

MINUTES OF THE MEETING  
NATURAL RESOURCES COMMITTEE  
MONTANA STATE SENATE

March 4, 1987

The meeting of the Senate Natural Resources Committee was called to order by Chairman Thomas Keating on March 4, 1987, at 1:00 p.m. in Room 405 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 208: Representative Kelly Addy, District 94, stated that he carried HB 208 at the request of the Department of State Lands. Prior to last spring, the Department had interpreted the statutory authority to permit the Department's deducting proportionally the transportation cost of oil and gas that were developed on State lands. Last spring, the Department received legal interpretation to the contrary. Many people had entered into leases with the State on the assumption those costs could be deducted. Rep. Addy said the statute is amended to read as those involved originally interpreted the statute at the time State entered into the leases. HB 208 overrules the Department of State Land's attorney at the Department's own request.

PROPOSERS: Dennis Hemmer, Department of State Lands, supported the passage of HB 208. (Exhibit 1) Mr. Hemmer stated two other points:

1. "A deal is a deal."
2. Strip wells with low production are particularly affected by transportation costs.

Doug Abelin, Montana Oil and Gas, stated support of HB 208 not only for the reasons Mr. Hemmer had mentioned, but also because anything that is beneficial to the strippers at the present time is well appreciated.

Harold Ude, Cenex, Laurel, supported the bill.

OPPOSERS: There were no opposers.

QUESTIONS (AND DISCUSSION) FROM THE COMMITTEE: Sen. Keating asked Mr. Hemmer if there had been any problems with gas transportation and Mr. Hemmer replied that the Department had no problem in the past with gas, but simply wanted to rectify the problems Department did have with oil transportation costs.

CLOSING: Rep. Addy closed by asking Sen. Keating to carry the bill on the Senate floor.

CONSIDERATION OF HOUSE BILL 239: Representative Raymond J. Brandewie, District 49, Lake County, introduced HB 239 as being a rather simple piece of legislation that would authorize the use of the National Geodetic Survey 1983 Coordinate System for defining and stating points on the face of the earth within Montana. The 1983 coordinate system would replace the NAD 27 system developed in 1927 that is outdated. The 1983 Coordinate System is used by federal agencies, utility companies, mineral exploration companies and others on large-area mapping and control projects.

PROPOSERS: Bob Custer, Montana Association of Land Surveyors, explained that the Association had drafted the bill. The most important reason for using the 1983 coordinate system is to go to the mathematic model of the earth which was computed through the Space Program and developed in 1980. The previous model of NAD 27 was actually Clark's spheroid of 1866. Measuring ability has increased quite a bit and mathematic model now is within one meter of the center of the mass of the earth. This would allow use of the new satellite measuring capability down to the millimeter level--a very high degree of accuracy. HB 239 would establish a single zone coordinate system for the State of Montana. The system is used by people who do large area surveys. There would be no requirement to do it on property surveys. HB 329 allows for the late abandonment date of 1993 for NAD 27. NAD 83 has been adopted by 38 states thus far, and Mr. Custer explained NAD 83 would become the data base reference system for all the coordinate positions. (Exhibit 2)

Robb McCracken, President of Montana Association of Planners, stated that HB 239 has three main benefits:

1. It will allow the use of more precise satellite survey measuring equipment in Montana.
2. It may reduce the survey costs to the landowner for large survey projects.
3. It will increase the accuracy of public land survey records. (Exhibit 3)

Margaret Clark, Department of Commerce, supported the bill for the reasons Robb McCracken stated.

Pam Miller, Montana Land and Title Association, supported HB 239.

QUESTIONS (AND DISCUSSION) FROM THE COMMITTEE: Sen. Keating asked if this bill would change the metes and bounds descriptions; and Mr. Custer replied that it would not. It's strictly a reference system based on the coordinate system for the State for those people who want to use it on large surveys. Mr. Custer added that it would not cause any problems for transferral of land.

CLOSING: Rep. Addy requested Sen. Halligan to carry the bill.

CONSIDERATION OF HOUSE BILL 290: Rep. Gary Spaeth, District 84, explained that HB 290 would grant legislative authority for appropriation of ground water beyond 3,000 acre feet per year according to 85-2-317, MCA, to Dick and Sharon Ragland of Bridger who applied for 7,000 acre feet. Rep. Spaeth distributed copies of the report prepared by the Department of Natural Resources (Exhibit 4)

The application involves Bluewater Creek outside of Bridger. In the 1950's there was a well drilled, and there was a tremendous amount of artesian pressure; and the water flows into Bluewater Creek that serves downstream users and Bluewater Fish Hatcher. The water application is not for an increase in use of water, but employing the water for hydroelectric purposes before it flows into the creek. Rep. Spaeth emphasized that quality of water or flow of water would not be changed.

PROPONENTS: Larry Holman, DNRC, testified that the application needs legislative approval and that his department had reviewed the application and found no area that would cause problems. Existing users would be protected, and Mr. Holman asked the committee to look upon the bill with favor and give it a DO PASS.

OPPONENTS: There were no opponents.

QUESTIONS (AND/OR DISCUSSION) FROM THE COMMITTEE: Sen. Weeding asked if one well was in existence, and the proposal would be to drill another well. Rep. Spaeth replied that the plan is to cap the first well and there would be a new existing facility because first well is easier to cap than to renovate. Original well had been in existence for 30 years without any maintenance. Rep. Spaeth said the applicants are anticipating the same capacity in the next well to be drilled.

Sen. Halligan asked about provision of water flow in the permit. Rep. Spaeth confirmed that existing flow cannot be increased or decreased as specified on second page of Exhibit 4.

In response to Sen. Hofman's question, Rep. Spaeth stated that the land is privately owned.

Sen. Keating asked Mr. Hemmer about the number of applications received each year. Mr. Hemmer answered that since the law was enacted two years ago, Mr. Ragland's application and the Deadman Water Basin application were the only ones received.

Sen. Keating then asked about the oil and gas wells in the area, and Rep. Spaeth explained that the artesian well was actually drilled in search for oil, but there is no area within five or six miles with any interest.

Sen. Keating stated that the formation is a major oil producing formation in Wyoming.

Rep. Spaeth answered Sen. Severson's questions about opponents by saying that there is no one in opposition as there will be no impact on the stream. The fish hatchery had some concern. (See "B" in DNRC report.)

The question was asked by Sen. Keating if Raglands would be hooking into MPC system, and Rep. Spaeth said they would be and that MPC basically supports the project.

CLOSING: Rep. Spaeth explained that there will no negative impact on the stream. Sen. Weeding will carry the bill.

Sen. Keating called the meeting to order for an Executive Session.

DISPOSITION OF HOUSE BILL 208: Sen. Lynch moved that HB 208 BE CONCURRED IN. Motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL 239: Sen. Walker moved that HB 239 BE CONCURRED IN. Motion CARRIED unanimously.

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DISPOSITION OF HOUSE BILL 290: Sen. Keating stated that he understood according to law, Montana Power Company is required to buy the electricity at twice the rate the company charges for it; and passing HB 290 would add expense to MPC.

Sonny Hanson made a clarification that when MPC purchases the power, the Public Service Commission establishes the rate.

Sen. Weeding moved that HB 290 BE CONCURRED IN. Motion CARRIED unanimously. Sen. Weeding will carry the bill.

  
THOMAS F. KEATING, Chairman

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ROLL CALL

NATURAL RESOURCES

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 4, 1987

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Keating, Chairman	✓		
Sen. Cecil Weeding, Vice Chairman	✓		
Sen. John Anderson	✓		
Sen. Mike Halligan	✓		
Sen. Delwyn Gage	✓		
Sen. Lawrence Stimatz	✓		
Sen. Larry Tveit	✓		
Sen. "J.D." Lynch	✓		
Sen. Sam Hofman	✓		
Sen. William Yellowtail	✓		
Sen. Elmer Severson	✓		
Sen. Mike Walker	✓		

Each day attach to minutes.



TESTIMONY FOR THE DEPARTMENT OF STATE LANDS

ON HOUSE BILL 208

(March 4, 1987, Room 406, 1:00 p.m.)

SENATE NATURAL RESOURCES

EXHIBIT NO. 1

DATE March 4, 1987

BILL NO. HB 208

The Department of State Lands supports the passage of House Bill 208 that would allow the deduction of the costs of truck transportation of the state share of oil to market. The Department has 136 oil producing leases of which approximately 50% have their oil transported by truck to a marketing facility. The average cost for transportation is 90¢ per barrel, therefore, the deduction to the state royalty would be approximately 12¢ per barrel.

The passage of this bill will put the State of Montana leases in line with other states such as Wyoming and North Dakota and federal oil leases. By charging the transportation costs to the state share based on the royalty percentage share, the state is being fair to the oil producer who is actually marketing the state oil. The Department feels that clearing up this issue will be an incentive to the producers of oil on state lands and especially the independent and small oil operators based in Montana. The majority of the small oil producers crude is transported by truck.

I would ask your passage of House Bill 208.



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

NAME: Robert S. Custer DATE: 3/4/87

ADDRESS: PO Box 5741 Helena, Mt. 59604

PHONE: 933-5732

REPRESENTING WHOM? Montana Assoc. of Registered Land Surveyors  
MARLS

APPEARING ON WHICH PROPOSAL: HB-239 NAD-83 Coordinate

DO YOU: SUPPORT? yes AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT: See attached

34 States have Adopted NAD-83 Legislation

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Explanation of Proposed Amendments to the  
Montana Coordinate System 70-22-201 MCA

These amendments will update the current law to allow the use of the recently completed National Adjustment. All other states have adopted or are in the process of adopting similar legislation.

Major elements of proposed legislation:

SENATE NATURAL RESOURCES

EXHIBIT NO. 2 (cont)

DATE March 4, 1987

- 1) Defines the 1983 Coordinate System and allows its use.

The current 1927 coordinate system is based upon Clark's spheroid of 1866. The 1983 Coordinate System is based upon a new mathematical model of the earth developed through the space program in 1980.

BILL NO. 239

- 2) Establishes a new single zone coordinate system for Montana.

The current 1927 coordinate system has three zones. The 1983 system will be one single zone which will be much simpler to use.

- 3) Provides for delayed abandonment of the 1927 coordinate system.

The 1927 system can be used until July 1, 1993.

Who developed this legislation?

The Montana Association of Registered Land Surveyors in cooperation with the National Geodetic Survey (NGS) developed this legislation in order to allow the use of the 1983 Coordinate System as published by NGS. The legislation is based upon a model act prepared by the American Congress on Surveying and Mapping.

Effects of this legislation

This legislation does not change the methods or requirements for property surveys. These surveys will continue to be done in the same manner and tied to the rectangular survey system of sections and townships.

This legislation does not require the use of the Montana Coordinate System. Those who have used it in the past will continue to use the new simplified system and new users may find the new system economically justifiable.

This legislation does not effect the cost of private surveys. Again, those who use the system do so because it is cost effective.

This legislation will facilitate the use of satellite survey measuring equipment in Montana. Satellite measuring requires the use of the more precise 1983 Coordinate System.

Currently the primary use for state plane coordinates is as a data base for large engineering projects.

State plane coordinate systems are used by federal agencies, utility companies, mineral exploration companies and others on large-area (several square miles) mapping and control projects. The list of potential users will extend to every type of survey as the cost of satellite measurement comes down.

This legislation defines the grid system to be used so that all users can depend upon and use each other's work.

MONTANA  
ASSOCIATION OF  
PLANNERS

SENATE NATURAL RESOURCES  
EXHIBIT NO. 3  
DATE March 4, 1987  
BILL NO. 239

3/03/87

Honorable Senator Tom Keating  
Chairman, Senate Natural Resources Committee  
State Capitol  
Helena, Montana

Dear Senator Keating and Members of the Committee,

On behalf of the Montana Association of Planners -- Montana's City, County, State and Private Land Planners -- I urge your support of HB239.

House Bill 239 has the following benefits:

1. It will allow the use of more precise satellite survey measuring equipment in Montana. Greater precision land surveys will be possible.
2. It may reduce the survey costs to the landowner for extremely large survey projects.
3. It will increase the accuracy of public land survey records. This is to everyone's benefit.

The bill does not increase the survey cost to the landowner. Landowners or surveyors will not be forced to use the system proposed by HB239 -- alternative survey methods will still be available.

In sum, HB239 will allow state of the art surveying using the national standard. This will benefit the landowner and the public land record keeping system.

Sincerely,

*Robb McCracken*

Robb McCracken  
President  
Montana Association of Planners  
1033 Breckenridge  
Helena, Montana, 59601

Sprella

REPORT TO THE MONTANA LEGISLATURE REQUESTING APPROVAL  
OF GROUNDWATER WATER RIGHT PERMIT APPLICATIONS BY  
DICK AND SHARON RAGLAND AS REQUIRED BY SECTION 85-2-317, MCA  
BY  
MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
SEPTEMBER, 1986

SENATE NATURAL RESOURCES  
EXHIBIT NO. 4  
DATE March 4, 1987  
BILL NO. 290

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INTRODUCTION

Dick and Sharon Ragland of Bridger, Montana, have filed two Applications for Beneficial Water Use Permit (No. 54,092-g43D and No. 54,124-g43D) with the Montana Department of Natural Resources and Conservation for groundwater appropriations exceeding 3,000 acre-feet per annum for hydropower purposes (see attached locator map). Section 85-2-317, MCA, states that no application for a permit to appropriate groundwater in excess of 3,000 acre-feet per year may be granted for this type of use, except pursuant to an act of the legislature. This law generally applies to permits to appropriate groundwater for applications filed but not granted as of May 7, 1979.

DESCRIPTION OF THE APPLICATIONS

The amount of water applied for on each application is 10 cubic feet per second (cfs) up to approximately 7,239 acre-feet per annum for hydroelectric power generation from artesian flowing wells.

A. APPLICATION NO. 54,092-g43D - (priority date, November 8, 1983) is a request to add a new use for hydroelectric power generation from an existing flowing artesian well drilled in 1950. (A portion of the existing well flow has an existing water right and has been used for irrigation purposes). This well is located in the NW $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 4, Township 6 South, Range 24 East, Carbon County, Montana. The amount requested is 4,488 gallons per minute (10 cfs) up to 7,238 acre-feet from January 1 to December 31, of each year. The groundwater will flow into Bluewater Creek nearby after being used for hydropower purposes (and after being used for irrigation purposes for which a water right already has been established).

The application was Public Noticed on December 15 and 22, 1983, and no objections were received. The Applicants have been granted a permit for 3,000 acre-feet of water, but need Legislative approval for the additional 4,238 acre-feet in excess of the 3,000 acre-feet for a total of 7,238 acre-feet.

The total depth of this well is 789 feet. The source of water is the Tensleep Formation, a major aquifer in the area, which commonly has reported artesian flows exceeding 8 cfs. U.S. Geological Survey Paper No. 1779-J questions whether the entire flow is only from the Tensleep Formation. Some water may infiltrate along fractures into the Tensleep Formation from the Madison Formation which is 100 to 300 feet deeper.

B. APPLICATION NO. 54,124-q43D - (priority date January 5, 1984) is a request to divert water from a new proposed flowing artesian well located in the SE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 4, Township 6 South, Range 24 East, Carbon County, Montana. The amount requested is 4,488 gallons per minute (10 cfs) up to 7,239 acre-feet from January 1 to December 31, of each year. The groundwater will flow into Bluewater Creek nearby after being used for hydropower purposes. The depth of this proposed well would be approximately 1,200 feet into the Madison Formation. The Madison has been inadequately tested as an aquifer in this area, but according to U.S. Geological Survey Paper No. 1779-J is potentially capable of producing over 3,000 gallons per minute (equals 6.68 cfs).

The application was Public Noticed on May 31 and June 7, 1984, and one objection was received from the Montana Department of Fish, Wildlife, and Parks. The Department of Fish, Wildlife, and Parks and the Applicants have formally agreed to the issuance of the provisional permit according to the following conditions to specifically protect flows for the nearby Bluewater Fish Hatchery.

1. Any final determination of existing water rights, as provided by Montana law.
2. Subject to all prior existing water rights in the source of supply.
3. This permit is subject to Section 85-2-505, MCA, requiring that all wells be constructed so they will not allow water to be wasted, or contaminate other water supplies or sources; and all flowing wells shall be capped or equipped so the flow of water may be stopped when not being put to beneficial use. The final completion of the well must include an access port of at least .50 inch so that the static level of the well may be accurately measured.
4. The issuance of this permit by the Department shall not reduce the Permittee's liability for damages caused by Permittee's exercise of this permit, nor does the Department in issuing the permit in any way acknowledge liability for damage caused by the Permittee's exercise of this permit.
5. The Permittee shall keep a written record of the flow rate and volume of all waters diverted, including the period of time, and shall submit said records to the Department upon request.
6. Should this project impact the flow or water quality of the Bluewater Fish Hatchery's spring, project operations will cease entirely, or until an acceptable substitute water supply is provided to the Hatchery at the Permittee's expense. Flow impacts shall occur any time the combined flow of the covered spring and Bluewater Spring falls below 3,877 gpm (8.64 cfs). This permit when issued would be issued in conjunction with Permit to Appropriate Water No. 54,092-g43D. The combined appropriation as granted shall not exceed a total of 10 cfs up to 7,239 acre-feet per annum.

## GENERAL POWER PLANT DESCRIPTION

The entire project is to be located on land owned by the Applicants. The hydroelectric installation (up to 500 KW) will be designed to interconnect with one of Montana Power Company's 3-phase distribution lines to be extended  $\frac{1}{4}$  mile to the powerhouse. The project is a run-of-the-river type system with no storage of water, using only direct artesian flowing groundwater from either of the two wells.

Pending the outcome of the new well drilled under Application No. 54,124-g43D the plant intake will be located either on the new well or on the existing well.

The well head intakes located in Section 4, as described above, will consist of a concrete well head structure with a control valve for the penstock. The pipeline will be a buried 16-inch line to the powerhouse to be located in the NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , SW $\frac{1}{4}$  of Section 9, Township 6 South, Range 24 East, Carbon County, Montana. Water leaving the powerhouse will be discharged into Bluewater Creek at or below stream velocities.

The power plant will be capable of producing between 230 KW to 500 KW with a design head of up to 700 feet, hydraulic capacity of 10 cfs, plant factor of 95% and an annual output of 1.9 GWh to 4.1 GWh. The powerline from the powerhouse will be approximately a quarter mile in length to the nearest line. Construction for this project will take approximately 4 months to complete.

An application was made to the U.S Federal Energy Regulatory Commission (FERC) for an exemption of a small hydroelectric power project from licensing. The Applicants were informed by FERC that the proposed project is not required to be licensed by Section 23(b) of the Federal Power Act, since the entire project is on land owned by the Applicants and their water source being groundwater is not a navigable surface water source.

## RECOMMENDATION

The Montana Department of Natural Resources and Conservation recommends that the Montana Legislature approve Application No. 54,092-g43D and No. 54,124-g43D as described above and that provisional water use permits be granted in the amounts requested in excess of 3,000 acre-feet to Dick and Sharon Ragland for hydropower generation purposes.

LOCATION MAP

Range 24 East

Fromberg,  
Montana

New well - Application No. 54,24-9430

Old well - Applications  
No. 54,092-9430

Ruckavina 3  
Well No 3

Pipeline

Township  
6  
South

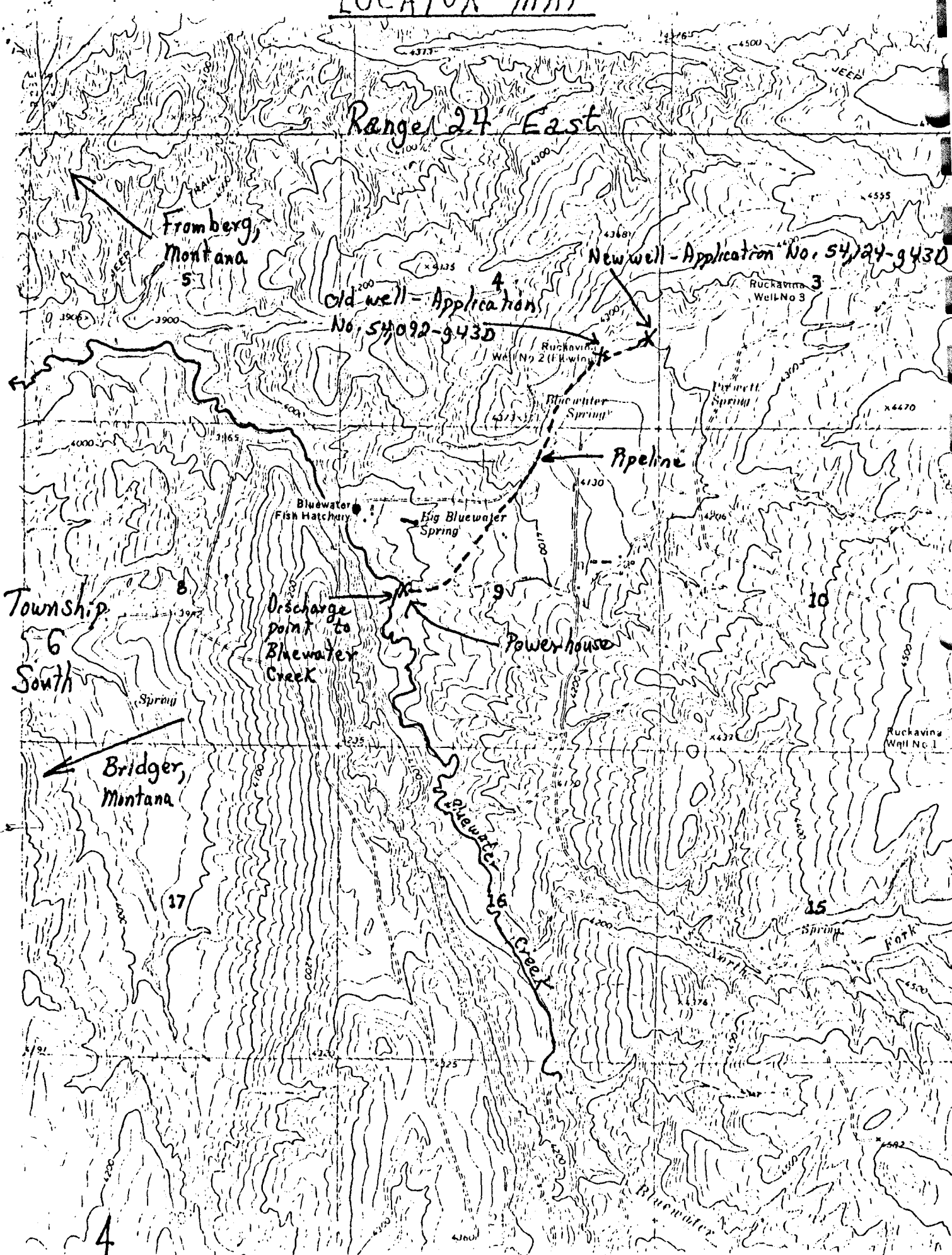
Discharge  
point to  
Bluewater  
Creek

Powerhouse

Bridger,  
Montana

4  
North

U.S.G.S. - Bluewater, Montana 7.5 minute Quad



# STANDING COMMITTEE REPORT

March 4

37

19.....

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE BILL No. 208

THIRD reading copy ( BLUE )  
color

**ALLOWING STATE OIL LESSEES TO DEDUCT PROPORTIONALLY OIL TRANSPORTATION COSTS**

**ADDY (Keating)**

Respectfully report as follows: That HOUSE BILL No. 208

BE CONCURRED IN

~~NO PASS~~

~~NO PASS~~

SENATOR THOMAS F. KEATING, Chairman.



# STANDING COMMITTEE REPORT

March 4 ..... 19... 37

MR. PRESIDENT

**NATURAL RESOURCES**

We, your committee on .....

having had under consideration..... **HOUSE BILL** ..... No. **239**

**THIRD** \_\_\_\_\_ reading copy ( **BLUE** )  
color

**REVISE COORDINATE SYSTEM USED FOR LAND SURVEYS**

**BRANDEWIE (Halligan)**

Respectfully report as follows: That..... **HOUSE BILL** ..... No. **239**

**BE CONCURRED IN**

~~DO PASS~~

~~DO NOT PASS~~

.....  
**SENATOR THOMAS F. KEATING,** Chairman.

# STANDING COMMITTEE REPORT

March 4

19 87

MR. PRESIDENT:

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE BILL No. 290

\_\_\_\_\_ reading copy ( \_\_\_\_\_ )  
color

**AUTHORIZES DNRC TO ISSUE PERMITS FOR LARGE GROUNDWATER USES IN  
CARBON COUNTY**

**SPAETH (Weeding)**

Respectfully report as follows: That HOUSE BILL No. 290

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

SENATOR THOMAS F. KEATING, Chairman.