

House BILL NO. 374

Raney

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE DEFINITION OF "INTERESTED PERSON" AS APPLIED TO THE STATE'S WATER QUALITY NONDEGRADATION POLICY; AND AMENDING SECTION 75-5-103, MCA."

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

Section 1. Section 75-5-103, MCA, is amended to read:

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

- (1) "Board" means the board of environmental review provided for in 2-15-3502.
(2) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.
(3) "Council" means the water pollution control advisory council provided for in 2-15-2107.
(4) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c).
(5) "Department" means the department of environmental quality provided for in 2-15-3501.
(6) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewage systems and treatment works.
(7) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, and other constituents that are discharged into state waters.
(8) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether or not those uses are included in the water quality standards.
(9) "High-quality waters" means all state waters, 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:

- 1 (i) are not capable of supporting any one of the designated uses for their classification; or
2 (ii) have zero flow or surface expression for more than 270 days during most years.

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

5 (11) "Interested person" means a person who has a real property interest, a water right, or an
6 economic interest that is or may be directly and adversely affected by, or a person who has submitted oral
7 or written comments on, the department's preliminary decision regarding degradation of state waters,
8 pursuant to 75-5-303. The term includes a person who has requested authorization to degrade high-quality
9 waters.

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

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

15 (14) "Mixing zone" means an area established in a permit or final decision on nondegradation issued
16 by the department where water quality standards may be exceeded, subject to conditions that are imposed
17 by the department and that are consistent with the rules adopted by the board.

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

22 (16) "Outstanding resource waters" means:

23 (a) state surface waters located wholly within the boundaries of areas designated as national parks
24 or national wilderness areas as of October 1, 1995; or

25 (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316
26 and approved by the legislature.

27 (17) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a
28 point source.

29 (18) "Parameter" means a physical, biological, or chemical property of state water when a value
30 of that property affects the quality of the state water.

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

3 (20) "Point source" means a discernible, confined, and discrete conveyance, including but not
4 limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel
5 or other floating craft, from which pollutants are or may be discharged.

6 (21) (a) "Pollution" means:

7 (i) contamination or other alteration of the physical, chemical, or biological properties of state
8 waters that exceeds that permitted by Montana water quality standards, including but not limited to
9 standards relating to change in temperature, taste, color, turbidity, or odor; or

10 (ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or
11 other substance into state water that will or is likely to create a nuisance or render the waters harmful,
12 detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals,
13 birds, fish, or other wildlife.

14 (b) A discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution
15 discharge permit rules of the board is not pollution under this chapter. Activities conducted under the
16 conditions imposed by the department in short-term authorizations pursuant to 75-5-308 are not considered
17 pollution under this chapter.

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

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

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

27 (25) (a) "State waters" means a body of water, irrigation system, or drainage system, either
28 surface or underground.

29 (b) The term does not apply to:

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

1 (ii) irrigation waters or land application disposal waters when the waters are used up within the
2 irrigation or land application disposal system and the waters are not returned to state waters.

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

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

11 (28) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted,
12 or otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of
13 ground water."

14 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0374, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act expanding the definition of "interested person" as applied to the state's water quality nondegradation policy.

ASSUMPTIONS:

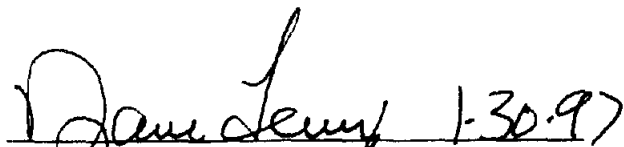
1. Most comments submitted by interested persons on nondegradation decisions have been made by persons meeting the existing definition of interested person.
2. The expanded definition of interested person under HB 374 will not initially significantly change the number of appeals of nondegradation decisions received by the Department of Environmental Quality (DEQ).

FISCAL IMPACT:

No net fiscal impact to DEQ would result.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The broader definition of interested person may in the long term increase the number of appeals the DEQ receives under the nondegradation appeals procedures. This increase is not quantifiable at this time.


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

HAL HARPER, PRIMARY SPONSOR DATE
Fiscal Note for HB0374, as introduced

HB 374