. That could include impacts upon aquatic life in the streams.

CHAIR. GROSFIELD asked if the board did that in adopting other water quality rules. Mr. Horpestad responded that the board hasn't because they have had total recoverable standards.

Vote: MOTION TO ADOPT AMENDMENTS NO. sb033103.amk AS CONTAINED IN EXHIBIT 19, FAILED.

Motion/Vote: SEN. FOSTER MOVED TO DO PASS SB 331 AS AMENDED. MOTION CARRIED 7-4 ON A ROLL CALL VOTE.

{Tape: 4; Side: A}

EXECUTIVE ACTION ON SB 247

Motion/Vote: SEN. COLE MOVED TO TABLE SB 247. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 391

Motion: SEN. BROOKE MOVED TO ADOPT AMENDMENTS NO. sb039101.ate AS CONTAINED IN EXHIBIT 20.

CHAIR. GROSFIELD explained the amendments to the committee members. He said the amendments were in response to concerns from people who testified on the bill.

Vote: MOTION TO ADOPT AMENDMENTS NO. sb039101.ate, CARRIED UNANIMOUSLY.

SEN. CHRISTIAENS asked if there was a fiscal note on SB 391.

CHAIR. GROSFIELD said that he just received a fiscal note.

Motion: SEN. BROOKE MOVED TO ADOPT AMENDMENTS NO. sb039102.amk AS CONTAINED IN EXHIBIT 21.

CHAIR. GROSFIELD explained the amendments to the committee members.

Vote: MOTION TO ADOPT AMENDMENTS NO. sb039102.amk CARRIED UNANIMOUSLY.

SEN. FOSTER said there was an instream flow bill in the House, and that it should be the vehicle that would address the instream flow problems.

Motion/Vote: SEN. FOSTER MOVED TO TABLE SB 391. MOTION FAILED 6-5 ON A ROLL CALL VOTE.

Motion/Vote: SEN. CHRISTIAENS MOVED TO DO PASS SB 391 AS AMENDED. MOTION CARRIED 7-4 ON A ROLL CALL VOTE.

CONTINUATION OF EXECUTIVE ACTION ON SB 415

Motion: SEN. CHRISTIAENS MOVED TO ADOPT AMENDMENTS NO. sb041501.ate AS CONTAINED IN EXHIBIT 22.

Discussion: Mr. Everts explained amendments no. sb041501.ate to the committee members.

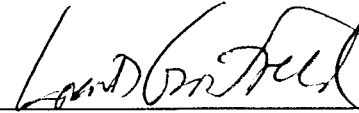
Vote: MOTION TO APPROVE AMENDMENTS NO. sb041501.ate, CARRIED UNANIMOUSLY.

Motion/Vote: SEN. BROOKE MOVED TO DO PASS SB 415 AS AMENDED. MOTION CARRIED UNANIMOUSLY.

{Comments: the meeting was recorded on 4, 2 hour tapes.}

ADJOURNMENT

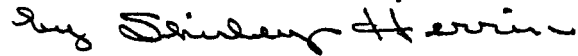
Adjournment: 9:00 PM



LORENTS GROSFIELD, CHAIRMAN



THEDA ROSSBERG, SECRETARY



LG/TR

DATE _____

2-18-95

SEN

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 20, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration SB 346 (first reading copy -- white), respectfully report that SB 346 be amended as follows and as so amended do pass.

Signed: 
Senator Lorents Grosfield, Chair

That such amendments read:

1. Page 2, line 9.

Strike: "If"

Insert: "When"

2. Page 3, line 28.

Following: "which"

Strike: "all designated"

Insert: "an additional"

Following: "beneficial"

Insert: "use or"

3. Page 4, line 9.

Following: "(b)"

Insert: "the"

Following: "beneficial" in two places

Insert: "use or" in two places

4. Page 4, line 13.

Following: "standards"

Insert: "for the parameter or parameters at issue"

5. Page 4, line 17.

Following: "that"

Insert: "reasonable"

Following: "the"

Insert: "implementation"

6. Page 4, line 20.

Following: "a"

Insert: "total"


Strike: "longer than"


Insert: "of"

7. Page 4, line 27.

Following: "review"

Insert: "that the applicant is not complying with the approved

 Amd. Coord.

 Sec. of Senate

431233SC.SRF

implementation plan"

8. Page 4, line 28.

Following: "standard"

Insert: "for a parameter"

9. Page 5.

Following: line 4

Insert: "(9) The board may modify the plan if the permittee submits convincing evidence to the board that the plan needs modification. The board may not extend the plan beyond a total period of 20 years."

Renumber: the subsequent subsection

10. Page 5, lines 10 and 11.

Strike: "extend beyond" on line 10

Insert: "be in effect for a total period longer than"

Strike: "from" on line 10 through "standard" on line 11

Strike: "and" on line 11

Insert: "in the"


-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 20, 1995


MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration SB 252 (first reading copy -- white), respectfully report that SB 252 be amended as follows and as so amended do pass.

Signed: 
Senator Lorents Grosfield, Chair

That such amendments read:

1. Title, lines 4 and 5.
Strike: "PROVIDING" on line 4 through "ZONES" on line 5
Insert: "CLARIFYING THE WATER QUALITY LAWS TO RECOGNIZE AND
PROVIDE FOR GROUND WATER MIXING ZONES AT LEAST TO THE EXTENT
OF THE PROPERTY OWNED OR CONTROLLED BY THE DISCHARGER"
2. Page 1.
Strike: lines 8 through 17
3. Page 1 , line 21 through page 2, line 10.
Strike: Section 1 in its entirety
Renummer: subsequent sections
4. Page 2.
Following: Line 17
Insert: "(3) "Controlled property" means the land area controlled
by a discharger, at the time that the permit was issued,
through ownership, lease, or otherwise, within which the
discharger controls beneficial uses of ground water."
Renummer: subsequent subsections
5. Page 3, lines 14 through 18.
Strike: subsection (14) in its entirety
Renummer: subsequent subsections
6. Page 5, line 15, 17, 18.
Strike: "and" through "zones"
7. Page 5, lines 16 and 17.
Strike: "providing" on line 16 through "(a)" on line 17
Insert: ", requiring"
8. Page 5, line 19.
Strike: "(i)"
Insert: "(a)"
Following: "size"

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431237SC.SRF

Insert: ", except that ground water mixing zones must extend from the point of discharge down gradient to the discharger's controlled property boundary and may, in accordance with rules adopted by the board, extend further"

9. Page 5, line 20.

Strike: "(ii)"

Insert: "(b)"

10. Page 5, line 21.

Strike: "(iii)"

Insert: "(c)"

11. Page 5.

Strike: lines 22 through 28

12. Page 6, lines 21 through 23.

Strike: Section 4 in its entirety

Renumber: subsequent section


-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 20, 1995


MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration SB 362 (first reading copy -- white), respectfully report that SB 362 be amended as follows and as so amended do pass.

Signed: 
Senator Lorents Grosfield, Chair

That such amendments read:

1. Title, line 5.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "75-5-401"
Insert: "AND 75-5-605"
2. Page 2, line 2.
Following: "activities"
Insert: "at wells injecting fluids associated with oil and gas exploration and production"
3. Page 2, line 4.
Following: "individuals"
Insert: "disposing"
4. Page 2, lines 11 through 16.
Strike: "subsections (5)(i) through (5)(k) in their entirety"
Renumber: subsequent subsections
5. Page 2.
Following: line 22
Insert: "(6) Notwithstanding the provisions of 75-5-301(4), mixing zones for activities excluded from permit requirements under subsection (5) of this section must be established by the permitting agency for those activities in accordance with 75-5-301(4)(a) through (4)(c)."
Renumber: subsequent subsections
6. Page 2.
Following: line 28
Insert: "**Section 2.** Section 75-5-605, MCA, is amended to read:
 "**75-5-605. Prohibited activity.** (1) It is unlawful to:
 (a) cause pollution as defined in 75-5-103 of any state waters or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any state waters;

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431240SC.SRF

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

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

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

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

(f) violate any provision of this chapter.

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

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

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

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


-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 20, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration SB 330 (first reading copy -- white), respectfully report that SB 330 be amended as follows and as so amended do pass.

Signed: 
Senator Lorents Grosfield, Chair

That such amendments read:

1. Page 1, line 25.

Following: "~~parameter~~"

Insert: "for a parameter if that change is likely to affect a beneficial use"

2. Page 2, line 5.

Following: "means"

Insert: "all"

3. Page 2, lines 8 through 17.

Strike: "that" on line 8 through "activity" on line 17

Insert: ", except:

(a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by the board's classification rules; and

(b) surface waters that:

(i) are not capable of supporting any one of the designated uses for their classification; or

(ii) have zero flow or surface expression for more than 270 days during most years"

4. Page 4, line 18 through page 6, line 15.

Strike: section 2 in its entirety

Renumber: subsequent sections


5. Page 6, line 18.

Strike: "high quality"

6. Page 7, lines 15 through 25.

Strike: subsection (6) in its entirety

Insert: "(6) Every 5 years, the department shall review authorizations to degrade state waters. To enable the department to adequately review authorizations as required under this section, the authorization holder shall revise the initial authorization application no sooner than 3 1/2 years and no later than 4 years after the date of the

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431205SC.SRF

authorization or the date of the latest department review. The specific revised information required must be determined by the department. If, based on the review, the department determines that the standards and objectives of 75-5-303 or the rules adopted pursuant to 75-5-303 are not being met, it shall revoke or modify the authorization. A decision by the department to revoke or modify an authorization may be appealed to the board."

7. Page 7, lines 28 through 30.
Strike: section 4 in its entirety


-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 6
February 20, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration SB 331 (first reading copy -- white), respectfully report that SB 331 be amended as follows and as so amended do pass.

Signed: 
Senator Lorents Grosfield, Chair

That such amendments read:

1. Title, line 5.

Strike: "RULES OR"

Insert: "TREATMENT"

2. Title, line 6.

Following: "ECONOMICALLY"

Insert: ", ENVIRONMENTALLY,"

Following: "FEASIBLE;"

Strike: "AND"

3. Title, line 7.

Strike: "75-5-201,"

Strike: "75-5-306,"

Strike: "75-5-611,"

4. Title, line 8.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

5. Page 1, line 25.

Following: "unenforceable."

Insert: "[Section 1], providing conditions for adoption of standards more stringent than federal standards, is not intended to prohibit the adoption of ground water quality standards."

6. Page 2, lines 1 and 2.

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


7. Page 2, lines 4 and 5.


Strike: "; and" on line 4 through "75-5-307" on line 5

8. Page 2, line 10 through page 4, line 6.

Strike: section 2 in its entirety

ReNUMBER: subsequent sections

 Amd. Coord.

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431216SC.SRF

9. Page 4, line 9.

Following: "applicant,"

Insert: "permittee, or person potentially liable under any state or federal environmental remediation statute,"

10. Page 4, line 23.

Following: "~~parameter~~"

Insert: "for a parameter if that change is likely to affect a beneficial use"

11. Page 5, line 7.

Strike: "(a)"

12. Page 5, lines 9 and 10.

Strike: subsection (10)(b) in its entirety

13. Page 5.

Following: line 15

Insert: "(13) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium, cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc."

Renumber: subsequent subsections

14. Page 5, line 19.

Strike: "(a)"

15. Page 5, lines 23 and 24.

Strike: subsection (14)(b) in its entirety

16. Page 6, line 26.

Following: "lagoons"

Insert: "used solely for treating, transporting, or impounding pollutants"

17. Page 7, line 16.

Following: "20"

Insert: ", following the time schedule of the lead agency"

18. Page 7, line 29 through page 8, line 4.

Strike: section 6 in its entirety

Renumber: subsequent sections

19. Page 8, line 10.

Strike: "intermittent" through "that"

Insert: "streams that, due to sporadic flow,"

20. Page 8, line 11.

Strike: "a viable fishery"

Insert: "an aquatic ecosystem that includes salmonid or nonsalmonid fish"

21. Page 8, lines 13 and 14.

Strike: "that" on line 13 through "feasible" on line 14

Insert: ", giving consideration to the economics of waste treatment and prevention. Standards adopted by the board must meet the following requirements:

(a) for measuring carcinogens in surface water, the water quality standard for protection of human health must be the value associated with an excess lifetime cancer risk level, assuming continuous lifetime exposure, not to exceed 1×10^{-3} in the case of arsenic and 1×10^{-5} for other carcinogens;

(b) for all metal parameters, the values used by the board as criteria for standards of water quality must be stated as dissolved concentrations;

(c) standards for the protection of aquatic life do not apply to ground water; and

(d) standards may not exceed the maximum contaminant levels obtained from 40 CFR, part 141, as of [the effective date of this act]"

22. Page 9, lines 9 through 11.

Strike: "a" on line 9 through "liter" on line 11

Insert: "changes to ground water quality are nonsignificant if the discharge will not cause degradation of surface water and the predicted concentration of nitrate at the boundary of the ground water mixing zone does not exceed:

(i) 7.5 milligrams per liter for nitrate sources other than domestic sewage;

(ii) 5.0 milligrams per liter for domestic sewage effluent discharged from a conventional septic system;

(iii) 7.5 milligrams per liter for domestic sewage effluent discharged from a septic system using level two treatment, which must be defined in the rules; or

(iv) 7.5 milligrams per liter for domestic sewage effluent discharged from a conventional septic system in areas where the ground water nitrate level exceeds 5.0 milligrams per liter primarily from sources other than human waste"

23. Page 9, line 25.

Strike: "acquires information"

Insert: "is presented with facts indicating"

24. Page 9, lines 26 and 27.

Strike: "60" on line 26 through "75-5-307" on line 27
Insert: "90 days, initiate rulemaking"

25. Page 10, lines 6 and 15.
Following: "economically"
Insert: ", environmentally,"

26. Page 10, line 14.
Following: "so"
Insert: "through rulemaking, for parameters likely to affect
beneficial uses,"

27. Page 10, line 15.
Following: "feasible."
Insert: "Except for the technology-based treatment requirements
set forth in 40 CFR, chapter I, subchapter N, minimum
treatment may not be required to address the discharge of a
parameter when the discharge is considered nonsignificant
under rules adopted pursuant to 75-5-301."

28. Page 10, line 30 through page 11, line 8.
Strike: section 11 in its entirety
Re-number: subsequent sections

29. Page 11, lines 17 through 19.
Strike: "The" on line 17 through "waters" on line 19
Insert: "Discharge to surface water of ground water that is not
altered from its ambient quality does not constitute a
discharge requiring a permit under this part and is not
degradation if:
 (i) the water discharged does not cause the
 receiving waters to exceed applicable standards for any
 parameters; or
 (ii) to the extent that the receiving waters in
 their ambient state exceed standards for any
 parameters, the discharge does not increase the
 concentration of the parameters"

30. Page 12, line 6.
Following: "applications for"
Insert: "new"
Strike: "30"
Insert: "60"

31. Page 12, lines 8 and 9.
Strike: "deficiency" through "initial notice" on line 9
Insert: "major deficiency issues, based on the information
submitted. The department and the applicant may extend

these timeframes, by mutual agreement, by not more than 75 days"

32. Page 12, line 27.

Strike: "industrial or other"

33. Page 12, line 28.

Strike: " ; "

Insert: ". Any placement of materials that is authorized by a permit issued by any state or federal agency is not a placement of wastes within the prohibition of this subsection if the agency's permitting authority includes provisions for review of the placement of materials to ensure that it will not cause pollution of state waters and the department has the opportunity to participate in the review of the activity."

34. Page 13, line 12 through 15, line 9.

Strike: section 15 in its entirety

Renumber: subsequent sections

35. Page 16, line 4.

Strike: "When"

Insert: "In an action"

Following: "account"

Insert: "and the court shall consider"

36. Page 16, line 9.

Following: "amounts"

Insert: "voluntarily"

37. Page 16, lines 23, 26, and 27.

Following: "~~drainage,~~"

Insert: "drainage,"

38. Page 17, line 6.

Following: "~~drainage,~~"

Insert: "drainage,"

39. Page 17, line 8.

Following: "specification"

Strike: " ; "

Insert: ". However, any facility reviewed by the department under Title 75, chapter 5, is not subject to the provisions of this section."

40. Page 17, lines 15 and 17.

Strike: "through 3"

Insert: "and 2"

41. Page 17.

Following: line 17

Insert: " NEW SECTION. Section 17. Saving clause. Section 75-5-614 does not affect proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 18. Effective date. [This act] is effective on passage and approval."


-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 20, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration SB 391 (first reading copy -- white), respectfully report that SB 391 be amended as follows and as so amended do pass.

Signed: 
Senator Lorents Grosfield, Chair

That such amendments read:

1. Title, line 10.
Strike: "85-2-319,"

2. Title, line 11.
Strike: "AND A RETROACTIVE APPLICABILITY DATE"

3. Page 2.
Following: line 2
Insert: "(6) This section may not be construed to identify a minimum in streamflow for any purpose other than for encouraging voluntary solutions to season- specific and site-specific fishery resource problems.
(7) This section may not be construed in any manner that would adversely affect existing water rights."

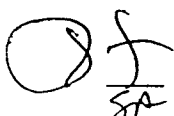
4. Page 2, line 5.
Strike: "In"
Insert: "Subject to the limitations of subsection (3) and in"

5. Page 2, line 9.
Strike: "immediately"
Insert: "substantially"

6. Page 2.
Following: line 13
Insert: "(3) Notwithstanding the provisions of 85-2-311(1)(f) and 85-2-402(2)(d), an applicant for a permit under this section does not have to show a possessory interest in the property where the water is to be put to beneficial use."

7. Page 8, line 5 through page 9 line 9.
Strike: Section 5 in its entirety
Renumber: subsequent sections

8. Page 10.
Following: line 9

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431243SC.SRF

Insert: "(6) Subsection (5) is specifically and exclusively intended to encourage nonuse of existing water rights during specific seasons and at specific sites for the benefit of the fishery resource."

Renumber: subsequent subsection

9. Page 11.

Following: line 8

Insert: "(6) Subsection (5) is specifically and exclusively intended to encourage nonuse of existing water rights during specific seasons and at specific sites for the benefit of the fishery resource."

Renumber: subsequent subsection

10. Page 13, line 30 through line 1, page 14.

Strike: "under" on line 30 through "1" on line 1, page 14

11. Page 14, lines 14 and 15.

Strike: lines 14 and 15 in their entirety

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 20, 1995


MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration SB 415 (first reading copy -- white), respectfully report that SB 415 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 SENATE NATURAL RESOURCES COMMITTEE"
2. Page 2, line 10.
Strike: "Private parties are"
Insert: "A person is"
3. Page 2, line 11.
Strike: "their contribution"
Insert: "contributing"
4. Page 2, line 14.
Strike: "and the grantor"
5. Page 2, lines 16 and 17.
Strike: "and" on line 16 through "grantor" on line 17
6. Page 2, line 20.
Strike: "and the grantor"
7. Page 2.
Following: line 26
Insert: "(f) The department shall expend the funds in a manner that maximizes the application of the funds to physically remediating the specific release.
(8) (a) A person may donate in-kind services to remediate a specific release at a specific facility pursuant to subsection (7). A person that donates in-kind services is not liable under 75-10-715 solely as a result of the contribution of in-kind services.
(b) A person who donates in-kind services with respect to remediating a specific release at a specific facility is not liable under this part to any person for injuries, costs, damages, expenses, or other liability that results from the release or threatened release, including but not limited to

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Sec. of Senate

431246SC.SRF

claims for indemnification or contribution and claims by third parties for death, personal injury, illness, loss of or damage to property, or economic loss.

(c) Immunity from liability, pursuant to subsection (8)(b), does not apply in the case of a release that is caused by conduct of the remedial action contractor that is negligent or grossly negligent or that constitutes intentional misconduct.

(d) This subsection does not minimize the liability, lessen the standard of liability, or otherwise shield from liability a potentially liable person under 75-10-715 or section 107 of CERCLA for costs or damages incurred as a result of a release or threatened release of a hazardous or deleterious substance."

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 18, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration SB 371 (first reading copy -- white), respectfully report that SB 371 be amended as follows and as so amended do pass.

Signed: 
Senator Lorents Grosfield, Chair

That such amendments read:

PP Page 1, line 11.

Following: "gives the"

Strike: "department"

Insert: "board"

2. Page 2, line 29.

Strike: "in"

Insert: "wholly within the boundaries of"

3. Page 9.

Following: line 10

Insert: "(a) existing activities that are nonpoint sources of
pollution as of April 29, 1993;"

Re-number: subsequent subsections

4. Page 9, line 11.

Following: "pollution"

Insert: "initiated after April 29, 1993,"

5. Page 10, line 15.

Following: "chapter"

Strike: "2"

Insert: "4"

6. Page 10.

Following: line 20

Insert: "(p) metallic and nonmetallic mineral exploration
performed in accordance with Title 82, chapter 2, parts 3
and 4;"

Re-number: subsequent subsections


7. Page 10, line 25.


Strike: "and"

8. Page 10.

Following: line 25

Insert: "(r) the maintenance, repair, or replacement of dams,
diversions, weirs, or other constructed works that are

 Amd. Coord.

 Sec. of Senate

421141SC.SRF

related to existing water rights and that are within wilderness areas so long as existing and anticipated beneficial uses are protected and as long as the changes in existing water quality relative to the project are short term; and"

Renumber: the subsequent subsection

-END-

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 2-18-95
BILL NO. SB-371

Amendments to Senate Bill No. 371
First Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Todd Everts
February 15, 1995

1. Page 2, line 29.

Strike: "in"

Insert: "wholly within the boundaries of"

2. Page 10, line 25.

Strike: "and"

3. Page 10.

Following: line 25

Insert: "(p) the maintenance, repair, or replacement of dams, diversions, weirs, or other constructed works that are related to existing water rights and that are within wilderness areas so long as existing and anticipated beneficial uses are protected and as long as the changes in existing water quality relative to the project are short term; and"

Renumber: the subsequent subsection

Amendments to Senate Bill No. 371
First Reading Copy

Requested by Senator Weldon
For the Committee on Natural Resources

Prepared by Todd Everts
February 15, 1995

SENATE NATURAL RESOURCES
EXHIBIT NO. 2
DATE 2-18-95
BILL NO. SB-371

1. Page 6, lines 14 through 18.
Strike: subsection (9) in its entirety



Amendments to Senate Bill No. 371
First Reading CopyDATE 2-18-95BILL NO. SB-371Requested by Senator Foster
For the Committee on Natural ResourcesPrepared by Todd Everts
February 17, 1995

1. Page 9.

Following: line 10

Insert: "(a) existing activities that are nonpoint sources of pollution as of April 29, 1993;"

Renumber: subsequent subsections

2. Page 9, line 11.

Following: "pollution"

Insert: "initiated after April 29, 1993,"

SENATE BILL NO. 4
DATE 2-18-95
BILL NO. 88-371

Amendments to Senate Bill No. 371
First Reading Copy

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

Prepared by Martha Colhoun
February 17, 1995

1. Page 1, line 11.
Following: "gives the"
Strike: "department"
Insert: "board"

2. Page 10, line 15.
Following: "chapter"
Strike: "2"
Insert: "4"

Amendments to Senate Bill No. 371
First Reading CopyRequested by Sen. Brooke
For the Committee on Natural ResourcesPrepared by Martha Colhoun
February 17, 1995

- Withdraw*
- (1) Page 2, line 29.
Following: "surface"
Insert: "or ground"
 - Withdraw*
(2) Page 3, line 2.
Following: "31"
Strike: "and approved by the legislature"
 - (3) Page 6, line 14.
Following: "postpone"
Strike: "or deny"
 - (4) Page 10, line 15.
Strike: subsection (1) in its entirety
Renumber: subsequent subsections
 - (5) Page 10, line 16.
Strike: "solid waste management systems,"
 - (6) Page 10, lines 19 and 20.
Strike: subsection (n) in its entirety
Renumber: subsequent subsections

J. J. J.

Amendments to Senate Bill No. 371
First Reading Copy

Requested by Senator Foster
For the Committee on Natural Resources

Prepared by Todd Everts
February 15, 1995

1. Page 10.

Following: line 20

Insert: "(o) metallic and nonmetallic mineral exploration performed in accordance
with Title 82, chapter 2, parts 3 and 4;"

Renumber: subsequent subsections

Amendments to Senate Bill No. 346
First Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Todd Everts
February 15, 1995

1. Page 2, line 9.

Strike: "If"

Insert: "When"

2. Page 3, line 28.

Following: "which"

Strike: "all designated"

Insert: "an additional"

Following: "beneficial"

Insert: "use or"

3. Page 4, line 9.

Following: "(b)"

Insert: "the"

Following: "beneficial" in two places

Insert: "use or" in two places

4. Page 4, line 13.

Following: "standards"

Insert: "for the parameter or parameters at issue"

5. Page 4, line 17.

Following: "that"

Insert: "reasonable"

Following: "the"

Insert: "implementation"

6. Page 4, line 20.

Following: "a"

Insert: "total"

Strike: "longer than"

Insert: "of"

7. Page 4, line 27.

Following: "review"

Insert: "that the applicant is not complying with the approved implementation plan"

STATE NATURAL RESOURCES
EXHIBIT NO. 7
DATE 2-18-95
BILL NO. SB-346

8. Page 4, line 28.

Following: "standard"

Insert: "for a parameter"

9. Page 5.

Following: line 4

Insert: "(9) The board may modify the plan if the permittee submits convincing evidence to the board that the plan needs modification. The board may not extend the plan beyond a total period of 20 years."

Renumber: the subsequent subsection

10. Page 5, lines 10 and 11.

Strike: "extend beyond" on line 10

Insert: "be in effect for a total period longer than"

Strike: "from" on line 10 through "standard" on line 11

Strike: "and" on line 11

Insert: "in the"

Amendments to Senate Bill No. 346
First Reading Copy

Requested by Senator Brooke
For the Committee on Natural Resources

Prepared by Todd Everts
February 18, 1995

1. Page 3, line 23.

Following: "(1)"

Insert: "(a)"

2. Page 3, line 26.

Following: "indicates that"

Insert: ": (i)"

3. Page 3, line 27.

Following: "uses"

Strike: "."

Insert: "; (ii) elimination of the water quality limiting factors is not possible; or (iii) elimination would cause more environmental damage to correct than to leave in place or would result in substantial and widespread economic and social impact. (b)"

Failed

Amendments to Senate Bill No. 252
First Reading CopyRequested by Senator Tveit
For the Committee on Natural ResourcesPrepared by Todd Everts
February 13, 1995

1. Title, lines 4 and 5.

Strike: "PROVIDING" on line 4 through "ZONES" on line 5

Insert: "CLARIFYING THE WATER QUALITY LAWS TO RECOGNIZE AND PROVIDE
FOR GROUND WATER MIXING ZONES AT LEAST TO THE EXTENT OF THE
PROPERTY OWNED OR CONTROLLED BY THE DISCHARGER"

2. Page 1.

Strike: lines 8 through 17

3. Page 1, line 21 through page 2, line 10.

Strike: Section 1 in its entirety

Renumber: subsequent sections

4. Page 2.

Following: Line 17

Insert: "(3) "Controlled property" means the land area controlled by a discharger,
through ownership, lease, or otherwise, within which the discharger controls
beneficial uses of ground water."

Renumber: subsequent subsections

5. Page 3, lines 14 through 18.

Strike: subsection (14) in its entirety

Renumber: subsequent subsections

6. Page 5, line 15, 17, 18.

Strike: "and" through "zones"

7. Page 5, lines 16 and 17.

Strike: "providing" on line 16 through "(a)" on line 17

Insert: ", requiring"

8. Page 5, line 19.

Strike: "(i)"

Insert: "(a)"

Following: "size"

Insert: ", except that ground water mixing zones must extend from the point of

discharge down gradient to the discharger's controlled property boundary and may, in accordance with rules adopted by the board, extend further"

9. Page 5, line 20.

Strike: "(ii)"

Insert: "(b)"

10. Page 5, line 21.

Strike: "(iii)"

Insert: "(c)"

11. Page 5.

Strike: lines 22 through 28

12. Page 6, lines 21 through 23.

Strike: Section 4 in its entirety

Re-number: subsequent section

Amendments to Senate Bill No. 252
First Reading Copy

STATE NATURAL RESOURCES
EXHIBIT NO. 10
DATE 2-18-95
BILL NO. SB-252

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Todd Everts
February 17, 1995

1. Page 2.

Following: Line 17

Insert: "(3) "Controlled property" means the land area controlled by a discharger at the time the permit was issued, through ownership, lease, or otherwise, within which the discharger controls beneficial uses of ground water."

Renumber: subsequent subsections

Amendments to Senate Bill No. 362
First Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Todd Everts
February 15, 1995

1. Page 2, line 4.
Following: "individuals"
Insert: "disposing"

Amendments to Senate Bill No. 362
First Reading Copy

Requested by Senator Tveit
For the Committee on Natural Resources

Prepared by Todd Everts
February 17, 1995

1. Page 2, line 2.

Following: "activities"

Insert: "at wells injecting fluids associated with oil and gas exploration and
production"

Amendments to Senate Bill No. 362
First Reading Copy

For the Committee on Natural Resources

Prepared by Michael S. Kakuk
February 17, 1995

1. Title, line 5.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "75-5-401"
Insert: "AND 75-5-605"

2. Page 1, lines 29 and 30.
Following: "other wastes" on line 29
Insert: "from the following activities or operations that discharge"
Strike: "from" on line 29 through "operations".
Insert: "that are not hydrologically connected to state surface waters"
Keep In

3. Page 2, line 2.
Following: "activities"
Insert: "at wells injecting fluids associated with oil and gas exploration and production"
This amend. passed earlier

4. Page 2, lines 11 through 16.
Strike: "subsections (5)(i) through (5)(k) in their entirety"
Renumber: subsequent subsections

5. Page 2.
Following: line 28
Insert: "Section 2. Section 75-5-605, MCA, is amended to read:
"75-5-605. Prohibited activity. (1) It is unlawful to:
(a) cause pollution as defined in 75-5-103 of any state waters or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any state waters;
(b) violate any provision set forth in a permit or stipulation, including but not limited to limitations and conditions contained in the permit;
(c) site and construct a sewage lagoon less than 500 feet from an existing water well;
(d) cause degradation of state waters without authorization pursuant to 75-5-303;
(e) violate any order issued pursuant to this chapter; or
(f) violate any provision of this chapter.
(2) ~~It~~ Except for the discharges identified in 75-5-401(5), it is unlawful to carry on any of the following activities without a current permit from the department:
(a) construct, modify, or operate a disposal system which discharges into any state waters;

(b) construct or use any outlet for the discharge of ^{FILE NO.} SB-862 sewage, industrial wastes, or other wastes into any state waters; or

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

{Internal References to 75-5-605:

x 75-5-611 x 75-5-632}

Amendments to Senate Bill No. 362
First Reading Copy

Requested by Senator Tveit
For the Committee on Natural Resources

Prepared by Todd Everts
February 15, 1995

1. Page 2.

Following: line 22

Insert: "(6) Notwithstanding the provisions of 75-5-301(4), mixing zones for activities excluded from permit requirements under subsection (5) of this section must be established by the permitting agency for those activities in accordance with 75-5-301(4)(a) through (4)(c)."

Renumber: subsequent subsections

S.B.
Amendments to ~~House Bill~~ No. 330
First Reading Copy

Requested by Sen. Swysgood
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
February 14, 1995

1. Page 1, line 25.

Following: "parameter"

Insert: "for a parameter if that change is likely to affect a
beneficial use"

2. Page 2, line 5.

Following: "means"

Insert: "all"

3. Page 2, lines 8 through 17.

Strike: "that" on line 8 through "activity" on line 17

Insert: ", except:

(a) ground water classified as of January 1, 1995,
within the "III" or "IV" classifications established by
the board's classification rules; and

(b) surface waters that:

(i) are not capable of supporting any one of the
designated uses for their classification; or

(ii) have zero flow or surface expression for more
than 270 days during most years"

4. Page 4, line 18 through page 6, line 15.

Strike: section 2 in its entirety

Renumber: subsequent sections

5. Page 6, line 18.

Strike: "high quality"

6. Page 7, lines 28 through 30.

Strike: section 4 in its entirety

Amendments to Senate Bill No. 330
First Reading Copy

Requested by Sen. Brooke
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
February 17, 1995

1. Page 2, lines 20 and 21.

Following: "on"

Insert: "has submitted oral or written comments on or a person
who"

2. Page 7, lines 15 through 25.

Strike: subsection (6) in its entirety

Insert: "(6) Every 5 years, the department shall review authorizations to degrade state waters. To enable the department to adequately review authorizations as required under this section, the authorization holder shall revise the initial authorization application no sooner than 3 1/2 years and no later than 4 years after the date of the authorization or the date of the latest department review. The specific revised information required must be determined by the department. If, based on the review, the department determines that the standards and objectives of 75-5-303 or the rules adopted pursuant to 75-5-303 are not being met, it shall revoke or modify the authorization. A decision by the department to revoke or modify an authorization may be appealed to the board."

Amendments to Senate Bill No. 331
First Reading CopyRequested by Sen. Beck
For the Committee on Natural ResourcesPrepared by Michael S. Kakuk
February 14, 1995

1. Title, line 5.
Strike: "RULES OR"
Insert: "TREATMENT"

2. Title, line 6.
Following: "ECONOMICALLY"
Insert: ", ENVIRONMENTALLY,"
Following: "FEASIBLE;"
Strike: "AND"

3. Title, line 7.
Strike: "75-5-201,"
Strike: "75-5-306,"
Strike: "75-5-611,"

4. Title, line 8.
Following: "MCA"
Insert: "; AND PROVIDING AN ~~Immediate~~ ^{Effective} DATE"

5. Page 1, line 25.
Following: "unenforceable."
Insert: "[Section 1], providing conditions for adoption of standards more stringent than federal standards, is not intended to prohibit the adoption of ground water quality standards."

6. Page 2, lines 1 and 2.
Strike: ":" on line 1 through "(a)" on line 2

7. Page 2, lines 4 and 5.
Strike: "; and" on line 4 through "75-5-307" on line 5

8. Page 2, line 10 through page 4, line 6.
Strike: section 2 in its entirety
Renumber: subsequent sections

9. Page 4, line 9.
Following: "applicant,"
Insert: "permittee, or person potentially liable under any state or federal environmental remediation statute,"

10. Page 4, line 23.
Following: "~~parameter~~"
Insert: "for a parameter if that change is likely to affect a beneficial use"

11. Page 5, line 7.

Strike: "(a)"

12. Page 5, lines 9 and 10.

Strike: subsection (10)(b) in its entirety

13. Page 5.

Following: line 15

Insert: "(13) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium, cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc."

Renumber: subsequent subsections

14. Page 5, line 19.

Strike: "(a)"

15. Page 5, lines 23 and 24.

Strike: subsection (14)(b) in its entirety

16. Page 6, line 26.

Following: "lagoons"

Insert: "used solely for treating, transporting, or impounding pollutants"

17. Page 7, line 16.

Following: "20"

Insert: ", following the time schedule of the lead agency"

18. Page 7, line 29 through page 8, line 4.

Strike: section 6 in its entirety

Renumber: subsequent sections

19. Page 8, line 10.

Strike: "intermittent" through "that"

Insert: "streams that, due to sporadic flow,"

20. Page 8, line 11.

Strike: "a viable fishery"

Insert: "an aquatic ecosystem that includes salmonid or nonsalmonid fish"

21. Page 8, lines 13 and 14.

Strike: "that" on line 13 through "feasible" on line 14

Insert: ", giving consideration to the economics of waste treatment and prevention. Standards adopted by the board must meet the following requirements:

(a) for ground water, the water quality criteria must be the maximum contaminant level for those parameters for which an maximum contaminant level, as found in 40 CFR, part 141, has been determined, except in the case of carcinogens. For carcinogens, the water quality criteria must be the more stringent of the maximum contaminant level, if any, or the value associated with an excess lifetime cancer risk level, assuming

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continuous exposure, not to exceed 1×10^{-3} in the case of arsenic and 1×10^{-4} for other carcinogens.

(b) for measuring carcinogens in surface water, the water quality criteria for protection of human health must be the value associated with an excess lifetime cancer risk level, assuming continuous lifetime exposure, not to exceed 1×10^{-3} in the case of arsenic and 1×10^{-4} for other carcinogens;

(c) for all metal parameters, the values used by the board as criteria for standards of water quality must be stated as dissolved concentrations; and

(d) criteria for the protection of aquatic life do not apply to ground water"

22. Page 9, lines 9 through 11.

Strike: "a" on line 9 through "liter" on line 11

Insert: "changes to ground water quality are nonsignificant if the discharge will not cause degradation of surface water and the predicted concentration of nitrate at the boundary of the ground water mixing zone does not exceed:

(i) 7.5 milligrams per liter for nitrate sources other than domestic sewage;

(ii) 5.0 milligrams per liter for domestic sewage effluent discharged from a conventional septic system;

(iii) 7.5 milligrams per liter for domestic sewage effluent discharged from a septic system using level two treatment, which must be defined in the rules; or

(iv) 7.5 milligrams per liter for domestic sewage effluent discharged from a conventional septic system in areas where the ground water nitrate level exceeds 5.0 milligrams per liter primarily from sources other than human waste"

23. Page 9, line 25.

Strike: "acquires information"

Insert: "is presented with facts indicating"

24. Page 9, lines 26 and 27.

Strike: "60" on line 26 through "75-5-307" on line 27

Insert: "90 days, initiate rulemaking"

25. Page 10, lines 6 and 15.

Following: "economically"

Insert: ", environmentally,"

26. Page 10, line 14.

Following: "so"

Insert: "through rulemaking, for parameters likely to affect beneficial uses,"

27. Page 10, line 15.

Following: "feasible."

Insert: "Except for the technology-based treatment requirements set forth in 40 CFR, chapter I, subchapter N, minimum treatment may not be required to address the discharge of a

parameter when the discharge is considered nonsignificant under rules adopted pursuant to 75-5-301."

28. Page 10, line 30 through page 11, line 8.

Strike: section 11 in its entirety

Renumber: subsequent sections

29. Page 11, lines 17 through 19.

Strike: "The" on line 17 through "waters" on line 19

Insert: "Discharge to surface water of ground water that is not altered from its ambient quality does not constitute a discharge requiring a permit under this part and is not degradation if:

(i) the water discharged does not cause the receiving waters to exceed applicable standards for any parameters; or

(ii) to the extent that the receiving waters in their ambient state exceed standards for any parameters, the discharge does not increase the concentration of the parameters"

30. Page 12, line 6.

Following: "applications for"

Insert: "new"

Strike: "30"

Insert: "60"

31. Page 12, lines 8 and 9.

Strike: "deficiency" through "initial notice" on line 9

Insert: "major deficiency issues, based on the information submitted. The department and the applicant may extend these timeframes, by mutual agreement, by not more than 75 days"

32. Page 12, line 27.

Strike: "industrial or other"

33. Page 12, line 28.

Strike: ";

Insert: ". Any placement of materials that is authorized by a permit issued by any state or federal agency is not a placement of wastes within the prohibition of this subsection."

34. Page 13, line 12 through 15, line 9.

Strike: section 15 in its entirety

Renumber: subsequent sections

35. Page 16, line 4.

Strike: "When"

Insert: "In an action"

Following: "account"

Insert: "and the court shall consider"

36. Page 16, line 9.

Following: "amounts"
Insert: "voluntarily"

37. Page 16, lines 23, 26, and 27.

Following: "~~drainage,~~"

Insert: "drainage,"

38. Page 17, line 6.

Following: "~~drainage,~~"

Insert: "drainage,"

39. Page 17, line 8.

Following: "specification"

Strike: " ; "

Insert: ". However, any facility reviewed by the department
under Title 75, chapter 5, is not subject to the provisions
of this section."

40. Page 17, lines 15 and 17.

Strike: "through 3"

Insert: "and 2"

41. Page 17.

Following: line 17

Insert: " NEW SECTION. Section 17. Saving clause. Section 75-5-
614 does not affect proceedings that were begun before [the
effective date of this act].

NEW SECTION. Section 18. Effective date. [This act]
is effective on passage and approval."

DISCUSSION DRAFT -- 1

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA WATER QUALITY ACT; ESTABLISHING WATER QUALITY STANDARDS; REQUIRING THAT ~~RULES OR~~ TREATMENT STANDARDS BE ECONOMICALLY, ENVIRONMENTALLY, AND TECHNOLOGICALLY FEASIBLE; AND AMENDING SECTIONS 75-5-103, 75-5-106, ~~75-5-201~~, 75-5-301, 75-5-302, 75-5-304, 75-5-305, ~~75-5-306~~, 75-5-401, 75-5-403, 75-5-605, ~~75-5-611~~, 75-5-614, 75-5-631, 75-5-636, AND 75-6-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, experience with implementation and enforcement of the Montana water quality statutes has revealed deficiencies in the statutes that have led to inefficiency and unfairness in administration and enforcement of the statutes; and

WHEREAS, those deficiencies can be addressed by selective amendment of the statutes.

STATEMENT OF INTENT

A statement of intent is required to provide guidance to the board of health and environmental sciences regarding rulemaking. The legislature confirms the policy of this state, as reflected in 75-5-101. It is concerned that implementation of the water quality laws has in the past been too dependent on assumptions and conjecture springing from experiences and circumstances from other states and has not been sufficiently based on the conditions and needs of our state. The legislature intends that, in promulgating rules under this bill, the board of health and environmental sciences should seriously consider the impact of proposed rules and that the rules should be adopted only on the basis of sound, scientific justification and never on the basis of projections or conjecture. The legislature is specifically concerned that water quality criteria must reflect concentrations that can be reliably measured, or the rules will, as

a practical matter, be unenforceable. [Section 1], providing conditions for adoption of standards more stringent than federal standards, is not intended to prohibit the adoption of ground water quality standards.

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

NEW SECTION. Section 1. Standards more stringent than federal standards. (1) In adopting rules to implement this chapter, the board may adopt rules that are more stringent than corresponding draft or final federal regulations, guidelines, or criteria if:

(a) the board makes written findings, based on sound scientific or technical evidence in the record, which state that rules that are more stringent than corresponding federal regulations, guidelines, or criteria are necessary to protect the public health, beneficial use of water, or the environment of the state; and

~~(b) the action is taken pursuant to 75-5-307.~~

(2) The board's written findings must be accompanied by a board opinion referring to and evaluating the public health and environmental information and studies contained in the record that forms the basis for the board's conclusion.

~~NEW SECTION. Section 2. Standards of water quality. (1) Notwithstanding the provisions of [section 1], in formulating and adopting standards of water quality under 75-5-301(2) or in reviewing and revising standards of water quality under 75-5-301(3) the board shall comply with the following procedures:~~

~~(a) Except as provided in subsection (1)(b), the board shall use as standards of water quality values that are no more stringent than the values set forth in the following table:~~

~~Water Quality Criteria~~

1	Parameter	Human Health	Aquatic Life	Aquatic Life
2			(Acute)	(Chronic)
3	A. <u>Metal Parameters</u> (expressed in micrograms per liter)			
4	Aluminum	750	87	
5	Antimony	6		
6	Arsenic	50	360	190
7	Beryllium	4		
8	Barium	2,000		
9	Cadmium	5	3.9*	1.1*
10	Chromium	100	16**	11**
11	Copper	1,300	18*	12*
12	Fluoride	4,000		
13	Iron	300		1,000
14	Lead	5	82*	3.2*
15	Manganese	50		
16	Mercury	2	2.4	0.012
17	Nickel	100	1,400*	160*
18	Selenium	50	20	5
19	Silver	50	4.1	
20	Thallium	2		
21	Zinc	5,000	120*	110*
22	B. <u>Other Parameters</u> (expressed in milligrams per liter)			
23	Nitrate	10		
24	Ammonia		25***	2.2***
25	pH	6 to 9 std. units		
26	Sulfate	1,800		
27	Notes: All metal parameters are stated as dissolved, and			
28	compliance must be measured using dissolved methods.			
29	* Hardness dependent (value assumes hardness of 100)			
30	** Hexavalent			
31	*** Ammonia is pH and temperature dependent (value of pH			

~~= 7; T = 10);~~

~~(b) For parameters not included in subsection (1)(a), the board shall use maximum contaminant levels as established under 40 CFR, part 141, as the standards of water quality for human health.~~

~~(c) For parameters not included in subsection (1)(a) and for which maximum contaminant levels have not been established, the board may formulate and adopt standards of water quality for human health that satisfy the following criteria:~~

~~(i) The values must be based on scientifically valid studies and derived in a manner consistent with draft or final federal regulations, guidelines, or criteria for assessing the health risks of environmental pollutants.~~

~~(ii) For carcinogens, the values must represent a concentration associated with an excess lifetime cancer risk level because of continuous lifetime exposure not to exceed 1×10^{-4} .~~

~~(iii) For systemic toxicants, the values must represent a concentration to which the human population, including sensitive subgroups, could be exposed on a daily basis without appreciable risk of deleterious effects during a lifetime.~~

~~(d) For all metal parameters not included in subsection (1)(a), the values used by the board as standards of water quality must be stated as dissolved concentrations.~~

~~(2) In formulating and adopting standards of water quality under 75-5-301(2) or in reviewing and revising standards of water quality under 75-5-301(3), the board may not use narrative statements for any parameter.~~

~~(3) For the purpose of subsection (1)(c)(iii), systemic toxicants must include toxic chemicals that cause effects other than cancer or mutation.~~

NEW SECTION. Section 3. 2. Site-specific standards of water

1 **quality for aquatic life.** Notwithstanding any other provisions of
 2 this chapter, the board, upon application by a permit applicant,
 3 permittee, or person potentially liable under any state or federal
 4 environmental remediation statute, shall adopt site-specific standards
 5 of water quality for aquatic life, both acute and chronic, as the
 6 standards of water quality required under 75-5-301(2) and (3). The
 7 site-specific standards of water quality must be developed in
 8 accordance with the procedures set forth in draft or final federal
 9 regulations, guidelines, or criteria.

10
 11 **Section 4- 3.** Section 75-5-103, MCA, is amended to read:

12 **"75-5-103. Definitions.** Unless the context requires otherwise,
 13 in this chapter, the following definitions apply:

14 (1) "Board" means the board of health and environmental sciences
 15 provided for in 2-15-2104.

16 (2) "Contamination" means impairment of the quality of state
 17 waters by sewage, industrial wastes, or other wastes, creating a
 18 hazard to human health.

19 (3) "Council" means the water pollution control advisory council
 20 provided for in 2-15-2107.

21 (4) "Degradation" means a change in water quality that lowers
 22 the quality of high-quality waters ~~for a parameter~~ for a parameter if
 23 that change is likely to affect a beneficial use. The term does not
 24 include those changes in water quality determined to be nonsignificant
 25 pursuant to 75-5-301(5)(c).

26 (5) "Department" means the department of health and
 27 environmental sciences provided for in Title 2, chapter 15, part 21.

28 (6) "Disposal system" means a system for disposing of sewage,
 29 industrial, or other wastes and includes sewage systems and treatment
 30 works.

31 (7) "Effluent standard" means a restriction or prohibition on

1 quantities, rates, and concentrations of chemical, physical,
2 biological, and other constituents which that are discharged into
3 state waters.

4 (8) "Existing uses" means those uses actually attained in state
5 waters on or after July 1, 1971, whether or not those uses are
6 included in the water quality standards.

7 (9) "High-quality waters" means state waters whose quality for
8 a parameter is better than standards established pursuant to 75-5-301.
9 All waters are high-quality water unless classified by the board
10 within a classification for waters that are not suitable for human
11 consumption or not suitable for growth and propagation of fish and
12 associated aquatic life.

13 (10) ~~(a)~~ "Industrial waste" means a waste substance from the
14 process of business or industry or from the development of any natural
15 resource, together with any sewage that may be present.

16 ~~(b) The term does not mean materials incorporated or placed into~~
17 ~~a structure, facility, or location authorized in a permit issued by~~
18 ~~a state or federal agency.~~

19 (11) "Interested person" means a person who has submitted oral
20 or written comments on the department's preliminary decision regarding
21 degradation of state waters, pursuant to 75-5-303. The term includes
22 a person who has requested authorization to degrade high-quality
23 waters.

24 (12) "Local department of health" means the staff, including
25 health officers, employed by a county, city, city-county, or district
26 board of health.

27 (13) "Metal parameters" includes but is not limited to aluminum,
28 antimony, arsenic, beryllium, barium, cadmium, chromium, copper,
29 fluoride, iron, lead, manganese, mercury, nickel, selenium, silver,
30 thallium, and zinc.

31 ~~(13)~~(14) "Mixing zone" means an area established in a permit or

1 final decision on nondegradation issued by the department where water
 2 quality standards may be exceeded, subject to conditions that are
 3 imposed by the department and that are consistent with the rules
 4 adopted by the board.

5 ~~(14)~~(15) ~~(a)~~ "Other wastes" means garbage, municipal refuse,
 6 decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night
 7 soil, oil, grease, tar, heat, chemicals, dead animals, sediment,
 8 wrecked or discarded equipment, radioactive materials, solid waste,
 9 and all other substances that may pollute state waters.

10 ~~(b) The term does not mean materials incorporated or placed into~~
 11 ~~a structure, facility, or location authorized in a permit issued by~~
 12 ~~a state or federal agency.~~

13 ~~(15)~~(16) "Owner or operator" means a person who owns, leases,
 14 operates, controls, or supervises a point source.

15 ~~(16)~~(17) "Parameter" means a physical, biological, or chemical
 16 property of state water when a value of that property affects the
 17 quality of the state water.

18 ~~(17)~~(18) "Person" means the state, a political subdivision of the
 19 state, institution, firm, corporation, partnership, individual, or
 20 other entity and includes persons resident in Canada.

21 ~~(18)~~(19) "Point source" means a discernible, confined, and
 22 discrete conveyance, including but not limited to any pipe, ditch,
 23 channel, tunnel, conduit, well, discrete fissure, container, rolling
 24 stock, or vessel or other floating craft, from which pollutants are
 25 or may be discharged.

26 ~~(19)~~(20) "Pollution" means contamination or other alteration of
 27 the physical, chemical, or biological properties of state waters which
 28 exceeds that permitted by Montana water quality standards, including
 29 but not limited to standards relating to change in temperature, taste,
 30 color, turbidity, or odor, or the discharge, seepage, drainage,
 31 infiltration, or flow of liquid, gaseous, solid, radioactive, or other

substance into state water ~~which~~ that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife. A discharge, seepage, drainage, infiltration or flow ~~which~~ that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter. Activities conducted under the conditions imposed by the department in short-term authorizations pursuant to 75-5-308 are not considered pollution under this chapter.

~~(20)~~(21) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings or animals, together with ground water infiltration and surface water present.

~~(21)~~(22) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other wastes to an ultimate disposal point.

~~(22)~~(23) "Standard of performance" means a standard adopted by the board for the control of the discharge of pollutants ~~which~~ that reflects the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, ~~where~~ when practicable, a standard permitting no discharge of pollutants.

~~(23)~~(24) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground; ~~however,~~ this subsection.

(b) The term does not apply to:

(i) privately owned ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

(ii) irrigation waters or land application disposal waters where when the waters are used up within the irrigation or land application disposal system and the waters are not returned to any other state

1 waters.

2 ~~(24)~~(25) "Treatment works" means works, including sewage lagoons,
3 installed for treating or holding sewage, industrial wastes, or other
4 wastes.

5 ~~(25)~~(26) "Water quality protection practices" means those
6 activities, prohibitions, maintenance procedures, or other management
7 practices applied to point and nonpoint sources designed to protect,
8 maintain, and improve the quality of state waters. Water quality
9 protection practices include but are not limited to treatment
10 requirements, standards of performance, effluent standards, and
11 operating procedures and practices to control site runoff, spillage
12 or leaks, sludge or water disposal, or drainage from material storage.

13 ~~(26)~~(27) "Water well" means an excavation that is drilled, cored,
14 bored, washed, driven, dug, jetted, or otherwise constructed and
15 intended for the location, diversion, artificial recharge, or
16 acquisition of ground water."

17

18 **Section 5- 4.** Section 75-5-106, MCA, is amended to read:

19 **"75-5-106. Interagency cooperation -- enforcement authorization.**

20 (1) The council, board, and department may require the use of records
21 of all state agencies and may seek the assistance of ~~such~~ the
22 agencies. The department shall coordinate permit proceedings under
23 this chapter with permit proceedings involving the same project
24 conducted by the department of state lands under Title 82, chapter 4,
25 and by the department of natural resources and conservation under
26 Title 75, chapter 20, following the time schedule of the lead agency.
27 State, county, and municipal officers and employees, including
28 sanitarians and other employees of local departments of health, shall
29 cooperate with the council, board, and department in furthering the
30 purposes of this chapter, so far as is practicable and consistent with
31 their other duties.

(2) The department may authorize a local water quality district established according to the provisions of Title 7, chapter 13, part 45, to enforce the provisions of this chapter and rules adopted under this chapter on a case-by-case basis. If a local water quality district requests the authorization, the local water quality district shall present appropriate documentation to the department that a person is violating permit requirements established by the department or may be causing pollution, as defined in 75-5-103, of state waters or placing or causing to be placed wastes in a location where they are likely to cause pollution of state waters. The board may adopt rules regarding the granting of enforcement authority to local water quality districts."

~~Section 6. 5. Section 75-5-201, MCA, is amended to read:~~

~~"75-5-201. Board rules authorized. (1) The board shall adopt rules for the administration of this chapter and shall ensure that requirements imposed by the rules are cost effective and economically and technologically feasible.~~

~~(2) The board's rules may include a fee schedule or system for assessment of administrative penalties as provided under 75-5-611."~~

~~Section 7. 5. Section 75-5-301, MCA, is amended to read:~~

~~"75-5-301. Classification and standards for state waters. Consistent with the provisions of 75-5-302 through 75-5-307 and 80-15-201 and this chapter, the board shall:~~

~~(1) establish and modify the classification of all state waters in accordance with their present and future most beneficial uses, creating an appropriate classification for intermittent or ephemeral streams that streams that, due to sporadic flow, do not support a viable fishery an aquatic ecosystem that includes salmonid or nonsalmonid fish;~~

1 (2) formulate and adopt standards of water purity and
2 classification of water according to its most beneficial uses, giving
3 consideration to the economics of waste treatment and prevention
4 quality that are cost effective and economically and technologically
5 feasible, giving consideration to the economics of waste treatment and
6 prevention. Standards adopted by the board must meet the following
7 requirements:

8 (a) for ground water, the water quality criteria must be the
9 maximum contaminant level for those parameters for which an maximum
10 contaminant level, as found in 40 CFR, part 141, has been determined,
11 except in the case of carcinogens. For carcinogens, the water quality
12 criteria must be the more stringent of the maximum contaminant level,
13 if any, or the value associated with an excess lifetime cancer risk
14 level, assuming continuous exposure, not to exceed 1×10^{-3} in the
15 case of arsenic and 1×10^{-4} for other carcinogens;

16 (b) for measuring carcinogens in surface water, the water quality
17 criteria for protection of human health must be the value associated
18 with an excess lifetime cancer risk level, assuming continuous
19 lifetime exposure, not to exceed 1×10^{-3} in the case of arsenic and
20 1×10^{-4} for other carcinogens;

21 (c) for all metal parameters, the values used by the board as
22 criteria for standards of water quality must be stated as dissolved
23 concentrations; and

24 (d) criteria for the protection of aquatic life do not apply to
25 ground water;

26 (3) review, from time to time at intervals of not more than 3
27 years and, to the extent permitted by this chapter, revise established
28 classifications of waters and adopted standards of water purity and
29 classification quality;

30 (4) adopt rules governing the granting of mixing zones,
31 requiring that mixing zones granted by the department be specifically

1 identified, and requiring that mixing zones have:

2 (a) the smallest practicable size;

3 (b) a minimum practicable effect on water uses; and

4 (c) definable boundaries;

5 (5) adopt rules implementing the nondegradation policy
6 established in 75-5-303, including but not limited to rules that:

7 (a) provide a procedure for department review and authorization
8 of degradation;

9 (b) establish criteria for the following:

10 (i) determining important economic or social development; and

11 (ii) weighing the social and economic importance to the public
12 of allowing the proposed project against the cost to society
13 associated with a loss of water quality; and

14 (c) establish criteria for determining whether a proposed
15 activity or class of activities will result in nonsignificant changes
16 in water quality for any parameter in order that those activities are
17 not required to undergo review under 75-5-303(3). These criteria must
18 be established in a manner that generally:

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

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

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

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

29 ~~(d) provide that a domestic septic system and drain field that~~
30 ~~meets the minimum state standards results in nonsignificant changes~~
31 ~~to water quality and is not required to undergo review under~~

~~75-5-303(3) unless the predicted nitrate contamination at the end of the drain field exceeds 10 milligrams per liter changes to ground water quality are nonsignificant if the discharge will not cause degradation of surface water and the predicted concentration of nitrate at the boundary of the ground water mixing zone does not exceed:~~

~~(i) 5.0 milligrams per liter for domestic sewage effluent discharged from a conventional septic system;~~

~~(ii) 7.5 milligrams per liter for domestic sewage effluent discharged from a septic system using level two treatment, which must be defined in the rules; or~~

~~(iii) 7.5 milligrams per liter from sources other than human waste.~~

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

(7) adopt rules to implement this section."

~~Section 8-~~ 6. Section 75-5-302, MCA, is amended to read:

"75-5-302. Revised classifications not to lower water quality standards -- exception. In revising classifications or standards or in adopting new classifications or standards, the board may not so formulate standards of water ~~purity~~ quality or classify any state water as to lower ~~any~~ the water quality standard applicable to any state water below the level applicable under the classifications and standards adopted except upon a finding that a particular state water has been classified under a standard or classification of water quality that is higher than the actual water quality that existed at

1 the time of classification and only if the action is taken pursuant
 2 to 75-5-307. When the board or department acquires information is
 3 presented with facts indicating that a body of water is misclassified,
 4 the board shall, within 60 days of acquiring the information, take
 5 action pursuant to 75-5-307 90 days, initiate rulemaking to correct
 6 the misclassification."

7
 8 **Section 9- 7.** Section 75-5-304, MCA, is amended to read:

9 **"75-5-304. Adoption of standards -- pretreatment, effluent,**
 10 **performance. (1) The board shall:**

11 (a) adopt pretreatment standards for wastewater discharged into
 12 a municipal disposal system_{7i}

13 (b) adopt effluent standards as defined in 75-5-103_{7i}

14 (c) adopt toxic effluent standards and prohibitions_{7i} and

15 (d) establish standards of performance for new point source
 16 discharges.

17 (2) In taking action under subsection (1), the board shall
 18 ensure that the standards are cost-effective and economically,
 19 environmentally, and technologically feasible."

20
 21 **Section 10- 8.** Section 75-5-305, MCA, is amended to read:

22 **"75-5-305. Adoption of requirements for treatment of wastes --**
 23 **variance procedure -- appeals. (1) The board may establish minimum**
 24 **requirements for the treatment of wastes. For cases in which the**
 25 **federal government has adopted technology-based treatment requirements**
 26 **for a particular industry or activity in 40 CFR, chapter I, subchapter**
 27 **N, the board shall adopt those requirements by reference. To the**
 28 **extent that the federal government has not adopted minimum treatment**
 29 **requirements for a particular industry or activity, the board may do**
 30 **so through rulemaking, for parameters likely to affect beneficial**
 31 **uses, ensuring that the requirements are cost-effective and**

1 economically, environmentally, and technologically feasible. Except
2 for the technology-based treatment requirements set forth in 40 CFR
3 chapter I, subchapter N, minimum treatment may not be required to
4 address the discharge of a parameter when the discharge is considered
5 nonsignificant under rules adopted pursuant to 75-5-301.

6 (2) The board shall establish minimum requirements for the
7 control and disposal of sewage from private and public buildings,
8 including standards and procedures for variances from the
9 requirements.

10 (3) An applicant for a variance from minimum requirements
11 adopted by a local board of health pursuant to 50-2-116(1)(i) may
12 appeal the local board of health's final decision to the department
13 by submitting a written request for a hearing within 30 days after the
14 decision. The written request must describe the activity for which
15 the variance is requested, include copies of all documents submitted
16 to the local board of health in support of the variance, and specify
17 the reasons for the appeal of the local board of health's final
18 decision.

19 (4) The department shall conduct a hearing on the request
20 pursuant to Title 2, chapter 4, part 6. Within 30 days after the
21 hearing, the department shall grant, conditionally grant, or deny the
22 variance. The department shall base its decision on the board's
23 standards for a variance.

24 (5) A decision of the department pursuant to subsection (4) is
25 appealable to district court under the provisions of Title 2, chapter
26 4, part 7."

27

28 ~~Section 11. Section 75-5-306, MCA, is amended to read:~~

29 ~~"75-5-306. Purer than natural unnecessary -- dams. (1) It is~~
30 ~~not necessary that wastes be treated to a purer condition than the~~
31 ~~natural condition of the receiving stream water as long as the minimum~~

1 ~~treatment requirements established under this chapter are met.~~

2 ~~(2) For the purpose of issuing permits under this part,~~
 3 ~~"Natural" "natural" refers to conditions or material present from~~
 4 ~~runoff or percolation over which man has no control the water quality~~
 5 ~~as of July 1, 1971, or to runoff or percolation from developed land~~
 6 ~~where all reasonable land, soil, and water conservation practices have~~
 7 ~~been applied. Conditions resulting from the reasonable operation of~~
 8 ~~dams at July 1, 1971, are natural."~~

9
 10 ~~Section 12.~~ 9. Section 75-5-401, MCA, is amended to read:

11 ~~"75-5-401. Board rules for permits. (1) The board shall adopt~~
 12 ~~rules:~~

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

17 (b) governing the issuance, denial, modification, or revocation
 18 of permits. The board may not require a permit for a water conveyance
 19 structure or for a natural spring if the water discharged to state
 20 waters does not contain industrial waste, sewage, or other wastes.
 21 ~~The board may not require a permit for the discharge of ground water~~
 22 ~~that is not altered from its ambient quality by the discharger as long~~
 23 ~~as existing uses are not impacted in the receiving state waters~~
 24 Discharge to surface water of ground water that is not altered from
 25 its ambient quality does not constitute a discharge requiring a permit
 26 under this part and is not degradation if:

27 (i) the water discharged does not cause the receiving waters to
 28 exceed applicable standards for any parameters; or

29 (ii) to the extent that the receiving waters in their ambient
 30 state exceed standards for any parameters, the discharge does not
 31 increase the concentration of the parameters.

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

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

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

~~Section 13-~~ 10. Section 75-5-403, MCA, is amended to read:

"75-5-403. Denial or modification of permit -- time for review of permit application. (1) The department shall review for completeness all applications for new permits within 30 60 days of the receipt of the initial application and within 30 days of receipt of responses to notices of deficiencies. The initial completeness notice must note all deficiency issues, and the department may not in a later completeness notice raise an issue pertaining to the initial application that was not raised in the initial notice major deficiencies, based on the information submitted. The department and

1 the applicant may extend these timeframes, by mutual agreement, by not
 2 more than 75 days. An application is considered complete unless the
 3 applicant is notified of a deficiency within the appropriate review
 4 period.

5 (2) If the department denies an application for a permit or
 6 modifies a permit, the department shall give written notice of its
 7 action to the applicant or holder and ~~he~~ the applicant or holder may
 8 request a hearing before the board, in the manner stated in 75-5-611,
 9 for the purpose of petitioning the board to reverse or modify the
 10 action of the department. ~~Such~~ The hearing ~~shall~~ must be held within
 11 30 days after receipt of written request. After the hearing, the
 12 board shall affirm, modify, or reverse the action of the department.
 13 If the holder does not request a hearing before the board,
 14 modification of a permit ~~shall be~~ is effective 30 days after receipt
 15 of notice by the holder unless the department specifies a later date.
 16 If the holder does request a hearing before the board, ~~no~~ an order
 17 modifying ~~his~~ the permit ~~shall be~~ is not effective until 20 days after
 18 ~~he has received~~ receipt of notice of the action of the board.

19 ~~(2) This section does not apply to any modification made in~~
 20 ~~permit conditions at the time of reissuance, but only to those~~
 21 ~~modifications made in existing permits during their terms."~~

22
 23 **Section 14. 11.** Section 75-5-605, MCA, is amended to read:

24 **"75-5-605. Prohibited activity.** (1) It is unlawful to:

25 (a) cause pollution as defined in 75-5-103 of any state waters
 26 or to place or cause to be placed any ~~industrial or other~~ wastes where
 27 they will ~~in a location where they are likely to~~ cause pollution of
 28 any state waters; . Any placement of materials that is authorized by
 29 a permit issued by any state or federal agency is not a placement of
 30 wastes within the prohibition of this subsection.

31 (b) violate any provision set forth in a permit or stipulation,

1 including but not limited to limitations and conditions contained in
2 the permit;

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

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

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

8 (f) violate any provision of this chapter.

9 (2) It is unlawful to carry on any of the following activities
10 without a current permit from the department:

11 (a) construct, modify, or operate a disposal system ~~which~~ that
12 discharges into any state waters;

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

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

17

18 ~~Section 15. Section 75-5-611, MCA, is amended to read:~~

19 ~~"75-5-611. Violation of chapter -- administrative actions and~~
20 ~~penalties -- notice and hearing. (1) When the department has reason~~
21 ~~to believe that a violation of this chapter, a rule adopted under this~~
22 ~~chapter, or a condition of a permit or authorization required by a~~
23 ~~rule adopted under this chapter has occurred, it may have a written~~
24 ~~notice letter served personally or by certified mail on the alleged~~
25 ~~violation or the violator's agent. The notice letter must state:~~

26 ~~(a) the provision of statute, rule, permit, or approval alleged~~
27 ~~to be violated;~~

28 ~~(b) the facts alleged to constitute the violation;~~

29 ~~(c) the specific nature of corrective action that the department~~
30 ~~requires;~~

31 ~~(d) as applicable, the amount of the administrative penalty that~~

~~will be assessed by order under subsection (2) if the corrective action is not taken within the time provided under subsection (1)(e); and~~

~~(e) as applicable, the time within which the corrective action is to be taken or the administrative penalty will be assessed. For the purposes of this chapter, service by certified mail is complete on the date of receipt. Except as provided in subsection (2)(a)(ii), an administrative penalty may not be assessed until the provisions of subsection (1) have been complied with.~~

~~(2) (a) The department may issue an administrative notice and order in lieu of the notice letter provided under subsection (1) if the department's action:~~

~~(i) does not involve assessment of an administrative penalty; or~~

~~(ii) seeks an administrative penalty only for an activity that it believes and alleges has violated or is violating 75-5-605.~~

~~(b) A notice and order issued under this section must meet all of the requirements specified in subsection (1).~~

~~(3) In a notice and order given under subsection (1), the department may require the alleged violator to appear before the board for a public hearing and to answer the charges. The hearing must be held no sooner than 15 days after service of the notice and order, except that the board may set an earlier date for hearing if it is requested to do so by the alleged violator. The board may set a later date for hearing at the request of the alleged violator if the alleged violator shows good cause for delay.~~

~~(4) If the department does not require an alleged violator to appear before the board for a public hearing, the alleged violator may request the board to conduct the hearing. The request must be in writing and must be filed with the department no later than 30 days after service of a notice and order under subsection (2). If a~~

1 ~~request is filed, a hearing must be held within a reasonable time.~~
2 ~~If a hearing is not requested within 30 days after service upon the~~
3 ~~alleged violator, the opportunity for a contested case appeal to the~~
4 ~~board under Title 2, chapter 4, part 6, is waived.~~

5 ~~(5) If a contested case hearing is held under this section, it~~
6 ~~must be public and must be held in the county in which the violation~~
7 ~~is alleged to have occurred or, at the request of the alleged~~
8 ~~violator, in Lewis and Clark County.~~

9 ~~(6) (a) After a hearing, the board shall make findings and~~
10 ~~conclusions that explain its decision.~~

11 ~~(b) If the board determines that a violation has occurred, it~~
12 ~~shall also issue an appropriate order for the prevention, abatement,~~
13 ~~or control of pollution, the assessment of administrative penalties,~~
14 ~~or both.~~

15 ~~(c) If the order requires abatement or control of pollution, the~~
16 ~~board shall state the date or dates by which a violation must cease~~
17 ~~and may prescribe timetables for necessary action in preventing,~~
18 ~~abating, or controlling the pollution.~~

19 ~~(d) If the order requires payment of an administrative penalty,~~
20 ~~the board shall explain how it determined the amount of the~~
21 ~~administrative penalty.~~

22 ~~(e) If the board determines that a violation has not occurred,~~
23 ~~it shall declare the department's notice void.~~

24 ~~(7) The alleged violator may petition the board for a rehearing~~
25 ~~on the basis of new evidence, which petition and the board may grant~~
26 ~~the petition for good cause shown.~~

27 ~~(8) Instead of issuing an order, the board may direct the~~
28 ~~department to initiate appropriate action for recovery of a penalty~~
29 ~~under 75-5-631, 75-5-632, 75-5-633, or 75-5-635.~~

30 ~~(9) (a) An action initiated under this section may include an~~
31 ~~administrative penalty of not more than \$10,000 for each day of each~~

1 ~~violation; however~~ However, the maximum penalty may not exceed
 2 \$100,000 for any related series of violations.

3 ~~(b) Administrative penalties collected under this section must~~
 4 ~~be deposited in the general fund.~~

5 ~~(c) In determining the amount of penalty to be assessed to a~~
 6 ~~person, the department and board shall consider the criteria stated~~
 7 ~~in 75-5-631(4) and rules promulgated under 75-5-201.~~

8 ~~(d) The contested case provisions of the Montana Administrative~~
 9 ~~Procedure Act, provided for in Title 2, chapter 4, part 6, apply to~~
 10 ~~a hearing conducted under this section."~~

11
 12 ~~Section 16.~~ 12. Section 75-5-614, MCA, is amended to read:

13 **"75-5-614. Injunctions authorized.** (1) The department is
 14 authorized to commence a civil action seeking appropriate relief,
 15 including a permanent or temporary injunction, for a violation which
 16 that would be subject to a compliance order under 75-5-613. An action
 17 under this subsection may be commenced in the district court of the
 18 ~~county in which the defendant is located or resides or is doing~~
 19 ~~business or any~~ the county where a violation occurs or is threatened
 20 ~~if the defendant cannot be located in Montana, and the court shall~~
 21 ~~have~~ has jurisdiction to restrain the violation and to require
 22 compliance.

23 (2) The department may bring an action for an injunction against
 24 the continuation of an alleged violation of the terms or conditions
 25 of a permit issued by the department or any rule or effluent standard
 26 promulgated under this chapter or against a person who fails to comply
 27 with an emergency order issued by the department under 75-5-621 or a
 28 final order of the board. The court to which the department applies
 29 for an injunction may issue a temporary injunction if it finds that
 30 there is reasonable cause to believe that the allegations of the
 31 department are true, and it may issue a temporary restraining order

pending action on the temporary injunction."

~~Section 17.~~ 13. Section 75-5-631, MCA, is amended to read:

"75-5-631. Civil penalties -- injunctions not barred. (1) A person who violates this chapter or a rule, permit, effluent standard, or order issued under the provisions of this chapter ~~shall be~~ is subject to a civil penalty not to exceed \$25,000. Each day of violation constitutes a separate violation.

(2) Action under this section does not bar enforcement of this chapter or of rules or orders issued under it by injunction or other appropriate remedy.

(3) The department shall institute and maintain ~~any~~ enforcement proceedings in the name of the state.

(4) ~~When~~ In an action seeking penalties under this section, the department shall take into account and the court shall consider the following factors in determining an appropriate settlement, if any, subsequent to the filing of a complaint:

(a) the nature, circumstances, extent, and gravity of the violation; and

(b) with respect to the violator, ~~his~~ the violator's ability to pay, ~~any~~ and prior history of ~~such~~ violations, the economic benefit or savings, if any, to the violator resulting from the violator's action, amounts voluntarily expended by the violator to address or mitigate the violation or impacts of the violation to waters of the state, and ~~any~~ other matters as justice may require."

~~Section 18.~~ 14. Section 75-5-636, MCA, is amended to read:

"75-5-636. Action by other parties. A person, association, corporation, or agency of the state or federal government may apply to the department protesting a violation of this chapter. The department shall make an investigation and make a written report to

1 the person, association, corporation, or agency ~~which~~ that made the
 2 protest. If a violation is established by the investigation of the
 3 department, appropriate enforcement action ~~shall~~ must be taken. If
 4 the investigation proves the protest to have been without reasonable
 5 cause, the department may seek recovery of investigative costs from
 6 the person who made the application."

7
 8 **Section 19- 15.** Section 75-6-112, MCA, is amended to read:

9 **"75-6-112. Prohibited acts.** A person may not:

10 (1) discharge sewage, ~~drainage,~~ drainage, industrial waste, or
 11 other wastes that will cause pollution of state waters used by a
 12 person for domestic use or as a source for a public water supply
 13 system or water or ice company;

14 (2) discharge sewage, ~~drainage,~~ drainage, industrial waste, or
 15 other waste into any state waters or on the banks of any state waters
 16 or into any abandoned or operating water well unless the sewage,
 17 ~~drainage,~~ drainage, industrial waste, or other waste is treated as
 18 prescribed by the board;

19 (3) build or operate any railroad, logging road, logging camp,
 20 or electric or manufacturing plant of any kind on any watershed of a
 21 public water supply system unless:

22 (a) the water supply is protected from pollution by sanitary
 23 precautions prescribed by the board; and

24 (b) a permit has been issued by the department after approval
 25 of detailed plans and specifications for sanitary precautions;

26 (4) commence construction, alteration, or extension of any
 27 system of water supply, water distribution, sewer, ~~drainage,~~ drainage,
 28 wastewater, or sewage disposal before he the person submits to the
 29 department necessary maps, plans, and specifications for its review
 30 and the department approves those maps, plans, and specifications;

31 However, any facility reviewed by the department under Title 75,

1 chapter 5, is not subject to the provisions of this section.

2 (5) operate or maintain any public water supply system ~~which~~
3 that exceeds a maximum contaminant level established by the board
4 unless ~~he~~ the person has been granted or has an application pending
5 for a variance or exemption pursuant to this part;

6 (6) violate any provision of this part or a rule adopted under
7 this part; or

8 (7) violate any condition or requirement of an approval issued
9 pursuant to this part."
10

11 NEW SECTION. Section 20- 16. Codification instruction.
12 [Sections 1 ~~through 3~~ and 2] are intended to be codified as an
13 integral part of Title 75, chapter 5, part 3, and the provisions of
14 Title 75, chapter 5, part 3, apply to [sections 1 ~~through 3~~ and 2].
15

16 NEW SECTION. Section 17. {standard} Saving clause. Section 75-
17 5-614 does not affect proceedings that were begun before [the
18 effective date of this act].
19

20 NEW SECTION. Section 18. {standard} Effective date. [This act]
21 is effective on passage and approval.
22

-END-

Concept amendments to SB 331 as amended by Sen. Beck
(sb033102.amk)

Beck Amendment 10. Page 4, line 23.

Following: "parameter"

Insert: "for a parameter if ~~that change is likely to affect a~~
beneficial use likely to be affected by a proposed activity"

Beck Amendment 21. Page 8, lines 13 and 14.

Strike: "that" on line 13 through "feasible" on line 14

Insert: ", giving consideration to the economics of waste
treatment and prevention. Standards adopted by the board
must meet the following requirements:

(a) ~~for ground water, the water quality criteria must
be the maximum contaminant level for those parameters
for which an maximum contaminant level, as found in 40
CFR, part 141, has been determined, except in the case
of carcinogens. For carcinogens, the water quality
criteria must be the more stringent of the maximum
contaminant level, if any, or the value associated with
an excess lifetime cancer risk level, assuming
continuous exposure, not to exceed 1×10^{-3} in the case
of arsenic and 1×10^{-4} for other carcinogens.~~

(b) ~~for measuring carcinogens in surface water, the
water quality criteria standard for protection of human
health must be the value associated with an excess
lifetime cancer risk level, assuming continuous
lifetime exposure, not to exceed 1×10^{-3} in the case
of arsenic and 1×10^{-4} ~~10^{-5}~~ for other carcinogens;~~

(c) ~~for all metal parameters, the values used by the
board as criteria for standards of water quality must
be stated as dissolved concentrations; and~~

(d) ~~(b) criteria standards for the protection of
aquatic life do not apply to ground water~~

(c) in no event may standards exceed the maximum
contaminant levels obtained from 40 CFR part 141, as of
[the effective day of this act]"

Beck Amendment 33. Page 12, line 28.

Strike: ";

Insert: ". Any placement of materials that is authorized by a
permit issued by any state or federal agency is not a
placement of wastes within the prohibition of this
subsection, if the agency's permitting authority includes
provisions for review of the placement of materials to
ensure that it will not cause pollution of state waters and
the department has the opportunity to participate in the
review of the activity."

Amendments to Senate Bill No. 331
First Reading Copy

For the Committee on Natural Resources

Prepared by Michael S. Kakuk
February 17, 1995

1. Page 4, line 10.

Strike: "shall"

Insert: "may"

2. Page 4, line 13.

Following: "criteria"

Insert: "and must include a consideration of the affects of other
routes of exposure"

Paul

Amendments to Senate Bill No. 391
First Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Todd Everts
February 17, 1995

SENATE NATURAL RESOURCES
EXHIBIT NO. 20
DATE 2-18-95
BILL NO. SB-391

1. Title, line 10.
Strike: "85-2-319,"

2. Title, line 11.
Strike: "AND A RETROACTIVE APPLICABILITY DATE"

3. Page 2.
Following: line 2
Insert: "(6) This section may not be construed to identify a minimum in streamflow
for any purpose other than for encouraging voluntary solutions to season-
specific and site-specific fishery resource problems.
(7) This section may not be construed in any manner that would adversely
affect existing water rights."

4. Page 2, line 9.
Strike: "immediately"
Insert: "substantially"

5. Page 8, line 5 through page 9 line 9.
Strike: Section 5 in its entirety
Renumber: subsequent sections

6. Page 10.
Following: line 9
Insert: "(6) Subsection (5) is specifically and exclusively intended to encourage
nonuse of existing water rights during specific seasons and at specific sites
for the benefit of the fishery resource."
Renumber: subsequent subsection

7. Page 11.
Following: line 8
Insert: "(6) Subsection (5) is specifically and exclusively intended to encourage
nonuse of existing water rights during specific seasons and at specific sites
for the benefit of the fishery resource."
Renumber: subsequent subsection

8. Page 13, line 30 through line 1, page 14.
Strike: "under" on line 30 through "11" on line 1, page 14

9. Page 14, lines 14 and 15.
Strike: lines 14 and 15 in their entirety

SENATE NATURAL RESOURCES

EXHIBIT NO. 20

DATE 2-18-95

BILL NO. SB-391

Amendments to Senate Bill No. 391
First Reading Copy

Requested by Sen. Grosfield
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
February 18, 1995

1. Page 2, line 5.

Strike: "In"

Insert: "Subject to the limitations of subsection (3) and in"

2. Page 2.

Following: line 13

Insert: "(3) Notwithstanding the provisions of 85-2-311(1)(f) and 85-2-402(2)(d), an applicant for a permit under this section does not have to show a possessory interest in the property where the water is to be put to beneficial use."

Amendments to Senate Bill No. 415
First Reading Copy

SENATE NATURAL RESOURCES
EXHIBIT NO. 22
DATE 2-18-95
BILL NO. SB-415

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

Prepared by Todd Everts
February 18, 1995

1. Page 1.

Following: line 2

Insert: "By Request of the Senate Natural Resources Committee"

2. Page 2, line 10.

Strike: "Private parties are"

Insert: "A person is"

3. Page 2, line 14.

Strike: "and the grantor"

4. Page 2, lines 16 and 17.

Strike: "and" on line 16 through "grantor" on line 17

5. Page 2, line 20.

Strike: "and the grantor"

6. Page 2.

Following: line 26

Insert: "(f) The department shall expend these fund in a manner that maximizes the application of those funds to physically remediating the specific release."

7. Page 2.

Following: line 26

Insert: "(8) (a) A person may donate in-kind services to remediate a specific release at a specific facility pursuant to subsection (7). A person that donates in-kind services is not liable under 75-10-715 solely as a result of their contribution of in-kind services.

(b) A person who donates in-kind services with respect to ^{remediation} a release or threatened release of a hazardous or deleterious substance is not liable under this part to any person for injuries, costs, damages, expenses, or other liability that results from the release or threatened release, including but not limited to claims for indemnification or contribution and claims by third parties for death, personal injury, illness, loss or damage to property, or economic loss.

(c) Immunity from liability, pursuant to subsection (b), does not apply in the

case of a release that is caused by conduct of the remedial action contractor SP-415 that is negligent or grossly negligent or that constitutes intentional misconduct."

(d) This section does not minimize the liability, lessen the standard of liability, or otherwise shield from liability a potentially liable person under 75-10-715 or section 107 of CERCLA for costs or damages incurred as a result of a release or threatened release of a hazardous or deleterious substance."

DATE 2-18-95

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: _____

< ■ >

PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
<i>Glenn Phillips</i>	<i>for Wildl. & Parks</i>	<i>331</i>		
	<i>(support with amendments)</i>			

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-18-95 BILL NO. SB-344 NUMBER 1.

MOTION: TO PASS AMENDMENT

#

Passed 6-5

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		X
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-18-95 BILL NO. SB-344 NUMBER 2

MOTION: To Table The Bill

PASSED 7-4

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	X	
LARRY TVEIT, VICE CHAIRMAN		X
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-18-95 BILL NO. SB-371 NUMBER 2

MOTION: AMENDMENT # 36 307104. gte

Passed 6-5

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	X	
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN		X

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MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-18-95 BILL NO. SB-252 NUMBER 4

MOTION: Motion To Table Bill
Failed 6-1

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

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-18-95 BILL NO. SB-252 NUMBER 5

MOTION: DO PASS ITS AMENDED

Passed 6-5

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		X
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN		X

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-18-95 BILL NO. JB-362 NUMBER 6

MOTION: DO PASS AS AMENDED

PASSED 7-4

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		X
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-18-95 BILL NO. SB-330 NUMBER 7

MOTION: To Adopt AMENDMENT sb033002.gmk
Item 2. 6-4

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

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-8-95 BILL NO. SB 330 NUMBER 8

MOTION: To Adopt Amendment No. SB 033002. cmls
Item 1.

FAILED 6-5

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	X	
LARRY TVEIT, VICE CHAIRMAN		X
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-18-95 BILL NO. SB-330 NUMBER 9

MOTION: DO PASS AS AMENDED

PASSED 8-3

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		X
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-18-95 BILL NO. SB 331 NUMBER 10

MOTION: TO STRIKE AMENDMENT No 21,

Subsection (e)

Failed 6-5

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	X	
LARRY TVEIT, VICE CHAIRMAN		X
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-18-95 BILL NO. SB-331 NUMBER 11

MOTION: TO DO PASS AS AMENDED

PASSED 7-4

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		X
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-18-95 BILL NO. SB-391 NUMBER 12

MOTION: To Table SB-391

FAILED 6-5

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		X
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN		X

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MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2-18-95 BILL NO. SB-391 NUMBER 13

MOTION: To DO PASS AS AMENDED

PASSED

7-4

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	X	
LARRY TVEIT, VICE CHAIRMAN		X
LORENTS GROSFIELD, CHAIRMAN	X	

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