MINUTES OF THE MEETING
NATURAL RESOURCES
MONTANA STATE SENATE

March 9, 1979

The twenty-third meeting of the Natural Resources Committee was called to order by Senator Harold L. Dover, Vice-Chairman, at 1:10 p.m. in Room 405 of the State Capitol Building on the above date.

ROLL CALL: All members were present for this meeting, with the exception of Senator Story who appeared in committee late and left to attend another meeting. Senators Roskie and Etchart also were late arriving for this meeting as they were attending other committee hearings.

CONSIDERATION OF HOUSE BILL 717: This bill was the first placed before the committee for consideration by the acting chairman, Senator Dover: The sponsor of the bill, Representative Bardanouve, was present and explained the bill to those present. He said that this bill would solve the issue of the Daly District Project in the Bitterroot Valley, by allowing the landowners to take it over during the next 2 years. The state has been losing approximately $50,000 a year on this project. He also told the committee that the bill had been amended in the House to agree more with the landowners from that area.

The first proponent to testify was Ted Doney, Director of the Department of Natural Resources, who said that they support this bill. He presented the committee with maps of the project. (Exhibit 1) He also said that this project would be very costly to repair and that it is the only project in Montana owned and operated by the state. He then submitted a data sheet on the "Daily Ditches". (Exhibit 2) Mr. Doney then called upon Rick Bondy of the Department of Natural Resources to show some slides which had been taken by the department of the condition of various dams, ditches, flumes, etc., of the Daly District Project. As the slides were shown, Mr. Bondy made comments as to the time, place and condition of the places shown. In summary, he told the committee that the department does support HB 717 because it is needed to waive the outstanding debt and to transfer the property as the Daly Project is a white elephant project for the state and this drastic action has to be taken to get the state out of this project.

There being no further proponents present to testify, Senator Dover called for opponents to HB 717. The first opponent was Larry Persca, representing the water users under the Daly Ditch System. He presented a written statement and signatures from members of their association. (Exhibit 3) He said that there were about 17,000 - 17,500 acres in the project and there were about 400 water users involved.

The next opponent was Senator Elmer Severson of Ravalli County who told the committee that the Daly Project is a serious subject and that the Ravalli County Chamber of Commerce asked him to tell the committee they agree with the water users present here today. He gave the committee a prepared statement of the Ravalli County

Commissioners (Exhibit 4) and requested that the committee give them time to work this out.

At this time, there being no more opponents present, Representative Bardanouve was allowed to close on HB 717. He said that many of the fears of the users have been alleviated about this bill but that they are not quite happy yet and that, if any of the parts and places shown on the slides broke, it would be very tragic. He asked that the committee allow time for the DNR and the landowners to work out amendments to HB 717, as this is very important to the landowners. He told the committee further that a statutory bill is needed to give the project away and that it cannot be done by a resolution.

After some questions by committee members, those present on HB 717 were excused.

CONSIDERATION OF HOUSE BILL 759: Representative Bertelson of House District 27 (Powell County), chief sponsor of HB 759, was present at the hearing to explain this bill. He said that he was carrying it at the request of the Department of Natural Resources. He told the committee that the problem is that the price for fire hazard reduction has not increased in many years and that an amendment has been submitted to take care of this. (Exhibit 1)

The first proponent of HB 759 to testify was Garreth Moon of Missoula, representing the Forestry Division of the Department of Natural Resources. He is State Forester for the DNR. He told the committee that the bill creates a fire hazard reduction and that the landowner has been required by law to pay for this fire protection. He said that they support HB 759.

The next proponent was Randy Mosley of the Department of Natural Resources who briefly explained the problems of administration, which is why the department is asking for the increase. He said that if the state has to do the work because the landowner defaults, this would cost the state more than it would the landowner.

Gary Spaeth, staff counsel for the Department of Natural Resources, told the committee that Sections 5 and 6 of HB 759 have been proposed because they have had to go into court to obtain a default judgment many times in the last 4 years that he has been with the department. The bill establishes an injunction to establish interest and penalty and would operate almost exactly like the Department of Revenue does.

There being no more proponents to testify, Senator Dover called for the opponents. The first opponent to speak was Robert Helding, an attorney representing the Montana Wood Products Assn., who said that they agree with the amendments which have been submitted by Representative Bertelson because the bill had set those figures too high. He also wholly supported the change of the enforcement procedure referred to in Sections 5 and 6.

The next opponent to testify was Al Kington of Helena, representing Wickes Forest Industries at Townsend, who said that he does not think the state should have to do the work and that the increase suggested in this bill is just an aid for inflation. His firm opposes HB 759.

Representative Joe Kanduch of Anaconda, District 89, told the committee he objects to the amount of money being held back for administration. He said that the honest logger has to put up 2% of that money just to inspect the job. He also objected to the 10%, saying that even at 4% it was too high. However, he did not object to the $7.50.

Senator Manley of District 14 - Drummond, a member of this committee, was the last opponent of HB 759 to testify, saying that he had carried the bill in the Senate 4 years ago when it went to $5. He said that when a logger gets a million foot sale and he deposits $5 and this is turned over to the DNR, they have it invested before it is refunded. In Appropriations, the department asked for funding for administration. He asked why these departments have to charge for their work after asking for funding. He suggested that the whole $5 should be given back to the landowner and the administration costs should be completely taken out of the bill. Also, Senator Manley testified that private landowners do a better job on the work than the state, but that perhaps the state should be allowed to inspect the pile and sledge work after it is done by the landowner. He recommended a DO NOT PASS for HB 759, and said that the amendments should not be accepted as they received $5 four years ago and they do not do a good job.

Representative Bertelson was allowed to close at this time. He told the committee that perhaps the law should eventually require each landowner to do his own work and that the enforcement part is the same as for any other state agency.

After some questions by committee members, the hearing on HB 759 was closed.

At this time, since Representative Ann Mary Dussault and her aides too were present to work on HB 785, the committee again considered this bill. Representative Dussault told the committee that the majority of this bill applies to state-owned land and very little applies to private land. She also said that it is not the kind of bill the federal government would like as they wanted a much stronger bill.

There being no further time for discussion of HB 785, the committee adjourned at 3:00 p.m.

SENATOR DOVER, Acting Chairman

Date 5-1-79

ROLL CALL

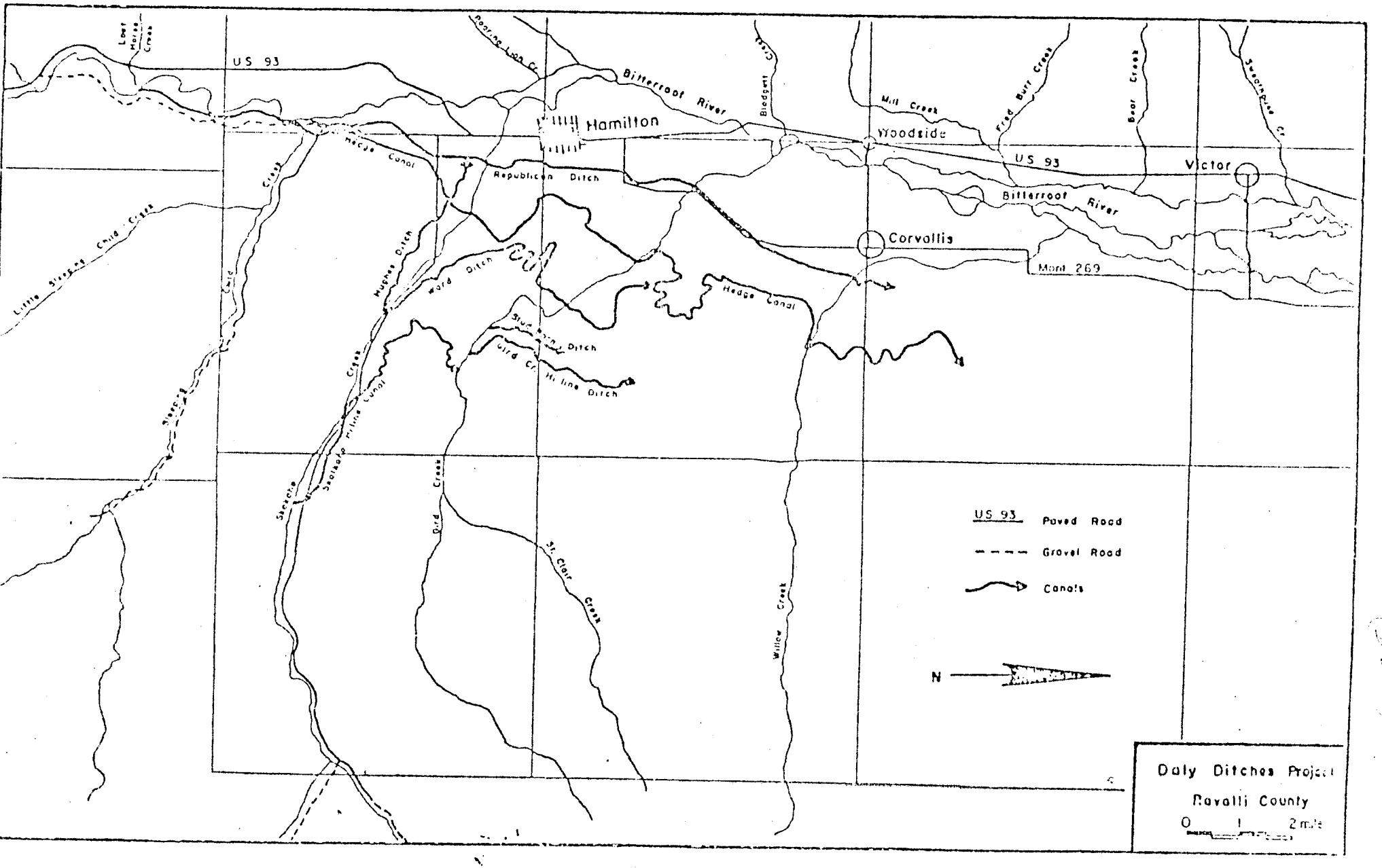
Natural Resources COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
ROSKIE, George F., Chairman	Contacted		
DOVER, Harold L., Vice-Chairman	✓		
BROWN, Steve	✓		
ETCHART, Mark	✓		
JERGESON, Greg	✓		
LOCKREM, Lloyd C., Jr.	✓		
LOWE, William R.	✓		
MANLEY, John E.	✓		
STORY, Pete			Congressional
THIESSEN, Cornie R.	✓		

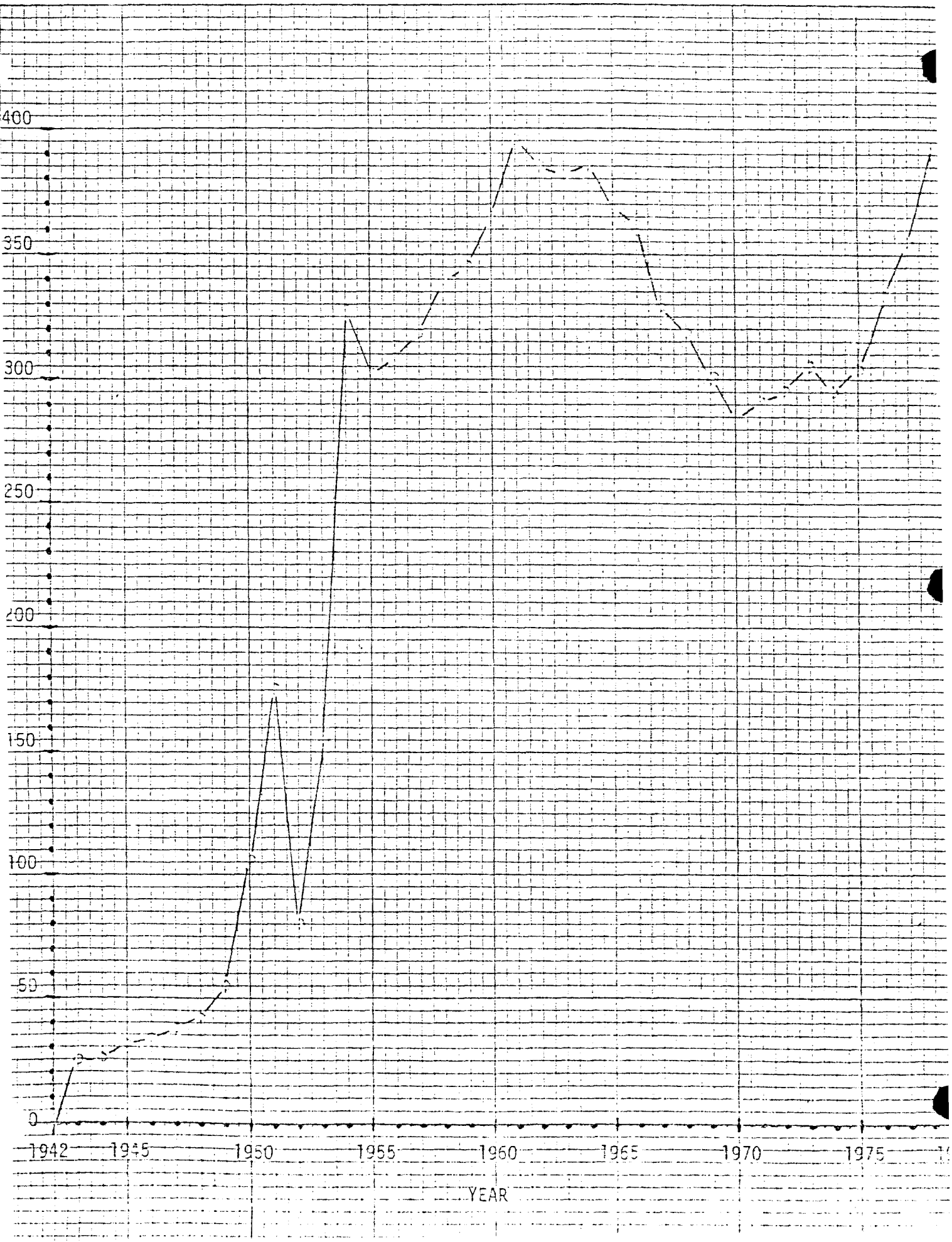
Each Day Attach to Minutes.

SENATE


US 93
Bitterroot River
Hamilton
Woodside
Victor
Corvallis
Mont 269
Mill Creek
Fred Burr Creek
Bear Creek
Bledgett Cr
Republican Ditch
Hedge Canal
Hughes Ditch
Ward Ditch
Hedge Canal
Hi line Ditch
Little Stevens Child Creek
Sleeper
Sawtooth Hills Canal
Sawtooth
Bird Creek
St. Clair Creek
Willow Creek
US 93 Paved Road
Gravel Road
Canals
N
Daly Ditches Project
Ravalli County
0 1 2 mile

Accumulated Debt of the Daly Ditches Project

From 1942 to 1978



DALY DITCHES

Historical Recapitulation of Financial Condition

From September 30, 1942 to June 30, 1978

Period Ending June 30	Debits	Credits	Book Account at End of Period
1943	$ 26,375.67	$ 737.75	$ 25,637.92
1944	22,696.56	21,639.10	26,695.38
1945	27,267.49	21,281.65	32,681.22
1946	24,995.17	23,059.75	34,616.64
1947	23,887.81	20,141.98	38,362.47
1948	26,363.25	20,896.08	43,829.64
1949	49,161.89 (1)	15,785.91	
		20,859.15	56,346.47
1950	71,443.74	20,721.88	107.068.33
1951	94,582.40	25,478.93	176,171.80
1952	44,453.97 (1)	1,181.26	
		96,637.67 (2)	
		42,318.58	80,488.26
1953	116,981.52	41,766.18	155.703.60
1954	212,457.10	40,816.47	327,344.23
1955	40,739.78	43,633.58	
		21,038.35 (3)	303,412.08
1956	45,604.46	40,001.92	309,014.62
1957	52,591.56	42,113.20	319,492.98
1958	58,717.71 (4)	37,607.27	340,603.42
1959	49,129.76	44,519.64	345,213.54
1960	64,990.04	43,561.38	366,642.20
1961	78,182.87 (5)	48,377.14	396,447.93
1962	34,689.59	45,751.82	385,385.70
1963	39,564.50	42,318.45	382,631.75
1964	51,780.64 (6)	49,360.43	385,051.96
1965	32,474.35	48,428.64	369,097.67
1966	39,690.95	45,247.93	363,540.69
1967	28,667.64	53,081.58	339,126.75
1968	31,170.57	50,639.22	319,658.10
1969	33,056.34	52,216.79	300,497.65
1970	36,964.21	52,825.44	284,636.42
1971	61,635.08 (7)	53,647.61	292,623.89
1972	68,894.19 (8)	65,224.69	296,293.39
1973	110,338.61 (9)	100,401.35 (10)	306,230.65
1974	87,417.94 (11)	97,697.75 (12)	295,950.84
1975	79,466.03	72,068.00	303,348.87
1976	95,485.45	64,111.02	334.723.30
1977	87,251.07	66,611.63	355,362.74
1978	100,762.16	61,821.60	394,303.30
	$2,149,932.07	$1,755,628.77	

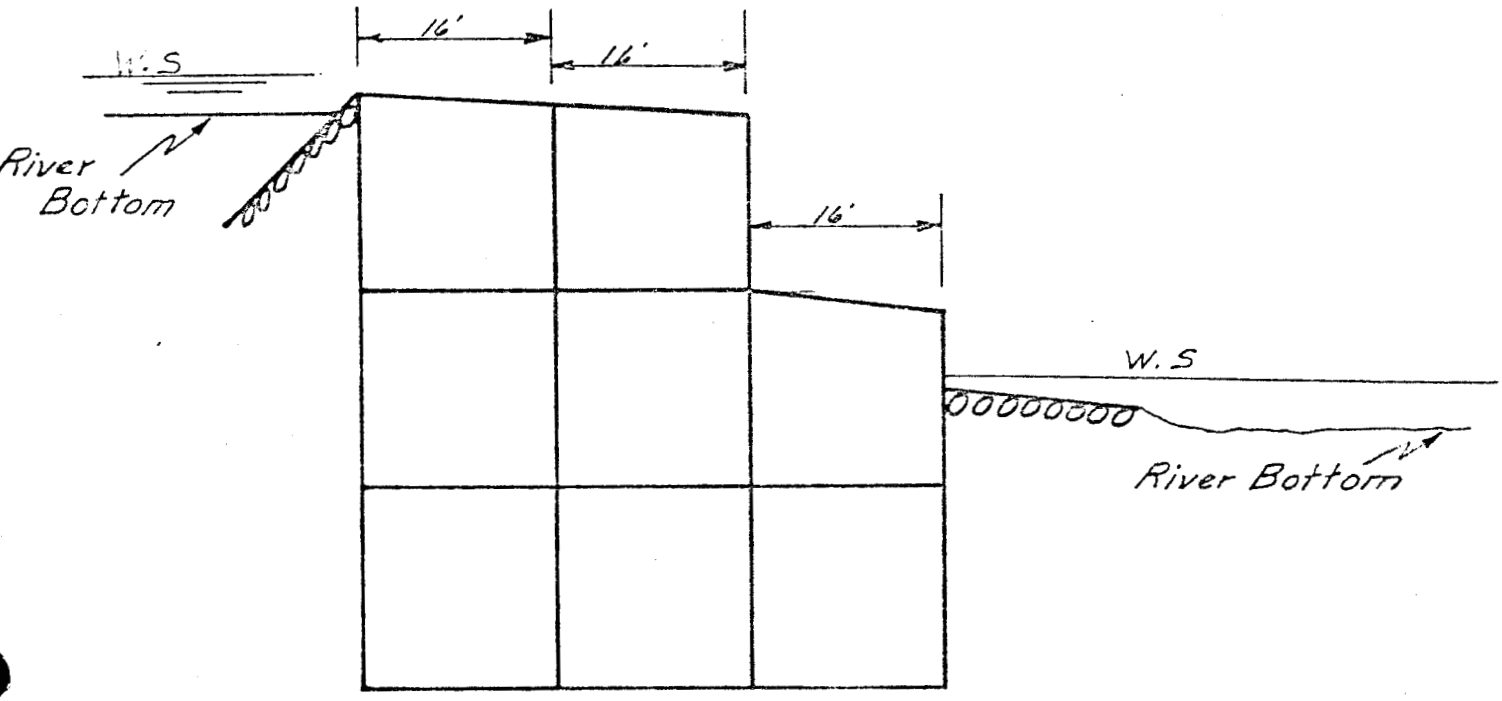
(1) Equipment cost charged out.

(2) Charged off.

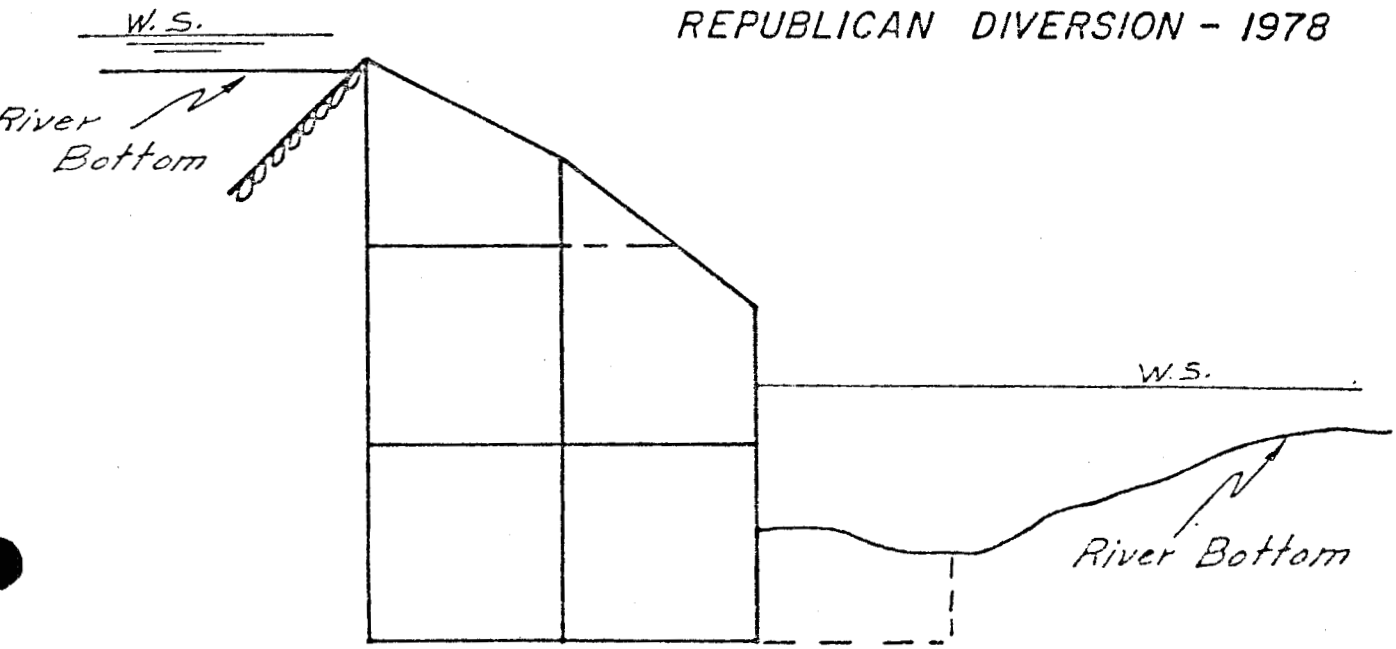
(3) Materials purchased for Skalkaho Hi-line Canal flume and not used as construction was made by steel pipe line, charged out.

(4) $4,500.00 returned to Association to purchase back-hoe.
(5) Includes $31,255.11 payment to Ricklin Construction Co.
(6) Includes $15,877.00 payment for truck-mounted crane.
(7) Includes $23,608.25, major rehabilitation costs for Hedge-Skalkaho and Republican structures.
(8) Includes $25,907.29, major rehabilitation costs for Ward-Hughes and Baily structures.
(9) Includes $37,859.94, amount of pool agreement #51-52-53 and $15,873.78 costs for winters flume.
(10) Includes $26,495.70, reimbursement for the first invoice of pool agreement #51-52-53 and $1,310.00, reimbursement for AG 30-SCS-00094.
(11) Includes $8,243.98, costs for winters flume.
(12) Includes $13,413.89 reimbursement for winters flume and
11,348.16 reimbursement for second invoice of pool agreement #51-52-53.

REPUBLICAN DIVERSION As Built — 1890



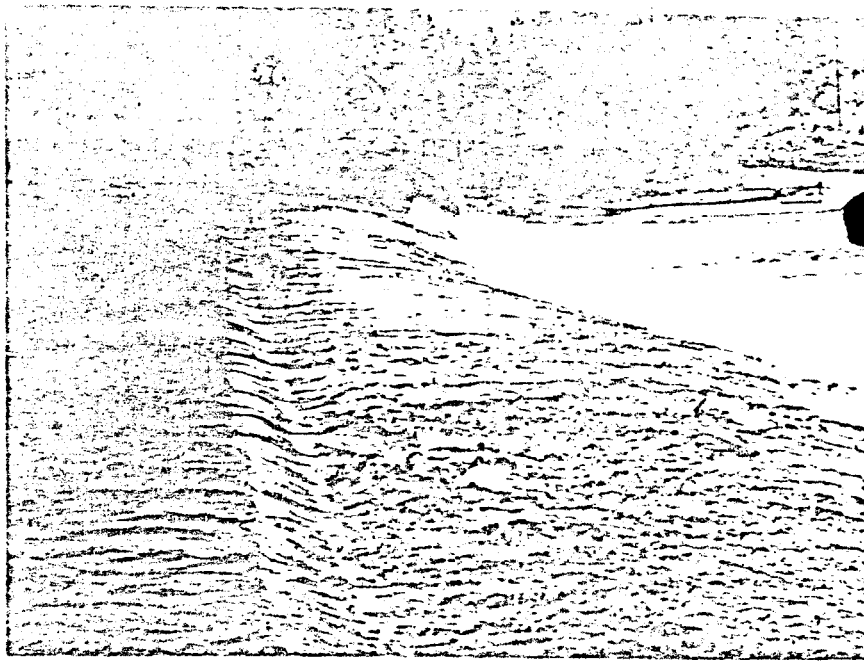
REPUBLICAN DIVERSION - 1978

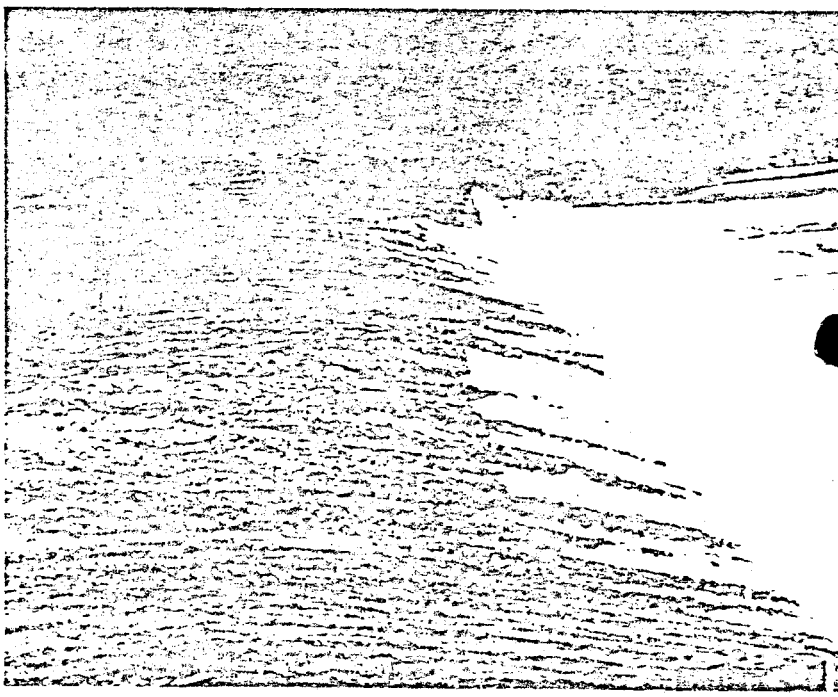


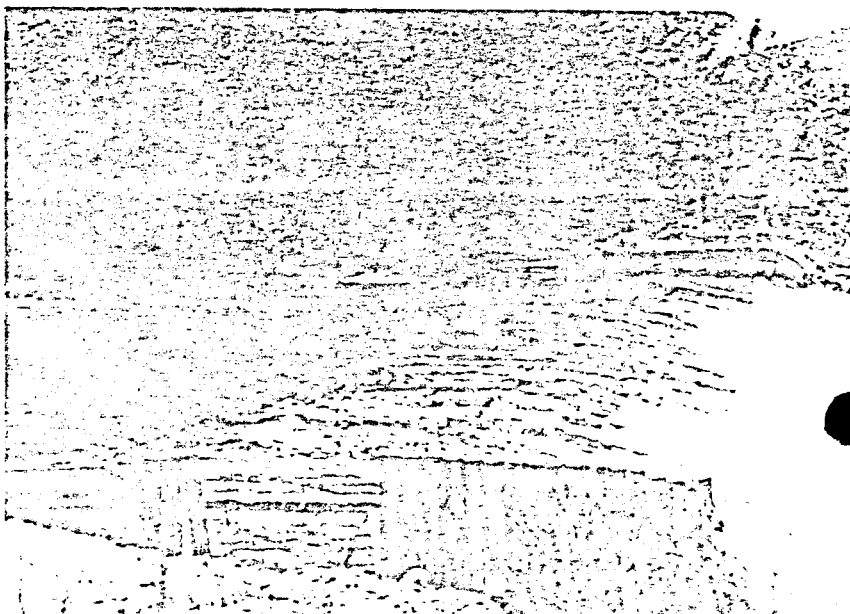
DALY DITCHES PROJECT

REPUBLICAN DIVERSION

Summer, 1978







Example of Flat Rate Contract
(Three Dollars)

AGREEMENT

Account No. 1-A

This Agreement, between the State Water Conservation Board of the State of Montana, duly created, authorized and acting, under and by virtue of the Laws of Montana, hereinafter called the "Board", and

D. J. Geiman and Bethel I. Geiman

of Hamilton, Montana,

hereinafter called the "Purchaser":

WITNESSETH:

WHEREAS, the Board is the owner of certain water rights and a system of canals and ditches for the distribution of water, (herein called the "Project") and the purchaser desires to procure the use of water for the irrigation of the following described land: Lots Twelve(12), Thirteen (13), Fourteen (14), Nineteen (19) and Twenty (20), of Block Two (2), Corvallis Tract, according to the official plat thereof on file in the office of the County Clerk & recorder, Ravalli County, Montana.

and for stock and domestic purposes.

NOW THEREFORE, in consideration of the premises and of the mutual terms, covenants and conditions hereof, it is mutually covenanted and agreed as follows:

Section 1. The Board agrees to furnish water, during the useful life of the Project, sufficient for the irrigation of all those portions of the lands referred to, which are or may prove to be susceptible of irrigation, from the Project by gravity flow and for stock and domestic purposes incident to the use of said land; said water to be supplied by the Board between the 1st day of May and the 1st day of October of each year, provided, however, that the water to be so supplied and used by the purchaser shall not exceed a maximum quantity of three acre feet for each acre of such land during such period ~~and provided, however, that not more than one-half acre-foot of water shall be used on each acre of such land during any one calendar month.~~

Section 2. The purchaser agrees to pay to the Board, on the first day of November of each year, at Hamilton, Montana, a fixed annual charge of Three and no/100 - - - - - - - - - - - - - - - - - - Dollars ($ 3.00) per acre per annum for all of said land capable of irrigation as aforesaid, the same being Forty (40) acres, provided it is understood and agreed that the Board shall be entitled to One Hundred Twenty and no/100 - Dollars ($ 120.00) as a minimum charge for furnishing such water.

First payment to be made under this agreement is on November 1, 1956.

Section 3. It is agreed that the Purchaser shall use the water to be supplied by the Board to irrigate the l[illegible] aforesaid and for stock and domestic purposes incident thereto, and for no other purpose whatever, and that said water will not be permitted by the Purchaser to be used on any land except the lands above described, nor permitted to run off on contiguous land, nor to spread out in low places on said land, nor in any manner to run to useless waste. The Purchaser will, without expense to the Board, construct necessary ditches to convey any surplus water back to the main canal of the Board, or some lateral thereof, or to some other canal controlled by the Board, provided said lateral or canal may be reached by gravity flow by a ditch from the lowest point of the above described land; and upon the Purchaser's failing to do so the Board may, at the cost and expense of the Purchaser, enter upon said land and construct and maintain such ditch or ditches.

Section 4. Notwithstanding anything hereinbefore contained, the Board shall have the right to dispose of water to an amount equal to the full capacity of its canal from which said land is irrigated by contract with others, and such action upon the part of the Board shall not be considered a breach of any obligation undertaken to the Purchaser herein named.

Section 5. If for any reason there should be a shortage in the amount of water delivered by said canal during the irrigation season, and the amount of water be insufficient to supply all purchasers to the full extent contracted for, the Purchaser herein shall be entitled only to receive such proportion of the aggregate quantity of water delivered by the canal as the amount of water hereinbefore specified to be furnished shall bear to the full amount called for under all water rights sold or used by the Board.

Section 6. The Board shall have the right to shut off the water from said canal or any of its laterals for the purpose of repairing the same at such time as urgent necessity may require, and during the irrigation season shall restore the water as speedily as the nature of the case may permit.

Section 7. The Board shall not be liable for scarcity of water caused by unlawful or unavoidable destruction, hostile diversion, forcible entry, drought, flood, accident or casualty; but the Board shall use due diligence in protecting its canal and irrigation system and keeping the same in proper operation and repair. The Board shall at its own cost and expense construct and maintain a suitable gate or other device in the bank of the main or the branch canals for measuring and delivering water, at such point as in its judgment is the most convenient for the conveyance of water to said land, and the manner of measuring, regulating and delivering the supply of water to the Purchaser shall be determined by the Board from time to time, and the action of the Board therein shall be final as between the parties hereto. The measurements of said water made by the Board shall govern in all cases and be accepted as final and binding. Said gate is to be and remain the property of the Board and subject to its control; and after the delivery of said water at said gate it shall be conducted therefrom by the Purchaser at his own cost and entirely at his own risk.

Section 8. The Board shall at all times have the right to enter upon the above lands and survey or construct [illegible]als necessary for the distribution of water to its purchasers, and the Board shall have the right to use any ditch or lateral on the land aforesaid, whether the same be constructed by the Purchaser or the Board and may enlarge the same for carrying water over and across the land to other parties, providing that in so doing it does not interfere with the use of said ditch by the Purchaser.

Section 9. The Purchaser agrees to and does hereby waive any and all claims that may hereafter accrue to the Purchaser for loss or damage by reason of any break, leakage, overflow or seepage from said canal or laterals [illegible] to or up[illegible]n the lands aforesaid [illegible] any cross [illegible]

Section 10. It is expressly agreed that all waste and seepage water after the same leaves the land of the Purchaser shall belong to and be the property of the Board, and the Board may reclaim the same at its option after said water leaves the land of the Purchaser.

Section 11. The Purchaser further expressly agrees that no act or omission of the Board or any of its agents shall be construed as a waiver by the Board of any of its rights hereunder, unless evidenced by a written instrument executed by the Board, delivered to the Purchaser and filed for record in the office of the County Clerk and Recorder of the county in which said land is situated.

Section 12. In case of a failure on the part of the Purchaser to make prompt payment on the first day of November of each year of the amount herein agreed to be paid by him, such overdue payments shall bear interest from the date of such default at the rate of six per cent per annum, payable annually, and if such default shall continue for a period of ninety days the Board may at any time within the next thirty days at its election terminate this contract by filing in the office of the Clerk and Recorder of the county or by service upon the Purchaser of a written notice of such termination, and the Board shall not thereafter be under obligation to furnish any water under this contract, but shall have the right to recover the amount then due it with interest at the rate of six per cent per annum and to enforce payment of the same against the said land or otherwise, in accordance with the provisions hereof and the Laws of the State.

Section 13. A lien is hereby granted and created by the Purchaser in favor of the Board upon all the lands hereinbefore described, with improvements now or hereafter thereupon and appurtenances, to secure the payment of such sums as may become owing to the Board hereunder, and such lien may be enforced from time to time in case of default by proceedings at law or in equity, as in the case of mortgage liens and other liens, and the premises aforesaid may be sold in such proceedings to satisfy such indebtedness. The lien herein provided for will continue to be in force to secure the payment of all unpaid sums which may be owing by the Purchaser hereunder, although the Board may have elected to terminate the contract under the foregoing provisions.

Section 14. The rights of the Purchaser hereunder are not assignable except upon the written consent of the Board, except to subsequent grantees of the land above described.

Section 15. The covenants and undertakings of the Purchaser herein with respect to the use of such water and the making of payments therefor as herein provided, are a charge upon and run with the land and bind the same as against all subsequent purchasers or grantees of the land claiming directly or indirectly through the Purchaser herein.

Section 16. This agreement and the provisions and covenants thereof shall bind the Board, its successors and assigns, and the Purchaser, his heirs, executors and administrators, and all persons owning or claiming to own the lands aforesaid or any part thereof by direct or by mense conveyance from the Purchaser.

Section 17. The terms of this contract cannot be altered or amended in any way by any agent of the Board, and the Board shall not be bound by its agents in procuring the execution of this contract.

Section 18. It is further agreed that this contract is subject to the Laws of the State of Montana, and that said Board may convey through the canals of said project, additional waters as may be required or water stored by said Board and may extend and enlarge such canals for said purpose. It is understood that the purchaser does not acquire by this agreement any interest in water stored by said Board in its reservoir previously constructed on the West Fork of the Bitter Root River.

IN TESTIMONY WHEREOF, the State Water Conservation Board has caused this Agreement to be executed in its corporate name by its Chairman or Vice Chairman and attested by its Secretary and Treasurer, and the Purchaser above named has hereunto set his hand, this 4th day of April, 1956.

STATE WATER CONSERVATION BOARD

Chairman

Attest:

Secretary-Treasurer

Purchaser

STATE OF MONTANA
COUNTY OF LEWIS & CLARK } ss.

On this 2nd day of May, in the year one thousand nine hundred and ~~forty~~ fifty-six before me, R. A. Fitzgerald, a Notary Public within and for said County and State, personally appeared C. K. Raymond, known to me to be the Vice Chairman of the State Water Conservation Board that executed the within instrument and acknowledged to me that such Board executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

R. A. Fitzgerald

STATE OF MONTANA
County of Ravalli } ss.

On this 28 day of March, in the year one thousand nine hundred and ~~forty~~ Fifty six before me, D. W. McKenna, a Notary Public within and for said County and State, personally appeared D. J. Geiman and Bethel I. Geiman, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

D. W. McKenna

Example of Variable Contract

(Rate is determined by Department's Project Expenses)

Contract No. _____

WATER USE AGREEMENT

DALY DITCHES

This agreement, between the Department of Natural Resources and Conservation of the State of Montana, duly created, authorized and acting, under and by virtue of the Laws of Montana, hereinafter called the "Department," and _____

_____

_____

_____

_____ of _____

(complete mailing or forwarding address)

hereinafter called the "Purchaser,"

WITNESSETH:

WHEREAS, the Department is the owner of certain water rights and a system of canals and ditches for the distribution of water from the Daly Ditches Project, (herein called the "Project") and the purchaser desires to procure the use of water for the irrigation of the following described land:

(Detailed description including Section, Township, and Range)

and for stock and domestic purposes.

NOW THEREFORE, in consideration of the premises and of the mutual terms, covenants and conditions hereof, it is mutually covenanted and agreed as follows:

Section 1. The Department agrees to furnish water from the Project by gravity flow, for the irrigation of all those portions of lands referred to, which are irrigated or may prove to be susceptible of irrigation, and for stock and domestic purposes incident to the use of said land; said water to be supplied by the Department between the 1st day of May and the 1st day of October of each year, provided, however, that the water to be supplied and used by the purchaser shall not exceed a maximum quantity of three acre feet for each acre of such land during such period.

Section 2. The purchaser agrees to pay to the Department by the 31st day of December of each year, a Helena, Montana, an annual charge, the amount of which is to be determined by the Department. Said charge

shall be for each acre capable of irrigation as aforesaid, the same being _____

_____ ( ) acres

The Department shall determine the annual charge by October 1.

Section 3. It is agreed that the Purchaser shall use the water to be supplied by the Department to irrigate the lands aforesaid and for stock and domestic purposes incident thereto, and for no other purposes whatever, and that said water will not be permitted by the purchaser to be used on any land except the lands above described, no permitted to run off on contiguous land, nor to spread out in low places on said land, nor in any manner to run t useless waste. The Purchaser will, without expense to the Department, construct necessary ditches to convey any surplus water back to the main canal of the Department, or some lateral thereof, or to some other canal controlled by the Department, provided said lateral or canal may be reached by gravity flow by a ditch from the lowest poin of the above described land; and upon the Purchaser's failing to do so the Department may, at the cost and expens of the Purchaser, enter upon said land and construct and maintain such ditch or ditches.

Section 4. If for any reason there should be a shortage in the amount of water delivered by said canal during the irrigation season, and the amount of water be insufficient to supply all purchasers to the full extent contracte for, the Department will attempt to deliver to the Purchaser such proportion of the aggregate quantity of wate deliverable by the canal as the amount of water hereinbefore specified to be furnished shall bear to the full amount called for under all water contracts sold by the Department.

Section 5. The Department shall have the right to shut off the water from said canal or any of its laterals fo the purpose of repairing the same at such time as urgent necessity may require, and during the irrigation seaso shall restore the water as speedily as the nature of the case and availability of funds to make the repairs may permit.

Section 6. The Department shall not be liable for scarcity of water caused by unlawful or unavoidal destruction, hostile diversion, forcible entry, drought, flood, accident or casualty; but, as funds permit, th Department shall use due diligence in protecting its canal and irrigation system and keeping the same in proper operation and repair. The Department shall at its own cost and expense construct and maintain a suitable ga other device in the bank of the main or the branch canals for measuring and delivering water, at such point as judgement is the most convenient for the conveyance of water to said land, and the manner of measur regulating and delivering the supply of water to the Purchaser shall be determined by the Department from time to time, and the action of the Department therein shall be final as between the parties hereto. Said water shall be

delivered by the Department from a point on the _____

ditch in the _____ Section _____, Township _____, Range _____, M.P.M. or at any other point determined by the Department. Conveyance of the water from such point to the land described on the first page of this agreement shall be the express responsibility of the Purchaser; however, the conveyance syste used by the Purchaser shall meet the approval of the Department. The measurement of said water made by t Department shall govern in all cases and be accepted as final and binding. Said gate is to be and remain t property of the Department and subject to its control; and after the delivery of said water at said gate it shall be conducted therefrom by the Purchaser at his own cost and entirely at his own risk.

Section 7. The Department shall at all times have the right to enter upon the above lands and survey construct laterals necessary for the distribution of water to its purchasers, and the Department shall have the rig to use any ditch or lateral on the land aforesaid, whether the same be constructed by the Purchaser or the Department and may enlarge the same for carrying water over and across the land to other parties, providing that in doing it does not interfere with the use of said ditch by the Purchaser.

Section 8. The Purchaser agrees to and does hereby waive any and all claims that may hereafter accrue to the Purchaser for loss or damage by reason of any break, leakage, overflow or seepage from said canal or laterals, resulting in damage to or upon the lands aforesaid or to any crops growing thereon.

Section 9. It is expressly agreed that all waste and seepage water after the same leaves the land of Purchaser shall belong to and be the property of the Department, and the Department may reclaim the same at its option after said water leaves the land of the Purchaser.

Section 10. The Purchaser further expressly agrees that no act or omission of the Department or any of agents shall be construed as a waiver by the Department of any of its rights hereunder, unless evidenced by a written instrument executed by the Department delivered to the Purchaser and filed for record in the office of the County Clerk and Recorder of the county in which said land is situated.

Section 11. The term of this agreement is for one (1) year to be renewed annually unless specifi terminated in writing by either of the parties hereto as hereinafter provided. Furthermore, it is ag understood and agreed between the parties hereto that the term of this contract shall be from March 1 to th day in February of the succeeding year.

Section 12. It is mutually understood and agreed between the parties hereto that this contract may be cancelled by either party with or without cause by giving a written notice to the other party by March 1st of the year in which the contract is to be terminated. Furthermore, in case of a failure on the part of the Purchaser to m

prompt payment on the 31st day of December of each year of the amount herein agreed to be paid by him, such overdue payments shall bear interest from the date of such default at the rate of six per cent per annum, payable annually, and the Department has the right to recover the amount then due it with interest and to enforce payment of the same against the said land or otherwise, in accordance with the provisions hereof and the Laws of the State.

Section 13. A lien is hereby granted and created by the Purchaser in favor of the Department upon all the lands hereinbefore described, with improvements now or hereafter thereupon and appurtenances, to secure the payment of such sums as may become owing to the Department hereunder, and such lien may be enforced from time to time in case of default by proceedings at law or equity, as in the case of mortgage liens and other liens, and the premises aforesaid may be sold in such proceedings to satisfy such indebtedness. The lien herein provided for will continue to be in force to secure the payment of all unpaid sums which may be owing by the Purchaser hereunder, although the Department may have elected to terminate the contract under the foregoing provisions.

Section 14. The rights of the Purchaser hereunder are not assignable except upon written consent of the Department.

Section 15. The covenents and undertakings of the Purchaser herein with respect to the use of such water and the making of payments therefore as herein provided, are a charge upon and run with the land and bind the same as against all subsequent purchasers or grantees of the land claiming directly or indirectly through the Purchaser herein.

Section 16. This agreement and the provisions and covenants thereof shall bind the Department, its successors and assigns, and the Purchaser, his heirs executors and administrators, and all persons owning or claiming to own the lands aforesaid or any part thereof by direct or by mense conveyance from the Purchaser.

Section 17. It is further agreed that this contract is subject to the laws of the State of Montana, that this contract supercedes all previous contracts between the parties hereto or their predecessors in interest, and that said Department may convey through the canals of said project, additional waters as may be required or water stored by said Department and may extend and enlarge such canals for said purpose. It is understood that the Purchaser does not acquire by this agreement any interest in water stored by said Department in its reservoir previously constructed on the West Fork of the Bitterroot River.

IN TESTIMONY WHEREOF, the Department has caused this agreement to be executed in its corporate name and the Purchaser above named has hereunto set his hand, this _____ day of _____, 19 _____.

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

_____
Administrator, Water Resources Division

_____
Purchaser

STATE OF MONTANA }
COUNTY OF RAVALLI } ss.

On this _____ day of _____, in the year one thousand nine hundred and _____ before me _____, a Notary Public within and for said County and State, personally appeared _____ and executed the within instrument and acknowledged to me that _____ executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

_____

Deed Issued

This Agreement Witnesseth:

WHEREAS, Sidney A. Wheeler, of Ravalli County, State of Montana has entered into a contract with the Bitter Root Stock Farm, a Montana corporation, for the purchase by the said Sidney A. Wheeler of the following described real estate situated in Ravalli County, Montana, to-wit:

The E½ of NE¼ of Section 18 Township 6 North of Range 20 W Montana Meridian Contains 80 acres more or less Excepting the R of way of the Missoula and Hamilton Railway Co as the same is located and staked over the said premises being 100 ft in width on either side of the Centre line thereof and Containing an area of 38 acres more or less

and desires to procure the use of water for the irrigation thereof and for stock and domestic purposes.

NOW THEREFORE, The Ravalli Land and Irrigation Company, a Montana corporation, hereinafter called the Company, being the owner of extensive water rights and a system of canals and laterals for the distribution of water and engaged in the business of supplying water for the irrigation of lands, hereby agrees to and with the said Sidney A. Wheeler who is hereinafter called the Purchaser, to furnish water perpetually for the irrigation of such land and for stock and domestic purposes in connection therewith, in the quantity and in the manner and subject to the terms and conditions hereinafter set forth.

1. The Company will furnish sufficient water for the irrigation of all those portions of the lands referred to which may prove to be susceptible of irrigation, from its water system by gravity flow, and for stock and domestic purposes incident to the use of said land. Said water is to be supplied by the Company between the 15th of April and the 15th of October of each year; provided, however, that the water so to be supplied and used by the Purchaser shall not exceed a maximum quantity of two and one-half acre feet for each acre of such land during such period, and provided further that not more than one-half acre foot of water shall be used on each acre of such land during any one calendar month.

2. The Purchaser agrees to pay to the Company in consideration of the premises, on the first day of November of each year, at Hamilton, in the State of Montana, a fixed annual maintenance charge of one and 25-100 dollars ($1.25) per acre per annum for all of said land capable of irrigation, as aforesaid; provided it is agreed and understood that the Company shall be entitled to ten dollars ($10.00) as a minimum charge for furnishing such water.

3. It is agreed that the Purchaser shall use the water to be supplied by the Company to irrigate the lands aforesaid and for stock and domestic purposes incident thereto, and for no other purpose whatever, and that said water will not be permitted by the Purchaser to be used on any land except the lands above described, nor permitted to run off on contiguous land, nor to spread out in low places on said land, nor in any manner to run to useless waste. The Purchaser will, without expense to the Company, construct necessary ditches to convey any surplus water back to the main canal of the Company, or some lateral thereof, or to some other canal controlled by the Company, provided said lateral or canal may be reached by gravity flow by a ditch from the lowest point of the above described land; and upon the Purchaser's failing to do so the Company may, at the cost and expense of the Purchaser, enter upon said land and construct and maintain such ditch or ditches.

4. Notwithstanding anything hereinbefore contained, the Company shall have the right to dispose of water to an amount equal to the full carrying capacity of its canal from which said land is irrigated by contract with others, and shall have the right to make use of such water for the irrigation of any lands which may now or hereafter be owned by the Company and for stock and domestic purposes incident to the use of such lands, and such action upon the part of the Company shall not be considered a breach of any obligation undertaken to the Purchaser herein named.

5. If for any reason there should be a shortage in the amount of water delivered by said canal during the irrigation season, and the amount of water be insufficient to [illegible]

15. The covenants and undertakings of the Purchaser herein with respect to the use of such water and the making of payments therefor as herein provided, are a charge upon and run with the land and bind the same as against all subsequent purchasers or grantees of the land claiming directly or indirectly through the Purchaser herein.

16. This agreement and the provisions and covenants thereof shall bind the Company, its successors and assigns, and the Purchaser, his heirs, executors and administrators, and all persons owning or claiming to own the lands aforesaid or any part thereof by direct or by mense conveyance from the Purchaser.

17. The terms of this contract cannot be altered or amended in any way by any agent of the Company, and the Company shall not be bound by its agents in procuring the execution of this contract.

18. This contract does not become binding upon the Company until accepted by it at its office in Hamilton, Montana.

IN TESTIMONY WHEREOF, The Ravalli Land and Irrigation Company has caused these presents to be executed, and the Purchaser above named has hereunto set his hand, this 26th day of March

Ravalli Land & Irrigation Company

By C. A. Crawford

Its Vice President.

Attest: W. A. McElroy

Its Secretary.

Sidney A. Wheeler

WITNESSES:

STATE OF MONTANA, }
COUNTY OF RAVALLI, } ss:

On this 3rd day of May, in the year one thousand nine hundred and eight, before me, E. Madsen, a Notary Public within and for said county and state, personally appeared C. A. Crawford, known to me to be the Vice President of the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

E. Madsen

NOTARY PUBLIC for the State of Montana.
Residing at Hamilton, Montana.
My commission expires Jan. 2nd, 1912.

STATE OF MONTANA, }
COUNTY OF Ravalli } ss:

On this 3rd day of May, in the year one thousand nine hundred and eight, before me, E. Madsen, a Notary Public within and for said county and state, personally appeared Sidney A. Wheeler, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

E. Madsen

NOTARY PUBLIC for the State of Montana.
Residing at Hamilton, Montana.
My commission expires Jan. 2nd, 1912.

(Ex 2)

DALY DITCHES

Employment:

Spring-Summer	Fall-Winter
Field Headquarters Supervisor	Field Headquarters Supervisor
Daly Ditches Project Supervisor	Daly Ditches Project Supervisor
2 Equipment Operators	3 Mechanics - Carpenters
3 Ditch Riders - Carpenters	

Ceta personnel have been utilized in the past

Number of water users	- 405
Number of water purchase contracts	- 449
Number of old ($3.00) contracts	- 275
Number of new contracts	- 174
Number of acres irrigated	~ 12,000
Number of acres irrigated by Bitterroot Stock Farm	- 3,600

Rehabilitation Costs

Republican Diversion	-	$980,000
Hedge Diversion	-	710,000
Other	-	860,000
		$2,550,000

To: Committee of Natural Resources
State Senate
State of Montana

Re: House Bill # 717

The undersigned water users under the Daly Ditch System hereby request that House Bill # 717 Not Pass.

We appreciate the problems of the Department of Natural Resources in operating the system.

We request that the legislature substitute a resolution requesting the Department and the users to seriously negotiate, with the help of an interim legislature committee, for the future take over of the project by the users, after a determination of the present legal action involving the existing contracts.

We will begin action to form a legal entity to negotiate with the Department as soon as possible.

We feel it will be in the best interests of the state of Montana and the users to kill House Bill # 717, and to negotiate a project transfer as suggested by the Department in their report of March 1978.

T. Dean Hyatt	Hamilton
James Dunn	Hamilton
Robert V. Zeerendi	Hamilton
Fred Zeerendi	Corvallis
Sam Bailey	Corvallis
Robert Hornung	Hamilton
Vera Hornung	"
Richard Monk	Hamilton
Gertrude Monk	"
Thelma Cole	"
Norine Curry	Monitedale
Charles Likes	Hamilton
Wm. Dingley	Hamilton
Lyle Morgan	Hamilton
George H. Brown	Corvallis

Fred A. Willard - 103 Willard Dr. Hamilton O.

Shirley M. Wilson - Hamilton

Bill Howe - Hamilton

Virginia M. Lowery - Hamilton

Robert Lowery - Hamilton

Earl Shelby - Hamilton

B.B. Jones - Hamilton

G.J. Bandner - Hamilton

Earle C. Wright - Hamilton

Nina Portis - Hamilton

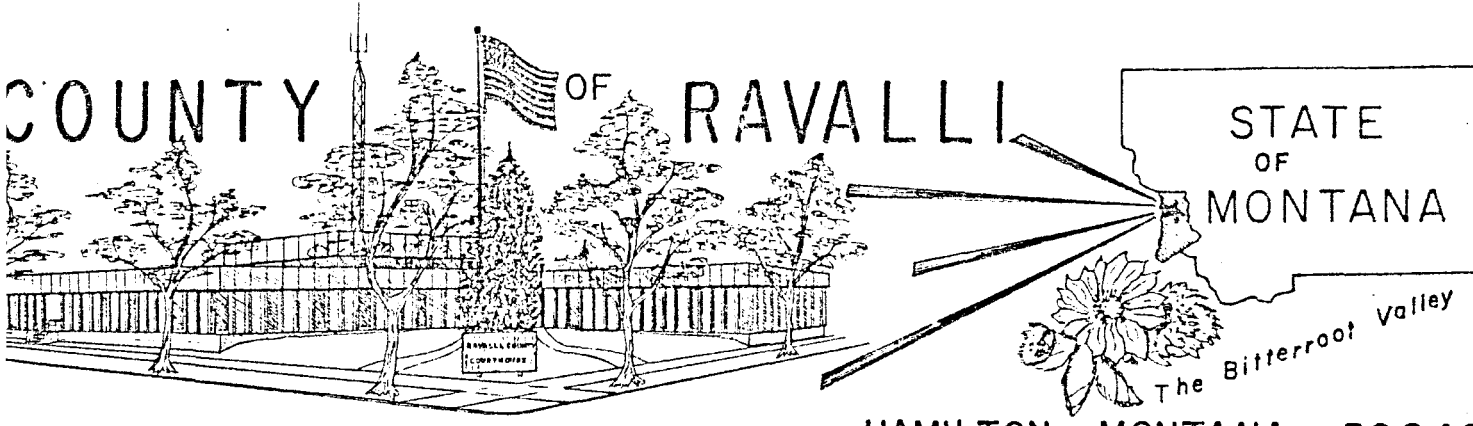
Clara Hamilton - Hamilton

Lulie Underwood - Hamilton

Kenneth L. Webb 106 Jones Lane Hamilton
Frank S. Webb Box 8 & 121 Hamilton Mont.
Lincoln Cummings 108 Jones Lane Hamilton
W. J. Francis Hamilton - Corvallis
Leigh Vantz Corvallis Mont
Clarence Hunter Corvallis Mt.
Clarence Hagelbaker Corvallis Mt.
Lawrence Atkins Hamilton Mont
Robert Curry Hamilton Mont.
William D. Chapman Corvallis, Mont.
James P. Randolph Corvallis, Mont
Leonard Hallgren Corvallis, Mont
Robert Hallgren Corvallis
James W. Black Corvallis
Ed Hopkins Corvallis
Hugh Cummings Hamilton
C. W. Thomas Hamilton
A. M. West Hamilton
Faye O. Cooper Hamilton
Alton Cooper Box 1171 Rt. 1 Hamilton

Charles F. Greene	312 Doran Hamilton
H. F. Greene	"
Frank J. Walton	Hamilton
Ken Elgie	Hamilton
W. W. Beers	Hamilton
A. Arnold Wagner	Hamilton
Everett W. Curdy	Corvallis
J. W. Lyman	Hamilton
Ed Walker	"
James H. Black	Corvallis
Raymond Fintzmann	"
Harold Mellenbergs	Hamilton
William Conrad	Corvallis

Frederick B. Rossberg	Hamilton
Robert Christ Jr.	Hamilton
Mr. & Mrs. Jamel Kucera	Corvallis
Joe Hachio	Hamilton
Don French	Hamilton
George Wilson	Hamilton
Ben Moeller	Corvallis
Eugene Dahlinger	Hamilton
Ray Hobbs	Hamilton
Travis Mullenix	Hamilton
Ollie Lorbeche	Rt 1 Box 1031 Hamilton
Dennis McKinney	310 S. Hatchery Rd Hamilton



HAMILTON, MONTANA 59840
Courthouse Box 5001
March 8, 1979

Senator George Roskie
Senate Standing Committee
Dept. of Natural Resources
Capital Building
Helena, MT 59601

Dear Senator:

It has been brought to our attention that Mr. Bardnouve has written and caused to be introduced HB 717, which in effect abandons the canals now owned and operated by the Department of Natural Resources for irrigation of over 12,000 acres and a potential of about 17,000 acres, or 5,000 acres of supplemental waters in the Bitterroot Valley. This Bill has since been amended, but still would present many problems to the users of water from this system if careful consideration is not given to the impact of whatever action is taken.

These canals deliver some 650 cubic feet of water per second for about 110 miles, when irrigation season is at it's peak. It serves 492 users that have no other means of irrigation water.

These canals were acquired by the State Water Conservation Board from Ravalli County Land and Irrigation Company on October 1, 1942. This project consists of serval ditches which were constructed or purchased by the late Marcus Daly and conveyed by Will and Deed to the Irrigation Co., which then conveyed them to the State. Some of the oldest water rights in the Valley are involved in this project.

Lands irrigated by the waters from this project generate close to $2,000,000 gross annually, and means a great deal to the economy of the Bitterroot Valley and the State of Montana.

For the State to even consider such drastic action as abandonment of the of the project and the physical closure of ditches would be arbitrary and a pernicious use of power that would be detrimental to everyone concerned.

Certainly, anything that is done should take into consideration what can be done for the best interest of all citizens.

Respecfully Submitted,
RAVALLI COUNTY COMMISSIONERS

Hugh Cumming, Chairman

Clarence Popham, Member

Harold White, Member

Senate Natural Resources Committee

Senator George Roskie, Chairman

Subject: HB 759

The following amendments are suggested to HB 759:

Section 1, p.1, line 23 of the printed bill:

after the work 'exceed', strike $7.50 and insert $6.00, making line 23 read therefore as, "fire hazard, but the amount may not exceed $6.00 for each"

Section 3, p.4, sub paragraph (3) line 11 of the printed bill:

after the work 'of', strike 10% and insert 4%, making line 11 read therefore as, "withheld money with the exception of 4% for inspection"

In all other respects, it is recommended the printed bill remain the same.

Respectfully submitted,

NAME: Ted Dorsey DATE: 3/4/87

ADDRESS: 22 S. Ferry

PHONE: 449-3713

REPRESENTING WHOM? DNRC

APPEARING ON WHICH PROPOSAL: HB 717 HB 759

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: [illegible] DATE: [illegible]

ADDRESS: [illegible]

PHONE: [illegible]

REPRESENTING WHOM? [illegible]

APPEARING ON WHICH PROPOSAL: [illegible]

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? [illegible]

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: [illegible] DATE: [illegible]

ADDRESS: [illegible]

PHONE: [illegible]

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: [illegible] DATE: [illegible]

ADDRESS: [illegible]

PHONE: 911-3711

REPRESENTING WHOM? SELF

APPEARING ON WHICH PROPOSAL: HB 111

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: [illegible]

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Garrett C. Moore DATE: _____

ADDRESS: Missoula, Mont

PHONE: 549-7813

REPRESENTING WHOM? Fly Fishing Dis DNR

APPEARING ON WHICH PROPOSAL: 79

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

AME: Randy Morris DATE: _____

DDRESS: 2705 [illegible]

HONE: 728-4300

EPRESENTING WHOM? DNRC - Forestry Div.

PPEARING ON WHICH PROPOSAL: 759

O YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

OMMENTS: _____

'LEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Gary Smith DATE: _____

ADDRESS: 32 S Ewing

PHONE: 449-3712

REPRESENTING WHOM? DNR

APPEARING ON WHICH PROPOSAL: 704

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Bob Hedges DATE: [illegible]

ADDRESS: [illegible]

PHONE: 443-2100

REPRESENTING WHOM? Montana Beverage Assn.

APPEARING ON WHICH PROPOSAL: [illegible]

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: [illegible] DATE: [illegible]

ADDRESS: [illegible]

PHONE:

REPRESENTING WHOM? [illegible]

APPEARING ON WHICH PROPOSAL: [illegible]

DO YOU: SUPPORT? AMEND? ✓ OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE _____ COMMITTEE

BILL _____ VISITORS' REGISTER DATE _____

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
[illegible]	[illegible]	[illegible]	✓	
[illegible]	[illegible]	[illegible]		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
Ray Fentonmen	[illegible]	717		✓
[illegible]	[illegible]	[illegible]		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]			✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓
[illegible]	[illegible]	717		✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

SENATE _____ COMMITTEE

BILL 717 VISITORS' REGISTER DATE _____

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPO
[illegible]		717		X
[illegible]		717		X
[illegible]		717		X
[illegible]		717		X
[illegible]				X
[illegible]		717		X
[illegible]		717		X
[illegible]		717		X
[illegible]				
Larry Persson		717		X
Rick Bondy	DNR	717		

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

759

SENATE _____ COMMITTEE

BILL HB [illegible]

VISITORS' REGISTER

DATE _____

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
[illegible]	[illegible]	[illegible]		
[illegible]	[illegible]	[illegible]		
[illegible]	[illegible]	[illegible]	✓	
[illegible]	[illegible]	[illegible]		
[illegible]	[illegible]	[illegible]		
[illegible]	[illegible]	[illegible]		
[illegible]	[illegible]	[illegible]		
Larry Persson	[illegible]			
[illegible]	[illegible]	[illegible]		
[illegible]	[illegible]	[illegible]		

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY