

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 9, 1985

The meeting of the Natural Resources Committee was called to order by Chairman Dennis Iverson on January 9, 1985, at 3:00 p.m. in Room 312-1 of the State Capitol.

ROLL CALL: All members were present.

Chairman Iverson announced that members of the committee would not be assigned to carry Senate Bills in the House; senators would be directed to identify their own bill carriers.

HOUSE JOINT RESOLUTION NO. 5: Hearing opened on HJR 5 with a statement by sponsor Tom Asay. Rep. Asay said the purpose of the resolution was to encourage the Army Corps of Engineers to fund and perform riverbank stabilization projects to lessen soil erosion and property loss along the Missouri, Yellowstone and Big Horn Rivers.

Dan Heinz, of Butte, representing the Montana Wildlife Federation, spoke as a proponent of HJR 5. He said MWF would support HJR 5, provided that riverbank stabilization efforts be limited to the Missouri River below Ft. Peck Reservoir. He said the group would not support such efforts on the Yellowstone or Big Horn Rivers. A copy of Mr. Heinz's statement is attached hereto as Exhibit 1.

Gary Fritz, a representative of the Dept. of Natural Resources and Conservation, spoke in support of the resolution. He said that Montana had received little benefit to date from the Pick-Sloan program, and that HJR 5 would likely result in benefits to the state.

Scott Ross, Wolf Point, represented Walleyes Unlimited of Montana in support of HJR 5. Ross said his group supports bank stabilization and erosion control efforts in general, but cautioned against granting excessive power to the Army Corps of Engineers in choosing projects for the Missouri River basin. He expressed particular concern about a Corps proposal to establish a reregulation dam below Ft. Peck Dam, a move which Walleyes Unlimited is strongly against, because of possible damage to fisheries. A copy of Mr. Ross's statement is attached hereto as Exhibit 2.

No further proponents spoke in favor of HJR 5, and no opponents rose to speak against it. Chairman Iverson then called for questions from the committee.

Rep. Raney questioned Rep. Asay about the effect of the Pick-Sloan Plan on the Yellowstone River, and was told that Pick-Sloan had no effect on the Yellowstone above its confluence with the Big Horn River.

Rep. Asay assured Rep. Grady that the Army Corps of Engineers would build no dams in Montana as a result of this resolution. He said the bank stabilization work planned would not include dams or channelization, but erosion control projects only.

Rep. Addy stated that he would object to inclusion of the Yellowstone and Big Horn Rivers in the resolution. Rep. Asay said inclusion of those rivers in the bank stabilization program is essential.

Rep. Ream asked what specific work would be done by the Corps on the Little Horn and Yellowstone Rivers, and was told by Rep. Asay that only bank stabilization techniques, such as planting vegetation and covering with rip-rap would be considered. Dams would not be employed, he said.

Rep. Grady asked how the proposed projects would affect fisheries, and was told by Gary Fritz that effects would likely be beneficial to fisheries.

Rep. Raney stated that he was not convinced that the resolution could not be viewed as an invitation for federal government control over state rivers. Rep. Asay replied that the resolution would not release control over Montana rivers, but would apply to requested, site-specific projects only.

Rep. Asay delivered a closing statement on the resolution, stating that Montana needs federal assistance with bank stabilization projects because of the high expense involved, and that HJR 5 was not relinquishing stream authority, but rather asks the federal government to fulfill an obligation under the Pick-Sloan Plan.

The public hearing on HJR 5 was closed, and the committee went on to hearing HB 6.

HOUSE BILL NO. 6: HB 6 was introduced by Rep. Bob Marks, who explained that the bill had been assigned to him by the code commissioner of the Legislative Council, and asked John McMaster to explain the proposed action.

Mr. McMaster explained that HB 6 would clarify existing laws by amending Sections 82-4-254, 85-2-123, 85-8-624, and 90-6-307 MCA, clarifying Section 3, Chapter 706, Laws of 1983; and providing an immediate effective date for Section 2, Chapter 706, Laws of 1983. McMaster also submitted two amendments to HB 6, requested by the Legislative Council, and attached hereto as Exhibit 3.

John North of the Dept. of State Lands said the proposed change to §82-4-254 MCA would clarify the vague language of the statute, and supported such change.

Gary Fritz, Dept. of Natural Resources and Conservation, said the department supports the proposed changes to 85-2-241, clarifying that statute, but opposes the provision of an immediate effective date in Section 3, Ch. 706, Laws of 1983. Don MacIntyre, counsel for DNRC, explained that DNRC opposes the addition of such a date because the 1983 legislature intended the repeal, not the suspension of Section 85-1-121. He said DNRC is currently involved in litigation before the Ninth Circuit Court of Appeals which would be affected by any change to the current Section 3 language, and hoped that such change would be delayed until the conclusion of that litigation.

Chairman Iverson said the mood of the committee would be to strike Section 2 (the proposed changes to Section 3, Ch. 706, Laws of 1983), or to hold the matter indefinitely.

Hearing on HB 6 was closed.

Chairman Iverson called for executive action on HJR 5. Rep. Asay made a Do Pass motion on HJR 5. Rep. Addy moved to amend HJR 5 by removing references to the Yellowstone and Big Horn Rivers throughout the text of the resolution. Rep. Raney seconded. Rep. Addy explained that the periodic surge of water on the Big Horn and Yellowstone Rivers is natural runoff, and not release from man-made reservoirs that would qualify for action under the Pick-Sloan Plan. Rep. Asay said that natural hazards, too, create erosion loss which would be guarded against through bank stabilization.


Rep. Grady spoke against the proposed amendment, saying it would kill the intent of the bill, which is to solve erosion problems, however they occur.

Rep. Raney said he favors the proposed amendment because the Pick-Sloan Plan specifically involves the construction and use of dams, and he wants to avoid the possibility of such construction on the Big Horn and Yellowstone Rivers.

Rep. Miles said she supported the amendment proposed by Rep. Addy because it would make the body of the resolution consistent with the title, which mentioned only the Missouri River, and not the Yellowstone and Big Horn Rivers.

Chairman Iverson suggested that Rep. Addy withdraw his motion and that the resolution be re-drafted in a consistent manner. Rep. Addy withdrew his motion to amend. Rep. Asay then withdrew his do pass motion.

ADJOURN: There being no further business before the committee, the meeting was adjourned at 4:10 p.m.



DENNIS IVERSON, Chairman

DAILY ROLL CALL

HOUSE NATURAL RESOURCES

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

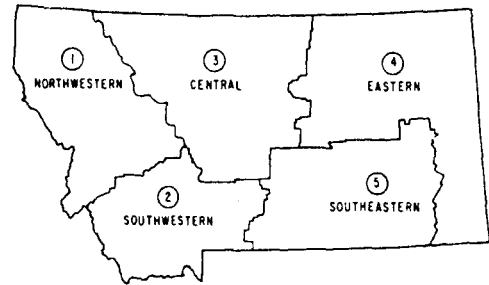
Date 1/9/85

NAME	PRESENT	ABSENT	EXCUSED
IVERSON, Dennis (Chairman)	X		
KADAS, Mike (Vice-Chairman)	X		
ADDY, Kelly	X		
ASAY, Tom	X		
COBB, John	X		
DRISCOLL, Jerry	X		
GARCIA, Rodney	X		
GRADY, Edward	X		
HARP, John	X		
JONES, Tom	X		
KRUEGER, Kurt	X		
MILES, Joan	X		
MOORE, Janet	X		
O'HARA, Jesse	X		
PETERSON, Mary Lou	X		
RANEY, Bob	X		
REAM, Bob	X		
SMITH, Clyde	X		

EDUCATION - CONSERVATION

Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION



Testimony on HJR 5
January 9, 1985
House Natural Resources Committee

The Montana Wildlife Federation can support HJR 5 provided it is limited to the Missouri River below Ft. Peck Reservoir.

The Yellowstone River is free of regulation. The erosion that does occur is natural and not related to mainstream dams.

The Bighorn River flows are stabilized by an afterbay dam. The single channel that evolved as a result of impoundment has been beneficial to fisheries and riparian vegetation.

Both rivers are characterized by vigorous riparian vegetation such as willow and cottonwood that provide both bank stabilization and high quality wildlife habitat.

The Missouri below Ft. Peck suffers all impacts described in HJR 5 and we can support inclusion of that river in your resolution.



Walleyes Unlimited
OF MONTANA

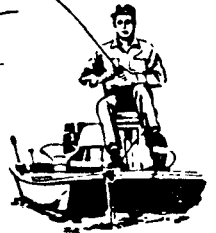


BOX 123
FORT PECK, MONTANA. 59223
January 9, 1985

Exhibit 2

1/9/85

HJR 5



Testimony before the House Natural Resources Committee
HJR-5:Missouri-Yellowstone Riverbank Stabilization

My name is Scott Ross. I represent Walleyes Unlimited of Montana, an organized group of over 3,000 sportsmen concerned with the welfare of Montana's vast warm water fisheries.

Walleyes Unlimited does not dispute the fact that bank erosion occurs to some extent along the Missouri River below Fort Peck Dam. We do, however, recommend that the State of Montana take a cautious approach in addressing these erosion problems.

The U.S. Army Corps of Engineers has been studying the feasibility of establishing a reregulation dam downstream of Fort Peck Dam for some time. The operation of such a dam to create an afterbay with the intent to stabilize releases of water into the Lower Missouri River may be attractive to the Corps of Engineers as a method to control bank erosion downstream.

The potential impacts of such a reregulation dam and afterbay on fisheries in the area are of concern to Montana sportsmen.

There is a strong possibility that such an afterbay would destroy a naturally reproducing population of rainbow trout found in a side channel approximately one mile below Fort Peck Dam. This population of trout currently provides trophy fishing opportunities for anglers. The habitat that these trout occupy is unique to the area and would not be reestablished below the reregulation dam site.

The area that lies between Fort Peck Dam and the proposed rereg dam site is heavily utilized by fishermen. Walleye, sauger, northern pike, lake trout, and paddlefish are the predominant game fish found in the area. Fluctuations in water levels in the dredge cut areas may affect the populations of these species, as well as limiting recreation opportunities associated with angling for them.

Fish populations in the dredge cuts rely on recruitment from

from the river system, primarily through seasonal movements. The reregulation dam would effectively block the movement of fish into the dredge cut areas. Species such as northern pike and paddlefish are generally only found in the warmer water associated with the dredge cuts.

The Montana Department of Fish, Wildlife, and Parks has instituted a chinook salmon planting program below Fort Peck Dam. The effect that the establishment of an afterbay system would have on this species is a matter of conjecture at this time. However, it appears that habitat appropriate for use by chinook salmon is limited below the possible rereg dam site.

The area of the mouth of the Milk River, approximately one mile from the possible reregulation dam site, is important as a spawning area for sauger. The release of cold water closer to the site of the confluence of the Milk and Missouri may alter the use of the Milk River as an important spawning area. The plume of warmer water flowing from the warmer Milk River covers suitable sauger spawning substrate below the Milk River. Mixing of this warmer water with the colder releases from the Missouri may prevent the use of this area as spawning habitat.

We call this committee's attention to these problems not for the purpose of blocking erosion control programs altogether, but rather to demonstrate what the effects of these programs might be if the Corps of Engineers is given an open invitation to institute erosion controls.

Erosion control may, in fact, benefit fisheries if studied on a site-specific basis.

It is for these reasons that Walleyes Unlimited asks that a cautious approach be taken.

The fact that fish, wildlife, and recreation are also authorized features of the Pick-Sloan Plan has not always insured that they are given more than passing consideration by federal operating agencies.

It has been apparent that the State of Montana and concerned sportsmen and citizens must assume a responsibility to safeguard these resources. This makes a cautious approach necessary where fish, wildlife, and recreation may be affected by development.

NAH

1/9/85
Exhibit 3 - HB6

PROPOSED AMENDMENTS TO HB 6, INTRODUCED COPY

1. Title, line 9.

Following: "2"

Insert: "AND SECTION 6"

2. Page 13, line 3.

Following: "Section 2"

Strike: "is"

Insert: "and this section are"

These two amendments are proposed by the Legislative Council to clarify that section 6 of the bill will become effective on passage and approval. If section 6 is not amended, then, technically, it does not become effective until October 1, 1985. If it does not become effective until then it cannot operate to make section 2 of the bill effective on passage and approval.

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES

COMMITTEE

BILL HB 6 - Clarifying Mining & Water Law

DATE January 9, 1985

SPONSOR Marks[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES

COMMITTEE

BILL HJR 5 - Riverbank Stabilization

DATE January 9, 1985

SPONSOR ASAY

[illegible]

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