

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN DICK KNOX, on March 8, 1993, at
3:00 p.m.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Rolph Tunby, Vice Chairman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Russ Fagg (R)
Rep. Gary Feland (R)
Rep. Mike Foster (R)
Rep. Bob Gilbert (R)
Rep. Hal Harper (D)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Dore Schwinden (D)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Howard Toole (D)
Rep. Doug Wagner (R)

Members Excused: Rep. Toole

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Michael Kakuk, Environmental Quality Council
Roberta Opel, Committee Secretary

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

Committee Business Summary:

Hearing: SB 319, SB 296 and SB 339
Executive Action: SB 319, SB 225, SB 275 and SB 214

HEARING ON SB 319

Opening Statement by Sponsor:

SEN. BOB HOCKETT, SD 7, Havre, said SB 319 would exempt container sites from the solid waste management system definition. These sites are checked by local sanitarians, he said. Any objections

the Department of Health and Environmental Sciences (DHES) had with the bill were previously addressed. SB 319 passed the Senate without objections.

Proponents' Testimony:

Jim Jensen and Brian McNitt, Montana Environmental Information Center (MEIC), said SB 319 was a good housekeeping bill that would regulate litter at the local level.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. SWANSON asked what comprises the savings noted in the fiscal note. REP. HOCKETT said the tonnage fee is currently paid. Collection stations will remain in the fee structure.

REP. WAGNER suggested to Roger Thorvilson, DHES, that the load deficit would have to be examined carefully.

Closing by Sponsor:

REP. HOCKETT said REP. BOB BACHINI, HD 14, Havre, would carry the bill.

HEARING ON SB 296

Opening Statement by Sponsor:

SEN. LORENTS GROSFIELD, SD 41, Big Timber, distributed the adopted Montana Water Plan. EXHIBIT 1 As stated in SB 296, well drillers are required to notify the Department of Natural Resources and Conservation (DNRC). Surface and ground water issues were divided by the water plan to allow for water options.

Proponents' Testimony:

Gary Fritz, Administrator, Water Resources Division, Department of Natural Resources and Conservation (DNRC), stated SB 296 is a product of the state water planning process and not the result of bureaucratic work. EXHIBIT 2

George Ochenski, member of the ground water steering committee, said it was preferable for the water policy plan to assess drilling fees.

Vivian Drake, Lewis and Clark County, noted that well contamination may occur if ground water is contaminated. The inspection program will promote good drilling practices.

Opponents' Testimony:

Wes Lindsay, member state Water Well Board, testified SB 296 did not accomplish anything. Driller notification for those who don't live up to required standards is presently part of state law. Field office workers are not qualified to be water drillers. He also said additional notification will not stop water witching. EXHIBIT 3

Jacqueline Lenmark, Montana Water Well Drillers Association, said the association strongly opposes SB 296 as unconstitutional. The board should administer this type of legislation. Notification on a rotational basis could be a hardship to drillers. The Statement of Intent, as well as the fiscal note, is inconsistent. The bill further provides fruitful grounds for litigation.

Terry Lindsay, Montana Water Well Drillers Association, told the committee that the average water driller in Montana has about 20 years of experience. The bill does not address the 280 drilling licenses issued each year.

Pat Byrne, Pat Byrne Drilling, Great Falls, strongly opposed SB 296 and reminded the committee that monitoring standards for drilling were set in 1987 and 1989.

Tom McKann, Montana Technical Counsel, said the bill was an example of over-regulation and noted that additional costs would be borne by the consumer. The bill should focus on protecting aquifer contamination.

Bob Marks, testifying on his own behalf, stated he was a former member of the Water Policy Committee. He suggested that SEN. GROSFIELD is over reacting to a situation that is not necessarily a problem. As the bill is presently written, one or two people will have to be hired to monitor wells.

Questions From Committee Members and Responses:

REP. FAGG asked Mr. Lindsay if the DNRC conducted initial well inspections. Mr. Lindsay replied, yes.

REP. FAGG asked Mr. Lindsay if the DNRC had difficulty locating sites of well drilling. Mr. Lindsay said there wasn't a problem finding the wells.

REP. FAGG asked Mr. Fritz to highlight inspector qualifications. Mr. Fritz said that approximately 1,329 hours are spent in the field on behalf of the Board of Well Contractors checking well casings.

REP. BROOKE asked SEN. GROSFIELD if SB 296 passed effortlessly out of the Senate Natural Resources Committee. SEN. GROSFIELD said the committee did not resist the amendments and noted there was flexibility within the bill.

REP. RANEY asked Mr. Ochenski if there was a policy change targeted. Mr. Ochenski said the focus of the bill is on water quality and quantity issues including superfund sites.

Mr. Fritz said SB 296 would allow the DNRC to do their job more effectively.

REP. GROSFIELD said if a violation is reported to the regional office, a DNRC employee is dispatched for inspection. The emphasis is on alleged, not known, violations.

REP. SWANSON said she did not understand the resistance to the bill.

SEN. GROSFIELD agreed that the resistance is perplexing.

REP. SWANSON reminded Mr. Lindsay that SB 296 was designed to help well drillers. Mr. Lindsay responded that DNRC employees are not qualified or licensed well drillers.

REP. GILBERT asked SEN. GROSFIELD why those affected by the legislation had not been contacted. SEN. GROSFIELD said the draft was run by the Board of Well Drillers, therefore, they made contacts important to them.

REP. GILBERT asked Mr. Fritz how many construction complaints were received. Mr. Fritz said there were 23 written violations.

REP. GILBERT asked how many alleged violations proved to be actual. Mr. Lindsay replied that only one violation was actual.

Closing by Sponsor:

SEN. GROSFIELD reminded the committee that there aren't many well driller compliance problems.

HEARING ON SB 339

Opening Statement by Sponsor:

SEN. CECIL WEEDING, SD 14, Jordan, said there is a massive waste movement toward the Baker area and SB 339 offers an optional referendum process to local citizenry for a hazardous waste dumpsite or a mega-landfill. The most recent draft of SB 339 was geared for the Department of Health and has provisions for multi-county impact.

Proponents' Testimony:

Louis Jensen, Northern Plains Resource Council, NPRC, submitted proponent testimony. EXHIBIT 4

Wade Sikorsky, editor, O'Fallon Fact Finder, said there are more opponents to Ross Electric than proponents. EXHIBITS 5 and 5a

Phil White Hawk, President of the Last of the Best Coalition, testified the Coalition is concerned with dioxin levels in hazardous waste and the effect of these levels on the food chain. EXHIBIT 6

Ruth Chandler, Custer Resource Alliance, testified as a proponent to SB 339.

Rachel Sirs, Miles City, supports SB 339.

Brady Wiseman, Montanan's Against Toxic Burning, said the bill gives the public a voice.

Dave Ross, Montana Audubon Council, submitted proponent testimony. EXHIBIT 7

Opponents' Testimony:

Don Peoples, Montana Technology Companies, Inc., said the bill may inadvertently affect research and development. He proposed amendments to clarify terminology. EXHIBIT 8

Tom Daubert, Ashgrove Cement Company, said he wanted to emphasize that all comments made regarding health impacts are related to incinerators and health tanks. Both cement plants in Montana are smaller than the out-of-state plants they compete against. The only facility that could import hazardous waste would be a larger facility. Montana has the strongest permitting regulations in the country. Mr. Daubert urged the committee to table or oppose SB 339.

Jerome Anderson, on behalf of Holnam, Inc., said SB 339 removes the permitting process and places too much emphasis on politics.

William Lawrence, Sure-Way, said the bill's viewpoints on the permitting process is worrisome.

Questions From Committee Members and Responses:

REP. HARPER said everyone is aware of the mistrust of government. How is it possible, then, he asked, to tell people to rest assured.

REP. FELAND asked Mr. Daubert if there was a plan to build a landfill incinerator in Montana. Mr. Daubert said, yes, there is a plan for an incinerator to be built in a remote area of Montana.

REP. TOOLE stated questions should be directed to the Health Department. SEN. WEEDING said the Health Department will become involved after completion of the environmental review.

REP. RANEY asked Mr. White Hawk if there is scientific data available to those interested in the effects of dioxin. Mr. White Hawk said, yes. The Chemical Injury Information Network in White Sulphur Springs could provide this information.

REP. TUNBY asked John Dilliard, Chief, Solid Waste Management Program, Department of Health and Environmental Sciences, if there was a chance for litigation within SB 339. Mr. Dilliard replied there is always a chance for litigation.

REP. SWANSON asked how much time will be required for public notice. Mr. Dilliard said the county would have to receive notification of opposition. The bill provides for notification at the end of the environmental review process.

Closing by Sponsor:

SEN. WEEDING said the local referendum process is democratic. Montana does have an interstate compact for disposing of waste. The referendum will allow Baker area residents the chance to cast their vote in private.

EXECUTIVE ACTION ON SB 319

Motion: REP. GILBERT MOVED SB 319 BE CONCURRED IN.

Discussion: Roger Thorvilson, DHES, said there will be a shift from one governmental body to another and from the state to the local level. He added that the fiscal note was written before the bill was drafted.

REP. BROOKE said Section 2, page 4 of the bill has been eliminated. The original bill obligates DHES to license container sites.

REP. TOOLE said if green boxes are exempt, what regulation structure will be left. Mr. Dilliard said the county could enforce any law.

REP. GILBERT asked Mr. Dilliard if he has ever seen anyone dig holes around green boxes? Mr. Dilliard replied no, he had not.

Vote: Executive Action on HB 319 is to be continued 3-10-93.

EXECUTIVE ACTION ON SB 275

Motion: MOTION BY REP. BROOKE THAT SB 275 BE CONCURRED IN.

Discussion: Amendments prepared by Doug Sternberg, Council Staff, were presented. EXHIBIT 9

REP. TUNBY offered support for the amendments.

REP. BROOKE moved to segregate amendments 1, 3 and 4 from amendments 2 and 5 of the bill.

Motion/Vote: Motion to adopt Numbers 1, 3 and 4 of the amendments. Motion carried unanimously.

REP. GILBERT stated the amendment was designed to direct monies back to the general fund.

Motion/Vote: REP. BROOKE moved to adopt amendments 2 and 5 of the bill. Motion carried unanimously.

Motion/Vote: MOTION THAT SB 275 BE CONCURRED IN AS AMENDED. Motion carried with one opposing vote.

EXECUTIVE ACTION ON 214

Motion: MOTION BY REP. GILBERT THAT SB 214 BE CONCURRED IN AS AMENDED. EXHIBIT 10

Discussion: REP. TUNBY stated he understood REP. GILBERT'S concern, as the bill, without the amendment, extends the authority of the state too far.

REP. STOVALL asked what would be the consequence for defacing one's own cave. REP. GILBERT responded that you could write yourself a permission slip.

REP. STOVALL asked if it was possible to close access to a cave on your own property.

REP. RANEY suggested a new section to replace subsections 3 and 4 of the bill.

REP. HARPER requested Michael Kakuk, EQC legal counsel, draft a new amendment to replace sections 3 and 4 which will allow modification to cave opening terminology. EXHIBIT 11

Motion: REP. FAGG moved to adopt amendments to SB 214. EXHIBIT 12

Mr. Kakuk explained that the amendments would change codification within the bill.

REP. RANEY commented that a fine is insufficient penalty for defacing a cave.

REP. TOOLE said that the fine is not too high.

Vote: TO ADOPT REP. FAGG'S AMENDMENTS TO SB 214. Motion carried unanimously.

Vote: Executive Action on SB 214 to be continued 3-10-93.

EXECUTIVE ACTION ON SB 225

Motion: REP. SWANSON MOVED THAT SB 225 BE CONCURRED IN.

Motion: REP. GILBERT moved amendments to SB 225. EXHIBIT 13

Discussion: He said the fiscal note is not a practical solution to an energy related bill. Section 4 will be struck if this amendment is adopted, he said.

REP. RANEY said he objected to the motion that SB 225 Be Concurred In as amended. He stated that a reference guide explaining the purpose of SB 225 should be presented.

REP. TUNBY said he will oppose the amendments.

REP. ORR said he will support the amendments.

REP. BROOKE said she will oppose the amendments since they are optional.

REP. WAGNER said the amendments do not address the trial basis.

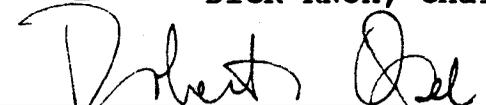
Vote: SB 225 BE CONCURRED IN. Motion carried 13 to 3 with REPS. ORR, FELAND AND WAGNER opposing the bill.

ADJOURNMENT

Adjournment: 7:05 p.m.



DICK KNOX, Chairman



ROBERTA OPEL, Secretary

DK/ro

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE 3-8-93

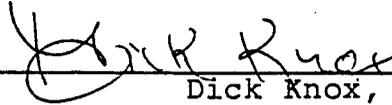
NAME	PRESENT	ABSENT	EXCUSED
REP. DICK KNOX, CHAIRMAN	✓		
REP. ROLPH TUNBY, VICE CHAIRMAN	✓		
REP. JODY BIRD	✓		
REP. VIVIAN BROOKE	✓		
REP. RUSS FAGG	✓		
REP. GARY FELAND	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. HAL HARPER	✓		
REP. SCOTT ORR	✓		
REP. BOB RANEY	✓		
REP. DORE SCHWINDEN	✓		
REP. JAY STOVALL	✓		
REP. EMILY SWANSON	✓		
REP. HOWARD TOOLE			✓
REP. DOUG WAGNER	✓		

HOUSE STANDING COMMITTEE REPORT

March 11, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 214 (third reading copy -- blue) be concurred in as amended .

Signed: 
Dick Knox, Chair

And, that such amendments read:

Carried by: Rep. Gilbert

1. Title, line 14.
Following: second ";"
Insert: "AND"

2. Title, line 15.
Following: "MCA"
Strike: ";" through "DATE"

3. Page 2, lines 12 and 15.
Following: "through"
Insert: "7 and"

4. Page 2, line 21.
Following: "any"
Insert: "natural"
Following: "structure"
Insert: "that is"

5. Page 2, line 23.
Following: "shelter"
Insert: "and that communicates with a subterranean passage or drainage system"

6. Page 4, line 1.
Following: "unlawful."
Strike: "A"
Insert: "(1) Except as provided in subsection (2), a"
Renumber subsequent subsections

7. Page 4, lines 2 and 3.
Following: "knowingly" on line 2
Strike: ", without" through "owner" on line 3

Committee Vote:
Yes 16, No .

550956SC.Hss

Handwritten note:
3-11-93
11:05

8. Page 4, line 4.

Strike: "(1)"

Insert: "(a)"

9. Page 4, line 9.

Strike: "(2)"

Insert: "(b)"

10. Page 4, line 12.

Strike: "(3)"

Insert: "(c)"

11. Page 4, line 13.

Following: "through"

Insert: "7 and"

12. Page 4, line 15.

Strike: "(4)"

Insert: "(d)"

13. Page 4.

Following: line 16

Insert: "(2) The provisions of subsection (1) do not apply to a cave owner or the owner's authorized agent, officer, employee, or designated representative who undertakes work to improve or control physical access to the cave."

14. Page 6, line 24.

Strike: "8"

Insert: "7"

15. Page 7.

Following: line 2

Insert:

"NEW SECTION. Section 10. Codification instruction. [Sections 1 through 7 and 9] are intended to be codified as an integral part of Title 23, chapter 2, and the provisions of Title 23, chapter 2, apply to [sections 1 through 7 and 9]."

16. Page 7, lines 3 and 4.

Strike: Section 10 in its entirety

JS
3-11-93
11:05

HOUSE STANDING COMMITTEE REPORT

March 11, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 319 (third reading copy -- blue) be concurred in .

Signed: _____

Dick Knox

Dick Knox, Chair

Carried by: Rep. Bachini

JD
3-11-93
11:05

Committee Vote:

Yes 15, No 1 .

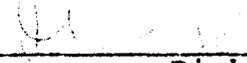
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HOUSE STANDING COMMITTEE REPORT

March 10, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 225 (third reading copy -- blue) be concurred in as amended .

Signed: 
Dick Knox, Chair

And, that such amendments read:

Carried by: Rep. Knox

1. Title, line 8.
Following: ";"
Strike: "AND"

2. Title, line 10.
Following: "LEGISLATION"
Insert: "; AND PROVIDING A TERMINATION DATE"

3. Page 5.
Following: line 16
Insert: "

NEW SECTION. Section 5. Termination. [Section 4]
terminates on October 1, 1995."

HOUSE STANDING COMMITTEE REPORT

March 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 275 (third reading copy -- blue) be concurred in as amended .

Signed: *Dick Knox*
Dick Knox, Chair

And, that such amendments read:

Carried by: Rep. Fagg

1. Title, line 8.

Strike: "AS WELL AS"

Insert: "OR"

2. Title, lines 10 and 11.

Strike: "PROVIDING" on line 10 through "ASSESSMENTS;" on line 11

3. Page 1, line 18.

Strike: "(1)"

4. Page 1, line 22.

Strike: ", or both,"

5. Page 2, lines 9 through 12.

Strike: Subsection (2) in its entirety

-END-

Committee Vote:
Yes 5, No 1 .

531514SC.Hpf

MONTANA WATER PLAN

FINAL

November 2, 1992

Section: Integrated Water Quality and Quantity Management

EXHIBIT 1
DATE 3-8-93
HB 296

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WATER RESOURCES DIVISION • DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

1520 EAST SIXTH AVENUE • HELENA, MONTANA 59620 - 2301 • (406) 444-6637

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EXHIBIT 2
DATE 3-8-93
HB 296

TESTIMONY OF THE
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
ON SENATE BILL 296, FIRST READING

BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE

MARCH 8, 1993

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE 1992 STATE WATER PLAN REQUIRING WATER WELL DRILLERS UNDER CERTAIN CIRCUMSTANCES TO GIVE PRIOR NOTIFICATION OF DRILLING; AND AMENDING SECTION 37-43-202, MCA."

The Department of Natural Resources and Conservation supports Senate Bill 296 which sets forth means to better protect Montana's groundwater for use by its citizens. The bill implements a recommendation of a 1992 State Water Plan section developed in response to a statewide issue scoping effort that identified groundwater protection as a top concern. Supported at nearly twenty open house meetings and public hearings held across the state, the recommendation was developed by a steering committee representing a diversity of interests. Among them were technical agency staff, a university researcher, a well driller, a member of the Board of Water Well Contractors, a legislator, and other citizens.

The Board of Water Well Contractors has established strong well construction standards designed to protect the state's groundwater aquifers from contaminants transported directly to them via improperly drilled, grouted, or cased well holes. In 1991, approximately 50 construction standard violations were identified from well logs and 23 written complaints against 15 drillers were filed after the fact by the owners of the wells involved. The written complaints centered on improper grouting, pumping rates less than reported on well logs, failure to case a hole, failure to complete a well properly, and muddy well water. Several job sites were investigated for failure to have a licensed driller on site.

This legislation provides an inexpensive mechanism for enforcing the water well construction standards of the Board of Water Well Contractors. At present, a very small number (1 percent) of complaints and violations are identified by the Board. This is attributable to the fact that enforcement depends upon the receipt of complaints from citizens who are supposed to ascertain whether their well is constructed according to standards. Further, it is very difficult to determine standard compliance, to establish the source of well malfunctions, or to remedy problems once the well is completed.

Senate Bill 296 does not grant the Department of Natural Resources any authorities in this area. Nor does it expand the authority of the Board of Water Well Contractors to take punitive action against drillers. Existing statutory authority allows the Board to

require prior notification only as a disciplinary action. This legislation modifies the Board's authority by allowing prior notification as a proactive enforcement mechanism instead of only a punitive measure. The drilling site notification system contemplated by this bill would allow experienced regional office staff to perform unannounced inspections on behalf of the Board. Similar inspection requirements affect other professions involved with actions affecting public health and safety, including electricians or septic system installers.

This legislation seeks to accomplish its goals in a manner that does not place undue hardships on the well drillers. In contrast with the situation in other states where notification and a fee are required for every well drilled, this bill proposes a less stringent, but nonetheless effective approach. Under this system, the Board of Water Well Contractors would require all drillers found in violation of Board construction standards to provide advance notice of each drilling site. The Board would also establish a system whereby all other drillers would be selected on a random basis and be required to provide advance notice of all drilling site locations for a period of limited duration. In either instance, the notification would be made by phone to the nearest Water Resources Regional Office.

During fiscal year 1991-92, Water Resources Division regional office staff dedicated 1,329 hours of time inspecting wells. This level of staff effort would be better utilized and more effective with the notification system proposed by Senate Bill 296. The Board expects that, as a result of this legislation; approximately two additional violations would result in contested case hearings. Typical legal costs associated with conducting these hearings are \$4,000. In certain rare instances, they could be as much as \$9,000. On the other hand, department legal staff forecast a reduction in legal costs due to better evidence obtained by unannounced inspections. In any circumstance, the cost would be borne by the drillers' performance bond and the licensing fees received by the Board of Water Well Contractors. The Board has voted to have license fees remain the same rather than being reduced when the Ground Water Assessment fee sunsets on July 1, 1993.

In summary, the statutory changes provided by this legislation implement recommendations of the 1992 State Water Plan, a process requiring broad public input and support. They would better assure fewer violations of the well drilling standards and, thus, as compliance increases the legal cost of enforcing the well drilling standards would decrease. The preventative enforcement approach that is fostered by the bill would also reduce future state expenditures for remedial groundwater clean-up costs.

EXHIBIT 2
DATE 3-8-93
HB 296

MONTANA WATER WELL DRILLERS ASSOCIATION FACT SHEET

Senate Bill #296

Please vote "no" on Senate Bill 296.

1. To obtain a Montana Water Well Drillers License the following requirements must be met:
 1. One year of apprenticeship under a Licensed Driller
 2. Take and pass with 80% written exam by BWWC
 3. Provide \$4000 bond to the state to operate.
 4. Complete 4 hours continuing (BWWC approved) education every year.

2. The average driller has between 15 & 20 years experience. He is a licensed professional working in a very complex technical field.

SB296 sends an unlicensed inspector out in the field to evaluate and instruct a licensed driller on how to construct a well. This will not work and is completely unnecessary. There are 1 - 2 construction violations per year on 2500+ wells. This does not justify such extreme measures.

3. This bill will create another expensive bureaucracy and retard growth in Montana.
Compare Montana and Idaho (with notification)

Montana	\$38,000	1 Employee	2,500 Wells
Idaho	\$300,000	5-10 Employees	2,600 Wells

4. Other States with Notification are:

Illinois	- \$405,000	5 - 10 Employees	Ohio	- \$350,000	5 - 10 Employees
Oregon	- \$463,000	5 - 10 Employees	Texas	- \$200,000	5 - 10 Employees

The funds to run the Board come from the drillers directly in license fees. Small drillers in Montana cannot afford these costs.

5. Notification will cause havoc, confusion and economic hardship in the drilling industry.

*** Figures from #3 and #4 are compiled by the National Ground Water Association, Dublin, Oh. 43017 ***

Northern Plains Resource Council

Testimony of Louis Jenson
for
The Northern Plains Resource Council
before
The House Natural Resources Committee
March 8, 1993

EXHIBIT 4
DATE 3-8-93
SB 339

Mr Chairman and members of the committee,

My name is Louis Jenson. I live 10 miles east of Baker, Montana where I have lived all my life. I'm speaking today on behalf of the Northern Plains Resource Council in support of SB 339.

I would like to speak briefly about the importance of this bill for Montana communities in general and for Baker in specific.

In recent years a number of rural Montana communities have been the targets of megalandfill and dangerous waste incineration siting proposals - every one of them involving the importation of large quantities of out-of-state waste. These proposals have almost inevitably generated heated public debate over a wide range of concerns - including potential social, economic, health and environmental impacts. There is every indication that Montana communities will continue to be targets for such proposals for the foreseeable future.

Montana's Department of Health and Environmental Sciences faces a uniquely controversial and difficult decision every time a major waste facility is proposed in our state. Because of the difficulty of these permitting decisions, we believe that the citizens who stand to be directly effected should have an opportunity to clearly voice their opinions after weighing all available information. By providing for local referendums on megalandfill and dangerous waste incinerator siting, SB 339 would give citizens this opportunity. Most importantly, SB 339 would allow the Department to seriously consider the outcome of a local referendum before making a final permitting decision.

Two of the most common critiques of this bill have been that it may be unconstitutional to allow the Department to deny a permit because of a local referendum's outcome, and that the local referendum may discourage prospective developers. We believe both of these concerns are addressed by considering the history of a four-year-old West Virginia law that currently gives counties the power to *deny* megalandfill permits through local referendums.

The West Virginia Supreme Court has upheld this law's constitutionality - siding with defense attorneys who cited a U.S. Supreme Court ruling which held that:

"[a] referendum cannot . . . be characterized as a delegation of power. Under our constitutional

assumptions, all power derives from the people, who can delegate it to representative instruments which they create (see, e.g. Federalist Papers, No. 39 (Madison))." (Hunter v. Erickson, 393 U.S. 385, 392 (1969)).

The plaintiffs in this case had asserted that West Virginia's local referendum law constituted an invalid delegation of legislative power.

The West Virginia law has shown no evidence of discouraging developers because, in the four years it has been on the books, only two referendums have been held - one resulting in a negative vote, the other in a positive vote.

We believe that, far from discouraging developers, passage of SB 339 would, in many cases, encourage better communication between developers and local citizens. The possibility of a local referendum would provide an incentive for an applicant to address public concerns and involve the public in the planning process. In many cases a consensus decision on facility siting may be possible.

Whether or not consensus can be reached, citizens should know as much as possible about any proposal for a major waste facility in their community. A local referendum and the petition process leading up to it would educate the public and encourage informed public debate. SB 339 ensures informed debate by requiring that referendums are only held following the completion of all environmental review documents. This requirement ensures that the public has access to all available information.

I would like to conclude with a few remarks concerning my personal experience with Ross Electric's proposal to burn PCB contaminated electrical transformers in Baker. Baker is *not* a case where consensus can be reached. Ross Electric has a bad record of health, safety and environmental violations, and I and many other citizens *do not* want them operating in Fallon County. For us the importance of a local referendum is in allowing citizens to freely express their opinions in the face of intimidation.

We need this law because up until now there has been no recourse for a private individual to question what Ross is doing. Before final decisions are made, the residents in this area *should* be allowed to voice their thoughts without fear of intimidation. They are the people who will live, in many cases the rest of their lives, with the results of the decisions made.

Thank you for this opportunity to testify.

**Testimony of Wade Sikorski on SB 339, The Local Referendum
March 8, 1993**

EXHIBIT 5
DATE 3-8-93
HB 339

Mr. Chairman, members of the committee, my name is Wade Sikorski, and I am the editor of the O'Fallon Fact Finder, a newspaper for The Concerned Citizens for the Health of Our Children. We are a group that was formed last spring to examine Ross Electric's proposal for a PCB incineration facility just outside of Baker. As the Billings Gazette recently reported, Ross is currently attempting to construct their plant even though the Department of Health and Environmental Sciences believes it would be illegal because Ross has not received the necessary permits and because it would violate Montana's current moratorium on importing out-of-state waste. Please look at the newspaper clipping from the Billings Gazette and the letter that Richard Menger, the Fallon County Sanitarian, wrote to Bob Robinson, the director of DHES. In the letter Menger argues that these laws do not apply to Ross Electric. As the attached clipping from the Billings Gazette indicates, the Department of Health and Environmental Sciences is, if necessary, prepared to get a court injunction to stop construction.

Ross defied the laws of Washington State, where the Ross family is coming from, in much the same way. They created Superfund sites, then refused to clean them up or assume responsibility for them. Almost every time they were inspected by the Washington Ecology Department, Ross was found to be in violation of numerous laws and regulations. And usually the next time they were inspected they were found to be continuing the same violations. As Ecology inspection reports clearly document, the Ross family has shown little concern not only for the rule of law, but not even for their employee's health, their own health, or even their children's health. Please see the handout where I quote Kay Seiler, an Ecology Department inspector, reporting that she saw children playing inside the incinerator plant where they were exposed to incinerator ash, a hazardous material. She writes . . .

This defiance of the rule of law may be only the tip of the iceberg. On one inspection tour, as the Ecology Department has documented, a Ross semi-truck loaded with transformers--filled with PCBs, a dangerous waste--was caught going out the back way with phony license plates that turned out to be off of a wrecked pick-up in a junk yard. An illegally licensed truck hauling hazardous wastes. What could it be doing?

And now they want to come to Fallon County. Actually, they were invited by misguided local officials who wanted to promote economic

development. The people who run our local government, the Economic Development Corporation, and the Chamber of Commerce, have managed to convince themselves that there is no problem with Ross's record. Perhaps desperation, born of a declining economy, has distorted their perception. So there is a significant and powerful part of our community that wants them there.

But, we believe they are far from being the majority. Our newspaper has taken a poll (please see the attachment) that indicates the opponents to Ross in Fallon County outnumber advocates by as much as 3 to 1. And yet this majority has suffered severe intimidation whenever people have attempted to speak out. That is why we need this local referendum bill. A secret ballot would protect people from acts of intimidation that have been all too common in our community since Ross has arrived.

For example, Barbara Weiss, one of the early community leaders questioning the Ross proposal, finally ended up resigning from her job as County Librarian because of death threats, harassment, and the prospect of being fired. Since she resigned she was not eligible for unemployment, but she won it anyway after proving in court that she was forced to resign. Barbara was far from the only one treated this way. My aunt, Kathy Sikorski, came out from work one afternoon and found that someone had dumped a load of garbage in the front seat of her car. I, myself, have been assaulted, and have received almost a hundred hang-up calls.

Because of what happened to myself, Barbara, and others, many people in our community are afraid to openly come out and question Ross's operation. Many times when I have been talking to people, they have told me that they would speak out, but they can't because they are afraid of what might happen to their children in school, or they are afraid of losing their jobs or their businesses. Our group has received many anonymous donations. Others have told us their name, but asked us to keep it a secret.

That is why we need a secret ballot. Many people are afraid, quite legitimately so, of what would happen to them if others found out where they stood. The prospect of Ross operating a dangerous waste facility has deeply divided and embittered our community. We need a way of working out our differences. The referendum provided in SB 339 is a good step in that direction. SB 339 provides both proponents and opponents a mechanism that allows their voices to be heard.

Please vote "yes" on SB 339.

EXHIBIT 5
DATE 3-8-93
HB 339

Pollution permits debated in Baker

By JILL SUNDBY
Of the Gazette Staff

3/5

Although Ross Electric has not applied for a solid waste license or an air quality permit, the company plans to open operations in Baker by early summer.

The company, which burns used electrical transformers to recover copper and other metals, is relocating from Chehalis, Wash., to Baker, a town of 1,800 near the North Dakota border.

The move has been a source of contention in Fallon County, where economic development proponents support the company while others fear Ross Electric will introduce contaminants like PCBs, known to cause skin diseases in humans and suspected of causing birth defects and cancer in animals. The oil in some electrical transformers contains PCBs.

Construction at Ross Electric's site north of Baker has begun, but no incinerator has been installed. According to Jim Hughes, environmental specialist in the Billings office of the state Air Quality Bureau, if Ross Electric installs an incinerator, the state will seek a court injunction to prevent operation of the facility.

"They're planning on putting the thing in," he said. "I believe it's headed for court."

Ross Electric "will be ready for start-up sometime around March of this year," Fallon County Sanitarian Richard Menger wrote in a letter to Bob Robinson, director of the Montana Department of Health and Environmental Sciences. The Billings office of the Air Quality Bureau received a copy of the letter on Jan. 28.

Gerald Ross, however, said the opening date has been pushed back to late spring or early summer.

"We were shooting for March," he said in a telephone interview from Baker, "but of course, we were also shooting for February. We're still trying." He said the Baker operations will be under the name Ross Management Inc., a Montana corporation.

Opponents of the company believe that thick concrete poured at the site is intended to be an incinerator pad, but Ross said it's not: "We just poured a slab of concrete to park our trucks on."

Montana law prohibits constructing a solid or hazardous waste incinerator until an air quality permit has been issued, but Hughes said construction at the Baker site is not clearly intended for an incinerator.

"We know about the concrete pad — that could be used for just about anything," he said. "We know that there've been renovations to (existing) buildings. We're not in a position to get an injunction until we see what's planned for the site."

He said Washington state has promised to notify the state of Montana when Ross Electric is issued a permit to move its incinerator.

Ross said the company has applied for a Montana air quality permit but he doesn't think one is needed.

"We did apply at Billings," he said. "According to our stack (emissions) tests, and mainly the pounds per hour we burn, there was none (air quality permit) required. In Montana, with 200 pounds per hour or less, there is no permit, as long as the temperature and the dwell time are right."

Hughes, however, said that Ross Electric has not applied for an air quality permit and the state continues to require one.

At issue, apparently, is just what is being burned.

State law requires an air quality permit for incinerators that burn more than 200 pounds of solid or hazardous waste per hour. In a lengthy letter to Steve Pilcher, director of the state's division of Environmental Sciences, Ross Electric's attorney, Milton Datsopoulos of Missoula, argued that the permit is not needed because "The only materials ... burned are the fuel and the wrappings on the metal." The metal parts of the transformers are not incinerated or burned and thus should not figure into the hourly weight calculation, he wrote.

"We only burn 25 pounds per hour," Ross said. Temperatures range from 2,100 to 2,200 degrees, and "we're burning well over the temperatures needed." Burn time is about four hours.

The state, however, believes the entire transformers — metal and all — should be included in the weight count. Because of this difference of opinion, Hughes predicts that Ross Electric will "test the legality of the law."

Ross said his company is willing to work with the state on the air quality permit issue. "We said whatever they wanted to come up with we'd be willing to work with."

Hughes pointed out that even if Ross Electric does apply for an air quality permit, the state won't issue one because of a moratorium banning the importation of out-of-state solid waste. The moratorium, which expires Oct. 1, 1993, is being challenged by Fallon County in court.

Meanwhile, the state and Ross Electric also disagree over another issue: whether Ross Electric needs a "solid waste management system license."

Ross Electric has not applied for the license and has always maintained that, as a recycler, it does not fall under this requirement.

"They're 95 percent recyclable, and no utility wants them buried," Ross said, of electrical transformers. Copper, aluminum, brass, steel and iron can be recovered, he said. "Under Montana regulations, solid waste is something you cannot use."

Again, the state disagrees with Ross Electric. Officials maintain that the transformers are solid waste and that the company needs a license.

Unlike the air quality law, however, it's OK to construct a solid waste facility without a license — just not to operate it, according to Roger Thorvilson, supervisor of the Waste Management Section.

He said people have sent him photographs of trucks carrying transformers to the Baker site, but he said that simply hauling transformers doesn't violate the moratorium.

"The moratorium doesn't apply except for disposal or incineration," he said.

 Fallon County Health Department
Office of the Sanitarian 406•778•31
Richard A Menger, R.S.
Box 667 Baker, Montana 59313

Bob Robinson, Director
Environmental Sciences Division
Montana Department of Health
Cogswell Building
Helena, Montana

Dear Mr. Robinson:

First, congratulations on your appointment as director of the Environmental Sciences. I'm sure you will find your position both challenging and rewarding. There are many environmental issues that Montana will have to face during Marc Racicot's term as governor. I look forward to working with you for the betterment of Montana.

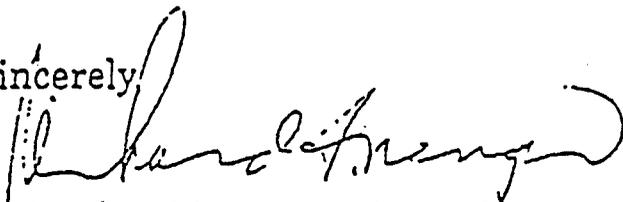
There are two issues concerning Fallon County that are currently being discussed under your office. The first deals with landfarming contaminated soils, usually from leakage from petroleum tanks permitted under the Underground Tank Storage Program. I have requested an amendment to our new landfill license to landfarm these soils and then use them for coverage of deposited garbage. Fees from producers would be minimal (covering expenses during remediation and testing only), since we will use the remediated soils afterwards. The SWB has informed me that they are considering deriving additional fees from these soils in addition to solid waste fees already collected. This is ludicrous. The SWB would have to consider Montana soil solid waste! In addition, one would think that the SWB and the UST could work together to make the remediation process involved with these soils as simple and convenient as possible. Fallon County is adamantly opposed to any additional state imposed tipping fees or tonnage fees concerning these soils.

Second, you may be aware of the background surrounding Ross Electric in Fallon County, and the Air Quality Bureau's and the SWB's determinations concerning this operation. You may want to refer to my previous correspondence to your office and these bureaus. This firm will be ready for start-up sometime around March of this year. I have been keeping EPA and Jim Hughes in the Billings Air Quality office informed of any changes throughout this process. Since the criteria for an air quality permit does not apply to this

site operation and the SWB's determination of these transformers being classified as solid waste is under severe attack, as well as the state's solid waste moratorium, you may wish to discuss these with me. In addition, this office respectfully requests that representatives from Air Quality and Solid Waste be present during start-up of this business in Fallon County. This office has worked closely with EPA and Gary and Bob Ross on a work plan designed to cure any fears the public (both inside and outside Fallon County) may have concerning this operation.

If at any stage your office needs further information or has any comment, please feel free to contact this office or the Fallon County Commissioners. Again, I look forward to working with you to protect this state's great natural environment.

Sincerely,



Richard A. Menger, MST, R.S.

EXHIBIT 5
DATE 3-8-93
HB 339

cc: Jim Hughes, Air Quality Bureau, Billings Regional Office
Fallon County Commissioners, Baker

O'FALLON FACT FINDER

.....
A FREE NEWSPAPER

U.S. POSTAGE PAID
3rd Class
Permit No. 5
Baker, MT 59313

.....
Containing Facts, Conclusions and Opinions
Published by
The Concerned Citizens For The Safety Of Our Children
.....

The purpose of this newspaper is to bring pertinent facts and our conclusions and opinions to public attention with respect to the plans of Ross Electric of Washington to set up a Transformer Recycling and PCB Incinerating Plant at Baker, Montana

Editor, Wade Sikorski

TO BEGIN WITH ...

We, the Citizens For The Health Of Our Children, would like to begin by saying that we respect the intentions and appreciate the efforts of those who have been trying to revitalize the economy of Fallon County. We agree with them that something is seriously wrong with the economy of our community. We have seen all too many of our friends and neighbors lose their hopes and dreams in a drizzle of bank foreclosures, bankruptcies, and unemployment notices. Something does need to be done if our community is to have a future.

But it needs to be done carefully, thoughtfully, and in full appreciation of all the consequences. Desperation sometimes breeds carelessness, blindness, and wishful thinking.

We formed Citizens For The Health Of Our Children to investigate and report on the consequences of inviting Ross Electric into our community. After careful and extensive investigation, we have concluded that it is a very bad idea to allow Ross Electric to set up anywhere, let alone here.

Not only is there considerable risk from the hazardous chemicals that Ross Electric would bring in and incinerate, even under the best of circumstances, but Ross Electric has, by its record, proven itself unusually irresponsible. It has neglected important safety procedures, thwarted regulatory efforts, ignored legal requirements, and refused to make necessary disclosures to the public.

Besides that, we have unanswered doubts about Ross Electric's willingness and ability to assume liability for any of damages it might cause here.

For all of these reasons, we believe that the Fallon County Commissioners should quickly move to prevent Ross Electric from setting up here. They have the power to do this—and the responsibility. Since they are decidedly reluctant to do this, we encourage the public to write them letters, call them, and go in and talk to them. Perhaps they will change their minds if they know that people don't want Ross Electric here.

Issue No. 1

EXHIBIT 59
DATE 3-8-93
HB 339

ROSS ELECTRIC: CORPORATE OUTLAW

By Glen T. Rugg

During its stay in Washington State, Ross Electric has repeatedly been fined by Washington State Department of Ecology, has generated a Superfund Site that federal taxpayers must pay for, and has refused to acknowledge any wrong doing or accept any responsibility for the damage it has caused.

From 1972 to September 1983 Ross Electric operated on Coal Creek. In February of 1983, due to heavy contamination by Ross Electric and two other companies, the Washington State Department of Ecology issued an order to Ross Electric as operator and Lewis County Public Utility District as owner to investigate and clean up the site.

Ross Electric moved their incinerator to the Logan Hill in 1983, and terminated their lease at Coal Creek. In defiance of both the Washington State Department of Ecology and the Federal Government, which had classified it as a Superfund Site, Ross Electric refused to accept any responsibility for the contamination at Coal Creek or pay anything toward the cost of cleaning it up.

In January of 1985 the Environmental Protection Agency—it isn't just an over zealous Department of Ecology

as Ross Electric would have it that is giving them so much trouble—fined Ross Electric \$23,000 for burning waste oil with concentrations of PCBs at 94 ppm. According to EPA regulations, they were only allowed to incinerate contaminated waste up to 50 ppm.

On August 11, 1986, the Washington Department of Ecology fined Ross Electric \$25,000 for two different spills of incinerator ash, falsifying incinerator reports, and leaving hazardous containers unlabeled.

In August 1986 Ross Electric was caught dumping ash from their incinerator at the Centralia, Washington landfill. The Washington Department of Ecology fined Ross Electric \$75,000 for this. Ross Electric protested the penalty, and Ross Electric and the Department of Ecology settled for \$48,000, with \$27,000 deferred, if they had no further Class 1 violations. But when Ross Electric made further Class 1 violations it made them "a high priority violator," and the \$27,000 deferment was made payable. Ross Electric is appealing.

In August and November of 1990, the Department of Ecology fined Ross Electric \$90,000. This time because Ross Electric had operated without a

temperature probe from August 2 to August 27. (The probe is essential to determine if the temperature is high enough to destroy all the PCBs.) Besides that, their record keeping was so disorganized that the Department of Ecology could not determine whether the oil they were incinerating was under 50 ppm.

The Department of Ecology gave Ross Electric an ultimatum in May of 1991. Either Ross Electric had to start complying with the law or submit a plan for closing their plant down and disposing of all the hazardous wastes that had accumulated at their site. Ross Electric has refused to draw up a plan and to provide sufficient financial guarantees to assure that it is carried out. Now they are attempting to move into Fallon County.

As this lengthy list of penalties and court actions shows, Ross Electric has never been in compliance with the laws of the State of Washington. They have provoked several actions by the EPA. And they have refused to accept responsibility for the damage they have done or the costs they have forced on the taxpayer. There is nothing in their history to suggest that they have changed their ways or that they will do any better in Fallon County.

Ross In Violation Again

By: Wade Sikorski

This time for letting children play in an area contaminated with hazardous waste at their plant in Chehalis, among other things. Kay Seiler, a compliance supervisor for the Department of Ecology in Washington, inspected the Ross facility on September 22 and 23, and found a variety of violations of "major concern" that required "immediate action."

In a letter to Bob Ross, dated September 25, she wrote: *Children were noted playing in the active areas of your facility, including the incinerator. Your site is a restricted access facility. Anyone who has not been trained regarding Dangerous Waste management, and health and safety regulations and issues cannot enter the site without being escorted by Ross Electric personnel.*

Kay Seiler also reported that: *Incinerator ash had been released from the trays adjacent to the incinerator, and the floor in Building No. 1, at places, was covered with ash. Incinerator ash from burning PCBs is known to contain dangerous levels of very hazardous materials, like dioxin. It is so dangerous that it has to be disposed of in landfills designed to handle hazardous wastes.*

Other violations requiring immediate action from Ross Electric included: Not having people on the site willing to take responsibility for the operation. Accepting transformers with regulated levels of PCBs when they had agreed to stop. Failing to keep a comprehensive tracking system of the incoming waste. Failing to handle all

materials accepted at the site as dangerous material. Accepting capacitors with "high levels" of PCBs without having had them tested. And, accepting only part of a shipment of transformers, when Ross is supposed to accept or reject an entire load. The letter stated that it did not address all the violations noted during the inspection.

Kay Seiler concluded her letter with the following warning: *Due to the mismanagement noted at the Ross Electric site and the inability of Ross Electric to consistently adhere to written and to verbal commitments given to Ecology at this time, Ecology is considering it's enforcement options, which include escalated enforcement.*

Poll Results

By: Wade Sikorski

We received 121 responses to our poll about Ross Electric that we put out in the last issue of our newspaper, and we want to thank everyone who took the time to respond to it. Of those who responded, 93 of them were against Ross Electric setting up here, and only 28 were in favor of it. In other words, our poll shows that Ross Electric has only one supporter for every three opponents.

Though this poll is not a random sample, we believe that it does accurately reflect the sentiment of the community. It confirms a sense of the community's mood that we have gained from our conversations with a large number of people in their homes, at work, in restaurants and bars, and in chance encounters. If a formal referendum were held on Ross Electric--and we all do believe that would be the best way to peacefully resolve this dispute--we have no doubt that Ross Electric would lose by an overwhelming margin.

We were delighted that a large number of people also added their comments, even if some of those comments included some decidedly unfriendly advice on what we could do with various parts of our anatomy and some rather colorful observations about our family ancestors. Most of the comments that we got, though, were supporting.

Goodbye Barbara

And now again, we must say goodbye to another of our associates. This committee, this community, we feel owes a deep debt of gratitude to Barbara Weiss--and a "thank-you" for efforts way beyond the call of duty. Because of her courageous and heroic efforts this community has been alerted to the threat that Ross Electric poses to our health, our land, and our future. And maybe, thanks to Barbara, we can keep them safe now.

Over this last year we have seen Barbara tested, and we have seen how she became the victim of false accusations, cruel gossip, bizarre entrapment schemes, and abusive authority. And we have come to have a great deal of respect for her, for her courage, her integrity, and her intelligence.

Nothing better can be said of Barbara Weiss than that when she saw a wrong being done she had the courage to step out and try to stop it. When she was threatened, harassed, and attacked, she kept on going. When her job and career were endangered she still kept on going. Not many people are willing to risk nearly so much to protect something they believe

in. But Barbara did.

Wanting to silence her, to somehow isolate and stop her, some people have circulated much gossip about Barbara's faults and failings. Much of it was untrue, more of it was unfair, and some of it was simply ridiculous. (A choice example: Barbara being an undercover agent for the Sierra Club!)

Perhaps Barbara does have faults and failings (most people do), but her friends will remember that it was not for her faults and failings that she came under attack here; it was for her virtues--her strength, her determination, her concern for the welfare of the community and the land. That should be emphasized. Barbara got into trouble and lost her job, not because she did something wrong, but because she did something right--something noble, decent, and worthy of honor.

Barbara Weiss is a most remarkable woman, and she has enriched our lives by passing through them. We hope that wherever she goes, whatever she does, Barbara finds the happiness and peace that she didn't find here. She deserves to have them.

EXHIBIT 5a
DATE 3-8-93
HS 339

LAST OF THE BEST COALITION

EXHIBIT ⁶

DATE 3-8-93

HB 379

P.O. Box 111
Ringling, Montana 59642
Phone (406) 547-2272

March 8, 1993

Ladies and Gentlemen of the House of Representatives, the following is for the record:

I am Phil White Hawk, President of the Last of the Best Coalition, with members in Meagher, Park, Broadwater, Sweetgrass, and Gallatin Counties. Our membership includes farmers and ranchers, main street businessmen, health care workers, people involved in the service sector of tourism, and people in cottage industries. We feel that, as a citizens' group, we have superior resources available to us, as White Sulphur Springs is the locale of the Chemical Injury Information Network, a national clearinghouse for information on the chemically injured, manned and researched by the chemically injured themselves. These people know when, why, and how they were poisoned, and have access to the very latest scientific studies that the waste industry is choosing to ignore.

The waste industry is descending upon the State of Montana because we, as citizens, have been unable to affect the modernization of our antiquated laws. Our citizens group has, from the beginning, worked with other groups from Gallatin County, Fallon County, and Jefferson County to resist the introduction of inappropriate technology and dangerous waste disposal practices into Montana.

Should you desire reams or wheelbarrow loads of the very latest research, we will be happy to supply you. But here are a few little nuggets that the waste industry is trying to ignore:

Humans may be exposed to incinerator pollutants through inhalation or ingestion of contaminated food products and drinking water. Many incinerator pollutants are known to be taken up by, or deposited on food crops and to accumulate in fish and animal tissues, including meat, milk and eggs. Local exposures for each pollutant vary with the persistence of each chemical and meteorological conditions. Pollutant dispersion may also occur over long distances. (US EPA 1985a)

In 1991, the EPA did an 11 city study showing that 65,000 people per year were dying of **LEGAL** levels of particulate pollution in the environment.

Organochlorides (which we cannot eliminate from our bodies) build up in the tissues of living organisms. Because most organochlorides are more soluble in oils and fats than in water, they tend to migrate from the environment into the fatty tissues of living things. For instance, TCDD (the most toxic form of dioxin) has been shown to accumulate in fish tissues at concentrations up to 159,000 times greater than the concentration in the water in which the fish swam. (US EPA 1988)

The infants born to fish-eating mothers had an impaired ability to

learn. After five and seven months, these infants performed poorly on visual recognition tasks. After 4 years, the children born to fish-eating mothers showed impaired short-term memory in both verbal and quantitative tests. (Jacobson 1988, Great Lakes Study)

Drinking one liter of milk produced near an incinerator location was found to give the same dioxin dose as breathing the air there for eight months (Connett and Webster, 1987)

Beef and dairy cattle have been shown to accumulate significant levels of dioxins and compounds with generally related structures, such as PCBs, DDT, and PBBs following administration in the diet or ingestion of contaminated soils. (US EPA 1988 A)

Property values in communities host to incinerators are 38% lower than the national average. In communities where incinerators are proposed, average property values are 35% lower. (US Census Data 1980) This means that property owners face a loss of equity and subsequently, a loss of credit. We have letters from real estate agents attesting to the reduced saleability of property, particularly recreational property, located near an incinerator or other public nuisance.

The issue of SB 339 is acceptable risk. The risk model the EPA uses is 8 cancer deaths per 100,000 exposures over a 70 year period for white males aged 25 to 49 only. NOT considered are: women, children, the elderly, the unborn, or minorities. Since the model is for cancer alone, illnesses or death from other causes related to pollutant contamination, such as miscarriage, respiratory failure, or kidney failure are not taken into account. Shouldn't the community decide what risks are acceptable?

A drop of .01% in incinerator efficiency equals a 100% increase in dangerous emissions. James Walsh, a U.S. National Bureau of Standards scientist, investigated the EPA ability to monitor emissions and found that the same numbers the EPA uses to establish a 99.99% efficiency rating for emissions could, with equal validity, be used to show that only a 79.23% destruction capability had been achieved. This represents an emission level 21,000 times higher than what was previously thought to be attainable.

Industry is asking us to disregard all of the latest research and to ignore the valid commonsense observations that rightly engender anxiety and foreboding on the part of ordinary people. According to the EPA, there is no safe level of particulate pollution, especially for children. There is no evidence of a clear threshold for the expanded population, either. The only correlation that the higher the concentration of particulate pollution in the environment, the higher the percentage of the population will be negatively affected. (Federal Register, Vol. 126, July 1989, pgs. 24-642.)

We know that what goes in must come out, what goes up must come down. In our county, for every job these inappropriate industries create, 5 will be lost in tourism, the service economy, agriculture, and cottage industry. Because the incineration proponents are not telling US the truth, the health and economic future of Montanans, as well as the quality of life

in our Last Best Place are in jeopardy. As our freely elected representatives, whose love for our great State and public service is as great or greater than our own, we know that you won't let us down. We ask you to pass SB 339 and give us a voice.

Phil White Hawk
President
Last of the Best Coalition
Box 111
Ringling, MT 59642

EXHIBIT 6
DATE 3-8-93
HB 339

DATE 3-8-93
HB 339



Montana Audubon Council

State Office: P.O. Box 595 • Helena, MT 59624 • (406) 443-3949

Chairman Knox and Members of the Committee:

- Chapters:
- Bitterroot Audubon
Bitterroot Valley
 - Flathead Audubon
Flathead Valley
 - Five Valleys Audubon
Missoula
 - Last Chance Audubon
Helena
 - Pintlar Audubon
Southwest Montana
 - Rosebud Audubon
Miles City
 - Sacajawea Audubon
Bozeman
 - Upper Missouri
Breaks Audubon
Great Falls
 - Yellowstone Valley
Audubon
Billings

My name is Dave Ross, and I represent the Mt. Audubon Legislative Fund. We support SB 339.

This bill allows the people of Montana to voice their opinions on an extremely controversial issue, that being the licensing of megalandfills or commercial dangerous waste incineration sites. Gaining the publics' sentiment on hot issues such as this is substantial for the governing Board of Health.

Although the outcome of the referendum does not bind the Board of Health into granting or denying a license, it does qualify and quantify the voters' choice to their local legislatures and the Board. This will alleviate any doubt how the community involved feels toward the present facility and any potential facilities.

Thank you,
Dave H. Ross
Dave Ross

EXHIBIT 8
DATE 3-8-93
HB 339

Proposed
Amendments to Senate Bill #339
Third Reading Copy

Prepared by Montana Technology Companies, Inc.
March 1, 1993

Contact: Donald R. Peoples, President
Montana Technology Companies, Inc.
220 North Alaska Street
Butte, MT 59701
(406) 782-0463
(406) 723-8328 Fax

Proposed Amendments SB#339

1. Page 1, line 24
Strike: "or"

2. Page 2, line 1
Following: "INCINERATION."
Insert: "; or"

(iii) a research and development facility that receives federal or state research funds in order to test and evaluate waste treatment remediation technologies."

3. Page 2, line 17,
Following: "for"
Insert: ":

- (A) research and development testing;
- (B) evaluation and demonstration of waste treatment remediation technologies;
- or
- (C) other purposes that involve"

4. Page 2, line 18,
Strike: "purposes only"

EXHIBIT 9
DATE 3-8-93
HS SB 275

Amendments to Senate Bill No. 275
Blue Reading Copy

Requested by Senator Weldon
For the Committee on Natural Resources

Prepared by Doug Sternberg, Council Staff
March 4, 1993

1. Title, line 9.

Following: "PENALTY;"

Insert: "PROVIDING FOR DISPOSITION OF PENALTY PROCEEDS;"

2. Page 1, line 17.

Following: "restoration"

Insert: "-- disposition of penalty proceeds"

3. Page 2, line 8.

Following: "~~district.~~"

Insert: "(2) Civil penalties collected under subsection (1) must be deposited in the same manner as county tax funds under 76-15-523. A district in which a violation occurs must upon demand receive all or a portion of the money deposited under this subsection and shall deposit the money in a bank or financial institution for use by the district in defraying the costs of administering the provisions of this part or costs of providing public information and education regarding streambed protection."

Renumber: subsequent subsection

EXHIBIT 10
DATE 3-8-93
HB SB 214

Amendments to Senate Bill No. 214
Third Reading Copy

Requested by Rep. Gilbert
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 6, 1993

1. Page 4, lines 2 and 3.
Following: "knowingly" on line 2
Strike: ", without" through "owner" on line 3

Amendments to Senate Bill No. 214
Third Reading Copy

Requested by Rep. Fagg
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 6, 1993

1. Page 2, lines 12 and 15.
Following: "through"
Insert: "7 and"

2. Page 2, line 21.
Following: "any"
Insert: "natural"
Following: "structure"
Insert: "that is"

3. Page 2, line 23.
Following: "shelter"
Insert: "and that communicates with a subterranean passage or
drainage system"

4. Page 4, line 13.
Following: "through"
Insert: "7 and"

5. Page 6, line 24.
Strike: "8"
Insert: "7"

6. Page 7.
Following: line 2
Insert:

"NEW SECTION. Section 10. {standard} Codification
instruction. [Sections 1 through 7 and 9] are intended to be
codified as an integral part of Title 23, chapter 2, and the
provisions of Title 23, chapter 2, apply to [sections 1 through 7
and 9]."

Renumber: subsequent section

EXHIBIT 12
DATE 3-8-93
~~HB~~ SB 214

Amendments to Senate Bill No. 214
Third Reading Copy

Requested by Rep. Wagner
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 8, 1993

1. Title, line 14.
Following: second ";"
Insert: "AND"

2. Title, line 15.
Following: "MCA"
Strike: "i" through "DATE"

3. Page 6, line 25.
Strike: "less"
Insert: "more"

4. Page 6, line 25 through page 7, line 4.
Following: "\$500" on line 25
Strike: "or" on page 6, line 25 through "approval" on page 7,
line 4

EXHIBIT 13
DATE 3-8-13
~~NO.~~ SB 225

Amendments to Senate Bill No. 225
Third Reading Copy

Requested by Rep. Gilbert
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 8, 1993

1. Title, line 7.
Following: "STATEMENT;"
Insert: "AND"

2. Title, lines 8 through 10.
Following: "PROCESS"
Strike: "; AND" on line 8 through "LEGISLATION" on line 10

3. Page 4, line 8 through page 5, line 16.
Strike: Section 4 in its entirety

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SB 339 319,
296

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Merry Lukacs	Mt Water Hall Drillers Assoc		SB 296
Linda Ludwig	Ludwig Drilling		296
Joyce Burne	Burne Drilling		SB 296
Wes Lindsey	Water Boat		296
Udo Skorski	Concrete (Home)	339	
Wes Jensen		339	
Ruth Chandler	Auto-Service Motor	339	
Bob Marks	Self		SB 296
Gary Fritz	ENRC	SB 296	
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Marlin Atkins	Self	339	
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