

MINUTES /OF THE MEETING
AGRICULTURE, LIVESTOCK AND IRRIGATION
MONTANA STATE SENATE

March 14, 1983

The Agriculture, Livestock and Irrigation Committee meeting was called to order on the above date, in Room 415 of the State Capitol Building, at 1:00 p.m., by Chairman Galt.

ROLL CALL: Senator Graham excused, all other members present.

CONSIDERATION OF HOUSE BILL 762: Representative Earl Lory, HD 99, told the committee that this is probably the same bill as before. In 1977 an interim committee, by resolution, studied the subdivision laws. The introduced bill, at that time died. It was reintroduced in 1981 and died. They have now improved it and it is in better form. The present trouble with the law is there are three exceptions to the law not subject to review; twenty acres or larger, occasional sale and the family split. The House Committee addressed the three problems and have eliminated the 20 acre split. Twenty acres is a poor way to divide land. A house is built on one acre leaving 19 acres left for weeds. It was a bad decision. In many cases 20 acres, the family split and occasional sale is a poor way to do this. Many subdivisions are made this way by dividing into 20 and then into 5 acres. There is no way to come back on this. You have to go to court to get it stopped. Someone subdivided in Missoula and left a 50 foot strip. Some have no access. In Missoula County, 83% of the subdivisions were not reviewed except for sewer.

The bill eliminates the 20 acre split. If you get an oil lease it is not included as a subdivision. Mineral rights are not a subdivision. Cemetary lots are not included. Certain others are subject to survey requirements but with no review. Subdivisions made outside of a municipality to make a common boundary are not included.

The family split requires it now to include the immediate family and you must hold the property in your title for three years. Occasional sales come under the same thing. You may have one for each 12 months, again providing you held title on the land for three years. Also, in case there are 5 or fewer lots, it does not require anything but a survey. Division of a court requires a specific survey. It is not required in the review. Eminent domain does not require a certificate of survey until sitings or the rest are erected on the land. If a particle of land is divided and there is a covenant with the land that it must be used for agricultural pruposes only, if it is left in 40 acres, the covenant runs with the land. Any agricultural land larger than 40 acres is subject to limited review. Limited to the fact that it must have an access. You must have access in 40 acres and larger. Minor subdivisions with a park commitment where you may pay money in lieu of, is subject to limited review. Large subdivisions do not require a finding of environmental impact.

HB 762 also had the criticism that when you go to the Planning Board you have a lengthy wait for their decision. Now in a review if the Board doesn't make the review within 30 days, it is automatically approved. If it is over 60 days for a larger one, it goes in automatically. They put this in because they felt this was a distinct disadvantage to the developers. They have tried to tighten up the bad things in the subdivision laws; 20 acres, occasional sale and the family split.

Jim Richard, on behalf of himself, said he had worked for the State Planning Department office from 1973 through 1981 and he is now in private business for himself. He saw the bill as an attempt for a more orderly land division. The law was enacted to do something but it only works in 10% of the cases. At least four steps demonstrated that 90% of the land or more is escaping review. His hand-out, EXHIBIT #1, shows problems that exist in Montana. It gives an idea of the kinds of problems that can be avoided if we go through the government process. The 2nd page shows an effort to demonstrate cost compared to revenues brought in. He pulled out federal money and used state money to meet the cost. He said he had used the lowest possible base for his comparison.

Susan Cottingham, Director Montana Environmental Impact Center, said this is focusing on impacts. She had two major points. What unreviewed subdivisions do to the land owner and what it does to the taxpayer. The land owner can do what he or she wants to do with their land if it doesn't affect neighbors or other land owners. Scattered parcels mean they cannot be reviewed or litigated. This causes problems with water supplies, irrigation systems, vandalism, dogs, etc. Her second point was the costs of sprawl. When you have a situation where parcels are being unreviewed, someone has to pick it up and the local taxpayer picks up the difference. There are high growth rates and the local taxpayer is picking up the differences. The cost of services is not being picked up by the developer. It is transferred to the homeowner to be paid at a later date. The bill corrects existing problems but still provides for needs of those who need to pass land on to family or have an occasional sale.

Lee Tuott, Beaverhead County Planning Director, supported the bill. Exhibit #2.

Bruce Chamberlin, Chairman Missoula Fire Service, said nonreviewed subdivisions do not have roads to get fire apparatus into the district. He would like to see the exemption provisions tightened up. Some divisions are not provided with fire service and this should be tightened up.

Byron Martinell, a rancher near Dell, supported the bill. Testimony attached, Exhibit #3.

Written testimony, in support of HB 762, from Delbert Bullock, Chairman Jefferson County Board of County Commissioners, is hereby made a part of this record. Exhibit #4.

OPPONENTS:

Dennis Rehberg, Montana Association of Realtors, said they have protected the property rights of individuals. Agriculture has been characterized on loan laws. The increase in property values has allowed increased loan value for retirement. He thought the bill would destroy 50% of this. It would make huge windfall profits on those who already have sold. His ranch is on the rims. There are 100,000 people on the rims around his ranch. He wanted to keep his agricultural unit together, but if he does get into a financial problem, he wants to be able to sell at the highest price. He can go through the review process but he said he couldn't afford the cost of the review. If he hasn't held the land for 3 years, he cannot sell the property. With the agricultural covenant, if he conveys 35 acres to his son and in an amount of time wants to build on his farm or ranch again, he has to go through the review procedures. It hasn't affected his taxes. Senator Turnage's bill will alleviate that problem. They will be considered agricultural and will no longer get to pay the agricultural rate.

Cliff Christian, appeared on behalf of himself. He said he has been here for 10 years representing the realtors and nothing has changed. If over 90% of the people who are dividing land are evading these reviews the reason is because the Subdivision and Planning Act makes reviews long and they cost too much money. All it does today is perpetuate bad land consultants. Regarding sporadic sprawl, dog problems, weeds, etc., he would like the committee to consider one suggestion. Amend one section so that the division of a subdivision of less than 5 acres get an interim study review.

Rus Reynolds, Helena, lives in the Big Valley subdivision on the north hill. He said he represented 50 landowners in Lewis & Clark, Lake and Jefferson counties who had signed a petition. Exhibit #5. He would like to see the law left where it is.

Elmer Flynn, Missoula, ranches north of town. He called attention to page 2, line 16. He felt it was expanding the master plan that goes into detail of what they want it to exist of. His county surveyor has had jurisdiction for years. The superintendent of schools sets up school curriculum, and now he feels the Planning Board is getting into this. He had asked during the subcommittee hearings what they could do for him. They told him they want to be sure he had access. He couldn't see why they had to study access. He doesn't think access was a problem, he thinks the bill is expanding the present planning staff. They are not only going to have 21 in the Missoula office after the bill passes, they will have 45 in there. Why put another department in the picture. They already have a bridge man and a road builder. He said it was a bad bill. They could have tightened up the family split or conveyance with a few amendments.

Vera Cahoon, Missoula County Freeholders, said their organization is a grassroots organization of taxpaying landowners who have an

interest in land. She did go to the administrative assistant in their planning office and they now have 21 FTEs in Missoula County with 8 administrative positions. In 1978 they had 15.3 and in 1979, 18.1. It had gone up by three people. They are allowed to budget 2 mills and they are now budgeted at 1.99 mills. So much legislation has been introduced this session out of Missoula to control the land owner, she felt they were regulating and taxing them to death. She is expected to attend four meetings per week and found it intollerable and impossible. Exhibit #6.

Gerald Ditto, Association of Registered Land Surveyors, was against the bill. He said that in 1973 they had a 5 acre law, then it went to 10 but only got faster so then it went to 20 acres and now to 40. He asked if they really believed that 40 will slow it down. He thought it would only accelerate. To leave the family split or accasional sale for three years, he did not think it was conducive to Montana's growth pattern.

Juli Hacker, Missoula County Freeholders and a farmer, said she resents coming to Montana every two years and has to keep an eye out because of these laws. She was not going to compromise with government. She lives next door to a 28 acre loophole and she thinks they have enough sanitation review and health regulations. If a person is smart enough, he makes sure he has access. The fire districts are protected by the state. Exhibit #7.

Tom Lund, Hamilton, said the present law is expensive enough as it is. HB 762 would make the process much more expensive. The present amount of time for inspections by the state for review is taking too long a time to do. He thinks the length of time could be changed to a lower time. It is only going to quicken the speed or time period that agricultural land is going to be taken out of production. The division of land wasn't made by ranchers because of the loss of demand. He is a realtor but is not in here on behalf of that, but himself. He said he felt strong enough about the people he represents. He felt that if they increase the time period on time they must take if the law is tightened more, it will affect the people trying to stay in agriculture.

Tom Wester, representing a local developer and the Montana Home Builders said they, too, come in every two years. Regarding the statement that 90% of all transactions go unreviewed and because of this 90% are bad divisions, he did not think this was the case. All transactions subject to review are good, was not a true statement either. It is just part of the process that takes place. Market place on transactions suggested safeguards for a person buying property to rationalize and look out for himself regarding sanitation and access. Regarding sanitation the Board of Health will check on that it it isn't up to standards. Then the market place comes in. Very few people have cash. They have to go to the bank and borrow money. They have to meet certain criteria. It is set forth by private and federal loan organizations. These all have to clear the county. Before a

person can obtain a mortgage, he has to have the access. The market place, in this regard, takes care of the two concerns in the bill. He had some concerns on page 2. It amplifies language of the master plan. Lines 15 through 5 on page 3 greatly increases the degree of tightness that the master plan has to be administered. Page 8, the exemption of a transfer to immediate family members. He was cloudy on what the language does. One division for one family member - He wondered if it meant if that is if there were five family members there would be one division. If so he would be precluded to pass land on to family members. Page 9, the exemption for occasional sale. Lines 6 through 14 on page 9, the marriage and divorce act - why is that acceptable when the other areas being trimmed aren't. Page 20, new section, lines 11-21 on page 20 in cases of local jurisdiction this is very wide and also too arbitrary and discretionary. On behalf of the Montana Home Builders, and himself, he asked the bill be killed.

Paul Keller, on behalf of himself and people with low incomes who would like to get a piece of land and can't get it, asked anyone to try to find a lot for a HUD 255 house in Montana. Last census shows a large majority of people with an income of \$15,000 a year. They can't buy a \$60,000 house and afford it. This drives the cost of land up and if you are building a HUD 255, you can't build. A house that costs \$60,000 only pays 1/3 of its costs in services. He told members to go up into the Deihl subdivision. Public utilities and improvements cost more than the lots. A person without an income of \$60,000 a year cannot afford this. This bill calls for a master plan. People in Helena went to the country to escape all of this. Planners plan for the land and not for the people. He thought it should be for the people first and not the land. He said they should work on some sort of legislation that takes care of people and not the land.

John Hollow, Montana Home Builders opposed the bill.

Representative Lory, inclosing, said the bill doesn't prevent subdivisions. It prevents places where subdivisions are not adequate. The bill stops unreviewed multiple uses of occasional sales and the family split. It was increased to 40 acres to be held for three years but it still allows any agricultural person to sell or subdivide because the 40 acres are agricultural land. It is a good bill and addresses the problems. It does not require a new master plan. The present law already requires a master plan. This is already in effect.

DISPOSITION OF HOUSE BILL 515: Senator Ochsner moved to lay HB 515 on the Table. Motion carried. For the record, Senator Lee voted No.

DISPOSITION OF HOUSE BILL 802: Anne Brodsky, Legislative Researcher, explained the amendments returned HB 802 to the state SB 238 was in when it was laid to rest in committee. There were quite a few amendments, but it is now exactly as SB 238 with one exception. On page 3, sections (o) and (q) were struck. The

Department is granted rule making authority anyway. They have rule making authority in other places. The amendments also add "that scientific evidence proves" language.

Senator Galt asked why amendment #21 raised the fee. Anne said she had talked with the Department on that and occasionally when fees were set up in 238 they were dependent on their relationship with one another. In 802 they are out of relationship so Mr. Kelly thought it should go back in.

Senator Ochsner said he and Senator Conover had gone over the bill and made changes in all the fees and he pointed them out in the amendments.

Anne told the committee the Department had pointed out there are three places where they changed the date from May to March. If the committee adopted changing the date to March, there are three other places this must be done, pages 14 and 15.

Amendments are shown as Exhibit #8.

Senator Conover moved the amendments to HB 802. Motion carried.

Senator Conover moved HB 802, as amended, BE CONCURRED IN.

ROLL CALL VOTE SHOWED 5 Senator voting Yes; 3 Senators voting No and one Senator absent.

Motion carried. Senator Ochsner will carry the bill on the floor.

DISPOSITION OF HOUSE BILL 888: Senator Aklestad moved to Table HB 888.

Senator Lee didn't think the bill was the answer to the problems. He reminded the committee that the opponents wanted an Interim Study Committee to go through and look at all the statutes on the book. He thought there were a lot of problems to be addressed in an interim study.

Senator Galt suggested someone from the committee look into an interim study on the bill.

Question was called to TABLE HB 888. Motion carried.

DISPOSITION OF HOUSE BILL 673: Senator Kolstad moved HB 673 BE CONCURRED IN. Motion carried. Senator Kolstad will carry the bill on the floor.

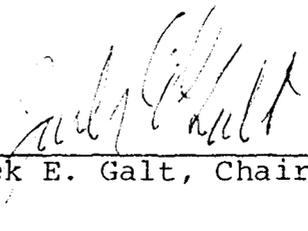
Mr. Kelly, Department of Agriculture, explained that the 1 million dollar bond costs \$6 a thousand. The difference between bonding and insurance was that with insurance you anticipate losing something. With bonding you don't anticipate incurring a loss. He thought they could jack the bonding, using it as an insurance policy. If they got the bonding limits high enough they will go through a financial statement and make sure the bonding is a good sale. He hoped to have the answer in Maneul's bill, a blanket

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insurance policy for fifteen million dollars. He said that, for \$25,000, you can get a little over five million dollars insurance. He had checked with Glacier Insurance out of Missoula and Sonny Omholt's office. Insurance is \$6 to \$8 per \$1,000 on this. On an average, he said we are looking at a \$6 minimum for bonding. GTAs carry their own policies but it is very expensive. If they write an insurance policy on top of bonding, then bonding companies would be more careful.

Senator Kolstad said 6/10 of 1% is returned on the bond and he felt the insurance was a very good buy.

There being no further business, the meeting adjourned.



Jack E. Galt, Chairman

SENATE AGRICULTURE COMMITTEE

BILL 762

VISITORS' REGISTER

DATE 3-14-83

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
LEE TWOTT	Beaverhead County Planning Bd	762	X	
Juni Richards	self	762	X	
Benson Martinehl	-	762	X	
Julie Hacker	msla. Co. Freeholder	762		X
Kara Cahoon	msla Co Freeholder	762		X
Chas F. Flynn	self	762		X
Mary A. Flynn	self	762		X
Thomas L. Lund	self	762		X
Herbert C. Bailey	self	762		X
Neal S. Ditto	M.A.P.A.S.	762		X
Russell C. Reynolds	land owner	762		X
Thomas J. Wester	Montana Home Builders Assoc	762		X
Denny Rehberg	MT ASSOC of Realtor	762		X
Susan Cottingham	MEIC	762	X	
Paul J. Keller	self	762		X
Earl J. Daniels	Ref Dept 98	762	X	
				X

Ex #1
Agric.
3-14-83

PROBLEMS FOR AGRICULTURE FROM HAPHAZARD LAND DEVELOPMENT

- *1. ADDITIONAL TRAFFIC VOLUMES OCCUR IN RURAL AREAS: increased traffic accidents, dust, road deterioration, maintenance costs; HINDERS MOVING OF FARM MACHINERY AND LIVESTOCK;
- *2. ROAD PROBLEMS: blind intersections, poor construction, high maintenance, inadequate or missing culverts, poor road drainage;
- *3. IRRIGATION SYSTEMS ARE AFFECTED: reduced water supplies, interference with ditches, canals, headgates, and pumps;
- *4. AGRICULTURAL WATER SUPPLIES AFFECTED: quality affected by run-off, effluent; water quantity reduced; water rights affected;
- *5. FENCE PROBLEMS: maintenance problems with numerous "urban" lot owners, complaints of livestock in yards;
6. LAND PRICES: farmers and ranchers cannot compete with land developers in buying or leasing land for agricultural purposes;
7. INCIDENTS OF VANDALISM, THEFT, AND TRESPASS: increases in rural areas with suburban development and added population;
- *8. NUISANCE COMPLAINTS, LAWSUITS: Normal agricultural operations are often the subject of nuisance suits and complaints by suburban dwellers;
- *9. DRAINAGE AND RUN-OFF PROBLEMS: improper culverts and bridges; poor road construction, improper grading and drainage of storm water;
10. DOGS: bother and interfere with livestock;

*Problems which can be overcome through local government subdivision review.

PUBLIC COSTS OF LAND DEVELOPMENT

INCREASED PUBLIC COSTS (TAXES): roads, (maintenance, snowplowing, upgrading), law enforcement, emergency medical services, fire protection;

For Example:

In unincorporated areas (State Average):

Total County services COSTS per household: \$ 735
Tax REVENUES from \$60,000 home @ 60 mills: \$ 308

Yearly Road COSTS per household: \$ 158
Road tax REVENUES from \$60,000 home
@15 mill Road levy: \$ 76

Subdivision development pays in taxes only 1/3 to 1/2 of the costs required to provide county services.

Agriculture, industry, public utilities subsidize residential development by picking up the difference between residential service costs and tax revenues.

LAND DEVELOPMENT PROBLEMS CONTRIBUTING TO ADDED COSTS:

1. LOCATION: in remote areas where county services are expensive to provide; located in flood prone areas or on steep slopes where maintenance of roads, bridges, culverts is expensive;
3. ROADS: improperly constructed—require high annual maintenance costs; culverts not installed, too small, improperly installed—causes washing, eroding, sloughing of county roadways; roads too steep for standard road maintenance and snowplowing equipment;
4. EMERGENCY VEHICLES: roads too steep for fire or ambulance vehicles; access onto county roads not designed for emergency vehicles;
5. SCATTERED, HAPHAZARD DEVELOPMENT: requires more roads to build and maintain, additional utility lines to install and maintain; presents added difficulty for law enforcement, fire protection.

HB 762 and HB 646 would help narrow the gap between the land development costs and tax revenues by requiring planned subdivisions which would be reviewed by counties.

Ex # 2
3-14-83
Agric.

BEAVERHEAD COUNTY PLANNING BOARD

P.O. BOX 351
DILLON, MONTANA 59725
406/683-4862

Senate Agriculture Committee
State Capitol
Helena, Montana 59620

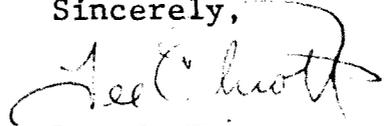
re: HB 762 - Recommend "DO PASS"

Mr. Chairman, Honored Committee Members:

I support HB 762. This bill will help to encourage more rational and less expensive patterns of development. The unplanned, uncoordinated growth which Montana is currently experiencing as a result of the current law causes hidden costs which are a burden on the county and state taxpayer.

Beaverhead County has experienced numerous problems with these unreviewed parcels. These problems include their failure to coordinate existing and newly created roads, inadequate right-of-way reservation, legal questions concerning maintenance, and problems with septic tanks, water, and drainage. These tracts were relatively inexpensive to develop initially but there were numerous hidden costs such as road construction, repair and maintenance, education and transportation, and police protection which weren't considered (exhibit 1).

As you can see from exhibit 1, these developments do not pay their "fair share" in respect to taxes. Who is paying the taxes for these unreviewed developments which are occurring in the state? In Beaverhead County the group that pays the most taxes and, in turn, must subsidize these developments is the agricultural industry. Because the agricultural industry must subsidize these unreviewed developments, I strongly recommend that this committee give this bill a "do pass" recommendation.

Sincerely,

Lee C. Tuott
Planning Director

"HIDDEN COSTS" OF AREA DEVELOPED WITH 60 RESIDENCES

ANNUAL COSTS	COST
SCHOOL- 90 pupils with average cost per student \$1,250	\$112,500
DEPUTY SHERIFF WITH VEHICLE (25% USE)	<u>\$7,500</u>
	\$120,000

"ONE TIME COSTS"

NEW SCHOOL BUS	\$35,000
ROAD SURVEY FOR DEDICATION	\$2,500
ROAD PAVING (DIRECT COSTS ONLY)	<u>\$25,000</u>
	\$62,500

TAXES PAID BY 60 RESIDENCES WITH AVERAGE APPRAISED VAULE OF \$50,000

60 X \$287 =	\$17,220
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COUNTY ROAD FUND TAXES

\$50,000 RESIDENCE PAYS	\$55
COUNTY AVERAGE PER RESIDENCE	<u>\$82</u>
	\$27 per residence (DEFICIT)

\$27 X 60 = \$1,620 FOR 60 RESIDENCES (DEFICIT)

Eq # 3
Agric.
3-14-83

Byron Martinell
P.O. Box 72
Dell, Montana 59724
March 14, 1983

Senate Agriculture, Livestock and
Irrigation Committee
State Capitol
Helena, Montana 59620

Mr. Chairman, Honored Committee Members:

My name is Byron Martinell; my family has a ranch near Dell (which is 23 miles north of Monida Pass) where my brother and I reside. At the present time we are busy calving but because of the importance of the outcome of this hearing I was compelled to come here at my own expense to testify in support of House Bill 762, sponsored by Lory, Ream, Kadas, J. Jensen and Waldron.

Between 1967 and 1975 our loss of farmland amounted to about 23 million acres.¹ This is a rate of 12 acres per day or 3 million acres per year. ² This is an area the size of Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New Jersey and Delaware combined!

Between 1969 and 1979 the annual decline of land in farms averaged nearly 10 million acres, almost a million acres a year.³ At the present rate of farmland conversion, our potential cropland remaining could be swallowed up within another decade.⁴

There is no question at all that farmland loss is having a powerful effect, right now, on the economy, social fabric and quality of life in local communities all over the country. We can foresee that the national and global questions raised by the continuing loss of American farmland are serious.

The leading cause of farmland loss is unplanned or poorly planned suburban development, what we know as "leapfrogging" or "buckshot" development because it skips over land close to town and is scattered throughout the countryside. This random kind of development not only takes farmland directly out of production, but also starts a chain reaction of socioeconomic events that only hastens the conversion of still more agricultural land and profoundly affects everyone in the community.³

This leapfrog development rarely pays its own way.⁵ As water and sewer lines are extended farther and farther out into the countryside, and as roads must be improved and maintained to handle the larger volumes of traffic, the costs of providing these services rise accordingly. Since these costs must be paid out of local tax revenues, property tax assessments and rates almost always increase when leapfrog development occurs, usually farmers and ranchers and established residents of areas close to town bear a disproportionate share of the new tax burden, in effect, subsidizing the loss of farmland.³

From this overall view and with the limited exposure I have had to these matters in being an adjoining landowner to a small unincorporated town like Dell and in watching growth take place around Dillon, it is not hard to see that our state laws need to be strengthened. We need development but it should be done in an orderly and organized manner that does not place our valuable soil resources in jeopardy.

About 5 miles south of Dillon, at the present time, there is one rancher who is dividing the majority of his deeded acres into 20 acre parcels and is attempting to sell them, probably in an attempt to remain solvent. I can empathize with his need for more income during this time of stressed economic conditions, but if his answer to the problem were to become the rule instead of the exception it would have disastrous consequences for all of us. It is very important that our state law be strengthened by the passage of House Bill 762. The proposed amendment to section 76-3-104, M.C.A. will eliminate the 20 acre subdivisions we see springing up all over the countryside and will save local governments in our state untold thousands of dollars.

Another example of what has happened in Beaverhead County can be found approximately 5 miles north of Dillon where an individual tried to develop a subdivision but was denied by the Beaverhead County Planning Board because of leapfrogging, the encroachment on agricultural land and other technical problems. He therefore proceeded to sell off his property in lots of 20 acres or more, perfectly legal under present state law, thus circumventing any local review and creating a multitude of problems for the adjoining ranchers. He was able to do this by gifting parcels to members of his family, transferring his remaining ownership to his spouse, who in turn also gifted to the children. This case was finally settled in the local court where the judge ruled he had evaded the subdivision criteria but what was done was done and nothing could be done about it. The proposed amendment in House Bill 762 to Section 76-3-207 will greatly clarify the role of local government in such sticky cases as this. Truly we need growth, but we don't need it in this fashion. I have great faith in the ability of our local governments to handle these problems but we must give them more specific tools to work with. The passage of House Bill 762 would certainly be a step in the right direction.

We always have a problem every winter and spring when our cattle are on the home place with stray dogs. When we used to have sheep we could lose as many as 12 or 15 ewes a night to dogs from town running in packs. After we weaned our calves last fall stray dogs got into them at night, resulting in the loss of 5 animals. The sad fact is that it is not the dogs' fault. Everyone wants a dog but they don't want to be responsible for their actions. Every year our local paper, the Tribune-Examiner carries gruesome stories with pictures about dogs that have gotten into someone's sheep. These events take place out in the country where we find the 20 acre home sites as well as on lands adjoining city limits.

One rancher who owns a lot of property surrounding Dillon by the name of John Erb annually puts a notice in the paper that any stray dogs found on his property will be destroyed, no questions asked.⁶ I welcome you to question him on the economic loss this urban problem causes his operation.

Rebish and Helle, one of our county's last big sheep ranches located north of Dillon by the "evasion-of-the-law" subdivision I mentioned, is always having problems with stray dogs.

Granted, this may not be a problem that could be overcome by local government subdivision review but it is a problem brought on in a lot of cases when the 20 acre subdivisions spring up.

Lets talk about some of the problems that are brought upon local farmers and ranchers as a direct result by urban sprawl.

One of the first problems the stewards of our lands encounter when their city cousins move out in their neighborhoods relates to irrigation. In a lot of cases developers fail to maintain ditches either by filling them in completely or by using improper culverts and bridges. Often times not enough planning has been done on grading and drainage of storm water that adversely affects ditches and irrigation water quality. There are problems with the new source of trash plugging culverts, children playing in the water and the resultant liability, use of water by urbanites for watering gardens, lawns, etc. simply because the water flows through their property. This brings up a whole new can of worms with regards to water rights problems.

Ranchers and farmers also have fence maintenance problems with numerous urban lot owners. Like water, fences are a natural attraction for children who can be quite destructive even if they mean no harm. Then ranchers get complaints about livestock in their yards.

As urban development continues, the incidences of vandalism, theft and trespass increases. We have been fortunate in these areas ourselves, but I've heard several ranchers complain of sprinkler pipe being shot full of holes by gopher hunters, destructive vehicle trespass on growing crops and sprinkler pipe, loss of tools, batteries and gasoline from field equipment, starting machinery and driving it into canals and others. This brings about the need for more law enforcement personnel, and expansion of other public services.⁷

As if these problems weren't enough, normal agricultural operations are often the subject of nuisance suits and complaints by suburban dwellers. We've all heard of the feedlot that used to be close to town, was surrounded by development and thereby forced to move with the resultant loss of jobs. Other examples of this type are dairies, confinement hog and chicken operations and packing plants.

March 14, 1983

In the long term we have the problem of land price increase caused by development. Farmers and ranchers cannot compete with land developers in buying or leasing land for agricultural purposes. A good example of this happened to our local veterinarian who, along with a friend of his, used to own a 40 acre alfalfa field on Huffine Lane near Bozeman that they sharecropped. It was located between 2 dairies and they had an agreement with each that if they ever decided to sell they would give them first chance. The urban sprawl, for which Bozeman is infamous, kept getting closer. Land values started to escalate and naturally the taxes went up to the point where the veterinarian and his friend could no longer afford them so they went to the 2 dairymen. But the land value had risen to the point where they couldn't afford it either, so there was another 40 acres that could feasibly go no other way than for development. Then the vicious cycle begins all over again.

In summary I feel the passage of House Bill 762 would, by eliminating the 20 acre parcels, by changing the manner in which smaller parcels can be sold off and by clarifying other points of the law would keep subdivision growth more closely aligned with proximity to our existing population areas which we must have if we are to preserve our irreplaceable farmlands.

I thank you for the privilege of being able to state my views on this matter and hop you will consider them as a small portion of the reasons House Bill 762 should get a favorable committee report. If there are any questions, I will try my best to answer them.

Sincerely,


Byron Martinell

REFERENCES

1. National Agricultural Lands Study, Final Report 1981 (Washington:1981)
2. Where Have the Farmlands Gone, by Shirley F. Fields, National Agricultural Lands Study, Council on Environmental Quality (Washington:1979)
3. National Agricultural Lands Study, Final Report, 1981 (Washington:1981)
4. Disappearing Farmlands: A Citizens' Guide to Agricultural Land Preservation, National Association of Counties Research Foundation (Washington:1980)
5. The Costs of Sprawl, by the Real Estate Research Corporation, (U.S. Government Printing Office, Washington:1974)
6. Dillon Tribune-Examiner, March 8, 1983.
7. Dillon Tribune-Examiner, May 19, 1980.

Sheriff explains

5-19-80 - T.E.

Problems growing with county

As Beaverhead County grows, so grow the problems for Beaverhead County Sheriff Buzz Davis.

"There's no doubt about it," Davis said. "We've been getting more calls every day, every month. It's definitely has an effect on our law enforcement."

Davis said the increasing number of new homes in the county has added to the length and number of patrols by himself and his deputies. An estimated 40-60 homes were erected in the county last

year. Many of these homes were built in or near the Beaverhead Acres development north of Dillon.

calls out in that area," Davis said. "Most of these are civil cases like speeding and family disputes, but there have been some criminal calls too."

"There have been numerous minor thefts," Davis said.

Davis also said new development north of the Club Royal has had an impact on his office.

"I think there is beginning

to be a strain on our law enforcement," Davis said. "I wouldn't be surprised if we needed another man before long."

Davis pointed out two other areas that need more patrol time. The 66 miles of new gravel road along the East Bench that were built since the construction of Clark Canyon Dam have required traffic patrols, and the growing recreational use of the Polaris-Elkhorn area has been accompanied by law

enforcement problems. Davis said the three bars in the Polaris-Elkhorn area contribute to the problem. "That's about 40-45 miles away," Davis said, "but we have to respond to any disturbances."

"Someday I could see putting a resident man up there," Davis said.

According to Davis, this winter has not been as bad because Maverick Mountain ski resort near Elkhorn did not open.

Tuesday, March 8, 1983 Dillon Tribune-Examiner A-5

WARNING

**LOOSE DOGS will be shot
on the John Erb property
south of Dillon,
1125 Blacktail Rd. Please
don't call us about your dog.**

***If it's loose and out there,
it will be shot!***

PROBLEMS THAT OCCUR FOR FARMERS AND RANCHERS WHEN HAPHAZARD LAND
DEVELOPMENT TAKES PLACE

1. Dogs
 - bother and interference with livestock
 - loss of livestock
2. Drainage and run-off problems caused by:
 - failure to maintain ditches or difficulty of farmer to do so
 - improper culverts and bridges, new sources of trash
 - improper or inadequate grading and drainage of storm water
 - poor road construction
3. Affect on irrigation systems
 - reduced water supplies
 - interference with ditches, headgates and pumps
4. Impact on agricultural water supplies
 - water quality affected by run-off
 - water quality reduced
 - water rights affected
5. Fence problems
 - damage by suburbanites
 - complaints about loose livestock
6. Vandalism, theft and trespass
 - incidence increase with suburban growth and added population
 - theft a big problem because suspects hard to apprehend
 - destruction to crops, sprinkler systems, machinery
7. Nuisance complaints, lawsuits
 - normal agricultural operations often objectionable to suburban dwellers resulting in nuisance suits and complaints
8. Land prices
 - farmers and ranchers cannot compete with developers in buying or leasing farmland

NOTE: Passage of HB 762 would go a long way towards helping local governments eliminate some of the major problems and expense of subdivision growth but without sacrificing the quality of this growth.

JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS
BOULDER, MONTANA 59632

Ex #4
Agric
3-14-83

Glen A. Stevens
Whitehall

Delbert M. Bullock, Chairman
Basin

Douglas K. Schmitz
Jefferson City

WRITTEN TESTIMONY IN SUPPORT OF HB 762

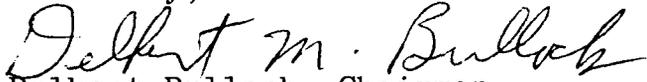
By: Delbert Bullock

Mr. Chairman and committee members my name is Delbert Bullock. I am the chairman of the Jefferson County Commissioners. I am taking this opportunity to submit written testimony in support of HB 762.

HB 762 would positively revise the Subdivision and Platting Act and clarify which divisions are exempt from review. It would also close existing loopholes in the law allowing for better planning at the local level. Jefferson County has experienced much unplanned growth in a very short period of time leading to problems in efficient and effective management of county resources and an insufficient tax base to cover increased demands. House Bill 762 would help alleviate those problems by insuring that exemptions are not being used to evade the act and allowing local governing bodies the ability to plan and better provide for future local needs.

I strongly urge this committee to recommend a do pass on HB 762. Thank you.

Sincerely,


Delbert Bullock, Chairman
Jefferson County Commissioners

E745
45r.4.

AGAINST HOUSEBILL 762
Hearing March 14, 1983

Senate Agriculture, Livestock and Irrigation Committee
1.P.M. Room 415

Mr. Jack E. Galt, Chairman
And Members of the Committee:

We, the following undersigned land owners, living within the boundaries of the State of Montana, do hereby request you and your Colleagues to vote for the DEFEAT of HOUSE BILL 762.

We do not believe the change in the exemptions in Section 76-3-207(1)(b) & (c) & (d) and the additions to Section 76-3-610 are in the best interest of landowners who wish to conserve agricultural land, and believe that conditions for sale should not be vested in a few.

Thank you,

George W. Rice

5776 Shanna Ct. Helena

Stephan Rice

6957 Green Meadow Helena

Stephen C. Gappa

7993 HWY 12 W HELENA

William A. Walker

1527 Jerome Place Helena

Yug N. Hahn

2883 Melody Rd

Kesley R. Stebbins

812 Flowerw Helena

Bertel N. Larson

RT2 Box 221F, HELENA, MT.

Nora W. Johnson

342 CLANCY ST. HELENA, MT

Curt S. Brandon

1603 Ohio, Helena mt

John C. Cooper

1510 Ohio Helena Mt.

Karen M. Ruhl

2778 Spokane Creek Rd - East Helena MT.

W. D. Dick

2778 Spokane Cr. Rd SE mt.

Susan M. Getz

760 Sierra Rd W. Helena, Mt

Carrene D. Ditz

260 Sierra Rd. W. Helena Mt.

Pat Foley

297 Thomas Ct., Helena

Senate Agriculture, Livestock and Irrigation Committee
1.P.M. Room 415

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And Members of the Committee:

We, the following undersigned land owners, living within the boundaries of the State of Montana, do hereby request you and your Colleagues to vote for the DEFEAT of HOUSE BILL 762.

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Thank you,

Robert A. Stramer 3325 Wylie Dr. East M. Wolfpore Canyon Creek, mt

Sharon L. Strainer Wylie Dr.

Jerome Teafoe 3335 Wylie Dr.

Margaret Teafoe 3335 Wylie Dr.

John V. F. Hill 3363 Wylie Dr.

Connie M. Fairbairn 3363 Wylie Dr.

Todd G. Buchi 3365 Wylie Dr.

Cynthia Buchi

Stephen M. Yuric 3055 Howard Rd

Mary M. Yuric 3055 Howard Rd

Georgy Yuric 3034 Howard Rd

Mary K. Yuric "

John Yuric 3032 Howard Rd

John J. Wester 1415 Barber Helena

WITNESS STATEMENT

Name Lera Cahoon Date 3/14/83
 Address Star Pt - Bennett Support ?
 Representing Missouri County Deputies Oppose ? X
 Which Bill ? 762 Amend ?

Comments:

- I Creates a larger and more costly planning dept
 insen Cp. 21.8 staff - 1.99 mills \$25,000
- II Controls & regulates us to your salaries
 death
- III Assumes that all landowners are law breakers and all real estate agents are crooks.

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Julie Hacker Date 3/14/83
 Address Star Rte Berner, Mt. Support ? _____
 Representing Walc Co. Trustees Oppose ? X
 Which Bill ? HB 162 Amend ? _____

Comments:

1. Amend the bill to 5 Acres or kill it.
2. Sanitary rules are under review
for a home spot.
3. Declare a 10 yr. moratorium
on revising this law.
4. I am not willing to compromise
or hand over my property rights
or business decisions to bureaucratic
boards or planning departments.
5. Anyone who wants to sell
their land or part of it, should
be able to do so.

Please leave prepared statement with the committee secretary.

Amendments to HB 802

1. Page 6, line 3.
Following: "agencies"
Insert: "and private industry"
2. Page 6, lines 21 and 22.
Strike: "Applications" on line 21 through "department" on line 22
Insert: "The registration shall be renewed annually"
3. Page 6, line 24 through line 1 on page 7.
Strike: "review" on page 6, line 24 through "approved" on page 7, line 1
Insert: "register all federally approved pesticides and those registered"
4. Page 7, lines 5 through 10.
Following: "." on line 5
Strike: the remainder of line 5 through line 10 in their entirety
5. Page 7, lines 23 through 25.
Strike: "," on line 23 through "species" on line 25
6. Page 8, line 16.
Strike: "\$50"
Insert: "\$25"
7. Page 9, line 15.
Following: "chapter"
Insert: "or whenever scientific evidence proves that the article endangers man or the general environment afforded protection under 80-8-105(3) (a)"
8. Page 10, lines 5 through 18.
Strike: These lines in their entirety
9. Page 10, line 19.
Strike: "but are not limited to"
Following: "the"
Insert: "same"
10. Page 12, line 8.
Following: "or"
Insert: "in"
11. Page 12, line 10.
Following: "or"
Insert: "in"

12. Page 12, lines 13 through 15.
Strike: "Such" on line 13
through "until" on line 15
Insert: "The cancellation is effective on"
13. Page 13, line 4.
Strike: "\$50"
Insert: "\$25"
14. Page 13, line 5.
Strike: "\$30"
Insert: "\$20"
15. Page 13, lines 13 through 16.
Strike: These lines in their entirety
Renumber: subsequent subsections
16. Page 14, line 12.
Strike: "May"
Insert: "March"
17. Page 15, lines 8 through 10.
Strike: These lines in their entirety
18. Page 15, line 12.
Strike: "\$50"
Insert: "\$25"
19. Page 15, line 15.
Strike: "\$25"
Insert: "\$20"
20. Page 15, line 20.
Strike: "\$50"
Insert: "\$25"
21. Page 16, line 13.
Strike: "\$15"
Insert: "\$20"
22. Page 16, lines 21 and 22.
Strike: "OR" on line 21
through "SECTION" on line 22
23. Page 20, lines 14 through 16.
Strike: "\$500" on line 14
Insert: "\$300"
Strike: "\$2,500" on line 14
Insert: "\$1,500"
Strike: "or" on line 14 through "both" on line 16

24. Page 21, line 24.
Strike: "violates any provision"
Insert: "commits a major violation"
Following: "chapter"
Insert: "as defined in subsection (5) (d)"

25. Page 22, line 5.
Following: "department"
Insert: "warning,"
Following: "order"
Insert: ", "

26. Page 22, lines 15 through 19.
Strike: "A" on line 15 through "INCLUDE" on line 19
Insert: "In determining an appropriate penalty, the department shall consider the effect on the person's ability to continue in business, the gravity of the violation which occurred, the degree of care exercised by the offender, and whether significant harm resulted to health, environment, agricultural crops, or livestock.
(d) A major violation of this chapter includes:
(i) "

27. Page 22, line 21.
Following: "i;"
Insert: "(ii) "

28. Page 22, line 22.
Following: "i;"
Insert: "(iii) "

29. Page 22, line 23.
Following: "i;"
Insert: "(iv) "

30. Page 22, line 24.
Following: "i;"
Insert: "(v) "

31. Page 22, line 25.
Following: "WITHOUT"
Insert: "having obtained"

32. Page 23, line 1.
Following: "OR"
Insert: "(vi) "
Strike: "VIOLATIONS"
Insert: "violation of this chapter"

33. Page 23, lines 2 and 3.
Strike: "The" on line 2 through "." on line 3

34. Page 23, line 4.

Strike: "(d)"

Insert: "(e)"

35. Page 24, lines 15 and 16.

Strike: section 14 in its entirety

STANDING COMMITTEE REPORT

March 14 1983

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION

having had under consideration HOUSE Bill No. 802

Brown (Ochsner)

Respectfully report as follows: That HOUSE Bill No. 802
third reading blue

be amended as follows:

1. Page 6, line 3.

Following: "agencies"

Insert: "and private industry"

2. Page 6, lines 21 and 22.

Strike: "Applications" on line 21 through "department" on line 22

Insert: "The registration shall be renewed annually"

3. Page 6, line 24 through line 1 on page 7.

Strike: "review" on page 6, line 24 through "approved" on page 7, line 1

Insert: "register all federally approved pesticides and those registered"

DO PASS

(Continued)

M.C.

4. Page 7, lines 5 through 10.

Following: "." on line 5

Strike: the remainder of line 5 through line 10 in their entirety

5. Page 7, lines 23 through 25.

Strike: ", " on line 23 through "species" on line 25

6. Page 8, line 16.

Strike: "\$50"

Insert: "\$20"

7. Page 9, line 15.

Following: "chapter"

Insert: "or whenever scientific evidence proves that the article endangers man or the general environment afforded protection under 80-8-105(3)(a)"

8. Page 10, lines 5 through 18.

Strike: These lines in their entirety

9. Page 10, line 19.

Strike: "but are not limited to"

Following: "the"

Insert: "same"

10. Page 12, line 8.

Following: "or"

Insert: "in"

11. Page 12, line 10.

Following: "or"

Insert: "in"

12. Page 12, lines 13 through 15.

Strike: "Such" on line 13

through "until" on line 15

Insert: "The cancellation is effective on"

13. Page 13, line 4.

Strike: "\$50"

Insert: "\$20"

14. Page 13, line 5.

Strike: "\$30"

Insert: "\$15"

(Continued)

ye.

15. Page 13, lines 13 through 16.
Strike: These lines in their entirety
Renumber: subsequent subsections

16. Page 14, line 12.
Strike: "May"
Insert: "March"

17. Page 14, line 13.
Strike: "May"
Insert: "March"

18. Page 15, lines 8 through 10.
Strike: These lines in their entirety

19. Page 15, line 12.
Strike: "\$50"
Insert: "\$20"

20. Page 15, line 13.
Strike: "May"
Insert: "March"

21. Page 15, line 14.
Strike: "May"
Insert: "March"

22. Page 15, line 15.
Strike: "\$25"
Insert: "\$15"

23. Page 15, line 20.
Strike: "\$50"
Insert: "\$20"

24. Page 16, lines 21 and 22.
Strike: "OR" on line 21
through "SECTION" on line 22

25. Page 20, lines 14 through 16.
Strike: "\$500" on line 14
Insert: "\$100"
Strike: "\$2,500" on line 14
Insert: "\$1,500"
Strike: "or" on line 14 through "both" on line 16

(Continued)

26. Page 21, line 24.

Strike: "violates any provision"

Insert: "Commits a major violation"

Following: "chapter"

Insert: "as defined in subsection (5) (d)"

27. Page 22, line 5.

Following: "department"

Insert: "warning,"

Following: "order"

Insert: ","

28. Page 22, lines 15 through 19.

Strike: "A" on line 15 through "INCLUDE" on line 19

Insert: "In determining an appropriate penalty, the department shall consider the effect on the person's ability to continue in business, the gravity of the violation which occurred, the degree of care exercised by the offender, and whether significant harm resulted to health, environment, agricultural crops, or livestock. (d) A major violation of this chapter includes: (i)"

29. Page 22, line 21.

Following: ";"

Insert: "(ii)"

30. Page 22, line 22.

Following: ";"

Insert: "(iii)"

31. Page 22, line 23.

Following: ";"

Insert: "(iv)"

32. Page 22, line 24.

Following: ";"

Insert: "(v)"

33. Page 22, line 25.

Following: "WITHOUT"

Insert: "having obtained"

34. Page 23, line 1.

Following: "OR"

Insert: "(vi)"

Strike: "VIOLATIONS"

Insert: "violation of this chapter"

(Continued)

W.C.

35. Page 23, lines 2 and 3.

Strike: "The" on line 2 through "." on line 3

36. Page 23, line 4.

Strike: "(d)"

Insert: "(e)"

37. Page 24, lines 15 and 16.

Strike: section 14 in its entirety

And as so amended
BE CONCURRED IN

J.C.

SENATE COMMITTEE AGRICULTURE

Date 3-14-83 HB Bill No. 802 Time 2:26

NAME	YES	NO
SENATOR KOLSTAD		✓
SENATOR AKLESTAD	✓	
SENATOR BOYLAN		✓
SENATOR CONOVER	✓	
SENATOR GRAHAM		
SENATOR LANE	✓	
SENATOR LEE		✓
SENATOR OCHSNER	✓	
SENATOR GALT, Chairman	✓	

5 3

Rita Tenneson
Secretary

Jack E. Galt
Chairman

Motion: 802 as amended Be Concurred In.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 14

83

..... 19.....

MR. PRESIDENT.....

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION.....

having had under consideration HOUSE Bill No. 673

Iverson (Kolstad)

Respectfully report as follows: That HOUSE Bill No. 673

third reading blue,

BE CONCURRED IN

~~XXXXXX~~

.....

Chairman.

W.C.