

HOUSE NATURAL RESOURCES COMMITTEE MINUTES  
February 21, 1983

The House Natural Resources Committee convened at 12 p.m. on February 21, 1983, in Room 104 of the State Capitol with Chairman Hal Harper presiding and all members present except Rep. Bergene, who was excused.

Chairman Harper opened the meeting to a hearing on House Bill 803.

HOUSE BILL 803

REPRESENTATIVE JOHN HARP, District 19, chief sponsor, said this was a bill that would require the Department of Natural Resources and Conservation to adopt environmental standards that applicants must meet under the Major Facility Siting Act. On page 1, line 13 the word "may" is changed to "shall" and other changes in the bill say standards had to be set so the proposed utilities would know what yardstick they needed to measure up to and that rules couldn't be changed midstream.

GENE PHILLIPS, Pacific Power and Light, spoke in support of the bill. He said they were unable to get the Department of Natural Resources to adopt rules to set standards for filing applications. They didn't think they had the power to do it. He said Mr. Berry feels they do but he might not always be there. He said if rules are adopted everyone will know what is needed.

DON REED, Environmental Information Center, spoke in opposition. He said the primary point he wished to make was that by setting standards you would be restricting the flexibility essential for the Siting Act to work. A case by case determination on each given facility is needed, as what is minimum on one is not necessarily minimum on another. He said it is extremely difficult to set standards for growth and demand. There isn't going to be any concrete points to put the finger on. He said there has been so many changes in the Siting Act - a new set of changes every session which require new rules to be adopted. If this bill is adopted there will be more needed. He felt this could cause uncertainty as much as lack of set standards in the Act.

RON ERICKSON, representing self, spoke in opposition to the bill. He said an area he had been working with is synfuel technology. He said this is a brand new technology and it would be impossible at this stage to establish standards for it. He said the bill would demand the department to set standards they aren't capable of setting.

MARC LEDBETTER, Northern Plains Resource Council, said they oppose the bill.

REPRESENTATIVE HARP in closing said it is not an impossible task. He said Oregon has a set of standards. He said what is needed is some standards that can be used in the future so we know where we are going with the act.

During questions Mr. Phillips responded that the DNRC could still make the decision that because of adverse effects the permit should not be granted.

Mr. Erickson responded to a question that the basic idea of the Act is to be able to look at alternatives. He said standards would start taking precedence over alternatives.

Mr. Phillips mentioned Judge Battin's ruling that the MFSA did not have any standards so the BPA would not have to comply.

Rep. Harp said they had an amendment from Mr. Berry, Administrator of DNRC, which would insert "where reasonably feasible" following "standards" on page 1, line 20.

MARGARET MACDONALD, NPRC, Billings, was recognized by Chairman Harper. They had not been informed of the change in time of the meeting so had arrived late. With the committee's consent she introduced the following opponent. She also presented a letter from JEAN HOUGH, Broadus (Exhibit 1).

LYLE QUICK, Farmer and Rancher from McCone County, representing himself, spoke in opposition and a copy of his testimony is Exhibit 2.

Chairman Harper closed the hearing on this bill and opened the hearing on HB 842.

#### HOUSE BILL 842

REPRESENTATIVE JAMES JENSEN, District 66, chief sponsor, introduced the bill as an act to generally revise the hard-rock mining laws. He went through the bill explaining the changes on each page.

BILL MCKAY, Rancher from Roscoe, testified for the bill on behalf of the Northern Plains Resource Council. He said basically the bill tightens up the language on reclamation and provides for more water quality protection. He said he didn't feel industry would have a problem with the bill

as they are doing this already.

MILES KEOGH, Rancher from Nye, representing the Stillwater Protective Association, mentioned the ground water potential problem. He said this bill would remove the burden of proof from the rancher if his ground water supply is damaged by a developing industry. He mentioned a spring that went dry for a rancher and how the Anaconda Company took care of it without going to court.

DENNIS HEMMER, Department of State Lands, spoke in support and a copy of his testimony is Exhibit 3.

WILLA HALL, League of Women Voters, spoke next in support, and a copy of her testimony is Exhibit 4.

JACK HEYNEMAN, Fishtail, representing self, spoke in support. He said the bill would be helpful and help tie up the loose ends.

KAY SATRE, Elkhorn Citizens' Organization, spoke next in support and a copy of her testimony is Exhibit 5.

DON REED, Montana Environmental Information Center, spoke next in support.

KEN KNUTSON, Montana Wildlife Federation, spoke in support.

BARBARA RHODES, Libby, spoke in support and a copy of her testimony is Exhibit 6.

#### OPPONENTS

GARY LANGLEY, Montana Mining Association, said they don't feel the bill is necessary. He said their most adamant objection is to sections 6 and 7 of the bill. He said section 6 would create a vigilante squad that would continually harass the mining operation. He felt section 7 might give someone with a dry water well a chance to supplement his water supply. He said if it is felt that changes are needed, there should be an extensive study of the hard-rock mining laws.

WARD SHANAHAN, Stillwater PGM Resources, spoke next in opposition and a copy of his testimony is Exhibit 7 of the minutes.

JACK PETERSON, Golden Sunlight Mine, Butte, spoke in opposition. He said it raises more questions than it settles with regards to reclamation problems. He felt the definition of vegetation cover is too restrictive and they should be allowed to introduce other species than

only those which were there before the mine began.

MAC JOHNSON, Helena, representing self, felt this bill would seriously hamper mining in the state.

JOE McALEER, President of the Northwest Mining Association of Spokane, spoke in opposition. He said the new section 6 would encourage endless litigation by anyone at no cost to the complaining party. He felt section 7 could cause an ambiguous, jurisdictional problem between the Department of Health and the State Lands Department as water pollution is handled by Health. Section 7, he said, also makes it appear that the operator is presumed guilty until proven innocent. He said the mineral industry does pay its own way in Montana.

ROBERT GARWOOD, Regional Geologist for Placer Amex Inc, spoke next in opposition and a copy of his testimony is Exhibit 8.

EBERHARD A. SCHMIDT, Regional Geologist for Amoco Minerals Company in Spokane, spoke in opposition and a copy of his testimony is Exhibit 9.

JACK BINGHAM, ASARCO, Troy, said they oppose the bill.

Written testimony opposing was received from:

GARY L. OJALA, Manager of Exploration, Sunshine Mining Company of Kellogg, Idaho - Exhibit 10

DANIEL B. ROBERTSON, Consulting Geologist, Spokane - Exhibit 11

REPRESENTATIVE JENSEN closed. He said we have a responsibility to reclaim mined lands in this state and if we are going to accomplish this we need guidelines, and that is what this bill gives. He said we do not have that now. He said most of these companies have been good companies and good for Montana. He said there has been some discussion as to whether we are pro or anti business, but this works both ways as there are companies that are proponents for the good of Montana and some are opponents. This bill would help see that the opponents do what they are supposed to do.

Chairman Harper closed the hearing on this bill and opened the meeting to a hearing on HB 802.

HOUSE BILL 802

HOUSE BILL 802,  
REPRESENTATIVE DAVE BROWN, District 83, chief sponsor, said this bill is to revise the laws relating to the regulation of the sale and use of pesticides. The bill increases the fees for applicators and provides a civil penalty for enforcement as the department needs something besides direct revocation of licenses. It provides for a tri-agency review process with Agriculture being the lead agency but allowing Fish, Wildlife and Game and Health to review chemicals where they think it is needed. Rep. Brown submitted suggested amendments to the bill, (Exhibit 12).

TOM DAUBERT, Environmental Information Center, spoke in support of the bill. He said this will provide a procedure so the state can respond much more quickly when necessary, and the expertise of the tri-agencies can be used in making important decisions about chemicals.

KEITH KELLY, Department of Agriculture, spoke next in support. A copy of his testimony is Exhibit 13 of the minutes.

RON ERICKSON, speaking for himself, spoke in support. He said there are organic chemicals that are dangerous and toxic to life and we must find new ways to regulate these substances. He said we are not training our applicators well enough and they should be able to read before being trusted with these substances.

WILBUR REHMAN, Helena, representing self, urged the passage of the bill with the amendments presented.

JERRY MCGAHAN, Arlee, Beekeeper, spoke in support. He said he had nothing against the control of noxious weeds but it has been damaging to his business. He said he works every day with chemicals and he has to be always on the alert when he does. He said he would like to see a tri-agency control like this bill proposes.

RICHARD FICHTLER, forester from Missoula, spoke in support and a copy of his testimony is Exhibit 14 of the minutes.

OLETA SMITH, St. Ignatius, spoke for the bill and a copy of her testimony is Exhibit 15 of the minutes.

KEN KNUDSON, Montana Wildlife Federation, said they rise in support of the bill.

LUA BRIEGER, Montana Conservation Congress, said they support the bill. She handed in testimony which is Exhibit 16 of the minutes. Exhibit 17 is Resolution #2 of the Montana Conservation Congress.

JOAN MILES, Lewis and Clark City County Health, said they rise in support.

JANET ELLIS, Montana Audubon Council, said they rise in support and written testimony presented is Exhibit 18.

NOEL ROSETTA, representing self, said he supports HB 802. A copy of his written testimony is Exhibit 19.

STACY FLAHERTY, Women's Lobbyist Fund, said they support the bill. A copy of their written testimony is Exhibit 20.

#### OPPONENTS

SAM HOFMAN, Manhattan, Agricultural Preservation Assoc., Park County Legislative Assoc., Sweet Grass Preservation Assoc., opposed the bill. A copy of his main points is Exhibit 21 of the minutes.

WILL BROOKE, representing Montana Woolgrowers, Stockgrowers, Farm Bureau, Montana Graingrowers and WIFE, said they support regulations in the use of pesticides but have some real problems with this bill. They felt it was a mini-EPA. He asked who is the burden of proof on. He asked that testimony from JO BRUNNER of WIFE be entered into the minutes. This is Exhibit 22 of the minutes.

WAYNE C. TURNER, Big Sandy, Montana Aviation Trades Assn., spoke in opposition. Exhibit 23 is a copy of his testimony.

PAUL G. NEWBY, representing APA and self, from Belgrade, spoke in opposition to the bill and a copy of his testimony is Exhibit 24.

KATHRYN JORDAN, Bozeman, representing self, spoke in opposition. She felt the current law gives the needed protection. She felt this would be giving OSHA type power to the Department of Agriculture.

FRANK A. NORMAN, APA Grain Chairman, spoke in opposition and a copy of his letter testimony is Exhibit 25.

LOWELL DORRINGTON, Great Falls, Montana Agriculture Business Association, said he had a special concern with section 3 on registrations.

LOWELL JACOBSON, aerial applicator from Glasgow, representing MATA-NAAA, said most applicators are living within the law now. He felt the department did not have the properly trained personnel to be putting forth penalties. His testimony is Exhibit 26.

FRANK REDFIELD, Opheim, representing MATA and self, said he strongly opposed the bill. He felt the present law is adequate and the applicators are covered by insurance and a bond. His testimony is Exhibit 27.

Due to lack of time the following opponents stood and stated their names and presented written testimony if they wished.

RUSSELL FERGUSON, Big Timber, Yellowstone Air Service, Exhibit 28.

MICHAEL R. BIGGERSTAFF, Stanford, representing MABA, MATA, and self, Exhibit 29.

DICK TODD, Lewistown, representing self, Exhibit 30.

JOHN SEMPLE, representing self, Exhibit 31.

GARY SEMPLE, Flaxville, representing self, Exhibit 32.

GARY J. MARTIN, representing MATA and self, Exhibit 33.

ARNOLD LINDBERG, Cut Bank, MATA, Exhibit 34.

WARD ERNST, Stanford, representing self, Exhibit 35.

BILL FERGUSON, Big Timber, Yellowstone Air Service, Exhibit 36.

LON SCRIBNER, Geraldine, representing self.

FRANCES CADWELL, Bozeman, representing self, Exhibit 37.

ROSS M. BUCHANAN, Valier, representing MATA and self, Exhibit 38.

VIVIEN EVELOFF, Monsanto and National Ag Chem. Assoc., Exhibit 39.

FRANK C. THOMPSON, Wolf Creek, representing self.

ROGER STRADBY, Belgrade, representing self.

REPRESENTATIVE BROWN closed. He said the endrin issue has shown us that these chemicals do not leave the system as endrin has continued into the second year and gets more concentrated each time the animal or bird comes in contact with it. He said 80 percent of this bill is similar to Senator Oschner's. He said we must try to eliminate any potential abuses. He felt the opposition was greatly exaggerated as he felt it was both a reasonable and sensible approach to try to solve the problem to the benefit of all.

Chairman Harper closed the hearing on this bill and opened the hearing on HB 877.

HOUSE BILL 877

REPRESENTATIVE ROBERT REAM, District 93, chief sponsor, said this bill requires decals be displayed on craft floating on streams and to provide for use of these fees for water management activities. He said a survey indicates that approximately 25 percent of our residents do river floating for an average of four days each. He said this can create problems with land owners. A data sheet on the proposed legislation is Exhibit 40. Exhibit 41 is a chart showing river-users fee data for Oklahoma, Ohio, Minnesota, Arizona and what Montana's would be with this bill.

JIM FLYNN, Department of Fish, Wildlife, and Parks, spoke next in support and a copy of his testimony is Exhibit 42.

KEN KNUDSON, Montana Wildlife Federation, said he would like to reinforce the necessity of having this for a companion bill for HB 888. He said the fees collected could help add some needed access sites and help to address some valid complaints of land owners. He had a copy of clippings from four daily newspapers (Missoulian, Bozeman Daily Chronicle, Great Falls Tribune and Billings Gazette) that favored the legislation. A copy of these is Exhibit 43.

RICHARD FICHTLER, Missoula, representing self, spoke in support.

WILBUR REHMAN, Helena, representing self, spoke in support. He said he had not talked to any floater opposed to a user fee.

JANET ELLIS, Montana Audubon Council, spoke in support.

JENNIFER COTY, Montana Wildlife Federation, spoke for the bill.

R. A. ELLIS, Helena, representing self, spoke in support. He said he felt firearms should be prohibited along streams except during the hunting season.

MARY HAMILTON, Helmville, representing self, spoke in opposition to the bill and a copy of her testimony is Exhibit 44 of the minutes.



House Natural Resources Committee Minutes  
February 21, 1983  
Page 9

REPRESENTATIVE REAM closed. He said this has nothing to do with protecting wildlife. He said our resources have become more and more in demand and the user should pay for those uses. "Those who are going to play should pay." He said he didn't know how much money this would raise as they have no idea of how many floating boats there are. He said if 200,000 people float Montana rivers, you could estimate about 50,000 boats would fit this category.

Chairman Harper closed the hearing on this bill.

Meeting adjourned at 2 p.m.

Respectfully submitted,

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HAL HARPER, Chairman

Emelia A. Satre, Sec.

# VISITOR'S REGISTER

HOUSE NATURAL RESOURCES

**COMMITTEE**

**BILL HB 803**

DATE 2/21

SPONSOR HARP

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Leo Berry

T.D.W.R.C.'s amendment to

AMENDMENT TO HOUSE BILL 803 - INTRODUCED BILL

1. Page 1, line 20.

Following: "standards"

Insert: "where reasonably feasible"

February 21, 1983

Chairman Hal Harper  
House Natural Resources Committee  
Capitol Station  
Helena, MT 59620

Dear Chairman Harper:

I am writing to express some concerns regarding House Bill 803 before your committee. I think it presents some serious practical problems in the implementation of the Siting Act.

Section 503, with a list of environmental considerations for the applicant and the Board of Natural Resources provides guidelines to tailor siting applications. These guidelines are not all adaptable to specific numerical standards, nor would they equally apply to the different types of plants, transmission lines, and communities that will be affected by the Act. The process of trying to set rules for each variable and unique site could be a long and arduous one, and could clutter up the state's administrative rule book unnecessarily.

In the interests of keeping the Act intact, and of good government, I would urge the Committee to vote "no" on HB 803.

Sincerely,

*Jean Hough /mem*

Jean Hough  
Broadus, MT 59317

STATEMENT OF LYLE QUICK ON HOUSE BILL 803

Mr. Chairman, members of the Committee, I'm Lyle Quick. I farm and ranch in McCone County, where I'm also a County Commissioner.

First, I would like to point out that the Siting Act has been amended in every session since it was passed. I have testified before this committee and others in 1977, 1979, and 1981 to urge that local governments and small rural communities not be ignored when they're to be the home of a huge new industrial facility. The law has been streamlined considerably based on the Colstrip experience. Since then, no major projects have gone through the entire process, although some smaller transmission lines have been routed.

I think it would be wise to see how all the streamlining works before we start any major new revisions of the Siting Act.

HB 803 would require mandatory standards be set for all of the environmental considerations listed in section 503 of the Siting Act. I don't think this is possible to do adequately. How will the state write a standard for minimizing social and economic impacts that applies equally to Circle and to Great Falls?

There are so many different variables with each different technology and each different site that it would take the state years and volumes to cover the territory in rules. Instead, our current law instructs the applicant and the Board of Natural

Resources to seek the minimum adverse impacts, in so far as technology and economics will allow. This is reasonable and does not require volumes of administrative rules to interpret.

I urge you to vote no on this bill.

# VISITOR'S REGISTER

HOUSE

NATURAL RESOURCES

COMMITTEE

BILL HB 842

DATE 2/21

SPONSOR J. JENSEN

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSEL
<del>DALE E. HIRSCHMAN</del>	<del>SPokane, WA</del>	<del>Continental American</del>		
<del>R. C. GREENWOOD</del>	<del>Spokane, WA</del>	<del>DLR CTE BOK</del>		
MAC JOHNSON	Helena	Self		✓
Don Reed	Helena	MEIC	✓	
J Bingham	TROY	ASARCO		✓
L Peterson	Butte	Golden Sunlight		✓
W. Juarez	Whiteland	"		✓
Dennis Hemmer	Helena	Dept of State Lands	✓	
Gary Amestay	Helena	Dept State Lands	✓	
Ward Sigwalt	Helena	PGM Resources		✓
Mary Langley	Helena	MONTANA MINING ASSN.		✓
Charles D. Wright	Helena	Self		✓
Roger Stradly	Belgrade	Self		✓
WR Mackay Jr	Roscoe	NPRC	✓	
Miles Keogh	Nye	Stillwater protection Assoc	✓	
Paul Kerpman	Fishtail	Self	✓	
Willie Hall	Helena	LNV of MT	✓	
Kay Satri	Helena	Elk Horn Citizens Org.	X	
Dave Brown	State Rep - Dist. 43	Self		X
Tom Teri Fink	Amoco Minerals	Decker		X
Joe McAleer	Spokane WA	NW Mining Assoc.		X
E.A. Schmidt	Spokane WA	Amoco Minerals Co		X

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DEPARTMENT OF STATE LANDS TESTIMONY ON HOUSE BILL 842  
BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE

The Department of State Lands supports House Bill 842. The bill gives the Department added definition as to what is required of reclamation under the Hard Rock Mining Act.

The Department would however suggest three amendments.

1. On page 12, line 14, it should be made clear that the three year bond term does not apply to exploration with minimal surface disturbance.
2. On page 16, line 12, a requirement that a complaint have sufficient detail to ensure that it is valid is needed. No one's interests are served if Department personnel are tied up investigating spurious complaints.
3. On page 16, line 23, the 90 day requirement should be deleted. On any but the simplest of cases, 90 days is too short to determine whether a water supply is affected by mining.

Later witnesses will propose a two year study by industry, interested groups and the Department. The Department wholeheartedly supports such a study. There are some additional changes needed in the Act, and the best way to develop changes acceptable to all would be through such a study.

The Department urges the committee to vote in favor of House Bill 842 with the suggested amendments.



DEPARTMENT OF STATE LANDS PROPOSED AMENDMENTS

HOUSE BILL 842

INTRODUCED COPY

1. p. 12, Line 14  
Following: "reclamation"  
Strike: "."  
Insert: "of mining disturbances or exploration disturbances other than  
drill holes."
2. p. 16, Line 12  
Following: "department."  
Insert: "The complaint in order to be valid must contain actual evidence of  
loss of quality or quantity of water and evidence of a potential  
connection between such loss and the mining or exploration operation."
3. p. 16, Line 23  
Following: "within"  
Strike: "90 days"  
Insert: "a reasonable time after the necessary information is available"

Ex. 4

Feb. 21, 1983



HB 842

testimony by Willa Hall of the League of Women Voters of Montana

The League feels there is a need to strengthen the Hard Rock Mining Laws. We believe HB 842 will help accomplish this need. In several areas of the Law, the language is quite vague. An illustration, pg. 7, lines 4 through 6 reads as follows, "Vegetative cover means the type of vegetation, grass, shrubs, trees, or any other form of natural cover considered suitable at time of reclamation". Adding the words "compatible with the surrounding environment, and capable of self-regeneration under natural climatic conditions at the site of disturbance" would provide more assurance of proper reclamation. In addition holding the reclamation bond for three years is important and certainly not unreasonable. In fact, it may not be long enough to determine if reclamation has been successful. (We currently require 10 years before releasing a strip mining reclamation bond)

The League is also concerned about water quality. Underground water sources can become altered or damaged. Sec. 7 gives the procedure for reporting and rectifying lost or damaged water sources.

Sec. 6 gives the public the right to report, under oath and require action if requirements of this law are not followed. It is so stated as to be an aid to management rather than harrassment.

For the above reasons, we urge your support of HB 842.

6X.5

Kay Satre, Elkhorn Citizens' Organization

Testimony in support of House Bill 842

The Metal Mine Reclamation Act shows that Montan<sup>7</sup>as are committed to the preservation of our land by requiring reclamation of disturbed lands after mining. But the existing Act falls short in several areas.

House Bill 842 seeks to revise the Act by more specifically defining certain reclamation requirements. HB 842 spells out requirements that will provide more protection for water quality, more thorough re-vegetation standards, and more adequate enforcement measures. In short, the additions to the Act proposed by HB 842 make the existing law more specific and more enforceable.

I am a member of a group particularly interested in the wildlife and recreational values of the Elkhorn Mountains, which are located about 30 miles southeast of Helena. Our group supports land use policies that will ensure for the future the successful co-existence of a diversity of uses for Montana's land. In other words, while metals mining will continue in the state, we want to make sure that wildlife and recreational uses will also be preserved. Careful and thorough reclamation, which is provided for in HB 842, is the means by which mining and other uses can be reconciled - at least to a large degree.

In summary, I urge you to support House Bill 842 which, by recognizing the importance of both mining and reclamation, promotes all the values of our land - the aesthetic, wildlife and recreational as well as the commercial values.

Ex. 6

February 21, 1983

Honorable Hal Harper, Chairman  
House Natural Resources Committee  
Capitol Station  
Helena, Montana 59620

Dear Mr. Harper:

Testifying on this bill to strengthen the Hard Rock Mining Law raises some fundamental questions. Reclamation is a legitimate function of the person or firm conducting mining operations, not leaving a wasteland is a legitimate cost of doing business. In mining profit is the motive and restoring the land should be accepted as a responsibility of the firm before mining may commence.

I understand that there has been no successful reclamation up to this time. I believe that there can be with a recognition that state government is acting as a partner to insure the restoration of disturbed lands, and that is a benefit to those who would mine.

A section (6) I feel is worthy is the mandamus to enable a private citizen to bring action to the Department of State Lands in the event of a violation of the law. This mechanism should help in the dilemma of enforcement.

Especially refreshing is the section (7) that speaks to the responsibility of a mining entity to restore water quality or quantity to those downstream, whose water rights might be effected by the entities activities.

In the Northwest corner of Montana where I live there is rich mineralization and the potential for much greater development, because of this I especially want to endorse this bill. I wouldn't want to see the Bull River Valley turn into the eyesore we have all been treated to at East Helena, and the upper Clark Fork Valley.

I encourage you to enact this legislation. Thank you.

Sincerely,

*Barbara Rhodes*

Ex. 7

NAME Ward A. Shanahan  
and Les A. Darling BILL NO. HB 842  
ADDRESS P.O. Box 1715, Helena, MT 59624 DATE 022183  
WHOM DO YOU REPRESENT Stillwater PGM Resources  
SUPPORT \_\_\_\_\_ OPPOSE XXX AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Stillwater PGM Resources, a partnership of Manville Sales Corporation and Chevron USA, Inc., has been studying the feasibility of developing an underground platinum and palladium mining facility in the Stillwater Complex under Montana's hard-rock mining laws for several years. We are opposed to HB 842 for several reasons:

1. There is no evidence, of which we are aware, indicating that there are abuses of the current law suggesting that the changes proposed in this bill are warranted,
2. The proposed provision (New Section 6) provides that anybody at anytime can bring legal action against an exploration program, an operator, or the Department of State Lands regardless of relevance, materiality, good sense, or actual interest in the subject matter, and
3. The proposed provisions (New Section 7) regarding water supply and quality are duplicative of current laws concerning water rights and water quality and would result in substantial expenditures

of time and money by both exploration companies and the Department of State Lands. This new provision allows anyone in the state to allege that problems with their water supply are caused by mineral exploration. The burden to prove that such a claim is without merit would rest entirely upon the exploration company. In our view, such a one-sided law is certainly unfair and would spawn numerous frivolous complaints by those whose only interest is to stop all economic development in Montana.

We met with Northern Plains Resource Council representatives regarding this bill on two occasions to attempt to ascertain their reasons for its introduction and to suggest that they join with the mining industry in sponsoring a legislative interim study of the Reclamation Act. We were not successful in either effort. In our view, an interim study would uncover any real problems that may exist with the current law and would allow the forging of a revised Reclamation Act, if necessary, for the 1985 session. We are unaware of any substantial problem with the current law which requires immediate modification as suggested by the proposed bill.

For these reasons, we urge a Do Not Pass recommendation on HB 842.

1673S

Ex 8

## PLACER AMEX INC.

REGIONAL OFFICE: N 7322 DIVISION STREET • SPOKANE • WASHINGTON 99208 • (509) 459-1901

February 18, 1983

STATEMENT OF ROBERT G. GARWOOD, REGIONAL GEOLOGIST

to the

MONTANA HOUSE NATURAL RESOURCES COMMITTEE

concerning

HOUSE BILL No. 842 - REVISION OF THE HARD-ROCK MINING LAWS

Mr. Chairman, Members of the Committee. I am Regional Geologist for Placer Amex Inc. I have had the responsibility of conducting exploration and development work on the Golden Sunlight Mine and I am pleased that the mine is now in production to provide jobs and an expanded economic base for the community and state.

I have participated as a mining industry representative providing input to Montana Senate committees in 1969 and 1970 and have worked with both the House and Senate committees during deliberation of House Bill 243 in 1971 which became the Hard Rock Mining Law. It was assumed in 1971 that general agreement had been reached with the legislature, mineral industry and environmental organizations. In fact and in practice, I believe the industry has complied with the law and has shown a positive attitude towards reclamation of surface soil disturbed by its activities.

However, the environmental groups have shown a lack of understanding of this agreement and have had legislation introduced in each session since 1971 designed to make the Hard Rock Mining law more stringent, more costly to the individual and to delay development of new mines. It appears they want their own way and will continue with these tactics until their way is law even if their way terminates hard rock mining within the state of Montana.

It is regrettable that the legislature must use its valuable time to consider the unreasonable demands of environmental groups made at each session and industry must spend time, money and energy responding to the unreasonable proposals.

I trust this committee realizes the proposed additions would allow anyone the opportunity to object to any action of the regulator, operator or explorer for any reason regardless of good sense or actual interest. This flagrant proposal is an abuse upon the hard rock mineral industry not placed upon any other industry.

If the environmental groups have specific objections or comments to violation of present law, let these objections be known and they can be addressed. Please do not allow vindictive regulation of one industry by any person or persons, as this proposed legislation would do.

Within the industry, it is an accepted fact that Montana has the most stringent environmental controls and regulations on exploration and mining of any state. I question if additional regulation is necessary at this time.





6X.9

**Amoco Minerals Company**

East 12213 Broadway  
Spokane, WA 99206  
509-928-8937

February 20, 1983

STATEMENT BY EBERHARD A. SCHMIDT, REGIONAL GEOLOGIST,  
to the  
HOUSE NATURAL RESOURCES COMMITTEE  
concerning  
HOUSE BILL 842 - GENERAL REVISION OF THE HARD-ROCK  
RECLAMATION ACT, STATE OF MONTANA.

Mr. Hal Harper, Chairman, Members of the Committee. My name is Eberhard A. Schmidt. I am the Regional Geologist for Amoco Minerals Company in Spokane, Washington directing the mineral exploration activities in Montana, Idaho, Oregon and Washington. Through Amoco's acquisition of Cyprus Mines Corporation, the company now has an interest in three molybdenum properties in Beaverhead County, and one copper - nickel property in Stillwater County. One of the molybdenum properties is a major find which has been continuously explored and developed since 1969. Amoco also owns the Cyprus-operated talc mine near Ennis in Madison County.

I like to voice my opposition to the proposed revisions of the Reclamation Act for the following reasons:

1. The new revisions are punitive for exploration, development and mining operations. All mining related activities are presently carried out under rules and regulations set forth by the Department of State Lands,

the Department of Health and Environmental Sciences, the U.S. Forest Service, and the Bureau of Land Management, all of which safeguard the protection of the environment. Necessary permits have to be secured from most of these agencies already before any exploration, development or mining operation can begin.

2. The Department of State Lands should have the sole authority to release a reclamation bond when the work performed has satisfactorily met their requirements, without the potential involvement of a public hearing by a so-called "interested party", as advocated in section 82-4-341. The original language describing the bond release procedure is satisfactory and should be retained.

3. Revegetation of disturbed areas is carried out under the supervision of the Forest Service or the Bureau of Land Management using specially recommended seed mixtures and fertilizer types that are compatible with the existing ecosystem. Seed mixtures are bought from licensed seed manufacturers guaranteeing purity of the product within established limits. Again, there is no need to add new language in sections 82-4-338 and 82-4-341 concerning the noxious weed-free vegetative cover.

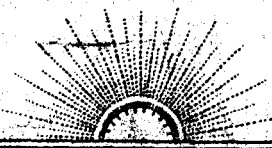
4. Provisions set forth in the New Section 6 are very objectionable, because they give anybody the right to interfere with the exploration and mining operations at any time and for any reason regardless of relevance, materiality and common sense. This provision has the earmarks of vigilante justice.

Mr. Chairman, it is unfortunate that this bill did not receive greater publicity before its introduction to the House, so that the long-term effects of this bill on present and future mining activities could have been studied in more detail. This concludes my remarks.

Thank you, Mr. Chairman.

Ex. 10

FEB 18 1983



# Sunshine Mining Company

P. O. BOX 1080    PHONE: Area Code 208-783-1211

Kellogg, Idaho  
83837

February 18, 1983

STATEMENT BY GARY L. OJALA, MANAGER OF EXPLORATION,  
SUNSHINE MINING COMPANY

to the

HOUSE NATURAL RESOURCES COMMITTEE

concerning

HOUSE BILL 842 — PROPOSED REVISIONS TO THE  
HARD-ROCK MINING LAWS

Mr. Chairman, Members of the Committee. My name is Gary L. Ojala. I am Manager of Exploration for Sunshine Mining Company, of Kellogg, Idaho. We have conducted minerals exploration activities in the State of Montana from time to time in the past and hope to be able to continue doing so in the future, and we are very concerned about the subject proposed legislation. Our concerns are both general and specific; please let me list some of the most important ones for you, in that order.

## General Concerns

A careful reading of the intent and content of this proposed legislation reveals that it is:

- unreasonable, unneeded, and would be wasteful of all kinds of resources (human, monetary, time, and mineral resources).
- discriminatory, in that it once again singles out the exploration and mining industry for excessive regulation; for regulatory "overkill."
- excessively stringent in its regulatory and compliance provisions and details, thus working a real operating hardship on mineral explorers.
- punitive; or at least sets the stage for unwarranted punitive actions against exploration activities.
- a blatant violation of the tenets of common sense, fair play, and the free enterprise system.

- an attempt by a limited, special-interest group to harass the honest efforts of a much needed, basic industry.
- just plain unneeded and onerous, and would, taken as a whole, have a very negative effect on legitimate, prudent and proper exploration in the State of Montana (and, I might add, on income-producing and jobs-generating exploration activities).

Some Specific Comments

Section 1 - title: adding "objective of reclamation" -- circumvents the intent of the original act.

Section 1(1)(a): deleting "beneficial uses" -- again, thwarts the original intent of the law.

Section 1(2): substitutes the vague concept of compatibility for the more realistic "proposed subsequent uses."

Section 2(9): deletion of "to the extent practicable" -- thus, removes practicability from the compliance requirements, creating serious burdens for the operator.

Section 2(9)(d): including air and water quality -- causes duplicate jurisdictional problems, and unnecessary and burdensome compliance requirements on the part of the operator.

Section 2(9)(j): Same objection as above.

Section 2(9)(k): unrealistic; ignores the legitimate, modern concepts and techniques of mining.

Section 2(14): "compatibility" -- unnecessarily stringent and confining -- gives too much arbitrary authority to the regulating agency.

Section 3(1)(b): "or as required by an approved reclamation plan" -- creates a whole new (and unnecessary) regulatory process for exploration activities -- an unfair and unrealistic, time consuming and costly burden during this early, highly competitive phase.

Section 3(3): Unfairly opens the door to all manner of obstruction; just not realistic, and certainly not needed -- its only real effect would be to harass and hamper the good efforts of explorationists.

Section 4(1)(e): Again, unneeded, unrealistic, impractical, and punitive -- just another added burden, with no demonstrable need, or benefits. Also,

again, improper from the jurisdictional standpoint.

Section 4(1)(h-o): Makes obtaining the operating permit unnecessarily difficult — no demonstrable need for these items. Also, violates the operator's rights of confidentiality and privacy; could force him to involuntarily incriminate himself.

Section 5 - title: progress report — creates just another unneeded regulatory "burden" — more paperwork, done at expense of productive work, and generating added regulatory expense to be borne by the taxpayers.

Section 5(5)(d): not needed.

Section 7(2): Unnecessary; again, ridiculously stringent.

Section 8(3): Makes the permit-renewal process little less than an invitation for harassment by obstructionists — creates an unrealistic and unfair vulnerability for the operator.

Section 8(6): Creates unfair burden of guilt-by-association.

Section 9 (1-3): much too stringent, all-encompassing, unrealistic, and burdensome; to the point of being discriminatory and punitive; creates undue and unwarranted vulnerability.

(New) Section 10: Opens the door for harassment without real basis; creates unfair vulnerability.

(New) Section 11: Again, creates (encourages?) the opportunity for harassment of a legitimate operator.

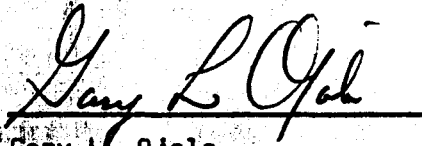
In summary, I can assure you that, if this bill becomes law, Sunshine Mining Company will be even more reluctant than we are now to conduct exploration activities in the State of Montana. Maybe that is what the people of Montana and their elected representatives want, but I sincerely shouldn't think so. I know that isn't what mining claimants and "junior" companies want — those which hold blocks of mining claims they want explored and developed by major companies. I doubt very much that that is what the numerous equipment and service contractors in the State who do business with legitimate exploration and mining companies want. There is no doubt in my mind that passage of this bill would cost the State of Montana jobs and dollars. And

all for no real, demonstrable need, or reason! I don't think that is what is needed or wanted, or what would be in the best interest of the people of the State of Montana, particularly in these times.

I sincerely hope you will reject this poorly conceived, unnecessary, single-interest, and obstructionist legislation.

Thank you for your consideration.

Very truly yours,



Gary L. Ojala

February 18, 1983

STATEMENT BY DANIEL B. ROBERTSON, CONSULTING GEOLOGIST

to the

HOUSE COMMITTEE ON NATURAL RESOURCES

concerning

HB 842 - REVISION OF THE HARD ROCK MINING REGULATIONS

STATE OF MONTANA

Mr. Chairman, Members of the Committee. My name is Daniel B. Robertson and I reside in Spokane, Washington. Over the past thirty years, I have worked in the western states and extensively in Montana as a field geologist, consulting geologist, and as a manager of exploration groups. I would like to speak out strongly against the proposed changes in the Hard Rock Mining laws.

The proposed HB 182 appears to change the intent of the Hard Rock Mining Act from regulations to insure reclamation to rules that will obstruct and eliminate mining exploration in the State of Montana.

Many sections of the new regulations make it difficult or impossible to conduct basic mining exploration and leave all operations open to arbitrary and capricious delays that would discourage investment in the state.

The proposed rules appear to unfairly discriminate against miners, explorers and owners of fee lands and legitimate mining claims in the state. At the present time, the State of Montana has very strict reclamation rules,

without a doubt the toughest in the western states. I do not believe there have been flagrant abuses of the existing rules, and changes to punish the mining industry are not needed.

Any industry or activity, including agriculture, changes and disturbs the surface. Scars from highway and railroad construction, urban sprawl, etc., are more evident than scars from mining, even in a state with a history of mining such as Montana. The mining industry is prepared to reasonably reclaim disturbed surface, but the proposed regulations are unreasonable to the point that they will seriously discourage exploration for new mines within the state. Despite the history of mining and the evidences of mineralization, the state of Montana is now considered to have an unfavorable climate for exploration. Expenditures to find and develop new mines are being spent in other states which will benefit from the increased employment and taxes of new developments. Let's not shut down hard rock mining development in Montana.



# VISITOR'S REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL HB 802

DATE 2/21

SPONSOR D. BROWN

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Paul W Jordan	Bozeman	APA		✓
Kathryn Jordan	"	Self		✓
Tom Daubert	Helena	Montana Environ Info Gr	✓	
Ross Norman	Bozeman	Self		✓
Paul G Newby	416 Mountainview Bozeman Mt.	APA and Self		✓
FRANK RedFIELD	Box 227 OPHEIM mt.	MATA + Self		✓
FRANK A Norman	RT 1 Box 201	APA + Self		✓
Lynn Hoffman	RT 2 Box 84 Manhattan, MT Chester	APA + Self PCLA SCPA		✓
John Simple	Helena, Fort Benton	Self, MATA		✓
GARY J. MARTIN	Glasgow	MATA		✓
Michael Biggerstaff	Stanford, MT	MATA - MABA		✓
Ward Ernst	Stanford, MT	Self		✓
Dary Simple	Flaxville, MT.	Farmers M.A.A.		✓
Herman Breckner	Manhattan, RT 1	APA		✓
Richard Fiebler	Missoula, MT.	Self	✓	
BILL ASHER	Bozeman	APA - PCLA - SCPA		✓
R. H. Ellis	Helena Valley	Self & Helena Valley very first		✓
Wayne C. Turner	Big Sandy	Montana Aviation Trade Assn		✓
Gregory Caldwell	Bozeman	Self		✓
KEN Knudson	MT Wildlife Fed	Helena	✓	

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

HOUSE

Nat. Rec

COMMITTEE

BILL

HB 802

Date

2/21

SPONSOR

D. Brown

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Arnold Lindberg	CUT Bank	MHTA		✓
Ross M. Buchanan	Valley	MATA		✓
Wally Olson	Lewistown	WESTCHEM		✓
Greta Smith	St Ignace	myself	✓	
Russell Ferguson	Livingston	Yellowstone Air Service		✓
Douglas Ferguson	Big Timber	Yellowstone Air Service		✓
RW Ferguson	Big Timber	Yellowstone Air Service		X
Ch. Branner	Helena	W.I. FE		X
Will Brooks	"	St Ignace, Coulter Workmen		X
Sam Dunning	St. Joe	MABA		X
Lowell Johnson	Claigan Mt.	MATA - MABA		✓
Kon Erickson	Missoula	SELF	✓	
Dick Todd	Lewis & Clark			✓
RS. Bidmead	Helena	SELF		✓
K. Kelly	HELENA	DEPARTMENT of Agr.	X	
Hacy Flaherty	Helena	Women's Lobbyist Fund	X	
Janet Ellis	Helena	MT Audubon Council	X	
Doris Brown	Spokane	Dist. 83 Butte-Silver	X	
Jerry McGowan	Arlee	self	✓	
Wilbur Rehmann	Helena	Self	✓	
Janet McGowan	Arlee	self	✓	

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# VISITORS' REGISTER

HOUSE Nat. Rec.

COMMITTEE

BILL HB 802

Date 2/21

SPONSOR H. Brown

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



*the Big Sky Country*

MONTANA STATE HOUSE OF REPRESENTATIVES

*five minute* *EX. 12*

REPRESENTATIVE DAVE BROWN  
HOUSE DISTRICT B3

HOME ADDRESS  
3040 DITAWA  
BUTTE MONTANA 59701  
PHONE (406) 792-3604

COMMITTEES

REPRESENTATIVE BROWN  
COMMITTEE ON AGRICULTURE  
COMMITTEE ON NATURAL RESOURCES  
COMMITTEE ON TRANSPORTATION

BROWN AMENDMENTS for HOUSE BILL 802

Amendment 1

(page 10, after line 7, before line 8, INSERT:)

The departments, in determining whether to request such review for a particular chemical product, may not request a review unless the chemical material or its by-products have been shown to :

- (1) have a half-life in the environment greater than seven days; and
- (2) accumulate in vegetation, soils, or animal tissues; and
- (3) be a suspected carcinogen, mutagen, or teratogen.

Amendment 2

1. Page 7, line 22.  
Following: "all"  
Strike: "available"  
Following: "information"  
Insert: "in the possession of the applicant"
2. Page 7, line 23.  
Following: "on"  
Insert: "representative"

Amendment 3

Page 11, line 24.  
Following: "Montana."  
Strike: "For the purposes of bringing such pesticides into Montana for sale or use, the cancellation is effective upon announcement of the cancellation by the federal agency."

Amendment 4

(page 22, in line 3, between the word "livestock." and the word "The", INSERT:)



*The Big Sky Country*

MONTANA STATE HOUSE OF REPRESENTATIVES

REPRESENTATIVE DAVE BROWN  
HOUSE DISTRICT 83

HOME ADDRESS  
4030 DITAWA  
BUTTE MONTANA 59701  
PHONE (406) 792 3604

COMMITTEES.

LEGISLATIVE COUNCIL  
NATURAL RESOURCES  
HIGHWAYS  
ENVIRONMENTAL QUALITY CONTROL

"A civil penalty shall only be assessed against a person when one or more major violations is proven under the procedure of this act and the Administrative Procedures Act. Major violations include misuse of a pesticide which results in proven harm to human health, the environment or to agricultural crops or livestock; selling of a restricted pesticide to a person not certified or authorized to purchase such pesticides; use or sale of unregistered pesticides; failure to maintain any individual pesticide application and sales records; using or selling pesticides without the required license, or permit; or recurrence of any identical violations within the same calendar year."

Amendment 5

Page 22, line 11.

Strike: Section 10.

Insert: "Deposit of fees and penalties in general fund.

All licensing, permitting, registration, and equipment inspection fees collected under (part 2 of this chapter) and any civil penalties collected under 80-8-306 must be deposited in the general fund."

Testimony on HB 802

ag -  
This Department supports House Bill 802 if certain sections are deleted and other sections are amended. Our objections primarily relate to the amendments to Section 80-8-201 (Registration) of the Montana Pesticides Act beginning on page 6 and identified as Section 3 in House Bill 802.

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) administered by the Environmental Protection Agency (EPA) prevents any state from registering a pesticide not already registered by EPA. In fact, states are only allowed to be more restrictive, not less restrictive, on registrations than EPA. Montana Legislature, in 1971, adopted the position that we would accept the registration of any pesticide if it was approved and registered by EPA. The primary reasons for this position were:

1. Montana could not afford the personnel or monies necessary to properly and adequately review each and every pesticide petition for registration.
2. Montana's primary problems with pesticides relate to the improper use and/or sale of the pesticide itself, rather than the actual registration of the pesticide by EPA.
3. The Montana Pesticide Act would have the necessary provisions to monitor and enforce the use and sale of pesticides in the state and to protect agriculture, health and the environment.
4. This act would allow the state to address local issues related to problems caused by pesticides through use or misuse. For example, section 80-8-105 (3) (a) allows the Department of Agriculture to prohibit the use of any pesticide or to restrict its use by time, place, location, registration, application or sale, whenever, agriculture, wildlife, human health or the environment have or may be affected adversely. The Department is allowed by Section 80-8-201 (6) to cancel or suspend any pesticide not complying with the Act's requirements.

The Department of Agriculture has recently cancelled the use of paraquat on one crop and restricted the use of aquatic herbicides and endrin. Presently, studies in cooperation with EPA, Brigham Young University and the Department of Fish, Wildlife and Parks have been initiated on endrin and strychnine to determine if further restriction of these products is necessary to protect the environment. The Department is also investigating more acceptable pesticides that may be able to be substituted for endrin and strychnine.

This department is opposed to mandating systems in which various departments have interlocking decision making powers. It

is recognized that while one department has the legal authority to administer a law that other departments may have responsibilities and duties that are affected by the law administered by the responsible agency. The executive branch, through the elected governor, is obligated to insure multidepartment issues are evaluated and resolved. If one department director does not enter into a spirit of cooperation, evaluation and resolution of a particular issue then the governor can insure through various executive procedures that the issue is resolved.

The executive branch expects the department directors to attempt to resolve interdepartmental issues through complete discussions and evaluations. If the directors can not reach agreement then the issue will be resolved by the governor. Many examples of interdepartmental concerns exist in the state now, how many of these should require that each concerned department has legal approval authority are enormous. It is the obligation and duty of the governor to insure that the laws administered by the executive branch are properly administered by each department director for all of the citizens of the state. Assignment to one department of the responsibility to administer a law approval by legislature is good management. It is the obligation and responsibility of the other agencies to inform the administering department of their concerns in an effort to reconcile all the responsibilities and obligations of the executive branch. This administration requests that your committee delete from HB 802 the multidepartment decision making provisions. Presently a system exists within the executive branch, in which the Departments of Agriculture, Fish Wildlife and Parks, Health and Environmental Sciences, Livestock and other departments, meet to resolve pesticide issues. This system works and adequately addresses the concerns of all departments.

The current registration system used in the state has a number of benefits:

1. The state maintains control of all pesticides sold or used in the state by requiring their federal and state registration.
2. The pesticide product labels are utilized almost daily for the department's integrated pest management program and other technical service programs. These registered labels are utilized for pesticide educational programs. They are also one of the essential elements of the enforcement program.
3. The monies generated from these product registrations assist in supporting the pesticide program.

The present system allows the Departments of Fish, Wildlife and Parks, Health and Environmental Sciences, other state agencies, the university system and citizens to raise issues and request

action on any pesticide with the Department of Agriculture. This process can be informal through normal governmental processes or formal through the Montana Administrative Procedures Act. These same processes exist not only for pesticides, but in any state agency for the programs they are responsible for administering. This process works and is adequate and proper whether one is concerned with pesticides, fish and wildlife laws and rules, subdivisions, water quality, etc.

Should this bill be approved by legislature, mandating an interdepartment review and approval of pesticide registrations then the Department of Livestock needs to be included. Livestock is responsible for administering various laws dealing with the health of domestic animals, milk and animal by products. The potential for pesticides adversely affecting livestock forage, feeds and livestock exists, therefore, the expertise of that department is required to insure pesticides do not adversely affect livestock and the consumption or use of meats, milk and by products by consumers. Once again this department and the other two set forth in this bill, presently can and do express their concerns to the Department of Agriculture. Agriculture is obligated to consider these concerns in its administration of the Pesticides Act.

The proposed amendments to Section 80-8-201 of the Pesticide Act create various program and budget problems for the state. On page 8, line 6 of HB 802 the change of the word "shall" to "may" will result in following problems.

The state will have to adopt the federal registration rules and guidelines thus affording the pesticide registrants knowledge of the minimum requirements prior to the state issuing a registration. These requirements must also set forth the specific reasons a registration could be denied or revoked. Potentially, the state's requirements for registration could even be more restrictive than EPA. The word "shall" allows the state to accept EPA's registration system of approval or denial of pesticides, which, since 1972, has had a good record of reviewing registration petitions from companies. Today it costs chemical companies 7 to 13 million dollars and may take up to 10 years before receiving an approval or denial from EPA. The costs incurred by the chemical companies result from the generation of data required by EPA as part of the information needed for registration.

The word "may" implies that the approximately 600 active ingredients and 4,000 registered pesticide labels could each need individual indepth review prior to approval by the Department of Agriculture. From a practical point of view, it is estimated that 50 active ingredient reviews could be accomplished in one year, if the review is concentrated in very specific areas of concern. If the review includes all areas of concern then only 5 to 10 active ingredients could be reviewed in any given year. This activity will result in increased costs to the state. The



total increase in budget will be presented later in this testimony.

Members of the Committee should also recognize that this permissive proposal would require the state to review each application on its merits. The state could not indiscriminately select which petitions for registrations to review or which ones not to review. In the same manner that license applicators are reviewed for compliance with a law prior to issuing the license, each registration application would have to be reviewed. If under the permissive registration proposal the department is responsible for the propriety of the registration of all pesticide regardless of whether a review and registration has already been done by EPA then of course any damage from a product registered becomes an added liability to the State of Montana.

EPA reviews of pesticide registration applications do not need to be duplicated by the state as set forth in this bill. The state does need to be able to affect federal registration if problems occur in the state. The current pesticide laws provides adequate power to prevent any potential problems.

It is also possible that the Montana Environmental Policy Act requirements would have to be implemented either by the department, or a company prior to or at the time the Department decides to approve or deny a registration. Companies could also exercise their legal rights under the Montana Administrative Procedures Act increasing governments responsibilities and costs.

It seems to the administration that this one amendment to the Pesticide Act has not be adequately considered and evaluated. There may be those that believe this change is small and that its impact on budgets, manpower, hearings, rules and the like is insignificant. To the contrary, its impact could be tremendous.

One state has implemented a similar system and its cost per year is 6 million dollars and resulted in 65 new positions being added to the public payroll. There have been numerous litigation cases in that state over this matter and thousands of hours of administrative staff time have been spent sitting in hearings. It should also be noted that the bill can not place any limitations on the number of reviews that could reasonably be expected to occur or would be required.

We believe strongly that Montana should accept EPA's registration process because adequate provisions exist in the current law to handle local problems caused by a pesticide. The above statements also directly relate to the amendments set forth on page 6, line 17 through 25.

On page 7, line 4 through 9 this administration has no major objection to the Department of Agriculture providing the list of registered pesticides to the Department's of Fish, Wildlife and Parks and Health and Environmental Sciences. Nor do we have a

problem providing the list to any person desiring it with two conditions: 1) the actual cost for the list would be paid by the requesting party and: 2) Section 2-6-109 MCA, which deals with agencies providing lists must be complied with. In fact, this list is available now to the two agencies at no cost and to the public if the above conditions are met.

The amendment on page 7, lines 22 and 23 creates a problem in that the words "all available information. . . or nontarget species." places the companies in a situation in which every published report and perhaps even every unpublished report on the subject would have to be provided. If this amendment is retained it should relate to the specific data required by EPA and/or state laws and rules.

The proposed amendment of Section 80-8-201 subsection (8) (a) creates an unique situation. The Department of Agriculture would review each petition for registration because federal registrations would not be automatically accepted by the state. In turn, after the registration is issued then the three Departments; Fish, Wildlife and Parks, Health and Environmental Sciences and Agriculture would begin the review process over again if either Fish, Wildlife and Parks or Health and Environmental Sciences requests the review. Should this review result in two of the three agencies disapproving the registration of a pesticide which had been registered several situations may occur:

1. The person or company adversely affected may request a three agency administrative hearing which must be granted.
2. The Department may have to implement rule making procedures if the intent is to modify the registration.
3. The Department of Agriculture or the three departments jointly may have to prepare an Environmental Impact Statement in compliance with MEPA. Who pays for the EIS?
4. If two of the three department heads still disapprove of the registration (after the administrative hearing) then an advisory council has to be appointed to review and rule upon the registration. The advisory council will make the final administrative decision for the state.
5. If the company desires, it may then petition the district court for resolution.

Several additional problems exist with these amendments: What standards do the agencies use to approve or disapprove registrations under the procedures of 80-8-201 (8)? Some may argue that this situation exists presently with 24(c) registrations for special local needs. However, the conditions of approval or denial of 24(c)'s has been established by EPA rules and EPA has accepted Montana's plan (1976) to issue 24(c)

registrations. This committee needs to know that the 24(c) process involves the state approval of additional use of pesticides already registered by EPA. In fact, these 24(c) or special local need use registrations, within 90 days of their state approval, becomes federal registered uses. No specific standards for regular registration of pesticides have been established for either the Department's of Fish, Wildlife and Parks or Health and Environmental Sciences.

Another major problem with the amendments to 80-8-201 deals with the confidentiality of some types of data. Under the federal registration system some types of data; financial, marketing information, quality control, inert ingredients, etc., are protected. This same type of protective system would have to be incorporated into Montana law. In the state referred to earlier as having its own review system, many of the court cases have been on the confidentiality provisions. Because of this and other related problems, some federal pesticide labels now state: "Not for sale or use in the State of California". It is recommended that this committee review Section 10 of FIFRA and incorporate its provisions into law if it does recommend passage of this bill.

Now let's assess the costs of these amendments. In the testimony it was brought out that 600 active ingredients and 4,000 product labels are registered in Montana. Lets assume that the Department of Agriculture would review up to 50 active ingredients per year prior to granting registration, and the three agencies would review up to 10 registered active ingredients, and that 2 or 3 reviews would result in administrative hearings and that one would result in an advisory council review and decision. Remember there are no limitations in the bill on the number of products that may have to be reviewed. Using these assumptions, we can make the following projections:

Department of Agriculture review:

	50	active ingredients per year
X	6	weeks required for each review*
	<u>300</u>	weeks
X	40	hours per week
equal	<u>12,000</u>	man hours of work
÷	<u>2,080</u>	(number of hours in one man year)
equals	<u>5.77</u>	F.T.E. required to do 50 reviews

The Department may be able to absorb 2 of these F.T.E.s by reassignment of duties within the Department which leaves 3.77 F.T.E.s to be filled. Please note this reassignment will adversely affect existing programs.

Propose 2 reviewers and 1 person for clerical support:

1 Environmental Specialist - Grade 14

1 Chemist - Grade 12

These 2 people would do most of the application and literature reviews, compilation of data and preparation of draft documents.

1 Clerk Typist - Grade 8 to type draft and final document.

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\* The Department of Agriculture did partial reviews of 2,4-D, 2,4,5-T and Pentachlorophenol and each of these required 5 to 6 weeks. The 6 week figure used here is based on this information.

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Review of registered products by the three agency, under the proposal assume:

10 active ingredient reviews by agencies.

2 to 3 administrative hearings per year (3weeks per session) will require contracting:

1 Hearing Officer - (Equivalent - Grade 17)

1 Stenographer - (Equivalent - Grade 12)

1 Advisory Council review (2 weeks); Department would pay per diem and travel per member

The attached minimal budget, \$97,967 for F.Y. 84 and \$91,715 for F.Y. 85, reflects salaries and benefits plus the needed operational funds to support the reviews. Should any of the assumptions used to derive this budget be exceeded, the monies to be appropriated in the various categories would have to be increased correspondingly.

This proposed budget does not include:

1. Costs incurred by the other departments,
2. All the costs of providing and duplicating the complete application and the enormous volume of supporting materials and tests from the applicant to the other departments,
3. Costs of contracting experts in various disciplinary that may be needed to properly evaluate applications,
4. Costs of preparing any environmental and/or economic impact statements to determine risks and benefits.

Summary:

The department believes the current law and processes contain adequate safeguards to protect agriculture, health and the environment in Montana. Because of the problems outlined in the preceding testimony the administrations recommends either a "Do Not Pass" on House Bill 802 or a "Do Pass" if deletion of the registration amendments as discussed in this testimony is accomplished.

The administration general supports the other amendments set forth in HB 802. However, we do have a few amendments of offer:

1. Page 6, line 2: Following "agencies" insert "and private industry".
2. Page 6, lines 17 though 25: Reinstate existing language and delete amendments.
3. Page 7, lines 4 through 9: Delete the amended words after "terminated".
4. Page 7, line 22: Recommend modifying as presented in our previous testimony, "including information on the effects of the pesticide on nontarget species as required by this chapter."
5. Page 8, line 6: Delete "may" and reinstate "shall".
6. Page 8, line 13: Following "provided." "The department may deny the application for registration of a federal registered pesticide if scientific evidence proves that under conditions of proper use it has adversely affected agriculture, health or the environment in the state."
7. Page 8, line 14: Delete "\$50", insert "\$30".
8. Page 9, line 13: Following "chapter", insert "or whenever scientific evidence proves that the article endangers man or the general environment afforded protection under 80-8-105 (3) (a)".
9. Page 10, lines 3 through 7: Strike the lines in their entirety.
10. Page 10, line 8: Strike "but are not limited to".
11. Page 10, line 9: Restate the word "same".
12. Page 12, line 1: Strike "upon announcement of", insert "concurrent with".  
  
Page 12 line 8: Insert after "state" the words "will extend to but"
13. Page 14, line 1: Strike "May", insert "March".
14. Page 14, line 2: Strike "May", insert "March".
15. Page 15, line 2: Strike "May", insert "March".
16. Page 15, line 3: Strike "May", insert "March".
17. Page 22, line 3: Insert after the word "livestock."

"A civil penalty shall only be assessed against a person when one or more major violations is proven under the procedure of this act and the Administrative Procedures Act. Major violations include misuse of a pesticide which results in proven harm to human health, the environment or to agricultural crops or livestock; selling of a restricted pesticide to a person not certified or authorized to purchase such pesticides; use or sale of unregistered pesticides; failure to maintain any individual pesticide application and sales records; using or selling pesticides without the required license, or permit; or reoccurrence of any identical violations of this chapter within the same calendar year."

18. Page 22, lines 11 through 23: Delete in its entirety, insert "All registration, licensing, permit fees and civil penalties shall be deposited in the general fund."

Minimum Budget  
for  
HB 802

	<u>F.Y. 84</u>	<u>F.Y. 85</u>
Salaries	\$50,902	\$51,754
Benefits	<u>10,180</u>	<u>10,351</u>
Sub Total	\$61,082	\$62,105
 CS	 \$16,210	 \$15,710
SM	8,500	5,500
Communications	6,000	5,500
Travel	1,000	1,000
Rent	1,200	1,200
R & M	100	100
OE	<u>200</u>	<u>200</u>
Sub Total	\$33,210	\$29,210
 Equipment	 <u>3,675</u>	 <u>400</u>
Sub Total	\$36,885	\$29,610
 TOTAL	 \$97,967	 \$91,715

Personnel

1 Environmental Specialist - Grade 14  
1 Chemist - Grade 12  
1 Clerk Typist - Grade 8

<u>Contracted Services</u>	<u>F.Y. 84</u>	<u>F.Y. 85</u>
1 Hearing Officer	\$ 6,000	\$ 6,000
1 Stenographer	5,000	5,010
Copying & Data Processing	5,200	4,700
TOTAL	<u>\$16,200</u>	<u>\$15,710</u>

Equipment

3 desks and chairs	\$ 975	\$
typewriter	1,900	
4 file	800	2 files 400
TOTAL	<u>\$ 3,675</u>	<u>\$ 400</u>

TESTIMONY ON HOUSE BILL 802 GIVEN BY RICHARD K. FICHTLER  
ON FEBRUARY 21, 1993.

My name is Richard Fichtler and I am a forester. While I now live in Missoula, I was raised in Big Timber and Glasgow. I am here today, in part, because my family and I love to hunt and we depend totally upon wild game for our annual meat supply.

We have followed this pesticide issue for two years now and have been closely involved from the beginning. During this period we have found it near impossible to obtain information that would enable us to avoid treated areas while hunting. This last year we wrote the state Department of Agriculture for information on treated areas. It took <sup>four weeks</sup> ~~four weeks~~ Governor's <sup>four weeks</sup> ~~four weeks~~ to get a response. <sup>before the department finally responded</sup> ~~to get a response~~ and when we did receive the information we found it incomplete for pesticides sprayed six months earlier.

Last February I decided to learn more about pesticides and subsequently attended the Department of Agriculture's Pesticide Applicators Certification Course. Without going into time consuming detail, let me assure you that there are fundamental flaws in the state certification process. People totally incapable of safely using pesticides can receive certification. Old copies of the final test are available, some instructors advise applicators to ignore certain restrictions and other instructors will tell participants the questions on the up coming certification exam. I suggest to you that the state is not currently protecting its citizens <sup>as promised</sup> ~~as promised~~ <sup>both</sup> ~~both~~ in the constitution. ~~and in the existing pesticides act~~ <sup>act</sup>



In conclusion I wish to throw my full support behind  
HB 802. The three agency review is extremely important and  
licence fees must be increased to adequately fund <sup>— actually, to maintain —</sup> administration  
by the Department of Agriculture. Civil penalties for violations  
are necessary to protect Montanans. They also will correct the  
problem of leaving some farmers without an applicator when  
previous violations resulted in license suspension. This  
bipartisan bill must be enacted. Thank you for your time.

2-21-83 ~~6~~ 15

a statement to The Natural Resources Committee  
regarding HB 802:

I was reared on a Michigan farm where no weed was allowed to go to seed. I have much respect for farmers and ranchers and know them to be honest, intelligent, and dedicated to making a living for their families and producing agricultural products for people the world over. Nevertheless, as one who consumes farm produce, as one who lives in an agricultural valley, I am sincerely concerned about the use of toxic substances any place on the land. I do not ask that no chemicals be used but I do ask that steps be taken to stop their abuse and to ensure that we are responsible and knowledgeable in our use of them. I will feel that the adoption of HB 802 will be a clear signal that the state's legislators have a sense of responsibility for the health and well being of Montana's residents and their unique environment.

HB 802 is a reasonable bill that will cause no great hardship to anyone. It will promote the responsible use of substances which are potentially hazardous if unregulated. There's a new horror story in the papers every few weeks that speaks of the money and the human suffering that results from ineffective regulations. Furthermore, this bill will give Montanans an opportunity to review the substances themselves rather than rely entirely on EPA. It is a good bill!

Sincerely  
Oleta Smith  
St. Ignace  
Lake County

on 16  
Mr. Chairman + Members of the Committee:

My name is Luci Brieger, + I appear before you today as the representative of the Montana Conservation Congress, a group of over 40 conservation organizations state-wide. At our meeting last September, the issue of pesticides use & regulation was a major concern. <sup>we recognized that pesticides are a necessary & integral part of Montana's industry. At the same time,</sup> After lengthy discussion, the entire body endorsed a resolution in support of better public education on pesticides & pesticides alternatives, better enforcement of current regulations, & better regulation of extremely toxic or "restricted use" substances.

The Montana Conservation Congress endorses HB802 as a step forward achieving these goals. Of particular concern to us to us is the section authorizing optional tri-agency review of certain toxic pesticides. This provision will allow all ~~available~~ available information to be considered before such important decisions are made.

We thank Rep. Dave Brown for preparing this bill, + we hope that you will accept it.

Thank you.

Conservation Groups in Support of HB ~~801~~ 802

Alliance for a Nuclear-Free Montana  
Alternative Energy Resources Organization  
American Fisheries Society  
Cabinet Resource Group  
Citizens for an MX-Free Montana  
Canyon Coalition  
Common Cause  
Defenders of Wildlife  
Elkhorn Citizens Organization  
Five Valleys Audubon  
Flathead Audubon  
Flathead Resource Organization  
Great Bear Foundation  
Headwaters Alliance  
Institute of the Rockies  
Last Chance Audubon  
League of Women Voters  
Madison-Gallatin Alliance  
Mo Breaks Protective Association  
MEIC  
MEIC-Bozeman  
Mt Wilderness Association  
Mt Wildlife Federation  
MontPIRG  
Nature Conservancy  
North Fork Preservation Association  
Northwest Citizens for Wilderness  
Northern Rockies Action Group  
Pintlar Audubon  
Rocky Mountain Front Advisory Council  
Sierra Club-Yellowstone Valley Group  
Sierra Club- Last Chance Group  
Sierra Club- Bitterroot Group  
Solar Energy Industry Association  
Trout Unlimited- West Slope Chapter  
Upper Mo Breaks Audubon  
Western Sanders County Involved Citizens  
Wildlands and Resources Association  
Wilderness Society  
Wildlife Society- UM Chapter  
Yellowstone Valley Audubon  
Flathead EIC

2/21/83

Submitted by Luci Brieger, representative of the Mt Conservation Congress.

*Lucianne Brieger*



# Montana Conservation Congress

EX. 17  
L. Briger

## RESOLUTION #2

### PESTICIDES

WHEREAS, Agriculture, Montana's principal renewable industry, is becoming increasingly dependent upon a multitude of toxic chemicals; and

WHEREAS, the use of some of these chemicals may be necessary for the control of certain animals and plants known to be harmful to agricultural production; and

WHEREAS, improper and overuse of these chemicals often causes additional agricultural problems by eradicating beneficial plants, animals, and soil microorganisms and encouraging resistant strains of harmful organisms; and

WHEREAS, the use of certain highly toxic and long-lived chemicals, particularly the chlorinated hydrocarbons (e.g. endrin, toxophene, heptachlor, etc.) can cause long-term, harmful health effects to wildlife and to humans that are exposed to these chemicals or consume wildlife that are contaminated by these chemicals; and

WHEREAS, the continued use of chlorinated hydrocarbons can have severe economic impacts to Montana as evidenced by the loss of hunting revenues to the state, possible degradation of the quality of Montana's agricultural production, and by restrictions placed on agriculture concerning grazing and stubble use from sprayed fields; and

WHEREAS, use of all chemicals can be reduced and is more effective when integrated with biological, species-specific or mechanical options (i.e. tillage and mowing).

THEREFORE, BE IT RESOLVED by the Montana Conservation Congress, assembled in Helena on this 18th day of September, 1982 that the use of integrated pest management technologies (IPM), which incorporate species-specific, biological, mechanical and/or rapidly degrading chemicals, be advocated by the State of Montana for the control of animals and plants known to be harmful to agricultural production, with the immediate goal of eliminating the problems caused by chlorinated hydrocarbons.

BE IT FURTHER RESOLVED that the Montana Department of Agriculture take the lead in our state towards initiating the use of such alternative pest management programs, thus reducing Montana agriculture's dependency upon the chemical industry.

BE IT FURTHER RESOLVED, that the Montana Conservation Congress supports improved public education about toxic chemicals and effective enforcement of regulations governing the sale and use of restricted-use chemicals, in order to maintain Montana's quality of life and protect the health and lifestyle of producers and consumers of agricultural products.

# Montana Audubon Council

Testimony on HB 802

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm representing the Montana Audubon Council. The Council is composed of 8 Chapters with 2400 members located throughout the state.

The Audubon Council supports HB 802 as amended by its sponsor.

Problems with our pesticide laws were highlighted 2 years ago with a fish kill on Sunday Creek in eastern Montana after a handful of wheat farmers fought cutworms the way they knew how. It is true that this fish kill was caused by the abuse of <sup>a particular</sup> ~~chemical~~ ~~chemical~~. But It is also true that the laboratory studies done after this abuse turned up high concentrations of numerous pesticides in everything from antelope and grouse to ducks that <sup>can</sup> take their contaminations with them as they leave Montana--and even our country--for the summer and winter.

In the last 2 years, newspapers have introduced us to words such as endrin and chlorinated hydrocarbons. With this introduction, Montanans have become aware of the inadequacies of our laws pertaining to the sale and use of pesticides. HB 802 is a step towards ensuring that we can learn from our past.

Most of the details of this bill were worked out by the Dept. of Agriculture in conjunction with concerned agricultural groups. In addition, the option of an (already-in-tack) tri-agency review for EPA approved pesticides has been added to the Department's bill to give Montana the ability to examine the pesticides used in our state and ensure that these chemicals are safe for our citizens and wildlife.

It worries us that such an important matter is brought before you just 3 days before the transmittal deadline. We hope that this committee uses the comments it hears today constructively--and we respectfully ask that you act quickly in bringing this matter to the attention of the full Montana House with a "Do Pass" recommendation.

Thank you.

House Bill 802

2/21/83

my name is Noel Rosetta

Mr Chairman & Members of the committee I am here today to support House Bill 802. Like many Montanans I support a thriving agriculture, but I also believe it must operate within a framework which protects human health & safety and allows a rich diversity of wildlife. If the last two years have taught us anything, it is that the use of the more toxic pesticides is a highly risky business, and none of us are even quite free from a widening circle of its effects.

I support HB 802 because it provides better controls to reduce the risks entailed in pesticide use.

An important part of this bill is a provision to strengthen the process of interagency consultation concerning the registration of chemicals. Since these chemicals have widespread effects on human health & wildlife, the viewpoints of both the Departments of Health & Fish & Game people provide an essential second & third opinion.

Finally the public risks are so high under the present practice of using highly toxic poisons that tougher restrictions are absolutely essential. The best way for farmers to regain their freedom from bureaucratic surveillance is to gradually shift ~~farming~~ ~~the~~ operations to more benign methods of pest control such as Integrated Pest Management. These methods have already been tested in China & by some farmers in the United States. And they work.

# WOMEN'S LOBBYIST FUND

Box 1099  
Helena, MT 59624  
449-7917



TESTIMONY OF STACY A. FLAHERTY, WOMEN'S LOBBYIST FUND, IN SUPPORT OF ON HB 802  
BEFORE HOUSE NATURAL RESOURCES ON FEBRUARY 21, 1983

The Women's Lobbyist Fund is concerned about the prevalence of pesticides in Montana and their effect on women and children.

There are a number of pesticides that have been found in abnormally high concentration in Montana waterfowl. At least two of the pesticides, endrin and heptachlor, are mutagenic. Nursing and pregnant women have been warned not to eat waterfowl because of the known deformities in children caused by pesticides.

We are encouraged that HB 802 would clarify the laws regulating the sale and use of pesticides.

We are also pleased with the Tri-agency Review process. By including the Department of Health and Environmental Sciences, we believe the health concerns relevant to women and children will be represented in the review process. We urge this committee to pass HB 802.



WITNESS STATEMENT

Name Sam Hoffman Committee On \_\_\_\_\_  
 Address RT 2 Box 84 Manhattan, Mont. Date 2-21-83  
 Representing Agricultural Preservation Assoc Support \_\_\_\_\_  
Park Co. Regulatory Assoc.  
Sweet Grass Preservation Assoc.  
 Bill No. H13 802 Oppose 2  
 Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Farmers & Ranchers Do ethical job in application  
 - Bill revisions have dual purposes: 1. raise funds  
 2. control violators
2. Page 3 lines 19-23 impose conditions & establish procedures which make  
 Dept of Ag. policeman, subject jury of all farmers & ranchers of all pesticides applications  
 in the state
3. Governmental Agencies interpret their mandates, laws and duties in different ways  
 at different times.
4. Page 4 - Point 4 covers all in any emergency & gives Dept of Ag. every "necessary  
 orders & rules needed to protect public health, welfare & safety."
5. Anything more is "overkill". Revisions bring more bureaucracy, rules, orders & duties  
 for Dept of Ag.  
 - will be a hardship & burden on all Farmers & ranchers statewide and will not  
 insure more protection for the public
6. Bill is overreaction to Endrin problem.  
 Pesticide Conference in Billings brought out Press coverage & bias.
7. Present law controls pesticide registration, regulation, licensing and  
 education of all applications in the state. It's a good law. Let's  
 Keep it.

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



# WIFE Women Involved in Farm Economics

NAME JO BRUNNER BILL NO. 802  
ADDRESS 536 3rd ST. HELENA DATE February 21  
REPRESENT WOMEN INVOLVED IN FARM ECONOMICS  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

## COMMENTS:

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS JO BRUNNER AND I SPEAK TODAY FOR THE MEMBERS OF THE WOMEN INVOLVED IN FARM ECONOMICS. WE SPEAK IN OPPOSITION TO HB 802.

WE RECOGNIZE THAT THE BASIC CONCEPTS OF THIS BILL ARE THE SAME AS SENATE BILL 238, WHICH WE ARE SUPPORTING. HOWEVER, THERE ARE SOME BASIC CHANGES THAT WE CAN NOT SUPPORT IN HB 802.

WE ARE CONCERNED WITH AN ADDITION ON PAGE 7 LINES 22-23, SECTION 3-- " INCLUDING ALL AVIALABLE INFORMATION ABOUT THE EFFECTS OF THE PESTICIDE ON NON TARGET SPECIES" IT IS OUR UNDERSTANDING THAT BEFORE ANY PESTICIDE CAN BE APPROVED THE MANUFACTURERS MUST MAKE TESTS ON REPRESENTATIVE SPECIES ALREADY. WE BELIEVE THAT SUCH ADDED INFORMATION WOULD PRESENT ADDITIONAL COSTS FAR BEYOND THE PRODUCERS CAPABILITY TO ABSORB.

ON PAGE 10--LINES 3-7 SECTION 3 IS A REQUIREMENT THAT THE DEPARTMENTS OF FISH, WILDLIFE AND PARKS AND THE HEALTH DEPARTMENT WOULD AUTOMATICALLY REVIEW PESTICIDES ALREADY REVIEWED BY OTHER DEPARTMENTS AND APPROVED BY THOSE DEPARTMENTS. THIS IS A DUPLICATION AND WOULD CERTAINLY ADD MORE TO THE COST TO THE PRODUCERS THAN ANY INCREASE OF LICENSES AND PERMITS.

LINE 8 OF THE SAME SECTION, LETS THEM GO EVEN FURTHER THAN THE REQUIREMENTS AND STANDARDS FOR CERTIFICATION WHICH COULD BE AN NEVERENDING PROCESS OF REQUESTS.

WE HAVE A SMALL CONCERN FOR THE ADDITION IN PAGE 11, CHAPTER 3-- LINES 25--and onto page 12--lines 1-2 CONCERNING CANCELLATION OF A PESTICIDE UPON ANNOUNCEMENT THAT MIGHT BE BOTHERSOME IF A SHIPMENT IS ENROUTE, BUT FEEL THAT THAT CAN BE WORKED OUT.

WE CAN LIVE WITH THE REDUCTION IN FEES, ALTHOUGH WE BELIEVE THAT THE AGRICULTURAL COMMUNITY AS A WHOLE HAS NOT COMPLAINED ABOUT THEM. THE AGRICULTURARL ORGANIZATIONS AND DEPARTMENTS WORKED TOGETHER TO PRESENT AN ACCEPTABLE BILL TO ALL CONCERNED, AND WE ARE SUPPOORTIVE OF SUCH LEGISLATION, <sup>"Hell has no fury like a woman scorned"</sup> BUT WE CANNOT SUPPORT IT IN THE MANNER INTRODUCED IN HB 802. WE ASK YOU DO NOT CONCUR WITH THIS BILL.

## WITNESS STATEMENT

Name Wayne C. Turner Committee On Natural Resources  
 Address Big Sandy, MT Date 02-21-83  
 Representing Montana Aviation Trades Assn. Support \_\_\_\_\_  
 Bill No. HB 802 Oppose ☒  
 Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

1. The present, existing Montana <sup>Pesticide Law of 1971</sup> ~~law~~ is <sup>proper</sup> adequate, and flexible enough, to allow for administration of the Pesticide Act.
2. The FIFRA, with the procedures for registration of pesticides now in effect, can and is adequately dealing with the safe use of pesticides in the environment. We do not need a duplication of
3. This at the state level.  
 Most of the changes in this bill can be, and are in many cases, accomplished under the present law. (2)
4. Civil penalties are unnecessary for enforcement, as the civil court system presently exists to adequately handle this aspect of the bill. Current law offers significant flexibility of enforcement, and the Administrative Procedures Act provides protection for an accused violator and his/her customers.

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

WITNESS STATEMENT

Name Paul G. Newby Committee On Natural Resources  
 Address 411 Mountainview Dr. Bozeman Date 2/21/83  
 Representing APA and Self Support \_\_\_\_\_  
 Bill No. 802 Oppose X  
 Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Economy unable to support current level of Government
2. Preferential treatment of Government
3. Too much power in hands of an Agency
4. Current law needs polish - not upheaval

Testimony attached

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

FEBRUARY 21, 1983

Testimony of:

Paul G. Newby, representing the APA, and myself before the HOUSE NATURAL RESOURCES COMMITTEE in session in the Capital in Helena, Montana.

Reference:

House Bill 802

Mr. Chairman and members of the Committee,

For the record I am Paul Newby, owner of Agwagons, Inc., an Aerial Application business in the Belgrade area. I have been involved in this business since 1956, and my father who was a member of the House of Representatives in the late 1960's started that business in 1946. He was also one of the members of the house who authored and passed the original Act here in Montana which created what we know now as the "Environmental Management Division of the Department of Agriculture".

I am opposed to this bill for a variety of reasons, first, it is a money raising bill in a time when the economy cannot support even an attempt to keep Government the same size it is right now! This bill deals with increased fees--some more than 300%, and increased penalties of 500% in 15 separate places peppered throughout the bill.

I am also opposed to the bill because it will renew another experience we have all just been through and the Application Industry and the Farming Community have no desire to repeat it. The Department of Agriculture became a financial factor in the application business approximately 8 years ago, and following are some of the effects they have had on my business--At the insistence of the Department Applicators must carry "Drift Insurance" which has increased my cost of business approximately \$3000.00 per year for the last 8 years. One of the results, which our industry forecast accurately 8 years ago, is a tremendous increase in false or "nuisance" claims which can never be settled because the "claimant" is either totally unreasonable, or just makes a false claim. I have faced one such claim myself which in total cost me approximately \$6000.00 because the Departmental Regulation allowed the claimant to prevent me from doing business for one entire season and I had to hire a licensed Applicator to operate my equipment that season. The Department finally set the claim aside after I spent the time, dollars, and effort to prove the claim unreasonable. Considering other such situations over the past 8 years, this has cost me approximately \$1000.00 per year, and I am certain that if all applicators were polled across the state you would find my costs due to the presence of the Department are representative of the industry. Another cost to consider here is the loss of production that occurs when time is spent on these and other issues instead of

production--I'll be very conservative and estimate that this costs only \$2000.00 per year per applicator, and we now have an average cost of \$6,000.00 per year per applicator across the state. If there has been an average number of 130 aerial applicators per year for those 8 years we now have an economic impact of \$6,240,000.00 over the 8 years, or \$780,000.00 per year, and the consumer of our services must pay that cost--the farmer and rancher of Montana! The farming community does not have the ability to pass those costs on because they do not have any control over their pricing!

This bill also provides the opportunity for the Department of Agriculture to become as powerfully uncontrolled as did OSHA a few years ago through the provision of civil penalties in a manner which would make the Department Judge, Jury, Executioner, etc., and it would also re-orient the relationship between the Departments of Agriculture, Health, and Fish, Wildlife, and Parks. All these relationships have had but 8 short years to rub shoulders, round of the sharp corners, and develop as they should, and they have started to accomplish that. The Applicators across the state have begun to feel and see improvement throughout our relationship with the EMD and the old points of antagonism and the various forms of harassment have begun to disappear.

A great majority of applicators across the state try very hard all the time to operate within the bounds of the law and within the bounds of self-imposed restrictions which are often much more restrictive than the law--because common sense dictates so, and it is not possible to write the law to cover all situations. We don't fear "harassment"--we detest it because it should not be there, but many of us have already experienced it, it is a fact which cannot be escaped, and it exists because of a small number among us who will not do things right, and many of those are still operating uninhibited by the department because they seem unable to bring them under control. The law is already more than adequate if it would be enforced where it needs to be!

The current law is oppressive and overbearing in dealing with "suspected" violations--many have been punished rather severely on the basis of "suspicion" or circumstantial evidence only, and this should not happen. I think we are all experienced enough to realize that the law and its associated regulations are already so complex that it is literally impossible to operate without an occasional inadvertant indiscretion occurring, and I believe that the mandate here should be that the Department spend its time pursuing those who are willfully and continuously in operation outside the provisions of law and regulation. The great majority of the "professional" applicators, ground and air, are already spending a great deal of time, money and effort in improving in every way possible, and we do not need nor can we afford the oppression and expense that will always come with a gross change in the law such as this bill would produce. We need cooperation and the freedom to improve, not a governmental mandate--more layers of

Page 3

government will only impede progress.

The Department of Agriculture, the farming community, and the true professionals in the Ag related businesses have begun to work together toward the common purpose of improvement in all areas, please allow the process to continue by killing this bill--it just simply is not needed!

Thankyou for your time and attention.

Paul G. Newby

PGN/cp

WITNESS STATEMENT

Name Kathryn Jordan Committee On \_\_\_\_\_  
Address 8313 Saddle Mtn Rd. Date Feb 21, 1983  
Representing Self Support ~~E~~  
Bill No. # HB 802 Oppose Opposed  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

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





8X.25

# NORMAN RANCHES

ROUTE 1 BOX 201, BELGRADE, MT. 59714

FEBRUARY 21, 1983

Testimony of:

Frank A. Norman Jr. APA Grain Chairman before the HOUSE NATURAL RESOURCES COMMITTEE in session in the Capital in Helena, Montana, Room 224K.

Reference:

House Bill 802

Mr. Chairman and members of the Committee,

For the record I am Frank A. Norman Jr. , owner of Springhill Seed Service Inc. a seed conditioner and farmer in the Springhill area. I have been involved in the seed business since 1967 as a commercial operator.

In the past two years I've seen a big increase of weed seed in farm seed lots. This is do to a variety of reasons, first, fields were summerfallowed less to conserve high priced diesel fuel, more land was continuously cropped, and even a few fields were not sprayed to control any weeds. These reasons are financial in nature.

Now comes House Bill 802 that will put every farmer, who uses restricted pesticides, in regulated bondage.

In the very time when the farmer and rancher is struggling to survive financially he is faced with one more increased cost of doing business that can not be passed on to consumers because he has no command over the prices of his products.

Please turn to page sixteen, starting with line six (2) Restricted pesticides may not be utilized by farm Applicators or their employees except for the purpose of producing or protecting any agricultural commodity on property owned, leased, or rented by such applicator. Now, what good would a Farm Applicators Special-Use Permit for Restricted-Use Pesticides do if a small patch of leafy spurge was on a boundary fence line with a neighbor? Both partys could agree that the problem should be taken care of immediately. If one farmer sprays the leafy spurge in the eyes of Montana House Bill 802 he will be a crook.

For these reasons I am opposed I repeat opposed to House Bill 802.

Thank you for your time.

*Frank A. Norman Jr.*  
Frank A. Norman Jr.

## WITNESS STATEMENT

Name Lowell D Jacobson Committee On \_\_\_\_\_  
 Address Glasgow, Mt. Date 2-21-83  
 Representing Self MATA, NAAA Support \_\_\_\_\_  
 Bill No. H-802 Oppose X  
 Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

1. House Bill 802 does nothing to help the agriculture community.
2. Any New Fees will be passed onto the farmer who can not ~~not~~ endure any more costs.
3. Most Applicators and Dealers live within the law now. so any new Rules and Regulation will have very little benefit.
4. This Legislation will only make it harder on the people trying to live within the law.  
 Civil Penalties are not fair because one man will be making all the decisions.

Lowell D Jacobson

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

## WITNESS STATEMENT

Name FRANK L. RedFIELD Committee On Nat Resources  
 Address Box 227 Ophelim MT. Date \_\_\_\_\_  
 Representing NATA & SELF Support \_\_\_\_\_  
 Bill No. HB 802 Oppose ☒  
 Amend ☒

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

1. *This Bill is unnecessary - existing laws cover the subject.*
2. *Higher fees for licenses are only revenue raising attempts*
3. *Penalties for suspected violations are already strict enough. The Director of the Dept. of ag. should not have the unlimited power that is requested in this bill*
4. *The need to re-register each Chem. every year puts unnecessary costs on the consumer - thru the Chem. Co.*  
*Each pesticide is already registered under FIFRA. the need for this duplicity is unwarranted.*

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

## WITNESS STATEMENT

Name Russell Ferguson Committee On \_\_\_\_\_  
 Address Rt 85 Box 4327 Livingston Date 2-21-83  
 Representing Yellowstone Air Service & Self Support \_\_\_\_\_  
 Bill No. 802 Oppose X  
 Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

1. Doesn't benefit either Ag community or the public.  
 The cost of implementing such a program doesn't show any advance over the already existing program. This
2. could be made even more effective if more public input was ~~used~~ allowed,

3.

4.

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

WITNESS STATEMENT

Name Michael R. Biggerstaff Committee On \_\_\_\_\_  
 Address Stanford, MT Date 2-21-83  
 Representing Self, MABA, MATA Support \_\_\_\_\_  
 Bill No. HB 802 Oppose ✓  
 Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Agricultural Production is one of the most important issues facing America today.
2. One Farmer can now feed 86 people
3. Farmers need Agricultural chemicals to keep this kind of production on the increase.
4. The use of chemicals will keep the cost of food down, and production up

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

## WITNESS STATEMENT

Name Dick Todd Committee On \_\_\_\_\_  
Address Lewis Town Date 2-21-83  
Representing Self Support \_\_\_\_\_  
Bill No. H B 802 Oppose X  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

1. Replication of laws

2.

3.

4.

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

Ex. 31

WITNESS STATEMENT

Name John Semple Committee On Natural Resources  
Address Helena, Chaster, Fort Benton Date 2/21/83  
Representing Self Support \_\_\_\_\_  
Bill No. 802 Oppose ✓  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. As an applicator, in the field, I know the present law is more than adequate.
2. there is no way this bill keeps unlicensed operators from operating.
3. This bill gives the environmental groups the power to use emotion and not
4. scientific fact to influence the public about the safety, use, or effects of my industry.

If suspected dangerous chemicals are as harmful as the environmentalists say, why then are we living longer as time goes by.  
This is an agricultural state first not a dream world for environmentalists.

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

Ex. 32

WITNESS STATEMENT

Name Gary Sample Committee On Nat Resources  
Address Flaxville Date Feb 21, 1983  
Representing Self Farmer Support \_\_\_\_\_  
Bill No. H.B. 802 Oppose X  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Gives Authority for a Government Agency to require that farmers prove their innocence.
2. Adds unneeded regulation that only provided more paper work for the Bureaucracy.
3. Provides for funding from the farmers who don't need the regulation when the purpose and intent of the law is to be supported by the taxpayer.
4. This Bill H.B. 802 is Bad.

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



## WITNESS STATEMENT

Name GARY J. MARTIN Committee On MT. Res.  
 Address Glasgow, MT Date Feb 21, 1983  
 Representing SELF - MATA Support \_\_\_\_\_  
 Bill No. HB 802 Oppose X  
 Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

1. I Feel HB802 Helps Create a Dept. with Police Powers. Guilty until proven innocent.
2. It Does NOT Address SAFER use of Pesticides
3. The MONTANA Pesticides ACT of 1971, Amended 1973, 1979, And 1981 provides the Dept. with procedures necessary to CARRY OUT their Duties.
4. H.B. 802 will cost the taxpayers, without any Benefits.

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

## WITNESS STATEMENT

Name Arnold Lindberg Committee On Nat. Res.  
 Address COT Bank MO. Date Feb 21 1983  
 Representing MATA Support \_\_\_\_\_  
 Bill No. 802 Oppose —  
 Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

1. The pesticide not as written is more ~~than~~ than  
 ad iquit any more regulation will put the one  
 man Aerial Applicator out of business.
2. The extra funding is not required as there are  
 people already in place. i.e. County Extension Agents, to  
 administer test, investigate claims ect.
3. To reduce cost to the state the EPA Dept. of  
 The Dept. of Ag. could be eliminated completely as  
 the Fed EPA would take over the Duties
- 4.

To elaborate on my first comment; The FAA  
 (Federal Aviation Agency) has made the comment  
 that due to the personal danger to the pilot who  
 has his attention, totally, at the job at hand,  
 any external distraction (Thinking about which rule  
 he should be following) can be fatal. So one man  
 To fly + one or more to try and figure out the  
 Rules. So good by - one man operations.

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

Ex. 35

WITNESS STATEMENT

Name Ward M. Ernst Committee On Natural Resources  
Address Stanford, MT 59719 Date 2-21-83  
Representing Self Support \_\_\_\_\_  
Bill No. HB 802 Oppose ✓  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Being a farmer, I need to use chemicals to effectively ~~produce~~ produce crops. I feel HB 802 will ban
2. some chemicals, and this would have adverse effects on the products raised. The adverse effects will, in the long run, raise food prices, reduce exports + eventually starve many people.
3. I also am fearful of the policing powers of Dept of Ag and their right to establish arbitrary civil penalties.
- 4.

*Ward M. Ernst*

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

## WITNESS STATEMENT

Name R W Ferguson Committee On \_\_\_\_\_  
 Address Box 666 Big Timber Mont Date 2-21-83  
 Representing Yellowstone Air Service Support \_\_\_\_\_  
 Bill No. 802 Oppose X  
 Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

1. Revenue measures in bill are very  
apparent.
2. If implemented there are enough laws  
to impose penalties already. No need for duplication.
- 3.
4. The Mont. Dept. of Agriculture has ~~all~~  
more than it can take care of.

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

WITNESS STATEMENT

Name Frances Cadwell <sup>Vice-president of WNAA</sup> ~~WNAAT Director~~ Committee On \_\_\_\_\_  
 Address Begon Date 2/21/83  
 Representing self Support \_\_\_\_\_  
 Bill No. HB 802 Oppose ✓  
 Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. it broadens the power of the Dept. of Ag to a level equal to or greater than now exist in the State of Calif.
  2. There is grave concern about the power of the administrator to set fines of \$500 - 2500 at will for their definition of misuse.
  3. sets nothing but a revenue bill.
  4. it appears to give the department OSHA type powers in the state level. Montana can't afford the type of legislation.
- Ag - aviation is a vital part of the food chain. We need no more harassment from the Dept. of Ag. Let's make the laws work that we already have.

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

## WITNESS STATEMENT

Name Ross M Buchanan Committee On HB802  
Address VALIER MT Date 2-21-83  
Representing MATA & SELF Support \_\_\_\_\_  
Bill No. 802 Oppose X  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

1.

Oppose bill primarily to ~~the~~

2.

duplicate regulation.

3.

Also civil penalties levied by  
the Dept. of Ag

4.

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

WITNESS STATEMENT

Name Virin Curb Committee On ~~H.R. 802~~ H.R.  
 Address 800 N. Lindbergh, St. Louis Mo Date 2-21  
 Representing Monsanto & National Ag. Chem Support           
 Bill No. H 8402 <sup>Ass</sup> Oppose ☒  
 Amend         

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Bill registration provision exceed Cal. provision
2. which cost millions of \$ to administer with little perceptible benefit.
3. Provision, in view of Mo.'s lack of
4. Inadequate secret provisions would make it unlikely to register products.

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

WITNESS STATEMENT

Name Shelly Olson Committee On \_\_\_\_\_  
Address Leopoldson Street Date 2-21-83  
Representing Wentchen Ogden Support \_\_\_\_\_  
Bill No. 802 Oppose XX  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. We have a law now

2.

3.

4.

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



# VISITOR'S REGISTER

HOUSE      NATURAL RESOURCES      COMMITTEE

BILL HB 877

DATE \_\_\_\_\_

SPONSOR REAM

[illegible]

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

**WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.**

HOUSE BILL 877

MONTANA STREAM FLOATING MANAGEMENT ACT

Objective:

To improve the relationship between river floaters and land-owners on Montana streams.

Problems:

1. River recreation has increased approximately tenfold in last 20-25 years.
2. In 1979 survey, 25% of adult Montanans floated an average of four days each.
3. Because of the increasing popularity of river recreation and the numbers of Montanans participating, problems have occurred with streamside landowners.

Approaches to Problem:

1. HB 888 -
  - transfers ownership of stream bed to landowner.
  - but public has right of navigation and access below the ordinary high water mark.
2. HB 877 -
  - Would fund stream management activities that will improve the relationship between landowners and stream recreationists (Section b).
  - Fund derived from a user fee, a decal for floating craft (Section 5).

Other Approaches:

1. Pretend there is no problem.
2. Fund program in some other way.
3. Comparable approaches used in other states.

(proposed)

(MONTANA)	OKLAHOMA	OHIO	MINNESOTA	ARIZONA
paddle or oar	commercial canoes	paddle, oar, wind machinery	paddle, oar, wind, motor	paddle, oar, wind motor
all streams	3,186 permits on Illinois River	all state waters	all state waters	all waters, public and private
1983	1980	1960	1959	1960
individual-\$2.00 paddle, oar-\$4.00 dealer -\$5.00 first -\$2.00 add'l	canoe-\$3.00	canoe/kayak-\$3.00 by classes up to \$15.00	commercial canoe-\$6.00 private canoe-\$7.00 dealer-\$30.00	resident-\$4.00+.50/ft. til 18 ft. <del>4.75/ft.</del> 18 ft. non-resident-\$10.00+.65/ft. til 18 ft. > 18 ft. -\$1.25/ft. (annual)
(annual)	(annual)	(triennial)	(annual)	(annual)
?	≈ \$10,000	\$114,000 fees (38,000 craft) \$4.5 M gas taxes	\$2.3-2.5 M (610,117 craft)	\$600,000-700,000 + 1.02% gas tax \$190,000 retained
NONE	NONE	racers and regattas	up to 90 days	up to 90 days
inflatable craft not designed for use w/ oar or paddle	landowners adjacent to river entitled to one free permit	_____	craft < 9 ft.	tied to advalorem property taxes
earmarked fund -leasing access -improving relations; fences maps clean-up	Oklahoma Scenic Rivers Commission -defray costs -regulate use	waterways safety fund -only for boating purposes past 6 yrs., ≈ \$1 M to preservation of free-flowing streams access skill development classes	state treasure expended as authorized by law for; -administration -enforcement -inspection -acquisition and development of public access sites on state waters	\$190,000 -administration -enforcement -education -aids to navigation  balance to Dept. of Fish and Game for boating safety and state lake improvement.

8x.41

other states considering programs:

Wisconsin, Oregon, Pennsylvania, Colorado

## HB877

Testimony presented by Jim Flynn, Department of Fish, Wildlife & Parks

February 21, 1983

My name is Jim Flynn, Director of the Department of Fish, Wildlife, and Parks. I appear before you today in support of HB877.

House Bill 877 requires that those craft normally used to float Montana rivers display an individual craft decal. It further provides that funds collected be used by the Department of Fish, Wildlife, and Parks to essentially enter into managing recreational use of streams and rivers.

Programs designed to promote compatibility between river recreationists and riparian landowners are needed.

The Department of Fish, Wildlife, and Parks basically supports the purposes of this bill and agrees that the activities identified as eligible for funding are both desirable and necessary.

It is our feeling that as presently written the different types of craft decals called for should be simplified. We feel the \$4-per-craft annually is not an excessive charge. The distinction separating "individual craft decal" from "craft decal" should be dropped and a single classification established for both.

The provision for dealer decals works well with power boats and should be retained in this bill.

The provisions set forth in Section 6 could serve to be of value to both landowners and recreationists. Should this measure be approved, the department would strive to make those expectations materialize.

6x.43

# Legislation could end battles over river use

By STEVE WOODRUFF  
of the Missoulian

A bill proposed in the state House of Representatives Wednesday aims to bring peace to the battle between landowners and the public over use of rivers running through private property.

The measure would free landowners from paying taxes on land within the high-water marks of navigable rivers. In addition, it would charge a \$4 annual license fee for rubber rafts, canoes and other boats used for river floating.

Rep. Bob Ream, D-Missoula, who is sponsoring the bill, said the measure is aimed at easing conflicts between the public and landowners.

"We've got to do something to improve the situation," Ream said in a telephone interview from Helena.

The Montana Wildlife Federation is endorsing the measure. Federation lobbyist Ken Knudson called the measure "an attempt to try and address a lot of the valid concerns landowners have."

Knudson said his organization hopes to work with agricultural groups in an effort to attract support for the bill.

The issue surfaced late last year after two state district court judges ruled that the public has a right to float down sections of the Beaverhead and Dearborn rivers. Landowners along those rivers had attempted to restrict river travel.

Part of Ream's bill aims at defining

"high-water marks," within which the public has a right to float, according to the court rulings.

The bill uses the same definition of high-water marks as the state's existing Natural Streambed and Land Preservation Act. It says water marks are the lines within the water impresses on the soil by covering it for sufficient periods of time to deprive the soil of its vegetation and destroy its value for agricultural purposes.

Private property within the high water marks would be free from property taxes under the provisions of the bill.

Ream said it's only fair that if the area between the high-water marks is considered public domain, landowners shouldn't be taxed on its value.

"Some of the landowners have been arguing that they shouldn't have to pay taxes on that land," he said. "This would provide them some tax relief."

The amount of tax revenue that would be lost if the bill were approved is unknown. In addition, the bill would require river floaters to license their craft.

Floaters would be required to buy decals from the state, affixing them to their rafts or boats. A similar requirement for motorized boats already exists.

Half the proceeds from the decal fees would go to the counties and state, with the remainder going to the Department of Fish, Wildlife and Parks.

According to the bill, the department's share would be earmarked to "provide land-

ing for proper river management activities that will improve the relationships between landowners and river recreationists."

Projects eligible for funding might include financing construction of cross-stream fences that won't obstruct river passage, publishing maps detailing access sites and areas to avoid, and paying for maintenance and clean-up projects along rivers.

Money from decal sales also could be used to lease access sites and campgrounds along rivers.

Knudson said floaters who object to the license fee should consider what they will get for their money.

"For the price of a 12-pack of beer they'll get better relations with landowners, access sites and maps," Knudson said.

BOZEMAN DAILY CHRONICLE JANUARY 5, 1983

## Floater fee is creative solution

It may cost you \$3 to float a raft down the Madison next summer if a proposal to charge floaters a fee is approved by the Legislature.

The proposal by the Montana Wildlife Federation would institute a user fee for floaters on rivers. The money would be used to deal with conflicts between landowners on the river and floaters.

After two recent court cases involving public access to navigable streams through private land, an outcry has been heard from agriculture groups that no one is paying attention to the landowner's problems.

The agriculture groups are now threatening to close private farm and ranch land to hunters, in retaliation for the court decisions favor of floaters.

A ranching legislator is also considering legislation involving the legal definition of navigable streams.

The user fee could begin to answer some of the landowner's complaints. But in considering the fee, the Legislature should balance the threats of agriculture with the rights of floaters.

On most streams, floaters have a right to be there. Navigable streams are legally open to public use to the high water mark. Many navigable streams also have Department of Fish, Wildlife and Parks fishing accesses where it is legal to put in or take out a boat.

Some streams that are often floated pass through state, National Forest or BLM land, much of which is open for camping.

Granted these rights are often abused, but most floaters will abide by the law and respect private property if they are aware of their responsibilities.

Once again, it's a case of a few scofflaws ruining the reputation of floaters in general.

And, apparently, there is a similar situation with landowners. Most have adjusted to floaters and are willing to co-exist with them. There have been no reported instances of clashes on the Yellowstone, Missouri or other rivers — just the Dearborn and Beaverhead.

Testimony in court cases involving those rivers showed that actual problems between ranchers and floaters were few. Basically, the ranchers just didn't want the public floating through their land. Some complaints, such as trespassing and littering, are occasionally justified.

The user fee could solve some problems. Maps and signs would direct floaters to camping and picnic spots off private land. Some camping sites could be leased from landowners. Litter would be cleaned up.

Most floaters probably wouldn't object to a user fee if it would help cool down agriculture. The renegade floaters causing trouble might be weeded out and fewer problems would result.

This is the type of creative and useful solution the Legislature should approve soon before the situation gets out of hand. Other legislation challenging floater's rights to use the rivers would only fuel the fire.

# *In favor of cooperation*

There are two ways for the Legislature to approach the question of recreational floating on Montana rivers and streams.

One is the confrontational technique. It involves pitting farmers and ranchers against recreationists, and painting the entire issue as a confiscation of private property and an attempt to interfere with normal agricultural operations.

That approach builds fences and creates dissension. It won't be an effective vehicle for solving disputes.

The other is the cooperative technique, typified by the Montana Wildlife Federation's approach. This group has admitted to landowners' valid concerns about having people float through their property, and then it has offered some solutions.

Most important, the federation has proposed a floaters' fee. Money from a \$2 or \$3 yearly fee (higher for commercial operations), and perhaps from other revenue sources such as taxes on equipment, would be used to ease landowners' concerns.

For instance, according to the Wildlife Federation, use of the money could help pay for seasonal "river riders;" for assuring there are public access points to streams; for posting signs, publishing maps, cleaning up

litter, and assisting landowners to build any needed fences.

The danger, of course, is setting up too much stream regulation. But as more people become interested in floating, some form of management is needed to protect the land, the landowner and the recreationist.

Montana is not without examples of cooperation over river access questions. Interests of landowners and recreationists have been protected on both the Smith and Blackfoot rivers in recent years.

Neither is the state without examples of recreation-oriented, user fees. Witness the fees snowmobilers must pay. Sportsmen pay excise taxes on hunting and fishing equipment to help support wildlife management activities.

The recent court rulings to open stretches of the Dearborn and Beaverhead rivers to floaters guarantee that accompanying questions — particularly on high water levels and property taxation — will face legislators.

Their best bet is to take a cue from the Wildlife Federation: to look at user fees and the possibility for river recreation agreements; and throughout the process, to stress cooperation.

## *Floaters' fee proposal strikes a compromise*

The Montana Wildlife Federation's proposal to levy a floaters' fee of \$2 to \$3 for each boat, raft or canoe plying the state's navigable rivers is a good one.

Particularly so in light of two recent District Court decisions ruling the Beaverhead and Dearborn rivers open to floaters from high-water mark to high-water mark.

The decision delighted sportsmen but piqued the ire of farmers and ranchers around the state.

The floaters fee is a good compromise between the two interests.

Sportsmen give a little and get a little.

Floating down one of the state's larger rivers to stalk the wily trout or just to relax, is one of the state's few, relatively unregulated, untaxed and undeveloped sports.

The Federation's proposal

would change that, but not too much.

The fee is certainly minimal, and the money raised would promote the sport by the acquisition of access, camping and stopping sites.

These sites would be appropriately marked on maps published under provisions of the proposal.

The farmers and ranchers would be given assistance in constructing fences and other structures compatible with floating.

Additionally, the measure promises to explore the question of property tax assessment between high water marks and calls for hiring river riders to ensure that floaters do not trespass on or litter private lands, or destroy property on those lands.

It's a good proposal, answering the needs of both groups affected by it and funded by the people who benefit from it.

GREAT  
FALLS  
TRIBUNE  
JANUARY 10  
1983

BILLINGS  
GAZETTE  
JANUARY 20  
1983

Rep. Hal Harper, chair, et.al.  
Natural Resources Committee  
Montana State House of Representatives  
Capitol Station, Helena, MT 59620

Chairman Harper and Committee members:

My name is Mary Hamilton. I'm from Helmsville, MT. I ranched in Helmsville for sixteen years. I'm an avid canoeist, paddling over 500 miles on Montana rivers last summer. I've been a world associate member of the N.W.F. for twenty years and I speak only for myself. I'm currently involved in tourism, building display racks for Big Sky Magic.

I am opposed to H.B.877.

The problem at hand is resentment between river recreationists and private landowners. If implemented, H.B.877 would be an attempt by the state of Montana to alleviate that resentment by giving each side something which is portrayed as "good". That is the landowner gets the river patrolled at the expense of the recreationist and the recreationist gets access sites on some land he was never guaranteed access across before. The landowners get tax exemption for streambeds, while the floaters and fishermen get the streambed below the high-water mark declared state property.

Not left in final writing

Let's take a look at what we're really getting.

What are licensing fees and decals good for? They're great for raising revenue for government expansion, but in no way benefit landowners or floaters.

Of what good are public access sites? They create many new government jobs to build and maintain campsites, out-houses, boat ramps, parking lots and signs (don't forget the signs!) and constant litter clean-up with the additional number of people who are drawn to the area by the easy access and state financed advertising of the site on maps and brochures. But, access sites give the river user a sense of property rights which causes still more resentment, not to mention a more crowded, littered and therefore less enjoyable river experience. Public access sites give the land owner even less control of his own property and subject him to more vandalism, littering, trespass, poaching, fencing problems, open gates, visits from recreationists with emergencies such as: out of gas, flat tires, punctured rubber rafts, drownings, need for a phone or a ride back to town, etc.

How about extra wardens? Can they alleviate the problem through implementation of this legislation? They are good people just trying to do their job; but, as one game warden recently said to me, "Mary, all we are is tax collectors. We spend all our time at those darn lakes checking boats. The poor sucker who

hasn't hurt anyone ends up in court. The fine is \$10.00, court costs are \$7.50 and all they can see in Helena is that two dollar profit. To me it's a waste of time. We're supposed to be protecting wildlife!"

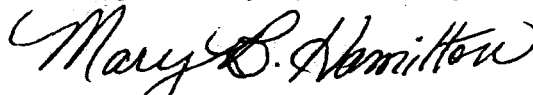
So, the government gets it's \$2.50 per citation, the recreationist gets another tax collector, the landowner gets more resentment and therefore less respect for private property, game wardens find themselves more resented by the general public and even less free to do the job they should be doing---protecting wildlife.

This bill with it's canoe and raft decal requirement adds still another victimless crime law to the long list already burdening Montana wardens and other law enforcement personnel. I propose that we concentrate on real crimes.

The truly American solution to this problem is to stop taxing agriculture, coal and tourism to promote tourism, return all public access sites to private ownership allowing landowners to delve into the river recreation business, or to sell to the private concessionaire of their choice who will build needed facilities as demand arises, charge competitive fees and hire private patrols during the water sports season.

I doubt if we will ever pay more at private campgrounds or access sites to put our boats in the water or fish or camp than the government will charge us through taxation, licensure and user fees to perpetuate this carnival in Helena; and, the private system will alleviate the problem of resentment.

Respectfully submitted by



Mary B. Hamilton  
Helmsville, MT 59843



# STANDING COMMITTEE REPORT

Page 1 of 2

February 22, 1983

MR. **SPEAKER:**

## NATURAL RESOURCES

We, your committee on .....

having had under consideration ..... **HOUSE** Bill No. **802**

First reading copy ( white )  
Color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS  
RELATING TO THE REGULATION OF THE SALE AND USE OF PESTICIDES;**

**AMENDING SECTIONS 80-8-105, 80-8-109, 80-8-201, 80-8-203, 80-8-204,  
80-8-207, 80-8-209, 80-8-213, AND 80-8-306, MCA."**

Respectfully report as follows: That ..... **HOUSE** Bill No. **802**

**be amended as follows:**

**1. Page 7, line 22.**

**Strike: "available"**

**Following: "information"**

**Insert: "in the possession of the applicant"**

**2. Page 7, line 23.**

**Following: "on"**

**Insert: "representative"**

**3. Page 8, line 6.**

**Strike: "may"**

**Insert: "shall"**

**4. Page 10, line 3.**

**Strike: "any"**

**Insert: "a"**

**XXXXXX  
DO PASS**

February 21, 1983

5. Page 10, line 7.

Following: "subsection."

Insert: "The departments, in determining whether to request such review for a particular chemical product, may not request a review unless the chemical material or its byproducts have been shown to:

- (i) have a half-life in the environment greater than seven days;
- (ii) accumulate in vegetation, soils, or animal tissues; and
- (iii) be a suspected carcinogen, mutagen, or teratogen."

6. Page 11, line 24.

Following: "Montana."

Strike: line 24 through "agency." on line 2, page 12

7. Page 16, line 9.

Following: "applicator"

Insert: "or as provided in subsection (6) of this section"

8. Page 22, line 3.

Following: "livestock."

Insert: "A civil penalty shall only be assessed against a person when one or more major violations is proven under the procedure of this act and the Administrative Procedures Act. Major violations include misuse of a pesticide which results in proven harm to human health, the environment, or agricultural crops or livestock; selling of a restricted pesticide to a person not certified or authorized to purchase such pesticides; use or sale of unregistered pesticides; failure to maintain any individual pesticide application and sales records; using or selling pesticides without the required license or permit; or reoccurrence of any identical violations within the same calendar year."

9. Page 22, line 11.

Following: "10."

Strike: line 11 through "fund" on line 23.

Insert: "Deposit of fees and penalties in general fund. All licensing, permitting, registration, and equipment inspection fees collected under part 2 of this chapter and any civil penalties collected under 20-8-306 must be deposited in the general fund"

AND AS AMENDED  
DO PASS

HAL HARPER

Chairman.

# STANDING COMMITTEE REPORT

Page 1 of 2

February 21, 1983

MR. **SPEAKER:**

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE** Bill No. **877**

**First** reading copy ( **White** )  
**Color**

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT DECALS BE  
DISPLAYED ON CRAFT FLOATING ON STREAMS AND TO PROVIDE FOR USE  
OF DECAL FEES COLLECTED FOR STREAM MANAGEMENT ACTIVITIES; AND  
PROVIDING A DELAYED EFFECTIVE DATE."

Respectfully report as follows: That **HOUSE** Bill No. **877**  
be amended as follows:

(SEE ATTACHED SHEET)

XXXXXX

February 21,

19 83

1. Page 2, lines 2 and 3.  
Following: "manufacturer craft"  
Strike: line 2 and line 3 through "occupant"
2. Page 2, lines 8 and 9.  
Strike: ", individual craft decal,"
3. Page 2.  
Strike: lines 12 and 13 in their entirety
4. Page 2, line 15.  
Following: "a craft decal"  
Strike: line 15
5. Page 3, line 14.  
Strike: Subsection (b) in its entirety  
Reletter subsequent subsections

**AND AS AMENDED**  
**DO PASS**