

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By **CHAIRMAN BILL TASH**, on March 12, 1999 at 3:10 P.M., in Room 325 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Bill Tash, Chairman (R)  
Rep. Hal Harper, Vice Chairman (D)  
Rep. Cindy Younkin, Vice Chairman (R)  
Rep. Rod Bitney (R)  
Rep. Aubyn A. Curtiss (R)  
Rep. Rick Dale (R)  
Rep. Bill Eggers (D)  
Rep. Ron Erickson (D)  
Rep. David Ewer (D)  
Rep. Gail Gutsche (D)  
Rep. Joan Hurdle (D)  
Rep. Dan McGee (R)  
Rep. Douglas Mood (R)  
Rep. Karl Ohs (R)  
Rep. Scott J. Orr (R)  
Rep. Bob Raney (D)  
Rep. Bob Story (R)  
Rep. Jay Stovall (R)  
Rep. Carley Tuss (D)  
Rep. Doug Wagner (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Todd Everts, Legislative Branch  
Deb Thompson, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 344, SB 345, 3/5/1999  
Executive Action: None

Chairman Tash announced Senate Bill 344 and Senate Bill 345 would be presented as a package. He advised the audience that he would impose strict parameters on testimony to keep within a time frame. Both proponents and opponents would each have 45 minutes to present their views.

#### **HEARING ON SENATE BILL 344**

**Sponsor:** Sen. Swysgood, SD 17, presented SB 344. He explained the bill would put the issue on the ballot in November 2000 the question of whether I-137 should be repealed or retained. He said in the interest of democracy this was part of that process. All people should have a voice when it relates to an issue of this importance. **{Tape : 1; Side : A; Approx. Time Counter : 2.8}**

#### **HEARING ON SENATE BILL 345**

**Sponsor:** Sen. Debbie Shay, SD 18, presented the bill. She addressed First Amendment Rights, mining and water and the initiative process. She pointed out that freedom of speech was not afforded during the last election. Local governments, school districts, labor organizations, small business and mining were all gaged during all but the final eleven days. She felt the issue was not cyanide but open pit mining. The result of I-137 will impact many communities driving all of mining from Montana. She pointed out every Montanan had concern for the environment. The Legislature was struggling with ways to reduce taxes and encourage economic development. Mining is a major factor as everyone in the state is directly or indirectly effected economically as a result of this industry. She believed there was direct correlation from a decline in school enrollment and the industry dying out across the state. She pointed out the state had made a major investment in the industry and now the companies were moving to other states. She stated the mining industry and all of us have to be cognizant of problems that can arise in industrial development. But we cannot become a playground for the wealthy at the expense of Montana workers. This bill holds the initiative process in place while allowing a vote of the people to again address the issue. **{Tape : 1; Side : A; Approx. Time Counter : 2.8 - 11.1}**

**Proponents:** Bill Snoddy, representing McDonald Gold Project, presented written testimony, an excerpt from the Senate Committee on Natural Resources minutes, written testimony from Dick De Voto, President of Canyon Resources Corporation, Raymond Hanson, President of Hanover Gold Company, information from the Taku

Wilderness Association outlining strategies to stop mining, and a March 7, 1999 article in the Independent Record called Tarnished Gold. **EXHIBIT(nah56a01)**

Former Governor Tim Babcock presented written testimony. He said almost any group in Montana, for almost any cause could get an Initiative placed on the ballot. This process can be used by special interest groups to subvert the legislative system.

**EXHIBIT(nah56a02)** The Distortions of Facts and Misinformation booklet was distributed, prepared by the Montana Mining Association. **EXHIBIT(nah56a03)** {Tape : 1; Side : A; Approx. Time Counter : 11.1 - 19.1}

Rep. Bob Pavlovich, HD 37 from Butte, described his mining background. He said Montana has always been a mining state and always would be. {Tape : 1; Side : A; Approx. Time Counter : 19.1 - 20.3}

Roger Rohr, an associate of the Montana Mining Association representing 150 members who supply business services to the mining industry, spoke in support of the bill. He described his business who had over 200 employees that also had a rental service in Billings, Great Falls, and the Helena area. He said when he first started working in the mine industry it represented about 40-50% of their total business. In 1997 that decreased to approximately 31% and last year in 1998 there was another 9% decline to a low of 22%. He felt this decline and lost business opportunity was largely due to the effect of I-137 Initiative. He urged the committee to vote in favor of SB 344 and SB 345. {Tape : 1; Side : A; Approx. Time Counter : 20.3 - 21.9}

Jerry Driscoll, representing the Montana Building and Construction Trades Council, spoke in favor of the bills. He said they were construction workers and used to have something to build in the state, now with very little left. He described the permit process as five layers of bureaucracy, some of which is needed. He believed the industry had built things right. He noted there was the same fight over Colstrip I and II and the same fight over coal mines in Eastern Montana. Now there will be no mining if they use cyanide. He asked what would happen to the Paladium Platinum mines around Absorkee or the coal mines. Would there be another initiative so we would all be selling hamburgers. We can't afford it. He asked the committee to pass both of the bills. {Tape : 1; Side : A; Approx. Time Counter : 21.9 - 23}

Garry Pace, Jefferson County School Superintendent, talked about the Golden Sunlight mine and other mines in his county and the impact they have on schools. He discussed the payments for

schools through mining companies. The three largest taxpayers in the county are mining companies and they also donate money to school projects. These include basketball courts, roof of a school, equipment for track and weight room, score board, computers, among others. One quarter of the taxable value in Jefferson County is mining companies. If there was no mining in Jefferson County they would loose 1/4 of their tax base. **{Tape : 1; Side : A; Approx. Time Counter : 23 - 25}**

Evan Barrett, Executive Director of the Butte Local Development Corporation, spoke in favor of the bills. He said they support proper mining as an important part of the balanced economy of Montana. He felt I-137 was based more on political posturing than any scientific basis of the use of cyanide in mining. He said the issue was split. Legislative consideration is the right way to resolve policy differences. The bill would ensure that the process to resolve these differences are made in a fair manner. This bill would put the issue back on the ballot. He pointed out the playing field was not level in the last election. The mining side was financially muzzled until the last 12 days. The bill would allow a decision by the people after hearing fully the arguments on both sides of the issue. SB 345 would allow local areas to decide for their own economy. He said the grandfather clause should be retained for existing mines and existing exploration applications because that improvement in the bill was a recognition that the rules should not be changed in the middle of the game and protects the sincere investments made by the companies and individuals. He suggested amendments to remove the 2/3 vote requirement and have the majority vote decide the issue. The amendment also allows the governing body to make determination as there would be no reason to force an unnecessary election. The decision of whether to have I-137 apply to your area with these amendments could be done by an ordinance adopted by the governing body, a resolution, a referendum passed to the voters or brought from the voters by initiative. Or if the governing body decided they didn't like it they simply have to go to the Montana Statutes section 7-15-123-128 and put it on the ballot anyway. **{Tape : 1; Side : A; Approx. Time Counter : 25 - 33.4}**

Donna Stevalstad, County Commissioner for Beaverhead County, spoke in favor of the bills. She ran a list of the top twenty taxpayers in Beaverhead County. It was no surprise to her to find Barrett's Minerals - a talc processing plant in their community, at the top of the list, paying over 1/2 million dollars a year. She pointed out that mining provided jobs and allowed people to raise their families without the help of social programs. She said there was increased demand for services in a declining tax base. She stated to allow I-137 to go into affect

would only drive Montana deeper into the economic hole. As Montana counties and this state struggle with economic viability we must not deny the opportunity the mining industry provides. Montana is the Treasure State and remain great by the mining industry. She encouraged support for SB 344 and 345. She asked the committee to consider what it would cost to build the Capitol Building today and think about the rich mining heritage and reflect on which industry built this great state. **{Tape : 1; Side : A; Approx. Time Counter : 31.8 - 35.2}**

Ted Antonioli, a geologist from Missoula, presented written testimony. **EXHIBIT(nah56a04)** He included a print out of wage statistics which showed mining companies in the top wage counties. He pointed out the tax contribution by mining companies and the long term economic contributions by mining companies. **{Tape : 1; Side : A; Approx. Time Counter : 35.2 - 38.9}**

Rick Jordan, representing the Golden Sunlight Mine, testified in support of the bill. He presented testimony from Leo Gallaher, Ray Lazuk and Monty Reed. **EXHIBIT(nah56a05)** He described his education at Montana Tech. He never had a professor say that cyanide heap leaching was a failed technology. This method of gold extraction allows an operation such as Golden Sunlight to exist. **{Tape : 1; Side : A; Approx. Time Counter : 38.9 - 43.8}**

David Russell, representing Bush Drilling, a mineral exploration drilling company in Belgrade, Montana, spoke in support of the bill. He described the financial losses through the advancing campaigns against mining in Montana. **EXHIBIT(nah56a06)** He presented written testimony and copies of letters from employees affected by the legislation. **{Tape : 1; Side : A; Approx. Time Counter : 43.9 - 49}**

Leo McCleane, a consulting geologist in Helena, discussed the impacts of I-137. The anti-mining campaigns have resulted in a decrease in exploration in Montana. This bill would allow the public to become more educated. **{Tape : 1; Side : A; Approx. Time Counter : 49 - 51}**

Eric Stimson, a consulting geologist from Helena, spoke in favor of the bills. He presented written testimony. He believed emotionalism was used to pass I-137. He felt the initiative should not be superior to laws passed by the legislature as they are often poorly thought out. **EXHIBIT(nah56a07) {Tape : 1; Side : A; Approx. Time Counter : 51.7 - 53.5}**

Jack Lynch, Chief Executive of the City of Butte and Silver Bow County, spoke in favor of both bills. These bill would provide

the opportunity to consider the facts before the public. He pointed out the benefits Butte has received from mining. **{Tape : 1; Side : A; Approx. Time Counter : 53.5 - 54.8}**

Gene Nelson, a graduate engineer from Missoula with professional registration and active for 40 years in the mining industry, spoke in favor of the bills. He pointed out the economic devastation resulting from I-137 on working Montanans from wealthy out of state interests. He described the personal economic devastation he and his family have experienced. A 15 year investment was stopped by I-137. This also affected other families plus a loss of tax revenues. **EXHIBIT(nah56a08) {Tape : 1; Side : A; Approx. Time Counter : 54.8 - 59.8}**

Stephen Walsh, representing Montana Resources, presented written testimony in support of the bills. **EXHIBIT(nah56a09)** He pointed out the strong tax base, direct employment and significant purchases of goods and services provided by the mine. Citizens already have the necessary legal tools in place to force environmental compliance in design and operation of mines. **{Tape : 1; Side : A; Approx. Time Counter : 59.8}**

Elton Shorty, Plant Manager for Continental Mines in Broadwater County, said he and the other employees were in support of SB 344 and SB 345. He described the taxes paid to the state and county which were 20% of the Broadwater County tax base. There would be a 35% loss to the mine if these bills fail. **{Tape : 1; Side : A; Approx. Time Counter : 59.9 - 61.4}**

Bill Jenkins, Vice President of Majesty Mining, presented written testimony and a packet from Beal Mountain Mine and documentation in support of the mine. **EXHIBIT(nah56a10)**

Rody Holman, Economic Development Director for Butte Silver Bow, was in support of the bills. He pointed out the legislative focus on economic development this Session and this was one opportunity to do something about our economy. **EXHIBIT(nah56a11) {Tape : 1; Side : A; Approx. Time Counter : 62 - 62.6}**

Patrick Montalban, representing the Northern Montana Oil and Gas Association, said he was in support of the bill. **EXHIBIT(nah56a12)** He pointed out the large investments of millions of dollars by mine companies on planning and working through the permit process only to risk their projects because of environmentalists or special interest groups stopping them, not the majority of the citizens of the state. **{Tape : 1; Side : A; Approx. Time Counter : 62.6 - 63.8}**

KD Feedback, a recently retired geologist from Lincoln, Montana, presented written testimony. **EXHIBIT(nah56a13)** He pointed out the unequal election activity where the mining industry was prohibited from participating until the final 11 days. He said the information that was allowed came from the environmental community which was biased and unsubstantiated.

Tom Bourns, a consulting geologist from Helena, spoke in support of the bill. He described his work for mineral exploration companies. He said they were well funded, spending millions of dollars in exploration for a variety of minerals. However, they have left Montana because of I-137 and the fact that special interest groups can use the initiative process to stop other projects. Companies are not willing to further risk capital in a state that has such an unstable business posture.

**EXHIBIT(nah56a14) {Tape : 1; Side : A; Approx. Time Counter : 63.8 - 64}**

Bill Neal, from Helena, supported both bills. He felt the election was unfair since it limited corporate contributions as well as put limits on individuals who were associated with the business. He cited a quote by the Great Falls Tribute that said: "Initiatives can only be successful where there is a free flow of ideas and information, not when half the parties directly interested must stay silent and the other half favors voter ignorance." He pointed out Hanover Gold was faced with losing its entire \$20 million investment in Montana. He asked if your business could survive without working for two years while waiting for another election. **EXHIBIT(nah56a15)**

Craig Stiles, a consulting geologist from Helena, presented written testimony in support of SB 344 and SB 345 on the basis of fairness and proper ethics. **EXHIBIT(nah56a16)** He pointed out "grand fathering" would protect companies that already invested in projects here. Other companies who haven't invested in the state would get the message and invest elsewhere due to the inconsistencies and unpredictable nature of state attitudes towards business investment.

Gene Nelson, representing Fickler Oil Company in Deer Lodge, presented written testimony from Larry Fickler, one of the owners of Fickler Oil Company. **EXHIBIT(nah56a17)** He described employees and their business dependence on the mining industry. **{Tape : 1; Side : B; Approx. Time Counter : 0 - 1.1}**

Steve Floyd, a licensed professional engineer and Plant Metallurgist at Montana Tunnels, presented written testimony. **EXHIBIT(nah56a18)** He described the track record of Montana Tunnels. He stated that Jim Jensen had purposely taken

information out of context to bolster public views against mining. He felt the Montana voters should be given another chance to consider the right information. **{Tape : 1; Side : B; Approx. Time Counter : 1.1 - 1.4}**

Monty Reed, Acting Mine General Manager of Golden Sunlight Mine, presented written testimony. He pointed out by stopping mining in Montana the environmentalists believe they are doing a great service to the earth. However, this merely puts it out of their sight since the need for mining and related products will be with us for a long time. He described the perceptions of mining in third world countries as exploitation in an unregulated world. However, third world countries do not have the level of understanding, awareness or ability to pay for reasonable environmental regulations as we do in Montana. **EXHIBIT (nah56a19)**

Glenna Obie, Chairman of the Jefferson County Commissioner, spoke in support of the bills. **{Tape : 1; Side : B; Approx. Time Counter : 1.4 - 3.2}**

Chris Gallus, representing the Montana Chamber of Commerce, spoke as a proponent to both bills. **{Tape : 1; Side : B; Approx. Time Counter : 3.2 - 3.3}**

Bruce Cox, from Missoula, Montana, and a small mine operator-Montana Clino-Z, supported both bills. He focused on I-137's effect on mining jobs and the operation of a small non-metal mine. He pointed out that I-137 tells us that state policy condones poorly conceived measures that could interrupt or terminate production at the mine on very short notice. He said removal of a product line would not be appreciated by their customers. **EXHIBIT (nah56a20)**

Mike Collins, representing Montana Independent Miners, asked the committee for a favorable vote on both bills. **{Tape : 1; Side : B; Approx. Time Counter : 3.6 - 3.9}**

Dirk Nelson, representing Montana Tunnels Mine, spoke as a proponent. He presented written testimony. He described the origination of documents that had been doctored and used to mislead people by MEIC. **EXHIBIT (nah56a21)**

George Holcolm, representing Cable Gold Mine in Anaconda, Montana, spoke in support of the bills.

Tad Dale, President of Majesty Mining, a small heap leach mine in Montana, presented written testimony. He introduced his 80 year old mother who was also from a family of miners. He stated that I-137 took away their future opportunity to recover their asset.

It took away their property without due process of law. A useful and biodegradable tool was taken away because of the intentional use of people's fear of the word "cyanide". He pointed out other damaging results of the ban. Every person in Montana uses products daily from mining. These include your home, TV, toaster, computer, bicycle, skis, car, telephone, toothpaste and medical facilities. The erosion of this basic industry will also hurt schools and individual taxpayers who will be picking up the tab. **EXHIBIT (nah56a22)**

Jill Andrews, representing the Montana Mining Association, spoke in favor of the bills. **{Tape : 1; Side : B; Approx. Time Counter : 4.6 - 4.7}**

Don Judge, representing the Montana AFL-CIO, spoke in support of the two bills. He said their delegates were unanimous regarding their opposition to I-137 because it would ban a method of gold mining without proposing an alternative. He pointed out mining jobs were among the best paid occupations in Montana.

**EXHIBIT (nah56a23) {Tape : 1; Side : B; Approx. Time Counter : 4.7 - 5}**

**Opponents:** Karl Englund, an attorney from Missoula representing Montanans for Common Sense Mining Laws for I-137, spoke on their behalf. Montanans for Common Sense Mining Laws for I-137 was the political action committee for the support of I-137. He said it seemed to him that the arguments of the proponents of these two bills could be put in two categories: one dealing with the fairness of the elections and the other with the substance of the bills. He referenced comments made by Ed Barrett who said the playing field was not level. Mr. Englund stated that was not the case. I-125 prohibited the spending of corporate dollars in initiative campaigns for most of the election. That prohibition applied to mining companies, lawyer companies, ranching and cattle companies, and all corporations for both for and against I-137. He referred to statistics in spending that showed that prohibition applied only to corporate dollars and not to dollars that individuals had of their own money. He said that both sides raised a fair amount of money. The opponents of I-137 raised more money than the proponents. The opponents of I-137 spent more money than the proponents. The opponents of I-137 ran more television, radio and media ads than did the proponents. He pointed out the ruling by Judge Lovell in the I-125 case was based in part by the successful contention by the mining industry and others that corporate dollars do not affect an initiative campaign. Judge Lovell in the I-137 case remarked on two occasions that the reason his ruling came so late was because the mining industry did not bring their case into court until

September of 1998. **{Tape : 1; Side : B; Approx. Time Counter : 5 - 13}**

Stephanie Shammel addressed pollution problems they experienced on their family ranch. She presented written testimony in opposition to the bills. **EXHIBIT(nah56a24) {Tape : 1; Side : B; Approx. Time Counter : 13.5 - 17.5}**

Lewis Garrell, a rancher from Hilger, Montana, testified in opposition to both bills. He presented written testimony. **EXHIBIT(nah56a25)** He described the water shortages they have experienced. He said it seemed unjust that a mining company can take millions of dollars of gold from the mountain and the private land owners have to spend money out of their own pocket to haul water, develop springs, drill wells and hire attorneys just to get back what they had before the cyanide heap leach operation and pumpback system started. **{Tape : 1; Side : B; Approx. Time Counter : 17.5 - 25}**

Herbert Sybult, Gilbert, Montana, spoke against the bills. He pointed out they had won the election on I-137 by 18,000 votes. They won fair and square, did not lie, cheat, blackmail, brainwash or buy bullets nor tell the people they would loose their jobs if they did not support I-137. He suggesting putting all the Initiatives back on the ballot for a re-vote. He stated it seemed awful stupid to have to vote on I-137 again just because the mining lost. They should get their signatures on a petition. **{Tape : 1; Side : B; Approx. Time Counter : 23 - 26}**

Steve Vick, Chairman of USCOLD Committee on Tailings Dams from Indian Hills, Colorado, presented written testimony as an opponent to both bills. **EXHIBIT(nah56a26)**

Mike Kennedy, Chairman of the Planning Commission in Missoula, and representing those in his area that voted in favor of I-137. He and two other Missoula County Commissioners, Barbara Evans and Bill Carey signed a letter siding against SB 344 and SB 345. **EXHIBIT(nah56a27) {Tape : 1; Side : B; Approx. Time Counter : 28.4 - 31.9}**

Tom Franks, an attorney with the National Wildlife Federation, said it was his privilege to represent the organization in litigation over the permits from the Zortman Landusky and Golden Sunlight Mine. He suggested that the election process could be looked at whether the mining companies had a fair shake or how the metal reclamation act works and how people perceive that act working and whether it is doing the job of reclaiming Montana's land. Had the Legislature been more responsive to those issues, I-137 would have never come to the ballot. What people all over

Montana see are large cyanide heap leach mines not being replaced, where problems are manifest and ongoing and where the fundamental problems have not been resolved of extracting low grade ores using these technologies. He pointed out the company was walking away leaving the pit un-reclaimed. He stated even after 32 million dollars in fines at Zortman Landusky we are not done with it. The acid mine drainage will have to be treated into perpetuity. The Department of Environmental Quality have bonded perpetuity for 100 year because they can't do the calculations. He suggested the need to restructure the Metal Mines Reclamation Act. **{Tape : 1; Side : B; Approx. Time Counter : 28.4 - 37}**

Allen Shammel, a rancher from Hilger, spoke against the bills. He described the damage to his ranch, cattle and a water shortage that resulted from the CR Kendall pump-back system. He stated six year mining jobs pale in significance to the cost of eternal water treatment. **EXHIBIT (nah56a28) {Tape : 1; Side : B; Approx. Time Counter : 37 - 40.8}**

Barry Call, from Great Falls Heights, said he represented a level of discontent. He described his background as a Vietnam Veteran and he thought Democracy was a good thing. He addressed his comments to any corporation thinking of investing in cyanide use in Montana. His message was "think again". He said the people of Montana had spoken and the mandate made clear "to defend Montana from the rapacious forces of ... corporate greed who seek profit from the devastation of our land and water that we all hold in common. It aint't gonna happen. This is Montana where a man defending his home, his holder of democracy shoots back. Go somewhere else where people are more docile. Let the word go out that Montana is hostile territory and off limits, regardless of what anti-democratic bills you pass. The people have spoken in the spirit of the law as expressed by the people, once identified is incapable of being suppressed. Why don't these mining outfits be good losers and leave Montana now. On the way back to Canada or where ever, they can stop at Fort Belknap, Hilger, Guardine, Whitehall and at the Shammel Ranch and any other place that they have left perpetual, festering, toxic, dead zones - beg forgiveness...Let all the world to hear that you people who support these bills are not fooling anyone. Everyone of you know that in your heart that if you do forgo the will of the people and create laws by Legislative fiat it is not real law and it is no longer a real democracy. Therefore, if you choose to ignore every law, there it not anything you can do about it, you can arrest us, throw us in jail, and attempt to shoot us but you will have to get the federal police force for this. You guys are acting like Pinochet in Chile, this was not done in the name of freedom, or the Democratic process. Anyone who has fished our

river, hiked our mountains, viewed the beauty, has seen the various movies depicting Montana's beauty would know outrage by what is happening here. You committee members must cherish democracy above all else. Do the honorable thing; acknowledge defeat. Fight another day, and use the same measures that we have had to use. Make no mistake; I'm not threatening anyone but condoning this garbage legislation will affect all Montanans. The only legitimate source of real democracy is the consent of the governed. You know it, we know it. Must be unilateral and we all know that. Therefore, if you intend to rule without the consent of the government, you will rule with the contempt of the government. If you rule with the contempt of the government, you will rule without the consent of the laws. What part of democracy don't you understand? I'll tell you, you don't understand the will of the people. The will of the people must be done, the will of the people will be done; and if you don't do it, we will!" **{Tape : 1; Side : B; Approx. Time Counter : 40.8 - 47.3}**

Ruth Center, President of the League of Women Voters, stated the league supported policies that promote wise management of resources in the public interest. She presented written testimony. **EXHIBIT(nah56a29) {Tape : 1; Side : B; Approx. Time Counter : 47.3 - 49.6}**

Ric Valois, representing the Environmental Ranger Center in Montana, spoke as an opponent. He described his love of country and democracy. He supported I-137 which "now stands as the law of the land." He described the current process of true democracy as one citizen-one vote but was "being replaced by corporate fascism." He said this legislative hearing was a "litmus test for that endeavor where the will of the people was dismissed and ignored." He stated "it was with absolute certainty that the cyanide gold mining industry and its legislative allies had raped the soil of the Environmental Rangers. You may not rape our land and water and steal our democratic process on our watch. You may not change the meaning of the law we the people voted on and passed, on our watch. You may not sneak around the backdoor and steal votes you could not earn on our watch. I did not come to this room to debate or reach a comfortable consensus. I am here to give you a reality check...and that reality is this: any diversions or amendments as stated in SB 344 or SB 345 and approved by a legislator and signed into law will be taken as a literal declaration of war on the land, water, and people of this state of Montana. To be a...and won in such a matter will necessitate appropriate defense. We, who call ourselves Environmental Rangers and Citizens of this Free Land, will do our duty again as we did thirty years before, to ensure that appropriate defense is met. Through the investment of these land raping corporations I'll repeat what has been stated before, you

will never realize your dreams of yielding nightmare, land shattering gold mines, like proposed... without going over our dead bodies first. We are the final hurdle in the permitting process you must have overlooked in your stampede to the hog trough. This is understandable because we can't be bought, we can't be bullied and we can't be pried - only terminated with extreme pressure. If you haven't the stomach for this fight, I suggest a more tolerable landscape elsewhere and pray to your maker that those people in those landscapes do have this love of home. To the body who make up the Natural Resource Committee, I'll close with these last words. Montana represents a geography of hope to those people who take a little from it but give a great deal more back. This hope springs forth from a genuine sense of place and a defined level of home. Our love of home is greatly tied to the simple truth that we the people have the ultimate and final say in the future of our home. This is never easy, but Democracy demands nothing easy. Democracy demands the participation and society's best policy. We the people have spoken. We have spoken the quiet dignity of our goal and backed our desire with honorable stability. It is our sincere desire that we embrace this level of home and democracy and put this issue to rest once and for all and do it with the simple democracy of the land of the people. **{Tape : 1; Side : B; Approx. Time Counter : 49.6 - 54.7}**

Glen Miller, Ph.D., Consulting Environmental Chemist at the University of Nevada, Reno, spoke at the request of the Montana Environmental Information Center. He presented written testimony. **EXHIBIT(nah56a30)** He addressed three concerns regarding open pit mining in Montana. Those were waste rock dumps, pit lakes and closure of precious metals heaps and their related problems. He stated that effect from Montana's climate on rock dumps, competing values of water and scenery, and conservation of those resources were a sound basis for preserving the decision made in the general election. **{Tape : 1; Side : B; Approx. Time Counter : 54.7 - 59}**

{Chairman Tash asked opponents to state their names. It was difficult to hear clearly so some of the names can not be fully identified.}

Amy

Vicki Freyholtz, from Boulder

Julia Page, from Gardner representing the Northern Plains Resource Council, spoke against the bills. She presented written testimony. **EXHIBIT(nah56a31)**

Mark Mackin, from Helena, presented written testimony against SB 345. **EXHIBIT(nah56a32)**

Gordon Bennett, said he resented out of state influence and special interest groups that have affected this legislation.

Stuart Lewis, from Great Falls, was an opponent. **{Tape : 2; Side : A; Approx. Time Counter : 0.1}**

Will Goldman, from Bozeman, was opposed to the bills.

Bob Stevens, from Helena, pointed out the issues had to do with forces external to Montana.

Stan Frazier, representing the Montana Wildlife Federation, was an opponent.

Joe Gutkoski, representing the Montana River Action Network, was an opponent. **EXHIBIT(nah56a33)** He distributed bottled water.

Lee Arbuckle, representing Montana League of Women Voters, spoke as an opponent.

Darrell Holm, from Butte, was against the bills.

Mary Barrow was against SB 344.

Robert Rogers, from Seeley Lake, presented written testimony against both bills. **EXHIBIT(nah56a34)**

Arian Broussard Rifle was an opponent.

Lloyd Smith was against both bills.

Jim Emerson, a Helena businessman, was an opponent. He presented written testimony. **EXHIBIT(nah56a35)**

Ralph Allen, from Ovando, presented written testimony against the bills. **EXHIBIT(nah56a36)**

Charla Trulenger Bowman was an opponent.

Laura Ferguson presented written testimony on behalf of Janet Ellis, Montana Audubon Society. **EXHIBIT(nah56a37)**

Bonnie Gestring spoke as an opponent.

Richard Hill from Florence was against the bills.

Jeff Barber, representing Montana Environmental Information Center, spoke as an opponent.

Bonnie Woly was an opponent.

Rick Ahmann, a Helena real estate broker, spoke as an opponent.

Mark Dixon from Helena was against the bills.

Mark Clifford from Missoula was an opponent.

Bill Davis stated his name as an opponent to the bills.

John Smart was against both bills.

Mark Goldman, Great Falls Conservation Council, was against both bills.

Eloise Kennedy, a hydrologist from Helena, spoke as an opponent

Bruce Farlan, representing Trout Unlimited, was against the bills.

Mark Donapreco stated he was against the legislation.

Jim Barnaby was opposed to the bills.

Robyn Nichols was against both bills.

**Informational Witnesses:** Courtney Young from Montana Tech in Butte was available for questions.

Lynn McCulloh, from the Montana Bureau of Mines, was available for questions.

**Questions from Committee Members and Responses:** Rep. Erickson asked Glenn Miller to explain the claims that cyanide and heap leach methods used in gold mining were a failed technology. Miller replied the main problem was the sheer magnitude of the operations. He said cyanide was very efficient and allowed gold recovery on very low grade ore. However, the amount of waste rock in sheer volume resulted in an increased amount of potential water drainage from the sites. The technology is used in both Montana and Nevada. The difference is the climate where Nevada is dryer and less prone to water run off. Rep. Erickson asked for an explanation of closed containers versus groundwater concerns. Miller replied the real problem with groundwater concerns is when the water table drops. You don't want your materials to end up at the bottom of a lake so you pump it back

up. It drops the water table, exposes the rock, which allows a lot of oxidation reaction. That is one of the main reasons why pit water quality is generally not good. It also allows some potential movement of water out of that pit. There is a chance of some major ground water contamination out of the pit area. He said there was no way to predict the results. He stated it is not cyanide itself, but all things associated with the operation. **{Tape : 2; Side : A; Approx. Time Counter : 17.2 - 19.6}**

Rep. Erickson asked about the problems over time. Miller replied it was a real issue. The oxidation of waste rock dumps would be there for a long time. The sheer magnitude is such that these would need to be managed for a long time into the future. **{Tape : 2; Side : A; Approx. Time Counter : 19.6 - 20.4}**

Rep. Mood asked Courtney Young if he was a professor at Montana Tech and an expert of cyanide heap leach system. Young replied that he was. He described the cyanide heap leach system. In order to heap leach you have to have an oxidized ore body. If there is sulfide in that ore body you take certain precautions. In order to do a heap leach the gold must be very fine. If you can see it you can not leach it. If you can see the gold then you have to go to the gravity type system. He stated heap leaching is not a failed technology. Some heaps do leak if the liner is punctured. It is not an intentional puncture. When a puncture occurs there would be a loss of gold as well, because this is the device which captures the gold. If there is a puncture and the cyanide is leaking, you are also losing your money. It is not something from an economic point of view that a mine wants to have. Second, they want to recover that cyanide so they don't have additional expense. They have the opportunity to recapture the cyanide. Another technology is with vat leaching or what is incorrectly termed as vat leaching. It is more appropriate to call it agitation leaching. This technology requires a little bit higher grade of ore body because you have to reduce the size of the material down to an appropriate size for leaching, because you are agitating to keep the material moving. It is hard to agitate a four foot boulder but you could certainly heap leach a four foot boulder. When you have contained agitation vessels you would have no chance for the cyanide to leak unless it is completely mishandled. **{Tape : 2; Side : A; Approx. Time Counter : 20.4 - 23.9}**

Rep. Mood asked Jeff Barber about the reference in the red notebook, which was distributed by Governor Babcock, under tab 3 it described media ads in the last campaign regarding cyanide spills. He read from the book, "135 million gallons of cyanide spilled, contaminating their drinking water, killing livestock and forcing ranchers off their land." He asked if that was an

accurate portrayal in the ad sponsored by MEIC. Jeff Barber replied it was accurate. Rep. Mood asked if MEIC had paid for the ads. Barber replied he believed that was paid for by Montanans for Responsible Mining. He said he was not aware of MEIC paying for any ads. **{Tape : 2; Side : A; Approx. Time Counter : 23.9 - 25.3}**

Rep. Mood asked Dirk Nelson from Pegasus Gold to respond to the quote regarding the 135 million gallons of cyanide spilled. He noted this was the type of information given to the voters. He asked for a comment on the accuracy of the information. Nelson replied their position at Montana Tunnels was that they absolutely disagreed with those figures because that represents their mine. That statement was absolutely untrue. Rep. Mood commented that it was such a dramatic statement so where did they come up with 135 million gallons. Nelson said in the last Senate Committee hearing they were asked to provide information as to where they did get that figure. They did present a document created by the United States Committee of Large Dams. **(Refer to Exhibit 26.)**. He said the questionnaire consisted of one page. The United States Committee of Large Dams sounds very impressive. Actually, they are not a division of the government but they are a professional club of engineers. He said they were handed the questionnaire and filled it out for their information and submitted it to DEQ for their information as well. **{Tape : 2; Side : A; Approx. Time Counter : 25.3 - 28.4}**

Rep. Stovall asked Cortney Young about the long term effects of cyanide on people. Young replied there had been no effects, on people at least. The articles in the papers that said cyanide was bio-accumulate, is absolutely false. There have been reports of many people reaching toxic levels, showing sickness where cyanide had gone on, but this is untrue because cyanide breaks down in the blood, it breaks down into nitrates and/or carbocides. Cyanide itself is not stable in water and breaks down. It eventually breaks down, however under increasing conditions where cyanide will form ammonium but under oxidizing conditions, which the blood has, it forms nothing. Young commented on the failed technology concept. He said that liners and heap leach operations are also used to cap areas to prevent water from getting into an area, such as at the Old Works Golf Course. It is also used for lining creeks to prevent acid rock drainage from certain areas. It is drained into areas where you can treat it. It is also used in brand new landfills. EPA requires all new landfills to be lined. If this is a failed technology why does EPA tell us that is what we have to do. It is not a failed technology. **{Tape : 2; Side : A; Approx. Time Counter : 28.4 - 32.0}**

Rep. Curtiss asked Robin McCulloch about water pollution and dangers to fish. She asked if there had been any recorded incidents of fish kill relative to cyanide releases. McCulloch replied he did not know of any fish kills in Montana and only knew of two incidents where cyanide ever reached surface water. All the leaks, except for two, were contained on the pad or within the pumpback system. Of the two, one was early in the development in the mid-1980's when they had two back to back events and a cow died. He said he never heard of any fish dying but there may not have been fish in the stream. The other event was in 1993 when a pipe broke during the night. The DEQ investigated and walked all the way down the stream. It may have stressed some of the insects but the levels of material in there was more of a PH problem than it was a cyanide problem. In the 1930's when there were no fences and no PH controls, he knew of 5 or 6 situations where they killed 30-40 cows. They have come a long ways from that. **{Tape : 2; Side : A; Approx. Time Counter : 30.7 - 34.4}**

Rep Curtis asked about the EPA cyanide standards for cyanide, what was the ration of parts per million. Young stated that ratio was .150 ppm to 1.0. Rep. Curtis stated that in her wealth of materials she thought she had heard that one of the mines had reduced the level of concentration levels. She asked if that was below EPA standards. Young replied they were below the EPA standards. Rep. Curtis asked how many mines in Montana would meet the EPA standard. Young stated: I don't know how many mines there are in Montana, but they do recapture all of the gold that is removed by the cyanide, so therefore, they do recapture all of the cyanide. **{Tape : 2; Side : A; Approx. Time Counter : 34.8 - 37.6}**

Rep. McGee asked about the effects of certain elements hitting water. Mrs. Shammel stated those elements were selenium, valium, sulphur nitrates and some arsenic. Rep. McGee questioned her as to whether this was, from her experience, all being discharged from the mine into the water or ground water. He asked how could she explain all of these other elements in the water, and not cyanide in the stream. Mrs. Shammel stated that cyanide and selenium were not directly on their property but there was a large waste dump containing those elements. She stated when it rained, the material oxidized and was carried onto their property. The stream is filled with the material which has taken two years to go that quarter of a mile. She said, at 125 parts of nitrate, pregnant women have been advised not to drink the water, because the high nitrates cause blue-baby syndrome, which is not enough oxygen getting to the baby. **{Tape : 2; Side : A; Approx. Time Counter : 37.6 - 40.3}**

Rep. Erickson stated that there has been an attack on the veracity of MEIC. He questioned Bonnie Gestring about her reference to who was responsible for reporting the numbers for the total numbers of gallons of cyanide; if she would be willing to talk to the committee as to where these figures came from? He asked where this very large number was obtained. Mrs. Gestring replied there were reports that documented how much cyanide was released. The report documented the mine's failure to contain the cyanide and the cyanide was leached into ground water. She added that during a three month period the levels exceeded State standards at Montana Tunnels. **{Tape : 2; Side : A; Approx. Time Counter : 40.3 - 43.9}**

Rep. Dale had a question for Dr. Glenn Miller, who was an invited witness with the Sierra Club. Since he had left the hearing to catch a plane, Jeff Barber said he would relay the question. Rep. Dale inquired about the Beal Mountain environmental award which was lauded as one of the best mines. He asked how consistent their model was in comparison to mines in Montana. **{Tape : 2; Side : A; Approx. Time Counter : 43.9 - 45.2}**

Rep. Dale asked Mr. England about his testimony regarding there being no advertising or expression of support for I-137 by his groups before the court overturned I-125. England replied there was no media campaign until after the Judges decision. Rep. Dale asked if he was aware that the Montana Attorney General limited the proponents of the McDonald Project to funds put in the partnership before the Judge's decision to overturn that I-125 Initiative, so that in effect mining companies were limited from participating. England replied he was aware that Commissioner Argenbright had ruled that entity was not subject to the corporate rules. Rep. Dale clarified that the Attorney General had imposed that limitation on them after the Judge ruled that I-125 was not valid. England replied the Attorney General does not enforce the campaign laws even though they had issued an opinion. The Commissioner of Political Practices enforces the law. Rep. Dale commented to Mr. England that he would not practice law if Mr. England would not practice mining engineering. **{Tape : 2; Side : A; Approx. Time Counter : 45.2 - 47.8}**

Rep. Tuss asked if cyanide was economically successful. She said it appeared there was adequate protection of ground water and adequate notice to downstream landowners after a puncture or an accident. Courtney Young replied that when a spill does occur by law, mining companies are supposed to have hydrogen peroxide or bleach on the premises to neutralize where the spill does occur. He explained the process. He said the safeguards are there in the design. Rep. Tuss asked about the hazardous materials standards. Rick Jordan explained how double pipelines were used

as well as protection from berms or slopes. There were numerous wells monitored on an ongoing basis. **{Tape : 2; Side : A; Approx. Time Counter : 53.9 - 63}**

Rep. Tuss asked what the process was in reporting a leak or spill to neighbors. Jordan explained the reporting and notification process. He pointed out that groundwater movement was extremely slow. **{Tape : 2; Side : B; Approx. Time Counter : 1.5 - 5.6}**

Rep. Wagner asked Courtney Young if there was any other alternatives since the mere mention of cyanide struck a nerve. Young replied there were a lot of other chemicals that could be used. None of them are being used on a commercial basis. The main reason why is that most of them are carcinogenic or emissions are dangerous. He pointed out a typical concentration of cyanide was 50-250 ppm. He described a higher concentration of other chemicals that would be needed which did not break down like cyanide. **{Tape : 2; Side : B; Approx. Time Counter : 5.6 - 8.5}**

Rep. Wagner asked Jill Andrews how many mines used the cyanide heap leach technology. Andrews replied there were about 22. **{Tape : 2; Side : B; Approx. Time Counter : 8.5 - 11.5}**

Rep. Mood asked Mr. McCullough about the veracity of the U.S. Commission on Large Dams document. McCullough replied that he had received that as a survey in 1988. He said he worked for the federal government for 16 years at the U.S. Bureau of Mines. In that capacity he spent ten years with EIS's for all the operating mines, including other western states. He said he had received the document and had forwarded it to Montana Tunnels to fill out the form. He pointed out that there were two pages missing on the portion that was provided to the Legislature, which were the rest of the questions and the portion that Montana Tunnels filled out. Rep. Mood referred to Table One of the document where the MEIC had gotten their numbers of 135 million gallons of cyanide spilled in Montana. He asked for information regarding that number. McCullough described the leak in the upper system at the mine. During the period that they were fixing that leak, they pumped 625 gallons of water per minute, pumped endlessly over and over, recycling the same fluid for about 110 days. There was never a leak from that property since it was a recycling of that same fluid. There was a notation of cyanide near detection limits in the well which was near the pump. There was also documentation on the two pages that were missing that there was a leak from the pump. They found the fluid had come from the pump and went down in the detection well. A pump was put inside that well which returned that fluid. There was a series of detection wells monitored below that plus a pumpback system and in all

those wells they have never had any hints of cyanide. It was confined to the leakage coming down the joint at the pump and the pipe that went back to the pumpback system.

Rep. Mood read the statement which said the 1982 cyanide leach mines spilled 135 million gallons of cyanide in Montana, contaminating drinking water, killing livestock and forcing ranchers off their land. He asked if this statement was true. McCullough replied the statement was about 99% false because all those systems were confined systems. He said there were comments before that there was trouble getting the numbers from the state. He said he went to the DEQ and asked for those same numbers and they said they had some of the numbers at DEQ, some of the numbers at the Water Quality Bureau and some of the numbers with some other agency that they didn't disclose. He said he went back to see what he had in his files and what they had in their files and what they picked up in newspaper clippings. Almost all of those, except for the few that he had previously mentioned were released on site, same situation at Montana Tunnels where they used the pumpback system. There was no escape to the surface, no escape to groundwater outside of the contained area. He agreed the statement was extremely misleading. **{Tape : 2; Side : B; Approx. Time Counter : 10 - 18.1}**

Rep. Dale asked Director Simonich about a statement made about a \$32 million dollar fine to Zortman Landusky. Simonich replied that number was not accurate. There was a large settlement as a part of the water enforcement act in federal court. The actual penalty that they paid was \$1 million dollars to the federal government, \$1 million dollars to the state and a variety of payments made for supplemental environmental projects on the Reservation paid to the Tribe and additional requirements for water treatment facilities being built and operated over the long term. Collectively, that came to a total of \$30 million dollars. The penalty itself was \$2 million dollars. Rep. Dale said there was also a statement about the difference between what they had in bonds and what the department was requiring. Simonich replied the amount the department had bonded for at the time that the mine filed for bankruptcy was based on recent experience where the company had applied for and been given a permit to expand. The bonding for the reclamation plan would have taken advantage of current operations that would have kept some of the reclamation costs down. At the time that the mine filed for bankruptcy, they had not yet begun the expansion, therefore some of the reclamation activities had not yet begun and caused the department to have to re-look at the reclamation plan that was on file to determine if it would still be appropriate to try to implement that since the expansion was not taking place. The Department determined the expansion would not be appropriate and moved to revise that reclamation plan and that resulted in the

higher cost. That explains the difference in the amount of what was actually bonded for at the time that the company filed for bankruptcy compared to what the reclamation plan would call for today. **{Tape : 2; Side : B; Approx. Time Counter : 18.1 - 24}**

Rep. Dale said it appeared to be a process of negotiation to get the bond required by the department. He asked for a status. Simonich replied it was not negotiation, since the company had filed bankruptcy and the federal bankruptcy court had put the state in the position entered into that bankruptcy action, in working through the legal system in trying to protect the state's interest, along with all the other secured and non secured creditors. He said this has been fairly resolved in how the surety company will comply with the reclamation. There is talk of whether the surety company will perform the reclamation or whether the state will perform the reclamation and take the bond to pay for the reclamation. **{Tape : 2; Side : B; Approx. Time Counter : 24 - 25.1}**

Rep. Dale asked Rick Jordan about the new cyanide neutralization circuit at the mine and the reduction of cyanide concentrations below ten parts per million. He asked if a human being could physically drink enough water with ten parts per million to harm themselves with cyanide. He redirected to their chief metallurgist, Neil Gallagher. Gallagher replied he was not sure they could drink enough. Under a normal daily requirement of fluid you wouldn't receive a toxic level. He said normally a tail pond situation, the rule of thumb for safe conditions for wildlife, water fowl landing on your pond is fifty parts per million. These are very safe conditions for wildlife to exist on that water. **{Tape : 2; Side : B; Approx. Time Counter : 25.1 - 28.2}**

Rep. Dale asked Dr. Young to clarify ten parts per million of cyanide. Young replied there were two issues to consider - the toxic dose and the lethal dose. He explained toxic meant getting sick. He said it was not known how to measure it because humans could not be tested. The lethal dose is actually smaller than the toxic dose. The median number is 13.669. It would take a little over one gallon for 176 pound man to drink in one sitting. However, cyanide does not bio-accumulate. **{Tape : 2; Side : B; Approx. Time Counter : 28.2 - 30.1}**

Rep. Dale asked Robin McCulloch to respond about the Kendall mine situation. McCulloch said he had worked on that for a period of ten years. The issue from the mines point of view was that it appeared to be a conflict between ranchers. Unless you do a hydrologic study to determine where the ground water flow comes from, they don't necessarily come down stream. They can come

laterally, through cracks in the rock or follow different types of bedding. Without drilling holes and monitoring you wouldn't be sure whether the mine had anything to do with it or not. Regarding the issue of metals, the geochemistry of all mining environments is that you will have trace elements unique to that particular mine that may extend 14 miles across. The springs that are in a given geochemical environment will have a certain signature depending upon the flow rate, the PH of the water and the material that it went through, (a natural leaching system) and by changing cracks, by changing pathways you can change the leach that comes out of that. Consequently, you can have, by putting a road in, by blasting or by building a dam in one drainage and raising the water table you can have a change in metals show up someplace else that you never anticipated. **{Tape : 2; Side : B; Approx. Time Counter : 30.1 - 32.6}**

Rep. Dale asked if the mine was at fault. Mr. McCulloch said it was his understanding that the well recently dried up. Mines that are permitted are zero discharge systems so that whatever water comes on site stays on site unless there is some prescribed method for eliminating metals from drinking waters EPA will not allow that water to go off site. For the mine to operate this many years, its zero discharge system could not be allowed to dry up. It is pretty unlikely that all of a sudden it would dry out especially if they are no longer pumping and no longer doing land application discharge. They have captured their water, run it through a zeolite column to eliminate nitrates, thallium, and any metals that are inside that system and that is by order of the state. About 1996, the company documented that they did have a valium problem. The fellow from Nevada said that their mines had thallium. It turns out that the only mine we have in the state that has valium is Kendall. After discovering valium, all the waste rock dumps have a plate cap on top, as does the bottom of the pit, as does on the leach pads to stop infiltration of in water and precipitation. They run a geo-textile on top of that so the plate cap is not eroded. They have an aggregate layer on the top of that to channel all the water that comes through by precipitation coming off the base. They have a sorter layer on top of that. All the water coming off site has already been stripped of metals and nitrates. **{Tape : 2; Side : B; Approx. Time Counter : 32.6 - 35.8}**

Rep. Dale asked if any cyanide had gotten off of a mining property and entered into a river. McCulloch replied the only one he could think of was in 1985 with a company called Golden Maple. There was a tremendous amount of moisture and there was no means to get rid of surplus water. At the same time, Zortman had a critical point. Montana's system of technology works, where Colorado has not addressed the land application discharge

system. Nothing that he knows of has ever gotten off site. He pointed out that many people have the misconception that ground water is underground rivers and they travel with speed. However, most ground water that occurs in mine sites because of the alteration zones, because of the amounts of clay, you could probably measure the ground water in inches or centimeter per year rather than feet per day. In a rare situation, where it goes into a buried ground layer, there may be some movement of a few feet per day but certainly not miles. **{Tape : 2; Side : B; Approx. Time Counter : 35.8 - 37.8}**

Rep. Younkin asked if cyanide was used in other mining methods and in what concentrations. Courtney Young replied underground mines use it also, which is the same method. Rep. Younkin said the MEIC mentioned a froth flotation method. Young said any froth floatation, the gold is encapsulated inside a sulfide, such as sphalerite or galena. Once it is inside a sulfide matrix you need to crush it down to small particle size in order to make the floatation process work. He explained in order to use the leach process the gold must be sub-micron size. Anything larger would use gravity separation. **{Tape : 2; Side : B; Approx. Time Counter : 37.8 - 42.2}**

Rep. Curtiss asked about the ballot process. She asked if MEIC hired an out-of-state organization to gather signatures in Montana. Jeff Barber replied that they hired a woman from Oklahoma to hire Montanans to gather the signatures. Rep. Curtiss asked about the cost of the project and whether that was filed with the campaign practice office. Barber replied he did not know the cost. Half of the signatures were acquired by volunteer signature gatherers and one have were acquired by paid signature gatherers. He said he would get the figure of costs for Rep. Curtiss. **{Tape : 2; Side : B; Approx. Time Counter : 42.2 - 44.4}**

Rep. Ewer asked Warren McCullough from DEQ how many of the pits that used cyanide in Montana, how many had not leaked. McCullough replied he did not know. The use of cyanide goes back before he worked with DEQ. Rep. Ewer asked about the settlement by Golden Sunlight. He asked Mr. McCulloch from Montana Tech regarding the one spill that had gotten in a stream. McCulloch replied the spill he referred to was the Golden Maple in 1985. McCullough, from DEQ said there was only one possible other example of a small heap leach, called Nu-Gold. He was not aware of any lasting effects from that. Rep. Ewer pointed out that the opponents of the bill had fifteen examples, derived from the DEQ office which were into wells and streams. He asked if the department would review this to see if this was accurate. **{Tape : 2; Side : B; Approx. Time Counter : 44.4 - 50.7}**

Rep. Ewer asked Courtney Young if cyanide use was safe when considering the price that society pays for the acid drainage that may occur and has occurred in Montana. Young replied there were two views, but you would need to consider if there were small leaks or large leaks. No leaks would mean complete success. **{Tape : 2; Side : B; Approx. Time Counter : 50.7 - 52.8}**

Rep. Gutsche addressed the dead calves and the dried up spring on the Shammel ranch. Director Simonich replied the Kendall mine was issued a violation. He explained the fine was not paid yet but through the administrative process a violator has an opportunity to bring forth information. There is an opportunity to negotiate settlement and an appeal process. **{Tape : 2; Side : B; Approx. Time Counter : 52.8 - 58}**

Rep. Harper noted to Sen. Swysgood that the central question was that the Legislature was hesitant in tampering with a citizen initiative. He asked when was the Legislature justified in overturning the express will of the people through the initiative, was it any time the will of the people conflicts with the will of the Legislature was that the right to overturn this. Sen. Swysgood replied he could recall I-105 and the next session when school districts were exempted from I-105 because of the impact it would have on them. He was concerned about the impact from this Initiative, the economic picture and the lives of those associated. **{Tape : 2; Side : B; Approx. Time Counter : 59.5 - 60}**

**Closing by Sponsor:** Sen. Shay closed on SB 345. She said these two bills would allow the people to vote. She pointed out that not enough people had heard the whole story and this would certainly effect mining in the state and already has. Montana is not perceived as an industry friendly state. This issue is in the news and in the newspapers. She pointed out that, effectively - due to the time that corporations were not allowed to participate, only one side of the issue was heard. People were not given the whole story. The facts were not available. She said an opponent had suggested that labor, small business, government, and mining also follow the initiative process, - however, "that means getting an initiative that would silence the opposition, get funding from big out-of-state organizations - like a Patagonia, hire out-of-state workers to man our polls, ..., withhold information from the public, steam-roll the opposition, and do it in the name of God and Country." Sen. Shay said she was in favor of this legislation because the families and jobs were dependent on mining. She pointed out "the State of Montana could not afford to paralyze an industry that is as vital

to our economic well being as blood is to life." The State of Montana can't strangle communities that depend on mining industry for their development. The State of Montana can not loose a revenue source as important as mining has been. She described statistics regarding job and indirect income. There would be 100 thousand people adversely affected by this. Small business will hurt the most. **{Tape : 2; Side : B; Approx. Time Counter : 62 - Tape 3; 2.0}**

**Closing by Sponsor:** Sen. Swysgood closed on SB 344. He pointed out the impact would be felt on the economy of the state and the ability of the state to continue to provide services. It would impact families that are dependent on the income derived from wages paid by these companies. There will be impact on the school districts. Most of all, he felt this was an unfair advantage at arriving at a decision that has the potential of creating a great deal of harm to the state. Mining is part of the heritage of Montana. Mining today is not like it was 100 years ago. Mining companies work diligently. He asked if this was really about cyanide. Of all the chemicals used today this is one of the safest because it dissipates. He pointed out there were accidents in everything we do so why is one industry singled out. Automakers kill more people than cyanide has ever done. This issue is about mining, since these people do not want any type of mining in the state of Montana. He said he did not believe that the people were fully informed about all the facts associated with this type of mining. Chlorine that we use in the water supply, that chemical is more dangerous than cyanide. He said he could not understand the depth of the fear that was being waged in people's minds. He pointed out that cyanide is a naturally occurring thing, it occurs in radishes, cabbages, alfalfa, brussel sprouts and cauliflower. Cyanide is safe because it dissipates. He said he had not heard of one human death associated with a mine using cyanide. That is a lot better safety record than a lot of other things that we contend with in everyday life. Miners do not intentionally degrade the environment. He asked why underground mines were not targeted. They are closer to the aquifer. He pointed out the federal government should be stopped from releasing the naturally occurring arsenic from going into the Madison River from Yellowstone Park. He said this issue was about a way of life. This was not a fair fight. He read a letter from MEIC, a fund raising letter, "This is the chance of a lifetime. Initiative 137 is on the November Ballot. It will ban any open pit cyanide leach mining in Montana **period**, from polluting, and it's impacts. But only if you make the most generous possible special contribution today. Mining companies and their verbosive allies are now prohibited from spending money against Initiatives. The

speed by which this can get to the voters (is now, to let them know) without being completely drowned-out--- and folks that's a narrow playing field."

Sen. Swysgood asked the committee if this was a fair playing field. He asked the committee to pass the bills.

**ADJOURNMENT**

Adjournment: 7:20 P.M.

---

REP. BILL TASH, Chairman

---

DEB THOMPSON, Secretary

BT/DT

**EXHIBIT (nah56aad)**