

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By THOMAS F. KEATING, on MARCH 13, 1989, at  
1:00 p.m., Room 405 of the State Capitol.

ROLL CALL

Members Present: Senators: Thomas F. Keating, Chairman,  
Larry Tveit, Fred Van Valkenburg, Loren Jenkins, Darryl  
Meyer, Bill Yellowtail, Elmer Severson, Cecil Weeding,  
Dorothy Eck and Jerry Noble.

Members Excused: None

Members Absent: Senators Lawrence Stimatz and Pete Story

Staff Present: Bob Thompson and Helen McDonald

HEARING ON HB 678

Presentation and Opening Statement by Sponsor:

Representative Bob Gilbert, District #22 introduced this bill which took 18 months to complete. The bill proposes to achieve conservation of forest and watershed resource by encouraging the use of best management practices in timber sale planning, associated road construction and reconstruction, timber harvesting, site preparation, and related activities. The bill also establishes a process to ensure that information on best management practices is provided to owners and operators engaged in forest practices on private land. Representative Gilbert hopes this bill will keep us from having to have mandatory forest management. Representative Gilbert summarized the content of the bill.

Senator Keating asked if there would be any new FTE's.

Representative Gilbert said 2.5 FTE's.

List of Testifying Proponents and What Group they Represent:

Don Allen, Montana Wood Products  
Kim Wilson, Sierra Club  
Don Alke, Trout Unlimited  
Gary Brown, Department of State Lands  
Mark Simonich, F.H. Stoltze Land & Lumber,

Columbia Falls  
Jim Jensen, Mont. Environmental Information Center  
Keith Olson, Mont. Logging Assn.  
Gordon Sanders, Champion International  
Janet Ellis, Audubon

List of Testifying Opponents and What Group They Represent:

Julie Hacker, Self  
Vera Cahoon, Missoula Co. Freeholders Assn. Inc.

Testimony:

Don Allen said his board has asked its members to encourage contracts with logging operators. Mr. Allen's association would prefer that provisions like mandatory on-site consultation be more voluntary, but he looks at this as a challenge for the next two years. Mr. Allen hoped this bill receives a do pass.

Kim Wilson endorses the bill with very strong reservations. He was not sure the voluntary part of the bill will work. He thinks that the required notice and the educational components allowing the operator and landowners to get information from Department of State Lands are worthwhile. He hopes this measure passes and the funding is supported.

Dan Alke supports this legislation but would like to stress that his support of the bill does not preclude any further initiatives in the area of forest practices.

Gary Brown submitted written testimony. (Exhibit #1)

Mark Simonich feels this bill provides an educational process that will help minimize any departures in the future. Mr. Simonich said his company supports educating itself and the loggers, and appreciates the efforts of the wood products association as well as local mills. He agrees with the voluntary idea.

Jim Jensen supports this bill because it is facing in the right direction. The logger wants to take the best care of the land he can because he lives in the community and his salary goes into the local economy. The loggers want to have long-term healthy forests.

Steve Olson submitted written testimony. (Exhibit #2)

Gordon Sanders testified that over the last two years Champion has participated in all phases of the study of forest practices and watersheds. Champion helped

develop Best Management Practices (BMPs) and provided detailed input in response to the EQC forest management questionnaire. Champion supports this bill as a reasonable and equitable approach to forest practice education.

Janet Ellis' association participated in the study by EQC. She thinks this bill is a small but important step toward providing the state with best management practices.

Julie Hacker submitted written testimony. (Exhibit #3)

Vera Cahoon submitted written testimony. (Exhibit #4)

Questions From Committee Members:

Senator Van Valkenburg wondered if DSL had asked the appropriations subcommittee for funding for this program.

Gary Brown said he was not familiar with that process.

Senator Van Valkenburg said he wasn't familiar with the study. Was there any discussion about generating the money by a fee system?

Representative Gilbert said there was some initial discussion about increasing the slash fees and some other things.

Senator Eck asked if Mr. Brown knew the tax rate of bordering states?

Gary Brown said that wasn't part of the study because the department was trying to make water pure--not raise taxes.

Senator Eck wondered if the fiscal note would be adequate?

Representative Gilbert said the reason the fiscal note is inadequate is because the visitation to the sites will be inadequate. The actual on-site visitation will probably be 10%. There are 2100 timber operations in Montana. A company will be able to file one application to cover a series of cuts. When the plan is submitted, the operator can start analyzing which areas to cut and which areas have the potential for high impact. There will also be some lead time, which is less expensive than reaction time, to study those things.

Senator Eck said there was a bill the other day on fire reduction. Do you see the processes meshing at all?

Representative Gilbert said they will mesh.

Senator Jenkins asked why Representative Gilbert decided to introduce this bill?

Representative Gilbert said in 1987 Representative Cohen introduced a bill that mandated forest practices. It was killed or tabled.

Gary Brown said that Champion and Plumb Creek are the two major industries in the state with a total acreage of two million or more acres and have foresters on their staff. There are several thousand ranchers, farmers, and persons who own a piece of forested land that they occasionally harvest. The size of ownership is anywhere from an acre to over a thousand acres. About 50 million board feet of timber are harvested annually.

Senator Keating asked Keith Olson if this bill was the lesser of two evils for his group.

Keith Olson said it could be characterized that way.

Senator Keating said the bill mostly amends existing laws, but section 4 is a new section having to do with notification. Should there be a statement of intent in regard to the rulemaking for this new section or is the section specific enough in its language so it will not entail rulemaking?

Representative Gilbert said he hoped it would be specific enough so there wouldn't be rulemaking.

Senator Keating said there is an extension of authority for rulemaking in section 6 on page 10, and he was curious whether this new section would cause any rule writing.

Representative Gilbert didn't believe it would. One of the reasons for the extension was because the slash law was changed.

Senator Keating asked Kim Wilson for suggestions as to how this should be paid for? Specifically, would his organization be willing to contribute to any of this?

Kim Wilson doubted if his organization would be able to contribute. He said in comparison with other states, the tax on the timber industry in Montana is not as onerous as it could be.

Senator Jenkins asked Janet Ellis about her concern with watersheds. Last summer the state had a "let burn" policy.

Are you aware what a lot of downed timber and extreme heat, does to the watershed?

Janet Ellis answered she was involved in Yellowstone and even with the intense fires there there was very little soil damage.

Closing by Sponsor: Representative Gilbert closed by addressing Ms. Hacker's statements. Missoula Freeholders like many others had the opportunity of attending advertised meetings. They didn't show up to any of our meetings and didn't become involved in the process and then came and protested the bill.

Representative Gilbert said he doesn't think she knows what this bill really does. This bill will help her because it is not regulation but education. The measure will help those people who are too busy to become professional foresters. It is necessary to educate the people.

Representative Gilbert concluded by recommending that industry hire more supervisors out in the ground to make sure areas are forested right. This bill passed the House 92 to 5 and is going in the right direction. The people of Montana will pay for this bill but it will be worth it and everyone will win.

#### DISPOSITION OF HB 678

Recommendation and Vote: Hearing is closed on HB 678.

#### HEARING ON HJR 9

Presentation and Opening Statement by Sponsor:

Representative John Mercer, District #50, sponsored this resolution affirming the findings of the Flathead Basin Commission in opposition to the proposed Cabin Creek Coal mine in the province of British Columbia. This is an extremely important issue to the people in his area in their efforts to protect for Montana one of its biggest treasures. (Glacier NP)

List of Testifying Proponents and What Group they Represent:

Doug Alke, Trout Unlimited  
Kim Wilson Sierra Club  
Jim Jensen, Montana Environmental Information Center

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Doug Alke supports this resolution.

Kim Wilson heartily endorses this measure.

Jim Jensen supports this resolution.

Questions From Committee Members: Senator Keating said inasmuch as Cabin Creek Mine has been abandoned and it is doubtful that it will come to life, is this resolution useful?

Representative Mercer understands that whether or not the mine has been abandoned, nothing is abandoned forever. He is not convinced it has been abandoned and thinks this resolution is important.

Senator Keating recently read a report the company said it was not economically viable and, therefore, they were never going to back and mine it again.

Senator Weeding asked who represents Montana on the International Joint Commission.

Representative Mercer didn't believe that Montana was represented on that commission.

Closing by Sponsor: Representative Mercer closed by thanking the committee for their consideration.

DISPOSITION OF HJR 9

Recommendation and Vote: Hearing on HJR 9 is closed.

HEARING ON HJR 18

Presentation and Opening Statement by Sponsor:

Representative William Menahan, District #67, sponsored this joint resolution that urges the United States Congress to provide to the states some financial resources that are necessary to implement new regulations for solid waste landfills. The entire State of Montana will be affected by the new regulations and strict requirements will be required for monitoring landfills for the next 30 years. Counties that are strapped right now will have to come up with \$5,000 to \$10,000 each year for the next 30 years to fund the

landfills and this resolution says the state will do this but it needs a few dollars with it. The state has about 140 different landfills. If they are open for one day after the regulations go into effect, the counties will be responsible for 30 years to pay for monitoring and other requirements required by the federal EPA.

List of Testifying Proponents and What Group they Represent:

Chris Kaufman, Montana Environmental Information  
Jim Leiter, Dept. of Health & Environmental Sciences  
Jim Jensen, Montana Environmental Information Center

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Chris Kaufman said when the regulations come down it will be a hardship on the counties.

Jim Leiter from the Solid Waste Program supports this resolution.

Jim Jensen supports this resolution.

Questions From Committee Members:

Senator Eck said it appeared to her that the best advice to give the counties if they want to stay open after these regulations is to find out now if they might have a potential problem and make plans to get out of business. Is the department working with the communities?

Jim Leiter said the solid waste program only has 1.5 persons. Their entire time is spent trying to provide information to get communities to make the decision. If the landfill is nearly full or has 3 or 4 years left, it doesn't make sense for them to stay in business past the effective date of these regulations.

He added that the department is trying to provide as much assistance as possible to get these people to plan for the future and investigate any alternatives they've got, whether it should be a new landfill site or some kind of a regional system. One of the keys to knowing whether to keep a landfill open and face these federal regulations is knowing what is happening to the ground water. The department is encouraging communities to put in wells and obtain samples. It's estimated about a

third of Montana's landfills are leaking.

Closing by Sponsor: Representative Menahan closed by saying every community in the state that will be affected by these regulations. To transport the solid waste maybe a hundred miles away would be an an expensive project. Representative Menahan would appreciate the committee's support.

#### DISPOSITION OF HJR 18

Hearing is closed on HJR 18

#### HEARING ON HB 727

Presentation and Opening Statement by Sponsor:

Representative Robert Marks, District #57, sponsored this bill to clarify the licensing act for water well contractors. The parties affected by this measure had to agree on what a monitoring well is and what a geotechnical boring is. The real purpose of this bill is that there was some concern by the well drillers and board of water contractors because two different licenses were required in order to be engaged in water contracting well and monitoring well contracting. The contractors felt the qualifications for water well contracting should be sufficient for monitoring well drilling.

List of Testifying Proponents and What Group they Represent:

John Fitzgerald, Pegasus Gold Mine Corp.  
Kim Muskie, Professional Engineer  
Wes Lindsay, Water Well Board  
Jo Brunner, Montana Water Resources  
Pat Byrne, Mont. Water Well Drilling Assn.

List of Testifying Opponents and What Group They Represent:

None

Testimony:

John Fitzpatrick said this bill was brought first to the House had some problems with the definition of geotechnical boring. Subsequently, the language was clarified. After a meeting with the water well drillers, the amendments were drafted. (Exhibit #6) Mr. Fitzpatrick recommends the bill. This bill clarifies



the licensing procedure for contractors who drill monitoring wells and ground water wells.

Wes Lindsay stated his association is a very strong supporter of this bill. The measure was put together with a lot of help from the Montana State Water Well Association, the licensed and professional engineers in the state, and several state and federal agencies. This bill amends the statutes that are now in the monitoring well licensing law. The amendments were drafted so everybody, the engineers, well drillers, and mining people can live with this law and still protect our underground water.

Kim Muskie supports this bill with the amendments as drafted. Mr. Muskie pointed out that this bill changes the existing rules in one important way that hasn't been brought up. As a licensed engineer and licensed monitoring well constructor, he is regulated by two books that in some ways are contradictory. That was the most troublesome part of the existing legislation.

Jo Brunner said the members of her association urge support of this bill.

Pat Byrne urges support of this bill.

Senator Keating received a letter from Mark Spratt of Spratt and Associates in Kalispell. (Exhibit #4)

Questions From Committee Members:

Senator Keating asked about the makeup of the board of water well contractors. Would there be any objection to having a monitoring water well constructor on the board? Is he different from a water well driller?

Wes Lindsay answered no to the last question. There are two engineers, two water well drillers, and one member from DNRC on the five-member board.

Senator Keating wanted to know if the water well drillers and monitoring well constructors are similar enough that there isn't a distinction between them.

Ken Muskie answered the way the legislation is written water well contractors will be monitoring well constructors also and he didn't feel real strongly about it either way.

Senator Keating asked if, under this legislation, the grandfather clause would mean that previously licensed monitoring well constructors wouldn't need to apply for new

licenses.

Representative Marks wasn't sure there is any need for the grandfather clause in this case. The people interested in this legislation recognize they are probably going to be dealing with the same group that are doing this business now. The well drillers are interested in the fact that two licenses won't be required.

Senator Keating asked the civil engineer about the effect of the grandfather clause on this bill.

Ken Muskie said he didn't feel strongly about it either way.

Senator Eck asked if the water well engineers were different from engineers who drill water monitoring wells.

Ken Muskie answered that the engineers can design both, the driller can drill water wells and the engineers can drill monitoring wells

Closing by Sponsor: Representative Marks closed by recommending the amendments as indicated by Mr. Fitzpatrick and agreed upon by others here today. This bill straightens out the inequities in the water well contracting business.

#### DISPOSITION OF HB 727

Discussion: Hearing on HB 727 is closed.

#### Executive Action

Senator Meyer moved the amendment to HB 727. Motion carried. Senator Meyer moved that HB 727 as amended be concurred in. Motion carried.

Senator Jenkins moved HJR 9 for concurrence. HJR 9 passed.

Senator Jenkins moved HJR 18 for concurrence. HJR 18 passed.

#### ADJOURNMENT

Adjournment At: 2:55 p.m.

March 13, 1989

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THOMAS F. KEATING, Chairman

TFK/HMC

SENMIN.313

ROLL CALL

NATURAL RESOURCES COMMITTEE

505\* LEGISLATIVE SESSION -- 1989

Date 3-13-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	✓		
Senator Fred VanValkenburg	✓		
Senator Loren Jenkins	✓		
Senator Darryl Meyer	✓		
Senator Lawrence Stimatz		✓	
Senator Pete Story		✓	
Senator Bill Yellowtail	✓		
Senator Elmer Severson	✓		
Senator Cecil Weeding	✓		
Senator Dorothy Eck	✓		
Senator Jerry Noble	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 14, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HJR 9 (third reading copy -- blue), respectfully report that HJR 9 be concurred in.

Sponsor: Mercer (Harding)

BE CONCURRED IN

Signed:   
Thomas F. Keating, Chairman

scrhjr09.314

3-14-89  
eg  
4:4

SENATE STANDING COMMITTEE REPORT

March 14, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HJR 18 (third reading copy -- blue), respectfully report that HJR 18 be concurred in.

Sponsor: Menahan (Weeding)

BE CONCURRED IN

Signed: *Thomas F. Keating*  
Thomas F. Keating, Chairman

3-14

SENATE STANDING COMMITTEE REPORT

March 13, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 727 (third reading copy -- blue), respectfully report that HB 727 be amended and as so amended be concurred in:

Sponsor: Marks (Meyer)

1. Page 2, line 9.

Following: "HOLE"

Strike: "DRILLED"

Insert: "intended solely"

2. Page 2, line 15.

Following: "quality"

Insert: ", groundwater levels,"

3. Page 2, lines 23 through 25.

Following: "lagoons"

Strike: remainder of line 23 through "GROUNDWATER" on line 25

AND AS AMENDED BE CONCURRED IN

Signed:

  
Thomas F. Keating, Chairman

*Handwritten notes:*  
N.C.  
3/14/89  
10:15 a.m.

## TESTIMONY ON HB678

## SENATE - NATURAL RESOURCES

THE DEPARTMENT OF STATE LANDS SUPPORTS HB678. WE BELIEVE THAT IT REPRESENTS A REASONABLE APPROACH TO ENSURING PROTECTION FOR MONTANA'S FORESTED WATERSHEDS. THERE IS INSUFFICIENT EVIDENCE OF A WATER QUALITY PROBLEM OF A MAGNITUDE THAT WARRANTS AN EXPENSIVE, BURDENSOME REGULATORY SOLUTION. ON THE OTHER HAND, HOWEVER, WE BELIEVE THAT FOREST PRACTICES, SUCH AS TIMBER HARVESTING, HAVE THE POTENTIAL TO ADVERSELY AFFECT WATER QUALITY IF BEST MANAGEMENT PRACTICES (BMPs) ARE NOT PROPERLY PLANNED AND CARRIED OUT. THEREFORE, IT IS IMPORTANT AND NECESSARY THAT A BMP EDUCATION PROGRAM BE CARRIED OUT IN MONTANA. SUCH A PROGRAM WILL COMPLEMENT THE EFFORTS OF THE CUMULATIVE WATERSHED EFFECTS COOPERATIVE. THE COOPERATIVE, WHICH IS COMPOSED OF FEDERAL AGENCIES, FOREST INDUSTRY AND THE DEPARTMENT, IS ALREADY WORKING TO ENSURE THAT BMPs ARE IMPLEMENTED DURING FOREST PRACTICES ON



ALL LANDS MANAGED BY MEMBER ORGANIZATIONS. THIS BILL WILL DO THE SAME FOR PRIVATE FOREST LANDS NOT COVERED BY THE COOPERATIVE. WE BELIEVE THAT THE CONCEPT OF MANDATORY INFORMATION AND EDUCATION, COUPLED WITH VOLUNTARY COMPLIANCE BEST MEETS THE TOTAL NEEDS OF MONTANA.

THE DEPARTMENT ALSO BELIEVES IT IS IMPORTANT TO PROVIDE FOR A FOLLOW-UP EVALUATION TO DOCUMENT THE SUCCESS (OR FAILURE) OF THE VOLUNTARY PROGRAM. THIS EVALUATION WOULD BE CONDUCTED ON A SAMPLE OF ALL PRIVATE FOREST LAND, INCLUDING INDUSTRIAL OWNERSHIPS PARTICIPATING IN THE CUMULATIVE WATERSHED EFFECTS COOPERATIVE.

*The Department urges passage of This Bill,*



# MONTANA LOGGING ASSOCIATION

P.O. Box 1716  
Kalispell, Montana 59903-1716  
406-752-3168  
FAX 406-756-9574

SENATE NATURAL RESOURCES  
EXHIBIT NO. #2  
DATE 2-13-89  
FILE # B 678

March 2, 1989

## MLA MEMBERSHIP

Attached is a registration form and a schedule of workshops that the MLA will conduct during the month of April on the subject of Best Management Practices (BMP's).

Two years ago, during the 1987 legislative session, legislation was introduced to enact a Watershed Management Act--also referred to as a Forest Practices Act--in Montana. Proponents of such legislation wanted logging practices in Montana strictly regulated by state law. The 1987 Legislature did not pass such legislation; however, they did call for a two-year legislative study of how logging activity was impacting water quality in Montana.

The state's Environmental Quality Council subsequently spent 18 months studying the need for a Forest Practices Act in Montana. The EQC eventually decided that a comprehensive regulatory act is not needed AT THIS TIME; however, the EQC did develop a list of BMP's...and they are recommending some changes in existing law to require pre-notification to logging activity on private land...as well as an avenue for the state to provide information on BMP's and to request an on-site consultation in advance of harvesting or road construction activity.

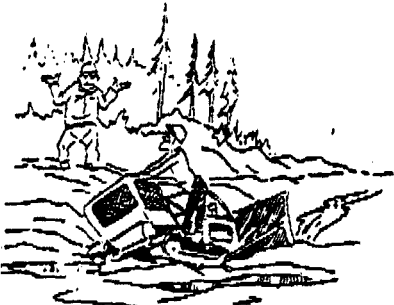
Although the MLA has opposed legislation which proposes a comprehensive Forest Practices Act, we have agreed to become involved in a voluntary educational effort to promote the use of BMP's and to inform loggers and landowners about state and federal laws which address water quality in Montana.

As part of our commitment to that voluntary educational effort, the MLA's forester, Keith Engebretson, has scheduled a workshop in each of the MLA's 9 statewide chapters. These initial workshops are expected to last approximately 3 1/2 hours...and they are designed to provide participants with a basic understanding and appreciation for the fact that prudent logging practices can effectively protect water quality.

The MLA's board of directors strongly urges all MLA members--and their employees--to participate in at least one of these workshops. There is no charge or cost involved for those who attend.

We should all be aware that the logging industry is under fire from all directions by the environmental community. These BMP workshops are our way of taking charge of our own destiny. As the old cliché goes: If you are not part of the solution, you are part of the problem.

We would also ask that each of you extend an invitation to any interested private timberland owners to attend the workshop.



AGENDA



1989 BMP WORKSHOP

Eureka	April 4	8:30 am	REA Building
Superior	April 5	1:00 pm	JG Travel Center
Townsend	April 6	1:00 pm	Mint Bar & Restaurant
Deer Lodge	April 7	1:00 pm	Community Center
Kalispell	April 12	8:30 am	Outlaw Inn
Libby	April 12	7:00 pm	VFW Hall
Thompson Falls	April 13	1:00 pm	Community Center
Missoula	April 14	8:30 am	Quality Inn
Bozeman	April 18	8:30 am	Grand Tree Inn

PROGRAM SCHEDULE

- 45 min. Introduction
- 35 min. Streamside Management Zones
- 20 min. *Coffee Break*
- 35 min. Road Construction & Maintenance
- 30 min. Agreements, permits and The Law
- 15 min. Wrap-up
- 3 hours

FACILITATORS

Keith Engebretson	Forester	MT Logging Assn.
Robert Logan	Forester	MSU Extension Service
Robert Black	Road Engineer	PCTC (Retired)

REGISTRATION FORM

Please fill out and return to: Montana Logging Association, P.O. Box 1716, Kalispell, Montana 59901. Phone: 752-3168.

FIRM NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ TOWN: \_\_\_\_\_ ZIP: \_\_\_\_\_

Total number of persons attending: \_\_\_\_\_

Indicate workshop attending: \_\_\_\_\_

\*\*\*In addition to owner/operator, suggest that all employees of Contractors that perform operations around or near sensitive areas also attend the workshops.

SENATE NATURAL RESOURCES

EXHIBIT 3

DATE 3-13-88

BILL NO. ~~HB 678~~

HB 678

Senate Natural Resources Committee

My name is Julie Hacker I am a landowner and I manage private

forest land. I appear before you as an opponent to HB 678

because I believe that private forest owners don't need

any more scrutiny or regulation by the state of Montana.

This proposal looks like bureaucratic busy-work to me.

I have been working with loggers and foresters for the past

12 years as we tackled the problems of pine-beetle and spruce-

budworm in our woods.

There is plenty of help available for private landowners,

who I might add are your basic conservationists, from the

soil conservation service and the extension service. We

respect our lands as we respect our fathers and grandfathers

who originated our places. We work toward a sustained yield

from the land with hope for the future. Most small forest

owners are also ranchers and this is the busy calving-season.

There is no need to put another burden on these people by

requiring more paperwork or the possibility of state-imposed

consultation and time delays involved when they decide to

sell timber products. There is a population of Montana who

have no access to the legislature because they have to work.

They are also the folks who are not asking for anything

but for you to control government regulation and spending

through the legislative process.

Ex. 1-3  
3-13-89

HB 678

This proposal would no longer leave the decision-making power in the hands of the owners, but the state would decide when you get your slash permit if you need consultation and then the state would have the power to delay the project. I have been through this once when we tried to bridge a dry creek and I don't ever want a repeat of that hassle. Loggers understand this. Even a 10 day delay can make a deal turn sour. I have had this happen. I remind you that standing down time costs money and the profit margins are slim.

This bill leaves the gate open for several kinds of interference with private property rights. First, mandatory consultation and the time it would require; Second, the forest plan which in the long run you can't follow anyway because the harvest operation is driven by the mills as to price and what is merchantable at the time; Third, there is no mention of what this additional step will cost as the rules will be written by the department after the fact. I believe this proposal is an infringement on private property and landowners rights. I do agree to the slash permit as nobody want to see the woods go up in flames.

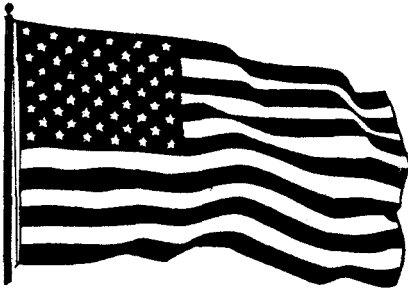
You must provide stepping-stones in the form of education and extension services, not stumbling-blocks of additional paper work and state-imposed compulsory consultation as outlined in this bill. In short, no more red-tape, please.

I urge the committee to kill HB 678 and allow the landowners to take care of their forests.

#

*Julie Hacker*  
3-13-89

EXHIBIT 4 a  
DATE 3-13-89  
BILL NO. HB 678



**Missoula County Freeholders Association, Inc.**  
Box 7643 • Missoula, Montana 59807-7643

**Missoula County  
Freeholders Association**  
Organized 1977  
Incorporated 1984  
**Working For You!**

March 13, 1989

Senate Natural Resources Committee

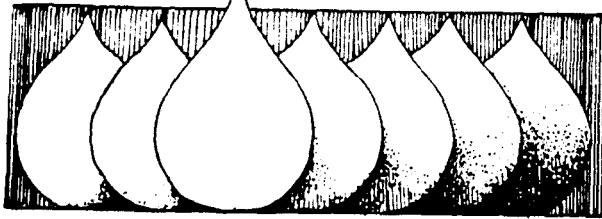
Missoula County Freeholders oppose HB 678. We believe it is an unnecessary infringement on the private property owner's rights.

As landowners, we are conservationists believing that owners must be allowed some latitude in managing their operations.

We urge you to give this bill a DO NOT PASS recommendation.

*Bera Cahoon*  
*Lobbyist*  
*+  
Chairman*

**SPRATT & ASSOCIATES / CONSULTING HYDROGEOLOGY**



SENATE NATURAL RESOURCES

EXHIBIT # 4  
DATE 8-13-89  
BILL NO. HB 727

Suite 500 / 2nd WEST CENTRAL  
22 Second Avenue West  
P.O. BOX 1579  
KALISPELL, MT 59903  
406-752-3516

March 9, 1989

Honorable Thomas Keating  
Chairman, Senate Natural Resources Committee  
Capitol Station  
Helena, Montana 59620

REF: House Bill 727.

Dear Senator Keating,

On March 13, 1989, the Senate Natural Resources Committee is scheduled to hear testimony on HB 727. Please consider these points and amendments during your deliberations.

I am a Certified Hydrogeologist and Licensed Monitoring Well Constructor in the State of Montana (#012). In most circumstances I subcontract drilling to local drilling companies and infrequently construct wells myself. Monitoring wells have become very important during the recent 10 years and an integral part of several different businesses. Properly constructed wells are important and rightfully regulated by the State. Proper construction eliminates cross contamination, provides reliable, meaningful groundwater resource data and eliminates gross fruitless expenditure of funds. Existing licensing programs do not address monitoring wells. Only the legislation being amended addresses monitoring well construction.

The law, as amended in 1987, set June 1, 1988, as the end of the grandfather period. During that period, 26 licenses were granted to qualified applicants. These applicants successfully passed the examination as well as meeting all other requirements. Twenty six licensed constructors will easily meet the drilling needs in the State for the next several years and provide sufficient competition to assure that clients obtain fair prices. There is no reason to extend the grandfather period.

Most states require an exam as part of the licensing process. Montana drillers regularly do work in other states in the western U.S. and benefit from a licensing program that is recognized throughout the region. Removal, or elimination, of the examination requirement during the grandfather period jeopardizes the reciprocity potential of the Montana license

Ex. #4

3-13-89

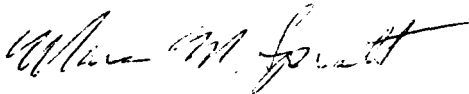
HB 727

for no apparent purpose. Please delete Section 2 of the proposed amendments and retain Section 16, Ch. 538, L. 1987.

The Board of Water Well Contractors presently has two Water Well Contractors and no Monitoring Well Constructors as voting members. Please amend Section 2-15-3307 to include two (2) Monitoring Well constructors on the Board who are not also Water Well Contractors. Monitoring well construction is significantly different from water well construction and, as a regulated profession by the Board, deserves representation equal to the Water Well Contractors on the Board.

Thank you for your consideration.

Sincerely,



Marc M. Spratt, Cert. Professional Geologist,  
Cert. Ground Water Professional  
Professional Hydrologist  
Licensed Monitoring Well Constructor #012

CC: Senator Tveit  
Senator Eck  
Senator Jenkins  
Senator Meyer  
Senator Severson  
Senator Stimatz  
Senator Story  
Senator Van Valkenburg  
Senator Weeding  
Senator Yellowtail



## Ch 538, Laws of 1987:

Section 16. **Initial licensure as a monitoring well constructor.** (1) An applicant who submits an application for a monitoring well constructor's license before June 1, 1988, shall receive a license if the applicant:

- (a) is a licensed water well contractor or is engaged in installing monitoring wells;
- (b) provides verification of 1 or more years' experience in drilling monitoring wells within the 4 years preceding the application;
- (c) pays a fee established by the board under 37-43-303;
- (d) successfully completes the examination for monitoring well installation; and
- (e) provides a bond in compliance with 37-43-306.

(2) An applicant who applies for a monitoring well constructor's license after May 31, 1988, shall meet the requirements of 37-43-303, 37-43-305, and 37-43-306.

**2-15-3307. Board of water well contractors.** (1) There is a board of water well contractors.

(2) The board shall be composed of five voting members, consisting of:

- (a) one technical adviser hydrogeologist appointed by the Montana bureau of mines and geology;
- (b) two licensed Montana water well contractors appointed by the governor with the concurrence of the senate;
- (c) one appointed by the director of natural resources and conservation; and
- (d) one appointed by the director of health and environmental sciences.

(3) The members of the board shall have been bona fide residents of this state for a period of at least 3 years prior to such appointment.

(4) The members of the board shall serve for a term of 3 years. In case of a vacancy in the office of a member of the board, an appointment shall be made to fill the same in the manner prescribed by the constitution and laws of this state.

(5) The members of the board shall, upon entering on the duties of their office, take and subscribe to the oath specified in the constitution of Montana, and such oath shall be filed in the office of the secretary of state.

(6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

March 10 1989

BILL NO.

H 5

3-13-89

486

TO: Senate Natural Resources Committee

FROM: Bob Thompson, Committee Staff

RE: Questions Concerning Federal Regulation of Solid Waste Landfills and Possible Funding Sources

The questions and comment below are in regard to House Bill 486, which would require groundwater monitoring at several of Montana's 140 municipal solid waste landfills.

1. What federal regulation is occurring in this area?

Using authority under subtitle D of the Resource Conservation and Recovery Act (RCRA), the U.S. Environmental Protection Agency (EPA) is setting minimum criteria for municipal solid waste landfills (any landfill or landfill unit that receives household waste). The formal rulemaking process began in August, 1988, when the EPA issued proposed rules for these landfills.

Final rules should be adopted later this year, although the effective date of the rules will not occur until 18 months after the date of adoption. Upon adoption, the states are required to establish compliance schedules for landfill owners and operators to ensure that all landfill units are in compliance with the rules within 5 years of the effective date (6.5 years after the date of adoption).

The rules would apply to owners and operators of all new and existing municipal solid waste landfills, "unless the owner or operator can demonstrate to the State that there is no potential for migration of hazardous constituents from [the landfill] unit to the uppermost aquifer during the active life, including the closure period, of the unit and during post-closure care." Post-closure care would include groundwater monitoring for a 30-year period after closure of the landfill.

The rules specify location restrictions (in regard to airports, floodplains, wetlands, fault areas, and other unstable areas), landfill operating criteria, landfill design criteria, and groundwater monitoring and corrective action requirements.

The groundwater monitoring rules require that a landfill (unless exempted as noted above) have a state-approved groundwater monitoring well system installed at the closest practicable distance from the boundary of the land fill. The system must consist of "a sufficient number of wells, installed at appropriate locations and depths, to yield ground-water

3-13-89

HB 486

samples from the uppermost aquifer that:

- (1) represent the quality of background ground water that has not been affected by leakage from a landfill unit; and
- (2) represent the quality of ground water passing the locations [along the landfill boundary]."

Consistent sampling and analysis procedures for specified constituents would be required. If statistically significant increases or decreases over background levels occur, more extensive sampling would be required.

2. Will federal funding be available to implement these requirements?

It appears very unlikely that federal funding will be available either to the Department of Health and Environmental Sciences to administer the program or for municipal landfill operators themselves (see HJR 18).

3. What Resource Indemnity Trust proceeds might be available?

RIT interest earnings for the upcoming biennium will amount to about \$14 million (Governor's Executive Budget). Statutorily, the money is allocated to a variety of sources, including the following programs:

Reclamation and Development Grants Program	46%	4,400,000*
Water Development Grant and Loan Programs (plus \$2.2 million in coal tax money)	30%	4,180,000
Renewable Resources Development Grant Program (plus \$705,000 in coal tax money)	8%	1,114,200

Another 12% allocation is devoted to the Hazardous Waste/Cercla account program and a 4% allocation is sent to the Environmental Quality Protection Fund. Finally, a \$175,000 earmark goes to the environmental contingency account.

The three programs highlighted above are all possible sources of funding, although Reclamation and Development Grant program funding would require demonstration of a "critical state need." However, the DNRC attempts to ensure project diversity in each program and is likely to recommend funding only for projects that address identified risks.

\* The actual funding proposed for grants under these programs is reduced substantially by use of money for agency operations. The money available in the grant programs for the upcoming biennium is approximately: Reclamation and Development Grants -- \$2.4 million; Renewable Resources Development -- \$1.2 million; Water Development Grants -- \$0.5 million.

HB 727  
PROPOSED AMENDMENTS - THIRD READING COPY

Submitted by:  
Rep. Robert Marks  
March 13, 1989

SENATE NATURAL RESOURCES

EXHIBIT NO. #6

DATE 3-13-89

BILL NO. 227

1. Page 2, line 9  
Following: "HOLE"  
Strike: "DRILLED"  
Insert: "INTENDED SOLELY"
  
2. Page 2, line 15  
Following: "quality"  
Insert: ",groundwater levels,"
  
3. Page 2, line 23  
Following: "lagoons"  
Strike: remainder of sentence  
Insert: "."



## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
PAT BYRNE	MT WATER WELL DR. ASSN	H 727	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Terry Lindsay	Lindsay & SON Drilling	H 727	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Wesley Lindsay	water well board	H 727	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ray G. Brown		HB-405	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Janet Ellis	MT Audubon	HB 678	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John S. Fitzpatrick	Pegasus Gold	HB 727	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jim Jensen	MEIC	HB 727	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Wayne VanLoost		HB 678	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Mont. Bay Minerals	HJR 9	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Fred S. Doney	ASARCO	N 727	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chris Kaufman	MEIC	HB 727	<input type="checkbox"/>	As now amended
		HJR 18	<input checked="" type="checkbox"/>	<input type="checkbox"/>