

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

February 22, 1985

The meeting of the Natural Resources Committee was called to order by Chairman Dennis Iverson at 5:15 p.m. in Room 312-1 of the State Capitol.

ROLL CALL: All members of the committee were present.

HOUSE BILL 892: Rep. Hal Harper, District 44, introduced HB 892, which he sponsored. He explained that HB 892 addresses the problem of loss of riparian habitat by allowing landowners a property tax exemption on lands maintained as wetlands and riparian habitat. Upon application of the landowner, he said, a strip of 100 feet of land along streambanks can be removed from tax liability if it is maintained within the provisions of the law. The bill contains a penalty for not reporting incompatible use on land which is receiving the tax exemption, he said. Rep. Harper said HB 892 would fit in nicely with Soil Conservation Service streambank protection and stabilization activities.

Janet Decker-Hess, president of the Montana chapter of the American Fisheries Society, endorsed HB 892 on behalf of that group. She noted that the AFS has been involved with the bill since 1982, and work on HB 892 has been the chapter's most important undertaking. She noted the benefits of maintaining riparian lands for shade, cover and habitat. She said the loss to the state from the tax exemption is very small compared to the expense incurred when lack of riparian protection results in erosion. A copy of her testimony is attached hereto as Exhibit 1. She also read a letter from Lewis Myers, a wildlife biologist from Dillon, elaborating on the importance of stable riparian lands for water quality and habitat. A copy of Mr. Myers' letter is attached as Exhibit 2.

Hal Price represented the Montana Wildlife Federation in support of HB 892, saying riparian habitat is important to sportsmen, and the method proposed in the bill appears to be cost-effective.

Donald R. Reichmuth, a professional engineer, said many problems with flooding and soil loss could be prevented if vegetative buffers are maintained along streambanks. He supported HB 892 as a means of protecting these banks. A copy of his testimony is attached as Exhibit 3.

Greg L. Munther, a fisheries consultant from Missoula, said HB 892 encourages landowner cooperation in an important effort to protect streambanks and habitat.

Arne Rosequist, a forest hydrologist from Missoula, testified in support of HB 892. He said that the riparian zone is biologically the richest, most complex and most active portion of a watershed. In an undisturbed riparian area, the soils have a high water-holding capacity, he noted. Thus, when riparian areas are lost, the results are damaging to plant and animal species, and loss to erosion increases. A copy of his testimony is attached as Exhibit 4.

Chris Hunter, a Helena member of the Montana chapter of the American Fisheries Society, spoke in support of the measure, saying the benefits of the proposal far outweigh the costs. He said that if 10% of the eligible acreage in the state were included in the program, the tax loss to the state would be only \$20,000 per year. By contrast, he cited an instance near Lewistown in which a stream channel was removed to add an acre of land along Big Spring Creek. The resultant erosion and streambank destabilization resulted in a loss of 12 acres of land and cost nearly \$750,000 to remedy.

Janet Ellis, a representative of the Montana Audubon Council, spoke in favor of HB 892. She said that farmers and ranchers are stewards of the land, and the state should cooperate with them in preventing soil erosion and improving water quality by granting a tax relief for maintaining riparian areas. A copy of her testimony is attached as Exhibit 5.

Jim Flynn, director of the department of Fish, Wildlife and Parks, spoke in favor of HB 892, saying the bill provides an incentive for proper management of streambank and wetland vegetation. A copy of his testimony is attached as Exhibit 6.

Pat Dwyer, a fisheries biologist from Bozeman, read a statement from Dave Cross, a member of the American Fisheries Society. Mr. Cross's letter outlined national problems related to reduction in riparian habitat, and noted the huge expense involved with bank stabilization programs. A copy of that letter is attached as Exhibit 7.

There were no further proponents.

Mons Tiegen, representing the Montana Stockgrowers and Woolgrowers, spoke in opposition to the bill. He said HB 892 was not requested by landowners, and is simply a form of land use planning accomplished by dangling the "carrot" of a tax exemption before the landowners. He noted that the legislation would result in a further depletion of tax revenues in rural counties. A copy of his testimony is attached hereto as Exhibit 8.

Lorents Grosfield, a Sweetgrass County rancher, also rose in opposition to the bill. He said HB 892 represents not a

tax break, but a tax shift - from riparian lands to adjacent uplands. He said that the legislation simply takes the landowner's money from his left pocket instead of his right. He also said that the bill has negative connotations since it comes during a session marked with controversy over stream access. For a landowner to lose the control over access to riparian lands, and suffering an insecurity of title as a result, the ability to pay property taxes on those riparian lands can be viewed as an inexpensive title insurance. The tax break, he added, would not be large enough to offset the cost of riparian management projects. A copy of his testimony is attached as Exhibit 9.

There being no further opponents, the floor was opened to questions from committee.

Rep. Jones asked Rep. Harper what the fiscal impact on the state's property revenues would be if all the lands eligible for the riparian protection act were included in the project. Rep. Harper said that he could not estimate any figure, because of the varied taxes levied against all of the state's stream-bank property, but said the question was not really relevant because it would be extremely unlikely that all of the eligible lands would be included.

Rep. Peterson commented that an education program through the county extension offices might be the best way to encourage the protection of riparian lands, and asked Rep. Harper if such programs had been tried. Rep. Harper said that extension agents do warn landowners of the dangers of poor management of riparian lands, but that offering a financial incentive is also a good educational tool.

Rep. Addy asked Rep. Harper if by including his lands in the program, would a landowner have reduced control over them. Rep. Harper said he understands the landowners' sensitivity to the issue of loss of control over private land, but emphasized that HB 892 does not force cooperation, it simply offers an incentive for participation. He said that a landowner could withdraw his lands from the protection program at any time, for sale or for his own uses, and suffer no penalty other than the loss of the tax exemption.

Rep. Ream asked Mr. Grosfield what mechanisms he would suggest to encourage landowners to protect and manage riparian lands. Mr. Grosfield said the most effective methods might have to be worked out with the Fish & Game commission, but suggested that the best option would be for the state to pay the landowners the cost of riparian protection programs. He said that education about the need to protect riparian lands and proper management techniques is really the best answer to the problem.

Rep. Moore asked Mr. Grosfield how the bill could hurt landowner sportsmen relations. Mr. Grosfield said the bill could be seen as a further attempt to take away the landowners'

control over property. He said the issues are separate, but would be likely to be confused, especially during times of debate over property rights.

Rep. Harper told Chairman Iverson that HB 892 is in fact a revenue bill, and action on it could be delayed until after transmittal. Rep. Iverson directed Rep. Harper to ask the permission of the president of the Senate to hold the bill until that time. Rep. Harper did so, and the bill was held for action at a later date.

HOUSE BILL 750: House Bill 750 was introduced by Francis Bardanouve, District 16, who sponsored the legislation at the request of the Department of Natural Resources and Conservation. He said the bill would clarify sections of the Major Facility Siting Act, and result in better administration of that act.

Rep. Bardanouve asked DNRC director Larry Fasbender to explain the major changes set out in HB 750. Mr. Fasbender, speaking as a proponent of the bill, outlined the following provisions: section 1, providing reasonable funding for the department if it incurs expenses in processing an exemption application; section 2, defining how the state will be involved in facility siting projects that are subject to regulation by the Federal Energy Regulatory Commission (FERC); section 3, providing for monitoring the site for a facility that has been certified prior to construction; section 4, codifying the centerline process the board has been using since 1976; section 6, exempting certain lines from the requirement that they be in long range plans at least two years prior to acceptance of an application by the department, and section 8, repealing the notice of intent provisions and the five percent filing fee reduction for filing such a notice. Mr. Fasbender said the changes proposed in the bill would improve the siting act and avoid costly litigation in the future. A copy of his testimony is attached as Exhibit 10.

Don Reed, representing the Montana Environmental Information Center, spoke in support of HB 750. He particularly supported the new section 2 of the bill, which would require that the department file a state recommendation with FERC on any facility subject to federal jurisdiction. He noted that past instances have demonstrated that DNRC analysis of such facilities has been better than FERC analysis.

Dan Heinz supported HB 750 on behalf of the Montana Wildlife Federation. He reiterated the support of section 2 of the bill, saying that FERC is a giant agency, and that Montanans could not expect the sensitivity to local concerns that could be achieved through DNRC participation in facility siting.

Russ Brown, representing the Northern Plains Resource Council, endorsed HB 750, with a caution and proposed amendment to section 4 (2), which allows that a final centerline location for facilities must be determined in a noncontested case proceeding before the board after the submission of a centerline location report to the department. Mr. Brown said it would be logical to identify the corridor first, and then identify centerline placings. He said that under current procedure, there would be no way to contest the location of a centerline. He said he would support HB 750 fully if it were amended to provide a contested case hearing on centerline locations.

There were no further proponents.

Mike Zimmerman, appearing on behalf of the Montana Power Company, testified against HB 750. He specifically opposed section 2, saying it is not the state's right to make recommendations to FERC. He also said MPC supports the current centerline provisions of section 4, and opposes the amendment suggested by Russ Brown.

There were no further opponents to HB 750, and the floor was opened to questions from committee.

Rep. Miles asked Mr. Fasbender if the department would be filing a state recommendation with FERC under the provisions of the siting act. Mr. Fasbender said yes, that through HB 750, the department has essentially asked that the legislature direct it to file a recommendation with FERC as a provision of the siting act. The department, he said, is asking to be included in the FERC process.

Rep. Raney asked Mr. Fasbender why section 4(2) specifically requires a noncontested case proceeding before the board regarding final centerline determinations, and asked for an explanation of the difference between contested and noncontested case proceedings. Don MacIntyre, attorney for the DNRC, explained that a contested case proceeding is quasi-judicial, with sworn witnesses and testimony, and a noncontested case proceeding is an administrative action, more like a public hearing.

Rep. Bardanouve closed by saying that it is important for the state to have as much input as possible in facility siting decisions regulated by FERC. Passage of HB 750 would insure that input, he said.

HOUSE JOINT RESOLUTION 35: Rep. Dave Brown, District 72, introduced HJR 35, which he sponsored. The resolution supports the national effort to advance the development of magneto-hydrodynamics technology to a commercially viable stage. Rep. Brown said that MHD promises a clean, coal-fired energy

generating technology, and that the resolution would be useful in promoting support for MHD development in Washington, D.C.

Jack Sherick, a Butte scientist involved in the development of MHD technology, said the resolution would be valuable in encouraging support for MHD research and development by the Department of Energy, and for the Federal Emerging Clean Coal Technologies initiative. He said support for MHD development is growing, and that he is "more excited than ever" about the opportunities for MHD development. He presented two handouts explaining MHD technology in layman's terms, which are attached hereto as Exhibits 11 and 12.

No opponents testified against HJR 35.

Rep. O'Hara asked when MHD technology will come "on-line" and begin to provide energy in the state. Mr. Sherick said MHD is on-line in Butte, but the technology must be expanded before it can become commercially viable. That will take about 10 years, he said.

Rep. Harp asked for an estimate of the cost of developing MHD technology and energy plants, relative to the actual amount of energy that would be produced in such a plant. Adding figures provided, Rep. Harp estimated that in 10 years, the costs of an MHD plant would have reached \$1 billion, and questioned whether MHD would ever be economically feasible. Mr. Sherick said that cost estimate was probably accurate, but that those costs would be made up, over time, with savings in efficient energy generation.

Rep. Iverson asked if the resolution would actually be of any help in increasing the level of funding offered by Congress for MHD. Rep. Brown replied that MHD first received support from the administration last year, at a level of about \$30 million, and that this resolution would definitely be an incentive to continue and increase that support.

Rep. Jones asked what the cost of operating a 500 megawatt plant would be. Rep. Brown said he did not know what that cost would be, but admitted that when expenditure is compared to output, MHD produces high-cost electricity. He cautioned, however, that the technology is still experimental, and that when it is fully developed, MHD will be cost-effective and competitive.

HOUSE BILL 860: Rep. Dave Brown, District 72, introduced HB 860, which he sponsored. The bill would authorize the state library to implement and operate the natural resource information system, and the natural heritage program, he said. Under current law, the natural resource data system is under the department of administration. Changing the home to the

state library would centralize that data under the control of personnel trained in managing information and reference materials, and remove any political bias in the program, said Rep. Brown.

Kristine Torgrimson, representing the Northern Lights Institute, a non-partisan research and educational foundation, spoke as a proponent of the bill. Similar programs have been instituted in 43 other states, she noted, and the result has been a savings of money and time in a variety of programs that rely on natural resource data. She presented a packet of letters supporting HB 860. Those letters are attached hereto as Exhibit 13, pages 1-26.

Mike Trevor, an employee of the information services division of the department of administration, said HB 860 would minimize the cost of managing and disseminating natural resource information.

Ted Rollins spoke in support of HB 860 on behalf of ASARCO. He said the the bill is a common sense approach to the compilation of environmental information, which would benefit both industry and the public.

Jim Richard, representing the Montana Association of Professional Planners, said that group supports HB 860 because it makes necessary research easier to accomplish.

Janet Ellis endorsed HB 860 on behalf of the Montana Audubon Council. She said the heritage program would provide the state with a catalog of information on unique flora, fauna and biological communities that would make it possible to "keep tabs on" Montana's natural heritage.

Dan Heinz spoke in support of HB 860 for the Montana Wildlife Federation.

Brenda Schye, representing the Montana Arts Advocacy, said the state library is a major cultural resource, and is the most appropriate place for the natural heritage information system to be stored.

Sara Parker, state librarian, told the committee that the library would be pleased to take on the responsibility of maintaining the natural heritage information system.

George Ochenski, speaking for the Montana Environmental Information Center, said that group supports HB 860 as a means of centralizing information, and providing access to both industry and the public.

Pat Wilson supported HB 860 for Montco Thermal Energy and for NERCO, on behalf of Tom Ebzery. She said the natural

heritage information system would simplify the process industry goes through in providing data for permit applications.

Larry Weinberg of the Montana university system said the bill would create a useful repository of information for faculty and student research.

No opponents rose against HB 860.

There were no questions regarding the bill, and Rep. Brown suggested two clerical amendments, and urged the committee to pass the measure as a means of saving duplication and cost of research.

HOUSE BILL 913: Rep. Dave Brown, District 72, introduced HB 913, which he sponsored. The bill provides for establishing the Montana Mineral Legacy Program. The aims of the mineral legacy program are to promote wise development of water, minerals and renewable resources, and to carry out conservation, reclamation and hazardous waste management projects.

The Montana Mineral Legacy Program would be supported by taxes derived from the extraction of the state's nonrenewable resources, through the coal severance tax and the resource indemnity trust tax, Rep. Brown explained. He distributed an information sheet, attached hereto as Exhibit 15, showing the projected available funding for the program in the 1986-87 biennium. (Rep. Brown said he would like the percentage allocations listed on the sheet amended from 37.5% to 37% for the water development program and mineral reclamation and research program, and from 10% to 11% for the hazardous waste management program.)

Rep. Brown said HB 913 would alleviate a current problem with requests for RIT funds, which is that the requesting party may submit an application under all three programs (water development, mineral reclamation and research, and renewable resource development), in hopes of obtaining funding through one program. Under the provisions of HB 913, he said, the requesting party would put in one application, and the department would assign it to a category for consideration. Nothing in the bill, he noted, designates specific projects for funding. Decisions on what projects would be awarded funds would be made at the discretion of the department, and then presented to the governor, who would submit a list of projects selected for funding to the legislature for approval.

Rep. Brown said HB 913 is one of the most important bills of the session, and deserves careful consideration from the committee. He noted that although the bill is comparable to SB 277, it approaches the allocation of RIT funds in a different, and better manner.

Rep. Brown said that Gary Langley of the Montana Mining Association and Louise Kunz of the Montana Low Income Coalition were unable to attend the hearing, but asked him to make the committee aware of their support for HB 913. He submitted a letter from Ms. Kunz, attached hereto as Exhibit 16.

Ward Shanahan spoke in favor of HB 913 on behalf of Chevron Resources, saying he had been concerned about the use of RIT funds, but felt that the structure set up for allocation of those funds under HB 913 was sensible.

George Ochenski, representing the Environmental Information Center, said the state needs to address problems such as weed control and hazardous waste management, and HB 913 provides a vehicle for addressing those problems and funding solutions. He said SB 277 does not provide enough money to address critical problems, and the money provided through that bill is not used for purposes related to the sources from which the money was extracted. He said the EIC strongly supports HB 913.

Jeanne-Marie Souvigny endorsed HB 913 on behalf of the Northern Plains Resource Council. She said that group supports use of coal tax money as well as the use of RIT interest to fund selected projects.

Delores Barnaby of Montana Peoples' Action spoke in favor of HB 913, saying it would fill the gaps in federal "superfund" financing of hazardous material cleanups.

Dan Dennehy, representing the consolidated government of Butte-Silver Bow, urged support of the legislation, also saying it would close the gaps left by federal funding sources.

Mike Micone of the Western Environmental Trade Association supported HB 913, saying it provides a better mechanism for funding projects than SB 277.

Larry Weinberg of the Montana university system supported HB 913, particularly its funding proposals for the natural heritage program and the handling of environmental waste.

Joel Redding, speaking on his own behalf, said he owns a well that has been contaminated with diesel fuel, and supports HB 913 in hopes that it will allow the state to address the problem of water well contamination.

There were no further proponents.

Gene Huntington, representing the office of the governor, said that most of HB 913 reflects SB 277, which was introduced in the Senate at the request of the governor's office. He said, however, that he disagrees with the design of HB 913. His office objects to the earmarking of funds for specific categories of projects. SB 277 would give the legislature the authority to decide on projects, without earmarking small categories, Huntington said. He admonished the committee to think carefully about tying the legacy program to specific appropriations, as HB 913 would do.

Dave Donaldson, representing the Montana Association of Soil Conservation Districts, said that group objects to the way in which soil and water conservation projects are addressed under the bill. The bill should be amended to provide increased funding for projects providing soil and water conservation, weed control, and other restoration programs, he said. A copy of his testimony is attached as Exhibit 17.

K.M. Kelly of the Montana Water Development Association was unable to attend the hearing, but left a statement in opposition to HB 913, which is attached hereto as Exhibit 18. He said that group strongly opposes any change in its earmarked funds provided from RIT funds.

There were no further opponents, and the floor was opened to questions from the committee.

Rep. Raney asked Rep. Brown why HB 913 was not coordinated with a noxious weed bill that had been introduced earlier by Rep. Harper. Rep. Brown replied that he did not think the Harper bill would be approved, and said that weed control is necessary, and therefore was specifically included in HB 913.

Rep. Grady asked why funding of the rangeland resource program had been dropped way back under HB 913. Rep. Brown said the level of funding for that program remained the same, but reflects a percentage drop because the funding source is larger.

Rep. Krueger asked Mr. Huntington about Huntington's earlier statement that the governor's office questions the goals and intent of HB 913, and asked how those goals differ from those of SB 277. Huntington replied that most purposes are the same in both acts. Rep. Krueger then asked about the diversion of \$3.5 million into the general fund, as proposed in SB 277, and questioned whether that was a reflection of commitment to the goals of that bill. Mr. Huntington replied that achieving a balanced state budget is also a commitment.

Rep. Kadas asked if removal of funds from RIT to renewable

resource and development projects falls under the intended constitutional use of RIT. Rep. Brown said that issue is debatable, but that he believes such a use is constitutional.

Rep. Kadas asked how the department will prioritize the requests for legacy funding. Rep. Brown said the developed list of programs under SB 277 is already in place, and that model would likely not change.

Rep. Krueger asked if HB 913 would go on to a long-range appropriations committee, and was told that since the bill is simply an authorization, and does not actually administer funds, it would go through the normal legislative process.

Rep. Brown closed by saying the issue of support was basically a policy decision, regarding which approach, that of SB 277, or that of HB 913, would be best for the use of RIT funds, and urged the choice of 913.

HOUSE BILL 912: HB 912 was introduced by Rep. Dave Brown, District 72, who sponsored it at the request of the Environmental Quality Council. The bill is the result of cooperation between industry, environmental groups and local governments, he said. He then outlined the provisions of the bill, which would revise the hard-rock mining impact laws and related statutes.

Rep. Brown said that HB 912 would have a couple of areas of major impact, the first of which is spelled out in section 6(5), describing tax crediting. That provision alone is a major reason to pass the bill, he said.

The bill also expands the allowances for corporate financing of projects, and redefines large-scale mineral developments.

Les Darling, representing the Montana Mining Association and the Stillwater Mining Company, said industry had worked hard in drafting HB 912. He said there had been problems with the tax crediting provisions of the existing act, and that HB 912 eliminates those difficulties.

Jim Richards of the Montana Association of Professional Planners endorsed the bill, and said it would simplify planning difficulties faced by local governments regarding mining operations.

Carol Ferguson, administrative officer of the Hard-Rock Mining Impact Board, spoke in support of HB 912, and offered two amendments to the legislation. A copy of her testimony and suggested amendments is attached as Exhibit 19.

Dennis Hemmer, representing the department of state lands, said that agency supports passage of HB 912. A copy of his testimony is attached as Exhibit 20.

Ward Shanahan, representing Chevron Resources, endorsed HB 912, with an amendment, a copy of which is attached hereto as Exhibit 21.

John Fitzpatrick of Helena rose in support of HB 912.

George Ochenski spoke in favor of the bill on behalf of EIC.

Jeanne-Marie Souvigney said that the Northern Plains Resource Council had followed the drafting of HB 912 for three years, and supported its passage.

No opponents spoke against the bill, and the floor was opened to questions from committee.

Rep. Raney asked if there was a difference between "persons" and "payroll employees" mentioned in the bill and was told there was no difference.

Rep. Raney mentioned problems with a mine in the Jardine area that would likely not have occurred under the provisions of HB 912.

Hearing on the bill was closed.

EXECUTIVE ACTION

HOUSE BILL 912: Rep. Asay moved DO PASS on HB 912, and also moved the amendments suggested by Les Darling and Carol Ferguson. Those amendments were adopted and the bill was passed unanimously.

HOUSE BILL 913: Rep. Jones moved DO PASS on HB 913. Rep. Raney moved the amendments that had been suggested by Rep. Brown, and those amendments were adopted unanimously.

Rep. Ream questioned whether section 11(5) of the bill, which calls for the development of efficient technology, gets more into the area of corporate responsibility than state authority, and moved to delete the words "more efficient or" from lines 16 and 17 on page 12. Rep. Krueger said he saw no problem with leaving the language of the bill intact and made a substitute motion to not pass the amendment. The substitute motion was approved, with representatives Ream, Kadas, Asay and Peterson voting no, and the language of that section remained unaltered.

The committee voted on Rep. Jones' DO PASS AS AMENDED motion, and the bill was passed. Reps. Garcia and Peterson voted no. The statement of intent, moved by Rep. Asay, passed unanimously.

Rep. Miles then commented that although she supported HB 913 in committee, she believed that SB 277 should not be ignored, and encouraged the committee to carefully study and compare both bills.

HOUSE BILL 860: Rep. Ream moved DO PASS on HB 860, and Rep. Raney moved the amendments suggested by Rep. Brown, which were approved. The committee then unanimously approved a DO PASS AS AMENDED motion made by Rep. Kadas.

HOUSE JOINT RESOLUTION 35: Rep. Raney moved DO PASS on HJR 35, which was unanimously approved.

HOUSE BILL 750: Rep. Kadas moved DO PASS on HB 750. He then questioned whether the state has the constitutional right to require payment for a facility over which the federal government, and not the state, has authority. Rep. Ream commented that it is arguable that the state has no authority at all over some facilities. Rep. Krueger said the state clearly has a right to be an intervenor in facility siting cases.

Rep. Miles suggested that the committee discuss the question of contested and uncontested proceedings. Rep. Raney said that as it stands, the bill could leave significantly affected people with no right to contest centerline locations. He suggested that on page 5, line 5, the word "noncontested" be replaced with the word "contested," and Rep. Miles so moved.

Rep. Addy said that centerline location is a determination of considerable importance to some people, and would be subject to subsequent review.

Rep. Krueger explained that for a contested case hearing, notice would be required, all parties would be given an opportunity to be heard, and the hearing would be evidentiary, and not simply informative, as would be the case in a noncontested hearing. He added, however, that even a contested case hearing could be fairly informal. The motion failed on a tie vote. (A copy of the roll call vote on the amendment follows the attached standing committee reports.)

Rep. Kadas's motion of DO PASS on HB 750 carried unanimously.

HOUSE BILL 766: Rep. Ream moved DO PASS on HB 766, which carried unanimously. He also moved the statement of intent, which was approved unanimously.

HOUSE BILL 676: Rep. Kadas moved DO PASS on HB 676, and Rep. Ream moved the amendments prepared by the sponsor (Gene Donaldson) to allow for funding through the junk vehicle statute. Rep. Miles commented that the junk vehicle fund is an appropriate source from which to obtain money for the program set up under HB 676.

Rep. Raney noted that during the hearing on HB 676, the committee discussed whether the bill should be amended to include underground pipelines attached to above-ground storage systems. He suggested that the bill be held until the EQC staff could prepare such an amendment. Rep. Kadas agreed, and withdrew his DO PASS motion.

HOUSE BILL 396: Rep. Ream moved DO PASS on HB 396, and that motion was unanimously approved. Rep. Ream then moved the statement of intent, which was also approved unanimously.

HOUSE BILL 493: A sheet of amendments proposed by Rep. Ramirez, sponsor of HB 493, designed to avoid a possible arbitrage problem noted at the hearing, was distributed. Arbitrage occurs when an entity purchases bonds in one market, and simultaneously invests those at a higher rate in a different market, in order to obtain a profit on the price difference. When a tax-exempt entity commits arbitrage, that tax-exempt status is lost. Rep. Addy noted that the amendments proposed to alleviate this bonding problem called for a majority vote by the legislature. He said that because the purchase of bonds by the state is a constitutional issue, the amendments should require a 2/3 vote of both houses of the legislature. He moved passage of the suggested amendments to HB 493, with the change from a majority vote to a 2/3 vote.

Rep. Raney called attention to the provision that infrastructure money be applied to "other public improvements and undertakings" and questioned whether the legislature should grant that authority to use those funds for unspecified projects.

Rep. Kadas said he too was concerned about "undertakings," adding that the phrase could mean that the infrastructure funds would be applied to the general fund budget.

On a voice vote, the committee adopted the amendments to the bill, with Reps. Moore and Peterson voting no.

Rep. Addy moved DO PASS AS AMENDED On HB 493.

Rep. Miles said she had a problem with the structure of all three bills (493, 494 & 495). The bills, she said, contain no provision for equity, and no guarantee of how funds will be used. "We're kidding ourselves to think local governments are getting the money," she said.

Rep. Raney said that the biggest incentive offered for the bills is that the coal tax trust fund is depreciating, but that the bills would further remove half of the tax receipts to that already depreciating fund without plowing any interest back in. He said the funds would be used to finance projects that would then continue to require expensive maintenance.

Rep. Asay stated that the state's infrastructure is crumbling, and no other plan has been developed to address the problem.

Rep. Addy said that he had serious problems with the bills, and asked how the state provided for infrastructure costs before the advent of the coal tax trust fund. He said it appeared that the bills were an attempt to provide an alternative general fund using the coal tax, which was instituted for the benefit of future generations. He noted that the state's coal market may already have reached a plateau and that further additions to the coal tax trust fund might not be forthcoming. Rep. Addy asked what the state would do when no coal tax money is available for the infrastructure, suggesting that the situation would be analagous to a drug user "going cold turkey."

Rep. Raney said that the coal tax fund was an important asset, set aside for the use of future generations, and through the bills proposed, "we're blowing it." He said to draw upon the coal tax fund now would result in a huge loss to the general fund in twenty years.

Rep. Miles questioned the potential uses of the coal tax fund monies, noting that there were no guarantees offered that only infrastructure expenditures would be allowed. She added that the arbitrage question is a serious one, and that the amendments designed to avoid it were "thrown together at the last minute," without having been carefully thought out.

Rep. Raney read a portion of a letter from a Missoula man who questioned the rush to spend coal tax money right away. He said the infrastructure crisis has been developing for a long time, and infrastructure needs will continue indefinitely. Reading from the letter, Rep. Raney asked, "what's the rush right now to spend this money?" He suggested that the legislature put some time into studying the infrastructure situation and finding more suitable ways to alleviate it.

Rep. Peterson stated that part of the "rush" is to get the question of bonding on the ballot, because that process is in itself a lengthy one.

Rep. Ream suggested that supporters of the three bills were being selfish in demanding that current needs be met at the expense of future generations.

On a roll call vote, the motion of DO PASS AS AMENDED was approved, 10-8. A copy of that vote is attached following the standing committee reports.

HOUSE BILL 494: Rep. O'Hara moved DO PASS, and Rep. Addy moved the suggested amendments.

Rep. Kadas noted that in the bill, the proposed ballot wording exceeds the 25-word limit set in statute. Following discussion and a check with the Legislative Council, the committee determined that since the ballot wording would be proposed by the legislature, the 25-word limit could be legally exceeded.

Rep. Addy stated that the bill would put coal tax trust fund money into "a little infrastructure trust fund" where the state might not be able to use the money at all.

Rep. Ream asked why the university system is the only entity singled out for specific benefits under the suggested use of the funds. He moved to strike all references to the university system, saying it should be treated no differently than any other entity of state government. That motion was unanimously adopted.

Rep. O'Hara moved that HB 494 DO PASS AS AMENDED, and that motion carried on a 10-8 vote. A copy of the roll call vote follows the standing committee reports.

HOUSE BILL 495: Rep. O'Hara moved DO PASS on the bill, and Rep. Addy moved the proposed amendments.

Rep. Miles asked Rep. Addy if he thought the amendments solved the question of arbitrage, and he said he thought they did. Rep. Miles then asked if it bothered the committee that the amendments were drafted solely for the purpose of evading arbitrage without actually changing the process the state would follow. "It's really clear that we're trying to make money off the federal government," she said.

The amendments were approved on a unanimous voice vote, and Rep. O'Hara's DO PASS AS AMENDED motion was carried, 10-8. A copy of the roll call vote is attached, following the standing committee reports.

There being no further business before the committee, the hearing was ended at 10:20 p.m.


REP. DENNIS IVERSON, Chairman

DAILY ROLL CALL

HOUSE NATURAL RESOURCES

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date

February 22, 1985

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		

STANDING COMMITTEE REPORT

February 22

1935

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 913

FIRST reading copy (WHITE color)

AN ACT ESTABLISHING THE MONTANA MINERAL LEGACY PROGRAM

Respectfully report as follows: That HOUSE Bill No. 913

BE AMENDED AS FOLLOWS:

- | | |
|---|--|
| 1) Page 8, line 13.
Following: "\$200,000"
Insert: "annually" | 0) Title, line 18.
Following: "AN"
Insert: "IMMEDIATE" |
| 2) Page 8, line 16.
Strike: "37.5%"
Insert: "37%" | |
| 3) Page 8, line 18.
Strike: "37.5%"
Insert: "37%" | |

STATEMENT OF INTENT ATTACHED

XXXXXX
DO PASS

DENNIS INVERSON Chairman.

- 4) Page 8, line 22.
Strike: "10%"
Insert: "11%"
- 5) Page 9, line 5.
Strike: "4%"
Insert: "5%"
- 6) Page 9.
Following: line 8
Insert: "(4) Allocations to the department of health and environmental sciences under subsection (3)(d) must be appropriated in full at the beginning of the biennium as necessary to obtain matching federal funds for the biennium."
- 7) Page 9, line 9.
Strike: "(4)"
Insert: "(5)"
- 8) Page 9, line 10.
Following: "unexpended"
Insert: "during the biennium"
- 9) Page 20, line 16.
Strike: "37.5%"
Insert: "37%"
- 10) Page 32, line 13.
Strike: "July 1, 1985"
Insert: "on passage and approval"

AND AS AMENDED,

DO PASS

STATEMENT OF INTENT ATTACHED

STATEMENT OF INTENT ON HOUSE BILL 913

It is the intent of the legislature that the department of natural resources and conservation adopt rules necessary for the administration of the Montana mineral legacy program. Rules must specify application contents, evaluation criteria, financial arrangements, and reporting requirements for grants and loans under the water development program, the renewable resource development program, and the mineral reclamation and research program.

It is the intent of the legislature that the department evaluate applications under only one of the three grant and loan programs and that the department have the authority to determine under which program a specific application must be evaluated. To accomplish this goal, rules must be adopted under this act to define by subject matter which grant or loan applications will be evaluated under each of the three programs: water development, renewable resource development, and mineral reclamation and research.

The legislature recognizes that it is difficult to make a clear distinction as to whether certain water-related projects fall into the category of water development or renewable resource development. The legislature further recognizes that conserving and enhancing water quality and water quantity are crucial aspects of providing a secure renewable resource base for future generations of Montanans. For these reasons, it is the intent of the legislature that qualifying projects in the following categories be eligible for grants from the renewable resource development program if such projects do not qualify under the criteria for the water development program or if sufficient funds are not available within the water development program:

- (1) ground and surface water quality monitoring not directly related to a project under the hazardous waste management program or the mineral reclamation and research program;
- (2) aquatic ecosystem research and conservation;
- (3) development of water reservations by conservation districts; and
- (4) water policy planning, administration, and interjurisdictional coordination.

It is the intent of the legislature that any rules adopted prior to the effective date of this act by the department or the board of natural resources and conservation governing the water development program or the renewable resource development program remain in effect until the department adopts rules under the authority of this act to amend or supersede those rules.

STANDING COMMITTEE REPORT

February 22

1935

MR. **SPEAKER:**

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE** Bill No. **860**

FIRST reading copy (**WHITE**)
color

**AUTHORIZING THE STATE LIBRARY TO IMPLEMENT AND OPERATE THE
NATURAL RESOURCE INFORMATION SYSTEM AND THE NATURAL HERITAGE
RE
PROGRAM**

Respectfully report as follows: That **HOUSE** Bill No. **360**

BE AMENDED AS FOLLOWS:

- 1) Page 3, line 1.
Following: "library"
Insert: "and each principal data source agency"
- 2) Page 3, line 4.
Following: "library"
Insert: "or to the appropriate principal data source agency"

AND AS AMENDED,

~~DO RASS~~

STANDING COMMITTEE REPORT

PAGE 1 OF 2

February 22 19 85

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 766

FIRST reading copy (WHITE)
color

AN ACT AUTHORIZING DHEC TO TAKE REMEDIAL ACTION TO PREVENT OR
ALLEVIATE RELEASE OF HAZARDOUS OR DELETERIOUS SUBSTANCES INTO
THE ENVIRONMENT

Respectfully report as follows: That HOUSE Bill No. 766

DO PASS

STATEMENT OF INTENT ATTACHED

STATEMENT OF INTENT ON HOUSE BILL 766

This bill establishes a special fund and authorizes the department of health and environmental sciences to spend money from that fund for the purpose of taking emergency, remedial action in cases of release of hazardous or deleterious substances into the environment. Rulemaking is required for the implementation of these provisions. It is the intent of the legislature that the department be authorized to adopt rules clarifying and setting forth more detailed procedures and criteria in such areas as:

- (1) definition of remedial actions to include such things as clean-up and restoration of water resources, provisions of alternate sources of supply, relocation of persons and property in imminent danger of injury or damage, investigation and monitoring of releases of hazardous and deleterious substances;
- (2) procedures for identifying responsible parties and notifying them of the department's intent to take remedial action;
- (3) criteria for taking emergency actions in cases where prior notification to the responsible party is not possible;
- (4) procedures for retaining consultants to perform remedial actions under the department's direction;
- (5) procedures for accounting for funds expended in performing remedial actions; and
- (6) procedures for coordination of remedial actions with the activities of other state or local government agencies with relevant expertise or authority.

STANDING COMMITTEE REPORT

PAGE 1 OF 2

February 22

1985

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 396

FIRST reading copy (WHITE)
color

AN ACT KLARIFYING THE DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION'S AUTHORITY TO DETERMINE THAT AN APPLICATION FOR
A BENE FICIAL WATER USE PERMIT IS NOT IN GOOD FAITH

Respectfully report as follows: That HOUSE Bill No. 396

DO PASS

STATEMENT OF INTENT ATTACHED

STATE PUB. CO.
Helena, Mont.


Chairman.

COMMITTEE SECRETARY

STATEMENT OF INTENT ON HOUSE BILL 396

A statement of intent is desirable for this bill because it authorizes the board of natural resources and conservation to make rules on the new material enacted in the bill. The rules would implement section 1 of the bill, which establishes criteria for the department of natural resources and conservation to reject an application for a beneficial water use permit that is not in good faith or does not show a bona fide intent to appropriate water.

The intent is to adopt those rules necessary to implement the criteria listed in section 1. Because the criteria are specific, the rulemaking authority would be limited to adopting rules:

- (1) defining a proposed place of use;
- (2) prescribing the contents of a detailed project plan and of a general project plan;
- (3) defining reasonable time lines, not to exceed 10 years, for completion of projects; and
- (4) prescribing the detailed information to implement criteria relative to applications for water use above that amount of water which will be used solely by the applicant.

STANDING COMMITTEE REPORT

PAGE 1 of 2

February 22

19 85

SPEAKER:

MR.

NATURAL RESOURCES

We, your committee on

HOUSE

having had under consideration Bill No. 912

first

reading copy (white)
color

AN ACT REVISING THE HARD-ROCK MINING IMPACT LAWS AND RELATED STATUTES

HOUSE

Respectfully report as follows: That Bill No. 912

BE AMENDED AS FOLLOWS:

- 1) Page 12, line 22.
Following: "fund"
Strike: "and"
Insert: ". The developer, and the affected governing body"
Following: "shall"
Insert: "each"
- 2) Page 14, line 9.
Following: "revoked"
Insert: "as provided in the conditional waiver or"

XXXXXX
DO PASS

- 3) Page 16, lines 15-18.
Following: "operation."
Strike: ~~Remainder of line 15, and lines 16-18 in their entirety.~~
- 4) Page 16, line 4.
Following: "75"
Strike: ~~"payroll employees"~~
Insert: "persons"

AND AS AMENDED,

DO PASS

STANDING COMMITTEE REPORT

February 22

95

19.....

MR. **SPEAKER:**

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE** Bill No. **750**

FIRST reading copy (**WHITE**)
color

**AN ACT TO GENERALLY REVISE AND CLARIFY THE MONTANA MAJOR
FACILITY SITING ACT**

Respectfully report as follows: That **HOUSE** Bill No. **750**

DO PASS

STANDING COMMITTEE REPORT

February 22

85

19

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE JOINT RESOLUTION ~~XXXX~~ 35

FIRST reading copy (WHITE
color)

A JOINT RESOLUTION IN SUPPORT OF THE NATIONAL EFFORT TO
ADVANCE THE DEVELOPMENT OF MAGNETOHYDRODYNAMICS TECHNOLOGY
TO A COMMERCIALY VIABLE STAGE

Respectfully report as follows: That HOUSE JOINT RESOLUTION ~~XXXX~~ 35

~~DO PASS~~

STANDING COMMITTEE REPORT

PAGE 1 of 2

February 22

85

19.....

SPEAKER:

MR.

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE** Bill No. **494**

FIRST reading copy (**WHITE**) -

color

AN ACT AMENDING ARTICLE IX, SECTION 5, OF THE MONTANA CONSTITUTION TO REQUIRE NOT LESS THAN 25 PERCENT OF THE COAL SEVERANCE TAX REVENUE, AND THE INTEREST THEREFROM, TO BE USED FOR CAPITAL IMPROVEMENTS, PUBLIC BUILDINGS, HIGHWAYS, AND LOCAL GOVERNMENT INFRASTRUCTURE OR OTHER INFRASTRUCTURE NEEDS

Respectfully report as follows: That **HOUSE** Bill No. **494**

BE AMENDED AS FOLLOWS:

- 1) Page 2, line 5,
Strike: "the university system"
- 2) Page 2, line 14.
Following: "pledged"
Insert: "or debt authorized to be payable or secured thereby by a two-thirds (2/3) vote of the members of each house of the legislature"
- 3) Page 2, lines 16 through 18.
Strike: subsection (2)(c) in its entirety.

XXXXX
DO PASS

- 4) Page 3, lines 4 and 5.
Following: "highways,"
Strike: the remainder of line 4 through "system," on line 5
- 5) Page 3, lines 12 and 13.
Following: "highways,"
Strike: the remainder of line 12 through "system," on line 13.

AND AS AMENDED,

DO PASS

STANDING COMMITTEE REPORT

PAGE 1 OF 82

February 22 19 35

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 493

FIRST reading copy (WHITE color)

AN ACT CREATING THE MONTANA INFRASTRUCTURE TRUST FUND TO BE USED FOR THE CONSTRUCTION, PRESERVATION, AND MAINTENANCE OF BUILDINGS AND FACILITIES, THE CONSTRUCTION AND RECONSTRUCTION OF HIGHWAYS, AND LOCAL GOVERNMENT INFRASTRUCTURE NEEDS

Respectfully report as follows: That HOUSE Bill No. 493
BE AMENDED AS FOLLOWS:

- 1) Title, line 6.
Following: "OF"
Insert: "PUBLIC AND UNIVERSITY SYSTEM"
- 2) Page 2, line 19.
Following: "following"
Insert: "or pledged to pay or secure indebtedness incurred therefor by a two-thirds vote of the members of each house of the legislature"
- 3) Page 3, line 9.
Following: "appropriated"
Insert: "or pledged to the retirement of bonds"

(Continued on following page)

XXXX
DO PASS

2x

1

4) Page 3, line 10.

Following: "(2)(a)"

Strike: remainder of line 10 through "bonds"

AND AS AMENDED,

DO PASS

- 4) Page 2, line 6.
Strike: "and activities"
Following: "state"
Strike: remainder of line 6 through "legislature" on line 7
- 5) Page 2, line 7.
Strike: "guarantee redemption of"
Insert: "pay and secure"
- 6) Page 2, line 8.
Following: "by"
Strike: remainder of line 8 through "fund" on line 9
Insert: "pledged coal severance taxes"
- 7) Page 2, line 11.
Strike: "Pledge of infrastructure"
Insert: "Infrastructure"
Following: "fund"
Insert: "-- income fund"
- 8) Page 2, line 12.
Following: "bond fund"
Insert: "and an income fund within the Montana infrastructure trust fund"
Following: "fund."
Strike: remainder of line 12 through "bonds." on line 13
Insert: "There is hereby irrevocably pledged, appropriated, and deposited to the infrastructure bond fund as collected, so much of the pledged coal severance taxes as are required to establish with other funds therein, a balance equal to the principal, interest, and premiums to come due on all bonds payable therefrom within the next 6 months and to establish and maintain reserve, therefore, in additional amounts authorized by the board in connection with the issuance of the bonds not to exceed the maximum principal and interest to come due on all such bonds in any future fiscal year. All other pledged coal severance taxes shall be deposited as received in the infrastructure income fund. Subject to the prior lien and claim on the pledged coal severance taxes for the payment and security of bonds and notes issued pursuant to Title 17, chapter 5, part 7, the pledge and appropriation of the pledged coal severance taxes herein provided shall constitute a first and prior lien and claim thereon."
- 9) Page 2, line 15.
Strike: "in 17-C-201"
Insert: "by law"

STANDING COMMITTEE REPORT

PAGE 1 of 5

February 22

85
19.....

MR. SPEAKER:.....

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 495

FIRST reading copy (WHITE)
color

AN ACT CREATING THE INFRASTRUCTURE BOND ACT OF 1995

Respectfully report as follows: That HOUSE Bill No. 495

BE AMENDED AS FOLLOWS:

- 1) Title, line 7.
Strike: "THE INTEREST AND INCOME OF"
- 2) Page 1, line 17.
Following: "a project"
Insert: "approved by the legislature"
- 3) Page 2.
Following: line 1
Insert: "(5) "Plledged coal severance taxes" means one-half
of the collections of coal severance taxes required
to be deposited in the Montana infrastructure
trust fund."

(Continued)

XXXXX
DO PASS

- 10) Page 2, line 16.
Following: "bonds?"
Insert: "Subject to the rights of bondholders, surplus money in the infrastructure bond fund shall be transferred to the infrastructure income fund."
- 11) Page 2, line 13.
Following: "pledged"
Insert: "solely"
Following: "principal"
Insert: ", premium,"
- 12) Page 2, line 20.
Strike: "1985"
Insert: "1987"
- 13) Page 2, line 24.
Following: "approval"
Strike: "of"
Insert: "by a two-thirds vote of the members of each house"
- 14) Page 3, line 4.
Following: "by a"
Strike: "votes"
Insert: "two-thirds vote of the members"
- 15) Page 3, line 11.
Strike: "(1)"
- 16) Page 3, line 14.
Strike: "other than or"
- 17) Page 3, line 15.
Following: "to the"
Strike: remainder of line 15 through "bond fund" on line 16
Insert: "pledged coal severance taxes"
- 18) Page 3, line 18.
Following: "into"
Insert: "the infrastructure bond fund or"
Following: "special"
Strike: "bond fund"
Insert: "account therein as authorized by the board"
Following: "the"
Strike: "benefit"
Insert: "payment and security"
- 19) Page 3, line 19.
Following: "bonds"
Strike: remainder of line 19 through "structure" on line 20

- 20) Page 3, lines 21 through 25
Strike: subsection (2) in its entirety
- 21) Page 4, line 1.
Strike: "interest"
Following: "deposit"
Insert: "of pledged coal severance taxes and"
- 22) Page 4, line 4.
Following: "fund of the"
Strike: remainder of line 4 through "which" on line 5
Insert: ~~"the"~~ "pledged coal severance taxes"
- 23) Page 4, line 6.
Following: "deposited"
Strike: remainder of line 6 through "pledged" on line 7
Insert: "therein"
- 24) Page 4, line 7
Strike: "benefit"
Insert: "payment and security"
- 25) Page 4, line 10.
Following: "bonds"
Insert: "and to establish and maintain reserves therefor"
- 26) Page 4, line 13.
Following: "issue"
Strike: remainder of line 13 through "issued on line 14."
- 27) Page 4, line 15.
Following: "annual"
Strike: remainder of line 15 through line 16 in its entirety
Insert: "collection of the pledged coal severance taxes"
- 28) Page 4, line 17.
Following: "average"
Strike: remainder of line 17 through "deposits" on line 18
Insert: "of such collections"
- 29) Page 6, line 8.
Following: "indenture"
Insert: "or resolution"

30) Page 6
Following: line 3
Insert: "resolution of the board or a"

31) Page 6, line 12.
Following: "Each"
Insert: "resolution or"

32) Page 6, line 16.
Following: "office of the "
Strike: remainder of line 16 through line 17 in its entirety
Insert: "secretary of state"

33) Page 6, line 19.
Following: "recording of the"
Insert: "resolution or"

AND AS AMENDED,

DO PASS

DENNIS IVERSON,

Chairman.

ROLL CALL VOTE

HOUSE COMMITTEE NATURAL RESOURCES

DATE 2/22 BILL NO. 750 TIME 9 p.m.

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

58

Secretary

Chairman

Motion: ~~Miles A~~ Rep. Joan Miles - Amendment

ROLL CALL VOTE

HOUSE COMMITTEE NATURAL RESOURCES

DATE 2/22/85

BILL NO. 493

TIME 9:20

NAME	AYE	NAY
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	

10 8

Secretary

Chairman

Motion: DPAA

ROLL CALL VOTE

HOUSE COMMITTEE NATURAL RESOURCES

DATE _____ BILL NO. 494 - DPAA TIME 945

NAME	AYE	NAY
IVERSON, Dennis (Chairman)	X	
KADAS, Mike (Vice-Chairman)		X
ADDY, Kelly		X
ASAY, Tom	X	
COBB, John	X	
DRISCOLL, Jerry		✓
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	

10-8

Secretary _____

Chairman _____

Motion: DPAA

ROLL CALL VOTE

HOUSE COMMITTEE NATURAL RESOURCES

DATE _____ BILL NO. 495 TIME 950

NAME	AYE	NAY
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	

10 4

Secretary _____ Chairman _____

Motion: PPAA

I would like to thank the Natural Resource Committee for giving me the opportunity to voice my support of the Riparian Lands Protection Bill.

My name is Janet Decker-Hess and I live in Kalispell. I am a fisheries biologist and currently President of the Montana Chapter of the American Fisheries Society. Our Chapter is a non-profit organization, chartered in 1967 and is dedicated to the conservation, development and wise utilization of the fisheries of our state, promotion of educational, scientific and technological development and advancement of all branches of fisheries science and to the dissemination of knowledge about fish, fisheries and related subjects. Our membership is nearly 200 and is represented by professional fisheries and aquatic biologists from private, state and federal agencies around the state as well as students from our universities.

Although we have been involved with many local fisheries issues in the past we view our introduction of the Riparian Lands Protection Act to the Montana Legislature as our single most important undertaking since the Chapter was formed. Our membership has supported this effort through fundraising events, education of the public and their peers and by the dedicated work of the Executive Committee. I have been a Chapter officer since 1982 when we first became interested in persuing this bill and am happy to see our efforts culminate here today.

We are all aware of the importance of protecting the integrity of our riparian lands. To the agriculturist, wise management of these lands create more forage, conserve topsoil, preserve water quality and streamflow and most importantly, eliminate the costs to the private and public sectors to "control" streams after their stability has been lost through vegetation

EXHIBIT 1

P. 2

2/22/85

removal. Soil Conservation Service employees have been working with private landowners in many districts, encouraging them to protect riparian zones as part of the best management practices for their land. The benefits to the fisheries of our rivers, streams and lakes is a consequence of these sound management practices and is an added bonus for protecting the valuable riparian resource. Healthy and diverse riparian zones provide shade, cover, habitat and increased stream flow during critical summer months to the fisheries of our state.

As Dave Cross eluded to, the concern for conservation and enhancement of private riparian lands has been one the Society's Western Division has been struggling with for years. The majority of our major rivers run for most their length through private land. We as professional fisheries biologists realized our limitations in managing these habitats because of this private ownership and realized a program involving the landowner in a positive way was essential if we were to take that next step in protecting our important fisheries resource. Our Chapter viewed the concept of a voluntary tax exemption on riparian lands as an idea that benefits all concerned parties and is an idea that just made good sense. Good sense to the land owner because maintaining the integrity of his riparian zone is in the best interest to his own livelihood. Although the landowner's motivation to protect riparian land is initially self-serving, it is important for the State to recognize the value of this contribution to the State's fisheries. What better way is there for the State to show its appreciation to an individual for voluntarily contributing to the wise use of the land in this State than to relieve him from some of his tax burden? Once involved with the program, the tax exemption will look small compared to the monetary benefits gained from decreased soil erosion and cost.

EXHIBIT 1

P. 3

2/22/85

projects.

Everyone is a winner with this bill-the landowner, the state, the fisheries- it is critical to our state's future from a land conservation and a fisheries standpoint to conserve and maintain these valuable riparian zones with the passage of this bill. The passage of this bill provides the State with a tool to work with the landowner with a positive approach to riparian zones that shows a benefit to all.

Thank you for your time and I again urge you to pass this "good sense" bill.

EXHIBIT 2
2/22/85

Mr. Chairman & Committee Members,
Natural Resources Committee

My name is Lewis H. Myers. I am from Dillon, Montana, my occupation is wildlife biologist, and I am here as a member of the Montana Chapter of the American Fisheries Society.

I am a proponent of the Riparian Lands Protection Act (LC-585).

Riparian and wetland habitats are one of Montana's great assets as they have exceptional values for wildlife, agriculture, forestry, and recreation.

Riparian communities are unique in that they greatly influence downstream, off-site values. More than 85% of the stream mileage in a river system consists of small tributaries. Riparian vegetation condition on these small tributaries in large part determines the downstream values that Montanans will benefit from or the adverse impacts they will suffer from. Since we are all dependent upon high quality fresh water, good riparian management benefits us all.

Wildlife-fishery managers recognize extraordinary value in riparian vegetation for water quality, channel stability, fish cover, aquatic food chain contribution and both non-game and game wildlife species habitats.

Riparian vegetation provides habitat for a greater diversity of wildlife species than any vegetative type. In Southwest Montana, I have found an average of about 30-35 wildlife species in upland vegetation types as opposed to 80-90 species in riparian types.

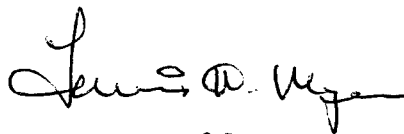
Many of the wildlife species which are seasonally dependent upon riparian areas are of special interest or value to Montanans and include beaver, moose, elk, white-tailed deer, mule deer, grizzly bear, black bear, bald eagle, osprey, five (5) hawk species, 5 owl species and sandhill crane. More than 50 species of birds make significant use of riparian areas in southwest Montana. The productivity of Montana's nationally valued trout fisheries is in large measure dependent upon management of riparian vegetation. Many waterfowl and shorebird species are dependent upon aquatic habitats.

Riparian communities are one of Montana's most productive livestock forage producers. A riparian area in good condition can annually produce 8,000 lbs of forage per acre, as compared to about 200 lbs per acre on a typical bunchgrass site. Being 40 times as productive as an upland site, the narrow riparian zone is in reality a highly significant area for the stockman.

2/20/85

Based upon more than 20 years of resource management experience, I have learned that there are a variety of livestock grazing management programs which can sustain and improve riparian vegetation without resort to protective fencing or exclusion of livestock. I have advocated this position for many years after working with many successful grazing programs. Many private landowners in Montana have advertently or inadvertently fostered good riparian management as a result of their haying and grazing practices. Grazing technology is developing rapidly, and I am confident that a variety of good management practices can be recommended to those landowners who voluntarily participate.

Good riparian management benefits all Montanans and should transcend consideration of on-site values alone. Those private land stewards which are practicing good riparian management are benefiting many Montanans and they should be acknowledged and benefited by this bill.



2-21-85

PROFESSIONAL ENGINEERS & SURVEYORS

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TESTIMONY
IN SUPPORT OF
THE RIPARIAN LANDS PROTECTION ACT

I am Dr. Donald R. Reichmuth and I support the Riparian Lands Protection Act bill. I currently teach engineering at Montana State University and am a principal in GEOMAX. I have both taught and consulted on river problems for over 13 years. During this time I have seen large amounts of money spent to protect land and structures along rivers. Many times these problems could have been avoided if vegetative buffers had been maintained along the banks.

I have attached five examples which illustrate some of the losses and benefits I have observed along rivers that involved river bank vegetation management. If time allowed I could show a great many others.

Respectfully submitted,

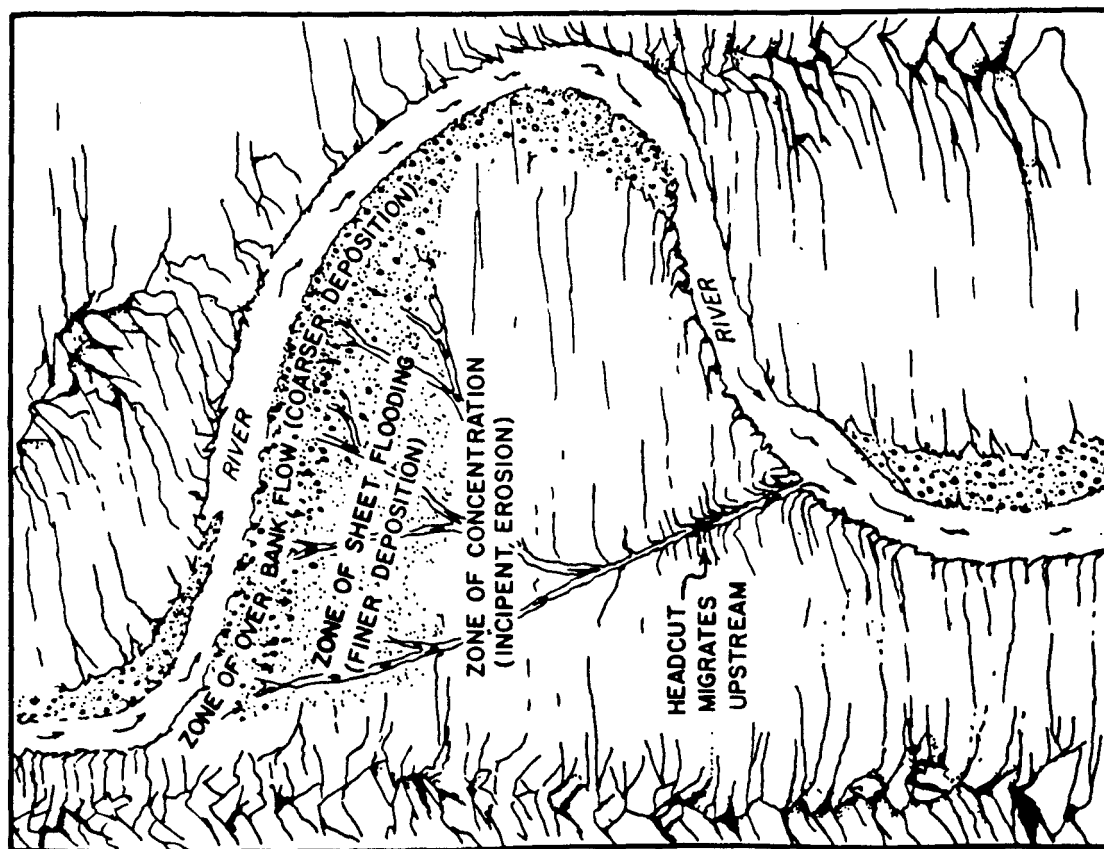
Donald R. Reichmuth
Dr. Donald R. Reichmuth



EXAMPLE 1 MUSSELSHELL RIVER

Destruction of farm ground by head cutting.

This loss could have been greatly reduced if a vegetative buffer would have been in place on the upstream meander loop and at the mouth of the headcut



Effects of sheet flooding.

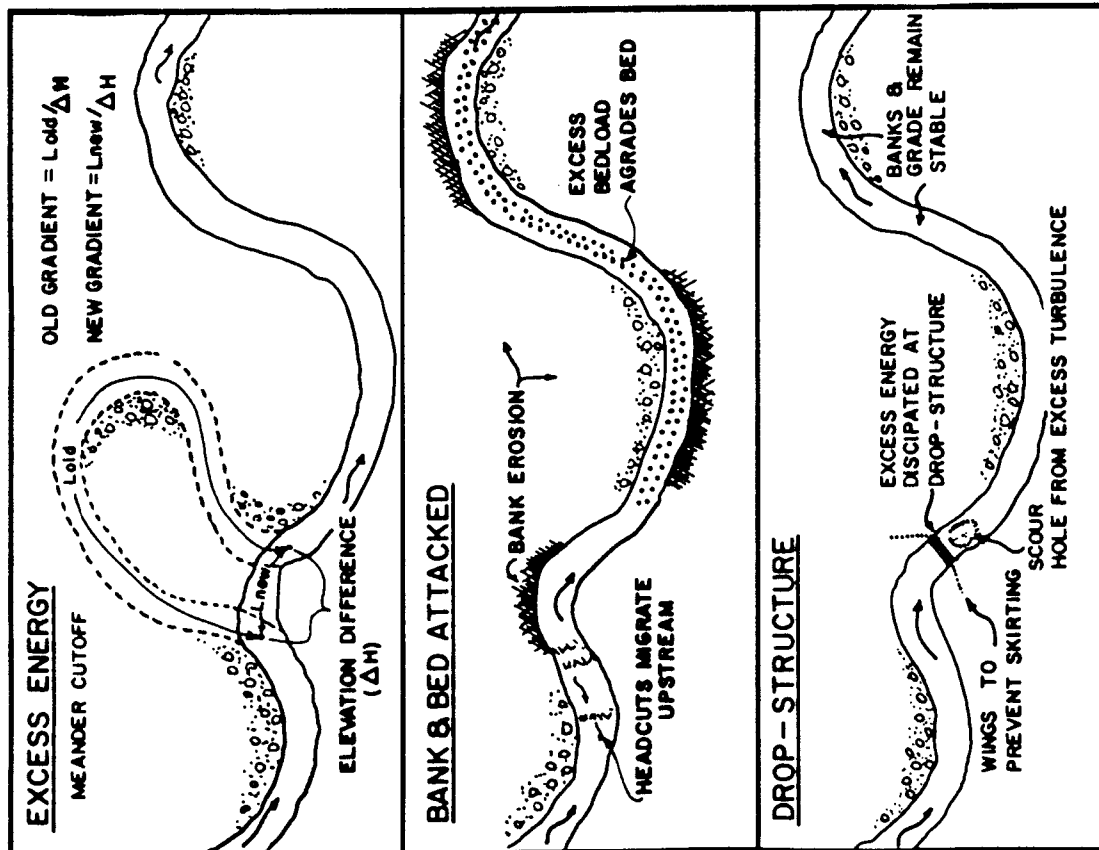
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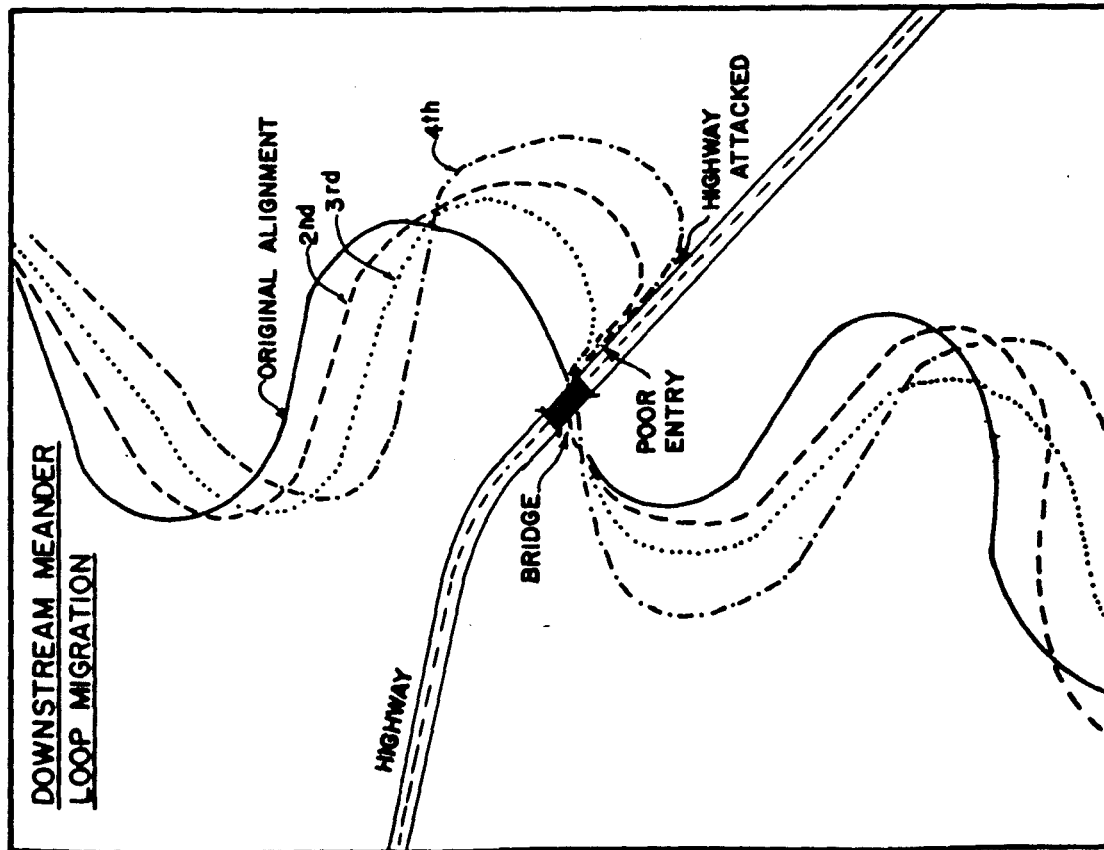
EXAMPLE 2 JEFFERSON RIVER

Destruction of a hay field by meander cutoff.

This cutoff could have been prevented by vegetative buffers at the cutoff entrance and exit.



Effects of meander cutoffs.



Effects of bridges on meandering streams.



EXAMPLE 3 RUBY RIVER

Destruction of a bridge approach and hay ground by meander loop migration.

This meander loop migration would have probably not occurred if there had been vegetation on the outside of the river bend.

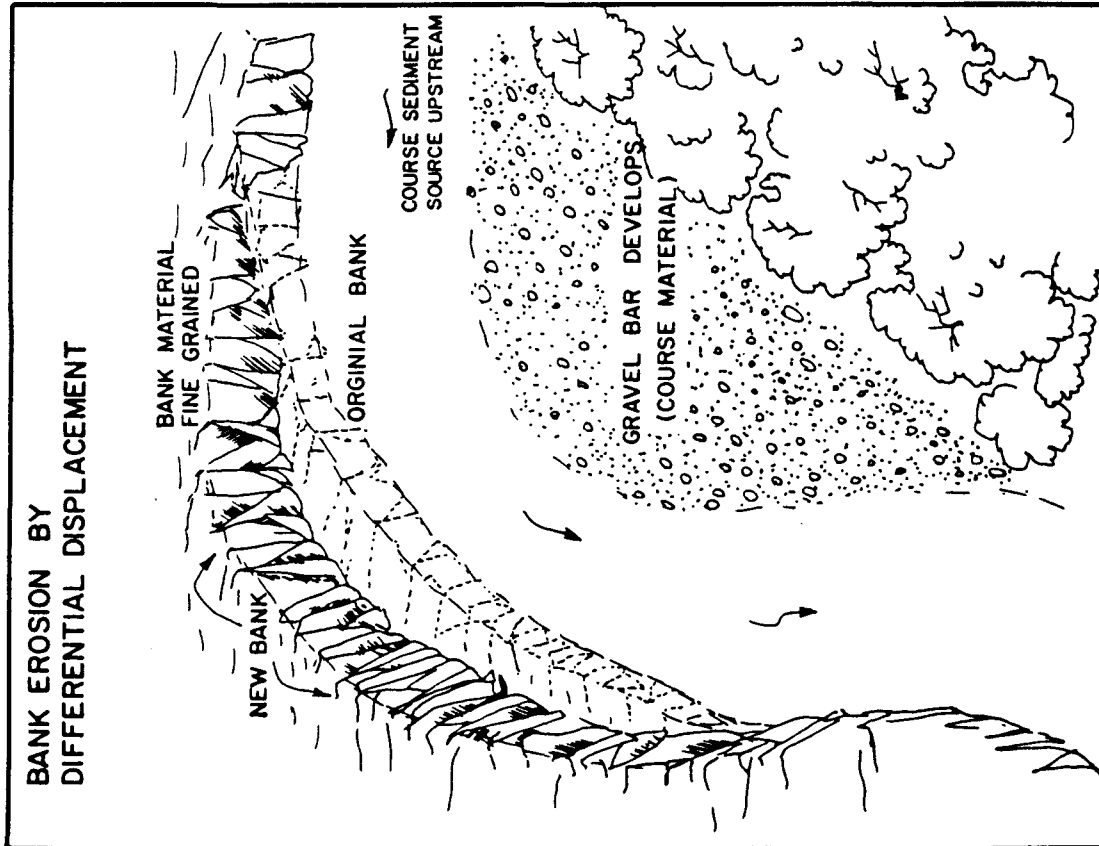
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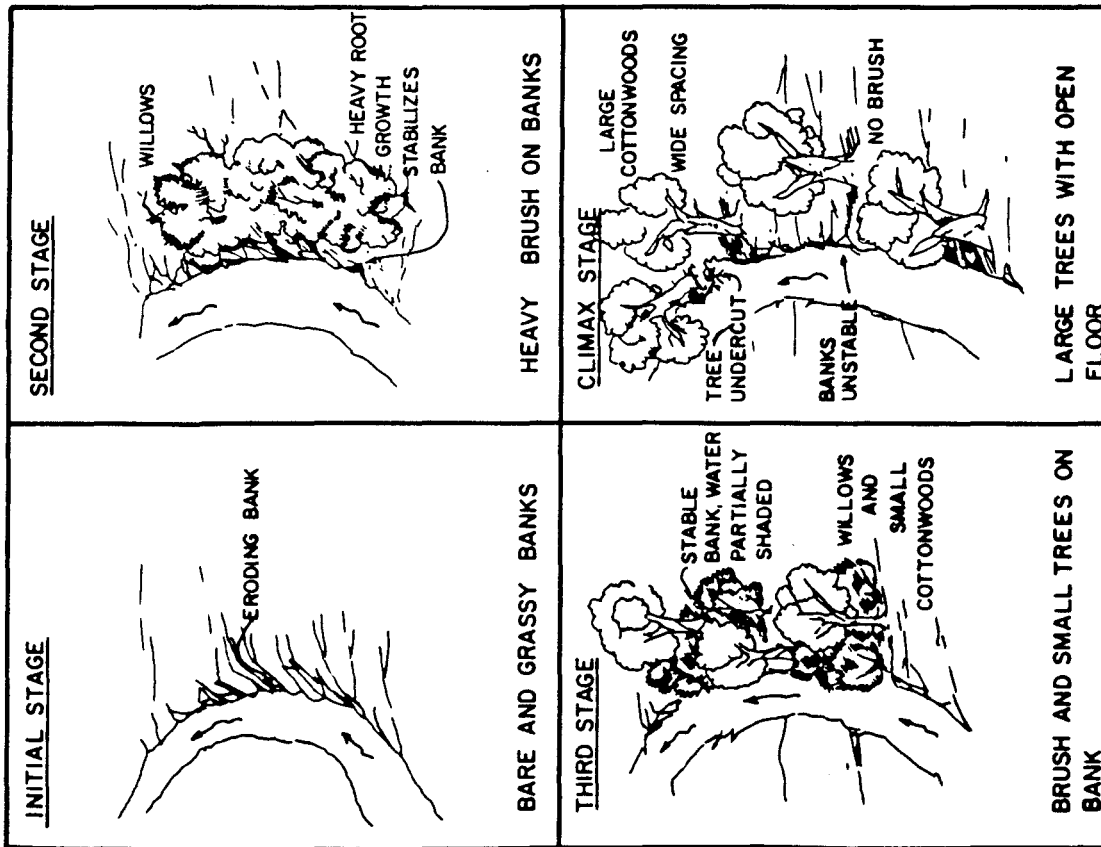
EXAMPLE 4 JEFFERSON RIVER

Destruction of a winter feed yard by differential bank erosion.

A vegetative buffer on the outside of the river bend would have greatly slowed gravel deposition on the inside of the bend.



Differential displacement of coarse and fine material during flooding.



Stages of development of vegetative climax on typical streams.



EXAMPLE 5 YELLOWSTONE RIVER

This is an example of a vegetative buffer protecting the outside of a river bend and causing the gravel which was swept out of the river to be deposited near the bank. This buffer protected the land behind the buffer.

Ex.

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For a scientist to describe his field of study one of the first things that must be done is to classify the subjects that are being studied. Classification is the ordering or arranging of subjects into logical groupings. For a hydrologist who studies the natural cycle of water movement, the unit of classification is the watershed.

For practical purposes, watersheds may be sub-divided into two ^{distinct} units: the purely aquatic component of the water and the stream channel system; and the purely terrestrial component of the forests, rangelands and ~~so~~ croplands located away from the stream. Between these two extremes there is an area of variable width called the riparian zone. Riparian is ~~the~~ technical term meaning that the area is directly associated with the stream system but is not part of the strictly aquatic component of the watershed.

The riparian zone is ~~the~~ ^{the} biologically richest, most ~~so~~ complex, most active portion of the watershed. Soils are deep, porous and contain much organic matter. In an undisturbed riparian zone these soils have a high water holding capacity. The slow process of downslope movement of groundwater, fed by melting snow packs maintains a high water table in the riparian zone. This storage capacity acts both as a reservoir for maintaining stream flows during the low flow

season and as a damper for flood waters during peak events. The high water content of the riparian zone also promotes vigorous vegetation growth. The root systems of this vegetation help maintain the porosity and permeability of the soils. So, in its natural state the riparian zones' sub-surface reservoir not only holds large quantities of water but readily absorbs and releases water when there is an excessive volume during floods, or a deficit during drier periods.

Riparian vegetation is not only supported by the favorable environmental conditions of the riparian zone but is in turn crucially important to the maintenance of the riparian zone, the stability of the stream channel and the protection of water quality.

The soils of the riparian zone were originally layed down by the stream system and are thus susceptible to further erosion and movement by high energy flood flows. The dense root systems of riparian vegetation act as a physical matrix to add strength and stability to the soil particles of the riparian zone.

~~The relatively broad extent of the riparian zone, also often referred to as the flood plain, is~~

The vegetation and relatively broad extent of the riparian zone slows the velocity and aids in dissipating the energy of floodwaters. Development, construction or other disturbance of the riparian zone, also often described as the flood plain, disrupts this ability to dissipate energy and frequently results in both downstream property damage and long term vulnerability until natural conditions are restored to the Riparian zone.

Riparian vegetation also serves another important function, protection of water quality. Low growing vegetation acts as a filter and can prevent sediment and other water suspendable material from reaching the stream channel. ~~the~~ Decomposing woody material, both on the surface and ~~incorporated~~ incorporated into the soil, ~~have~~ ^{help} the ability to adsorb certain nutrients and chemical pollutants. Maintaining this ability of undisturbed riparian zones to protect stream quality is especially important where land management activities occur on the adjacent terrestrial portion of the watershed. The riparian zone is a natural shock absorber and buffer of the stream system. Activities that disturb these natural attributes of the riparian zone threaten the stream system itself and create a high level of risk for downstream users.

EXHIBIT 4⁴
2/22/85

of the water.

I urge you to adopt the

Riparian Lands Protection Act

Arne E. Rogquist,
Forest Hydrologist
Missoula, MT

Feb 22, 1985

EXHIBIT 5
2/22/85

Montana Audubon Council
Testimony on HB 892
February 22, 1985

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Council. The Council supports HB 892.

Wetland and riparian areas are critical to much life in Montana. In addition to being important for many plant and animal species, a well managed wetland or riparian area goes a long way towards preventing soil erosion and improving water quality.

Farmers and ranchers are important stewards for this important habitat. We feel that a tax relief for these areas is a small price to pay for the benefits Montana gains from these areas.

1985 is a tight fiscal year. Tax incentives are a mixed blessing as farmers and ranchers struggle to make ends meet and local governments need money too. Currently wetland-riparian areas are taxed at a very low level in the state. An additional incentive to farmers seems like a small price to pay for the benefits we gain. Because the effects of a tax break on this land will affect local governments minimally, we feel that HB 892 is an important piece of legislation to pass.

We urge you to vote for a "Do Pass" on this bill.

Thank you.

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

February 22, 1985

This act is an incentive to proper management of streambank and wetland vegetation. Riparian, or streamside, habitat is recognized as the most productive area both for vegetation and wildlife. Riparian lands buffer activities on uplands by capturing sediment and other pollution and absorbing the force of spring floods. Wetlands act as natural purification systems as well as temporary flood control basins.

These types of habitats are diminishing at an accelerated rate across the nation. It is estimated that 70-90 percent of this country's riparian habitat has already been lost to urban and suburban development, channelization, dikes and cleaning. In addition, wetland losses have averaged over 450,000 acres annually between the mid-1950's and mid-1970's.

Many of the problems associated with loss of riparian habitat are also felt by adjacent landowners. Streams widen and shallow, eating into valuable land. These lands then become more vulnerable to further erosion from flooding. The costs of repair in the form of riprap and dikes are high, compared to the costs of prevention as proposed in this bill.

As an example, on Big Spring Creek near Lewistown, one stream was channelized to gain approximately one acre of bottom land. In subsequent floods, 12 acres were lost due to this channelization. The cost of rehabilitating and stabilizing the stream and repairing a bridge damaged from this action resulted in a cost of over three-quarters of a million dollars.

Riparian habitat is nature's buffer between land and water. It bends, but usually does not break. It absorbs pollution, captures rich soil, provides habitat for abundant wildlife and stabilizes the streams which harbor Montana's famous fishery resources.

This bill takes another step in the right direction for Montana by providing incentives for management of riparian areas and wetlands. If enacted, this legislation will become another useful tool for landowners, conservation districts and the department in seeking low-cost, long-term solutions to manage streambanks, river bottoms and wetlands.

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It is our belief that ensuring orderly implementation of this program coordinating riparian protection with related programs and assessing manpower requirements will require time, given our existing workload. For these reasons, we would suggest amending Section 6 to read "The department shall adopt rules providing standards for designation of land as designated riparian habitat or designated wetlands by July 1, 1987." This amendment would clarify our intent to take the time needed to adequately develop, coordinate and implement this program.

During this time period we would also review potential sources of funding for the in lieu of taxes funding sources for counties. Recreationists would clearly benefit from the program and funds might be available to reduce any financial impact to counties.

We support the proposed legislation and encourage you to pass this bill.

EXHIBIT 7
2/22/85



American Fisheries Society
Western Division

ALBERTA
BRITISH COLUMBIA
SASKATCHEWAN
NORTHWEST TERRITORIES
YUKON

MEXICO

ALASKA
ARIZONA
CALIFORNIA
COLORADO
HAWAII
IDAHO
MONTANA
NEVADA
NEW MEXICO
OREGON
UTAH
WASHINGTON
WYOMING

WESTERN PACIFIC ISLANDS
AND TRUST TERRITORIES

Mr. Chairman, Committee Members, my name is David Cross. I live in Polson, Montana where I am the principle investigator of the on going Lower Flathead Systems Fisheries Study. I am also Chairman of the Public Lands Committee for the Western Division of the American Fisheries Society and I'm here today representing the Western Division of the American Fisheries Society. The Society is an organization of professional fisheries scientists from throughout the country and is concerned with issues which may have significant impacts upon fisheries.

Today you have heard, or will hear, testimony on the values of riparian habitat to wildlife, fisheries, water quality, erosion control, and stream channel stability. I would like to provide you with a national perspective on the issue of riparian habitat. Typical of the national problem is California's Sacramento River, which once supported 775,000 acres of riparian habitat and which today may support 12,000 acres, less than 2% of the original. The results have been endless amounts of public monies spent to stabilize the stream banks, and other associated problems. Since 1977 the Western Division has actively pursued a program of education and legislation to properly manage and

protect all resource values of this most important habitat on public lands managed by the Forest Service and Bureau of Land Management because of large blocks of land they oversee.

In 1983 the Western Division's concern for riparian habitat throughout the west resulted in the publishing of "Best Management Practices for the Management and Protection of Western Riparian Ecosystems". It was a first step in an educational program to encourage those responsible for soil, watershed, range, wildlife, and fisheries management to work together to bring about progressive riparian habitat management for our western stream resources. Private land owners play a critical role in this management.

The Western Division recognizes the value of privately owned riparian habitat to a multitude of resources and feels that legislation such as that before you today will recognize, in some small way, the important role the private land owner plays in riparian management and protection. I believe it is important to note that twenty-seven states have adopted legislation similar to that before you, recognition of the significance of this habitat type.

Montana's streams and rivers are private, state, and national treasures, justly famous for their beauty, water quality, and fisheries resources. They are the life blood of many Montana ranches and the riparian habitats which grow at the river's edge are critical to the maintenance of the above values

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and a way of life. I urge you, on behalf of the Western Division of the American Fisheries Society to support this legislation and provide critical incentive, and recognition to the private land manager in his effort to maintain the quality of our state's streams and rivers.

EXHIBIT 8
2/22/85

WITNESS STATEMENT

Name Mans Torgel Committee On House Nat. Res
Address Helena Date 2/22/85
Representing Montgomery, Wedgmoners Support 3
House Bill No. 492 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. We consider this legislation a form of land use planning accomplished by dangling a carrot (that donation) before the land owners.
2. The local tax base is already being badly depleted and the counties can't afford to lose more.
3. We believe this measure merits a fiscal note.
- 4.

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

EXHIBIT 9
2/22/85

WITNESS STATEMENT

NAME LORENTS GROSFIELD BILL NO. 892
ADDRESS MELVILLE RIE, BIG TIMBER DATE _____
WHOM DO YOU REPRESENT? SELF
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

This is not a tax incentive proposal. It is merely a tax shift — shifting the burden from riparian lands to adjacent uplands — Taking out of my left pocket instead of my right (as a riparian landowner).

It also has negative connotations during a time of great concern over ~~stream~~ stream access. Having lost the ability to control access on my riparian lands, and as a result having a certain insecurity of title. I view the ability to pay taxes on my riparian habitat as cheap title insurance.

While the cause may be noble, this incentive method is unacceptable and ineffective. For example the taxes I would save on 1/2 mile of
CS-34

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

ENERGY DIVISION

EXHIBIT 10
2/22/85



TED SCHWINDEN, GOVERNOR

32 SOUTH EWING

STATE OF MONTANA

(406) 444-6697 ADMINISTRATOR & PLANNING AND ANALYSIS BUREAU
(406) 444-6696 CONSERVATION & RENEWABLE ENERGY BUREAU
(406) 444-6812 FACILITY SITING BUREAU

HELENA, MONTANA 59620

TESTIMONY ON HOUSE BILL 750

My name is Larry Fasbender and I am Director of the Department of Natural Resources and Conservation. The Department supports House Bill 750.

As part of the recent rulemaking process, the Department thoroughly studied the Major Facility Siting Act. This in-depth study, combined with our experience in administering the Siting Act, plus recent litigation, has resulted in identification of several areas of the Act that need to be clarified. The purpose of this proposed bill is to clear up these areas and facilitate better administration of the Siting Act. I would like to outline and describe the major changes to the Act proposed in this bill.

In 1983 the Board of Natural Resources and Conservation adopted rules for exempting certain facilities from review as provided for in the Siting Act. These rules require the Department to do an evaluation of an exemption application. Section 1 provides reasonable funding for the Department if it incurs expenses in processing an exemption application. The Department's only experience with an exemption required expenditure of state general funds, which the applicant was willing to reimburse, but there was no statutory provision for such an arrangement.

Section 2 of this bill concerns energy facilities that are subject to Federal Energy Regulatory Commission (FERC) jurisdiction. Over the past decade the Department has taken a position that it has limited jurisdiction under the Major Facility Siting Act in regulating facilities that are also covered by the Federal Power Act. Proponents for the development of hydroelectric facilities in the State of Montana have argued that because of the Federal Power Act, the State of Montana has no jurisdiction under the Siting Act. To litigate this matter would be costly and time consuming. The purpose of this amendment is for the legislature to precisely define how the State of Montana will involve itself in facility siting projects that are subject to regulation by the Federal Energy Regulatory Commission.

Under Section 2 an applicant who proposes to construct a facility that is subject to the jurisdiction of the FERC must file an application and pay a filing fee as is presently required by the Siting Act. The Department will then complete the study required under the Siting Act. The change is that rather than the

Department simply making a recommendation to the Board of Natural Resources and conducting a hearing under the contested case provisions of the Siting Act, the Department will also be required to participate in the Federal Energy Regulatory Commission proceedings and make a state recommendation based on the study to the FERC. By making this change in the Siting Act the State will be assured that it can have input in the decisionmaking process whether it be at the state or federal level.

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Section 3 provides for monitoring the site for a facility that has been certified prior to construction. Currently, the Act provides that sites can only be monitored once construction begins. A number of years may lapse between certification and actual construction and, in this time frame, environmental conditions in the area surrounding a facility can change considerably. The Department's recent experience near Bozeman, Ennis, and Missoula indicates that such monitoring is important to prevent costly mitigation for impacts that could not be fully anticipated at the time of certification.

Section 4 codifies the centerline process the Board has been using since 1976 into the statutes. A recent court case challenged the validity of the Board's process but was dismissed for other reasons. To avoid any future litigation over the current process, and to clarify the Board's authority, it is necessary to make the process explicit in the statute.

The Siting Act implicitly and the current Board policy explicitly requires the Board to certify a route which is a strip of land within which the actual transmission line will be located. The applicant then comes back to the Board and has a final centerline approved within the route prior to construction. The centerline is the exact location for the transmission line. This process is extremely practical since many opportunities for minimizing and mitigating impacts are apparent only when a centerline is selected. It also saves both the applicant and the department time and money because a smaller area is examined for specifics such as pole and tower placement. Without this type of a centerline process, the applicant would have to provide more information. Much of this information would be unnecessary because it would not be specific to finally locating the line and would be a waste of time and effort to collect and to review. In addition, the Board's centerline process reduces the applicant's right-of-way acquisition costs and mimics their internal routing processes.

A primary issue raised in this section is whether the Board should have a contested case hearing or a noncontested case hearing for the centerline process. The Department feels the current process of a contested case hearing at the route

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level and a noncontested case hearing at the centerline approval stage provides several opportunities for public involvement and involvement of those impacted by the line without duplicative contested case hearings. An additional contested case hearing would substantially increase the costs to the Department and the applicant, with no commensurate benefits. A contested case hearing at the centerline process would jeopardize the applicants' likelihood of being able to build a transmission line at reasonable costs, with reasonable certainty and within a reasonable time period.

Section 4 also limits fees paid by applicants for centerline review to 25 percent of the original filing fee paid. The Board has been requiring applicants to reimburse the department for centerline expenses, but has not put an upper limit on these fees. The Department feels the 25 percent limit is reasonable.

Section 6 exempts lines 230 kV or less from the requirement that they must be in long range plans at least two years prior to acceptance of an application by the Department. It is the Department's experience that the current requirement is unnecessarily burdensome for small transmission lines. There is adequate public notice of these facilities in the certification process and the Department does not need two years advance notice to process a small transmission line application. This change will shorten the regulatory timeframe for siting smaller transmission lines.

Section 8 repeals the notice of intent provisions and the five percent filing fee reduction for filing such a notice. This provision is not used because it requires applicants to pay the entire filing fee at the time of application. Applicants have been contracting with the Department for reimbursement of actual expenses as they are incurred, which is much better from their cash flow perspective than a lump sum payment.

House Bill 348 makes several changes to the Major Facility Siting Act. We feel these changes improve the siting Act and avoid future litigation that could be very costly to the state. I urge the committee to give House Bill 348 a "do pass" recommendation.

MAGNETOHYDRODYNAMICS

COAL-FIRED POWER GENERATION

MAGNETOHYDRODYNAMICS (MHD) TECHNOLOGY FOR ELECTRIC POWER GENERATION

MHD is a process for generating electrical energy from thermal energy by the interaction of a flowing, electrically-conductive fluid with a strong magnetic field. MHD converts the energy of the moving fluid directly to electrical energy, thereby eliminating the conventional turbine. Although there are several variations of the process, the one proposed for baseload power plants is known as open-cycle MHD. In this process, the fluid is a very high temperature, conductive gas produced by the combustion of coal with preheated oxidant.

Figure 1 illustrates the basic elements of MHD electrical power generation compared with conventional electrical power generation. The MHD generator has no moving mechanical parts in the power-producing section -- the moving conductor is a hot (approximately 4500°F) stream of combustion gas (plasma) produced by the high temperature combustion of coal. A small amount of alkali metal salt (K_2CO_3), called "seed," is added to the plasma to increase the electrical conductivity. DC electrical power is produced as the plasma flows through the MHD channel, which is enclosed in a large, high intensity magnet. The electricity produced is tapped by a series of electrodes (anodes and cathodes) located on opposite channel walls and oriented perpendicular to the magnetic field. The still-hot (approximately 3500°F) gases emerge from the channel and are cooled in a boiler system that produces steam, which operates a conventional steam turbine generator. Thus, electrical energy is produced in both the MHD portion of the process (called the "topping cycle") and in the boiler system/steam turbine generator plant (called "bottoming cycle").

Figure 2 is a schematic of a combined-cycle plant (MHD topping and steam bottoming power generation process), which offers significant efficiency advantages over conventional coal-fired steam power plants. Conventional power plants show coal-pile to power-grid efficiencies of 32 to 33%, compared to combined-cycle MHD power plant efficiencies of 50%. To comply with existing/projected EPA sulfur dioxide emission standards, conventional coal-fired power plants require costly scrubbers; combined-cycle MHD power plants, however, do not require the use of scrubbers when burning either low sulfur Western or high sulfur Eastern coals.

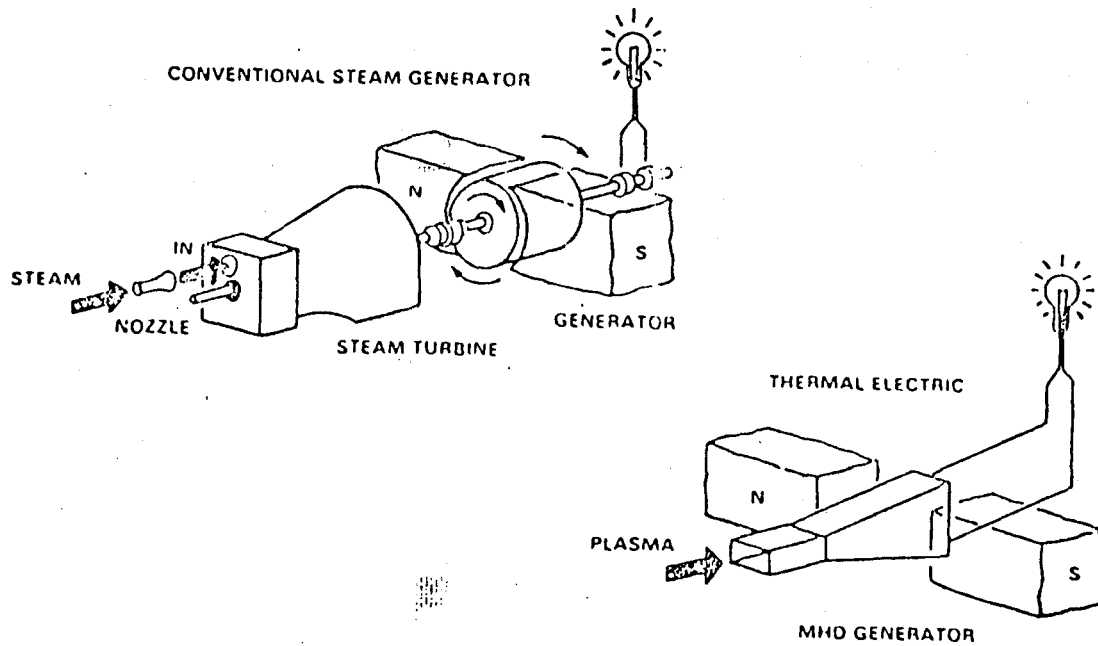


Figure 1 -- Conventional and MHD Power Generators

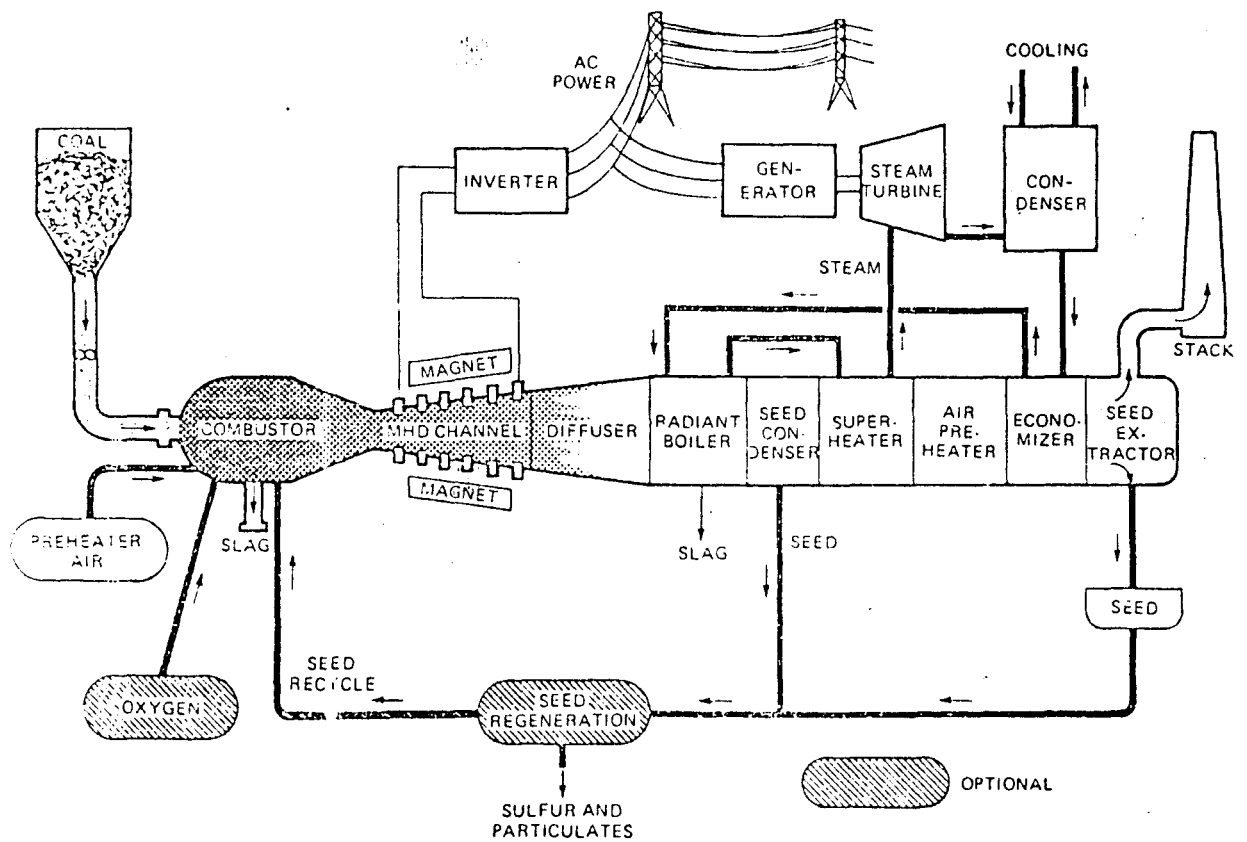


Figure 2 -- Open Cycle MHD Power Plant

EXHIBIT 12
2/22/85



COAL FIRED MHD SYSTEMS

- DIRECT COAL COMBUSTION (EASTERN AND WESTERN COALS)
- LOW ENVIRONMENTAL INTRUSION POTENTIAL
 - 99% SO_x REMOVAL
 - NO_x REDUCTION TO 0.1 LB/MBTU
 - VERY LOW SOLID/LIQUID WASTE
 - REDUCED CO₂ EMISSIONS
- HIGH EFFICIENCY POTENTIAL
 - 55% NET PLANT EFFICIENCIES IN MATURE SYSTEMS
 - 45% NET PLANT EFFICIENCIES IN EARLY COMMERCIAL SYSTEMS
- LOW COST-OF-ELECTRICITY POTENTIAL
- REASONABLE DEVELOPMENT RISK
- GOOD ENGINEERING PROGRESS
- DEPLOYABLE BY THE EARLY 1990s OR EARLIER
- UTILITY/INDUSTRIAL INTEREST AND PARTICIPATION

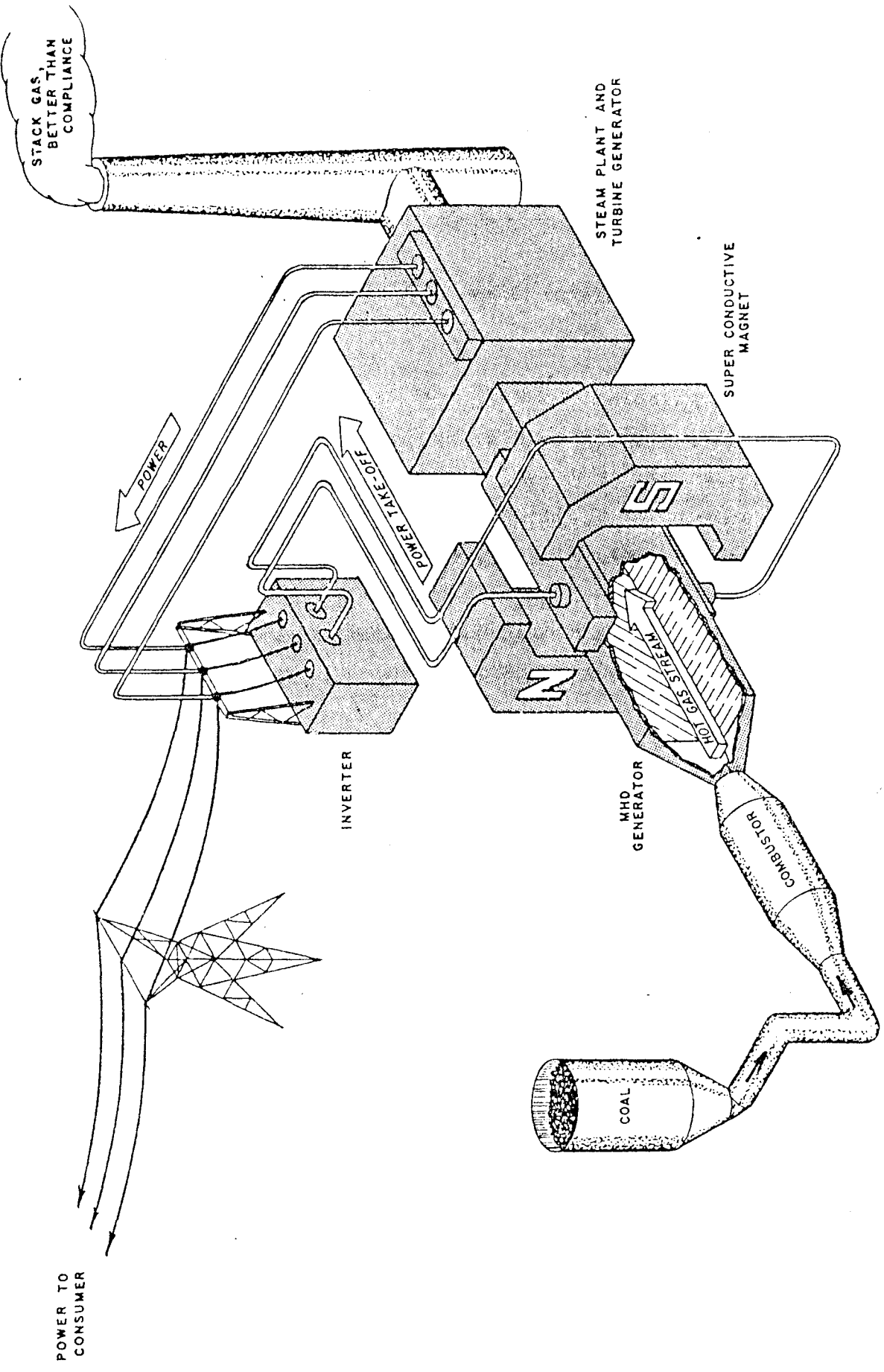
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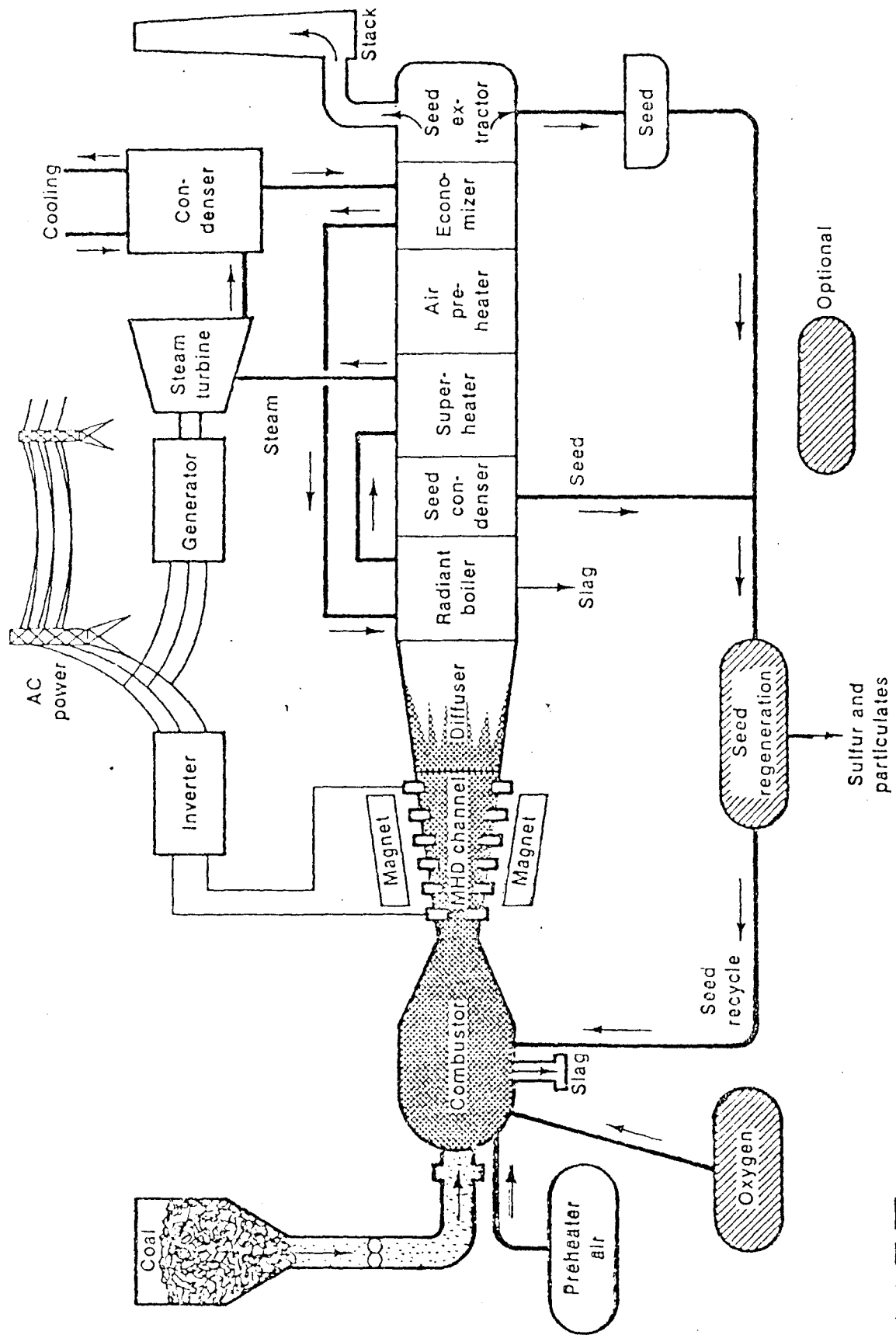
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DYN: N. JASMIN 3-21-81

MHD-POWER PLANT



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INTEL S-4

STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION (DNRC)

ENGINEERING ASSESSMENT OF AN MHD
ADVANCED TEST SYSTEM

Ex. 12
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DNRC

- TWO PHASE PROPOSAL WRITTEN
JOINTLY WITH MPC
- PHASE I - MPC DEFINED PRECOMMERCIAL
SCALE PLANT REQUIREMENTS
- PHASE II - MSE DEVELOP F&OR AND
CONCEPTUAL DESIGN
- IMPACT ON NATIONAL PROGRAM AND
MONTANA

EX. 12
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DOE MHD PROGRAM SUMMARY
MEET WITH MHD INDUSTRIAL COMMUNITY
AND UTILITIES FOR MAXIMUM
UNDERSTANDING

FORMULATE PROOF-OF-CONCEPT (POC)
TESTING ROLES

TOPPING CYCLE POC AT CDIF
BOTTOMING CYCLE POC AT CFFF
SEED REGENERATION POC AT
(TO BE DETERMINED)

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NATIONAL MHD PROGRAM OBJECTIVES

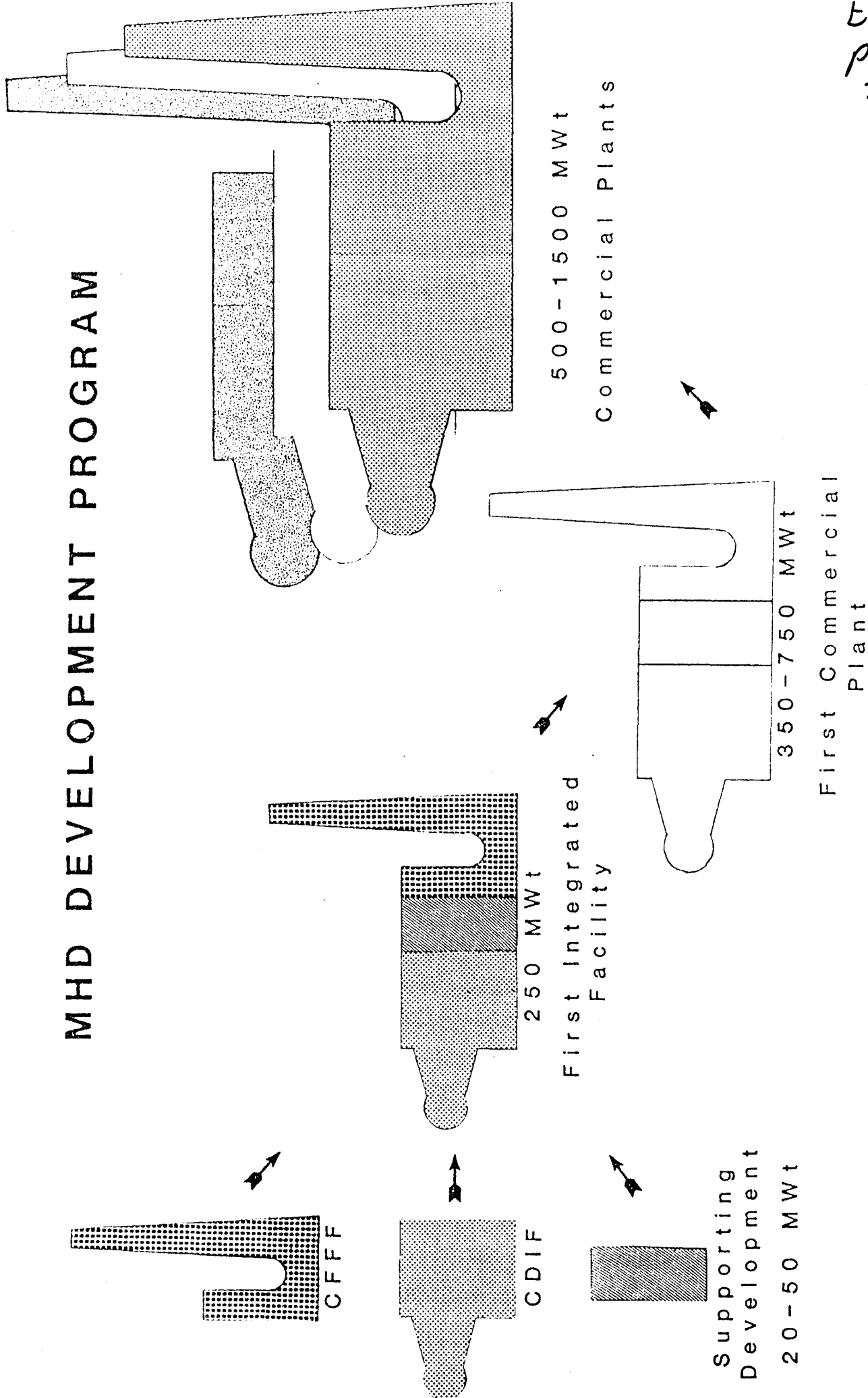
INSTITUTE A MULTIYEAR PROGRAM
THAT HAS AS ITS FOCAL POINT

-- THE MHD RETROFIT OF AN
EXISTING POWER PLANT.

REQUEST ADEQUATE FUNDING
FOR SUCH A PROGRAM

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MHD DEVELOPMENT PROGRAM



ESTIMATED MHD PROGRAM TIMETABLE

1985 1986 1987 1988 1989

POC TESTING
AT CDIF



POC TESTING
AT CFFF



POC SEED
REGENERATION



RETROFIT

CONCEPTUAL
DESIGN



TITLE I



TITLE II

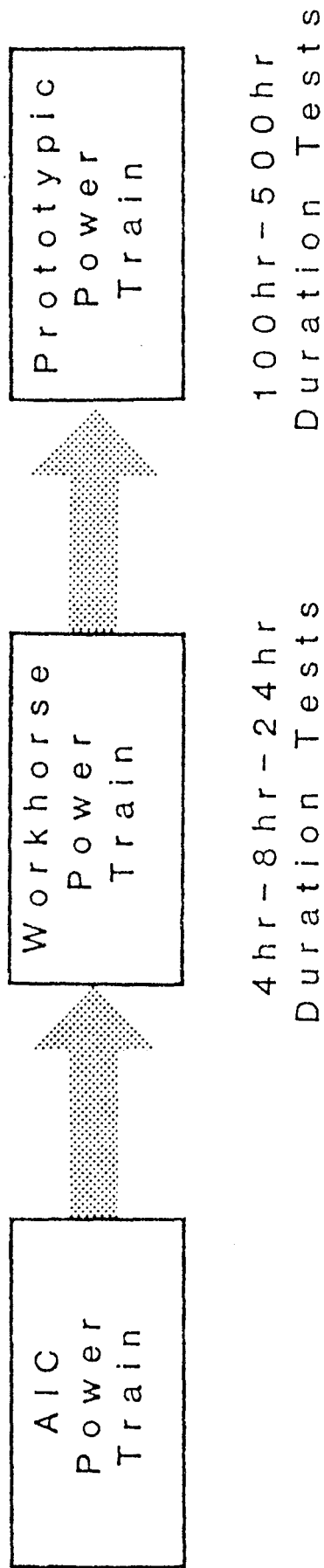


CONSTRUCTION



Ex. 12
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CDIF MHD PROGRAM



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MARY-LINDA KEMP

NORTHERN LIGHTS INSTITUTE

House Natural Resources Committee

22 February 1985

EXHIBIT

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2/22/85

PAGE 1

Mr. Chairman and Members of the Committee:

My name is Mary-Linda Kemp and I work for Northern Lights Institute in Missoula. I am here to request a "do pass" recommendation for HB 860.

Northern Lights is a non-partisan research and education institute; we have adopted this issue because we feel the Natural Heritage Program and the Natural Resource Information System are essential to producing reliable, neutral information for natural resource planning in the state of Montana.

The Natural Heritage Program and Natural Resource Information System are two parts of a program to coordinate the natural resource data in the state. The Natural Resource Information System would create a directory of all state agency studies on natural resources, while the Heritage Program would complement this by obtaining data on rare and exemplary flora and fauna. The Heritage data would then be used in a centralized data base system housed in the State Library. The Heritage Program has been implemented successfully in 43 states and regions around the country.

The two-part program would result in several advantages for the state. The Natural Resource Information System would help to point out -- and avoid -- the duplication of effort that now exists within and between state agencies.

The Heritage Program would:

- *Take the boxes of data on flora and fauna that sit in the basements of various state agencies such as DNRC, Dept. of State Lands, and the Dept. of Fish, Wildlife, and Parks, and process them into a usable form to prevent repetition of studies over the years to obtain the same data over and over again.

- *Provide the best, neutral information for decision-makers in the state to make timely, verifiable decisions in natural resource planning.

- *Speed up the environmental review process in state agencies, since it would provide baseline data on various sites at the outset of the process.

- *Reduce the costs of Environmental Impact Statements to the private sector.

- *Avoid litigation between citizen's groups and the private sector, since Heritage data is available to the general public. Opposition to a given site would be voiced prior to any major planning and construction effort on the part of the companies.

- *Aid the agricultural community in its contribution to genetic diversity, an important tool to successful agriculture, and in processing weed data gathered by the Dept. of Agriculture.

HB 360 is a "housekeeping bill" moving the Natural Heritage Program and Natural Resource Information System to the State Library from the Department of Administration. The move was suggested by the interim committee that reviewed the program, since the Library is considered a neutral agency with extensive experience in unbiased information dissemination. The bill is also necessary to set up the structure for the Library to administer funds for the program from federal grants, other state agencies, the private sector, and

Great Falls Tribune 2/13/85 P. 7-A

Natural resources inventory gets broad support

Tribune Capitol Bureau

HELENA — Some Montana industries, environmental groups and state agencies are lining up behind a bill to provide money for a program to inventory information on the state's natural resources.

Information from various environmental impact statements would be compiled and indexed by the state library under the natural heritage and natural resource information system program.

Supporters said the program would provide reliable information

about the state's natural resources at early stages of proposed developments, prevent duplication of data gathering, streamline the environmental review process and identify gaps in the information base. Forty-three other states have similar programs, they said.

Rep. Dave Brown, D-Butte, introduced the bill, House Bill 880 Saturday. He said it is backed by industries such as Burlington Northern Inc., Pacific Power & Light Co., Montana Power Co. and such environmental groups as Montana Wild-

life Federation and Montana Audubon Council.

Supporters are seeking \$472,639 to fund the program in the first two years, with some of the money coming from the Nature Conservancy, a private environmental group.

M.L. Kemp of Northern Lights Institute, an environmental group, said the program would reduce chances of lawsuits over resource development because potential problems could be worked out early.

Gary Langley of the Montana Mining Association said the informa-

tion base would alert mining companies early on to environmentally sensitive areas where special care would be needed to be taken if a mine were opened there.

Kemp said it would take two years to set up the program, and its benefits may not be realized for three or four years.

She cited the example of the state of Washington's program, which in its fourth year had 248 requests for information that saved agencies and companies \$196,000.

88—The Independent Record, Helena, Mont., Monday, February 18, 1985

Backing for compilation of resource information

A bill to fund a program that would compile information on Montana's natural resources has been backed by industry, environmental groups and state agencies.

Under the proposed program, which would cost \$472,000 in its first two years, information from environmental impact statements would be collected and indexed by the state library.

Supporters say it would provide reliable information on Montana's natural resources during the early stages of proposed development, streamline the environmental review process, and prevent duplication of data gathering. Forty-three other states have similar programs, backers say.

The bill's sponsor, Rep. Dave Brown, D-Butte, said it is backed by Burlington Northern Inc., Pacific Power & Light Co., Montana Power Co., the Montana Wildlife Federation and Montana Audubon Council.

M.L. Kemp of the environmental group Northern Lights Institute said the program would reduce the chance of lawsuits over resource development, because potential problems could be worked out early in the pro-

2/22/85



University of Montana

Missoula, Montana 59812

Department of Economics
(406) 243-2925

Ex. 13
p. 3
2/22

January 11, 1985

Governor Ted Schwinden
State Capitol
Helena, Montana 59620

Dear Governor Schwinden:

As you know, at its October meeting in Lewistown, the Economic Development Council heard testimony on and endorsed a proposal to establish a Natural Resource Information System and National Heritage Program. As a member of the Council I would like to add an additional word of personal support for that proposal.

I see a variety of benefits to collecting, inventorying and providing access to the state's natural resource information. Specifically, I believe that this proposal would facilitate sound resource development by reducing data gathering costs and speeding the environmental review process, lessen the environmental impacts of particular developments, and provide the basis for long term resource management planning.

The Natural Heritage Program would inventory Montana's rare endangered, or fragile resources. I have lived all over the United States and in two foreign countries. I have never lived anywhere where people more highly prized nor were more deeply dependent for their welfare on their natural environment. Identifying and protecting the threatened and irreplaceable features of that environment should have the highest priority.

I hope that in making proposals to the legislature about the disposal of the state's always critical fiscal resources, you will give this proposal positive consideration.

Sincerely,

Dick Barrett
Professor of Economics

DB/vcw



TED SCHWINDEN
GOVERNOR

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

OFFICE OF THE DIRECTOR
AGRICULTURE/LIVESTOCK BLDG.

CAPITOL STATION
HELENA, MONTANA 59620-0201

EX. B
P. 4
2/22
TELEPHONE:
AREA CODE 406
444-3144

KEITH KELLY
DIRECTOR

February 5, 1985

Ms. Sara Parker
State Librarian
Montana State Library
1515 East Sixth Avenue
Helena, MT 59620

Dear Sara:

The Department of Agriculture has participated in the Natural Resource Data System Advisory Committee and fully supports location of the programs within the state library.

The Natural Heritage Program has value but would probably not provide as much benefit as the Natural Resource Information System. The Natural Resource Information System is more comprehensive which would provide a review of information from all agencies and reduce the chance of data duplication.

Although the Department of Agriculture's activities do not require utilization of data sources to a great extent, the Natural Heritage Program and Information System would both provide a resource for the department.

Sincerely,


Keith Kelly
Director

ck
cc Mary Linda Kemp

Ex. 13
P. 5
2/22

12 February 1985

Mr. Keith Kelly
Office of the Director
Montana Department of Agriculture
Agriculture Building
Capitol Station
Helena, Montana

Dear Keith:

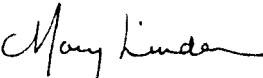
I want to thank you for your prompt letter of support for the Natural Heritage Program and the Natural Resource Information System. I would also like to let you know that, as we spoke about in our conversation of 1 February, it will be possible to use the Natural Heritage computer software system to process the data your department collects on weeds. I ascertained this information through Bob Kiesling of the Big Sky Field Office, Nature Conservancy.

Since you lack a standardized format of presenting your data, this should aid you in compiling statistics, as well as developing computerized maps showing the locations of various weeds throughout the state. The maps are overlays based on the 7' U.S.G.S. map system, and would be especially helpful in demonstrating the prevalence of spotted knapweed and leafy spurge.

It is important to realize that although the system lends itself to this use, your department will have to assume any costs or responsibilities required to carry out such a project, since Heritage is to be used for rare or unique species. We will be happy to help you identify sources of funding available for such an endeavor.

Many thanks again for your helpful support. Please feel free to contact me if you have any questions.

Sincerely,


Mary-Linda Kemp
Lobbyist



STATE OF MONTANA
ENVIRONMENTAL QUALITY COUNCIL

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3742

Deborah B. Schmidt, Executive Director

Ex. 13
p. 6
2/22

GOV. TED SCHWINDEN
Designated Representative:
John F. North

HOUSE MEMBERS
Dennis Iverson, Chairman
Dave Brown
Hal Harper
Earl C. Lory

SENATE MEMBERS
Mike Halligan, Vice Chairman
Dorothy Eck
James Shaw
Larry Tveit

PUBLIC MEMBERS
Tad Dale
Warren Harding
W. Leslie Pengelly
Frank S. Stock

October 30, 1984

Leo Berry, Director
Department of Natural Resources and
Conservation
32 South Ewing
Helena, MT 59620

Dear Mr. Berry:

The Environmental Quality Council urges your consideration and approval of the application to the Legacy Program for funding of the Natural Resource Information System and the Natural Heritage Program. The EQC and its staff have participated in the planning and development of recommendations for implementation of these programs since their initial submission to the Legislature in 1983.

The EQC believes these programs would make reliable information about Montana's natural resources easily available to a variety of users. Time and money could be saved in several ways:

- the information systems could head off conflicts over environmental impacts at an early stage of resource development, before heavy investments close off options;
- the information systems could help coordinate duplicate data gathering and studies, such as when two agencies look at a resource for different purposes;
- the information systems could ensure that decision-makers have the best available information when they consider resource developments, and that the information comes at the lowest cost and as quickly as possible;
- the information systems could identify gaps in our resource data, perhaps allowing well-planned research to efficiently close the gaps and avoiding expensive "brush-fire" studies after developments have been proposed; and
- the information systems will not require major changes in existing agency operations but should identify ways in which interagency coordination and efficiency can be improved.

EX. 13

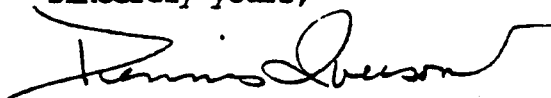
P. 7

2/2

Leo Berry, Director
Department of Natural Resources and
Conservation
October 30, 1984
Page 2

At least two of the Legacy Program's objectives would be met through implementation of efficient and accessible natural resource data systems. The EQC believes funding the natural resource information system and the natural heritage system would be a most appropriate use of Resource Indemnity Trust funds. These data systems will enhance the opportunities for planning for the wise development and preservation of Montana's natural resources.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Dennis Iverson", with a stylized, sweeping flourish extending to the right.

REP. DENNIS IVERSON
Chairman

DEPARTMENT OF HIGHWAYS

Ex. B
P. 7
2/22



TED SCHWARTZ GOVERNOR

STATE OF MONTANA

HELENA, MONTANA 59620

October 24, 1984

Sara Parker, State Librarian
Montana State Library
1515 East 6th Ave.
Helena, MT 59620

Dear Sara:

I have been advised that the committee created by House Bill 785 (Natural Resource Data System Advisory Committee) completed its work and recommended the State Library as the "home" for administration of the Natural Resource Information System and the Natural Heritage System.

The library's professional expertise, up-to-date and readily accessible service for users of this system, could prove to be very worthwhile.

We feel the system could benefit the state in a number of ways, but the most significant benefit to this department is the capability for independent use of the same information that supports our environmental considerations.

Sincerely,

A handwritten signature in cursive script, reading "Gary J. Wicks".

Gary J. Wicks
Director of Highways

GJW:MGW:mb:2h

cc: Engineering Division
Howard Johnson - EQC



THE MONTANA UNIVERSITY SYSTEM

33 SOUTH LAST CHANCE GULCH
HELENA, MONTANA 59620-2602

(406) 444-6570

EX. 13
P. 8
2/2

COMMISSIONER OF HIGHER EDUCATION

October 25, 1984

Ms. Sara Parker
State Librarian
Montana State Library
1515 East 6th Avenue
Helena, MT 59620

Dear Ms. Parker:

I have discussed the proposal of the Natural Resource Information Committee concerning the natural resource information system and the natural heritage program with Carrol Krause and Larry Weinberg. The Committee's proposal to institute a first-level information referral service utilizing the state library and to adequately fund the natural heritage program is realistic and worthwhile, and in my opinion this proposal deserves serious consideration for funding from the legacy program and for support by the legislature.

The activities of both the information system and the heritage program in identifying and analyzing existing data sources will be useful to the Montana University System in several ways. The University system has as one of its major goals a public service function. Making the informational resources of our campuses more readily available to the public and other agencies enhances our ability to provide such public service. A valuable by-product of this increased public availability of natural resource information is increased availability to our own students and researchers. There will be much less chance of needless duplication of research and fieldwork if scientific investigators are able to first ascertain the current status of fieldwork.

By providing information on the extent of natural resource data available to the state, the information system and the heritage program also provide insight as to areas where data is lacking. These areas in turn indicate subjects for future fieldwork and thesis topics by students and faculty.

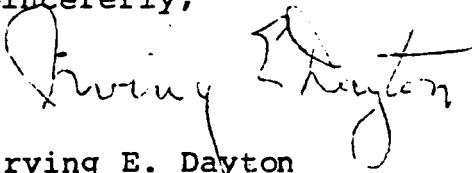
October 22, 1984

Page 2

Ex. B
P. 9
2/22

Let me close by reiterating my support for the natural resource information system and the natural heritage program. Implementation of these projects will benefit Montana and its public and private post-secondary institutions.

Sincerely,

A handwritten signature in cursive script, reading "Irving E. Dayton". The signature is written in dark ink and is positioned above the typed name.

Irving E. Dayton
Commissioner of Higher Education

IED/LW:lc

**Montana Department
of
Fish, Wildlife & Parks**



Ex. 13

p. 10

2/7

Helena, MT 59620
October 25, 1984

Ms. Sara Parker, State Librarian
Montana State Library
Helena, MT 59620

Dear Ms. Parker:

The Department of Fish, Wildlife & Parks has reviewed both the proposed State Natural Heritage Program and the Natural Resource Information System. We have looked at both systems from the view of improving our productivity and as a cost savings to the department.

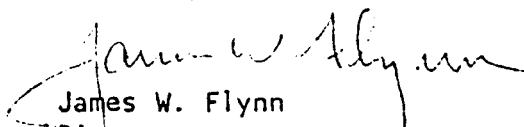
The Natural Heritage Program has a more limited scope, and while it has value to the department, would not benefit us as much as the Natural Resource Information System.

The heritage program would assist us in our nongame and endangered species work. It would be of value in preparing environmental impact statements and have some value in our planning efforts. Cost savings would be marginal, at least in the near future.

The Natural Resource Information System, we feel, would be of more value, since it is a more comprehensive system. This system would not only help us internally by giving our employees an overview of our own data, but would provide a good review of information from other agencies. Over time, this should reduce our costs by reducing the chance of duplicating work already done by other agencies. After the system has been operating for a few years, it should be possible for state agencies to cooperate more closely in obtaining data and should provide better consistency in data collection.

Both systems would benefit the general public who have a need for this type of information.

Sincerely,


James W. Flynn
Director

JWF/sa



The Big Sky Country

Ex 13
p. 11
2/22

MONTANA STATE HOUSE OF REPRESENTATIVES

REPRESENTATIVE DAVE BROWN
HOUSE DISTRICT 83

HOME ADDRESS:
3040 OTTAWA
BUTTE, MONTANA 59701
PHONE (406) 782-3604

COMMITTEES:

JUDICIARY, CHAIRMAN
NATURAL RESOURCES
HIGHWAYS
ENVIRONMENTAL QUALITY COUNCIL, VICE-CHAIRMAN

October 30, 1984

Leo Berry, Director
Department of Natural Resources and
Conservation
32 South Ewing
Helena, MT 59620

Dear Mr. Berry:

As you know, I have been involved with the Natural Resource Information System and the Natural Heritage Program since 1982, when I requested a bill be drafted to provide for planning and implementation of these programs. As sponsor of HB 785, I strongly urge your consideration and approval of the application to the Legacy Program for funding for these natural resource data systems.

While I intended that the Department of Administration or the State Library include these data systems in their respective budget requests, I now support funding through the Legacy Program because I believe at least two of the objectives of the Legacy Program are met in establishment of an efficient and accessible natural resource data system. These include:

- o to provide for research demonstration, and technical assistance to promote the wise use of Montana's natural resources;
- o to provide for research and demonstration to assess past or potential environmental damage resulting from natural resource development.

Implementation of the two programs would serve the dual purpose of planning for both the wise development and protection of Montana's natural resources. Time and money, important to industry and state government, can be saved through developing a natural resource data system that makes reliable information easily available.

Ex. 13
p. 12
2/2

Leo Berry, Director
Department of Natural Resources and
Conservation

October 30, 1984

Page 2

Thanks for your consideration. I would be happy to discuss this proposal further with you.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Dave Brown".

REP. DAVE BROWN

DEPARTMENT OF ADMINISTRATION

DIRECTOR'S OFFICE

EX. B
P. 13



TED SCHWINDEN, GOVERNOR

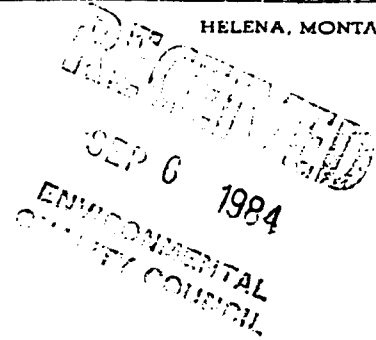
MITCHELL BUILDING

STATE OF MONTANA

(406) 444-2032

HELENA, MONTANA 59620

September 5, 1984



Howard E. Johnson
Chairman, Natural Resource Data
System Advisory Committee
Environmental Quality Council
State Capitol
Helena, MT 59620

Dear Mr. Johnson:

I want to take this opportunity to thank you and the members of the Natural Resource Data System Advisory Committee for your time and effort in preparing the final report on implementing the Natural Heritage Program and Natural Resource Information System. I am in agreement with your recommendations and will fully support the proposals throughout the legislative process.

In light of the Committee's recommendation to locate the programs within the state library, we have reached an agreement with Sara Parker, State Librarian, that her agency will be responsible for the introduction and generation of support for the necessary legislation and budget requests. My understanding is that Ms. Parker will work directly with your Committee, with support as requested from Mike Trevor, Administrator, Information Services Division.

Please let me know if this arrangement will be satisfactory to the Committee or if I may provide further assistance.

Sincerely,

A handwritten signature in cursive script, reading "Morris Brusett".

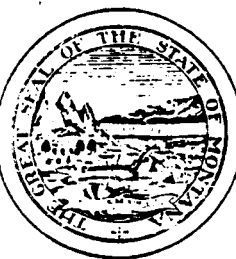
MORRIS BRUSETT
Director

cc Sara Parker

SEP/200

DEPARTMENT OF STATE LANDS

Ex. 13
p. 14
2/2



TED SCHWINDEN, GOVERNOR

CAPITOL STATIO

STATE OF MONTANA

(406) 444-2074

1625 ELEVENTH AVENUE
HELENA, MONTANA 59620

October 30, 1984

MEMORANDUM

TO: Sara Parker, State Library

FROM: Dennis Hemmer, Commissioner
Department of State Lands *Dennis Hemmer*

RE: The Natural Heritage Program and
The Natural Resource Information System (NRIS)

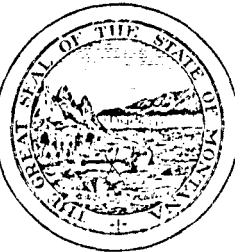
The Department of State Lands has a number of potential uses for a Natural Resource Information System. The primary use would be to identify resource information for development of environmental assessments and environmental impact statements. Reclamation Division, Lands Division and Forestry Division would use such information to evaluate mine proposals, various facilities corridors and timber proposals. Secondly, such information could be used for the day-to-day management of various tracts of state-owned lands. In addition, resource information and uses on State Trust lands currently being developed could be added to this system.

The other main use would be for enhancing the Reclamation Division's designation of lands unsuitable program. Under this program, the Department is charged with evaluating the suitability of various Montana lands for coal mining. Such decisions are generally made at the request of an individual or organizations. Once a request is made, if resource information is unavailable, the Department must reallocate funding and staff in order to obtain the information. If resource information could be gathered gradually over a large geographic area, the Department could make better use of its own resources over the long term. Acquiring intensive information on a small area in a limited amount of time has been expensive in the past.

ee

EX. 13
P. 15
2/22

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES



TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

HELENA, MONTANA 59620

February 1, 1985

Ms. M.L. Kemp
Northern Light Institute
44 N. Last Chance Gulch
Suite 15
Helena, Montana 59601

Dear Ms. Kemp:

The Department of Health and Environmental Sciences of the state of Montana offers its support and encouragement for the development of the Natural Resource Information System (NRIS). I believe that this agency, through its environmental programs, would be a major source of input to NRIS. In addition, it would afford us the ability to enact a more cooperative effort amongst state agencies in dealing with environmental issues as it would be easy to track other agencies' environmental activities through this system.

Thank you for the information that you provided and best wishes for a successful result in the establishment of NRIS.

Sincerely,

A handwritten signature in cursive script, reading "John J. Drynan, M.D.".

John J. Drynan, M.D.
Director

JJD:yf

ASARCO

EX 13.
P. 16
2/2

Robert J. Muth
Executive Vice President

January 22, 1985

Mr. Robert Kiesling
Big Sky Field Director
The Nature Conservancy
Big Sky Field Office
Power Block West
Last Chance Gulch
P.O. Box 258
Helena, Montana 59624

Dear Bob:

Thank you for your recent letter and enclosures. Regarding your two requests, I can advise that The Nature Conservancy will be among a fairly small group of organizations to which we will continue to lend support in 1985. Also, we would be pleased to support your efforts on behalf of a Natural Heritage Program for Montana.

On this score I would be happy to provide you with a letter, but may I suggest a more helpful source might be the Montana Mining Association. Dave Brown who I understand to be the sponsor of your legislation is certainly well regarded in the mining community in Montana and in a conversation with Gary Langley, I have gathered the impression that were you to ask for the Association's support, you would very likely get it.

If, in addition, a letter from Asarco would help, I would much prefer to arrange that our local managers communicate directly with the people you would identify as appropriate recipients. Could you please advise.

I will indeed pass on your regards to Tom Osborne.

Sincerely,



RJM/mdb

Ex.13

P.17

2/22



The Madison Addition

February 6, 1985

Governor Ted Schwinden
Capitol Station
Helena, MT 59601

Dear Ted:

I am writing on behalf of the Northern Lights Institute relative to their funding requests. As you know, the Governor's Council on Economic Development supported a central data base to facilitate the cost of doing Environmental Impact Statements and other requirements necessary for proper exploitation of our natural resources.

As a developer and concerned citizen, I would like to see cost effective methods used so that all interested parties have more accessible and current information. Anything you can do in this area will be most appreciated.

Most sincerely,

Lewis S. Robinson, III
President

LSR:cs

cc: Christine Torgrimson

Ex. 13
p. 18
2/1-2

January 2, 1985

Governor Ted Schwinden
Capitol Station
Helena, MT 59620

Dear Governor:

Now that I am on my way back to the private sector, I look forward to remaining involved in a variety of policy issues. One of the quiet proposals competing for the support of your Natural Resource Legacy funds is a program that would provide a long-overdue inventory of our state's natural resources. It's called the Natural Resource Inventory System & Natural Heritage Program.

This inventory has the support of both the Governor's Council on Management and the Governor's Council on Economic Development. Both groups endorsed the concept in their final recommendations because of its cost-saving potential for both the public and private sectors.

In the public sector, a centralized data base of Montana's natural resources would eliminate much of the duplication that adds to the cost of environmental assessments and impact studies. In the private sector, it would provide a strong incentive for developers who must pay dearly for this information before they can proceed with their projects. As a conscientious developer and a member of your Council on Economic Development, Lewis Robinson was a strong advocate of this program when it came before the Council.

I know the competition for Legacy funds is intense, but I hope you will consider the Natural Resource Inventory System as one of the priority projects for this funding. Some 30 states have conducted similar inventories. More important, it would be in keeping with your efforts to improve the management of state government and to work with the business community.

Thank you for your consideration of this proposal. I wish you the best of luck with the session. Call on me if you need help in Billings.

Sincerely


Gary Buchanan



Montana Audubon Council

P.O. Box 649, Chester, Montana 59522

Ex. 13
p. 19
2/22

February 7, 1985

Governor Ted Schwinden
Capitol Station
Helena, Montana 59620

Dear Governor Schwinden,

On behalf of the Montana Audubon Chapters of the National Audubon Society, I wish to express our support for a Montana Natural Heritage Program.

Good information is essential to wise management and development of Montana's resources. Currently there is little information catalogued on Montana's biological resources. The Heritage program will provide such a catalog. With sound resource information, both conservation and development interests can proceed together constructively.

This program has proven to be a valuable tool in other states by supplying reliable and accessible information to citizens and planners. I hope that you will work towards establishing a Natural Heritage Program in our state.

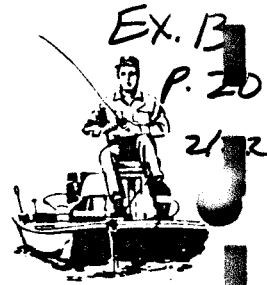
Sincerely,

Harriet Marble, President

Walleyes Unlimited OF MONTANA



BOX 1067
WOLF POINT, MONTANA 59201
February 10, 1985



TO: Montana 49th Legislature
RE: Natural Resource Information System and
Natural Heritage Program

Having reviewed the summary and purposes, Walleyes Unlimited of Montana supports NRIS and the Natural Heritage Program.

Having all natural resource data indexed in one central location would certainly appear to provide great benefits to all that are concerned with resource management or development.

Walleyes Unlimited, while concerned primarily with the management of warm and cool water fisheries, realizes that such a system would benefit the management of all resources in Montana.

We have seen cases where Montana state agencies have made management decisions that are contrary to the interests of other Montana state agencies, primarily caused by a lack of coordination between those agencies in analyzing existing resource data. The Natural Resource Information System would greatly reduce these conflicts.

Duplication of resource data collection is no doubt often a problem. The fact that the NRIS would prevent these duplications should, it appears, help pay for the cost of operating the system.

The Natural Resource Information System and Natural Heritage Program, through the identification of existing gaps, will allow Montana to expand its resource data base. This will help the state to develop a comprehensive resource management strategy, which would be in the best interests of all concerned.

Walleyes Unlimited of Montana supports these programs.

Scott Ross
Executive Director



MISSOURI RIVER CHAPTER • ~~PO BOX 926~~ • HELENA, MT 59624

344 CLANCY ST.

Ex. 13
P. 21
2/22

February 8, 1985

The Montana Legislature
State Capitol
Helena, Montana

To the Members of the Forty-Ninth Montana Legislature:

The Montana State Council of Trout Unlimited would like to go on record in support of the Montana Natural Heritage Program and Natural Resource Information System.

This is an effort that will not only save money and time in both the public and private sectors, but will encourage the wise long-term use of Montana's resource base.

The quality and availability of this kind of natural resource data will better ensure wise protection and development decisions and decrease conflicts over resource choices.

We believe the Heritage-NRIS Program is an essential and long-overdue tool for better resource decisionmaking in Montana. The Montana State Council of Trout Unlimited therefore encourages the Montana Legislature to grant full funding to this important effort.

Sincerely,

Pete Test
Chairman
Montana State Council, Trout Unlimited



AFFILIATED WITH NATIONAL TROUT UNLIMITED
AND THE FEDERATION OF FLY FISHERMEN

Ex. 13

P. 22

2/2

NATURAL HERITAGE PROGRAM AND NATURAL RESOURCE INFORMATION SYSTEM
TESTIMONY

REPRESENTATIVE DAVE BROWN
House Natural Resources Committee
22 February 1985

I sponsored HB 785 in the '83 session, which set the ground work for the Natural Heritage Program and the Natural Resource Information System, because I think the systems will encourage sound economic development while assuring Montanans a quality longterm resource base. We've wasted a lot of state government and private sector money by duplicating resource data for each EIS carried out. And in many cases we're operating in the dark about development siting impacts because we lack the kind of basic knowledge Heritage and NRIS would provide.

In addition, a great deal of time and money are wasted on conflicts over resource development that potentially could be avoided with the type of clear resource data Heritage and NRIS will give us.

It is essential for business and industry to support this issue to get it through the legislature this session. I believe it will aid industry directly in terms of cash benefits, which Gene Phillips from Pacific, Power and Light will now speak about.

Kemp

Ex. 13
p. 23
2/22

NATURAL HERITAGE PROGRAM AND NATURAL RESOURCE INFORMATION SYSTEM
TESTIMONY
22 February 1985
Statement of Gene Phillips, Pacific Power & Light

I testified last session in support of this bill, because I believe it will save a great deal of time and money to any industry that must provide EISs. Let me give you a few examples of this.

In Washington state's fourth year of its Heritage program, 248 requests for input on EISs were handled. The state estimates that this represents a savings of about \$496,000 for this one year alone. Although the savings were shared by the public and private sectors, Bob Robinson, head of the Energy Division of Montana's DNRC, believes that most of the direct dollar savings were realized by industry.

What about those other savings that are more difficult to put a dollar figure on? In the Washington state program, an oil pipeline was planned for a route that would have destroyed one of the few remaining populations of two rare plants and a rare prairie community. When the project planners checked with the Heritage program in the state, they decided to reroute the pipeline, and eventually the area was acquired as a natural preserve. With no litigation, little money spent by anyone, and no projects postponed, the exemplary area remains intact and the company is happy.

In short, once a Natural Heritage Program is established, the public and private sector in Montana will have access to a state-of-the-art coordinated natural resource data system - at a cost of about 17¢ per year per citizen. And the private sector will have a means by which to speed up the environmental review process and reduce its own costs.



EX. 13
P. 24
2/27

Post Office Box 132
Helena, Montana 59624
Phone (406) 443-7297

OFFICERS

President

ROGER RICE
Western Energy
16 E. Granite
Butte, MT 59701

1st Vice President

W. J. McCAIG
W. R. Grace & Co.
P.O. Box 609
Libby, MT 59923

2nd Vice President

TAD DALE
Pfizer, Inc.
P.O. Box 1147
Dillon, MT 59725

Treasurer

FRANK GARDNER
Anaconda Minerals Co.
P.O. Box 689
Butte, MT 59701

Secretary

JIM SMOLIK
Golden Sunlight Mine
P.O. Box 678
Whitehall, MT 59759

Chapter Liaison Officer

DON LAWSON
1033 Homet St.
Butte, MT 59701

DIRECTORS

J. P. BINGHAM
ASARCO, Inc.
P.O. Box 868
Troy, MT 59735

JOHN F. BELL
Park County Chapter
P.O. Box 713
Livingston, MT 59047

JOE R. DEWEY
Millwater PGM Resources
Star Route #2 Box 365
Nye, MT 59061

ROBERT JOB
Missoula Chapter
Route 2, Harper Bridge Rd.
Missoula, MT 59801

FRED EARLL
Silver Bow Chapter
2044 Gaylord
Butte, MT 59701

WARD E. "JACK" LONG
AID President
P.O. Box 5508
Missoula, MT 59802

DUANE L. REBER
Montana Barite
P.O. Box 3296
Missoula, MT 59806

RALPH HUCKABA
Beaverhead Madison
Jefferson
P.O. Box 336
Whitehall, MT 59759

WARD SHANAHAN
P.O. Box 1715
Helena, MT 59624

EXECUTIVE DIRECTOR

GARY LANGLEY
P.O. Box 132
Helena, MT 59624

February 22, 1985

Rep. Dave Brown
State Capitol Bldg.,
Capitol Station
Helena, MT 59620

Re: House Bill 860

Dear Rep. Brown:

The Montana Mining Association wishes to go on record in full support of House Bill 860, which will implement the Natural Resource Information System and the Natural Heritage Program.

We believe House Bill 860 offers a sound approach to gathering and storing information and will assist the mining industry solve potential environmental problems.

Sincerely yours,

Gary A. Langley
Gary A. Langley
Executive Director

GAL/ld

cc: Members of the House Natural Resources Committee

BURLINGTON NORTHERN INC.

Ex. 13
p. 25
2/22

JOHN N. ETCHART
Vice President

February 22, 1985

Representative Dave Brown
Capitol Station
Helena, MT 59620

Dear Representative Brown:

On behalf of Burlington Northern Inc., I write to express support for the efforts of those involved in proposing the Natural Resource Information System for Montana.

Natural resources are an important part of Montana's economy and they play a big role in the activities of our subsidiaries. The information we would obtain from the inventory would help us develop the natural resources on our properties in such a way that we minimize the impact on the natural environment.

A comprehensive data base of resource information as would be organized in this system would be helpful to any entity, public or private, that must file Environmental Impact Statements in the administration of their organization.

Sincerely,



Mary Faye LaFaver
Executive Assistant

The Natural Heritage and Natural Resource Information System Program

The Heritage-NRIS Program will provide readily accessible information on the state's natural resources, and identify the significant natural features in Montana. Information on natural resources will be gathered through a careful review of the existing data collected by state and private agencies. The data will remain at the respective agencies, but there will be a centralized catalog and index to provide access to the available information. A systematic inventory of the state's unique and significant natural features will augment this index and be the major objective of the program.

Development and protection of Montana's natural resources, including minerals, forests, water, agriculture and wildlands, wildlife, and unique ecological areas requires careful planning. The Heritage-NRIS program will contribute to responsible, long-range resource planning by providing accurate and organized information to public and private planners, and to Montana's citizens.

In 1983 the Legislature established the Natural Heritage-NRIS Program, without funding, and set up an interim committee to study the need for the program. The committee, composed of representatives from 12 state agencies, endorsed the program and recommended that the State Library administer it.

The State Library is an information facility and already has a cataloging system in place for this kind of information storage. The Library is also a politically neutral facility: its role is to give out information without judging it.

FUNDING

For the first biennium, the Heritage-NRIS Program will require \$452,639 for full implementation. The primary funding source targeted is the proposed Governor's Natural Resource Legacy Program. The Legacy Program would be a fund of interest income from the Resource Indemnity Trust Fund. The Heritage-NRIS Program successfully meets the Legacy funding criteria by:

- * protecting the state's renewable resources from future unplanned resource development; and
- * providing for research to assess past or present environmental damage resulting from natural resource development.

THE PROGRAM IN OPERATION

The Heritage Program has been established in ⁴³34 states and regions in the last decade. In these states the program has assisted in well-planned development by:

- * providing reliable resource information at early stages of development planning;
- * preventing duplication of data gathering, such as when two agencies look at a resource area for different purposes;
- * streamlining the environmental review process;
- * identifying gaps in the resource data base, and allowing well-planned research to fill these gaps.

SUCCESS IN OTHER STATES

In 1981, in its 4th year of operation, the Washington State Heritage Program processed 804 information requests. These included 248 requests for input on Environmental Impact Statements. Agencies using the Heritage Program for this process reported savings of \$500 to \$5000 per request. This represented a savings of \$496,000 to state, local, federal and private agencies.

In many states the Program has resulted in the delisting of rare and endangered species which are not really rare but whose whereabouts are simply unknown. For example, in Wyoming, the Heritage Program has been able to reduce the list of rare plant species from 37 to 6, by gathering more data on distribution and abundance.

A Unique Program to Build Montana Better

WHO USES THE PROGRAM

A wide range of public and private groups use the Heritage Program. Here are examples of users in other states:

Industry and Business

Pacific Gas & Electric
Arkansas Power & Light
Exxon
El Paso (BNI subsidiary)

Cole Engineers
Carolina Power & Light
Espey, Huston & Assoc. Engineering
W.R. Grace

Government

Bonneville Power Administration
Bureau of Land Management
Fish and Game Department

Department of Natural Resources
State Energy Facility Site
Evaluation Council

Citizens Groups

The Nature Conservancy

National Audubon Society

HERITAGE: BENEFITTING MONTANA

- * In 1983 more than 150 environmental reviews were conducted by state and federal government in Montana as part of the permit application process for development projects. These reviews regularly include such projects as:

Mining
Oil and gas exploration
Energy facilities
Transmission lines
Highway construction
Forest plans

Pesticide use
Pipelines
Air & water pollution discharge
Solid & hazardous waste disposal
Subdivisions

The Heritage-NRIS Program can save both public and private planners time and money by coordinating existing resource data files, and making this information readily accessible.

- * Corridor analysis and environmental impact statements under the Montana Major Facility Siting Act are often hampered by lack of accessibility to all the data sources for the areas of concern. This results in excessive costs to state and private industry in both time and money. The Heritage Program would make this kind of information more accessible.
- * Montana does not have an inventory of the state's significant natural features. The Heritage Program will supply this inventory, and point out areas of potential development conflict before much planning, time and effort have gone into a project. The Program can save planners money by providing this "early warning device".
- * Resource information will be available to small groups and businesses who may not have the financial resources to hire specialists to collect this information.

MONTANA SUPPORTERS OF THE PROGRAM

Industry and Business

Pacific Power and Light
MT International Trade Commission
Montana Mining Association

ASARCO
Montana Coal Council
Montana Power
Burlington Northern

Government

Governor's Council on Economic Development
University System
Department of Fish, Wildlife and Parks
Department of Administration
State Library

Governor's Council on Management
Department of State Lands
Department of Highways
Environmental Quality Council
Dept. of Agriculture

Citizens Groups

Montana Wildlife Federation
Montana Audubon Council
Montana Bow Hunters Association
Montana Walleyes Unlimited
Farmer's Union

Montana Association of Planners
Montana Guides and Outfitters
Association
The Nature Conservancy

Montana Audubon Council
Testimony on HB 860
February 22, 1985

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Council.

The Council supports the establishment of a Natural Heritage Program and Natural Resource Information System in the State Library.

At this time I wish to address the importance of a Natural Heritage Program to Montana.

A popular phrase used this session is "Build Montana." Economic growth is certainly important to the state. Montana citizens are also keenly aware that this is a special state to live in - and we want to keep it that way.

The Heritage Program will be an important step towards "building Montana." It will provide us with a catalog of information on our unique flora, fauna, and biological communities. With such a system in place, it will be possible to keep tabs on our unique natural heritage - hence keeping Montana special.

The program helps build Montana by avoiding the time and money spent on project delays and litigation. Numerous states, industries and conservationists have hailed this program because it helps us develop our resources responsibly - a little planning through a Natural Heritage Program goes a long way.

HB 860 is important because it will enable this program to get started if and when funds become available. Our research has identified several potential sources of revenue to get this program started.

We also support the placement of this program in the State Library. As a politically neutral environment as well as a place that handles the cataloging of information daily, the library is a good choice for this program's location.

The Audubon Council feels that HB 860 is definitely a step forward. We hope that you recommend a "DO PASS" on this bill.

Thank you.

EXHIBIT 15
2/22/85

MONTANA MINERAL LEGACY PROGRAM
PROJECTED FUNDING AVAILABLE FOR 1986-87 BIENNIUM

Resource Indemnity Trust Fund
—Total interest earnings

HB 913

\$13.52 million

Earmarked Coal Severance Tax Revenues

—2½% of coal tax revenues

(half of this 2½% is now allocated to water development;
the other half is now allocated to RRD program)

\$ 2.53 million

TOTAL FUNDS AVAILABLE: \$16.05 million

Possible Allocation Scenario under Montana Mineral Legacy Program

Proposed Changes

37.7%	Water Development Program.	\$ 6.02 million
37.7%	Mineral Reclamation and Research Program . . .	6.02 million
15%	Renewable Resource Development Program	2.41 million
10%	Hazardous Waste Management Program	1.60 million
	TOTAL	<u>\$16.05 million</u>

Projected Funding Levels 1986-87 under Current Law

Water Development Projects.	\$ 5.83 million
(1.25% coal tax earmark, plus 40% of 1.25% of RRD coal tax earmark, plus 30% RIT interest earmark)	
Renewable Resource Projects	0.76 million
(60% of 1.25% coal tax earmark)	
Hazardous Waste Management Program.	0.81 million
(6% earmark of RIT interest)	
Unallocated funds	8.65 million
(64% of RIT interest)	
TOTAL	<u>\$16.05 million</u>

Legacy Program as Proposed in Senate Bill 277

Water Development Projects.	\$ 6.59 million
(current water development funds plus current RRD funds)	
Renewable Resource Projects	(Compete for \$8.65MM legacy funds)
Mineral Reclamation Projects.	(Compete for \$8.65MM legacy funds)
Hazardous Waste Management Program	\$ 0.81 million
(plus recommended \$800,000 for haz. waste collection facility)	

NRSUB3: legacy work

Program 913

EXHIBIT

14

2/25/85

LOUISE KUNZ
MT. LOW INCOME COALITION
AZLENA

We appear in support of HB. 913.
Not only will it gives AREAS SUFFERING
FROM MINE DAMAGE THE OPPORTUNITY
TO CORRECT THAT DAMAGE BUT THE MONIES
FOR THESE CORRECTIVE EFFORTS CAN DO
DOUBLE DUTY IF, IN THE INTENT OF THE BILL,
IT BE MADE CLEAR THAT THE PORTIONS OF THE MONIES
IN THIS BILL THAT WILL BE USED FOR HIRING
HAVE AN AMOUNT EARMARKED ESPECIALLY FOR THE
HIRING OF THE LONG UNEMPLOYED, THE LOW INCOME. THIS
PARTNERSHIP OF BILLS CAN GO A LONG WAY
TOWARD THE SOLUTION OF THE SOCIAL NEEDS
PROBLEMS IN THIS STATE, ESPECIALLY THE
NEEDS BEING CREATED BY THE IMMORAL
LIMITATIONS OF THE NEW GENERAL ASSISTANCE
BILL.



Montana Association Of Conservation Districts

EXHIBIT 17

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

TO: The Honorable Dennis Iverson, Chairman
House Natural Resources Committee

TESTIMONY ON HB 913, ESTABLISHING THE MONTANA MINERAL LEGACY PROGRAM

Mr. Chairman, we rise in opposition to HB 913 because of how soil and water conservation projects and the funding amount for such projects are identified on page 8. We do not feel that the category explanation in Section 7, page 8 line 20 and 21 properly addresses soil and water conservation projects.

The Association would like to suggest an amendment on page 8 line 20; strike 15% and insert 25%; on line 21 after projects insert sound soil and water conservation, weed control and other restoration programs.

Mr Chairman, the reason we feel that this change is needed is that conservation districts alone have applied for \$824,000 from the RRD program and \$2.8 million from the Legacy Program. Granted some of these applications will not receive funding because of the type of project. It does, however, show that there is a definite need. Also, from this category others will be applying for renewable resource type projects.

Thank you for your consideration of this amendment.

(This sheet to be used by those testifying on a bill.)

HB 913

EXHIBIT 18

NAME: K.M. Kelly DATE: 2/22/85

ADDRESS: Helena

PHONE: 458-5861

REPRESENTING WHOM? Montana Water Development Assn.

APPEARING ON WHICH PROPOSAL: HB 913

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENT: The Montana Water Development Assn. strongly supports
our current water development program and its source
of funding.

We strongly oppose any change in our
earmarked funds from the RIF funds.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT
19
2/22

DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT DIVISION

TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING—ROOM C 211
CAPITOL STATION



STATE OF MONTANA

(406) 444-3757

HELENA, MONTANA 59620

MEMORANDUM

TO: Representative Dennis Iverson, Chairman
House Committee on Natural Resources

FROM: Carol Ferguson, Administrative Officer
Hard-Rock Mining Impact Board

DATE: February 22, 1985

RE: HB912

1. On pages 1 and 2, Section 1, amending Section 2-15-1822(1), MCA:

The Hard-Rock Mining Impact Board would like to thank EQC and the members of this committee for the inclusion of the amendments in Section 1 which should ensure that a person appointed to the Hard-Rock Mining Impact Board will be entitled to serve out the term of that appointment as intended at the time of appointment.

2. On page 12, Section 5, amending sub-section 90-6-307(8), MCA:

At the Hard-Rock Mining Impact Board meeting on February 15 the Board said that both the developer and the affected local government should notify the Board of payments made and received in compliance with an impact plan. This is of concern because the Act requires the Board to notify Department of State Lands of any failure by the developer to comply with the approved plan. The matter of requiring notification could be easily addressed as follows:

line 22:

following: "fund"

```
delete: "and"
```

insert: ". The developer and the affected governing body"

following: "shall"

```
insert: "each"
```

Beginning on line 20 the two sentences would then read:

"The governing body of a local government unit receiving payments shall deposit the payments into an impact fund. The developer and the affected governing body shall each issue to the board written verification of each payment and its intended use in compliance with the impact plan."

Ex. 19
p 2

2/22

3. Page 14, Section 5, Section 90-6-307(12):

The Board felt strongly that the ability to grant a "conditional waiver" as provided for in lines 4 and 5 is important to the new responsibilities given them under this sub-section.

Upon reviewing the bill, as it became available subsequent to the Board meeting, I would suggest that a possible mis-interpretation of the sub-section could be prevented by inserting the following language in line 9:

Line 9

following: "revoked"

insert: "as provided in the conditional waiver or"

This would ensure that the reference to the 75 employees would itself not be interpreted as defining the sole authorized condition of a waiver. It would make clear that the 75 employees relates to any waiver and that a conditional waiver is a separate item.

EXHIBIT

19
2/22

DEPARTMENT OF COMMERCE
COMMUNITY DEVELOPMENT DIVISION



TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING—ROOM C 211
CAPITOL STATION

STATE OF MONTANA

(406) 444-3757

HELENA, MONTANA 59620

MEMORANDUM

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House Committee on Natural Resources

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Hard-Rock Mining Impact Board

DATE: February 22, 1985

RE: HB912

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line 22:
following: "fund"
delete: "and"
insert: ". The developer and the affected governing body"
following: "shall"
insert: "each"

Beginning on line 20 the two sentences would then read:

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Ex. 19
p. 2
2/27

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Line 9

following: "revoked"

insert: "as provided in the conditional waiver or"

This would ensure that the reference to the 75 employees would itself not be interpreted as defining the sole authorized condition of a waiver. It would make clear that the 75 employees relates to any waiver and that a conditional waiver is a separate item.

TESTIMONY ON HOUSE BILL 912

FROM DENNIS HEMMER, COMMISSIONER OF STATE LANDS

Although the counties and the Hard Rock Impact Board review impact plans for sufficiency, the Department of State Lands through its reclamation permit review determines whether an operator is a hard rock mineral developer and is therefore required to file an impact plan.

From its perspective, State Lands perceives two problems with the Impact Act. First, the fifteen percent criterion is difficult to apply and is applied by the wrong agency. The Impact Board and the Department of Commerce, not State Lands, have the expertise in local government, demographics, and economics. To remedy this situation, State Lands and Commerce have signed a memorandum of understanding whereby Commerce advises State Lands on the fifteen percent determination. This is an imperfect solution because, if Commerce is wrong, State Lands loses the lawsuit.

The second problem is that the Impact Act does not indicate what State Lands should do when an operator that was not a major mineral developer when it obtained its reclamation permit reaches the 100 employee threshold. State Lands has been writing into the reclamation permit a stipulation that defers the question until the situation arises. Fortunately, it has not arisen.

House Bill 912 resolves the problems and ambiguities I have described. It eliminates the fifteen percent criterion. It grandfathers operations existing when the Impact Act was passed and gives relief to those operators who become major mineral developers after commencing operations.

State Lands commends the EQC, and especially Representative Brown, Senator Eck, Representative Lory, and Tad Dale, for their work and recommends approval of House Bill 912.

NAME Ward A. Shanahan BILL NO. House Bill 912
ADDRESS 301 1st National Bank Bldg., Helena, MT DATE February 22, 1985
WHOM DO YOU REPRESENT Chevron Resources/Stillwater Mining Co./Local Planners
SUPPORT _____ OPPOSE _____ AMEND xx

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Page 16, line 15 through line 18.

Following "operation."

Strike: line 15 through line 18 in their entirety

And as amended to recommend that House Bill 912 "Do Pass"

CHEVRON RESOURCES

By: 

Ward A. Shanahan

STILLWATER MINING COMPANY

By: 

L. A. Darling

LOCAL PLANNERS

By: 

Jim Richard

VISITORS' REGISTER

NATURAL RESOURCES COMMITTEE

BILL NO.

HB 913

DATE

2/22/85

SPONSOR

D. BROWN

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dan Dennehy	Butte - Silver Bow	✓	
Jeanne-Marie Sampney	Helena NPRE	✓	
Geo. OCHENSKI	HELENA - ENV. INF. CENTER	X	
Louise Kunz	MCI & Helena	X	
Steve Huntington	Butte Helena		X
Dave Brown	Butte-Silver Bow #172	X	
Mike Miesner	WETA	X	
Dat Wilson	Montco	X	
Dave Donaldson	MACD - Helena	X	X
May Welfert	Front Unhunted	✓	
Ann Humphrey	Helena	X	
Delores Barnaby	Helena	X	
Joel D Redding	Helena	X	
Karolynne C Redding	Helena	X	
Brenda Lewis	Helena	X	
Bill Lewis	Helena	X	
Lerna Leitzke	Helena	X	
Art Leitzke	Helena	X	
Wendy Kanaka	Helena	X	
Larry Weiner	MT UNIV STC	X	

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

Ross BrownNPREHelenaPLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

NATURAL RESOURCES COMMITTEEBILL NO. HB 912DATE 2/27/85SPONSOR D. BROWN

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Les Darling	Nye	X	
Carrie-Maria Souney	Helena - NPRC	X	
Geo. Ochenski	" " EIC	X	
Dave Brown	Butte-Silver Bow #472	X	
Mike Mucione	WEA	X	
Jim E. Rishon	E. Helena	✓	
Carol L. Ferguson	Clancy H.B.M. Impact Board	✓	
John F. ...	Helena	X	
Dennis Hemmer	Helena Dept of State Lands	✓	
Russ Brown	NPRC Helena	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

NATURAL RESOURCES COMMITTEEBILL NO. ~~860~~ 860DATE 2/22/05SPONSOR D. BROWN

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
T.M. Rollins	T Roy	✓	
Mike Trevor	Dept of Admin	✓	
Christine Tergrimson	Helena	✓	
Jeanne-Marie Turgeon	Helena NPRC	✓	
GEO. OCHENSKI	" " ENV. INF. CENTER	X	
Larry Weinberg	MT. Univ. Sys	✓	
Janet Ellis	MT Audubon Council	✓	
Dave Brown	Butte-Silver Bow #72	✓	
Michelle Munn	WETA	✓	
Pat Wilson	Montco/Thermal Energy	✓	
Tom Edzery	NERCC	✓	
Don Allen	Helena MT. Wood Products	✓	
Levi Perini	MT. Assoc./Pharm	✓	
Mary Wright	Trout Unlimited	✓	
Ann Humphrey	Helena - Mt. Audubon Council	X	
Brenda Schye	MONT. ARTS ADVOCACY	X	
Kara Lecker	State Secretary	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

NATURAL RESOURCES COMMITTEEBILL NO. HJR 35DATE 2/22/85SPONSOR D. BROWN

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Jack Sherick	BUTTE	X	
BILL BIRMINGHAM	BUTTE	X	
DAVE BROWN	BUTTE Silver Bm #172	X	
Mike Brown	WETA	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NATURAL RESOURCES COMMITTEE

DATE _____

DATE 2/22/85

SPONSOR BARDANOWE

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

NATURAL RESOURCES COMMITTEE

BILL NO.

HB 892

DATE

2/22/85

SPONSOR

Harper

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
CHRIS HUNTER	HELENA	X	
Donald R. Reichmuth	Bozeman	X	
GREG L. MUNTHER	MISSOULA	X	
Just Decker - Hess	Kalispell	X	
ARNE ROSQUIST	MISSOULA	X	
Mons Torgon	Helena		X
BILL ASHIP	Bozeman		X
LORENTS (GROSFIELD)	BIG TIMBER		X
Janet Ellis	Helena	X	
Nick Tricone	WEIA		X
Jon Allen	Mt. Wood Products		✓
May Worfel	Front Unlimited	✓	
Ann Humphrey	Mt. Audubon Council	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.