

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

March 6, 1987

The meeting of the Natural Resources Committee was called to order by Chairman Tom Jones on March 6, 1987, at 1:00 p.m. in Room 312 B of the State Capitol.

ROLL CALL: All committee members were present with the exception of Rep. Roth who was excused.

SENATE JOINT RESOLUTION NO. 9: Senator Greg Jergeson, District 8, stated he has attended many meetings as a farmer in order to deal with the current economic situation in agriculture, and often times has been advised that we ought to find some other sources of income to basically subsidize our agricultural income for our farms. He's been interested in finding ways the farmers and ranchers might be able to come up with some means of diversification, by an opportunity to approve and supplement their agricultural income. He stated there is some confusion in the Department of Natural Resources about exactly what the legislative intent is with respect to their awarding grants and loans under Title 85, Chapter 1, and this resolution simply clarifies that. What it does is gives them direction that hydropower projects that would generate cash flow for an agriculture operation are considered proper projects to be awarded under this particular fund. He stated that the Director of DNRC was not present today, however, he hoped the proponents to the bill might help answer any questions that may be asked.

PROPOSERS: Lee Tavenner, an interested individual, submitted testimony (Exhibit 1). He stated it has been recent policy of the Department of Natural Resources and Conservation to exclude hydropower from the Water Development Loan Program. Although this policy was initiated in response to a legislative directive to emphasize agriculture, the net effect of the policy has been to discourage development in an area of agriculture that has substantial potential in the state. The purpose of this resolution is to redirect the Department to include as part of its loan program this untapped hydropower resource in our agricultural community. For a state that is searching for environmentally sound alternatives to non-renewable resources, full and vigorous state support of small-scale hydropower in the agricultural community should be basic policy. This resolution will help set such policy. He urged the committee's support of SJR 9.

PETER GROSS, President, Montana Small Hydroelectric Association, stated they are a trade association made up of small developers, irrigation districts, farmers, ranchers and anyone who is interested in building small hydroelectric resources. He stated their association is in support of this resolution. In the past, they have been unable to obtain necessary loans from the State of Montana to develop small hydroelectric projects. These loans are very beneficial to the individual who is trying to develop a hydro project. It's not that there are no funds available from other sources, as local banks in the state who would be able to loan money to develop these sorts of projects do not have the technical expertise that is required to review these sorts of projects, determine value and provide the necessary funds. He urged the committee to support this resolution. He then also added he was speaking on behalf of the Montana Water Development Association, who also supports SJR 9.

NO OPPONENTS

DISCUSSION

REP. SIMON asked if these water users could apply for loans if they were, in fact, part of a ranching operation.

SEN. JERGESON stated as long as the water project benefitted the ranch, either in the generation of providing irrigation or other various things, this would be the case.

REP. HARPER stated he assumed the lists for the Water Development Program of individual projects have already been submitted and rated, and in fact, submitted to the legislature, and asked if he was right in assuming that this will not affect any projects they may issue now, stating this will have to go into a category that the Department has to look at before they judge these programs. He asked Sen. Jergeson if this could apply to this section now, because he felt it could not.

SEN. JERGESON stated if these were loans that were considered by a Long Range Building program, it would not apply. However, this would apply under another statutory loan program they have at the Department of Natural Resources, out of which the Director has made substantial loans. He also has loan authority for another five and one-half million dollars that is not included in the list the legislature reviews. Those would be covered by the necessary application.

REP. ASAY asked what the requirements for the loan program are and what shape the fund is in. He also wondered who

determines the feasibility of the hydropower and its expense.

SEN. JERGESON stated the Department would have to determine feasibility of the proposals and would have to make a judgment on the cash flow from the project to pay back the loan.

REP. ASAY asked how many projects have been approved with hydropower involved and wondered if any of them were supplying power now.

MR. GROSS stated one project has been approved and he stated it is his personal project that began in 1986, and currently it is producing power and has been since the starting date of December 1986. He stated this is the one project that the Water Development Program has funded. However, there have been two projects that he is aware of that have been tabled. They have not been turned down, but have not been approved yet either, within the last two years.

REP. ASAY asked what the cost of a project is when hydro is in addition to a project, and how this would affect the loan dollarwise.

MR. GROSS stated the only cost he felt there would be is the cost of any additional cement structures to put the turbines and other related equipment in. The cost difference would depend on the size of the project and the kilowatt hour size of the project.

REP. PETERSON asked Mr. Gross if an irrigation company with hydro potential on their ditch would be able to enter into this kind of a loan situation, and Mr. Gross stated yes. He then asked, if the project automatically sell all their excess, with someone having to buy the excess they make that is in statute now, and wondered if they were also able to find independent buyers in this kind of program, and if this would be part of the plan.

MR. GROSS stated under current law the public utilities are required to purchase the power, but that is not exclusive. The individual could supply to himself, as in his case, he more or less sells the power to himself. He could also sell to his neighbor, to a certain extent. However, they are not allowed to create another utility or another co-op. If they farm at one location and want to transfer to another location to provide for themselves, they could do that.

IN CLOSING, SENATOR JERGESON stated his thanks for the committee's time and consideration for Senate Joint Resolution 9.

HEARING CLOSED ON SJR 9.

HOUSE BILL NO. 781: Rep. Ben Cohen, District 3, sponsor, submitted handouts to the committee (Exhibit 2 and 3). He states the Forest Watershed Management Act is an act that was designed to try to deal in a positive fashion with some of the problems that have been encountered in the forest management and the protection of the water quality of the waters that are draining on our forest lands in the State of Montana. He stated as everyone knows, we have many valuable natural resources in this state, but probably no greater than our first class water quality, and that is the issue we are trying to address with this bill. He stated the bill also provides for the formation of binding cooperative agreements, that the permits would be voluntary and they would be established by watershed, which is logical from a scientific and ecological position, the best way to establish management goals on forest land. Through participation in these cooperatives, the members of the cooperatives would be offered a substantial tax break. The Department agreements would have a ten-year lifetime, and since the cooperatives would be based on the concept of maintaining a sustained yield, and presently, the way the property tax structure is (property tax on the short timberland is much higher than recently cut land), it seems only fair that the landowners are going to submit themselves to the concept of sustained yield, and the best management practices should be provided and evenly taxed no matter what state of deduction the land is in. This could be achieved by treating the land under a cooperative agreement as grazing land when determining its actual value.

PROPONENTS: Joan Montagne representing the Madison-Gallatin Alliance, the Greater Yellowstone Coalition, submitted testimony (Exhibit 4). She also gave a slide presentation and video about the areas that signify the need for this watershed act. She also stated that in a public meeting with Senator Max Baucus, Plum Creek Timber stated, "it is our intent to back our logging trucks up to every last log we own in the Gallatin National Forest. We will be out in three years." This is responsible forest management. She urged the committee pass this bill.

JACK TOLSKY, an attorney from Missoula, stated he has represented a lot of different conservation groups and has spent the last few years examining the impacts of timber harvest on federal and private lands. He stated that

Congress passed the Natural Forest Management Act in 1976, because of the impact road construction had on water quality and fisheries that were well documented, with the same types of things happening on state lands as well. He stated this act is one step in trying to correct the problems and preserve what we all recognize as a valuable resource to the State.

STAN BRADSHAW representing Trout Unlimited submitted testimony (Exhibit 5). He stated he would not go through his testimony, due to the time limit, however, he wanted to voice TU's support for this bill.

DUE TO THE TIME limit, Chairman Jones asked the rest of the proponents to merely state their names, and leave any written testimony that would be included for the record.

CLAUDIA MASSMAN, representing the Montana Environmental Information Center, submitted testimony in support of HB 781. (Exhibit 7).

DANA FIELD, representing the Montana Audubon Legislative Fund, submitted testimony (Exhibit 8). She urged the committee to pass this bill.

JEANNE KLOBNAK, representing the Montana Wildlife Federation, stated they do support this bill.

DENNIS HEMMER, Director, Department of State Lands, submitted testimony in support of HB 781. (Exhibit 9).

JEANNE-MARIE SOURIGNEY, representing the Montana Sierra Club, stated their club does support this piece of legislation.

LARRY BROWN, representing the Water Quality Bureau for the Department of Health and Environmental Sciences, stated they support HB 781.

GEORGE OCHENSKI, representing the Montana Environmental Information Center, stated he does support this bill, and thanked the committee for watching him in the video.

JOE GUTKOSKI, President, Gallatin Wildlife Association, submitted testimony in support of HB 781. (Exhibit 10).

OPPONENTS: Don Allen, representing Montana Wood Products, stated he wanted to point out one thing, that being in meeting with Rep. Cohen yesterday, in regard to the bill, he stated it was obvious such a massive piece of legislation with such sweeping changes can not really be digested at this point in time, because many of the concepts that are being addressed here are not areas they would want to

address at this time, or have not been addressed and he stated he hoped after hearing testimony, the committee will realize the industry has already done something in regard to this particular concern and that we have plans to do some other things. However, they will look forward to cooperating with those in the future, regardless of the outcome of this particular piece of legislation.

MARK SIMONICH, a professional forester for F.H. Stoltze Land and Lumber Company, submitted testimony (Exhibit 11). He stated this bill is a blatant attempt by the legislature to tell the private landowners of this state how to manage their land. This bill will create the law for so called "watershed management" and then leave it up to the Department of State Lands to develop both the standards and the regulations to govern those standards. He asked, if this bill is really aimed at protecting our watersheds, then why is it directed only at logging practices? Agricultural practices can be every bit as degrading to our watershed as logging is. Think about how cattle can break down a stream bank while trying to get water or the effect on the ground of overgrazing when livestock is left on one range too long. HB381 is not a fair bill. First, it blackmails landowners into signing "Voluntary Binding Cooperative Agreements" by offering them a change in their land classification for tax purposes: a tax break most landowners cannot afford to pass up. Second, by signing the Agreements the landowner will be waived of some of the notification procedures required under the bill. This bill is counter productive, it will encourage less forest management instead of better forest management. He urged the committee to kill this bill.

DON WOOD, Chairman of the Montana Tree Farms Committee and representing approximately 400 private forest landowners, stated he is a forestry consultant who works for some of the additional 40,000 private forest landowners throughout the state of Montana. He stated as far as the tree farmers are concerned, each Montana tree farmer cares about his forest land, not only the income producing potential, but the scenic value of the water and the wildlife and everything that relates to that land. They feel they are a non-target group in this act, yet they will feel the greatest impact of the bill. He stated the timber in Montana is an economic crop, however. Montana experiences some of the highest logging costs in the country, and in addition, some of the lowest value of timber in the country. The additional costs that accompany this act may created a situation that could have very severe impact on these small loggers. He urged the committee to not pass this piece of legislation.

AL TINKTEN, a professional forester and management consultant, stated he's been involved in the timber business in

Montana at the corporate and private level for 23 years. He stated the only thing he would like to point out is that it is not justified at this point, because we have better forest practices on private land than we had 15 years or 20 years ago, with landowners having done a better job in building roads, cleaning up slash and paying their bill. He just doesn't feel this bill is justified at the present time, and urged the committee to not pass the bill.

NICK KIRKMEYER, representing the Plum Creek Timber Company, stated the issue at Lake Mary Ronan is one of aesthetics, it's not water quality. He stated there has been no demonstrated evidence at Lake Mary Ronan or in other parts of the state, that water quality has been deteriorated by logging practices, particularly logging practices on Plum Creek land. He feels the timber industry is doing its part right now, regarding good forest practices, showing the utmost respect for the land. He stated this is an unfair bill, and he urged the committee to not pass it.

MIKE MICONE representing the Western Environmental Trade Association, stated first of all he would like to express his appreciation to Rep. Cohen for meeting with his group yesterday and explaining his bill to them. He stated, unfortunately, they must still oppose this piece of legislation. The primary position they have is the fact that the state through this piece of legislation appears to be imposing its will on the private property owners. They recognize the main thrust of the bill is for voluntary binding agreements for landowners of the management of lands. He stated there is also a section that deals with those landowners that do not undertake the voluntary agreements. This does state that the State of Montana will establish standards which those landowners will operate under. He stated they felt it was assumed that the landowners of Montana really aren't using the land, and they have no regard for the land in which they own. He stated he is here to tell the committee that the landowners he is familiar with have a great regard for the land and for the quality of the water. He also pointed out that the tax incentive that is proposed in the bill really could encourage few abuses of the intent and landowners of small acreages would take advantage of the tax incentive and have no intention of cutting any timber. He urged the committee to look at this bill and do not pass it, due to the fact that it would indeed hurt many of the small private property owners this would affect.

CHUCK DREHER, a Helena resident and owner of several forested tracts in the County, submitted testimony (Exhibit 12). He stated mechanisms have been in place for years to deal with water quality in Montana. The Soil Conservation

districts throughout Montana have a weak authority in this area. FWP has a much stronger voice by virtue of the Stream Preservation Act. That authority goes beyond the call of this bill in that they can deal with anyone whether the activity be timber or anything else. He stated the tax section is mere tinkering. It wouldn't raise enough to administer the program. The penalty section might if anyone could be found brave enough to attempt a harvest. He stated the goals of this bill are noble, however, they are not new. They were defined and addressed over two decades ago. He asked that the committee do not pass this bill.

RICHARD REID representing the Montana Society of American Foresters, submitted testimony (Exhibit 13). He stated the Montana SAF does not have a position either supporting or opposing a forest practices act in concept. However, they do believe that if it is agreed, after review by resource management professionals, that a forest practice act is needed, then such an act should be based on the criteria for a forest practice act adopted by the Society of American Foresters. Consequently, the Montana SAF recommends that HB 781 not be passed. If there is sufficient concern by the legislature to include agencies, small and large landowners, conservations groups and the Society to determine if a forest practice act is needed, similar group participate in its development. He thanked the committee for their time in the consideration of this matter.

DUE TO THE TIME LIMIT, Chairman Jones asked the rest of the people to simply state their name and their position on the bill.

MIKE ATWOOD President, Montana Eastside Forest Practice committee, voiced opposition on behalf of his committee for HB 781.

GEORGE BERG, representing Berg Lumber, stated he felt this bill would be very detrimental to his business, and urged the committee to not pass this bill.

ANDY LUKES, Clark Fork District Land Manager for Champions Missoula Area operators, submitted testimony in opposition to HB 781. (Exhibit 14).

KEITH OLSEN, representing the Montana Logging Association, stated they oppose this bill and encourage the committee to not pass it.

JERRY JACK, representing the Montana Stockgrower's Association, stated their association does oppose this bill.

TONY COLTER, representing the Louisiana-Pacific Corporation, submitted testimony in opposition to HB 781. (Exhibit 15).

REM KOHRT, representing the Stoltz-Conner Lumber Company, submitted testimony in opposition to this piece of legislation. (Exhibit 16).

The Idaho Pole Company submitted testimony in opposition to Chairman Jones, and it was submitted to the committee for their consideration. (Exhibit 17).

REP. ADDY asked Mr. Simonich if there was nothing that needed to be done because he was persuaded by the testimony he heard today, and wondered if there was nothing good in this bill.

MR. SIMONICH stated he wouldn't say entirely because that there is always something that can be improved. He feels the industry has improved their operations tremendously over just the last ten years. Much of this has been taken upon by the landowners themselves, and has not been pushed upon them to do so. They see the need to continue with good practices. He feels mainly the bill would take resource management away from those people who have studied and become resource professionals from people who best know how to manage the land.

REP. ADDY asked him then why he didn't he come up with his own bill.

MR. SIMONICH replied that in the interim, the industry is going to do just that.

REP. ADDY then addressed the same question to Mike Micone regarding why he opposed the bill.

MR. MICONE stated they see most of these things happening already, and also see cooperative agreements between agencies and landowners. He feels it is not a bill that is necessary for the State of Montana.

REP. PETERSON asked Rep. Cohen if he felt the big companies such as Champion and Plum Creek could take this as an advantage, move out of the state, close down their operations, let their trees go and take the tax break, and in ten years, come back and saw some trees.

REP. COHEN stated he felt this could be conceived as a possibility, however, the way the tax law is, if you have standing timber on your land, your taxes are high, and there is a kind of incentive to go out and cut your timber right now, to drop your taxes on your land. So you would be

removing the tax incentive to cut. However, if they were to enter into an agreement like this, it would mean additional savings.

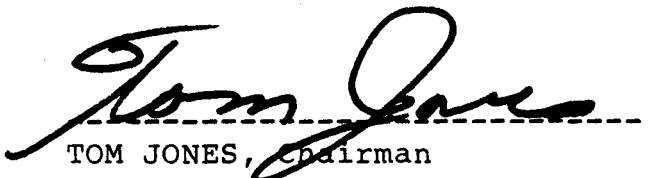
REP. RANEY stated the man from Plum Creek said there is no evidence of water damage or water sedimentation at Lake Mary Ronan or elsewhere where they operate, including Jack Creek, and asked Rep. Cohen if he agreed with this.

REP. COHEN stated he hasn't been on site at Lake Mary Ronan, nor Jack Creek, and he stated, in fact, he knows very little about the situation down at Jack Creek, although he does agree with their perception of when you have a lot of beetle kill on the land, you pretty much have a choice of logging it or watching it burn, and that is the history of the lodge pole pine forests, with repeated burns due to these beetles. He stated he does know that some of their operations, as Swift Creek, has resulted in some obvious increase in sedimentation in the run-off.

IN CLOSING, REP. COHEN stated he felt it was a good hearing, and it was unfortunate that they did run out of time. However, he would like to address a concern pointed out by Mr. Simonich regarding the rule making authority. He stated if the criteria is read that was passed out, it would be found that rulemaking authority is the way to do it and their request is the one thing the bill doesn't direct: that the Board makes the final rules, and after hearing the input from the industry, they are requesting this criteria for the State Forests Practices Act. The Board would include people from industry with interest from all involved throughout the state. He recommended to the committee that they consider putting this bill into a subcommittee before taking any final action on it. He stated it would be beneficial to meet with the people in the industry in order to work out some of the things that might help to improve this bill. He also felt their willingness to work at an interim study would result in the drafting of a committee resolution to come up with an appropriate Forest Practices Act. He thanked the committee for their time and consideration in this matter.

HEARING CLOSED ON HB 781

ADJOURNMENT: There being no further business, the meeting was adjourned at 3:05 p.m.


TOM JONES, Chairman

DAILY ROLL CALL

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 2, 1987

NAME	PRESENT	ABSENT	EXCUSED
TOM JONES, CHAIRMAN	X		
CLYDE SMITH, VICE CHAIRMAN	X		
KELLY ADDY	X		
TOM ASAY	X		
JOHN COBB	X		
BEN COHEN	X		
ED GRADY	X		
JOHN HARP	X		
HAL HARPER	X		
MIKE KADAS	X		
AL MEYERS	X		
JOAN MILES	X		
MARY LOU PETERSON	X		
BOB RANEY	X		
RANDE ROTH	X		
ANGELA RUSSELL	X		
BRUCE SIMON	X		
BILL STRIZICH	X		
STAFF: EQC HUGH ZACKHEIM			

SJ9

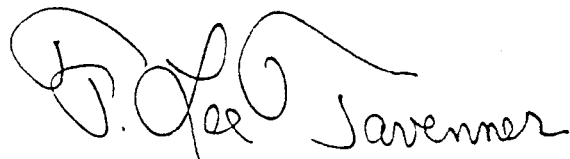
It has been recent policy of the Department of Natural Resources and Conservation to exclude hydropower from the Water Development Loan Program. Although this policy was initiated in reponse to a legislative directive to emphasize agriculture, the net effect of the policy has to been to discourage development in an area of agriculture that has substantial potential in the state.

The purpose of this resolution is to redirect the Department of Natural Resources to include as part of its loan program this untapped hydropower resource in our agricultural community.

Agricultural irrigation projects that are now being proposed include numerous projects with unmeasured hydropower potential. This hydropower resource, if not developed as these projects proceed, will become a lost opportunity for energy generation and will become a lost revenue source for the agricultural community. The effect of the recent DNRC policy has been to discourage investigation of the hydropower potential of gravity sprinkler systems, drop-structure reconstruction, canal improvement projects, and ditch-to-pipeline conversion projects. The fear is that inclusion of hydropower as part of these proposals will result in exclusion of these projects from the Water Development Loan Program.

Other projects, such as existing dams, constitute more agricultural energy resource that has not yet been tapped.

For a state that is searching for economic solutions, that wants to protect and develop its agricultural community and resources, and that is searching for environmentally sound alternatives to non-renewable resources, full and vigourous state support of small-scale hydropower in the agricultural community should be basic policy. This resolution will help set such policy.

D. Lee Javner

HB 781 FOREST WATERSHED MANAGEMENT ACT

WHY IS THIS BILL NEEDED?

To prevent damage to forest streams and watersheds, we need to assure that logging operations are based on best management practices. Current water quality laws can only be enforced after a violation occurs.

Best management practices are well-accepted techniques for harvesting timber and constructing roads. They are needed to minimize damage to the land and to ensure the sustained productivity of the forest.

Logging operations can have a particularly detrimental impact on fisheries. Sedimentation, in mountain streams, destroys the spawning beds. The destruction of riparian vegetation reduces the available food for fish and destabilizes stream channels. Birds and other wildlife are also critically dependent on the integrity of riparian vegetation.

Improper forest management techniques can also result in increased hydrologic yields, higher peak flows, the leaching of nutrients from the forest floor and degraded recreational opportunities.

HB 781 provides a mechanism to promote sustainable yields and to protect the forest's future productive potential.

This bill will help preserve an essential, renewable component of our economic base.

HOW IS THIS PROBLEM CURRENTLY BEING ADDRESSED?

Our State Forester and the National Forest Service have implemented BMP's on public lands for many years. In 1984, Gary Brown, our State Forester, called on major forest landowners in western Montana to join in a cooperative to share information on proposed forest activities. After a series of meetings, they issued a joint statement that said:

"Land management activities can alter the runoff characteristics of a watershed, which can affect water quality."

Information shared in these cumulative watershed effects cooperatives included the location and the extent of timber sales and road projects that were planned, or being prepared, to be sold during the coming years. The information was used to model cumulative effects on sediment and water yield from proposed activities. In some cases, where potential problems had been predicted by the model, the

cooperators have compromised on the extent of their proposed activities. At times, this has reduced the timber sales available for independent operators on state and national forest land.

WHY CREATE BINDING COOPERATIVE AGREEMENTS?

Binding cooperatives provide the landowner a tax incentive and an opportunity to participate in the future planning for timber harvests in the watershed.

They can be used to prevent a single landowner from dominating all the timber harvesting activity in a watershed.

The 10-year term of the agreements provides a predictable, regulatory environment for timber management.

WHY PROVIDE A TAX BREAK FOR PARTICIPANTS IN A COOPERATIVE AGREEMENT?

Cooperatives are based on the concept of maintaining a sustained yield. Presently, property taxes on mature timberland are much higher than on recently cut land. It seems only fair that those landowners who are willing to commit themselves to the concepts of a sustained yield and best management practices, should be provided an even tax no matter what stage of production their land is in. This can be achieved by treating the land bound under cooperative agreements as grazing land when determining its taxable value.

The Department of Revenue has estimated that the combined possible tax savings for all landowners in these cooperatives could be as high as \$766,926 in fiscal year 1989.

WHAT ABOUT LANDOWNERS WHO DON'T JOIN COOPERATIVES?

The Department of State Lands will, with public participation, adopt rules for minimum enforceable standards of best management practices for state forest lands and for private lands whose owners do not join a cooperative. Timber harvesting of stands over 40 acres will be required to meet these standards.

WHAT WILL HB 781 COST THE STATE?

The Department of State Lands has estimated that if they must make 1,000 inspections on private lands annually, they will require approximately \$300,000 each year. This cost includes an estimate for 13 additional FTE's.

WITNESS STATEMENT

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3.6.87

HP 781

NAME Joan Montagne BILL NO. 781
ADDRESS 1105 S Tracy DATE 3/6/87
WHOM DO YOU REPRESENT? Madison-Gallatin Alliance, Greater Yellowstone Coalition
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

In a public meeting at Big Sky with Senator Max Baucus Plum Creek Timber Stated "it is our intent to back our logging trucks up to every last log we own in the Gallatin National Forest. We will be out in 3 years."

This is responsible forest management!

H.B. 781
TESTIMONY OF STAN BRADSHAW
MONTANA STATE COUNCIL OF TROUT UNLIMITED
MARCH 6, 1987

Mr. Chairman, members of the committee, my name is Stan Bradshaw, and I am here on behalf of the Montana State Council of Trout Unlimited and its 1000 members statewide. Trout Unlimited is dedicated to the protection of the state's cold water fisheries and is therefore necessarily interested in the protection of the state's water quality. It is that concern which leads T.U. to support this bill.

Forestry practices can have an adverse effect on not only water quality but also on other aspects of the aquatic environment. This impact can be particularly pronounced upon trout fisheries.

Many of the state's tributaries provide important habitat for trout. To provide spawning habitat, these tributaries must have clean gravels in which eggs can survive. Logging practices which dump heavy loads of sediment into the streams destroy the ability of the streams to support spawning runs and, ultimately, lead to a diminished fishery. Since these streams are often the nurseries for the fisheries in large parts of a watershed, the damage to a given stream can be felt way beyond the reaches of that stream.

In addition cutting which removes streamside vegetation and cover can raise water temperatures high enough to make the stream uninhabitable by trout.

H.B. 781 has as its primary focus the protection of water quality. While there are currently water quality standards which

might, in some instances, address water pollution caused by logging, the remedy provided by those standards is reactive, applying only after the damage has been done. H.B. 781 is preventive. By fostering the use of best management practices which take into account the effect of particular practices on a stream, it can provide significant protection to our fisheries resources before the damage occurs.

One might argue that the concerns of groups like T.U. are met by existing law, specifically the Natural Streambed and Land Preservation Act of 1975. In fact, certain kinds of logging activities are covered by that act, such as road crossings. It does not address all logging practices which might affect a stream. For example, it does not address road construction standards which would minimize erosion for roads which do not cross creeks, and does not address the need for buffer strips to maintain streamside vegetation. Thus, the Natural Streambed and Land Preservation Act does not adequately address all aspects of watershed protection that should adhere to logging operations.

Concern will undoubtedly be expressed about the cost of compliance that necessarily accompanies this bill. Clearly, there will be costs of compliance. The experience in other states, however, indicates that the cost of compliance in those state has not, in most cases, reduced the total harvest of timber or impaired timber management's attractiveness as an investment opportunity.

Further, H.B. 781 goes considerably further than the acts in other states to offset the cost of compliance by enacting tax

relief for those who enter into cooperative agreements for the use of best management practices on their lands. Thus, the cost of compliance in Montana should be even less than in other states that have forest practice acts.

Finally, the bill's recognition of binding cooperative agreements is unique among forest practices acts in the country. The use of cooperative agreements enhances the timber industry's opportunity to customize best management practices to the specific situation. The cooperatives would provide maximum flexibility to both the state and the landowner in meeting the goals of the act.

Experience has shown that there is a need to assure that private forestry practices are undertaken with an eye to maintaining the health of the state's watersheds. H.B. 781 is an equitable approach to the problem that recognizes the needs of both the timber industry and the water resources. T.U. urges this committee to support the passage of H.B. 781.



The Montana Environmental Information Center Action Fund

• P.O. Box 1184, Helena, Montana 59624

(406)443-2520

EXHIBIT 6
DATE 3.6.87
HB 781

March 6, 1987

House Natural Resources Committee

RE: HB 781

Mr. Chairman and members of the committee, my name is Claudia Massman. I represent the Montana Environmental Information Center here today. We are in favor of HB 781 for the following reasons.

HB 781 is important to Montana because it protects the continuing supply of timber on our forest lands. A continuing supply of timber is not only good for the future of the timber industry in Montana, it is also conducive to increased opportunities for recreation in the forms of hunting, fishing, and backpacking. Poor management in the use of forest lands results in the destruction of productive forest lands, the loss of wildlife habitat, and the loss of aquatic life. The best management practices required under HB 781 will prevent these losses.

HB 781 also protects downstream users from land use practices that result in the destruction of the beneficial

EXHIBIT 6
DATE 3.6.87
HR 781

uses of their water supply. Logging through a streambed or failing to stabilize a stream bank may cause severe erosion that destroys a water supply's beneficial uses, such as recreation or drinking. The bill requires "best management practices" that protect the public's use of the water affected by logging activities on forest lands.

For this reason, HB 781 should be supported as legislation that protects valuable public and private resources and encourages their long term existence and growth.

EXHIBIT 7
DATE 3-6-87
HB 781

HOUSE BILL 781

Testimony of the Montana Chapter of the American Fisheries Society.

Respected Committee members, the Montana Chapter of the American Fisheries Society would like to express its support of the proposed Forest Watershed Management Act.

Biologists and hydrologists working for federal land management agencies and in the private sector have documented serious damage to watersheds from forest practices. This bill would ensure that watersheds are managed and protected as a unit regardless of land ownership patterns -- the same standards for protecting watersheds would apply to everyone.

Most of our western neighbors, including Idaho, Oregon, Washington, and California have recognized the need to protect our valuable water resources and have legislated regulatory controls similar to this bill to ensure that forest watersheds are protected from degradation due to forest practices. We believe that legislation of this type is long overdue in Montana.

In the state of Washington, similar legislation has provided the groundwork for a hallmark cooperative agreement that has helped resolve disputes between conservation organizations and the timber industry. All parties agreed that savings from resources that would have been lost and from litigation that was avoided more than offset the cost of administering the program (see attached news release).

We sincerely hope that you recognize the need for this important legislation and we ask for your support.

GRP/vg-136a
Attachment

Seattle Post-Intelligencer

Sunday
December 7, 1986

PAGE

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Editorials

Historic accord on state logging

A new agreement governing logging practices that will benefit both the timber industry and the environment merits all the accolades being heaped upon it.

The pact announced last week is, in the words of former state fisheries head Bill Wilkerson, "a historic-type situation . . . tremendously exciting and important to the future of our timber, fishing and wildlife." It also, as State Lands Commissioner Brian Boyle pointed out, "has the potential of resolving long-standing disputes that we've never ever come close to resolving before."

Under terms of the agreement, teams of experts will analyze and help minimize impacts of logging that, in the past, have threatened land, streams, wildlife, fish and bird habitats and Indian religious grounds and artifacts. Logging plans may be worked out on a case-by-case basis so that trees can be cut with the least possible damage to their surroundings.

But even more significant than the pact itself is the cooperative spirit that grew among the representatives of the timber industry, environmental organizations, Indian tribes and state agencies who hammered out the agreement over several months of hard bargaining. People who through years of bitter battles over timber-cutting policies had considered each other "the enemy" discovered

that they had many goals in common and — just imagine — even liked each other.

Marcy Golde of the Washington Environmental Council said the talks convinced her that a strong timber industry is far preferable to alternative uses for land, such as shopping malls and housing developments, a point often overlooked by those who complain about clear cuts. Timber spokesman Bob Dick said, "I came to appreciate the (Indian) tribal cultures and what is behind the intensity of environmentalists . . . I realized Marcy was not just trying to put my people out of business."

This new spirit of trust and friendship not only is welcome, it is essential. The success of the agreement depends upon commitment from all interested parties backed up by full and open negotiation and communication.

The plan also needs approval of the state Forest Practices Board, which Boyle predicted would receive it "with glee."

It needs one thing more — \$4 or \$5 million from the Legislature to pay for expert advisers on logging impacts, monitoring timber cuts and enforcing regulations.

Adding up the costs of environmentalist lawsuits and the damage done by earth slides and muddied streams, legislators should consider that few million a bargain price to pay for protecting both our state's natural heritage and one of its major industries.

DATE 3-6-87

HB 781



Montana
Audubon Legislative Fund

P.O. Box 924
Helena, MT 59624



Testimony in support of HB 781

March 6, 1987

Mr. Chairman and Members of the Committee;

My name is Dana Field and I represent the Audubon Legislative Fund, which is composed of members of the National Audubon Society, which has 2500 members in nine chapters throughout Montana.

The Audubon Fund supports HB 781 because it promotes the kind of management that is responsible to both sustained timber production and protection of other biological resources.

Best Management Practices minimize unnecessary disturbance to aquatic systems originating in forested watersheds. Audubon is very concerned for the stability of riparian systems because impacts on these relatively small areas have widespread indirect impacts on the biota of surrounding lands.

Riparian areas are the fastest-disappearing of all habitat types in Montana and the most important to wildlife. To illustrate this, consider that only one half of one percent of western Montana land area is riparian. Of 151 land bird species (not waterfowl or shorebirds), 59% use riparian habitat for nesting and 21% will nest ONLY in riparian habitat. Many of these species forage for insects on surrounding non-riparian lands. Other wildlife, including big game and furbearers, depend on the availability of riparian habitat at certain times of the year to be able to utilize a much larger surrounding area.

Poor timber harvest and roadbuilding techniques are only one of many land uses that threaten riparian areas, but they are potentially the most serious. A law that prevents damage to these ecosystems makes much more sense than those that can only react after the damage has been done.

We strongly urge your support of this bill.

Thank you.

EXHIBIT 8
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HB 781

I would also like to submit for the record a resolution adopted by the Montana Chapter of The Wildlife Society in support of HB 781.

The Wildlife Society is composed of roughly 200 professional wildlife biologists in Montana whose goals are to promote wise management of the wildlife resource and to enhance public awareness of Montana's wildlife heritage.

EXHIBIT 9
DATE 3-6-87
HB 781

DEPARTMENT OF STATE LANDS TESTIMONY
ON HOUSE BILL 781

Forest Watershed Management Act

House Natural Resources, March 6, 1987, 1:00 p.m., Room 312B

The Department of State Lands supports the concepts embodied in House Bill 781. The best management practices required by the bill are consistent with our attempts through the cumulative effects cooperative to address these same concerns. Over the past two years through the cooperative, we have made giant strides towards identifying these same best management practices. This bill goes a step further in that it mandates best management practices. But it also gives an incentive for voluntary cooperation. That incentive being a significant tax break. I like the direction of the bill - that is, setting up minimum standards that would be required in all areas, but then allowing the Department to negotiate with each individual land owner to come up with the best set of practices for his particular operation. Contrary to some people's perceptions, the bill does not give the Department authority to limit the cutting in an area but only to outline minimum standards which the cutting must meet. We feel the bill is a reasonable approach.

Thank you.

EXHIBIT 10
DATE 3-6-87
HB 781

WITNESS STATEMENT

NAME John Smith BILL NO. 781

ADDRESS 100 N. 1st St. Phoenix, AZ 85001

WHOM DO YOU REPRESENT? Pres. Smith

SUPPORT ☒ OPPOSE ☐ AMEND ☐

COMMENTS: I am a witness to the fact that

the President is not a member of the

Presidential Commission on the Assassination of

Dr. Martin Luther King, Jr. and to prepare the

report on the assassination of Dr. King.

John Smith

100 N. 1st St. Phoenix, AZ 85001

3-6-87

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EXHIBIT 11
DATE 3-6-87
HB 781



F. H. STOLTZE LAND & LUMBER CO.

Lumber Manufacturers

Box 389 DILLON, MONTANA 59725

March 6, 1987

A STATEMENT IN OPPOSITION TO HB 781

Good afternoon. My name is Mark Simonich. I am a professional forester for F.H. Stoltze Land and Lumber Company. Stoltze has lumber manufacturing facilities in Dillon, Darby and Columbia Falls. Stoltze also owns approximately 17,000 acres of forest land in northwestern Montana. I am here today representing my employer and voicing our total opposition to this bill.

This bill is titled "The Forest Watershed Management Act" but would be more appropriately titled "The Montana Logging Practices Act". This bill is a blatant attempt by the legislature to tell the private landowners of this state how to manage their land. This is quite interesting because if you look at both the state and federal lands neither party with all their resource professionals have yet shown there is one best way to manage the forest land. This bill will create the law for so called watershed management and then leave it up to the Department of State Lands to develop both the standards and the regulations to govern those standards. Section 5 of the bill says "(1) The department, in consultation with interested landowners, logging operators, state agencies, and other interested persons, shall adopt:..." This is an open invitation to every environmentalist in the country to get involved and tell us what we can or cannot do on our property. Involving other state agencies, landowners and interested people in developing the rules and regulations will further turn this bill into a "Montana Logging Practices

to Protect Wildlife, Wilderness, Watershed and Scenic Vistas Act". The Department of Fish, Wildlife and Parks and its employees have actively tried to stop many timber sales on both state and federal lands. This invitation to participate here would give them the chance to deal the ultimate death blow to logging in Montana. There are also several groups within the state who would love to stop all logging in the state. This bill would give them their means to accomplish that goal.

Section 5 further goes on to say that the department may enter upon public or private lands, after reasonable notice, to investigate compliance. On what grounds will they decide when to enter and investigate? Will it be when some hard evidence of increased sedimentation appears downstream? Or will it be when some suspicious neighbor turns the landowner in because he or she doesn't like being able to see logging from their kitchen window? This clause most certainly violates a landowners civil rights because nothing in here requires the DSL to show probable cause.

In searching through the MCA Title 75 Environmental Protection and Title 76 Land Resources and Use I could find no specific standards relating to water quality in the natural environment or to standards for allowable levels of sedimentation. Without these types of standards in place how do you even know if logging practices on private land are having a detrimental effect on water quality? Unless you have definite proof that the logging practices used on private lands are having a detrimental effect on our waters you should not pass a bill such as this.

Section 3 in defining "Best Management Practices" talks about the most effective and practical means of preventing or reducing the introduction of sediments or other pollutants into state waters. Presumably an operator may have used a practice that wasn't chosen as one of the BMP's and yet is still effectively protecting the watershed and he would be in violation of

this law. The wording for the definition of BMP makes it sound as though not only will no degradation of water quality be allowed but the landowner may actually have to try to prevent naturally occurring sedimentation.

If this bill is really aimed at protecting our watersheds then why is it directed only at logging practices? Agricultural practices can be every bit as degrading to our watershed as logging is. Think about how cattle can break down a stream bank while trying to get water or the effect on the ground of overgrazing when livestock is left on one range too long. Why are you only trying to regulate timber harvest?

This legislature has the very large job before it of figuring out how to balance a severely deficit budget. Then comes HB 781, another bust the bank bill. Passing this bill will only compound the states financial crisis. The state is going to lose a substantial amount of revenue because of the changes in land classification allowed in this bill. Before you pass this bill you should take a very close look at what impact this loss of revenue is going to have on the state in future years. HB 781 will also add a new level of beauracracy that will require funding. There is no provision in the DSL proposed budget for implementing this bill. If this bill is passed the legislature would have to appropriate more money so the department could hire more people to implement it. This bill does not raise revenue, it only costs money. Lots of money.

HB 781 is not a fair bill. First it blackmails landowners into signing "Voluntary Binding Cooperative Agreements" by offering them a change in their land classification for tax purposes. A tax break most landowners cannot afford to pass up. Second, by signing the Agreements the landowner will be waived of some of the notification procedures required under the bill. Then if that isn't enough favoritism the landowners who sign Agreements may only be held responsible for practices specifically

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contained in their agreements while other non-signing landowners could presumably be held responsible for any action that the department might feel doesn't meet their "Best Management Practices".

Many landowners who wouldn't harvest timber on their property anyway will be able to get a substantial tax break now by signing the agreements. A tax break for doing nothing. Other landowners who would like to pursue some type of forest management on their land may feel pressured not to do anything out of fear of being fined for their actions and having to pay higher taxes. Many Tree Farmers who have been managing their forest land for years may suddenly find themselves in violation of the new BMP's. This bill is counter productive, it will encourage less forest management instead of better forest management.

Once again, we urge you NOT to pass this bill.

STATEMENT IN OPPOSITION TO HB 781 by:

Chester R. Dreher
1962 Colorado Gulch
Helena, MT 59601
406-443-2698

5 March 87

TO: MONTANA HOUSE OF REPRESENTATIVES NATURAL RESOURCES COMMITTEE

My wife and I are the owners of several forestland tracts in Lewis & Clark County and oppose this bill for several reason.

One, mechanisms have been in place for years to deal with water quality in Montana. The Soil Conservation districts throughout Montana, except for a small portion of Custer County, have a weak authority in this area. FW&P has a much stronger voice by virtue of the Stream Preservation Act. That authority goes beyond the call of this bill in that they can deal with anyone whether the activity be timber or anything else.

Two, this bill would have you buy a pig in a poke. We have no idea, at this point, what would be deemed a "best management practice." The bill calls for public participation down the road to determine what constitutes a "bmp." It would encourage the public to advise foresters, geologists and hydrologists how to manage resources they've been trained to deal with. It would require the landowner--who sees nothing of public participation at tax time--to comply.

Three, it charges DSL to deal with slash disposal. The agency has been doing that for years.

Four, the penalty section is so onerous to the landowner that it should effectively curb the desire to harvest, and I suspect that may be a hidden agenda. The curious part is that we know what the penalty is, but the crime will be defined at a later date. It would delegate to DSL the responsibility of determining if a violation has occurred, set the amount of the fine, and after losing the administrative appeal, require the landowner to pay that fine before being allowed access to the courts. This is a novel approach to due process. The sum is due before the process can begin. The penalty is set before the ex post facto crime is defined.

Five, the section dealing with taxation is too complex for me to comprehend, but in talking with those having expertise in that area, I am advised it's a mixed bag. It may raise taxes to landowners who convert to grazing east of the Divide and lower them to some on the west.

In sum the tax section is mere tinkering. It wouldn't raise enough to administer the program. The penalty section might if anyone could be found brave enough to attempt a harvest.

The goals are noble but not new. They were defined and addressed over two decades ago. I ask that you do not pass this one. Thank you

STATEMENT OF THE MONTANA SOCIETY OF AMERICAN FORESTERS
ON H.B. 781 BEFORE THE HOUSE NATURAL RESOURCE COMMITTEE
March 6, 1987

The Montana SAF is a professional organization representing 500 foresters in Montana in all lines of work - industry, state and federal government, consultants and others in the private sector.

The Society does not have a position either supporting or opposing a forest practices act in concept. However, we do believe that if it is agreed, after a review by resource management professionals, that a forest practice act is needed, than such an act should be based on the criteria for a forest practice act adopted by the Society of American Foresters.

The sponsor of H.B. 781 was provided with a copy of these criteria last month when the bill initially was drafted. Subsequently, some changes were made, but we believe H.B. 781 does not conform to 7 of these criteria.

1. There is no determination of what benefits will be derived from the substantial costs (#1)

2. There is no finding that current best management practices under the Federal Clean Water Act are inadequate and that it would be advantageous to have state regulation (#3)

3. There is no coordination with related regulatory programs or the 6 state and federal statutes that now apply. (#4)

4. The language is vague and generally accepted professional terminology is not used. (#5)

5. The need for flexibility in meeting standards is not recognized (#7)

6. The organization developing the proposed rules does not represent key segments of the forest users or "a substantial number of persons who are knowledgeable or experienced in the scientific management of forest resources." (#8)

7. There is no assurance for adequate staffing for administration and enforcement activities (#11)

Consequently, the Montana SAF recommends that H.B. 781 not be passed. If there is sufficient concern by the legislature over forest practices, a study should group be established to include agencies, small and large landowners, conservation groups and the Society to determine if a forest practice act is needed, and if it is determined that such an act is needed, a similar group participate in its development.

Criteria for State Forest Practices Act

The Society of American Foresters (SAF) recognizes that controversy over the regulation of forest practices in the United States has reached national proportions several times in the past; also various states have enacted or from time to time have considered enacting forest practices regulations. The issue of regulating forest practices has generally sprung from public concern over future timber supplies, poor timber harvesting practices, and wildfire—and consequent environmental damage such as inadequate forest regeneration, soil erosion, and sedimentation of watercourses.

The Society of American Foresters does not advocate that states enact laws that regulate forest practices. This is for each state to decide on the basis of its needs for environmental protection and forest productivity; these needs vary from state to state.

The Society does advocate that the process of developing legislation affecting forest management practices in any state include the input of professional foresters. SAF also advocates that professional forestry expertise be employed in the process of developing any specific forest practices regulations that may flow from enabling legislation, and in the monitoring of forest practices to verify compliance with established regulations.

If a forest practices act is enacted on a given date, SAF is concerned that it be an effective law. To this end, SAF undertook the task of developing the criteria set forth below. The remainder of this statement includes, first, a brief background section that is intended to provide perspective on the issue in question, and second, the criteria that should be observed in developing and implementing a competent state forest practices act. SAF is prepared to elaborate, where necessary, on any of the criteria and to assist in discussions or deliberations regarding the regulation of forest practices.

Background

In recent years, focus on state forest practices legislation has resulted from the sharp increase in public concern over the quality of life in the United States. This has led to enactment of several far-reaching federal environmental laws. One of these was the Federal Water Pollution Control Act Amendments of 1972, Section 208 of which mandated that water pollution from "silviculture" activities be "controlled."

In an effort to carry out the mandate of Section 208, the Environmental Protection Agency (EPA) released a "Suggested State Forest Practices Act" in late 1974. This model law was very detailed and specific, and would have dictated silvicultural and harvesting practices, among other things. Professional forestry's criticism of the EPA's model law quickly established that it was misdirected: Existing forestry research findings clearly showed that the main water-quality problem associated with forest utilization operations is siltation and sedimentation of streams resulting from improper design, construction, and maintenance of logging roads. But the EPA's model law was more directed toward silvicultural prescription, i.e., the manipulation of stands of trees. In light of this, the EPA in 1975 changed its regulatory strategy in favor of state-level "best management practices," which would guide forest landowners and loggers in the proper planning and construction of logging roads, plus any other major soil-disturbing activities that might lead to water quality problems. EPA further determined that these best management practices could be administered on a *voluntary compliance* basis, provided that a monitoring system was included so that compliance and water-quality impacts could be documented over time. Congress verified that this approach to Section 208 implementation was acceptable in the Clean Water Act of 1977. This resolution of the Section 208 issue removed federal pressure for state forest prac-

A Position of the Society of American Foresters*

*Approved, with revision, by the Council of the Society of American Foresters on November 12, 1984. Originally adopted on March 7, 1975, and subsequently renewed on November 29, 1978, and again on November 18, 1981. A position of the Society of American Foresters expires three years after the date of its adoption, unless, after thorough review, its continuance is approved.

tices regulations of a broad nature.

However, there remains a concern over the present and potential productivity of the forestlands of the United States and over the effects that various forest management and utilization practices may have on both forest productivity and various environmental parameters. It is recognized that when some activities related to forestland management are improperly performed, negative impacts can result, such as a reduction in water quality, esthetic damage, and decrease in the capacity of the land to produce vegetation. Occurrences of these kinds must be discouraged and kept within acceptable limits. This can be done through various education, training, and financial incentive programs or through regulation by states or other authority. Each of these means has proven useful under appropriate circumstances.

Conversely, careful application of good forest management practices can increase tree growth, maintain water quality, preserve soil productivity, and provide for wildlife habitat and recreational opportunities substantially beyond the natural limitations of unmanaged forests. These constructive practices ought to be encouraged, and can be, through various education and incentive forestry programs. However, the efficiency of legal coercion in the form of regulation of practices is doubtful as a means of encouraging intensive forestry. *Both experience and theory indicate that the population is more effective in enforcing minimum performance standards than in achieving more ambitious management goals.*

Criteria for an Effective State Forest Practices Act

1. A forest practices act should encourage the application of scientific knowledge and forest management principles in order that society can obtain the largest net sum of benefits from forestlands. Such an act should

reflect full consideration of both its public and private costs and benefits.

2. A forest practices act should assure the productivity of forestlands and protect the environment, including air and water quality.

3. State-initiated regulation of forest practices has demonstrated advantages over regulation initiated by federal and local governments. A forest practices act should recognize regional variations within a state's boundaries in both forest conditions and in forest-derived values.

One of the principal arguments for state regulation is the immense variability of forest types. In most states where acts have been adopted, the course has been to recognize two or more forest districts and then develop separate regulations for each. In addition, local problems may be accommodated through "special treatment areas."

4. A forest practices act should be coordinated and in compliance with related regulatory programs in order to minimize jurisdictional conflicts and administrative costs. The act should be consistent with public programs of research, education, technical assistance, and financial incentives.

If a forest practices act becomes law in a state, it would be but one part of a body of laws, regulations, and programs relating to forest resources. Efforts to integrate its elements with other laws, regulations, and programs should be encouraged. Duplications in agency jurisdictions should be minimized.

5. A forest practices act should clearly define the land to be covered as well as any standards and terms with respect to forest practices, air and water quality, and soil erosion. An act should use generally accepted professional terminology.

Because such an act deals directly with scientific phenomena, technical terminology should be employed where needed to clarify its purposes and scope, and standards and terms

should be operationally defined.

6. A forest practices act should establish procedures and guidelines for the development and adoption of regulations but should make no attempt to specify the regulations themselves.

Forests are inherently heterogeneous. Furthermore, scientific knowledge of forests and management techniques is rapidly evolving. Thus, an act would best be designed if it prescribed the procedures by which regulations are developed and implemented rather than if it specified the regulations themselves.

Where an act provided for reforestation, specific stocking standards should evolve from the same process used to develop practice regulations.

7. A forest practices act should allow a landowner latitude to meet standards by various means, provided such means are consistent with professionally recognized forest management principles. Administrative requirements for landowners and operators should not be unduly burdensome.

Experience shows that one act may so encumber a landowner with requirements that the landowner foregoes opportunities to actively manage the land and utilize its resources (e.g., sell timber). Conversely, it may also bring pressure for intensive management on lands that are not well suited to certain uses.

8. Where boards or commissions are authorized to make forest practice regulations, they should represent the broad public interest and should include a substantial number of persons who are knowledgeable and experienced in the scientific management of forest resources. Where persons of this kind are not a majority of the body making the regulations, a committee or advisory body of the rule-making agency should include a majority of people knowledgeable and experienced in forest management.

9. The development of forest practice regulations should be accomplished with due consideration of the

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knowledge and opinions of landowners, timber operators, forestry and related professionals, and the public. Regulations should take into account regional forest variations, landownership patterns, and the economic geography of forest-based industry. Public involvement, including public hearings, is necessary to achieve these purposes.

10. The agency that drafts forest practice regulations should be one that has responsibility for government coordination of their administration. The regulations should be administered and enforced by a single state agency with adequate staffing and forestry experience and with established working relationship with forest landowners and others whom the regulations will primarily affect.

11. A forest practices act should provide for effective administration and enforcement, with adequate provisions for due process, to achieve the objectives and purposes of the act. Administrative and enforcement procedures should be fair, efficient, and expeditious. Provisions should also be included for the use of continuing education, information, and training programs to implement regulations. Forest management operations con-

ducted in accordance with adopted practice regulations should be considered to have met the requirement of laws pertaining to soil sedimentation and air and water quality.

Two methods by which an administrative agency may be advised of intended timber harvesting are a "notification scheme" and a "prior approval" system. Under a notification scheme, the landowner, timber owner, or operator notifies the administering agency of the intent to undertake specified operations and the location of the harvesting site, together with other pertinent information. Operations may then proceed, subject to inspection and with the possibility of interference if operations are found in violation of relevant regulations.

Under the prior approval system, the landowner, timber owner, or operator submits a statement, application, or plan prior to the commencement of activities, stating the intentions, and then awaits approval by the administering agency before beginning operations.

To date there is no evidence as to which of these schemes ultimately results in a greater degree of environmental protection or more productive forestland. However, the costs of a

prior approval system appear to be inherently greater than those of a notification scheme, all other things being equal. Therefore, a notification scheme should be given preferential consideration.

Instruments that have been effective in enforcing practice regulations include: (1) informal conferences, (2) notices to comply, (3) "stop work orders," (4) civil and criminal penalties, and, ultimately, (5) agency authority to take corrective action at the violator's expense where environmental damage has occurred or is imminent. It should be recognized that the effectiveness of these instruments does not preclude the existence or the possible development of other effective means for enforcement.

12. A forest practices act should not preclude the legitimate conversion of forestland to other uses.

An act that would prevent a forest owner from converting land to uses other than timber production would severely infringe on the owner's property rights. Nevertheless, the landowner's legal right to such conversion should not become a means for evading the provisions of a forest practices act. ■

81 My name is Andy Luker. I am the Clark Fork District Land Manager for Champions Mission Area operation

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The major forest land owners in western Montana have adopted an action program and ^{have} entered into a memorandum of understanding addressing watershed protection and best forest management practices in Montana.

The participants are the USFS, Mont. Dept of State Lands, Plum Cr. Timber Co., Champion Int. Corp. BLM, BIA - Flathead Agency, Dept Nat Res. & Conservation - Cons. Districts Division and the Dept of Health Water Quality Process.

This agreement and the voluntary BMPs which are a part of the agreement show these landowners are concerned about maintaining ^{good} water quality and not causing watershed problems by their normal management practices.

Gary Brown, the State Forester has done a good job of leading the effort and it is a good, common sense practical approach in the Best Montana Tradition.

HB 781 addresses the same issues in a costly administrative and regulatory framework. It will cost the state of Montana many hundreds of thousands of dollars in reduced timberland taxes and be very costly to the state in administrative costs (DSL and Dept of Revenue) as well private forestland owners.

This bill will deny the state of Montana needed tax revenue, increase administrative and management costs for private forestland owners and provide a complete tax shelter for timber value from state taxation.

The Forest products industry and the people of the state do not need this bill at this time as Good

Progress is being made with the current voluntary effort. Let's be smart enough to try the less expensive voluntary program and see how it performs before adopting a measure as expensive and potentially cumbersome as HB 781.

EXHIBIT 15DATE 3-6-87HB 781

WITNESS STATEMENT

NAME Anthony C. Carter BILL NO. 781
ADDRESS P.O. Box 389 Deer Lodge, MT. 59722
WHOM DO YOU REPRESENT? Louisiana-Pacific Corporation
SUPPORT _____ OPPOSE X AMEND _____

COMMENTS: We adamantly oppose Bill # 781 The Forest Practices Act for the State of Montana. The bill heavily emphasises the penalty and enforcement aspects for compliance rather than a cooperative and educational approach which, ~~is~~ is essential to the success of any program to ~~change~~ protect the environment. I feel the voluntary cooperative approach ~~if~~ we have now in place will be more effective and much less costly in the long run.

Before going to work for Louisiana-Pacific Corporation I was a Forest Practices Officer for the State of Oregon. The cooperation between landowner, logger and the "enforcing" officer was essential for success. The threat of penalties, The Act itself and any title were definite obstacles to achieving that cooperation.

This is an educational problem not an enforcement problem. ~~It is a starting point for landowner and logger cooperation.~~ Please kill this bill and give the industry and landowner a

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

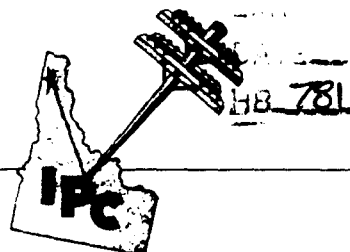
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Rev. 1985

chance to prove they can police themselves, that we can expand the cooperative approach to include all logging operations on ~~land~~ that this system works.

(over) ←

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3.6.87



IDAHO POLE COMPANY

WESTERN LARCH • WESTERN RED CEDAR • LODGEPOLE PINE

BOX 1129 - BOZEMAN - MONTANA - 59715
BOX 670 - SANDPOINT - IDAHO - 83864

TO: MEMBERS OF THE HOUSE NATURAL RESOURCES COMMITTEE

RE: HB781 (COHEN)

Dear Committee Member:

On behalf of my company and myself I wish to go on record as being in total opposition to HB781. We offer the following reasons for your consideration:

First; this bill is unequivocally an anti-timber bill and anti-development bill. It is designed to empower the state with the ability to curtail, prevent or penalize private landowners and companies from harvesting timber on their lands. It is that simple.

Second; this bill mandates that the Department of State Lands consult with "interested parties" in adopting the rules governing timber harvesting, road construction, slash treatment and site preparation. There is no doubt in our minds that some of the "interested parties" this bill allows for are environmental organizations and people who do not like timber harvesting and continuously attempt to prevent it whenever possible. This bill is simply put, another vehicle to harass and attack timber management.

Third; this bill mandates an increase in Department beaucrocracy which would require an immense amount of funding. The personnel necessary to run this program would be an ever increasing drain on the state budget. The money and people necessary to initiate, operate, monitor and maintain compliance of this bill would be excessive and unjustified in a time of budget constraints.

Fourth; there simply is no proof or justification for the need of this bill. There always have been and always will be isolated problems concerning water quality and quantity in a developed society, but the hydrological information and scientific evidence that timber harvesting is detrimental to watersheds simply doesn't exist. Natural occurrences such as fire, wind erosion, rain, earthquakes, settling and shifting of topsoil, animal deprivation and others have all been shown to have as great, if not greater, impact on water quality than does sound timber management. Are we going to legislate nature into bankruptcy?

Fifth; this bill contain sections which are tantamount to "legal blackmail". Specifically the reduced land tax classification for those operators who "voluntarily" sign up for a 10 year agreement and the penalty clauses that are excessive for those who choose not to "voluntarily" comply. We question the legality of sections 6, 7, 8 & 9 and firmly believe that if this bill was enacted there would be extensive and costly litigation by the State in defending it.

Sixth; the definitions of "Forest land", "Timberland", "Best Management Practices" and the general land classification sections in this bill are ambiguous and appear to be selectively worded to be that way on purpose. Why?

In summary, we believe this bill to be anti-business, anti-jobs(except for State government) and a very direct attempt to further harm an industry that is already suffering.

We believe that the problems this bill purports to address simply do not exist.

We believe that the existing "Best Management Practices" program administered by the Department of State Lands, Forestry Division, will accomplish the goals of sound forest watershed management if given the chance. The program is in it's infancy and needs an opportunity to develop and prove itself. A law is not needed. "If it ain't broke, don't fix it"!

This bill is very poorly written. Frankly, my opinion is that this bill was written by people who could care less whether our industry survives or not and probably would be happy if no more timber harvesting ever took place.

These are strong statements. This is an equally strong bill in a negative way. The penalties for non compliance are ludicrously high. Actual regulations are not yet written and are legislated to be written by just about any one. I'm sure they would be.

This bill should be killed without any attempt to compromise it's intent.

I ask, my company asks and we both ask on behalf of our employees and our industry that you see this bill for what it is and kill it in it's entirety.

We thank you for your consideration of this written testimony.

Sincerely,

Vince R. Heier
Timber Manager,
Idaho Pole Company

VRH:lls
Copy:file

VISITORS' REGISTER

NATURAL RESOURCES COMMITTEEBILL NO. HB 781DATE March 6 1987SPONSOR JOHN

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
H. J. Wilson	Missoula		X
H. G. McDowell	Missoula		
Joe Gutkoski	304 N 18th Bozeman	X	
Esther Starberg	MWF	X	
Nick Kirkmire	Seattle		X
Al Hinton	Helena		X
Richard Reid	Missoula		X
Gaudin Mannan	Missoula (MEIC)	X	
Joan Montagne	Bozeman	X	
MARK Simonich	Dillon		X
Ren Kohrt	Darby		X
Anthony C. Colter	Deer Lodge		X
JEITH C. LIND	MT. Logging House		X
George M. Berg	Berg Furnace		✓
GEORGE OCHENSKI	MT. ENV. INF. CNTR	X	
CHET DREHE	1962 COLO 2nd Hq		✓
Dana Field	MT AUDUBON LEGIS FUND	✓	
Debi Brummer	mt Assn Cons Dist		
Ray Beck	CID / IDIURE		

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COMMITTEE

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DATE March 6, 1987

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