

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN DICK KNOX**, on February 8, 1993, at
3:00 p.m.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Rolph Tunby, Vice Chairman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Russ Fagg (R)
Rep. Gary Feland (R)
Rep. Mike Foster (R)
Rep. Bob Gilbert (R)
Rep. Hal Harper (D)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Dore Schwinden (D)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Howard Toole (D)
Rep. Doug Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Michael Kakuk, Environmental Quality Council
Roberta Opel, Committee Secretary

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

Committee Business Summary:

Hearing: HB 350, HB 345, HB 420, HB 442
Executive Action: HB 352, HB 442, HB 263, HB 365

HEARING ON HB 350

Opening Statement by Sponsor:

REP. GARY MASON, HD 63, Corvallis, said HB 350 will revise the Coal Board Grant and Loan Program. The bill addresses budget shortfalls and changes the definition for coal budget impact areas. **EXHIBITS 1 and 1a**

Proponents' Testimony:

Hershel Robbins, on behalf of the Musselshell Valley Development Corporation, the Musselshell Valley Chamber of Commerce, the City of Roundup and Musselshell County, submitted proponent testimony. EXHIBIT 2

Michelle LeFurge, Montana Association of Oil, Gas and Coal Counties, testified in support of HB 350. EXHIBIT 3

Sue Olson, Musselshell County Commissioner, submitted testimony supporting the bill and a graph depicting property valuation and the road fund in Musselshell County. EXHIBITS 4 and 4a

Alan Evans, Roundup, on behalf of the Montana Coal Board, expressed frustration with the lack of criteria to administer funds.

SEN. DENNIS NATHE, SD 10, Redstone, stated the Coal Board's authority to write grants on underground aquifers should remain intact.

Wayne VanVoast, Montana Bureau of Mines, stated that coal beds are the mostly widely used aquifers. He added that coal mining removes aquifers.

Gerald Himelspach, Powder River County Commissioner, submitted written testimony. EXHIBIT 5

Dave Lewis, Montana Department of Commerce, noted that since the start of the Coal Board program, \$127 million has been assigned.

Opponents' Testimony:

Don Bailey, Rosebud County Commissioner, spoke in opposition to HB 350. EXHIBIT 6 Mr. Bailey distributed testimony opposing the bill from the Rosebud Conservation District, EXHIBIT 7, the City of Forsyth, EXHIBIT 8, and the Northern Cheyenne Tribe, EXHIBIT 9

Llevando Fisher, President, Northern Cheyenne Tribal Council, said they could support HB 350 with minor changes.

Dennis Olson, on behalf of the Rosebud Protection Area and Northern Plains Resource Council, stated they oppose the bill as general on-going coal mining operations should lose funding in favor of operations. There is concern, too, about groundwater loss.

John Lahr, Montana Power Company, stated that coal grants are currently funded. Mr. Lahr suggested looking ahead to provide money when power plants cease operation.

Gary Fjelstad, Chairman, Eastern Coal Counties Task Force,

opposed the bill. EXHIBIT 10

The following individuals submitted opponent testimony:

James F. Shehein, Superintendent, Bridger Public Schools,
Bridger. EXHIBIT 11

Jack A. Nesbit, Principal, Lincoln School, Miles City. EXHIBIT
12

Dave DeBoer, Interim Principal, Lockwood Schools, Billings.
EXHIBIT 13

Nolan Mikelson, Principal, Garfield School, Miles City. EXHIBIT
14

Treasure County Board of County Commissioners. EXHIBIT 15

Bill Hedges, Treasure County Sheriff. EXHIBIT 16

Jim Anderson, Superintendent, Colstrip Public Schools. EXHIBIT 17

Chuck Maxwell, Yellowstone County Sheriff. EXHIBIT 18

Questions From Committee Members and Responses:

REP. SCHWINDEN asked if the fiscal note was necessary. REP.
MASON replied that the fiscal note was necessary for unit
differentiation.

Closing by Sponsor:

REP. MASON stated the D.A.R.E. program was removed from previous
coal board legislation. He proposed amendments to HB 350.
EXHIBIT 19

HEARING ON HB 345

Opening Statement by Sponsor:

REP. WILLIAM "RED" MENAHAN, HD 67, Anaconda, presented HB 345 to
revise the taking of property by mining.

Proponents' Testimony:

Tom White, Anaconda, stated that too much penetration will damage
the aquifer. He said HB 345 will lead Montana to a new and
better future.

Jack Scanlan, Helena attorney, stated that mineral extraction may
cause problems. The bill will expand to include mining counties
with eminent domain, he said, and will codify past and present
law. Since the demise of the Anaconda Company, he continued,
smaller companies have been filling the void. The Montana mining
industry should be in favor of this legislation. EXHIBIT 19a

Opponents' Testimony:

John Fitzpatrick, Pegasus Gold Corp., stated HB 345 will have substantial adverse effects on the mining industry. The bill does not differentiate between mineral exploration and mining.

Ward Shanahan, Stillwater Mining Co., stated he opposes the bill as it changes definitions within the law of eminent domain. He noted that property owners have at least four remedies: file a nuisance action, inverse condemnation, appear at the Environmental Impact Statement (EIS) hearing and register a complaint with the Department of State Lands.

Gary Walton, Cable Mountain Mine, Inc., stated \$100,000 has been spent on drill holes. He urged the committee to consider that the proponent's to the bill are unique, special interest groups.

Nolan Smith, geologist, stated HB 345 was merely a legislative remedy targeted at geology groups.

Gary Langley, Executive Director, Montana Mining Association, submitted testimony in opposition to HB 345. EXHIBIT 20.

Dennis Olson, Northern Plains Resource Council, said the bill exploits eminent domain.

Questions From Committee Members and Responses:

REP. HARPER told **Mr. Scanlan** that HB 345 is directed only at the Hard Rock mining industry. He asked how could the bill adversely affect NPRC? He said the loss of water is not caused by drought. Ore drilling has gone on since the turn of the century.

REP. TUNBY asked **Mr. Fitzpatrick** to explain the process for drilling relative to size, etc. **Mr. Fitzpatrick** said sizes vary depending on the situation. The back-fill procedure is reviewed by the Forest Service/Bureau of Land Management (BLM). These holes do not constitute a substantial risk to the aquifer.

REP. TUNBY stated there was a difference of opinion between the testimony of **Mr. Scanlan** and **Mr. Fitzpatrick**.

REP. STOVALL asked **Mr. Scanlan** what chemicals would be used that are considered dangerous? **Mr. Scanlan** said alkylamine or liquid polymer is carcinogenic. He stated alkylamine is used as a milk shake thickener and can irritate skin.

Closing by Sponsor:

REP. MENAHAN thanked the committee and closed.

HEARING ON HB 420

Opening Statement by Sponsor:

REP. HAL HARPER, HD 44, Helena, stated HB 420 relates to water reservations, basin closures. Basin closure is important during drought. On the Missouri River Basin, for example, there are over 500 appropriations. He stated the public's right to instream flow is currently jeopardized.

Proponents' Testimony:

Bob Lane, legal counsel, Department of Fish, Wildlife and Parks, submitted testimony in support of HB 420. EXHIBIT 21

Stan Bradshaw, Montana Trout Unlimited, stated HB 420 is trying to bring franchise ment to water reservation in Montana. Trout Unlimited supports closure on the Missouri River.

Bob Thompson, attorney, Department of Health and Environmental Sciences, supports HB 420.

Jim Richards, Montana Wildlife Federation, testified in support of HB 420.

Robin Cunningham, Fishing Outfitters Association, said the Association supports the bill.

Opponents' Testimony:

John Bloomquist, on behalf of residents of the Big Hole and Red Rock water basins, said HB 420 removes a process that is legislatively endorsed.

Ted Doney, Helena attorney and lobbyist for the Teton Water Users Association, stated opposition to the bill which would overturn a board decision.

Jo Brunner, Montana Water Resources Association (MWRA), stated MWRA is opposed to the bill.

Informational Testimony:

Gary Fritz, Director, Department of Natural Resources (DNRC), stated that neither the DNRC nor FWP participated in the drafting of HB 420.

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. HARPER stated that HB 420 is designed to carry water to water rights holders thus guaranteeing water to senior water rights holders. He said the Board ruling could overrule previous

legislation to secure the public rights to instream flows.

HEARING ON HB 442

Opening Statement by Sponsor:

REP. MIKE FOSTER, HD 32, Townsend on behalf of REP. DICK KNOX, HD 29, Winifred, stated HB 442 is a bill revising the Metal Mine Reclamation Act.

Proponents' Testimony:

Sandra Olsen, Chief, Hard Rock Bureau, Department of State Lands, testified in support HB 442. EXHIBIT 22

Gary Langley, Executive Director, Montana Mining Association, submitted written testimony. EXHIBIT 23

John Fitzpatrick, Pegasus Gold, favored HB 442.

Opponents' Testimony:

Dennis Olson, Northern Plains Resource Council, said there are concerns about the amendments which limit a competent review process.

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. KNOX, said HB 442 will benefit both the mining industry and the Department of State Lands. He said section 7 of the bill is of particular benefit to small miners and DSL, and will benefit the environment by enforcing reclamation.

EXECUTIVE ACTION ON HB 352

Motion: REP. FAGG moved to adopt REP. MOLNAR'S amendments to HB 352. EXHIBIT 24

Discussion: REP. MOLNAR told the committee he was available to answer questions.

REP. SWANSON asked if people could now request additional access.

John North, DSL, replied that, to date, no petitions to expand access have been granted.

REP. TUNBY said the state lands access situation should be left alone for now.

Motion: REP. HARPER MOVED THAT HB 352 DO PASS AS AMENDED.

REP. STOVALL stated he was opposed to HB 352 as the fee should be allowed for a longer period of time.

REP. FAGG asked if the \$5 fee will be eliminated by passing HB 352. REP. MOLNAR answered, yes.

REP. GILBERT said HB 352 will cause more harm than good and may backfire.

Vote: TO ADOPT MOLNAR AMENDMENTS TO HB 352. Motion carried unanimously.

Motion/Vote: REP. TOOLE made a substitute motion to table HB 352. Motion carried 12 to 4 with REPS. FAGG, HARPER, WAGNER and RANEY opposed.

EXECUTIVE ACTION ON HB 365

Motion: REP. FOSTER MOVED THAT HB 365 DO PASS AS AMENDED. EXHIBIT 25.

Discussion: REP. FOSTER stated the amendment addresses Section 3 of the bill.

Ted Doney, on behalf of the Teton Water User's Association, said the amendment will implement the Department of Natural Resources Board order.

Bob Thompson, DHES, said the bill's language was developed by the DNRC.

REP. RANEY said he preferred to eliminate Section 3 of the bill rather than adopt the amendment.

Mr. Doney said the DNRC wants to retain Section 3 of the bill.

REP. RANEY asked if FWP and DNRC will be without a reservation in this basin. Mr. Doney stated that by retaining Section 3, all reservations will be without effect on the Teton River Basin.

REP. RANEY asked if FWP and the DNRC will pursue all existing water rights holders.

REP. FAGG said he opposed REP. MOLNAR'S amendment. EXHIBIT 25

Bob Lane, FWP, said reservations will still be in place with the amendment.

REP. RANEY asked why anyone would be opposed to allowing FWP a reservation, unless perhaps its because they do not want FWP in the basin.

REP. TOOLE asked Mr. Doney how the amendment will be beneficial.

Mr. Doney replied the amendments bring FWP back into the picture.

REP. TOOLE asked what areas of the amendments are objectionable. Mr. Doney answered that place and purpose of use must be approved by DNRC under the Water Use Act.

REP. STOVALL asked Mr. Doney if the amendments will allow reservations to dictate to senior water rights holders. Mr. Doney answered that individuals with reservations will have the right to object. He suggested use of the word dictate was inappropriate.

REP. HARPER said that in 1985 water reservations did not interfere with anyone's rights to obtain water. He also said that reservations pose no more of a threat than any other appropriation.

Mr. Doney said he agreed that the owner will have some legal standing.

REP. HARPER said FWP will be just as aggressive regarding stream bed rights.

REP. RANEY asked if there were more than junior water rights holders? Mr. Doney replied no junior water rights have been issued since 1985.

Motion: REP. HARPER made a substitute motion to strike Section 3 as a means of supporting HB 365. EXHIBIT 25

REP. FAGG said he would support the substitute motion and shares the concerns over basin closures.

REP. FELAND asked if removing Section 3 will take away FWP water reservations. REP. FAGG answered, yes.

REP. SWANSON said striking Section 3 will remove muddiness in the bill.

REP. RANEY noted the two issues are to close the basin and to shut FWP out of the basin. He added that he cannot support the substitute motion if FWP is removed.

Vote: TO STRIKE SECTION 3 OF HB 365. Motion failed 7 to 8.

Vote: HB 365 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 442

Motion: REP. FAGG MOVED THAT HB 442 DO PASS AS AMENDED. EXHIBIT

Discussion: REP. RANEY asked Sandra Olsen to present a synopsis of the bill to the committee.

Ms. Olsen, Chief, Hardrock Bureau, DSL, stated HB 442 provides additional authority for denial of small mines in the event that they are not in compliance with state reclamation plans. She also said Section 7 of the bill issues abatement orders.

Vote: HB 442 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 263

Motion: REP. TOOLE MOVED HB 263 DO PASS AS AMENDED. EXHIBIT 27

Discussion: REP. ORR said he opposes the amendments since they are counter to REP. COBB'S requests.

REP. RANEY said REP. COBB is changing water policy in an effort to protect, maintain and improve the quality of Montana's water. Rather than improving water standards, the amendment will lower these standards, he said. He added this is a major policy change.

REP. GILBERT stated that a permit will authorize degradation.

REP. RANEY said the amendment is making it more difficult for those wanting a new permit.

REP. HARPER said the committee has no idea what exactly is being changed. He stated the purpose of the bill is to define permit.

REP. RANEY said litigation beyond our comprehension is now possible.

REP. TUNBY asked what will be gained by passing the bill.

REP. ORR said the DHES determines whether there is degradation, and the amendment will clarify the authority of the Board of Health.

REP. TOOLE noted the Board of Health is charged with protecting water quality.

REP. FAGG stated the Montana Environmental Information Center does not support the bill.


Motion: REP. TUNBY moved to strike Section 5 of HB 263.

REP. RANEY said the effect of striking this section will help define REP. COBB'S desire to define the term permit.

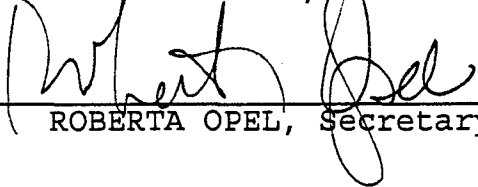
Vote: HB 263 DO PASS AS AMENDED. Motion carried 12 to 4 with REPS. FELAND, WAGNER, ORR AND FAGG opposed.

ADJOURNMENT

Adjournment: 7:45 p.m.



DICK KNOX, Chairman



ROBERTA OPEL, Secretary

DK/ro

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE

2-8-93

NAME	PRESENT	ABSENT	EXCUSED
REP. DICK KNOX, CHAIRMAN	✓		
REP. ROLPH TUNBY, VICE CHAIRMAN	✓		
REP. JODY BIRD	✓		
REP. VIVIAN BROOKE	✓		
REP. RUSS FAGG	✓		
REP. GARY FELAND	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. HAL HARPER	✓		
REP. SCOTT ORR	✓		
REP. BOB RANEY	✓		
REP. DORE SCHWINDEN	✓		
REP. JAY STOVALL	✓		
REP. EMILY SWANSON	✓		
REP. HOWARD TOOLE	✓		
REP. DOUG WAGNER	✓		

HOUSE STANDING COMMITTEE REPORT

February 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 263 (first reading copy -- white) do pass as amended .

Signed: _____
Dick Knox, Chair

And, that such amendments read:

1. Title, lines 5 and 6.

Following: "LAWS;" on line 5

Strike: "CLARIFYING" on line 5 through "ISSUANCE;" on line 6.

2. Title, lines 6 and 7.

Strike: "SECTIONS" on line 6

Insert: "SECTION"

Strike: "AND 75-5-401" on line 7

3. Page 5, line 6 through page 6, line 16.

Strike: section 2 in its entirety

-END-

HOUSE STANDING COMMITTEE REPORT

February 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 365 (first reading copy -- white) do pass as amended.

Signed: _____
Dick Knox, Chair

And, that such amendments read:

1. Title, lines 7 and 8.
Following: "USES;" on line 7
Strike: "NULLIFYING" on line 7 through "BASIN;" on line 8
2. Page 1, line 13.
Strike: "through 3"
Insert: "and 2"
3. Page 2, line 22 through page 3, line 3.
Strike: Section 3 in its entirety
Renumber: subsequent sections
4. Page 3, lines 5 and 8.
Strike: "through 3"
Insert: "and 2"

-END-

Handwritten signature

HOUSE STANDING COMMITTEE REPORT

February 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 442 (first reading copy -- white) do pass .

Signed: _____
Dick Knox, Chair

Testimony in Support of House Bill 350.... **GARY MASON**

INTRODUCTION:

*** This bill is a good news measure.....it addresses the budget shortfall by increasing funding to the school foundation program...yet does not add an additional tax burden on anyone...

** This bill is timely.....it comes at a time when the impacts from past coal development have been addressed and focuses on impacts anticipated from new development...

** This bill is honest in facing up to the issue of ending coal impact assistance to local governments now capable of providing for themselves from expanded tax bases....

** And yes this bill has character in that it continues the Local Impact Program which was so wisely envisioned and legislatively mandated in 1975 to mitigate the impacts of large scale coal development in our state.....

BODY:

When commenting on the good news issue of this bill which brings funding for the foundation program without any additional tax burden this action does not set a precedent for the Coal Board program. Just this fiscal year in fact \$2,135,363 of Local Impact funds will be reverted to the School foundation program that the Coal Board offered to former Governor Stephens and was incorporated into HB 2 of the Special Session to reduce the current budget shortfall. A similar gesture was offered by the Board and included in former Governor Schwinden's proposed budget during his term of office. In both instances the Coal Board was still able to function properly and adequately address coal impact needs as documented by the Board awarding 17 grants for \$2.7 million so far during this biennium.

When speaking of how timely this measure is it marks the end of impact assistance for past large scale coal development and the beginning of a new smaller development scenario. The recently permitted Bull Mountain underground coal mine south of Roundup will reach a capacity of 3 million tons per year compared to the large open pit Rosebud Mine near Colstrip that produced over 13 million tons in 1991. Large scale impacts that require large funding are

not projected as the result of the new Bull Mountain mine. According to an impact assesment study commissioned by the Coal Board in 1991, with information for the report obtained through surveys of local governments in the study area including school districts, identified impact needs in Musselshell and Yellowstone counties would total only \$630,000 from the new mine. This is a far cry from the 53.7 million dollars the Coal Board has granted for projects in the three Eastern Montana counties of Big Horn, Rosebud and Treasure. The time is now to refocus the Local Impact program and prioritize funding needs which this bill will accomplish.

When speaking of how honest this legislation is, it directly informs the citizens of the former coal impacted counties that the days of priority status and unlimited funding will come to an end. Since the program's inception in 1975 until 1985 only three counties, Rosebud, Big Horn and Treasure, and later Powder River County have been designated but since 1985 no counties have met the designation criteria. But, still it doesn't abandon them if coal production suddenly increases or closures occur. Seventeen years and 67 million dollars later the contract established with the original legislative intent has been honored. Expanded county tax bases such as Rosebud County's dramatic rise from a taxable valuation of \$10.5 million in 1968 to \$178 million in 1991 document the honesty contained in this measure for fairness and honesty in accepting ones future responsibilities.

Identifying the character in this legislation is illustrated by the willingness to keep the Local Impact program in place and not discard it aside. A valid trust remains between the impacted communities and the Coal Board to prudently provide adequate funding levels for impacts from new developments while continuing to be aware of sudden production changes in the established areas. This bill has the character to continue this trust.

CONCLUSION:

In summary, I would ask the Committee to consider this bill on its merits of defining the current situation and offering the best remedy while still assisting the overall budget shortfall problem. This measure simply offers the best solution and the timing is right for positive action. I urge your favorable consideration of HB 350. Thank you.

**MONTANA'S
COAL SEVERANCE
TAX
FY 94-95
\$82,327,000**

**PERMANENT TRUST
50.00%
\$41,163,500
(\$496,465,560)**

APPROPRIATED FUNDS				
LOCAL IMPACT 6.65%	HIGHWAY TRUST 12.00%	GENERAL FUND 15.39%	EDUCATION 11.40%	ALL OTHERS 4.56%

**LOCAL IMPACT ACCOUNT
FY 1994 \$2.7 Million
FY 1995 \$2.7 Million**

**MONTANA COAL BOARD
7 MEMBER CITIZEN
BOARD
(Governor Appointed)**

**GRANTS TO
LOCAL GOVERNMENTS
(\$67.5 Million To Date)**

**REVERSION TO
SCHOOL FOUNDATION
(\$13 Million To Date)**

HB 350

DISCUSSION OF CHANGES PROPOSED FOR COAL BOARD LEGISLATION

Page 2, line 4 - reduced "1 million" to "300,000".

Reason - Because we are limiting the eligibility for grants to the 100% awarding criteria for designated areas only, we are expanding the eligibility threshold to include smaller mines.

Page 2, line 5 - reduce the "3" years to "2" years.

Reason - Because we are proposing to more closely focus the use of Coal Board funds to a narrow time before, during & after such development.

Page 2, lines 7 thru 11 - separate this definition from (i) to allow the striking of "authorized by permit".

Reason - Because the existing law does not provide for a DSL permit for increasing the level of mining.

Page 2, line 11 - reduce the "3" years to "2" years.

Reason - Same as above mentioned.

page 2, lines 16 & 17 - add the word "new"

Reason - Because this is for new facilities that have not existed rather than for retrofitted facilities.

Page 3, line 1 - reduce "1 million" to "300,000".

Reason - Same as above mentioned

Page 3, lines 18 - 20 - strike "at least 50%". Add "only".

Reason - This is the heart of this proposal. This change limits the Coal Board's authority to award grants "only to those designated"

Page 4, lines 18 thru end &

page 5 line 2 - All new.

Reason - this proposed new subsection clarifies the time of the designation, and the end limit of the closure designation.

Page 5, line 15 - Strike "biennium" and replace with "fiscal year".

Reason - This proposed change is to allow the unexpended balances of the local impact funds to be transferred on a more timely and effective basis.

Page 5, lines 18 & 19 - Effective date.

Reason - provides an effective date that coincides with the Fiscal Year.

Estimated Coal Lease Proceeds

JV FY 92-93

© WILSON JONES COMPANY G7504 Column No. 19

Initials	Date
Prepared By	
Approved By	

89 levy

MADE IN U.S.

	1	2	3	4
Gen	1520672			
Rd	1715042			
Pool	354442			
Bridge	284697			
Weeds	109763			
Fair	80035			
Airport	169217			
Library	27441			
Cemetery	82322			
In City	44591			
Ag Ext	121196			
Museum	25154			
Un Mill	686017			
Savage 7 - Gen	6122700			
JV	1155938			
Leat	354442			
Savage H&S - Gen	4789541			
JV	467635			
Debt	826650			
Gen Sec	3201412			
Acc HS	1943714			
HS Incom	217239			
HS Retire	718031			
Gen Retire	1186809			
	<u>26204700</u>			

EXHIBIT 1a

DATE 2-8-93

HB 200

TESTIMONY FOR HB 350

Mr. Chairman, members of the Committee, for the record my name is Hershel Robbins, I represent the Musselshell Valley Development Corporation, the Musselshell Valley Chamber of Commerce, the City of Roundup and the County of Musselshell. I rise to support HB350.

First, as an introduction to my testimony, I believe it is important to this issue for you to know that I served as Chairman of the Montana Coal Board from 1981 thru 1988. As such, I have a personal familiarity with the history of both the Local Impact Fund's purpose and its practical application to that purpose.

This bill is a good bill. This bill is timely. This bill has real integrity.

The Montana Coal Board, a Gubernatorial appointed body that is missioned by law to administer the granting of Local Impact Account funds, has since it origins in 1975, distributed over \$67 million to local governments and schools to mitigate the impacts brought to the "Coal Country" by coal development. I know I might be prejudice, but let me say I think this Board has done a darn good job in carrying out the intent of this law and helping real people solve real problems.

This bill changes the statutory instructions that are given to the Coal Board concerning who is eligible for these impact funds. Clearly, it narrows this eligibility. You may say - "Why is that a good idea?" That's why I'm here today. For those of you who have been around the legislature for a few years, you remember that since 1987, several serious challenges have been made to significantly alter or terminate the Coal Board. These runs on this fund were both an attempt to get money for budget balancing as well as condemnations of the continuation of a program that out lived its useful purpose. Well, I lead the charge to prove that both of those motives were wrong. Fortunately, wisdom prevailed and the Local Impact account was preserved - sometimes with less money, but the continuation of the program and its meaningful contributions to the communities in "Coal Country" continued.

I am here today to express my support for this bill and its change to the focus of the future of the Coal Board. My support is for one reason and one reason only. That reason is to honestly protect the purpose and the continuation of the Local Impact Fund. The changes proposed in this bill simply narrows the focus and purpose of this program. Where the existing law allows the Coal Board to award "at least 50%" of the grants to designated areas of impact, the changes proposed requires the Board to issue all Impact Grants only to designated areas. Did you know that since 1985, no local governmental unit in the "Coal Country" has been designated as coal impacted under this law? With this proposal, if no local government is designated as coal impacted, then no area will be eligible to be granted these funds. I believe this change brings back the integrity of the original purpose of these funds.

Testimony for HB350

Page 2

It tells all of Montana that a coal impact fund is necessary. It tells all of Montana that only designated areas will be eligible for these funds now but will also accommodate those former areas if large scale expansion of coal production occurs. It tells all of Montana that where there are current impacts, there will be funds to help mitigate those impacts with Coal Severance Tax dollars. It tells all of Montana that if there are no current impacts requiring such assistance, these funds will be sent on to all of Montana to support education.

Mr. Chairman, members of the committee, this is a good bill. It has real integrity. It continues the original philosophy of Montana's Coal Severance Tax. It helps people when they need it. It continues the commitments to a healthy "Coal Country" and to a healthy Montana. I urge your support and a "Do Pass" vote in this Committee.

Thank You.

HERSHEL ROBBINS
Roundup, Montana

TESTIMONY OF
MICHELLE LE FURGE
MONTANA ASSOCIATION OF OIL, GAS AND COAL COUNTIES
BEFORE
HOUSE NATURAL RESOURCE COMMITTEE
February 8, 1993

Mr. Chairman, members of the Committee, for the record my name is Michelle LeFurge. I represent the Montana Association of Oil, Gas and Coal Counties and am here to support HB350. We also support the amendments offered by Rep. Mason. However, we have issues of clarification to the bill that we propose here be adopted by this committee.

Our Association is composed of 31 member counties located in North Central, Central and Eastern Montana. These counties not only rely upon oil, gas and coal tax revenues for the significant majority of their tax revenues, but are also the same counties that have suffered and continue to suffer from the on-going economic impacts of declining oil production, declining population base and declining mill valuation.

Attached to this testimony is statistical data on the economic condition of the Association's coal counties and coal impact counties. It is important to note that these are not "oil rich/coal rich counties". The lack of diversity in the counties tax base is vital as is the limited alternatives on the horizon for generating tax revenues from any industry source other than oil, gas, coal, agriculture and personal and real property tax.

In Eastern Montana, a mill can sometimes be worth only one-third of the average mill of the same class. A mill simply doesn't earn as much in that county as elsewhere in the state. As you can see in the "County Mill Profiles", only five counties' mill values exceed the average value of all counties in the same class. However, of those five three are seeing a negative percent change that exceeds--often significantly--the average percent change in all counties in that class.

Mill levy values are essential to assessing the importance of coal impact funds to not only the coal producing counties, but to the adjacent counties that also absorb impacts associated with an existing mine or coal-energy facility, its expansion or its decline. The ability of a county to absorb the increased costs of law enforcement, road building and maintenance and schools are severely limited. As the "County Mills Levied" chart shows, four counties' general fund levies exceed the state average, one by approximately 250%.

The essential point is how far do the tax dollars go. In the coal counties and the coal impacted counties, the residents on a per capita basis pay more for the same (or less) services than in other Montana counties. As the "County Budgets-Per Capita Expense" chart indicates, taxpayers in 6 of 11 of these counties pay more than the state average; Powder River and Carter, as much as two-times more.

So, how do these counties make up for the shortfall in revenue? For many, they do this by exceeding their mill levy limits--7 of 11 counties in General Fund, 6 of 11 counties in District Court.

Bottom-line? Many coal and coal impacted counties are already taxing at their maximum limits--especially the adjacent counties who will not see even the potential for revenues from coal mine production. And, for those that might see tax revenues from coal production, they face the mandate of I-105: a cap on tax revenues the county can receive from mill levies.

Availability of coal severance tax monies to assist counties in coping with coal development or mining impacts has made it just possible to keep up with the maintenance and development demands of coal mining, development and energy generation.

EXHIBIT 3
DATE 2-8-93
HB 350

To provide impacted counties with equal access to coal impact funds, we would ask the following:

1. We have some question regarding language in Section 1, subsection 2 (Page 3, line 10) as to whether, when a local governmental unit is designated, the county of that local governmental unit is thereby designated and shall be eligible to apply for loans and grants; and,
2. We would like to see Section 1, subsection 7 (page 4, lines 20-23) dropped from the bill, or at least amended to specify criteria. The lack of criteria the Department of Commerce is to follow in determining if a mine or facility is contributing "...sufficient tax revenue to the designated government unit..." offers room for divergent interpretation of county budgets and spending.

Clearly the intent of this bill and the intent of this subsection is to limit the local government entities having access to coal impact dollars. This task has been accomplished with this bill. Keeping this provision does little but set-up the counties and the department for conflict over what is "sufficient tax revenue".

To eliminate subsection 7 would do little to alter the intent of the bill and leave the issue of dispersing impact dollars on the merits of the impact as presented in the grant or loan request. At the very least, including criteria in the bill for such a determination would be essential to the fair implementation of this requirement.

3. Distance in eastern Montana is not a measure of impact. While we recognize that some criteria must be set for designation, we urge that Section 1, subsection 1(c) be amended to provide for "...unit located within 100 miles..." instead of 50 miles.

I would leave you with one thought, that the revenues from the coal severance tax are available because these counties are willing to absorb the impacts, not just financially, but socially as well. It is important to remember that they are on the front line, not the state.

COUNTY POPULATION CHANGES

COUNTY

POPULATION CHANGE

State Average:

+1.5%

Rosebud

+ 5%

Treasure

(11%)

Big Horn

+ 2%

Richland

(14.3%)

Powder River

(20.5%)

Musselshell

(7.8%)

Yellowstone

+ 4.8%

Garfield

(4.2%)

Prairie

(32.8%)

Custer

(10.8%)

Carter

(19.7%)

COUNTY MILL PROFILES					
County	Class	Mill Value	Average	88-92	Ave
Rosebud	1	\$177,796	\$91,192	-20.9	-13.4
Treasure	6	4,907	6,936	-4.5	-2.2
Big Horn	1	26,495	91,192	-76.7	-13.4
Richland	3	22,203	20,754	-63.4	-13.1
Powder River	5	6,146	9,944	-62.8	-17.5
Musselshell	4	6,779	11,817	-52.2	-27.5
Yellowstone	1	190,275	91,192	-16.4	-13.4
Garfield	6	5,419	6,936	-23	-2.2
Prairie	6	4,296	6,936	-13.2	-2.2
Custer	4	14,413	11,817	-15.2	-27.5
Carter	6	7,554	6,936	40.3	-2.2
Average: The average value of a mill in all counties of the same class					
88-92: The percent of change in that value from 1988-1992					
Ave: The average percent change in all counties in that same class					

Mills Levied

504307 3
2-8-92
HB 350

COUNTY MILLS LEVIED		
County	Gen'l Fund Mills	Total Mills Levied
<i>State Average:</i>	30.1	80.8
Rosebud	2.34	11.25
Treasure	45.16	78.46
Big Horn	28.88	47.93
Richland	20.25	57.41
Powder River	81.93	122.65
Musselshell	29.79	75.77
Yellowstone	25.87	76.96
Garfield	30	108.04
Prairie	32.29	110.82
Custer	34.49	96.7
Carter	22	96.09
Gen'l Fund Mills: Mills levied for county general fund, 1992		
Total Mills Levied: for 1992		

Per Cap Expenditures

County Budgets - Per Capita Expense			
County	Per Cap. Exp.	% of PCI	PCI
<i>State Average</i>	\$621.66	4.06%	\$15,304
Rosebud	536.22	3.84%	13,973
Treasure	822.80	4.33%	19,014
Big Horn	652.32	5.37%	12,146
Richland	461.57	3.09%	14,955
Powder River	1440.50	9.46%	15,228
Musselshell	419.72	2.83%	14,815
Yellowstone	253.88	1.47%	17,272
Garfield	797.42	4.50%	17,740
Prairie	625.13	3.74%	16,709
Custer	209.96	1.30%	16,178
Carter	1822.20	12.27%	14,856
Per Cap. Exp: Per Capita Expenditure to County Budgets (16 funds)			
% of PCI: Per Capita Expenditure %age of Per Capita Income			
PCI: Per Capita Income			

Exceeding Mill Levy Limits

2-8-93

MB 350

<u>County:</u>	<u>Gen Fund</u>	<u>Dist Crt</u>	<u>Roads</u>	<u>Bridges</u>	<u>Weeds</u>
Rosebud					
Treasure	X				X
Big Horn	X				
Richland			X	X	
Powder River			X		
Musselshell	X				
Yellowstone	X				
Garfield	X		X		
Prairie	X				X
Custer	X				
Carter					X

1. POPULATION: (PREFACE)

Eastern Montana counties have seen significant erosion in their economic base due to many factors, including severe population declines and dramatic drops in oil and gas production. The ability for many eastern counties to maintain basic services is being stretched--even slight impacts from neighboring developments add heavy burdens.

By taking just a cursory look at some basic data for eleven coal producing and adjacent counties, we see that neighboring counties of coal producers often have no resources to handle new burdens. The most obvious ones resulting from this review (surely there are more) are Carter, Custer, Prairie, Garfield and Powder River.

2. COUNTY MILL PROFILES:

A mill in eastern Montana can sometimes be worth only one-third of the average mill in a county of the same class (Big Horn). Simply, a mill doesn't earn as much here as a mill elsewhere in the state. Of the eleven counties in our quick review, all except two (Custer and Carter) have lost mill value at rates faster than other counties of the same class. Garfield's mill devalued 10 times faster than its counterparts.

While changing the state's net proceeds tax on oil and gas to a flat tax affected taxable valuations, so too did the precipitous decline of oil and gas production. For whatever reason, six counties in this group are financially strapped by mill values which bring in significantly fewer dollars than other similar class counties.

3. COUNTY MILLS LEVIED:

In most cases, this means that many eastern counties must levy more mills in order to provide for the basic services of county government. The unshaded counties all levy more mills than the state average in order to meet either general fund obligations or for total appropriations. (NOTE: Carter is less than average for Genr' Fund but more for Total Mills Levied).

4. PER CAPITA EXPENDITURES IN COUNTY BUDGETS:

This results in residents paying more for the same services (or even less) than in other counties. For example, taxpayers in more than half (6 of 11) of our sampled counties pay more than the state average, some as much as two-times more (Powder River and Carter). (NOTE: Prairie is less for % of PCI but more for Per Cap Exp).

5. EXCEEDING MILL LEVY LIMITS:

Essential government services are often provided under these circumstances by simply exceeding the mill levy limit in one or more of the budget categories. The General Fund, District Court, Roads & Bridges and Weed control are categories which are being exceeded by all except one county (Rosebud) in our survey. Seven counties are over the cap for General Fund mills, six for District Court (five exceed both limits). Richland, Powder River and Garfield assess more than allowed for roads or bridges (Richland exceeds both limits).

February 8, 1993
3:00pm, Room 437

HOUSE NATURAL RESOURCE COMMITTEE
Rep. Dick Knox, Chairman

Mr. Chairman, Members of the Committee:

For the record, I am Sue Olson, Musselshell County Commissioner.

Meridian Minerals had recently been granted a mine permit to mine coal located in Musselshell County. In order to understand the financial ramifications of the impact from this mine, I feel the Committee needs to have an understanding of our county's current financial status.

I have passed out 5 graphs that show the following: The first is the valuation in Musselshell County beginning with FY 86-87 which was approximately 24 million dollars, through FY 92-93 where our valuation is just under 14 million dollars. For purposes of comparison I have used the classification valuation for the county which includes the Local Government Severance Tax.

The next graph is the Mill levy. As the valuation goes down the mill levy goes up and as the valuation goes up the mill levy goes down.

The third graph is the property tax dollar amount raised each year by the county. For the last 4 years we have been at the property tax dollar limit as to what we can raise in property taxes under I-105.

The fourth graph is the mill levy for our road fund. In FY 86-87 it was 9.51 and in FY 92-93 it is 22.643. As the last graph shows, both raise the same amount of tax dollars, although our taxpayer continue to pay more in taxes.

In FY 86-87 Musselshell County received \$200,000 in revenue sharing which does not exist now, and had \$612,027. in non tax revenues in the general fund. We have estimated we will receive \$399,480. in non-tax revenue in the general fund this year. We continue to receive less and less in non-tax revenue. We do not mill any levy in the bridge fund, the airport fund, the fair fund or for senior services. These funds were cut several years ago to have money to fund mandated programs.

Musselshell County does not have any resources to deal with the impacts caused by the new mine. Musselshell County is at the maximum property tax dollar amount that can be raised from property taxes under I-105. Our assessed valuation will need to increase by 10 million dollars before we are able to raise one more dollar in property taxes.

Based on a 9% tax on business equipment, Meridian Minerals would have to invest over 111 million dollars in equipment before Musselshell County's I 105 cap is exceeded. Meridian Minerals has projected a 12 million dollar investment the first year of operation, 58 million the 2nd year, and 69 million the 3rd year. This includes the railroad spur. The first two years of investments by Meridian Minerals will not exceed the 105 cap so no additional property tax dollars will be received.

EXHIBIT 4
DATE 2-8-93
HS 350

-3-

Projections of clean coal produced are 300,000 ton the 1st year, 1.5 million the second year and 3 million the 3rd year. Coal produced in 1993 would be a minimal amount. The flat tax on coal produced in calendar year 1994 would be received in Nov. of 1995 and May of 1996. Based on this information Musselshell County will not receive any appreciable revenue from the flat tax on coal before 1996.

Let us analyze the flat tax. The gross proceeds flat tax of 4% on 300,000 ton of clean coal with a contract price of \$15.00 per ton at the mine would raise approximately \$180,000. which would be distributed to the taxing jurisdictions with in county. The school districts will receive about 70% of the tax dollars and the remaining 30% would be distributed among Musselshell County's numerous funds i.e. general fund, road fund, district court fund. This amount would be approximately \$54,000. To add one person to either our road department or the law enforcement department would cost about \$26,000. These additions will be necessary to deal with the impacts from the mine.

What do all these figures mean? Musselshell County will not have any additional revenue to deal with impacts from the mine before Nov. of 1996 at the earliest. We will be hard pressed to find enough funds to cover additional man power needs until then.

Immediate impacts to the road department will occur this year. We will need another motor grader and a truck with snowplow & sander to take care of the additional maintenance of the roads in the area of the mine. This new equipment is expected to cost \$201,000.

The Divide loop road MUST be rebuilt. The EIS estimates listed \$300,000. to overlay the existing pavement. An overlay would not fix the road. When the test pit coal was hauled out, major deterioration of the road occurred. Musselshell County spent \$18,000. on asphalt plus workers and equipment to repair the break-up areas. Meridian Minerals provided the hauling for the asphalt. It was not a good repair job. The road has to be widened as most of it has a 22 foot base. It has very little drainage, culverts need to be replaced, several sharp corners rebuilt, guard rails installed, an additional gravel base added and a complete overlay of asphalt to make it safe for the amount of truck traffic it will have for the two years of hauling. Estimates of cost for this are between \$800,000. and 1 millions dollars.

In order to finance these projects, equipment, and other needs that will occur, Musselshell County must have financial help. We look to the coal board impact funds for this help.

The lion's share of the coal severance tax money goes to the State of Montana. This provides millions of dollars to the State. 6.5% of the coal severance tax goes into impact funds. Coal companies pay this tax on coal they are mining to deal with the impacts the mines create in local areas. If local tax payers have to pay for the impacts created by mining companies why would local areas encourage development of a mine. The system set up for dealing with local impacts is good and needs to be retained. The Musselshell County Commissioners urge your support of HB 350. I would like to thank the Committee and Rep. Mason for the work done in regards to this bill. Thank you.

VALUATION MUSSEL SHELL COUNTY

DOES NOT INCLUDE ROAD FUND OR NURSING HOME BOND FUND

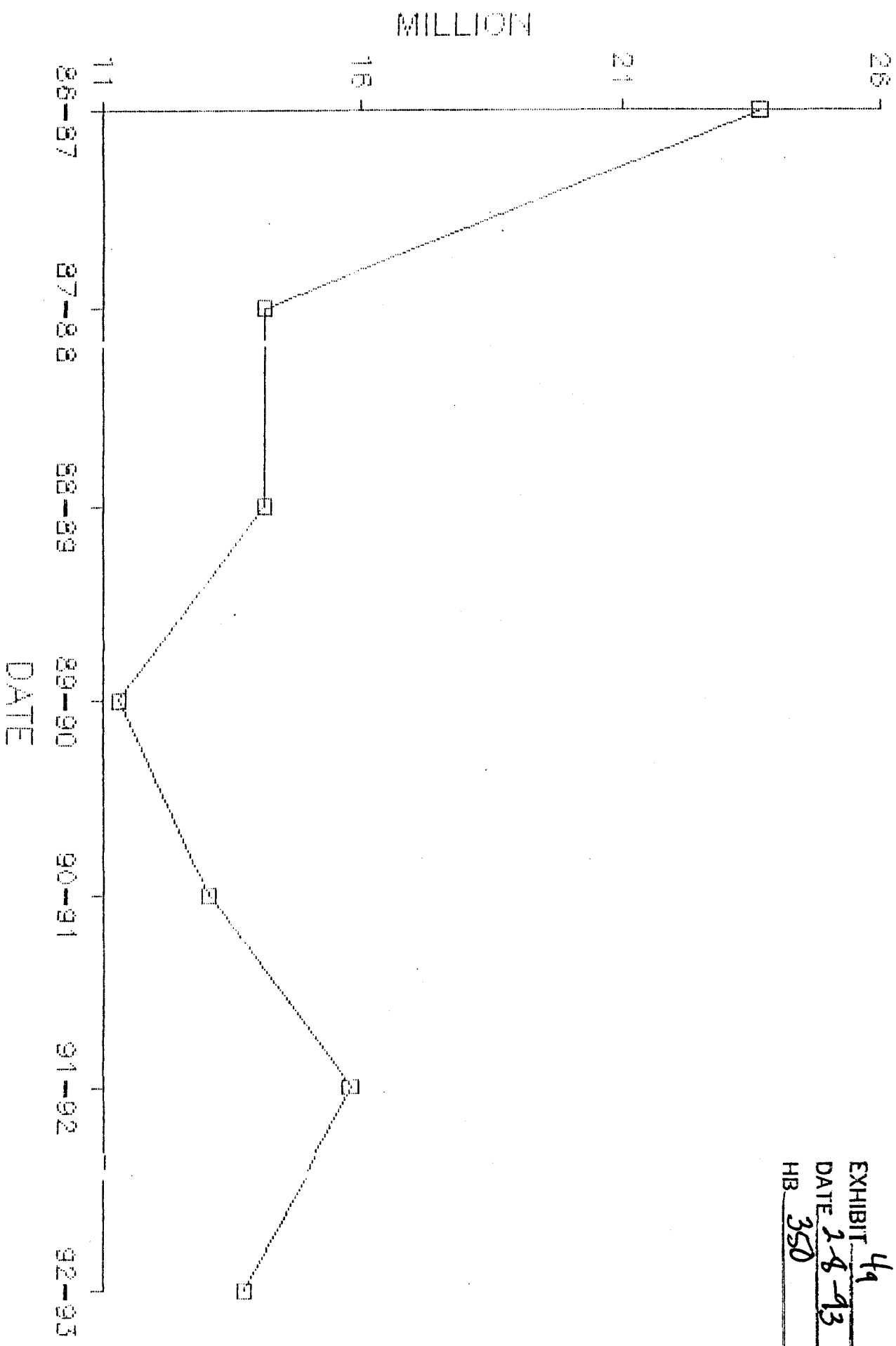
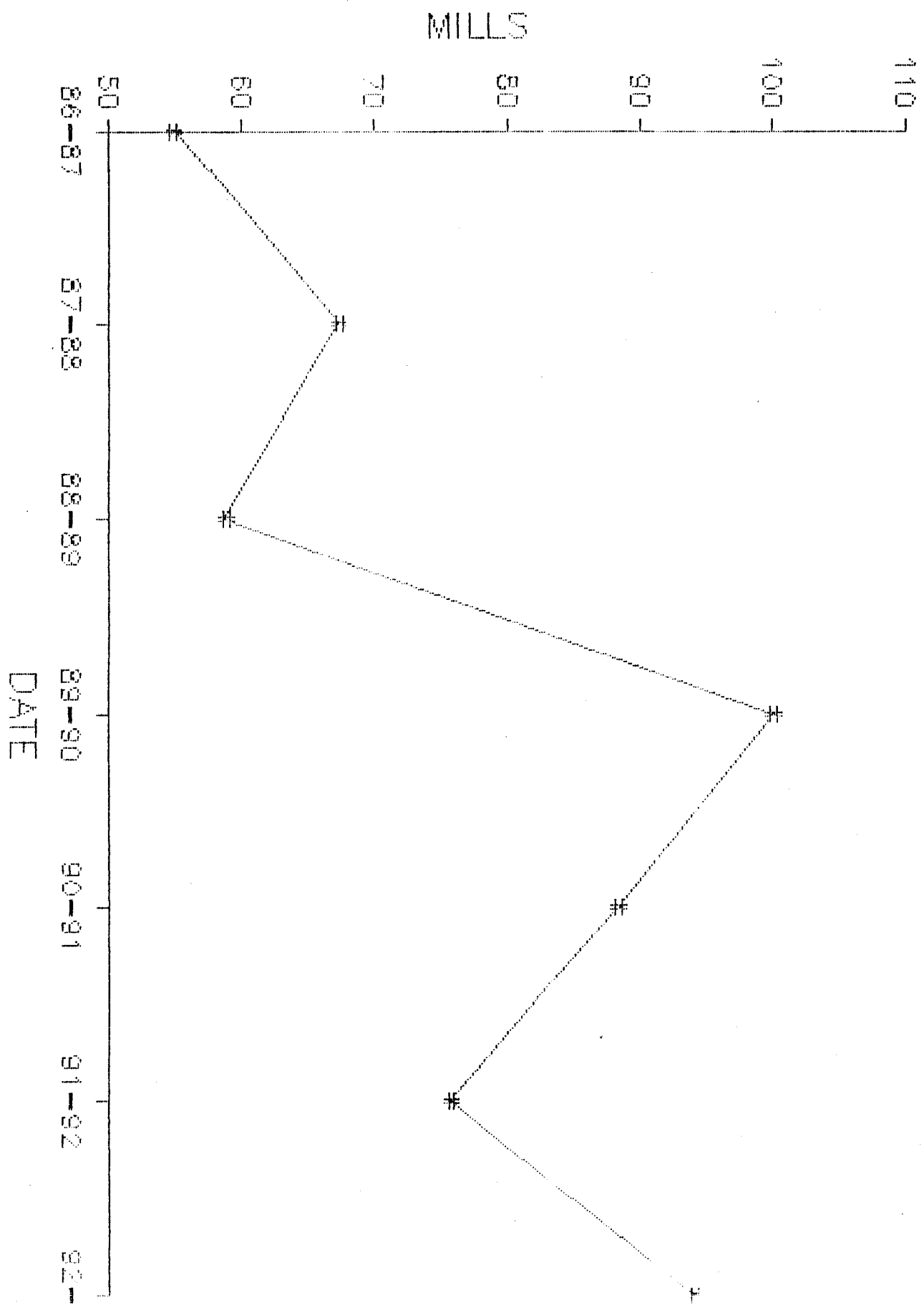


EXHIBIT 49
DATE 2-8-93
HB 350

MILL LEVY MUSSELSHELL COUNTY

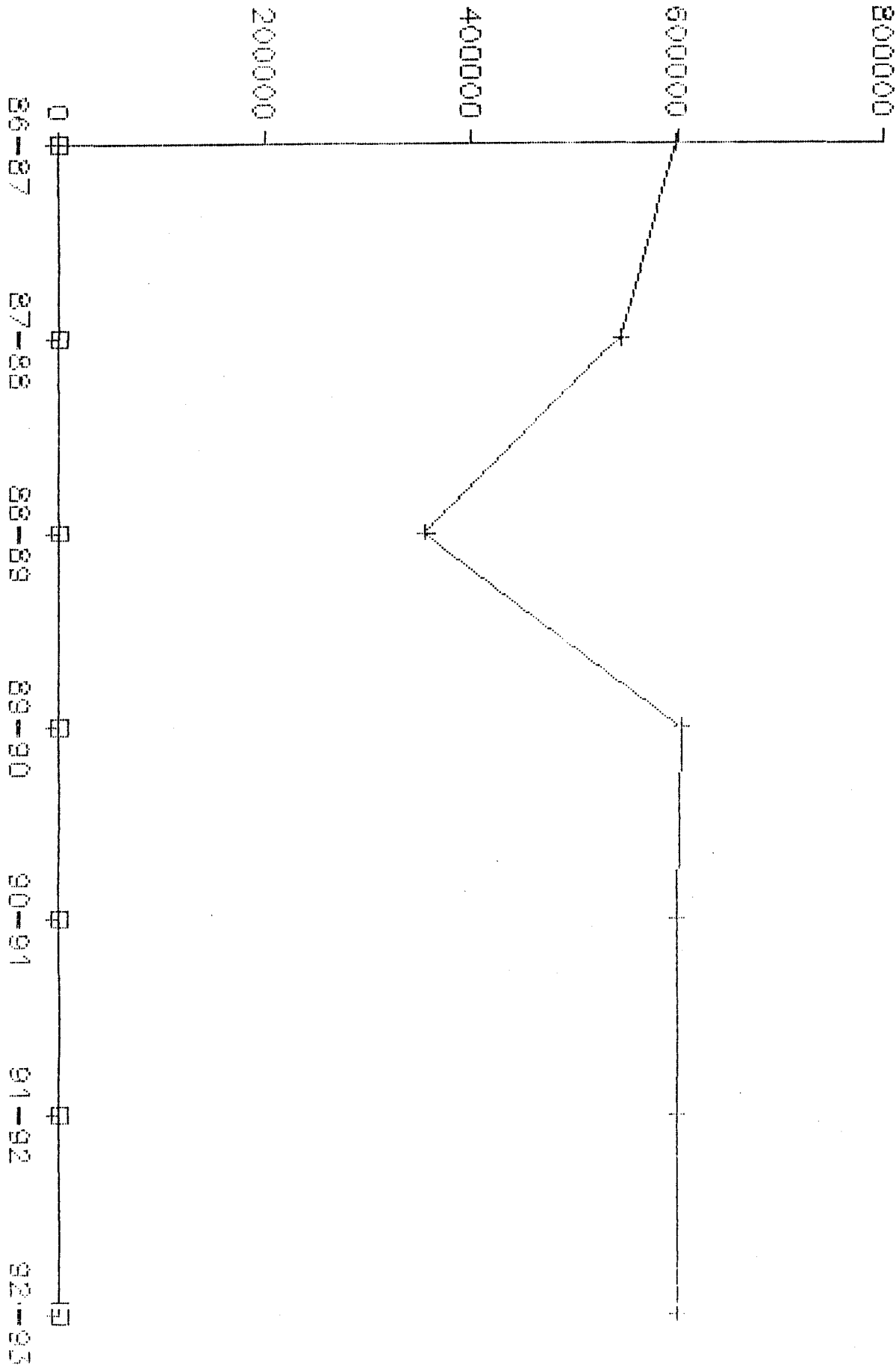
DOES NOT INCLUDE ROAD FUND OR NURSING HOME BOND FUND



DOLLAR AMOUNT MUSSELSHELL COUNTY

DOES NOT INCLUDE ROAD FUND OR NURSING HOME BOND FUND

DOLLARS

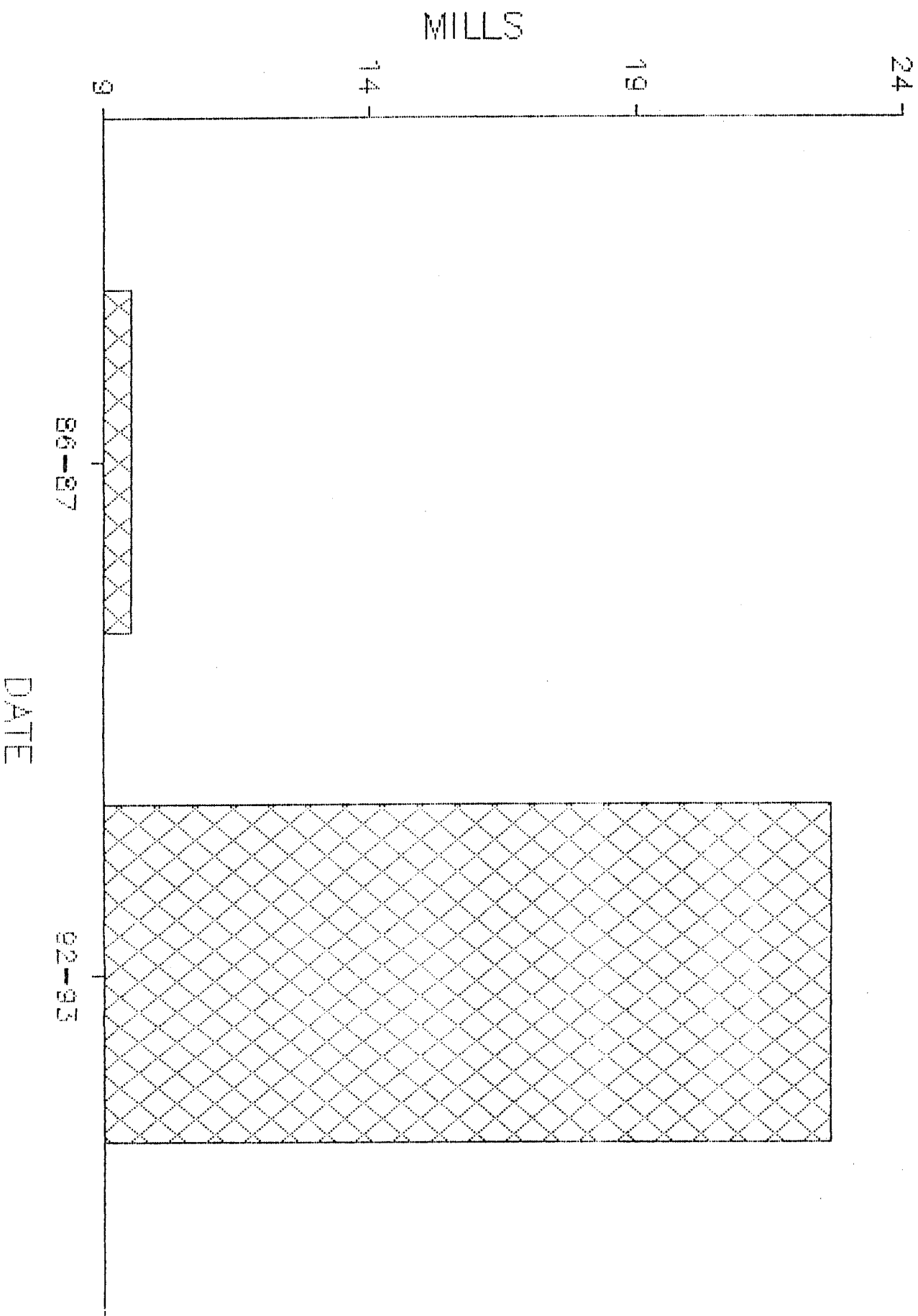


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EXHIBIT 4a
DATE 2-8-93

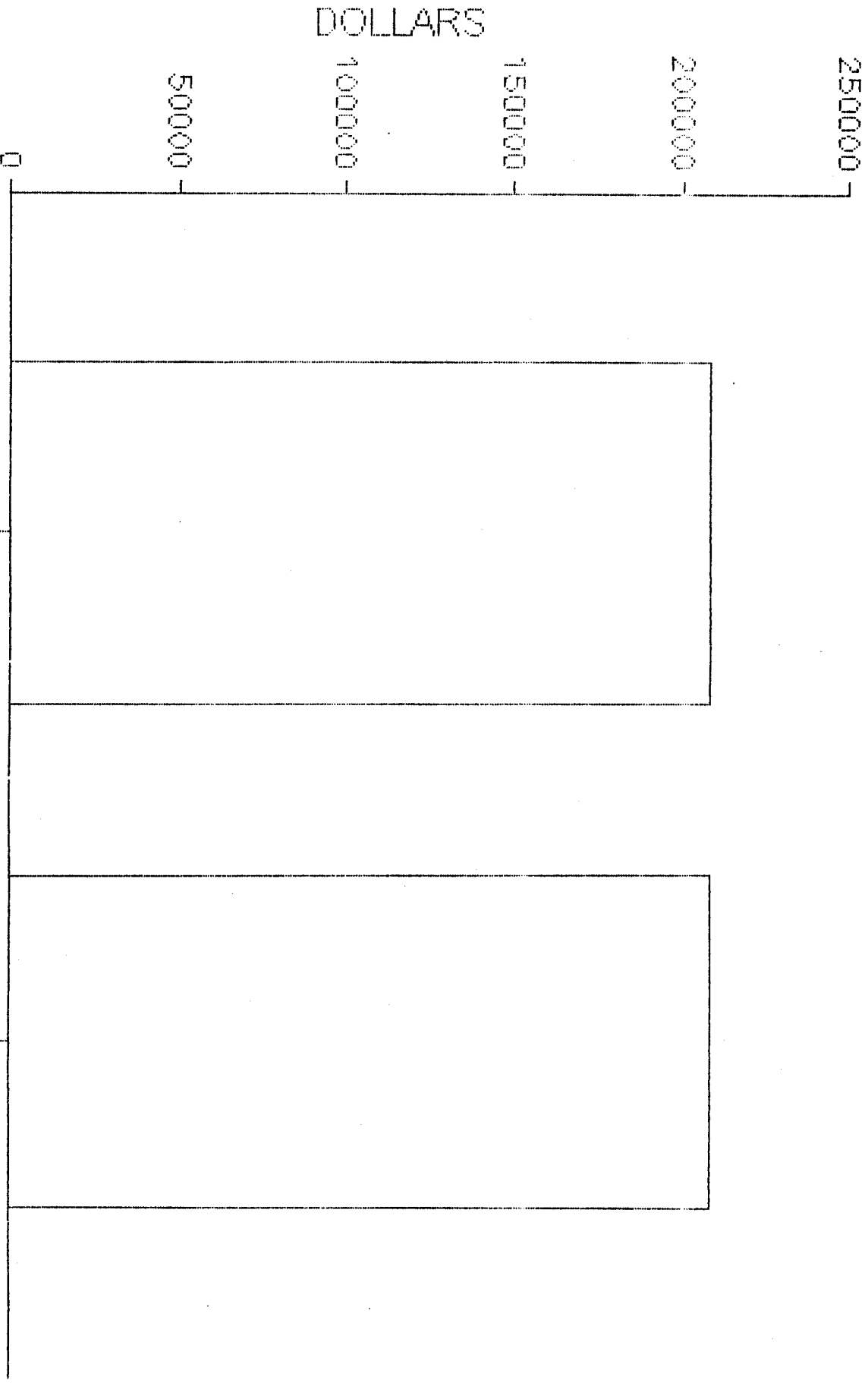
MS 350

MUSSELSHELL COUNTY ROAD FUND MILLS



MUSSELSHELL COUNTY ROAD FUND

DOLLARS



DATE

86-87

92-93

EXHIBIT 4a

DATE 2-8-93

1 HR 350

February 8, 1993
3:00pm, Room 437

HOUSE NATURAL RESOURCE COMMITTEE
Rep. Dick Knox, Chairman

Mr. Chairman, members of the Committee, my name is Gerald Himelspach, Powder River County Commissioner. Mr. Chairman, Powder River County goes on record in support of HB350, as amended and with consideration of amendments I would present here today to address Powder River County's concerns as a neighboring county. Powder River County, sharing a border with Rosebud County, is concerned that this bill reflect the impacts caused by coal mine development and by the construction of a railroad facility to support the proposed mine development in Rosebud.

Our county would request amendment to page 1, Line 20: add after "...development or a railroad facility...". This language would allow Powder River County to qualify for impact dollars should the Tongue River railroad be placed into construction.

Our second concern is one we share with other coal and coal impact counties, as to the language included in Page 4, Line 22: "...contributing sufficient tax revenue to the designated government unit..." I would remind the Committee members that under I-105, counties are limited not in the number of mill levy's they can assess, but in the total dollars they can collect from their mill levy's.

This means, that when a county does have increased valuation in the county from a coal mine, they can only benefit from that valuation up to a specified dollar amount. After that point, there will be no new revenue to the county to fund cost of impacts.

Therefore, we are asking the committee to revise language in Section 1, Part 7 to provide specific guidelines to the Department of Commerce determining what constitutes "...sufficient tax revenue..."

We would appreciate the committee's consideration of these amendments. Thank you.

EXHIBIT 6

DATE 2-8-93

HB 350

Mr. Chairman
Members of the Committee

For the record, I am Don Bailey, Rosebud County Commissioner. I rise in oppositions to HB 350. HB350 provides a very simplistic approach to the issue of appropriately providing for impacts to any community that has a demand for increased services brought on by activities of coal production. The proposed changes in criteria are going to aggravate the potential for inappropriate expenditures, which I understand in one of the reasons for discontinuing impact funding. If you place a two year window on eligibility, qualifying coal impact areas will be inclined to create projects that will justify use of as much money as possible, knowing they will only have this one opportunity. Prioritization of projects will be very difficult. Money may be spent on projects that will prove to be unnecessary, while others may not be identified for several years. By that time, eligibility will have passed.

I understand one of the rationals for this is that the tax base will then catch-up to provide revenues. Please remember Counties are still under I-105 limiting our levying capacity.

I happen to own a ranch in School District 19 in Rosebud County. There is a notion across the state that the valuation of Rosebud County is fair-game. Tax the power plants and coal mines, as it is easy money. Be aware that taxes are rate-base-able. When additional mills are placed on property in District 19, every farm and ranch and other property tax payer pays these mills, also.

We are unable to pass these costs on. When the Power Companies pay taxes they are passed on to consumers in increased electrical bills. We tax payers in School District 19 and Rosebud County help pay for these services a second time. This is a real life scenario ladies and gentleman.

One of the redeeming factors to this "double taxation" dilemma has been the tax relief afforded taxpayers in impacted areas by the Coal Board Grants.

I have been unable to identify one project that has been funded by a Coal Board Grant to Rosebud County Government that has not been appropriate and a direct result of the impacts of energy development.

Another short-coming to the proposal is it appears to make Indian Reservation ineligible for grants because they are not a local government unit. The Northern Cheyenne Reservation lies partly in Rosebud County. There has been impact on the Reservation and they have appropriately qualified for grants in the past. There is a strong possibility that one of the next major coal development projects will lie within or near the Reservation. It appears they

will not qualify for up-front funding, nor do they have a property tax base which will be expanded to deal with long-term impacts. This issue should certainly be addressed.

The Rosebud County Commissioners have written a letter to Governor Racicot expressing our opposition to limiting coal impact assistance. In his reply back to us, the Governor suggests that everyone must bear in the pain to solve the State's financial dilemma. Would someone like to get into a discussion on how much money the Coal Counties are contributing to the welfare of state government and schools at this time? We believe we are doing much more than our share.

I could go on all day with points to justify leaving the Coal Impact Board in a viable and functional state.

How about a compromise solution to the situation. Narrow down the eligibility requirements to the following:

1. Construction or maintenance of infrastructure and purchase of equipment to provide services that are mandated by law.

Essentially these would be as follows:

- (a) transportation facilities-roads, bridges etc
 - (b) schools
 - (c) law enforcement
 - (d) facilities and equipment for other services that local governments are required by law to provide
 - (e) infrastructure for water and sewer services
 - (f) provision of solid waste disposal facilities and equipment
 - (g) continued funding of on-going activities so the investment in them until now will not be lost, i.e. DARE program, Eastern Montana Drug Task Force and Bureau of Mines and Geology Hydrology studies. These should be continued at least until alternate funding can be developed.
2. If a tax base has already began to grow, a cost-share program could be required so the local tax base makes a contribution. Funding availability and need would be criteria here.
 3. Every three years, after projects that qualify under the stringent guidelines above have been funded, the remaining balance could be shifted to what ever other accounts are deemed in need by the legislature.

An approach of this nature would provide long-term continuity and assure Counties that help will be available for a long enough period so that practical and responsible planning can be accomplished.

dealing with impacts of energy development. You are only going to create a process that will be subject to abuse and lead to an unsatisfactory resolve of a legitimate program.

If 5.2 million dollars are the critical factor in balancing the state budget, I would suggest you will not be successful in doing that.

Please amend HB 350 to reflect this approach.

Thank you.



DON BAILEY,
ROSEBUD COUNTY COMMISSIONER

EXHIBIT 6
DATE 2-8-93
HB 350 ...

EXHIBIT 7
DATE 2-8-93
HB 350

ROSEBUD CONSERVATION DISTRICT

FORSYTH, MONTANA 59327

February 5, 1993

TO: Representative Dick Knox, Chairperson
Natural Resources Committee

FROM: Rosebud Conservation District Board of Supervisors

SUBJECT: HB 350 Limiting Coal Board Funding

The Rosebud Conservation District Board of Supervisors strongly feel that HB 350, as it now stands, should not be approved. We feel that the Montana Coal Board must retain the ability to support the local mining impacted communities by having the capability to fund long-term issues. Impacts and perceived impacts to water resources are long term and require long term monitoring. Knowledge gained through the monitoring program is used, on a regular basis, by mining companies for permit issues, by state regulators for permitting decision making, and by water users in the mining areas.

We feel the Coal Board is the appropriate source of funding for the groundwater monitoring program...the Rosebud Conservation District, Montana Bureau of Mines and Geology, and the Coal Board have worked successfully to keep the costs of maintaining the monitoring program as low as possible. The checks and balances built into the system are an excellent example of fiscal responsibility: 1) The Bureau insures the technical feasibility; 2) the District insures the study addresses the area of local concern; and 3) the Coal Board insures the funding levels are in line and the money is spent wisely.

Because discontinuing funding for the groundwater monitoring program would seriously compromise future decisions that affect Montana's water resources, we request that any bill that alters the Coal Board's spending authority be written in such a way that long-term impacts, such as water resource impacts, can still be addressed.

Sincerely,

Dennis E. Kenney
Dennis E. Kenney
Chairperson

City of Forsyth

State of Montana

P.O. Box 226
Forsyth, Montana 59327
(406) 356-2521

EXHIBIT 8

DATE 2-8-93

HB 350

OFFICE OF: Mayor

Montana Legislature
Helena, MT

February 1, 1993

Dear Sirs,

I would like to have this read and placed in the record as being opposed to HB 350 relative to the status of the Montana Coal Board.

It is the feeling of the citizens of this City and of Rosebud County as well that the legislature should not tamper with or modify any of the original provisions of the Coal Board.

This was good legislation at the time it was conceived and it still remains good legislation now. If this is tampered with in any way it will reek havoc to these areas that have had severe impact from coal production. WE HAVE WHAT I CALL A RESIDUAL IMPACT that is to say that we are and will continue to feel the strain of maintenance along with the recovery of expenditures made over and above Coal Board assistance in the past and in projects and extension of services to these impacted areas. We have incurred debts when we could not get further assistance from the Coal Board due to lack of funds. The shortages in the past of Coal Board funds DID NOT DIMINISH THE NEED or demands of the mandates from the various boards, bureaus and departments of our federal and state governments. We recently received a \$20,000.00 grant as assistance on a \$139,000.00 badly needed fire hydrant project that has been deferred from year to year due to other impact related priorities.

We now have less people paying less in total tax dollars to service the same area at a fixed cost with increase interest rates. Therefore We ask that the COAL BOARD be permitted to function as in the past. If there is a problem area in the regulations then fix ONLY that part that is wrong, But do not throw the baby out with the bath water at least until it can walk. We have the impact but NOT the advantage of an increase in our tax base. We need this assistance in order to survive and meet basic needs of our city as a result of this impact

Sincerely,



Warren J. Becker Mayor
City of Forsyth MT.

EXHIBIT 9
DATE 2-8-93
HB 350

TRIBAL COUNCIL OF THE NORTHERN CHEYENNE
NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA

RESOLUTION NO. 113 (93)

A RESOLUTION OF THE NORTHERN CHEYENNE TRIBAL COUNCIL SUPPORTING THE MONTANA COAL BOARD.

WHEREAS, the State of Montana has established and operated a coal board for many years which awards grants to eligible entities in coal impacted areas; and,

WHEREAS, the Northern Cheyenne Tribe and Lame Deer School are eligible to apply for coal board grants and have received grants in the past for projects which have improved the community; and,

WHEREAS, the Northern Cheyenne Tribe continues to be impacted by coal development adjacent to the reservation and will possibly have to contend with and be impacted by future coal development along its borders; and,

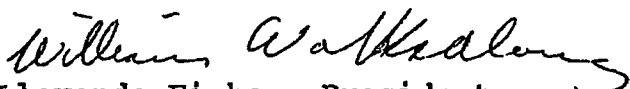
WHEREAS, there continues to be a need for grants in coal impacted areas including the N. Cheyenne Reservation; and,

WHEREAS, the Governor of Montana has proposed to eliminate the Montana Coal Board which is contingent upon legislation to being enacted by the Montana State Legislature; now,

THEREFORE BE IT RESOLVED that the Northern Cheyenne Tribe opposes the proposed elimination of the Montana Coal Board; and,

BE IT FURTHER RESOLVED that the Northern Cheyenne Tribe urges the Montana legislature to support the coal board in its present form and provide adequate appropriations in FY93 and 94.

PASSED, ADOPTED AND APPROVED by the Northern Cheyenne Tribal Council by 17 votes for passage and adoption and no vote against passage and adoption this 12th day of January, 1993.


Llevando Fisher, President
Northern Cheyenne Tribal Council

ATTEST:


Norma Gourneau, Secretary
Northern Cheyenne Tribal Council

County of Rosebud
Office of the Sheriff

EXHIBIT 10
DATE 2-8-13
HB 350

Kurt A. Seward
Sheriff

P.O. Box 85
Forsyth, Montana 59327
406/356-2715

Gary D. Fjelstad
Undersheriff

February 2, 1993

Chairman Dick Knox
Natural Resources Committee
Montana House of Representatives
Helena, MT 59620

Dear Chairman Knox:

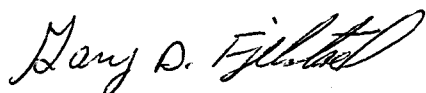
In behalf of the Eastern Coal Counties Task Force, which is comprised of nine Southeastern Montana Counties, including Rosebud, Treasure, Big Horn, Musselshell, Yellowstone, Stillwater, Carbon, Custer and Powder River, we would like to oppose House Bill 350, which establishes a new criteria of eligibility to receive grants from the Montana Coal Board.

Our program was started in 1982 and has continually been supported by Coal Board revenues. On Monday, January 31st, the Joint Committee on General Government and Highways voted to continue to support this program. However, they did not vote to continue it with General Fund dollars. Their vote was to continue the program using the current method of Coal Board revenues.

If House Bill 350 is passed in its present form it will not allow us to use Coal Board revenues. The Eastern Coal Counties Task Force has been responsible and very effective in waging a war against illicit drugs in Montana. Since the inception we have incarcerated, with a 100% conviction record, over 800 top to mid-level drug suppliers in Montana. We have seized over 10 million dollars of illegal drugs that would have been distributed to our young people in Montana. We have also provided drug abuse resistance education to thousands of students throughout Southeastern Montana. To discontinue this project would be a serious setback for Montana Law Enforcement, not to mention the Montana youth that we are working to provide the D.A.R.E. Program.

I would like to ask your consideration in not supporting House Bill 350 in it's present form. The Eastern Coal Counties Task Force also provides assistance for drug enforcement upon request to counties outside of the nine county area. I would be more than happy to provide additional information as to the effects this legislation would have on our program. Please do not hesitate to contact me at your convenience.

Sincerely,

A handwritten signature in cursive script that reads "Gary D. Fjelstad".

Gary D. Fjelstad
Chairman Eastern Coal Counties Task Force

GDF/bn

Bridger Public Schools

EXHIBIT 11
DATE 2-8-93
HB 350

Box AM - Bridger, Montana 59014
Elementary: (406) 662-3588
High School: (406) 662-3533
High School: (406) 662-3533

February 2, 1993

D.A.R.E. Program
415 North 30th
Room 301
Billings, MT 59101

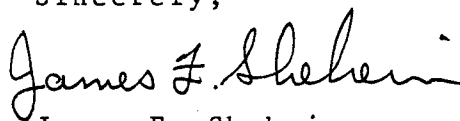
To Whom it May Concern:

It would be a travesty to see HB350 pass through the State Legislature as funding for the D.A.R.E. program is vital as a method of keeping kids drug-free.

We are in our third year with the program and it is working, so to say that I am very much opposed to this bill is an understatement.

I would ask that a "no" vote be cast to defeat this bill.

Sincerely,



James F. Shehein
Superintendent

JFS/eh

Home of the Scouts



Fax Transmittal Memo 7672		No. of Pages 1	Today's Date 2-4-93	Time 11:06 am
To Echo (DARE OFFICE)		From Jack Nesbit		
Company		Company		
Location		Location	Dept. Charge	
Fax # 255-3784	Telephone #	Fax # 232-3147	Telephone # 232-3840	
Comments		Original Disposition:	<input type="checkbox"/> Destroy <input type="checkbox"/> Return <input type="checkbox"/> Call for pickup	
RE: Legislation for DARE funding.				

Elementary and Secondary Education

Custer County District High School

ROBERT RICHARDS
SUPERINTENDENT

Miles City School District No. 1

1604 Main Street
MILES CITY, MONTANA 59301

February 3, 1993

EXHIBIT 12
DATE 2-8-93
HB 350

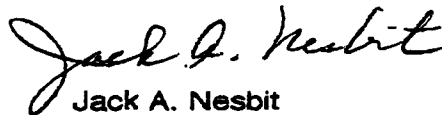
Dear Legislative Representatives,

I am in opposition of the House Bill 350 that will eliminate funding for the DARE Program in the state of Montana.

We have been fortunate enough to have such a program introduced into the Miles City school system this year. The program met with great success. The children and parents of this community are very supportive of the DARE Program and are looking forward to having it continued. If funding were cut, the school district would be unable to fund the Program due to the district's own financial dilemma.

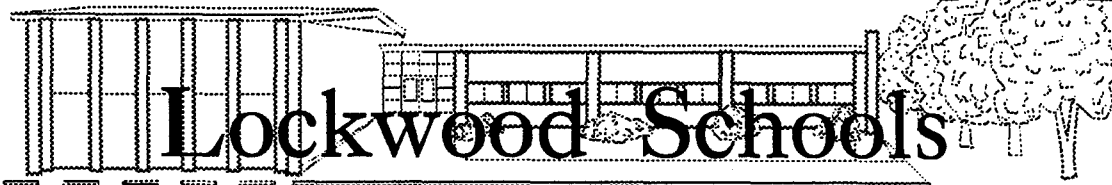
Throughout my 26 years in education, I find the DARE Program to be the most successful in dealing with the education of our youth in the areas of drug and alcohol. Please vote to continue the support for the DARE Program as the welfare of our children is extremely important.

Sincerely,



Jack A. Nesbit
Principal
Lincoln School
Miles City, MT

EXHIBIT
DATE 2-8-93
HB 350



School District #26 — Yellowstone County 1932 U.S. Hwy. 87 Route 2 Billings, MT 59101

JOE C. McCracken
Superintendent
406-252-6022

CAM CRONK
Junior High Principal
406-259-0154


DAVE DeBOER
Intermediate Principal
406-248-3239

MICHAEL BOWMAN
Primary School Principal
406-252-2776

LA VONNE DEENEY
Business Mgr. - Clerk
FAX #406-259-2502

February 2, 1993

To: Cheryl Davis, Coordinator
Eastern Coal County Task Force
D.A.R.E. Program
415 N. 30th Rm. 301
Billings, Montana 59101

From: Dave DeBoer, Int. Principal 
Lockwood School Dist. #26
1932 Hwy. 87 E.
Billings, Montana 59101

Dear Cheryl,

It is my understanding that there is presently a bill under consideration in the Legislature (House Bill 350) that would cut a significant portion of the present funding for the D.A.R.E. program. I would like to take this opportunity to voice my objection to the passage of H.B. 350 or any bill, for that matter, that would in any way jeopardize the D.A.R.E. Program.

In my opinion, never has there been such a successful drug education program introduced into the school systems. The program is receiving overwhelming acceptance by students, teachers, administrators, parents, law enforcement officials and community members not only in Montana but across the entire United States. Drug usage is **down** significantly and drug education is **up** substantially in our Junior High.

D.A.R.E. has been in existence for four years at Lockwood. Our initial D.A.R.E. fifth grade class has just graduated from Lockwood to Senior High School in Billings. Our junior high teachers see the "D.A.R.E. kids" much more educated about drugs and with a renewed respect for law enforcement officers, who are in our hall regularly because of third and fifth grade D.A.R.E. classes. At Lockwood, the D.A.R.E. officers educate approximately 300 students per year.

I sincerely believe the education these 300 students receive each year "ripples" to hundreds of other individuals they come into contact with, ie, using parents, using friends, siblings, etc. I hope my thoughts have helped you and the D.A.R.E. program in some way.

NOLAN J. MIKELSON
Principal

ROBERT RICHARDS
Superintendent

GARFIELD SCHOOL

EXHIBIT 14
DATE 2-8-93
HB 350

1015 Milwaukee Street
MILES CITY, MONTANA 59301
Phone 406-232-4310

Feb. 3, 1993

D.A.R.E. Office
415 North 30th
Billings, MT 59101

Dear Sirs:

It has come to my attention that legislation has been introduced to remove the funding from the coal tax fund for the D.A.R.E. program. I am very much in favor of continuing the D.A.R.E. Program and the funding for the D.A.R.E. Programs here and state wide. I was impressed with materials and presenter in our school this year. I feel that the program was and is very worthwhile and met the purpose that we instituted in our district.

Sincerely,



Nolan J. Mikelson
Principal

NJM:w1

TREASURE COUNTY

Board of County Commissioners

EXHIBIT 15
DATE 2-8-93
HB 350

Members:

~~Henry DeCock~~ Ole Redland
~~Mark Wetsch~~ George Cramer
M. E. "Dick" Woelich

P.O. Box 392
Hysham, MT 59038
(406) 342-5547

DATE: February 3, 1993

TO: Dick Knox, Chairman, Natural Resources Committee, House
Members of the House Natural Resources Committee

Ed McCaffree, HD #27
Cecil Weeding, SD #14

FROM: Board of County Commissioners, Treasure County *RU*

The Board of County Commissioners of Treasure County encourages your opposition to HB-350. This legislation would eliminate any grants from the Coal Board to Treasure County while we still have to deal with the impact created by the coal mining. Our major impact is the increased use of our roads going to the Colstrip mines and the Sarpy (Westmoreland) mine. Since the mining is located in adjacent counties, Treasure County does not realize any increase in valuation but we have to deal with the impact which does not deminish or stop because the mine has been there for some time. In other words, we will continue to have the impact with no additional revenue or tax base to meet the added expenditures. With the mine traffic, we have and will continue to have increased maintenance costs to our roads, bridges and cattleguards. With the restrictions of I-105, we cannot ask our local taxpayers for more tax revenue and realistically they should not have to pay for the increased maintenance costs created by the mining industry. We do not believe the grant eligibility should be changed.

EXHIBIT 16
DATE 2-8-93
HB 350

OFFICE OF
SHERIFF
OF TREASURE COUNTY
HYSHAM, MONTANA 59038

Date: February 5, 1993

TO; Dick Knox, Chairman, Natural Resources Committee, House Members of
the House Natural Resources Committee.

Gary Mason, HB350
Cecil Weeding, HB350

FROM: Bill W. Hedges, Treasure County Sheriff.

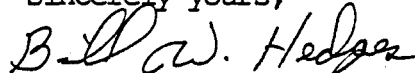
If House Bill #350 becomes law, then all that the 9 county Drug Task Force has accomplished will end. We need this funding to support our D.A.R.E. program which has educated over 17 thousand young people in the 5th and 6th grades in the State of Montana. I don't need to tell you how successful this program has become, neither do I have to show you the great accomplishments the 9 county Drug Task Force itself has made since it started the fight against Drug Crime in Montana.

Treasure County is one of the lowest tax based counties in the State of Montana. We struggle to meet every new mandate that the state or federal government places on us.

I can understand towns like Colstrip, after the initial impact is taken care of and the tax base is built up, they might be able to take care of their own needs. A town like Hysham and the County of Treasure will suffer deeply because we will not share in the added tax revenue. We still have all the maintenance, wear and tear on our roads, all the accidents, crime and influx of people that will be living in our county and working in the neighboring counties. These increases will be putting a great strain on the public services that are barely adequate now.

I strongly advise the legislature to take a better look at HB #350 and consider the burden that it will be placing upon our Montana counties.

Sincerely yours,



Bill W. Hedges
Treasure County Sheriff
Democratic Chairman



COLSTRIP PUBLIC SCHOOLS

EXHIBIT 17
DATE 2-8-93
HB 350

February 5, 1993

To Whom It May Concern:

Colstrip School District #19 would like you to consider one effect that HB 350 could have on us and other rural communities, if it passes as written.

It is our understanding that monies which have been allocated for the "DARE" Program would be eliminated by this bill. The "DARE" Program is an essential, worthwhile program for children. The benefits and far-reaching effects received from this program are difficult to measure but I can assure you the job the officers do through this program makes a difference. We do see positive benefits for, and results in, our students.

We urge you to consider the effects upon the "DARE" Program when you deliberate on HB 350.

Sincerely,

Jim Anderson
Superintendent of Schools

County of Yellowstone

OFFICE OF THE SHERIFF

P.O. BOX 35017
BILLINGS, MONTANA 59107-5017
(406) 256-2929



February 2, 1993

Rep. Dick Knox
Chairman of Natural Resource Committee

Dear Rep. Knox:

This letter is to advise you of my opposition to House Bill 350. The Coal Board has, for the last 10 years, funded the Nine County Coal Task Force, a drug enforcement effort to assist the coal impact counties with their enforcement effort. Yellowstone County is one of those that has received tremendous support and benefit from this program. It is my understanding that the bill, if passed as written, would not allow for the continued funding of such programs. The task force has taken millions of dollars in drugs off of our streets and caused the arrest of hundreds of offenders. So to lose such a program would be a devastating loss to the law enforcement community.

Thanks for your attention in this matter.

Sincerely,

Chuck Maxwell, Sheriff
Yellowstone County

CWM/pjp

Amendments to House Bill No. 350
First Reading Copy

Requested by Rep. Marian Hanson
For the Committee on Natural Resources

Prepared by Deborah Schmidt
February 6, 1993

1. Page 2, line 24.
Strike: "and"

2. Page 2, line 25.
Following: line 24

Insert: "(d) each local governmental unit located within at least 50 miles but not more than 100 miles, measured over the shortest all-weather public road, of a mine or facility qualifying under subsection (1)(b)(i), (1)(b)(ii), or (1)(b)(iii); and"

Renumber: subsequent subsection

3. Page 3, line 21.
Following: "units"

Insert: "according to the following provisions:

- (a) 90% to those local governmental units designated as provided in 90-6-207(1)(c); and
- (b) 10% to those local governmental units designated as provided in 90-6-207(1)(d)"

Scab S

EXHIBIT 199
DATE 2-8-93
HB 345

DEPARTMENT OF STATE LANDS



STAN STEPHENS, GOVERNOR

CAPITOL STATION

STATE OF MONTANA

(406) 444-2074

1625 ELEVENTH AVENUE
HELENA, MONTANA 59620

CERTIFIED MAIL NO. P 676 686 692
Return Receipt Requested

August 10, 1992

Mr. Jack M. Scanlon
Attorney at Law
Suite 3C, Arcade Building
111 North Last Chance Gulch
Helena, Montana 59601

RE: Transmittal of Final Report
Response to Formal Complaint Filed Under § 82-4-355 MCA

Dear Mr. Scanlon:

Enclosed please find two final reports prepared by the Hard Rock Bureau's hydrogeologist, Wayne Jepson. One enclosure is an overall report that discusses all the formal complaints received against Magellan Resources Inc. for the Southern Cross/Georgetown area; the second enclosure is a final report that is specific to your complaint, which was dated December 13, 1991 and received by this office on December 16, 1991.

The Department of State Lands (DSL):

*"shall, if it determines that the preponderance of evidence indicates that the loss is caused by an exploration or mining operation, order the operator, ..., to provide the needed water immediately on a temporary basis and within a reasonable time replace the water in like quality, quantity, and duration."
(§ 82-4-355(2) (a) (iv) MCA).*

In your specific case, DSL has concluded that a preponderance of evidence does not exist. The final report does mention that your claim of water loss may be valid, but based on all available data, it is impossible to evaluate whether the flow reduction is due to drought, drilling, or other causes. The known geology of the area as it relates to the exploration drilling and your spring also does not appear to support your claim.

DSL does not believe that further investigation is warranted at this time, given the extent of data you submitted in support of your complaint. Should further evidence be submitted in the future, its

Official Business

August 10, 1992
Page 2

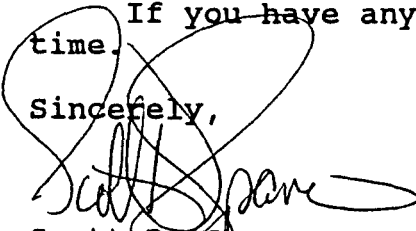
Mr. Jack M. Scanlon
Certified Mail No. P 676 686 692

significance would be evaluated, and the complaint would be reconsidered. DSL does intend to require that Magellan Resources Inc. perform monthly water level monitoring on several yet-to-be-determined drill holes. In addition, if further exploratory drilling is proposed in the future, DSL would require that some of these existing drill holes and perhaps some of the newly-proposed holes be developed as water quality & quantity monitoring wells.

In accordance with § 82-4-355(1) MCA, you have now met the requirement of exhausting the administrative remedy in regards to your complaint. Therefore, if you feel that this finding is in error, you are now free to file suit against the exploration operator.

If you have any questions, please contact me or Wayne Jepson at any time.

Sincerely,



Scott B. Spano
Regulatory Program Supervisor
Hard Rock Bureau
Reclamation Division

SS/ra

Enclosures (2)

c: Commissioner Dennis Casey
Gary Amestoy, Administrator, Reclamation Division
Sandi Olsen, Chief, Hard Rock Bureau
Wayne Jepson
Bob Winegar
Magellan Resources Inc.
Cable Mountain Mine Inc.



EXHIBIT 20
DATE 2-8-93
HB 345

MONTANA MINING Association

2301 Colonial Drive
Helena, Montana 59601
Phone (406) 443-7297
FAX (406) 443-7299

OFFICERS

President

FRANK GARDNER
Montana Resources Inc.
600 Shields Ave.
Butte, MT 59701

Vice President

DON WILSON
Golden Sunlight Mine
453 MT Highway 2E
Whitehall, MT 59759

Treasurer

FRED PANION
Montana Talc
Three Forks, MT 59752

Secretary

TAD DALE
Central Mountain Mining Inc.
1800 Fairmont Road
Anaconda, MT 59711

Chapter Liaison Officer

ROBIN McCULLOCH
Montana Bureau of Mines
Butte, MT 59701

AMM President

JAMES LIEBETRAU
AFFCO, Inc.
P.O. Box 1071
Anaconda, MT 59711

EXECUTIVE DIRECTOR

GARY LANGLEY
2301 Colonial Dr.
Helena, MT 59601

Administrative Assistant

JANE DRITSHULAS

POSITION OF THE MONTANA MINING ASSOCIATION ON HB 345

The Montana Mining Association opposes HB 345 because:

1. Requiring an exploration company to purchase property in advance of the exploration activity would make the activity prohibitive in terms of time and money. The bill would result in untimely delays and inflated property values.
2. Requiring the purchase of property in advance of the activity is not reasonable because the company doesn't know if the property is economically mineable.
3. The bill would require the exploration company to evoke the power of eminent domain, which is rarely used, and--although it is a tool that should be available--the mining industry does not like to use.
4. The bill would allow property owners in the vicinity to decide whether the property should be purchased. Laymen do not have the technical or scientific expertise to determine whether the property is necessary for an operation.

EXHIBIT 21
DATE 2-8-93
HB 420

HB 420
February 8, 1993

**Testimony presented by Bob Lane, Dept. of Fish, Wildlife & Parks
before the House Natural Resources Committee**

The Legislature, since the inception of the 1973 Water Use Act, has created and funded a process for the establishment of water reservations for present and futures uses. These uses include municipal, irrigation and instream benefits. Starting in 1985, the reservation process has concentrated on the Upper Missouri River Basin above Fort Peck Dam. This basin includes approximately one-half the area and waters of the state. Reservation applications were made by 18 Conservation Districts for 220 irrigation projects, by 18 municipalities, by this department for instream flows on 273 stream reaches, by the Department of Health and Environmental Sciences for instream flows for water quality, and by the federal government for one irrigation project and for instream flows in some headwater streams on federal property.

Our agency spent over a half million license and federal excise tax dollars of sportsmen and women that were appropriated and approved by the legislature. The reservation process in the upper Missouri basin was supported by general fund appropriations of approximately \$1.3 million to DNRC to prepare an EIS and to conduct the extensive, lengthy and exhaustive hearing process. Of this amount, the Conservation Districts used general fund appropriations of about \$400,000 to prepare and advocate reservations for irrigation projects. Cities and towns received \$67,000.

The Board of Natural Resources and Conservation granted instream flow reservations for water quality and fisheries purposes. The instream flows are junior to existing water rights. However, they provide protection for instream values against whatever may occur in the future and provide an opportunity for the department to be a participant in any future improvements in water availability and management. Instream flows are most important when there are water shortages and low flows.

All of this background leads to the point of HB 420. There is no logic to nullifying instream reservations when they are most needed. This condition, in the Board's order of June 30, 1992, states:

The DFWP reservation shall have no force and effect in any basin, subbasin, drainage, subdrainage, stream, or single source of supply for the period of time and for any class of uses for which permit applications are precluded.

At the time the reservations were granted, the department recognized there were significant problems that this condition could cause. Now, in light of three bills for basin closures, the department believes that HB 420 presents an opportunity to take a careful look at the wisdom of the condition.

First, an interpretation of the Board's condition that would nullify, at least in part, the instream reservations when they are most needed is both fundamentally unfair and unwise and flies in the face of the granting of instream reservations. The Board

concluded after a three year process, following the submittal of reservation applications, that instream flows were needed and in the public interest. In total, the department spent the better part of 10 years in the process. The condition, in itself, frustrates the public's reliance and faith in a valid public process initiated by the legislature.

Second, and perhaps more important, the condition may harm the future hopes and expectations of present water users. Users on water short basins hope and dream of someday improving water availability and water management. Although none of us knows exactly what the future may bring, improving water availability through new storage or more efficient delivery systems can only be achieved with capital investments. It is doubtful that irrigators can fund such projects by themselves. Any future feasible project will almost inevitably require a partnership of all interests, including irrigation, fisheries and recreation. If state, and federal funds, are to be spent on fisheries and recreational benefits, then those benefits must be protected. The only way that instream values for fisheries and recreation can be assured of protection is through an instream flow reservation. These reservations are the one and only opportunity for recognizing and protecting instream values. If the reservations are nullified when they are most needed, this department will not be able to justify spending money in a partnership to improve storage or delivery systems.

Third, it is difficult to understand the meaning and effect of the condition. If the condition means only that the instream reservations have no effect against new permits, then the condition has no real impact. For example, if a basin is closed to new permits for irrigation from July through September, then the instream flows would have no force and effect for any new irrigation permits during this time. This is ~~the only~~ ^{only a} way of restating that a closure does not allow new permits.

On the other hand, if the condition means that the instream reservations would not have any force and effect against any junior irrigation permits during this time period, there is a significant problem. Instream flows would not be protected against any junior permits issued between July 1, 1985, and the date of closure of the basin. Thus at the moment of the basin closure, instream flow protection would disappear. These junior rights could then take water that had been protected by the senior instream flow reservations. The closure, in fact, would harm senior irrigation users as well as instream flows because water could be consumed that could not have been used before the closure. This turns the purpose of stream closures on its head. The Board could not have intended this result.

Last, the "no force and effect" condition prevents the holders and beneficiaries of instream flow reservations from being free to consider basin closures on the merits of the closures themselves.

For the above reasons of logic and fairness, the department supports HB 420.

EXHIBIT 21
DATE 2-8-93
HB 420

DEPARTMENT OF STATE LANDS

TESTIMONY of Sandra Olsen, Chief
HARD ROCK BUREAU

to the
House Natural Resources Committee

in support of HB 442

The Hard Rock Bureau of the Department of State Lands has the administrative authority for implementing the Metal Mine Reclamation Act. Under the Metal Mine Reclamation Act the Department regulates the mining of all hard rock minerals. The Act administratively establishes three type of programs to be implemented. These include:

the regulation of small miners - who are defined as persons disturbing less than 5-acres at a site who commit to compliance with air and water quality laws,

the regulation of exploration activities - which consist of drilling, trenching, or other activities, following evaluation and approval of a plan, submittal of bond and issuance of a license - and which involve the removal of less than 36,500 tons of ore, and

the regulation of large mines - consisting of all other hard rock mining. Large operators are required to get operating permits following submittal and review of a plan and submittal of a bond.

In addition the Bureau assures that each project is evaluated pursuant to the Montana Environmental Policy Act and undertakes inspection and enforcement activities.

HB 442 has been introduced at the request of the Department to provide for additional procedural and enforcement mechanisms in the Metal Mine Reclamation Act. HB 442 would increase the number of alternatives available to the Department for assuring compliance with the law, and would facilitate enforcement and permit review, and would clarify bonding requirements.

Additional authority ^{is} included under Sections 1, 2, and 3, to allow for denial of small miners exemptions, exploration licenses, or operating permits in the event that outstanding penalties have not been paid, if bonding or reclamation costs are due to the State, or if any costs of implementing abatement orders are due to the State.

Modifications to the application review process are included in Sections 4 and 5, in response to concerns about how long permit application review takes. Section 4 lengthens the initial

review period for an application to 60 days. The Department and the mining industry have agreed that a more thorough initial review would minimize the need for multiple application resubmittals. Any subsequent review of a resubmitted application, however, would remain limited to the 30-day period currently established under the Act.

Section 5 defines administrative mechanisms for modifying permits, after they are initially issued. The process proposed would distinguish between major and minor changes, clarifying the need for public notice and more detailed public involvement for major changes, while minimizing the complexity of the process for minor changes.

Sections 6 and 7 are changes which would clarify the existing bonding and enforcement procedures in the Act. It is important to clarify that the bond, in Section 6, is required to guarantee the conditions of the permit, as well as the conditions of the act and rules, because many activities authorized, but not required, by the Act are included in a permit.

The authority to issue abatement orders, provided by Section 7, would allow the Department to require an operator to clean up a violations, rather than requiring the Department to shut down an operation regardless of the severity of the infraction. Suspension and revocation of permits would remain as enforcement mechanisms, should an operator fail to comply with an abatement order.

For all of these reasons, the Department respectfully requests the Committee to give a do pass recommendation to HB 442.



MONTANA MINING Association

EXHIBIT 23
DATE 2-8-93
442

2301 Colonial Drive
Helena, Montana 59601
Phone (406) 443-7297
FAX (406) 443-7299

OFFICERS

President

FRANK GARDNER
Montana Resources Inc.
600 Shields Ave.
Butte, MT 59701

Vice President

DON WILSON
Golden Sunlight Mine
453 MT Highway 2E
Whitehall, MT 59759

Treasurer

FRED PANION
Montana Talc
Three Forks, MT 59752

Secretary

TAD DALE
Al Mountain Mining Inc.
1800 Fairmont Road
Anaconda, MT 59711

Chapter Liaison Officer

ROBIN McCULLOCH
Montana Bureau of Mines
Butte, MT 59701

AMM President

JAMES LIEBETRAU
AFFCO, Inc.
P.O. Box 1071
Anaconda, MT 59711

EXECUTIVE DIRECTOR

GARY LANGLEY
2301 Colonial Dr.
Helena, MT 59601

Administrative Assistant
JANE DRITSHULAS

FACTS ON HB 442

1. The legislature previously passed a similar bill concerning corporations. This extends the same restriction to individuals. That is, an individual cannot attain an operating permit unless he has satisfied the conditions of a previous permit.
2. The mining industry supported the previous legislation pertaining to corporations. And, therefore, supports HB 442.
3. The legislation also allows the Department of State Lands 60 days to review an application for an operating permit for completeness. This will allow the Department additional time for the initial review to examine the application for deficiencies. This should reduce the number and scope of deficiency notices. At present, because DSL does not have sufficient time to review the initial application, new issues are raised in each deficiency notice, causing untimely delays. Passage of this bill would speed up the process without detracting from environmental quality.

EXHIBIT 27
DATE 2-8-93
HB 442

Amendments to House Bill No. 352
First Reading Copy

Requested by Rep. Molnar
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
February 6, 1993

1. Title, lines 11 through 13.
Following: "CLOSURE;" on line 11
Strike: "ELIMINATING" on line 11 through "COST;" on line 13
2. Title, lines 14 and 15.
Following: "77-6-116,"
Strike: "77-6-202" on line 14 through "77-6-212," on line 15
3. Page 13, line 8 through page 19, line 10.
Strike: Sections 11 through 14 in their entirety.
Renumber: subsequent sections

EXHIBIT 25
DATE 2-8-93
HB 365

House Bill No. 365
Amendment

1. Section 3, beginning with line 25 on page 2:

Delete line 25, p.2 and lines 1 through 3, p.3

Insert: "various entities shall have no force and effect in the Teton River basin for the period of time and for any class of uses for which permit application are precluded under [this act]."

Amendments to House Bill No. 442
1st Reading Copy

For the Committee on Natural Resources

Prepared by Todd Everts, Committee Staff
February 8, 1993

1. Page 14, line 14.

Following: "possible."

Insert: "The initial completeness notice must specify all deficiency issues. The department may not in a later completeness notice raise an issue pertaining to the initial application that was not raised in the initial notice. The department may, however, raise any deficiency during the adequacy review pursuant to (1) (b)."

EXHIBIT 21
DATE 2-8-93
NB 263

Amendments to House Bill No. 263
1st Reading Copy

For the Committee on Natural Resources

Prepared by Todd Everts, Committee Staff
February 5, 1993

1. Page 6, line 15.

Following: "is"

Strike: "to minimize the effects of water degradation on other uses of the water resource."

Insert: "to protect, maintain, and improve the quality and potability of water for all beneficial uses of the water resource."

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resources COMMITTEE

BILL NO. _____

DATE 2/8/93. SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Gerald Himelspach	Powder River CO	X	
Stan Bradshaw	MT. T.U.	HB 442 HB 420	
GARY LANGLEY	MONTANA MINING ASSOCIATION	HB 442	HB 345
Gary Amestoy	DSL	HB 442	
ROBIN CUNNINGHAM	FISHING OUTFITTERS ASSN. OF MONTANA	HB 420	
Sandra Olsen	Dept. of State Lands	X HB 442	
Russ Rottor	Wash Contractor	(345)	(X)
Jim Mackler	MT. Coal Council	550	
Dennis Olson	NPRC		350 345
Beth	DBES	420	
John Blomquist	Various Water Uses		420
John Fitzpatrick	Pegasus Gold Corp	HB 442	HB 345
Robert Hoffman	Ag Preservation Assn.	420	X

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. _____

DATE 7/8/93 SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
David L. Stot	H 365	X	
Alvin Guse	HB 365	X	
Dave Ross (HB 417)	Audubon Legislative Fund	X	
Jeff Jahnke	HB 393	X	
Lee Beery	HB 417	X amend	
Bob Thong	DRES - HB 365		X
Rep. Roger Lieberman	Dist 13	X	
Jim Beckel	MWF	✓	
Don Oll	MWPA	393 ✓	

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Natural Resources

COMMITTEE

BILL NO. 350, 345, 420

DATE 2/8/93

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Heather J. Robinson	in support HB 350	✓	
Alan Deems	Mont Coal Board	✓	
Tom White Tom White	Self #345-	✓	
Sue M. Olson	Musselshell County	✓	
Don Bradley	Rosebud County		✓
Janel Hmelnyak			
Mardo A. Campbell	Montana Coal Board		
Newell Anderson	Dept of Commerce		
Michelle Hargis	MT Assoc. Oil Gas Coal Counties	✓	
David Karamah	STILLWATER MINING		X
Nolan Smith	Magellan Resources Cable Mountain Mining		X
Gay Ehlert	Eastern Coal Counties Task Force Rosebud county		X
Gary L. Walton	Cable Mountain Mine, Inc		
Wayne VanVoast	NBCG		

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