

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 20, 1985

The 25th meeting of the Business & Industry Committee met on February 20, 1985 in Room 410 of the Capitol Building at 10 a.m. The meeting was called to order by Chairman Mike Halligan.

ROLL CALL: All committee members were present except for Senator Neuman who was excused.

CONSIDERATION OF SENATE BILL 380: Senator Gene Thayer, Senate District 19, Great Falls presented this bill to fund moneys for the state centennial celebration in 1989. This will be used to attract tourism, conventions, etc. to the state. He also introduced some amendments which will make it possible to assess more than one acre should the committee decide to do so. This land will be sold by the square inch. (EXHIBIT 1)

PROPONENTS: Lieutenant Governor George Turman, explained that Senate Bill 380 is one of two measures before the Legislature to establish for fun and funding an appropriate administrative process for the centennial celebration. House Bill 873 establishes a centennial office and provides for the administration of the funding. He pointed out this is the foundation for a self-supporting statehood centennial proposal. (EXHIBIT 2) Jim Flynn, from the Department of Fish, Wildlife and Parks, appeared in support of Senate Bill 380. He felt the department has the expertise and the resources to help select a suitable acre and manage this land. A definite parcel has not yet been selected but a possible site might be near Three Forks at the Missouri Headwaters State Park. (EXHIBIT 3) Brenda Schye, from the Committee of the Montana Institute of the Arts Foundation, feels this is a wonderful way to celebrate our cultural heritage and they support the centennial plans. (EXHIBIT 4) John Etchart, Vice-President for Burlington Northern Affairs, would be happy also to donate a suitable acre if necessary for the project.

OPPONENTS: There were no opponents.

There were no questions from committee members. Senator Thayer closed the hearing on Senate Bill 380.

DISPOSITION OF SENATE BILL 380: Senator Fuller moved that the amendments proposed for Senate Bill 380 DO PASS. The motion carried. Senator Fuller then moved that Senate Bill 380 DO PASS AS AMENDED. The motion carried.

CONSIDERATION OF SENATE BILL 394: Senator J. D. Lynch, Senate District 34, Butte, is the chief sponsor of Senate Bill 394. He explained the reason why he was sponsoring this bill was because there are some possible hydro-electric projects in his county also and he feels it is a good business bill and a good government bill. He explained the Legislature in 1983 granted a special district extra territorial authority to develop hydro-electric districts outside of their boundaries. He says this was done without giving any voice to the counties that might be affected by these projects. He feels if you believe in state's rights you should also respect the counties rights as well. He explained the competition for the Tiber Dam project has focused on the Milk River Irrigation District and Montana Renewable Resources who both want to do the project. There is now a third party involved and this is Gillette, Wyoming. He submitted a letter that had been received from Alan Simpson, U.S. Senator from Wyoming, that indicates their interest. (EXHIBIT 5) He feels the counties need some protective rights and that this legislation is fair.

PROPOSERS: Clark Pyfer, a shareholder and member of Montana Renewable Resources, Inc. gave the committee a resolution which had just been passed by the County Commissioners of Liberty County. (EXHIBIT 6) He pointed out if they were to do the project that they as a private concern would pay taxes and others would not. He explained they have been working with the people on the hi-line and would like to work out a compromise with the Milk River Irrigation District. They are partners with the town of Chester in a joint venture to construct a hydro-electric facility below Tiber Dam. (EXHIBIT 7) Steve Brown, representing Montana Renewable Resources, Inc. feels the 1983 legislation passed was a mistake. It was the first time ever that a district had the power to go out and take action in another area outside their own boundaries. When action is taken within the county local people have a voice but this denies them of that privilege. He voiced concern for the condemnation of land, loss of tax base, rising crime rate, impact on schools, and on the community itself. The water rights when the project is done are turned over to the owner of the project and any sales of water or power are theirs which again adversely affects the county involved. He distributed a resolution that had been adopted by the Montana Association of Counties. (EXHIBIT 8) He feels too that this bill will protect existing irrigation districts, giving them priority rights to develop the waters in their districts. Senator Kolstad, Senate District 7, Chester, supports this bill and understands the concern of the people in his county. He voiced concern on the impact to Liberty County and felt they should have some say about their own destiny. Gordon Morris, Montana Association of Counties, explained the resolution was passed for Liberty County in particular.

OPPOSERS: Francis Gallagher, Attorney from Glasgow, representing the 8 irrigation districts in Milk River, opposes this bill. He

feels that the hybrid organization of Montana Renewable Resources with the city of Chester makes them unqualified to be applicants for this project. He feels that the measure will grant Liberty County "veto" power over any and all competing municipal applicants for hydro-power license of Tiber Dam in Liberty County. The project is very vital to their area because of the shortage of water. Over 1000 farmers are involved in irrigation in this area. They would like a favorable resolution developed between themselves and Liberty County but feel they cannot work with Chester and the Liberty County people unless they divorce themselves of the New York based, Montana Renewable Resources firm. (EXHIBIT 9) John Overcast, Vice-President of the Milk River Irrigation Districts of Malta, explained the past three years have been very difficult for them. Their only viable water resources are from Tiber Dam or from the Missouri River. He explained the costs of pumping water to their area without the use of the hydro-electric plant and the revenue it would project would be prohibitive. The water has been reserved for them since 1958. They need the revenue to help finance their irrigation diversion project. (EXHIBIT 10) Jerry Nypen, Manager of the Greenfields Irrigation District, Fairfield, opposes the bill because he feels they are not foreign entities and that the waters of the state can not be confined to counties. (EXHIBIT 11) Max Maddox, Chinook irrigator, wondered why it is being limited to just one type of construction, irrigation. He feels they are not trying to limit what is constructed but who and that Gillette, Wyoming will very likely be able to get the project. (EXHIBIT 12) R.A. Ellis, President of the Helena Valley Irrigation District, stated they have filed for a F.E.R.C. permit. He feels that irrigation districts are a political subdivision under the state and have nothing to do with the county commissioners. He stated the Canyon Ferry pumping station for their district is outside of their boundaries and they are still responsible for the maintenance of it. (EXHIBIT 13) Further opponents who did not get an opportunity to testify were Sen. Swede Hammond, Senate District 9, Rep. Ted Schye, House District 18, Glasgow, Stuart Doggett, Ken Kelly, Montana Water Development Association and Ron Schofield, Manager of the Helena Water Irrigation District. (EXHIBIT 14 & 15)

Questions were then called for. Senator Gage wondered why Gillette would be considered a proper applicant and was told by Francis Gallagher they were because they are a municipality. Senator Weeding wondered if this might come under the major facilities siting act and was told they thought not. Senator Williams asked if all 8 districts in Milk River were in favor of this project and was told they were. Senator Goodover wondered about the requirements to be an applicant and was told F.E.R.C. has decided that anyone who ties in with someone other than a municipality is considered a hybrid and loses municipal preference. Senator Halligan asked how federal law tied in and Steve Brown stated whether or not a municipality can apply for a F.E.R.C. license is solely state law. Steve Brown explained Montana Renewable Energy Resources and

Montana Renewable Energy Resources, Inc. together with the city of Chester, has a contractual agreement to build this project. He feels the territorial rights of a county are important. Senator Lynch stated in closing that the assumption of veto powers by the people in Liberty County is just not true. He would certainly not object to outside interests coming into the state and investing for our own benefit. The hearing was closed on Senate Bill 394.

CONSIDERATION OF SENATE BILL 353: Senator Ray Lybeck, Senate District 4, Kalispell, stated his bill would help provide preference to employee-owned enterprises for loans under the Montana In-State Investment Act. (EXHIBIT 16)

PROPONENTS: Bryon Roberts, Administrator of the Business Assistance Division of the Department of Commerce, explained they support this concept as an alternative to plant closings and helping to create additional jobs. This proposal would just add additional criteria to preference consideration of the coal tax loan program. He added these criteria would only be used if the number of loans exceeded the amount available. (EXHIBIT 17)

OPPONENTS: There were no opponents.

Questions were then called for. Senator Gage asked if by employee-owned it meant 51% or more of the stock. The current law is 51% he was told. Dale Harris was asked if they had developed any rules regarding preference and he said they had not. He felt the language of equality was important to note in the bill. Senator Goodover wondered about the interest rates and was told they would try to provide low-interest long term financing and the limits would be \$1 million. Senator Lybeck stated in closing that ten states have adopted this type of legislation to encourage employee-owned firms. These have been highly successful he felt. The hearing was closed on Senate Bill 353.

DISPOSITION OF SENATE BILL 403 and 413: Senator Goodover made a motion to TABLE both Senate Bill 403 and Senate Bill 413. The motion carried.

CONSIDERATION OF SENATE BILL 355: Senator Joe Mazurek, Senate District 23, Helena, has been asked by the Board of Realty Regulation to submit this bill to regulate the offering of sales of time shares. They feel there is a need for legislation because there is no real definition of law and any enforcement of such presently. It would just regulate the time share industry and provide that the sales be done by licensed agents, provide for registration of projects after disclosure, set advertising review requirements, give consumers a 7 day right of rescission and provide licensing and disciplinary procedures.

PROPONENTS: Lon Mitchell, Attorney for the Board of Realty

Regulations, drafted this legislation. He read a letter from John Dundas, a member of the board, who felt that time share legislation merits serious consideration to protect the public. He also submitted a letter from Robert Garrett in support. (EXHIBIT 18) He also noted that Brinton Markle from the Dept. of Commerce also wished to testify but was unable to be present. (EXHIBIT 19) Mr. Mitchell further stated they had looked at the legislation of thirty states before drafting this bill. They would like to have a seven day recision period and provide that all prizes be pre-approved. He felt the bill addresses a critical issue. David Lackman, supports this bill because he was a victim of the time share racket and feels the consumer needs protection. Terry Carmody, from the Montana Association of Realtors, stated for the record they are in support of some control and regulation of the time share properties.

OPPONENTS: Dr. William Hoopes, from Helena, stated he owns some time share condos and is very pleased with his purchase. He found the advertising to be truthful and was treated very fairly. Phil DeHaan, of East Helena, opposes the time share legislation. He received the gifts he was entitled to and was not harassed in any way. (EXHIBIT 20) Bill Wedgewood, of Helena, felt he too was treated well especially at Fairmont and feels that regulations would just cut down on the cooperative attitude that now prevails. Robert Minto, Attorney from Missoula, representing the Northwest Vacation Properties Council is against the proposed legislation. He submitted letters from two resorts in opposition. (EXHIBIT 21) He is not against responsible regulation of their industry but feels this bill is just too restrictive. He urged a do not pass. (EXHIBIT 22) Senator Bob Williams, Senate District 15, Hobson, spoke on behalf of the time share industry and related his personal experiences were very rewarding with his time share purchase. Rick Tucker, from the State Auditor's Office, does not object to regulation of the time share industry but felt the bill as drafted was just too restrictive and needs some consideration.

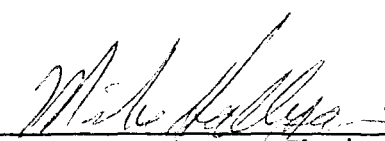
Questions were then called for. Senator Fuller asked Lon Mitchell, why they felt the need for the legislation and he said they had received several complaints and felt there was a need for this type of measure. Senator Thayer wondered if the prizes were distributed on a regional basis and how many actually received the bigger prizes. He was told they are on a regional basis but many many people have received such gifts as television sets, cordless phones, money etc. Rick Tucker noted that every complaint they have ever received has been promptly taken care of. Senator Gage wondered how much input they have received from the time share industry. Robert Minto had met with Lon Mitchell a couple of times. Senator Weeding asked Robert Minto if he felt the legislation was too oppressive and he stated he felt it would make it a misdemeanor if a misrepresentation were made. The issues are complex and would require some time for consideration. Senator Halligan asked Lon Mitchell if they had the resources in their

budget to do the sort of analysis they are proposing and Mr. Mitchell felt that they did. Senator Mazurek distributed a statement of intent for his bill. (EXHIBIT 24) In closing he felt there is a need for time share legislation. He felt the people need to at least be aware of what a time share is and the problems they may incur. He was disappointed that Mr. McKenna from Lewistown was not here to testify on behalf of the legislation. He had some reservations about the bill but realized there was not much time left to make many changes or amendments at this point. He hopes they can come back next session with legislation in an area he feels is needed. He closed the hearing on Senate Bill 355.

DISPOSITION OF SENATE BILL 404: Senator Halligan informed the committee he had talked with Terry Carmody and some others about changing the time limit and that they do need this time in order to process and computerize the licensing procedure. He explained many licensing procedures have the same renewal date and this would be just to help stagger the workload. Senator Weeding made a motion to DO PASS Senate Bill 404. The motion carried.

DISPOSITION OF SENATE BILL 363: There were some amendments proposed by the attorney from Midland Implement. (EXHIBIT 25) Mary McCue felt that amendments 2,3 and 4 were appropriate but did not see the need for the first amendment proposed. Senator Thayer then moved that amendments 2,3 and 4 DO PASS. The motion carried. Senator Thayer then moved that Senate Bill 363 DO PASS AS AMENDED. The motion carried.

The meeting was adjourned at 12:10 p.m.


Mike Halligan, Chairman

cd

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/20/85

SENATE
SENT
#

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman			X
Senator Thayer	X		
Senator Williams	X		
Senator Weeding	X		

Each day attach to minutes.

DATE FEBRUARY 20, 1985

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Mr. N. H. Hutchinson				
S. Dennis Thompson	Kootenai Lodge Club	SB 355		✓
LARRY A. CUMMINGS	Stoneridge	SB 355		✓
CINDY M. HARTLEY	Stoneridge	SB 355		✓
Don McLeod	Boone Realty	SB 355	✓	
Brian Markle	Dept. of Commerce	SB 355	✓	
BRENDA SCHYE	MONT. ARTS ADVOCACY	SB 380	✓	
RON SCHOFIELD	HELENA VALLEY IRR. DIST.	SB 394		✓
Francis G. Gorton	8 Milk River IRR Dist's	SB 394		✓
R. A. Ellis	Helena Valley Irrig. Dist.	SB 394		✓
JERRY LYNN	GREENFIELD IRR. DIST.	SB 394		✓
K. M. Kelly	MONT. WATER DEVELOPMENT ASSN. MONT. IRRIGATORS	SB 394		✓
ROBERT W. WINTO, JR.	N.W. VACATION PROP. COUNCIL	SB 355		✓
Tom Daubert	Nat'l Renewable Resources, Inc	SB 394	✓	
NORMAN BARNES	DNRC	SB 394		
DON HYPPER SB 380	DFWP	SB 380	✓	
Walter Daggert	Mt. Association of State Grazing Districts	SB 394		✓
W. Hoopes	Big Sky Time Share.	355		
FAY STOKES	Doddridge County Canal & Res.	394		✓
Bill Smith	SELF	355		✓
Small - Cullick	"	SB 394		✓
David Lockman	"	355	✓	
Dick Kumpel	East Bonanza Irrig. Distr.	SB 394		✓
Clark - [unclear]	Montana Renewable Resources	SB 394	✓	
Cheryl [unclear]	Self	SB 355		✓
AL "Bert" Tucker	State Auditor	SB 355		✓

11. <https://doi.org/10.1016/j.jmb.2019.05.005> (2019).

VISITORS' REGISTER

[illegible]

Amendments to SB 380

1. Title, line 8.

Following: "THE"

Insert: "DESIGNATION OF STATE LAND OF THE DEPARTMENT OF FISH,
WILDLIFE, AND PARKS AND"

Strike: "A DONATION OF 1 ACRE"

Insert: "DONATIONS"

2. Title, line 9.

Following: "FROM"

Strike: "A"

Following: "PRIVATE"

Strike: "DONOR"

Insert: "DONORS"

3. Page 1, line 18.

Following: "through"

Insert: "designation or"

Strike: "1 acre of"

4. Page 2.

Following: line 3

Insert: "(3) "Centennial acre" means one or more separate
parcels of land of about 1 acre located in Montana that are
acquired by donation from a private source or designated
land owned by the state. If there is more than one
centennial acre, each separate parcel is to be designated by
the office as a particular centennial acre, such as "the
agricultural centennial acre" or "the mountain centennial
acre."

5. Page 2, line 4.

Strike: "Donation"

Insert: "Source"

6. Page 2, line 5.

Following: "(1)"

Insert: "(a) The department may designate 1 or more acres of
land to which it has title as a centennial acre. (b)"

7. Page 2, line 6.

Following: "to 1"

Strike: "acre"

Insert: "or more acres"

8. Page 2, line 8.

Following: "with"

Strike: "the"

Insert: "each"

9. Page 2, lines 9 and 10.

Strike: "The acre of land shall be known as the centennial acre.
The"

Insert: "A"

10. Page 2, line 12.

Following: "land."

Strike: "The"

Insert: "A"



State of Montana
Office of The Lieutenant Governor
Helena 59620
(406)444-3111

EXHIBIT 2
BUSINESS & INDUSTRY
February 20, 1985

GEORGE TURMAN
LIEUTENANT GOVERNOR

Testimony of Lt. Governor George Turman Before Senate Business and
Industry Committee in Behalf of Senate Bill 380,
Wednesday, February 20, 1985

It is a pleasure to appear with Senator Thayer in support of Senate
Bill 380 (SB 380).

Members of the committee, you received at the end of last week
under a transmittal letter from Governor Schwinden, a "Report in
Response to SJR 21/1983," and a publication entitled, "A Centennial
Sampler." If you have had an opportunity to review that material, you
know from it, as well as from your own experiences, that interest in the
celebration of Montana's Statehood Centennial is keen and many proposals
respecting the celebration already have been advanced.

SB 380 is one of two measures submitted to the Legislature by the
Administration for the purposes of establishing and funding an
appropriate centennial administrative process. This measure is
presented for fun and funding. The companion measure, House Bill 873
(HB 873) establishes a Centennial Office, an advisory Commission, and it
provides for the appropriation to Centennial purposes of funds which may
become available to the Centennial Office, including those derived from
SB 380.

The "Centennial acres" proposal was developed by the Interagency
Task Force on Centennial Planning which has been meeting during the
interim. This novel idea is intended to capitalize on a variety of
circumstances and interests.

At this stage, we contemplate the production of handsome deeds to
square inches of Montana. These would entitle the owners, figuratively,
to the riches of the Treasure State--the enjoyment of our resources of
space, clean air and water, scenic grandeur and extraordinary
recreational opportunities. In a grander sense, purchase of an interest
in the Centennial acre could be regarded as an investment in "the last
of what is best in America." Of course, the qualifications and
limitations as set out in the enabling legislation also would appear in
the deed.

Because a number of attractive situations are available for
consideration as "Centennial acres" none is specified in this
legislation. However, we do have criteria in mind and those will be
identified in the testimony of Mr. Flynn, Director of the Department of
Fish, Wildlife and Parks. In any case, the "Centennial acre" or "acres"
will be representative of the state and should have considerable appeal.
For example, we can imagine Montanans giving the deeds as gifts. We can
imagine others responding to the "having a piece of the rock" syndrome.
Those interested in our history and traditions would enjoy a

"substantial" holding in them. Deeds would be meaningful presentations to visiting dignitaries and honorees. And the citizens of our sister-state in Japan, Kumamoto, might enjoy the special identification attached to a measure of ownership. The market potential is limited only by our imaginations.

For emphasis, I would point out again that this is the foundation of a self-supporting statehood centennial administrative proposal. It is flexible in order to allow for whatever levels of success are realized in the marketing of deeds to inches of the acre.

The potential for fund raising obviously is significant (testimony as to the number of square inches in an acres will follow.) However, the process is conservative. Assuming enactment of both of the bills which have been proposed, there will be a responsible centennial office, and advisory commission and, of course, accountability for funds from any sources. Additionally, it should be noted that the process will be open to your review, refinement or modification in the legislative session of 1987.

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

NAME: GEORGE TURMAN DATE: 2/20/85

ADDRESS: CAPITOL

PHONE: 444 3111

REPRESENTING WHOM? STATE

APPEARING ON WHICH PROPOSAL: SB 380

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE BILL 380

Presented by Jim Flynn, Department of Fish, Wildlife and Parks

February 20, 1985

The Department supports the passage of Senate Bill 380.

We would be proud to have the State Park System associated with the celebration of Montana's centennial as prescribed by the legislation. We have the expertise and the resources to help select the Centennial Acre and to manage it up to and beyond the centennial year.

Criteria being considered for selecting an appropriate parcel should include:

- A strong association with Montana's history;
- Qualities which reflect Montana's rich, natural heritage; and
- Accessibility.

Additionally, if a parcel were selected in or adjacent to an existing State Park System site, proper maintenance would be assured; visitors would have a rich and varied experience and be provided with convenience facilities such as restrooms, picnic areas, campgrounds, and fishing or boating opportunities for example.

All of these costs would be significantly greater if an isolated single acre were selected. In that case, perhaps additional road access and a parking area, as well as fencing, and other improvements might be necessary.

A parcel has not been selected but the Missouri Headwaters State Park near Three Forks meets these criteria as would other sites if a suitable Acre is available nearby.

We support the amendment offered by Senator Thayer. Some State Park System land, for example, could be used without violating State statutes or conflicting with other constraints and would allow more flexibility in finding suitable sites.

In summary, we believe this innovative legislation is an appropriate way to raise money in support of Montana's Centennial celebration. It offers an exciting opportunity for people across the country to participate in that celebration and acquire something unique--a symbolic share in Montana and its history.

Thank you, Mr. Chairman.

Montana Arts Advocacy

committee of the Montana Institute of the Arts Foundation

TESTIMONY OF BRENDA SCHYE ON SB 380
Feb 20, 1985
SENATE BUSINESS AND INDUSTRY COMMITTEE

I represent the Montana Arts Advocacy, a cross-section of Montanans who are committed to the development of our state's cultural resources.

Montana has a rich multi-cultural heritage of which her residents are very proud. Marking the 100th birthday of our statehood will certainly be cause for celebration, and this bill provides a creative vehicle for financing that observance. At the same time, it provides an opportunity for us to share pride of ownership with our friends in other states, giving them a vested interest in the future of this great state.

Although the specific activities which would be funded are not yet determined, we have confidence that once the centennial planning is set in motion, the citizens of Montana will generate a multitude of innovative ideas for celebrating our heritage.

We urge your support of SB 380.

K. Paul Stahl—Helena
James Poor—Great Falls
Mary Hudspeth—Glendive
Charles Tooley—Billings
Eric Myhre—Helena

Donna Gray—Pray
B.J. Hawkins—White Sulphur Springs
Claudette Morton—Helena
Reed Robinson—Missoula
Deborah Schlesinger—Helena

Sydney Sonneborn—Miles City
C. Karen Stanton—Hardin
J.D. Holmes—Helena
John Koch—Miles City
Joan Hendricks—Executive Secretary-Billings

FIELD OFFICES
Casper: 261-2172
Cheyenne: 772-2477
Cody: 527-7121
Gillette: 683-7091
Laramie: 745-5305
Rock Springs: 382-2075

United States Senate

WASHINGTON, D.C. 20510

January 8, 1985

ALAN K. SIMPSON, WYOMING

VETERANS AFFAIRS COMMITTEE
Chairman

JUDICIARY COMMITTEE
Chairman-Subcommittee on
Immigration and Refugee Policy

ENVIRONMENT AND PUBLIC WORKS COMMITTEE
Chairman-Subcommittee on
Nuclear Regulation

EXHIBIT 5
BUSINESS & INDUSTRY
February 20, 1985

Mr. Charles A. McManus, Director
Office of Congressional Affairs
Federal Energy Regulatory Commission
825 North Capitol Street, Room 9200
Washington, D.C. 20426

Dear Charles:

Enclosed is a copy of a letter I received from my constituent, H. A. Carter, Mayor of Gillette, Wyoming, concerning the FERC decision regarding a hydroelectric project.

I would like to ask that the situation outlined be carefully reviewed and that I be advised of your findings. Whatever information and assistance you can provide will be greatly appreciated. I look forward to your reply.

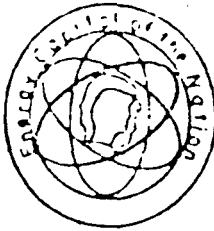
Best regards,

Sincerely

Alan K. Simpson
United States Senator

AKS/rl
Enclosure

ASSIGNMENT & COPY
1985 JAN 11 AM 10:00
REGULATORY
COMMISSION



City of Gillette

P. O. Box 3003 • Gillette, Wyoming 81403
Phone (307) 686-5000

JAN 7 1985

December 31, 1984

Senator Alan Simpson
6205 Dirksen Building
Washington, DC 20510

Dear Senator Simpson:

The City of Gillette, Wyoming is requesting your assistance in expediting a decision by the Federal Energy Regulatory Commission relating to its application to develop a hydroelectric project at a government dam. The City filed an application to develop a 15-MW hydro project at Lake Elwell, Tiber Dam in Montana with the FERC in February, 1983. There are other competing entities, but under the Federal Power Act, the City of Gillette is granted a preference in the issuance of a license for the project. Of the entities competing for the project, only the City of Gillette has an electric distribution system. The City would use the power from the Project in order to diversify its present power supply, which is primarily obtained from a private utility and supplemented by a small portion of federally-generated power.

It is national policy to encourage the development of clean, non-polluting electric generation sources like hydroelectric power. The project can be constructed fairly expeditiously once a license is issued. In a recent letter to FERC, the Montana Department of Fish, Wildlife, and Parks notified the FERC of measures it believed that Gillette and other competing entities should adopt in order to mitigate the adverse environmental consequences of power development. The City, by letter dated December 21, 1984, has consented to accept these mitigation measures if it receives a FERC license.

Finally, the City notes that the project would provide additional hydro resources to the region without the need to appropriate federal funds.

The site for this project has been under study for a number of years by the Bureau of Reclamation, and under study since early 1981 by a FERC applicant. The City believes that its project is sound, and that environmental considerations have been fully taken into effect. It is timely for the FERC to issue a license. The FERC has been noted for its long delays in issuing licenses, but the City believes that there is no need to delay a decision in this case inasmuch as the City has agreed to meet the environmental mitigation requirements, and it needs the power. Gillette is in the process of trying to re-arrange its power supply in order to provide the lowest-cost power for its customers over the long-term. Certainty as to the availability of the Tiber project would assist the City greatly.

Page 2

We would be pleased if you would communicate Gillette's concern to the FERC and would appreciate discussing this matter in more detail with you and your staff.

Sincerely,

A handwritten signature in cursive script, appearing to read "H.A. Carter".

H.A. Carter
Mayor

HAC/dja

RESOLUTION OF SUPPORT FOR SENATE BILL 394

BOARD OF COUNTY COMMISSIONERS
Liberty County, Montana

WHEREAS, Liberty County and the City of Chester have entered into an agreement with National Renewable Resources, Inc. for the development of a hydroelectric generation facility at Tiber Dam, which is located in Liberty County;

WHEREAS, the 1983 Montana Legislature granted irrigation districts the legal authority to develop hydroelectric generation facilities throughout Montana without the consent or approval of affected local governments;

WHEREAS, the Milk River Irrigators ("MILK RIVER") and the City of Gillette, Wyoming ("GILLETTE") have filed competing applications with FERC seeking a license to construct a hydroelectric generation facility at Tiber Dam;

WHEREAS, the MILK RIVER and GILLETTE applications were filed almost two years after the license application filed by National Renewable Resources, Inc., Liberty County and Chester;

WHEREAS, Liberty County is concerned that development of Tiber Dam and construction of associated facilities by foreign local government entities will occur without the review and concurrence of Liberty County;

WHEREAS, Liberty County is concerned that development of Tiber Dam and construction of associated facilities by foreign local government entities will cause adverse economic and environmental impacts in Liberty County without increasing public revenues to offset such adverse impacts;

WHEREAS, hydropower development and associated facilities constructed by foreign local government entities are not subject to taxation by Liberty County or the state of Montana;

WHEREAS, the Montana Association of Counties, at the request of Liberty County, adopted the attached resolution

supporting the concerns of Liberty County;

WHEREAS, Liberty County has requested the 1985 Montana Legislature to enact S.B. 394 requiring special districts, cities, counties, and other local government entities seeking to develop hydroelectric generation sites outside of their boundaries to obtain the approval of affected foreign counties;

WHEREAS, the Liberty County Commissioners are aware of the needs of the Milk River irrigation districts for increased irrigation water and that the continuing draught has adversely affected the farmers and ranchers who rely upon water from the Milk River irrigation districts;

WHEREAS, Liberty County desires to work with MILK RIVER in developing mutually agreeable solutions to the shortage of irrigation water in the Milk River drainage while avoiding the potential for serious environmental and economic impacts in Liberty County;

NOW, THEREFORE BE IT RESOLVED THAT:

1. The Liberty County Commissioners urge the 1985 Legislature to pass S.B. 394 and require special districts, counties, cities and other local government entities seeking to develop hydroelectric generation sites outside of their boundaries to obtain the approval of affected foreign counties.

2. The Liberty County Commissioners hereby invite MILK RIVER to participate in good faith discussions concerning possible joint development of the Tiber Dam hydroelectric generation facility and mutually acceptable solutions to the need for additional irrigation water in the Milk River drainage.

3. The Liberty County Commissioners hereby authorize a copy of this resolution to be forwarded to Liberty County's legislators with the formal request that the 1985 Legislature be advised of Liberty County's sincere and earnest desire to develop the hydroelectric potential of Tiber Dam in accordance

with the concerns expressed in this resolution and the irrigation needs of MILK RIVER.

DATED this _____ day of _____, 1985.

LIBERTY COUNTY COMMISSIONERS *

* THIS RESOLUTION WAS ADOPTED BY THE LIBERTY COUNTY COMMISSIONERS ON FEBRUARY 19, 1985. A COPY OF THE OFFICIAL RESOLUTION ADOPTED BY THE COMMISSIONERS WILL BE FORWARDED TO THE COMMITTEE.

MONTANA RENEWABLE RESOURCES, INC.

P.O. Box 162
Helena, MT 59624
406-442-0138

Board of Directors

President, John S. Cote (Butte)
Vice President, Leo Kraft (Havre)
Secretary, R. Stephen Browning (Helena)
Treasurer, S. Clark Pyfer (Helena)

J. Stanley Kimmitt (Washington, D.C.)
James P. Lucas (Miles City)
George McCarthy (Butte)
Ralph Nelles (Billings)
Rudy Tramelli (Great Falls)
Stanley Watkins (Shelby)

TESTIMONY BY S. CLARK PYFER
IN SUPPORT OF
SB 394
BEFORE THE
SENATE BUSINESS AND INDUSTRY COMMITTEE
FEBRUARY 20, 1985

Mr. Chairman and members of the Committee, I appear today to speak in support of Senate Bill 394. As a shareholder, Board member, and Treasurer, I represent Montana Renewable Resources Inc.

Montana Renewable Resources Inc. is a partner with Liberty County, the town of Chester, Montana, and National Renewable Resources Inc. in a joint venture to construct a hydroelectric facility below Tiber Dam at Lake Elwell, located in Liberty County.

In addition to our company, there are two other applicants before the Federal Energy Regulatory Commission to build a power plant at Tiber Dam. They are the town of Gillette, Wyoming, and seven irrigation districts operating on the Milk River.

A little background on the Tiber project may be helpful to you. To begin with, our joint venture was the first to file an application to build a project at Tiber Dam. Secondly, you should be aware of the fact that the Tiber Dam contains water from the Marias River, which is a part of the Missouri River drainage.

While my group is prepared to compromise with the other applicants to build a project at Tiber Dam, we do not believe that we have been treated fairly in this process. We are making a serious effort to negotiate with the Milk River Irrigators.

I would point out to the Committee that, of the three applicants to build a hydroelectric facility at Tiber Dam, ours is the only one that will pay taxes. I believe that this is an important fact for the Committee to keep in mind, because hydroelectric facilities are extremely capital intensive, and, except for the

labor involved in constructing such facilities, they offer relatively little in the way of value to a locality except for the potential tax revenue that they would yield for that locality. Thus, in a case where a hydroelectric facility would be owned and operated by a non-taxpaying entity, potential tax revenues would be lost.

For those of you who serve areas where a hydroelectric facility or other energy generating facility is owned by a private utility, you will know what an immense financial benefit it can be to a locality. Consider, if you will, what the financial loss would be to those localities if the facilities were owned by non-taxpaying entities. I would remind you, for example, to remember what problems were raised with the localities over which the BPA-Colstrip powerline traversed across Western Montana. This problem was diminished somewhat when BPA offered to make local payments in lieu of taxes to the localities.

We believe it is the inherent right of counties to have a role in overseeing development within their borders.

I would urge your support for this important piece of legislation.

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

NAME: Clark BYER DATE: 2/20/85

ADDRESS: Bx 752, E Helena, MT

PHONE: (227-6787) 442-5520 (OFF)

REPRESENTING WHOM? Montana Renewable Resources

APPEARING ON WHICH PROPOSAL: SB 394

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Montana Association of Counties

Resolution No. _____

WHEREAS, the 1983 Montana Legislature granted irrigation districts the legal authority to develop hydroelectric generation facilities throughout Montana without the consent of approval of affected local governments;

WHEREAS, Montana's counties are concerned that other special districts and governmental entities will seek legislative authority commensurate with the authority conferred on irrigation districts by the 1983 legislature and will otherwise seek to develop projects without the consent or approval of the affected counties;

WHEREAS, Montana's counties believe that the right to develop potential hydroelectric sites should be subject to county taxing powers and could generate needed electricity and revenue for Montana's counties;

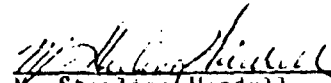
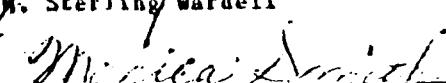
NOW THEREFORE, BE IT RESOLVED THAT:

1. The Montana Association of Counties opposes any attempt by the Montana Legislature to grant authority to special districts to develop hydroelectric projects without the consent and approval of the counties affected by the projects.

2. The Montana Association of Counties supports an amendment to existing Montana legislation, to require the consent and approval of affected counties, as a condition to the authority of special districts to develop and construct new hydroelectric projects.

Submitted this 9th day of May, 1984.

LIBERTY COUNTY COMMISSIONERS


W. Sterling Wardell

Monica Smith

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

NAME: Steve Brown DATE: 2/20/85

ADDRESS: 1313 Eleventh Ave., Helena

PHONE: 442-8711

REPRESENTING WHOM? Montana Renewable Resources, Inc.

APPEARING ON WHICH PROPOSAL: S. B. 394

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

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 8
BUSINESS & INDUSTRY
February 20, 1985

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

NAME: Francis Gallagher DATE: 2-20-85

ADDRESS: Box 512 Glasgow

PHONE: 228-9331

REPRESENTING WHOM? Eight Milk Plover IRR Districts

APPEARING ON WHICH PROPOSAL: SB 394

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

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 9
BUSINESS & INDUSTRY
February 20, 1985

GALLAGHER, ARCHAMBEAULT & KNIERIM

PROFESSIONAL CORPORATION - ATTORNEYS AT LAW

FRANCIS GALLAGHER
G. T. ARCHAMBEAULT
MATTHEW W. KNIERIM

605 3RD AVENUE SOUTH - BOX 512
GLASGOW, MONTANA 59230-0512
(406) 228-9331

February 16, 1985

Sen. Mike Halligan, Chairman
Business & Industry Committee
Capitol Station
Helena, MT 59601

Re: SB 394

Dear Senator Halligan:

This firm represents the eight irrigation districts along the Milk River in northern Montana.

For the past several years we have been in competition with the City of Gillette, Wyoming, and Montana Renewable Resources (which are partners with Liberty County and Chester, Montana) for a Federal Energy Regulatory Commission license to develop hydropower on Tiber Dam. Tiber Dam is located within Liberty County on the Marias River.

As you may be aware, the Federal Power Act grants a "municipal preference" to purely public applicants for hydropower licenses. Irrigation districts are considered "municipalities" under the Federal Power Act and under Montana law, the districts operate for the public benefit. F.E.R.C. has ruled a few years ago that public entities which lend their municipal status to private developers (such as Montana Renewable Resources) will not be accorded the municipal preference in license proceedings. A careful review of the record before F.E.R.C. shows that the Montana Renewable Resource/City of Chester/Liberty County application falls under this "hybrid" definition. Therefore, we believe the Liberty County/City of Chester/Montana Renewable Resource application will not be allowed a municipal preference and for this reason their license application will be legally inferior to either the Milk River Districts or the City of Gillette.

The Federal Energy Regulatory Commission has also ruled that all applicants for licenses under the Federal Power Act must be qualified to be in the hydro power business under the state law where the applicant lives. Thus, the Montana applicants must be qualified to be in the power business under Montana law before they may be eligible for a F.E.R.C. license.

Sen. Mike Halligan
February 16, 1985
Page 2

With this background information, I believe you can see why we are opposed to the adoption of SB 394. SB 394 seeks to grant Liberty County veto power over any and all competing municipal applicants for the hydro power license at Tiber Dam in Liberty County. The Town of Chester and Liberty County have squandered their municipal preference status before F.E.R.C. by virtue of their alliance with the New York based Montana Renewable Resources and its parent, National Renewable Resources. Having discovered the problem, they seek to pass SB 394 as special legislation to gain total control over the development of Tiber Dam.

The irrigation districts have had their application pending before F.E.R.C. for several years under the existing Montana law. Liberty County and Chester, along with the New York investors, now seek to change the rules to knock the irrigation districts completely out of the picture. The districts have spent several hundred thousand dollars of their farmer/member's money on engineers and lawyers to prosecute their application. In one fell swoop, SB 394 seeks to derail this investment of public monies to the advantage of a few people.

Just prior to this legislative session, we were advised that Montana Renewable Resources, and its New York parent, sold a small interest to a few Montanans as an investment and to assist politically MRR's efforts before the legislature. However, the primary benefactors of the MRR/Liberty County application remains Wall Street investors, and not Montana. By way of contrast, the irrigation districts have pledged any revenues from the power profits on Tiber Dam to the construction of additional water improvements so that more water can be diverted to the water-short Hi-Line.

We cannot overemphasize how important this project is to the future of Northern Montana. Without the benefits of the power project on Tiber Dam, we see little hope that the irrigators and small cities along the Milk River can afford the costs of getting additional water into the Milk River. We need only look at the general condition of the agricultural economy, the farm credit crisis, and the failures of our local PCAs to see that outside funding (sales from the power project) is necessary for the

Sen. Mike Halligan
February 16, 1985
Page 3

irrigators to proceed. Just the fact that the irrigators assessed themselves a couple of hundred thousand dollars to begin the F.E.R.C. process during these hard times is indicative of the priority and importance that they attach to this project. The several affected counties and cities, along with several hundred irrigators and their families, certainly do not expect their legislature to "deal them out" of the project by passage of SB 394.

Even without considering the "special legislation" aspects of the bill, it is bad legislation. The bill seeks to require ONLY municipal applicants, NOT private applicants, for power projects to obtain the consent of the "affected" county. We imagine that the bill's sponsors have no objection to other private developers moving in on a county's turf and taking away their local project.

This law also introduces a new concept into Montana law, the idea of a "foreign county". We do not believe that it would be healthy for the legislature to turn counties into little kingdoms with veto powers over the aspirations of other areas of the state. In the case of the Milk River districts, we do business all along the Milk River from Glacier Park (where our primary storage is located) to Nashua, and cross a dozen counties that arguably would be "affected" by our development plans. To obtain approvals for our various projects from all of them would be unworkable. This will undoubtedly lead to "balkanization" or regionalism on a grand scale with one part of the state taking advantage over the other. Those counties which are situated in areas having considerable hydropower potential would flourish under the proposed bill to the expense of those counties that were not blessed with potential.

We wish your committee to know that we have no objection to negotiating a favorable resolution to the controversy now before F.E.R.C. with Liberty County and the City of Chester, provided that they rid themselves of their New York partners. If we became allied with Liberty County/Chester along with their M.R.R. and N.R.R. partners, we would be subject to the same claim of a "hybrid status" before F.E.R.C. and lose our municipal preference as well. If we lose our preference, the unavoidable consequence is that the project will end up in the hands of Gillette, Wyoming, and no one in Montana will


Sen. Mike Halligan
February 16, 1985
Page 4

benefit. For your information, representatives of the districts have tried to sit down with the Liberty County Commissioners and representatives of the City of Chester to discuss this possibility, but Liberty County and Chester are insistant that they maintain their partnership with the New York developers. As long as this attitude exists, we see little or no hope of ever working a compromise with Liberty County and Chester.

We respectfully ask that your committee reject SB 394 or at the very least it should be amended to exclude those projects which currently have applications pending before F.E.R.C. I suggest that if this amendment were made, the present sponsors would quickly lose interest in SB 394.

Please call me if you or members of your committee have any questions.

Sincerely,


MATTHEW W. KNIERIM

MWK/ke

cc: Sever Enkerud
Members of Committee
Fay Seel
Ted Schye
Francis Bardonouve
Swede Hammond
Tom Keating

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

NAME: John D. Overcast DATE: 2/20/85

ADDRESS: R.R. 1, Box 13, Chinook, MT. 59523

PHONE: 406 357-4114

REPRESENTING WHOM? Milk River Irrigation Districts Directors Assoc.

APPEARING ON WHICH PROPOSAL: SB 394

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

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 10
BUSINESS & INDUSTRY
February 20, 1985

MILK RIVER IRRIGATION DISTRICTS

Box R

Malta, Montana 59538

Phone 654-1440

February 20, 1985

EXHIBIT 10

BUSINESS & INDUSTRY

February 20, 1985

RE:S.B. #394

Senator Mike Halligan, Chairman
Business & Industry Committee
Capitol Station
Helena, Montana 59601

Dear Senator Halligan and other Members of the Sub-Committee:

I am Sever Enkerud, President of the Glasgow Irrigation District and President of the Milk River Irrigation Districts, and represent close to 1,000 tax paying farm units along the Milk River Project, which covers an area from Havre to Nashua.

We wish to go on record against Senate Bill #394.

S. B. #394 is only to cover generation of electricity from a Water Development Project, ignoring all other types of generation such as coal fired plants, which would have much more of an impact on air quality and land uses.

What type of criteria would the County Commissioners be approving under this bill?

1. Is it the plant size?
2. Land area involved?
3. Or is it the different color of the water as it comes out of the plant?
4. Approval for what? Approval to construct, install and operate a hydro-plant is part of the Licensing procedure handled by the Federal Energy Regulatory Commission and requires approval of the State. Does this need to be duplicated by the County?

Why regulate only Municipalities and Irrigation Districts, when the money generated from a Hydro-Electric Project would be beneficial on the local level, keeping the profits in MONTANA and BUILDING MONTANA, whereas, the out of state financed Project takes the money away from the State, and they aren't even covered under this bill.

When the Districts build a plant and sell the power to a private utility, it will be taxed.

The Milk River Irrigators have invested about \$200,000. and have a license application pending before F.E.R.C. and this legislation tends to change the rules expost facto, disguised as a local control issue.

We also have letters opposing S. B. #394 from several counties and cities, and county commissioners, and wish to present them.

We recommend that you vote against Senate Bill #394, as it is a single interest bill and provides one more obstacle for developing the renewable energy in Montana.

Sincerely yours,

MILK RIVER IRRIGATION DISTRICTS

John D. Overcast
Vice President

Malta Irrigation District
Box R
Malta, Montana 59538

Dodson Irrigation District
Box R
Malta, Montana 59538

Alfalfa Valley Irrigation District
84 Third Street
Chinook, Montana 59523

Fort Belknap Irrigation District
Chinook, Montana 59523

Glasgow Irrigation District
Box R
Malta, Montana 59538

Paradise Valley Irrigation District
Box 827
Chinook, Montana 59523

Zurich Irrigation District
236 Indiana
Chinook, Montana 59523

Harlem Irrigation District
Harlem, Montana 59526

I appose S. B. 394.

Arthur Kleinjan
Box 1175
Chenook, Mt. 59523
Member of Blaine
County Board of
Commissioners

EXHIBIT 10
BUSINESS & INDUSTRY
February 20, 1985

GREENFIELDS IRRIGATION DISTRICT

P.O. Box 157 Phone (406) 467-2533

FAIRFIELD, MONTANA 59436

February 20, 1985

EXHIBIT 11
BUSINESS & INDUS
February 20, 1985

TO: Senate Business and Industry Committee

FROM: Jerry Nypen, Manager, Greenfields Irrigation District, Fairfield, Montana

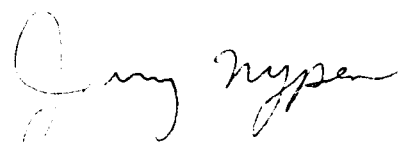
SUBJECT: Testimony concerning SB 394, county commissioner approval needed for
District pursuit of hydropower outside its jurisdictional boundaries.

Our irrigation district northwest of Great Falls, involving 83,000 acres and about 700 miles of waterways, was constructed prior to 1920. Part of the features of the District, similar to other irrigation districts, are mainstream and off-stream storage reservoirs and major canal structures, all potential hydropower sites. Our District (and all other districts) recognize this potential and are beginning to make application for development. Districts are looking at these uncapped resources as a way of protecting, developing and conserving our existing water resources. We all know too well that the recent drought in our State prompts us to implement measures which will preserve our worthy economies. Our consciences also tell us that we must preserve and conserve our precious resources. Hydropower is an avenue to provide the help we need.

Irrigation districts should have a priority for pursuing hydropower development in the State because of the benefits in water resource development and conservation which it would perpetuate. Instead, we see Senate Bill 394 which is an attempt to throttle or discourage irrigation districts from hydro-development, leaving it to others where State water resources and conservation benefits will not evolve.

Containing hydro-development within local governmental boundaries, which is what the bill advocates, makes no sense because State waters can no way be contained in these boundaries. Our project lies in three different counties. In fact one hydropower site could be constructed exactly on a county line. The Federal government, through the Federal Energy Regulatory Commission application process, has already established a fair way for all interested parties to compete for hydropower prospects. This bill only adds confusion in our State in exercising this process.

Please do not approve this bill and thank you for hearing this testimony.



G.O. Lynd

"Belief in State's rights"

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

NAME :

JERRY NYEN

DATE :

2/20/85

ADDRESS:

FAIRFIELD, MONT.

PHONE :

467-2533

REPRESENTING WHOM?

GREENFIELDS IRR. DIST.

APPEARING ON WHICH PROPOSAL:

SB 396

DO YOU :

SUPPORT?

AMEND?

OPPOSE?

COMMENT :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

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

NAME: Max Maddox DATE: 2/20/85

ADDRESS: Chinook, MT. 59523

PHONE: 406 - 357 - 2321

REPRESENTING WHOM? Alpha Irrig Dist Directors

APPEARING ON WHICH PROPOSAL: SB 394

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

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 12
BUSINESS & INDUSTRY
February 20, 1985

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

NAME: RON SCHOFIELD DATE: 2-20-85

ADDRESS: 3840 N MONTANA AVE HELENA

PHONE: 442-3292

REPRESENTING WHOM? HELENA VALLEY IRR. DIST

APPEARING ON WHICH PROPOSAL: SB 394

DO YOU: SUPPORT? AMEND? OPPOSE? ✓

COMMENT: SB 394 IS UNNECESSARY, UNFAIR
AND AN ADDED EXPENSE TO THE PRODUCTION
OF ADDITION SMALL HYDROPOWER IN MONTANA

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 14
BUSINESS & INDUSTRY
February 20, 1985

EXHIBIT 15
BUSINESS & INDUSTRY
February 20, 1985

TO WHOM IT MAY CONCERN:

I am writing this letter to express my opposition to Senate Bill No. 394. As a County Commissioner, I do not want the power to approve or disapprove of power transmission lines and I do not feel that any County Commissioner should have the power to control what takes place on any federal water impoundment.

Will Valley and McCone Counties control Ft. Peck Dam?

Sherman Doucette

^{Bill}
This ~~resolution~~ would require that all state agencies and state boards give priority to applications for grants and assistance for employee owned companies.

Employee ownership plans are programs through which employees buy all or part of a plant from shareholders and prevent a shutdown or layoffs.

Employee-owned businesses can create an increase in productivity because the worker has a personal monetary interest in the most efficient production. It could improve worker satisfaction, particularly for workers who have a part in the decision making process. It could prevent massive lay-offs and plant closings by offering alternatives to shutdowns. Possibly 5000 plants have been saved through participation in employee-owned businesses, it could encourage a more flexible financial environment for a business. Money can be borrowed to buy employee stock using the plant as collateral. The employee is permitted to guarantee the loans.

- At least ten states have already passed laws to encourage employee-owned companies.

- 1974 Minnesota
- 1979 Michigan
- 1980 Maryland and New Jersey
- 1981 Delaware
- 1982 California, Illinois, Massachusetts and Ohio
- 1983 West Virginia

- Some examples of employee owned businesses in the United States are:
 - Rath Packing Company of Iowa
 - The Milwaukee Journal
 - Chicago and Northwestern Railroad
 - Peoples Express Airlines
 - Hyatt Clark Industries, Inc.
 - W.L. Gore and Associates
 - Weirton, West Virginia Steel Plant

- Over 6000 companies in this country have employee stock ownership plans and over 500 are actually controlled by employees.
- It is an opportunity for state and local governments to increase economic growth in their own jurisdictions and to locate jobs for their constituents.
- Employee buyouts in companies have had major success nationwide in retaining jobs, increasing productivity and profitability and stimulating the economic base of regions faced with job loss.
- tax incentives
- twice the productivity
- 150% more profitability
- generates 3 times more jobs per year than regular companies

*Thank you,
Ray Lybeck
Senate Dist. #4*

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

NAME: Byron Roberts DATE: _____

ADDRESS: MT Dept. of Commerce

PHONE: 444-3923

REPRESENTING WHOM? DOC

APPEARING ON WHICH PROPOSAL: SB 353

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

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 17
BUSINESS & INDUSTRY
February 20, 1985

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

NAME: LON MITCHELL DATE: 2/20/85

ADDRESS: 1424 9th AVE HELENA

PHONE: 444-4290

REPRESENTING WHOM? BOARD OF REALTY REG.

APPEARING ON WHICH PROPOSAL: SB 355

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: NEED Regulation because of industry excesses - available to
answer any questions you may have.

H 18

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 18
BUSINESS & INDUSTRY
February 20, 1985

February 20, 1985

EXHIBIT 18
BUSINESS & INDUSTRY
February 20, 1985

House Business & Labor Committee
House of Representatives
Capital Building
Helena, Montana

Dear Committee Members:

We received a brochure in the mail from Fairmont Hot Springs in April, 1983 and we decided to go see what was being offered.

We called the number on the brochure to set up an appointment during the week as there were more prizes offered during the week Monday through Thursday.

Our appointment was set for May 4, 1983. We went to Fairmont and were shown into a large lobby where the walls were covered with pictures of people who had purchased time-share weeks at Fairmont.

We filled out a form and gave it and our letter with a number on it to the secretary. Then a young man called our name, introduced himself and took us into view a 15-20-minute movie on the facilities.

After the movie was over we were shown into a room full of tables and chairs where other people were also being interviewed. The salesman opened a packet and went through the costs and information very rapidly. We asked a number of questions on trading weeks in other areas of the country as we are skiers who like to travel around. But when we asked questions on the financing and maintenance costs we were all of a sudden treated hostile and the salesman told us he could see that we wouldn't be buying and said we should leave. He then took my arm and lead me towards the door with my wife following.

We were shown out a different door than the one we came in. The salesman made a number of snide remarks about us taking his time. As we were out the door we asked about our prize and he opened a closet and threw the box down on the porch where we were standing. We received a video game to be attached to the TV.

As we were walking to our truck in the parking lot an elderly couple came over to us and said they were also treated the same way and decided to see how many other people came out disappointed. We talked to them for awhile and laughed at how we were treated and decided that the salesman got upset over the financial questions because he probably didn't know the answers.

We ask your support on passing this legislation to regulate the time-share industry as they are doing very unprofessional things that go unreported and people are treated with no respect, all they want is your dollar and to heck with your attitude or any reservations you might have. We got the feeling if you didn't sign right now you were stupid for not taking a time-share unit.

Sincerely,

Mr & Mrs Robert J. Garrett
Mr. & Mrs. Robert J. Garrett

806 2nd St. Helena

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

NAME: Brinton B. Markle DATE: 2/20/85

ADDRESS: 1424 9th Helena

PHONE: 444-4313

REPRESENTING WHOM? Consumer Affairs - Dept. of Commerce

APPEARING ON WHICH PROPOSAL: SB 355

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: Consumer calls + inquiries + investigations
into Timeshare advertising, selling practices, etc

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 19
BUSINESS & INDUSTRY
February 20, 1985

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

NAME: W. J. Hoopes DATE: 20 Feb. 85

ADDRESS: 2627 Spokane Cr. Rd. E. Helena, Mt.

PHONE: 478-3572

REPRESENTING WHOM? Big Sky Time Share

APPEARING ON WHICH PROPOSAL: Time Share Regulation SB 355

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

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 20
BUSINESS & INDUSTRY
February 20, 1985



February 19, 1985

Senator Halligan
Chairman Business Industry Co.
Helena, MT

Dear Senator Halligan,

It has come to my attention, that there is a Pending Legislation concerning the Time Share Industry in our State.


I have lived and been in the Real Estate business for the past twelve years. I have known most of the Time Share employees personally, both management and sale people for quite some time and believe them to be of the highest caliber.

I do not believe that pending legislation is at all appropriate. I am very aware of the Time Share Program here and believe it in my opinion to be open, honest and completely above board.

I am also of the opinion that it would be detrimental to the advances we have made in this State. It is increasingly our greatest asset for "Tourism".

I would appreciate any effort on your behalf of this fine group of sales in Big Sky concerning this Pending Legislation.

Very truly yours,


Jerry Pape
Broker/Owner

GFP:jk



Pend Oreille Shores Resort

February 15, 1985

The Honorable Mike Halligan
Chairman, Senate Business and Industry Committee
State of Montana
Helena, Montana

Dear Senator Halligan:

I have reviewed at length the proposed timeshare legislation which is now before your committee and wish to be counted in opposition to it. I think it is imperative that consumers be protected from any unethical or misrepresentational behavior in any real estate transaction, but not by legislation which is punitive to the point of disabling to an industry which is beneficial not only to the citizens of your state as individuals but also an industry that has the history and future potential of producing substantial revenues for the State in the form of increased tax base and to the citizens themselves in the form of vacation dollars spent in your State.

I would like to reiterate that we are not against all regulations of our industry, but hope that whatever legislation you pass will permit our industry to survive and flourish not to be put to an untimely death.

Thank you for your consideration of this matter.

Respectfully submitted,


Marion Skubi
Project Manager

MS/js

Northwest Vacation Properties Council
Testimony on Senate Bill 355
February 20, 1985

Mr. Chairman, members of the committee, my name is Robert W. Minto, Jr., of the law firm of Worden, Thane & Haines, P.C., in Missoula. I am appearing today on behalf of the Northwest Vacation Properties Council, an association of resort property developers with interests in Timesharing projects located in the Pacific Northwest affected by Senate Bill 355.

As an industry association we are not opposed to legislation which provides responsible regulation of our industry and those who wish to provide Timesharing opportunities for the citizens of the state of Montana. We, however, stand firmly opposed to Senate Bill 355. The bill, as proposed, does not serve the interests of either the consumers or the business interests of Montana. It is punitive, and if passed will cause most existing projects to wind down their sales programs in Montana and cancel plans for future development, causing serious economic impacts on several local economies. As an example the very successful Timeshare project at Fairmont Hot Springs Resort contributes over five million dollars (\$5,000,000.00) to the Butte-Anaconda economy through its sales volume alone, to say nothing of the side benefits of the dollars that the visitors and guests spend through the hotel and with the merchants and restaurants in the neighboring communities. Additionally, the degree of regulation proposed by this legislation is excessive given the size of the industry in Montana and the number of projects involved. There are only five (5) projects located in Montana which are currently marketing or are in a position to start marketing this spring. In addition there are two resorts in northern Idaho and one in southern Idaho which are currently or plan to market their projects to residents of Montana. The regulatory scheme contained in this bill rivals those of the states of Washington and California in its complexity and degrees of

sophistication. Montana neither has the regulatory agencies and personnel to administer such a plan nor the number and size of projects which will generate fees sufficient to create and staff such an agency.

The representatives of the Board of Realty Regulation cite two compelling reasons for this legislation, the need to regulate and supervise the advertising programs used by developers and the need to license and supervise the sales personnel employed by the developers. We take issue with both of these reasons at the present time. As an association, though newly formed, we have taken steps to provide advertising standards and guidelines to our members on which of the many advertising and mailing programs are most effective and provide the highest degree of consumer acceptance. We are working on the adoption of a marketing code of ethics patterned after the form provided by the American Land Development Association (ALDA) and the continuous circulation of information about the various mail programs that become available to the industry. On the issue of licensing, we do not oppose some form of licensing for Timeshare salespeople, but do oppose the licensing requirements found in Senate Bill 355. I have personally advised my clients that Timeshare sales operations are currently subject to the licensing requirements found in Title 37, Chapter 51, Part 3, M.C.A., unless the sale programs fit within the specified exception to those provisions. To my knowledge, the projects located in Montana are being currently sold by supervised employees of the developer. This is to say that they are being provided unemployment benefits, workers compensation insurance, and having taxes and social security withheld. Sale by developer employees is a longstanding exception to the licensing requirement. It is any person's right to sell his or her own property without having to hire a licensed broker or salesperson to consummate the sale. If I own a small subdivision as a corporate entity, for example, I have the right to hire employees to sell the property for me as long as

they are true employees. We believe that Timeshare developers should and do have the same rights. As an industry, however, we do agree that it will in the long run best serve our interests in developing a cadre of professional salespeople if some vehicle is created that provides for the specialized licensing of Timeshare salespeople, but does not require that they first obtain a general real estate license.

Another argument raised by the proponents of this bill is the need for a rescission period to protect the consumer from high pressure sale tactics utilized by the Timeshare industry. We first disagree with their assertion that the sales techniques amount to high pressure. This is, of course, a subjective determination but we would submit that most all forms of sale utilize closing techniques that are designed to induce a person to buy the project offered. While the specific policies differ from resort to resort, all our members hold to the general principle that they want their buyers to be happy with the purchase that they have made and the project in general. In fact, all our members have rescission policies that vary from two days to virtually wide open rescission with a "no unhappy owners" policy. Our general objection to the rescission program contained in the bill is simple. It requires us to advertise on the fact of the contract and on the fact of the disclosure document that: "You only have seven days to cancel this sale." Even the general real estate industry would object to having that emblazoned on the face of all their buy-sell agreements. There is a long standing principle in sales, that you don't sell much by being negative, and the bill as now constituted creates a very large negative.

This legislation contains many more provisions which we find detrimental to the interests of consumers and business. I have a copy of a draft of the bill with many marginal comments which I would be happy to share with the committee members if you want to go through them after the hearing. It would take

too long to do so in the hearing. There are two major objections which I must point out, however. This bill would require a Timeshare owner who owns more than one week or interval to register under the act if he wanted to resell more than one of them in any 12-month period. These sales must be exempted from the provisions of any regulatory regulation. Secondly, the bill contains provisions which make it a misdemeanor to make an innocent omission of a material fact. Our country has long held to the principle that intent is a prerequisite to any criminal conviction. These principles must be preserved.

Lastly, we as an industry object to having this bill proposed without any meaningful opportunity for input from Timeshare resort developers. We were first made aware of this bill quite by accident when one of our developers stopped by the Board of Realty Regulation on other unrelated business in late December and found that this bill was to be introduced at the request of the Board. Timesharing is a very complex issue that touches many parts of the law which have not been considered by this bill. We feel that such legislation should be seriously studied before it reaches this stage in the legislative process and that there has not been such study in this case. We requested that the Board of Realty Regulation withdraw this bill and appoint a committee to meet with our association to study and prepare a proper legislative package for the 1987 session. Failing this, at Senator Mazurek's request, we prepared amendments to this bill to soften the bill's effects so as to not adversely affect the industry. These amendments were presented to no significant avail, and in spite of the efforts of Senator Mazurek to the contrary, the bill was submitted without much change in its original form. We remain prepared to stick to our commitment to work for a bill for the next session which responsibility addresses the need for regulation of Timesharing in Montana.

For the foregoing and other reasons, we urge the committee to recommend that Senate Bill 355 do not pass. I will be happy to answer questions of the committee and discuss specific detailed concerns with the bill that time has not permitted me to address in this hearing.

RESPECTFULLY SUBMITTED this 20th day of February, 1985.

Northwest Vacation Properties Council

By: Robert W. Minto, Jr.

NAME PAIK DE HAAN BILL No. SP 355
ADDRESS 3718-E. GROSCHEN, E. HENNA DATE 2-19-85
WHOM DO YOU REPRESENT TIME SHARE
SUPPORT _____ OPPOSE ☒ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

49th Legislature

LC 191

STATEMENT OF INTENT

SB BILL NO. 355

A statement of intent is required for this act because it delegates rulemaking authority to the board of realty regulation. The board is authorized to adopt rules concerning the information contained in applications for registration of timeshare offerings, documents acceptable in lieu of registration documents, and conditions upon registration. It is the intent of the legislature that the board use as guidelines for these rules the policies of the securities division of the state auditor's office and the rules of other states governing the timeshare industry.

In adopting rules governing the examination of timeshare salesmen and brokers, it is the intent of the legislature that individuals already licensed as real estate salesmen or brokers only be required to demonstrate adequate knowledge of the timeshare industry and this act for licensure. Individuals not previously licensed as real estate salesmen or brokers may be required to demonstrate their knowledge in the general area of real estate.

Amendments to SB 363

1. ~~Page 3, line 16.~~
Following: "into a"
~~Strike: "written"~~

2. Page 3, lines 17 and 18.
Strike: line 17 ~~in its entirety and line 18~~ through
"arrangement" *on line 18*

3. Page 4, line 25.
Strike: "subsection"
Insert: "subsections"

4. Page 6, line 20.
Following: "retailer's"
Insert: "or wholesaler's"

STANDING COMMITTEE REPORT

FEBRUARY 20

35

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on

SENATE BILL

363

having had under consideration

No.

first

reading copy (

white

)
color

REPURCHASE OF INVENTORY - CANCELLED DISTRIBUTION CONTRACTS

Respectfully report as follows: That

SENATE BILL

363

No.

be amended as follows:

1. Page 3, line 17 and 18.

Strike: line 17 through "arrangement" on line 18

2. Page 4, line 25.

Strike: "subsection"

Insert: "subsections"

3. Page 6, line 20.

Following: "retailer's"

Insert: "or wholesaler's"

AND AS AMENDED

DO PASS

XXXXXX36

Nike Halligan

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 20

19 85

MR. PRESIDENT

We, your committee on **BUSINESS & INDUSTRY**

having had under consideration **SENATE BILL**

No. **380**

first reading copy (**white**)
color

"CENTENNIAL ACRE" - SALE OF DEEDS TO SQUARE INCHES FOR CENTENNIAL FUNDING

SENATE BILL

380

Respectfully report as follows: That.....

No.....

be amended as follows:

1. Title, line 8.

Following: "THE"

Insert: "DESIGNATION OF STATE LAND OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND"

Strike: "A DONATION OF 1 ACRE"

Insert: "DONATIONS"

2. Title, line 9.

Following: "FROM"

Strike: "A"

Following: "PRIVATE"

Strike: "DONOR"

Insert: "DONORS"

3. Page 1, line 18.

Following: "through"

Insert: "designation of"

Strike: "1 acre of"

(continued)

~~XXXXXX~~

DO PASS

~~XXXXXXXXXX~~

DO NOT PASS

(continued on page 2)

Chairman.

4. Page 2, line 4.

Following: line 3

Insert: "(3) 'Centennial acre' means one or more separate parcels of land of about 1 acre located in Montana that are acquired by donation from a private source or designated land owned by the state. If there is more than one centennial acre, each separate parcel is to be designated by the office as a particular centennial acre, such as 'the agricultural centennial acre' or 'the mountain centennial acre.'"

5. Page 2, line 4.

Strike: "Donation"

Insert: "Source"

6. Page 2, line 5.

Following: "(1)"

Insert: "(a) The department may designate 1 or more acres of land to which it has title as a centennial acre. (b)"

7. Page 2, line 6.

Following: "to 1"

Strike: "acre"

Insert: "or more acres"

8. Page 2, line 8.

Following: "with"

Strike: "the"

Insert: "each"

9. Page 2, lines 9 and 10.

Strike: "The acre of land shall be known as the centennial acre. The"

Insert: "A"

10. Page 2, line 12.

Following: "land."

Strike: "The"

Insert: "A"

AND AS AMENDED

DO PASS

.....Mike Halligan.....