





## SENATE STANDING COMMITTEE REPORT

February 18, 2005

Page 1 of 1

Mr. President:

We, your committee on **Highways and Transportation** recommend that **Senate Bill 487** (first reading copy -- white) do pass as amended.

Signed: *Gerald Pease*  
*Senator Gerald Pease, Chair*

**And, that such amendments read:**

1. Page 3, line 18.

**Strike:** "and"

2. Page 3, line 21.

**Following:** "violation"

**Strike:** "."

**Insert:** "; or"

3. Page 3, line 22.

**Strike:** "(c) If"

**Insert:** "(iii) if"

- END -

**Committee Vote:**

Yes 9, No 0.

400947SC.ssc

*KP*



## SENATE STANDING COMMITTEE REPORT

February 18, 2005

Page 1 of 1

Mr. President:

We, your committee on **Highways and Transportation** recommend that **Senate Bill 459** (first reading copy -- white) **do pass**.

Signed: \_\_\_\_\_

*Gerald Pease*  
Senator Gerald Pease, Chair

- END -

**Committee Vote:**  
Yes 9, No 0.

400948SC.ssc

KH



## SENATE STANDING COMMITTEE REPORT

February 18, 2005

Page 1 of 2

Mr. President:

We, your committee on **Highways and Transportation** recommend that **Senate Bill 465** (first reading copy -- white) do pass as amended.

Signed: *Gerald Pease*  
Senator Gerald Pease, Chair

**And, that such amendments read:**

1. Title, line 4.

**Strike:** "SUBSTANCES"

**Insert:** "CHEMICALS"

2. Page 1, line 10.

**Strike:** "Any substance"

**Insert:** "(1) A chemical may not be"

3. Page 1, line 11 through line 12.

**Strike:** "must" on line 11 through "jurisdiction" on line 12

**Insert:** "unless the chemical appears on the department of transportation's list of approved products for that purpose"

4. Page 1.

**Following:** line 12

**Insert:** "(2) For the purposes of this section, "chemical" does not mean salt."

5. Page 1, line 18.

**Strike:** "Any substance"

**Insert:** "A chemical may not be"

6. Page 1, line 19.

**Committee Vote:**

Yes 9, No 0.

401033SC.ssc

Handwritten initials, possibly "RJ", in the bottom right corner.

**Strike:** "must" through "jurisdiction"

**Insert:** "unless the chemical appears on the department of transportation's list of approved products for that purpose"

7. Page 1.

**Following:** line 19

**Insert:** "(3) For the purposes of this section, "chemical" does not mean salt."

- END -



## SENATE STANDING COMMITTEE REPORT

February 18, 2005

Page 1 of 1

Mr. President:

We, your committee on **Highways and Transportation** recommend that **Senate Bill 423** (first reading copy -- white) **do pass**.

Signed: \_\_\_\_\_

*Gerald Pease*

*Senator Gerald Pease, Chair*

- END -

**Committee Vote:**  
**Yes 9, No 0.**

400949SC.ssc

Handwritten initials, possibly "JP", in the bottom right corner.

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**COMMITTEE FILE COPY**

**TABLED BILL**

The **SENATE HIGHWAYS AND TRANSPORTATION COMMITTEE** TABLED **SB 441**, by motion, on  
Thursday, February 17, 2005.

  
\_\_\_\_\_  
(For the Committee)

  
\_\_\_\_\_  
(Secretary of Senate)

9:00 2-17  
\_\_\_\_\_  
(Time) (Date)

February 18, 2005

Peg Holwick, Secretary

Phone: 444-4783

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## SENATE STANDING COMMITTEE REPORT

February 18, 2005

Page 1 of 1

Mr. President:

We, your committee on **Highways and Transportation** recommend that **Senate Bill 174** (first reading copy -- white) **do pass**.

Signed: *Gerald Pease*  
*Senator Gerald Pease, Chair*

- END -

**Committee Vote:**  
Yes 9, No 0.

400952SC.ssc

*Kf*

PROXY VOTE

I, the undersigned, hereby authorize Senator Pease to

vote my proxy on any issue before the Senate Highways & Transportation

Committee held on 2/17/05, 2005.

SB 423 yes +  
465 yes + yes on amendments  
487 yes  
459 yes  
441 table

Debi Coakley  
SENATOR  
STATE OF MONTANA

Feb 17, 2005

Senate Highways + Transportation Committee

I give my proxy to Senator Laslovich for  
today.

Ron Weinberg

SB 487 : YES

SB 459 : YES

SB 465 : YES

SB 423 : YES

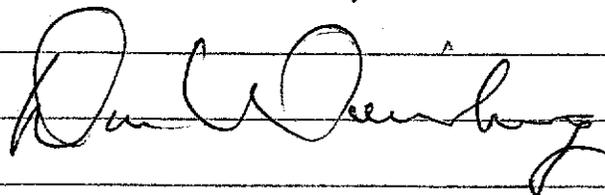
SB 441 : NO

SB 174 : YES

Sen. Pease has my proxy for  
executive action this day.

2/17/05

Dan Werbberg

A handwritten signature in cursive script that reads "Dan Werbberg". The signature is written in black ink on lined paper.

Sen Lazher my

proxy



SFB 487 : YES

SFB 489 : YES + YES TO AMENDMENTS

SFB 465 : YES + YES TO AMENDMENTS

**MONTANA STATE SENATE  
2005 LEGISLATURE**

**VISITOR REGISTER**

**HIGHWAYS AND TRANSPORTATION**

DATE 2/17/05 BILLS BEING HEARD TODAY SB 423 SB 441  
SB 459 SB 465  
SB 487

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Jesse Munro	3281	MHP	459	X	
Mike Tooley	3780	MHP	459	X	
Curt Rissmann	5447	MHP	459	X	
Buffy Woodring	206-3561	MSRCA/B&L Transfer	459 487	X	
LEONARD LUNBY	899-8873	SELF	441	X	
Steve Lechner	287-2146	Self	441	X	
George Smith	272-1784	Lionsgton School Dist	487	X	
Robert Evans	388-3712	Bellevue Schools	487	X	
Samuel Wagner	287-2146	Self	441	X	
Larry Flynn	444-9418	MDT	459	X	
Jim Skillestad	377-3809	Dawson Co	465		
Jay Wagner	287-2146	Self	441	X	
Jerry Kelen	287-2136	Self	441	X	
Mike Tooley	3780	MHP	487	X	
Prescott Wagner	287-3964	Self	441	X	
Bob Gilbert	439-1939	MT School	487	X	
Bud Williams	444-5643	OPC	423	X	
Brenda Nord	444-2713	MVD/DOT	487 → 423	X	
Brenda Thompson	444-3918	Doc	423	X	
Drew Roberts	444-4518	DOT/MVD	423	X	Informed
Troy Smith	287-3093	Arrowhead Reclamation	441	X	

MARK TAYLOR 443-6820 ANHEUSER-BUSCH Co's 423 X

**PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY**

John Ostlund 698-2507 Yellowstone County 465 X  
 DREW LIVESKY 444-6140 MONT. DOT TRANS. 459 X



RELIANCE REFINERY  
Kalispell, Montana  
January 12, 2005

Brief Summary of DNRC Activities to Date

The Reliance Refinery Company owned and operated a crude oil refinery near the city of Kalispell from approximately 1925 to 1930. The State of Montana acquired this 6.62-acre property under a foreclosure of lien for delinquent oil taxes in 1934. The State, through the Department of State Lands (now the Trust Land Management Division within DNRC) leased this property out for refinery and storage operations from 1935 to 1971. Unlike school trust land, this property is sovereign state land, and all revenues generated from leasing the property go to the State's general fund. Leasing ceased in 1971 with the discovery of hydrocarbon contamination. Reliance Refinery subsequently became a "Superfund" site. Since that time, both DEQ and DNRC (as directed by DEQ) have been engaged in a variety of efforts, ultimately focused on site remediation. Below is a brief chronology of activities.

- 1985 - DEQ conducts initial field investigation, including eight test pits.
- 1986 - EPA directs a field investigation, including monitoring wells, soil, sludge and groundwater sampling.
- 1988 - DEQ conducts additional site investigation, including soil, sludge and groundwater sampling.
- 1991 - EPA study, including additional soil and groundwater sampling.
- 1996 - DEQ directs the preparation of a Resource Investigation/Feasibility Study (RI/FS). Field work included extensive soil sampling, test pits and monitoring wells. DEQ advises it expects to complete the RI/FS Study in 1996, which DNRC can use to complete site remediation.
- 1997 - DEQ completes a draft Final Remedial Investigation Study.
  - Legislature provides DNRC a \$600,000 reclamation grant from the Resource Indemnity Trust Fund.
- 1998 - DEQ conducts additional soil sampling.
- 2000 - DNRC submits Remedial Soil Alternatives Report to DEQ.
  - DEQ requests their contractor to submit a revised Remedial Investigation Study.
  - DEQ advises DNRC of data gaps in Remedial Soil Alternatives Report.
- 2001 - Meetings with DEQ to clarify and confirm summary of data gaps.
  - DNRC submits Work Plan for DEQ review and comment.
  - DNRC submits revised Work Plan, containing modifications requested by DEQ.
- 2002 - DNRC completes revised Work Plan and submits Phase II RI/FS Study to DEQ.
- 2004 - DEQ rejects Phase II RI/FS Study, requests additional data, and files suit against DNRC and other landowners.

Total DNRC Expenditures

From RIT Reclamation Grant:	\$ 83,071
From TLMD operating budget:	<u>39,586</u>
TOTAL	\$ 122,657

Note: Remainder of Reclamation Grant reverted back to Resource Indemnity Trust



# SWANK ENTERPRISES/ GENERAL CONTRACTORS

JAYNE MITCHELL GENERAL COUNSEL

615 PONDERA AV.  
P.O. BOX 568  
VALIER, MT. 59486  
406 / 279-3480  
406 / 279-3490-FAX.

17 January 2005

Members of the Senate Natural Resources Committee  
State Capitol  
Helena, Mt. 59620

Re: SB 489

Dear Members of the Committee:

1. In a September 20, 2000 letter <sup>p 2</sup>/DEQ site manager Denise Martin stated there was no contamination in the Evergreen Municipal Wells. This area is served by City or municipal water. Land & Water Consulting Report December 2002 pg. 69. The DEQ stated in prior testimony before the Senate Energy Committee that only 2 residential wells needed to be replaced. The replacement was done by BNSF. The DNRC has told me that through their permitting process they would not permit any new wells.
2. According to the same letter MDHES (DEQ) consultants found groundwater contamination migrating toward the east/southeast not toward the Stillwater River.
3. The situation does not meet the statutory definition of "emergency" set forth in 17-7-102 M.C.A.

I have enclosed copies of the September 20, 2000 letter and a copy of 17-7-102 MCA.

The government has been studying this situation for 14 years. Please defeat SB 489.

Sincerely,

Swank Enterprises

*Jayne Mitchell*  
Jayne Mitchell

Supplement to Record  
SB 489 per  
hearing last night.

*Jayne Mitchell*  
Swank Enterprises



**SWANK ENTERPRISES/ GENERAL CONTRACTORS**

**JAYNE MITCHELL GENERAL COUNSEL**

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Sincerely,

Swank Enterprises

*Jayne Mitchell*  
Jayne Mitchell



Montana Department of ENVIRONMENTAL QUALITY

Marc Racicot, Governor

P.O. Box 208901 • Helena, MT 59620-0901 • (406) 444-2544 • E-mail: www.deq.state.mt.us

URGENT LEGAL MATTER  
VIA CERTIFIED MAIL

752-4577

September 29, 2000

Swank Enterprises  
Through Its Registered Agent  
Dean Swank  
615 Pondera Avenue  
Valier, MT 59486

Klinger Lumber Company  
Through Its Registered Agent  
John F. Hammett  
P.O. Box 1097  
Kalispell, MT 59901

Burlington Northern Santa Fe Railroad (BNSF)  
Through Its Registered Agent  
The Corporation Trust Company  
1209 Orange Street  
Wilmington, DE 19801

*Comprehensive Environmental Response  
Compensation & Liability Act of 1980*

Re: Reliance Refinery Superfund Site - Kalispell, Montana

Dear Potentially Liable Persons:

In 1985, a CERCLA preliminary assessment by the Montana Department of Health and Environmental Science (MDHES, currently known as the Montana Department of Environmental Quality (DEQ)) noted the potential for contamination at the Reliance Refinery site (hereinafter called "the Site"). In 1986, a field investigation performed by the EPA Field Investigation Team (FIT) found dioxins in the onsite soils. A 1988 CERCLA Phase I site investigation by MDHES consultants characterized onsite soil and groundwater contamination at the site and the adjacent Kalispell Pole & Timber site. Investigators found high levels of total petroleum hydrocarbons (TPH), metals (primarily lead), polynuclear aromatic hydrocarbons (PAHs) and low levels of dioxins in soils at the Reliance Refinery site. Pentachlorophenol (PCP) was found in one soil

Page 1 of 3

Reliance Refinery  
State Superfund Site  
29 September 2000

sample. Groundwater was also found to be contaminated with PCP.

A 1989 CERCLA Phase II site investigation by MDHES consultants found no contamination in the Evergreen municipal wells or in most nearby residential wells. MDHES consultants determined groundwater contamination was migrating offsite to the east/southeast. A 1991 CERCLA Phase II site investigation by MDHES consultants found no contamination in the Evergreen municipal wells or in most nearby residential wells, but did find PCP in a downgradient residential well and very low levels of petroleum hydrocarbons in another downgradient irrigation well. \* \*

In 1992, third party Phase I and II environmental assessments were conducted to determine whether a property south of Highway 2 was affected by contamination from the nearby Comprehensive Environmental Cleanup and Responsibility Act (CECRA) sites. The investigation found petroleum hydrocarbons and low levels of several PAHs in soil and groundwater on the property. However, the contaminant source has not been identified. Several potential sources exist in the area.

DEQ provided statutory notice to you as a potentially liable person (PLP) in 1995. The notice stated that you are responsible for remediation of the hazardous and/or deleterious substances released from the Site under Montana's CECRA.

In 1996, a Remedial Investigation (RI) was initiated by DEQ at the Site to delineate contamination. Extensive petroleum contamination was found in the soils and groundwater. Lead contamination was found as well. In 1997, a Draft RI was prepared to address the soil contamination at the Site; this RI has not yet been finalized. In 1997, a Draft Feasibility Study (FS) was also completed and submitted to DEQ. The 1997 Draft FS was prepared to evaluate alternatives potentially applicable to remediating petroleum-contaminated surface and subsurface soils and sludges at the Site, and was envisioned as an interim or removal action that would be implemented to remediate only the highest risk surface contamination that existed at the Site. The Draft FS has not yet been finalized.

DEQ has determined that additional activities are required to fully characterize and remediate the Site. These activities are identified below:

- Prepare, submit, and implement a draft and final data gaps work plan to determine (1) the magnitude and extent of pentachlorophenol, dioxin, petroleum product and lead contaminated soil and groundwater throughout the entire site, (2) the magnitude and extent of contaminated soils and sludges throughout the entire site, and (3) the magnitude and extent of free product in the groundwater;
- Prepare draft and final data gaps reports;
- Prepare, submit, and implement a Phase II RI to address the identified data gaps,

Reliance Refinery  
State Superfund Site  
29 September 2000

addressing the entire site and identifying any appropriate interim actions that may be necessary;

- Prepare, submit, and implement a draft and final risk assessment work plan for the entire site using EPA risk assessment guidance;
- Prepare a draft and final baseline human health and ecological risk assessment report;
- Revise the existing 1997 Draft FS to incorporate the results of the data gaps workplan, the Phase II RI and the risk assessment, and submit the revised draft and final documents to DEQ; and
- Provide a schedule for performing the above activities.

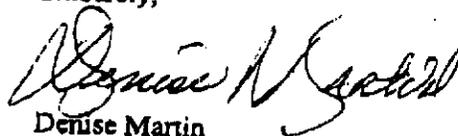
All documents submitted must address and incorporate DEQ comments. Attached to this letter is a Scope of Work (SOW) which outlines the requirements and schedules for the Phase II RI.

The activities listed above include only those actions DEQ is requiring at this time. DEQ reserves all its rights to require further remedial actions at the Site in the future. DEQ will be issuing bills for past and future oversight costs, pursuant to § 75-10-722, Montana Code Annotated (MCA).

Pursuant to § 75-10-711, MCA, DEQ is offering each noticed PLP the opportunity to properly and expeditiously perform these remedial actions. Failure or refusal to conduct these actions will evidence that the PLP is not properly and expeditiously performing the appropriate remedial actions, in which case DEQ may conduct the actions itself and recover its costs or it may issue an order or initiate a civil action requiring you to perform the actions.

Please contact Lisa M. DeWitt, DEQ's Project Officer for the Site, in writing, no later than October 31, 2000, to confirm your intent to carry out the remedial actions discussed herein.

Sincerely,



Denise Martin  
Site Response Section Manager

cc: Cynthia Brooks, Esq., DEQ Legal  
Lisa M. DeWitt, DEQ Remediation - Project Officer  
Jeff Hagener, DEQ  
Mark D. Etchart, Browning, Kalocyzk, Berry & Hoven

that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

- (a) the governor or the governor's designated representative for executive branch agencies;
- (b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;
- (c) the speaker for the house of representatives;
- (d) the president for the senate;
- (e) appropriate legislative committees or a designated representative for legislative branch agencies; or
- (f) the board of regents of higher education or its designated representative for the university system.

(4) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

\* (6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(10) "Present law base" means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

- (a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;
- (b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;
- (c) inflationary or deflationary adjustments; and
- (d) elimination of nonrecurring appropriations.

(11) "Program" means a principal organizational or budgetary unit within an agency.

(12) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(13) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell.

**History:** En. 79-1012.1 by Sec. 1, Ch. 460, L. 1975; R.C.M. 1947, 79-1012.1; amd. Sec. 1, Ch. 596, L. 1983; amd. Sec. 5, Ch. 787, L. 1991; amd. Sec. 2, Ch. 12, Sp. L. November 1993; amd. Sec. 7, Ch. 308, L. 1995; amd. Sec. 5, Ch. 347, L. 1997; amd. Sec. 2, Ch. 607, L. 2003.

na university system and

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second year — proposed

61-3-467.

he "Budget Act".  
R.C.M. 1935; amd. Sec.

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ions, institutions,  
of state government

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Written by Chris Taylor

This calf was 10 days old when he was killed by a wolf. We had 55 pairs\* out in their pasture when it happened. We were woke up by our cows bellowing at the gate, April 12,

1996, and could not figure out what happened til we went out to feed and this is what we found.

Coyotes would have eaten the whole carrcass, but coyotes stay away from us becasue our cows would chase them out of the pasture and my horse would also chase them.

A federal trapper came out and since the tracks were already erased by the cows, he could only say that a coyote had done it, but also informed us that they had been catching wolves in traps set for coyotes since **1986!** He also agreed that a wolf had killed our calf. He took some hide samples to send to a lab to see if there was any teeth marks that tell them about the animal that killed this calf. We still have not heard back.

The wolf came back the next day. Word of mouth said later that he was dead.

For those that would care, this calf was disemboweled and eaten alive. He died a terrible death that no animal should go through.

\* mother cows with calves at their side.

Click [here](#) to go back home.

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**Pictures and Information by Chris Taylor, Fort Benton,MT**  
**Use of photos and article by premision of owner only.**