

HOUSE BILL NO. 454

INTRODUCED BY VOGEL, FORRESTER, MILLS,  
T. NELSON, STOVALL

IN THE HOUSE

FEBRUARY 3, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
FEBRUARY 17, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 18, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 19, 1993	ENGROSSING REPORT.
FEBRUARY 20, 1993	THIRD READING, PASSED. AYES, 58; NOES, 38.
FEBRUARY 22, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 22, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
MARCH 30, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 31, 1993	SECOND READING, CONCURRED IN.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 45; NOES, 3.
	RETURNED TO HOUSE.

IN THE HOUSE

APRIL 2, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 454  
2 INTRODUCED BY R. Vogel Forrester  
3 Tom Nelson Stoll

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE  
5 MEGALANDFILL SITING ACT; CHANGING THE DEFINITION OF  
6 "MEGALANDFILL" TO MEAN A LANDFILL THAT RECEIVES 300,000 TONS  
7 OF WASTE A YEAR; AND AMENDING SECTIONS 75-10-902, 75-10-903,  
8 75-10-921, AND 75-10-950, MCA."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 75-10-902, MCA, is amended to read:

12 "75-10-902. Purpose. (1) It is the constitutionally  
13 declared policy of this state to maintain and improve a  
14 clean and healthful environment for present and future  
15 generations, to protect the environment from degradation and  
16 prevent unreasonable depletion and degradation of natural  
17 resources, and to provide for administration and enforcement  
18 to attain these objectives.

19 (2) The construction of solid waste facilities that  
20 dispose of over 200,000 300,000 tons of waste a year  
21 (megalandfills) may be necessary to meet increasing state  
22 and national needs for solid waste disposal capacity.  
23 However, due to the volume of waste processed, megalandfills  
24 may adversely affect the environment, surrounding  
25 communities, and the welfare of the citizens of this state.

1 Therefore, it is necessary to ensure that the location,  
2 construction, and operation of megalandfills will produce  
3 minimal adverse effects on the environment and upon the  
4 citizens of this state by providing that a megalandfill may  
5 not be constructed or operated within this state without a  
6 certificate of site acceptability pursuant to 75-10-916 and  
7 a license to operate acquired pursuant to 75-10-221 and  
8 75-10-933."

9 **Section 2.** Section 75-10-903, MCA, is amended to read:

10 "75-10-903. Definitions. As used in 75-10-901 through  
11 75-10-945, the following definitions apply:

12 (1) "Application" means an application for a  
13 certificate and license submitted in accordance with  
14 75-10-916 through 75-10-930 and 75-10-933 through 75-10-935  
15 and the rules adopted under 75-10-916 through 75-10-930 and  
16 75-10-933 through 75-10-935.

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

19 (3) "Certificate" means the certificate of site  
20 acceptability issued by the board under 75-10-916 that is  
21 required for siting a megalandfill.

22 (4) "Commence to construct" means:

23 (a) any clearing of land, excavation, construction, or  
24 other action that would affect the environment of the site,  
25 except that the term does not mean changes for securing

1 geological data, including necessary borings to ascertain  
2 subsurface conditions;

3 (b) the modification or upgrading of an existing solid  
4 waste disposal facility into a megalandfill, except that the  
5 term does not pertain to maintenance or repair of an  
6 existing facility.

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

10 (6) "Dispose" or "disposal" means the discharge,  
11 injection, deposit, dumping, spilling, leaking, or placing  
12 of any solid waste into or onto the land so that the solid  
13 waste or any constituent of it may enter the environment or  
14 be emitted into the air or discharged into any water,  
15 including ground waters.

16 (7) "Megalandfill" or "facility" means any new or  
17 existing solid waste landfill facility that accepts more  
18 than ~~200,000~~ 300,000 tons a year of solid waste or any ash  
19 monofill that accepts 35,000 tons or more a year of solid  
20 waste incinerator ash, either fly ash or bottom ash.

21 (8) "Person" means an individual, firm, partnership,  
22 company, association, corporation, city, town, local  
23 governmental entity, or any other governmental or private  
24 entity, whether organized for profit or not.

25 (9) (a) "Solid waste" means all putrescible and

1 nonputrescible wastes, including but not limited to garbage;  
2 rubbish; refuse; ashes; sludge from sewage treatment plants,  
3 water supply treatment plants, or air pollution control  
4 facilities; construction and demolition wastes; dead  
5 animals, including offal; discarded home and industrial  
6 appliances; wood products or wood byproducts; and inert  
7 materials.

8 (b) "Solid waste" does not mean municipal sewage,  
9 industrial wastewater effluents, mining wastes regulated  
10 under the mining and reclamation laws administered by the  
11 department of state lands, slash and forest debris regulated  
12 under laws administered by the department of state lands, or  
13 marketable byproducts.

14 (10) "Solid waste landfill" means any publicly or  
15 privately owned landfill or landfill unit that receives  
16 household waste or other types of waste, including  
17 commercial waste, nonhazardous sludge, and industrial solid  
18 waste. The term does not include land application units,  
19 surface impoundments, injection wells, or waste piles."

20 **Section 3.** Section 75-10-921, MCA, is amended to read:

21 "75-10-921. Filing fee -- accountability -- refund --  
22 use. (1) (a) The applicant shall pay to the department a  
23 filing fee as provided in this section based upon the  
24 department's estimated costs of processing the application  
25 for a certificate. The filing fee must be deposited in the

1 solid waste management account for the use of the department  
2 in administering 75-10-901 through 75-10-945. The initial  
3 filing fee may not exceed the following scale based upon the  
4 megalandfill's projected annual tonnage of waste:

5 (i) a base fee of \$40,000; plus  
6 (ii) 20 cents per ton for every ton of waste over  
7 ~~200,000~~ 300,000 tons.

8 (b) The department may allow a credit against the fee  
9 payable under this section for the applicant's costs of  
10 developing information or providing services required under  
11 75-10-901 through 75-10-945 or required for preparation of  
12 an environmental impact statement under the Montana  
13 Environmental Policy Act, Title 75, chapter 1, part 1, or  
14 the National Environmental Policy Act, 42 U.S.C. 4321, et  
15 seq. The applicant may submit the information or a  
16 description of the services performed to the department,  
17 together with an accounting of the expenses incurred in  
18 preparing the information or performing the services. The  
19 department shall evaluate the applicability, validity, and  
20 usefulness of the data or services and determine the  
21 expenses that may be credited against the filing fee payable  
22 under this section. Upon 30 days' notice to the applicant,  
23 this credit may at any time be reduced if the department  
24 determines that the amount to be credited is necessary to  
25 carry out its responsibilities under 75-10-901 through

1 75-10-945.

2 (2) (a) The department may contract with an applicant  
3 after the filing of a formal application for the development  
4 of information or the provision of services required under  
5 75-10-901 through 75-10-945. The contract may continue an  
6 agreement entered into pursuant to 75-10-908. Payments made  
7 to the department under a contract must be credited against  
8 the fee payable under this section. The revenue derived from  
9 the filing fee must be sufficient to enable the department  
10 and the board to carry out their responsibilities under  
11 75-10-901 through 75-10-945. The department may amend a  
12 contract to require additional payments for necessary  
13 expenses up to the limits set forth in subsection (1)(a)  
14 upon 30 days' notice to the applicant. The department and  
15 applicant may enter into a contract that exceeds the scale  
16 provided in subsection (1)(a).

17 (b) If a contract is not entered into, the applicant  
18 shall pay the filing fee in installments in accordance with  
19 a schedule of installments developed by the department;  
20 however, an installment may not exceed 20% of the total  
21 filing fee provided for in subsection (1).

22 (3) The applicant is entitled to an accounting of money  
23 spent and to a refund with interest at the rate of 6% a year  
24 of the portion of the filing fee not spent by the department  
25 in carrying out its responsibilities under 75-10-901 through

1 75-10-945. A refund must be made after all administrative  
2 and judicial remedies have been exhausted by all parties to  
3 the certification proceedings.

4 (4) The revenue derived from the filing fees must be  
5 used by the department in compiling the information required  
6 for rendering a decision on a certificate and for carrying  
7 out other responsibilities of the department and the board  
8 under 75-10-901 through 75-10-945."

9 **Section 4.** Section 75-10-950, MCA, is amended to read:

10 "75-10-950. Definitions. As used in 75-10-950 through  
11 75-10-954, the following definitions apply:

12 (1) "Applicant" means an individual, firm, partnership,  
13 company, association, corporation, city, town, local  
14 governmental entity, or any other governmental or private  
15 entity that applies for a license to operate a megalandfill  
16 pursuant to 75-10-221.

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

19 (3) "Department" means the department of health and  
20 environmental sciences provided for in Title 2, chapter 15,  
21 part 21.

22 (4) "Megalandfill" means any new or existing solid  
23 waste management system licensed under 75-10-221 that  
24 accepts more than ~~200,000~~ 300,000 tons of solid waste a year  
25 or an ash monofill that accepts more than 35,000 tons of ash

1 a year.

2 (5) "Natural resource" means ground water, surface  
3 water, soil, wildlife, and other physical and biological  
4 resources as determined by the department by rule."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0454, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act amending the Megalandfill Siting Act; changing the definition of "megalandfill" to mean a landfill that receives 300,000 tons of waste a year.

ASSUMPTIONS:

1. The Board and Department of Health and Environmental Sciences (DHES) will have megalandfill rules adopted by October 1, 1993.
2. No currently licensed landfill will reach the megalandfill level of 300,000 tons of waste per year during FY94 and FY95.
3. The Megalandfill Siting Act (75-10-901 et seq, MCA) requires the submission of a long-range plan that identifies a megalandfill at least 2 years prior to the acceptance of an application by DHES. To-date, DHES has not received any long-range plans identifying a megalandfill and does not anticipate receiving any prior to July 1, 1993. Therefore, no megalandfill applications will be received during FY94 and FY95.

FISCAL IMPACT: None

David Lewis 2-9-93

DAVID LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

Randy Vogel 2-9-93  
RANDY VOGEL, PRIMARY SPONSOR DATE

Fiscal Note for HB0454, as introduced

HB 454

APPROVED BY COMM. ON  
NATURAL RESOURCES

HOUSE BILL NO. 454

INTRODUCED BY VOGEL, FORRESTER, MILLS,

T. NELSON, STOVALL

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE  
MEGALANDFILL SITING ACT; CHANGING--THE--DEFINITION--OF  
"MEGALANDFILL"--TO--MEAN--A--LANDFILL--THAT--RECEIVES--300,000--TONS  
OF--WASTE--A--YEAR; CLARIFYING THE DEFINITION OF  
"MEGALANDFILL"; AND AMENDING SECTIONS 75-10-902, 75-10-903,  
75-10-921, AND 75-10-950, MCA."

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

**Section 1.** Section 75-10-902, MCA, is amended to read:--

"75-10-902. Purpose. (1) It is the constitutionally  
declared policy of this state to maintain and improve a  
clean and healthful environment for present and future  
generations, to protect the environment from degradation and  
prevent unreasonable depletion and degradation of natural  
resources, and to provide for administration and enforcement  
to attain these objectives.

(2) The construction of solid waste facilities that  
dispose of over 200,000 300,000 tons of waste a year  
(megalandfills) may be necessary to meet increasing state  
and national needs for solid waste disposal capacity.  
However, due to the volume of waste processed, megalandfills

may adversely affect the environment surrounding  
communities and the welfare of the citizens of this state.  
Therefore, it is necessary to ensure that the location,  
construction, and operation of megalandfills will produce  
minimal adverse effects on the environment and upon the  
citizens of this state by providing that a megalandfill may  
not be constructed or operated within this state without a  
certificate of site acceptability pursuant to 75-10-916 and  
a license to operate acquired pursuant to 75-10-221 and  
75-10-933."

**Section 1.** Section 75-10-903, MCA, is amended to read:

"75-10-903. Definitions. As used in 75-10-901 through  
75-10-945, the following definitions apply:

(1) "Application" means an application for a  
certificate and license submitted in accordance with  
75-10-916 through 75-10-930 and 75-10-933 through 75-10-935  
and the rules adopted under 75-10-916 through 75-10-930 and  
75-10-933 through 75-10-935.

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

(3) "Certificate" means the certificate of site  
acceptability issued by the board under 75-10-916 that is  
required for siting a megalandfill.

(4) "Commence to construct" means:

(a) any clearing of land, excavation, construction, or

other action that would affect the environment of the site, except that the term does not mean changes for securing geological data, including necessary borings to ascertain subsurface conditions;

(b) the modification or upgrading of an existing solid waste disposal facility into a megalandfill, except that the term does not pertain to maintenance or repair of an existing facility.

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

(6) "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing of any solid waste into or onto the land so that the solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any water, including ground waters.

(7) (A) "Megalandfill" or "facility" means, EXCEPT AS PROVIDED IN SUBSECTION (7)(B), any new or existing solid waste landfill facility that accepts more than ~~200,000~~ 300,000 200,000 tons a year of solid waste or any ash monofill that accepts 35,000 tons or more a year of solid waste incinerator ash, either fly ash or bottom ash.

(B) AN EXISTING SOLID WASTE LANDFILL FACILITY THAT ACCEPTED 100,000 TONS A YEAR OF SOLID WASTE AS OF DECEMBER

31, 1991, IS NOT CONSIDERED A MEGALANDFILL OR FACILITY UNTIL IT ACCEPTS MORE THAN 300,000 TONS A YEAR OF SOLID WASTE.

(8) "Person" means an individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private entity, whether organized for profit or not.

(9) (a) "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage; rubbish; refuse; ashes; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; wood products or wood byproducts; and inert materials.

(b) "Solid waste" does not mean municipal sewage, industrial wastewater effluents, mining wastes regulated under the mining and reclamation laws administered by the department of state lands, slash and forest debris regulated under laws administered by the department of state lands, or marketable byproducts.

(10) "Solid waste landfill" means any publicly or privately owned landfill or landfill unit that receives household waste or other types of waste, including commercial waste, nonhazardous sludge, and industrial solid waste. The term does not include land application units,



1 surface impoundments, injection wells, or waste piles."

2 **Section 2.** Section 75-10-921, MCA, is amended to read:

3 "75-10-921. Filing fee -- accountability -- refund --  
4 use. (1) (a) The applicant shall pay to the department a  
5 filing fee as provided in this section based upon the  
6 department's estimated costs of processing the application  
7 for a certificate. The filing fee must be deposited in the  
8 solid waste management account for the use of the department  
9 in administering 75-10-901 through 75-10-945. The initial  
10 filing fee may not exceed the following scale based upon the  
11 megalandfill's projected annual tonnage of waste:

12 (i) a base fee of \$40,000; plus  
13 (ii) 20 cents per ton for every ton of waste over  
14 ~~200,000~~ ~~300,000~~ 200,000 tons FOR A NEW OR EXISTING  
15 MEGALANDFILL OR FACILITY NOT SUBJECT TO 75-10-903(7)(B); OR  
16 (III) 20 CENTS PER TON OF WASTE OVER 300,000 TONS FOR AN  
17 EXISTING MEGALANDFILL OR FACILITY PURSUANT TO  
18 75-10-903(7)(B).

19 (b) The department may allow a credit against the fee  
20 payable under this section for the applicant's costs of  
21 developing information or providing services required under  
22 75-10-901 through 75-10-945 or required for preparation of  
23 an environmental impact statement under the Montana  
24 Environmental Policy Act, Title 75, chapter 1, part 1, or  
25 the National Environmental Policy Act, 42 U.S.C. 4321, et

1 seq. The applicant may submit the information or a  
2 description of the services performed to the department,  
3 together with an accounting of the expenses incurred in  
4 preparing the information or performing the services. The  
5 department shall evaluate the applicability, validity, and  
6 usefulness of the data or services and determine the  
7 expenses that may be credited against the filing fee payable  
8 under this section. Upon 30 days' notice to the applicant,  
9 this credit may at any time be reduced if the department  
10 determines that the amount to be credited is necessary to  
11 carry out its responsibilities under 75-10-901 through  
12 75-10-945.

13 (2) (a) The department may contract with an applicant  
14 after the filing of a formal application for the development  
15 of information or the provision of services required under  
16 75-10-901 through 75-10-945. The contract may continue an  
17 agreement entered into pursuant to 75-10-908. Payments made  
18 to the department under a contract must be credited against  
19 the fee payable under this section. The revenue derived from  
20 the filing fee must be sufficient to enable the department  
21 and the board to carry out their responsibilities under  
22 75-10-901 through 75-10-945. The department may amend a  
23 contract to require additional payments for necessary  
24 expenses up to the limits set forth in subsection (1)(a)  
25 upon 30 days' notice to the applicant. The department and

applicant may enter into a contract that exceeds the scale provided in subsection (1)(a).

(b) If a contract is not entered into, the applicant shall pay the filing fee in installments in accordance with a schedule of installments developed by the department; however, an installment may not exceed 20% of the total filing fee provided for in subsection (1).

(3) The applicant is entitled to an accounting of money spent and to a refund with interest at the rate of 6% a year of the portion of the filing fee not spent by the department in carrying out its responsibilities under 75-10-901 through 75-10-945. A refund must be made after all administrative and judicial remedies have been exhausted by all parties to the certification proceedings.

(4) The revenue derived from the filing fees must be used by the department in compiling the information required for rendering a decision on a certificate and for carrying out other responsibilities of the department and the board under 75-10-901 through 75-10-945."

**Section 3.** Section 75-10-950, MCA, is amended to read:

"75-10-950. **Definitions.** As used in 75-10-950 through 75-10-954, the following definitions apply:

(1) "Applicant" means an individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private

entity that applies for a license to operate a megalandfill pursuant to 75-10-221.

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

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

(4) (A) "Megalandfill" means, EXCEPT AS PROVIDED IN SUBSECTION (4)(B), any new or existing solid waste management system licensed under 75-10-221 that accepts more than ~~200,000~~ 300,000 200,000 tons of solid waste a year or an ash monofill that accepts more than 35,000 tons of ash a year.

(B) AN EXISTING SOLID WASTE LANDFILL FACILITY THAT ACCEPTED 100,000 TONS A YEAR OF SOLID WASTE AS OF DECEMBER 31, 1991, IS NOT CONSIDERED A MEGALANDFILL OR FACILITY UNTIL IT ACCEPTS MORE THAN 300,000 TONS A YEAR OF SOLID WASTE.

(5) "Natural resource" means ground water, surface water, soil, wildlife, and other physical and biological resources as determined by the department by rule."

-End-

## HOUSE BILL NO. 454

INTRODUCED BY VOGEL, FORRESTER, MILLS,

T. NELSON, STOVALL

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(2) The construction of solid waste facilities that dispose of over 200,000 300,000 tons of waste a year (megalandfills) may be necessary to meet increasing state and national needs for solid waste disposal capacity. However, due to the volume of waste processed, megalandfills

may adversely affect the environment surrounding communities, and the welfare of the citizens of this state. Therefore, it is necessary to ensure that the location, construction, and operation of megalandfills will produce minimal adverse effects on the environment and upon the citizens of this state by providing that a megalandfill may not be constructed or operated within this state without a certificate of site acceptability pursuant to 75-10-916 and a license to operate acquired pursuant to 75-10-221 and 75-10-933."

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(3) "Certificate" means the certificate of site acceptability issued by the board under 75-10-916 that is required for siting a megalandfill.

(4) "Commence to construct" means:

(a) any clearing of land, excavation, construction, or

1 other action that would affect the environment of the site,  
2 except that the term does not mean changes for securing  
3 geological data, including necessary borings to ascertain  
4 subsurface conditions;

5 (b) the modification or upgrading of an existing solid  
6 waste disposal facility into a megalandfill, except that the  
7 term does not pertain to maintenance or repair of an  
8 existing facility.

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

12 (6) "Dispose" or "disposal" means the discharge,  
13 injection, deposit, dumping, spilling, leaking, or placing  
14 of any solid waste into or onto the land so that the solid  
15 waste or any constituent of it may enter the environment or  
16 be emitted into the air or discharged into any water,  
17 including ground waters.

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19 PROVIDED IN SUBSECTION (7)(B), any new or existing solid  
20 waste landfill facility that accepts more than ~~200,000~~  
21 ~~300,000~~ 200,000 tons a year of solid waste or any ash  
22 monofill that accepts 35,000 tons or more a year of solid  
23 waste incinerator ash, either fly ash or bottom ash.

24 (B) AN EXISTING SOLID WASTE LANDFILL FACILITY THAT  
25 ACCEPTED 100,000 TONS A YEAR OF SOLID WASTE AS OF DECEMBER

1 31, 1991, IS NOT CONSIDERED A MEGALANDFILL OR FACILITY UNTIL  
2 IT ACCEPTS MORE THAN 300,000 TONS A YEAR OF SOLID WASTE.

3 (8) "Person" means an individual, firm, partnership,  
4 company, association, corporation, city, town, local  
5 governmental entity, or any other governmental or private  
6 entity, whether organized for profit or not.

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8 nonputrescible wastes, including but not limited to garbage;  
9 rubbish; refuse; ashes; sludge from sewage treatment plants,  
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use. (1) (a) The applicant shall pay to the department a filing fee as provided in this section based upon the department's estimated costs of processing the application for a certificate. The filing fee must be deposited in the solid waste management account for the use of the department in administering 75-10-901 through 75-10-945. The initial filing fee may not exceed the following scale based upon the megalandfill's projected annual tonnage of waste:

(i) a base fee of \$40,000; plus

(ii) 20 cents per ton for every ton of waste over ~~200,000~~ ~~300,000~~ 200,000 tons FOR A NEW OR EXISTING MEGALANDFILL OR FACILITY NOT SUBJECT TO 75-10-903(7)(B); OR

(III) 20 CENTS PER TON OF WASTE OVER 300,000 TONS FOR AN EXISTING MEGALANDFILL OR FACILITY PURSUANT TO 75-10-903(7)(B).

(b) The department may allow a credit against the fee payable under this section for the applicant's costs of developing information or providing services required under 75-10-901 through 75-10-945 or required for preparation of an environmental impact statement under the Montana Environmental Policy Act, Title 75, chapter 1, part 1, or the National Environmental Policy Act, 42 U.S.C. 4321, et

seq. The applicant may submit the information or a description of the services performed to the department, together with an accounting of the expenses incurred in preparing the information or performing the services. The department shall evaluate the applicability, validity, and usefulness of the data or services and determine the expenses that may be credited against the filing fee payable under this section. Upon 30 days' notice to the applicant, this credit may at any time be reduced if the department determines that the amount to be credited is necessary to carry out its responsibilities under 75-10-901 through 75-10-945.

(2) (a) The department may contract with an applicant after the filing of a formal application for the development of information or the provision of services required under 75-10-901 through 75-10-945. The contract may continue an agreement entered into pursuant to 75-10-908. Payments made to the department under a contract must be credited against the fee payable under this section. The revenue derived from the filing fee must be sufficient to enable the department and the board to carry out their responsibilities under 75-10-901 through 75-10-945. The department may amend a contract to require additional payments for necessary expenses up to the limits set forth in subsection (1)(a) upon 30 days' notice to the applicant. The department and

applicant may enter into a contract that exceeds the scale provided in subsection (1)(a).

(b) If a contract is not entered into, the applicant shall pay the filing fee in installments in accordance with a schedule of installments developed by the department; however, an installment may not exceed 20% of the total filing fee provided for in subsection (1).

(3) The applicant is entitled to an accounting of money spent and to a refund with interest at the rate of 6% a year of the portion of the filing fee not spent by the department in carrying out its responsibilities under 75-10-901 through 75-10-945. A refund must be made after all administrative and judicial remedies have been exhausted by all parties to the certification proceedings.

(4) The revenue derived from the filing fees must be used by the department in compiling the information required for rendering a decision on a certificate and for carrying out other responsibilities of the department and the board under 75-10-901 through 75-10-945."

**Section 3.** Section 75-10-950, MCA, is amended to read:

"75-10-950. Definitions. As used in 75-10-950 through 75-10-954, the following definitions apply:

(1) "Applicant" means an individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private

entity that applies for a license to operate a megalandfill pursuant to 75-10-221.

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

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

(4) (A) "Megalandfill" means, EXCEPT AS PROVIDED IN SUBSECTION (4)(B), any new or existing solid waste management system licensed under 75-10-221 that accepts more than ~~200,000~~ ~~300,000~~ 200,000 tons of solid waste a year or an ash monofill that accepts more than 35,000 tons of ash a year.

(B) AN EXISTING SOLID WASTE LANDFILL FACILITY THAT ACCEPTED 100,000 TONS A YEAR OF SOLID WASTE AS OF DECEMBER 31, 1991, IS NOT CONSIDERED A MEGALANDFILL OR FACILITY UNTIL IT ACCEPTS MORE THAN 300,000 TONS A YEAR OF SOLID WASTE.

(5) "Natural resource" means ground water, surface water, soil, wildlife, and other physical and biological resources as determined by the department by rule."

-End-

## HOUSE BILL NO. 454

INTRODUCED BY VOGEL, FORRESTER, MILLS,

T. NELSON, STOVALL

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MEGALANDFILL SITING ACT; CHANGING--THE--DEFINITION--OF "MEGALANDFILL"--TO-MEAN-A-LANDFILL-THAT-RECEIVES-300,000-TONS OF--WASTE--A--YEAR; CLARIFYING THE DEFINITION OF "MEGALANDFILL"; AND AMENDING SECTIONS 75-10-902, 75-10-903, 75-10-921, AND 75-10-950, MCA."

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

~~Section 1.~~ Section 75-10-902, MCA, is amended to read:--

"75-10-902. Purpose. (1) It is the constitutionally declared policy of this state to maintain and improve a clean and healthful environment for present and future generations, to protect the environment from degradation and prevent unreasonable depletion and degradation of natural resources, and to provide for administration and enforcement to attain these objectives:

(2) The construction of solid waste facilities that dispose of over 200,000 ~~300,000~~ tons of waste a year (megalandfills) may be necessary to meet increasing state and national needs for solid waste disposal capacity. However, due to the volume of waste processed, megalandfills

may adversely affect the environment surrounding communities, and the welfare of the citizens of this state. Therefore, it is necessary to ensure that the location, construction, and operation of megalandfills will produce minimal adverse effects on the environment and upon the citizens of this state by providing that a megalandfill may not be constructed or operated within this state without a certificate of site acceptability pursuant to 75-10-916 and a license to operate acquired pursuant to 75-10-221 and 75-10-933."

**Section 1.** Section 75-10-903, MCA, is amended to read:

"75-10-903. Definitions. As used in 75-10-901 through 75-10-945, the following definitions apply:

(1) "Application" means an application for a certificate and license submitted in accordance with 75-10-916 through 75-10-930 and 75-10-933 through 75-10-935 and the rules adopted under 75-10-916 through 75-10-930 and 75-10-933 through 75-10-935.

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

(3) "Certificate" means the certificate of site acceptability issued by the board under 75-10-916 that is required for siting a megalandfill.

(4) "Commence to construct" means:

(a) any clearing of land, excavation, construction, or

1 other action that would affect the environment of the site,  
 2 except that the term does not mean changes for securing  
 3 geological data, including necessary borings to ascertain  
 4 subsurface conditions;

5 (b) the modification or upgrading of an existing solid  
 6 waste disposal facility into a megalandfill, except that the  
 7 term does not pertain to maintenance or repair of an  
 8 existing facility.

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

12 (6) "Dispose" or "disposal" means the discharge,  
 13 injection, deposit, dumping, spilling, leaking, or placing  
 14 of any solid waste into or onto the land so that the solid  
 15 waste or any constituent of it may enter the environment or  
 16 be emitted into the air or discharged into any water,  
 17 including ground waters.

18 (7) (A) "Megalandfill" or "facility" means, EXCEPT AS  
 19 PROVIDED IN SUBSECTION (7)(B), any new or existing solid  
 20 waste landfill facility that accepts more than ~~200,000~~  
 21 ~~300,000~~ 200,000 tons a year of solid waste or any ash  
 22 monofill that accepts 35,000 tons or more a year of solid  
 23 waste incinerator ash, either fly ash or bottom ash.

24 (B) AN EXISTING SOLID WASTE LANDFILL FACILITY THAT  
 25 ACCEPTED 100,000 TONS A YEAR OF SOLID WASTE AS OF DECEMBER

1 31, 1991, IS NOT CONSIDERED A MEGALANDFILL OR FACILITY UNTIL  
 2 IT ACCEPTS MORE THAN 300,000 TONS A YEAR OF SOLID WASTE.

3 (8) "Person" means an individual, firm, partnership,  
 4 company, association, corporation, city, town, local  
 5 governmental entity, or any other governmental or private  
 6 entity, whether organized for profit or not.

7 (9) (a) "Solid waste" means all putrescible and  
 8 nonputrescible wastes, including but not limited to garbage;  
 9 rubbish; refuse; ashes; sludge from sewage treatment plants,  
 10 water supply treatment plants, or air pollution control  
 11 facilities; construction and demolition wastes; dead  
 12 animals, including offal; discarded home and industrial  
 13 appliances; wood products or wood byproducts; and inert  
 14 materials.

15 (b) "Solid waste" does not mean municipal sewage,  
 16 industrial wastewater effluents, mining wastes regulated  
 17 under the mining and reclamation laws administered by the  
 18 department of state lands, slash and forest debris regulated  
 19 under laws administered by the department of state lands, or  
 20 marketable byproducts.

21 (10) "Solid waste landfill" means any publicly or  
 22 privately owned landfill or landfill unit that receives  
 23 household waste or other types of waste, including  
 24 commercial waste, nonhazardous sludge, and industrial solid  
 25 waste. The term does not include land application units,



1 surface impoundments, injection wells, or waste piles."

2 **Section 2.** Section 75-10-921, MCA, is amended to read:

3 "75-10-921. Filing fee -- accountability -- refund --  
4 use. (1) (a) The applicant shall pay to the department a  
5 filing fee as provided in this section based upon the  
6 department's estimated costs of processing the application  
7 for a certificate. The filing fee must be deposited in the  
8 solid waste management account for the use of the department  
9 in administering 75-10-901 through 75-10-945. The initial  
10 filing fee may not exceed the following scale based upon the  
11 megalandfill's projected annual tonnage of waste:

12 (i) a base fee of \$40,000; plus  
13 (ii) 20 cents per ton for every ton of waste over  
14 ~~200,000~~ 300,000 ~~200,000~~ tons FOR A NEW OR EXISTING  
15 MEGALANDFILL OR FACILITY NOT SUBJECT TO 75-10-903(7)(B); OR  
16 (III) 20 CENTS PER TON OF WASTE OVER 300,000 TONS FOR AN  
17 EXISTING MEGALANDFILL OR FACILITY PURSUANT TO  
18 75-10-903(7)(B).

19 (b) The department may allow a credit against the fee  
20 payable under this section for the applicant's costs of  
21 developing information or providing services required under  
22 75-10-901 through 75-10-945 or required for preparation of  
23 an environmental impact statement under the Montana  
24 Environmental Policy Act, Title 75, chapter 1, part 1, or  
25 the National Environmental Policy Act, 42 U.S.C. 4321, et

1 seq. The applicant may submit the information or a  
2 description of the services performed to the department,  
3 together with an accounting of the expenses incurred in  
4 preparing the information or performing the services. The  
5 department shall evaluate the applicability, validity, and  
6 usefulness of the data or services and determine the  
7 expenses that may be credited against the filing fee payable  
8 under this section. Upon 30 days' notice to the applicant,  
9 this credit may at any time be reduced if the department  
10 determines that the amount to be credited is necessary to  
11 carry out its responsibilities under 75-10-901 through  
12 75-10-945.

13 (2) (a) The department may contract with an applicant  
14 after the filing of a formal application for the development  
15 of information or the provision of services required under  
16 75-10-901 through 75-10-945. The contract may continue an  
17 agreement entered into pursuant to 75-10-908. Payments made  
18 to the department under a contract must be credited against  
19 the fee payable under this section. The revenue derived from  
20 the filing fee must be sufficient to enable the department  
21 and the board to carry out their responsibilities under  
22 75-10-901 through 75-10-945. The department may amend a  
23 contract to require additional payments for necessary  
24 expenses up to the limits set forth in subsection (1)(a)  
25 upon 30 days' notice to the applicant. The department and

applicant may enter into a contract that exceeds the scale provided in subsection (1)(a).

(b) If a contract is not entered into, the applicant shall pay the filing fee in installments in accordance with a schedule of installments developed by the department; however, an installment may not exceed 20% of the total filing fee provided for in subsection (1).

(3) The applicant is entitled to an accounting of money spent and to a refund with interest at the rate of 6% a year of the portion of the filing fee not spent by the department in carrying out its responsibilities under 75-10-901 through 75-10-945. A refund must be made after all administrative and judicial remedies have been exhausted by all parties to the certification proceedings.

(4) The revenue derived from the filing fees must be used by the department in compiling the information required for rendering a decision on a certificate and for carrying out other responsibilities of the department and the board under 75-10-901 through 75-10-945."

**Section 3. Section 75-10-950, MCA, is amended to read:**

"75-10-950. Definitions. As used in 75-10-950 through 75-10-954, the following definitions apply:

(1) "Applicant" means an individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private

entity that applies for a license to operate a megalandfill pursuant to 75-10-221.

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

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

(4) (A) "Megalandfill" means, EXCEPT AS PROVIDED IN SUBSECTION (4)(B), any new or existing solid waste management system licensed under 75-10-221 that accepts more than ~~200,000~~ ~~300,000~~ 200,000 tons of solid waste a year or an ash monofill that accepts more than 35,000 tons of ash a year.

(B) AN EXISTING SOLID WASTE LANDFILL FACILITY THAT ACCEPTED 100,000 TONS A YEAR OF SOLID WASTE AS OF DECEMBER 31, 1991, IS NOT CONSIDERED A MEGALANDFILL OR FACILITY UNTIL IT ACCEPTS MORE THAN 300,000 TONS A YEAR OF SOLID WASTE.

(5) "Natural resource" means ground water, surface water, soil, wildlife, and other physical and biological resources as determined by the department by rule."

-End-