

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairperson Bob Raney, on March 13, 1989, at 3:40 p.m.

#### ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

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

Announcements/Discussion: REP. RANEY announced that a gray bill had been prepared for the Infectious Waste Bill, HB 676, with approximately 75 amendments, many of which were technical and 10 of which were substantive. He said the bill would be reviewed by the affected and interested parties for comment before executive action.

#### DISPOSITION OF SB 321

Hearing 3/8/89

Motion: REP. MOORE moved that SB 321 BE CONCURRED IN.

Discussion: REP. RANEY asked the staff researcher to review the intent of the bill, and its relationship to HB 552. MR. ZACKHEIM said SB 321 revised the Hazardous Waste Act to bring Montana's program into equivalency with the federal act, including recent federal requirements for corrective action with regards to leaks from underground tanks. It also authorized DHES to establish a fee for tank registrations, \$50 for large tanks and \$20 for small tanks. He said HB 552 set up a separate licensing and permitting process for the installation or removal of underground tanks. The bills were complementary.

MR. ZACKHEIM said HB 552 was awaiting the signature of the Governor on a bill that would exempt that program from the sunrise provisions that would have required the Legislative Audit Committee to review that bill. He said his understanding was that the two bills could be separated, and that ~~SB~~ 321 could be acted on separately.

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED unanimously.

HEARING ON SJR 13

Presentation and Opening Statement by Sponsor:

SEN. DARRYL MEYER, Senate District 17, said this was a committee bill that originated in Business and Industry Committee promoting recycling and litter abatement. It commended groups and projects that promoted such activities, such as the Boy Scouts.

Testifying Proponents and Who They Represent:

Mike Lightle, Keep Montana Clean and Beautiful  
C.B. Pearson, Common Cause  
Kim Wilson, Montana Chapter, Sierra Club  
Jim Jensen, Montana Environmental Information Center  
Scott Snelson, Montana Wildlife Federation  
Kathy Macefield, self, Helena

Proponent Testimony:

MIKE LIGHTLE, Executive Director of the organization Keep Montana Clean and Beautiful, said the committee's endorsement of the resolution would give recognition to many groups who have done similar litter clean-up projects in the past. It would aid in the recruitment of many new clubs and organizations for the spring clean-up program. It would acknowledge the efforts of many volunteer groups, such as the Boy Scouts, the Helena Hometown Pride Organization, Yellowstone County Bright and Beautiful and the Chamber of Commerce.

MR. LIGHTLE said Keep Montana Clean and Beautiful was one of the newest such programs, one which also promoted recycling. The organization also made Montana citizens aware that materials had use and value beyond their original purpose. He said they assisted organizations who wanted to begin recycling programs.

C.B. PEARSON, Executive Director of Common Cause in Montana, said they were supportive of the resolution with an amendment, which he distributed (EXHIBIT 1). He said they would like to see no reference to any specific group in the resolution. He said Common Cause's concern and contention was that the resolution was misguided in that it was self serving to Keep Montana Clean and Beautiful.

MR. PEARSON referred to the Articles of Incorporation of the organization and attached expenditure documents (EXHIBIT 2),

which indicated that the group fought the Bottle Bill. He noted in particular his notes on the closing financial statement of the opponents to Initiative 113, which included a contribution of \$6,000 in surplus funds to Keep Montana Clean and Beautiful.

KIM WILSON said the Sierra Club had been traditionally a strong supporter of recycling, and endorsed the bill. However, they shared the same reservations that Common Cause had expressed. He said they did not believe that a specific group should be singled out, and specifically objected to the fact that the group named most prominently battled the Bottle Bill the previous fall. He also said that more than a resolution was needed, and expressed the opinion that it was time for Montana and the Legislature to take a more aggressive stance on this issue. He suggested that county landfills start implementing recycling on site. He said the state could take the lead in urging the counties to take a more active role in recycling. He supported the bill with the amendment.

JIM JENSEN said MEIC supported recycling, but noted that recycling required waste. He said the fundamental problem was that the amount of wasteful garbage was not being reduced. He suggested the reduction of the volume of solid waste at its source, the people. He encouraged the committee to consider the real problem and solution, source reduction. He said he would support the Common Cause amendment to HJR 13 because of the many numbers of groups who participate in recycling efforts.

SCOTT SNELSON supported recycling and the statements of C.B. Pearson.

KATHY MACEFIELD said she served on a committee charged with locating a new landfill site in Lewis and Clark County. She said the committee was questioned repeatedly by the public about the consideration of recycling and resource recovery. She urged support of the resolution if it would help in any way to encourage local governments to consider recycling.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

REP. HARPER asked Ms Macefield if there were any way the Legislature could use the resolution to express its desire to reduce the stream of solid waste. MS MACEFIELD said she could not answer the question.

REP. COHEN asked Mr. Lightle if his group was interested in supporting curbside recycling. MR. LIGHTLE said yes, and that their role would be in education about the benefits to society of recycling rather than in the support of legislation.

REP. COHEN asked if Mr. Lightle could support the amendments offered by Common Cause to make the resolution more inclusive, and MR. LIGHTLE said he had no objection. He said they were in the process of organizing a grass roots network in order to work together.

REP. RANEY asked if the resolution could be amended to be sent to County Commissioners, and local chief executives. SEN. MEYER said that would be fine.

Closing by Sponsor: SEN. MEYER closed.

#### DISPOSITION OF SJR 13

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

Discussion: None

Amendments, Discussion, and Votes: REP. MOORE moved the amendment striking any reference to a particular organization. REP. GILBERT said he opposed the spirit in which the amendments were offered, and said they were offered by individuals who got defeated at the polls over a bottle bill, and did not want to see anyone's name mentioned who was on the winning side.

REP. HARPER said he needed more time to add some other language to the bill to more clearly amend the bill.

REP. RANEY asked Rep. Harper what he had on his mind with regards to SJR 13. REP. HARPER said he wanted to get people thinking about the necessity of curbside separation. REP. GILBERT said he shared his concerns. He said landfills and recycling studies would be EQC's major projects during the biennium. REP. RANEY said executive action would be continued on the bill at a later committee meeting.

Recommendation and Vote: REP. MOORE WITHDREW her motions.

#### HEARING ON SB 261

Presentation and Opening Statement by Sponsor:

SEN. AL BISHOP, Senate District 46, said the bill addressed the Subdivision and Platting Act, which required people who

wanted to divide property under certain circumstances to comply with the law. This could include streets, alleys, and park requirements. He said there were exemptions, one of which was divisions of land made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties, divisions for gift and sale to a family member, and several others. He said the exemption he was interested in was the one for five or fewer lots within a platted subdivision, relocation of the common boundaries and the aggregation of lots. He said the bill would give another exemption, the movement of common boundary lines between a platted and an unplatted piece of property. He said there was no real reason this was not an exemption, and suggested it was an oversight in the law. This could not be done for the purpose of evading the act.

SEN. BISHOP said there had been two objections. One was how an individual would know from looking at a plat that this had been done. He said the Clerk and Recorder would attach a copy of the certificate of survey to the original plat.

SEN. BISHOP said a concern had been expressed regarding the presence of SID's or RSID's on part of the property. He said the certificate of survey would determine the percentage owed. He encouraged the committee not to look for bogeymen in the bill and urged the committee's support.

Testifying Proponents and Who They Represent:

None

Proponent Testimony:

None

Testifying Opponents and Who They Represent:

Kathy Macefield, City of Helena, and the Montana Association  
of Planners

Chris Kaufmann, Montana Environmental Information Center

Opponent Testimony:

KATHY MACEFIELD, Planning Director for the City of Helena, testified as set forth in EXHIBIT 3. She also submitted the testimony of Robert Rasmussen of the Lewis and Clark County Planning Department, which he presented to the Senate Local Government Committee (EXHIBIT 4).

CHRIS KAUFMANN testified that she had the same concerns expressed by the previous opponent, and felt the exemption would weaken the Subdivision and Platting Act. She expressed hope that the committee would amend the bill as suggested by Ms Macefield.

Questions From Committee Members:

REP. ROTH asked the sponsor if the intent was to allow the transfer of the boundary between two lots of platted and unplatted subdivisions. SEN. BISHOP said yes, if there was a valid reason.

REP. COHEN asked the sponsor to comment on Ms Macefield's amendments. SEN. BISHOP reviewed them and said he would rather kill the bill than put the amendments on.

Closing by Sponsor:

SEN. BISHOP continued, stating that the objections raised by the opponents with regards to covenants, maintenance districts, and platted SID's could be made to the exemptions that already existed in the law. He said covenants could not be removed, and maintenance districts and SID's would continue as liens on the property.

## HEARING ON SB 447

Presentation and Opening Statement by Sponsor:

SEN. BILL YELLOWTAIL, Senate District 50, Wyola, said he was presenting two water plan bills. He said the State Water Plan carried with it suggestions for legislation. He said SB 447 dealt with the priority date of water reservations and accomplished two things. It established the priority date for water reservations at the date when a qualified applicant (a political subdivision) submitted a notice of its intent to apply. It standardized those priority dates at that date, after which the applicant had one year to submit applications and receive the same priority date. At the present time, the priority date coincided with the date of final Board of Natural Resources approval. The problem had arisen that during the time period of submission of application and final approval, water permits could be filed and granted, resulting in a tangle of priority dates.

SEN. YELLOWTAIL said the bill would allow for the reservations to be subordinated to permits to the extent that the permits did not interfere with the reservations. He said this scheme was in effect on the Missouri, and the approach seemed to be workable. He said this provision would apply to basins not yet allocated, such as the Lower Clark Fork, Flathead and Columbia Basins.

Testifying Proponents and Who They Represent:

Gary Fritz, Department of Natural Resources and Conservation  
Stan Bradshaw, Montana Council, Trout Unlimited

Ted Doney, Montana Water Resources Association  
George Ochenski, Alliance for Montana Water

Proponent Testimony:

GARY FRITZ said the bill was the product of the Water Plan, and in particular, the instream flow strategy portion of that plan. He explained how the priority date for reservations was now established. He said the priority date for a permit was the day you applied. He said that reservations were at a disadvantage, with a priority date established at the end of the process, rather than at the beginning. The Legislature decided to change this process for the Missouri River Basin, which was now in effect. The Legislature also addressed the issue of the permits granted and used in the meantime. He said the board could subordinate reservations to the intervening permit if the permit did not interfere with the purpose of the reservations.

MR. FRITZ said the water plan process considered applying that same concept that the Legislature placed on the Missouri River Basin to all basins in Montana. SB 447 sets up the priority date for reservations at the beginning of the process by the filing of the notice of intent to apply. It also has the same language regarding the subordination of reservations to these intervening permits so long as they do not substantially interfere with the purpose of the reservations.

STAN BRADSHAW testified in support of the bill.

TED DONEY said that the group had a problem initially with the bill, but now supported the bill after talking with Mr. Fritz.

GEORGE OCHENSKI said his organization supported the bill.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

REP. RANEY asked for an explanation of the bill in layman's terms. MR. BRADSHAW explained the history behind the bill, and said the amendment to the law would allow for the application date of the reservation to be the date of the priority. If later permits could be shown to not affect the reservation, they could be issued with a higher priority.

- REP. RANEY asked if reservations could be granted ahead of the intervening permits. MR. FRITZ said that was the scenario the Legislature set up with the Missouri system. He said the priority date for the water reservation would be up front, and would thus be senior to the permits issued in the meantime. However, the board had the ability under statute to subordinate the reservation to some or all of those permits. Thus, the board could flip flop some of those priorities.
- REP. RANEY asked what the criteria would be for putting somebody ahead of somebody who had applied before them. MR. FRITZ said the board would have to decide that the permits would not substantially interfere with the purpose of the water reservation.
- REP. O'KEEFE commented that the reservations are so large and are reserved for such a future date, that the relative priorities did not matter. MR. FRITZ added that the water reservations were for instream flows for fisheries, health purposes, conservation districts and local governments who might be using the water many years in the future. He reiterated that the board would have the authority to subordinate those reservations in certain instances to a permit which was junior.
- REP. GILBERT expressed concern that the reservations made for agriculture or some other industrial use would be competing with reservations made for city or the fisheries, and in a water shortage, chances were that the city and the fisheries would get the water. He asked who in such a situation would get the shaft. MR. FRITZ said he could not answer, because the Board of Natural Resources would make the decision in 1991 regarding who got the reservations, and whether or not the reservations were subordinate to intervening permits.
- REP. O'KEEFE clarified that there was not preference in Montana law, as other states had. When the Board of Natural Resources made the decision regarding reservations, they set up an internal preference. He gave the example of the Lower Yellowstone, in which the board set the first preference as domestic; second, agriculture; third, minimum instream flows; and fourth, industrial.
- REP. RANEY asked Stan Bradshaw to address Rep. Gilbert's concern. He said there was some confusion regarding water use permits and reservations. He said the former was a permit to take water out of a stream and use, while the latter was to reserve the water for future use or instream purposes. MR. BRADSHAW reiterated that the date of application for a reservation would become the baseline priority date. If water use permits were applied for after the reservation applications, they would be junior to those reservations unless the board decides to subordinate.



REP. GILBERT said that if, upon passage of this bill, DNRC, FWP, and cities applied for reservations, those reservations would take priority over permits, and the river would be tied up. MR. BRADSHAW said that would be correct, unless the board decided to subordinate. MR. FRITZ concurred. REP. GILBERT commented that the bill would allow DFWP and DNRC, conservation districts and cities and towns, not individuals or corporations, to tie up the river. REP. O'KEEFE clarified that DNRC did not get reservations and held no water in the state except for water in storage reservoirs already sold to agriculture. REP. O'KEEFE said DFWP had the authority to make reservations for instream flow with or without this bill. He added that this bill did not create the reservation process, but allowed the Board of Natural Resources could work in the intervening permits.

REP. RANEY asked George Ochenski to comment, and Mr. Ochenski reminded the committee that people with discharge permits could object to further water permits. These were major municipalities and industry who needed the dilution effect of the water in the stream.

Closing by Sponsor:

SEN. YELLOWTAIL commended the committee on the depth of their understanding of the bill, and said the bill would create a system of reasonably coordinating reservations and permits.

DISPOSITION OF SB 447

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

Discussion: REP. O'KEEFE asked Rep. Gilbert why he opposed the bill. REP. GILBERT said he did not like what it did, because it put the state and the public entities ahead of the private entities who have been using the water. He said he would not oppose the bill because he knew we had to do it. REP. O'KEEFE said it would only do this for the six year period, which was half over. After that period, all of the private users would be subordinate to the reserved water rights when the public entities needed the water.

REP. HANNAH said he agreed with Rep. Gilbert, and said there would be more fights like the one in Billings over the city's reservation. He said the local governments operated out of greed, and had a deeper well of resources available to them such as attorneys and staff that put them at an advantage in this type of process over the average person who wanted to challenge the reservation.

REP. O'KEEFE said these disputes would continue even without this bill. He said the situation they spoke about was the abuse of the system that occurred in the Yellowstone because of

the levels of reservations granted in 1978. He said the reservations came up for review every 10 years, and at that time the people in that subdivision could come before the board. He said what Rep. Hannah and Rep. Gilbert saw as a major problem with the reservation system was in fact an individual case. REP. HANNAH asked if they would not be condoning this situation by passing this bill. REP. O'KEEFE said no.

REP. HANNAH asked what was the advantage of the bill. REP. O'KEEFE said it provided a coordination of the private individuals who got water rights on the Missouri between 1985 and 1991 with the reservations granted in 1991. The priority date for those reservations would be 1985 as the statute now stated.

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion that SB 447 BE CONCURRED IN CARRIED 10 to 6, with Rep. Hannah, Rep. Giacometto, Rep. Smith, Rep. Roth, Rep. Owens, and Rep. Gilbert voting no.

#### HEARING ON SB 450

Presentation and Opening Statement by Sponsor:

SEN. BILL YELLOWTAIL, Senate District 50, opened on the bill which rose from the State Water Plan, in particular the agricultural water use efficiency portion of that plan. He said it was unclear in present law that an irrigator who managed to save water from evaporation or deep percolation could use that saved water with retention of the same priority date. The bill would permit the irrigator who lined a ditch, or put in a sprinkler system, to come back to DNRC in a change proceeding, asking for the opportunity to increase the irrigated acreage on the basis of the saved water.

Testifying Proponents and Who They Represent:

Gary Fritz, Department of Natural Resources and Conservation  
Ted Doney, Doney and Thorson Law Firm, Montana Water  
Resources Association  
George Ochenski, Alliance for Montana Water  
Stan Bradshaw, Montana Council, Trout Unlimited  
Larry Ellis, Helena Valley Irrigation District

Proponent Testimony:

GARY FRITZ said the bill was before the committee to provide an incentive in the statute for people to use their water more wisely, and to conserve and save water. Essentially, he said the bill permitted people to save water that would

otherwise be irretrievably lost, to use the water for the same purpose, and to keep the same priority date for the saved water, provided that people downstream from them were not adversely impacted. He said that current common law allowed for this, but that this proposed legislation would make it more clear.

TED DONEY said he supported the concept of the bill to clarify the law on salvaged water, but he said some problems could be created. He said the bill would require a person who lined a ditch, for example, to get approval from the department to use the salvaged water--a change approval. He suggested that the provision was not necessary and could act as a disincentive to an individual who was going to line a ditch.

MR. DONEY offered an amendment (EXHIBIT 5) to require a change approval only when there was an additional change in the water right. A change in the water right could be a change in the point of diversion, a change in the place of use, a change in the purpose of use, or a change in the place of storage, as current law stated. His amendment added one other change, the method of transmission, which could be the lining of a ditch, or the placement of a pipe in the ditch. His amendment would provide that this change would not result in the requirement for a change approval except when it occurred together with one of the other four changes in the water right. He said the department agreed with the amendment.

MR. DONEY said his other problem was with return flow. Under current law, if an individual increased the use of return flow, he/she was increasing the burden on the stream by increasing the consumptive use of water and would need to get a permit for that incremental difference. He said that was the law in all the western states, and had been for over 100 years. He said this bill would change that by saying that if an individual used this return flow, the individual would need a change approval instead of a permit. He said this introduced a whole new concept in water law. He said this was a policy question; i.e., did the committee wish to encourage the use of return flow by appropriators to encourage efficiency. He said that the proposed legislation could be a lawyer's field day because downstream users generally relied on those return flows. His proposed amendments 1, 2 and 3 (EXHIBIT 5) would take return flow out of the bill.

GEORGE OCHENSKI said SB 450 would be a good mechanism to encourage water efficiency, and had one amendment (EXHIBIT 6) dealing with the definition of salvage. He said his amendment would make the bill consistent with the existing statute. As the bill stood without the amendment, the beneficial use was limited to an appropriation, and did not include instream uses.

STAN BRADSHAW testified for the bill with an amendment (EXHIBIT 7). He explained that the amendment addressed salvaged water that was formerly irretrievably lost, water that was then developed water or new water to the system. He said if that was the case, the amendment would allow that new water to be applied to instream purposes if the applicant so chose. One other complication was that there was a protection against abandonment in the leasing bill. If that bill did not pass and this bill did, there would be needed some protection against abandonment, which this amendment would provide.

LARRY ELLIS, Helena Valley, said he would like to see the amendments offered by Ted Doney added to the bill. He urged the committee to consider that the return flows were someone else's water right in many cases.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

REP. ROTH asked if the lining of a ditch would not increase the return flow back to the original source, and asked if the bill would force an individual to get a permit to do that. MR. FRITZ said the department would agree with Mr. Doney's amendment 4, by which the bill would be changed such that no additional regulatory authority would be given to the department in any way. He said the understanding would be that if the person changed the place of use, the point of diversion, or the purpose of use, a change approval would be required, as stipulated under current law.

REP. GILBERT asked how the bill would affect the Lower Yellowstone Irrigation District, where the water was diverted out of the river into a large canal, from which the users received water almost entirely by flood irrigation. MR. FRITZ said that was a totally different situation because irrigation districts claimed all the water they diverted, all the water they returned, and all the water that did anything within the boundaries of their irrigation district. They would say those return flows belonged to them, and were not subject to re-appropriation under state law. He said the proposed legislation would not apply to them.

REP. GILBERT suggested amending the title of the bill to read "Increased Appropriation by Theory." He commented that we were theorizing that so much evaporated, so much returned,

and if that could be theorized, an individual could get more water than he/she should have. MR. FRITZ replied that in states where water was more highly appropriated than in Montana, most water law revolved around these very issues, such as changes in existing water rights; i.e., changes in consumptive use and return flows, and possible adverse impacts on other water rights.

- REP. GILBERT suggested that if someone salvaged water that was someone else's water right, there would be lawsuits. He asked how the state would handle that if this bill passed. MR. FRITZ said the situation would be handled in the same way as all change applications.
- REP. GILBERT asked if the amendment offered by Trout Unlimited to put salvage water in instream flow would be essentially be the taking of a man's water right. MR. FRITZ said again the question would be whether leasing that saved water to someone adversely affected any body else's water right, and if it did, it could not take place. He said the department had considered that amendment and had rejected it.
- REP. COHEN asked George Ochenski to address the issues under discussion. MR. OCHENSKI said the Alliance had supported the bill because they sought to solve two problems at once: 1) keep people growing their crops, and 2) take care of the water shortages in the river. He suggested that the removal of the Bradshaw amendment would mean that it was alright to salvage water for increased crop acreage, but one could not put the water back in the river. He said that without that amendment to help address water shortages in the state, he could not support the bill.
- REP. HARPER asked how quantifiable Mr. Fritz thought these new water quantities were. MR. FRITZ said those values were estimated by a mathematical formula, taking into consideration the type of terrain, the length of the ditch, and other variables.
- REP. HARPER commented that if the bill were to be passed, there would be a danger to all downstream users or junior appropriators. He asked if the new permits would be conditioned until the department determined the effect of the change on them. MR. FRITZ said he did not see the process for salvage water to be any different from how the department processed changes right now. He said the department had to make those kinds of decisions on a daily basis because when the place of use was changed, for example, the return patterns were changed, and people think they may be adversely impacted.
- REP. OWENS asked the sponsor who wanted the bill, and SEN. YELLOWTAIL said it arose from one component of the water planning process of the previous summer. He said that process developed from the desire of the Legislature to

begin a water planning process. The department had established a Water Planning Advisory Council which met to identify priority areas. He said the process would continue. REP. OWENS asked why an individual who had no additional acreage to irrigate would want to line his ditch in order to save water. SEN. YELLOWTAIL said he might want to put more water on the same acreage.

SEN. MOORE asked if the leasing of instream water could be part of his motivation. SEN. YELLOWTAIL said it would follow logically that an individual with water conservation in mind might want to leave the water in the stream, and should be that water right holder's prerogative.

REP. O'KEEFE asked if the bill, without an amendment, prevented an individual from selling his salvaged water to an adjoining landowner for irrigation. MR. FRITZ said no, and that the individual could sell it to anyone who had a beneficial offstream use.

REP. RANEY asked Mr. Fritz to answer some of the questions that had come up. MR. FRITZ said that while it may be true that no other western state allowed people to save return flows, he had never known Montana to be shy about adopting shy about adopting policies that other western states did not have. MR. FRITZ said the department was in agreement with Mr. Doney on his amendment 4. Regarding the other amendments dealing with the saving of return flows with the same priority date, he said the most significant savings would be return flows. He said the savings of water that was otherwise irretrievably lost would not be significant.

Closing by Sponsor:

SEN. YELLOWTAIL commented first on Mr. Doney's amendments. He said that amendments 1 - 3 would remove the prerogative to use return flow. He said that amendment was not necessary because the downstream user already had protection in existing law with regards to adverse impact. He said the person proposing to salvage water had the burden of initial proof of no adverse impact to downstream appropriators. He also felt amendment 4 was unnecessary in that an individual had to come to the department to announce the intention of installing a canal lining or pipe system, thus bringing attention to the change. Thus, other appropriators downstream were made aware, and could have the prerogative to come in and object.

SEN. YELLOWTAIL addressed the question of Rep. Moore, and said if the upstream appropriator saved water and wished to leave it in the stream for whatever reason, he had no objection. He said it could be to that person's advantage financially to lease that water, and that option should be available. He supported the amendment on that issue, and said that was a policy decision he would leave to the committee.

SEN. YELLOWTAIL reiterated that the very important part of the bill dealt with the retention of the present protection of adverse impact, and provided that the person proposing the change had to come in and quantify the change.

#### DISPOSITION OF SB 450

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

Discussion: REP. ROTH said the bill was not necessary. He said the state should not badger someone who wanted to make a ditch more efficient, and there were already protections in place for the downstream rights to the return flow. He said the bill would make it more difficult for people to conserve. REP. HARPER said the bill would offer possibilities, and liked the instream amendments. He asked if a rancher could improve his water system, and lease the saved water back into the stream, what could be wrong with that.

REP. O'KEEFE said regardless of what committee members thought of instream leasing, this bill would give one more option for people to make use of a property right. He said there was a possibility to get new lands into agricultural production, or more water into cities. REP. ROTH asked if an individual increased his/her flow, could that individual not go to the department to get the authority to sell that salvaged water. REP. O'KEEFE said no, because right now, there was no such thing as salvaged water.

REP. OWENS said the option to lease water for money was needed as an incentive to save water, but that was when the lawsuits would start because of the impact on downstream users. REP. RANEY said there would be no salvage without proving that there would be no adverse impacts.

Amendments, Discussion, and Votes: REP. GIACOMETTO moved amendment 4 of Mr. Doney's amendments, which the department supported. REP. O'KEEFE said with this amendment, the only time an individual who was salvaging water would have to go through the change procedure was when there was a change in point of diversion, place of use, purpose of use, and place of storage. He said a change procedure would not be needed for change in time of use, means of conveyance, or means of distribution. The motion CARRIED unanimously.

REP. GIACOMETTO moved the Doney amendments 1, 2, and 3, which set up a protection of downstream users. REP. O'KEEFE said the amendments did not set up additional protections of the downstream users. He said these amendments said one could not salvage water that was return flow, even if no one else depended on that water. He added that it was brought out in the hearing that without return flow possibilities for salvaged water, little or no water could be saved and there

would be no incentive to increase water efficiency. The motion FAILED.

REP. GIACOMETTO moved the Bradshaw amendment for instream flow. REP. HARPER offered some additional language to further clarify the amendment, reading "salvaged water may be transferred to or leased for an instream purpose pursuant to state law". HUGH ZACKHEIM re-read the amendment, with language adjustments parallel to that in HB 754. REP. GIACOMETTO asked if it was still clear that the water could be given to Farmer Joe. The committee said yes. REP. GILBERT objected, saying that it could not be given to Farmer Joe without department approval. He said if the department said it had to be left for instream flow, that's what would have to be done. REP. GIACOMETTO asked for the same clarification from George Ochenski. MR. OCHENSKI said there was no change to current law, which permitted the individual to lease the water to the farmer next door. He added that the department could not force an individual to put the water instream. REP. GIACOMETTO said he felt an individual should have the option of leasing water to the state if that individual did not have a neighbor to lease it to. The motion CARRIED.

REP. COHEN moved the Ochenski amendment, which would be needed to coordinate with the Bradshaw amendment. The motion CARRIED with Rep. Gilbert voting no.

Recommendation and Vote: REP. SMITH moved the SB 450 BE CONCURRED IN AS AMENDED. The motion CARRIED, with Rep. Gilbert voting no.

#### DISPOSITION OF SB 223

Hearing 3/03/89

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

Discussion: REP. BROOKE said there had been a discussion about a change in language to clarify the issue of alternative products to the facility. REP. ROTH said the intent of the suggested language was to clarify that the bill referred to competitive products to the facility and not by-products of the facility.

Amendments, Discussion, and Votes: REP. BROOKE moved the amendment. REP. HARPER reminded the chair that Rep. Hannah had amendments to the bill, and it was decided to postpone executive action until Rep. Hannah was present. REP. MOORE WITHDREW her motion.

Recommendation and Vote: REP. ROTH WITHDREW his motion.



DISPOSITION OF SB 295

Hearing 3/08/89

Motion: REP. ROTH moved that SB 295 BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: REP. ROTH moved the amendment that would add "negligent or". The motion CARRIED with Rep. Clark, Rep. Gilbert, and Rep. Giacometto voting no.

REP. O'KEEFE moved the amendment suggested in the hearing by Chris Kaufmann substituting "or" for the word "and". REP. GIACOMETTO said that by inserting the word "or", the person who caused the release, even though told to do so by the employer, would be held responsible. REP. O'KEEFE WITHDREW his motion at the request of the chair.

Recommendation and Vote: REP. ROTH WITHDREW his motion.

Discussion: REP. RANEY reopened executive action on SB 295, and said his concern was that if the bill passed, a major loophole would be discovered and clean-up on a 40 year old spill or contaminated area could be initiated by a "good samaritan". REP. GIACOMETTO said this bill spoke about an actual or threatened release, but not the clean-up later on. REP. BROOKE suggested adding the word "emergency". REP. RANEY asked the researcher to address the issue.

HUGH ZACKHEIM said, in response to Rep. Giacometto's comment, "remedial action" as used in statutes had no relation to emergencies, but referred to the planned study and procedures. He suggested that if the application of the bill were to be limited to emergencies, there would be inconsistency with retaining the language in the bill regarding remedial action.

REP. GILBERT commented that the department and the sponsor seemed to be talking about different bills, with the department interested in protecting department employees from personal liability, and Sen. Hager interested in a general good samaritan bill.


REP. ADDY said that it was interesting to him that the sponsor would agree to an amendment which would say that the "exemption from civil liability does not apply to a person whose misconduct is willful, or who is negligent or grossly negligent." He said that with this amendment, which the committee had already placed on the bill, current law was restated.

Amendments, Discussion, and Votes: None

Recommendation and Vote: REP. ADDY moved to TABLE SB 295. The motion CARRIED with Rep. Roth, Rep. Smith, Rep. Owens, Rep. Harper, and Rep. Giacometto voting no.

ADJOURNMENT

Adjournment At: 6:30 p.m.

  
\_\_\_\_\_  
REP. RANEY, Chairperson

BR/cm

5812.min

## DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1989

Date 3-13-89

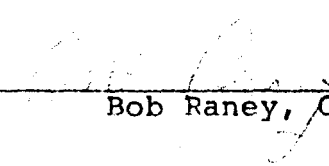
NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Raney, Chairman	✓		
Rep. Ben Cohen, Vice-Chairman	✓		
Rep. Kelly Addy	✓		
Rep. Vivian Brooke	✓		
Rep. Hal Harper	✓		
Rep. Mike Kadas	✓		
Rep. Mary McDonough	✓		
Rep. Janet Moore	✓		
Rep. Mark O'Keefe	✓		
Rep. Robert Clark	✓		
Rep. Leo Giacometto	✓		
Rep. Bob Gilbert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

STANDING COMMITTEE REPORT

March 14, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report  
that SENATE BILL 321 (third reading copy -- blue) be  
concurrent in .

Signed:   
Bob Raney, Chairman

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

STANDING COMMITTEE REPORT

March 14, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report  
that SENATE BILL 447 (third reading copy -- blue) be  
concurrent in .

Signed: \_\_\_\_\_  
Bob Raney, Chairman

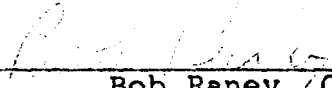
[REP. REAM WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 14, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that SENATE BILL 450 (third reading copy -- blue) be concurred in as amended .

Signed:   
Bob Raney, Chairman

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

And, that such amendments read:

1. Page 3, lines 20 and 21.

Strike: "BY" on line 20 through the first "SUPPLY" on line 21

2. Page 10, line 22.

Strike: "Department"

Insert: "If the salvage of water involves a change in appropriation right, department"

3. Page 11.

Following: line 1

Insert: "(6) Salvaged water may be transferred to an instream purpose, or leased for an instream purpose if the lease is authorized by law, upon approval by the department as provided in subsection (4)."

EXHIBIT 1  
DATE 3 - 13-89  
HB SJR 13

PROPOSED AMENDMENTS TO SJR 13

Page 2, Line 8

strike: "~~Keep Montana Clean & Beautiful and other~~"

Page 2, Lines 12, 13, 14, 15

strike: "~~the Boy Scouts' Project Good Turn, Billings/Yellowstone County  
Bright 'n Beautiful, Hometown Helena Pride, Montana Chamber of Commerce,  
Montana National Guard, and~~" "other"

Page 3, lines 4 & 5

strike: "~~the Keep Montana Clean & Beautiful program and~~" "other"

EXHIBIT 2

DATE 3-13-89

HB. SDR 13

30621

STATE OF MONTANA

**FILED**

APR 15 1988

SECRETARY OF STATE

ARTICLES OF INCORPORATION

OF

KEEP MONTANA CLEAN AND BEAUTIFUL, INC.

\* \* \* \* \*

KNOW ALL MEN BY THESE PRESENTS:

That I, THOMAS F. DOWLING, 3030 N. Montana Avenue, Helena, Montana, hereinafter call the "Incorporator", desiring to form a corporation for the purposes hereinafter set forth, do hereby, and pursuant to, and by virtue of, and in conformity with the statutes of the State of Montana, relating to non-profit corporations, do state and certify as follows:

ARTICLE I.

The name of the corporation is:

KEEP MONTANA CLEAN AND BEAUTIFUL, INC.

ARTICLE II.

The purposes for said corporation being formed are:

1. To conduct educational campaigns to foster awareness of the litter problem and the need for recycling; encourage litter law enforcement; encourage recycling; encourage use of recycled material; provide public awareness through media and television campaigns; provide incentives for voluntary groups involved in litter pickup; identify markets for recyclable material; aid in acquisition of source separation and recycling equipment; and show citizens and towns they can reduce landfill costs through



XHIRT 2  
DATE 3-13-89  
NB 57213

sale of recyclable material and reduce use of landfills.

2. And to engage in any other lawful activities.

ARTICLE III.

The Corporation shall not issue stock. No Dividends or pecuniary profits shall be declared or paid to the members thereof.

ARTICLE IV.

The duration of this corporation shall be perpetual.

ARTICLE V.

The number of directors constituting the initial Board of Directors is four (4). The names and addresses of the initial Directors of this corporation who shall serve for a period of one year unless replaced at the first annual meeting of the stockholders or until their successors are elected and qualify, shall be as follows:

Mr. William E. Stevens  
2700 Airport Way  
Helena, Montana 59601

Mr. William F. Watkins  
1200 Shakespeare  
Missoula, Montana 59801

Mr. C. Russell Royter  
2147 Ernest Avenue  
Missoula, Montana 59801

Mr. Douglas G. Stewart  
816 W. Spruce  
Missoula, Montana 59802

ARTICLE VI.

The initial registered office of the corporation shall be

2027 11th Avenue, Helena, Montana, and the name of its initial registered agent at such address is Mr. Robert A. Henkel.

ARTICLE VII.

This corporation shall at all times be maintained so as to qualify as a tax exempt organization under the provisions of IRC Section 501(C), as amended. This corporation is organized not for profit and shall be operated exclusively for the promotion of the common good and general welfare of the people of Montana and, particularly, for the purposes set forth herein, and the net earnings, if any, of this corporation shall be devoted exclusively to the charitable and educational purposes set forth herein. No part of the net earnings, if any, of this corporation shall inure to the benefit of any member or other individual. Upon dissolution of this corporation, the assets of the corporation, less those required for the payment of its debts, shall be distributed to the State of Montana or to any agency thereof or to any charitable organization established by act of the legislature of the State of Montana that is a tax exempt organization under the same provision of the United States Internal Revenue Code, Section 501(c), as this corporation is qualified.

ARTICLE VIII.

The principal place of business of this corporation shall be at the City of Helena, County of Lewis and Clark, State of Montana. The corporation may have such other branch offices or

**Schedule B--Expenditures  
Attachment to Form C-6**

**Reporting Period**  
From: October 30, 1988  
To: November 23, 1988

**Name of Candidate or Committee:**

Committee Against Forced Deposits: Montana Grocers, Recyclers,  
Soft Drink Bottlers, Beer Distributors, Container Manufacturers,  
and Their National Affiliates, and Other Montana Businesses and  
Concerned Citizens

Name and Address	Purpose	Date	Amount
Allen's Super Store 2109 North Main Street Helena, MT 59601	Rental of big screen TV for elec- tion night function	11/17/88	\$ 150.00
Kathleen L. Bartole 4512 Cougar Road Helena, MT 59601	Net payroll for October 16-31, 1988 November 1-15, 1988 Post-election bonus	10/31/88 11/15/88 11/15/88	409.92 409.92 445.27
Best Western Colonial Inn 2301 Colonial Drive Helena, MT 59601	Meeting room, refreshments, TV/VCR for October 13 mtg; October 19 and 26, November 2 meetings, election night	11/01/88 11/17/88	63.05 941.50
Browning, Kaleczyc, Berry & Hoven, P.C. P.O. Box 1697 Helena, MT 59624	Bookkeeping services rendered during the month of October	11/16/88	1,989.09
Internal Revenue Service Attn: Mr. R. Quinn 2305 Dearborn Chicago, IL 60604	Donation to cover user fee--nonprofit application for Keep Montana Clean and Beautiful, Inc.	11/17/88	300.00
Payroll Tax Deposits at Valley Bank 3030 N. Montana Avenue P.O. Box 5269 Helena, MT 59604	3rd qtr 1988 FUTA FICA/FIT for October 16-31 period FICA/FIT for November 1-15 period and bonuses	10/31/88 11/02/88 11/17/88	23.40 313.80 890.30
Pepsi-Cola Bottling Co. 344 Howard Avenue Billings, MT 59101	Reimbursement for William Dimich air fares Blgs/Hlna	11/17/88	866.00

Total this page:

\$6,802.25



MONTANA SOFT DRINK ASSOCIATION

2)  
DATE 3-13-89

HB SJR13

February 12, 1988

Dear Fellow Bottlers,

Our meeting held on February 4, 1988 was also attended by representatives of the Beer Distributors and the Montana Food Distributors Assoc. as well as MSDA members. Dr. Nader H. Shooshtari, from the UM School of Business, was introduced and he talked about an appropriate approach to dealing with the problem of recurring bottle bills and how to get started with an effective litter campaign. Dr. Shooshtari is a professor of marketing and has done surveys for St. Patrick's Hospital and the Hardware Association and others. He recommended that we give consideration to having an analytical review of recycling in Montana done to have a starting point.

The Industrial-Environmental Council of Montana is to be re-activated with Sage Advertising as the administrator. Our approach is to get as many state association such as restaurant, tire distributors, auto dealers, theaters, newspapers, etc. to establish a fund which will be used to support total recycling. This will work in conjunction with the study by Dr. Shoostari. It is our plan to get all the businesses in Montana together to fight litter. This might be a valuable tool for defeating any future recycling bill or referendum.

Our next meeting will be on March 4, 1988 in Helena. Sage Advertising will invite representatives from some of those suggested above to attend this meeting.

Doug Stewart of Montana Recyclers made a presentation on the Montana-Too Great to Litter Campaign. This program will take about four months to put in place. A special committee is working with him on this project.

I think this was a fruitful meeting and I feel we are on the right track.

Best regards.

Sincerely,

C. Russell Royter  
President



Statement of Organization  
and  
Report of Contributions and Expenditures

TO THE STATE OF MONTANA

COMMISSIONER OF  
POLITICAL PRACTICES

CAPITOL STATION  
HELENA, MONTANA 59620  
PHONE: 406-444-2942

TO BE FILED BY

EXHIBIT

DATE

3-13-89

INCIDENTAL  
POLITICAL COMMITTEES

SR13

FORM

C-4

(Adopted 7/80)

RECEIVED

SEP 27 1988

THIS SPACE FOR OFFICE USE

THE COMMISSIONER OF  
POLITICAL PRACTICES

DATE RECEIVED

See Instructions on Reverse Side (Type or Print Clearly)

PART I -- STATEMENT OF ORGANIZATION OF INCIDENTAL COMMITTEE

1. Full name of corporation, partnership, association, club, union, etc.  Pepsi-Cola Bottling Co.		Location of principal office (mailing address)  2147 Ernest Avenue Missoula, Montana 59801	
2. If entity is incorporated, is it:		(1) organized under the laws of Montana? ( <input checked="" type="checkbox"/> yes ( ) no (2) qualified to do business in Montana? ( <input checked="" type="checkbox"/> yes ( ) no	
3. Full name of the bank from which contribution/expenditure is made:  First Bank Southside Missoula		Bank's Address:  2801 Brook Street Missoula, Montana 59806	
4. Full name of candidate or title of ballot issue supported or opposed:  Montana Litter Control And Recycling Act Initiative 113		Support/Oppose  Opposed	Date of election: Primary _____ 19____ General or Regular Nov. 8, 1988 Special _____ 19____

PART II -- REPORT OF CONTRIBUTIONS/EXPENDITURES

5. Candidate or committee receiving contribution (full name and address):  Committee Against Forced Deposits P.O. Box 1142 Helena, Montana 59624		Amount of contribution: \$ 500.00  \$3,904.50	Date made: June 13, 1988  Aug. 18, 1988
6. Recipient of direct expenditure (full name and address):	Purpose (complete description):	Amount of expenditure: \$	Date made:

7. I, C. Russell Royter, certify that the above contribution/expenditure was made from the general treasury of the  
(name of certifying officer)

corporation, partnership, association, club, union, etc. and that the funds were acquired in the normal course of business and not donated or  
earmarked by any other person for political purposes. I further certify that all the foregoing statements are true and correct, and that I  
am an officer legally authorized to sign for the entity set forth in Item No. 1 above.

President

title of certifying officer

signature



Statement of Organization  
and  
Report of Contributions and Expenditures

TO THE STATE OF MONTANA

COMMISSIONER OF  
POLITICAL PRACTICES

CAPITOL STATION  
HELENA, MONTANA 59620  
PHONE: 406-444-2942

TO BE FILED BY

DATE 3-13-87

FILED FOR

INCIDENTAL  
POLITICAL COMMITTEES

5213

C-4

(Adopted 7/8)

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OCT 26 1988

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PART I -- STATEMENT OF ORGANIZATION OF INCIDENTAL COMMITTEE

1. Full name of corporation, partnership, association, club, union, etc.

Pepsi-Cola Bottling Co.

Location of principal office (mailing address)

2147 Ernest Avenue  
Missoula, Montana 59801

2. If entity is incorporated, is it:

(1) organized under the laws of Montana?

(X) yes

( ) no

(2) qualified to do business in Montana?

(X) yes

( ) no

3. Full name of the bank from which contribution/expenditure is made:

First Bank Southside, Missoula

Bank's Address:

2801 Brook Street  
Missoula, Montana 59806

4. Full name of candidate or title of ballot issue supported or opposed:

Montana Litter Control and Recycling  
Act Initiative #113

Support/Oppose

Opposed

Date of election:

Primary \_\_\_\_\_, 19

General or Regular Nov 8, 1988

Special \_\_\_\_\_, 19

PART II -- REPORT OF CONTRIBUTIONS/EXPENDITURES

5. Candidate or committee receiving contribution (full name and address):

Committee Against Forced Deposits  
P.O. Box 1142  
Helena, Montana 59624

Amount of contribution:

\$

\$2,000.00

Date made:

Oct. 24, 1988

6. Recipient of direct expenditure (full name and address):

Purpose (complete description):

Amount of expenditure:

\$

Date made:

7.1. C. Russell Royter

(name of certifying officer)

certify that the above contribution/expenditure was made from the general treasury of the corporation, partnership, association, club, union, etc. and that the funds were acquired in the normal course of business and not donated or earmarked by any other person for political purposes. I further certify that all the foregoing statements are true and correct, and that I am an officer legally authorized to sign for the entity set forth in Item 5, above.

President

title of certifying officer

signature



**Statement of Organization  
and  
Report of Contributions and Expenditures**

TO THE STATE OF MONTANA

**COMMISSIONER OF  
POLITICAL PRACTICES**

CAPITOL STATION  
HELENA, MONTANA 59620  
PHONE: 406-444-2942

TO BE FILED BY

DATE 3-13-89  
**INCIDENTAL**  
**POLITICAL COMMITTEES** 50213

FILED FORM

**C-4**

(Adopted 7/20)

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OCT 31 1988

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**THE COMMISSIONER OF  
POLITICAL PRACTICES**

**PART I -- STATEMENT OF ORGANIZATION OF INCIDENTAL COMMITTEE**

1. Full name of corporation, partnership, association, club, union, etc. <b>Montana Food Distributors Assn</b>		Location of principal office (mailing address) <b>2700 Airport Way P.O. Box 5775 Helena, MT 59604</b>	
2. If entity is incorporated, is it:		(1) organized under the laws of Montana? ( ) yes ( ) no (2) qualified to do business in Montana? ( ) yes ( ) no	
3. Full name of the bank from which contribution/expenditure is made: <b>First Security Bank</b>		Bank's Address: <b>1721 11th Ave. Helena, MT 59601</b>	
4. Full name of candidate or title of ballot issue supported or opposed: <b>Initiative 113</b>		Support/Oppose <b>Oppose</b>	Date of election: Primary _____ 19__ General or Regular <b>NOV. 8</b> 19 <b>88</b> Special _____ 19__

**PART II -- REPORT OF CONTRIBUTIONS/EXPENDITURES**

5. Candidate or committee receiving contribution (full name and address):  <b>Committee Against Forced Deposits: Montana Grocers, Recyclers, Soft Drink Bottlers, Beer Distributors, Container Manufacturers, and their National Affiliates, and other Montana Businesses and Concerned Citizens</b>  <b>P.O. BOX 1142 Helena, MT 59601</b>		Amount of contribution: \$ 5500.00 700.00 700.00 100.00 100.00 50.00 <u>1250.00</u> <b>\$8400.00</b>	Date made:  9/2/88 9/9/88 9/16/88 9/23/88 10/17/88 10/14/88 10/28/88
6. Recipient of direct expenditure (full name and address):  <b>Committee Against Forced Deposits: Montana Grocers, Recyclers, Soft Drink Bottlers, Beer Distributors, Container Manufacturers, and Their National Affiliates, and other Montana Businesses and Concerned Citizens</b>  <b>P.O. Box 1142 Helena, Mt 59601</b>	Purpose (complete description):  <b>Services Rendered by W.E. Stevens</b>  <b>Services Rendered by MFDA Office Staff</b>  <b>Mileage</b>  <b>Photocopying</b> <b>Office Supplies</b> <b>Postage</b>	Amount of expenditure: \$  602.68  248.00  66.15  95.60 24.16 151.00  <b>\$1187.59</b>	Date made:    08/04/88-10/26  08/16/88-10/26  02/04/88 08/15/88 08/17/88 08/18/88

7. I, W.E. Stevens, certify that the above contribution/expenditure was made from the general treasury of the  
(name of certifying officer)  
corporation, partnership, association, club, union, etc. and that the funds were acquired in the normal course of business and not donated or  
earmarked by any other person for political purposes. I further certify that all the foregoing statements are true and correct, and that I  
am an officer legally authorized to sign for the entity set forth in Item No. 1, above.

**Executive Director**

title of certifying officer

*W.E. Stevens*

signature



Statement of Organization  
and  
Report of Contributions and Expenditures

TO THE STATE OF MONTANA  
COMMISSIONER OF  
POLITICAL PRACTICES

CAPITOL STATION  
HELENA, MONTANA 59620  
PHONE: 406-444-2942

TO BE FILED BY

INCIDENTAL  
POLITICAL COMMITTEES

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NOV 29 1988

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POLITICAL PRACTICES

NUMBER

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PART I -- STATEMENT OF ORGANIZATION OF INCIDENTAL COMMITTEE

1. Full name of corporation, partnership, association, club, union, etc.  Montana Food Distributors Assn		Location of principal office (mailing address) 2700 Airport Way P.O. Box 5775 Helena, MT 59604	
2. If entity is incorporated, is it:		(1) organized under the laws of Montana? (X) yes ( ) no (2) qualified to do business in Montana? (X) yes ( ) no	
3. Full name of the bank from which contribution/expenditure is made:  First Security Bank		Bank's Address:  1721 11th Ave. Helena, Mt 59601	
4. Full name of candidate or title of ballot issue supported or opposed:  Initiative 113		Support/Oppose  Oppose	Date of election: Primary _____ 19 ____ General or Regular Nov. 8 _____ 19 88 Special _____ 19 ____

PART II -- REPORT OF CONTRIBUTIONS/EXPENDITURES

5. Candidate or committee receiving contribution (full name and address): Committee Against Forced Deposits: Montana Grocers, Recyclers, Soft Drink Bottlers, Beer Distributors, Container Manufacturers, and their National Affiliates, and other Montana Businesses and Concerned Citizens.  P.O. Box 1142 Helena, MT 59601		Amount of contribution: \$ 5500.00 700.00 700.00 100.00 100.00 50.00 1250.00 50.00 8450.00	Date made: 9/2/88 9/9/88 9/16/88 9/23/88 10/17/88 10/14/88 10/28/88 11/04/88
6. Recipient of direct expenditure (full name and address): Committee Against Forced Deposits: Montana Grocers, Recyclers, Soft Drink Bottlers, Beer Distributors, Container Manufacturers, and their National Affiliates, and other Montana Businesses and Concerned Citizens  P.O. Box 1142 Helena, MT 59601	Purpose (complete description): Services Rendered By W.E. Stevens  Services Rendered By MFDA Office Staff  Mileage Photocopying Office Supplies Postage	Amount of expenditure: \$ 650.26  248.00  66.15 95.60 24.16 151.00 1235.17	Date made: 8/04/88-11/2/88 8/16/88-10/2/88 2/04/88 8/15/88 8/17/88 8/18/88

7. I, W.E. Stevens, certify that the above contribution/expenditure was made from the general treasury of the  
(name of certifying officer)

corporation, partnership, association, club, union, etc. and that the funds were acquired in the normal course of business and not donated or  
earmarked by any other person for political purposes. I further certify that all the foregoing statements are true and correct, and that I  
an officer legally authorized to sign for the entity set forth in Item No. 1, above.

Executive Director

title of certifying officer

Final Report Nov. 28, 1988

signature



EXHIBIT 2

DATE 3-13-89

HB 3213

Prepared By	Initials	Date

Zip Beverage

1	Sept 13-14	SERVICES Gil Watkins	160 <sup>00</sup>	
2	13	Mileage	25 <sup>00</sup>	185 <sup>00</sup>
3	30	Bill Watkins	180 <sup>00</sup>	
4	29-30	Mileage to Pokon & Hamilton	50 <sup>00</sup>	415 <sup>00</sup>

4804 4 COL. - 8804 4 COL.



Statement of Organization  
and  
Report of Contributions and Expenditures

TO THE STATE OF MONTANA

COMMISSIONER OF  
POLITICAL PRACTICES

CAPITOL STATION  
HELENA, MONTANA 59620  
PHONE: 406-444-2942

TO BE FILED BY

DATE 3-13-89

FILING FOR

INCIDENTAL  
POLITICAL COMMITTEES 550213

C-4

(Adopted 7/8)

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OCT 31 1988

THE COMMISSIONER OF  
POLITICAL PRACTICES

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NUMBER

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See Instructions on Reverse Side (Type or Print Clearly)

PART I -- STATEMENT OF ORGANIZATION OF INCIDENTAL COMMITTEE

1. Full name of corporation, partnership, association, club, union, etc. MONTANA RECYCLING INC.		Location of principal office (mailing address) 806 WEST SPRUCE MISSOULA, MT 59802	
2. If entity is incorporated, is it:		(1) organized under the laws of Montana? (XX) yes ( ) no (2) qualified to do business in Montana? (XX) yes ( ) no	
3. Full name of the bank from which contribution/expenditure is made: IN KIND CONTRIBUTION		Bank's Address:	
4. Full name of candidate or title of ballot issue supported or opposed: INITIATIVE 113 - BOTTLE BILL		Support/Oppose OPPOSED	Date of election: Primary _____ 19 ____ General or Regular NOV. 8 19 88 Special _____ 19 ____

PART II -- REPORT OF CONTRIBUTIONS/EXPENDITURES

Candidate or committee receiving contribution (full name and address): CAFD, ETC.		Amount of contribution: \$ IN - KIND (\$6,677.84)	Date made:
6. Recipient of direct expenditure (full name and address):	Purpose (complete description):	Amount of expenditure: \$	Date made:

7. I, DOUGLAS G. STEWART, certify that the above contribution/expenditure was made from the general treasury of the  
(name of certifying officer)

corporation, partnership, association, club, union, etc. and that the funds were acquired in the normal course of business and not donated or earmarked by any other person for political purposes. I further certify that all the foregoing statements are true and correct, and that I am an officer legally authorized to sign for the entity set forth in Item No. 1, above.

PRESIDENT

title of certifying officer

*Douglas G. Stewart*  
signature



Statement of Organization  
and  
Report of Contributions and Expenditures

TO THE STATE OF MONTANA  
COMMISSIONER OF  
POLITICAL PRACTICES

CAPITOL STATION  
HELENA, MONTANA 59620  
PHONE: 406-444-2942

TO BE FILED BY

FILED BY 2

FILING FORM

INCIDENTAL DATE 3-13-89  
POLITICAL COMMITTEES  
HB SJR 13

C-4

(Adopted 7/80)

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NOV 15 1988

THE COMMISSIONER OF  
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PART I -- STATEMENT OF ORGANIZATION OF INCIDENTAL COMMITTEE

1. Full name of corporation, partnership, association, club, union, etc.  MONTANA RECYCLING INC.		Location of principal office (mailing address)  806 WEST SPRUCE MISSOULA, MT 5902	
2. If entity is incorporated, is it:		(1) organized under the laws of Montana? (XX) yes ( ) no (2) qualified to do business in Montana? (XX) yes ( ) no	
3. Full name of the bank from which contribution/expenditure is made:  IN KIND CONTRIBUTION		Bank's Address:	
4. Full name of candidate or title of ballot issue supported or opposed:  INITIATIVE 113 - BOTTLE BILL		Support/Oppose  OPPOSED	Date of election: Primary _____ 19 ____ General or Regular NOV. 8 19 88 Special _____ 19 ____

PART II -- REPORT OF CONTRIBUTIONS/EXPENDITURES

Candidate or committee receiving contribution (full name and address):  CAFD, ETC.		Amount of contribution: \$  IN - KIND (\$3,648.90)	Date made:
6. Recipient of direct expenditure (full name and address):	Purpose (complete description):	Amount of expenditure: \$	Date made:

7. I, DOUGLAS G. STEWART, certify that the above contribution/expenditure was made from the general treasury of the  
(name of certifying officer)  
corporation, partnership, association, club, union, etc. and that the funds were acquired in the normal course of business and not donated or  
earmarked by any other person for political purposes. I further certify that all the foregoing statements are true and correct, and that I  
am an officer legally authorized to sign for the entity set forth in Item No. 1, above.

PRESIDENT

title of certifying officer

signature

EXHIBIT

2

DATE

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**Schedule B--Expenditures  
Attachment to Form C-6****Reporting Period**  
From: October 30, 1988  
To: November 23, 1988**Name of Candidate or Committee:**Committee Against Forced Deposits: Montana Grocers, Recyclers,  
Soft Drink Bottlers, Beer Distributors, Container Manufacturers,  
and Their National Affiliates, and Other Montana Businesses and  
Concerned Citizens

Name and Address	Purpose	Date	Amount
Policy Resources Inc. P.O. Box 5925 Helena, MT 59604	Campaign management services during the month of October	11/03/88	\$12,366.08
	Campaign management services during the month of November	11/16/88	5,295.95
Sage Advertising 2027 Eleventh Avenue P.O. Box 1142 Helena, MT 59624	Radio media purch. for Oct. 25-Nov. 8	11/01/88	15,003.53
	Production services October 1-21, 1988	11/06/88	48,729.54
	Production services Oct. 24-Nov. 15; TV commercial edits; newspaper media pur- chases; recycling poster [less 20% commission credit of \$3,603.77]	11/17/88	19,952.75
Debbie Siders 1736 Longfellow, #5 Butte, MT 59701	Net payroll for October 16-31, 1988	10/31/88	790.96
	November 1-15, 1988	11/15/88	790.96
	Post-election bonus	11/15/88	1,581.92
	Reimbursement for travel expenses	11/16/88	152.60
State Compensation Ins. Fund Division of Workers' Comp P.O. Box 4759 Helena, MT 59604-4759	Workers' Compensatn premium for third quarter 1988	11/17/88	38.22
Third Eye Photographics 58 North Last Chance Gulch Helena, MT 59601	Photographs	11/17/88	135.00
Total this page:			\$104,837.51
Total Expenditures this Period:			\$111,639.76 =====

DATE

3-13-81

HB.

55213

## Expenditures

Jan 5

359334<sup>89</sup>

Dec 12

Initial Contribution excess funds  
Keep Montana Clean & Beautiful, Inc  
Valley Bank Acct #2311080

600<sup>00</sup>

Jan 5

Contribution

6000<sup>00</sup>6600<sup>00</sup>

Sage to date  
TV, Posters, etc

289917<sup>35</sup>

Outstanding

Monies

Now on Richter Letter Rises

1954<sup>00</sup>

Lutz - Ritzheimer Consulting

Montana Sift Drink 6/13/88

417<sup>59</sup>

Commissioners  
Russell J. Ritter, Mayor  
Rayleen Beaton  
Tom Huddleston  
Rose Leavitt  
Blake J. Wordal



EXHIBIT 3  
DATE 3-13-89  
HB SB 261

City-County  
Administration Building  
316 North Park  
Helena, MT 59623

Phone: 406/442-9920

William J. Verwolf  
City Manager

## City of Helena

March 13, 1989

Chairman Bob Raney  
House Natural Resources Committee  
State Capitol Building  
Helena, Montana

Dear Chairman Raney and Committee Members:

I am the Planning Director for the City of Helena, and am presenting testimony for both the City of Helena and for the Montana Association of Planners (MAP).

The law does not presently address boundary relocations between platted subdivisions and unplatted land. As a result, these relocations are presently reviewed as subdivisions. Subdivision review may not be necessary for this type of relocation. However, SB 261 would allow boundary relocations without any type of review.

When a subdivision is reviewed and approved by a governing body, the assumption is that certain type of development will occur on that property. It is as if that review and approval is a contract between the governing body, the developer, and the general public (including the property owners of land within the subdivision). The governing body should have the opportunity to consider the original contract and the integrity of the subdivision. If the boundary relocation would create adverse effects, it should not be permitted. Essentially, such a boundary relocation between a platted subdivision and unplatted land should be approved by the governing body.

Without any review or the approval of the governing body, several detrimental events could occur with this type of boundary relocation:

- 1) Land located within a platted subdivision may serve as collateral for a Special Improvement District (SID) or a Rural Improvement District (RID). Once an improvement district boundary is determined, that exterior boundary cannot be adjusted. Without any review, removing this land from a platted subdivision could create administrative future problems when determining the assessments of the improvement district.
- 2) Property located inside a platted subdivision may be subject to covenants or assessments by a Homeowners' Association. If property could be removed from the subdivision without any consideration, adjacent property owners would no longer receive the same protection they originally had when all of the subdivision properties were covered by the covenants. The removal of property may also affect the Homeowners' Association assessments on the other properties.

DATE 3-13-89HB SB 261

- 3) If the governing body has the opportunity to approve this particular boundary relocation, the maintenance assessments could be respread equitably. In addition, the lot areas and lot widths could be checked to assure that the relocated boundaries do not create properties that violate zoning.
- 4) Lastly, this boundary relocation should be shown as an amended plat and not as a certificate of survey. After a boundary relocation has occurred, amended plats provide a better record for the general public than a certificate of survey.

To summarize, the City of Helena and the Montana Association of Planners believe that the governing body should have the opportunity to approve a boundary relocation between a platted subdivision and unplatted land, and that such a relocation should be shown on an amended plat.

As proposed, these boundary relocations have been included under 76-3-207, "Subdivisions exempted from review but subject to survey requirements -- exceptions. (1), MCA. SB 261 could be amended so that "divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision must be approved by the governing body, and an amended plat must be filed with the county clerk and recorder". Such an amendment would then be included under 76-3-207 (2), MCA.

If SB 261 cannot be adequately amended to address these concerns, I would encourage the House Natural Resources Committee to not pass SB 261 as it is presently written.

Sincerely,

*Kathy Macefield*  
Kathy Macefield



# LEWIS AND CLARK COUNTY

## Planning Department

City-County Building

316 North Park

P.O. Box 1725

Helena, Montana 59624

Phone 406/443-1010

February 9, 1989

FILE: 1506 Harding.ltr

Senator Ethel Harding  
Chairperson, Senate Local Government Committee  
Montana Senate  
State Capitol  
Helena, MT 59620

Subject: SB-261

Dear Senator Harding:

I was unable to attend the Committee hearing on SB-261 last Tuesday, (2-7-89). However, I do have several comments on the proposed legislation.

First of all, I support the idea of addressing the relocation of boundaries between platted and unplatted lands; the present statutes do not specifically address such circumstances. However, such boundary changes should not be exempt from any review and certain filing procedures should be followed.

Several questions arise when relocating boundaries between platted and unplatted areas. Is the acquired or removed property considered part of the subdivision or not? Do the rights and obligations of the subdivision apply to the acquired or removed property? Do zoning or covenants apply to the acquired or removed property and would the proposed change be in compliance with such regulations? What services and assessments apply to the acquired or removed property?

A summary review amended plat process would provide a format for addressing these (and other) pertinent questions. In most areas, such boundary relocations would not be reviewed as subdivisions and hearings would not be necessary. However, a summary review would provide a simple and appropriate mechanism to address the circumstances of the proposed boundary relocation. The filing of an amended plat would provide for clear record keeping, thereby



EXHIBIT 4  
DATE 3-13-89  
HB SB261

assisting title companies, state and county agencies, and the public.

Please consider these points in your deliberations on HB-261.  
Thank you.

Sincerely,



Robert Rasmussen, Director  
LEWIS AND CLARK COUNTY PLANNING DEPARTMENT

cc: Committee Members

Proposed Amendments  
to  
Senate Bill 450  
Third Reading Copy

5  
DATE 3-13-88  
HB SB 450

by Ted J. Doney

1. Page 3, line 13.  
Following: "be"  
Strike the colon

2. Page 3, line 14.  
Strike: "(A)"

3. Page 3, lines 18 through 21.  
Following: "usable" on line 18  
Strike all the material thereafter through "SUPPLY" on line 21

4. Page 10, line 22.  
Following: "(4)"  
Strike: "Department"  
Insert: "If the salvage of water involves a change in  
appropriation right, department"

# OCHENSKI AMENDMENT

Pg. 3, line 20;  
following "USED"

EXHIBIT 6  
DATE 3-13-89  
FILE SB 450

Strike "By ANOTHER APPROPRIATOR  
FROM THE SOURCE OF SUPPLY"

EXHIBIT 7  
DATE 3-13-89  
HB SB 450

PROPOSED AMENDMENT TO SB 450

Proposed by the Montana Council of Trout Unlimited

Page 11, Line 2: Insert "(6) Salvaged water may be transferred to an instream purpose, upon approval by the department as provided in subsection (4) of this section."

## VISITORS' REGISTER

Natural Resource

COMMITTEE

BILL NO.

STP 13

DATE \_\_\_\_\_

3-13-89

SPONSOR

Sen Meyer

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Natural Resource COMMITTEE

DATE 3-13-89

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# VISITORS' REGISTER

## Natural Resources

COMMITTEE

BILL NO. SB 447

DATE 3-13-89

SPONSOR Sen Yellowstone

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Natural Resources COMMITTEE

DATE 3-13-89

SPONSOR Sen Yellowtail

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.