

Exhibit Number: 9

The following exhibit is several assorted documents that exceeds the 10-page limit therefore it cannot be scanned. A small portion has been scanned to aid in your research for information. The exhibit is on file at the Montana Historical Society and can be viewed there.

EXHIBIT 9
DATE 3.16.05
HB 606

Dear Chairman Glenn Roush and members of this committee,

Thank you for this opportunity to share with you the devastating impact HB 606 will have on the environment and the small hard rock miners in Montana if passed as written. In the interest of upholding previous Montana State Legislative sessions that proclaimed Montana's understanding of the need to have the opportunity to explore and produce minerals, I urge this committee to vote NO on HB 606 as presently written.

History

HB 606 was initially introduced in the House on the premise that impounding mill tailings at the Lodestar mill will contaminate the greater Yellowstone ecosystem with acid runoff.

A number of proponents of the bill that live near the Lodestar mill got up and spoke, one after the other, about how the tailings impoundment might some day impact their groundwater and standard of living. It didn't matter whether they lived upgradient from the mine or down gradient, they all claimed they were going to be adversely impacted.

A representative from DEQ got up near the end of the hearing and stated that the "Department" did not have a stand on this bill.

After the hearing, a group of small miners met with a member of Northern Plains Resource Council and the sponsor of the bill. Concerns were shared and ideas exchanged. Finally Northern Plains and the sponsor drafted an amendment that addressed the concerns of both parties, except apparently DEQ.

The agreed upon amendment called for excluding small miners who impounded less than 10,000 tons of non-toxic and non-acid generating waste/mill tailings. Over 10,000 tons or if it was toxic or acid-generating, the small miner would then have to apply for an expensive and complicated operating permit, just like the huge multi-billion dollar mining companies do.

Both parties looked over the amendment and agreed that it addressed all concerns, while fairly treating the small weekend hard rock miner.

The following was later relayed to me by the sponsor and the representative from Northern Plains Resource Counsel:

The amendment was presented and all in a sudden DEQ took a very firm stand against the amendment, insisting that **all** small miners who impound any amount of mill tailings **must** apply for their operating permit, no exceptions!!!

LAW Info.

I am sure you are aware of the purpose and intent of the Small Miners Exclusion (SME) as written in the law. It was put there by DEQ and the Montana Legislature to ensure the small miner was not suffocated by cost prohibitive regulations imposed on the large multi-billion dollar mining companies. The SME is limited to 5 acres of disturbance max per site and only two sites. The large multi-billion dollar mining companies not only generate millions of dollars in revenue every year, but also disturb 100's and 1,000's of acres of land. Most small miners I know get really excited if they make enough money one season to pay for the gas.

Since you are aware or should be aware of the small miners exclusion in the law, I won't go into it any further, but will provide a copy of the law and regulations dealing with the small miners exclusion and the requirements for DEQ's operating and reclamation plan.

Just one more item to help you understand the negative impact this bill have on the small hard rock miner in Montana.

If you will notice, 82-4-335(3) states that, "the department may require a person who is applying for a permit pursuant to subsection (1) to pay an additional fee...Whenever the

department determines that an additional fee is necessary and the additional fee will exceed \$5,000, the department shall notify the applicant that the fee must be paid...

Present

That now brings us to today's hearing.

If you passed this bill, you will be setting a very bad presidents for Montana. It will not only be bad for all the small hard rock miners in Montana, but also for all the people of Montana as a whole.

First,

If this bill passes, the small hard rock miner will be forced to either abandoned their claims, expend unnecessary fund they don't have or go bankrupt trying to get a permit for an impoundment, or possibly pollute the environment by not using an impoundment to control their tailings.

How many of you as individuals can fork out \$500 to submit an application to go fishing, then thousands, if not millions of dollars for an EIS and background studies, and then wait three to five years, if not ten or fifteen year like the Rock Creek Mine to get approval? How many of you would be more than happy to pay \$100 per year to submit an annual report saying where you fished and how many fish you caught? Probably not very many, if any.

That is what this bill proposes to do to the small hard rock miners who if like me, probably don't make as much money a year as you do.

Second,

If this bill passes and is signed into law, it will open the way for someone who doesn't like you to pass a law making it cost prohibitive through unnecessary and burdensome regulations to build your new home or go fishing or golfing.

Or if someone moves in next to a ranch and doesn't like the cows mooing, to pass a law making it cost prohibitive through unnecessary and burdensome regulations for the rancher to continue ranching.

You may think to yourself that will never happen, but you vote yes on this bill as written, you just helped it happen.

This bill is being pushed through with one person in mind, Mr. Pete Northcutt and Lodestar Mining. All the proponent specifically referenced Pete and Lodestar Mining. No one brought up any examples of any problems at any of the some 400 operating small mines.

DEQ claims only two small hard rock miners will be affect and one is already in the process of applying for an operating permit and the other has a large reclamation bond posted with the land owner.

The question that haunts me is, "Why does Montana need this bill if there is only one operation that is suppose to be impacted by it?"

Seriously, is it this body's responsibility to spend taxpayers money to hear and pass bills aimed at putting one person or group of people out of business or to hear and pass bills that are for the betterment of the whole of the State?

Since this bill won't benefit the whole of the State, why are we even here? This bill doesn't deserve the time and effort everyone has put into it so far. The issue Northern Plains and its member(s) have against Pete could very easily have be worked out outside this room, if DEQ and Northern Plains had a legitimate issue with that operation.

Testimony and Demonstration

I am one of the small hard rock miners DEQ claims won't be affected by this bill. If DEQ claims we won't be affected, then why won't they put it in writing in this bill?

I may have an idea why? Because they know it **will** affect every small hard rock miner who crushes even one pound of rock and wants to put the "tailings" in a 5-gallon bucket or a 10,000 gallon decant tank.

Please let me demonstrate how this bill will affect all small hard rock miners in Montana.

As a small hard rock miner -

- 1) I bring home a load of rock I dug by hand from my mine.
- 2) I hand crush and grind the rock to sand size so I can get the minerals out (i.e. ore processing by definition).
- 3) Being an environmentally conscience miner, I can't bear the thought of dumping the "tails" on the ground, so I put them in a 5-gallon bucket to dispose of later.
- 4) I may make a few dollars from this process in a year or two, but I haven't made enough so far to cover my gas. I don't do it for the money. I mine because I enjoy getting out, just like some of you enjoy hiking, fishing, or golfing.

If you pass this bill, the small hard rock miner is left with very little choice.

- 1) He can quite mining, but that is like asking you to quite breathing for the rest of your life.
- 2) He can go into debt trying to get an operating permit for his 5-gallon bucket or 10,000 gallon decant tank.

Or 3) He can dump the tailings on the ground and let them run where they want to because this bill only affect him if he impounds them.

If you vote to pass this bill without providing protection the SME law was intended to provide for the small weekend miners in Montana, it will be like the guy across from you voting to make it prohibitively expensive for you to go hiking or fishing or golfing. Think about that the next time you want to go going hiking, fishing, or golfing.

Conclusion

HB is bad for Montana because it will exterminate the small hard rock miner in Montana (which some here probably dream of that day) or lead to more pollution because it give them no choice but to dump their tailings on the ground, against their conscience, instead of continuing to containing them in small impoundments to minimize potential pollution.

If you vote to pass this bill, you can hold your head high that you have voted on a bill that not only will destroy the lifestyle and recreational enjoyment the small weekend hard rock miner gets from mining. but promotes dumping tailings on the ground with no impoundments to contain and control potential pollution, and opens the door for others to push bills through aimed at destroying one person' or group of peoples legal livelihood and business.

I cannot tell you how to vote, but if I was in your shoes, I would vote for the good of Montana as a whole and vote **NO** on this bill, HB 606!

Thank you,

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

Alan Gilda, Small Weekend Hard Rock Miner

Helena, Mt.

Ph. 461-1299

YAHOO! MAIL

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From: "Cody Ferguson" <cody@northernplains.org>
To: gmciv@yahoo.com, gmriv@yahoo.com
Subject: draft amendments to HB 606
Date: Mon, 14 Feb 2005 22:59:29 -0700

Alan,

Below are the draft amendments to HB 606. Let me know what you think. I tried to address the ideas we came up with after the hearing. Let me know if you think 10,000 tons is too small to require bonding for. To a layperson, it still seems like a lot of waste rock, especially if it's acid producing.

Feel free to forward this on to anyone else you know who was at the hearing.

-Cody

**Draft Amendments to HB 606
2/14/05**

1. p. 3, line 18, replace "included" with "excluded."
2. p. 3, line 19, delete "solid."
3. p. 3, line 20, replace "apply for" with "obtain."
4. p. 3, line 16, after "operation" delete "." Add "if the capacity of the planned impoundment will exceed 10,000 tons in volume and the Department has determined the composition of the waste material to be toxic or acid producing."
5. New (8)(c): "A small miner utilizing an impoundment on a mine operating on federally owned land who has posted a reclamation bond with the appropriate federal land management agency for the reclamation of the impoundment is excluded from the requirements of (8)(a) and (b)."

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Northern Plains is a grassroots conservation and family agriculture group that organizes Montana citizens to protect our water quality, family farms and ranches, and unique quality of life. If you aren't a member, you should join!

82-4-302. Purpose. (1) The purposes of this part are to:

- (a) fulfill the responsibilities and exercise the powers delegated by Article IX, section 1(3) and 2(1) of the Montana constitution;
- (b) **allow** mining as an activity beneficial to the economy of Montana;
- (c) **allow** the production of minerals to meet the needs of society and the economic demands of the marketplace;
- (d) provide for reclamation that mitigates postreclamation visual contrasts between reclamation lands and adjacent lands;
- (e) provide for reclamation that affords some utility to humans or the environment;
- (f) prevent foreclosure of future access to mineral resources not fully developed by current mining operations;
- (g) mitigate or prevent undesirable offsite environmental impacts; and
- (h) provide authority for cooperation between private and governmental entities in carrying this part into effect.

(2) Although both the need for and the practicability of reclamation will control the type and degree of reclamation in any specific instance, the basic objective will be to establish, on a continuing basis, the vegetative cover, soil stability, water condition, and safety condition appropriate to any proposed subsequent use of the area.

History: En. Sec. 2, Ch. 252, L. 1971; R.C.M. 1947, 50-1202; amd. Sec. 1, Ch. 7, Sp. L. May 2000.

82-4-303. Definitions

(10) "Ore processing" means milling, heap leaching, flotation, vat leaching, or other standard hard-rock mineral concentration processes.

15) (a) "Small miner" means a person, firm, or corporation that engages in mining activity that is not exempt from this part pursuant to 82-4-310, that engages in the business of reprocessing of tailings or waste materials, that, except as provided in 82-4-310, knowingly allows other persons to engage in mining activities on land owned or controlled by the person, firm, or corporation, that does not hold an operating permit under 82-4-335 except for a permit issued under 82-4-335(2) or a permit that meets the criteria of subsection (15)(c), and that conducts:

(i) an operation that results in not more than 5 acres of the earth's surface being disturbed and unreclaimed; or

(ii) two operations that disturb and leave unreclaimed less than 5 acres for each operation if the respective mining properties are:

(A) the only operations engaged in by the person, firm, or corporation; and

(B) at least 1 mile apart at their closest point.

(b) For the purpose of this definition only, the department shall, in computing the area covered by the operation:

(i) exclude access or haulage roads that are required by a local, state, or federal agency having jurisdiction over that road to be constructed to certain specifications if that public agency notifies the department in writing that it desires to have the road remain in use and will maintain it after mining ceases; and

(ii) exclude access roads for which the person, firm, or corporation submits a bond to the department in the amount of the estimated total cost of reclamation along with a description of the location of the road and the specifications to which it will be constructed.

(c) A small miner may hold an operating permit that allows disturbance of 100 acres or less. The permit may be amended to add new disturbance areas, but the total area permitted for disturbance may not exceed 100 acres at any time.

82-4-305. Exemption -- small miners -- written agreement.

(1) Except as provided in subsections (3) through (10), the provisions of this part do not apply to a small miner if the small miner annually agrees in writing:

- (a) that the small miner will not pollute or contaminate any stream;
- (b) that the small miner will provide protection for human and animal life through the installation of bulkheads installed over safety collars and the installation of doors on tunnel portals;
- (c) that the small miner will provide a map locating the miner's mining operations. The map must be of a size and scale determined by the department.
- (d) if the small miner's operations are placer or dredge mining, that the small miner shall salvage and protect all soil materials for use in reclamation of that site and shall reclaim all land disturbed by the operations to comparable utility and stability as that of adjacent areas.

(2) For small-miner exemptions obtained after September 30, 1985, a small miner may not obtain or continue an exemption under subsection (1) unless the small miner annually certifies in writing:

- (a) if the small miner is an individual, that:
 - (i) no business association or partnership of which the small miner is a member or partner has a small-miner exemption; and
 - (ii) no corporation of which the small miner is an officer, director, or owner of record of 25% or more of any class of voting stock has a small-miner exemption; or
- (b) if the small miner is a partnership or business association, that:
 - (i) none of the associates or partners holds a small-miner exemption; and
 - (ii) none of the associates or partners is an officer, director, or owner of 25% or more of any class of voting stock of a corporation that has a small-miner exemption; or
- (c) if the small miner is a corporation, that no officer, director, or owner of record of 25% or more of any class of voting stock of the corporation:
 - (i) holds a small-miner exemption;
 - (ii) is a member or partner in a business association or partnership that holds a small-miner exemption;
 - (iii) is an officer, director, or owner of record of 25% or more of any class of voting stock of another corporation that holds a small-miner exemption.

(3) A small miner whose operations are placer or dredge mining shall post a performance bond equal to the state's documented cost estimate of reclaiming the disturbed land, although the bond may not exceed \$10,000 for each operation. If the small miner has posted a bond for reclamation with another government agency, the small miner is exempt from the requirement of this subsection.

(4) If a small miner who conducts a placer or dredge mining operation fails to reclaim the operation, the small miner is liable to the department for all its reasonable costs of reclamation, including a reasonable charge for services performed by state personnel and for state materials and equipment used. If the small miner posts a surety bond, the surety is liable to the state to the extent of the bond amount and the small miner is liable for the remainder of the reasonable costs to the state of reclaiming the operation.

(5) If a small miner who conducts a placer or dredge mining operation fails to commence reclamation of the operation within 6 months after cessation of mining or within an extended period allowed by the department for good cause shown or if the small miner fails to diligently complete reclamation, the department shall notify the small miner by certified mail that it intends to reclaim the operation unless the small miner commences reclamation within 30 days and diligently completes the reclamation. The notice must be mailed to the address stated on the small miner exclusion statement or, if the small miner has notified the department of a different address by letter or in the annual certification form, to the most recent address given to the department. If the small miner fails to commence reclamation within 30 days or to diligently complete reclamation, the department may revoke the small miner exclusion statement, forfeit any bond that has been posted with the department, and enter and reclaim the operation. If the small miner has not posted a bond with the department or if the reasonable costs of reclamation exceed the amount of the bond, the department may also collect

additional reclamation costs, as set forth in subsection (6), before or after it incurs those costs.

(6) To collect additional reclamation costs, the department shall notify the small miner by certified mail, at the address determined under subsection (5), of the additional reasonable reclamation costs and request payment within 30 days. If the small miner does not pay the additional reclamation costs within 30 days, the department may bring an action in district court for payment of the estimated future costs and, if the department has performed any reclamation, of its reasonable actual costs. The court shall order payment of costs that it determines to be reasonable and shall retain jurisdiction until reclamation of the operation is completed. Upon completion of reclamation, the court shall order payment of any additional costs that it considers reasonable or the refund of any portion of any payment for estimated costs that exceeds the actual reasonable costs incurred by the department.

(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) The exemption provided in this section does not apply to a person:

(a) whose failure to comply with the provisions of this part, the rules adopted under this part, or a permit or license issued under this part has resulted in the forfeiture of a bond, unless that person meets the conditions described under 82-4-360;

(b) who has not paid a penalty for which the department has obtained a judgment pursuant to 82-4-361;

(c) who has failed to post a reclamation bond required by this section, unless the department has certified that the area for which the bond should have been posted has been reclaimed by that person or reclaimed by the department and the person has reimbursed the department for the cost of the reclamation; or

(d) who has failed to comply with an abatement order issued pursuant to 82-4-362, unless the department has completed the abatement and the person has reimbursed the department for the cost of abatement.

(9) The exemption provided in this section does not apply to an area:

(a) under permit pursuant to 82-4-335;

(b) that has been permitted pursuant to 82-4-335 and reclaimed by the permittee, the department, or any other state or federal agency; or

(c) that has been reclaimed by or has been subject to remediation of contamination or pollution by a public agency, under supervision of a public agency, or using public funds.

(10) A small miner may not use mercury except in a contained facility that prevents the escape of any mercury into the environment.

History: En. Sec. 20, Ch. 252, L. 1971; amd. Sec. 15, Ch. 391, L. 1973; amd. Sec. 10, Ch. 281, L. 1974; R.C.M. 1947, 50-1220; amd. Sec. 2, Ch. 588, L. 1979; amd. Sec. 2, Ch. 386, L. 1985; amd. Sec. 2, Ch. 93, L. 1989; amd. Sec. 2, Ch. 346, L. 1989; amd. Sec. 2, Ch. 347, L. 1989; amd. Sec. 2, Ch. 637, L. 1991; amd. Sec. 1, Ch. 598, L. 1993; amd. Sec. 1, Ch. 329, L. 1995; amd. Sec. 2, Ch. 272, L. 1997; amd. Sec. 2, Ch. 507, L. 1999.