MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairperson Bob Raney, on February 8, 1989, at 3:20 p.m.

ROLL CALL

Members Present: All except:

Members Excused: Rep. Clark

Members Absent: None

Staff Present: Claudia Montagne, Secretary; Hugh Zackheim, Staff Researcher, Environmental Quality Council

Announcements/Discussion: None

HEARING ON HB 542

Presentation and Opening Statement by Sponsor:

REP. BERT GUTHRIE, House District 11, testified as set forth in EXHIBIT 1.

Testifying Proponents and Who They Represent:

Jack Salmond, Western Environmental Trade Association (WETA)
Andy Neal, Farm Bureau Federation
Carol Mosher, Montana Stockgrowers Association, Montana Cattlewomen, Montana Association of State Grazing Districts
Leonard Blixrud, Teton River Water Users Association,
Ray Anderson, self, Choteau

Proponent Testimony:

JACK SALMOND testified as set forth in forth in EXHIBIT 2.

ANDREW NEAL testified as set forth in EXHIBIT 3.

CAROL MOSHER testified as set forth in EXHIBIT 4.

LEONARD BLIXRUD testified as set forth in EXHIBIT 5.

RAY ANDERSON testified that as a licensed water well driller since 1960, he had seen DNRC issue permits in a wanton manner. He said that in many instances, permits were issued when the department had no idea how much ground water

was there. He said the burden of proof that a prior right would not be jeopardized should be on the person applying for the permit.

Testifying Opponents and Who They Represent:

John Thorson, Doney and Thorson Law Firm, Helena
John Fitzpatrick, Director of Community and Regulatory Affairs, Pegasus Gold Corporation

Opponent Testimony:

JOHN THORSON said he had served as legal consultant to the Legislature's Select Committee on Water Marketing, which redrafted the permit criteria procedure, the subject of this bill. He said that under the more traditional water laws, anyone could go down to the creek and appropriate water. He said it would only be when there were adverse effects that the courts became involved. He said that all of the western states had some sort of permit procedure, either through the state engineer or the Department of Natural Resources and Conservation (DNRC), the purpose of which was to provide protection for existing water users. Out of this procedure arose the requirement to notify other water users when application was made for a new permit.

In 1984-85, he said the legislature was concerned with the possibility of water being exported out of state for energy uses. Thus the Select Committee on Water Marketing and the Legislature modified the law and put in different standards of proof that would afford protection to Montanans and raise the standard of proof for people from out of state who wanted to take water. He noted that the state was unable to prevent absolutely water from being exported out of the state because of U.S. Supreme Court decisions. For large appropriations of water, there was a clear and convincing standard of proof, but for the small appropriations, like those being affected by this bill, the standard was substantial credible evidence.

He said that "clear and convincing evidence" was a very high standard, just below the criminal court standard of "beyond a reasonable doubt", and was usually used in cases of fraud, undue influence, suits on an oral contract to make a will, or suits to modify the terms of a lost will. The policy behind that standard was that this standard should be applied to the case where there had been deception. He said he did not think this was the type of concern that we had when people in Montana were attempting to appropriate water for the first time. He said his experience in this field showed him that it would be almost impossible to get a permit if you had an objection filed, because the standard of proof would be too high.

MR. THORSON said he understood that there might be problems in the Choteau area concerning the issuance of permits beyond the ability of the surface or groundwater regime. However, there were provisions currently in the law to correct that problem. An individual could go to DNRC for authority to close a basin. He said HB 542 would impose a sledge hammer on a job that a hammer could accomplish by imposing a very restrictive standard for permitting anywhere in Montana. He said he thought public policy in the state was favored when water was put to use, for agriculture, irrigation, municipalities, instream flows, etc. He said that by elevating the standard, water would be made unavailable for Montanan's who did not have a water right. He also feared that this standard would make its way over to the change criteria. For all those reasons, he urged the committee's defeat of the legislation.

JOHN FITZPATRICK said the bill had three major defects. First, it was a shot gun approach to a very localized problem; second, the existing water rights process was already sufficiently stringent to protect existing holders of water rights in that the water rights process was the most difficult, burdensome and potentially time consuming and expensive process that anyone could encounter; and third, there was a major question as to what constituted a valid objection.

MR. FITZPATRICK said the law as proposed would require a clear and convincing standard in the presence of a valid objection. He asked what was a valid objection, and said that at the present time, DNRC would accept on face value virtually any objection which was filed against the water right. Some of these objections could be viewed as valid from the beginning and others not.

He also suggested that the water reservation process in the state was also subject to the objection process. People and agencies who were interested in preserving in-stream flow water should take a serious look at this, because once objections were filed to instream flows, the clear and convincing standard would also apply.

Questions From Committee Members:

REP. ADDY asked Mr. Thorson and the sponsor how often were objections filed. MR. THORSON said in his experience it happened quite frequently because it doesn't cost any money. REP. GUTHRIE commented that in his area, with the ever increasing applications and the permissiveness of DNRC in the issuance of the permits, there was apathy on the part of the people being affected. He said the success ratio from 1973 to 1983 on new water applications was in excess of 90%, while since 1983, the success ratio had dropped. Now the department might attempting to accommodate instream flow, rather than keeping Montana water in Montana. He suggested

that the department was now in a dilemma as to which approach to use.

REP. ADDY directed the same question to the department. GARY FRITZ, Department of Natural Resources and Conservation (DNRC) said that since the permitting statutes were enacted in 1973, the department had received 14,000 permit applications, 18% of which, on the average, received objections. Of those, about 15% go to hearing. MR. FRITZ said that as Rep. Guthrie had indicated, 90% of those that went to hearing were granted water rights. Since 1983, the percentage was 70% granted, 30% denied.

REP. ADDY asked Mr. Thorson and Mr. MacIntyre to comment on the conflict between the clear and convincing standard, and the substantial credible standard. He asked if "a preponderance of the evidence" would be an acceptable compromise. MR. THORSON said a preponderance of the evidence was a little below the substantial credible standard. REP. ADDY asked if that would be an appropriate standard to place in a bill that dealt with this subject matter. MR. THORSON said the preponderance standard would bring the state back to the pre-1983 legislation. He said the desire of the substantial credible standard was to elevate it a little for instate appropriations, and to elevate it a lot for water imported out of state. He added that he felt Rep. Guthrie's standard went too far.

MR. MACINTYRE said he agreed with Mr. Thorson, and that prior to 1983 there was not a standard set within the statute. He said the objective in HB 542 was to make it more difficult for those without a water permit to receive one. In addition, he added that every permit that had been granted had been conditioned.

REP. ROTH asked Mr. Thorson if it was the responsibility of the original water right holder to pay an attorney for his services in defending them in an objection. MR. THORSON said the burden of proof was still on the applicant to either prevail by substantial credible evidence or by clear and convincing evidence in higher appropriations, but that parties bore their own expenses. He said there were provisions in district court that would allow the prevailing party to get attorney's fees to be included in the judgement, but no such provision was available at the administrative level.

REP. ROTH asked Mr. Thorson why the substantial credible language was not stricken, and why it existed in the bill together with the clear and convincing. He asked if that still left the substantial credible standard as a factor. MR. THORSON said that to him it meant that if there were no objection filed, the department still would have to look at the record, and find that there was substantial credible evidence for granting the permit. If there were an

objection filed, it would become a contested hearing, and the standard would be elevated to a clear and convincing standard, which would require more of a showing by the applicant. He said that he was uncertain as to why there was that distinction, why the standard was elevated in the case of an objection. He suggested that Rep. Guthrie explain his intent.

REP. ROTH asked the same question of Rep. Guthrie. REP. GUTHRIE said he had wanted the unappropriated waters to be available to the people of Montana. Therefore, if there were no objections during and application, DNRC would not have to use as high a standard in issuing that permit as they would if there were objections.

REP. RANEY asked Mr. MacIntyre if this would be changing the horse in mid-stream as far as the pending instream flow requests in the Missouri and Clark Fork basins. MR. MACINTYRE said those processes were separate from the permitting process. He said the Board of Natural Resources made those decisions based upon criteria that were different, and that HB 542 would not affect the reservation process. He said the bill would have an effect on the permitting process in those basins for the agriculturalists and industrialists who wanted to come in and develop new water. It would change that standard.

REP. HANNAH asked Mr. Zackheim if the language "substantial credible evidence, or if a valid objection to the application is filed, then clear and convincing standard" would make the issue less confusing. MR. ZACKHEIM said he read the bill as Mr. Thorson explained it, but said different language to say the same thing could be considered in executive action.

REP. O'KEEFE asked Mr. MacIntyre if he would explain the shifting burden of proof under the permit process. MR. MACINTYRE said that in the law, there was a shifting of production of evidence by the parties. He said the burden of proof always lies with the party that carried the affirmative, in this case the applicant. Specifically, he said the department saw it most often in the case of adverse effect. The applicant states what he wants to do, and that he does not believe that he will harm anyone. The objector states that he feels he will be harmed and why. The objector carries the burden of production as to how that individual is being harmed. The burden then shifts back to the applicant to prove that the evidence produced by the objector is not believable, and there is not harm or that the objection could be mitigated by the conditioning power that the department has. So the burden of proof has always remained on the applicant, with the burden of production starting with the applicant, shifting to the objector and back to the applicant. He added that it had to be recognized that most applicants could not come in and prove, because they

could not hire attorneys, and did not have engineers, that every water right in that particular source will be affected. That is what the objection process is all about.

REP. O'KEEFE asked if, with the shifting burden of proof, the change in the standard to clear and convincing evidence would apply for the objector. MR. MACINTYRE said it would not change for the objector because it was not a burden of proof, but a level of production.

REP. O'KEEFE asked about the sponsor's intent with the language requiring the applicant to submit independent hydrological evidence. He said his concern was that this could invalidate any information the department might collect for evidence. REP. GUTHRIE said it was not his intent to invalidate any information that was available. It was his intent to place the burden on the applicant that he presently does not have to supply. He said the applicant should be responsible for financing his share of the information, and that it should not all be the burden of DNRC.

REP. HARPER asked Mr. Thorson to comment on the situation in which the senior water rights holder claimed that the application was going to adversely affect his existing water right. He said HB 542 was asking that the applicant disprove this by clear and convincing evidence. MR. THORSON said that was a very high standard that would require a great amount of expense in engineering studies and legal fees, and would put the hearing examiner on the spot to have an adequate record. He added that this was not the only chance the existing water user gets at this. He said these permits could be conditioned and modified on the basis of harm shown after the water was put to beneficial use. At that point, monetary damages could be sought in court.

REP. HARPER asked if a compromise could lie in this conditioning. MR. THORSON said the conditioning was a good way to determine adverse effect. The examiner could calendar the permit one year ahead and see how the water had been used during the season, and, if there was adverse effect, modify the permit accordingly.

REP. HARPER commented that it was a question of value; i.e., how valuable an existing water right was to the existing water right holder, and how much the applicant should have to pay to prove he does not affect that right. He said in some cases the hydrologic data necessary might not be available, and added that there should a better way to deal with this problem. MR. THORSON said the substantial credible standard was a sufficiently high standard for this type of proceedings. He said the existing water user, the senior water user, had the legal ability to shut off the junior who interfered with his usage. Admittedly, it would take lawyers and fees, but those remedies were there.

REP. HARPER asked if the burden should go on the applicant, or on the senior water right user. MR. THORSON said again that there were other remedies in the code for shutting down basins that have an over appropriated water supply. He said those remedies were more carefully fashioned. He reiterated that this proposed legislation was imposing a high standard statewide that could have adverse ramifications for other appropriations.

Closing by Sponsor:

REP. GUTHRIE said it was apparent that there were seeds of suspicion everywhere, with aspiring applicants thinking the prior water holders were trying to horde the water, and prior water rights holders thinking that DNRC was trying to undermine the principle of first in filing, first in use. He suggested that everyone start working together, using Montana's resources for the good of all, and not leaving the door open for the downstream states to take one of the state's most valuable resources.

HEARING ON HOUSE BILL 515

Presentation and Opening Statement by Sponsor:

REP. REHBERG opened on HB 515, quoting from a letter of opposition from Gallatin County which stated that the bill deleted a clearly stated and specific purpose and replaced it with general language. REP. REHBERG agreed with the statement, and said that was its purpose. He said HB 515 would make the statement of intent more general.

Testifying Proponents and Who They Represent:

William M. Spilker, self and the Montana Association of Realtors
Tom Hopgood, Montana Association of Realtors
H.S. Hanson, Montana Technical Council
Steve Mandeville, real estate broker, Helena

Proponent Testimony:

WILLIAM M. SPILKER, a real estate broker, land owner and property developer, testified as set forth in EXHIBIT 6.

TOM HOPGOOD said he had spoken his peace on HB 380. However, he said he had noticed that no one told the committee what public interest was, and suggested that public interest was incapable of being defined and was completely unworkable in the context of subdivision laws. He said the only way to define public interest was to look at the criteria which were left under the review section in HB 380.

H.S. HANSON, representing an association of engineers and land surveyors, said that as the law now stood, subdivisions were labeled bad, and an individual must prove that they were good in order to get approval. He said HB 515 reversed that concept. He added that he believed subdivisions and growth in Montana were good, and urged support of the bill.

STEVE MANDEVILLE said the bill would set a more positive tone for the administration of the Subdivision and Platting Act, and consequently encouraged subdivision. He said that business and growth was needed in the state. He said the key was the recognition and protection of private property rights.

Testifying Opponents and Who They Represent:

Linda Stoll-Anderson, Lewis and Clark County Commissioner, Montana Association of Counties
Bob Rasmussen, Helena
Richard Parks, Bear Creek Council, Affiliate of the Northern Plains Resource Council
Harriett Meloy, Montana League of Women Voters
Janet Ellis, Montana Audubon Legislative Fund
Bob Dozier, Northern Plains Resource Council
Chris Kaufmann, Montana Environmental Information Center
Chris Hunter, Helena,
Scott Buswell, self
Mona Jamison, Montana Association of Planners
Kathy Macefield, City of Helena

Additional Opponent Testimony:

County of Ravalli, Hamilton (EXHIBIT 9)

Opponent Testimony:

LINDA STOLL-ANDERSON said she was confused by proponent testimony that claimed HB 515 made the Montana Subdivision and Platting Act clearer, when it removed very specific language regarding safety and general welfare, providing for adequate light, air, streets and highways, etc. She said the bill replaced that with the following language: "promote environmentally sound subdivisions and protect public health, safety and welfare". She argued that this language was less specific than what was taken out.

MS ANDERSON said she was also concerned about the unclear language with respect to the private ownership of property. She asked whose private property rights was the bill referring to. She said she opposed the bill because it think that it clouded the issue. She agreed that everyone had some problems with the law. However, she said that what usually came out of the legislative process was a less clear law. She said the language in HB 515 was not any more clear than what existed at present.

BOB RASMUSSEN, Director, Lewis and Clark County Planning Department, said he was concerned about the removal of the specific purpose that addressed parks and recreation. He said there were additional statutes elsewhere that addressed parkland dedication requirements, and asked what would happen to those. HB 515 also removed the wording regarding ingress and egress to properties, which were important issues to individual property owners and local governments in the delivery of services. It also deleted the aspect of other public requirements, which could include road maintenance or drainage management. He said that the existing purpose was adequate and more in line with the rest of the statute.

MR. RASMUSSEN commented on the consensus from the EQC process. He said the real consensus was that the purpose should be neutral and objective, and not give greater weight to either developers' rights, or public opinion, such as adjacent property owners' rights. He said he agreed with Mr. Hanson that HB 515 would flip-flop the purpose in favor of the developers' property rights as opposed to the equal weighting that existed in the present law.

RICHARD PARKS said he agreed with the proponents of HB 515 that it represented a rearrangement of priorities of the current subdivision law, which was why he arose in opposition. He said NPRC took a back seat to no one in its zeal for protection of private property rights. However, he said, the proponents had appeared to have ignored the fact that with all rights come associated responsibilities, in this case, the responsibility of stewardship attached to the land. He said that no philosophical position that the Legislature takes should be allowed to create an artificial right not only to destroy one's own property rights but those of one's neighbors.

HARRIETT MELOY testified as set forth in EXHIBIT 7. MS MELOY also answered the question posed by Rep. Roth at the previous hearing on HB 380 regarding how many applications had been approved in Lewis and Clark County and the City of Helena in the last two years. She said there had been 30 minor applications, and one major application that had been approved.

JANET ELLIS addressed the environmental criteria that HB 515 dealt with. She said the bill would radically change the purpose of the Subdivision and Platting Act as it relates to the environment. The current purpose of the law stated that development would be required to be in harmony with the natural environment, while HB 515 would change that purpose, to the promoting of environmentally sound subdivisions in a manner that also preserved and protected the rights of private property owners. She said the purpose of the Subdivision and Platting Act should be to require

development to be environmentally sound, and said it would not be in the public interest to do otherwise. She also encouraged the committee to review the bill along with other related subdivision bills that would be heard before the committee.

BOB DOZIER testified as set forth in EXHIBIT 8.

CHRIS KAUFMANN said she had many of the same concerns that had been stated in previous testimony. She said the change from "require development in harmony with the natural environment" to simply "promote" was significant. She said another concern was in regards to the added language "preserve and protect the rights incident to private ownership of property". She questioned what body of rights was being referred to, and how that language would be interpreted. She said that this new language could "muddy" things up and produce conflicts between those rights and the protection of the public health and welfare.

Regarding the assertion that the language came out of a process of the EQC, she said it was her understanding that HB 809 was a comprehensive package, and that to simply pick out one section of that package, the purpose, and say that those same people would all agree to that language change, was a false assumption.

CHRIS HUNTER commented that Rep. Guthrie had stated that the seeds of suspicion were everywhere. He said that his suspicions were raised when proponents of HB 515 on the one hand wanted to delete the wording "public interest" because of the difficulty of defining that term, and on the other hand, wanted to remove the very specific language about environmental soundness and condense it into the language "environmentally sound subdivisions". He suggested that they wanted to have the right to divide the property, but did not want to bear the burden of their responsibilities.

SCOTT BUSWELL said he was a member of the Lewis and Clark Consolidated Planning Board but was before the committee representing himself. He said he heard many of the same kinds of issues as a local planning board member. He said he believed in the basic property rights issue, yet at the same time he was nervous that his neighbor had that same right, and may want to exercise it. He said that what it really came down to on subdivision issues was communication between contractors and landowners, and that when that occurred it was an excellent process. He said this process required simple and clear guidelines providing a forum for discussion. He said he did not see clear guidelines in the language of HB 515. He said that instead, some of the specific language was being deleted and more vague language substituted. He said the bill would ultimately remove and eliminate communication.

MONA JAMISON testified that, in the passage of legislation, the purpose, as set forth in the statement of intent, could be the most important part of the entire piece of legislation. She said it provided the mood, the temperament, or the intent of the Legislature as to how the remaining provisions should be implemented, and was referred to by planners, citizens and attorneys in their attempts to interpret the act. She said it was therefore critical to examine what the bill did to the purpose of the act.

MS JAMISON said that in the deletion of existing language as proposed in HB 515, the guts of the act were being torn out. She said the bill deleted language that said the purpose of the chapter was to promote public health safety and general welfare, basically the general police powers to pass 99% of all the legislation. She said that development could affect water supply, water quality, right to air and light, and that it was critically important that that particular provision be up front. She said that with HB 515, no longer was it necessary by virtue of subdivisions or planning to provide for adequate light, air, water supply, sewage disposal, parks and recreation. She said that there could be differing opinions as to what development in harmony with the natural environment was, but the public consensus in the hearing process would sort out where that harmony should be placed.

Regarding the undefinability of "public interest", she referred the committee to the act, and said there were public interest criteria that should be considered as part of the public interest. In the bill, the first purpose listed was "uniform monumentation", and asked if that was really the primary purpose. Another purpose was to "provide simple and clear guidelines". She said she did not see any simple and clear guidelines in this bill. She said the bill also listed as a purpose "to provide primary review for all non-exempt subdivisions", and said she had no idea what the language "primary review" meant, and asked what exempt subdivisions would get.

MS JAMISON said that HB 515 had to be dealt with on its own, and not as part of HB 809 (from 1987). She said that consensus on that bill had collapsed, and that one could not assume that portions of that consensus still had viability. HB 515 was not a bill upon which consensus was reached. She asked the committee to oppose the bill, and stated that the statement of purpose provided direction and guidance to all of those who had to live with the act.

KATHY MACEFIELD said she echoed many of the concerns expressed in previous testimony. In response to Mr. Spilker's testimony, she clarified that it was the consensus of the Helena City Commission that House Bill 515 was not a good bill and they did not support it. She said that one of the city commissioner's concerns was that this bill would

specifically delete the language that the appropriate approval of the subdivisions be contingent upon the written finding of public interest by the governing body. The question arose as to whether this would remove the discretion from the governing body to even be able to consider and approve the subdivision.

MS MACEFIELD commented that the existing law stated that the approval of a subdivision be contingent upon finding that particular subdivision to be in the public interest. This proposal would strike that reference. She said that the existing language in the act provided the balance between the interest of the public, the overall common good, with individual property rights, whether the individual property rights of the developer or the individual property rights of the adjacent property owners. She said the existing statement of purpose was appropriate and urged the committee not to amend the act as proposed in HB 515.

Questions From Committee Members:

REP. BROOKE said she had listened to the testimony of Rep. Rehberg regarding the letter from Gallatin County that indicated they were critical of his disregard for public health, safety and general welfare. He had responded that he did have those words in the bill. However, in reading the correspondence, REP. BROOKE said Gallatin County was objecting to the deletion of public health, safety, and general welfare as the primary purpose. She asked Ms Jamison if she would agree that the bill changed the primary purpose of the act. MS JAMISON said yes, but qualified that statement with the word legally. She said that if there was not a criteria section, in a strict sense, the answer would be no. She said that the deleted wording provided emphasis and direction, and in the spirit of what they were saying, she agreed that by moving that language to the bottom of the purpose section, the emphasis was lost.

REP. HANNAH asked Ms Jamison if, in considering balance, she thought that the emphasis in current law was on non-property rights as opposed to property right holders. MS JAMISON said she believed that when there were provisions to promote the public health and welfare, those provisions applied equally to property holders and to non-property holders. She said there was no weighting in there. REP. HANNAH asked if under this new language, there was a weighting. MS JAMISON said yes, and that the weighting was for the private ownership of property to the point of almost outweighing the others. She commented about that language, saying there was not even a clarification as to whose property rights were being talked about. She said those rights of both the developer and the adjacent property owners were critically important, and were incorporated into promoting the public health, safety and welfare.

REP. HANNAH said his impression from Ms Jamison's testimony was that the purpose section was the controlling section on those issues of quality of water, air and light. He commented that the law in other sections went on to state specific requirements in those areas. MS JAMISON agreed, saying there were laws on water quality, water supply, ingress and egress. She added that the purpose section was vitally important because it gave direction and the spirit to the interpretation, while the more specific criteria, even within the act itself, would provide further guidance.

REP. HANNAH asked Ms Stoll-Anderson if she agreed that in the EQC process, certain areas had been divided out where there was general agreement, and which could be put into a separate bill. He asked if this bill addressed one of those areas. MS STOLL-ANDERSON said to a certain extent, she agreed. She said, however, that there were three parts to the area of agreement, and that the bill alluded to that when it addressed primary review in non-exempt subdivisions. She said that in HB 515, one small section had been removed on which there had been consensus within the context of everything else.

Closing by Sponsor:

REP. REHBERG said the legislation did not attempt to take away any of the specifics of the law, but gave everybody equal footing and a fair chance. It also stated the intent to not review subdivisions based on the purpose of the Subdivision and Platting Act. He said all of the areas that were in the purpose were covered in the law itself. He said all he was asking was that equal footing be given philosophically to all considerations.

DISPOSITION OF HB 515

Motion: REP. MOORE moved the bill DO NOT PASS.

Discussion: REP. MOORE said she was concerned by the language that would be stricken from the law.

REP. GIACOMETTO reminded the committee to watch that decisions not be made in this hearing by the "applause meter". He opposed the motion.

REP. RANEY said he had received phone calls and letters from many counties, all of whom were opposed to this bill. He also noted that Rep. Rehberg kept referring to those six words "protect public health safety and welfare". He said those six words did not stand alone in the bill, but were tied to "preserve and protect the rights incident to the private ownership of property", and yet it was not clear as to whose property that language was referring. He said there were many loopholes created by this intent.

REP. GIACOMETTO replied that he thought it was important that they were tied together. He said the language insured that the process would be fair and without disregard of private ownership.

REP. O'KEEFE asked, if the law were to be changed as proposed, if there would be simple and clear guidelines for review in the Subdivision and Platting Act. REP. HANNAH said no, and that was the whole thrust of the argument that had gone on for years. He said the conflict was over how to put those clear and concise regulations in place so that the rights of property owners and non property owners would be protected.

REP. GILBERT said the bill was one of the consensus points in HB 809 during the last session, but added that it was tied into a lot of other consensus points. He said that when all those points were together, there was not consensus either. He suggested that there would never be total consensus. One of the problems was that the people who work on the consensus cause problems both ways. He said that the big bill was needed, but not until everyone was hurting enough. He said he would not support killing HB 515, but added there was not enough legislation in the bill.

REP. HARPER said he and others had put a lot of hours and good work into this issue, and hated to see it come to pulling out portions of the important bill. He said that legitimate issues needed to be dealt with. He said he would leave out almost all the stricken language in HB 515, and amend in the section that refers to the rights of property ownership. However, he said the committee was wasting time on these bits and pieces, when a total re-write was really needed. He said the only fair way to deal with this was to kill or table the bill.

REP. ADDY said that the committee did not have the whole compromise, and therefore did not see any point in killing part of it.

Substitute Motion: REP. ADDY moved to TABLE HB 515.

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion to TABLE CARRIED on a roll call vote 9 - 5.

DISPOSITION OF HB 380

Hearing 2/03/89

Motion: REP. GILBERT moved the bill DO PASS.

Discussion: REP. GILBERT said that HB 380 took out the two most indefensible parts of the decisions made by planning boards, and those were basis of need and expressed public opinion. He said it did not take out the necessity of public interest, and any other criteria. He said the bill was a clarification of intent.

Amendments, Discussion, and Votes: REP. RANEY moved the amendment offered by Jo Brunner, the addition of the language "g. effects on existing water user facilities". He explained that if there was a large canal within a proposed subdivision, this would prevent a lawsuit against the local irrigation or canal association in the event of flooding.

The motion on the amendment CARRIED, with Rep. Gilbert voting no.

Recommendation, Discussion, and Vote: A motion to DO PASS AS AMENDED was made.

REP. HARPER said the bill changed the basic format in the existing law, and added the criteria listed in the bill. He said this represented a total shifting of the way the law was originally written. It originally stated that a local government could deny subdivision for any of the points listed as criteria on page one. However, in considering if the subdivision was in the public interest, the local governing body could consider the breakdown on page two. He said HB 515 lumped those in, and the effects were unclear to him. He said his concern with the subsequent rating for the required written findings of fact was that as soon one subdivision was passed or denied on that rating system, any other judged or rated differently would be open to challenge.

REP. OWENS said he disagreed because any of the criteria were grounds for denial. He said the people had said there were problems, and suggested that HB 515 was more of a compromise than HB 380. He added that the two sides would never agree on these issues.

REP. HARPER said the people involved in the EQC process were close. He said that the only way the subdivision law would be amended would be to pass the entire bill. He added that HB 515 was not one of the pieces of that compromise bill.

Substitute Motion: REP. HARPER moved to TABLE HB 515.

Recommendation and Vote: The substitute motion CARRIED on a 9 - 6 vote.

DISPOSITION OF HB 486

Hearing 2/06/89

Motion: REP. O'KEEFE moved the bill DO PASS.

Discussion: REP. GILBERT reported that after a discussion last night, he was not sure that communities in the state could afford the monitoring system. He said the committee was quoted $25,000 for four monitoring wells during the hearing. A discussion with the Lake County Commissioners revealed that their quote from an engineering firm for four wells was $100,000 plus maintenance and inspection. He added that even if a community did install wells, there would be no money to do anything if leakage from the landfill was discovered. REP. RANEY clarified that it was former Rep. Harbin, now a commissioner of Lake County, who reported the $100,000 figure.

REP. OWENS said he called Liberty Drilling, and he cautioned the committee not to "leave the gate open"; in other words, not to leave the depth of the well an open figure. REP. OWENS said he thought it might be in the best interest to stay away from this for another year or two until the federal government came back with regulations.

REP. O'KEEFE said the problem existed now, and clean-up would be less expensive if started early. He said that the problem had been discovered early in Lewis and Clark County because there was monitoring. He added that there were things that could be done about it, such as the modification of dumping regulations and procedures, improved drainage, plant coverings, design of the next landfill site, thus avoiding massive clean-up costs. As far as the cost involved, he said Montana had very low dumpage cost now and the communities would pass any additional costs on to the consumers. He said that local governments were not precluded, even under Initiative 105, from raising their dumpage fees if they had to monitor those sites. He said the potential for serious problems was there, statewide, and that the state could be saving money by starting the monitoring before the federal government came in and required it.

REP. ADDY said he supported the bill. He said there were costs involved in monitoring, but suggested that the costs be up where they could be seen. He said that by voting against this bill, the committee would be saying that it did not want to know what was happening at those sites. He added that it would be easier to keep contamination out if we knew what was going in to the landfills and the groundwater than it would be to get the contamination out once it was there.

REP. OWENS asked if the committee could amend the bill to place a 60 foot limit on the depth of the well. He said that after talking to Bill Osborne, it was his understanding that beyond 60 feet, there would not be a problem with seepage.

REP. HARPER said he might support this kind of amendment, because if the committee killed HB 486, it would be doing a disservice to the people. He said the amendment might jeopardize some one with a 100 foot water table, but the bill passed would at least put people on notice.

REP. RANEY said he agreed, an added that as a resident of Livingston, he might be sitting on the worst land fill in Montana. He mentioned the chemicals dumped by Burlington Northern across Montana. He said that if the Legislature ducked the issue now, it would be enormous in two years, and even more unacceptable to the people. He said the committee had to move forward with HB 486 in some manner. He questioned the validity of the amendment.

REP. KADAS suggested saying that one could not go beyond 60 feet unless there was some kind of reasonable requirement for going beyond 60 feet.

REP. GIACOMETTO said the committee would be drastically limiting the intent of the bill with the amendment. He said there were a lot of groundwater tables in Montana that were deeper than 60 feet.

REP. KADAS said Rep. Owens had a good point in that the areas where groundwater was much lower than 60 feet were probably areas that did not have much precipitation and whose rate of seepage would be slow.

REP. O'KEEFE said he was not sure if the limit of 60 feet was necessarily a good idea for the entire state.

REP. RANEY asked the researcher to read the amendment in the form of the Statement of Intent. MR. ZACKHEIM said the language could read that the department may not require and owner or operator to monitor groundwater at a depth greater than 60 feet unless the department had reason to do so.

REP. HANNAH said there was a certain wisdom in trying to amend HB 486 so that it would have a chance of passing in the Senate. He added that the purpose of the bill was to educate.

REP. RANEY suggested that the committee might want to go deeper in the amendment, since 60 feet was the average depth of wells.

Amendments, Discussion, and Votes: REP. ADDY moved an amendment putting a 100 foot floor on monitoring wells to be drilled, unless indicated by clear and convincing evidence.

REP. COHEN expressed a concern about the amendment. He said that all of the landfill sites in the state could be classified into two categories; those that had some direction in the siting, and those that existed in their present location because that was where people started dumping. The ones that have had help siting would probably have less problems. He said that none of them were hydrologists, with knowledge about permeability of soil. He asked why limit the number of feet when they could not be certain of the depth of the groundwater. He said that a well stopped at 60 or 200 feet because no water was found could instill a false sense of confidence if the groundwater was at 250 feet and did in fact contain leachate.

REP. HANNAH said he agreed that unless the committee had some hydrological data available from the experts, the committee should be careful placing numbers in the bill. REP. HARPER suggested the language "unless hydrologic data indicated otherwise, the groundwater level at a solid waste site of more than 100 feet from the lowest level of the waste be pursued to meet the stipulations in sub 2."

REP. RANEY asked Rep. Addy to withdraw his amendment so that the researcher could draw up some language options for the committee to review.

REP. ADDY WITHDREW his motion on the amendment.

REP. RANEY asked Rep. O'Keefe and Rep. Owens to get more information on the cost of drilling the wells.

REP. ROTH asked why not just indicate that a driller go until water was reached. REP. RANEY said that with that, the discussion had come full circle, because the bill simply said to drill until water was found.

REP. GILBERT said that the cost included more than just the drilling of the hole. He said that what was put in the hole and the method used to monitor was what cost money. He said the state could not afford the bill, and suggested killing it.

REP. OWENS reiterated that with a 60 foot well, 90% of the problems would be covered with 10% of the money according to Bill Osborne.

Recommendation and Vote: REP. O'KEEFE WITHDREW his motion, and the committee postponed executive action on HB 486.

ADJOURNMENT

Adjournment At: 5:45 p.m.

REP. BOB RANEY, Chairperson

BR/cm

3312.min

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 2-8-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Raney, Chairman	✓		
Rep. Ben Cohen, Vice-Chairman	✓		
Rep. Kelly Addy	✓		
Rep. Vivian Brooke	✓		
Rep. Hal Harper	✓		
Rep. Mike Kadas	✓		
Rep. Mary McDonough	✓		
Rep. Janet Moore	✓		
Rep. Mark O'Keefe	✓		
Rep. Robert Clark			✓
Rep. Leo Giacometto	✓		
Rep. Bob Gilbert	✓		
Rep. Tom Hannah	✓		
Rep. Lum Owens	✓		
Rep. Rande Roth	✓		
Rep. Clyde Smith	✓		

EXHIBIT 1
DATE 2-8-89
HB 542

February 8, 1989

Chairman Raney and Members of the Natural Resources Committee:

For the record, I am Bert Guthrie, Representative of House District 11 which includes Teton County and part of Pondera County. Before I present my bill, let me give you a little brief history. I am the owner-operator of a piece of property that is irrigated that my grandfather homesteaded in 1895. He had the foresight to know that in this semi-arid western high country that water was critical to production and, as a consequence, he filed on water out of the Teton River drainage and I am using that same water today. I naturally support wholeheartedly, first in filing and first in use principle. However, the bill that you have before you is directed not on those prior filings, but on new filings of water post 1973.

I am sure all of you are aware, there are unappropriated waters in the State of Montana and the new filing process that was initiated in 1973 is to make those unappropriated waters available to new applicants. This includes not only surface water but underground water applications.

With regard to the surface water in the upper reaches of the Missouri River drainage, I think it is safe to say that the water flow from those drainages in the upper reaches has been already appropriated many times over. And, as a consequence, there are no surface waters available for new application. This is not necessarily true with the underground water. With the surface water, you can see it. With the underground water, it is more difficult ~~in~~ to predicting where, in what amounts and in what direction the water ~~it might~~ flows

The present legislation that is in effect - and has been since 1973 - provides for a process by which applicants can file on unappropriated waters so long as they meet certain criteria. It has been my experience both as an applicant and as an objector that the criteria is so loose and nebulous that the DNR is fully within its rights to issue a permit on a new application ~~without the applicant meeting very stringent criteria~~.

What I would like to do with my legislation - and you can see it there before you - is to make it more stringent upon the applicant to prove to the DNR in the hearing process, to prove the criteria. This, in effect, is putting the burden of proof where it should be - with the applicant, that he show "with clear and convincing evidence" that these criteria have been met. First off, there is unappropriated waters at the source of supply. Secondly, that no prior rights will be adversely affected. This is where the burden should be. But, as the law stands today, without my bill, what happens is the applicant attends the water hearing; the objections are heard and because the applicant uses "substantial credible evidence", the DNR will go ahead and issue the permit and then if there are adverse affects to prior rights, the burden is transferred from the applicant to the objector. And the objector has two courses of action -- he can, on the one hand, say to himself, "well, I can get along without that water; I have lost that water to the new applicant", or he can go into District Court which is very expensive. I guess there is one other option he can take. He can go to his neighbor and say, "Hey Joe, you dried up my well when you started pumping from yours",

and Joe is more than likely to say, "I got a permit from the DNR that it was all right " What happens with this kind of a senario is that the DNR has made enemies out of neighbors -- people who have gotten along for years.

So, that is the reason for my recommending the change in the statute -- to make it more stringent upon the applicant through "clear and convincing evidence" and not "substantial credible evidence" to prove the criteria.

I will reserve my closing remarks until after the proponents and opponents have been heard.

Thank you.

BG:bd

EXHIBIT 2
DATE 2-8-89
HB 542

House Bill 542
House Natural Resources Committee
February 8, 1989

TESTIMONY PREPARED BY JACK SALMOND, WESTERN ENVIRONMENTAL TRADE ASSOCIATION

Mr. Chairman and members of the committee, my name is Jack Salmond representing Western Environmental Trade Association or WETA. WETA is in support of HB 542. I am also testifying as an individual who is impacted by this bill.

I live on the Teton River and have an adjudicated right for 100 inches of water or 2.5 cubic feet. The historical demands of water on this stream seem to indicate that the allocation of water can and will be controversial. Therefore, I am very sensitive to futher applicants applying for use on this stream. This bill brings those applicants who apply for a permit of less than 5.5 cubic feet of water under the same standards as other water users when a valid objection is filed. The addition of the words "clear and convincing evidence" will put a more stringent interpretation on the criteria the applicant must use if an objection arises.

The gathering of data in this process is crucial, therefore we support section four on page five of this bill.

I urge this committee to vote yes on HB 542.

Thank you again, Mr. Chairman and members of the committee for the opportunity to offer my comments today.

EXHIBIT 3
DATE 2-8-89
HB 542

MONTANA FARM BUREAU FEDERATION

502 South 19th • Bozeman, Montana 59715
Phone: (406) 587-3153

BILL # HB 542; TESTIMONY BY: Andrew Neal

DATE Feb. 8, 1989; SUPPORT Yes; OPPOSE _____

Mr. Chairman, members of the committee, for the record my name is Andy Neal, representing approximately 3600 Farm Bureau members in Montana.

Farm Bureau supports HB 542, we believe this bill puts the burden of proof on the applicant for new water permits. It provides that the applicant must provide clear and convincing evidence for issuance of new permits. It would protect the current user by not adversely affecting their rights. We strongly recommend support of this bill.

SIGNED: _____

MONTANA STOCKGROWERS ASSOCIATION, INC.

P.O. BOX 1679 — 420 NO. CALIFORNIA ST. — PHONE (406) 442-3420 — HELENA, MONTANA 59624

Mr. Chairman and Members of the Natural Resources Committee

My name is Carol Mosher and today I represent the Montana Stockgrowers Association, the Montana CattleWomen and the Montana Association of State Grazing Districts.

We are in support of HB 542, primarily because it will heighten the awareness of the DNRC of the many problems which exist with the applications and granting of permits.

Opponents of this bill will say that this legislation raises the burden of proof too high for an applicant to receive a permit. Members of our organizations see both sides of this argument. HB 542 is a bill that is protective of existing water users rights. However, for new water users, it will be harder to get a permit. We believe that if aquifers are being depleted in an area, then tougher restrictions on well permits may be needed.

In closing, we feel this bill does not make it impossible to obtain a permit, but does impose a higher standard to obtain one than what is now required.

Thank you for the opportunity to testify in support of this bill.

EXHIBIT 4
DATE 2-8-89
HB 542

Teton River Water Users Association

Choteau, Montana 59422

2-8-89
EXHIBIT 5
DATE 2-8-89
HB 542

Chairman
Members of The Committe

We, the TETON RIVER WATER USERS ASSOCIATION strongly support this bill. We for a number of years have felt that the law as it presently is in regards to applications for a new water right has been flawed, in that it put the burden of proof on the objectors. At present it costs water users thousands of dollars to just protect that which is theirs from someone who wants it. It would seem that if someone is to gain a asset such as a wter right there should be a cost attached to it, Therefore proving in a clear and convincing manner that prior right water users will not be damaged is no more than right.

Respectfully

Leonard Blixrud
President

Testimony before House Natural Resources - HB 515
February 8, 1989
William M. Spilker

EXHIBIT 6
DATE 2-8-89
HB 515

My name is William M. Spilker, I reside at 801 Harrison, Helena. I am a licensed real estate broker, a land owner, and have from time to time developed property. I am appearing today on my own behalf and representing the Montana Association of Realtors. I am in support of HB 515 and its companion HB 380 heard last week. As I indicated both of these pieces of legislation are an outgrowth of the tedious exercise the EQC went through in 1986-87-1988.

HB 515 -- This proposed legislation is a result of the consensus position that came out of the EQC subdivision study. It is basically the same language as was in HB 809. HB 515 amends the purpose statement of the Montana Subdivision and Platting Act. This revision incorporates the old language of the act and gives direction to a balanced approach to dividing property, gives a clearer direction to local governments and property owners.

There are three main features of this bill --

First it provides a more specific direction to the publics interest as a criteria in the subdivisions review, and hopefully can help to set a tone to create a more objective review of subdivisions. The public's interest is an integral part of the purpose statement with the enumerating "environmentally sound subdivisions" and "protection of public health, safety and welfare". This language is also in the existing Act. The sequence in which these items occur in the wording has nothing to do with their relative importance. They are no more or less important than the monumentation and recordation purposes or the private property rights.

Secondly the proposed statement of purpose sets forth the charge of "simple and clear guidelines" for the review of subdivisions. The groundwork is laid for the formation of an understandable and predictable form of review. The

EXHIBIT 6
DATE 2-8-89
HB 515

key words are simple and clear. Again an effort to reduce subjectivity and to provide an objective evaluation, and to lessen the ambiguity, arbitrary and subjective characteristics of the Montana Subdivision and Platting Act. The removal of "express public opinion is HB 380, consistent with the thrust of an understandable review. How can you have a clear and simple review process when no one has yet to define what "express public opinion" means or what is the "basis of need" other than an arbitrary hammer hanging out there ready to fall.

Thirdly the bill, includes a recognition of private property rights,which we believe gives a needed balance of intent to the subdivision review process. We feel this reflects a more positive tone. Too often private property rights tend to receive short shift in the subdivision review process. The adversarial roles and polarization that have evolved may be tempered with this new statement of purpose. It is difficult to believe this committee or the legislature would object to the inclusion of this language.

As I indicated earlier this is consensus or what seemed to be consensus. The language you have before you is virtually the same as was proposed in HB 809 2 years ago. That position evolved through the EQC study which started in 1986. The various interests signing on to this runs the gamut. Realtors, planners, developers, agriculture, local government, wildlife interests, surveyors, environmental groups all support this proposed statement of purpose. It was not a trade off but a position that was established early on in the entire process. Trade offs of 809 came later and were directed towards the more controversial features i.e., exemptions, hazards, judicial type hearing, cumulative effects, access, capital improvements plans and on and on.

I have a number of the reports that were issued during the EQC study. As early as November 6, 1986, the language similar to HB 515 appeared. Repeatedly this language occurs all the way to HB 809, basically the same language as HB 515. And of all the testimony and amendments offered none

opposition to the CHANGE

EXHIBIT 4
DATE 2-8-89
HB 515

addressed the purpose section of the Act. Subsequent to the last session the EQC continued its efforts. The last report I have a copy of was dated July 13, 1988 -- less than seven months ago at which the basic language in HB 515 was STILL proposed. All told this appeared a minimum of eight times -- and never were any alternatives proposed in the reports.

I attended virtually every meeting of this group in this 3 year process, I do not recall an occasion when the language used in HB 515 was contested. I believe the EQC, which three of you are members, ~~and also~~ WHO sat through several sessions, and the EQC staff was working under the assumption this was acceptable to all concerned.

I might also add following the hearing on HB 380 I wrote to the Mayor of Helena regarding the ~~support~~ OPPOSITION they gave to HB 380 and possibly 515. He was unaware there may be opposing views to HB 515 and indicated he personally would withdraw his opposition to the bill until he has the opportunity to hear additional information.

HB 515 is good legislation. I urge you to give it a Do Pass.

EXHIBIT 7
DATE 2-8-89
HB 515

To: Representative Bob Raney, Chairman
House ~~National~~ Natural Resources Committee

From: League of Women Voters of Montana

Peggy Munoz - Tonia Bloom

Re: H.B. 515

The L.W.V. of Mt. opposes H.B. 515. The purpose statement of the Mt. Subdivision and Platting Act sets forth the philosophy of our state regarding the balance that needs to be achieved between public interest and private rights in land use and the accompanying development of that land. Balance can only be achieved through careful review and consideration of all aspects of a proposed development. Remove one half of the components, public or private, and the weight shifts in an unfair manner.

This bill revises the purpose statement of the act by substituting "guidelines" for the more legal terminology of "written finding of public interest". The use of the word "guidelines" will eliminate need for mandatory and written compliance and will result in an even greater patchwork approach than we now have to subdivision review. A pattern of piecemeal altering of the subdivision law is becoming apparent. It is directed at getting the public, the tax paying, problem sharing, long suffering public, out of the subdivision review process. Let's get back to doing a comprehensive overhaul of the act or leave it alone.

Please recommend "do not pass" on this bill.

EXHIBIT 8
DATE 2-8-89
HB 515

NORTHERN PLAINS RESOURCE COUNCIL

Field Office
Box 858
Helena, MT 59624
(406) 443-4965

Main Office
419 Stapleton Building
Billings, MT 59101
(406) 248-1154

Field Office
Box 886
Glendive, MT 59330
(406) 365-2525

HB515-Rehberg-revise subdiv.-hrg 2/8/89-3pm- Hs.NR rm317

Bob Dozier,NPRC oppose
In todays world with our ever increasing population the need for sound development becomes critical.There was a time when a hole in the back yard was considered adequate sanitation. There was a time when even in town you could keep a little livestock. There was a time when you could do about anything you wanted on a piece of property as long you owned it. But as a civilized society we realized the need for better planning. As more of us inhabit the planet our effects on each other become increasingly evident.

When do the rights of private ownership conflict with the rights of our society to exist in harmony. To exist in harmony with our neighbors. To exist in harmony with our environment. To provide for public health, welfare, and safety.These are just a few points of public intrest. Because we must all co-exist in this world and because there is no more property being made. We as a society recognize the fact of proper land use. Though we have come a long way toward planning better communities. It is evident that we still have a long way to go.

Everyday we see new ideas in the field of planning. It is an ongoing process. Everyday new facts alter old ideas. To remove public intrest from the criteria would be to stifle that process. The proponents of this legislation say public intrest is to vague.Public intrest provides for the consideration of new ideas for better land planning. To eliminate this criteria is to end all progress toward better land use.

HAMILTON, MONTANA 59840

Feb. 8, 1989

House Natural Resources Committee Room 317 - Hearing Feb. 8, 3:00 P.M.

RE: HB 515

EXHIBIT 9
DATE 2-8-89
HB 515

On Feb. 3 I sent testimony to your committee expressing my opposition to HB 380 and am writing today because I also oppose the companion bill, HB 515.

The obvious intent of these bills is to diminish the consideration of the public's interest in subdivision proposals in favor of protecting the developer's interests.

My own experience as a Land Surveyor in Ravalli County tells me that developers' interests are and have been well protected in the subdivision review process. The political reality, at least in our county, is that the public has not yet supported any significant restriction of subdivision activity. Recent court rulings have further protected an owner from restrictions which affect the value of his property.

I would suggest that the existing language is important in that it balances the existing presumption that a property owner enjoys with a recognition of the public's interest in private land use decisions. I encourage you to maintain this balance. It is, of course, up to each locality to determine the specifics of any regulations.

While I certainly agree that we need "simple and clear guidelines for review of subdivisions", I think this can best be achieved by specific changes rather than a sweeping shift in the expression of legislative intent. For instance, I would like to see all subdivisions, including the occasional sale and family transfer exemptions, subject to at least cursory review by local planning boards and the governing bodies. (Is this the intent of the provision for "primary review for all subdivisions"?) I also think we need more flexibility in applying the park requirement which is a great incentive for a developer to avoid the review process by using the exemptions.

I am aware that this is a controversial issue and sympathize with your position in trying to address it. I do feel that it is most appropriate that specific land use regulation decisions be hammered out

VISITORS' REGISTER

Natural Resources COMMITTEE

BILL NO. HB 542 DATE 2-8-89

SPONSOR Gutdrie

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
John Salmond	WETA	X	
Andy Neal	Montana Farm Bureau	X	
Jo Ann Fitzpatrick	Helena		X
John Thorson	Dongy & Thorson - Hilger		—
Jeton River Water Users Ass Leonard Blixrud	Choteau, MT	X	
Kay Anderson	Choteau, MT.	X	
Carol Mosher	Mt Stockgrowers	X	
[illegible] Cattle Feeders Assn		X	
Sidney Cole	Choteau, MT	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Natural Resources COMMITTEE

BILL NO. HB 515 DATE 2-8-89

SPONSOR Rehberg

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
CHRIS Hunter	self		X
LINDA STOLL-ANDERSON	MT Assn of Counties		✓
Kathy MacFiel	City of Helena		X
Scott Bussell	Self-		X
LISA BAY	JEFFERSON COUNTY		X
ROBERT RASMUSSEN	SELF		X
Janet Ellis	Audubon		X
Rachel Cox	NPRC / BCC		X
H S Hansen	MT Technical Council	X	
Sharon Cleary	MT Assoc Realtors	X	
Steve Manderville	Ahlmann Heller Inc.	X	
Tom Hoppaud	MT Assoc Realtors	X	
Bob DOZIER	N.P.R.C.		X
Chris Kumpfer	MEIC		X
Stan Bradshaw	Trout Unlimited		✓
Kim Wilson	Sierr. Club		✓
Henry Fredericks	MLW		✓
Mona Jamison	MT Assoc. of Planners		✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

HOUSE NATURAL RESOURCES COMMITTEE

DATE 2-8-89 BILL NO. HB 515 NUMBER 1

NAME	AYE	NAY
Rep. Hal Harper	✓	
Rep. Tom Hannah		✓
Rep. Mike Kadas	✓	
Rep. Mary McDonough	✓	
Rep. Lum Owens	✓	
Rep. Vivian Brooke	✓	
Rep. Robert Clark		
Rep. Mark O'Keefe	✓	
Rep. Leo Giacometto		✓
Rep. Bob Gilbert		✓
Rep. Kelly Addy	✓	
Rep. Clyde Smith		✓
Rep. Janet Moore	✓	
Rep. Rande Roth		✓
Rep. Ben Cohen, Vice-Chairman		
Rep. Bob Raney, Chairman	✓	

TALLY 9 5

Claudia Montague
Secretary

Bob Raney
Chairman

MOTION: to table HB 515

9-5

Form CS-31
Rev. 1985

ROLL CALL VOTE

HOUSE NATURAL RESOURCES COMMITTEE

DATE 2-8-89 BILL NO. HB380 NUMBER 1

NAME	AYE	NAY
Rep. Hal Harper	✓	
Rep. Tom Hannah		✓
Rep. Mike Kadas	✓	
Rep. Mary McDonough	✓	
Rep. Lum Owens		✓
Rep. Vivian Brooke	✓	
Rep. Robert Clark		
Rep. Mark O'Keefe	✓	
Rep. Leo Giacometto		✓
Rep. Bob Gilbert		✓
Rep. Kelly Addy	✓	
Rep. Clyde Smith		✓
Rep. Janet Moore	✓	
Rep. Rande Roth		✓
Rep. Ben Cohen, Vice-Chairman	✓	
Rep. Bob Raney, Chairman	✓	

TALLY 9 6

Claudia McHugh
Secretary

Bob Raney
Chairman

MOTION: to table HB 380

9-6

Form CS-31
Rev. 1985