SENATE NATURAL RESOURCES
EXHIBIT NO. 6
DATE 2/2/05
BILL NO. HB 185

TESTIMONY FOR HOUSE BILL 185

Mr. Chairman, members of the committee, my name is Warren McCullough. I am the Chief of the Department of Environmental Quality's Environmental Management Bureau, which administers the Metal Mine Reclamation Act. This bill modifies language in both the Metal Mine Reclamation Act and the Opencut Mining Act. The Department requested and supports this legislation.

The state asserts authority to regulate exploration and mining on all lands within the state except tribal lands. To exercise this authority on federal land under the management of the USDI Bureau of Land Management (BLM) and the USDA Forest Service (USFS), the department relies on Memos of Understanding (MOUs) to outline the rights, responsibilities, and guidelines for interaction between the agencies. Large past mineral developments in the state have typically taken place on land positions consisting of private, federal, and/or state land. Some of those developments have ended up in bankruptcy (Beal, Basin, Zortman, Landusky), requiring additional infusions of federal funds for reclamation, and the state's federal partners have sought a more prominent role in the process of calculating, collecting and administering reclamation bonds. Two years ago, the BLM revised its own regulations governing development of minerals on federal lands (3809 regulations), and requested that the DEQ-BLM MOU be updated to reflect those revisions. DEQ's Legal Department reviewed BLM's proposed revised MOU at that time and concluded that the document could not be accepted without legislative authorization of the joint holding of bonds, and specification of the department's unilateral right to collect bond funds if necessary.

Passage of the legislation will allow the department to update and renew its MOU with the BLM. Our inability to do so for two years has been a point of contention with this valued federal partner, which has provided millions in supplemental funding for reclamation and water treatment at Zortman. The bill will also relieve an operator of the potential burden of posting separate (and probably equal) bonds with two agencies (i.e., double bonding).