

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN EDWARD B. BUTCHER**, on March 15, 2005
at 3:13 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Edward B. Butcher, Chairman (R)
Rep. Carol Lambert, Vice Chairman (R)
Rep. Jonathan Windy Boy, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Gary Branae (D)
Rep. Kevin T. Furey (D)
Rep. Wanda Grinde (D)
Rep. Ralph Heinert (R)
Rep. Llew Jones (R)
Rep. Jim Keane (D)
Rep. Bruce Malcolm (R)
Rep. Jim Peterson (R)
Rep. Diane Rice (R)
Rep. John (Jack) W. Ross (R)
Rep. Dan Villa (D)
Rep. Karl Waitschies (R)
Rep. Jeanne Windham (D)
Rep. Brady Wiseman (D)

Members Excused: Rep. Bob Bergren (D)
Rep. Veronica Small-Eastman (D)

Members Absent: None.

Staff Present: Linda Keim, Committee Secretary
Krista Lee Evans, Legislative Branch

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

Committee Business Summary:

Hearing & Date Posted: SB 259, SB 320, SB 136, 3/10/2005
Executive Action: SB 136

HEARING ON SB 259

SPONSOR: SEN. DAVE LEWIS, SD 42, HELENA

Opening Statement by Sponsor:

SEN. DAVE LEWIS (R), SD 42, opened the hearing on SB 259, a bill that would require that a noxious weed control plan be in place prior to purchase when land is transferred to public ownership.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 6.3}

Proponents' Testimony:

Bob Gilbert, President, Montana Weed Control Organization, said that they are satisfied this bill will meet their needs

Gordon Morris, Director, Montana Association of Counties, expressed support for SB 259.

John Youngberg, Montana Farm Bureau, said that this is a good neighbor bill for cities and public entities that purchase land. This is a good step toward controlling noxious weeds.

John Bloomquist, Montana Stockgrowers Association, stated support for the bill and said that keeping small areas weed-free will prevent the spread of weeds to other places.
{Tape: 1; Side: A; Approx. Time Counter: 6.3 - 9}

Steve Snezek, Montana Graingrowers Association, stated support.

Pam Converse, Weed Coordinator for Broadwater County and member of the Montana Weed Control Board, said that the bill correlates well with the Montana Weed Control Law and the State Weed Plan.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. WAITSCHIES asked SEN. LEWIS whether this limits any activity on exchanges to the three or four months when the weather is good because of the required pre-inspection. SEN. LEWIS said that this will not hold up transfers of property. He noted that a knapweed problem is easy to identify at any time. County weed boards are usually familiar with the property in their county and know what they are dealing with. He said that they may have to ask for additional time if there is deep snow.

REP. WAITSCHIES asked Ms. Converse the same question. **Ms. Converse** said that State law has ways of dealing with this. Weed coordinators inspect the property, give conditional approval, and recheck in the spring. They set the management plan up for what weeds are present and usually approve it at the monthly board meeting.

REP. WAITSCHIES asked how a provisional weed plan works. **Ms. Converse** said that with subdivisions the provisional plan requires treatment in the spring by either herbicides or biological insects. The provisional plan basically says that the subdivision is not in compliance with the law. If the subdivision is full of knapweed they can request treatment before the subdivision goes in and within six months of adding each utility line or house. The plan requires follow-up to make sure the grass gets established and treatments are made on time. They usually set up a multiple-year plan and check for compliance.

REP. WAITSCHIES asked how there can be a provisional plan or recommendation made on unfamiliar property such as private land. **Ms. Converse** said that the skeletons of most noxious weeds will be visible if they were present the year before. They look at surrounding property and have done a lot of mapping so they know what is there. She said, "You have to trust us to know our job well enough to do it." **REP. WAITSCHIES** said that he is a member of the weed board and does not agree they can find weeds under the snow. He stated, "They don't know where everything is."
{Tape: 1; Side: A; Approx. Time Counter: 9 - 17}

CHAIRMAN BUTCHER asked about Section 1, Line 13-17 of the bill that requires inspection and a plan put into place prior to purchase of the property with public funds. He stated that "Whitetop" is not identifiable in the winter and expressed concern. He said that there is a narrow window to find that weed if someone is not aware it is present. **SEN. LEWIS** noted that Line 18 requires a weed management plan and that plan can be broad enough to control the weeds.

CHAIRMAN BUTCHER noted that the seller would want to have this nailed down in advance or costs may show up later. **SEN. LEWIS** said that is why Line 20 was added; to allow negotiation. There would be no open-ended liability unless it is in writing and agreed to by both parties.

REP. WISEMAN asked if weeds are a statewide problem. **Mr. Gilbert** acknowledged that they are the number one environmental problem. They cost agriculture billions of dollars every year in lost revenue and affect urban areas also.

REP. WISEMAN asked if any region of Montana is free of noxious weeds. **Mr. Gilbert** said that he did not know of any areas in the state that are free of noxious weeds and explained which weeds are prevalent in certain parts of the state. He said that spraying, biological control, pulling, grazing, pathogens and chemicals are used.

{Tape: 1; Side: A; Approx. Time Counter: 17 - 24.1}

REP. LAMBERT noted that noxious weeds are not necessarily poisonous, they are just invasive. **Mr. Gilbert** noted that the difference between weeds and flowers is that weeds want to live.

Closing by Sponsor:

SEN. LEWIS thanked the Committee for a thorough hearing. He said that since **REP. RICE** is on the State Weed Board she may want to carry the bill if it passes out of Committee.

{Tape: 1; Side: A; Approx. Time Counter: 24.1 - 28}

HEARING ON SB 320

SPONSOR: **SEN. KEITH BALES, SD 20, OTTER**

Opening Statement by Sponsor:

SEN. KEITH BALES opened the hearing on **SB 320**, a bill to facilitate the establishment of concentrated animal feeding operations (CAFO). He said this came about because of a Supreme Court ruling that the Department of Environmental Quality (DEQ) should do a programmatic environmental impact statement instead of an environmental assessment (EA) on cattle operations. He said this has not happened and DEQ has started to do individual permits. He presented an amendment and said that he hopes to get the feeding industry permitted and back on track with this bill.

EXHIBIT(agh57a01)

{Tape: 1; Side: B; Approx. Time Counter: 0 - 7.6}

Proponents' Testimony:

John Bloomquist, Montana Stockgrowers Association, presented information on how SB 320 came to be and why it is so important. He said that CAFOs can be treated as point sources under the Federal Clean Water Act and are subject to those permitting provisions. CAFOs have been treated this way and permitted in the state since the 1970s.

He explained that the CAFO general permit has no discharge or non-discharge requirements. A CAFO has to contain water situated on the facility or crossing the facility up to a certain

threshold. He said that a CAFO would be allowed to discharge water only in a flood situation. DEQ revised the permitting regulations in 2000.

He explained that a new cattle development center (CDC) near Custer exceeded the CAFO general permit. The CDC applied for authorization under the general permit, went through the analysis and was reviewed and given authorization. He said this caused District Court level litigation.

Judge Honzel found that the DEQ violated Montana Environmental Policy Act (MEPA) by not conducting or preparing a programmatic environmental impact statement (PEIS) and in 2002 ordered that one be done. In October 2003 Judge Honzel said not to issue any more general permit authorizations until the PEIS was completed. In response, DEQ discontinued the use of the general permit approach, does individual permits only, and has adjusted the fees upward. The cost is \$2,500 for an application and \$1,000 annually, as compared to \$450 and \$300 previously.

Mr. Bloomquist said that from an environmental protection perspective, if all cities, towns and municipalities were subject to the requirements of the no discharge requirement that is a high level and is what CAFOs operate under. He stressed that a feeding program and a workable permitting program for confined animal operations is critical to adding value for livestock.

{Tape: 1; Side: B; Approx. Time Counter: 7.6 - 19.8}

Les Graham, Montana Association Livestock Auction Markets, passed around a sheet listing market locations. He said they fall under the requirements being discussed and asked for support.

EXHIBIT(agh57a02)

Steve Welch, Department of Environmental Quality (DEQ), said that they support the bill as amended. He said that DEQ was reluctant to have the fees included in statute because they are more difficult to change than in rule but that it is okay this way. He stated that this program would remove the requirement of a court ordered EIS and noted they have not been able to secure the funding to do one. He noted that if they don't have to do the EIS they would like to secure funding to do an inventory of CAFOs throughout the state and contact the operators to see if they need a general permit or an individual permit. They could also let operators know of mechanisms to modify their operation and eliminate the authorization or individual permit requirement.

{Tape: 1; Side: B; Approx. Time Counter: 19.8 - 23.9}

Bill Alme, Livestock Producer, expressed support for SB 320. He said there is a consensus that adding value to agriculture

products would enhance both personal and state income. He said that it became apparent 15 years ago that by only owning a calf nine months out of its normal 18 months life span they were passing a lot of good genetics and a first class health program down the road and not getting properly rewarded for the effort. They built a small feed lot and invested in minimal equipment to feed their annual calf production for several more months after weaning. He commented that a side benefit accrued when larger feedlots of 10,000 - 50,000 head capacity were willing to give them a bonus in the form of higher prices for their weaned, healthy calves.

Mr. Alme stressed that added value procedures have added to their bottom line. If they are forced to face stringent regulatory conditions, it will cut into their value added program and many proposed new operations will probably not even start. He asked for support so they can add value to their annual livestock production without burdensome regulations to comply with.

{Tape: 1; Side: B; Approx. Time Counter: 23.9 - 27}

Steve Pilcher, Executive Vice President, Montana Stockgrowers Association, said that SB 320 does nothing that will weaken Montana's water quality laws and their ability to regulate the cattle industry. He explained that the goal of any environmental program is to protect the environment and the best way to do that is to help everyone understand the responsibility involved.

He said that some of the actions of the Department over the past year may have sent the wrong message. Under the Department's decision, the non-discharging systems were paying the same thing as a minor industrial discharge which discharges a variety of pollutants for 24 hours a day.

He stated that SB 320 focuses the efforts of the Department and provides the necessary environmental protection in the least burdensome way. He stressed that SB 320 will achieve greater compliance within the industry and asked for everyone's support.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 4}

John Youngberg, Montana Farm Bureau, said that this is an opportunity to remove a roadblock for significant value added products. About one million calves are produced each year with an average weight of 500 pounds. He stated that this bill is essential to the goal of adding \$.10/pound to those calves by feeding them without any environmental hazard.

Don Allen, Western Environmental Trade Association, (WETA), said that they feel this is a good way to resolve the issue and go

forward with these value added opportunities that would not be possible without this bill.

Charles Brooks, Billings Chamber of Commerce, Agriculture Division, expressed their strong support for SB 320.

Bryan Mussard, Dillon, Feed Lot Operator, said that the DEQ and operators of feed yards are mired down in unnecessary red tape. He noted that the entire state is a dry environment but feed yard operators have been burdened by high fees and unnecessary regulations. He said, "Cattle feeding is a viable industry in the state, it adds value, and it adds value to the soil."

{Tape: 2; Side: A; Approx. Time Counter: 4 - 7.1}

Gayle Lambert, Administrator, Montana Correctional Enterprises, stated support of SB 320.

Carla Johnson, Montana Cattlemen, stated support of SB 320.

Bill Donald, Montana Stockgrowers Association, said that one of the key elements of this bill is that it makes Montana more open for business.

Tami Johnson, Rancher, Dillon, expressed support for SB 320.

Pat Torgerson, Women Involved in Farm Economics (WIFE), stated support for the bill. She noted that when steer manure is sold as fertilizer it costs about \$4/bag. She said that is a lot of value added production.

Tamara Fetty, Montana Dairy Association and Montana Woolgrowers Association, expressed strong support of the bill.

{Tape: 2; Side: A; Approx. Time Counter: 7.1 - 9.8}

Opponents' Testimony:

Jeff Barber, Montana Environmental Information Center (MEIC), stated opposition to SB 320. They question the wisdom of statutorily adopting regulations and fees for feed lots. He suggested that the Board of Environmental Review handle those activities. They also object to the level of environmental analysis given to feed lot permits in the bill. He suggested removing the last sentence of Section 3, "A programmatic environmental impact statement is not required for permitting conducted under Section 2." He submitted written testimony and an amendment that was proposed.

EXHIBIT (agh57a03)

{Tape: 2; Side: A; Approx. Time Counter: 9.8 - 17.1}

Don Judge, Montana Chapter, Sierra Club, said that they share the same concerns as MEIC and would like to see the current rules used. He said that the issue in Custer County with a feedlot located at the confluence of the Bighorn and Yellowstone Rivers is an example of what can happen to water quality. He urged consideration of Mr. Barber's amendment and noted that there is nothing stopping the Department from referencing Federal rules in its own rules if that section is taken out.

Informational Testimony: None.

{Tape: 2; Side: A; Approx. Time Counter: 17.1 - 20.7}

Questions from Committee Members and Responses:

REP. FUREY asked SEN. BALES to respond to Mr. Barber's proposed amendment. **SEN. BALES** said that he was opposed to Mr. Barber's amendment. He noted a provision on Line 25 of the bill that if a feedlot does not qualify under a general discharge permit they can do an EA or some other function under DEQ laws and rules. He did not feel that it would change anything to go ahead with a PEIS at this time.

REP. FUREY asked Mr. Barber for more information about the lawsuit that was filed. **Mr. Barber** said that the general permit was already in place and no opportunity was given for public comment on the authorization for that specific feedlot. He said Judge Honzel noted that two already permitted feedlots have had discharges so it could not be assumed these are no discharge permits and will have no impact so he ordered a PEIS.

REP. FUREY asked what happens when a PEIS is done and whether it would help develop some of the CAFOs. **Mr. Barber** said the PEIS would give a comprehensive statewide look at feedlots and would provide a base for some of the ideas in the bill to be better.

{Tape: 2; Side: A; Approx. Time Counter: 20.7 - 26.1}

REP. RICE asked if a PEIS was different from a regular EIS. **Mr. Barber** said that a regular EIS is project specific and a PEIS is a statewide examination of an activity.

REP. RICE asked for a cost and time estimate. **Mr. Barber** said that DEQ budgets approximately \$300,000 to \$325,000. He did not have an estimate of the time required for a PEIS and deferred to DEQ. **Bonnie Lovelace, DEQ**, advised that the cost is about \$300,000 said they have people dedicated to overseeing these projects. They often use a contractor for various parts of the analysis where DEQ might not have the expertise or the time.

REP. RICE said that she was concerned about the time factor involved in a statewide project. **Ms. Lovelace** said they have resisted this because of the time and cost involved. The EPA has encouraged them to do this inventory by using various methods; i.e., read newspapers for ads on feedlots, use "search" on the internet, and use the complaint system on the enforcement division. She stated that when they find an operation that needs permitting they visit the site and make that determination. She said that it would take about a year to put together all the information being asked for such as a full inventory to find all the operations, and another 8-12 months to finish the EIS. She noted that they would be doing a lot of this simultaneously.

REP. RICE said they have an auction yard in process and asked if it is being held up because of the court ruling. **Ms. Lovelace** stated that they have finalized the discharge permit. She said that there is a public water supply issue that has to do with the engineering. It is a combination of feedlot and other services that will have a public water supply and a disposal system.

REP. RICE asked Mr. Barber to confirm that the feedlot in Custer was operating before the lawsuit was filed and asked if they are operating currently. **Mr. Barber** said that it was just going into operation when the lawsuit was filed and is currently operating.

REP. RICE asked if a court order will be able to shut down these operations across the state. **Mr. Barber** said that he did not think so because even when a PEIS is being produced the provision in statute to obtain individual permits applies. He stated that much of the angst that stockgrowers and others expressed was because of the implementation of individual permits that jacked up the fees.

{Tape: 2; Side: A; Approx. Time Counter: 26.1 - 32}

REP. HEINERT asked if there would have been a problem if the feedlot near Custer had been permitted under the Federal regulations and definitions contained in the Code of Federal Regulations known as 40 CFR Part 412. **Ms. Lovelace** said that everything they did with that operation was consistent with Federal regulations and fit the program like others in the state. They are in the process of adopting some recent Federal changes.

REP. HEINERT noted that this bill is trying to make a general permit process out of what would have been an individual process and when the programmatic study is done there isn't any reason for them not to qualify. He asked if that was right. **Ms. Lovelace** said, "That is true. It was just the one in question that the court wanted further environmental analysis on." She stated that the general permit program is already authorized, the

bill just clarifies how the legislature wants it done and adds how they do MEPA.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 3}

REP. PETERSON requested clarification of Section 2, Subsection 3. He asked whether the DEQ had discretionary authority based on site specific information to require an individual permit if the Department discovers that a general permit is not sufficiently protective of water quality. **Mr. Welch** said, "Yes."

REP. PETERSON asked if they also had the discretionary authority under Section 3 to require an EIS. **Mr. Welch** affirmed and said that is one of the reasons DEQ supported the bill. The options are available and very clear that DEQ could take those steps.

REP. PETERSON asked if adequate remedies are available under the general permit provision to protect water quality based on DEQ's assessment of site specific information. **Mr. Welch** said they believe that with the ability to escalate that it would be protective of water quality.

REP. PETERSON asked if there was money in the budget to do a PEIS across-the-board and what would be found. **Mr. Welch** said this was something the court ordered. A PEIS would provide an inventory of animal feeding operations and address the different types of operations, impacts, and mitigation measures they might use in the CAFO process.

{Tape: 2; Side: B; Approx. Time Counter: 3 - 5.8}

REP. PETERSON asked if it was correct that this process may take two years and whether they had money for it. **Mr. Welch** said they have requested money in their budget to do the PEIS and it would take at least one year to complete the project.

REP. ROSS asked when the permits are due and if they are all renewable at the same time. **Mr. Welch** said that the current general permit was written for a five-year period and expires in July. He affirmed that they are all renewable at the same time.

REP. ROSS discussed Page 2, Line 30 and Page 3, Lines 1-5. **SEN. BALES** deferred the question to **Mr. Bloomquist** and he said that the definition of a medium CAFO comes from Federal rules. He explained how the definitions all work together.

{Tape: 2; Side: B; Approx. Time Counter: 5.8 - 11.9}

REP. WINDY BOY referred to Page 2 of the Fiscal Note, Line 4.

SEN. BALES said that the Federal regulations reference the same

definitions. He explained that by listing the Federal regulations, the bill has that definition in it.

REP. WINDY BOY referred to the language on Page 3, Lines 24-26 that Mr. Barber objected to. **Mr. Barber** said he objected to the last sentence on Line 25, "A PEIS is not required for permitting conducted under Section 2." He said that Section 2 puts the general permit program for CAFO back into place. He noted that the Department doesn't know what operations are in existence, whether their existing program is protective of water quality, or if it really is a zero discharge permit. He said that he feels a PEIS is an important step in putting the general permit back.

{Tape: 2; Side: B; Approx. Time Counter: 11.9 - 14}

REP. WINDY BOY then referred to #1 on the same page concerning pollutants and asked if this would be the result of going into that EIS. **Mr. Barber** said that he agreed with Mr. Bloomquist's definition of the language. He further explained that qualifies as a medium CAFO and referred to Page 2, Line 11. He said, "A medium CAFO is officially a CAFO and if the bill passed, it would qualify for the general permit if the discharge was dealt with."

REP. WAITSCHIES asked about the "and" at the end of Line 29 on Page 2 and whether the language following that applies only if they have ducks. **Mr. Bloomquist** referred to Sub 4, Line 11 that lists different species and explained.

REP. WAITSCHES asked for clarification that if there was no stream flowing through the lot and there was no discharge the feed lot would not be a medium CAFO. **Mr. Bloomquist** said the lot could still be a medium CAFO if there are a certain number of animals and there is a potential to discharge to state waters. They would need coverage under the general permit for an individual. He stated that a confined animal operation that has no potential to discharge is covered under the Federal regulations and the Department can make the determination that a permit is not needed.

{Tape: 2; Side: B; Approx. Time Counter: 14 - 21}

REP. PETERSON asked whether a PEIS will add anything to future efforts to protect water quality under this permit system. **Mr. Bloomquist** referred to the CAFO permit requirement that discharging is not allowed. He said they would want to do a PEIS to determine the impacts of CAFOs on water quality because a permit violation has to be assumed. He stated that is the purpose of Section 2 and 3 of the bill. A CAFO qualifies for the general permit if they aren't discharging pollutants. If information is developed saying that a general permit is not sufficient they get an individual permit and still have to meet

all the water quality requirements. He said that from a water quality perspective he can not see how a PEIS advances the ball.

{Tape: 2; Side: B; Approx. Time Counter: 21 - 23.6}

REP. WISEMAN asked for a description of the size of a large feeding operation. **Mr. Bloomquist** said that it would take 10 acres for 1,000 head of cattle.

REP. WISEMAN asked how much land would be required for 2,500 mature hogs. **Mr. Bloomquist** said that hogs are confined in a concentrated indoor activity and require less space.

REP. WISEMAN said that he was mystified as to how there could be 1,000 cattle in a 10-acre area and not have any sewage discharge and asked how that works. **Mr. Bloomquist** said that under the requirements of the CAFO general permit any runoff has to be contained in settling ponds. He noted that berms or other structural requirements may be necessary to prevent the runoff from getting to state waters.

REP. WISEMAN asked for information on the discharge permit and whether it is a wastewater permit. **Mr. Welch** said that it is a Montana Pollutant Wastewater Discharge permit.

REP. WISEMAN asked if that was the same type of permit that a municipal sewage operation would have. **Mr. Welch** said that it is under the same water quality act but there are different guidelines for how the effluent is treated.

{Tape: 2; Side: B; Approx. Time Counter: 23.6 - 28.3}

REP. FUREY noted that potential accidents can happen with water discharge and asked if they would look at ground water contamination and air pollution with a PEIS. **Mr. Welch** said that they would in a very general sense. He said, "Depending upon the operation being evaluated, their level of MEPA analysis would look at each one, irrespective of programmatic."

REP. FUREY asked if DEQ would look at the cumulative effect of having two CAFOs close to each other if they did a PEIS. **Mr. Welch** said, "Yes, they would, and probably under an individual EA also, because looking at cumulative impacts is part of the MEPA analysis."

REP. FUREY asked Ms. Evans why the medium CAFO had references to discharge and the large CAFO didn't. **Ms. Evans** said, "The number of animals kicks the medium into the large CAFO. Nothing in Sub B applies. You qualify simply by the number of animals you have

in that area for a large CAFO. To qualify with a smaller number of animals, the language in Sub B is necessary."

{Tape: 2; Side: B; Approx. Time Counter: 28.3 - 32}

REP. FUREY asked for more information. **Ms. Evans** stated that to be a medium CAFO requires numbers that fall within Sub A (it is not only for ducks) and Sub B. **REP. FUREY** did not understand why the code has the additional requirement for the discharge. **Ms. Evans** said it was because of the amount of waste that would be produced by that number of animals. She stated that it might not be significant if it wasn't going right into state waters, but if they have 10,000 hogs it would be significant. She said, "If you are close or not, you are considered confined or concentrated, whereas in the medium you can have a smaller number but if you are close to water or water will be passing over that, the potential for adverse water quality is there."

REP. ROSS noted that the language has been changed from "confined" to "concentrated" and asked whether a permit would be required when a rancher has 1,000 head cows that are calving and they are confined to a half section or a section of land that has a stream running through it. **Mr. Bloomquist** said a permit would not be required because it is not a point source. Under the definition of an animal feeding operation (AFO), the animals have to be stabled or confined for 45 days in any 12-month period and crops, vegetation or forage growth are not sustained in that area.

REP. PETERSON asked for clarification that this permit is a no discharge permit. **Mr. Bloomquist** said that to qualify for coverage under the general permit there would be no discharge of water or pollutants up to that 25-year, 24-hour event. A normal discharge permit; i.e., the City of Helena or any other city, actually discharges pollutants within the affluent limitations set by the DEQ. He noted that a CAFO has a no discharge permit up to the flood stage and they are treated as point sources so they get within the discharge permit program. The actual effect is no discharge versus discharge.

Closing by Sponsor:

SEN. BALES stressed that 2005 is the year that everyone has to renew their permit and said there is a dilemma because a PEIS will take about one year. He noted the DEQ has to do individual permits for every feed lot if an EIS or something else is not in place, and that was what precipitated setting the high fees. He stated that this bill will allow the DEQ to move forward, issue a no discharge permit and qualify the feed yards for another five-year period.

He said that he has been working with Mr. Oppen and the stockgrowers organizations to figure out a way to get an inventory. He felt they can get better cooperation from the agriculture community and put together more information by working together than by doing a PEIS.

SEN BALES commented that Department of Natural Resources and Conservation (DNRC) controls the water rights. He stated that whether there is a PEIS done or anything else, DEQ does not have control over the water rights and that is not an issue in this particular bill. He said that this is probably the only option available at this time to keep a viable feeding industry and auction market industry permitted and legal.

He felt that if DEQ had started doing a PEIS immediately after the court case it would have been done by now and permits would have been issued. He said that they would be the same permits as those proposed in this bill.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 10.4}

(Note: The Committee took a ten minute break.)

HEARING ON SB 136

SPONSOR: SEN. DONALD STEINBEISSER, SD 19, SIDNEY

Opening Statement by Sponsor:

SEN. DONALD STEINBEISSER (R), SD 19, opened the hearing on **SB 136**, a bill to revise the listing of farm product liens to conform to federal law.

{Tape: 3; Side: A; Approx. Time Counter: 10.4 - 14.2}

Proponents' Testimony:

Elwood English, Chief Legal Counsel for the Secretary of State, said that establishing a central filing system for Federal farm liens was brought into law in 1985, but the legislature adopted a new Article 9 in 2001 and the language was inadvertently dropped. They didn't realize that this sentence had been added to the uniform code section, Article 9, just to inform people of this related farm lien program in Montana. He stressed this is the first place that out-of-state lenders or others with a financial interest in farm products look. This reference is a flag that indicates the program is in place.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

SEN. STEINBEISSER closed by asking the Committee to support the bill. **REP. WINDY BOY** will carry the bill if it passes.

EXECUTIVE ACTION ON SB 136

Motion/Vote: **REP. WISEMAN** moved that SB 136 BE ADOPTED. Motion carried unanimously 20-0 by voice vote. **REPS. SMALL-EASTMAN** and **BERGREN** voted by proxy. Without objection, SB 136 will be placed on the consent calendar.

With no further business, **CHAIRMAN BUTCHER** adjourned the meeting.

ADJOURNMENT

Adjournment: 5:33 P.M.

REP. EDWARD B. BUTCHER, Chairman

LINDA KEIM, Secretary

EB/lk

Additional Exhibits:

EXHIBIT ([agh57aad0.PDF](#))