

MINUTES OF THE MEETING  
SENATE NATURAL RESOURCES COMMITTEE  
MONTANA STATE SENATE  
March 27, 1985

The twenty-sixth meeting of the Senate Natural Resources Committee was called to order by Chairman Dorothy Eck, March 27, 1985, Room 405, State Capitol Building.

ROLL CALL: All members of the Senate Natural Resources Committee were present.

FURTHER CONSIDERATION OF HB711: Written testimony was submitted from Joe Felsman, Chairman of the Tribal Council (Exhibit 1), and Jerome Guevremont from Rangeley, Main (Exhibit 2), in favor of HB711.

Senator Harding moved the proposed amendments to the Statement of Intent submitted by Representative Cohen BE ADOPTED. Senator Christiaens questioned why amendment 2(d) was proposed and thought this amendment was counter productive to HB711. Representative Cohen stated the phosphate amounts contained in these products are not significant enough to make a difference, and added there is not a phosphorus-free dishwashing detergent manufactured. Representative Cohen also stated the purpose of the Statement of Intent is to set up guidelines for the Department of Health and Environmental Sciences; however, the current Statement of Intent might be too constraining. Senator Halligan feels by only putting the ban on the detergent industry, they would be focusing on only one part of the industry. Representative Cohen informed the committee other states which have a ban on phosphates do allow for a trace level of phosphates provided by dishwashing detergents.

Upon question from Senator Halligan, Mr. Steve Pilcher, chief of the Water Quality Bureau, stated he was satisfied with the Statement of Intent and the proposed amendments.

Senator Gage is concerned about the effect of phosphate-free detergents on equipment. Mr. A. G. Payne, Proctor and Gamble Company, stated phosphates would be replaced by sodium carbonate to protect equipment. Senator Harding stated she has used a phosphate-free detergent for ten years and has not suffered any damage to equipment. Senator Daniels commented he would rather ruin a washing machine than ruin Flathead Lake.

Senator Harding's motion to adopt the proposed amendments to the Statement of Intent carried, with Senators Christiaens

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and Halligan voting in opposition. Senator Harding then moved the Statement of Intent to HB711 BE CONCURRED IN. The motion carried with Senators Christiaens and Halligan voting in opposition.

Mr. Bob Thompson, staff researcher, submitted a proposed amendment changing the effective date from "January 1" to "July 1" (Exhibit 4). Senator Harding moved the proposed amendment BE ADOPTED.

Senator Fuller questioned Mr. Pilcher whether his agency could work within the allotted time frame. Mr. Pilcher stated his agency would require 60 to 90 days to adopt a rule for review by local governments. Upon the same question from Senator Fuller, Mr. Bill Bennett, Columbial Chemical Company, explained it would take his company 3 to 4 months to present a phosphate-free product and at least one year before this product would be ready for the market. Mr. Bennett also asked the Department of Health and Environmental Sciences to provide direction to his company in manufacturing this product.

Mr. Tom Joeler, Columbia Chemical Company, stated his company would need a final figure from the Department of Health and Environmental Sciences as to what the allowable level of phosphates would be.

Senator Halligan made a substitute motion the committee reconsider its previous action in adopting the Statement of Intent. The motion carried with Senators Daniels, Weeding and Harding voting in opposition.

Senator Mohar stated Columbia Chemical would be better off if it accepted the previous Statement of Intent with some amendment. If the adopted amendment is used, they will be subject to having to change the phosphorus content of not only laundry detergents, but also dishwashing detergent and conditioners. Mr. Joeler stated his company had already decided which products to change. His company needs to know definitively what phosphorus contents will be required.

Senator Halligan suggested going back to the original Statement of Intent and moving the effective date to July 1987. Senator Daniels reminded the committee the purpose of the Statement of Intent is to give rule-making authority to the state agency.

Representative Cohen stated when he requested the Statement of Intent, he was more concerned with subsections (c) and (e) of the proposed amendments to the Statement of Intent.

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Senator Shaw moved HB711 BE NOT CONCURRED IN. The motion failed with only Senators Shaw and Gage voting in favor of the motion.

Senator Halligan moved the Statement of Intent BE ADOPTED. Senator Mohar made a substitute motion that subsections (c) and (e) be added to the Statement of Intent. Senator Mohar's motion passed with Senators Halligan and Christiaens voting in opposition.

Senator Mohar feels the same standards should be set by all counties regarding the phosphorus level. Senator Mohar moved page 3, line 11, following "standards" stike "no less stringent than the standards of" and insert "designated by." The motion carried. Senator Mohar moved the Statement of Intent BE CONCURRED IN AS AMENDED. The motion carried.

Senator Harding moved HB711 BE CONCURRED IN AS AMENDED. Senator Mohar made a substitute motion the committee adopt the proposed amendment regarding the effective date (Exhibit 4). The motion carried with Senator Shaw voting in opposition.

Senator Halligan moved changing the language on page 4, lines 9 and 10 to be consistent with the Statement of Intent. The motion carried.

Senator Harding moved HB711 BE CONCURRED IN AS AMENDED.

Senator Shaw stated he feels this law is compulsory and will oppose HB711.

Senator Tveit feels the law may be ineffective, since it bans the sale of detergents containing phosphates, but does not provide a penalty for using such detergents. Senator Daniels disagreed stating the law would at least bring the problem to the public's attention. Any reduction in the use of phosphates will be helpful.

Chairman Eck reminded the committee the ban on phosphates is only one part of a three-pronged attack.

Senator Fuller submitted four alternatives which would restrict the scope of the legislation to only those counties surrounding Flathead Lake (Exhibit 5). Representative Cohen stated any one of these four proposed amendments would result in support of HB711 by Mr. Jim Hodge, owner of Columbia Chemical Company.

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Senator Fuller questioned what the difference is between "natural lake" and "surface waters." Mr. Thompson explained "surface waters" refers to streams, rivers and lakes. "Natural lake" refers to lakes.

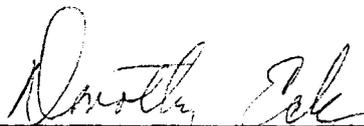
Senator Fuller made a substitute motion the committee adopt option C of Exhibit 5, with added language "or county government body." The motion carried with Senators Tveit and Shaw voting in opposition.

Senator Gage moved HB711 be amended on page 3, lines 20-21, by striking the language "or other standards more stringent than those in the model rule." The motion carried.

Senator Harding stated the areas surrounding Flathead Lake have been working with the Water Quality Bureau to solve the problem but have been unable to do so. HB711 will give the counties the ability to start resolving the problem of phosphates contaminating Flathead Lake.

Senator Harding's original motion that HB711 BE CONCURRED IN AS AMENDED carried with Senators Gage, Tveit and Shaw voting in opposition.

There being no further business to come before the committee, the meeting was adjourned.

  
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Senator Dorothy Eck, Chairman

ROLL CALL

Natural Resources COMMITTEE

48th LEGISLATIVE SESSION -- 1985

Date 12.27.85

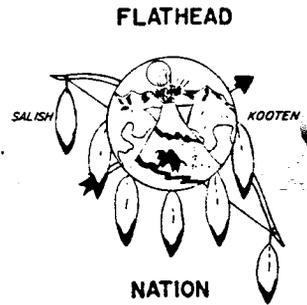
SENATE  
SEAT  
#

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (Chairman)	✓		
HALLIGAN, Mike (Vice Chairman)	✓		
WHEELING, Cecil	✓		
MOHAR, John	✓		
DANIELS, M. K.	✓		
FULLER, David	✓		
CHRISTIAENS, Chris	✓		
TVEIT, Larry	✓		
GAGE, Delwyn	✓		
ANDERSON, John	✓		
SHAW, James	✓		
HARDING, Ethel	✓		

Each day attach to minutes.



**THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD RESERVATION**



Fred Houle, Jr. - Executive Secretary  
Vern L. Clairmont - Executive Treasurer  
George Hewankorn - Sergeant-at-Arms

Box 278  
Pablo, Montana 59855  
(406)675-4600

TRIBAL COUNCIL MEMBERS:  
Joseph 'Joe Dog' Felsman - Chairman  
James H. Steele - Vice-Chairman  
Victor L. Stinger - Tribal Secretary  
Robert L. McCrea - Tribal Treasurer

Al Hewankorn  
S. Kevin Howlett  
E.W. Morigeau  
Sonny Morigeau  
Michael 'Mickey' Pablo  
Ron Therriault

March 22, 1985

The Confederated Salish & Kootenai Tribes recognized the need to protect, maintain and improve the quality and potability of all waters within the boundaries of the Flathead Reservation and its aboriginal territories, with the passage of Tribal Resolution No. 84-196, requesting the Montana Department of Health and Environmental Sciences to establish more stringent phosphorus discharge limitations. HB711, which will enable counties to disallow the sale of phosphate detergents, is a beginning in limiting phosphate discharge where and if the people in the communities desire.

Phosphate discharge into our lakes and streams is one of the major contaminants that promote algae growth. Phosphate discharge into lakes and streams derives from two sources, point and non-point sources. Point source pollution must be controlled in order to allow the lakes and streams to absorb non-point source pollution.

Phosphate plays a major part in the degradation of the water quality of Flathead Lake. Opponents of the phosphate ban claim their products are responsible for only 5% of the phosphorus going into Montana lakes and streams - that the amount is so minimal as to no impact water quality. In actuality 10% is a more realistic figure according to the statistics from the University of Montana Biological Station. Control of phosphate at any rate is necessary if communities wish to extend the longevity of water quality in the state.

Townships and enterprises in the Flathead Valley thrive and are dependent on the continuous purity of the Flathead basin water. If it is within our power to save or improve water quality by limiting phosphate, we believe this should be done. Therefore the Confederated Salish & Kootenai Tribes endorse HB711, which will allow the people most effected to determine the destiny of our waters.

Sincerely,

CONFEDERATED SALISH & KOOTENAI TRIBES

*Joe Felsman*  
Joe Felsman  
Chairman, Tribal Council

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. \_\_\_\_\_

DATE 032785

BILL NO. HB711

Office of:  
Selectmen  
Assessor  
Town Manager

Telephone 864-3326

Office of:  
Tax Collector  
Town Treasurer

**Town Office**  
Rangeley, Maine 04970  
March 21, 1985

Mr. Ben Cohen  
RD-3  
Box-19  
Capitol Station  
Helena, Montana 59620

Dear Mr. Cohen:

I was recently contacted by Detsy Spettigue concerning the local ban on high phosphate soaps and detergents enacted here in Rangeley in 1971. I have included the original article, and the way the vote was worded, also included is the basic work sheet on detergents that we used in 1971.

Later in 1975 when the town started to upgrade its secondary treatment facility, we found out the value of the ban. The amounts of total phosphorous entering the sewage plant was no less than half of what is normally expected. The end result is that the pond that the treatment plant discharges into has gone from an algae laden fresh water pond to a State of Maine Class A (fit for drinking) Pond. The tertiary chemical precipitation upgrade made in 1975-1976 has been able with only one filter unit to control the average daily inflow of phosphorous and reduce it to less than the state discharge licence requirement of 0.5 mg/l of P.

As you can see the ban is very simple, but enough for a small rural town in the mountains of western Maine.

If I can be of further assistance, contact me at any time.

Sincerely,

*Jerome Guevremont*  
Jerome Guevremont, Supv.

A.P.O.F.  
207-864-5567

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 2

DATE 032785

48711

HB 711  
Rep. Cohen  
Amendments to Statement of Intent  
Third Reading Copy

1. Statement of Intent  
Page 1, line 10.  
Following: "rule"  
Insert: a: "(a)"
  
2. Statement of Intent  
Page 1, line 12.  
Following: "waters"  
Insert: "; (b) may limit allowable phosphorus concentrations in household cleaning products to trace levels;  
(c) may not include standards that would adversely affect public health through the restriction of any cleaning agent necessary for food and beverage processing or for health care services or facilities;  
(d) may not include standards that would decrease the effectiveness of automatic dishwashing detergents or chemical water conditioners; and  
(e) may not include standards that would restrict the use of detergents or other phosphorus compounds necessary for agricultural operations or industrial processes"
  
3. Statement of Intent  
Page 1, line 13, through page 3, line 9.  
Strike: page 1, line 13, through page 3, line 9, in its entirety.

SENATE NATURAL RESOURCES COMMITTEE  
EXHIBIT NO. 3  
DATE 032785  
BILL NO. HB711

Proposed Amendments to HB 711  
Page 2 of 2  
Representative Ben Cohen  
March 27, 1985

4. Page 5, line 5.  
Strike: "January 1"  
Insert: "July 1"

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 4

DATE 032785

Amendment to House Bill 711

Page 4.

Following: line 7

Insert: (four options)

A. "(2) An ordinance prohibiting the sale and distribution of certain phosphorus compounds used for cleaning purposes may only be adopted if the county has a natural lake, whether or not the lake is fitted with a dam, for which the county governing body has determined that eutrophication enhanced by human activity is occurring and that phosphorus is the limiting nutrient."

B. "(2) An ordinance prohibiting the sale and distribution of certain phosphorus compounds used for cleaning purposes may only be adopted if the county has surface waters for which the county governing body has determined that eutrophication enhanced by human activity is occurring and that phosphorus is the limiting nutrient."

C. "(2) An ordinance prohibiting the sale and distribution of certain phosphorus compounds used for cleaning purposes may only be adopted if the county has a natural lake, whether or not the lake is fitted with a dam, for which the department of health and environmental sciences has determined that eutrophication enhanced by human activity is occurring and that phosphorus is the limiting nutrient."

D. "(2) An ordinance prohibiting the sale and distribution of certain phosphorus compounds used for cleaning purposes may only be adopted if the county has surface waters for which the department of health and environmental sciences has determined that eutrophication enhanced by human activity is occurring and that phosphorus is the limiting nutrient."

*Remember: subsequent subsections.*

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 5

DATE 032785

FILE NO. 43711

# STANDING COMMITTEE REPORT

MARCH 28..... 19 85.....

MR. PRESIDENT

We, your committee on..... **NATURAL RESOURCES**.....

having had under consideration..... **HOUSE BILL**..... No. **711**.....

THIRD reading copy (BLUE)  
(**HARDING**) color

## **ALLOWING COUNTIES TO ADOPT DHES MODEL RULE BANSING DETERGENT PROSPHATES**

Respectfully report as follows: That..... **HOUSE BILL**..... No. **711**.....

be amended as follows:

1. Statement of Intent.

Page 3, lines 11 and 12.

Following: "standards" on line 11

Strike: "no less stringent than the standards of"

Insert: "designated by"

2. Statement of Intent.

Page 3.

Following: line 17

Insert: "(3) It is the intent of the legislature that standards in the model rule may not include standards that would adversely affect public health through the restriction of any cleaning agent necessary for food and beverage processing or for health care services or facilities and, may not include standards that would restrict the use of detergents or other phosphorus compounds necessary for agricultural operations or industrial processes."

3. Page 3, lines 20 and 21.

Following: "rule"

Strike: remainder of line 20 through "rule" on line 21

(continued)

~~XXXXXXXXXX~~

~~XXXXXXXXXX~~

.....  
**SENATOR DOROTHY ECK**

.....  
Chairman.

4. Page 4, line 8.

Following: line 7

Insert: "(2) An ordinance prohibiting the sale and distribution of certain phosphorus compounds used for cleaning purposes may only be adopted if the county has a natural lake, whether or not the lake is fitted with a dam, for which the department of health and environmental sciences or the governing body of the county has determined that eutrophication enhanced by human activity is occurring and that phosphorus is the limiting factor."

Reumber: subsequent subsections

5. Page 4, lines 9 and 10.

Following: "standards"

Strike: "no less stringent than the standards in"

Insert: "designated by"

6. Page 5, line 5.

Strike: "January 1"

Insert: "July 1"

END, AS AMENDED  
BE CONCURRED IN

(STATEMENT OF INTENT AMENDED)