

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK & IRRIGATION
MONTANA STATE SENATE

January 10, 1983

The first meeting of the Agriculture, Livestock and Irrigation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Galt at 1:00 p.m.

ROLL CALL: Senator Lee excused, all other members present.

CONSIDERATION OF SENATE BILL 60: Senator Conover, District 36, sponsored the bill. He explained that all the bill did was update itself. It was necessary to change the date to January 31 to allow for late combining. This will make the permit good until the first of January and, therefore, will not interrupt the combining process.

PROPOSERS: Don Copley, Montana Department of Highways, rose in support of the bill. He suggested, however, that two other statutes, Section 15-70-312, pertaining to fuel, and Section 15-24-301, payment in lieu of taxes, be amended so the bill will all be the same.

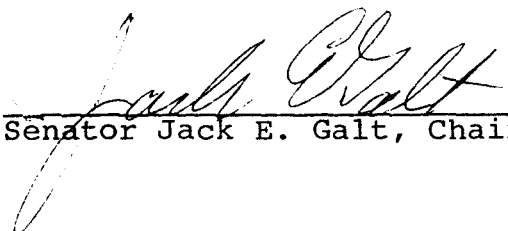
There were no further proposers.

OPPOSERS: None.

Committee members felt SB 60 was a good bill and were in favor of adding the amendments.

Senator Galt referred the amendments to Anne Brodsky, Legislative Research, for drafting. The Committee will consider the amendments at the January 12 meeting.

There being no further business, Chairman Galt moved the hearing closed.



Senator Jack E. Galt, Chairman

ROLL CALL

AGRICULTURE COMMITTEE

48th LEGISLATIVE SESSION - - 19 83

Date 1-10-82

NAME	PRESENT	ABSENT	EXCUSED
GALT, Jack E.	✓		
KOLSTAD, Allen C.	✓		
AKLESTAD, Gary C.	✓		
OCHSNER, J. Donald	✓		
GRAHAM, Carroll	✓		
BOYLAN, Paul F.	✓		
CONOVER, Max	✓		
LANE, Leo	✓		
LEE, Gary	ex	—	ex

Each day attach to minutes.

SENATE AGRICULTURE COMMITTEE

BILL SB 60

VISITORS' REGISTER

DATE 1-10-83

Please note bill no.

(check one)

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK AND IRRIGATION
MONTANA STATE SENATE

January 12, 1983

The Agriculture, Livestock and Irrigation Committee meeting was called to order on the above date, in Room 415 of the State Capitol Building, at 1:05 p.m., by Chairman Galt.

ROLL CALL: All members present.

SENATE BILL 59: Senator George McCallum, District 12, testified that the Bill was drafted at the request of the Joint Subcommittee on Business because of the sale of water by South Dakota in the past. The subcommittee felt that, if Montana didn't use the water, they would loose it. Full testimony attached. Exhibit #1.

Jim Flynn, Department of Fish, Wildlife and Parks, arose in support of the bill as a logical means of assessing water rights in the Missouri River Basin. He felt it had a certain amount of significance and was of interest to down-stream states as well. The process protects future and beneficial needs of the Basin.

OPPONENTS: Leo Berry, DNRC, referred committee members to the "Use It or Loose It" study which had been distributed earlier. The Department did not feel there was any threat to Montana regarding the Missouri River Basin waters and no reason to move ahead immediately with a full-scale, basin-wide water reservation proceeding. Exhibit #2.

Steve Meyer, Montana Association of Conservation Districts, didn't believe the time frame was realistic. Testimony attached. Exhibit #3.

Will Brooke, Association of State Grazing Districts and Montana Wool Growers Association and Mons Teigen, Montana Stockgrowers and Cowbelles arose in opposition.

Pat Underwood, Montana Farm Bureau, agreed with the above. Exhibit #4.

There being no further proponents or opponents, Senator McCallum closed.

In response to committee questions, Leo Berry, DNRC, commented that the Department hadn't done a great deal of work on the Missouri River Basin waters. Other states have used different methods and the Department felt it best to take a little time and insure the best process of using the waters.

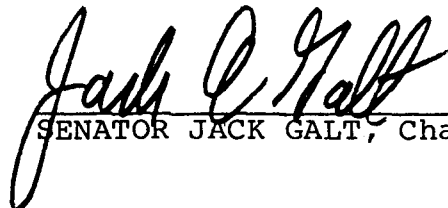
Agriculture, Livestock & Irrigation
January 12, 1983
page 2.

Senator Galt asked Peter Stanley, Attorney , Reserved Water Compact Commission, how this would affect the Fort Peck Tribe. Mr. Stanley felt this would arouse a considerable amount of curiosity, but he didn't feel it would alarm them to a great degree. They were, he said, knowledgeable enough of the Yellowstone waters but this would depend, to a great degree, upon the individual tribe. Some would be much more sensitive and it would then involve a communication job the the Administration.

Senator Galt suggested members refer to the "Use It or Loose It" study before taking committee action.

Senator Galt then announced there would be no meeting Friday, January 14.

There being no further business, the meeting adjourned.


SENATOR JACK GALT, Chairman

ROLL CALL

AGRICULTURE COMMITTEE

48th LEGISLATIVE SESSION - - 19 83

Date 1-12-83

NAME	PRESENT	ABSENT	EXCUSED
GALT, Jack E.	✓		
KOLSTAD, Allen C.	✓		
AKLESTAD, Gary C.	✓		
OCHSNER, J. Donald	✓		
GRAHAM, Carroll	✓		
BOYLAN, Paul F.	✓		
CONOVER, Max	✓		
LANE, Leo	✓		
LEE, Gary	✓		

Each day attach to minutes.

COMMITTEE

DATE 1-12-83

SUPPORT | OPPOSE

X

X



X

✓

X

X

X

1



PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

SB 59 was drafted at the request of the Joint Subcommittee on Business.

In the course of its meetings, the Joint Subcommittee developed a concern about the problem of future allocation of the waters of the Missouri River among the Missouri Basin states.

The purpose of this bill is to take one step to see that the interests of the state of Montana are fully protected in any allocation process.

The committee decided upon the reservation process, as a means of quantifying the future needs of the state of Montana from the Missouri. One effect of the reservation process will be that the state of Montana will have a more definite and concrete idea of what the actual future demands of the state of Montana will be on the Missouri.

Under section 85-2-316, MCA, the state, any state agency, any political subdivision of the state, or the United States may apply to the Board of Natural Resources and Conservation to reserve water for existing or future beneficial uses of water or to maintain a minimum flow, level or quality of water. Industrial users cannot reserve water at present.

Before the Board can grant an application for a reservation, the applicant must have established: the purpose of the reservation, the need for the reservation, the amount of water needed for the purpose of the reservation, and that the reservation is in the public interest.

The Board is required to review existing reservations at least every ten years to see that the objectives of a reservation are being met. If they are not being met, the Board may revoke, extend or modify the reservation.

The reservation system has been used in the Yellowstone River Basin. After a process that took about four years, the Board granted reservations of water for instream flows, for irrigation, for municipal use and for off-stream storage.

This bill would require that a process similar to that carried out on the Yellowstone be carried out on the Missouri River.

Under section 1., any government entity that wants to reserve rights on the Missouri River must file an application for a reservation by July 1, 1985.

Under section 2., the Department of Natural Resources and Conservation must assist other state agencies and local governments in the application process.

Under section 3., the Board must process the applications under section 85-2-316 and make a decision on reservations filed before July 1, 1985 by July 1, 1987.

Any reservation application filed after July 1, 1985 would be lower in priority than those filed before July 1, 1985.

TESTIMONY OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

AN ACT PROVIDING FOR THE PROCESSING OF WATER RESERVATIONS IN THE MISSOURI RIVER BASIN BY JULY 1, 1987.

The Missouri River Basin water protection strategy recently developed for the State of Montana was launched because of the foreseen need to assure a firm protection of Montana's water resources from probable future downstream water development claims. This strategy set forth a series of components designed to defend the long-term interests of this state in the event of an actual water-use conflict with downstream interests. One of the components is to plan and establish Montana's future water claims. This would require a detailed study of water development potentials and needs in the Missouri Basin with the objective of establishing a firm legal claim to these justified flows for our future needs. The final goal would be to secure a sufficient supply of water for Montana's future needs in the event that the Missouri River system is apportioned among all the basin states. Montana must be in the strongest position possible if faced with interstate compact negotiations, litigation or Congressional apportionment.

The introduction of Senate Bill 51 for legislative consideration is an important response to the issue at hand. The reservation of water in Montana is a recognized means for securing a supply for a broad array of future needs. However, the process has been employed only once -- in the Yellowstone Basin -- its effectiveness in an interstate water allocation is unknown. Further, the reservation of water in the Yellowstone was in response to an in-state water allocation problem. In contrast, the current matter of concern involves interstate rather than intrastate water allocation, and it may be that an alternative water claim process is more desirable. Ideally, this process should be one that serves to preserve our future water use options in the basin, while at the same time assuring that the needs of all entities are adequately considered.

Although the need for action is not questioned, there remains some uncertainty over the form of that action--mainly the means to create a legally defensible claim. It is therefore suggested that, rather than moving ahead immediately with a full-scale, basin-wide water reservation proceeding, an alternative course be taken. Such a course would not necessarily preclude the ultimate reservation of water, but would maintain the option of using a different, and perhaps more effective, means to lay claim to the water involved. Further, implementing a full scale reservation process in the basin

ay be perceived by downstream interests as an immediate threat to be resisted -- a reaction to which Montana may not be prepared to adequately respond.

The suggested approach, then, is first to acquire the information needed to define and defend a future water allocation. This important study would entail a detailed and accurate water availability analysis which determines the amount and location of water available for appropriation, and which specifies irrigable lands as well as our future municipal, industrial and rural needs. Further, the study would serve as justification for Montana's claims and as the basis for participation in any future interstate water allocation proceeding. Above all, it is clear that the O'Mahoney-Milliken Amendment to the 1944 Flood Control Act establishes a first line of defense for protecting upper basin consumptive water development. Consequently, Montana can surely rely on this provision while engaged in this first step of the process to protect a future water supply for Montana.

It is recommended that funding be provided for this thorough and accurate water availability and needs analysis of the basin. This study could be finalized during the 1983-85 biennium by the Department of Natural Resources and Conservation at a cost of approximately \$165,000.00. To reiterate, the funded study would serve to canvass all users and determine potential water development in the basin, evaluate information from existing studies, and, as a final product, would develop a model which provides accurate and highly useful estimates of the available water supply and future water needs. As well, it would set forth recommendations on the manner in which the state should proceed in establishing the best possible claim to the necessary water. The findings, in turn, would serve as a solid basis for use by the 1985 legislature in choosing the process needed to assure protection of Montana's water use options in the basin.



January 12, 1980
Exhibit #3
SB Bill #59

Montana Association Of Conservation Districts

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

Mr. Chairman, Members of the Senate Committee on Agriculture.


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

The piece of legislation before you, Senate Bill 59, is intended to preserve water for future use by Montana's citizens. The intention of the bill is a worthy one, but the time frame set up within this piece of legislation is unrealistic.

We feel that to force government agencies to rush through the investigations for a water reservation would be a detriment to the agency. And in the case of the Missouri Basin Conservation Districts, be a disservice to the agricultural community which it holds the water in trust for.

We hope the state would use a two step approach in addressing the water issue in the Missouri Basin. First there should be an effort to quantify the available water and identify areas of potential irrigation. Second the State should evaluate the Yellowstone Basin reservation system to deem if it is applicable to the conflicts in the Missouri.

Until there is a better data base to operate from, we must oppose passage of Senate Bill 59.



Steven R. Meyer
Executive Vice President

SRM:dv

JAN. 12, 1983
Exhibit # 4
SB 59

NAME:

Pat Underwood

DATE:

Jan 12, 83

ADDRESS:

Montana Farm Bureau

502 S. 19th Ave Bozeman, MT 59715

PHONE:

587-3153

REPRESENTING WHOM?

Mont. Farm Bureau

APPEARING ON WHICH PROPOSAL:

SB 59

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

 X

COMMENTS:

we feel this legislation is detrimental
to work already completed and still is
be completed which SB 76 and SB 409
^{ALREADY}
have laid the groundwork for
we therefore oppose this Bill
at this time.

Pat Underwood

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.