

EXHIBIT 10  
DATE 2.14.05  
HB 606

Mr. Peterson, Chair and members of the Committee,

Thank you for this opportunity to testify on House Bill 606, a proposed bill to further reduce small miners in Montana.

Who remembers what the 1999 Montana Legislature declared about mining in Montana?

They said: *"The legislature recognizes the critical importance of mineral development to the vitality of Montana's economy and the state's revenue base."* <http://data.opi.state.mt.us/bills/billhtml/SB0265.htm>

This Bill does not recognize the critical importance of mineral development in Montana, but attempts to stifle mineral development by placing unnecessary and unjustified regulatory and financial burden on small miners in Montana.

House Bill 606 is categorized as a revenue bill. It is not even about protecting the environment or addressing any real problems or issues, but instead about using money and regulations to further prohibit mining in Montana.

This bill will impose unsurmountable regulatory and cost burden on small miners and weekend prospectors in Montana until they can not afford to search for or develop mineral deposits that provide us metals for computers, electricity, cars, and homes.

The average small miner in Montana does not have the funding base that big multi-national company have. So passing this bill will prohibit, through unnecessary regulations and fees, a small miner from developing our mineral resources. Which if you are Monsanto and want to introduce genetically-altered grain without having to deal with small family farms, is a great way to go.

I read an article the other day by Northern Plains Resource Council (NPRC) that indicates they too do not agree with the 1999 legislature's views on mineral development in Montana. They give their support to this bill because it could possibly shut down a small miner in the National Forest near Big Timber.

This Bill, House Bill 606, is not a good bill for Montana nor the people of Montana, so it needs to be tabled. As written, it will do what NPRC is hoping for not just to one project, but to all future projects that a Montana small miner may propose.

Montana's legislatures understood that the small miner had limited resources, but that they were important for the locatinon and development of mineral resources. This Bill is contary to the spirit and intent of the whole purpose for the small miner exemption and would gut the exemption. Who would prospect for minerals if they can't do anything with them once you find them?

At a minimum, this Bill needs to define an "impoundment", what "to store" means, and retain consistency with 82-4-305(7).

- What does impoundment mean? The common dictonary defines an impoundment as something used to hold back water in a reserviour, like a dam or levee.

- What does "to store mean? Store is commonly understood to mean a temporary place on the way to a final place, like a garbage can.

- 82-4-305(7) says the area under an operating permit is **not** included in the 5-ac. limit. There is no justification to not maintain consistency with the rest of the Law.

I am a weekend prospector and small miner. This bill will adversely impact me because I can't afford a \$500 application fee nor the \$100/year annual fee thereafter. As surprising as it may be, most small miners in Montana are not rich. If the intent is to discourage small miners like myself from exploring for mineral deposits, this bill will do that.

I dig rocks by hand from my SME site. I then crush the rock by hand and pan them out (i.e. mineral processing). I store the tailings (i.e. the waste material from panning) in an impoundment (a coffee can or 5 gallon bucket) until they dries out. I may get a couple of small specs of gold from the mateiral I crush up, but that is it.

This bill would force me to drop my SME, my claim, and all the equipment I have purchased

over the years because I don't have \$500 to apply for an operating permit, pay for collection of background data, an EIS if the right groups opposed me hand crushing and panning, and engineering and design details. If I could find \$500 laying around somewhere, I would still have to find \$100 from somewhere each year to give the State so I could continue hand crushing and panning.

Some may say that this is not the intent of the bill. If it is not, please contact me so we can discuss a responsible rewrite.

Does Montana really want to ban all mining by the small miner? Why? Was the 1999 legislature out in left field? If so, it would be less painful to rewrite HB 606 to just say, "No more mining allowed in Montana by small miners!"

I exhort this committee to join with the 1999 Legislature in protecting and promoting mining and mineral development in Montana and not pass this bill as written.

Thank you for your time.

A handwritten signature in cursive script that reads "Alan Gilda".

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**2005 Montana Legislature**

About Bill -- Links

HOUSE BILL NO. 606

INTRODUCED BY G. GUTSCHE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A SMALL MINER WHO INTENDS TO USE AN IMPOUNDMENT TO STORE WASTE FROM ORE PROCESSING TO OBTAIN AN OPERATING PERMIT FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AND AMENDING SECTION 82-4-305, MCA."

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

**Section 1.** Section 82-4-305, MCA, is amended to read:

**"82-4-305. Exemption – small miners – written agreement.** (1) Except as provided in subsections (3) through ~~(4)~~ (11), the provisions of this part do not apply to a small miner if the small miner annually agrees in writing:

(7) A small miner who intends to use a cyanide ore-processing reagent or other metal leaching solvents or reagents shall obtain an operating permit for that part of the small miner's operation in which the cyanide ore-processing reagent or other metal leaching solvents or reagents will be used or disposed of. The acreage disturbed by the operation using cyanide ore-processing reagents or other metal leaching solvents or reagents and covered by the operating permit is excluded from the 5-acre limit specified in 82-4-303(15)(a)(i) and (15)(a)(ii).

(8) (a) A small miner who intends to use an impoundment to store waste from ore processing shall obtain an operating permit for that part of the small miner's operation. The acreage disturbed by the portion of the operation that uses an impoundment to store waste from ore processing and covered by the operating permit is included in the 5-acre limit specified in 82-4-303(15)(a)(i) and (15)(a)(ii).

(b) A small miner utilizing an impoundment to store solid waste from ore processing on or after [the effective date of this act] shall apply for an operating permit.

A responsible rewrite, if the sponsor insists on pushing this bill through:

(8) (a) A small miner who uses an impoundment with an embankment over 10 feet tall, as measured from the upslope side or has a capacity greater than 10 ac-ft of mill tailings that contain known toxic or acid forming material shall first obtain an operating permit for that part of the small miner's operation. The acreage disturbed by that portion of the operation that is covered by an operating permit shall be excluded from the 5-acre limit specified in 82-4-303(15)(a)(i) and (15)(a)(ii).

(b) A small miner who wants to use an impoundment on or after the effective date of this act shall apply for an operating permit, if the embankment of the impoundment is taller than 10 feet, as measured from the upslope side or will contain over 10 ac-ft of known toxic or acid producing mill tailings.

Then propose a rewrite to the operating permit rules to address small miners who apply for an operating permit....!