

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairperson Bob Raney, on March 10, 1989, at 3:30 p.m.

ROLL CALL

Members Present: All members present except:

Members Excused: Rep. Kadas

Members Absent: None

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

Announcements/Discussion: None

HEARING ON SB 390

Presentation and Opening Statement by Sponsor:

SEN. JACK GALT, Senate District 16, said the bill was a simple one to extend the authority given two years ago by the legislature to Deadman's Basin Water Users Association to pump over 3,000 acre feet of water out of the mines in Roundup for irrigation purposes. He stated that it was a test pumping project.

Testifying Proponents and Who They Represent:

Rep. Bob Clark, House District 31
Karen Barclay, Department of Natural Resources and
Conservation

Proponent Testimony:

REP. BOB CLARK, whose district includes Roundup, stated that this bill was an extension of SB 151 of the last session. He said that the opponents' fear was that water in the Bull Mountains would be depleted as a result of this pumping. He reminded the committee that this was a test. If the mine pumping was found to be cost effective, it would provide 13,000 acre feet per year in the long run. Only if the testing determined that the water was available with no deterrent effects on water supply, would the project continue.

KAREN BARCLAY testified for the bill as set forth in EXHIBIT 1.

Testifying Opponents and Who They Represent:

Raymond Raths, Roundup, Protective Organization for Water
and Environmental Resources (POWER) and self
Vergil Jones, Roundup, POWER and self
Lowell Rathbun, POWER and self
Kelly Stephenson, self and POWER
Dona Adams, self and POWER
Robert Toombs, self and POWER
Willa Dale Evans, self and POWER
Claudia Hubka, self and POWER
Dawn Cole, self and POWER
Arnold Yttredahl, self and POWER
Arlene Stephenson, self and POWER
Nola Korenko, self and POWER
Jo Ann Hust, self and POWER
Della Carlson, self and POWER
Elizabeth Rathbun, self and POWER
Joyce Egeler, self and POWER
Sylvia Corey, self and POWER
William Paavola, self and POWER
William Finch, self and POWER
Tom Ferguson, self and POWER
Gloria Stevens, self and POWER

Opponent Testimony:

RAYMOND RATHS, representing a ranch in the Roundup area that is a member of the Deadman's Basin Water Users Association, testified against the bill as set forth in EXHIBIT 2.

VERGIL JONES testified as set forth in EXHIBIT 3 and stated that he represented approximately 400 newcomers to the area along the Musselshell River. He suggested that their registered wells should receive first consideration before pumping water out of the mines.

LOWELL RATHBUN, a professional civil engineer who had spent most of his career in charge of water projects for municipalities, showed the committee a map of the county, and located the abandoned mine that lies near Roundup. He said the water went into the mines, and that anytime you drill into the groundwater on the low side, the groundwater upstream would be affected adversely. He spoke of the history of that occurring during the original pumping of the mines in the area. He quoted extensively from an editorial written by him (EXHIBIT 4).

KELLY STEPHENSON, a coal miner from Roundup, and former State Coal Mine Inspector, testified that questions were being asked in these tests that have already been answered for fifty years. He spoke of the inability of getting together with the people for hearings and workshops. He distributed a packet of materials (EXHIBIT 5) as well as a copy of the petition against the pumping project (EXHIBIT 6).

DONA ADAMS, Roundup, testified as set forth in EXHIBIT 7.

ROBERT TOOMBS, Lavina, testified against the bill, stating that it was easy to give something away that doesn't belong to you. He also distributed written testimony, EXHIBIT 8.

WILLA DALE EVANS testified as set forth in EXHIBIT 9.

CLAUDIA HUBKA testified against the bill.

DAWN COLE testified as set forth in EXHIBIT 10.

ARNOLD YTTREDAHL testified against the bill.

ARLENE STEPHENSON testified against the bill (EXHIBIT 11).

NOLA KORENKO testified against the bill (EXHIBIT 12).

JO ANN HUST opposed the bill as set forth in EXHIBIT 13.

DELLA CARLSON opposed the bill as set forth in EXHIBIT 14.

ELIZABETH RATHBUN testified against the bill (EXHIBIT 15).

JOYCE EGELER testified against the bill (EXHIBIT 16).

SYLVIA COREY spoke against the bill (EXHIBIT 17).

DONALD COREY spoke against the bill (EXHIBIT 18).

WILLIAM PAAVOLA spoke against the bill (EXHIBITS 19 and 20).

WILLIAM FINCH spoke in opposition to the bill as set forth in EXHIBIT 21.

TOM FERGUSON stood in opposition to the bill.

GLORIA STEVENS testified as set forth in EXHIBIT 22.

Additional Opponent Testimony:

Alan Jensen, self
Joe Miller, POWER and self, Roundup
Nancy and John Paysinger, selves, Lavina
Emma Hubka, POWER and self, Lavina
E.A. Jarnot, POWER and self, Lavina

Questions From Committee Members:

- REP. HARPER asked of Gary Fritz what had happened since the bill was passed last session. MR. FRITZ said the legislature had appropriated \$272,000 of RIT money for this project. The sponsors had also acquired \$233,000 of federal monies as well. He said the Deadman's Basin Water Users Association had applied for an interim permit for 31 acre feet. If that interim permit would be approved by DNRC, it will be put to use this biennium.
- MR. FRITZ reiterated the testimony of Ms Barclay that this was a phased project. He said the first phase was the compilation of background information on potential subsidence problem and potential impact on existing wells and springs in the area. The second phase was to do the small test pumping of up to 31 acre feet, the interim application before the department at present. Phase 3 would be for a larger pumping project, authorized by the bill before the committee. He said in the last phase, the department would take the information from the first three phases and decide on an economic, hydrologic, and engineering basis whether the project should be put in place permanently.
- MR. FRITZ said the concerns and questions of the opponents were sincere, and that the department, along with the Bureau of Mines and the Lower Musselshell Conservation District, had spent a lot of effort to answer these concerns.
- REP. HARPER asked how long the entire project would take. MR. FRITZ replied that if phase 2 went ahead this biennium, and the larger pumping phase next biennium, it was possible that Phase 4 could be completed next biennium as well.
- REP. HARPER asked Mr. Fritz to address the potential litigation that might occur if the project were to proceed. MR. FRITZ said a permit or license was needed for the project to proceed at each stage. If an individual had objections to the giving of a permit, he or she would have recourse through District Court. He said in such a case, the department would be responsible for its defense expenses.
- REP. HARPER asked if the money for this project could be used to upgrade the capacity of Deadman's Reservoir or for measuring devices. MR. FRITZ said that when the Legislature approved the initial money for this project last session, it also approved money for a study of how water was used. He said that project was being implemented now with the installation of gaging devices. He said that the reservoir was drained each year, and that there was nothing to be gained from additional capacity, since the Musselshell River suffered from chronic water shortages.

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- REP. ROTH asked about the water quality questions that had been raised in opponent testimony. WAYNE VAN VOST, Bureau of Mines and Geology, Billings, said that they had data that suggested that the water is fine for agriculture. He said in order to adequately test for PCB's or carcinogens, they would have to pump the mine aquifer to create flow.
- REP. O'KEEFE asked SEN. GALT how many members were in the Deadman's Basin Water Users Association, and how many acres were involved. Neither Mr. Fritz nor Sen. Galt had exact figures, but indicated the boundaries of the district. REP. O'KEEFE commented on the absence of proponents, and MR. FRITZ and SEN. GALT indicated that there were proponents, but that they had had transportation difficulties.
- REP. RANEY asked Mr. Stephenson how much water had been pumped out of the mines. MR. STEPHENSON said that every drop of water pumped out of the mine had run through his land, and that there was never a time that there was enough water to irrigate 20 acres.
- REP. RANEY expressed concern to Sen. Galt about the economic development of the area, asking where new residents would find water. SEN. GALT said they would get the water from the aquifer as was done at present. He said he believed the Bull Mountain aquifer was not connected to the mine aquifer, as did the Bureau of Mines and Geology.
- MARVIN MILLER, Bureau of Mines and Geology, Butte, said the majority of wells in the Bull Mountains were shallow, and did not reach the depth of the mine aquifer. He said the Bull Mountains drain slowly or leak into the mines, and that was what was being de-watered. He said it was important to look at the potential large underground storage area, which could be utilized and recharged during the flood stage of the Musselshell River. He agreed that the water quality needed to be examined, but that it appeared that the quality of the water in the mines was better than that of the Musselshell River at low water stage. He said this was an opportunity to look at the feasibility of increasing the water availability in the Musselshell Basin.
- REP. RANEY asked Mr. Miller to address the potential drying up of wells in response to the pumping of the mine waters. MR. MILLER replied that the wells and springs in the area were being evaluated and inventoried. All through the test and in the future, there would be numerous wells monitored to evaluate that eventuality. Regarding a dry well, it would have to be determined that it dried up due to the de-watering of the mine. He suggested that in many instances it might not, and cited the numbers of dry wells that occurred during the previous summer.
- REP. RANEY suggested that if all of the wells were above the mine aquifer, that the de-watering of the mine would lower the

water table. MR. MILLER said the water table in the mine itself would be lowered, but there would be no additional water from the leakage. He said there was already leakage towards the mine itself, and by de-watering the void space, there would be no additional leakage. MR. MILLER entered into the record portions of the Bureau of Mines and Geology's preliminary report submitted to the Water Development Bureau of DNRC, which addressed the hydrogeology of the project area (EXHIBIT 23).

Closing by Sponsor: SEN. GALT apologized for the absence of proponents, of which he said there were many. He reminded the committee that this was a test project to see if this water could be used economically and without harming anyone. He said there had been three hearings, and that the project would only be continued if there were no significant detrimental environmental effects or adverse impact on any individual's water supply.

DISPOSITION OF SB 390

Hearing 3/10/89

Motion: REP. COHEN moved DO NOT PASS on SB 390.

Discussion: REP. COHEN said he had not heard one word from any proponents. REP. RANEY said he had opposed the bill during the last session and continued to do so. REP. ROTH said he had a problem with the opposition when the project was a testing procedure.

Substitute motion: REP. ROTH moved DO PASS on SB 390.

Discussion: REP. CLARK spoke on the substitute motion, saying that the Musselshell River had not been adjudicated, which led to a huge problem with irrigation by the time the water reached Roundup. He said Deadman's Basin was a natural basin, and that when the river got as low as it did this summer, irrigators could not get any water out of it. He said communities such as Melstone on the lower end of the Musselshell found themselves without water. He said this idea came up every 10 years, but there had never been a proposal to do the testing necessary to see if the idea was viable.

REP. CLARK said he had spent much time on the project, and personally felt there was not enough water in the mines to pump out the amounts suggested. However, he said these were things we could never know without this testing. He said the grant application covered every concern the people raised. He said the opposition was based on emotion, and that there had been a breakdown in communication due to the leadership of the opposition. He reminded the committee

that the project would be shut down if there were any adverse impacts at any stage.

REP. COHEN said that Rep. Clark made compelling arguments in favor of the bill. However, he said it bothered him to have the Legislature override the people's wishes in the community. He said these compelling arguments needed to be made by those people.

REP. ADDY expressed the concern that the project would allow for the appropriation of groundwater in excess of 3,000 acre/feet per year. He said there was no cap on it. He asked if there was some middle ground here. REP. CLARK said the law did not require a permit for anything less than 3,000 acre/feet. Therefore he said the entire project would be permitted in steps; these permits would specify how much could be pumped. He said the 31 acre feet of water was the test pumping, and would determine if there was any detrimental effect. REP. CLARK said the long range project was for 13,000 acre feet, but that the permits would be for amounts less than that. REP. ADDY said the middle ground would be to permit testing to either prove or disprove the theories, and wondered why a blank check was being written for the initial withdrawal of 31 acre feet. REP. CLARK said that coming to the legislature was necessary due to the amount of money requested, not the amount of water.

REP. HARPER said that his concern was the possibility of irretrievable effects from the pumping of the mines, and that it might take years for those effects to show up. He said the people were motivated to fight this project because they remembered that when the mines ran, and pumping took place, the wells and springs were dry.

REP. CLARK said the project proposed to replenish the mine water, and to use the mine as a reservoir out of which water would be pumped in the summer.

REP. ADDY repeated that 3,000 acre feet/year did not represent testing. REP. CLARK replied that that amount would be pumped in phase 4, which was 5-6 years down the road.

REP. HARPER said the fear the people felt was important, and that they would file a lawsuit. REP. CLARK said the deadline was September 30, and that this bill merely extended that deadline.

REP. GIACOMETTO asked if the executive action could be postponed for more information.

Amendments, Discussion, and Votes: None

Recommendation and Vote: REP. GIACOMETTO moved that executive action on SB 390 be postponed. The motion CARRIED.

HEARING ON SB 201

Presentation and Opening Statement by Sponsor:

SEN. TOM KEATING, Senate District 44, opened on the bill which was a follow up measure enacted two years ago requiring the preparation and adoption of an programmatic environmental impact statement (EIS) dealing with oil and gas permitting. He said that during that time, the permitting for oil and gas was exempt under the Montana Environmental Policy Act. He said this exemption was to last until the completion of the programmatic EIS. He said that the programmatic was not printed until February of 1989, and was now being heard in public meetings. He said that SB 201 asked for a two year extension to give the Board of Oil and Gas Commission time to review the document, and to give the Governor the opportunity for additions or corrections before final presentation to the board. He mentioned that the Board of Oil and Gas Commission had four new members who needed to gain familiarity with the document.

Testifying Proponents and Who They Represent:

Jim Nelson, Chairman, Board of Oil and Gas Conservation
Dave Darby, Department of Natural Resources and Conservation
Joe Keating, General Manager, Cenex
John Moore, Attorney, Cut Bank, Independent Operators and Oil Drillers
Doug Abelin, Montana Oil and Gas Association
Patrick Montalban, MSR Exploration Limited
Janelle Fallan, Montana Petroleum Association
Dan Mitchell, Cut Bank

Proponent Testimony:

JIM NELSON testified that they needed the time to consider the programmatic EIS that was submitted to the board in the end of January. He said it was a comprehensive document covering all phases of oil and gas production which would have long lasting impacts on the industry. He said to ask the board to complete the review by June 30 deadline would ensure an inadequate job of incorporating public comments, writing any redrafts, drafting of an implementation schedule and considering any rule changes. He said they needed at least one year, or as much time as the legislature was willing to give them

DAVE DARBY, Deputy Director, DNRC, testified as a member of the Governor-appointed Oil and Gas Drilling Advisory Council that offered guidance and direction in the preparation of the EIS. He said it was his belief that one could meet the technical requirements of the law by the deadline date. However, in light of the new board, and the steps necessary

to get them up to speed in order for them to make a reasoned decision, he said a time frame of six months to a year was reasonable to consider.

JOE KEATING, General Manager of Exploration and Production, and a member of the Governor's appointed Advisory Council to assist in the development of the programmatic, said it would be a mistake to force the board into a hasty adoption, and that if some value was to be derived from this EIS, they should be given the time to do the job properly.

JOHN MOORE, attorney, said Cut Bank was reeling from the impact of the previous administration's onslaught from the Department of Revenue, the State Land Board, and the EPA. He said drilling had been tied up, and there were no new wells being drilled. He said this was a chance to do something for the industry. He said they needed time within the industry to evaluate and develop proper programmatic control. He said they needed an informal advisory panel of actual small operators for the governor to get the input. He said they were not trying to avoid responsibility for industry's mistakes, but that the board needed at least two years to effectively complete the programmatic EIS process. (EXHIBIT 24).

DOUG ABELIN testified that he had helped develop the idea of the programmatic. He said it was complex, as was the industry, and that with four new board members, the benefit of additional time was needed to enable them to make the best document they could.

PATRICK MONTALBAN said MSR operated 200 -250 wells in the Sweet Grass Arch. He said that if Montana went to this new program, things would change drastically for the small stripper wells and the development wells. He suggested that the study was ridiculous and represented an overkill. He mentioned in particular the dust pollution created by the transfer of materials from the drill site to town, and the diesel motors operating the pumps. More important, he said, was the fact that with this program, the industry would not be able to develop these wells quickly. He also expressed concern about the cost of the plan when it was implemented. He suggested that the attitude in the state of Montana had to change. He said that the new board members needed one to two years to go through the programmatic EIS.

JANELLE FALLAN said that the draft EIS was an excellent and informative document in many ways. She raised questions as to whether it fulfilled all of the requirements of SB 184. She reiterated that more time was needed because of the new membership on the board. She suggested that time was needed just in completing the work needed for the preparation of the final EIS, and in figuring out how the Oil and Gas Board would live in an essentially different world.

DAN MITCHELL said he had 46 years of experience in the oil and gas industry in Montana. He said to his knowledge, there had never been problems with the rules regulating the industry, and said he knew of no examples where there had been environmental damage to the surface from drilling an oil and gas well. He said the industry rules and regulations might need a few changes, but did not need the changes suggested in the draft EIS. He said the Board of Oil and Gas Commission needed more time to review the document.

Testifying Opponents and Who They Represent:

Jim Jensen, Montana Environmental Information Center
Mary Ann Kelly, Bridger Watch
Janet Ellis, Montana Audubon Legislative Fund
Stan Bradshaw, Montana Council, Trout Unlimited
Kim Wilson, Montana Chapter of the Sierra Club
Brant Quick, Northern Plains Resource Council

Additional Proponent Testimony:

Gary McCabe, Attorney, Great Falls (EXHIBIT 30)

Opponent Testimony:

JIM JENSEN gave a slide show to illustrate what was actually going on in the oil fields and why MEIC believed that the industry was not benign, not clean, not managed, but was in fact indifferent, callous and polluting in Montana. He said the programmatic EIS needed to be implemented on a timely basis. He suggested that what the committee had heard regarding the need for more time was in fact a smokescreen by the industry to avoid compliance with the recommendations of the programmatic. The slides consisted of views of oil spills and unlined sludge pits, current pumps leaking oil, abandoned operations, and the impacts on the ecosystem.

MR. JENSEN said the purpose of MEPA was to incorporate a planning strategy from the beginning wherever the earth was disturbed for the recovery of natural resources. He said that this ounce of prevention was worth more than a million dollars worth of cure. He quoted Sen. Keating's statement that the oil and gas industry had not done any damage, had cleaned up its mess when it was done, and therefore deserved a time extension. MR. JENSEN said the truth was that the industry had received or would receive \$1,630,352 from the RIT fund, an amount which represented a fair amount of damage. He urged the committee to kill the bill and to keep the pressure on the industry.

MARY ANN KELLY testified against the bill as set forth in EXHIBIT 25. She also distributed a report on the Lodgepole Blowout, produced by the Alberta Energy Resources Conservation Board (EXHIBIT 26). She showed slides of this blowout.

JANET ELLIS distributed a copy of the schedule that would have to be followed in order for the programmatic EIS to be adopted by the Board of Natural Resources within the original time frame. She suggested that although the schedule was tight, it was possible to meet. She submitted amendments to allow a two month extension for the Board of Oil and Gas. She said this extension was thought to be reasonable because there were misunderstandings regarding the MEPA requirements. She said the adoption of a checklist would enable the Oil and Gas Commission to technically comply with MEPA. She said no rule changes would need to be adopted for compliance. Included in her exhibit was a sample checklist and a list of sensitive environmental features to be considered in oil and gas development (EXHIBIT 27).

MS ELLIS quoted Jim Nelson from the Senate hearing as saying an extension of time was needed to adopt the programmatic; they were running at least a month behind. MS ELLIS questioned the need for a two year extension if they were running a month behind. Upon being asked by one of the senators how much time would be needed to comply and adopt the programmatic, Mr. Nelson had replied that the board would use whatever time the Legislature would allow. MS ELLIS urged the committee to amend the bill.

STAN BRADSHAW testified against the bill.

KIM WILSON submitted testimony as contained in EXHIBIT 28.

BRANT QUICK stood in opposition to the bill and submitted testimony on behalf of Connie Wilson, landowner representative on the Oil and Gas Advisory Council, in opposition to the bill. Her testimony was on behalf on the Northeast Land and Mineral Owners Association (EXHIBIT 29).

Additional Opponent Testimony:

Butch Turk, Missoula (EXHIBIT 31)

Questions From Committee Members:

REP. ROTH asked Ms Kelly about the subject of the slide show, when the blowout occurred, and what percentage of active wells had a blowout like that. MS KELLY said it had occurred in 1982, and that such blowouts were rare. REP. ROTH asked if she knew of any similar blowouts that had occurred in Montana. MS KELLY said one had happened in Fairview in October of 1988. She said wells in that

geologic structure (the overthrust) and at that depth presented the chance for potential blowout.

- REP. BROOKE drew a parallel with the situation with which the Legislature was faced, that of meeting a deadline in response to a Supreme Court ruling with 33% new membership. She asked Mr. Nelson if this was not a comparable situation, and asked for a response. MR. NELSON said they was not working full time. He said they would have to call special meetings, and would need 6 months to a year to do a good job.
- REP. MOORE asked about the potential for blowouts with the blowout control apparatus that she had seen the week previous on the tour. SEN. KEATING said the potential would be extremely slim due to the redundancy in the mechanical protection. He said the blowout referred to in the hearing was due to human error. He said there was no death, damage or harm from the blowout at Fairview. He said the potential for harm and permanent damage from blowouts was nil.
- REP. HARPER asked if Mr. Nelson thought the majority of the board intended to adopt the programmatic EIS. MR. NELSON replied that the consequences of the board not adopting the EIS, or some form of it, were catastrophic, and that in his opinion, the board would adopt this EIS or some form of it at some point in time. REP. HARPER asked for the time frame for the noticing the rules with the Secretary of State. MR. NELSON said that Chapter 5 of the programmatic made a number of recommendations that may or may not require rule changes. He said they would like to add an implementation schedule into the EIS, and until the board considered the recommendations and the implementation of the recommendations, somewhere down the road from that perhaps some rule changes would be proposed. He agreed that adopting rule changes was necessary to adopt the EIS. He envisioned the rule making process continuing over several years.
- REP. RANEY asked about the backgrounds of the four new board members. MR. NELSON said that Dave Shanen was formerly with the oil industry, Bob Rhodes was formerly with Montana Power, Stan Lund is a rancher/landowner from Reserve, and Scott Gage is a Certified Public Accountant from Cut Bank.
- REP. ADDY asked Mr. Mitchell to reconcile his statement that there hadn't been any problems created by drilling in the state of Montana with the slides shown to the committee. MR. MITCHELL said he was only familiar with one of the slides. He said anyone could take a camera and take a shot down low to make it look real bad. He said the damage in the old Kevin field represented old wells drilled in the twenties.

- REP. ADDY asked Mr. Nelson why this task could not be completed before June 30, 1990. MR. NELSON said his testimony was that they needed 6 months to 1 year. REP. ADDY asked if a deadline of December 31, 1989 would provide adequate time. MR. NELSON said yes, and that they considered 6 months to be on the short side.
- REP. GILBERT asked if the protests were more against production than what was really addressed in the EIS, the issuance of drilling permits. MR. NELSON said that there were problems with the concept of the EIS itself and the necessity for it. He said the industry comments at the public hearings indicated that there was no need for this programmatic EIS, that it would complicate their lives and their business to the point of not being able to function in the future. He said landowner comments had indicated that there were things that had not been considered such as the adoption of rules on salt water collection.
- REP. GILBERT asked if it was correct that the industry did feel that the time had come for regulation, and that this was the least onerous method at this point. He said it would give industry some control, at the same time allowing permits to be more easily obtained on ground already drilled up. MR. NELSON said the Legislature passed SB 184, and the Board would comply with the letter and the spirit of that law. He said that fortunately, the board governs and regulates with a fair amount of common sense, and appreciated the importance of the oil and gas industry to the state. He said some form of an EIS would be adopted in such a fashion that it made sense, did not cripple the industry, and accomplished the legislative mandate. REP. GILBERT suggested that quality was better than quantity, and asked if some extension of time would be preferable. MR. NELSON said another six months to a year would be time well spent.
- REP. GILBERT commented that an additional 2 years would put us into another legislative session. He said he was prepared to offer an amendment for an extension of 1 year, prior to the convening of the next legislative session. Part of the amendment would include the requirement that the board start a plan immediately, with a bi-monthly progress report to the Environmental Quality Council. MR. NELSON said the board appreciated the task before them, and that the year would be used constructively. He said the board would be happy to consult with the EQC.

Closing by Sponsor:

- SEN. KEATING said he stood behind his comments that the industry cleaned up as they completed drillings. He reminded the committee that this was for the permitting process for new wells. He also stated that the oil and gas industry had contributed \$45 million to the RIT fund, and that less than

half of the \$1 million mentioned by Mr. Jensen had ever been used for actual surface or environmental reclamation. He reiterated that the Board of Oil and Gas Commission was not a full time board, and encouraged the committee to allow them the full two years for the review process of the EIS.

DISPOSITION OF SB 201

Motion: REP. GIACOMETTO moved the bill DO PASS.

Discussion: None

Amendments, Discussion, and Votes: REP. GIACOMETTO moved Rep. Gilbert's amendment, and asked Mr. Zackheim to read it. The amendment read that the extension would be 1 year from the current law, making the date of adoption no later than June 30, 1990. Additionally, the amendment would require written progress reports after each meeting of the Board of Oil and Gas, and after any special meetings that addressed implementation of the programmatic. These reports would be sent to the EQC.

REP. COHEN called for a segregation of the amendments: 1) the date of adoption of the programmatic, and 2) the requirement of written reports. He commented that the extension was too lengthy, and suggested August 31, 1989, which was six months from the day's date.

REP. RANEY segregated the amendments, and the question was called on the amendment covering the reporting requirements. The motion CARRIED unanimously.

REP. COHEN spoke on the Gilbert amendment regarding the time period, and indicated that it provided more time than necessary. REP. ROTH commented that the Cohen amendment did not provide enough time.

Substitute Motion: REP. HARPER offered a compromise amendment, which set the date for adoption at September 30, 1989. REP. GIACOMETTO opposed the substitute motion, stating that rushing through the task would not benefit anyone. REP. ADDY said a year was a compromise. He said if the committee sent it out with a shorter date than that, there would be a floor fight. REP. COHEN said his concern was that as long as the programmatic was not adopted, there was no regulation at all in place. REP. OWENS commented that a year was requested in good faith by the sponsor and the department. REP. RANEY said that Mr. Nelson had said that 6 months was adequate.

Substitute motion for all motions pending: REP. BROOKE moved that the date for adoption be December 31, 1989. REP.

GIACOMETTO opposed the amendment. The motion CARRIED on a roll call vote, 11-5.

Recommendation and Vote: REP. HARPER moved the bill BE CONCURRED IN AS AMENDED. The motion CARRIED with Rep. Clark, Rep. Cohen, and Rep. Giacometto voting no.

HEARING ON HB 757

Presentation and Opening Statement by Sponsor:

REP. GIACOMETTO opened on HB 757, Montana's Agricultural Groundwater Protection Act, and turned the hearing over to the proponents.

Testifying Proponents and Who They Represent:

Pam Langley, Montana Agricultural Business Association
Valerie Larson, Montana Farm Bureau
Ron DeYong, Montana Farmers Union and the Montana Water Resources Association
Peggy Haaglund, Montana Association of Conservation Districts
Larry Johnson, Montana Grain Growers Association
LeRoy Luft, Montana State University, Extension Service
Carol Mosher, Montana Stockgrowers Association, Montana Cattlewomen
Gary Gingery, Montana Department of Agriculture
Steve Pilcher, Montana Department of Health and Environmental Sciences

Proponent Testimony:

PAM LANGLEY, Executive Director of MABA, said her organization was made up of a group of rural businesses, primarily chemical fertilizer dealers, and had been a very environmentally minded association for some time. She testified for HB 757, which had been nearly a year in the making. She said HB 757 had its basis not only in the experiences of other states, but also in the EPA document, "Agricultural Chemicals in Groundwater, Proposed Pesticide Strategy", December, 1987. She continued her testimony as outlined in EXHIBIT 32.

VALERIE LARSON testified that the bill was needed to protect the groundwater. She said it addressed monitoring, proper use of agricultural chemicals, ground water standards, and ground water management plans. She said her organization liked the dual administrative authority between the Department of Health and Environmental Sciences (DHES) and the Department of Agriculture (DOA). She said the bill provided penalties for violators, and protections for those who followed the rules and directions in the groundwater

management plans. It also provided education and training for applicators and the general public.

RON DE YONG testified that the bill set up the framework for keeping Montana's water clean, while still keeping farming a viable economic endeavor. He said the bill also allowed for farmer input into the management plans, and provided for education. He cautioned the committee against adding any amendments because consensus on this complex issue had been reached among major farm organizations. He said the bill would be worked on every session from now on, and suggested that major changes would be better handled in the future when there was a data base and experience.

PEGGY HAAGLUND stood in favor of the bill.

LARRY JOHNSON, small grains producer from Kremlin, testified that the bill represented a practical, responsible solution to maintaining the quality of water in Montana. He said the bill was an effort by farmers, the chemical industry, applicators, environmental concerns and regulatory agencies to come to grips with the problem of groundwater contamination. He said that farmers wanted to protect water as an asset as well as their right to use chemicals until another method was developed. See EXHIBIT 33.

LEROY LUFT testified that his organization was written into the bill to provide technical assistance in the development of the best management plans as well as to provide for education and training of chemical applicators. He said they offered their support as outlined in the bill.

CAROL MOSHER stood in support of the bill and the concept.

GARY GINGERY pointed out that the bill brought together state agencies and the university system as a team to work on this effort. See EXHIBIT 34.

STEVE PILCHER, Chief, Water Quality Bureau, testified as set forth in EXHIBIT 35. He said the bill attempted to avoid a collision between Montana's non-degradation policy under the Water Quality Act and the continued use of ag chemicals. He said the bill should not be used to give preferential treatment to one activity that had pollution potential, but instead should be used to allow the continued proper use of ag chemicals and at the same time protect water quality.

Additional Proponent Testimony:

John Semple, Montana Aviation Trades Association (EXHIBIT 36)

Montana Weed Control Association (EXHIBIT 37)

Testifying Opponents and Who They Represent:

Dave Oien, self and Alternative Energy Resource Organization
(AERO)

Nancy Matheson, AERO

Stan Bradshaw, Montana Council, Trout Unlimited

Jim Jensen, Montana Environmental Information Center

Janet Ellis, Montana Audubon Legislative Fund

Brant Quick, Northern Plains Resource Council

Opponent Testimony:

DAVID OIEN, diversified farmer from Conrad, testified as set forth in EXHIBIT 38.

NANCY MATHESON testified as set forth in EXHIBIT 39.

STAN BRADSHAW distributed two different articles from the Journal of Pesticide Reform (EXHIBITS 40 and 41). He said the articles addressed at length the problem with the approach represented by this bill. He said that Trout Unlimited's interest in this was due to the inter-relation between ground and surface waters. He said he was heartened to hear a commitment to the idea and the recognition that there was a problem to be addressed. He said his first exposure to the bill was in mid January. He said he had given Ms Langley his broad thematic concerns, but that the rewritten bill did not address those concerns.

MR. BRADSHAW said the bill did not address the need to prevent further groundwater contamination. Instead it sanctioned the pollution of groundwaters up to certain levels and classified certain groundwaters as more pollutable. He said the program was costly and unenforceable. He submitted some amendments that might make the bill more workable (EXHIBIT 42). He asked the committee to consider these amendments in light of his relative expertise, and to treat them as guideposts to the types of changes that would be needed. He said the amendments addressed the issues of accountability, prevention of further pollution, enforceability, and encouragement of alternatives to chemical use. He added that if the bill was put into a subcommittee, he hoped the amendments would provide some useful guidance. Ultimately, he hoped the bill would be put into an interim study in EQC.

JIM JENSEN testified that there was one point in opposition to the bill to re-emphasize, and that was the bill's inability to be enforced. He referred the committee to page 22, line 2, where the department may not undertake compliance and enforcement actions authorized by the bill unless there was sufficient evidence collected through monitoring. He reminded the committee of the expense of the monitoring, and also directed the committee to the section which said the department may conduct monitoring. He suggested that the

legislature direct EQC to bring all parties to the table to deal with this problem.

JANET ELLIS testified as in EXHIBIT 43.

BRANT QUICK testified as neither an opponent nor a proponent. He said the bill needed more looking at. See EXHIBIT 44.

Questions From Committee Members:

REP. RANEY said the bill would be addressed in executive session the week following. He assigned a subcommittee composed of Rep. Harper (if his schedule permitted), Rep. Giacometto and Rep. Cohen. Due to time constraints, he suggested that questions be asked at the executive session.

Closing by Sponsor:

REP. GIACOMETTO said he would address some of the misconceptions regarding the bill. He said he agreed with AERO and its statements; however, he said that it must be realized that AERO's underlying goal was no use of chemicals. He added that the reality was that chemicals were used, and some control needed to be in place. He said the bill covered point and non point contamination. He said there was a clean up provision under the Water Quality Act, and therefore did not need to be addressed in this bill. Regarding standards, he said the bill proposed the adoption of EPA standards which covered 90% of the chemicals.

REP. GIACOMETTO said that the monitoring could be easily accomplished by monitoring domestic wells on the ranches and farms. He said that the funding was more than adequate based on the fee structure.

REP. GIACOMETTO said agencies, the university and the agricultural organizations were in support of these regulations, a regulatory proposal which the agricultural industry was bringing in on itself. He said there were teeth in the bill in the form of a \$25,000/day fine. He submitted the testimony of Mr. Semple of the Montana Aviation Trades Association, and the Montana Weed Control Association into the record (EXHIBITS 36 and 37).

HEARING ON HB 754

Presentation and Opening Statement by Sponsor:

REP. HARPER opened on the bill, saying anglers would pay \$1.00 to \$.50 on their licenses for a river recovery fund to support a river restoration program. He said the idea was

not originally developed to include the possibility of using the fund for leasing. He said the original idea was that the state's fishable river area was shrinking and needed to be expanded. He said the fiscal note indicated that \$1 out of this fund would match \$3 from the federal Dingell-Johnson money for potential leasing if that concept was included in the bill.

Testifying Proponents and Who They Represent:

Stan Bradshaw, Montana Council, Trout Unlimited
Pete Test, self
Don Chance, Montana Wildlife Federation
Janet Ellis, Montana Audubon Legislative Fund
Jim Jensen, Montana Environmental Information Center
George Ochenski, Alliance for Montana Water

Proponent Testimony:

STAN BRADSHAW testified that the bill established an account into which money could be placed, raised some fishing license fees, and identified what that money could be spent for. Those purposes were the physical rehabilitation of streams and associated lands, and the lease or purchase of water or water rights if the law allowed that.

MR. BRADSHAW said the bill did not restrict land use by landowners adjacent to streams, did not authorize the imposition of any such restrictions, did not authorize the entry onto landowners' land, did not authorize the taking the water from anyone, and did not authorize any circumvention of the Streambed Preservation Act. He said the bill created a fund for rehabilitation of streams where there were willing landowners and where the law allowed it to happen. He urged the committee's support.

PETE TEST, sportsman from the Helena area, said the price of a fishing license in Montana was one of the best bargains around. He felt the additional \$.50 on the license was a small amount for the good that could be done.

DON CHANCE stated that the federation had a strong commitment to protecting and improving one of the richest habitat types in the state, the riparian zones. He said they, as sportsmen, were willing to financially back such a program which would benefit both sportsmen and non sportsmen. He said it would not only enhance the fishery, but also the stream quality. He said the bill did nothing to force anyone to participate in any program, but merely created a fund from which river restoration projects could be funded. He urged the committee to give a Do Pass. He shared with the committee his experiences with two similar programs, one on the French Broad River and one in Washington, both of which were effective, well received programs.

JANET ELLIS said riparian areas were productive, yet limited, areas, and said the bill was very important. She reminded the committee that a similar bill had just passed the House that morning, dealing with habitat instead of water. She reiterated that nothing could be done on private land without the private landowners' permission. She distributed a riparian area fact sheet, EXHIBIT 45, and urged support for the bill.

JIM JENSEN testified that MEIC wished to go on record in support of the bill.

GEORGE OCHENSKI said the bill developed from his and Hal Harper's idea. He said the concept was similar to the Environmental Quality Protection Fund. He said that the \$.50 was a small amount for each individual to spend, but would provide the state with \$100,000 per year to work on the rivers. He referred to a handout, EXHIBIT 46, a list of America's 100 best trout streams from Trout Magazine. He noted that Montana had the best of what there was in the way of trout streams in the United States. He spoke of the positive fiscal impact of these trout streams on Montana's economy, citing statistics from the Travel Promotion Bureau. He said that the river resource was shrinking, there was an increase in out-of-state visitors, and that more of the economic base was being derived from tourism. He suggested that it made sense to expand and protect the fishable rivers in the state, and urged the support of this bill.

Testifying Opponents and Who They Represent:

Valerie Larson, Montana Farm Bureau
Jesse Malone, Teton River Water Users Association
Kim Enkerud, Montana Association of State Grazing Districts
Carol Mosher, Montana Stock Growers and the Montana
Cattlemen
Peggy Haaglund, Montana Association of Conservation
Districts

Opponent Testimony:

VALERIE LARSON testified as set forth in EXHIBIT 47.

JESSE MALONE testified against the bill as set forth in EXHIBIT 48.

KIM ENKERUD testified as set forth in EXHIBIT 49, and also distributed a diagram of riparian zones, EXHIBIT 50.

CAROL MOSHER testified against the bill as in EXHIBIT 51. She said two other groups had asked that she put their names

into the record as being opposed to the bill: Montana Water Resources Association (EXHIBIT 52) and the Montana Farmers Union.

PEGGY HAAGLUND testified against the bill as set forth in EXHIBIT 53.

Questions From Committee Members:

REP. GIACOMETTO asked Rep. Harper about his definition of riparian zone, and REP. HARPER said the bill would address the riparian habitat in that zone. REP. GIACOMETTO asked if he was talking about improving that habitat. REP. HARPER said he understood the concern of individual property owners, because the rivers ran through private land. He said he was formulating an amendment stating that this bill would in no way impact private property rights, or access to or use of an individual's property.

REP. OWENS asked how these projects would get past the Streamside Management Act or requirements for an EIS. REP. HARPER said the Conservation Districts would be the local experts to notify and to consult. He said the 310 process would cover the project.

REP. ROTH asked how he would get this project implemented on a place of his on the Stillwater River that had an eroding bank. REP. HARPER said he could make an application to the department, but that the more he thought about it, he realized more communication with the local people through the 310 process was needed. This would include the Conservation District and the Department of Fish, Wildlife and Parks.

REP. ROTH asked if Rep. Harper would object to taking the section on leasing out. REP. RANEY said that these were questions that could be addressed in executive session.

REP. COHEN asked Peggy Haaglund what her amendment was. MS HAAGLUND said she had several. 1) The individual had to be addressed. 2) The Conservation District should be involved and the 310 process should be mentioned, as well as other permits that might be necessary. 3) The definition of associated land and the definition of river should be changed to be consistent with other statutes.

Closing by Sponsor:

REP. HARPER closed.

DISPOSITION OF SB 91

Hearing 3/1/89

Motion: REP. COHEN moved the bill DO PASS.

Discussion: None

Amendments, Discussion, and Votes: REP. COHEN moved amendments which were distributed to the committee. He said Rep. Moore and he met with Dan Mizner and DSL on all of these issues, with the end product being these amendments. He said they had looked at conservation easements and covenants, and reached an accord.

REP. GIACOMETTO asked if the sponsor of the bill was in agreement. REP. COHEN said the sponsor said he trusted the changes made by the subcommittee. The motion on the amendments CARRIED unanimously.

Recommendation and Vote: REP. COHEN moved the bill DO PASS AS AMENDED. The motion CARRIED unanimously.

DISPOSITION OF SB 371

Hearing 3/8/89

Motion: REP. ADDY moved the bill DO PASS.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED unanimously.

DISPOSITION OF HB 385

Hearing 3/8/89

Motion: REP. ADDY moved the bill BE CONCURRED IN.

Substitute Motion: REP. OWENS moved to TABLE the bill.

Vote: The substitute motion FAILED.

Amendments, Discussion, and Votes: REP. HARPER moved an amendment to re-insert petroleum products into the bill. REP. RANEY clarified that the amendments in questions would put all of the language that the Senate struck with regards to petroleum products back into the bill, with the exception of crude oil at production facilities. He said lubricating oil was inadvertently omitted and should be inserted back in.

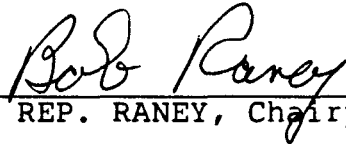
REP. HARPER moved to amend the amendment by inserting lubricating oil. The motion on the amendment to the amendment CARRIED unanimously.

REP. HARPER asked Jerome Anderson if HB 143 picked up where this bill left off, and MR. ANDERSON said yes. The motion on the amended amendments CARRIED, with Rep. Owens voting no.

Recommendation and Vote: REP. BROOKE moved that SB 385 BE CONCURRED IN AS AMENDED. The motion CARRIED unanimously.

ADJOURNMENT

Adjournment At: 8:20 p.m.



REP. RANEY, Chairperson

BR/cm

5612.min

DAILY ROLL CALL

HOUSE NATURAL RESOURCES

COMMITTEE

50th LEGISLATIVE SESSION -- 1989

Date 3-10-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Raney, Chairman	✓		
Rep. Ben Cohen, Vice-Chairman	✓		
Rep. Kelly Addv			✓
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	✓		

3-11-89
111
28

STANDING COMMITTEE REPORT

March 11, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that SENATE BILL 201 (third reading copy -- blue) be concurred in as amended .


Signed: _____
Bob Raney, Chairman

[REP. HANNAH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 8.

Strike: "JUNE 30, 1991"

Insert: "DECEMBER 31, 1989"

2. Title, line 12.

Strike: "JUNE 30, 1991"

Insert: "DECEMBER 31, 1989"

3. Page 4, lines 13 and 14.

Strike: "June" on line 13 through "1991" on line 14

Insert: "December 31, 1989"

4. Page 4, line 18.

Strike: "June" through "1991"

Insert: "December 31, 1989"

5. Page 6, line 9.

Following: "gas."

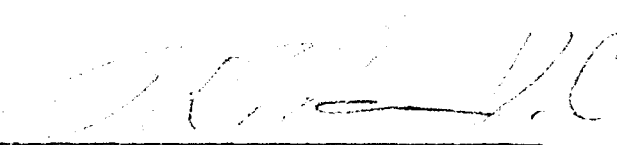
Insert: "(d) Until the programmatic environmental statement is adopted, the board of oil and gas conservation shall prepare a written progress report after each regular meeting of the board and after any special board meeting that addresses the adoption or implementation of the programmatic environmental statement. A copy of each report must be sent to the environmental quality council."

STANDING COMMITTEE REPORT

March 11, 1989

Page 1 of 3

Mr. Speaker: We, the committee on Natural Resources report that SENATE BILL 91 (third reading copy -- blue) be concurred in as amended.

Signed: 

Bob Raney, Chairman

[REP. Bob Raney WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 9.

Strike: "EXISTING"

Following: "FROM"

Insert: "CERTAIN"

2. Title, line 10.

Following: "EASEMENTS;"

Insert: "PROVIDING FOR CONSERVATION EASEMENTS FOR SALES;"

Following: "BOARD;"

Insert: "CLARIFYING THE BIDDING REQUIREMENTS FOR SALE OF STATE LANDS;"

3. Title, line 11.

Following: "77-2-301"

Strike: "AND"

Insert: ", "

Following: "77-2-303,"

Insert: "AND 77-2-324,"

4. Page 3, line 10.

Strike: "EXISTING"

5. Page 3, line 14.

Strike: "EXISTING"

6. Page 3, line 15.

Strike: "then held"

Insert: "that was"

7. Page 3, line 16.

Following: "lease"

Insert: "on [the effective date of this act]"

8. Page 3.

Following: line 16

Insert: "(2) The lessee requesting the sale shall have prepared a current certificate of survey for the property. The cost of preparation of the certificate of survey must be included in the settlement for improvements, as provided for in 77-2-325, if a person other than the lessee is the purchaser."

Renumber: subsequent subsections

9. Page 3, line 18.

Strike: "AN EXISTING"

Insert: "a"

10. Page 3, lines 19 and 20.

Following: "LAWS"

Strike: "." on line 19 through line 20 in its entirety

Insert: ", except that the development of any new, replacement, or additional water supply or sewage disposal system on the property must be approved pursuant to the review procedure, fee, and other requirements of Title 76, chapter 4, part 1."

11. Page 4, line 4.

Strike: "77-3-101"

Insert: "77-2-101"

Strike: "77-3-106"

Insert: "77-2-106"

12. Page 4.

Following: line 6

Insert: "NEW SECTION. Section 4. Conservation easement for certain sales. As a condition of any sale initiated pursuant to [section 3], the board shall, if consistent with its trust responsibility, grant to the state of Montana a conservation easement, as provided for in 76-6-203, for the leased cabin or home site or city or town lot to be sold. The conservation easement must run with the land in perpetuity and must:

(a) prohibit subdivision of the land;

(b) for property within 100 feet of a river, stream, or lake, prohibit the cutting of trees except as necessary for construction on the lot, fire prevention, safety, or protection of personal property; and

(c) require that any permanent structure be set back 25 feet from the high-water mark of a lake or stream."

Renumber: subsequent sections

13. Page 4.

Following: line 12

Insert: "Section 6. Section 77-2-324, MCA, is amended to read:

"77-2-324. Preference to lessee of land. The lessee of the land need not make a higher bid than others, but he shall, ~~if bidding an equal amount,~~ have the option to match the high bid and be given the preference. If the lessee matches the high bid, bidding must be reopened to all bidders, with the lessee retaining the right of preference to match the ultimate high bid and be awarded the sale."

14. Page 4, line 18.

Strike: "and 4"

Insert: "through 5"

15. Page 4, line 21.

Strike: "and 4"

Insert: "through 5"

16. Page 4, lines ~~22~~ through 25.

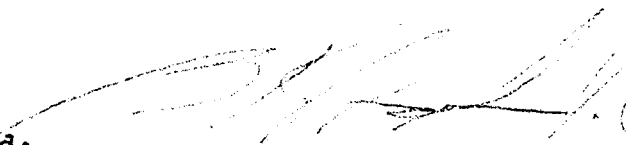
Strike: section 7 in its entirety

STANDING COMMITTEE REPORT

March 11, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that SENATE BILL 371 (third reading copy -- blue) be concurred in .

Signed: 
Bob Raney, Chairman

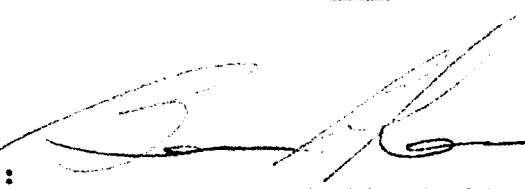
[REP. GIACOMETTO WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 11, 198

Page 1 of

Mr. Speaker: We, the committee on Natural Resources report that SENATE BILL 385 (third reading copy -- blue) be concurred in as amended .

Signed: 

Bob Raney, Chairman

[REP. DAVE BROWN WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 4, line 4.

Strike: "AND"

2. Page 4, line 9.

Following: "and"

Insert: "; and"

3. Page 4, line 10.

Following: "product"

Insert: "any petroleum product"

4. Page 5.

Following: line 25

Insert: "(9) "Petroleum product" includes gasoline, crude oil (except for crude oil at production facilities subject to regulation under Title 92), fuel oil, diesel oil or fuel, lubricating oil, oil sludge or refuse, and any other petroleum-related product or waste or fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch absolute)."

Renumber: subsequent subsections

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

TESTIMONY ON
SB 390

The DNRC supports SB 390 because it allows the sponsors of the Roundup abandoned coal mine pumping project the ability to proceed with the project if they can secure all other necessary permits and authorizations. In supporting SB 390, DNRC does not pre-judge the action the agency will take on the interim permit before it now, or the action it will take on any future interim permit application for this project.

The water users along the Musselshell River have faced chronic water shortages not just in the drought year of 1988, but in many other dry years. In the late 1970s, the DNRC, in response to requests from Musselshell River water users, evaluated offstream storage sites in the basin. Water users felt the cost of storage identified in that analysis to be beyond their capability to pay for water.

THE PROJECT

Local citizens then proposed the concept of pumping from the abandoned underground coal mines near Roundup. Preliminary studies indicate that the mines may be a source of water that could help alleviate water shortages in the Musselshell River.

The 1987 Legislature provided RIT funds to the Lower Musselshell Conservation District to pursue development of the

abandoned mines. The legislature also approved any interim permit necessary for test pumping of these mines. The legislature made it clear that the project sponsors would have to secure DNRC approval of the interim permit as required by statute.

The project is to proceed in four phases. Each phase must be approved by the DNRC before the next phase can proceed.

Phase 1. Compilation of a resource evaluation that addresses concerns such as:

- (a) subsidence
- (b) geology, hydrology, water quality, historic mining activities
- (c) well and spring inventory
- (d) installation of observation wells
- (e) selection of a pumping site
- (f) acquisition of all necessary permits

Phase 2. Completion of experimental short-term pumping. The DNRC has before it the interim application for this test pumping of up to 31 acre-feet over a seven-day period. If the permit is issued, it will be heavily conditioned to protect against injury to existing water users as well as addressing other concerns of local citizens.

Phase 3. Completion of a longer-term pumping test. The interim permit required for this pump test is the subject of SB 390. The purpose of the test is to evaluate the potential for withdrawing from the mine workings water of adequate quality and quantity to significantly supplement low flows in the Musselshell River. Two 90-day pumping events are proposed for successive years, each at a maximum of 30 cubic feet per second up to 5,500 acre-feet.

Phase 4. Development of a computer model based on data collected during the first three phases to assess storage capacity and recharge characteristics of the mines, to evaluate the quality of mine water and its compatibility with existing and proposed uses, and to determine the economic feasibility of using storage in the mines on a long-term basis.

WATER PERMITTING ACTIVITY

In September 1986, the Deadman's Basin Water Users Association filed a provisional water use permit application for 40 cfs up to 13,363 acre-feet/year from the abandoned coal mines. Because the groundwater appropriation under the permit could exceed 3,000 acre-feet, legislative approval was required. The 1987 Legislature passed SB 151, which authorized DNRC to issue only an interim permit for testing purposes. Any interim permit issued will expire on September 30, 1989, as provided in SB 151. Further testing involving withdrawals of more than 3,000 acre-feet/year will require legislative approval. SB 390 represents

DATE 3-10-89
HB SB 390

that approval. In the meantime, action on the water right permit application filed in 1986 has been suspended pending the completion of the four phases of the project.

A Preliminary Environmental Review will be prepared for each permit and interim permit application. AN EIS may be necessary, depending on the findings contained in the PER. Each interim permit, if issued, will contain conditions designed to prevent adverse impacts to existing users. In the event the conditions cannot be met or certain allowable limits are exceeded, no further pumping will be allowed.

PROJECT OPPOSITION

A group called "POWER" (Protect our Water and Environmental Resources) has formed to oppose the mine pumping project. Its main concern is that withdrawal of water from the mines will adversely impact both the quantity and quality of groundwater that presently supports residential and agricultural developments overlaying and adjacent to the mines. As indicated, if the DNRC feels that these concerns are valid, the necessary permits will not be issued. If water permits are issued, they will be conditioned to ensure that adverse impacts do not occur.

DEPARTMENT POSITION

The DNRC supports SB 390 because it would allow the project sponsors to apply for necessary permits and authorization to put

EXHIBIT 1
DATE 3-10-87
HB SB 390

their project in place. Passage of SB 390 does not guarantee the project will be implemented.

DNRC supports the concept of phasing the project such that the project, at any phase, can be halted if it is determined that it would cause adverse impacts to water users, excessive environmental impacts, or is technically or financially unfeasible.

Natural Resources Committee - Bob Barry

DATE 3-10-89

Name

RAYMOND RATHS

HB SB 390

REPRESENTING RANCH OF ESTATE OF
WICK RATHSFROMSOUTHWEST OF ROUNDUP, MT
IN AREA POTENTIALLY AFFECTED
BY MINE PUMPING

WE ARE MEMBERS OF DEADMAN'S BASIN
WATERUSERS WHICH PROJECT WOULD
PRESUMABLY BENEFIT

WE FEEL THE POTENTIAL FOR DAMAGE
TO DOMESTIC AND STOCKWATER WELLS AND
SPRINGS IN THE AREA SURROUNDING
THE OLD MINE WORKINGS FAR OUTWEIGHS
ANY BENEFITS THAT WOULD BE GAINED
BY USING THE WATER FROM THESE MINES
FOR IRRIGATION.

THE WASTEFUL USE AND ABUSE OF WATER
FROM DEADMAN'S BASIN SHOULD BE TAKEN CARE
OF BEFORE LOOKING FOR NEW SOURCES.

PROBLEMS WITH THE PUMPING MAY NOT
SHOW UP FOR YEARS THEN THE QUESTION
OF WATER WOULD BE FOR WATER OWNERS
RATHER THAN ON THE DEADMAN'S BASIN
WATERUSERS.

LET'S CLEAN UP THE OLD MINE AND
LOOKING FOR MORE WATER.

EXHIBIT 2
DATE 3-10-89
HB SB 390
for fall

WITNESS STATEMENT

NAME RAYMOND BATHS BILL NO. SB 390

ADDRESS ROUNDUP MT

WHOM DO YOU REPRESENT? POWER, & SELF

SUPPORT _____ OPPOSE ✓ AMEND _____

COMMENTS: I represent ranch that is a member of
the Deadman's Basin Waterusers Association
and I oppose this bill because the potential
for damage from the mine pumping far outweighs
any beneficial use. Too many domestic and
stockwater wells exist now in the area drained
by near the old mine workings. Let the
Deadman's Basin Waterusers clean up their act
on misuse and waste of the water they
have now before they go looking for more

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

OBJECTION TO SENATE BILL 390 (PUMPING THE MINES AT ROUNDUP)

3-10-89

SB 390

J. J. Hall

1. DEADMANS RESERVOIR was designed to hold 57,000 acre feet of water.
2. DEADMANS RESERVOIR was completed in 1942.
3. DEADMANS RESERVOIR was modified in 1958 to hold 80,000 acre feet.
4. The inlet to the reservoir (starting with a dam and 2 six foot square concrete conduits crossing under the hiway and continuing the 12 mile journey via an open canal averaging 7 ft. in depth and 18 ft. in width at the bottom) was supposed to fill the reservoir in 80 days flowing at 75% capacity.

75% of 650 cfs = 487.5 cubic feet per second flow
= 967.3 acre feet per day
80 day fill = 77,410.464 acre feet of water

5. The Deadmans Water Users Association buys 25,918 acre feet of water from the D.N.R.C.
6. WHERE IS THE OTHER 54,082 acre feet of water ???????

Obvious conclusion; THE IRRIGATORS ARE USING MUCH MORE WATER THAN THEY PAY FOR AND THEY WANT MORE!!!!

7. The Deadmans Water Users Association Committee meeting of 29 Jan. 86 as reported by John Rouan Jr. District Conservationist (copy enclosed) addresses some of their problems.

THEIR SOLUTION (!) PUMP THE MINES AT ROUNDUP !!!!!

May I suggest a few ideas?

1. Enlarge the headgate/dam and add another conduit, to move water more quickly during spring run-off.
2. Enlarge and line the canal to handle more water while available and get all off the water to the reservoir.
3. Reserve enough water for recreation purposes, DNRC has a fiduciary responsibility to all citizens of the state and with up to 54,082 acre feet of water over what they sell to the irrigators, there should be enough for all.
4. Make the DNRC charge the irrigators for all the water they use.
5. Do not let the DNRC continue their pursuit of doubtful water reserves from the coal mines, when their engineers talents would be of much more value in other areas.
6. THE MONTANA DEPARTMENT OF NATURAL RESOURCES & CONSERVATION received two protests on mine pumping in May 1987. One from the Department of State Lands on 13 May and one from the Department of Fish, Wildlife and Parks on 14 May - - that I am aware of.
7. 500 plus property owners, residents-voters-signed a petition against pumping the mines for irrigation.
8. A County Commissioner lost his bid for State Representative from this area, last election; he appeared before the last legislature and was instrumental in getting the first two year mine pumping permit bill passed.

PLEASE DO NOT PASS SB 390. IT IS NOT A GOOD BILL FOR THE MUSSELSHELL

CC NATURAL RESOURCES Chairman Bob Raney
Vice Chairman Ben Cohen
and all members of the committee

Vern J. Jones
#2 Packer Dr.

Deadman's Waterusers Committee
Meeting January 29, 1986

EXHIB 3
DATE 3-10
HB SB390

The second meeting of the Deadman Waterusers Committee met in Roundup at 1:00 p.m. January 29, 1986 at the SCS Conference room. See the attached list of those present. The group reviewed the minutes of the previous meeting. No corrections or adjustments were made.

The By-laws of the Deadman's Waterusers Association were reviewed. Sections were read and discussed as they may pertain to recommendations or guidelines that may be suggested by this committee. It was noted that an amendment to by-laws was made in 1981 by the board of directors. The amendment required review by board for transfer of use of water from one area to another. Should such change have an adverse affect to the association or its members, the application shall be denied. As any amendments to by-laws requires approval by DNR&C as well as members of association. It is currently not known if this amendment is valid. It should be reviewed with DNR&C records to determine if such action was finalized. Minutes of the regular annual meetings may be another source of information.

The shareholders list is available. The usable capacity of the reservoir is 72,200 acre feet of storage. The shareholders list indicates near 26,000 shares (acre feet) of storage water purchased. Sam Rodriguez presented preliminary findings as a result of the Moratorium proceedings initiated by some of the waterusers in the valley. In a lot of cases more irrigation is being done than the amount of contracted water could possibly allow. This will have to be addressed before any results can be expected from the moratorium?

Releasing more water than is necessary is another occurrence early in the irrigation season. At certain times no more permits should be allowed for full season irrigation. The DNR&C may have to go back and look at those already issued. If individuals have no other water than from contract, it may be advisable for them to file for permits for early season water. Otherwise it will be necessary that water be released from the Basin to satisfy these requests. February 13 is the date expected to complete their study. Public hearings will be held in the area to review results and take comments.

John Dalton, SCS irrigation specialist and Ken Peterson, SCS, Engineering technician commented on field efficiencies as they currently find them throughout the area and state. It is quite common for field efficiencies to be about 25-30%. Dalton also reviewed various types of measuring devices that are available and costs relative to each.

Emergency plan ideas were then discussed listing various ways to improve efficient, equitable delivery of water to the users.

- Items included:
1. Install measuring devices
 2. Split the river into zones and rotate available water supply.
 3. Sprinklers would also be subjected to similar zoning restrictions based upon % of shares contracted and estimated water available.
 4. Refine the zoned areas according to % of contracted shares (irrigated acres)
 5. Deliver a percentage of stored water to the zones and let the neighbors handle rotation.
 6. Continue to emphasize irrigation water management and develop an effective information and education program.
- March 23, 1986 Irrigation Workshop, Eastern Montana College Science and Arts building. Example of type program that needs support.

January 29, 1986

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DATE 3-10
HB SB 390

Establishing a rotation system proportionate to contracted water was an acceptable solution. Barriers to this type planning included: 1) Type irrigation system could be inequitable ie. sprinklers are efficient but need close to constant use during peak irrigation season. They should be entitled to proportionate share of water and continue until that supply is exhausted. 2) Manpower is needed for implementation of the plan. 3) There is currently no teeth to enforcing such plans. 4) communication channels need to be improved to inform water users of the most current situation. 5) It has to be determined when an emergency exists? 6) the plan needs to have some leadership assignments or it will not get developed.


The primary needs or activities were determined and members were assigned to develop that portion of the plan prior to March 3 meeting. Zone Establishment Group - Ken Minnie, Chairman; other members Alexander Russell, Lestley Foster, Gordon Eklund, Jess Garfield. Meeting at 1:00 p.m. February 3, SCS office.

Implementation, Communication and Education Group - Bud Hjervik, Harold Eliasson, Gerald Harper and John Rouane.

Emergency Determination Group - Tom Hougen, Jim Jensen, Walter Wilkens, and Mike Gottena.

Members not on a committee may assist wherever they see fit. No additional assignments were made, but it was emphasized that time is getting short if such plans are to be developed for this season. Meeting adjourned at 3:00 pm

Next meeting is set for March 3, 1986. Committees should be prepared to give their reports.


John Rouane, Jr.
District Conservationist

Guest Editorial

The opinions expressed herein are those of the author and do not necessarily represent those of the editors and publishers of the Roundup Record-Tribune.

By Lowell A. Rathbun

Public Information Director

P.O.W.E.R.

STATEMENT BY POWER

12-19-88

According to Mr. Doug Parrott, Chairman of "Water Development Committee," Deadman's Basin Waterusers Assoc. (Roundup Record Tribune 3-4-87): "In recent years studies have been made to determine if additional water could be stored along the Musselshell River -- studies identified sites along the river which could be developed." Explaining that the cost of development of said sites was prohibitive he then indicated that "the abandoned coal mines represent a potential reservoir of somewhere between 11,000 to 40,000 acre feet.

On Feb. 11, 1987, readers of the Roundup Record Tribune were led to believe that 11,000 acre feet per year could be extracted from the mines "which have a direct connection to the river and are filled with water during spring floods." However, on March 4, at Helena several residents found that instead of proposing to store water in the mines, the Deadman's Basin Waterusers Assoc. had already expedited Senate Bill 151, authorizing a permit to appropriate ground water in the amount of 13,000 acre feet annually to the Assoc. After hearing proponents and opponents of S.B. 151 the house committee proposed amendments which would revise legislation to interim status and require liability responsibility by the Deadman's Basin Waterusers Assoc. On March 24, a joint Senate-House committee approved the amendments, after eliminating the Deadman's Basin Waterusers Assoc liability clause.

Consequently opponents of the water rights legislative action circulated a protest petition which was submitted to Senator Galt and Representative Holliday with over 240 signatures on March 16. Also on April 6, opponents formed the "Protective Organization For Water and Environmental Resources" and circulated a new petition bringing the protest signatures to over 500 persons protesting the proposed project.

On April 22, the D.N.R.C. published a formal public notice of Deadman's Basin Waterusers Assoc. water rights application setting May 14, as the dead line for receiving formal objections. Although substantial numbers of objections were properly filed by residents and water rights owners, the D.N.R.C. failed to hold a public hearing within 60 days, as required by Montana Code (85-2-309)

(As a reminder of how much water 13,000 acre feet per year is, as stated in the Roundup Record Tribune on Feb. 11, -- the equivalent of two sections of land, 1,280 acres 10 feet deep or 805 small wells pumping at 10 gallon per minute continuously 24 hours a day for a year!)

PROJECT COSTS

Perhaps the least understood aspect of this proposed project is the estimated project cost and sources of funding. Originally stipulated to total \$343,280 this total now appears to be \$506,100 of which \$427,900 will go to contract administration and professional services, principally personnel of the D.N.R.C., Montana Bureau of Mines & Geology and United States Geological Survey. Of the \$119,200 estimated for drilling, casing and construction costs \$96,410 will go for well drilling, casing pump rental and electricity all of questionable economic benefit to the community.

EXHIBIT

DATE 3-10-89

HB 5B390

LIABILITY RESPONSIBILITY

From the beginning of the water rights legislation to the agreement between D.N.R.C. and the Lower Musselshell Conservation District project sponsor, the liability responsibility is unclear and may only be determined by the court. It is evident that none of the state or federal agencies wish to accept that responsibility, particularly the subsidence damages which are bound to occur according to a letter to the D.N.R.C. by Mr. Juntunen, Chief Abandoned Mine Reclamation Bureau, dated April 25, 1988 who in reference to identity and liability states in part, "It is known that there is now active subsidence in the area, and it is known that the pumping activities will accelerate subsidence." It is also clear that the Deadman's Basin Waterusers Assoc. does not want the liability responsibility as evidenced by the legislative amendment action and designating Lower Musselshell Conservation District as project sponsor. By wording of the agreements (probably prepared by the D.N.R.C.) it does appear that the intent is to place liability responsibility on the Lower Musselshell Conservation District, project sponsor, a political subdivision consisting of all the rural property owners of Musselshell and Golden Valley Counties. Are these property owners aware of and agreeable to tax liabilities that could occur because of the proposed pumping project?

CONCLUSION BY P.O.W.E.R.

It is and has continued to be the determination of members of Protective Organization for Water and Environmental Resources that:

- (1.) Proposed pumping of groundwater from abandoned mines, either on an interim or permanent basis will undoubtedly deplete existing groundwater sources of residents, ranchers and wildlife needs.
- (2.) The proposed project is not wanted as evidenced by overwhelming numbers included in protest petitions.
- (3.) The proposed procedure as stipulated by Montana and environmental protection laws, including the required public hearing have not been adhered to by the D.N.R.C.
- (4.) The proposed project is a horrendous waste of public funds for the economically questionable and controversial concept principally benefitting personnel of various state and federal agencies.
- (5.) The probable project damage liability is high risk and should not be thrust on property owners of Musselshell and Golden Valley Counties.
- (6.) The funds now being proposed for this ridiculous project could and should be reallocated to the planning and design of a logical surface storage reservoir along the river, to capture and beneficially use excess flood waters for irrigation, recreation, wildlife restoration and flood control.

Feb. 17, 1989
Houndup, Mont.

EXHIBIT 5
DATE 3-10-89
HB SB 390

Capitol Station
Helena, Mont.

Rd: S.B. 390
Jack Galt

To whom it may concern:

We, the "Protective Organization for Water Environmental Resources," are sending you (each one on the House Agriculture Committee) a packet of information relevant to SB 390, by Jack Galt.

We have attempted to cover our reasons for objecting to the original SB 151, which is now a law and now SB 390 which extends the time of said law for 2 years.

Our neighboring states (17 western states) have a ground water study that is trying to find a way to artificially recharge the areas that have been literally mined out. Some of those states were supposed to have a groundwater reserve that couldn't be used up. They now have a different outlook, and no groundwater.

A copy of the original Petition Opposing Pumping and Appropriation of abandoned mine waters for Irrigation Purposes has been sent to Chairman John Vincent. This carries approximately 500 signatures.

Enclosures:

- I. MINE PUMPING OPPONENTS OUTLINE THEIR CONCERNS
- II. GUEST EDITORIAL, Statement by the P.O.W.E.R. group
- III. LETTER FROM ABANDONED MINE RECLAMATION BUREAU (Gary Fritz, DNRC, stated at Senate Agriculture Committee hearing, the Deadman's Basin Water Users' must accept all liability for damages from the tests and pumping activities.
- IV. Letter to Rich Brosch from attorney (Preliminary Environmental Review)
- V. COAL MINE INSPECTORS COMMENTS--mine information (Irvin Dodds, the pre-shift mine examiner for this area and Kelly Stephenson, passed State Coal Mine Inspector and underground coal miner have never been contacted by any government or state office.

Our members would like to be notified, as soon as possible, of the hearing in the House Agriculture Committee.
Phone: Villa Dale Evans--323-1677, Virgil Jones--323-1535
Kelly Stephenson--323-2477.

Thank you.

Kelly Stephenson

Mine pumping opponents outline their concerns

Editor's Note: In last week's Roundup Record-Tribune was an article submitted in support of the idea of pumping water out of abandoned coal mines in the Roundup area to supplement Musselshell River irrigation water. Opponents of the idea asked for an opportunity to present their views. The following article was delivered to the Record-Tribune offices by Mr. Lowell Rathbun, a representative of that group.

In response to the article recently submitted to the Roundup Record-Tribune by Mr. Doug Parrott, Chairman of the Water Development Committee, Deadman's Basin Water Users Assn., as "facts to dispell rumors" regarding legislation being requested from the State legislative bodies to appropriate substantial new water rights for irrigation purposes in the Lower Musselshell Conservation District, we submit for your reader's consideration the reason for local ranchers and residents proper and legitimate concern.

First of all, we are not now and never have been opposed to any project or endeavor by citizens of the community which would benefit a large segment of the City of Roundup or residents of the County providing the project does not infringe on the rights and needs of other residents to carry on their various established occupations, businesses and livelihoods. As everyone knows, especially in an arid climate such as ours, an adequate and dependable water supply for primary ranch, residential and business usage is absolutely essential. This is the principal reason for our concern.

As stated by Mr. Parrott, "In recent years studies have been made to determine if additional water could be stored along the Musselshell River. These studies identified sites along the river which could be developed for additional storage." This type of planning by the Irrigation Water User's Association certainly appears to be logical and fitting to address future needs. However, as noted by Mr. Parrott, "the costs of developing these off-stream storage sites is prohibitive in light of the crops that can be reasonably grown in this area given the average

climate and growing seasons." Consequently attention was focused on the potential of water storage in existing abandoned coal mines of the Roundup area. Record-Tribune readers were led to believe that the Deadman's Basin Water User's plan was to extract water "from the mines which have a direct connection to the river and are filled with spring floods" (February 11, 1987 issue).

Since that time much concern arose when we learned that apparently instead of storing and extracting river water from those abandoned mines, the actual proposal being submitted was to use existing ground water sources in the mines. These concerns were profoundly confirmed when several ranchers and residents traveled to Helena on March 4th to find that Senate Bill 151 had already been passed by that legislative body authorizing a "permit to appropriate ground water in the amount of 13,000 acre feet annually as requested by the Deadman's Basin Water User's Association. Nothing in this Bill (see attached copy, SB 151-please print for readers) made reference to or even inferred that the water extraction was to come from storage of Musselshell River water. The language of this legislation was then clearly "to appropriate ground water," which in effect would constitute a new water right and source in the amount of 13,000 acre feet annually to come from the Musselshell County ground water sources. On the same date SB 151 came before a Committee of the Montana House of Representatives at which time we voiced our objections to the legislation as proposed.

Why are we concerned about legislation which will permit the extraction of 13,000 acre feet annually from Musselshell County ground water supply? At first glance, the pumping of existing water from abandoned mines may appear to be of no consequence as to effect upon local water supply. If you accept Mr. Parrott's "fact" as claimed in the Record-Tribune of March 4th that "historical data on wells and springs in and around the mine area have shown no effect on water tables, one way or the

other, prior to, during or after mining and pumping operations" as indisputable, you may agree. We do not believe that this claim can be established. In fact, we have been advised by old time residents of the County that the long term effect of pumping and wasting this ground water into the Musselshell did indeed change the flow of various springs and wells in the nearby watersheds. In fact, to claim that long term extraction of substantially high ground water quantities from the coal mining areas will have no adverse effect on surrounding water supply wells and springs is quite contrary to simple principles of ground water hydrology which everyone can logically understand. Residents of the County are well aware that climatic trends of considerable duration such as an extensive drought period are directly reflected in the varying supply of water from various wells and springs. Dropping water tables (elevation of the water at the source) are the inevitable result of extended drought conditions or excessive extraction from the water supply basin. Upstream (underground) water supply will also diminish as increased flow through existing aquifers result from excessive pumping in lower water basins.

Perhaps the easiest way to understand the amount of ground water proposed to be pumped from the Roundup basin area is to describe the quantity of acre feet in simple terms. An acre foot is 43,560 cubic feet or approximately 326,000 gallons. Thus, 13,000 acre feet annually would be more than enough water to cover two sections of land (1280 A.) to a depth of 10 feet. Relative to small water wells pumping continuously at the rate of 10 gallons per minute (gpm), 24 hours a day, 365 days a year, the equivalent of 805 wells.

Ranchers and other residents of the County who depend on limited water supplies of existing wells and springs have a legitimate and real reason to be concerned about the long range effect of large scale extraction of ground water from the Musselshell County basin. We have no surface storage basins for reserve to augment our supply. Our only source is ground water which is already limited by existing inadequate natural underground storage areas, varying climatic conditions and continuing growth of the area.

In perspective, we have considerable rational reason to believe that implementation of a project to extract large quantities of existing ground water (rather than storing and extracting available river water) from the abandoned coal mine areas will diminish and eventually deplete much of the limited natural ground water supply of adjacent Musselshell County drainage areas to the detriment of many ranchers and other residents.

We believe that we and others like us comprise the substantial majority of City and County residents, the property owners and taxpayers, and economic business contributors of all Musselshell County. We have and will continue to devote much of our time and talent to any viable endeavor that will contribute to improved progress of the community including good water supply improvements whenever possible. Such goals should be reasonable, realistic and fair to all involved or affected by the work.

LOWELL RATHBUN, NICK T. RATHS, ED SPIDEL,
KELLY STEPHENSON, VIC STEPHENSON

EXHIBIT

DATE 3-10-89

HB SB390

The opinions expressed herein are those of the author and do not necessarily represent those of the editors and publishers of the Roundup Record Tribune.

By **Lowell A. Rathbun**

Public Information Director

P.O.W.E.R.

STATEMENT BY POWER

12-19-88

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Consequently opponents of the water rights legislative action circulated a protest petition which was submitted to Senator Galt and Representative Holliday with over 240 signatures on March 16. Also on April 6, opponents formed the "Protective Organization For Water and Environmental Resources" and circulated a new petition bringing the protest signatures to over 500 persons protesting the proposed project.

On April 22, the D.N.R.C. published a formal public notice of Deadman's Basin Waterusers Assoc. water rights application setting May 14, as the dead line for receiving formal objections. Although substantial numbers of objections were properly filed by residents and water rights owners, the D.N.R.C. failed to hold a public hearing within 60 days, as required by Montana Code (85-2-309)

(As a reminder of how much water 13,000 acre feet per year is, as stated in the Roundup Record Tribune on Feb. 11, -- the equivalent of two sections of land, 1,280 acres 10 feet deep or 805 small wells pumping at 1 gallon per minute continuously 24 hours a day for a year !)

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5

DATE 3-10-89

HB S.B. 390

LIABILITY RESPONSIBILITY

From the beginning of the water rights legislation to the agreement between D.N.R.C. and the Lower Musselshell Conservation District, project sponsor, the liability responsibility is unclear and may only be determined by the court. It is evident that none of the state or federal agencies wish to accept that responsibility, particularly the subsidence damages which are bound to occur according to a letter to the D.N.R.C. by Mr. Juntunen, Chief Abandoned Mine Reclamation Bureau, dated April 25, 1988 who in reference to identity and liability states in part, "It is known that there is now active subsidence in the area, and it is known that the pumping activities will accelerate subsidence." It is also clear that the Deadman's Basin Waterusers Assoc. does not want the liability responsibility as evidenced by the legislative amendment action and designating Lower Musselshell Conservation District as project sponsor. By wording of the agreements (probably prepared by the D.N.R.C.) it does appear that the intent is to place liability responsibility on the Lower Musselshell Conservation District, project sponsor, a political subdivision consisting of all the rural property owners of Musselshell and Golden Valley Counties. Are these property owners aware of and agreeable to tax liabilities that could occur because of the proposed pumping project?

CONCLUSION BY P.O.W.E.R.

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(1.) Proposed pumping of groundwater from abandoned mines, either on an interim or permanent basis will undoubtedly deplete existing groundwater sources of residents, ranchers and wildlife needs.

(2.) The proposed project is not wanted as evidenced by overwhelming numbers included in protest petitions.

(3.) The proposed procedure as stipulated by Montana and environmental protection laws, including the required public hearing have not been adhered to by the D.N.R.C.

(4.) The proposed project is a horrendous waste of public funds for the economically questionable and controversial concept principally benefitting personnel of various state and federal agencies.

(5.) The probable project damage liability is high risk and should not be thrust on property owners of Musselshell and Golden Valley Counties.

(6.) The funds now being proposed for this ridiculous project could, and should be reallocated to the planning and design of a logical surface storage reservoir along the river, to capture and beneficially use excess flood waters for irrigation, recreation, wildlife restoration and flood control.

DE

EXHIBIT 5

DATE 3-10-89

HB# SB 390

DEPARTMENT OF STATE LANDS RECEIVED

APR 27 1989



TED SCHWINDEN, GOVERNOR

STATE OF MONTANA

(406) 444-2074

MONT. DEPT. of NATURAL
RESOURCES & CONSERVATION

1625 ELEVENTH AVENUE
HELENA, MONTANA 59601

April 25, 1988

Mr. Les Pederson
Water Development
DNRC
Helena, MT. 59601

RE: Lower Musselshell Project

Les:

I have reviewed the draft document entitled "Ground Water From Abandoned Mine Workings for Irrigation and Instream Flows, Lower Musselshell River".

As you know, my staff and I have written several letters concerning the potential for increased or accelerated mine subsidence because of pumping activities in the abandoned mines. It is an accepted fact that water fluctuations in abandoned underground mines, as will occur with this project, are known to and logically will cause increased potential for mine subsidence.

With the above in mind, the draft agreement is inadequate to protect the state in case of catastrophic subsidence, i.e., road or dwelling collapse.

On page 4, "subsidence potential" is referenced under Literature search as a topic area. I would expand this into a separate and discrete item based on our existing understanding that shows subsidence to be a potential problem. They should be required to utilize all existing data to identify all existing data on subsidence potential. These data will have to be extrapolated from similar situations nationwide, since nothing specific will be found at the Roundup mines.

On page 30, Section 19. Indemnity and Liability, the statement is inadequate to protect the state agency since it is very likely that any damage or injury that occurred due to subsidence would not be as a result of error, omission, or negligent act. It is known that there is now active subsidence in the area, and it is known that the pumping activities will accelerate subsidence. What is not known is the extent or time frame. The beneficiary of the irrigation research must accept this liability and the state must clearly point out to the lower Musselshell Conservation District that they are accepting this liability and cost of reclamation.

In closing, the state must protect itself from potential lawsuits and costs due to subsidence on this project. Subsidence reclamation nationwide is costing hundreds of millions of dollars with no end in sight.

Sincerely,

Susan McNally for

Richard J. Juntunen, Chief
Abandoned Mine Reclamation Bureau

c: Gary Amestoy
Dennis Hemmer

IV

LAW OFFICES

MENAMER & THOMPSON, P.C.

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CAROL K. FIELDS
MICHAEL R. BARROTT

EXHIBIT

5

DATE

3-10-89

HB

SB 390

January 9, 1989

Rich Brasch
Water Management Bureau
Department of Natural Resources
and Conservation
1520 East 6th Avenue
Helena, MT 59601

ATTN: R. Brasch

RE: Public Comments on Preliminary Environmental Review
Interim Water Use Permit Application No. 68183-40c

Dear Mr. Brasch:

The undersigned submits the following written comments as attorney for Alan D. Evans, 4300 U.S. 87 South, Roundup, Montana 59072. Mr. Evans is an affected landowner and holder of water rights located adjacent to the abandoned coal mines. By objection to application received by the Department on 5-12-87 Mr. Evans has objected to the issuance of a provisional permit being sought by the Deadman's Basin Water Association.

The Preliminary Environmental Review prepared on this matter is inadequate and in addition, before any permitting action is taken by the Department of Natural Resources an Environmental Impact Study should be prepared by the Department.

In this particular case, the Department's own rules indicate that an EIS is necessary because according to ARM 36.2.503(3)(a) the preparation of an EIS is required when the proposed action is one which may significantly affect environmental attributes recognized as being fragile or in severely short supply. Information available to the Department including water availability studies on the Musselshell River and personal testimony of water users adjacent to the abandoned coal mines indicate that the source of ground water in the immediate area is fragile and in severely short supply. In addition, subsection (c) of the same rule indicates that an EIS is necessary for those actions which may substantially alter environmental conditions in terms of quality or availability. As shown by other public comments the Department has information available to it which indicates that in previous years when the mines were dewatered for mining purposes impacts were felt on ground water

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Rich Brasch
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sources many miles away from the mine mouth. Substantial concern has also been raised about the effect that even limited pumping may have on ground water quality including possible contamination with PCB.

Even if an EIS is not required, the PER itself is unsatisfactory as it does not address the possible environmental concerns related to issuance of the interim permit. Please note that ARM Section 36.2.504(b) requires "an evaluation of the immediate, cumulative and secondary impacts on the physical environment . . ." The phrase, cumulative impact is also defined in ARM 36.2.502(1) as incremental cumulation of impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type. According to the rule related future actions must also be considered when these actions are under concurrent consideration by any state agency through pre-impact statement studies, separate impact statement evaluation, or permit processing procedures. Therefore, under the above-cited regulations, the Department must consider the impact of the proposed provisional permit as well as the proposed interim permit before the PERS constitutes compliance with the Montana Environmental Policy Act.

A review of the PERS and particularly the comments by the Department on the proposed action shows that the Department has (if anything) only commented upon the immediate impacts on the physical environment and has completely ignored any cumulative or secondary impacts on the environment which may occur as a result of issuing the interim permit.

In fact, the evidence before the Department indicates that the interim permit will have a substantial effect or that sufficient work has not been done in order to determine whether or not any effect will be felt.

It is well documented by the Department's own studies that the subject area has limited ground water. Indeed the Department has denied ground water applications on the basis of lack of supply. In addition, the area is heavily subdivided with large demands for domestic ground water use at the present time and in future years. The only evidence available concerning ground water use at the mine shows that when the mine was pumped during coal mining operations, springs and wells were affected many miles away from the mine site.

Any potential loss of domestic or stock ground water availability is extremely serious to the community. It is intrinsically obvious that unless domestic ground water is available the taxable value of

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Page 3

homestead sites scattered throughout the area south of Roundup will be immediately and seriously decreased. In addition, any decrease in stock water availability would have a serious effect on the personal income of stock-raisers in the community.

Ground water changes of any type will have a serious impact on the density and distribution of housing in the area. The PER also does not address the developing schism in the community between existing users of ground water for stock water and domestic purposes and irrigation users making claim to ground water resources.

An Environmental Impact Statement in this situation would insure compliance with the NEPA requirements. In an Environmental Impact Statement the underlying problems of ground water availability can be thoroughly analyzed. In addition, it can be determined what level of investigation is needed in order to comprehensively deal with concerns raised by objectors to the provisional permit application. For example, in objecting to the permit the Department of State Lands has raised questions of subsidence and the Department of Fish, Wildlife and Parks has raised questions of thermal "pollution." These issues should be addressed before any intrusive testing is done of the aquifer.

Although public comments on issuance of the interim permit have not been requested by the Department of Natural Resources, the undersigned also makes the following preliminary comments concerning the issuance of the permit.

The legal standard which the Department has chosen to use in determining whether or not the interim permit should be issued is incorrect. At the time that the provisional permit was applied for the relevant standard was that "the Department may not issue an interim permit unless there is substantial evidence that the criteria for issuing a regular permit under section 85-2-311, MCA will be met." In the interim the board has changed that rule and completely altered the proposed burden of proof stating that the Department may issue an interim permit unless there is substantial information available to the Department that the criteria for issuing a provisional permit under section 85-2-311, MCA cannot be met.

Although the legislature has granted broad discretion to the Board in the management of water resources, this discretion is not so broad as to allow the board to totally reverse the burden of proof in an interim permit proceeding. MCA Section 85-2-113(2) allows the board to adopt rules necessary to implement and carry out the purposes and provisions of this chapter. Throughout the Montana

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Rich Brasch
January 9, 1989
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Water Use Act the burden is consistently placed upon the permit applicant to show that the applicant meets the criteria for issuance of the permit. The Department now says that under certain circumstances the burden shifts such that the objector must show that there is damage before a permit will not be issued. This rule is directly contrary to the letter and spirit of the legislation.

Under the circumstances, the Department should use the criteria set forth in the original rule stating that the applicant must show by substantial evidence that the criteria of MCA Section 85-2-311 will be met. Not only is this the rule that was in effect at the time the provisional permit application was made, but in addition, the earlier rule comports with the Water Use Act and its general burden of proof provisions.

In any event, the objectors to the provisional permit have shown by substantial evidence that the applicant will not meet the permit criteria of MCA Section 85-2-311. Essentially, the only credible and verifiable information before the Department is that during the periods that the mines were being pumped ground water springs and wells throughout the area were drastically affected. Under these circumstances, the objectors have shown that there is no water available in the source of supply and that the rights of previous users will be adversely affected by the issuance of the provisional permit.

In addition, there is other substantial credible evidence which shows that the provisional permit could not be issued to the Deadman's Basin Water Users Association. Under the Water Use Act the applicant is not the proper person to apply for this water right; it is actually the Department of Natural Resources and Conservation which holds the water rights used by Deadman's Basin Water Users Association. Since this application is for supplemental water rights, the application for these rights should be made by the Department of Natural Resources. The application by setting forth 16,000 acres of irrigated land clearly contemplates a consumptive use of over 4,000 acre feet per year. Under MCA Section 85-2-301, only the Department of Natural Resources may appropriate water by permit whenever water in excess of 4,000 acre feet a year is to be consumed.

Also, at the present time the undersigned is unaware of any authorization by the Board of Natural Resources and Conservation to the Department to acquire this water right. See, MCA Section 85-1-202. A complete application has not been filed by any entity because the fees for environmental impact statements under MCA Section 85-2-124 have not been submitted to the Department and

Rich Brasch
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Page 5

because under MCA Section 85-2-310 the Department has not ordered the time extended for consideration of the provisional permit.

Finally, the application is not complete because it does not set forth a detailed project plan including, but not limited to, a reasonable time line for the completion of the project and the actual application of the water to beneficial use. This project plan is an absolute requirement under MCA Section 85-2-310(4)(c)(iii).

Since the objectors by substantial credible evidence have shown that ground water in the area is needed for present and future domestic and stock water uses the interim permit should not be issued. MCA Section 85-2-311 states that one of the criteria for obtaining a provisional permit of the amount sought by the applicant is that the applicant must show by clear and convincing evidence that the proposed use of water by the applicant is a reasonable use. In light of the strong need for domestic and stock water use the proposed irrigation use does not constitute a reasonable use of water as defined in the Montana Water Use Act.

The issuance of the interim permit is also improper because no termination criteria has been set by the Department with specific time allowed for public comment on the issuance of the interim permit. Indeed, under the circumstances, there are questions as to whether the test contemplated by the applicant will yield any beneficial information whatsoever concerning the amount and location of ground water. Under these circumstances the appropriation would not meet the test for beneficial use of water and would be specifically unauthorized under 85-2-301(1) which requires that the use of water be "beneficial."

In essence, the Department through the PER and the interim testing permit is trying to turn the Montana water permitting and environmental process on its head. The legislature has made specific findings concerning the minimum amount of ground water withdrawal above which a permit is needed. The legislature has also set forth specific criteria which in this case must be proven by an applicant by clear and convincing evidence before a permit can be issued. Although the board does have authority to issue interim permits, this authority is restricted in that it be in accordance with the general policy and provisions of the Water Use Act.

As shown by the objections to the provisional permit, there are serious questions regarding water quantity, water quality, social and economic affects, subsidence and other issues important to the community. However, in spite of the clear legislative directives concerning the permitting process and environmental compliance, the

Ex. 5

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Rich Brasch
January 9, 1989
Page 6

Department proposes through intrusive testing to try and determine first, whether the ground water resource will be harmed by certain, limited withdrawals. Instead, this should be the last step after the feasibility and other questions related to the permit can be resolved without intrusive testing of the resource.

Sincerely,

McNAHER & THOMPSON, P. C.
Attorneys for Alan D. Evans

By: _____
Peter T. Stanley

A COAL MINE INSPECTORS COMMENTS

EXHIBIT

DATE

3-10-89

HB.

SB 390

UPON STUDYING THE REPORTS AND PROPOSED COAL MINE PUMPING BY THE BUREAU OF MINES, THERE IS VERY LITTLE TRUTH IN ANY OF THE STATEMENTS MADE ABOUT WORKED OUT AREAS. THERE IS NOT ANYONE IN THE BILLINGS OFFICE WITH ANY UNDERGROUND MINING EXPERIENCE OR KNOWLEDGE. IF THEY WOULD HAVE JUST STUDIED MONTANA MINING LAWS, THEY WOULD HAVE SEEN THAT WORKED OUT AREAS ARE NOT RESERVOIRS FOR STORING WATER.

(1.) THE TIMBERING THAT WAS REQUIRED TO SAFELY REMOVE THE COAL WOULD DETERIORATE IN A SHORT TIME AND THERE WOULD NOT BE ANY ROOF SUPPORT. THERE WILL BE ROCK FALLS IN ALL AREAS OF THE MINES.

(2.) VENTILATION IN THE MINES REQUIRED THAT TO KEEP AIR TO THE WORKING FACE, ALL WORKED OUT AREAS HAD TO HAVE ENTRANCES BLOCKED OFF, SO AIR COULD NOT ENTER. THESE AIR BLOCKS WERE CONSTRUCTED OF ROCK WALLS, FILLED BETWEEN WITH FINES TO STOP AIR MOVEMENT AND ANY WATER THAT DID ACCUMULATE, WOULD BE EFFECTUALLY DAMED OFF.

(3.) WITH THE COAL UNDER-LAID BY A CLAY BED, WITH ANY LARGE AMOUNT OF WATER ACCUMULATION THE CLAY WILL TURN TO MUD AND WITHOUT SOLID SUPPORT FOR THE PILLARS, A SQUEEZE WILL TAKE PLACE AND IN TIME WILL CLOSE ANY VOIDS LEFT BY REMOVAL OF COAL.

(4.) WITH THIS KNOWLEDGE, THE FACT THAT THE ENTIRE AREA HAS A DEFINITE ELEVATION GAIN FROM THE RIVER SOUTH, PROBABLY 30 FEET TO EVERY MILE AND DEFINATELY NOT LEVEL, AS THE BUREAU WOULD LIKE TO MAKE PEOPLE BELIEVE. (FACTS ARE THERE ISN'T ANY LARGE AREAS OF WATER STORED.)

(5.) IN THE AREA DIRECTLY SOUTH OF THE RIVER THERE COULD HAVE, AT ONE TIME, BEEN A FEW ROOMS AND ENTRIES THAT HAD WATER IN

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THEM, BUT THE HISTORY OF SQUEEZE'S IN PRESCOT AND #3 MINES, IS THAT JUST A MATTER OF TIME UNTIL THE RESERVOIRS WILL BE GONE AND THE HAULAGE WAYS, USED TO REMOVE THE COAL, WILL BE BLOCKED BY ROCK FALLS.

(6.) THERE IS A POSSIBLE CHANCE THE MINING MACHINERY AND ELECTRICAL EQUIPMENT ABANDONED BY THE ROUNDUP COAL MINING CO. COULD HAVE BEEN WHERE WATER DID FILL IN THE AREA. WITH THE HAZARDOUS MATERIALS IN OILS AND OTHER ELECTRICAL EQUIPMENT PRESENT IT COULD AND PROBABLY WILL BE A VERY DANGEROUS FORM OF CONTAMINATION. ANY CIRCULATION OF THESE WATERS SHOULD NOT BE CHANGED.

(7.) IF ANY REAL STUDY HAD BEEN DONE OF THE ABANDONED MINES THE DANGER OF CONTAMINATING THE WELLS IN THE AREA, AND THE CHANCE OF MORE DAMAGE TO THE ROUNDUP WATER SUPPLY PLUS THE FACT THAT ABANDONED MINE WORKINGS JUST CAN'T BE RELIED ON FOR WATER STORAGE. BECAUSE OF THESE FACTS KNOWN THIS ENTIRE STUDY CAN'T EVER BE ANYTHING BUT JOB SECURITY FOR A GROUP OF BUREAUCRATS!!

Kelly Stephenson

VL

Pete and Rhonda Tully
75 Ranch Company
East Parriott Creek Rd
Roundup, Montana 59072

December 15, 1988

Dept. of Natural Resources and Conservation
Helena, Montana 59601

5
DATE 3-10-89
HB SB390

Attention: Rick Brasch

Re: Deadman's Basin Water Users Assoc. Application
for Test Pumping Water in the Bull Mountains

Dear Rick:

As landowners and ranchers in the Bull Mountains we are opposed to the Deadman's Basin Water Users Association application for a temporary water use permit. We object to the proposal of test pumping up to 10,080,000 gallons of water from abandoned coal mines near Roundup for the following reasons:

1. Any pumping of ground water for irrigation purposes (including stream flow enhancement, even a "test" pumping) presupposes that such water is in surplus, not claimed or in use by anyone.
 - a. This must be proven before any such pumping be permitted. (This has not been proven.)
2. Those proposing to conduct any pumping have no legal, logical, geological, historic, or moral claim to any amounts of ground water.
3. Ground water for domestic and livestock use has clear priority over any claim for irrigation or stream enhancement purposes.
4. Harmful effects of such pumping activity could be broadbased and long lasting without being readily apparent at the time of such test pumping, i.e. probable subsidence of watertable levels in surrounding wells and springs already established for domestic and livestock use. (Damage may be accrual rather than immediate and should be prevented.)

We respectfully request you take these comments under advisement and refuse any pumping of water from the abandoned coal mines in the Bull Mountains.

Sincerely,

P. R. Tully

Peter R. Tully

Rhonda Tully

Rhonda L. Tully

Robert R. Tully
Robert R. Tully, President

VII

BY LOWELL A. RATHBON
PUBLIC INFORMATION DIRECTOR

WHAT ABOUT P.C.B.?

ENCL. 5
DATE 3-10-89
HB 58390

OPINION BY P.O.W.E.R.

(PROTECTIVE ORGANIZATION FOR WATER AND ENVIRONMENTAL RESOURCES)

IN THE DEC. 28th ISSUE OF THE ROUNDUP RECORD TRIBUNE, OPINION EXPRESSED BY MR. KUZARA ABOUT THE PROBABILITY OF EXISTING SOURCES OF P.C.B. WHICH ARE A WELL DOCUMENTED DANGER TO HUMANS WHEN CARRIED IN THE WATER FOR CONSUMPTION FROM ABANDONED MINES IS A SERIOUS PROBLEM TO BE CONSIDERED--A POINT WELL TAKEN, HOWEVER, WE DO NOT AGREE WITH HIS CONCLUSION THAT THE WAY TO GET RID OF P.C.B. IS TO PUMP THE MINES OUT.

EXCEPT FOR A FEW KNOWN AND ACCESSIBLE LOCATIONS WHERE EQUIPMENT AND/OR TRANSFORMERS EXIST IT WOULD BE VIRTUALLY IMPOSSIBLE TO DETERMINE WHERE ALL OF THE P.C.B. SOURCES ARE IN THE GREAT LABYRINTH OF UNDERGROUND SHAFTS THROUGHOUT THE AREA. INSTEAD OF PANIC WE THINK THE ANSWER MAYBE LIES IN A MORE REALISTIC APPROACH.

FIRST OF ALL HIGH VOLUME PUMPING FROM THE MINES WILL UNDOUBTEDLY PRODUCE HIGH WATER VELOCITIES AROUND POSSIBLE SOURCES OF P.C.B. WHICH OTHERWISE WOULD REMAIN DORMANT. ALSO BECAUSE OF THE WINDING GRADES OF THE MINE SHAFTS, EXISTING SUBSIDENCE AND OTHER PROBLEMS, COMPLETE PUMPING WILL BE VIRTUALLY IMPOSSIBLE AS WELL AS IMPRACTICAL. SINCE MOST OF THE SMALL DOMESTIC PRIVATE WELLS THROUGHOUT THE AREA ARE UNLIKELY TO BE CONNECTED TO MINE SHAFTS AND THE TRIBUTARY WATER MOVES AT VERY LOW VELOCITY, P.C.B. SOURCES SHOULD BE UNDISTURBED. IF THE ABANDONED MINES (EXCEPT FOR SEALING ENTRANCES) ARE LEFT ALONE NATURAL SUBSIDENCE WILL EVENTUALLY SEAL OFF MOST P.C.B. SOURCES.

PERHAPS THE MOST DANGEROUS ASPECT OF MINE PUMPING IS THAT ONE OF THE TWO MAJOR ENVIRONMENTAL CONSEQUENCES OF THE RELEASE OF P.C.B. IS TOXICITY TO AQUATIC AND OTHER ORGANISMS, A BIOMAGNIFICATION PROCESS BEGINNING WITH MICROSCOPIC ORGANISMS IN STREAM BEDS INVOLVING A NATURAL FOOD CHAIN WITH P.C.B. CONCENTRATIONS (TOXICITY) IN FISH TISSUE RANGING FROM 3,000 TO 274,000 TIMES THE ORIGINAL CONCENTRATIONS IN THE STREAM OR STREAM SEDIMENT. PUMPING OF MINE WATERS INTO THE RIVER OR OTHER SURFACE DISCHARGES, EXPERIMENTAL OR OTHERWISE, WILL PROBABLY SET OFF THIS CHAIN REACTION IF P.C.B. CONTAMINATION IS INVOLVED.

IT IS OUR OPINION THAT MINE PUMPING WILL SIMPLY MAGNIFY THE P.C.B. PROBLEM (AND RESULTING LIABILITIES) AND AS STATED IN THE DEC. 21st. ISSUE OF THE ROUNDUP RECORD TRIBUNE, THE PROPOSED PUMPING PROJECT SHOULD BE SCRAPPED WITH THE \$506,000 "STUDY" FUNDING REALLOCATED TO THE PLANNING AND DESIGN OF A LOGICAL SURFACE STORAGE RESERVOIR ALONG THE RIVER FOR THE BENEFICIAL USE OF FLOOD WATERS FOR IRRIGATION, RECREATION, WILDLIFE RESTORATION AND FLOOD CONTROL. FURTHERMORE THE RESERVOIR WOULD HELP PROVIDE A CONTINUOUS RIVER FLOW OF BETTER WATER QUALITY WHICH ROUNDUP COULD UTILIZE BY DESIGNING AND CONSTRUCTING A MODERN WATER TREATMENT PLANT.

DATE 3-10-89
HB SB 390

VII

THIS IS VERY DIFFICULT TO WRITE, A REPORT OR SPEAK ON
BECAUSE I CAN'T BE PROUD TO BE A CITIZEN OF THE STATE OR AREA.

WHY DO MEMBERS OF OUR LOCAL GOVERNMENT LIE TO THE LEGISLATURE
"THE CHAMBER OF COMMERCE, COUNTY COMMISSIONERS ARE ALL FOR THE
PROJECT." A FEW ARE FOR, BUT NO VOTES WERE TAKEN. THOSE FEW SNEAK
UP TO HELENA AND SAY SO. WHY ARE WAYS TO CIRCUMVENT THE WATER LAWS
MADE TO PROTECT US DONE BY THE SAME AGENCY THAT WROTE THE LAWS
AND JUDGE THOSE LAWS?

THE OBJECTIONS FILED DON'T HAVE TO BE HEARD BECAUSE THIS IS
AN INTERIM STUDY. WHERE IS OUR RIGHT TO A FAIR TRIAL, WHEN THAT
AGENCY OWNS WATER, DEADMAN'S BASIN, DOES THE STUDY AND JUDGES THE
RESULTS OF THAT STUDY AND STANDS TO BENEFIT FROM IT. JUDGE, JURY
AND BENEFACTOR OR CONFLICT OF INTERESTS.

CAN I HAVE AN INTERIM PERMIT TO DO AS I WISH ON MY PLACE AS
LONG AS ME AND MY FAMILY LIVE?

I HAVEN'T HEARD ANYONE SAY THAT PUMPING WATER UPHILL 200
FEET AND DUMPING IT INTO A RIVER AS BEING AN ECONOMICAL METHOD OF
IRRIGATION. WHAT IS THE COST--\$30 PER ACRE FOOT.

SHORTAGE OF WATER--DEADMAN'S BASIN STORES MORE THAN IS
APPROPRIATED--15,000 ACRE FEET ENTERED THE DELPHIA CANAL. SO WHY
ISN'T THERE ENOUGH TO MEET THE APPROPRIATIONS? IS SOMEONE USING
MORE THAN THEIR SHARE? ARE THE DITCHES IN POOR CONDITION?

ADDING 13,000 ACRE FEET WON'T RECTIFY MIS-APPROPRIATION OR
FIX POOR DITCHES. A HOLE IN THE DITCH IS STILL A HOLE IN THE DITCH.
WITH THE SUPPOSITION THAT THERE IS 13,000 ACRE FEET OF WATER
AVAILABLE IN THE MINES. THAT MEANS THAT THEY'RE FULL AND ALL IS
AVAILABLE. IF THAT BE THE CONTENTION THEN ANY CONTAMINANTS IN THE
MINES ARE ALSO AVAILABLE.

3-10-89

IF PCB AND FURANS ARE PUMPED INTO THE MUSSELSHELL THEN THAT WILL TERMINATE THE SWIMMING, FISHING, HUNTING, LIVESTOCK AND FORAGE PRODUCTION ALONG THE LOWER MUSSELSHELL. PCB'S AREN'T WATER SOLUBLE BUT ADHERE TO SOIL PARTICLES. THEY ARE VERY FAT SOLUBLE AND CAN BE INGESTED, INHALED OR ABSORBED THROUGH THE SKIN. PCB DON'T BREAK DOWN, AT LEAST FOR DECADES AND THEY ARE ACCUMULATIVE-- MEANING THE MORE YOUR EXPOSED TO THE GREATER THE CONTAMINATION INTO YOUR BODY.

FISH CAN HAVE PCB CONCENTRATION 3,000--274,000 TIMES GREATER THAN THE CONTAMINATION OF THE STREAM BED. A FISH HATCHERY DOESN'T SEEM LIKE A VERY GOOD IDEA.

I REALLY DON'T EXPECT NEW BUSINESS TO COME INTO AN AREA THAT IS PCB CONTAMINATED EVEN AT LOW DOSES. THIS WILL NOT BE A BOON TO THE COMMUNITY. THE WHOLE COUNTRY WILL STAND BACK AND WATCH IF THIS GOES THROUGH, TO SEE WHAT DISASTERS WILL BEFALL US. WILL WE SUBSIDIZE OR WILL WE POLUTE OURSELVES OUT OF BUSINESS.

WHO WILL COMPENSATE YOU FOR YOUR LOSS OF BUSINESS OR HOMES THAT BECOME WORTHLESS. NO ONE ACCEPTS LIABILITY. WHY!! BECAUSE THE POTENTIAL FOR DISASTER IS SO GREAT THAT EVEN THE FEDERAL GOVERNMENT COULDN'T CARRY IT. HAVE YOU READ ON HOW THE EPA IS DOING CLEANING UP TOXIC WASTE? 2 OR 3 SITES WITH A MULTI-BILLION DOLLAR BUDGET. PEOPLE STILL OWN HOMES THEY CAN'T SELL OR LIVE IN.

I KNOW THAT PUMPING THOSE VOLUMES OF WATER WILL HAVE A DISASTEROUS EFFECT ON THE SURROUNDING WATER TABLES, BUT 20 FEET TEST WELLS IN THE RIVER BED WON'T SHOW THIS. 5 GALLON BUCKET MEASURING DEVICES WON'T SHOW THIS. THE 5 GALLON BUCKET TEST ONLY SHOWED THAT THE PERSONS PRESSURE TANK WAS FUNCTIONAL. YOU MAY AS

Ex 5

3-10-89

WELL PUT 5 GALLON BUCKETS IN THE FIELDS AND SEE IF PUMPING FROM THE MINES AFFECTS THEM.

I HEAR THAT QUALITY ISN'T BEING TESTED, BUT I KNOW THE AREA RESIDENTS ARE HAVING SAMPLES CHECKED NOW, AND WILL DO SO WHEN THE PUMPING STARTS BECAUSE THE PEOPLE WHO WANT THIS BOON-DOGGLE WON'T.

THE BURDEN OF PROOF HAS BEEN PLACED UPON THOSE WHO WILL SUFFER, TO STOP AN IRREPARABLE CATASTROPHY FROM HAPPENING.

Robert Lee

PROTECTIVE ORGANIZATION for WATER & ENVIRONMENTAL RESOURCES

Petition Opposing Pumping and Appropriation of
Abandoned Mine Waters for Irrigation Purposes

pg 1 of 23

We, the undersigned residents of Musselshell County, by this petition, hereby stress our steadfast opposition to any proposal *for extraction of natural ground waters of Musselshell County from abandoned mines in the Roundup area to be tested and eventually claimed for irrigation purposes contrary to the established rights and needs of existing domestic, residential and ranch water users.

The present natural ground water supply is already a critically precious limited resource upon which residents and ranchers must totally rely for domestic, livestock and wildlife purposes. Removal of deep ground water reserves will inevitably result in lowered upper water tables, depleted springs and wells and diminished water sources, adversely and severely affecting established home, ranch and wildlife needs.

It is our opinion that the proposed pumping of natural ground waters from abandoned mines is an illogical, unnecessary and wasteful project which would establish an improper and dangerous diversion of our vital resources for irrigation purposes and that the projected expenditure of \$343,280 in public funds should be eliminated or put to an appropriate use for the benefit of the general public.

*Domestic use pumping at the rate of 5,300 acre feet/90 days, requested water right appropriation of 13,000 acre feet annually.

<u>DATE</u>	<u>PRINTED NAME</u>	<u>RESIDENCE</u>	<u>SIGNATURE</u>
4-10-87	Virginia Merfeld	Horsethief Rd.	Virginia Merfeld
4-10-87	Karen Merfeld	Horsethief Rd.	Karen O. Merfeld
4-10-87	George P. Rothe	Horsethief Rd.	George P. Rothe
4-10-87	CHARLES D. MOORE	Horsethief Rd.	Charles D. Moore
4-11-87	CLIFFORD W. HAGSTROM	Roundup Mont.	Clifford W. Hagstrom
4-17-87	Judith A. Stephenson	Dean Creek	Judith A. Stephenson
4-17-87	M. S. Stephenson	DEAN CREEK	M. S. Stephenson
4-17-87	Catherine M. Stephenson	DEAN CREEK	Catherine M. Stephenson
4/19/87	Linda Graham	Dillman Road (east)	Linda Graham
4/19/87	Michael J. Graham	Dillman Road (east)	Michael J. Graham
5/4/87	Lytle O. Odgers	347 Wicks, Billings	Lytle O. Odgers
5/4/87	Chas L. Lysum	Klein (Roundup, MT)	
5/4/87	Lucas H. Lysum	Klein (Roundup)	
5/4/87	James Dadds	Roundup	
5/4/87	Lucas H. Lysum	Roundup 833	
5-4-87	WILLIAM F. HARRIS	Roundup MT.	William Harris
5-4-87	LOYD COLE	Roundup MT	Lloyd Cole
5-4-87	Robert M. Toom	Dean Creek	Robert M. Toom
5-4-87	Peter F. Gray	Dean Creek	Peter F. Gray
5-4-87	Shirley Dale EVANS	4231 Hwy 87 S.	Shirley Dale Evans
5-4-87	Nesley Adolph	Roundup, MT.	Nesley Adolph
9-1-88	Jo Ann Hust	#5 Pinetop Rd. Roundup, MT.	Jo Ann Hust

EXHIBIT 7DATE 3-10-89HB SB 390

WITNESS STATEMENT

NAME Lona Adams BUDGET SB# 390ADDRESS 16 Aspen Rd Roundup MtWHOM DO YOU REPRESENT? P.O.W.E.R.SUPPORT _____ OPPOSE X AMEND _____

COMMENTS: Already the folks in
the Bull Mountain area are
suffering from diminished
water - caused by the years
of drought. This mine pumping
project can only add to the
problem we already have (dimin-
ished property value - possible
Xtra cost of hauling water on Eads
from the Area. It does not seem
to me to be worth it even
considering the fact that we
500 families to water supply
that could soon be dried up -
Butter Management with
existing Basin water would
solve irrigation problems -
and let us be enjoying the
benefit of our Lake in
Years!

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EXHIBIT. 8

DATE 3-10-89

HB SB390

March 1, 1989

Natural Resource Committee
Helena, Montana

Attention: *Mr. Bob Penney*

Gentlemen:

I protest the issuance of a permit to pump ground water out of the mines near Roundup, Montana from Bill SB390 because of the following reasons:

1. Existing recorded water rights should be honored above all
2. Legislative action should not attempt to shield the Deadman's Basin water users and their members from financial responsibility for damages should any occur due to loss of water in our wells when ground water is pumped for irrigation purposes.
3. Montana reservoirs are presently dry or nearly dry proving that Montana's semi-arid climate does not provide enough snow and rainfall to adequately recharge reservoirs or replenish ground water.
4. The water level in my own well is already down due to insufficient recharge because of the drought.
5. It is unfair when the taxpayers that may suffer damages due to the action taken, have to pay for this action which will benefit so few and could harm so many.
6. Unproven data presented does not agree with conditions as stated by old-timers, local people, which is based on many years of observation and experience versus assumptions and theory.
7. The state legislature is showing preferential treatment to a small interest group over the larger number of taxpayers by superceding their recorded vital water rights to ground water for domestic and livestock use only.

As a land owner and resident of the state of Montana, I am greatly concerned and strongly object to the passage of this bill. Please take this into consideration as you consider your vote.

Sincerely,

Robert & Gloria Toombs 575-4445

P.S. - We are very much concerned about the way in which this whole project has been handled. This interim water right of 3000 acrefoot could have a drastic impact on the value of land & improvements my wife & I have made to our property. How can a

Ex. #9

Mines were being pumped from 1888 on but each summer the river went dry, until, in the late thirties the Dead Man's Basin was finished and began functioning. I married and moved to Klein in the Bull Mountains in 1936. The entire area was becoming desert. Ranchers were selling and leaving because their springs and wells were going dry. Not until after the last mine stopped pumping in 1956 did the springs and streams begin to recover. The last drought years have affected them but still not to the extent of the thirties, forties and fifties. My husband and I watched the first water from Half-breed Creek start dripping into the Musselshell River in 1968 and went for a steak dinner to celebrate. We bought a retirement place in the Bull Mountains because of the return of the water. Please don't let anything wreck it.

Hilla Dale Evans,

Hilla Dale Evans

Roundup, Wyo. 80722

EXHIBIT

9

DATE 3-10-89

HB SB 390

WITNESS STATEMENT

NAME Willie Dale Evans BUDGET \$13,390

ADDRESS 4221 Hwy 87 S.

WHOM DO YOU REPRESENT? POWER.

SUPPORT _____ OPPOSE X AMEND _____

COMMENTS: Mines were being pumped from 1922 on
but each summer the river ran dry, until, in the late thirties
the Dead Man's Basin was finished
See Exhibit 9

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

10

DATE 3-10-89
HB SB 390

WITNESS STATEMENT

NAME DAWN COLE BILL NO. SB 390

ADDRESS 140 COLE RD

WHOM DO YOU REPRESENT? My family & myself & POWER

SUPPORT OPPOSE ☒ AMEND

COMMENTS: My family relies on ground water for
our well, if this mine pumping goes through
the ground water level will drop drastically
imposing a hardship on us as we cannot
afford to drill a 500' to 1000' for water.

There are many other families in this
same situation.

You are here to serve the needs of the
many NOT of the few. And this bill
clearly serves only the needs of a few!

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EXHIBIT 11
DATE 3-10-89
HB SB 390

WITNESS STATEMENT

NAME Arline Stephenson BUDGET S.B. 390
ADDRESS Roundup, Mont
WHOM DO YOU REPRESENT? P.O.W.E.R. & myself
SUPPORT OPPOSE AMEND

COMMENTS:

Highly oppose pumping mines.
These bureau's have not contacted
any of our experienced mine people.
We have the only man with full
maps of area - elevation - distances etc.
a past State Mine inspector and
a pre-shift mine examiner, who
went into mine before every working
shift.

We've tried for 2 years to
get these people to meet with us.
We're still waiting

No extension of time - Kill the bill

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

NAME Nola KORENKO Bill No. S.B. 390
ADDRESS 49 Cole Rd Roundup MT.
WHOM DO YOU REPRESENT? POWER AND MySelf
SUPPORT OPPOSE ☒ AMEND

COMMENTS: we do NOT want to jeopardize
~~our~~ our water to passafiy a
few greedy, wastful, Ranchers
Down River. And the Possability
of P.C.B.s in the Mine shafts.
from Transformers and
Electrical AND ~~mechanical~~
machanical Equipment. Left
when abandoned. will ~~pollute~~
~~the~~ ~~water~~ Pollute the river when
the water is Disturbed.

If the mines are Pumped +
we lose our Ground water.
we will have to move. the impact
would make Roundup a ~~ghost~~
ghost town.

A OUNCE OF Prevention —
is worth a 1000 lb. of CURE
no extension of time
Kill the Bill S.B. 390

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EXHIBIT 13
DATE 3-10-89
HB SB 390

WITNESS STATEMENT

NAME Jo Ann HUST ~~BUDGET~~ BUDGET SB 390

ADDRESS 5 Pinetop Rd

WHOM DO YOU REPRESENT? P.O.W.E.R.

SUPPORT OPPOSE X AMEND

COMMENTS: this Bill will work a hardship on
Hundreds of landowners, when the pumping
of the mines lower the water tables! my
well is already 590 feet deep & if I have
to drill deeper I will have to move from
my land as I can not afford to go any
deeper.

You are here to serve the TITANY not
the FEW & this bill will clearly serve
only the FEW!

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

NAME Dale Galt BUDGET SB #390
ADDRESS 791 Goulding Cr Rd
WHOM DO YOU REPRESENT? P.O.W.E.R
SUPPORT _____ OPPOSE ✓ AMEND _____

COMMENTS: I know a paper written by Dr. Groves
W. Bauder, Extension specialists. It depends on
the rock formations where you live how fast
groundwater will travel. It may take more
than 3 or 3 years before I ^{personally} feel the result of
the pumping of the mines. The more contamination
has started it is to late. I was raised in
the Roundup area and at that time there
was no water in Half Breed Creek & Goulding
Creek. Since they quit pumping the mines the
water has very slowly come back. It
takes about 30 inches of moisture to put
1 inch of water back in the groundwater table.
Our annual rainfall is less than 30 inches a
year. At present what water is in the
mines is holding the pollution at it's
present location. Once they start pumping
they will let the pollution start moving also.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

NAME Elizabeth Kothken BILL NO. SB 390
ADDRESS 1281 Gauley Creek Rd. Lonsdale, Mt. 59072
WHOM DO YOU REPRESENT? P.O. WELF. & Self
SUPPORT OPPOSE SB 390 AMEND

COMMENTS:

If this bill, SB 390 is passed,
I stand to lose my water to
my ranch and home thereby,
my property would be of no
value to self or anyone.
I am not here to represent just
myself but the majority of
my neighbors who fear they
too may lose everything they
have worked a life time for if
this bill is passed.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

NAME Joyce M. Egeher BUDGET _____

ADDRESS 32810 Hwy. 87 S., Roundup

WHOM DO YOU REPRESENT? my family & P.O.W.E.R.

SUPPORT _____ OPPOSE ✓ AMEND _____

COMMENTS: We object to test pumping of the mines
because, knowing our water table is fragile, the
impact of pumping would cause adverse effects
for several hundred families depending on ground
water. There are more, and better means of providing
irrigating water which can and should be employed.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HIBIT 17

DATE 3-10-89

HB SB 390

3/10/89

WITNESS STATEMENT

NAME Sylvia Corey BUDGET Bill # SB.390

ADDRESS 290 Horsethief Rd. Roundup MT, 59072

WHOM DO YOU REPRESENT? POWER

SUPPORT OPPOSE AMEND

COMMENTS: Potential damage to our future
water supply. Am not interested in any
type of amendments or compromises. We
have to rely 100% on existing ground
water. In the event that we should lose
it, our real estate would be of no value

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

HIBIT 18
DATE 3-10-89
HB SB 390

NAME Donald C. Corey BILL NO. SB 390
ADDRESS 290 Horse Thief Rd, Roundup, MT DATE 3/10/89
WHOM DO YOU REPRESENT? POWER
SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Potential damage to our future water supply. I am not interested in any type of amendment or compromise. We have to rely 100% on our existing ground water. In the event that we should lose our water, our real estate would be of no value.

March 1, 1989

Natural Resource Committee
Helena, Montana

Attention:

Gentlemen:

I protest the issuance of a permit to pump ground water out of the mines near Roundup, Montana from Bill SB390 because of the following reasons:

1. Existing recorded water rights should be honored above all
2. Legislative action should not attempt to shield the Deadman's Basin water users and their members from financial responsibility for damages should any occur due to loss of water in our wells when ground water is pumped for irrigation purposes.
3. Montana reservoirs are presently dry or nearly dry proving that Montana's semi-arid climate does not provide enough snow and rainfall to adequately recharge reservoirs or replenish ground water.
4. The water level in my own well is already down due to insufficient recharge because of the drought.
5. It is unfair when the taxpayers that may suffer damages due to the action taken, have to pay for this action which will benefit so few and could harm so many.
6. Unproven data presented does not agree with conditions as stated by old-timers, local people, which is based on many years of observation and experience versus assumptions and theory.
7. The state legislature is showing preferential treatment to a small interest group over the larger number of taxpayers by superceding their recorded vital water rights to ground water for domestic and livestock use only.

As a land owner and resident of the state of Montana, I am greatly concerned and strongly object to the passage of this bill. Please take this into consideration as you consider your vote.

Sincerely,

Willie U. Powell

EXHIBIT 20
DATE 3-10-89
HB SB 390

WITNESS STATEMENT

NAME Willie Pavaola BILL NO. SB 390

ADDRESS Bandy RT Box 41, Luvina NT

WHOM DO YOU REPRESENT? Powers

SUPPORT _____ OPPOSE X AMEND _____

COMMENTS: I feel that pumping of the mins
may lower the water table to the point
that water wells may go dry. If this
is approved it would benefit only a few
farmers with the possibility of burning range.
This area is semi arid and should
be farmed with that in mind. Also
I don't believe the soil here is fertile
enough to support crops, that require
an abundance of water

Willie Pavaola

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

21
DATE 3-10-89
HB 58390

WITNESS STATEMENT

NAME William Finch BILL NO. 58390
ADDRESS 535 Horseshoe Roundup St
WHOM DO YOU REPRESENT? Power & myself
SUPPORT _____ OPPOSE X AMEND No

COMMENTS: I am apprehensive as to the
future of my water well - which cannot
be restored after it goes dry and it could
be impossible lay liability to where the
water has gone.

I also feel that more
proper use of the present water ~~to~~ could
be evaluated and the waste be
eliminated and the abusers be identified
and such action taken to end that
abuse.

~~William Finch~~

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

22
DATE 3-10-89
HB SB 390

WITNESS STATEMENT

NAME Larisa Stevens BILL NO. SB390
ADDRESS 50 Rte Box 20 Laramie, WY 82046
WHOM DO YOU REPRESENT? POWER - members
SUPPORT OPPOSE AMEND

COMMENTS:

Life is dependent on water - without it we die and so will our environment impact to the natural wildlife be death.
Mother nature ~~with~~ ^{with} the drought has taken impact. Something we could not control - then we can control - The lives of many are dependent on you and your water.
Please - do not drain the WATER - period - water tables will fall - maybe not immediately - but we can't afford any loss of water.

- Oppose bill SB390 -
Thank you

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Exhibit 22A

3-10-89

SB 390

March 1, 1989

Natural Resource Committee
Helena, Montana

Attention:

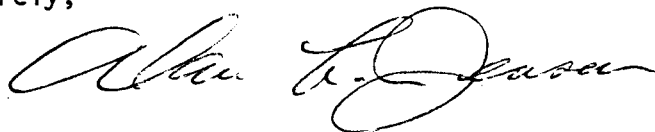
Gentlemen:

I protest the issuance of a permit to pump ground water out of the mines near Roundup, Montana from Bill SB390 because of the following reasons:

1. Existing recorded water rights should be honored above all
2. Legislative action should not attempt to shield the Deadman's Basin water users and their members from financial responsibility for damages should any occur due to loss of water in our wells when ground water is pumped for irrigation purposes.
3. Montana reservoirs are presently dry or nearly dry proving that Montana's semi-arid climate does not provide enough snow and rainfall to adequately recharge reservoirs or replenish ground water.
4. The water level in my own well is already down due to insufficient recharge because of the drought.
5. It is unfair when the taxpayers that may suffer damages due to the action taken, have to pay for this action which will benefit so few and could harm so many.
6. Unproven data presented does not agree with conditions as stated by old-timers, local people, which is based on many years of observation and experience versus assumptions and theory.
7. The state legislature is showing preferential treatment to a small interest group over the larger number of taxpayers by superceding their recorded vital water rights to ground water for domestic and livestock use only.

As a land owner and resident of the state of Montana, I am greatly concerned and strongly object to the passage of this bill. Please take this into consideration as you consider your vote.

Sincerely,



SB 390

3-10-85

4

WITNESS STATEMENT

NAME JOE MILLER BILL NO. SB 390

ADDRESS 237 HOMESTEAD Rd, ROUNDUP, MT

WHOM DO YOU REPRESENT? POWER

SUPPORT OPPOSE AMEND

COMMENTS: I oppose SB 390 because I
feel that pumping the old mines in
Roundup would deplete the groundwater
in the Bull mts. The fact that these
mines have not been pumped in the
last few decades and allowing Springs
and wells to recover to a normal
maximum level attests to the facts
that pumping of the mines are both
ludicrous and immoral. This ground
water is vital to the stability and
security of our future Montanans.

Joe B Miller

See exhibit 22B

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

SB 390

3-10-89

Ex. 22B

March 1, 1989

Natural Resource Committee
Helena, Montana

Attention:

Gentlemen:

I protest the issuance of a permit to pump ground water out of the mines near Roundup, Montana from Bill SB390 because of the following reasons:

1. Existing recorded water rights should be honored above all
2. Legislative action should not attempt to shield the Deadman's Basin water users and their members from financial responsibility for damages should any occur due to loss of water in our wells when ground water is pumped for irrigation purposes.
3. Montana reservoirs are presently dry or nearly dry proving that Montana's semi-arid climate does not provide enough snow and rainfall to adequately recharge reservoirs or replenish ground water.
4. The water level in my own well is already down due to insufficient recharge because of the drought.
5. It is unfair when the taxpayers that may suffer damages due to the action taken, have to pay for this action which will benefit so few and could harm so many.
6. Unproven data presented does not agree with conditions as stated by old-timers, local people, which is based on many years of observation and experience versus assumptions and theory.
7. The state legislature is showing preferential treatment to a small interest group over the larger number of taxpayers by superceding their recorded vital water rights to ground water for domestic and livestock use only.

As a land owner and resident of the state of Montana, I am greatly concerned and strongly object to the passage of this bill. Please take this into consideration as you consider your vote.

Sincerely,



Ex. # 22C

3-10-89

SB 390

March 1, 1989

Natural Resource Committee
Helena, Montana

Attention: *Bob Roney*

Gentlemen:

I protest the issuance of a permit to pump ground water out of the mines near Roundup, Montana from Bill SB390 because of the following reasons:

1. Existing recorded water rights should be honored above all
2. Legislative action should not attempt to shield the Deadman's Basin water users and their members from financial responsibility for damages should any occur due to loss of water in our wells when ground water is pumped for irrigation purposes.
3. Montana reservoirs are presently dry or nearly dry proving that Montana's semi-arid climate does not provide enough snow and rainfall to adequately recharge reservoirs or replenish ground water.
4. The water level in my own well is already down due to insufficient recharge because of the drought.
5. It is unfair when the taxpayers that may suffer damages due to the action taken, have to pay for this action which will benefit so few and could harm so many.
6. Unproven data presented does not agree with conditions as stated by old-timers, local people, which is based on many years of observation and experience versus assumptions and theory.
7. The state legislature is showing preferential treatment to a small interest group over the larger number of taxpayers by superceding their recorded vital water rights to ground water for domestic and livestock use only.

As a land owner and resident of the state of Montana, I am greatly concerned and strongly object to the passage of this bill. Please take this into consideration as you consider your vote.

Sincerely,

Nancy Paysinger
John Paysinger

Exhibit # 22D

3-10-87
SB 390

WITNESS STATEMENT

NAME Mrs Emma A. Huber BILL NO. SB 390
ADDRESS Lo Rt Box 5 - Lavea Nt 59046
WHOM DO YOU REPRESENT? POWER
SUPPORT OPPOSE X AMEND

COMMENTS: I oppose this Bill SB 390
because it can not be proven
that by pumping water from the
Rounding mines even in small
testing amount will not run my
well dry. In this case I could
not even sell my land or home, and
consequently land, homes and business
would suffer economically.

God gave you the opportunity
to represent we the people and we
wish you will understand our
position and agree with us.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

collected by the Montana Bureau of Mines and Geology in the SB 390 summer of 1987 are listed in Appendix C. Locations of all wells and springs that have been inventoried by site visitation are shown on Plate 2.

Ground-Water Flow

A generalized potentiometric map for the Fort Union Formation (Slagle and others, 1986) indicates that ground water on the north side of the Bull Mountains flows northward toward the Musselshell River. Although not well defined, ground-water discharge from Fort Union aquifers into the river and its alluvium is indicated.

In 1982, a discussion of ground-water flow in the Bull Mountains was presented by Thompson (p. 23-26), characterizing the hydrogeologic roles of precipitation, topography, and aquifers. His discussion related to the Mammoth coal bed, lying several-hundred feet above the Roundup coal, but applies as well to the Roundup bed. Thompson wrote:

"The flow of ground water in the Bull Mountains is dependent on temporal variations in precipitation, on the area's topography and complex stratigraphy, and on joint and fracture systems in the sandstone and coal aquifers.

Seasonal variations in precipitation cause increases or reductions in the amount of recharge to the ground-water system, which show up most prominently in the seasonality of many springs. Records of observation-well water levels showed no evidence of a recharge event in the spring of 1982. The shortness of the record and its early termination might have caused the exclusion of a recharge event with a time lag behind the period of maximum precipitation.

During drilling of observation wells, many thin, interbedded sandstone and shale strata were encountered. Several thin saturated zones of sandstone were found above dry shale or dense siltstone, and often strata below the shales or siltstones were also dry. Drill-hole cores contained open fractures or joints in sandstone and coal, and similar features were observed in outcrops. Except in a few coarser-grained, less clayey sandstones in the area, these joints and fractures are probably the most important passageways for ground water. They are the only permeable features in the coal seams. The more permeable and more densely-jointed strata are preferentially used as conduits [conduits] for ground-water flow. Less-permeable beds act as aquitards and perching beds; little ground water flows through them.

Figure 6 [3] schematically illustrates ground-water flow in the Bull Mountains. Precipitation readily infiltrates into the butte-capping, highly permeable clinker which, because of its large porosity, acts as a reservoir for temporary storage of recharge. Downward movement of recharge water is slowed by the underlying less permeable stratum so that a lens of perched water is formed within the clinker. The spring at A in Figure 6 [3] is supplied by this perched water, and discharges at the contact of the clinker and the underlying less permeable rocks. Because the rocks beneath the clinker are not completely impermeable, some downward movement of ground water does occur. As this water moves through the rocks, contrasts in permeability between various lithologic units complicate the general downward movement. Other lower perched lenses of water accumulate above low-permeability layers. This lower perched water can either spill over the edges of the perching bed (B on Figure 6 [3]) and resume its downward movement, or if the perched aquifer crops out, the water can exit as a spring from a topographically low point on the outcrop (C on Figure 6 [3]). Springs of this type generally discharge from well-developed joints in thick sandstones. Strata having a moderately low permeability, or those with a small areal extent sometimes give rise to seeps at their outcrops (D on Figure 6 [3]). They neither receive nor transmit large amounts of ground water. The general downward movement of water continues, interrupted in places, until the water table is reached. Flows from aquifers that subcrop along the valley fill (E on Figure 6 [3]) recharge the alluvial aquifers. Flow in the

EXHIBIT 23
 DATE 3-10-89
 HB SB 390

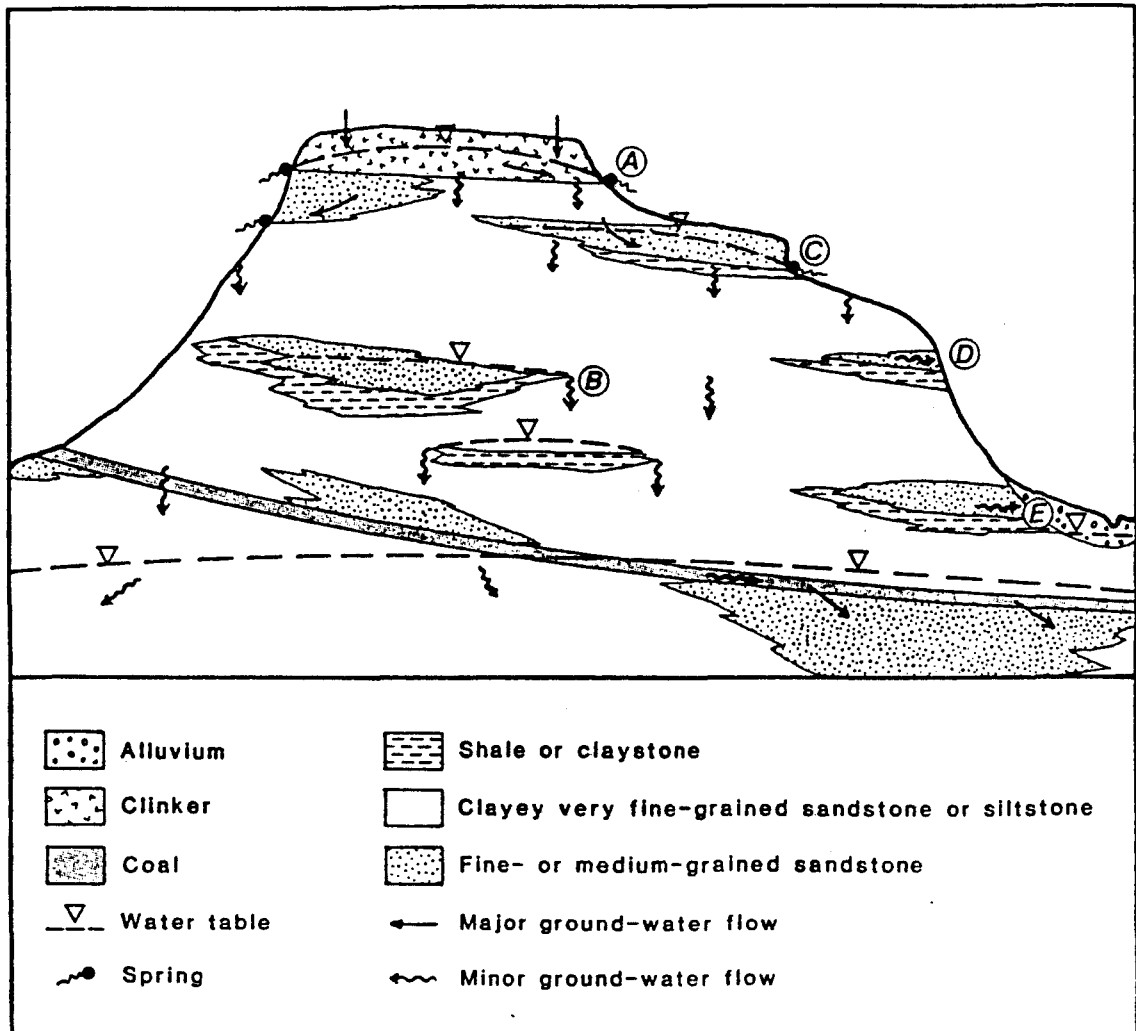


Figure 3. Idealized cross-section of the Bull Mountain area, characterizing ground-water flow (from Thompson, 1982).

alluvial aquifers is generally down-valley; depending on the type of bedrock beneath the alluvium and the bedrock's water table elevation, the ground water in the alluvium may leak downward into the bedrock.

The coal bed shown on Figure 6 [3] typifies conditions in the Mammoth coal. Generally near its outcrop in updip areas the coal is dry, downdip it is partly saturated, and still farther downdip it is fully saturated and may contain water under confined conditions."

Water-Level Monitoring

Included in Appendix C and on Plate 2 are 16 observation wells installed in alluvium along Halfbreed Creek and the Musselshell River. These wells were installed with the objective of monitoring long-term water-table reactions to precipitation and streamflow. Also, should development of mine-workings water occur, these wells will provide invaluable base-line data. Completion forms for these wells are presented in Appendix D. Monitoring at these wells began in December, 1987 (Figures 4, 5, and 6). The data show seasonal fluctuations from December 1987 to the present, caused by irrigation, evapotranspiration, and/or recharge from precipitation. To date, too short a record has been collected to define the nature and timing of seasonal events. All of the wells appear to be hydraulically connected to the adjacent watercourses through the alluvium, so the water levels should reflect conditions of low flow in Halfbreed Creek and the Musselshell River.

Figure 4 illustrates water level fluctuations in Halfbreed Creek alluvium. Water levels in RU-02 and RU-06 show very little change from the initial reading to the present. The water levels in RU-01 and RU-07 rose during the winter and have since

hydraulic connection between monitoring points within the SB 390 Jeffries Mine, but a poor connection between the Jeffries and the Republic No. 1 Mines. Slow recovery trends indicate a low recharge rate to the Jeffries Mine. To address potential production and impacts of production, tests that further stress the ground-water system must be conducted.

DISCUSSION

This report has presented an overview of hydrogeology of the Bull Mountain area and the underground mine workings near Roundup. Hydrogeologic conclusions from available data are: (1) about 17,000 acre-feet of ground-water are probably stored in the mines; (2) most of the workings lie more than 400 feet below land surface; (3) quality of water in the workings appears satisfactory for irrigation; (4) positive-submergence pumps in locales with the greatest hydraulic heads would be needed to provide the greatest continuous discharge; and (5) numerous stock and domestic wells rely upon Fort Union Formation aquifers (primarily sandstone) for water supply.

There are numerous questions that this reconnaissance-level study cannot answer. These questions can be addressed through a logical progression of future steps. The critical first element to be assessed is a determination of the degree of hydraulic interconnection of the mine workings. The other questions that must ultimately be addressed are the effects on wells and surface

water in the area, potential subsidence, natural recharge and SB390 economic feasibility. At each step, potential problems must be evaluated to determine if a solution is available either through an engineering approach or through mitigation. Serious problems at any of these steps would likely cause the project to be terminated. Even so, some limited use of the resource would be possible.

At the present time, the next logical step in this appraisal would be careful, low-volume pumping of the mine workings under prudent monitoring of observation wells and water wells completed in and near the various mines. With this minor stress of the system, interconnection could be evaluated while insuring protection to existing water supplies. If, through additional studies this question and the others can be favorably addressed, then a longer term demonstration of the resource potential could be undertaken.

Senate bill-201 is now more important to the future of Montana, than ever, as we have four new Oil & gas Board members, which I feel will be very fine members, but know practically nothing at all about the programmatic studies that have been prepared over the last year and a half.

I have been involved with this study since it was created and helped creat it. I see the need for the study as it has been the trend to regulate the Oil and Gas industry out of any possibility of doing things as they have been for the last 50 plus years. And in some ways I have to agree with specific changes; but the final chapter in this study has many points that have to be ironed out or the ability to explore for minerals on State and Private lands will be nearly impossible, both environmentally and monetarily.

Mineral industries, Oil and Gas especially, have been Montanas mainstay financially, and in the last few years it has shrunk to about half of what it was. Price of crude has made a difference, but not as much as tax issues have. Even the established companies have moved to better tax situations in other states rather than pay our tax fees and also having to fight our changing requirements to get a permit to drill.

I have been working for Oil companies for 18 years now and it was great till 1985 for me. Since then it has been a steady slide into a almost no work situation. That is why I got involved in Lobbying, to try to help keep not only my business alive, but the industry as well.

I have caught all kinds of flak over starting this study but I have been involved in the mountain front, the Kevin rim, Sweetgrass hills, Cow Creek, and the Montana Trail bike issues for years now and I feel this study was a must.

The committee that worked on this have done a super job in the first four chapters. If any of you want a reference book on the Oil and Gas industry, this is it. But the fifth chapter has to be changed, or the restrictions will be the last straw to the small stripper producers. When they are so close to break even and have to try to comply to the suggestions in this chapter, they won't be able to do it and they will stop any new developement if not total operations.

After so much time and effort, which has proven that the data and regulations are already in place, as all this study was done in house with data on record in the state departments, it would be a shame to force adoption of this study without the new board being able to study the results gathered from the three meetings just finished Wednesday night in Great Falls. And as four of the members are new it should be extended time wise so they can get their information studied and ^{new}rewrite the needed changes, allow them to be reviewed, and then the document should be studied and what could be of a benefit be adopted, and what is not could be used for information only.

Senate bill 201 has asked for this time and I concur with this and ask you to allow this study to fulfill its purpose, which is to help

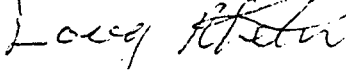
2nd page

24
DATE 3-10-89
HB 50201

iron out the needs both environmentally and regulatively to allow us to comply with and benefit from the data compiled in this document.

Please don't let "Fugitive Dust," referred to in this study become an expression referring to the Oil and Gas industry in this state. The Oil and Gas board are Montana people trying to help Montana people, and they should be allowed to do so to the best of their ability. So please give them that time.

Doug Abelin



Montana Oil and Gas Association.

EXHIBIT 25
DATE 3-10-89
HB SB 201

Bridger Watch

P.O. Box 4407, Bozeman, Mt. 59715

March 10, 1989

Dear Mr. Chairman and Members of the Committee,

Thank you for this opportunity to express our concerns. I represent Bridger Watch, a citizens group that has been concerned about oil and gas policies in Montana since 1984. As exploration for the oil and gas that we all use extends into overthrust-type structures, we will see wells that are much deeper (the Sohio Moats 1-3 well in Bridger Canyon near Bozeman was 15,000 ft. deep) and therefore may experience great pressure, may involve higher concentrations of "sour gas" (gas containing high quantities of H_2S) and will be closer to residential and / or traditional recreation areas. Compliance with MEPA is not unjust delay but assures proper and correct procedure in order to represent and protect the rights of all the people and environment of an area. Few wells will require a full EIS, but when such action is required, it is to the benefit of all to have factual data compiled in an impartial and comprehensive manner. Bridger Watch is well aware that the function of an EIS is not to stop a well, but rather to review all conditions specific to a well and the workable options for procedure.

I want to tell you now why we are so concerned with the possible impacts of oil and gas drilling. In Alberta, Canada, the infamous Lodgepole 13-12 well made us realize that a serious accident could pose a great danger to our families and property. The Lodgepole 13-12 well raised the issue of deadly H_2S gas and its effects on humans and livestock. This was a well drilled by a reputable company, with a good safety record, in a known field. None the less that well blew out of control for 67 days. The H_2S plume did not follow the "graph predictions" and was smelled 800 miles away in Winnipeg, Manitoba. The following slides will show you what happened.

Oil and gas drilling and production raises concerns regarding: protection of ground and surface water, air quality control, fire protection, noise levels, traffic and road conditions, weed control, soil protection, livestock and wildlife protection and aesthetic values, in addition to the health and safety plans and evacuation plans for nearby residents. The total weight of all possible impacts from drilling of only one well must be taken seriously. Please retain the protection of MEPA for all of Montana and its people. Thank you.

Sincerely,

Mary Ann Kelly

ACTIONS

GENERAL

The Panel has submitted 39 recommendations that involve industry, the ERCB, government departments and, to a lesser degree, the public. They are wide-ranging in their scope. The Panel invites readers to obtain a copy of the Summary Report and review them. Two of the more important areas are commented on below.

REDUCE BLOWOUTS

While blowouts can't be totally eliminated, they can be significantly reduced. The Panel has recommended that

- new strict rules apply to drilling critical sour wells, to ensure careful planning, superior equipment and well trained crews
- the design, capacity and operating problems of key components of drilling rigs be carefully examined to determine whether changes are necessary
- drilling operations in the critical zone be conducted in a cautious manner
- ERCB increase both the number and completeness of its inspections of drilling operations
- the training of drilling personnel be improved

Each of these recommendations has been implemented or is under active consideration.

REDUCE EFFECTS OF A BLOWOUT

If a blowout were to occur the Panel believes that its effect can be reduced by

- requiring a site-specific emergency response plan for critical sour wells
- ensuring effective coordination of government response to the blowout
- ensuring effective communication with the public and particularly with the people residing in the immediate area
- ensuring that H₂S exposure limits are appropriate - especially for sensitive people
- ensuring that H₂S concentrations are carefully monitored and the information made available to the public

Most of these recommendations have been at least partially implemented.

WANT MORE INFORMATION?

If you are interested in learning more about the Lodgepole Blowout, the ERCB has three documents available:

1. Summary of Recommendations
2. Phase 1 report (a detailed analysis of the event and its effects, which includes the Phase 2 report)
3. Addendum to Phase 1 report, which deals with the updated estimates of emissions from the 13-12 well

Write, or drop by, any of the ERCB offices listed below:

Energy Resources
Conservation Board
Maps and Publications Desk
640 Fifth Avenue S.W.
Calgary, Alberta
T2P 3G4
Phone: 297-8328

or

Energy Resources
Conservation Board
Postal Station "D"
12204 - 145 Street
Edmonton, Alberta
T5L 4J6
Phone: 427-0200



A scene in a licensing photo of a small formation, which the gas would be released from the fire and tremendous pressure resulting from the Lodgepole well.

EXHIBIT 26
DATE 3-10-89
SB 201

W0217
REV. 10/89

DATE 3-10-89
HB SB201

ERCB

LODGEPOLE Blowout Report

CAUSES,
EFFECTS,
ACTIONS.

CAUSES

WHAT HAPPENED?

Amoco spudded its 13-12 well on 10 August 1982. By 15 October, coring operations were proceeding at the 3000-metre level. Two cores were recovered that day without incident. Then, while cutting the third core on 16 October, formation gas unexpectedly began entering the wellbore and a "kick" occurred. For the next 16 hours the crew fought to control it, but on 17 October the well blew totally out of control.

In spite of a great deal of expertise and money, the well was not brought under control for another 67 days. During that period the Lodgepole blowout entered oil patch history, with two wild-well fighters dead, the public very upset, and millions of dollars in equipment and hydrocarbons lost. When the well was finally brought under control, the major question remained, "what went wrong?"

WHAT WENT WRONG?

- The initial "kick" occurred primarily because
 - drilling practices, while cutting cores 2 and 3, were deficient
 - the density of the drilling mud was only marginally adequate
- The kick was not controlled because
 - the drilling crew did not immediately recognize the problem and apply standard kick-control practices
 - several pieces of vital equipment did not function properly
 - pieces of mixed drilling mud were not adequate
 - the gas-bearing formation was extremely prolific

WHY DID IT TAKE SO LONG TO REGAIN CONTROL?

Several factors made control operations particularly difficult

- not only was the flow rate very high, but it contained large volumes of condensate and a high percentage of hydrogen sulphide (H_2S)
- weather conditions were frequently unfavourable
- safety procedures and equipment, although meeting existing standards, proved to be inadequate

Initially, both Amoco and the ERCB considered only two well control options:



ERCB
LODGEPOLE
Blowout Report

EX #26
3-10-89

1) capping when *not* on fire, and 2) drilling a relief well. The dangerous alternative of capping the well *while it was on fire* - which ultimately proved successful - was only adopted after the more traditional options had failed.

EFFECTS

WHAT WERE THE EFFECTS OF THE BLOWOUT? EMISSIONS

For 67 days, very large volumes of gas, condensate and sulphur were emitted to the atmosphere. For most of those 67 days, the well was on fire and the sulphur was emitted as sulphur dioxide (SO_2), but for 26 days (when the well was not on fire) the sulphur was emitted as hydrogen sulphide (H_2S) with its offensive "rotten-egg" odor. Daily sulphur emissions from the 13-12 well were greater than the total current emissions from the more than 130 sour gas plants, 5 coal-fired thermal power plants, and two oil sands plants operating in Alberta.

EFFECTS ON PEOPLE

Local area residents, and a group of Edmonton respiratory patients, described how the blowout had affected their health. The effects included headache, eye irritation, sore throat, nose bleeds, some breathing problems, nausea and diarrhea. While scientific data was not available to link these health problems to the blowout, the Panel is satisfied that emissions from the 13-12 well did lead to short-term health effects for a substantial number of people. The evidence also suggests that some people are especially susceptible to H_2S emissions.



The Lodgepole Blowout site, showing the 13-12 wellhead and the wellhead area.

Government departments reported on their efforts to ensure that people were not exposed to dangerous concentrations of either H_2S or SO_2 . Exposure limits were established and nine monitoring units were employed to identify any situation when the limit would be exceeded. That occurred only on a few occasions, at rural residences, and the occupants temporarily left the area. Actual H_2S concentrations at residences were substantially below the H_2S exposure limit of 15 parts per million (ppm) except for the occasional episode. For example, at Cynthia and Lodgepole the recorded concentrations were less than 1 ppm for 95 and 87 per cent respectively of the total monitored hours. At Draxton Valley it was 96 per cent, and at Edmonton the concentrations were less than 0.1 ppm for 93 per cent of the monitored hours.

During the 41 days that the well was on fire, and the sulphur was being emitted as SO_2 , the concentrations were substantially less than the evacuation limit

EFFECTS ON THE ENVIRONMENT

Environmental impacts were relatively modest. The major effects occurred on the 300 hectares (741 acres) surrounding the well. When the well was not on fire, the condensate "rain" had an impact similar to an oil spill. Two fires occurred during the several attempts to cap the well and burned all vegetation and trees in the immediate area. These fires also consumed much of the condensate, which greatly reduced the possibility of longer-term soil pollution. However, the unburned condensate, which was deposited on the perimeter of the blowout site, will have some impact on trees, groundwater, and soils for a number of years.

Sulphur emitted from the well was deposited in low concentrations on the ground over an area of hundreds of thousands of square kilometres. No evidence exists that there will be long-term harmful effects on soils, vegetation or water bodies.

EXHIBIT 27
DATE 3-10-89
HB S.B. 221
John H. Keating

Schedule for Programmatic EIS

- Draft EIS is currently circulating for comments
 - comment period ends March 31
- Current plan: a draft of the Final EIS would be ready for review by the Board of Oil and Gas by the end of April.
- Board of Oil and Gas would meet at the beginning of May to suggest any changes in the Final EIS.
- Final EIS is sent to printer by May 15. (printing takes 2 weeks)
- Final EIS is distributed to public on June 1.
- 15 day comment period on Final EIS goes from June 1 - June 15.
- Board is(tentatively?) scheduled to meet on June 29 to adopt the Final EIS.

What is required of the Board of Oil & Gas to comply with MEPA?

They must adopt a checklist in order to comply with MEPA. It would also be appropriate for the Board of Oil & Gas to adopt an application form for the drilling permits.

Amendments to SB 201

1. Page 1, line 8.
Strike: "June 30, 1991"
Insert: "August 31, 1989"
2. Page 1, line 12.
Strike: "June 30, 1991"
Insert: "August 31, 1989"
3. Page 4, lines 13 - 14.
Strike: "June 30, 1991"
Insert: "August 31, 1989"

27
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HB SB 201

TABLE 43

EXAMPLES OF ENVIRONMENTAL REVIEW SCENARIOS

 EXHIBIT 27
 DATE 3-10-89
 HB SB 201

Hypothetical Drilling Proposal ¹	Environmental Features/Constraints	Likely Level of Environmental Review	Likely Time Required
Wildcat Well to Known Producing Formation — Location is near a producing well — H ₂ S present — saltwater drilling — 1/2 mile new access trail—bladed — lined reserve pit	— rangeland, flat to gently rolling — 1/2 mile to nearest surface water — no sensitive features at or near the drill site	Level I	1 or 2 days ² 55-90% ³
Rank Wildcat Well — formation characteristics uncertain — saltwater drilling anticipated — H ₂ S may be present — 1/2 mile new access road—partly cut and fill construction — lined reserve pit	— irrigated cropland — riparian vegetation — 1/4 mile to river — shallow water table — no nearby residences — 1/2 mile to developed recreation sites (campground & fishing access)	Level II	1 or 2 days ^{2,3} 9-14% ³
Rank Wildcat Well — deep target formation, characteristics uncertain — 1/2 mile new access road—partly cut and fill construction — H ₂ S likely present — fresh water drilling — lined reserve pit — road use only by the operator and contractors — road reclamation planned if well is unsuccessful	— foothills — big game winter range — municipal watershed — 1/2 mile to public land and recreation area — rural residences down-drainage — porous soils — Class I stream less than 1/4 mile away	Level II or III ⁴	10 - 30 days ^{2,5}
Rank Wildcat Well — H ₂ S present — extensive new access roads — fresh water drilling	— mountainous terrain — Class I stream drainage — critical wildlife habitat — grizzly bear habitat — roadless area — adjacent primitive recreation area — visually sensitive — adjacent private recreation facilities or business — glacial till soils	Level III	6 months - 1 year ⁶ 17% ³

Footnotes

- ¹ "Wildcat" and "Rank Wildcat" wells may require formal definitions.
- ² Assumes (a) that the Board has developed rules/guidelines specifying minimum acceptable practices for drilling and production operations; (b) that the information described in Figure 48 is readily available; (c) that the Board has established consultative relationships with other agencies; and (d) that the Board has adequately trained staff and that the workload level allows staff to begin review the same day an application for a permit to drill is received; (e) that no exceptions to the statewide spacing rule are involved.
- ³ This example assumes only telephone contact for interagency consultation.
- ⁴ Level II review could be adequate for this example if sufficient data is readily available to assess impacts, if all involved agencies are essentially in agreement about any mitigating measures that would be applied, and if sufficient data and analysis has been done to allow Board to determine that concern over impacts raised by other agencies or the public have been adequately addressed.
- ⁵ This time estimate assumes interagency agreements can be readily reached. If documentation is required or if further effort to work out disagreements is necessary, additional time will be needed to complete the review process.
- ⁶ The assumptions included in Footnote 3 would also apply to Level III review except that the data necessary to conduct the environmental evaluation will likely require more extensive effort to compile than the other levels of review.

FIGURE 49

ENVIRONMENTAL CHECKLIST FOR OIL AND GAS WELLS

PART A

Development well/short step-out
(one mile or less from existing field:)

Is this well within one mile of an existing field or producing well?

Yes ☐ No ☐

Field Name _____

(if No use part B)

Is there any aspect of the proposed operation which differs significantly from the existing operations?

Yes ☐ No ☐

If Yes, what is
the difference?

Will this difference result in impacts (or levels of impact) that would not usually be associated with the type of wells commonly drilled in the field or producing area?

Yes ☐ - use part B

No ☐ - explain:

Will successful completion of this well result in expansion of the field into areas with substantially different resources or values, or result in substantially increased impacts or impacts not associated with the existing wells?

Yes ☐ - use part B

No ☐

Complete the Summary Evaluation of Impacts Section (Part C).

EXPLORATORY OR LONG STEP-OUT WELLS
(greater than one mile from existing production)

EXHIBIT

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When completing the following section consider potential impacts that could occur as a result of drilling and possible production from the individual well.

AIR QUALITY:

OVERALL RATING:

(POSSIBLE CONCERNS)

- Long drilling time
- Unusually deep drilling (high horsepower rig)
- Possible H₂S Gas production
- In/Near Class I air quality area
- Air quality permit for flaring/venting (if productive)

MAJOR	
MODERATE	
MINOR	
NONE	

MITIGATION:

- Air quality permit (AWB Review)
- Gas plants/pipelines available for sour gas
- Special equipment/procedures requirements
- Other: _____

WATER QUALITY:

OVERALL RATING:

(POSSIBLE CONCERNS)

- Salt/oil based mud
- High water table
- Surface drainage leads to live water
- Water wells nearby
- Porous/permeable soils
- Class I stream drainage

MAJOR	
MODERATE	
MINOR	
NONE	

MITIGATION:

- Lined reserve pit
- Adequate surface casing
- Berms/dykes, re-routed drainage
- Closed mud system
- Other: _____

SOILS/VEGETATION/LAND USE:

OVERALL RATING:

(POSSIBLE CONCERNS)

STREAM CROSSINGS

- High erosion potential
- Loss of soil productivity
- Unusually large wellsite
- Loss of native vegetation/timber/crops/special status plants
- Damage to improvements
- Conflict with existing land use/values

MAJOR	
MODERATE	
MINOR	
NONE	

MITIGATION:

- Avoid improvements (topographic tolerance)
- Exception location requested
- Stockpile topsoil
- Stream crossing permit (other agency review)
- Reclaim unused part of wellsite if productive
- Special construction methods to enhance reclamation
- Other: _____

HEALTH HAZARDS/NOISE:

OVERALL RATING:

(POSSIBLE CONCERNS)

- Proximity to public facilities/residences
- Possibility of H₂S
- Size of rig/length of drilling time

MAJOR	
MODERATE	
MINOR	
NONE	

MITIGATION:

- Proper BOP equipment
- Topographic sound barriers
- H₂S contingency and/or evacuation plan
- Special equipment/procedure requirements
- Other: _____

WILDLIFE/RECREATION:

OVERALL RATING:

(POSSIBLE CONCERNS)

- Proximity to sensitive wildlife areas (FWP identified)
- Proximity to recreation sites
- Creation of new access to wildlife habitat
- Conflict with game range/refuge management

MAJOR	
MODERATE	
MINOR	
NONE	

MITIGATION:

- Avoidance (topographic tolerance/exception)
- Other agency review (FWP, federal agencies, DSHS)
- Screening/fencing of pits, drillsite
- Other: _____

HISTORICAL/CULTURAL/PALEONTOLOGICAL:

OVERALL RATING:

(POSSIBLE CONCERNS)

- Proximity to known sites

MAJOR	
MODERATE	
MINOR	
NONE	

MITIGATION:

- Avoidance (topographic tolerance, location exception)
- Other agency review (SHPO, DSL, federal agencies)
- Other: _____

SOCIAL/ECONOMIC:

OVERALL RATING:

(POSSIBLE CONCERNS)

- Substantial effect on tax base
- Create demand for new governmental services
- Population increase or relocation

MAJOR	
MODERATE	
MINOR	
NONE	

EVALUATION OF CUMMULATIVE IMPACTS

If additional wells were drilled within 2 miles of the proposed well what would be the cummulative impacts on the following:

	MAJOR	MODERATE	MINOR	UNKNOWN
AIR QUALITY				
WATER QUALITY				
SOILS/VEGETATION/LAND USE				
HEALTH HAZARDS/NOISE				
WILDLIFE/RECREATION				
CULTURAL/PALEONTOLOGICAL				
SOCIAL/ECONOMIC				

SAMPLE

Complete Part C

PART C **SUMMARY EVALUATION OF IMPACTS**

Does the proposed drilling project considered as a whole:

Have impacts that are individually limited, but cumulatively considerable? (A project may result in impacts on two or more separate resources which create a significant effect when considered together or in total.)

Contribute substantially to adverse effects on an environmental resource that are occurring or anticipated due to other development, including oil and gas drilling, in the same geographic area as the proposed drilling project?

Establish a precedent or likelihood that future actions with significant environmental impacts will occur?

OVERALL SUMMARY RATING OF IMPACTS:

MAJOR	MODERATE	MINOR	NONE

The proposed project will have:

- ☐ No significant impacts; no further evaluation necessary.
- ☐ Impacts are potentially significant. Additional environmental analysis, documentation or consultation needed, as follows: _____

Prepared by: _____ (Title) _____

Date: _____

TABLE 42

SENSITIVE ENVIRONMENTAL FEATURES AND CONSTRAINTS FOR OIL AND GAS WELLS*

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DATE 3-10-89

HB SB 201

GEOLOGY/SOILS

Steep slopes (30% or greater)
Unstable slopes
Produced waters—high TDS sodium chlorides

Erodible soils
Porous soils
Floodplains

WATER QUALITY

Municipal watersheds
Portable surface and ground water

High water table

AIR QUALITY

Hydrogen sulfide
Sulfur dioxide
Class I areas

Non-attainment areas
Narrow mountain valleys

WILDLIFE/FISHERIES

Critical game habitat
winter range
migration routes
birthing grounds
breeding grounds
Class I and II streams

Waterfowl Production areas
Riparian habitat
Threatened/endangered species habitat
Designated game refuges and ranges

LAND USE

Residences
Public roads
Public buildings
Cities/towns

Irrigated cropland
Designated natural areas
Roadless areas

RECREATION/AESTHETICS

Developed recreation sites
Dude ranches/resorts
Parks/monuments
Fishing access sites
Wild/scenic rivers

Wilderness/primitive areas
Established trails
Scenic overlooks/roadways

CULTURAL/HISTORIC

Native American religious sites
National register sites/landmarks
Paleontological sites
Historic sites

* Definition of sensitive environmental features and constraints may need to be developed. Use of sources from published information or available from other agencies may ease the task of determining presence or absence of these factors.



MONTANA CHAPTER SIERRA CLUB

EXHIBIT 28
DATE 3-10-89
THE SB 201
Sen Keating

415 NORTH 17TH AVENUE • BOZEMAN, MONTANA 59715 • (406) 587-9782

SIERRA CLUB TESTIMONY IN OPPOSITION TO SB 201 KIM WILSON, LOBBYIST

The Sierra Club opposes Senator Keating's Senate Bill 201 for two primary reasons.

First, the testimony at the hearing in the Senate indicated there was no need for a two year extension of time to allow the Board of Oil and Gas Conservation to adopt a programmatic Environmental Impact Statement (EIS). In 1987, the Legislature granted the Board until June 30, 1989 to complete this EIS. Until the Board did so, the issuance of a permit to drill a well for oil or gas was to be exempt from the Montana Environmental Policy Act (MEPA). The Board has nearly completed its work as scheduled. While it may be that the Board needs a short extension to complete its work, two years is an unreasonably long period of time. Since that two years is clearly unnecessary, and since there is a risk of damage from well drilling operations in the interim, it is not in the state's best interest to delay the matter.

Our second reason for opposing this measure is that we see it as simply one more example of attempts this session to nickel and dime away the foundations of environmental protection in Montana. Montana's environmental laws, especially MEPA, provide necessary protection to the environment. If anything, these laws should be improved. In the case of oil and gas operations, environmental degradation can and does occur. This bill, by extending the exemption, weakens MEPA. There is no need for this bill. Please vote against SB 201.

EXHIBIT 29
DATE 3-10-89
HB SB 201

Mr. Chairman, Members of the Committee,

My name is Connie Wilson. I am a landowner representative on the Oil and Gas Advisory Council from Bainville, and am here in opposition to SB 201.

Working with all branches of government concerned with oil and gas production, such as the Department of Natural Resources and Conservation and the Bureau of Land Management, and with industry representatives during the past year, I have come to understand the viewpoints. When I initially brought up the issue of Hydrogen Sulfide gas (H₂S) at Advisory Council meetings, it was casually dismissed as public hysteria - as a problem that rarely occurs. But, since that time the plight of a landowner couple from Culbertson, Mr. and Mrs. Baker Finnicum, has come to our attention.

The Finnicums registered many complaints of burning sinuses and chest pains with the Board of Oil and Gas, the Board's field inspector and the Air Quality Bureau. After a formal complaint was registered, a Gas/Oil Ratio Test was done on the Tiller Well near their home. However, this test was done without flaring the gas and without notifying the Finnicums, a direct violation of Oil and Gas Rule 36-22-1221.

Finally, the Finnicum's enlisted the help of then Senator Ed Smith, the Northeast Land and Mineral Owners Association (NLMOA), and myself after being subjected to the harmful effects of H₂S

since December of 1986. We traveled to Billings to meet with the Board in November of 1987. As a result of our meeting the Tiller Well was shut in.

However, it was turned on again in November of 1987, with serious malfunctions occurring since that time. At times the Finnicums have been made so ill by the H2S that it has been impossible for them to go outside to feed their cattle and they can no longer permit their young granddaughter and elderly parents to visit due to incidences of profuse vomiting they have suffered during visits. These people are going to be forced from their home and family farm of 45 years.

Unfortunately, this is not an isolated case. Last September, 20 families were evacuated from their homes near Fairview when a control valve on a well ruptured. For nearly an hour the well emitted 80,000 parts per million (ppm) of H2S into the air. At one point emissions were as high as 300,000 ppm. According to air quality standards, 10 ppm is allowable for up to 8 hours, 700 ppm will render one unconscious, and 1000 ppm will cause instantaneous death. The Fairview well emitted levels 300 times the deadly level.

As you can see, H2S is a real problem which needs constant supervision and control. I believe that the Board of Oil and Gas, under the Chairmanship of Mr. Jim Nelson, does act responsibly when given the proper information and guidelines to

follow. These guidelines are concisely and adequately spelled out in the checklist developed by the new MEPA EIS prepared by the Oil and Gas Advisory Council.

In discussions I have had with the NLMOA, they strongly recommended it be implemented within six months. Both the NLMOA and I believe that this is more than enough time for new board members to become familiar with the EIS and feel that a longer delay is potentially dangerous to the health and welfare of Montanans. It is perhaps true that most wells do not seriously effect the environment. But it is also true that each perspective well has the potential for serious harm, particularly when planned near towns, wilderness areas, or in zones where H2S is present.

Only twice out of the 13,080 wells drilled in Montana have MEPA regulations delayed or cancelled drilling operations. This is certainly not a red flag to industry. It is just a look at the potential damages before they occur.

I thank you for the opportunity to address this Committee. The Northeast Land and Mineral Owners Association urges you to vote against SB 201.

Mr. George N. McCabe
Attorney at Law
P. O. Box 2269
Great Falls, Montana 59403

NO. 30
DATE 2-10-89
HB SB201

February 23, 1989

Representative Robert Raney
Chairman of the Natural
Resources Committee
THE HOUSE OF NATURAL
RESOURCES COMMITTEE
Capitol Building
Helena, MT 59601

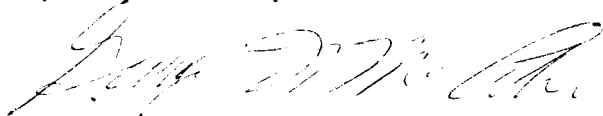
Dear Chairman Raney:

I would like to, at this time, ask for your support and that of your committee concerning Senate Bill 201, which extends the Board of Oil & Gas Conservation Commissions' exemption from the Montana Environmental Protection Act for an additional period of time. I would like to think this extra time could be devoted to making it more certain what impacts drilling has in various areas of the state. Thank you for your consideration.

Very truly yours,

JARDINE, STEPHENSON, BLEWETT & WEAVER, P.C.

By



GNM:cw

EXHIBIT 31
DATE 3-10-89
HB SB 201/2/25/89

Dear House Natural Resources Committee members,

I'm ^{writing} ~~about~~ to urge your opposition to ~~two~~ ^a bills coming before you.

~~The~~ ~~Bill~~, SB 201, would extend the oil and gas industry's exemption from NEPA for two more years. I understand that the industry is claiming that the first two year exemption was too short a time to complete and implement an EIS. I don't buy it. Rather, I think they're just dragging their heels.

For several years I worked in the oil fields of Montana, Wyoming and North Dakota. A phrase I heard often was, "We've got more money than we have time." Tasks often cost more than expected, but never took longer than planned. If the industry "needs more time", I believe that it's only because they chose not to expend appropriate resources. Meanwhile, they've continued to drain profits from Montana.

This industry has enormous potential to harm Montana's environment. They should be held, strictly and immediately, to the law primarily responsible for protecting our home. While working in the oil fields, I constantly saw acts, both intentional and negligent, that were harmful to the environment. I believe that pressures of time and money, the nature of the workforce, and the industry's history make environmental degradation ^{certain} without stringent governmental monitoring and enforcement. Please, let's not delay this any longer. Vote against SB201.

Sincerely, Butch Turk

514 Sherwood St., Msls, MT 59802.

HB 757 "Montana Agricultural Groundwater Protection Act" ~~HB~~ HB 757

1. HB 757 is based on EPA's "Agricultural Chemicals in Groundwater: Proposed Pesticide Strategy: Basis of strategy:
 - +States should have primary role. The specific management plan strategies should be developed at the state level.
 - +Federal role should be development of health-based standards as well as technical assistance to the states.
 - +Differential protection with the groundwater classification system developed by the states.
 - +Emphasis on prevention as opposed to correction--due to the cost and technology required for cleanup.
2. HB 757 fits EPA strategy into existing Montana Water Quality Act [Title 75, Chapter 5]
 - +Water Quality Act based on nondegradation as opposed to health-based standards.
 - +Result is that HB 757 is tailored to compliance with Montana Water Quality Act, making the violation of "reasonable land, soil and conservation practices" instead of Health-based standards the key in enforcement. Reasonable land, soil and conservation practices are defined as the specific agricultural chemical management plans when promulgated by rule.
 - +Assumes the classification system dictated by the Montana Water Quality Act.
 - +HB 757 provides that the standards provided for in the Montana Water Quality Act be the federal health-based standards (MCL's or health advisories) established by EPA. This is current practice by DHES in implementing the Water Quality Act.
 - +Emphasis in both EPA strategy and Montana Water Quality Act is prevention--and HB 757 provides for prevention as the emphasis.
3. HB 757 has been developed over the past year in close consultation with the Montana Department of Agriculture Environmental Management Division and the Montana Department of Health and Environmental Sciences Water Quality Bureau.
 - +Goal is a prevention program that will work.
 - +Expertise of both departments went into drafting this program and the result is a program where each has its appropriate prevention and enforcement roles while jointly administering the program.
4. HB 757 dictates sound scientific methodologies.
 - +Both DHES and DOA are highly professional and this bill does not provide for any deviation from their current high standards of scientific procedures.
 - +Solid science is needed for any enforcement action to withstand the scrutiny of a legal challenge--and thus, these procedures would need to occur irregardless of language in HB 757.
 - +In drafting HB 757, we drew on experience in other states--and other states do not have the degree of professionalism we find in the DHES Water Quality Bureau and the DOA Environmental Management Division.
5. HB 757 proposes that those using ag chemicals should be part of the solution, not the problem. Noone benefits when ag chemicals show up in groundwater.

OUTLINE OF HB 757

EXHIBIT 32
DATE 3-10-89
HB 757

HB 757 -- Statement of Intent [page 1]

+Provides for rulemaking for each department; includes scientific methodologies.

HB 757 -- Section 1--Short Title [page 7]

+Montana Agricultural Groundwater Protection Act

HB 757 -- Section 2--Definitions [page 8]

+Fertilizer is included as an agricultural chemical for the purposes of this legislation. Puts Montana in the role of having a legal basis to institute management plans when EPA develops strategy for fertilizers.

+Includes scientific terms necessary in standard setting and monitoring

+Defines nonpoint and includes in point source "chemical mixing, loading, and storage sites and sites of agricultural chemical spills."

HB 757 -- Section 3--Policy [page 11]

+States goals of HB 757

1. Protect groundwater and the environment from impairment or degradation
2. Allow for proper and correct use of ag chemicals (alternative is ban to prevent entry into groundwater)
3. Provide for management of ag chemicals to prevent, minimize and mitigate their presence in groundwater.
4. Provide for education and training in groundwater protection.

HB 757 -- Section 4--Administration [page 11]

+DHES responsible for water quality standards, monitoring, providing comments on managements plans, promoting research.

+DOA responsible for ag chemical management plans, education, monitoring, promoting research

HB 757 -- Section 5--Rulemaking [page 12]

+Provides for rulemaking relative to responsibilities provided for in Section 4.

HB 757 -- Section 6--Educational Programs [page 14]

+Educational programs to prevent groundwater impairment conducted by DOA and MSU extension service

+Primary change from current situation is redirection of certification and recertification training to emphasize groundwater protection.

HB 757 -- Section 7--Research [page 15]

+Both departments may promote research--no significant change

+Fertilizer ton tax currently providing funds for fertilizer research and education--funds being expended for maximum yield studies--with maximum yield, fertilizer utilized and does not not have opportunity to migrate through soil to groundwater.

HB 757 -- Section 8--Confidentiality [page 15]

+Lone change from current practice is that in DHES, would not be necessary to go to court to prove trade secrets must be kept confidential.

+Positive impact would be to speed up obtaining information and assure that data available when DHES requires the information.

- HB 757 -- Section 9--Groundwater Standards [page 16]
+Provides that federal health-based standards will be the Montana health standards (current DHES practice)
+Provides Montana may set own health-based standards when no federal standard exists or when DHES thinks EPA has not considered recent scientifically valid data in setting standards.
- HB 757 -- Section 10--Monitoring Programs [page 19]
+Monitoring to determine if ag chemicals are present in groundwater or if are in soil and likely to enter groundwater.
- HB 757 -- Section 11--Evaluation and Use of Monitoring Results [page 20]
+Health-based standards are to be provided with monitoring results
+Monitoring to determine if ag chemicals present in soil or water, and determinations by DHES and DOA if management plans violated, standard exceeded, whether trend that chemical presence is increasing.
- HB 757 -- Section 12--Agricultural Chemical Ground Water Management Plans [page 23]
+General Management Plans
1. Recommended best management plans to prevent groundwater impairment; not promulgated by rule.
2. Preventative in nature before detection of impairment
3. Developed in consultation with farmers and ranchers, MSU and other available resources to assure are appropriate and will prevent groundwater impairment.
+Specific Management Plans
1. Mandatory compliance, promulgated by rulemaking process.
2. Developed when ag chemical is found at 50 percent of standard, definite trend of increase presence is validated, EPA proposes to suspend or cancel a chemical's use if management plan is not developed, ag chemical that may migrate to groundwater is being applied in a sensitive area.
3. Developed in consultation with farmers and ranchers in area involved in plan, MSU and other available resources to assure appropriate and will prevent groundwater impairment.
4. Plans shall be reviewed periodically to determine if need to be modified to assure groundwater protection.
- HB 757 -- Section 13--DHES to amend rules [page 27]
+Section fits specific agricultural chemical management plans into Montana Water Quality Act, defining them as reasonable land, soil and water conservation practices.
- HB 757 -- Section 14--Accounts [page 28]
+Establish that either department may set up special accounts for receiving gifts, grants, cost-share funds or other funds for ag chemical groundwater protection purposes. (Prime source would be EPA funds.)
- HB 757 -- Section 15--Special Funding [page 29]
+Provides for additional registrant fees on pesticides and fertilizers to fund the program. See fiscal note for amounts.
- HB 757 -- Section 16 -- Authority to investigate and inspect [page 29]
+Provides authority for DOA to assure compliance.

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3-10-89
757

HB 757 -- Section 17--Prohibited Activity [page 30]

- + (I) provides no change from current law:
 - a. labels state do not contaminate water;
 - b. currently when in compliance with reasonable soil, water and conservation practices, does not constitute degradation--and with HB 77, specific ag chemical management plans are defined as reasonable soil, water and conservation practices.

HB 757 -- Section 18--Compliance Orders [page 30]

- + Provides for soils cleanup whether or not a violation of HB 757 has occurred--this is prevention of ag chemicals from entering groundwater.

HB 757 -- Section 19--Injunctions Authorized [page 32]

- + Standard language in law

HB 757 -- Section 20 -- Emergencies [page 32]

- + Standard language in law; needed to enable department to act to protect public health, welfare and safety. In accordance with APA.

HB 757 -- Section 21--Violators subject to penalties [page 33]

- + Standard language in law; also prevents both departments from imposing penalty and fines for the same violation--a violation of a management plan also is a violation of the water quality act.

HB 757 -- Section 22 -- Administrative Civil Penalties [page 33]

- + DOA already has this authority in Pesticides Act for misuse of chemicals; no change for DOA as could utilize that authority.
- + DHES does not have this authority under Water Quality Act--this is primary change from existing law for civil penalties.
- + EPA is advocating use of administrative civil penalties as a more expedient means to assure compliance.

HB 757 -- Section 23 and Section 24 -- Judicial Civil Penalty and Criminal Penalties [page 35]

- + Standard language in law.
- + Provide for "teeth" in HB 757. While goal as is EPA goal is prevention, recognize need to have penalties to assure compliance with the law.

Testimony of the Montana Grain Growers Association
on HB757

Mr. Chairman, members of the committee, my name is Larry Johnson. I am a small grains producer from Kremlin and the president of the Montana Grain Growers Association. We support HB757, the Montana Agricultural Chemical Ground Water Protection Act. It is a practical and responsible solution to maintaining the quality of our water in Montana.

The bill is an effort by farmers, the chemical industry, applicators, environmental concerns, and regulatory agencies, to come to grips with the problem or potential problem of groundwater contamination.

As farmers, we have a great deal at stake in seeing that ground water contamination is prevented. Water is an extremely important asset to agriculture. We want to protect that asset for us and future generations. We do not want to use chemicals nor do we want to apply chemicals in a way that will endanger our water.

The chemicals we use in agriculture are very important to us. They provide us with protection against weeds and insects that would otherwise devastate Montana crops. We want to protect our right to use those chemicals until we have other tools to replace them. We can only protect that right by being responsible in our use of chemicals. We cannot use chemicals that will harm our ground water. We cannot apply chemicals in ways that are dangerous to our environment. This bill will help us determine any chemicals or application methods or practices that are not safe.

In short, this bill will give farmers and other pesticide users, applicators, chemical companies, and the State of Montana the standards to protect our groundwater -- to determine if and when groundwater is being contaminated and a way to correct any conditions that are causing contamination.

We urge the passage of this legislation.

EXHIBIT 34
DATE 3-10-89
HB HCB 757

MONTANA DEPARTMENT OF AGRICULTURE

TESTIMONY
ON
HOUSE BILL 757

HOUSE NATURAL RESOURCES COMMITTEE
Friday March 10, 1989

Chairman, Representative Bob Raney:

House Bill 757 establishes the basic foundation to develop a sound and realistic program to prevent the introduction of agricultural chemicals into Montana's groundwater. The bill as structured establishes cooperative educational and preventive programs to protect groundwater. It also establishes various compliance mechanisms to minimize or prevent further introduction of an agricultural chemical into groundwater.

The bill also establishes how state agencies and the university system would work together to maximize expertise and programs in carrying out the responsibilities required in this bill. The issues associated with agricultural chemicals and groundwater, chemicals, soils, climate, geology and water, requires the cooperation and knowledge of various state agencies, the university and federal agencies. This act will require active participation of the public when management plans, educational programs and related activities are being developed, implemented and evaluated.

This bill will allow Montana to plan and develop a sound program to address groundwater contamination, instead of reacting to a crises situation when human health, agricultural crops, livestock or the environment are threatened or damaged. We will require technical and financial assistance from EPA to carry out the duties of the bill. It is my current understanding that beginning in fiscal year 1990 EPA will have some funds to assist states in developing and implementing groundwater programs.

The farmers and ranchers of this state would normally be the first individuals impacted by chemicals in groundwater, therefore it is in their best interest to implement preventive measures to protect their drinking water and water used for crop and livestock production. The general public also has the responsibility to properly use and dispose of chemicals used around and in their homes.

The bill provides the basic framework for Montana to develop a realistic program in the 1990's which may have to be revisited in terms of the program and funding as we learn more about agricultural chemicals and groundwater.

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

EXHIBIT 35
DATE 3-10-89
HB HB 757



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

DHES Testimony In Support of HB 757

Groundwater is a very important resource in Montana and is used for a variety of purposes. It is used by 96% of the public water supply systems in Montana, supplying drinking water to 55% of the population. Almost all rural water users rely on ground water for their source of potable water. Therefore prevention of ground water should have a high priority in Montana.

Agriculture is likewise important in Montana and an important part of agriculture is the proper use of agricultural chemicals. When ag chemicals are applied to crops grown in permeable soils, the potential for chemicals to migrate down to the subsurface and contaminate ground water is great. ^{while} It appears that Montana does not have a widespread ground water contamination problem caused by pesticides in ground water however little is actually known about the quality of ground water in the state. Limited survey monitoring conducted by Dept. of Agriculture has detected low levels of pesticides in ground water in several locations. Concentrations of pesticides measured by the survey generally did not exceeded current drinking water limits. Significant problems with pesticides in ground water have been detected at a few pesticide mixing and loading sites where chemicals are stored and spray machinery is rinsed.

Montana Water Quality Laws are intended to protect both surface and includes provisions to prevent degradation of high quality waters. Nondegradation requires the quality of state water to be maintained at its existing high quality and that no pollutants which may lower the quality are allowed to enter state waters. Nondegradation is often difficult to maintain.

The ^{law} also recognizes that some change in water quality may occur even with proper use of land. Such changes in ground water quality resulting from nonpoint source pollutants from lands where all reasonable land, soil and water conservation practices have been applied would not constitute degradation.

This bill establishes a program whereby agricultural chemical ground water management plans will be developed and implemented. Best management practices will be developed by the Dept. of Agriculture to provide guidance and recommendations for pesticide use that prevent ground water contamination and better define what is "reasonable land, soil and water conservation practices."

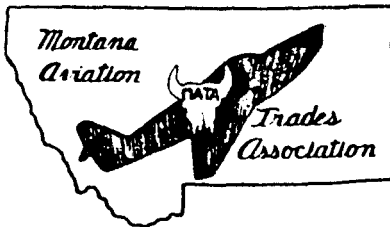
The plans will established controls on the use of pesticides and will require monitoring to detect any significant changes in ground water quality. In instances where problems with pesticides in ground water are detected, the management practices or the plan will be modified to protect the beneficial use of the groundwater.

Staff of the Water Quality Bureau has spent considerable time working with the Department of Agriculture and sponsors of this proposed legislation. While passage of this legislation would

mean additional responsibilities for existing staff from both the Dept. of Agriculture and the DHES, the threat to our groundwater resources justifies the effort. Funds generated by increased fees will assist in implementation of the requirements of this act. Money which is placed in the DHES agricultural ground water protection special revenue account will be used to pay for ground water sample analysis. Detailed studies of ground water flow have been conducted in only a few areas. A significant effort and expenditure will be required to investigate and define the ground water flow system in most areas before a management plan can be developed. This resource demand may well dictate the rate at which management plans can be developed.

In general, this bill will enhance the protection of the ground water in Montana by placing better management controls on the use of agricultural chemicals and we asked that you give it favorable consideration.

This bill should not be used to give preferential treatment to one activity having pollution potential. It should be used to allow and ensure proper use of important chemicals and provide environmental protection at the same time



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DATE 3-10-89
HB #B 757
2507 Roberts

Helena, Mt. 59601
(406) 443-7487

Statement of
John Semple
Executive Secretary
Montana Aviation Trades Association

Before the
Natural Resources Committee
of the
Montana House of Representatives
March 10, 1989

Mr. Chairman:

The Montana Aviation Trades Association (MATA) extends its sincere appreciation to you and the committee members for providing this association with an opportunity to make comment on H.B. 757, titled Ag Chemical Groundwater Protection Act.

During a normal year this Montana industry (Aerial Application) will apply seed, fertilizer, and crop protection chemicals to an acreage value in excess of 3,600,000 acres (30,000 acres each x 120 registered applicators, average). Some acreages will have repetitive applications, increasing the total of acreages treated. Precision and a high regard for safety are paramount, as agricultural aviation has the lowest accident and fatality record of any segment of general aviation. This is according to statistics compiled by the Federal Aviation Administration. We believe the industries' success in safety of flight transfers to pesticide use safety via our national association's (NAAA) operation SAFE program and ever improving state conducted certification and training programs.

On this basis and for the record, MATA supports HB 757. The concept of best management practices or specific area management plans allows for effective chemical crop protection along side groundwater protection.

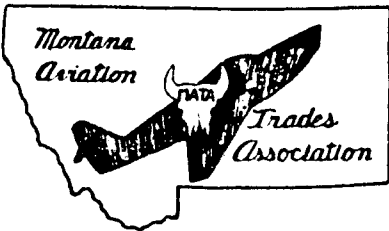


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2507 Roberts
Helena, Mt. 59601
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Specifically, mixing/loading sites and possibilities of secondary confinement, two areas of great concern to aerial applicators, will cost the industry under this bill. This shows our willingness to help protect a natural resource, groundwater.

Other areas of the act, including monitoring, research, education, groundwater classification and standards provide for a common sense approach to management of agricultural chemicals to prevent their entry into groundwater. MATA agrees with the purposes of this bill; that being, to protect groundwater, to provide for education and management practices, and above all, to allow for the proper use of agricultural chemicals which are valuable and necessary tools for agricultural production and disease control, and therefore, ultimately, an affordable, plentiful, nourishing food supply.

MATA thanks the chairman and the committee members for your interest in our comments regarding HB 757. Rather than taking valuable time from your schedules with additional testimony, I am available for answers to any specific questions the committee may have about aerial application, MATA, and HB 757.

EXHIBIT 37
DATE 3-10-89
HB HB757



P.O. Box 4507
Helena, MT 59604

TESTIMONY OF THE MONTANA WEED CONTROL ASSOCIATION
for the House Natural Resources Committee on
House Bill 757
Friday, March 10, 1989

Chairman Raney and Committee Members:

The Montana Weed Control Association sees the issue of ground water contamination as one of the most important problems facing Montana agriculture today and in the future. Weed and pest management is critical to the livelihood of Montana ag producers and we must start now to address the issue of potential ag chemical contamination of our ground water. We cannot protect ground water to the detriment of the state's number one industry, agriculture.

We fully support increased research and development of sensible, workable solutions to ground water contamination and, more importantly, prevention of ground water contamination. The proposed Ground Water Protection Act addresses the issues we find most important to help protect Montana agriculture as well as our valuable ground water resource and we fully support it.

Our Association is beginning an active program to solicit support of those most needed in the research effort to target their efforts towards this program. To do this we are asking representatives of Montana State University, Montana Tech, and the Montana Department of Agriculture to address our next Board of Directors meeting on their activities in this area (see attachment).

We urge the Natural Resources Committee to take the important first step in supporting passage of this bill. We cannot afford to wait for two more years to study the issue. It is upon us now.



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HB HB 757

POST OFFICE BOX 4507 • HELENA, MONTANA 59604

March 7, 1989

TO: Montana State University
Jim Welch
Russ Munfifering
Leroy Luft
Charles McGuire
Bill Inskeep
Hayden Ferguson
Jerry Nielsen
Jim Nelson
Greg Johnson

Montana Tech
Marvin Miller

MT Dept. of Agriculture
Everett Snortland
Gary Gingery
George Algard
Steve Baril
Barbra Mullin
Tom Deluca

FROM: The Board of Directors, MT Weed Control Association

At our Board meeting Feb. 23-24 we discussed the apparent lack of aggressiveness by MSU, MT Tech, and the MT Dept. of Agriculture regarding the groundwater contamination issue in the state.

We realize that several research projects are in progress. However, to our knowledge, little or no information is being delivered to the pesticide users in Montana. We urge you to respond to this issue in a coordinated, cooperative effort and make it the priority issue that it needs to be. To help facilitate this effort we would request that:

1.) Representatives of MSU research, MSU Extension, MT Tech and the MT Dept. of Agriculture each give us a 15-minute update of your progress and future plans at our Board meeting in Lewistown on May 4 and 5.

2.) You provide expertise for our Weed District Supervisor Training Program to be held in Bozeman on April 3.

Please contact Pete Fay at MSU (994-5061) with your reply. Thank you for your attention.

TESTIMONY OF DAVID OIEN ON
HB 757, AGRICHEMICAL GROUNDWATER PROTECTION
BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE
MARCH 10, 1989

Chairman Raney, members of the committee, my name is David Oien; I am a diversified farmer from Conrad, and a member of the Agriculture Task Force of the Alternative Energy Resources Organization (AERO). AERO is a statewide private, non-profit, membership organization dedicated to sustainable agriculture, renewable energy, and community-based development. AERO has over 400 members, most of whom are farmers and ranchers.

I oppose HB 757 because it does not meet the following minimum criteria--established by the farmers and ranchers who comprise AERO's Agriculture Task Force--for what we think should be in a good groundwater protection bill.

1. RECOGNITION OF OUR RESPONSIBILITY TO FUTURE GENERATIONS.
"We must protect all groundwaters of the state regardless of existing beneficial uses in order to provide for whatever future beneficial uses the natural water quality allows." (Oregon)

Point. This bill compels us to selectively protect our groundwater, and in fact it provides for government sanctioned degradation of portions of aquifers. As a rural water user, I find this unacceptable.

2. PROTECTION FROM ALL KINDS OF GROUNDWATER POLLUTION--including point and nonpoint sources from pesticides and nitrogen fertilizers.

Point. This bill makes no provision for cleaning up groundwater polluted from unidentifiable sources, or contaminated from proper field use of chemicals. As a rural water user this makes me nervous. And that the bill does not require action to lessen the threat to our groundwater from fertilizer, which I think is significant, is inexcusable.

3. A COMMITMENT TO PREVENTING CONTAMINATION.

Point. If I'm going to be expected under this bill to comply with groundwater management plans, I want some assurance the plans will be practical, effective, and feasible. I'm not convinced this bill provides for the resources necessary to give producers plans that will work--both for the producer and for protection of the groundwater. The expertise, manpower, research and demonstration that these plans will depend on is just not here.

4. PUBLIC PARTICIPATION AND ACCESS TO INFORMATION. Even though management plans will be adopted by rulemaking, which provides the opportunity for public comment, I think the management plans should originate from site-specific planning committees of local producers, other applicators, local water users, chemical manufacturers, and public agency staff. It seems appropriate that those whose activities are causing the problem and whose water is threatened ought to be part of the solution. Local planning committees would also address in part the issue of overburdened state agencies and inadequate funding.

5. ADEQUATE FUNDING TO GET THE JOB DONE.
It's just not in this bill.

Point. A tax on manufacturers based on their gross sales of agricultural chemicals in Montana would raise more money and place the burden for addressing the problem more proportionally on the specific sources of the problem, that is, those chemicals entering into the environment in the greatest amounts. The contaminating products should fund the necessary research, demonstration, and education components of a truly preventive program.

In summary, HB 757 does little to help Montana producers develop the tools we need to begin reducing the volume of high-cost chemicals we apply to the environment.

Thank you.

TESTIMONY OF NANCY MATHESON ON
HB 757, AGRICHEMICAL GROUNDWATER PROTECTION
BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE
MARCH 10, 1989

Chairman Raney, members of the committee, my name is Nancy Matheson; I am representing the Alternative Energy Resources Organization (AERO). AERO is a statewide private, non-profit, membership organization dedicated to sustainable agriculture, renewable energy, and community-based development. AERO has over 400 members, most of whom are farmers and ranchers.

AERO opposes HB 757 because its basic premise contradicts what should be the basis for an effective and cost-effective groundwater protection strategy for Montana, that is, prevention of groundwater contamination. This bill would have us react to contamination rather than prevent it in the first place. If nothing else has, Superfund should have taught us how un-cost-effective a reactive approach is. Also, this bill is not funded adequately--and its very limited dollars may well be used up by various requirements in the bill before any protective action has been taken. We think Montanans, and rural citizens who more than anyone depend on the groundwater resource, deserve the best groundwater protection our collective ingenuity can devise.

At the same time, AERO commends the originators of this bill for recognizing the need for groundwater protection in Montana, and for acting on that recognition and creating with this bill a basis for debate and action.

It appears that HB 757 would work something like this: No standard will be set until a chemical is found in the groundwater, or until the state can confidently predict that it will reach groundwater; language in the bill subjects this prediction to a high standard of scientific certainty that may be impossible to meet because prediction of the fate and transport of agricultural chemicals is expensive and not an exact science; then the bill does not require the state to monitor until a standard is set--thus, we have what appears to be a chicken and egg situation. It is extremely difficult to predict fate and transport of ag chemicals, but it is clearly impossible to do so without a good data base. Yet, this bill says the state cannot compel people to monitor or share monitoring information without first setting a standard--and thus it goes on in circles! Let me sum this up: We can't look for chemicals until we adopt standards and, given that the fee structure imposed is extremely small, in practice we won't adopt standards until we've found chemicals. This bill is clearly unworkable.

Now the fact is, AERO likes the idea behind one of the key strategies in this bill: chemical management plans. But the problem here is that in this bill the management plans function as responses to problems--not as prevention tools. The inadequate funding means the state will prioritize, but the bill does not make clear how priorities will be set. Rather than trying to prevent problems by identifying the greatest threats to the groundwater, the management plan development process will likely end up chasing problems around--happening only after contamination has been found.

The state of Oregon just gathered the kind of ag chemical fate and transport data this bill describes in the statement of intent and elsewhere. It cost Oregon \$500,000 to characterize one chemical (dacthal) just in eastern Oregon! This is what we're looking at with this bill. This money didn't go for clean-up, or for prevention. \$500,000 bought a description of the problem.

Standards, on which this bill relies heavily, can be valuable for helping us understand what is occurring in the environment and for informing the public, and as guidelines or triggers for corrective action. But because this bill uses standards as a prerequisite for action, standard-setting ends up setting the pace for pollution control. What should set the pace is our concern for the groundwater resource and our commitment to its protection. We must not use standards as the sole basis for action or as representing acceptable levels of pollution. Our first line of defense must be control at the source.

Adopting standards for some chemicals will be easy--there are federal promulgated, nonpromulgated, and interim numerical standards for quite a few pesticides. These standards, by the way, are not all health-based but the bill does not ask us to make distinctions based on this fact. For other chemicals, like those for which chronic toxicity tests have not been done, standard-setting will be very difficult. And the issue of cancer risks does not appear in this bill. Are we accepting one in a million or one in a hundred extra cancer deaths from pesticides in our groundwater? The bill does not tell us.

Groundwater management plans are the way to go--when they are used to control pollution at its source. Management plans can help us reduce the volume of chemicals we use in the first place, through classical Integrated Pest Management (IPM) and using legumes in our crop rotations, for example. But, reducing the volume of chemicals we use is neither encouraged by this bill, nor is it even acknowledged as desirable.

Groundwater management plans are the way to go--but we have to recognize that many BMPs that offer good potential for protecting our groundwater have not been well developed. Producers cannot be expected to change how they farm without adequate information. There aren't the resources in this bill to better develop the more complex BMPs, ones that would rely on, for instance, reduced-use of chemicals like IPM and cereal-legume rotations. (The latter is actually a poor example because it assumes fertilizers would be addressed, which of course they won't be.)

Groundwater management plans are the way to go--if producers are provided with the information they need in a form that is useful and practical. If we expect producers to comply with management plans, a well-developed demonstration program is a prerequisite. Demonstration has long been a basic element of Soil Conservation Service programs for producers. Lack of resources for demonstrations could leave farmers and ranchers unable or unwilling to comply--putting them in a real bind.

Groundwater management plans are the way to go--if they address the threats to our groundwater. Fertilizer management plans are not required by this bill "until EPA implements a program to protect groundwater from fertilizers." Yet according to the EPA Office of Groundwater Protection, the EPA has no ongoing program, no study, and no plan for a regulatory or voluntary fertilizer-related program. The EPA Office of Policy and Planning Evaluation "might be interested in the subject." [from a phone conversation with EPA officials on 3/9/89] Not very encouraging is it? Yet there is compelling evidence that nitrates from fertilizer N should be of concern to Montanans, including those in areas of heavy clay soils. (I will be glad to share the sources of some recent studies if the committee so requests.) This bill actually prohibits action when the source of nitrates is found not to be from commercial fertilizer. Whose interests are served by prohibiting a response to nitrate from any agriculture-related activity such as manuring or feed lots? Surely, rural water users deserve as much as municipal water users to have their children protected from blue baby syndrome, hypertension and sudden infant death syndrome, and their adults from gastric cancer.

Groundwater management plans are the way to go--but not if they are used to protect selected uses of groundwater instead of the full resource that belongs to all Montanans. For certain groundwater classifications, management plans will actually strive for less protection under this bill.

Groundwater management plans are the way to go--but not if they are used to protect one part of an aquifer without equally protecting other parts of the aquifer. Groundwater moves, after all, and if some of it is going to be classified to allow for more pollution we better be sure it is not going to end up someplace we don't want it--like drinking and surface water. Since groundwater classification in Montana can be based on a single water sample, water classified to allow for more pollution may well end up mixing with water of a higher classification in the same aquifer. We could easily spend more than the millions of dollars classifying aquifers that tiny Connecticut has. But we won't be buying solutions to problems. Classification, which provides guidelines for much of the action called for in this bill, is a bad idea borrowed originally from surface water protection strategies for which it wasn't such a bad idea. But surface and ground water do not behave alike, making this approach inappropriate for groundwater.

So, even though AERO likes the idea of groundwater management plans, we oppose this bill because it so fundamentally contradicts the idea of preventing contamination at its source, particularly through the specific use it makes of standards and groundwater classification that I've described. Let's not pass a law that won't do the job for us.

Finally, AERO strongly recommends an interim study that would allow for consideration of a more comprehensive, more cost-effective, and more feasible approach. Because groundwater belongs to all Montanans, such a study must incorporate at every level and at every step interested citizens, organizations and public agencies working together with the legislature. AERO is committed to being at the table.

And again, I'd like to thank Pam for all her hard work which has generated this important policy debate, and created the potential for continued debate and public awareness of groundwater issues.

Thank you.

Effective National Groundwater Protection Legislation

By Velma Smith

From Long Island to the Big Springs Basin of Iowa, the signs are clear: pesticides are making their way into groundwater. Monitoring programs are far from exhaustive and the national database remains patchy, but EPA states that "... enough information has been reported to indicate the problem is widespread in certain parts of the country."¹ Stories of EDB in Florida wells, DBCP in Hawaii, and aldicarb in Wisconsin have been recounted and reenacted throughout the U.S., and the myth that "properly applied" pesticides will not pollute groundwater appears to be largely debunked.

So, with erroneous, old assumptions crumbling under scrutiny, it might appear that federal policymakers will take aggressive action to institute far-reaching solutions. Perhaps ... but not without difficulty.

While our nation's lawmakers are being pressed for action by a few of their own, notably Senators Patrick Leahy (D-VT), Dave Durenberger (R-MN) and Congressperson Jim Oberstar (D-MN), the pesticides in groundwater debate in Washington still seems to bog down in an existing law that has little to do with effective environmental protection.

Although the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) governs the marketing of pesticides and speaks to their use, its machinery is driven not by a protection goal but by a huge bias toward maintaining the availability and saleability of individual agricultural chemicals. With its unwieldy procedural maze, its lack of authority for citizen suits, the unique requirement for government payment prior to banning of dangerous chemical products, and reliance on a cost-benefit standard, FIFRA tells us that it is a law incapable of addressing chemical threats to groundwater.

Velma Smith is the director of the Groundwater Protection Project at the Environmental Policy Institute; 218 D Street SE; Washington DC 20003. (202) 547-5330.

Moreover, it grows increasingly clear that the FIFRA regulatory scenario, weak as it is, was crafted to address acute, immediately observable ill effects. The law and its designated implementors at EPA are severely handicapped when it comes to dealing with subtle, insidious effects of chronic exposure to low doses of toxic chemicals. But it is precisely this type of health effect which is the greatest public concern with groundwater pollution.

Thus the first and probably most crucial legislative need is for policymakers to look beyond the existing FIFRA framework for solutions.

Meaningful answers must then derive from a commitment to public health protection, a recognition of the uncertainties about the toxic effects of chemicals, an understanding of the nature of groundwater, consideration of private well users, respect for the needs of the nation's farmers, and thought to future generations.

Several basic concepts are key to any effective solutions.

A Goal of No Degradation

First, the lessons of Superfund* have taught us the costs of contamination. Whether the source be landfills, storage tanks, or pesticide application, groundwater cleanup is difficult and expensive at best. Prevention of pollution is our only rational policy option.

The present federal laws lack a clear commitment to prevent rather than respond to groundwater contamination by agricultural chemicals. The absence of a goal of nondegradation reflects more than mere oversight and has left room for a policy which sanctions contamination. Supporters of "standards" of degradation argue that the press of economics allows us only to set the level of pollution that can be declared acceptable. A goal of no degradation is dismissed as impractical.

But underlying that "pragmatic" approach is simply a determination that

we continue to use groundwater as a free, public sewer system. That approach turns a blind eye to uncertainties about the health effects of chemical exposure, dismisses the complexities of the hydrologic system, and shrugs off responsibility to future generations.

In place of a timid "partial contamination" goal, we need from Congress a clear resolution to strive for the elimination of toxic pollution; a determination that no avoidable pollution is "acceptable"; and a commitment that will drive resources and ingenuity toward crafting better means of pollution prevention.

Protection for All Groundwater

Along with a goal of nondegradation, we need a federal program that seeks protection for *all* of our groundwater resources.

Here, an old theme from the landfill debate has been resurrected: "Pollution is not pollution until it reaches the neighbor's tap." Its proponents lost their argument in the reauthorization of federal hazardous waste legislation. Nonetheless, the chemical industry is now poised to offer this sleight-of-hand trick once again.

Their argument states that some groundwater will be used for drinking; the rest is fair game for pesticide waste disposal. Somehow, the states and the federal government will understand sufficiently the complexities of groundwater fate and transport throughout our agricultural areas. Predictions of future groundwater needs will be made, and pesticide users will then decide on the appropriate level of caution in the appropriate levels.

That policy grossly oversimplifies scientific and technical realities, ignores our inability to predict or control future pumping patterns, and is doomed to failure. Federal law must not impose artificial distinctions on the groundwater flow system; it must seek to protect the full resource.

Monitoring Requirements for Pesticide Makers

Third, effective federal legislation

*Superfund, a national program to clean up toxic waste, was created by the Comprehensive Environmental Response, Compensation, and Liability Act.

The Great Groundwater Contamination Debate

By Richard Kelley

In this thought-provoking article, Richard Kelley challenges the most common approach to pesticide contamination of groundwater: regulation by setting of acceptable standards of groundwater degradation. In a second article ("No Further Degradation," p. 11), Kelley describes the Iowa legislation that embodies an alternative approach: prevention of groundwater contamination by education, reporting, and alteration of practices.

The comparative results of Iowa's new groundwater legislation and California's different legislation (see "Can Pesticide Leaching be Halted?" p. 13) need to be studied soon . . . and acted upon.

—Ed.

Groundwater quality has become the environmental issue of the decade, and from Washington, DC to Hawaii the debates have begun over how serious the problem is and what the solution(s) should be. The debates are over in Iowa, at least until 1989 when Iowa's new groundwater protection program must be reviewed and a report made to the legislature on what progress has been made in protecting the resource. In the course of developing Iowa's program, two clearly differing viewpoints regarding the issues were evident.

Although every aspect of the groundwater bill was debated at length, one area was more hotly debated than any other: that of agricultural chemicals in groundwater. This article describes briefly the arguments used by opponents of the 1987 Groundwater Protection Act, followed by the responses used by its supporters.

Detection Thresholds

There are those who suggest that the concentrations of chemicals observed in

Richard Kelley is an Environmental Specialist with the Iowa Department of Natural Resources. He has worked in Iowa's groundwater programs for the last seven years. Recently, he co-authored the Iowa Groundwater Protection Strategy 1987.

groundwater are very, very small and that such small concentrations represent recent advances in analytical technology. Such arguments suggest that the chemicals have been present in groundwater for long periods of time and if new technology allows us to identify them, it is not sufficient grounds for concern.

In fact, the technology in use in Iowa has not changed since the early 1970s. As early as 1974, researchers at Iowa State University were reporting atrazine (in the parts per billion range) in the shallow groundwaters of central Iowa and the finished water of several of the state's larger public water supplies.¹

"Although every aspect of the groundwater bill was debated at length, one area was more hotly debated than any other: that of agricultural chemicals in groundwater."

We are now routinely reporting the occurrence of human-made chemicals in the groundwater because of the state's effort to look for the compounds. Until 1981, except for the Iowa State University study, little or no monitoring for synthetic organic compounds was conducted in the state.

The concentrations of human-made chemicals reported in groundwater are low, generally less than 10 parts per billion.² However, low concentrations do not mean that they are safe. In fact, low concentrations of a few of these compounds are clearly a threat to human health. For many other chemicals we simply do not know if they are safe. If our objective is to protect human health and the groundwater resource, the only reasonable approach, because of the nature of the products and because they do not occur naturally, is to

be concerned and cautious about how we release these compounds into the environment.

Human Health Effects

Many people have suggested that perhaps Iowa is being too cautious in its approach to the problem. After all, there is not one body of data to show that exposure to these compounds in low concentrations has resulted in adverse human health effects. Indeed, you cannot show a cause and effect relationship between exposure and adverse human health.

In fact, you cannot show a direct cause and effect relationship between smoking and adverse health effects. However, reasonable people who have looked at the data agree that smoking will indeed adversely affect health. In the case of pesticides in groundwater we do see a strong association between exposure and adverse health effects. This growing body of inferential data does warrant our attention and concern.

Costs of Pesticide Registration

Chemical companies spend millions on research to get their products on the market. Some of this research is conducted to meet the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The data from this research are submitted to EPA who, based on the data, approves the product for use. Some argue that the data has to be unquestionably good if that much money was spent to obtain it. Thus, if EPA, using that data, approved the product for use, it must be safe.

It should be pointed out that, with

"The cost of getting a [pesticide] to market is the cost of doing business in this nation and that cost is passed on to the consumer."

LimBil 42
DATE 3-10-89
HB 157

HOUSE BILL 757

Proposed Amendments of Trout Unlimited

Page 2, Line 15: Delete everything through page 6, line 23.

Page 7, line 25: Insert " (contamination) means the direct or indirect introduction into ground of any agricultural chemical caused in whole or in part by human activities." Change the numbering of definitions after this accordingly.

Page 8, Line 3: delete everything through line 5 and insert: "which occurs beneath the surface of the earth in a saturated geological formation of earth or soil."

Page 8, Line 6: Delete everything through Line 11. Everywhere in the bill where the term "ground water impairment" appears, replace it with "contamination".

Page 10, Line 10: Insert "(19) (Preventive action limit) means a level of contamination at which preventive action will be taken at the early signs of contamination to ensure that standards for an agricultural chemical are not attained or exceeded. Preventive action limits will be 20% of the standard."

Page 11, Line 9: After "chemicals" delete everything through line 10, and insert "and to reduce, where possible, the level of agricultural chemical use."

Page 11, Line 118: after "protection", insert ",", delete "and" and after "use", delete "." and insert ", and in the use of agricultural methods alternative to agricultural chemical use."

Page 19, Line 16: delete "may" and insert "shall"

Page 20, Line 8, delete "preliminary"

Page 20, Line 9: after "to", delete everything through "on" on line 10.

Page 20, Line 10: Insert "to" before "the public".

Page 21, Line 3: after "(a)", delete "whether"

Page 21, Line 4 after "water", insert "and whether the concentration of that chemical".

Page 21, Line 7: After "(ii)", Delete all of line 7 and line 8, and insert "any action level for the agricultural chemical:"

Page 22, Line 15, Delete all of subsection (6).

Page 22, Line 14: after "when", delete "the level of".

Page 23, Line 15: after "water", insert "." and delete the remainder of the sentence through line 17.

Page 24, Line 11: Delete this sentence.

Page 24, Line 11: Insert the following:

"(4) A person under whose land contamination by agricultural chemicals has been detected shall inform any prospective purchaser of the presence of the chemical and the levels at which it has been detected.

(5) a person whose land is within an agricultural chemical ground water management plan shall inform any prospective purchaser of the existence of the plan and of his specific obligations under the plan."

Page 25, Line 15: Insert "(c) Procedures for the initiation of preventive action if a preventive action limit for an agricultural chemical is reached."

Page 26, Line 10: delete "and".

Page 26, Line 11: delete "." and insert ";".

Page 26, Line 12: Insert "(k) alternative soil fertility practices."

Page 26, Line 22: delete "is not required to" and insert "may"

Page 26, Line 24, after "plan", delete everything through "fertilizers" on line 25.

Page 27, Line 5: after ".", delete everything through "section." on line 7.

Page 30, Line 8: after "impairment" insert "." and delete everything after "impairment" through line 17.

Page 30, Line 20: delete "may", insert "shall".

Page 31, Line 2: after "." delete everything though line 5.

Page 32, Line 8: Insert the following:

"(6) If the department determines under subsection (5) of this section that the person does not have the financial resources to pay for the cleanup, the department shall institute an action against the manufacturers of the agricultural chemical, for the cost of necessary cleanup."

Page 32, Line 25: After ".", insert "at a minimum, an emergency exists when a standard has been reached or exceeded."

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Page 33, Line 9: Delete everything through line 15.

Page 33, Line 20: Delete subsection (5) in its entirety.

Montana Audubon Legislative Fund
Testimony on HB 757
House Natural Resources Committee
March 10, 1989

Mr. Chairman and Members of the Committee,

My name is Janet Ellis. I am here today representing the Montana Audubon Legislative Fund. The Audubon Council is composed of nine chapters of the National Audubon Society and represents over 2500 people statewide.

The MT Audubon Legislative Fund opposes HB 757.

We oppose HB 757 because we feel that it does not address or ignores several basic principles which are necessary to consider in a groundwater protection plan. Five of these basic premises are as follows:

1. A groundwater protection program should do just that: PROTECT. It should rely on protection and prevention as opposed to clean-up and correction.
2. A groundwater protection program should not rely on standards to serve as a level of acceptable contamination. Standards should be utilized to prevent rather than respond to contamination by triggering appropriate investigation and action before the concentration of contaminant attains the level of the standard.
3. Groundwater protection cannot ignore the interconnectedness of groundwater to surface water.

In sect. 2 #6 (p.8 lines 2-5), the definition of "groundwater" is limited to beneficial uses which does not take into account the fact that groundwater affects surface water whether or not anyone is putting it to "beneficial" use - and so needs to be protected.

4. A groundwater law must aim to protect the full resource and not just selected segments of it.

Many times throughout this bill, the classification of water is used. (For example, p. 3 lines 17,18, "ground water has beneficial human or environmental uses based on its classification.") The problem with classification is that the groundwater, surface water, all water is interrelated. We need protection for the entire resource, not just parts of it.

5. We cannot wait for standards and toxicological information on chemicals before we work on pollution control. Very few chemicals have had standards set. It is an expensive and lengthy process. To expect our state to do this, it would require both money and facilities - another impediment to the process. A process that needs to begin now with source controls, and not wait for water quality standards.

These are some of the major points that we think a groundwater protection bill should consider. HB 757 has many problems including inadequate funding for monitoring propositions, problems in determining specific standards on which this bill would rely, looking at the problem in pieces as opposed to a whole, as well as not meeting the basic framework outlined above.

Audubon urges you to vote "Do Not Pass" on HB 757.

Thank you.

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

TESTIMONY OF THE NORTHERN PLAINS RESOURCE COUNCIL ON HB 757.

Mr. Chairman, Members of the Committee,

My name is Brant Quick. I am a registered lobbyist with the Northern Plains Resource Council (NPRC), and am here to present testimony on their behalf.

NPRC neither supports nor opposes HB 757. We believe that there are a number of positive and negative aspects to this bill. We would like to commend the promoters of this bill for recognizing the need to protect one of Montana's most valuable resources - our groundwater. This has long been a priority for NPRC. We also realize that the efforts of those who developed this bill have been substantial.

One of the most important parts of this legislation is the development and use of management plans. The use of management plans and better education should be an integral part of any agrichemical groundwater protection bill. However, we feel such plans may be ineffective as called for in HB 757 because of what we consider to be significant flaws in the bill.

Perhaps the most serious problem is that the bill is more reactive than preventive. Once groundwater contamination is detected, levels are almost sure to increase even if all chemical application is discontinued because chemicals already in the soil will continue to seep into aquifers.

Further, the measures called for by HB 757 do not appear to be cost-effective. The cost of adequately monitoring for non-point source pollution would be far more than is called for in this bill. Also, cleaning up an aquifer which is already contaminated is cost prohibitive, if not impossible.

Finally, it is our opinion that further analysis of the problems, and more importantly, the solutions is needed. We support the enactment of a study resolution to look closely at some of the more innovative, preventive and cost-effective approaches being used in other states. NPRC is very committed to public involvement. For this reason, we believe such a study should include public participation as an integral part of the development process.

Thank you for your consideration.

Riparian Areas

What are riparian areas?

- *Riparian areas are the areas immediately surrounding streams, springs, seeps, ponds, potholes or other bodies of water.
- *They have very poorly drained soils and support plant communities that are tolerant of a very high water table and resistant to flood disturbance.
- *Along live streams, riparian vegetation stabilizes the erosion and deposition of sediment and maintains the quality of shallow floodplain aquifers.

Why are riparian areas important?

- *Riparian areas are very productive: they support a greater concentration of wildlife species than any other type of habitat.
- *Big game uses riparian thickets for hiding cover, for important winter browse, and as migration corridors between blocks of unsheltered land. Development close to these corridors discourages game from using them, putting stress on already limited habitat.
- *While waterfowl and shorebirds are obviously dependent on riparian areas, many other birds are too: in western Montana, 89 of 151 land bird species use riparian habitat for nesting; 32 of the 89 species will breed only in riparian areas.
- *Riparian vegetation maintains good water quality and fish habitat by shading pools to maintain temperature, providing fish cover near banks, holding soil in place, and supporting biological activity that naturally filters runoff into streams.
- *Healthy riparian ecosystems are an important visual/aesthetic resource for Montanans and tourists.

Are riparian areas in need of conservation measures?

- *Yes. Riparian areas are threatened by a wide variety of land uses. It is the fastest disappearing of habitat types.
- *Riparian areas are very limited to begin with. In western Montana, one half of one percent of the land area is riparian. Even less land is riparian in the drier east part of the state.
- *Development of riparian areas can occur from a variety of sources: poor forest practices, development of transportation systems (roads & railways), cropping and pasture development that destroy riparian areas, etc. Physical rehabilitation of riparian areas that have degenerated or been destroyed can go a long way toward improving these critical areas.
- *Water pollution problems from long-term planning for residential waste disposal can overload groundwater with nutrient-rich wastes, which then seep into streams. Cases in Montana where this has occurred have been both biologically detrimental and aesthetically unpleasant.
- *Dewatering stream channels can have detrimental impacts for a variety of reasons: pollutants are no longer diluted, fish populations can not be supported, or streamside vegetation can not be supported. Ways to allow water to remain in the stream are critical to the long term maintenance of Montana's riparian areas.

100 BEST TRAIT STREAMS

Southeast

Georgia
Chattahoochee River
Conasauga River

Maryland
Big Gunpowder Falls

North Carolina
Davidson River
Nantahala River
South Mills River

South Carolina
Chattahoochee River

Tennessee
Clinch River
Hiwassee River
Little River
South Holston River

Virginia
Rapidan River
Smith River

Midwest
Arkansas
White River

Michigan
Au Sable River
Boardman River
Little Manistee River
Pere Marquette River

Missouri
Crane Creek
Current River
North Fork of the White River

Wisconsin
Black Earth Creek
Brule River
Lawrence Creek
Timber Coulee Creek
White River

Northeast

Connecticut
Housatonic River

Maine
Machias River
West Branch of the Penobscot River

Massachusetts
Quashnet River

New Hampshire
Upper Connecticut River

New York
West Branch of the Ausable River
Beaverkill River
Delaware River
Esopus Creek
Neversink River
Willowemoc Creek

Pennsylvania
Fishing Creek
Letcher Spring Run
Slate Run
Spruce Creek

Vermont
Battenkill River

Rocky Mountains

Arizona
Colorado River

Colorado
Dolores River
Frying Pan River
Gunnison River
Roaring Fork of the Colorado River
South Platte River

Idaho
Henry's Fork of the Snake River
Kelly Creek
Lemhi Creek
Lochsa River
Middle Fork of the Salmon River
Silver Creek
South Fork of the Boise River
South Fork of the Snake River
Wood River

Montana
Armstrong's Spring Creek
Beaverhead River
Big Hole River
Bighorn River
Bitterroot River
Gallatin River
Lower Madison River
Middle Yellowstone River
Missouri River
Nelson's Spring Creek
Rock Creek
Smith River

New Mexico
San Juan River

Utah
Green River

Wyoming
Firehole River
Gibbon River
Green River
North Platte River
Upper Madison River
Upper Yellowstone River

West Coast

Alaska
Agulupak River
Copper River
Goodnews River
Kakek River
Naknek River
Newhalen River
Sitkoh Creek
Situk River
Talachulina River
Talarik Creek
Togiak River

California
Fall River
Hat Creek
McCloud River
Smith River
Upper Sacramento River

Oregon
Deschutes River
North Fork of the Umpqua River
Williamson River

Washington
Hoh River
Quinalt River
Salk River
Sol Duc River

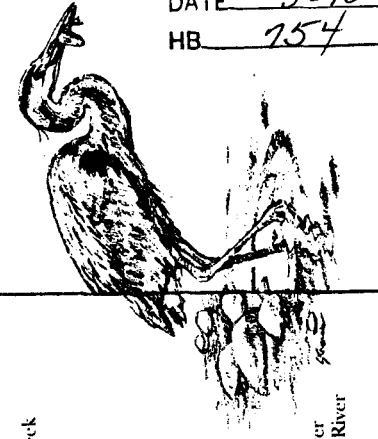


EXHIBIT 46
DATE 3-10-89
HB 754

AND THE PEOPLE WHO CHOOSE THEM...

Gaylord R. Alexander
Gerald A. Almy
George Anderson
Robert A. Bachman
John Bailey
Christopher M. Batin
Robert J. Behnke
Gary A. Borger
Silvio Calabi
J. Leon Chandler
Russell Chattham
Yvon Chouinard
Donald A. Duff
David James Duncan
Dave Engerbretson
Michael Fong
Keith Gardner
Jerry Gibbs
John Gierach
Delano R. Graff
Jack Hemingway
David L. Hughes
Robert L. Hunt
Bob Jacklin
Verlyn Klunkenberg
Thomas McGuane
Patrick F. McManus
R. Barry Nehrung
Geoffrey Norman
Leigh H. Perkins
Darius C. Proper

Ed Van Put
John Randolph
John Rasmus
Nathaniel Pryor Reed
Terry D. Roelofs
E. H. Rosborough
Tom Rosenbauer
Bob Saile
Monte Seehorn
Mary Sherman
Gary Soucie
Doug Swisher
Spencer E. Turner
Robert Crich
Charles F. Waterman
Ray J. White
Dave Whitlock
Leonard M. Wright, Jr.
Lee Wallf



MONTANA FARM BUREAU FEDERATION

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

EXHIBIT 47
DATE 3-10-89
HB 754

BILL # HB 754; TESTIMONY BY: Valerie Larson

DATE 3/10/89; SUPPORT _____; OPPOSE oppose

Mr. Chairman, members of the Committee, for the record, my name is Valerie Larson, representing over 3500 Farm Bureau members from throughout Montana.

Mr. Chairman, House Bill 754 is an attempt to circumvent many basic and Constitutional guarantees to private citizens, especially private property owners, who either by choice or by chance, happen to have their place of business located on or by any river, stream, creek, or other body of ~~watex~~ flowing water in Montana.

This bill would seriously impair and infringe upon the right of any rancher or other property owner to use his "place of business" without the Department of Fish, Wildlife, and Parks, and thus, every fisherman, sportsman, and recreationalist in the state and nation busy usurping his legal and Constitutional right to manage his own business. Its easy for those who have no financial interest or consequence to make decisions for someone else.

Farm Bureau has long been in the forefront all across this country in the protection of private property rights. This also extends to private property along all streams and rivers in Montana. Farm Bureau opposes any governmental action that infringes on an individual's right to own and manage private property. Any erosion of that right weakens all other rights guaranteed to individuals by the Constitution.

While the concept of the bill may be admirable, the implementation of this bill would trample private property rights, lead to confrontation where it isn't necessary, and create a whole new layer of bureaucracy to compete with the layers of bureaucracy that are already competing to justify their existence.

Mr. Chairman, Farm Bureau, and myself, strongly urges a DO NOT PASS on HB 754.

Thank you for the opportunity to speak.

SIGNED: Valerie Larson

EXHIBIT 48
DATE 3-10-89
HB 754

March 10, 1989

Rep. Hanger

RE: HB 754

From: Teton River Water Users Assn.

Jesse Malone, Jr

RR 2 Box 204

Choteau, MT 59422

Opponent

We object to the leasing or purchase of water or water rights. I can envision how this could disrupt the water distribution of a stream, to the extent that agricultural production in the basin would be limited. Much of Montana's economy depends on agriculture. Don't hamper the producers ability to maintain our agricultural economic base.

I suggest that paragraph 2b, of Section 3, be stricken from the bill.

EXHIBIT 49
DATE 3-10-89
HB 754

March 10, 1989

TO: House Natural Resources Committee

FROM: Kim Enkerud, Executive Secretary, Montana Association of
State Grazing Districts

SUBJECT; House Bill 754 - An act establishing a river restoration
program and river restoration account.

Mr. Chairman, Members of the Committee:

My name is Kim Enkerud. I am the executive Secretary of the Montana Association of State Grazing Districts. Our organization is also a member of the Montana Riparian Association and I am actively involved in the Montana Riparian Education Committee.

I would like to pass out a diagram explaining just where a riparian zone is in regard to land classification zones. With this in mind, I feel the definition of associated lands on page 2, line 8, 9 and 10 is inappropriate when talking about riparian. The Montana Riparian Association is in the process of identifying and classifying riparian areas in the state of Montana. I feel it is a bit inappropriate for this bill to attempt to designate areas, when many land agencies have not yet come to an agreement on just what a riparian area is. The diagram I have just passed out is what is, at best, a tentative agreement of a riparian area.

While it is true that improved riparian zones will enhance fish and wildlife habitat, there is no real merit that the leasing or purchase of water or water rights will do the same thing. ^{to improve the riparian zone} In fact, from viewing the diagram I have presented, you are not even talking about the riparian zone. It is the aquatic zone.

Management is what improves riparian zones. Management that is achieved through cooperation of many landowners, agencies and organizations.

There are many projects in Montana and the surrounding states where riparian zones were improved through a lot of hard work and effort, NOT through the lease or purchase of water or water rights.

EXHIBIT 49
DATE 3-10-89
HB 754

An example is a project in Oregon where the federal agencies, grazing permittees, the Isaak Walton League and Oregon Cattlemen's Organization linked together to improve the riparian zone, improved the fishing and helped the rancher. This was done NOT by leasing or purchasing water or water rights, but by working cooperatively together.

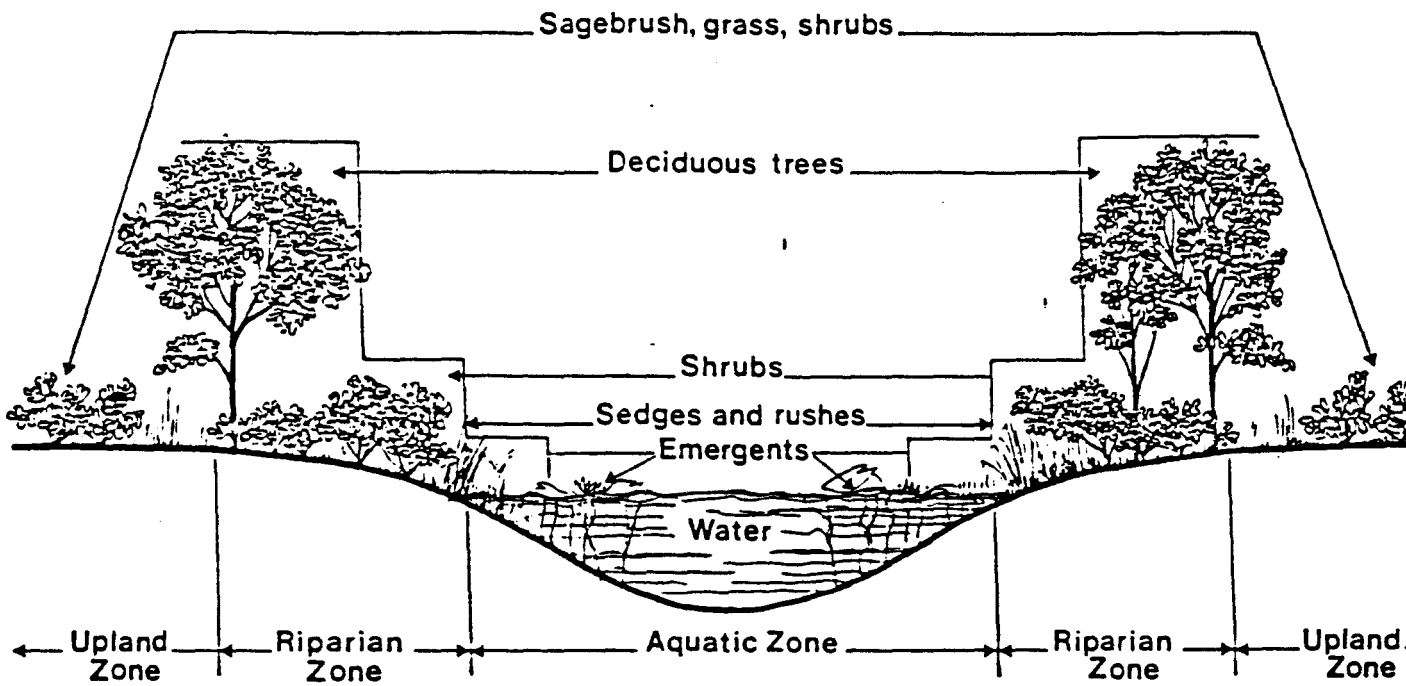
Here in Montana, the riparian education committee is trying to do the same thing. Starting last year, I, along with several private organizations, the Soil Conservation Service, Bureau of Land Management, Forest Service, American Fisheries Society, ^{DNRC} and the Department of Fish, Wildlife and Parks have developed a traveling display board on riparian improvement. We are presently working on a brochure, landowner workshop and a video showing the successes of riparian improvement through improved management NOT leasing or purchasing water rights. This is mainly volunteer work and each participant provides some in kind service to keep costs down. We do have some funding from the EPA for the brochures and landowner workshop speakers.

The money raised from this bill should be devoted toward grants that any individual trying to improve his riparian area should be able to apply. This money should not go to the Department of Fish, Wildlife and Parks to purchase or lease water or water rights.

We oppose House Bill 754.
Thank you.

KE:ejr

50
DATE 3-10-89
HB 754





P. O. Box 1679
Helena, Montana 59624
(406) 442-3420

EXHIBIT 51
DATE 3-10-89
HB 754

March 10, 1989

For the record, I am Carol Mosher, representing the Montana CattleWomen and the Montana Stockgrowers. *Sec. I Should not be part of the Statutes. It sounds like statement of intent*
We are opposed to HB 754 as the language in it presupposes that there is the power to lease or purchase water rights.

On page 2, line 8, it speaks of "associated" lands and that gives an entirely too wide of an implication.

In the bill when it talks of riparian vegetation associated with a river, it could well be interpreted to mean an adjoining hay field that is flood irrigated or sub irrigated. The amount of "taking" of private land in this bill and the giving of it to the Fish, Wildlife and Parks to administer and control is of considerable concern.

What amount of money will this bill generate? It seems like every session there is a small group wanting to raise recreational fees to fund their pet project with the Fish, Wildlife and Parks administering that particular program.

The title of this bill says restoration program that will affect rivers, streams, creeks, or other bodies of flowing waters. That could even be defined as extending down irrigation ditches if carried out to the letter of the law.

What is meant by "restoration"? In the dictionary it is defined as "bringing it back to a former, original, normal, or unimpaired condition." It would be interesting to know how that could be accomplished state-wide. *ARE you going to eliminate OR consider houses, fences and other things along waterways?*
We ask your consideration for a NO vote on this ambiguous type of legislation.

Thank you.

Carol Mosher

____HB754____HARPER____MARCH 10, 1989____

____MONTANA WATER RESOURCES ASSOCIATION, JO BRUNNER, EXEC. SEC.____

____HOUSE NATURAL RESOURCES____SUPPORT____AMEND____OPPOSE____X____

Mr. Chairman, members of the committee for the record, my name is Jo Brunner, and I am the Executive Secretary of the Montana Water Resources Association.

Mr. Chairman, the Montana Water Resources Association wishes to go on record as being opposed to HB754, an act establishing a river restoration program and account, etcetera.

The name of our Association is self explanatory. Our concerns lie in any area of water within the State of Montana. We certainly do recognize there are problems in many rivers and streams within the border of the state, and that we must continue to work to care for them.

It is our opinion that most of the programs this bill proposes to bring about can already be accomplished within our present programs, for instance our Conservation District programs, and that the department, should they have the desire, may already cooperate with other entities in programs beneficial to their interests.

Present law, of course, does not provide the formation of a separate and distinct program allowing the Fish Wildlife and Parks to rehabilitate the beds of our streams, the banks and shorelines, the wetlands and riparian vegetation anywhere within an undesignated area, in any manner they deem beneficial, on any river, stream, creek, or other flowing body of water. That seems quite ambitious, considering that they may not at this time have access to some of that water, or property.

We are especially concerned with the lack of definition for (a) on line 23, page 2---physical rehabilitation of rivers and their associated lands--- and we would like to know just what it entails.

Our association was involved from the very earliest efforts on the State Water Plan. Our immediate past president sits on the Water Plan Council. Several members of our board and association participated in the various Technical Advisory Committees. I sat on the instream flow and the Ag efficiency TAC, and the informal leasing discussion committee.

When I read this bill, it was the first time I had heard mention of raising the money to provide for the leasing of water through any other means than gifts to the Department. We have to recognize that occasionally our exuberance may run amuck, but I also have to wonder just what happened to the enthusiasm, by supporters of this bill, that projected the large contributions for the purpose of leasing water.

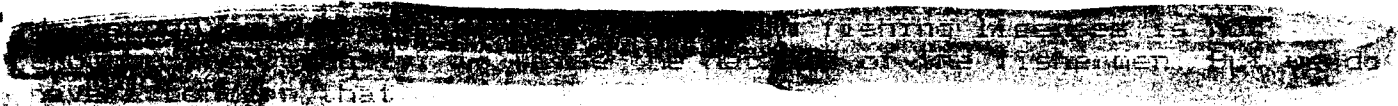
EXHIBIT 52
DATE 3-10-89
HB 754

not have a leasing bill passed as yet, and this bill asks fishermen to finance the purchase of water.

Mr. Chairman, members of the committee, this is not a bill that would be beneficial to our members, or other land owners, even our many fishing members. It is geared toward the time renowned 'flag, motherhood and apple pie', it brings in the Centennial theme, it intimates that the legislature has identified and they are just plain anxious to rectify all the harm being done to even our smallest waterways. Apparently only through this bill will we be able to hold up our heads once more in the world of river, and creek and stream use.

Because we believe that methods necessary are available to accomplish rehabilitation of stream banks, we have to wonder about the exact purpose for the introduction of this bill. If you tie the description of the "associated lands" in with the description of 'river' it appears that the sponsors of this bill would like control of the beds, banks, shorelines, wetlands and riparian vegetation of every river, stream, creek or other body of flowing water in the state of Montana. We have to assume control is the word necessary here, because the bill is lacking in definitions of how this rehabilitation will be accomplished; who will make the decisions as to what work will be done, by whom, where and when.

Please do not pass this bill.



53
DATE 3-10-89
HB 754

WITNESS STATEMENT

NAME Peggy Haglund BILL NO. ^{HB} 754

ADDRESS 1 South Montana, Helena, MT.

WHOM DO YOU REPRESENT? Montana Association of Conservation Districts

SUPPORT _____ OPPOSE ☒ AMEND ☒

COMMENTS: As HB 754 is presently written the MACTD will have to rise in opposition. If the bill is amended, we would be willing to consider supporting it.

There are already many projects of this type being done in Montana at this time & it is too bad the people who drew up this bill didn't branch out to get input from other people & agencies.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DATE

3-10-89

COMMITTEE ON

Natural Resources

SB 390, HB 754, SB 201

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
William Funch	Power & Myself	SB 390		X
Jean Ann HUST	POWER & SELF	SB 390		X
Lola KORENKO	Power & My Self	SB 390		X
Dawn Cole	Power, My family & myself	SB 390		X
Gloria Stevens	POWER member & self	SB 390		X
Sylvia Corey	Power & myself	SB 390		X
DONALD COREY	POWER & MY SELF	SB 390		X
Arnold YLLredahl	Power & Myself	SB 390		X
KELLY STEPHENSON	Power & myself	SB 390		X
Lella CARLSON	Power & myself	SB 390		X
Gaye Egeberg	Power & family	SB 390		X
Dona Adams	Power & family	SB 390		X
Jesse Malone Jr	Teton Water Users Assn	HB 754		*
JAMES C. Nelson	CHRM - BOARD of OIL & GAS	SB 201	X	
Elizabeth RATHBUN	POWER member & Self	SB 390		X
Lowell RATHBUN	POWER member & Self	SB 390		X
Arline Stephenson	Power - rancher	SB 390		X
Bill Dale Brown	Power - rancher	SB 390		X
Donner	Maria	HB 754 SB 201	X	X
Carol Mesher	Mt. Stockgrowers & cattle ranch	HB 754		X
Vernil Jones	POWER - Self	SB 390		X
Raymond Ratto	POWER & Self	SB 390		X
Edw Ferguson	Power	SB 390		

(Please leave prepared statement with Secretary)

VISITORS' REGISTER

Natural Resources COMMITTEEBILL NO. SB 390DATE March 10, 1989SPONSOR GALT

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
William Y Paroola	Bundy Rt Box 41, LADINA MT		X
Bob Toombs	Bundy Rte 613, LADINA MT		X
Peggy Naaglund	MT. Assoc. of Cons. Dist	✓	
Emma C Hubka	50 Rt Box 5, Ladina MT		X
Steve Palm	4822 1/2 Rd SE CUT BANK		
STEVE PALM	338 W. A. C. F. AVE		
Martin Barber	A. P. A.	X	
Klan Wilk	Siera Club		
Karl Barclay	DARYL	✓	
Jim Gurnea	MEIC		✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Natural Resources COMMITTEEBILL NO. SB 201DATE March 10, 1989SPONSOR Keating

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
John P. Moore	41st 10th Ave S.E. Cut Bank MT	X	X
JOHN P. MOORE	41st 10th Ave S.E. Cut Bank MT	X	
DOUG ABEKIN	751 2057 MOOSE Cut Bank MT	X	
Patrick M. Montalban	P.O. Box 350 Cut Bank MT	X	
MARY ANN KELLY	BRIDGEWAY WARR 14757 KELLY CYN RD. MT		X
JAMES C. NELSON	CHRM - BOARD of OIL & GAS	X	
KEVIN HART	Helena Project Man		
Fugate Park			
STEVE PALMBUSH	338 4TH AVE S.E. Cut Bank MT	X	
DAN MITCHELL	410 - 7TH AVE SE Cut Bank 59427	X	
Joe Keating	P.O. Box 21479 - B.Y. 59109	X	
Stan Bradshaw	Timber Unlimited		✓
Dave Darby	Oil & Gas Drilling Advisory Council	X	
Jim Jensen	MERC		X
Janet Ellis	Audubon		X
Brant Quick	Northern Plains Resources Council		X
Kim Wiles	Stone Club		X
Janette Fallon	Helena	✓	

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 757DATE March 10, 1989SPONSOR Giacometto

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Larry Johnson ^{Montana Grain Growers Ass.}	Kremlin, MT	-	
Valerie Larson	Farm Bureau Chetani	X	
Stan Bradshaw	Trust Unlimited		✓
Nancy Matheson	AERO - Helena		✓
Marvin Barber	A & P A.	X	
RON DE VORDE	MT. FARMERS UNION	✓	
Peggy Hauglund	MT Assoc. of Cons. Dist	✓	
Jim Jensen	MEIC		X
Vanet Ellis	Audubon	neutral	✓
Brant Quick	NPRC ^{Box 858} Helena	neutral	
Everett Smartland	Mt. Dept. of Agric.	X	
Kim Wilson	Sierra Club		+
LeRoy Rust	MSU EXT Bozeman	✓	
Joy Silginer	Audubon		X
VERNON L. WESTFALL			
Pam Langley	Montana Ag Business Assn	✓	
Randy Johnson	Montana Grain Growers Ass.	✓	
STEVE PILCHER	MT. Dept. of Health & Env. Sci.	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Natural Resources COMMITTEEBILL NO. HB 754DATE March 10, 1989SPONSOR Harper

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Valerie Larson	Farm Bureau Choteau		X
Jesse Malone Jr	Teton River Water Users Assn		*
Eugene Montez	Mont. Waters & Water Users Box 15 Hall, MT		X
Stan Bradshaw	Proctor & Co. Inc.	X	
Stan Bradshaw	Fruit Unlimited	✓	
Don Chance	MONTANA WILDLIFE FED.	✓	
Marvin Barber	A.P.A.		X
Rose DE GOND	MT. FARMERS UNION		✓
Peggy Hauglund	MT Assoc. of Cons. Dist.		amended X
Jim Jensen	MEIC	X	
John Salmon	WETA		X
Kim Enkerud	MT Assn. State Grazing Dist.		✓
Janet Ellis	Audubon	X	
Heehnd	Tramond		✓
Ann Will	Siege Club	X	
PETE TEST	HELENA	X	
GEORGE OCHENSKI	A.M.W.	X	
VERNON L. WESTLAKE	A.P.A + REP. H.D. 76		✓

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 3-10-89 BILL NO. SB 201 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

11

5

Claudia Montagne
Secretary

Bob Raney
Chairman

MOTION: to amend the adoption deadline
to December 31, 1989