

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

April 8, 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 1:00 p.m., by Chairman Galt.

ROLL CALL: Senators Graham, Lee and Aklestad excused. All other members present.

CONSIDERATION OF HJR 35: Representative Glenn Jacobsen, HD 1, told the committee that HJR 35 is a follow up of HB 851 which placed a moratorium on the Department of Revenue for setting rules regarding implementation of agricultural reclassification. He said the resolution will get equity within the farm land itself. It will get into the value of productivity. There is a House amendment on page 3. He said the members of this study committee should be made up of people from both the Agriculture committees in the House and Senate and they should be sure some of these people sit on the study commission.

Senator Conover suggested using the same data as the SCS study for a base for this study.

CONSIDERATION OF HJR 36: Representative Kerry Keyser, HD 81, said this is a resolution to set up a study for preservation of the rights of landowners adjacent to public land and waterways. It gets to the guts of the matter. He referred the committee to page 2, lines 13 through line 14 on page 3 which outlines the specific conflicts. (Exhibit #1). They wanted to make the study as fair as possible and he realized the study would probably be a loaded one. He referred the committee to the material on the land use across hunting grounds as a reference for use on this study.

DISPOSITION OF HJR 35: Senator Conover moved HJR 35 BE CONCURRED IN. Motion carried unanimously. Senator Conover will carry it.

DISPOSITION OF HJR 36: Senator Conover moved HJR 36 BE CONCURRED IN. Motion carried unanimously. Senator Lee will carry it.

There being no further business, the meeting adjourned.

  
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Jack E. Galt, Chairman



Exhibit - 1  
Apr 8, 1983  
Ag.

1 HOUSE JOINT RESOLUTION NO. 36

2 INTRODUCED BY KEYSER, LEE, QUILLICI, HAND, IVERSON,

3 J. HAMMOND, CURTISS, D. BROWN, RAMIREZ, DEVLIN

4

5 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF  
6 REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN  
7 INTERIM STUDY TO IDENTIFY AND PROVIDE FOR PRESERVATION OF  
8 THE RIGHTS OF LANDOWNERS ADJACENT TO PUBLIC LAND AND  
9 WATERWAYS AND TO IDENTIFY AND PROVIDE FOR RIGHTS OF THE  
10 PUBLIC TO ACCESS AND USE PUBLIC LAND AND WATERWAYS;  
11 REQUIRING A REPORT OF THE FINDINGS OF THE STUDY TO THE  
12 LEGISLATURE.

13  
14 WHEREAS, the right of the public to use waterways for  
15 recreational and other purposes and the related issue of  
16 navigability are unsettled in law; and

17 WHEREAS, ownership rights in land underlying waterways  
18 and rights of adjacent landowners to place obstacles in  
19 waterways or to restrict use of streambanks are also  
20 unsettled; and

21 WHEREAS, the right of the public to use public land is  
22 being inhibited by restrictions of access across private  
23 adjoining land; and

24 WHEREAS, there is an increasing number of disputes  
25 between private landowners and public users concerning the

1 use of public land and waterways; and

2 WHEREAS, both the adjacent private landowners and the  
3 public have substantial interests involved in the resolution  
4 of these conflicts.

5  
6 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE  
7 OF REPRESENTATIVES OF THE STATE OF MONTANA:

8 That an appropriate interim committee be assigned to  
9 study ways to identify and preserve rights of landowners  
10 adjacent to public land and waterways and to identify and  
11 provide for rights of the public to access and use public  
12 land and waterways. The study COMMITTEE shall CONDUCT  
13 WITH ALL INTERESTED PERSONS TO THE FULLEST EXTENT POSSIBLE  
14 ID:

15 (1) identify possible methods of acquiring and  
16 maintaining access across private land to public land and  
17 waterways;

18 (2) clarify the right of the public to use waterways,  
19 including:

20 (a) identification of waterways that may be used by  
21 the public;

22 (b) further legislative definition of navigability, if  
23 necessary;

24 (c) clarification of when a prescriptive use or  
25 easement may exist; and

1 (d) use of adjacent uplands in conjunction with the  
2 right to use the waterway;  
3 (3) identify use rights and title interests of  
4 adjacent landowners in land under and adjacent to waterways,  
5 including:  
6 (a) the right to place fences, bridges, flumes, or  
7 other obstacles in the waterway;  
8 (b) consequent taxation liabilities; and  
9 (c) mineral rights;  
10 (4) establish the liabilities of landowners for  
11 impeding the right of the public to use public land or  
12 waterways and the liabilities of public users with respect  
13 to violations of rights of adjacent landowners; and  
14 (5) determine appropriate methods of enforcement.  
15 BE IT FURTHER RESOLVED, that the committee report its  
16 findings and recommendations to the 49th Legislature.

-End-

STANDING COMMITTEE REPORT

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19 83

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK AND IRRIGATION

having had under consideration HOUSE JOINT RESOLUTION

XXX  
Bill No. 35

Jacobsen (Conover)

Respectfully report as follows: That HOUSE JOINT RESOLUTION

XXX  
Bill No. 35

third reading, blue

BE CONCURRED IN

~~XXXXXX~~

*J/E*

STANDING COMMITTEE REPORT

..... April 8 ..... 19 83 .....

MR. PRESIDENT .....

We, your committee on AGRICULTURE, LIVESTOCK AND IRRIGATION .....

having had under consideration HOUSE JOINT RESOLUTION ..... EX No. 36 .....

Keyser (Lee)

Respectfully report as follows: That HOUSE JOINT RESOLUTION ..... EX No. 36 .....

third reading blue

BE CONCURRED IN

DONPASS