

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

February 18, 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 12:30 p.m. by Chairman Galt.

ROLL CALL: All members present.

DISPOSITION OF SB 316: Senator Aklestad moved to amend the bill as follows: Page 5, line 1, change length of loans from 60 to 30. Motion carried.

Senator Graham moved to amend \$150,000 on page 6, line 17 to \$250,000. Motion carried.

Senator Boylan moved SB 316, as amended DO PASS. Motion carried.

Senator Kolstad moved to reconsider SB 316 to consider the Statement of Intent. Senator Kolstad moved to adopt the Statement of Intent. Motion carried.

Senator Boylan moved SB 316, as amended, with the Statement of Intent DO PASS. Motion carried.

DISPOSITION OF SB 317: Senator Galt told the committee they had the amendments for the bill in front of them. Exhibit #1.

Senator Kolstad moved to put the Board back with the same limits they had prior to sunseting. Roll call vote was taken. There were 4 Yes and 4 No. Motion failed on a tie vote.

Senator Kolstad moved to put \$24 insurance on non irrigated grain and \$48 on irrigated grain.

Senator Graham didn't agree with that motion. He said it was a self help program and you have the Department's own money invested in it. He did not feel raising the amount to \$30 was out of line.

Senator Kolstad replied there was no shortage of private insurance companies contributing to state taxes.

Senator Graham said 40% of the premiums were refunded back to local farmers so the money is kept locally and is spent locally. With the other programs, the rest of the money goes out of state. He had never received refunds from private insurance agencies.

Senator Kolstad commented that Montana owned Crop Hail sells the most insurance in Montana as well as the U. S. He was in favor of the amendments. They will still retain the Hail Board.

Senator Graham moved amendment #2, Exhibit #1, regarding coverage for loss of fire.

Senator Aklestad was reluctant to start to expand the program.

Senator Graham thought all hail insurance policies bought from private agencies have insurance for fire, and he saw nothing wrong with adding it.

A roll call vote was called for. There were 2 yes and 6 no votes. Motion failed.

Senator Kolstad moved amendment #3, Exhibit #1, paying the counties 2% rather than 1% of the levy and paying the State 1 1/2% instead of 2%. Motion carried.

Senator Graham moved amendment #3, Exhibit #1 increasing the bond amounts. Motion carried.

Senator Kolstad moved amendment #5, Exhibit #1, to increase irrigated hay coverage to the same coverage as other irrigated crops. Roll call vote was called. There were 6 yes and 3 no. Motion carried.

Senator Lee moved SB 317 as amended DO PASS. Motion carried.

DISPOSITION OF SENATE BILL 238: Senator Ochsner presented amendments for SB 238. Exhibit #2. Most of his amendments cut the fees which were one of the problems at the last hearing. The other amendments were addressing concern that government agencies didn't have to pay a fee for each applicator.

Senator Conover moved Senator Ochsner's amendments, Exhibit #2. Motion carried. Senator Boylan voted no.

Senator Graham moved the Department of Agriculture's amendments regarding civil penalties, Exhibit #3. Motion carried. Senator Boylan voted no.

Senator Conover moved to amend page 18, line 25 to \$300 and not to exceed \$1500.

Senator Graham made a substitute motion to take the 6 months out and change \$300 to \$500. Motion carried.

Senator Conover moved SB 238, as amended DO PASS. A roll call vote was taken and there were 4 yes and 5 no votes. Motion failed.

SENATE BILL 401: Senator Paul Boylan, SD 38, introduced the bill which pertains to the transfers of water made without the approval of the Department of Natural Resources.

John Chaffin, Water Court, explained sections 1 through 6 of the bill. He said that, in 1973 when the law was passed, you were supposed to go and transfer but nobody knew until claims were filed. Section 1 facilitates the Department's needs to maintain a permanent record. Mr. Chaffin went on to explain the bill section by section. He pointed out that section 6 discusses a

fee but the reason no specific amount was put down was because everyone wanted their fee rates raised so it was left up to the legislature to determine that. The only costs that it covers is the clerk and recorder to file and record the document.

John Scully, Attorney from Bozeman, said the bill came about because of a recent supreme court case that invalidated water rights. The language of the bill didn't clarify this. The very existence of the bill is with the public knowing what to do when they transfer their rights. It is an important issue that water rights be sold along with the deeds.

Judge W. W. Lessly said the bill is the one they originally started with. The last section covers the gap created by the supreme court's decision. This takes care of those who did not do what they should have done. When you sell land, you must take care of the water rights along with it.

John Holter, Montana Farm Bureau, asked to go on record in full support of the bill. Exhibit #4.

Kim Kelly, Montana Water Development Association, supported the bill.

Bill Romine, Clerks and Recorders, handed out amendments for sections 4 and 6 which he said was housekeeping for the clerks and recorders offices. Exhibit #5 and #6. He supported the concept with the amendments.

Judge Lessly had no objections.

OPPONENTS:

Gary Fritz, Department of Natural Resources, didn't mind the concept of the bill. He was concerned about the cost and also felt there was some duplication with SB 370.

Don McIntyre, Attorney with the Department of Natural Resources, objected to section 3 where it provides for fees because then the Department has to go through rule making. He didn't know whether they could go with MAPA or the courts. The bill precludes the State of Montana, state lands, institutions and any lands that have a water right, from objecting to a legal change of water right. What that means is they are stripped of common law authority to go to court and argue their water rights. It affects the State of Montana, conservation districts and cities and towns.

Lyle Manley, Attorney for the Department of State Lands, recognized the problems Mr. McIntyre brought up.

Senator Aklestad asked about the 120,000 realty transfers. He was told that 30,000 are rural transfers, 90,000 municipal and 10% of these will have transfers. They have 39,000 realty trans-

fers every year needing a water right transfer. Of these, 12,000 will be partial transfers. They are going to need six people to keep records. They have one person in each of their 9 judicial offices. This is their best estimate of what it will cost, according to Judge Lessly.

Senator Boylan, in closing, said they worked on the bill a long time. He thinks the bill is necessary and has to go over to the House. It may have to go into a Free Conference Committee for more work. The need for the bill is because of all the transfers of property going through each year.

DISPOSITION OF SB 401: Senator Conover moved the Clerks and Recorders amendments to SB 401. Exhibit #5. Motion carried.

Senator Conover moved the bill, as amended, DO PASS. Motion carried.

It was asked who will set the fee. One half is statutory to the clerk and recorders and the DNR transfer costs \$5, so it should come to around \$7 for the filed document. It couldn't be put down because of the over-all disagreement on this by people bringing in the documents. It will be between \$7 and \$12, according to Judge Lessly.

SENATE BILL 370: Senator Mark Etchart, SD 2, introduced the bill by request of the Department of Natural Resources. He said there was a conflict in section 15 of SB 370 with section 7 of SB 401. Section 7 in 401 may be better than 370, he suggested.

Gary Fritz, DNR, said the area in the Milk River Basin was closed because they were having a time protecting themselves against people coming in and using the water. Mr. Fritz handed out copies explaining the problems in other parts of the bill. Exhibit #7.

Steve Meyer, Montana Association of Conservation Districts, supported the bill. He said it was getting a handle on groundwater withdrawals. However, they would not support the full bill unless section 2 is amended to exclude the cost of adjudicating water rights. Exhibit #8.

Kim Kelly, Montana Water Rights Association, supported Mr. Meyer's testimony as he was also worried about the language in the bill.

Ray Ellis, Montana Water Development Association, agreed with Mr. Meyer's proposal.

John Holter, Montana Farm Bureau, was in agreement with Mr. Meyer. Exhibit #9.

There were no opponents.

Judge Lessly had no objections but suggested in section 2, page

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page 5

2 and 3 where it reads "in rule making hearings, etc., there shall be no fees, etc.", if this was stricken you would have no question of additional fees.

Mr. Fritz thought the conflict between the two bills would be taken care of with Judge Lessly's amendment.

Senator Conover moved to strike, "but not limited" page 2, line 20 & 21 and reinstate line 4 on page 3. Motion carried.

Mr. Fritz felt there was still a conflict as SB 370 section 16 page 20 and 21 was doing something different to that section of the code. The recordation procedure differs.

Hearing closed on SB 370.

SENATE BILL 233: Senator Graham moved to take SB 233 off the table. Motion carried.

Senator Graham moved SB 233 as amended DO PASS. Roll call vote was taken. There were 4 yes and 4 no votes. Motion failed. The bill will remain in Committee.

DISPOSITION OF SENATE BILL 370: Senator Conover moved the Department amendments. Motion carried.

Senator Kolstad moved to have Anne Brodsky, Committee Researcher, coordinate SB 370 with SB 401. Motion carried.

Senator Kolstad then moved SB 370, as amended DO PASS. Motion carried.

Senator Lee moved to reconsider actions on SB 370 for the purpose of adopting the Statement of Intent. Motion carried.

Senator Lee moved the Statement of Intent for SB 370 and, with Anne Brodsky, Committee Researcher, coordinating the amendments for SB 370 and 401 that SB 370 as amended DO PASS. Motion carried.

SENATE BILL 415: Senator Conover, SD 36, and sponsor of the bill, turned the hearing over to Loren E. Wiesner, Plant and Soil Science Department, Montana State University, Bozeman. He said they would like to have indigenous species in the seed law and change the word "seed processing" to "seed conditioning". Testimony attached as Exhibit #10.

Mr. Wiesner gave the committee copies of the changes in the bill. Exhibit #11. Most of the changes pertained to labeling and conditioning.

There were no opponents.

Senator Conover recommended they be sure to take out oxide daisy.

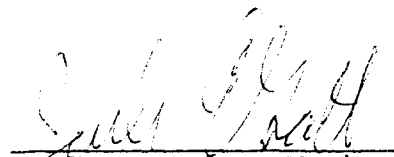
Mr. Wiesner replied that he had talked to Mr. Kelly, Department of Agriculture, and he thought they should leave it alone.

Senator Aklestad asked if all the rest of the seeds in the bill have to state which state they came from. He was told not unless it is a legume seed. They do not have to do this with alfalfa. It is important to determine location of which state the seed came from because some will grow in Montana but will not spread. The bill is just addressing seeds used for reclamation. There are some species being used that are not native but are naturalized.

DISPOSITION OF SENATE BILL 415: Senator Lane moved SB 415 DO PASS.
Motion carried.

DISPOSITION OF SENATE BILL 355: Senator Ochsner moved SB 355
DO PASS. Motion carried unanimously.

There being no further business, the meeting adjourned.



Jack E. Galt, Chairman

ROLL CALL

AGRICULTURE COMMITTEE

48th LEGISLATIVE SESSION - - 19 83

Date 2-18-83

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.

DATE Feb. 18, 1983

COMMITTEE ON Agriculture

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Les Graham	Dept of Livestock	HB 85	✓	
Gary Ginery	Dept. of Agric	HB 85	✓	
W. W. Leedy	Water Court	SB 401	✓	
John C Chaffin	Water Court	SB 401	✓	
K. M. Kelly	Mont. Water Develop. Assn	SB 370 SB 401	✓	
Mont. Water Develop. Assn	Mont. Water Develop. Assn	SB 370 SB 401	✓	
Bill Romine	clocks + Records	SB 401	✓	
Steve Meyer	MACID	SB 370	✓	
Loren Wiesner	Plant and Soil Sci. Dept Montstate	SB 415	✓	
Don McIntyre	DAKS	SB 401	✓	
Bill Asher	APA - PCA - SCPA	SB 401 SB 370	✓	
John T. ...	Montana Farm Bureau	SB 370 SB 401	✓	
K. M. Kelly	Dept. of Agriculture	SB 370 HB 85	✓	
John Sully	→	401	✓	

PROPOSED HAIL BOARD AMENDMENTS TO SB-317

1. Amend the title line 12 by adding "80-2-210" and 80-2-232"
on line 13 add "80-2-243"

80-2-210

2. Page 19 -- add a new section 80-2-210
"Hail insurance coverage may include loss by fire on unharvested grain and any loss of grain while being moved from the field to the first place of storage. An additional charge may be assessed if the producer desires this coverage."

Renumber all following sections

This will enable state policy holders to participate with Federal Crop Insurance if they chose to do so.

80-2-232

3. Page 23 -- after line 23
We would like to amend 80-2-232 by paying the counties 2% rather than 1% of the levy and paying the State 1 1/2% instead of 2%.

This would give the counties an additional \$21,683 which would more equitably reimburse their costs in relation to the services they provide. The State would receive 1/2% less but it would increase the amount we pay to the State and Counties to the same rate as the private companies pay in premium taxes. In addition to the 1 1/2% that we would pay the State they make a considerable amount from interest by handling our treasury account.

80-2-243

4. Page 25 -- 80-2-243 increase bond amount from \$10 to \$25 in two places and \$25 to \$50 in two places.

This is an inflationary increase and helps hold down disputed appraisals.

80-2-244

5. Page 26 -- Line 10, We would like to increase irrigated hay coverage to the same coverage as other irrigated crops. This can be done by striking on line 10 and 11 the following "and \$24 \$30 per acre on hay crops"

This will end discrimination against irrigated hay producers.

AMENDMENTS TO SB 238

1. Page 3, lines 20 through 23.
Strike: subsection (o) in its entirety
Reletter: subsequent subsections
2. Page 3, line 24.
Strike: "; and"
Insert: "."
3. Page 3, line 25 and line 1 on page 4.
Strike: these lines in their entirety
4. Page 6, line 3.
Following: "agencies"
Insert: "and private industry"
5. Page 8, line 3.
Strike: "\$30"
Insert: "\$25"
6. Page 9, line 2.
Strike: "it appears"
Insert: "scientific evidence proves"
7. Page 11, line 24.
Strike: "\$50"
Insert: "\$25"
8. Page 11, line 25.
Strike: "\$30"
Insert: "\$20"
9. Page 12, lines 8 through 10.
Strike: these lines in their entirety
Renumber: subsequent subsections
10. Page 13, line 6.
Strike: "May"
Insert: "March"
11. Page 14, lines 2 through 4.
Strike: these lines in their entirety
12. Page 14, line 6.
Strike: "\$50"
Insert: "\$25"
13. Page 14, line 9.
Strike: "\$25"
Insert: "\$20"
14. Page 14, line 14.
Strike: "\$50"
Insert: "\$25"

(over)

15. Page 17, line 20.
Following: "Government agencies."
Insert: "(1)"

16. Page 18, line 2.
Following: "."
Insert: "(2)"

17. Page 18, line 11.
Following: "areas."
Insert: "(3) Each governmental agency shall pay the annual applicator's fee for its first four employee applicators. The agency shall pay an annual fee of \$5 for each additional employee applicator. (4)"

MONTANA DEPARTMENT OF AGRICULTURE

PROPOSED AMENDMENTS TO S .238 (INTRODUCED COPY)

1. Page 21

Insert in line 1, between the word "livestock." and the word "The" the following:

"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 within the same calendar year."

2. Page 21

Insert in line 9 the following, as subsection (e):

"(e) All civil penalties assessed by the department shall be placed in the general fund."

3. Page 21

Strike all of line 9 through line 21.

- END -

EL# 4

NAME: John Holter DATE: Feb. 18, 1983

ADDRESS: Bozeman

PHONE: _____

REPRESENTING WHOM? Montana Farm Bureau Federation

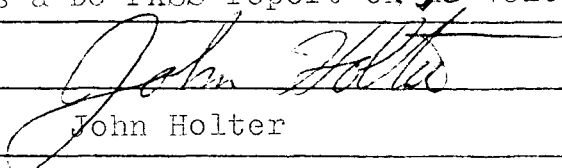
APPEARING ON WHICH PROPOSAL: SB-401

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

COMMENTS: Mr. Chairman,

The Montana Farm Bureau Federation believes SB-401
is a good piece of legislation which is necessary
in Montana's on going adjudication of water rights.

The MFBF recommends a DO PASS report on SB-401.


John Holter

Montana Farm Bureau Federation

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EL#5
2-18-83
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AMENDMENTS TO S.B. 401.

Proposed by Clerks and Recorders.

Amend Section 4 as follows:

Page 2, line 11 by striking the words "whether or not there are" and insert the word "if".

Page 2, line 12 by inserting before the word "associated" the word "are".

Page 2, line 15 by inserting before the word "certificate" the words "realty transfer".

Amend Section 6 as follows:

Page 3, line 7 by striking the words "recordation by the county clerk and".

Page 3, line 8 by striking the words "recorder and".

Page 3, lines 10, 11 and 12 by striking the words "retain a portion of the fee equal to the amount necessary to cover the cost of" and insert the words "collect the fee as provided for in 7-4-2632, MCA, for".

Page 3, lines 12 & 13 by striking the words "remainder of the fee must be forwarded" and insert the words "county clerk and recorder shall also collect the fee prescribed under sub-section (1) and forward it".

Page 3, line 13 by striking after the word department the words "and must" and inserting the word "to".

WITNESS STATEMENT

Name Bill Romine Committee On Agriculture
Address Helena Date 2-18-83
Representing Clerks & Recorders Support x
Bill No. S.B. 401 Oppose _____
Amend x

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. with the amendments submitted by the clerks & recorders it will not be necessary to use a water rights transfer certificate when no water rights are being transferred.
2. Also, the amendments will change the fee procedure:
 1. The clerks will then their normal fee for recording.
 2. the clerks will collect a separate fee for the Department & forward it to the Dept.
3. without this amendment, the clerk would have to deposit the fee with the treasurer, then prepare and file a claim with the county and have a warrant issued. then the warrant and the certificate would be sent to the department.
- 4.

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

Ex # 7

2-18-83

Agriault

SENATE BILL 370
TESTIMONY OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION: A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO SURFACE AND GROUNDWATER; AMENDING SECTIONS 85-2-112, 85-2-113, 85-2-123, 85-2-124, 85-2-236, 85-2-302, 85-2-303, 85-2-306, THROUGH 85-2-308, 85-2-311, 85-2-312, 85-2-314, 85-2-315, 85-2-402, AND 85-2-403, "MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Senate Bill 370 is a "clean-up" bill drafted by the Department of Natural Resources and Conservation to generally revise, clarify and amend certain water right statutes administered by the Department.

A detailed section by section explanation of the bill has been prepared by the Department and is available. However, the following brief summary of the bill is also being offered.

The bills proposed amendments can be categorized into four separate groups: 1.) Amending Department Duties; 2.) Amending Board Powers & Duties; 3.) Cost and Time Reductions; and 4.) Simplifying, Clarifying and Deleting Unnecessary Language.

Each of the four separate groups can briefly be explained as follows:

- 1.) Amending Department Duties: This proposed amendment would provide the Department with the authority to adopt rules necessary to reject, modify or condition water use permit applications in highly appropriated basins or subbasins. A rule may only be adopted upon petition signed by a certain percentage of water users in the source of supply, or by direction of the Legislature. It also provides for individual notice to water users and public notice in newspapers of the rulemaking hearing. (Reference: Page 2, Section 1, and Pages 21, 22, & 23, Section 17.)
- 2.) Amending Board Powers and Duties: This proposed amendment as found on Pages 2 & 3, Section 2 is intended to provide the Board of Natural Resources and Conservation with the authority to adopt through rules, fees to be paid by applicants, petitioners, etc. for the specified services provided by the Department. (It is important to note that the fees that can be set by the Board to recover reasonable administrative costs of acting on water use permit and change applications, has absolutely no connection with fee assessments for water right adjudication "claims" proposed in other bills before this Legislature.)

- 3.) Cost and Time Reductions: This bill proposes amendments in four separate sections that would save the Department and the state money and time in processing permits and certificates; by deleting recording of the original certificates of water right after court adjudication; by deleting recording of the original permits and certificates after Department verification of the issued water rights; and providing as an alternative to each county, quarterly and annual water right summary reports. An estimated savings of \$603,495 could be realized over the life of the adjudication program, and an estimated savings of \$10 to \$14,000 could be realized in the new appropriations program depending on the number of permits and certificates issued each year. (Reference: Pages 7 & 8, Section 5; Page 16, Section 12; and Pages 17 & 18, Section 14).

A savings in processing time of permits is proposed on Pages 8 & 9, Section 5 by reducing the time period from 18 months to 3 months during which an application for water use permit must be corrected and completed to retain the original priority date.

The proposed amendment on Page 12, Section 9 would save one additional week in processing a permit application, and a savings of \$7 to \$8,000 per year could be realized by eliminating one of the three publications. Also the amendment on Page 13, Section 9 would save another possible two weeks of processing time for water use permit applications.

- 4.) Simplifying, Clarifying and Deleting Unnecessary Language: This bill would delete unnecessary language on Pages 1 & 2, Section 1, by striking any reference to "declarations" since the law no longer provides for the filing of this type of form; and by deleting language on Page 3, Section 2. This is unnecessary.

An amendment proposed on Page 5, Section 4 would help simplify the Department's decision making process by allowing a more reasonable time in determining if an E.I.S. (Environmental Impact Statement) is necessary on a water use permit or change application before requesting the required E.I.S. fee.

This bill also clarifies the water right law statutes in ten areas as follows:

- 1.) The word "yield" is deleted and "appropriation" is inserted on Page 3, Section 2 because a water right is based on the beneficial use or appropriation of water from the well and not necessarily the yield of the well.
- 2.) Page 4, Section 3 contains an amendment that would make this section concerning the water right appropriation account consistent with Section 85-2-312.
- 3.) The amendment contained on Page 8, line 9, Section 6, would correct this section, which presently omits the reference to subsection (3) of 85-2-306, since it also is exempt from receiving a permit prior to appropriating water or commencing construction of the water project.

- 4.) The words "may do so immediately but" are deleted from Page 9, Section 7, since the wording is inconsistent with the statutes. The provisions of the permit system must be followed before water can be appropriated for the beneficial use. Also the word "yield" is deleted " and "appropriation" is inserted for the same reason given in 1.) above.
- 5.) The amendments on Page 11, Section 8 would clarify the priority date of notices of completions for groundwater between January 1, 1962 and July 1, 1973, and the part claims would play in the priority date.
- 6.) The word "water" is inserted on line 21, Page 14, Section 11 to eliminate some confusion and make it clear that the "rights" referenced here are "water rights."
- 7.) The word "modify" is inserted in one form or another on Pages 16 and 17, Section 13 to provide the Department with specific authority to "modify" a permit after a show-cause proceeding instead of revoking it.
- 8.) The words "or irrigation" are inserted on line 1, Page 19, Section 15 to make it clear that irrigation is included in the meaning of agriculture.
- 9.) The remaining amendments proposed on Pages 19 & 20, Section 15 would first in subsection (6) move this subsection in its entirety from Section 85-2-403(3), since the subject matter more closely relates and eliminates confusion created by its previous placement.

Secondly, subsection (7) would make the change approval section consistent with permit statutes concerning mailing and duplication of the change approval.

Thirdly, Subsection (6) would clarify and provide for the filing of an application to change pursuant to this section on issued but unperfected permits or change authorizations. Presently the law is unclear on this subject, but the amendment is just and necessary and would save applicants time and money in processing applications.

- 10.) The words "under a permit or certificate of water right" would be deleted from Page 20, Section 16 to make it clear that this subsection applies to all valid water rights.

The amendment to Page 21, Section 16 subsection (2) would clarify the notarization of the transfer form.

The deletion shown is subsection (3), Page 21, Section 16 is moved to Section 15 of this bill, since it properly belongs in that section. The added language to this subsection (3), Page 21, clarifies how the transfer form will be handled after being received by the Department.



Montana Association Of Conservation Districts

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

February 18, 1983

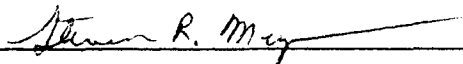
Mr. Chairman, Members of the Committee:

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

We would like to go on the record as being in qualified support of SB 370. We feel that it is important for the state to get a handle on the groundwater withdrawals. We don't want to find ourselves in a situation like that found in the plains region over the Ogallalla aquifer. We also need some mechanism for limiting new appropriations in highly appropriated basins. We have a problem with Section 2 of this bill. The changes starting on line 21, page 2 through line 4, page 3, appears to give the Department, with approval of the Board, authority to charge fees for the completion of and issuance of certificates of water rights. We have stated before, the state set a one time fee for adjudicating the state's water rights. We are entirely opposed to any attempts to charge those water users that filed water rights claims at the request of the state any more fees.

We will not be able to give our support to the full bill, unless section 2 is amended to exclude the cost of adjudicating water rights.

Thank you.



Steven R. Meyer

SRM:dv

NAME:

John Holter

DATE:

15 Feb 83

ADDRESS:

Bozeman

PHONE:

REPRESENTING WHOM?

Montana Farm Bureau Federation

APPEARING ON WHICH PROPOSAL:

SB-370

DO YOU:

SUPPORT?

X

AMEND?

X

OPPOSE?

COMMENTS:

Mr. Chairman,

The MFBF agrees with the
intent of SB-370 except for Section
Two. Please report a DOPASS
with Section 2 amended.

John Holter
John Holter

Montana Farm

Bureau Federation

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



DEPARTMENT OF PLANT & SOIL SCIENCE

EL #10
2/18/83
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COLLEGE OF AGRICULTURE MONTANA STATE UNIVERSITY, BOZEMAN 59717

February 17, 1983

TO: Senate Agricultural Committee

FROM: Loren E. Wiesner, Plant and Soil Science Dept.

RE: Senate Bill 415 - Montana Seed Law Changes

With this legislation we would like to accomplish two objectives:
(1) to include indigenous species in the seed law and (2) to change the word "seed processing" to "seed conditioning."

Indigenous species are used for reclamation purposes. At the present time these species, such as fourwing saltbush, winterfat, skunkbush sumac, and others, are not required to be labeled unless they are also considered agricultural seed. This bill defines indigenous species and requires similar labeling information as for agricultural seed, except that (1) percent weed seeds and other crop seeds have been combined and called percent other seeds, (2) the 2 percent maximum allowable weed seeds prohibition has been removed for indigenous seeds, (3) seed lots will be labeled for percent viability instead of percent germination, and (4) oxeye daisy would be removed from the restricted noxious weed list, as it is presently being used for reclamation purposes. Percentage of other crop seed is being used because many of the species we consider weed seeds for agricultural uses are considered crop seed for reclamation purposes. The 2 percent weed seed limitation would need to be removed for indigenous species as some of the species used are considered weeds in the present law.

Many of the species used for reclamation purposes are difficult to germinate or procedures have not been developed for germination; therefore, these species are best labeled for percent viability.

Because of these exceptions for labeling of indigenous species, it is important that the label also displays the statement: "Labeled for reclamation purposes only."

The second part of this bill is to change the word "processing" to "conditioning" which more accurately describes what is accomplished when seed is cleaned. The American Seed Trade Association suggests that seedsmen and others use the words "conditioning" rather than "processing" to describe activities that do not change the form or nature of seed. Such activities merely condition the seed for distribution for planting purposes. The term processing implies that a product has been "manufactured" or changed in physical form. Seeds for planting are raw agricultural products and they have not been processed.

We strongly seek your favorable consideration for making these needed changes.

LEW/plh

Exhibit #11.
2-18-83
Ht

Senate Bill 415 "An Act to revise and clarify certain sections relating to agricultural seeds"

Introduction:

Senate Bill 415 adds a new section whereby indigenous or native seeds must be properly tested by an official seeding laboratory. Under this proposal the seed must then be labeled properly before offering the indigenous or native seed for sale. All references to recleaned/recleaning, reprocessing/processing/cleans are changed to conditioned, conditioning, reconditioning, condition. By using the word condition, recondition or conditioning will bring the seed agriculture in line with federal seed law terminology.

Proposed changes:

Section 1. Section 80-5-101

page 1 line 14 }
page 1 line 19 } housekeeping changes
page 1 line 23 }

page 2 lines 2-5 new section - indigenous or native seed definition

page 2 lines 6 & 18 housekeeping change

page 4 lines 9, 13-14 housekeeping change

page 4 line 20-23, 25 new language

page 5 line 2-5 new language

page 5 lines 6, 9, 11, 12 housekeeping change

Section 2. Section 80-5-102 Labeling of Agricultural Seeds

page 6 line 6 & 7, 10-14 housekeeping change

Section 3. Section 80-5-104. Labeling of vegetable, flower and indigenous seed.

page 11 lines 3 & 4 new language - indigenous seeds

page 12 lines 12-25 new language

page 13 lines 1-20 new language

Section 4. Section 80-5-107 Exemptions

page 14 line 2 change recleaned to conditioned

Note: The remaining changes in Senate Bill 415 change:

recleaned to conditioned

recleaning to conditioning

reprocessing to reconditioning

processing to conditiong

cleans to conditions

Section 8. Section 80-5-203 Dealer's license-exception-fees-application-violation

page 18 line 24-25 }
page 19 line 1 } delete

February 16, 1983

TO: Senate Agriculture Committee

FROM: Terry Murphy, President, Montana Farmer's Union

Gentlemen:

SB 238, the Pesticide Act is in your hands. No legislation in my memory ever had a more exhaustive effort to involve the public in its formation. The Department of Agriculture should be commended for their open and aboveboard approach.

Montana Farmer's Union is a proponent, by action of the approximately 200 farmer-delegates at our October, 1982 convention. They didn't do it because they like regulation; they did it because the State needs flexible authority to prevent more serious problems.

My observation is that the same people who are leading the opposition would be the same ones who will be most highly critical of the Legislature and the farm organizations if a future misuse causes loss of a needed chemical. They will ask, "Why didn't you do something to head this off?" SB 238 is an attempt to do something.

Terry Murphy

February 16 19 83

MR. **PRESIDENT**

We, your committee on **AGRICULTURE, LIVESTOCK & IRRIGATION**

having had under consideration **SENATE** Bill No. **316**

Respectfully report as follows: That **SENATE** Bill No. **316**

introduced bill, be amended as follows:

1. Page 5, line 1.

Strike: "60"

Insert: "30"

2. Page 6, line 17.

Strike: "\$150,000"

Insert: "\$250,000"

And, as so amended

DO PASS

STATEMENT OF INTENT ATTACHED

February 18 19 83

MR. PRESIDENT,

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION

having had under consideration STATEMENT OF INTENT SENATE Bill No. 316

Respectfully report as follows: That STATEMENT OF INTENT SENATE Bill No. 316
be adopted.

STATEMENT OF INTENT RE: SB 316

Section 1. This statement of intent is required by the rulemaking authority granted to the Montana Agricultural Loan Authority in sections 4, 8, and 9.

Section 2. It is the intent of the Legislature that the Montana Agricultural Loan Authority adopt rules for the orderly handling and processing of applications under the authority granted in this act to grant farm acquisition loans and to grant loans under the second loan program. The rules under section 8 are intended to be sufficiently specific to allow for an objective determination by the Department of Agriculture of which applicants should receive a farm acquisition loan from the Authority. The same criteria should be established by rule for the second loan program with special emphasis on need of the applicant and the applicant's possible prospects for success.

XXXXXX

(Continued)

J/C

Section 3. It is the specific intent of the Legislature that the Montana Agricultural Loan Authority shall coordinate all loans made pursuant to Senate Bill 316 through the Farmers Home Administration, the Production Credit Association, the Federal Land Bank, and private lenders, or some other similar organization or organizations. The state director of the Farmers Home Administration has indicated to the Senate Taxation Committee that the FHA could screen worthy applicants, participate with a subordinated loan of its own, participate with a guaranteed loan, and fully service the loan. This would include taking care of any defaults in the event there are defaults by either paying off the state in full or working with the state, foreclosing on the farmland and immediately reselling it to apply the proceeds to the defaulted loan. It is the intent of the Legislature that this program coordinate with the Farmers Home Administration or other similar organizations including private lenders to the maximum extent possible so that the Montana Agricultural Authority will not itself need to service the loan or take care of any defaults.

First adopted by the Senate Agriculture, Livestock & Irrigation Committee on the 18th day of February, 1983.

J.E.

STANDING COMMITTEE REPORT

February 18 19 83

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION

having had under consideration SENATE Bill No. 317

Respectfully report as follows: That SENATE 317
introduced bill, be amended as follows: Bill No.

1. Title, line 10.
Strike: "INCREASING COVERAGE LIMITS;"

2. Title, line 12.
Strike: "80-2-208,"
Following: "80-2-228,"
Insert: "80-2-232,"
Following: "80-2-241"
Strike: ",,"

3. Title, line 13.
Strike: "80-2-242, AND"
Insert: "THROUGH"

XXXXX
DO PASS

(Continued)

h/c

4. Page 18, line 20.
Strike: Section 8 in its entirety
Renumber: subsequent sections

5. Page 23, line 24.
Following: line 23

Insert: "Section 12. Section 80-2-232, MCA, is amended to read:
"80-2-232. State treasurer's duty - transfer of funds - warrants - transfers to county and state general fund. (1) The state treasurer shall receive all moneys paid to him under this part and shall place same to the credit of the agency fund and may from time to time transfer to the earmarked revenue fund such sums as the board of hail insurance may deem necessary and proper to pay the expenses of administration. All moneys collected by the board shall be deposited in the agency fund, and all losses shall be paid from that fund. All other costs are administrative expenses and shall be paid from the board's account in the earmarked revenue fund. If registered warrants be presented and there be no money to pay the same, such warrants shall be registered and thereafter bear interest at the rate of 4% per annum until called for payment by the state treasurer. If at any time more funds are in the earmarked revenue fund than the board estimates are needed for administrative expenses, the state treasurer may on the order of the board transfer such funds back to the agency fund as the board may direct.

(2) Upon warrants drawn by order of the board, the state treasurer shall pay out of the board's account in the agency fund to the county treasurer of each county where state hail insurance coverage is in force ~~1%~~ 2% of the gross annual levies made and collected in such county under this part for the use of the county as the board of county commissioners may determine.

(3) Upon authorization from the board of hail insurance, the state treasurer shall transfer out of the board's account in the agency fund to the general fund of the state of Montana ~~2%~~ 1.5% of the gross annual levies made and collected in the state of Montana."
Renumber: subsequent sections

6. page 25, line 14.
Following: line 13

Insert: "Section 15. Section 80-2-243, MCA, is amended to read:
"80-2-243. Disputed appraisal. (1) In case the party that has sustained the loss is dissatisfied with and refuses to accept the adjustment made by the official appraiser, then he shall have the right to appeal to the board of hail insurance. He shall make such appeal by registered or certified mail within 10 days after receiving the adjustment offer of the board in writing. Also the board may require the posting of a cash bond of ~~\$10~~ \$25 with the request for reappraisal of the first adjustment. In cases where the board requires the posting of the ~~\$10~~ \$25 bond, the board may retain it if no increase is allowed. If an increase is obtained, the board will return the bond to the claimant.

(Continued)

J.C.

(2) In case the adjuster who makes the second appraisal fails to secure an agreement, the claimant may at his option submit the matter to arbitration as herein provided or sue the board in the district court of the county where the loss occurred, within 90 days from the date of receipt of written notice of the second appraisal. Such actions shall be trials de novo and the Montana Rules of Civil Procedure shall apply. Where any claimant demands arbitration, he shall, if required by the board, furnish a cash bond to the board in the sum of \$25 \$50 which shall accompany his application. If there is not sufficient allowance made to any claimant after arbitration to cover the cost of arbitration without the use of the \$25 \$50 bond, then the board may use a part or all of said cash bond. In cases where the claimant secures an increase, the bond shall be promptly returned to the claimant. If the claimant elects to submit the matter to arbitration, he shall then appoint one disinterested person as appraiser and the official appraiser shall appoint another person as appraiser and the two shall select a third disinterested person and the three shall then proceed to adjust the loss in the same manner as specified in 80-2-242. The judgment of the majority shall be the judgment of said appraisers and shall be binding upon both parties as the final determination of said loss.

(3) (a) If the insured does not recover a greater sum than allowed by the official appraiser in the first instance, he shall pay the expenses of the three appraisers and their witnesses in making said adjustment, but if he is awarded a larger sum, then the same shall be paid by the board.

(b) If the insured shall be required to pay the expenses of such reappraisal as above provided, the board is hereby authorized to deduct the amount of such expenses from the amount allowed said insured before making settlement for said loss.

(4) The board shall examine all reports of appraisers and verify the same and adjust all losses and for such purposes may order hearings, subpoena witnesses, conduct examinations and do all things necessary to secure a fair and impartial appraisal of losses by hail."

Renumber: subsequent sections

7. Page 26, line 9.

Strike: "\$30"

Insert: "\$24"

Strike: "\$60"

Insert: "\$48"

8. Page 26, lines 10 and 11.

Following: "lands"

Strike: ", and \$24 \$30 per acre on hay crops"

And, as so amended,
DO PASS

Jack E. Galt,

Chairman.

SENATE COMMITTEE AGRICULTURE

Date 2/18/83 Bill No. SB 317 Time 12:40

NAME	YES	NO
SENATOR KOLSTAD	✓	
SENATOR AKLESTAD	✓	
SENATOR BOYLAN		✓
SENATOR CONOVER		✓
SENATOR GRAHAM		✓
SENATOR LANE		✓
SENATOR LEE	✓	
SENATOR OCHSNER		
SENATOR GALT, Chairman	✓	

Rita Tenneson

Secretary

Jack E. Galt

Chairman

Motion: in bill
to put back with same limits as they
had prior to sunsetting

Lead on a tie vote

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

SENATE COMMITTEE AGRICULTURE

Date 2/18/83 Bill No. SB 317 Time 12:47

NAME	YES	NO
SENATOR KOLSTAD		✓
SENATOR AKLESTAD		✓
SENATOR BOYLAN		✓
SENATOR CONOVER	✓	
SENATOR GRAHAM	✓	
SENATOR LANE		✓
SENATOR LEE		✓
SENATOR OCHSNER		
SENATOR GALT, Chairman		✓

Rita Tenneson

Jack E. Galt

Secretary

Chairman

Motion: Senator Graham's motion to put
fire ins. on unharvested grain while
being moved from field to first place of
storage

6 No 2 yes - failed

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

SENATE COMMITTEE AGRICULTURE

Date 2/18/83 Bill No. SB 317 Time 2:55 pm

NAME	YES	NO
SENATOR KOLSTAD	✓	
SENATOR AKLESTAD	✓	
SENATOR BOYLAN	✓	
SENATOR CONOVER		✓
SENATOR GRAHAM		✓
SENATOR LANE		✓
SENATOR LEE	✓	
SENATOR OCHSNER	✓	
SENATOR GALT, Chairman	✓	

Rita Tenneson

Secretary

Jack E. Galt

Chairman

Motion: Senator Kolstad's amendment to strike \$24
underline \$30 on hay crops.
6 yes 3 No Motion Carried.

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

SENATE COMMITTEE AGRICULTURE

Date _____ Bill No. 238 Time _____

NAME	YES	NO
SENATOR KOLSTAD		✓
SENATOR AKLESTAD		✓
SENATOR BOYLAN		✓
SENATOR CONOVER	✓	
SENATOR GRAHAM	✓	
SENATOR LANE		✓
SENATOR LEE		✓
SENATOR OCHSNER	✓	
SENATOR GALT, Chairman	✓	
	4	5

Rita Tenneson
Secretary

Jack E. Galt
Chairman

Motion: SB238 as amended DO PASS

Motion failed 4 yes 5 No

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

STANDING COMMITTEE REPORT

February 18 19 83

MR. **PRESIDENT**

We, your committee on **AGRICULTURE, LIVESTOCK & IRRIGATION**

having had under consideration **SENATE** Bill No. **401**

Respectfully report as follows: That **SENATE** Bill No. **401**

introduced bill, be amended as follows:

1. Page 2, line 11.

Strike: "whether or not there are"

Insert: "if"

Following: "rights"

Insert: "are"

Page 2, line 15.

Following: "property, the"

Insert: "realty transfer"

Following: "certificate"

Insert: "executed under 15-7-305"

3. Page 3, lines 7 and 8.

Strike: "recordation by the county clerk and recorder and"

~~XXXXXX~~
~~DO PASS~~

(Continued)

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4. Page 3, lines 10 through 13.

Following: "shall" on line 10

Strike: The remainder of line 10 through "forwarded" on line 13

Insert: ": (a) collect the fee required under subsection (1) and forward it"

5. Page 3, line 13.

Strike: "and must"

Insert: "to"

6. Page 3, line 15.

Following: "85-2-313"

Insert: "; and (b) charge and collect a recording fee as provided for in 7-4-2632 for recording the document"

And, as so amended,
DO PASS

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February 18 19 83

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION

having had under consideration SENATE Bill No. 370

Respectfully report as follows: That SENATE Bill No. 370
introduced bill, be amended as follows:

1. Page 2, line 20 and 21.
Strike: "but not limited to"
2. Page 3, line 4.
Following: "rights"
Insert: "or for the issuance of certificates of existing rights"
3. Page 20, line 18.
Strike: "(1)"
4. Page 20, line 24.
Strike: subsection (2) in its entirety
5. Page 21, line 4.
Strike: "(3)"

XXXXXX
DO PASS

(Continued)

H.C.

February 18 19 83

6. Page 21, line 21.

Following: "65-2-309"

Strike: remainder of line 21 through "Helena." on line 24

7. Page 23, line 3.

Following: "chapter"

Strike: "3"

Insert: "4"

And, as so amended,
DO PASS

JEC

STANDING COMMITTEE REPORT

February 18 83
19.....

MR. **PRESIDENT**

We, your committee on **AGRICULTURE, LIVESTOCK & IRRIGATION**

having had under consideration **STATEMENT OF INTENT** **SENATE** **370** Bill No.

Respectfully report as follows: That **STATEMENT OF INTENT** **SENATE** **370** Bill No.
be adopted.

STATEMENT OF INTENT RE: SB 370

A statement of intent is required for this bill because it delegates rulemaking authority to the Department of Natural Resources and Conservation in sections 1 and 17.

The intent is to provide the Department with the authority to adopt rules necessary to reject, modify, or condition water use permit applications in highly appropriated basins or subbasins. A rule may only be adopted under this section upon a petition signed by a certain percentage of water users in the source of supply or by direction of the Legislature. The petition must allege certain facts showing the need for the adoption of a rule. The Department must act on the petition within 60 days by: denying the petition and providing reasons to the petitioners; informing the petitioners that additional study of the allegations is necessary before denying or proceeding with the petition; or initiating the rulemaking proceeding.

~~XXXXXX~~

(Continued)

J.C.

February 16 19 83

The rulemaking procedure must follow the notice requirements of the Montana Administrative Procedure Act and in addition the Department must publish notice of the rulemaking hearing once a week for three successive weeks in a newspaper of general circulation in which the source is located, and also serve an individual copy of the notice on any known water right holder in the source of supply according to the Department's records.

This bill also delegates rulemaking authority to the Board of Natural Resources and Conservation in section 2.

The intent is to provide the Board with the authority to adopt, through rules, fees to be paid by applicants, petitioners, and others for services provided. Fees could be adopted for: rulemaking hearings to reject, modify, or condition water use permit applications in highly appropriated basins or subbasins; administrative hearings conducted by the Department to settle objections to permit or change applications; costs incurred during the field investigation of a complaint against a permittee and related revocation proceedings; and for costs incurred in the field verification of issued and completed permits and change approvals.

First adopted by the Senate Agriculture, Livestock & Irrigation Committee on the 18th day of February, 1983.

STANDING COMMITTEE REPORT

February 18 19 83

PRESIDENT

MR.

AGRICULTURE, LIVESTOCK & IRRIGATION

We, your committee on

SENATE

415

having had under consideration Bill No.

SENATE

415

Respectfully report as follows: That Bill No.

DO PASS

STANDING COMMITTEE REPORT

February 18 19 83

MR. **PRESIDENT**

We, your committee on **AGRICULTURE, LIVESTOCK & IRRIGATION**

having had under consideration **SENATE** Bill No. **355**

Respectfully report as follows: That **SENATE** Bill No. **355**

DO PASS