

MINUTES OF THE MEETING OF THE HOUSE AGRICULTURE,  
LIVESTOCK AND IRRIGATION COMMITTEE, JANUARY 31, 1983

The meeting was called to order by Chairman Jacobsen on Monday, January 31, 1983 at 12:30pm in Room 129, State Capitol. All members of the Committee were present.

HEARINGS

SENATE BILL 60. SEN. MAX CONOVER, District 36, Yellowstone County, testified as sponsor of the bill, explaining the present permit is valid from July 1 through October 31 and would become effective for the entire calendar year. He said language in the title would be amended to stated "agricultural harvesting equipment" and "custom combiners" would be stricken from the bill, adding for uniformity, the fuel permit referred to on page 5 of the bill would also be effective for the entire calendar year.

PROPONENTS

MR. DON KOCKLER, Department of Highways, advised committee members of Departmental support of the bill.

OPPONENTS

There were no opponents of the bill.

QUESTIONS

There were no questions from the Committee.

IN CLOSING, Sen. Conover requested committee approval of the bill.

HOUSE BILL 486. REP. GARY SPAETH, District 71, Carbon County, testified as chief sponsor of the bill, advising committee members more than 70% of the State is comprised of rangeland, for which the bill would establish an improvement loan program. Rep. Spaeth said the bill would codify and revamp the present program, providing committee members with a statement of intent (exhibit). He told the Committee another statement which had not yet surfaced was not applicable, adding a statement of instruction would be necessary and would be provided during executive session.

PROPONENTS

MR. RAY BECK, Department of Natural Resources provided prepared testimony in support of the bill (exhibit).

MR. STEVE MEYER, Montana Association of Conservation Districts, said the program would benefit ranchers through the forest program, in addition to soil held by grasslands and the natural runoff filter created by foraging wildlife and urged committee approval of the bill.

MR. WILL BROOKE, Montana Stockgrowers Association, said his organization recognized assistance was needed in rangeland management and supported the bill.

MS. JEANNE RANKIN, Montana Farm Bureau urged committee support of the bill.

REP. GLENN ROUSH, District 13, Glacier County, told the Committee there is presently no authorization to make a loan from the fund, adding the concept is important as proposed in the bill. He also asked the Committee to give the bill favorable consideration.

#### OPPONENTS

There were no opponents of the bill.

#### QUESTIONS

REP. SCHULTZ asked what limitations there were on the new rules. Rep. Spaeth told him it would only apply to the loan program and not the Rural Revenue Development fund.

REP. BENGSTON told the Committee she was concerned with RRD funds being split and earmarked and asked what amount would be generated annually from the 20% level proposed in the bill. Mr. Leo Berry, Department of Natural Resources advised her that amount generated \$1.1 million in Fiscal Year 1979. Rep. Bengston said she thought a flow chart was needed to explain how RRD funds were appropriated. Mr. Berry replied .265% of the Coal Tax funds would generate \$1.4 million annually.

REP. RYAN asked Rep. Spaeth if the thousands of acres of rangeland being plowed up in his district would still be subject to repayment of the outstanding loan on the property. Rep. Spaeth advised the terms of the loan must be met even if land use changes.

REP. BENGSTON asked how earmarked RRD funds were presently used. Mr. Berry advised the Committee this information has been printed in booklet form by the Department, adding \$250,000 had been allocated for range-land grants which have been limited to two applicants in each of the past two legislative sessions.

REP. BENGSTON asked if all RRD monies had been allocated. Mr. Berry told her prior to the 1981 Session funds were not categorized at all.

CHAIRMAN JACOBSEN requested a list of loans for executive session, which Mr. Berry agreed to supply.

REP. ERNEST asked how priorities were established for rangeland improvement or development projects undertaken to return once cultivated land to its original state, as per Section 5 of the bill. Mr. Beck replied the Council takes a dim view on these lands, adding they are given low priority and said he would need to check the matter further.

REP. HANSON asked the the present interest rate was for such loans. Mr. Beck replied it was 2% and that a 2% administration fee was also charged.

IN CLOSING, Rep. Spaeth told the Committee the program was an important resource, had been operating successfully for four years and needed committee support.

#### EXECUTIVE SESSION

HOUSE BILL 409. CHAIRMAN JACOBSEN advised the Committee he had spoken with Rep. Veleber, sponsor of the bill, who believed it had problems.

MR. RON SCHOFIELD, Helena Valley Irrigation District, provided committee members with copies of information requested at the January 26, 1983, committee hearing (exhibit).

REP. BENGSTON moved the bill Do Not Pass. The motion was seconded by Rep. Holliday and given a unanimous Do Not Pass approval by the Committee.

HOUSE BILL 349. REP. SPAETH requested the Committee delay action on the bill until its companion bill, House Bill 509 was heard. Chairman Jacobsen concurred with the request.

Agriculture Committee Minutes  
January 31, 1983  
Page 4



SENATE BILL 102. REP. ELLERD moved the bill Do Pass.  
Rep. Schultz seconded the motion, which was given  
unanimous committee approval.

REP. SPAETH moved the bill be put on the Consent Calender.  
The motion was seconded by Rep. Koehnke and given unanimous  
committee approval. Rep. Hanson was asked to carry the  
bill.

HOUSE BILL 432. REP. UNDERDAL moved the bill Do Pass.  
Rep. Schultz seconded the motion, which was given unanimous  
committee approval.

CHAIRMAN JACOBSEN reminded committee members of the  
Department of Revenue hearing on proposed rule changes in  
assessment and classification of agricultural land, to  
be held February 2, 1983 and advised he would open the  
hearing to questions from those attending.

The meeting was adjourned at 1:15pm.

  
REP. GLENN JACOBSEN, CHAIRMAN  


Joann T. Gibson, Secretary

# STANDING COMMITTEE REPORT

JANUARY 31

19 83

MR. **SPEAKER:** .....

We, your committee on **AGRICULTURE** .....

having had under consideration ..... **HOUSE** Bill No. **409**

\_\_\_\_\_ reading copy ( \_\_\_\_\_ )  
color

**A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A MEANS BY WHICH SMALL SEPARATELY OWNED TRACTS OF LAND WITHIN AN IRRIGATION DISTRICT THAT ARE UNABLE TO RECEIVE WATER MAY BE RELIEVED OF IRRIGATION DISTRICT ASSESSMENT; AMENDING SECTIONS 85-7-2103 AND 85-7-2104, MCA."**

Respectfully report as follows: That ..... **HOUSE** Bill No. **409**

~~XXXXXX~~

**DO NOT PASS**

*Glenn Jacobsen*  
**REP. GLENN JACOBSEN**

Chairman.

# STANDING COMMITTEE REPORT

JANUARY 31

19 83

MR. **SPEAKER:** .....

## AGRICULTURE

We, your committee on .....

having had under consideration ..... **SENATE** Bill No. **102**

**First** reading copy (**white** color)

**A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A TRAVEL PERMIT FOR LIVESTOCK OWNED BY A RODEO PRODUCER IS EFFECTIVE FOR A CALENDAR YEAR; AMENDING SECTION 81-3-211, MCA."**

Respectfully report as follows: That ..... **SENATE** Bill No. **102**

DO PASS **(CONSENT CALENDER)**

**REP. GLENN JACOBSEN** *Glenn Jacobsen*  
.....  
Chairman.

# STANDING COMMITTEE REPORT

JANUARY 31

83

19.....

MR. **SPEAKER:** .....

## AGRICULTURE

We, your committee on .....

**HOUSE**

**432**

having had under consideration ..... Bill No. ....

\_\_\_\_\_ reading copy ( \_\_\_\_\_ )  
color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE A STATUTORY  
CONFLICT REGARDING PREFERENCE RIGHTS FOR STATE LAND LEASES:  
AMENDING SECTION 77-6-205, MCA."**

**HOUSE**

**432**

Respectfully report as follows: That ..... Bill No. ....

DO PASS

**REP. GLENN JACOBSEN**

*Glenn Jacobsen*

Chairman.

VISITOR'S REGISTER

HOUSE Agriculture

COMMITTEE

BILL HB 486

DATE 1/31/83

SPONSOR Spaeth

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
<u>Steve Meyer</u>	<u>Helena</u>	<u>MACD</u>	<input checked="" type="checkbox"/>	
<u>Jeanne Rankin</u>	<u>Bozeman</u>	<u>MT Farm Bureau</u>	<input checked="" type="checkbox"/>	
<u>Ray Beech</u>	<u>Helena</u>	<u>CDD / DNRC</u>	<input checked="" type="checkbox"/>	
<u>Will Brake</u>	<u>Helena</u>	<u>MBCD / MWG A</u>	<input checked="" type="checkbox"/>	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



1-31-83

STATEMENT OF INTENT  
HB Bill No. 486 [LC 705]

A statement of intent is required for this bill because it delegates rulemaking authority to the ~~Board~~ of Natural Resources and Conservation in Section 7.

The intent is to provide the Department with the authority to adopt those rules necessary to administer the Rangeland Improvement Loan Program. This authority is limited by Section 7 to adopting rules prescribing the form and content of applications for loans and the required conservation plan; to adopting rules governing the application, implementation, and interpretation of the criteria for awarding loans and of the procedure for the review of applications by conservation district supervisors, the committee, and the department; to adopting rules providing for the servicing of loans including arrangements for obtaining security interests and the establishment of reasonable fees or charges to be made; to adopting rules providing for the confidentiality of financial statements submitted; and, to adopting rules describing the terms and conditions for making loans.

Today:  
Glen should  
read  
↓  
Department  
(see § 7 of  
bill)

Deck - updated as of January 4, 1983

HB486

1-31-83

MONTANA RANGE IMPROVEMENT LOAN PROGRAM  
 CONSERVATION DISTRICTS DIVISION / DNRC

<u>NO.</u>	<u>NAME</u>	<u>LOCATION</u>	<u>PROJECT</u>	<u>REQUEST</u>	<u>FUNDED</u>
101	O.W. Garst	Biddle	Range Improvement	\$20,000.	\$20,000.
102	Ronald Schaffer	Powderville	" "	\$20,000.	\$20,000.
103	Patten Ranch Co.	Broadus	" "	\$20,000.	\$20,000.
104	Charles Grantier	Helena	" "	\$ 5,000.	
105	Earl Wohlfrom	Canyon Creek	" "	\$ 8,500.	\$ 8,500.
106	David Kono	Wibaux	" "	\$15,000.	
107	Betty Bay	Wolf Creek	" "	\$ 3,500.	\$ 3,500.
108	Todd Sorg	Vida	" "	\$17,770.	\$17,770.
109	Larry Surber	Denton	" "	\$10,000.	\$10,000.
110	J. Stewart Wright	Wolf Point	" "	\$12,700.	\$12,700.
111	Donald Converse	Augusta	" "	\$13,000.	\$13,000.
112	Gerald Marstaeller	Melville	" "	\$20,000.	\$20,000.
113	Robert Fink	Roy	" "	\$ 5,700.	
114	Kenny Nemitz	Glendive	" "	\$12,000.	\$12,000.
115	William Musgrave	Decker	" "	\$ 6,500.	\$ 6,500.
116	Buck James	Hardin	" "	\$20,000.	
117	James Steppler	Brockton	" "	\$20,000.	
118	Michael Iverson	Fairview	" "	\$20,000.	\$20,000.
119	John Gribble	Wolf Point	" "	\$12,374.	
120	Burt Twitchell	Wolf Point	" "	\$ 5,000.	\$ 5,000.
121	John Kelly	Red Lodge	" "	\$ 5,500.	
122	John Mercer	Sidney	" "	\$20,000.	
123	Wm. Armitage	Cameron	" "	\$20,000.	
124	Tom Burns	Chinook	" "	\$20,000.	\$20,000.
125	Donald Watson	Forsyth	" "	\$20,000.	\$20,000.
126	Keith Lockie	Angela	" "	\$20,000.	\$20,000.
127	McCann & Sons	Harlem	" "	\$12,300.	\$12,300.
128	Sam Picard	Bainville	" "	\$ 5,500.	\$ 5,500.
129	Charles Yarger	Circle	" "	\$ 3,000.	\$ 3,000.
130	Koss Brothers	Malta	" "	\$12,000.	
131	Hamlett Ranch	Sun River	" "	\$15,000.	
132	Del Darko	Belt	" "	\$20,000.	\$20,000.
133	Irvin VanHaur	Hilger	" "	\$20,000.	
134	Patrick Emond	Malta	" "	\$20,000.	
135	Stanley Nelson	Wibaux	" "	\$10,000.	\$10,000.
136	Robert Ostrum	Fishtail	" "	\$20,000.	\$20,000.
137	Don Hilger Sr.	Wolf Creek	" "	\$12,500.	\$12,500.
138	----				
139	John Teigen	Capitol	" "	\$ 3 000	\$ 3 000
140	Lee Lewis				
141	James Carlisle				
142	Roger Siroky				
143	Don Hilger Jr.				
144	Torger Sikvela				
145	Jack Anderson				
146	Michael Fip				
147	Daniel De				
148	Dawson P				
149	Gerald				
150	Saget				
151	Ken				
152	Rr				
153					
154					

	<u>NAME</u>	<u>LOCATION</u>	<u>PROJECT</u>	<u>REQUEST</u>	<u>FUNDED</u>
70	Tri-Co. Water Dist.	Cascade Co.	Range Improvement	\$20,000.	
71	Halmes Livestock	White Sulphur Spr.	" "	\$20,000.	
72	<b>Charles Schwenke</b>	<b>Chinook</b>	" "	\$20,000.	
73	John Mayn	White Sulphur Spr.	" "	\$20,000.	\$15,700.
74	Lawrence Heppner	Westby	" "	\$ 9,331.	\$ 9,331.
75	Robert Fritz	Chester	" "	\$25,000.	\$18,000.*
76	Chester Meyer	Ekalaka	" "	\$20,000.	\$20,000.
77	Scott Land & Lvstk.	Big Horn Co.	" "	\$20,000.	
78	Bar 69 Cattle Co.	Sumatra	" "	\$20,000.	\$20,000.*
79	Sagehen Grazing Assoc.	Jordan	" "	\$20,000.	
80	Sagehen Grazing Assoc.	Jordan	" "	\$20,000.	
81	Taylor Cox	Birney	" "	\$20,000.	\$20,000.
82	Edward Grady	Canyon Creek	" "	\$20,000.	\$16,000.*
83	Gary Wacker	Roundup	" "	\$ 4,300.	\$ 4,300.
84	Clear Creek Graz. Assoc.	Glendive	" "	\$20,000.	\$20,000.
85	A. Hayden Porter	Decker	" "	\$20,000.	
			TOTAL REQUESTED	\$1,297,177.	
			TOTAL FUNDED		\$631,947.
			TOTAL FUNDS APPROPRIATED		\$650,000.
			FUNDS AVAILABLE		\$ 18,054.

\* - loans not closed to date - approved by Executive Committee only

HOUSE BILL 486

TESTIMONY OF THE DEPARTMENT OF NATURAL RESOURCES AND  
CONSERVATION

The Montana Rangeland Resource Act which was signed into law by the 45th legislature is administered by the Conservation Districts Division of DNRC. The Range Improvement Loan Program which was initially funded by the Legislature through an RRD Grant in 1979 has been incorporated into our Rangeland Resource Program.

The thinking behind the initial funding of this program was that since rangeland is Montana's largest renewable resource that assistance should be available for improvements that have low pay back capabilities.

The application and loan process includes:

1. Applicant applies directly to local conservation district.
2. Application and conservation plan are reviewed by board of supervisors and prioritized within district.
3. Approved application and conservation plan sent to CDD/DNRC.
4. Program Coordinator, CDD/DNRC, reviews application and conservation plan for completeness - often requests additional information.
5. Rangeland Resource Executive Committee reviews applications in an advisory capacity to the Department.
6. Applicants, whose applications are approved by Ex. Comm., are requested to provide financial statement and security information sheet.
7. DNRC Economist reviews information for recommendation to the Director.
8. Director gives or denies final approval.
9. Applicants order current appraisal and commitment for title insurance on land used as security. Documents to CDD/DNRC.
10. Loan is closed.
11. Applicant submits invoices for materials, labor etc. to DNRC to claim loan funds.

12. Invoices are processed for payment. Check is transmitted to applicants.

To date we have closed 38 loans for \$519,551. seven loans are pending leaving a balance of \$59. Total applications received is 87 totaling \$1,356,116.

The improvements include:

- 51 springs developed
- 11 wells drilled
- 47 miles pipeline installed
- 73 1/4 miles fence installed
- 5921 acres of range reseeded
- 1940 acres of range renovated by mechanical methods
- 3225 acres of brush and weed control
- 25 stockwater pits and reservoirs dug
- 6 new grazing systems installed
- 102 stockwater tanks installed
- 165,090 acres into proper use management

House Bill 486 would extend funding for this program through June 30, 1989. We feel at that time that the program would be funded substantially and could continue on its own.

As I mentioned the projects that are being funded have low pay back capabilities. They are projects that are essential for improving rangelands that probably would not be completed at least at this time without assistance from a low interest loan program. It is important to remember that this is not a grant program and that all funds are paid back and will be reused.

We urge your favorable consideration of HB486

Thank you.

A list of the 10-year goals for the Program was established in 1970. Included were range improvement, intensive management, stockwater development, forage production, recreational use, and wildlife habitat improvement. Although some of the goals were perhaps too idealistic and were not fully achieved by 1980, it is reasonable to assume that through the work of many people, great progress can be made in each category. Range improvement can't be accomplished overnight. It is a long-range process requiring ample time and patience before results can be seen.

## RANGE IMPROVEMENT LOAN PROGRAM

The Loan Program, an important part of the entire Rangeland Resources Program, was originally established to provide no-interest loans to Montana farmers and ranchers for rangeland development including improvements such as stockwater development, cross fencing, establishment of grazing systems, reseeding, mechanical renovation, sagebrush management, and weed control.

Initial funding for the program was established by the 1979 Legislature. The program received \$300,000 from the Renewable Resources Development Fund for fiscal years 1980-81. Twenty-two loans were funded from this amount, totalling \$299,770.

The 1981 Legislature appropriated an additional \$350,000 to continue the program. Although the objectives remained the same, some changes were made in the program. The zero percent interest was raised to two percent annually and the original one percent administrative fee was raised to two percent. Program funds are disbursed by the Conservation Districts Divi-

can apply directly to their local conservation districts where the application, along with the conservation plan, is reviewed by the supervisors. If the application receives favorable review, it is forwarded to the Conservation Districts Division. The application is then reviewed by the Rangeland Resources Executive Committee. Those applications approved by the Committee are referred to the Director of the Department for final approval.

Loan funds can be disbursed over a maximum of three years. In certain cases, a payment deferral of two years can be granted, and installments can be spread over ten years up to a maximum twelve-year repayment schedule. The maximum loan is \$20,000. Loans are secured by either a first or a second mortgage and preference is given to the applicant who has additional funding available. The loans are limited to residents of Montana who are engaged in the farming/ranching business and show the necessary expertise to make a rangeland loan practical.

For more information contact:

Your local conservation district, or

Conservation Districts Division

Department of Natural Resources

and Conservation

32 S. Ewing

Helena, Montana 59620

Telephone: (406) 449-5640

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# MONTANA RANGELAND RESOURCE PROGRAM



MONTANA DEPARTMENT OF NATURAL  
RESOURCES & CONSERVATION

**DNRC**

## THE RESOURCE

Montana is primarily a rangeland state. Approximately 70 percent of the state's land area is grassland or grazeable woodland. In addition to providing feed for domestic stock, these lands supply habitat and forage for 90 percent of the wildlife in Montana.

Western rangelands are a reliable source of high-quality water, and are an important element in the control of erosion and pollution. The grasslands of the state retain 8 or 9 times more soil moisture than the croplands.

The natural beauty of these lands provides prime recreational areas used extensively by the public. In some cases they have value as urban and industrial sites. In addition, most of Montana's nonrenewable mineral wealth is found beneath the rangelands.



The greatest single demand on Montana's rangelands is production of forage for domestic livestock. Nearly 90 percent of the livestock grazing is on privately owned lands. A possible increase of as much as \$70 million in annual income could be realized if our rangelands were developed to their maximum production. To ensure a stable economic base for the future of the livestock industry, rangeland condition must be constantly improved.

In past years, range management has made progress, even so, today in Montana, rangelands are producing at only a little over half of their potential. Although over 60 percent of the range in Montana is in good or excellent condition, further improvement is essential.

Because the land ownership pattern in the state is diverse, a coordinated effort is needed to ensure the best possible management of our rangelands. The Montana Rangeland Resource Program was developed to accomplish this task and to demonstrate to the public rangeland's importance as a natural resource, and its value to the economy of the state.



## THE PROGRAM

The Montana Rangeland Resource Program was established in 1969 at the request of the Hill County Conservation District. When the legislature approved the program in 1971, the Conservation Districts Division of the Department of Natural Resources and Conservation was directed to administer it.

When the legislature convened for the 45th session in 1977, the Rangeland Resource Program had been in successful operation for about six years. That year the Montana Rangeland Resource Act was signed into law, making the program a statutory part of Montana state government and establishing the first rangeland resource law in the United States.

### Administration

The Conservation District Division (CDD) coordinates and disperses the information needed to accomplish the objectives of the range program. The State Program Coordinator is employed by the CDD to organize the rangeland activities of both public and private landowners. The Coordinator's job is to get information about the Rangeland Resource Program to interested groups and

individuals, and to the range leader in each conservation district, who will actively implement the program at the local level. Since the program is neither a physical nor technical undertaking, but rather is aimed at coordinating the efforts of several groups and agencies, the Coordinator act only as an advisor and counselor.



The Rangeland Resource Executive Committee, consisting of six ranchers appointed by the Governor, acts in an advisory capacity to the Coordinator and to the Department of Natural Resources and Conservation.

At the local level, advice and guidance are given by the conservation district supervisors. The implementation of the program is the responsibility of the County Range Leaders and their committees. These people must have the ability to communicate with and negotiate with their ranches, and other affected parties.



1-31-83

Montana Association Of Conservation Districts

7 Edwards  
Helena, Montana 59601  
Ph. 406-443-5711

January 31, 1983

Mr. Chairman, Members of the House Agriculture Committee:

For the record I am Steve Meyer, representing the Montana Association of Conservation Districts.

We support the continuation of the Rangeland Resource Loan Program.

I would ask you to consider the benefits of a sound range management program in a state that is about 70% rangeland. Not only does this program benefit the individual rancher by stimulating efficient use of the forage production but it also has several benefits that accrue to the public in general. The grasslands hold the soil in place to stop wind and water erosion, the forage on a well managed range works as a natural filter to remove foreign substances from runoff water and private range provides vital habitat for much of the state's wildlife population.

Continuation of the range program is an investment in resource enhancement for the future generations of Montanans that will continue to provide a food source for a world that requires an increasingly productive and stable agriculture industry.

We urge a "Do Pass" on HB 486.

Thank you.

---

Steve Meyer  
Executive Vice President

SM:dv



WITNESS STATEMENT

Name Will Brooke Committee On Agriculture  
Address 420 No. California / Acker Date 11/31/83  
Representing MT Assn. State Grazing Distr / Support X  
MT. Woolgrowers, Mt. Stockgrowers Oppose \_\_\_\_\_  
Bill No. 486 Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. WBR

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

NAME: Jeanne M. Rankin DATE: Jan 31 - 83

ADDRESS: 502 519<sup>th</sup> Bozeman MT

PHONE: \_\_\_\_\_

REPRESENTING WHOM? MT Farm Bureau

APPEARING ON WHICH PROPOSAL: HB 486

DO YOU: SUPPORT?  AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: \_\_\_\_\_

The Montana Farm Bureau would like to go on record in support of HB 486. We have recommended to the State legislature that they support the continuation of the Rangeland Resource Loan Program & believe this Bill to be a step in the right direction. I urge a Do Pass of HB 486.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Jeanne M. Rankin

LAW OFFICES OF  
SMALL, HATCH, DOUBEK & PYFER  
314 FULLER AVE.  
HELENA, MONTANA 59601

Exhibit  
-31-35  
LB409

FLOYD O. SMALL  
CARL A. HATCH  
JOHN C. DOUBEK  
RICHARD J. PYFER

January 28, 1983

Mr. Ron Schofield  
c/o Helena Valley Irrigation District  
3840 N. Montana Avenue  
Helena, MT 59601

Re: House Bill 409

Dear Ron:

At your request, I have reviewed the above referenced House Bill and because of the serious concerns that I had upon my review, I thought it sufficiently important to relate the same to you in written form.

First, you may certainly use and, in fact, I would urge that you use this letter and give it to the appropriate legislators so that they may become aware of some of the legal and practical problems posed in the Amendments and alterations proposed under the Bill.

Second, there appears to be a serious separation of powers problem. The district court has already adjudicated and made its determination of the precise number of acres which are to be included within the irrigation district and taxed accordingly. The bonded indebtedness which has already been placed against the land is based upon that same precise number of identifiable acres. When an acre is pulled out, it may not, under the present law, be done without an appropriate court order or permission of the involved irrigation district. What the legislature would be doing by excepting out of the district certain parcels which fall within its new definitions would be tantamount to reversing a prior judicial decision, a judicial decision which was the basis for numerous subsequent contractual commitments on the part of the district and its irrigating members. The multiplicity of lawsuits that could eventuate could be tremendous.

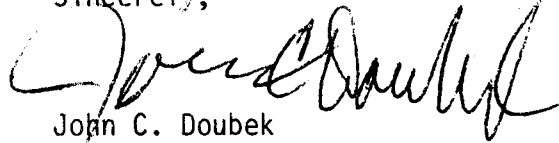
Third, the statutes which provide a procedure whereby an owner who does not have and cannot receive water for his one acre parcel can obtain review of his or her situation and receive relief therefrom without even having to go to court. Because the maximum which you can assess against a one acre parcel was only \$5.00, the entire matter seems to be a case of the tail wagging the dog.

Mr. Ron Schofield  
January 28, 1983  
Page 2

And fourth, it seems that there are a lot of subdivisions which will require resurveying and numerous determinations to be made by many parties as to whether they will fall within that definition of a user with one or less acres. The expense involved here could likewise be tremendous to the irrigation district and its farming members.

For the reasons outlined herein, it is my strong opinion that you recommend to the legislators that they kill this proposed bill. It seems to serve no useful purpose which cannot already and has not already been ably addressed in other statutes which are already on the books.

Sincerely,



John C. Doubek  
Attorney at Law

JCD/cjw

QUESTIONS ASKED TO IRRIGATION DISTRICTS  
HB 409

*Exhibit*  
*1-3-83*

*HB 409*

- 1.) Do developers or buyers of small parcels know that they are in the Districts and are responsible for water assessments?
- 2.) Has the District paid off it's federal obligation and how will HB 409 affect the District?
- 3.) How many complaints does the District receive and what has the Board done?
- 4.) How many parcels in the District are affected?

MALTA IRRIGATION DISTRICT - Bud Mavencamp, Manager

- 1.) Individuals are made aware only if they contact the District.
- 2.) The federal obligation is not paid out. The District will lose the water rights if not reclassified.
- 3.) The District does not receive many complaints. The Board has allowed parcels to pay out contract and be removed from assessment. Also have allowed them to reclassify out of the District.
- 4.) Not many parcels in the District are affected.

*Fairfield*

GREENFIELD IRRIGATION DISTRICT - Bob Fagerberg, Manager

- 1.) Individuals don't know unless they contact the District. District is planning to record some documentation in the county courthouse.
- 2.) The federal obligation is not paid out. The District will have to raise other users to cover the O&M. They can't shorten the system just because some is taken out.

- 3.) District receives approximately five to ten complaints per year. If the owner pays construction charge to end the contract plus O&M amount set by the Board, they are allowed out of the District.
- 4.)

*Serry - to Hamilton area*  
BUFFALO RAPIDS IRRIGATION DISTRICT - Ed Norlan, Manager

- 1.) District felt that most developers were aware they were in the District. District did not know if title search covers irrigation charges.
- 2.) The federal obligation is not paid out. The problem would be an increase in assesment to other users of \$1.00 an acre.
- 3.) Some small parcels have been petitioned out of the District. In one instance a subdivision petitioned out of the District and now wants back in.
- 4.) 200-300

*Lambert*  
BITTERROOT IRRIGATION DISTRICT - Elenor, Secretary

- 1.) Individuals are made aware only if they contact the District. Title companys don't always check.
- 2.) The federal obligation is not paid out. Other people willing to buy water.
- 3.) District continues to assess until water transfers.
- 4.)

*Low - to ...*  
HUNTLY IRRIGATION DISTRICT - George Barnard, Manager

- 1.) Individuals are made aware only if they contact the District. District went to the Billings Board of Realtors to have people notified to contact the District. No reponse was receive. Title companys may not be including this in their title search.
- 2.) The federal obligation is not paid out. O&M would increase to other members. If acres are dropped, water rights may be lost.

- 3.) District received one complaint. After advisement, subdivider put in a ditch to serve the development.
- 4.) Most subdivisions are larger than one acre.

*Diagon*  
EAST BENCH IRRIGATION DISTRICT - Dick Kennedy, Manager

- 1.) Individuals are made aware only if they contact the District. Reputable developer or purchaser should be aware.
- 2.) The federal obligation is not paid out. O&M must be continued and project must be maintained.
- 3.) All tracts are charged alike. Delivery to original turnout.
- 4.)

HELENA VALLEY IRRIGATION DISTRICT - Ron Schofield, Manager

- 1.) District advises any we know about that they are responsible for assessments. District has advised City County Planning Board of Irrigation District Lands and assessments.
- 2.) The federal obligation is not paid out. It would increase assessments to others by \$.35/acre.
- 3.) Board will not reclassify unless all parcels serviced by that turnout are removed from the District.
- 4.) 100