

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

February 12, 1981

The eighth meeting of the Highways and Transportation Committee was called to order by Chairman Mark Etchart on the above date in Room 410 of the State Capitol Building at 1:00 p.m.

ROLL CALL: Present: Senator Etchart, Hager, Hazelbaker, Elliott, Tveit, Graham, Stimatz. Excused: Senator Manning. Absent: Senator Healy.

CONSIDERATION OF HOUSE BILL NO. 322:

Introduced by Representative Meyer, this is an act to permit the apportionment of highway funds based on the amount available for obligation and to change the date when information concerning allocations must be furnished to the county commissioners. In Representative Meyer's absence, Jim Beck, Department of Highways gave testimony in support of this bill.

Jim Beck told the committee HB 322 was introduced at the request of the Department of Highways. For the most part the bill changes the word expenditure to obligation throughout the statutes providing for the apportionment of state construction funds. The bill is in response to a suggestion of the Legislative auditor.

He further stated the federal government allocates funds to construct the various federal-aid highway systems on an obligation basis rather than on an expenditure basis. These amendments are just a semantic change to correct the term used in several statutes. The difference between the term "obligation" and "expenditure" is this. Under Federal law states are authorized to enter into contracts with the Federal government for the construction of projects. Once this contract is entered into it becomes an obligation of the Federal government to pay the State its share. After the project is let to contract; completed by the contractor, the contractor paid; then Federal government reimburses the state.

The Federal law thus apportions sums to the states on an obligation basis. The actual expenditure of the money may not take place in the year it is obligated. A state may "expend more or less than the amount of its obligations in a given year".

It should be noted that the term "expenditure" has not been changed in every statute. In some of the statutes it is the proper term to use.

The amendment in Section 3 on page 4 merely changes a date from August to November. The information required to be given to the county commissioners is not available to the Department of Highways until October. This is primarily due to the adoption of the new fiscal year by the Federal government.

Senator Etchart asked if there were any other proponents to HB 322. There were none.

Senator Etchart asked if there were any opponents to HB 322. There were none.

Senator Etchart asked if there were any questions from the Committee.

Senator Elliott asked Mr. Beck how the obligation is made by the Federal government.

Mr. Beck said it is by dollar amount. He further stated that we are talking about the gross sums.

Senator Stimatz asked if they sign a piece of paper when they say that.

Mr. Beck said yes, that is the key as to how highway financing works.

There being no further questions from the committee, the hearing on HB 322 was closed.

ACTION ON HOUSE BILL NO. 322:

Senator Stimatz made the motion that HB 322 be concurred in. All Senators present voting aye, the motion carried.

Senator Stimatz will carry the bill on second reading.

CONSIDERATION OF COMMITTEE BILL INTRODUCED BY SENATOR HAGER:

Senator Hager in chair.

Mr. William E. Glaser, Box 1801, Billings, MT, representing the Indian Creek Ranch, Inc, passed out information to the committee and went on to testify.

Mr. Glaser told the committee that in 1970 the Highway Department commenced construction on the Interstate 90 Highway east of Billings from the Pryor Creek off ramp to the county line. During this construction phase the Highway Department made certain purchases and commitments pertaining to Georgia H. Blake, who is now doing business under the name of Indian Creek Ranch, Inc.

The Highway Department in the process of building the highway, cut the winter range of Indian Creek Ranch in two, separating grass from water and because of the hardship imposed by the highway, agreed to provide Georgia Blake a certain sum of money and four egresses in seven miles under the interstate for the Ranches' equipment, personnel and livestock.

Three of these egress points were in the form of tubes under the Interstate. All three of which have water flowing through them in the spring so the cattle cannot use them. Furthermore the ranch trucks, even a pickup with a stock rack cannot safely go through these tubes. One is so small you must lead your horse through it if he'll go. The fourth is in the form of an underpass at the point where the county road goes under the interstate, approximately in the middle of the range. This is the only egress usable by all trucks, personnel, livestock and equipment, even then the tool bars must be folded and the drills regged for towing in order to go from one side of the interstate to the other.

Keep in mind eleven years ago this was one piece of land, open range before the road split grass from water.

There were only 40 acres along the whole right of way where there was other than ranch property, this was the point the Highway Department contrary to the ranches' wishes decided to put that underpass. Due to the lay of the land it saved the Highway Department considerable money to locate it there and they stressed the convenience for the cattle, the accessibility of the underpass and the desirable location for the livestock to get from feed to water.

On January 26, 1981 Robert E. Champion of the Highway Department Right of Way Bureau wrote Georgia H. Blake informing her that the lease she had taken out on this small piece of land was being cancelled and that the ranch was to remove any fences or personal property from said property. A crude way of telling someone to get off a piece of land that the Highway Department had agreed to allow egress when they shut off the seven miles of previous open access.

After contacting the Highway Department it was learned that the Highway Department intends to sell this small piece of land. Furthermore, we have not been able to determine whether or not the Highway Department intends to inform the bidders of the ranches egress rights. We were informed that the land had been appraised at a much higher rate than the adjoining land use.

It is our strongest opinion that the before mentioned items should be again brought forward and studied for their merits by elected officials answerable to the public. It is our experience that the Highway Department Right of Way Bureau has not been fair or has not used good judgement when dealing with our rights and the rights of individuals.

Mr. Glaser introduced a letter from the Highway Department, regarding the sale of this piece of land and two maps showing the location of the land.

Vice Chairman Hager went over the proposed committee bill language. Each Senator was given a typed copy of the proposed bill, showing the language that they intend to strike. He also told the committee he had conferred with Senator Turnage regarding this matter, and that Senator Turnage suggested this Committee Bill.

Senator Graham made the motion to allow introduction of the Committee Bill. All senators present voting aye, the motion carried.

"The Committee on Highways and Transportation, this date, by a two-thirds vote, requested a bill to amend the law to require the Highway Department to sell lands by Public Auction." A copy of the proposed bill is attached to the minutes.

ADJOURNMENT:

There being no further business of the committee, the meeting adjourned at 1:30 p.m.

Mark Etchart
Senator Mark Etchart, Chairman

Tom Hager
Senator Tom Hager, Vice Chairman

ROLL CALL

SENATE HIGHWAYS & TRANSPORTATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/12/81

NAME	PRESENT	ABSENT	EXCUSED
SENATOR MARK ETCHART	✓ <i>Etchart</i>		EX
SENATOR TOM HAGER	✓ <i>Hager</i>		
SENATOR FRANK W. HAZELBAKER	✓		
SENATOR ROGER H. ELLIOTT	✓		
SENATOR LARRY J. TVEIT	✓		
SENATOR DAVE MANNING			EX
SENATOR CARROLL GRAHAM	✓		
SENATOR JACK HEALY		✓	
SENATOR LAWRENCE G. STIMATZ	✓		
VERDON - Legislative Council			

Each day attach to minutes.

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
<i>Wm E Glas</i>	<i>Self Employed</i>			
<i>j Beck</i>	<i>DOH</i>	<i>322</i>	<input checked="" type="checkbox"/>	

HOUSE BILL NO. 322

H. B. No. 322 was introduced at the request of the Department of Highways. For the most part the bill changes the word expenditure to obligation throughout the statutes providing for the apportionment of state construction funds. The bill is in response to a suggestion of the legislative auditor.

The federal government allocates funds to construct the various federal-aid highway systems on an obligation basis rather than on an expenditure basis. These amendments are just a semantic change to correct the term used in the several statutes. The difference between the term "obligation" and "expenditure" is this. Under Federal law states are authorized to enter into contracts with the Federal government for the construction of projects. Once this contract is entered into it becomes an obligation of the Federal government to pay the State its share. After the project is let to contract; ^{completed} coupled by the contractor, the contractor paid; then the Federal government reimburses the state.

The Federal law thus apportions sums to the states on an obligation basis. The actual expenditure of the money may not take place in the year it is obligated. A state may "expend more or less than the amount of its obligations in a given year.

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JRB:snk:lc

Type for Miller

TILLS

AN ACT TO REVISE THE ~~VARIOUS~~ METHODS USED BY THE DEPARTMENT OF HIGHWAYS TO SOLICIT AN INTEREST IN REAL PROPERTY; AMENDING SECTIONS 60-4-202 AND 60-4-203, MCA.

60-4-201

more necessary public use and purpose than the public use or purpose to which such road, street, or alley has theretofore been dedicated.

History: En. Sec. 8-120, Ch. 197, L. 1965; R.C.M. 1947, 32-3920.

Part 2

Disposition of Property

60-4-201. Exchange of interest in real property. (1) The department may determine that an interest in real property, however acquired by it, is no longer necessary to the laying out, altering, construction, improvement, or maintenance of a highway. It may then exchange the interest, either as entire or partial consideration, for any other interest in real property needed for highway purposes. The department may establish the manner and terms and conditions for the exchange.

(2) The owner from whom the interest was originally acquired by the state or his successor in interest has the right to require the department to offer the land for sale in the manner set forth in 60-4-202 and 60-4-203. The department shall notify the owner or successor in interest of its intention to exchange the interest. The owner shall make his demand for sale by registered or certified mail to the department within 10 days after receipt of notice from the department.

History: En. Sec. 8-109, Ch. 197, L. 1965; amd. Sec. 132, Ch. 316, L. 1974; R.C.M. 1947, 32-3909.

SECTION 1. SECTION 60-4-202, MCA, IS AMENDED TO READ:
"60-4-202. Sale of interest in real property. The department may sell an interest in real property, however acquired by it, which it determines is not necessary to the laying out, altering, construction, improvement, or maintenance of a highway. If the interest is reasonably of a value in excess of \$100, sale shall be made to the highest bidder at public auction ~~and~~ ~~the sale shall be made to the highest bidder at public auction.~~ The sale shall be conducted as provided in ~~the department's policies.~~ *77-2-321*"

History: En. Sec. 8-110, Ch. 197, L. 1965; amd. Sec. 133, Ch. 316, L. 1974; R.C.M. 1947, 32-3910.

SECTION 2. SECTION 60-4-204, MCA, IS AMENDED TO READ:
"60-4-203. Conduct of sale. (1) The department shall publish notice of the sale in a newspaper published in the county in which the interest is located once a week for ~~two~~ successive weeks. Sale shall be held in the county wherein the property is located ~~unless the department finds it impractical in which case the sale shall be held at the office of the department.~~

(2) Before the sale of an interest having a value in excess of \$100, the department shall have it appraised at a price representing a fair market value. The appraised value shall be stated in the published notice.

(3) A sale of an interest may not be made unless it has been appraised within 3 months prior to the date of the sale. A sale may not be made for less than 90% of the appraised value.

(4) Title to an interest may not pass from the state until the purchaser has paid the full amount of the purchase price into the state treasury to the credit of the department."

History: En. Sec. 8-111, Ch. 197, L. 1965; amd. Sec. 1, Ch. 21, L. 1974; amd. Sec. 134, Ch. 316, L. 1974; R.C.M. 1947, 32-3911; amd. Sec. 20, Ch. 23, L. 1979.

Legend

** The words of sale & held for contain the reforming req*

See section 77-2-322

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE METHOD USED BY THE DEPARTMENT OF HIGHWAYS TO SELL AN INTEREST IN REAL PROPERTY; AMENDING SECTIONS 60-4-202 AND 60-4-203, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 60-4-202, MCA, is amended to read:

"60-4-202. Sale of interest in real property. The department may sell an interest in real property, however acquired by it, which it determines is not necessary to the laying out, altering, construction, improvement, or maintenance of a highway. If the interest is reasonably of a value in excess of \$100, sale shall be made to the highest bidder at public auction ~~or-by-sealed-bids-as-the-department-decides.~~ The sale shall be conducted as provided in ~~60-4-203~~ 77-2-321."

Section 2. Section 60-4-203, MCA, is amended to read:

"60-4-203. Conduct of sale. (1) The department shall publish notice of the sale in a newspaper published in the county in which the interest is located once a week for ~~2~~ 4 successive weeks. The notice of sale shall contain the information required by section 77-2-322. Sale shall be held in the county wherein the property is located ~~unless-the-department-finds-it-impractical,-in-which-case-the-sale-shall-be-held-at-the-office-of-the-department.~~

(2) Before the sale of an interest having a value in excess of \$100, the department shall have it appraised at a price representing a fair market value. The appraised value shall be stated in the published notice.

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NAME: William E Glasser DATE: Feb 12, 81

ADDRESS: Box 1801, Bismarck MT 59103

PHONE: 348-3000, 252-4334

REPRESENTING WHOM? Indian Creek Ranch Inc

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? AMEND? _____ OPPOSE? _____

COMMENTS: INFO. GIVEN TO COMMITTEE

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

INDIAN CREEK RANCH
Box 145
Billings, Montana 59103

February 11, 1981

In 1970 the Highway Department commenced construction on the Interstate 90 Highway east of Billings from the Pryor creek off ramp to the county line. During this construction phase the highway department made certain purchases and commitments pertaining to Georgia H. Blake, who is now doing business under the name of Indian Creek Ranch, Inc.

The Highway Department in the process of building the highway, cut the winter range of Indian Creek Ranch in two, separating grass from water and because of the hardship imposed by the highway, agreed to provide Georgia Blake a certain sum of money and four egresses in seven miles under the interstate for the Ranches' equipment, personell and livestock.

Three of these egress points were in the form of tubes under the Interstate. All three of which have water flowing through them in the spring so the cattle cannot use them. Furthermore the ranch trucks, even a pickup with a stock rack cannot safely go through these tubes. One is so small you must lead your horse through it if he'll go. The fourth is in the form of an underpass at the point where the county road goes under the interstate, approximately in the middle of the range. This is the only egress usable by all trucks, personell, livestock and equipment, even then the tool bars must be folded and the drills regged for towing in order to go from one side of the interstate to the other.

Keep in mind eleven years ago this was one piece of land, open range before the road split grass from water.

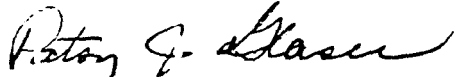
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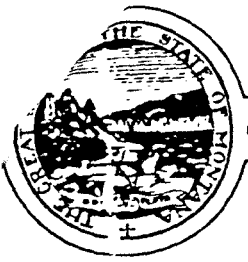
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It is our strongest opinion that the before mentioned items should be again brought forward and studied for their merits by elected officials answerable to the public. It is our experience that the Highway Department Right of Way Bureau has not been fair or has not used good judgement when dealing with our rights and the rights of individuals.

INDIAN CREEK RANCH



Patsy J. Glaser
Secretary/Treasurer



TED SCHWINDEN, GOVERNOR

2701 Prospect

STATE OF MONTANA

Helena, Montana 59620

January 26, 1981

I 90-3(32)
Parcel 9-B.I.A.
Ref: 68-GDF

Mrs. Georgia H. Blake
P.O. Box 145
Billings, Montana 59103

Dear Mrs. Blake:

The Department of Highways proposes to offer for sale the 27 acre tract of land in the SE1/4SE1/4 Section 34, Township 1 North, Range 28 East in Yellowstone County which you are leasing from the State.

This letter is notification that the said lease, dated February 17, 1977, from the State of Montana, as Lessor, and yourself, as Lessee, covering the above-described land, will be terminated as of March 30, 1981. Any personal property, including fencing, must be removed at your expense by said date.

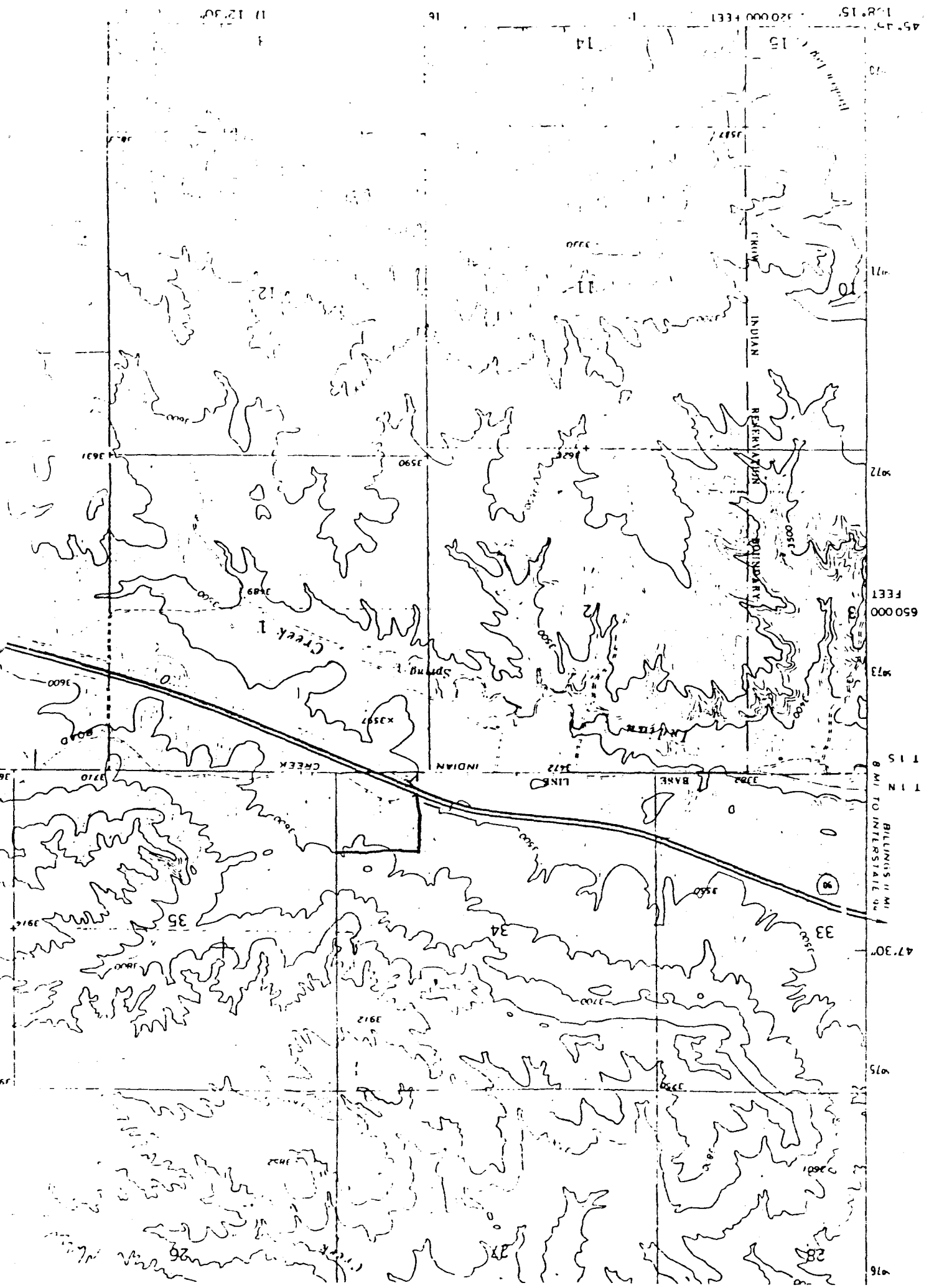
If you have any questions, please contact the Supervisor - Land Section, Right of Way Bureau, 2701 Prospect Avenue, Helena, Montana 59620 or phone 449-2004.

Sincerely,

Robert E. Champion, P.E.
Chief - R/W Bureau

REC:WS:nr/1E
cc: Supervisor - Field R/W Section, Billings
Mail & File Unit

45° 45' 15" N
108° 15' 15" W



650 000
FEET

1 15
8 MI TO INTERSTATE 90

1 15
BILLYS II MI

47° 30'

47° 15'

47° 00'

SENATE COMMITTEE HIGHWAYS AND TRANSPORTATION

Date 2-17-81 1111 Bill No. 332 Time _____

NAME	YES	NO
Senator Mart Etchart	✓	
Senator Tom Hager	✓	
Senator Frank Hazelbaker	✓	
Senator Elliott	✓	
Senator Tveit	✓	
Senator Manning		
Senator Graham	✓	
Senator Healy		
Senator Stimatz	✓	

Carol Doyle Frasier
CAROL DOYLE FRASIER
 Secretary

Mark Etchart
SENATOR MARK ETCHART
 Chairman

Motion: *B. ...*

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

STANDING COMMITTEE REPORT

February 12 19 81

MR. President:

We, your committee on Highways and Transportation

having had under consideration House Bill No. 322

Meyer (Stimatz)

Respectfully report as follows: That House Bill No. 322

W.C.

BE CONCURRED IN
DOUBT

SENATE COMMITTEE HIGHWAYS AND TRANSPORTATION

Date 2/12/91 Committee Bill (HAGER)
 Bill No. _____ Time _____

NAME Hager Committee Bill —

	YES	NO
Senator Mart Etchart	✓	
Senator Tom Hager	✓	
Senator Frank Hazelbaker	✓	
Senator Elliott	✓	
Senator Tveit	✓	
Senator Manning	<i>absent</i>	
Senator Graham	✓	
Senator Healy	<i>absent</i>	
Senator Stimatz	✓	

Carol Doyle Frasier
 CAROL DOYLE FRASIER
 Secretary

Mark Etchart
 SENATOR MARK ETCHART
 Chairman

Motion: _____

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

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

FEBRUARY 12, 1981

The Committee on Highways and Transportation this date, by a two-thirds vote, requested a bill to amend the law to require the Highway Department to sell lands by Public Auction.



Senator Tom Hager
Vice Chairman