

MINUTES OF MEETING
SENATE NATURAL RESOURCES
February 11, 1981

The tenth meeting of the Natural Resources Committee was called to order by Senator Harold Dover, Chairman, at 12:30 P.M., on the above date in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Elliott and Senator Manning.

CONSIDERATION OF SB 327:

AN ACT TO INCREASE THE AUTHORITY OF LOCAL
GOVERNMENT AND LANDOWNERS TO ALTER RIVERS
AND STREAMS AND LAND ADJACENT TO THEM IN
ORDER TO PROTECT LIVES AND PROPERTY

Senator Hafferman, District #36, introduced this bill. He submitted signed petitions from the Libby area, which address the concern of distruction from floods and the need for authority to be given to a department whereby these people can get answers and assistance immediately concerning the flood conditions. As it is now no one seems to have the authority to tell them to go ahead and do something to help the situation.

Robert N. Holding, Attorney, is in support of this bill. He has lived in the Libby area for many years and what the bill is referring to is correct. There are a lot of small streams in the area and when flooding occurs it happens quickly and the people need help immediately. With the red tape they have to go through now to get authority to do something, their house could be gone before something is done. This bill is aimed at an emergency situation.

Senator Keating removed himself from the committee to testify in support of this bill. He had participated in an experience in Billings which gave him reason to co-sponsor this bill. A couple had recently acquired a KOA campground along the Yellowstone River and were just starting out their business. The river flooded and they tried to get help from the Fish and Game and other Departments to build a dike or levee to divert the water. They were told they would disturb the fish eggs in the gravel beds if they put up dikes and they wouldn't give them any help. Some volunteers helped to build a dike to divert the water to keep the water from washing all the grounds away. He supports this bill in that it will help people in an emergency situation such as this.

Mike Stephens, Montana Association of Counties, supports this bill. In an emergency situation help should be available immediately to protect lifes and property of landowners.

Ed McCaffree, Montana Association of Counties, was involved in a spring flood and he could not get permission to do something to save his pump house. He feels a bill such as this is needed for emergency situations.

There being no further proponents wishing to testify, Chairman Dover asked for opponents.

Although there were no opponents at the time of this question who wanted to testify, Wilbur Rehmann, Montana Wildlife Federation; Noel Rosetta, Montana Audubon Council; and James W. Flynn, Director, Department of Fish, Wildlife and Parks, arrived late to the meeting and submitted written testimony in opposition of this bill.
(copies attached)

Chairman Dover asked for questions from the Committee.

Senator Brown does not see the need for this bill as it is covered in the law.

Senator Hafferman said that he went to the Legislative Council to have the bill drawn up and to have them prepare the bill as they felt it should be drawn up. They said they couldn't do anything as it was already taken care of in the law. I asked them to write me a letter explaining the reason why the bill couldn't be drawn up. The next thing I knew the bill was prepared and on my desk.

Senator Manley asked what law covered this now.

James Flynn, Director, Department of Fish Wildlife & Parks, explained there were two acts that cover this area, the Stream Protection Act of 1963 and the Natural Streambed & Land Preservation Act of 1975 (310).

Senator Brown explained that Senator Hafferman is not aiming this bill to those acts. The testimony is that this bill is necessary to deal with emergencies and Section 3 of the bill gives local government and other people the authority for the right to life or property.

Senator Van Valkenburg requested that James Flynn, Department of Fish Wildlife & Parks be allowed to give his testimony.

James Flynn gave his testimony in opposition of this bill and submitted amendments which he feels would address the need for emergency action more adequately.

Senator Van Valkenburg said that the way the bill is written you take the action necessary to stop the problem and then within 15 days you must report this.

Senator Keating said that you have 15 days after you stop the water to notify them and then they come out and fine you.

Senator Brown said under Section 3 you can do anything, including diverting the whole river, if that is what it takes to stop the problem and then within 15 days you must report it.

Senator Hafferman said that he couldn't understand why the Legislative Council went ahead and drafted the bill.

Senator Brown said that you are doing more than just dealing with emergencies in this bill.

Senator Ryan stated that the provision to take care of an emergency, which talks about response when the need arises, who do you call to get a response. The penalty section is a little shakey.

Senator Van Valkenburg said that the amendments submitted by James Flynn would clarify the bill.

Senator Tveit asked what the definition is of team.

Senator Manley said a team is the members of the conservation district of whatever district you are in.

Wilbur Rehmann explained that members of the team are defined in a separate section. The team would include a representative of the applicant himself and also a member of the Department of Fish, Wildlife and Parks.

CONSIDERATION OF SB 258:

AN ACT TO TRANSFER FORESTRY FUNCTIONS OF THE
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
TO THE DEPARTMENT OF STATE LANDS; TO TRANSFER
THE MINE SITING AND RECLAMATION FUNCTIONS OF THE
DEPARTMENT OF STATE LANDS TO THE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION

Senator Brown, District #15, presented this bill to the committee. The purpose of this bill is to continue a reorganization of the branches of government. This bill is the first step toward a further consolidation of environmental functions. Senator Keating will be offering some amendments to this bill that would address further consolidation of these agencies. Senator Brown gave a lengthy explanation with reasons and justification for this reorganization.

Senator Keating removed himself from the committee to testify in support of this bill and his proposed amendments to this bill, which would transfer the Air Quality Board and Water Quality Board from the Department of Health and Environmental Services to the Department of Natural Resources and Conservation. His written testimony and a copy of proposed amendment is attached.

Gareth Moon, Land Commissioner, gave testimony in support of this bill. (copy attached)

Pat Wilson, representing MONTCO coal company, supports this bill. She stated that the coal council is very interested in a one stop permitting system. They are very much in favor of this bill and the amendments proposed by Senator Keating.

Leo Barry, Director, Department of Natural Resources, stated he was Land Commissioner for 5 years and during that period of time his experience has led him to believe that the Division of Forestry belongs more properly with the Department of State Lands. Also, the move from the Reclamation Division to the Department of Natural Resources is more practical and would more properly serve the people of Montana. He advised this will not solve all the problems but during the transition phase they will be able to look at the entire permitting process more clearly and hopefully consolidate as much as possible with the Department of Natural Resources. He feels Senator Keating's amendments would be a significant change and thinks there should be a hearing on that proposal to find out if there are any problems that we are not aware of at this time.

Dana Christensen, Westmoreland Resources, Inc., supports this bill and is very much in favor of the amendments as proposed by Senator Keating. It is clear that the consolidation of functions is a good idea. In December the Commissioner of State Lands came to Billings to discuss the proposal of changing Forestry and Reclamation. The Coal Council and Westmoreland voted in favor of one stop permitting. SB 258 should be amended to include the transfer of air and water quality. Mr. Christensen presented the committee with charts explaining the proposed moves. (copy attached)

Robert N. Holding, Attorney, Montana Wood Products Association, supports the transfer of Forestry to the Land Commission, stating that Gareth Moon was the State Forester of Montana for 27 years and that the State of Montana is in good hands in forestry with Mr. Moon in charge. The transfer of Reclamation to the Department of Natural Resources and Conservation makes sense and he is in favor of this. Mr. Holding supports the original bill but cannot support Mr. Keating's amendments until he has been able to review them.

Keith Olson, Montana Logging Association, supports this bill. He stated that the forestry function should be at the Department of State Lands.

Bill Sternhagen, A. W. Mining Association, supports this bill, especially Senator Keating's amendments, which would give the mining association one stop permitting and hopefully even one place permitting.

Pat Wilson, representing MONTCO, agrees with the other proponents to this bill and the amendments submitted by Senator Keating. This bill would allow one stop permitting which would consolidate time, in that the permits could all be applied for at the same time.

Clyde Smith, Smith Logging, Inc., is in favor of this bill as it would allow Gareth Moon to continue as head of forestry.

There being no other proponents wishing to testify, Chairman Dover asked for opponents.

Steve Elliot, Wesco Resources, Inc., is opposed to SB 258 as it is stated but would be in favor of the bill if Senator Keating's amendments are accepted by the committee. He said that we should not follow personalities from one division to another because they only last for a short period. You should make a determination on what you want to do with the law based on practicality.

Chairman Dover asked for questions from the committee.

Senator Manley asked Senator Brown if it would be possible to keep the Department of Land functions from going to the Department of Natural Resources.

Senator Brown said no.

Senator Manley asked if there was a way they wouldn't have to go that far.

Senator Brown said the real issue here is if a coal company can come in for a mining permit and can get everything they need at the same time so that the time frame is running concurrent on permits. The function you are referring to would be in a different department.

Senator Van Valkenburg asked Mr. Elliot, why would you object to the move of Reclamation to the Department of Natural Resources, without the transfer of functions from Health and Environmental Sciences to the Department of Natural Resources. If you are seeking one stop permitting, of some nature or another, it would seem that you would be getting half of the pie. Why do you need the entire pie?

Mr. Elliot said that it seemed that we already have that pie in State Lands now and have been living with it.

Senator Van Valkenburg said but you have to go to get permits from the Department of Natural Resources in terms of the work that they do.

Mr. Elliot said when it comes to opening a surface mine those functions are in the Department of Natural Resources. We do have to get air quality and water quality permits, which come out of the Department of Health, but he doesn't know why Reclamation should go to the Department of Natural Resources as he doesn't have to obtain a permit to open a surface mine from them.

Dana Christensen said that from Reclamation you would get the Major Facility Siting and mining permit.

Senator Etchart asked Leo Barry to answer Senator Van Valkenburg's last question.

Leo Barry said that Mr. Christensen has addressed a portion of the question. Another permit must be obtained to appropriate water at most mines. In addition there will be proposals for Tenneco operations where you will have a combination of coal mines and power plants.

Senator Dover asked what the cost would be to transfer these functions.

Leo Barry said that he had not looked at what it will cost for this transfer. There is a proposal for a new building for the Department of Natural Resources. We did not get the old highway building and as a result the Department is located in four different buildings. Administration is difficult. If the proposals were to take place with transfer of Reclamation and Air and Water Quality, we would be in seven different buildings. The long range cost of this transfer would have to be looked at. He feels the state would benefit in the long run.

Senator Dover asked if room will be a problem after relocation.

Leo Barry said that he is not familiar with air and water quality. When he left Department of Lands there was enough room at Lands for these functions. The other transfers will not be a problem.

Senator Dover asked if this law is passed would there be a problem in working the rules together with these departments. How will it work in one department.

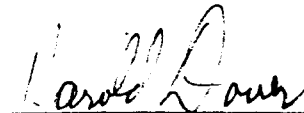
Leo Barry said the rules will automatically transfer with the Department. The problems will not be solved overnight and the interim will be spent putting together a program to consolidate procedures and perhaps that will take legislation. This is a long range program and it will be a two or three year process working it out.

Gareth Moon said that the headquarters of forestry in Montana is in Missoula. The forestry school is located there and the U. S. Forest Service head. He feels the key forestry headquarters should remain in Missoula.

Senator Brown said that Mr. Elliot mentioned that he did not want legislation on the basis of personalities. This transfer was not proposed on the basis of personalities. We were looking at the functions of these departments and whether or not you can get better efficiency and better processing of permits with a transfer. He feels a sub-committee should be appointed to review this bill and Senator Keating's amendments.

Chairman Dover appointed the following for a sub-committee to review SB 258 and Senator Keating's amendments to that bill: Senator Brown, Senator Keating, Senator Manley, Senator O'Hara and Senator Hafferman.

ADJOURNMENT: There being no further business the meeting adjourned at 2:00 P.M.

A handwritten signature in cursive script, appearing to read "Harold Dover", is written above a horizontal line.

HAROLD DOVER, Chairman

ROLL CALL

NATURAL RESOURCES COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/11/81

NAME	PRESENT	ABSENT	EXCUSED
Harold Dover, Chairman	✓		
Mark Etchart, Vice Chairman	✓		
Thomas Keating	✓		
Roger Elliott			✓
Larry Tveit	✓		
Jesse O'Hara	✓		
John Manley	✓		
William Hafferman	✓		
Steve Brown	✓		
Dave Manning			✓
Patrick Ryan	✓		
Fred Van Valkenburg	✓		

Each day attach to minutes.

December 30, 1980

TO: STATE SENATOR WILLIAM F. HAFFERMAN

FROM: TAXPAYERS OF THE LIBBY, MONTANA, AREA

We have once again been exposed this year to the destruction which occurs when warm weather comes unexpectedly to this area, and the creeks in our area go on the rampage. It is, of course, of great concern to all involved--directly and indirectly alike--that the situation and remedy be of a priority nature in the Montana Legislative Session about the get underway. We are convinced that human life is of more importance than the wildlife of the area and contend that priorities MUST be put in order.

Therefore, we, the undersigned, urge that you place a Bill regarding this important matter before the men and women representing the citizens of Montana, that such waste not be suffered needlessly by residents of the creek-bordered areas, and that action be taken to protect homes, with due respect to the environment.

Respectfully submitted,

(NAME)

(ADDRESS)

(PRECINCT)

<u>Phillip P. Barr</u>	<u>RT 4 Box 363</u>	<u>Libby, mt</u>
<u>Clayton B. Limonson</u>	<u>LIBBY, MT.</u>	
<u>Edward J. Pope</u>	<u>P.O. Box 187</u>	<u>Libby, Mt.</u>
<u>Konnie S. Booth</u>	<u>Rt. 2 Box 680B</u>	<u>Libby, mt.</u>
<u>Mike A. Hart</u>	<u>Rt. 2 Box 424</u>	<u>Libby, mt</u>
<u>George McMullin</u>	<u>RT#3 Box 293</u>	<u>Libby mt</u>
<u>Virgil J. Nant</u>	<u>RT 3 Box 1790</u>	<u>Libby Mont.</u>
<u>Dana Banks</u>	<u>Rt 3 Box 1001-A</u>	<u>Libby, mt</u>
<u>Dee Dee McCarty</u>	<u>P.O. Box 788</u>	<u>Libby, Mt.</u>
<u>John C. A. Green</u>	<u>Rt 2 - Box 750A</u>	<u>Libby, mt</u>

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Bill Moller RT 4 Box 1689 Libby

Lloyd Maynard 12-31-80 Libby

Bob Croucher Box 725 Tracy

Don Oski Starline Libby

Paul Jagers Box 517 LIBBY

Brian Schuch Box 456 Libby

Patricia Auch P.O. Box 539 Libby

Gay Orr Rd #3 Box 1337 Libby

Jean Jellison Rt. 3 Box 783 Libby

Beth Hutton 209 E. Maple Libby

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David Anderson 1247 Idaho 16

Maxine Lene P.O. Box 1957 22

Tom Thayer P.O. Box 875 Libby

Conrad R Futrell Rt 1 Box 1284 Libby

Donna Futrell Rt 1 Box 1284 Libby

Beverly D. Moore P.O. Box 436 Libby

Loren Olbeckson Rt 2 Box 797

Constance M. W. Lam P.O. Box 755 Libby

Charles A. Challen 1518 Dakota Ave

Lester D. Basham Libby

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Don Jensen Rt 3 Box 1285 Libby, MT.

Wm D Spencer Rt 4 Box 225 Libby MT.

Ewin Parker Rte 4 Box 333-1 Libby Mt.

Jana M Allen 1109 La Ave Libby, MT.

Penny L. Sand Rt 3 Troy, MT.

Ron Huth Manorood Apt #6 Libby, MT.

Margaret D. Toming Box 698 Troy mt.

Jerry L. Johnson Box 597 LIBBY, MT.

Earl J. Kim Rt 4 Box 534-L LIBBY, MT.

Paul Taylor 407 E Cedar Libby MT.

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<u>Marvin C Steele</u>	<u>RT 1 Box 925-B</u>	<u>LIBBY MT</u>
<u>Alvin Meloy</u>	<u>Libby Mt</u>	<u>Rt 1 Box 92</u>
<u>Nathan Elliott</u>	<u>Libby Mt.</u>	<u>Rt 1 Box 922</u>
<u>John W Johnson</u>	<u>Libby Mont</u>	<u>Rt 1 Box 921</u>
<u>Otto Nelson</u>	<u>Libby, Mont.</u>	<u>RT. 1 Box-923</u>
<u>Lloyd Elliott</u>	<u>Libby, Mont.</u>	<u>Rt. 1 Box 922</u>
<u>Mar Otto Nelson</u>	<u>Libby Mt.</u>	<u>Rt 1 Box 923,</u>
<u>George Palgic</u>	<u>Libby Mt.</u>	<u>Rt 1 Box 915</u>
<u>John W Daniel</u>	<u>Libby Mt.</u>	<u>Rt 1 Box 919 c</u>
<u>Larena D Daniel</u>	<u>Rt 1 Box 919c</u>	<u>Libby</u>

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John M. Norberg Rt. 1 Box 917

Barbara Mellem Rt. 1 Box 924

Patsy Elliott R. box 922 Libby

Dorothy Johnson Rt. Box 921 Libby

Lawrence Virgin Rt 3 Box 937 Libby

Joe Nelson 904 WPH Libby

Mark Lawrence P.O. Box 108 Libby

Alton Paliga Rt 1 Box 915 Libby

Dennis Sandberg Rt. 1 Box 918 Libby, MT. 59923

Samuel J. Fulginiti Rt 1 Box 910 Libby

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Bill Kirkade Rt #3 Libby Mont.

W. H. Corlier Rt 2 Libby Mont

Joan L. Targison 404 E 4th Libby, MT -

Willis E. Ward RT3 Box 1474 Libby Mont

Albert H. Watt II Rt 1 Box 655 Libby Mont.

Donald E. Torgerson Rt 4 Box 12th Libby Mont

Esther Box R.1. Box 924A Libby, Mont.

Patricia C. Cox " " "

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Vernon H. Stein Rt 1 Box 925 LIBBY

~~Bob & Carol Sabat~~ R Post 1052 Libby

Kenneth L. Patten Rt 3 Box 1378 Libby M.T.

George Stephens 1031 Mineral Ave Libby, Mt

John McWright 620 Main Libby, Mt

Donna Wood Libby -

Robert B. Col 220 Calif Ave Libby Mt.

Ronald J. Cox 220 Calif Ave Libby Mt.

Leona J. Malone Rt 2 Box 646 Libby Mont.

E. Bill Williams Box 612 Troy Mont.

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D. Neil Bauer Rt 3 Box 1369 Libby

Timothy W. Henshaw RT 1 Box 956 Libby

Christopher & Huckin STAR RT. 1 LIBBY

Daniel Sharp Box 1000 Libby Mont

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James Bucken P.O. Box 9

Jeff Payson Rt 2 Box 632

Van Buren Rt 2 Box 419

Dan Schetter P.O. Box 893

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Carol E. Taylor 417 E Cedar Libby, Mt.

Larry C. Lundy PO Box 629 Libby, Mont

J. H. Bernard P.O. Box 892 11354 147

Pat Cunningham P.O. Box 935 Libby, Mont

William F. Hafferman Rt 3 Box 1510 Libby

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<u>Richard M. Hafferman</u>	<u>RT 2 Box 28</u>	<u>Libby mt.</u>
<u>Larry V. Crooks</u>	<u>RT 1 Box 925-E</u>	<u>Libby - South Libby</u> <u>Mo. wood</u>
<u>Glenda Gibson</u>	<u>P.O. Box 406</u>	<u>Libby - LDS Church</u>
<u>Candy Steele</u>	<u>RT. 1, Box 925B</u>	<u>Libby</u>
<u>John Hauck</u>	<u>RT 4 Box 9</u>	<u>Libby, ASH</u> <u>WOOD</u>
<u>Sandy Hauck</u>	<u>RT. 4 Box 9</u>	<u>ASH</u> <u>Wood</u>
<u>Mary J. Crooks</u>	<u>320 E 10th St.</u>	<u>Libby, MT 59923</u>

December 30, 1980

TO: STATE SENATOR WILLIAM F. HAFFERMAN

FROM: TAXPAYERS OF THE LIBBY, MONTANA, AREA

We have once again been exposed this year to the destruction which occurs when warm weather comes unexpectedly to this area, and the creeks in our area go on the rampage. It is, of course, of great concern to all involved--directly and indirectly alike--that the situation and remedy be of a priority nature in the Montana Legislative Session about the get underway. We are convinced that human life is of more importance than the wildlife of the area and contend that priorities MUST be put in order.

Therefore, we, the undersigned, urge that you place a Bill regarding this important matter before the men and women representing the citizens of Montana, that such waste not be suffered needlessly by residents of the creek-bordered areas, and that action be taken to protect homes, with due respect to the environment.

Respectfully submitted,

(NAME)

(ADDRESS)

(PRECINCT)

Mike Carlberg RT 1 Box 925A

Amy R. Haliday 519 Louisiana Ave, Libby, mt.

Robert L. Haliday 519 Louisiana Ave Libby mt

December 30, 1980

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Respectfully submitted,

(NAME)

(ADDRESS)

(PRECINCT)

STEVENA, LITARD
Rt 4 Box 400
LIBBY, MT.
13

December 30, 1980

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(NAME)

(ADDRESS)

(PRECINCT)

<u>Robert Berkheimer</u>	<u>Rt 1 Box 1165 Libby</u>	<u>15</u>
<u>Joene Berkheimer</u>	<u>Rt. 1 Box 1168, Libby</u>	<u>15</u>
<u>Douglas Lauer</u>	<u>P.O. Box 108 Libby</u>	<u>22</u>
<u>Kathleen L. Lauer</u>	<u>P.O. Box 108 Libby</u>	<u>22</u>
<u>Brian T. Cook</u>	<u>P.O. Box 1211 Libby</u>	

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(NAME)	(ADDRESS)	(PRECINCT)
<u>Richard K. McAlister</u>	<u>Rt 3 Box 1061F</u>	<u>22</u>
<u>Carla L. Mac</u>	<u>Rt 3 Box 1061F</u>	<u>22</u>
<u>Robert E. Dennis</u>	<u>Rt 2 Box 717</u>	<u>21</u>
<u>Jeanne K. Dennis</u>	<u>Rt 2 Box 717</u>	<u>21</u>
<u>Alma M. Hall</u>	<u>P.O. Box 166</u>	<u>21</u>
<u>Mary Lou E. Hoods</u>	<u>Rt 2 Box 759</u>	<u>22</u>
<u>June E. Burns</u>	<u>M. X Hwy</u>	
<u>Dale Merrill</u>	<u>Rt # 2 Box 636</u>	<u>22</u>
<u>Charles J. Hoods</u>	<u>Rt # 2 Box 759</u>	<u>22</u>

December 30, 1980

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(NAME)

(ADDRESS)

(PRECINCT)

John Brown RT 1 Box 1271
Mary Lou Brown Box 4 Libby Mt.
Younger L. Brown Box 4 Libby Mt.
Mark L. Brown RT 1 Box 1180 Libby Mt.
Kathy Brown Rt 1 " " "
Shirley Takland Rt 3 Box 664 Libby Mt.

December 30, 1980

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(NAME)

(ADDRESS)

(PRECINCT)

J. E. Hall Libby Mt. 42nd St.

Paul H. Brown Troy

Albert Nijon Libby

George S. Foray, Libby

Bill Silva Libby

Clarence D. Johnson Libby

Foray R. Brown Libby

Annie Foray 416 W. 5th St. Libby, Mt. 59923

George Roman Rt 4 Box 3116

December 30, 1980

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(NAME)

(ADDRESS)

(PRECINCT)

Paul Schell RT 2 Box 752

Hannon Wilkerson RT # 1 Box 1490

Eva Wilkerson Rt. 1 Box 1490

Lyle Bengtson R 2 Libby Mont.

R. Bengtson R 2 Libby Mont.

Dorothy J. Byrd Rt. #4 Box 1657 Libby

James W. Byrd Jr. Rt. #4 Box 1657 Libby

Armin M. Gerson Ste. Rt 2 Libby

Lyle Vester P. Box 773 Libby

Patricia A. Case Tracy, MT.

December 30, 1980

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(NAME)

(ADDRESS)

(PRECINCT)

Louise P. Nijon Rt 4 Box 5376 -11

Shirley E. Nijon Rt 4 Box 5376 Libby 11

Judith A. Rayner P.O. Box 41 Libby, Mt - 22

Alce A. Priest Rt 2 Box 628 Libby Mt 17

Teresa P. Rayner RT 1 Box 931A Libby Mt

Carol D. Shyne 1414 1st Ave Libby Mt

Sharon J. Cochran Rt 1, Box 1474 Libby, Mt. 59923

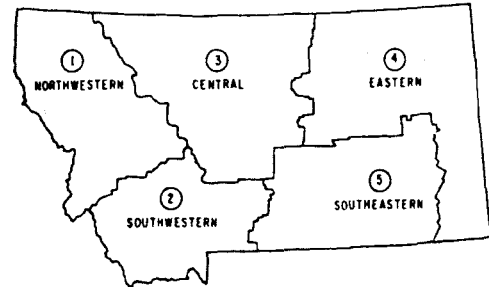
Ken Rayner P.O. Box 41 Libby 22

Harry Savell ~~Libby~~ MONT

Donna Brungs P.O. Box 326 Libby Mt 22

Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION



Mr. Chairman, members of the committee, my name is Wilbur Lehmann, I am submitting testimony for the Montana Wildlife Federation and its twelve affiliated clubs.

Mr. Chairman, we oppose SB 327 because it is redundant, unnecessary, and upsets the delicate give and take balance between agricultural interests and wildlife interests that has been established under the current "310" or Streambed Law.

SB 327 is redundant because it injects a second emergency situation clause in the "310" law. The current law has a provision for emergency exemptions to protect life and property, we simply don't need the additional provisions of SB 327.

Ever since the original "310" law was passed, local Conservation Districts, made up of farmers, ranchers and in many instances urban representatives, and the Department of Fish, Wildlife and Parks have worked together to solve our streambed problems. The cooperative effort has not come easy or without its differences-- but, it has worked, and in this era of deviseness and animosity the "310" law stands as a shining example of cooperation. It shows that local people and representatives of state agencies can solve problems together.

The Montana Wildlife Federation recommends the committee reject SB 327.

THE WEALTH OF THE NATION IS IN ITS NATURAL RESOURCES
CONSERVATION DOES NOT END WITH CONVERSATION



MONTANA AUDUBON COUNCIL
Box 1184 Helena 59624

TESTIMONY ON SB 327

My name is Noel Rosetta and I am speaking on behalf of both the Montana Wildlife Federation and the Montana Audubon Society.

The Audubon Society with over 1800 members in Montana is concerned with the changes in the Streambed Preservation Laws proposed in SB 327. We are concerned with the weakening of the Department of Fish, Wildlife and Parks' role and, as a result of this weakening, that riparian habitats may not be protected or improved upon following alterations in streambeds. These habitats are of great importance to our bird-watching membership. We feel that the Department's input into the review process as it now exists, promotes cooperation with the land owners, ranchers and farmers and with other state agencies. We understand this cooperation has been successful since enactment of the 1963 and 1975 acts and now see little reason to alter these laws as they pertain to the Fish, Wildlife and Parks Department. Thankyou.

PRESENTED BY: James W. Flynn, Director
Dept. Fish, Wildlife, & Parks

February 11, 1981

SB 327

Mr. Chairman, members of the committee, my name is Jim Flynn. I appear today on behalf of the Montana Department of Fish, Wildlife, & Parks, and I speak in opposition to SB 327.

For purposes of clarification, SB 327, as proposed, amends two acts - the Natural Streambed & Land Preservation Act of 1975 (Title 75 Sections) and the Stream Protection Act passed originally in 1963 (Title 87 Sections). The 1975 Act is administered by local conservation districts. In the 1975 Act, individuals and entities not covered in the 1963 Act must give notice and receive approval of local conservation boards before a stream may be altered. The 1963 Act is administered by the Dept. of Fish, Wildlife, & Parks. In the 1963 Act, state and local government agencies must give notice to the department when they plan to alter a stream. If fish or game habitat is adversely affected, then the department must recommend alternatives.

Under the 1975 Act, private persons who desire to alter a streambed must give notice to their local conservation district. If necessary, a team reviews that proposal. The team consists of a representative of the conservation district, the applicant, and a Department of Fish, Wildlife, & Parks representative. The team may recommend changes in the proposal. The conservation district then approves or disapproves the proposal. If one of the team members doesn't agree with the conservation district action, he may ask for an arbitration panel. That panel listens to all sides and makes its decision. District Court is available if either party does not like the decision.

There have been over 3,000 applications for permits under the 1975 Act to date. Of these, only four were taken to an arbitration panel - three by the department and one by the district involved. In the department initiated cases, we've accepted the locally appointed arbitration panel's decisions in the two decisions against our position and one decision in favor of our position. To date, we have appealed the arbitration panel's decision in only one instance. This record speaks for itself. Needless to say, we have not been capricious in the use of the existing arbitration process.

Although the local conservation districts administer the Act, input by the landowner/applicant and a member of the department during on-the-ground team inspections have led, in many cases, to long-term solutions that benefited all.

Under the 1963 Act, state agencies and local governments give notice to the Department of Fish, Wildlife, & Parks of proposed projects in streams. The department investigates to determine if there will be adverse impact to fish or game habitat. The department makes recommendations on the proposal and then, if an agreeable solution cannot be reached, an arbitration panel can be established. District Court is a final option in this act as well. I would point out that irrigation projects are not covered by this act.

The department has received notices for almost 1,700 projects since the Stream Protection Act was first passed in 1963. During this period, the arbitration procedure was used only one time. So, I believe it is safe to say we have not overutilized our administrative authority.

The amendments to both acts in SB 327 are designed to permit private individuals and local governments to respond to emergency situations when life and property are endangered. We have no objection to that concept

for emergency situations for life and property however, the proposed wording is too broad. I suggest amendments as attached. We feel these amendments more adequately address the need for emergency action.

In addition, the bill's amendments to the two acts which remove arbitration as a department alternative will work to destroy the past five years' efforts and force the consideration of court action rather than use of arbitration. As I have pointed out, the arbitration process has not been abused and we feel should be maintained.

The repealer in SB 327 on page 7, Sec. 7 would seriously weaken, if not effectively destroy, the 1963 Act. Without the opportunity to seek a panel of local citizens for quick and independent review and decision, the only alternative for the department is to pursue court action. In this era of overloaded court dockets and costly proceedings, the arbitration process is the best alternative available to meet the intent of both the 1975 and 1963 Acts. The stream protection acts have served Montana's fish and wildlife resources and our sportsmen well. It has benefited private landowners as well by reducing streambank erosion of their land as a result of changes in streamflow brought about by channel alterations. Not only have many miles of game fish habitat been saved during the process, but also considerable amounts of valuable land; land that otherwise would have been eroded and washed downstream to cause additional problems elsewhere. Additionally, the on-site review process has provided unexpected but welcomed side benefits. These include increasing the recognition and understanding of problems on each side of the stream alteration issue. Also developed is a line of communication with which to better address these problems and arrive at long-term solutions. Undoubtedly, a better landowner/sportsman relationship has evolved.

In conclusion, I ask you to consider the successes of these acts and the lack of major difficulties in their enforcement. I recommend a do not pass on SB 327.

AMENDMENTS TO SB327

1. Page 1, line 7: Following "PROPERTY" insert "DURING EMERGENCIES"
2. Page 1, line 17: Following "when", insert "emergency"
3. Page 6, line 10: Following "of" insert all factors involved including"

COMMITTEE ON NATURAL RESOURCES

RE: Amendment to Senate Bill 258 (Brown)

The purpose of this amendment is to transfer the Air Quality Board and Water Quality Board, and their related functions from the Department of Health and Environmental Services to the Department of Natural Resources and Conservation.

Mr. Chairman, Members of the Committee:

The governor has stated that he would like to see our State develop its natural resources without detriment to the environment.

In my campaign in my district I stated to my constituents that I thought we should and could develop our natural resources while protecting our environment.

I still believe that statement.

At the present time, in order to initiate a mineral development project the operator must present his proposal to the various agencies for permits. Each agency specifies a period of time for study and determination. When the operator has satisfied one agency he moves to the next agency and again a period of time is required for study and determination.

As a result the operator ^{can} ~~must~~ expend ^{months, if not} ~~a number of~~ years, obtaining the required permits.

Senate Bill 258 proposes to transfer the Department of Reclamation to the Department of Natural Resources. If the Air Quality and Water Quality Board were also transferred to Natural Resources, the permitting agencies would be in the department. The operator could seek the permits from the agencies concurrently and thereby saving a great deal of time and expense in the system.

Each agency would still enforce the requirements for environmental protection indigenous to its purpose.

However, there would be a coordination between the agencies which would complement one another for a more desirable result. The study and determination handled concurrently by the agencies within the department would not diminish the protection of the environment which is required. It would diminish the amount of time required for permitting.

If the proposed operation is unsuitable, it will not be permitted. If the operation is suitable and desirable, both environmentally and economically, it will be permitted and the regulatory job will have been properly accomplished.

Page 3
RE: SB 258

At the present time the permitting process is so long and expensive only the titans of the industry can afford the capital risk by the long and expensive permitting processes. If the permitting process is shortened, without diminishing the regulations, the smaller businesses in the various development industries can afford the expense and capital risk made possible by the shorter processes.

I think that a shortening of the permitting process would encourage more development and thereby benefiting our economy and our citizens.

Such acceptable and desirable projects would provide jobs and increase tax revenues in various locales to the benefit of the entire state.

I urge your positive acceptance of this proposal.

GARETH MOON

Harold Dover, Chair

SB 258 - Proponent

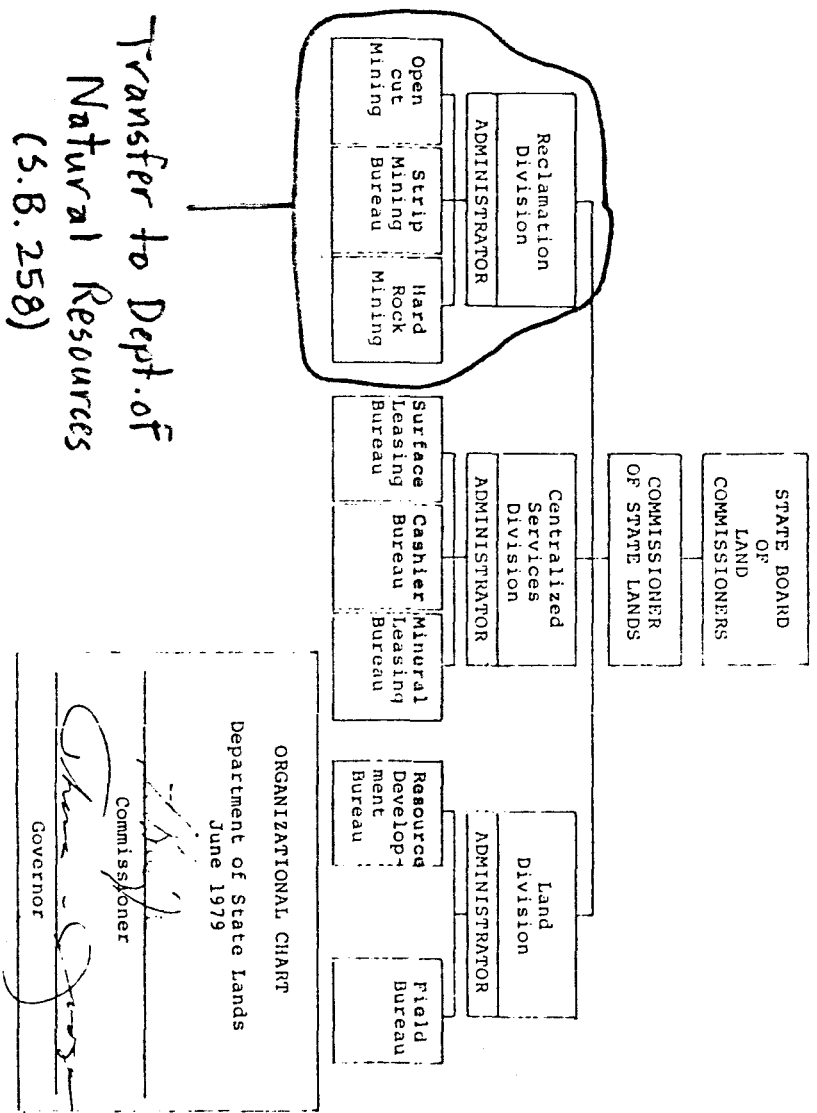
- My name is Gareth C. Moon, Commissioner of State Lands.
- Past 27 years as State Forester.
- Experience tells me that State Forestry is more compatible with State Lands than DNRC.
~~Harold Dover~~
- The state forests managed and protected by State Forester are state-owned and come under jurisdiction of Land Board.
- All recommendations of State Forester have to pass through Director of DNRC to get to Land Board. Sometimes Director of DNRC does not agree with Land Board.
- The way it is structured today, State Forester must serve two bosses - even the Bible cautions against serving two masters.
- Short time in Lands, believe two agencies can be merged quite easily and would complement each other - eventually this would make cost savings to both Forestry and Lands - then taxpayers.
- Closer working relations between Forestry and Lands that could only come about through a merger would make both organizations more efficient.

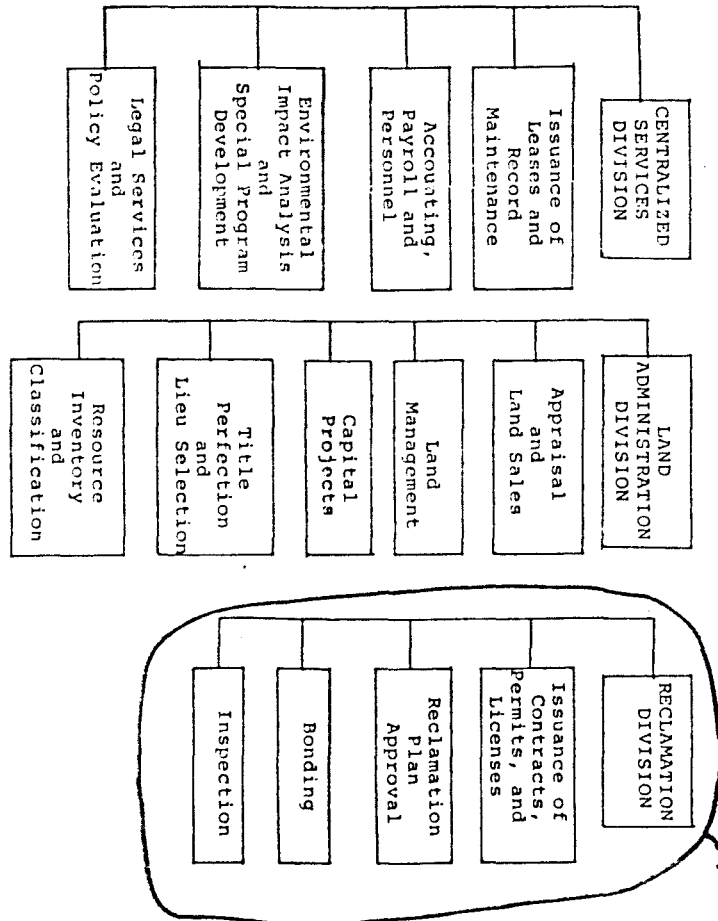
State Lands

26.1.101

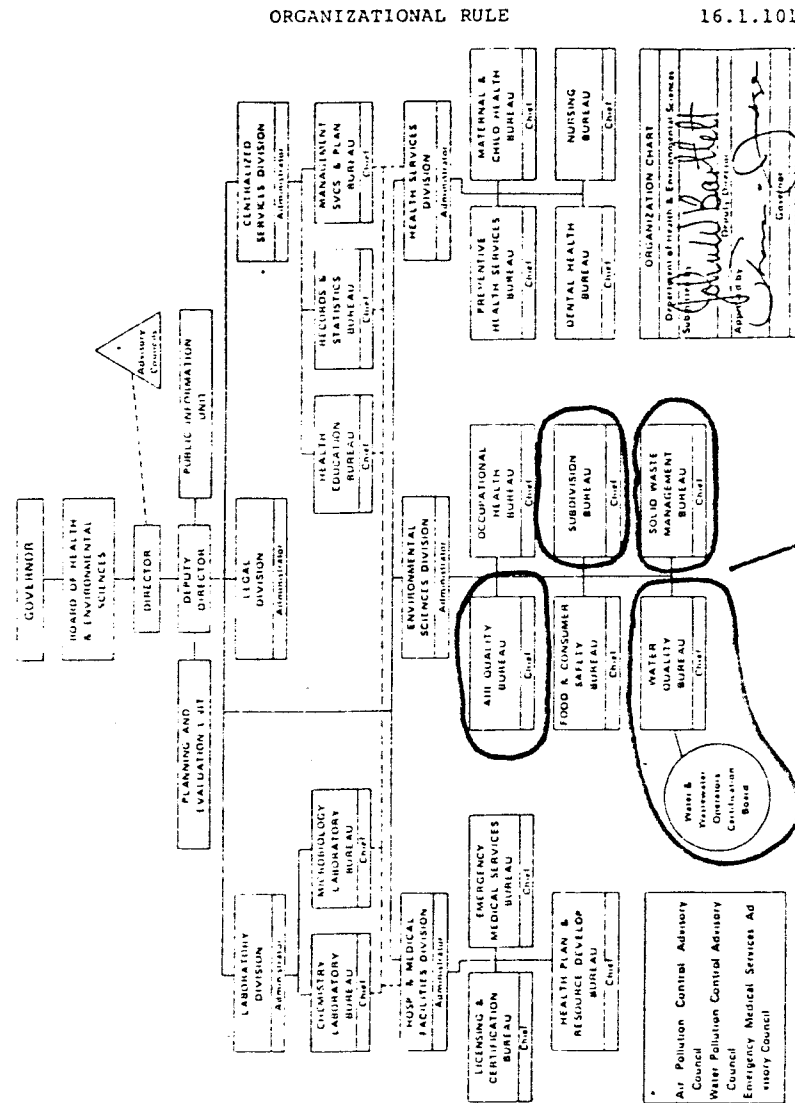
DEPARTMENT OF STATE LANDS

Transfer to Dept. of
Natural Resources
(S.B. 258)

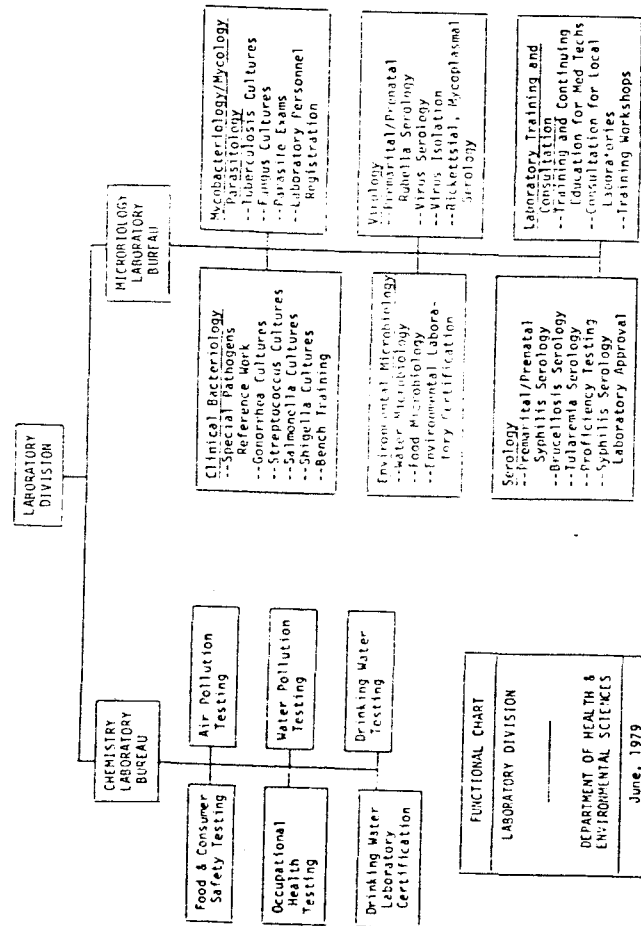




Health and Environmental Sciences

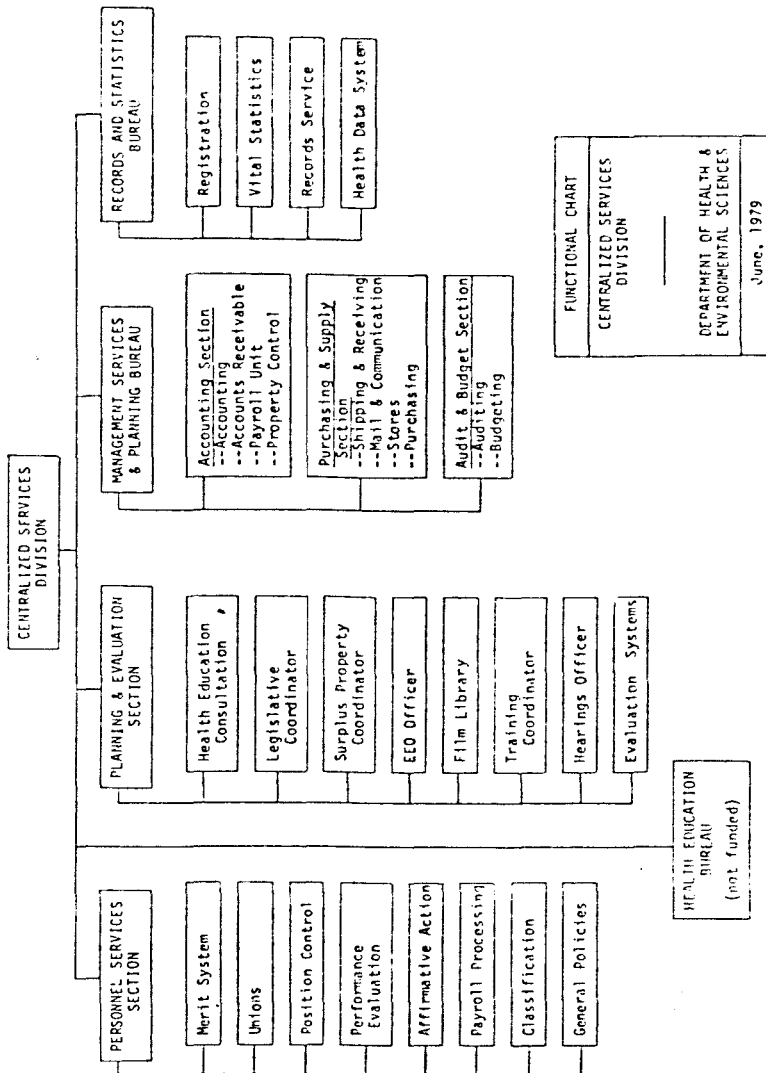


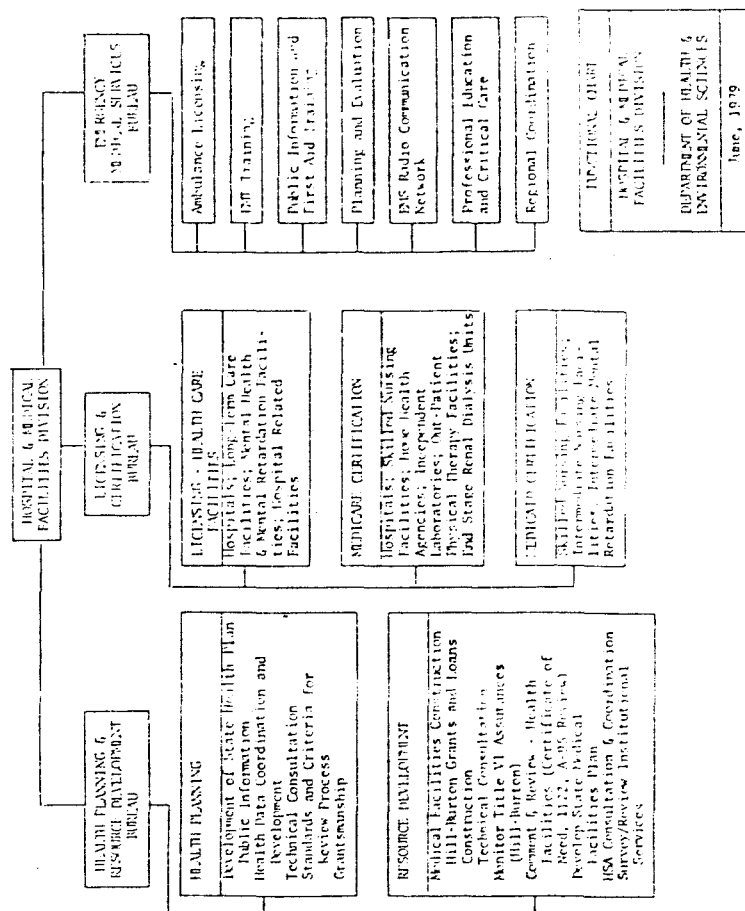
Transfer to Dept. of Natural Resources - Keating

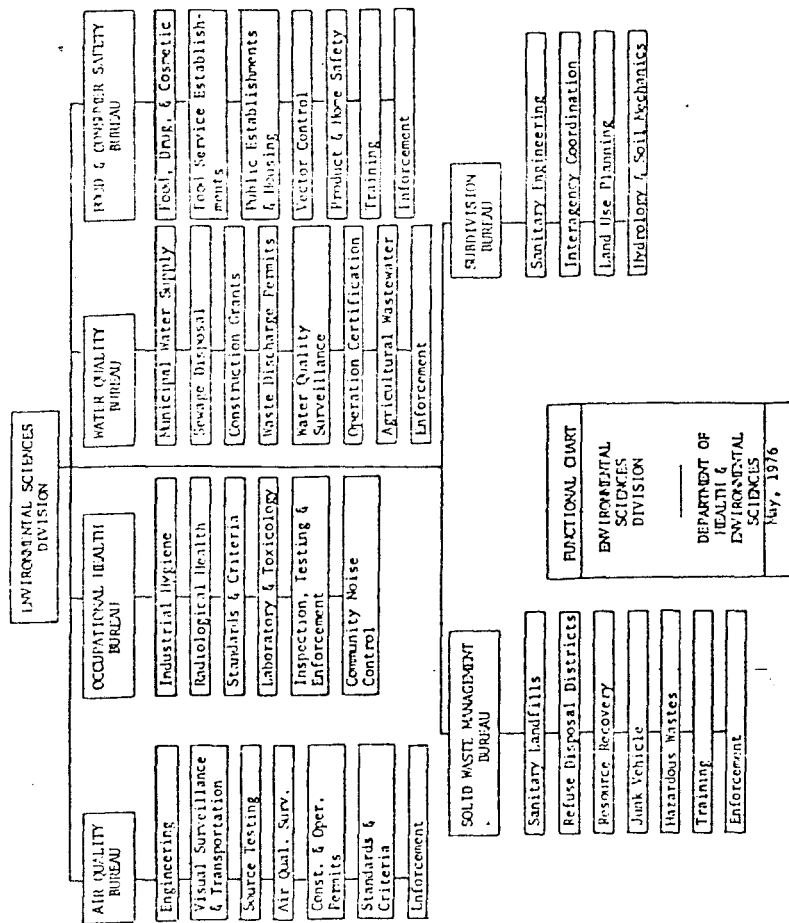


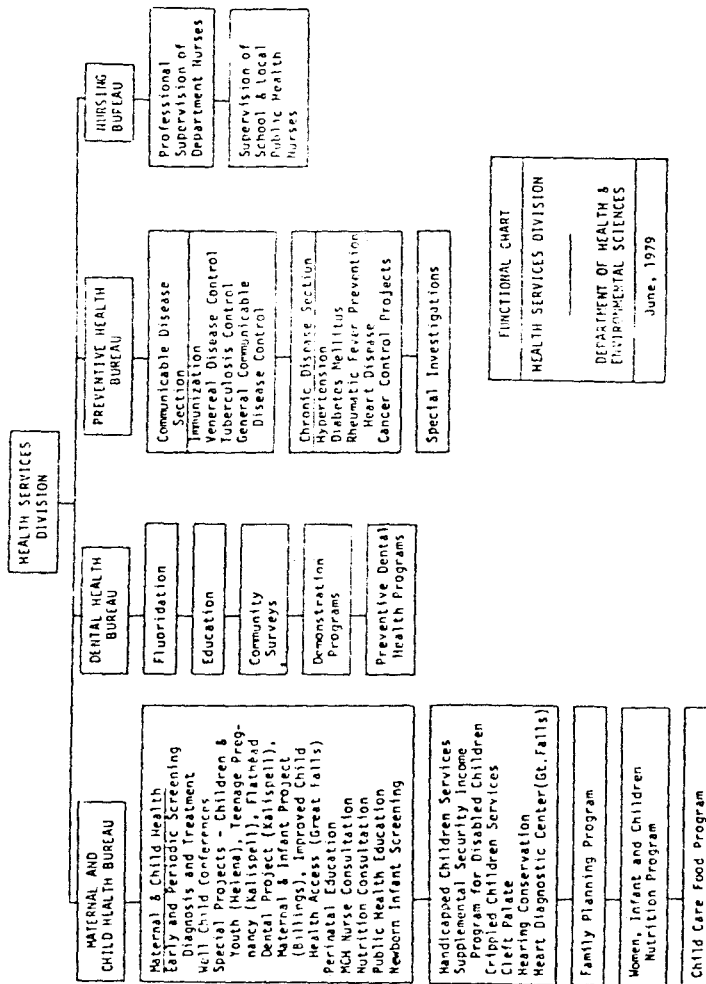
ORGANIZATIONAL RULE

16.1.101



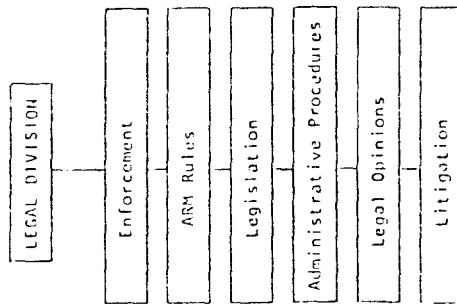






ORGANIZATIONAL RULE

16.1.101



FUNCTIONAL CHART
LEGAL DIVISION
DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES
June, 1979

NEXT PAGE IS 16-17

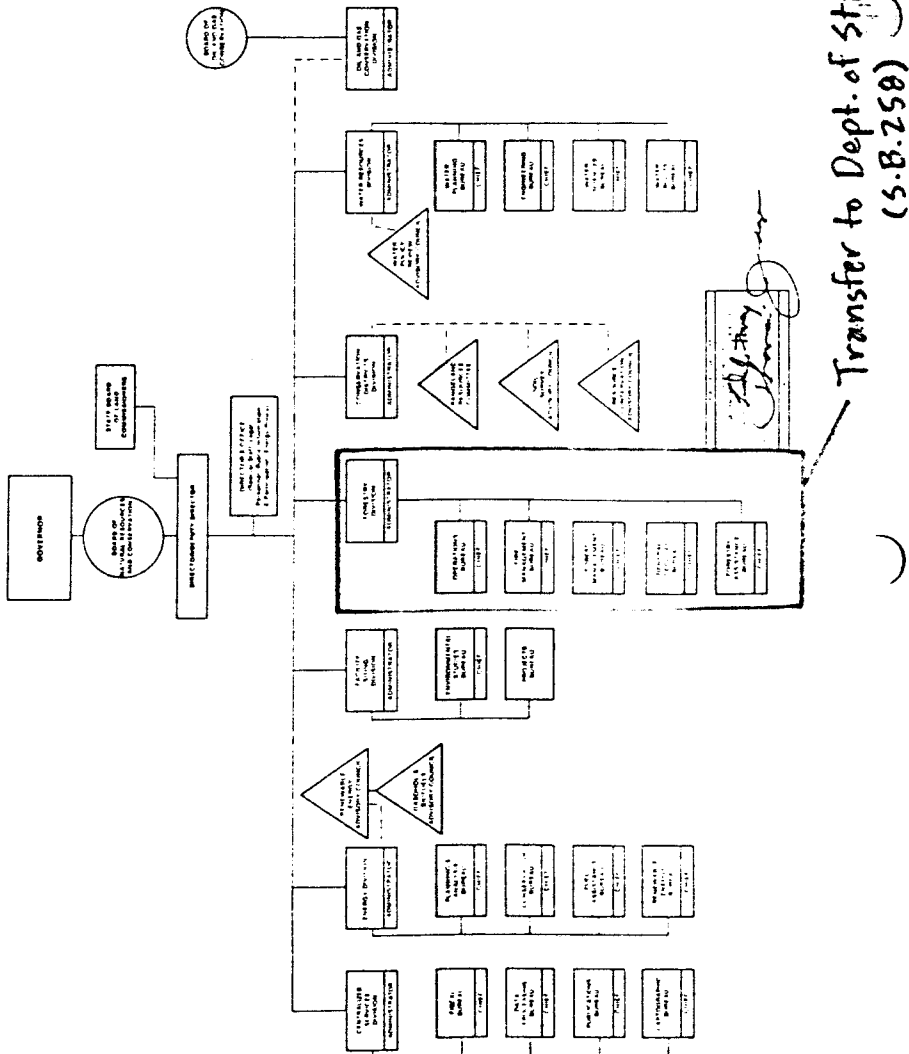
ADMINISTRATIVE RULES OF MONTANA

7/1/80

16-13

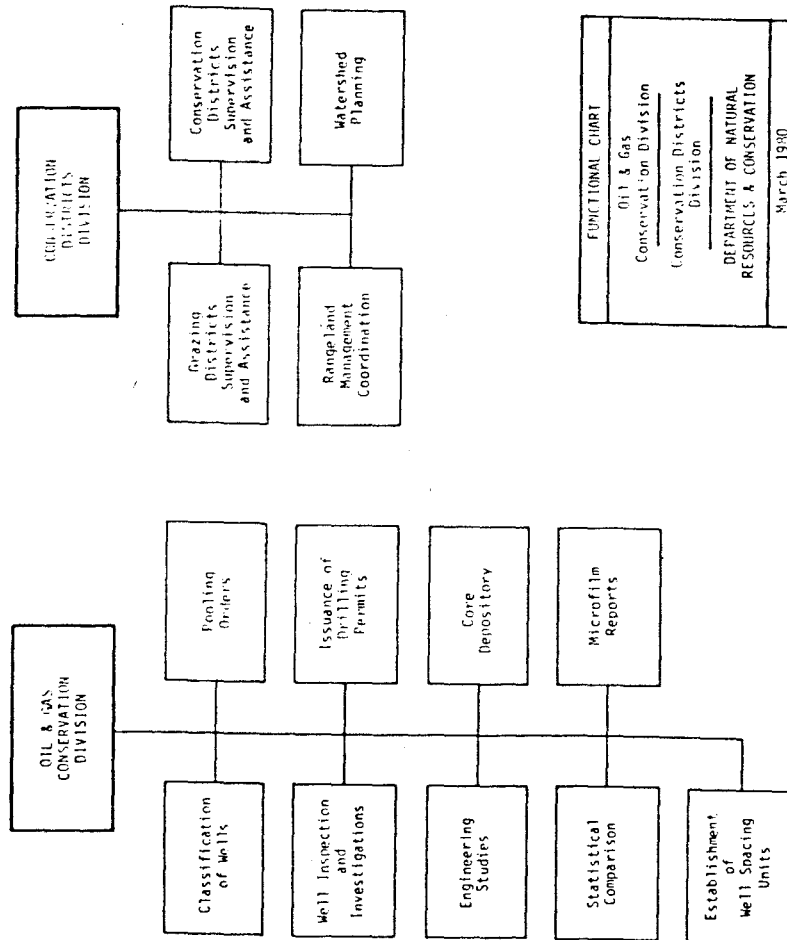
Natural Resources and Conservation

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

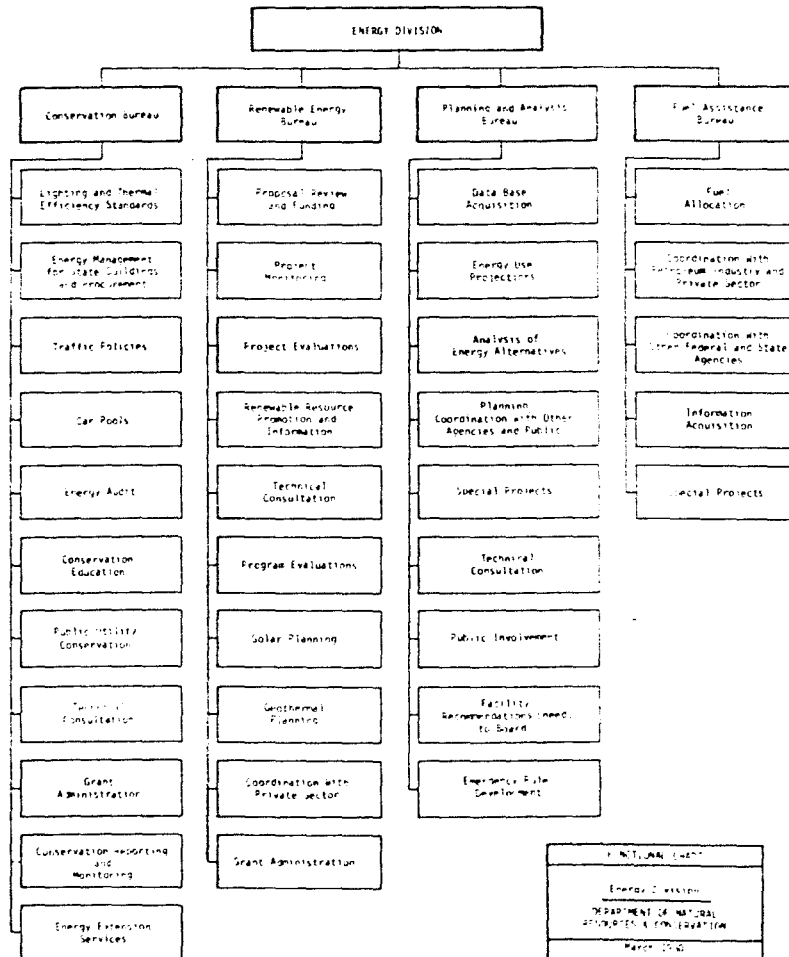


Transfer to Dept. of State Lands
(S.B. 250)

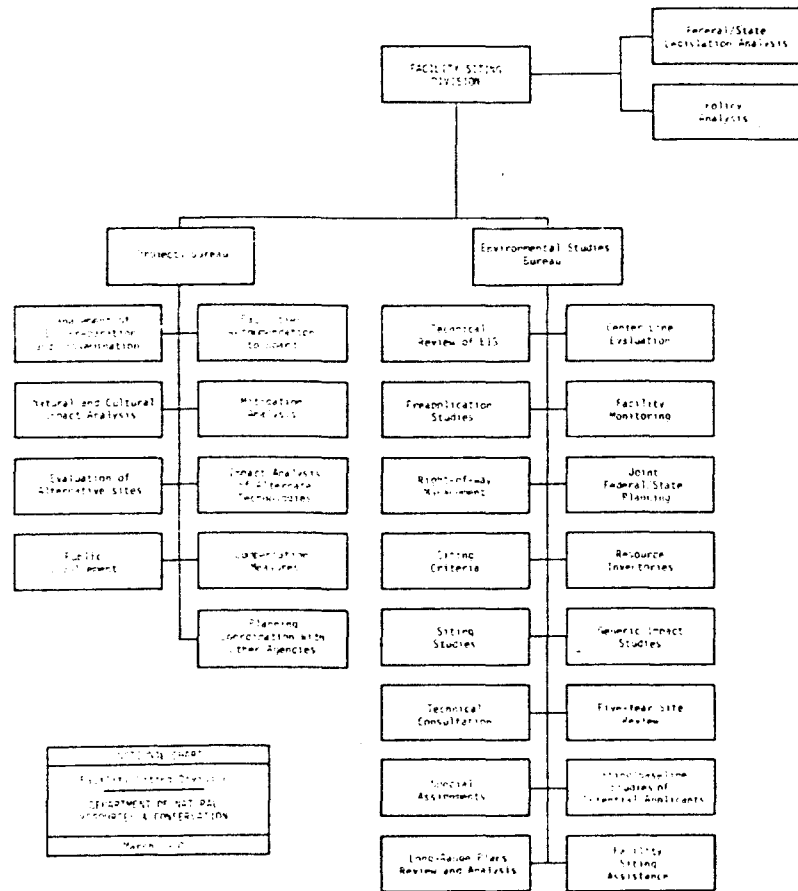
ORGANIZATIONAL RULE



DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

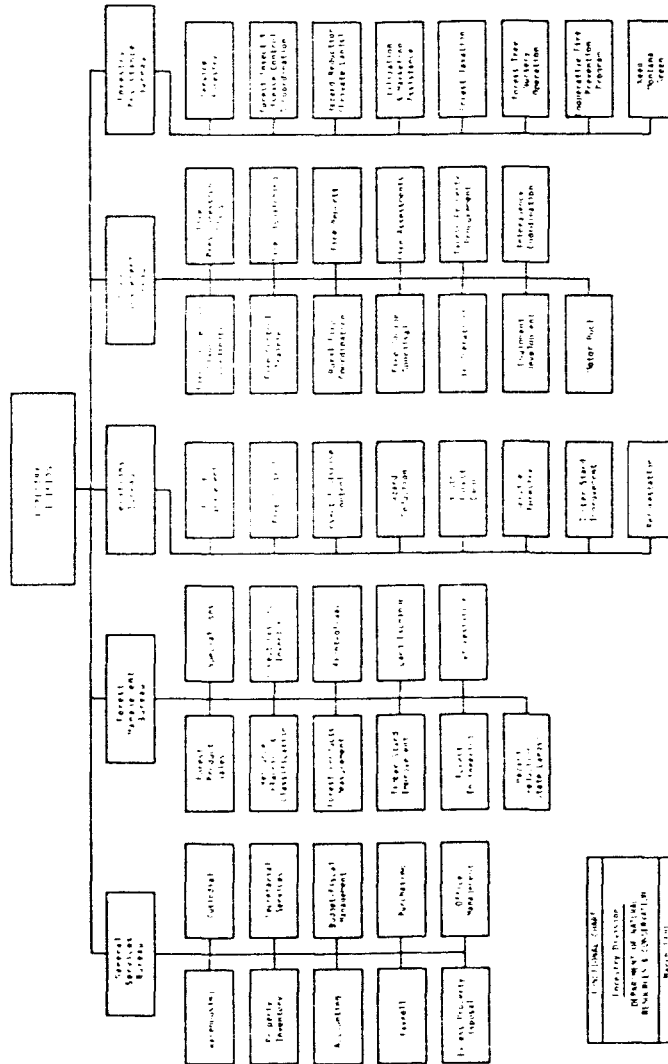


ORGANIZATIONAL RULE



S.B.258 ✓

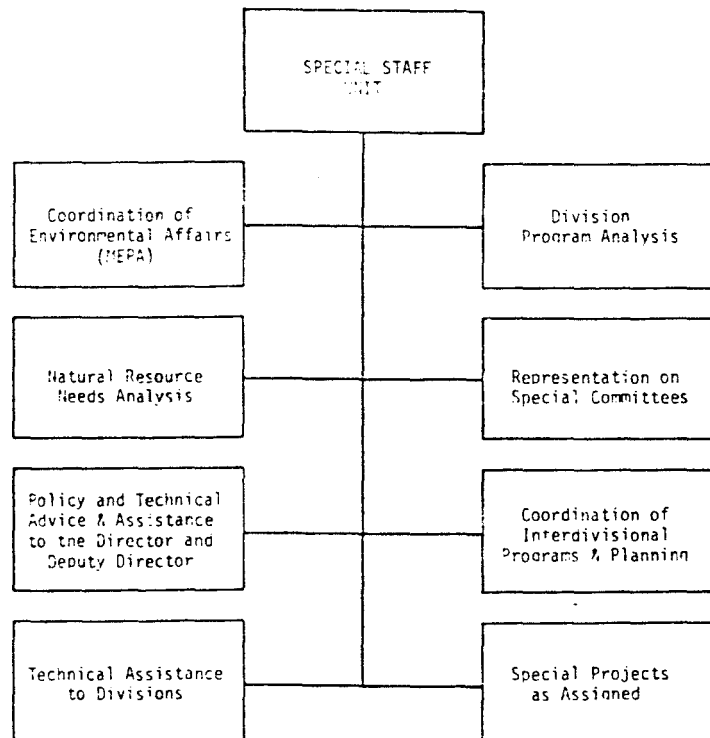
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION



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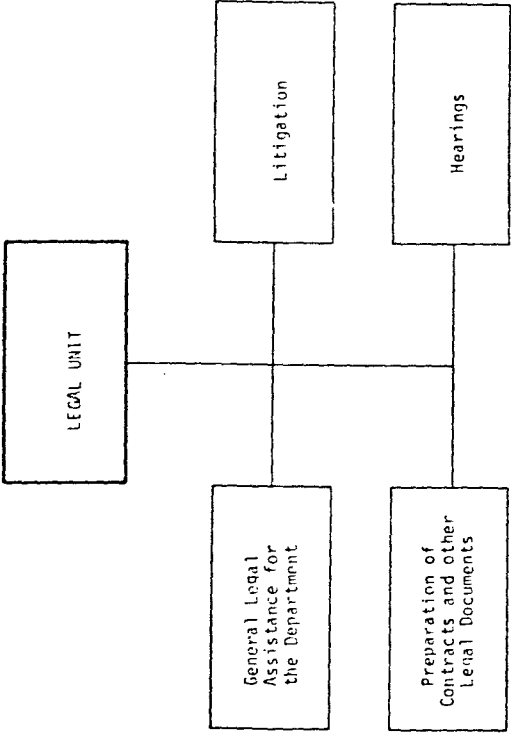


DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION



FUNCTIONAL CHART
Special Staff Unit
DEPARTMENT OF NATURAL RESOURCES & CONSERVATION
March 1980

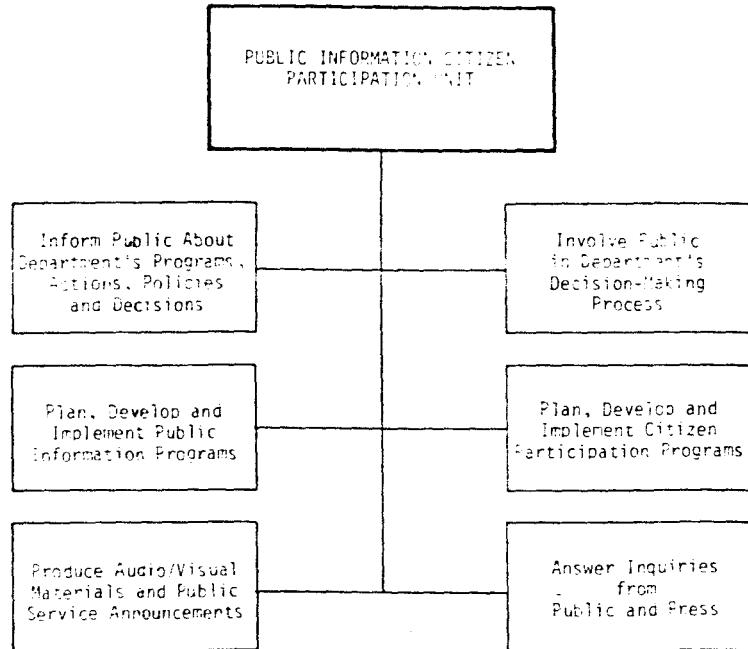
ORGANIZATIONAL RULE



FUNCTIONAL CHART
Legal Unit
DEPARTMENT OF NATURAL RESOURCES & CONSERVATION
March 1980

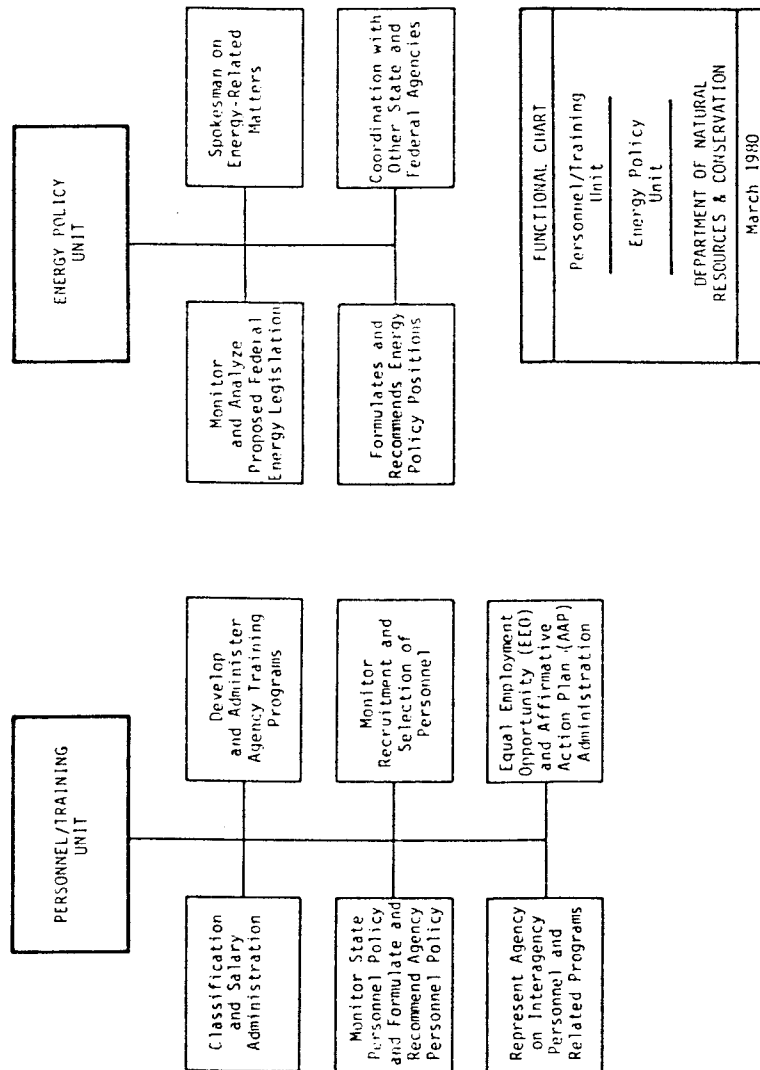
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ORGANIZATIONAL RULE



FUNCTIONAL CHART
Public Information/ Citizen Participation Unit
DEPARTMENT OF NATURAL RESOURCES & CONSERVATION
March 1980

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION



NAME: Shirley M. Hill DATE: 2-14-61

ADDRESS: P.O. Box 1151

PHONE: 242-5695

REPRESENTING WHOM? Miss Thomas, Ltd.

APPEARING ON WHICH PROPOSAL: *6/2/2001*

DO YOU: SUPPORT? AMEND? A OPPOSE?

COMMENTS: *It is not a water soluble material.*

~~The instruction book has been revised~~

Admission not confined to the members

By an order, this writ is granted.

It is the most important thing

dispute among the children for some time.

20

4

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: _____ DATE: _____

ADDRESS:

PHONE: _____

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Dana L. Johnson DATE: 2/1/81

ADDRESS: P.O. Box 2545 Billings MT 59107

PHONE: 246-7731

REPRESENTING WHOM? Western Land

APPEARING ON WHICH PROPOSAL: S.B. 258

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

COMMENTS: _____

NAME: Dr. J. E. ... DATE: 3-11-51

ADDRESS: 216 ...

PHONE: ...

REPRESENTING WHOM? ...

APPEARING ON WHICH PROPOSAL: ...

DO YOU: SUPPORT? ... AMEND? ... OPPOSE? ...

COMMENTS: ...

...

...

...

...

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...

...

...

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME:

JEITH OLSON

DATE:

2-11-81

ADDRESS:

Box 1716 Kalispell 59901

PHONE:

755-3185

REPRESENTING WHOM?

Montana Logging Assoc

APPEARING ON WHICH PROPOSAL:

SB 258

DO YOU:

SUPPORT?

✓

AMEND?

OPPOSE?

COMMENTS:

Transfer of Forestry to the
Dept. of State Lands makes
good sense.

NAME: Clode Smith DATE: 2-11-81

ADDRESS: 145 3 Mile Drive Kalispell, MT

PHONE: 257-3634

REPRESENTING WHOM? Smith Logging Inc.

APPEARING ON WHICH PROPOSAL: SB 258

DO YOU: SUPPORT? i AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: John J. Wilson DATE: 5-6-70

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL:

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

2/11/81

BILL NO. SB 327

VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)

SB 258

PROPOSED AMENDMENT

On Page 1, line 8

Following: "OF THE"

Insert: "BOARD OF LAND COMMISSIONERS AND"