

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By Chairman Tom Beck, on March 29, 1989, at
1:00 P.M.

ROLL CALL

Members Present: Senator Hubert Abrams, Senator Gary
Aklestad, Senator Esther Bengtson, Senator Gerry
Devlin, Senator Jack Galt, Senator Greg Jergeson,
Senator Gene Thayer, and Senator Tom Beck

Members Excused: Senator Bob Williams

Members Absent: None

Staff Present: Doug Sternberg, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 462

Presentation and Opening Statement by Sponsor:

Representative Harper, House District 44, "HB 462 provides for a state drought litigation program and establishes a drought policy program. Members of the committee, I wish we would have had this mechanism in place last summer. I think it would have saved a lot of money, possibly millions of dollars. It would have given the Governor a little counseling in some of those critical moments. We should have a drought mediation program ready to go and in place in order to address situations like this when they occur...The intent of this bill is to try to provide the kind of mechanisms that a state like Montana should have. A high level policy commission for all the interested parties involved in an arena. Even the Governor could participate if he wants. Maybe the Lieutenant Governor could chair this committee or some other representative of the Governor, to keep this thing as high level as possible...This bill gives the Governor a high level policy commission he can turn to for advise."

List of Testifying Proponents and What Group They Represent:

Stan Bradshaw representing Montana State Council of

Trout Unlimited
George Ochenski representing Alliance for Montana Water
John Thorson representing himself who served on the
Drought Task Force
Jo Brunner representing the Montana Resource Water
Association
Peggy Haaglund representing the Montana Association of
Conservation Districts

List of Testifying Opponents and What Group They Represent:

Carol Mosher representing the Montana Stockgrowers
Association, the Montana CattleWomen, and the
Montana Grazing Districts

Testimony:

Proponents:

Stan Bradshaw - "You don't wait for the drought to plan for it. You plan during the period before you're hitting the worse parts of it. That is simply good policy to do that. The bill is fairly straight forward to that extent. I think it is a bill that promises to be good legislation for everybody in all sides of the water interests. Because of that, I urge your passage."

George Ochenski - "I have chaired the Governor's Drought Task Force for the last two years. During a drought, emotions rise and varying sectors of the economy are competing for water. Often times, hard feelings last longer than the drought...This bill would organize a commission to come together to sit down, representing different sectors of the economy. They would talk about what is important to them and how to achieve what was important. They would discuss where they could or could not bend. Then they would give their recommendations to the Governor...The bill only asks that the commission meet March 1st of every year, to review our conditions of our reservoir levels, our snow packs, etc...I hope you do give the bill a do pass recommendation."

John Thorson - "I urge your support on the passage of this legislation. I will not go through the points that have already been made...The drought is not over. We are still looking at average or below average conditions this summer. The vast majority of the state is much below the average in terms of run-off this summer. I suspect this drought policy commission will have a real benefit this summer if this bill is established. A drought has a multi-million dollar impact on the state. I think, if we are serious about

a drought, I think we need appropriation to make it work."

Jo Brunner - "Our organization supports this effort and we feel it is a very necessary thing. We are very concerned there is no appropriation for this bill."

Peggy Haaglund - "We do support this bill also. We feel this is a very worthwhile group to form. We do have one amendment." See exhibit 2. "I urge for the passage of this bill."

Testimony:

Opponents:

Carol Mosher - See exhibit 3 for testimony.

Questions From Committee Members: Senator Galt - "If there is no appropriations on this bill, do you still consider this an appropriations bill?" Representative Harper - "Any bill that came out of the Appropriations Committee, would be consider an appropriations bill."

Senator Devlin - "Tourism is affected by a drought. How would this bill avoid that?" Representative Harper - "I don't think the fire danger of a person being on the Missouri River is greater than me building a home up in a wooded area. I don't think that was a consistent decision. The Governor did not have a this kind of expertise available. If he would have had a bill like this in affect, he would have been able to address these issues."

Senator Aklestad - "What do you think this maze of people you are putting together--why would they have been able to make a different decision than the State Task Force?" Representative Harper - "They would have been formed at a high enough level that they would have had much more visibility. They would have been accessed by the Governor--possibly chaired by the Governor. Each sector that would have been affected by this, would have had a voice."

Senator Aklestad - "Is a majority of the task force going to dictate to the Governor what he is going to do?" Representative Harper - "This group would be an advisory group only. So, they would review mediation efforts and they would recommend. This isn't going to lift the responsibility from the Governor."

Senator Aklestad - "What about the concerns of the Stockgrowers and some of the groups that feel the

Governor might be able to over-ride the water courts, if this bill is enacted?" Representative Harper - "This bill does not extend the Governor's authority in that direction."

Senator Abrams - "Why didn't the Advisory Council work?" Representative Harper - "I can't speak for that. I think the reason why it didn't work was because it was not high level enough. It was not broad base enough and it didn't have enough decision making."

Closing by Sponsor: Representative Harper - "This is a problem that the legislature needs to be involved with. We are deciding what the rules in the beginning are going to be. I think we have a right and an obligation to do that. It amazes me we didn't have these drought mechanisms in place years ago. We have been going through droughts several years now...I think if we have a commission that does what this bill describes, I don't think we would ever be in the situation like we were last summer. I urge you to support HB 462."

HEARING ON HOUSE BILL 463

Presentation and Opening Statement by Sponsor:

Representative Bob Thoft, House District 63, stated "HB 463 is a bill to allow a District Court to appoint a water mediator to mediate a water controversy in a nondecreed basin. This bill would establish an educational program for water commissioners and mediators. It provides for an immediate effective date. The mediator would go into a basin and try to work with the people to resolve problems with water distribution...In our area, we have a difficult time to get anybody to be a water commissioner because nobody knows anything about water. So, we hire people with no knowledge at all of water. This bill provides an education program for water commissioners and mediators. It will give these people a basic idea what it is to deliver water properly."

List of Testifying Proponents and What Group They Represent:

Jo Brunner representing the Montana Water Resources
Ted Doney representing himself
George Ochenski representing Alliance for Montana Water

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Jo Brunner - See exhibit 4 for testimony.

Ted Doney - "I certainly support this bill. A mediator will certainly help in many nondecreed streams of our states to resolved some of the problems. What about the situation where a water mediator works out an arrangement with a water user that agrees to cut back his use of water. So that other users can get more water or agrees to rotate his use to other water users. Would he have a problem with an abandonment of his water right. I said yes, he probably would, if he uses his water right differently then the historical use. He may have a problem with abandonment. Lorents Grosfield asked me about an amendment that could fix that problem." See exhibit 5 for the amendment. "I feel this amendment will solve this problem. It will eliminate the risk of some water user potentially abandoning his water right, because of a recommendation by a mediator under this bill. I want to make it clear here, that this situation could come up where there is not a mediator involved...This is a mediator bill not a water commissioner bill."

George Ochenski - "I want to go on record as supporting this bill."

Questions From Committee Members: Senator Beck - "Will a mediator have final decision on a water right settlements?" Ted Doney - "No, not under this bill. He would simply be an advisor."

Senator Beck - "The mediator will have a decision on the disagreements. Like, what has happened right now on a permit basis with the DNRC. If you don't like that person, that gets a permit, you have a right to go to a mediator. That guy's decision is final, unless you want to challenge it in District Court." Ted Doney - "You are talking about the process that is set up in the statutes to obtain a permit...The mediator has no power to make any decisions under this bill. It's in sub-section five on line 10, page 13, of the bill."

Senator Beck - "If the court orders a mediator to go out there, the mediator does come back to the court and says I can't get these two parties together but here is what I recommend. Would that be a court order extended right back to those people then coming from the District Court? The mediator has to have some teeth."

Ted Doney - "I don't think that the court can order water users on a nondecreed stream to change their use of water in any fashion."

Senator Thayer - "Why would they think this thing would work? People are having disagreements and you get them together with a third party. They both know the third party doesn't have any authority on anything to try to work things out. How often do you think this will work?" Representative Thoft - "You have a third party that is interested and tries to make things work out between the two parties--I think it will work."

Closing by Sponsor: Representative Thoft explained the Jo Brunner amendments. Representative Thoft stated that the amendments have been rejected every step of the way. Representative Thoft indicated to the committee for a do pass recommendation.

The hearing was closed on HB 462 and HB 463. Executive action will be taken at a later date.

HEARING ON SENATE JOINT RESOLUTION 18

Presentation and Opening Statement by Sponsor: Senator Devlin, Senate District 13, stated "SJR 18 urges Congress to continue funding the Montana Agricultural and Range Experiment Stations. They want to close all small agricultural research stations and maintain only four regional agricultural laboratories. This will continue funding for Montana Agricultural and Range Experiment Stations."

List of Testifying Proponents and What Group They Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony:

None

Questions From Committee Members: None

Closing by Sponsor: Senator Devlin closed.

DISPOSITION OF SENATE JOINT RESOLUTION 18

Discussion: None

Amendments and Votes: None


Recommendation and Vote: Senator Devlin moved SJR 18 DO PASS; Senator Bengtson seconded the motion. The motion carried. Senator Aklestad had the only dissenting vote.

HB 717

Senator Beck indicated HB 717 was not a hearing because it was not scheduled in the Senate Agriculture Committee. Representative Grinde asked the committee to listen to HB 717. He wanted the Ag Committee to scrutinize HB 717 to iron out some concerns before the bill was sent to the Finance and Claims Committee. See exhibit 6 for further testimony.

ADJOURNMENT

Adjournment At: 2:57 P.M.


SENATOR TOM BECK, Chairman

TB/jj

ROLL CALL

AGRICULTURE

COMMITTEE

DATE

3/29/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR HUBERT ABRAMS	✓		
SENATOR GARY AKLESTAD	✓		
SENATOR ESTHER BENGTON	✓		
SENATOR GERRY DEVLIN	✓		
SENATOR JACK GALT	✓		
SENATOR GREG JERGESON	✓		
SENATOR GENE THAYER	✓		
SENATOR BOB WILLIAMS			✓
SENATOR TOM BECK	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT


March 29, 1989

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation, having had under consideration SJR 18 (first reading copy -- white), respectfully report that SJR 18 do pass.

DO PASS

Signed: _____



Thomas A. Beck, Chairman

3-29-89
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BILL SUMMARY--SENATE AGRICULTURE COMMITTEE
 MARCH 29, 1989
 PREPARED BY DOUG STERNBERG, COMMITTEE STAFF

BILL NO. HB 462
HB 463
59R18

SJR 18 A joint resolution urging the U.S. Congress to continue funding of Montana agriculture and range stations at current levels

HB 462 Section 1: requires the governor to implement a drought mitigation program that establishes a centralized information system; provides notice of drought policy commission meetings; identifies and prioritizes drought response resources; promotes drought response planning, public education, and cooperation among affected parties; provides a clearinghouse for drought information

Section 2: establishes a 19-member drought policy commission to serve without pay at the pleasure of the governor

Section 3: sets out the duties of the drought policy commission and requires that DNRC provide administrative and staff support

Section 4: provides that the governor identify priority basins for drought response efforts

Section 5: allows the governor to expend statutorily appropriated funds to address drought impacts and to request court appointment of a water mediator pursuant to sec. 1 of HB 463 (see sec. 1 below)

Section 6: codifies secs. 1 & 3--5 in disaster and emergency services law; codifies sec. 4 in law outlining powers of the governor

Section 7: implements water mediator appointment provisions in sec. 5 contingent on passage of HB 463

Section 8: provides an immediate effective date

HB 463 Section 1: allows court appointment of a water mediator for a nondecreed basin under circumstances outlined in (1); specifies mediator duties in (2); provides for payment of mediator costs in (3) and (4); limits mediator authority with respect to compromise or reduction of existing water rights in (5)

Section 2: outlines educational program criteria for water commissioners and mediators

Section 3: codifies secs. 1 & 2 in water commissioner law

Section 4: standard saving clause

Section 5: standard severability clause

Section 6: provides immediate effective date

CONSERVATION DISTRICTS AMENDMENT
HOUSE BILL NO. 462
SENATE AGRICULTURE COMMITTEE

1. Page 3, line 11

Insert: "(j) one representative from conservation districts:"

2. Page 4, line 7

Delete: "(S) one ex officio member who is a representative of a conservation district."

MONTANA STOCKGROWERS ASSOCIATION, INC.

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

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BILL CHRISTENSEN HOT SPRINGS KNUTE HEREIM MARTINSDALE
LYNN CORNWELL GLASGOW EARL LINDGREN JULIET
M.E. EDDLEMAN WORDEN ROLAND MOSHER AUGUSTA
NANCY ESPY BOYES GREG RICE HARRISON

SENATE AGRICULTURE

EXHIBIT NO. 3
DATE 3/29/89
BILL NO. HB 462

March 29, 1989

To: Senate Agriculture Committee

From: Carol Mosher

Subject: House Bill 462

Mr. Chairman and members of the committee:

For the record, I am Carol Mosher, representing the Montana Stockgrowers Association, Montana Cattlemen, and the Association of State Grazing Districts.

We stand opposed to House Bill 462 as it would be an unnecessary piece of legislation. The Governor presently has the authority to deal with these issues and he can adequately address the problems in this legislation. This bill could possibly put the Governor in a position of circumventing the water court and we would not want that to complicate matters.

We ask that you vote No on House Bill 462.

Thank you.

HB463REP. THOFTMARCH 29, 1989MONTANA WATER RESOURCES ASSOCIATION, JO BRUNNER, EX. SEC.SENATE AG. COMMITTEESUPPORTXAMENDX

The Montana Water Resources Association strongly supports the appointment of a mediator, by the district court, if and when controversy arises on a stream. And we are well aware that there are times a commissioner does not fulfill his obligations to the water users in a fair and honest manner, and we, again, strongly support this bill's educational process which we believe would lessen problems in such situations.

However, we are not in agreement with portions of the bill, namely the sections that would allow the Governor, and those other than water right holders within a basin to request a mediator, and we would like to see those affected by mediator and commissioner decisions sit on the educational committee.

It is not our intent to discredit any agency, or a Governor, but it is our intent to protect, to the greatest degree possible the water right holder, and to that end we offer the amendments.

Our first amendment is in Section 1, page 1, (1) appointment of water mediators--duties. The judge of the District Court may appoint a water mediator to mediate a water controversy in a nondecreed basin under the following circumstances:

[a] upon request of the Governor

[b] upon petition by at least 15% of the owners of water rights in nondecreed basin,

[c] upon petition by a state agency with water related interests.

Our amendments would ~~delete~~:

~~[A] upon the request of the Governor,~~

and would ~~delete~~

~~[C] upon petition by a state agency with water related interests.~~

We would insert, after the words water rights, line 13, the words,

"including state agencies holding reservations", to then read

[A] Upon petition by at least 15% of the owners of water rights including state agencies holding reservations, in a nondecreed basin.

Paragraphs (A) and (C) in the existing language are repetitive and

Ex. #4

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unnecessary.

It is not likely that any Governor will come to a decision to request a mediator without first consulting the agencies and departments interested in water, whether it be DNRC, FWPs, Water Quality, or State Lands.

It is more likely that such departments will bring any controversy to the Governors attention, who then would make the decision as to necessity, and would, through the agency, or agencies request the mediator.

We do have a great concern that other than water right holders be able to request the mediation process when a controversy arises. A citizen without water rights in a basin would not have that privilege, and we see no reason that a state agency should be able to.

It has been suggested, in other hearings, that MWRA is concerned over an issue that might never come about. That could be true. We are realistic enough, however to recognize that one winter of snow does not constitute a trouble free future for water right holders, whether the problems arise from within their own ranks or from those concerned with fisheries and dewatered streams or from other interests.

This amendment disallows a Governor the ability to request mediation, without consultation with the agencies, and it disallows an agency, with only water interests, not a right, but only interests, the ability to request a mediator in a non-decreed basin.

Any department or agency holding reservations within a basin should have the right to request mediation, this amendment will allow that, and the Governor will be able to exercise his concerns through the agencies.

We believe this wording will lessen the likelihood of interests outside a basin stirring up a controversy in order to require mediation.

And in relation to that amendment, we request on page 13, paragraph 3, line 3 through 7, the wording be **amended to read:**

(3) Petitions for a water mediator shall pay all the costs of the water mediator, as determined equitable by the District Court having jurisdiction.

We also request an amendment Section 2, on page 13. Lines 14-19 list those to be involved in a development of an educational program for mediators and commissioners.

We have no problem with those listed for that committee, and please remember this is a committee, not a law making body, which will be developing an educational program which could include seminars on commissioner and mediator techniques, water measuring techniques, and a revision, when necessary of the manuals.

Even though the courts are included on this educational committee, we

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HB 463

have to assume that its responsibility will not include the writing of laws, only methods to perform the recommendations. The District Court directs Commissioner rules and regulations and it is our understanding that the mediator will not have enforcement ability.

Again we support the need for a mediator process and we support the need for education for both mediators and for commissioners. We certainly have no problem with the prestigious list of those who will formulate the educational material, as far as it goes.

However we feel it a necessity that those who will be affected by both mediation, and by commissioner proceedings, participate in the compilation of educational material.

A great many water users and specifically those who have had some pretty bad experiences with commissioners have a justified distrust of a system that does not include first hand knowledge of the subject. Too often the real world out there on the ditch differs greatly from text book concept.

Remember this committee will not pass laws, they will offer educational information and recommendations to implement laws, and if there is input from within the committee by those effected by the laws, MWRA believes that the results will be more realistic and more readily accepted by the water right holders.

We then offer the amendment, on page 13, line 18, after the words 'federal agencies' insert the words " **one representative from the agriculture irrigation industry, and one representative from the agriculture livestock industry.**"

Thank you.

PROPOSED AMENDMENT
to House Bill 463
Third Reading CopySenate Agriculture, Irrigation and Livestock Committee
March 29, 1989

by Ted J. Doney

1. Page 13, line 12, following "RIGHTS.":

Insert:

"(6) If an appropriator voluntarily ceases to use all or a part of his appropriation right or voluntarily ceases to use his appropriation right according to its terms and conditions as a result of the efforts of a mediator appointed under [this act], he shall not be considered to have abandoned all or any part of his appropriation right."

Explanation:

Under current law, Section 85-2-404, MCA, and case law, an appropriator might be held to have abandoned his water right if he voluntarily agrees to use the right in a different manner from its historical use at the suggestion of a water mediator. For example, if an appropriator agrees to cut back on the use of his right or to use it on a rotational basis with other rights so that some water is left in the stream for instream use in water short years, that might be construed by a court to be an intention to abandon part of the right. This amendment would eliminate that risk. (Note: the same risk applies in situations not involving a water mediator. This amendment does not deal with those other situations.)

Unproofed Draft

Printed 12:28 pm on March 20, 1989

SENATE AGRICULTURE

EXHIBIT NO. 6 A

DATE 3/20/89

BILL NO. SJR 18
LC1810

Senate Joint Resolution No. *****

Introduced By *****

A draft for a bill entitled: "A JOINT RESOLUTION OF THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO CONTINUE FUNDING OF MONTANA AGRICULTURAL AND RANGE EXPERIMENT STATIONS."

WHEREAS, the National Agricultural Research and Extension Users Advisory Board presented its 1989 Food and Agriculture Sciences Appraisal Report to the President and Congress; and

WHEREAS, that report recommended closure or consolidation of agricultural research stations during fiscal year 1989; and

WHEREAS, the report further recommended closure of all small agricultural research stations and maintenance of only the four regional agricultural laboratories during fiscal year 1990; and

WHEREAS, in response to the recent drought, the range research station at Fort Keough, Montana, is conducting crucial drought research on range recovery; and

WHEREAS, continued operation of Montana's agricultural experiment stations is essential to the state agricultural industry.

Unproofed Draft
Printed 12:28 pm on March 20, 1989

Ex. #6A
3/20/89
SJR 18

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the U.S. Congress be strongly urged to continue funding of Montana agricultural and range experiment stations at current levels.

BE IT FURTHER RESOLVED, that the Secretary of the Senate send a copy of this Resolution to the Chairman of the U.S. Senate Agriculture Committee; the Chairman of the U.S. House of Representatives Agriculture Committee; the Secretary of the U.S. Department of Agriculture; and each member of the Montana Congressional Delegation.

-END-

LC1810

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BACKGROUND INFORMATION TO HB717

Board Goal

The Board of Investments (the Board) seeks to implement a program that would lend money to farmers who in return would assign their federal Conservation Reserve Payment (the CRP) contracts to the Board. The Board would obtain the cash for the program by issuing bonds which would be repaid from the annual federal CRP payments. Implementing such a program requires amending the Economic Development Act which is the purpose of HB717. Further details on the federal CRP program and the anticipated structure of the Board's bond program follow.

Background of Federal Conservation Reserve Program

The Conservation Reserve Program, administered by the Agriculture Stabilization and Conservation Service (the ASCS) of the United States Department of Agriculture (the USDA), was authorized by Title XII of the United States Food Security Act of 1985 and is governed by regulations contained in 7.C.F. Part 704. CRP was established in order to conserve and eliminate over production on forty to forty-five million acres of highly erodible land across the United States. Under this program, a potential participant may bid his land under federal erodibility guidelines established by the Soil Conservation Service (the SCS) of the USDA. If the bid is accepted, a contract is entered into between the participant and the Commodity Credit Corporation (the CCC) of the USDA.

The state of Montana and other states have been authorized to be successors in interest to CRP contracts without dollar limitation; such authority has been approved through a standard memo of understanding and successor in interest agreement approved by the USDA.

The following sets forth some of the terms of the CRP contract between the CCC and the CRP participant.

The CCC agrees, subject to the availability of funds, to:

- 1) pay the participant an annual rental income equal to the accepted per acre bid price multiplied by the number of eligible acres placed in the CRP (CRP payment) during the period of the contract;
- 2) share the cost of establishing eligible conservation practices with the CRP participant; and,
- 3) provide the CRP participant with the technical assistance necessary to carry out the contract.

The CRP participant agrees to:

- 1) place into the CRP specified eligible acres of cropland and to implement a conservation plan in accordance with scheduled completion dates for a period of ten crop years;

- 2) establish and maintain a permanent vegetative cover to reduce erosion;
- 3) not allow grazing, harvesting or other commercial use of forage from the CRP land and not produce any agricultural commodity on converted wetland or highly erodible land; and
- 4) file required reports to the local ASCS office.

After CRP participants have agreed to implement the approved conservation plan, annual CRP payments will be made after October 1 of each year of the contract period in the form of cash, commodity certificates or in any combination of payments established in accordance with 7. C.F.R. Part 77.

If the CRP participant breaches the CRP contract, the CCC may terminate the CRP contract, in which event the CRP participant will forfeit all rights to payments under the CRP contract, refund all payments previously received together with certain specified amount of interest, and pay specified liquidated damages.

If a new owner or operator purchases or obtains the right and interest in or right to occupy the CRP lands such new owner or operator may become a participant in the CRP contract with the same terms, conditions and obligations.

Monitoring and Enforcing CRP Compliance

The approximately 49 ASCS offices within the state are responsible for disbursing CRP payments and monitoring compliance in their respective counties. ASCS employees report to and their operations are administered by both state and county Agricultural Stabilization and Conservation (ASC) committees. State ASC committees are composed of three members who are appointed by the Secretary of Agriculture. A county ASC committee is made up of three regular members, each of whom serves a staggered three-year term. County ASC committee members are elected by eligible farmers in the local administrative area of the county. Generally, these committees meet once a month or as determined necessary.

The monitoring conducted by ASCS offices entails on-site inspections of acres enrolled in the CRP to ensure that the CRP participant has complied with the CRP contract terms and conditions. Approximately 15 percent of all CRP farms are randomly selected and spot-checked for compliance.

CRP participants are required to file an annual acreage report in their county. County ASCS offices use local newspapers, radio and monthly newsletters to alert CRP participants of their filing requirement on or before the established final reporting date for the county, generally no later than July 15. In addition, CRP participants are notified by

newsletter of specific measures which they must carry out to ensure that their CRP acres are properly maintained annually and throughout the life of the CRP contract. These news releases generally are mailed two to three weeks before field inspections begin.

The inspections are part of a process intended to ensure that violations are detected early and to encourage correction; they are not designed to find ways of removing CRP participants from the CRP. If a farm inspection finds the CRP participant in violation, the violation is reported to the county ASC committee and a notice to take corrective measures is sent to the CRP participant. The county ASC committee normally gives the CRP participant 15 days from the date of notice to correct the violation. Based on the nature of the violation and corrective measures taken, the ASC committee may or may not charge the CRP participant a maintenance default penalty. If, for example, a CRP participant corrects a weed problem brought to his attention, he may not be charged a penalty; if, on the other hand, the CRP participant has harvested a portion of his CRP fields, it is likely he will be assessed a penalty. The amount of the penalty can either be paid directly by the CRP participant, or deducted from his CRP payment; it will vary according to the gravity of the violation, as a proportion of the number of CRP acres in violation, and as a percentage of his annual CRP payment. The CRP participant remains ineligible to receive any portion of his CRP payment until he brings his CRP acres into compliance.

Any producer adversely affected by a county ASC committee's determination has the right to appeal that decision to the state ASC committee, and if dissatisfied with the state committee determination, to the Deputy Administrator, State and County Operations, in Washington, D.D.

Through the Board's position as successor in interest, the Board will be in a position to assure CRP contract compliance as further described herein.

Compliance Record in Montana

The CRP has been in operation since 1986. In Montana, over 6,000 CRP contracts are in effect involving over 2.2 million acres. There have been virtually no compliance problems as the data below show.

	<u>Total CRP Contracts</u>	<u>% of all CRP Contracts</u>
Total Number of 1st Time Violations*	48	0.80%
Total Number of 2nd Time Violations*	7	0.10%
Total Number of 3rd Time Violations*	1	0.01%
Total Number of Terminations	<u>3</u>	<u>0.04%</u>
	59	0.90%

* Where a penalty was assessed

Source: MT State ASCS Office

Appropriations for CRP

CRP is a line item in the overall USDA budget that is presented through the Office of Management and Budget to Congress. In fiscal years 1986 and 1987, USDA was given authority to fund CRP through transfers from the CCC, which has a \$30 billion borrowing authority from the U.S. Treasury. In fiscal years 1988 and 1989, funds for CRP came from congressional appropriations. According to the national ASCS office, Congress has never failed to appropriate funds annually for any long-term USDA program. Should such failure or delay in appropriation occur, ASCS has the option of making CRP payments in commodity certificates, provided they are sufficiently backed by grain held in USDA storage. Any delay in appropriation will not result in termination of CRP contracts by the USDA.

CRP Enrollment in Montana

Summary data through the seventh CRP sign-up which does not include the sign-up ending in March, 1989, is shown below. Montana currently has 2,264,770 acres in CRP through 6,228 contracts. At approximately \$37.50 per acre, total CRP payments in Montana now exceed \$84,000,000 annually. The average contract covers about 364 acres and \$13,000 in annual payments.

<u>Top 10 CRP Counties</u>	<u>Total Acres</u>	<u>% of Federal Limit</u>	<u># of Contracts</u>	<u>Average Size of Acres</u>
Blaine	91,390	66.7	208	439
Chouteau	128,759	40.5	301	428
Daniels	142,501	97.4	401	355
Hill	97,646	32.7	254	384
McCane	103,889	76.1	233	446
Phillips	126,531	99.7	239	529
Roosevelt	95,114	48.8	355	268
Sheridan	113,158	65.3	420	269
Toole	110,851	63.7	261	425
Valley	139,978	70.9	341	410

These ten counties have collectively 1,149,817 acres enrolled in the CRP program and comprise 51 percent of Montana's total enrolled CRP acres.

A table showing CRP acres in all counties is presented in Appendix 1.

Background to HB 717

HB 717 needs to be viewed in context with the entire law it amends, the Economic Development Bond Act of 1983 (the Act). This act enables the Board to promote and foster economic development by using various types of bond mechanisms. For example, the Board can issue bonds that are

exempt or subject to federal income taxes. The Board's bonds to finance its CRP program would be subject to federal income taxes (but not Montana state income taxes). The Board can issue bonds that have no backing of the state's credit; these bonds are called stand-alone bonds because they have no financial backing of the state. The Board can issue bonds that are indirectly backed by the state by issuing moral obligation bonds which provide that the Governor request the Legislature to restore a deficiency in the moral obligation bond's debt service reserve fund. The Board's bonds for its CRP bonds would be stand-alone bonds and would not be backed by the state and the state would not be liable for the debt service.

The Act establishes a clear legislative intent as to the public merits of economic development and prescribes the boundaries, limitations, and responsibilities the Board is subject to. The Board has, through the current Act, almost all the authority and prudent limits necessary to effectuate a CRP bond program.

HB 717 addresses two areas in which current law needs additional flexibility. First, HB 717 expands the definitions of "project" to include the repayment of debt and the use of loan funds for farm-related working capital. While the current law clearly allows agricultural projects to obtain financing under the Act, the original Act was written somewhat within the context of federal law governing federally tax-exempt bond users which prevents the use of refinancings and working capital. Given that the Board will use federally taxable bonds, the current limitations seem from a policy view, not only unnecessary, but too limiting for optimizing the program benefits to farmers.

The second area for legislative authorization is the need to defray ongoing operational costs such as the cost of loan servicing. HB 717 provides for ongoing statutory authorization to defray operation costs. The magnitude or complete dimension of such costs are not known at this time.

All costs will be borne by the CRP program and not through any other Board or state source.

Board Parameters, Benefits and Potential Program Size

The Board's program is a loan program, not a straight sale of contract. Farmers remain responsible for federal CRP compliance. The proceeds are treated as a loan by the IRS (a favorable point). The use of the proceeds is limited to buying, refinancing or operating the farm.

The benefits of the program are outlined below:

<u>Remaining CRP Contract Life</u>	<u>Minimum % of CRP Payments in Up-Front Cash</u>	<u>% Goal of CRP Payments in Up-Front Cash</u>
10 yrs	55%	60%
8 yrs	62%	67%
6 yrs	68%	73%

- A minimum amount of up-front cash will be contractually assured, if not realized, participation not required
- The amount of up-front cash depends heavily on market rates
- The Board will do everything possible to maximize up-front cash to farmers in concert with providing sufficient safety to bondholders.

Potential program size:

- 2.3 million acres CRP @ \$37.50 = \$800+ million total cash flow
- 55% capitalization = \$440 million in bonds
- 25% program utilization = \$100 million program size.

Preliminary Program Structure

While subject to change, the Board's CRP program will have the following characteristics:

- 1) Any CRP enrollee will be eligible to participate in the Board's CRP bond program providing that such enrollee has not previously been in violation of the CRP contract (additional credit evaluation guidelines are being considered, no final decision has yet been made).
- 2) The Board's program is a loan program, not a straight sale of the CRP contract.
- 3) CRP contracts will be assigned to the Board subject to recourse.
- 4) Proceeds are to be used to refinance existing farm debt, acquire property or enhance working capital.
- 5) During the marketing and application phase, applicant may be subject to a commitment fee.
- 6) Assigning a portion of the acreage subject to an existing CRP contract will be allowed to give participants the flexibility in

obtaining the cash amount needed from loan proceeds. However, CRP contracts must be assigned for the full term of their remaining years.

- 7) A first mortgage on the CRP acreage and an easement and other covenants will be required giving the Board and its agent the right to assure program compliance.
- 8) Funds which will be held in reserve through a 2 1/2 percent bond capitalization and a 2 1/2 annual hold-back mechanism will be used to pay for monitoring program compliance and to pay for the costs of enforcing program compliance. Some rebate mechanism to participants who are in compliance is anticipated.
- 9) Approved SCS conservation program must be established.
- 10) For participants whose CRP land has not established a satisfactory cover as per the SCS conservation plan, partial loan proceeds will be held in escrow to cover reseeding and other compliance efforts until cover is established.

Preliminary Bond Structure

The following is a preliminary bond structure which is subject to change, however, this is the Board's current position on these points.

- 1) Issuer: Montana Board of Investments.
- 2) Amount: The initial issue is estimated to be approximately \$10,000,000 to \$20,000,000. The total amount of bonds will vary depending on the amount of CRP payments assigned to the Board by participating farmers.
- 3) Form of Bonds: Taxable serial bonds issued in registered form in minimum denominations of \$5,000.
- 4) Maturities: Bonds will mature annually on March 1, beginning March 1, 1990 and running until the last payment is received under CRP contracts to participating farmers (not to exceed 10 years). The average maturity of the issue is estimated to be approximately six years.
- 5) Interest Rate: Bonds will bear interest at a fixed rate according to a serial maturity schedule with principal paid on March 1st of each year.
- 6) Interest Payment Dates: Bonds will be sold as at par value, with semi-annual interest payable on March 1 and September 1 of each year. A certain amount of capitalized interest may be necessary as part of the bond issue.

- 7) Source of Payment: Bonds will be special limited obligations of the Board payable from qualifying loans originated through a loan originator. These loans, in turn, will be payable from CRP payments made by the USDA under contracts with participating farmers. The Board will be designated as the recipient of 100 percent of the CRP payments now received by participating farmers under program agreements and will assign its rights to those payments to a trustee for the benefit of bondholders.
- 8) Security: Bonds will be secured by the recourse loans made to participating farmers. Loans themselves will be secured by (a) the Successor in Interest Agreements designating the Board as recipient of 100 percent of any CRP payments made to participating farmers (see Source of Payment above) and (b) all funds on deposit with the trustee under the indenture including reserve funds. The loan agreement will require participating farmers to take all steps necessary to ensure continued compliance under CRP.
- 9) Sizing of Bonds: The issue would be sized as the maximum amount of bonds which could be supported by 97 1/2 percent (due to the anticipated 2 1/2 percent compliance holdback mechanism) of the CRP payments of each farmer.
- 10) Subordinate Series of Bonds: The bond issue would be divided into two series. Series A bonds totalling 90 percent of the issue would have senior lien on all program revenues and funds. Series B bonds totalling 10 percent of the issues would have a subordinate lien to the Series A bonds and would likely be purchased by the Board.
- 11) Reserve Fund: A reserve fund would be created equal to 2 1/2 percent of the bond amount. This reserve would serve as a source of funds to (a) meet any compliance costs and (b) to make any payments of principal and interest as necessary.

The 2 1/2 percent excess payments would be available to be added to the reserve each year. A minimum reserve level of 2 1/2 percent of the bond amount would be set and if maintained, the 2 1/2 percent excess would be returned to the farmer on an annual basis. Interest earnings would accumulate and remain in the reserve fund. Any funds remaining in the reserve at the end of the program will be disbursed on a pro-rata basis to farmers in compliance.

Individual escrows would be set aside for farmers from loan proceeds which would be released when the SCS determined that grass cover had been established.

- 12) Compliance with CRP Contracts: The Board would be responsible for insuring compliance under the CRP contracts and would monitor the acreage participating in the program. CRP acreage is monitored for compliance by the ASCS through its offices in each County.

The ASCS audits acreage and imposes fines and penalties for acreage which is out of compliance.

- 13) Memorandum of Understanding: The program would operate in accordance with a Memorandum of Understanding entered into with the CCC.
- 14) Loan Originating and Contracting Monitoring Agreements: The Board anticipates entering into loan origination and contract monitoring agreements with private sector entities to assist in originating loans and perform monitoring and correction functions.

Loan Originator and Contract Monitor

The Board intends to employ the services of both a loan originator and a contract monitor. The loan originator would accept and process loan applications, be available to explain the program and originate approved loans to be funded through a Board bond sale. The contract monitor would monitor CRP compliance, and take corrective compliance action as needed. The Board has requested loan originator/contract monitoring services from a number of interested parties and will notify the general public via a legal notice that a request for a proposal for such services is welcomed by the Board.

Timetable

- 1) Design Stage: January-June, 1989
 - a) Finance Team assembled
 - b) Roles of loan originator and contract monitor defined
 - c) Program structure finalized
 - d) loan originator and contract monitor hired
- 2) Marketing and Program enrollment: July-September, 1989
 - a) Board and Servicer market CRP program
 - b) Loan originator accepts & processes applications
- 3) Funding of Loan Closing: October-December, 1989
 - a) Establish cycle I cutoff date, approx. Sept. 1
 - b) Size bond issue to fund cycle I participants
 - c) Sell bonds
 - d) Lend bond proceeds to farmers
 - e) Fund reserves
 - f) Pay bond and program costs
- 4) Repeat process 2 and 3 indefinitely

5) Contract Monitor

- a) Begins compliance efforts after funds lent to farmers
- b) Take corrective action as necessary

Points of Special Interest

In discussing a Board CRP bond program with legislators, the farm community, and other interested parties, the following questions of special interest arose and while not definitive, answers and responses are presented below:

- 1) The Board plans to take a first mortgage on CRP acreage land; what's to prevent the state from owning significant amount of agricultural land as a result of foreclosure?

The Board is concerned about protecting the annual CRP payments. The Board will take all possible steps to preserve the payments and recover compliance enforcement costs. The Board will sell foreclosed land only to bona-fide agricultural operators.

- 2) How is the Board going to record mortgages on applicable CRP acres that presently may not be adequately described for a mortgage filing?

It is anticipated that the Board would take a mortgage on the next recordable size of acres over the particular CRP acres.

- 3) Many potential users of the Board's CRP bond program may already have a mortgage or other lien on their CRP land; how will the Board treat such requests?

Participants will be required to obtain subordinated positions or partial releases from such liens. It can be expected that some lienholders may demand loan paydown or that loans be made current before such subordination or release is given.

- 4) Many different people may be a party to a single CRP contract; how will the Board treat such parties?

Land owners will have to give their consent to assign their share of a CRP contract to the Board; tenants, if desiring to participate in the Board's program, would also have to assign their positions.

- 5) Has the tax treatment of the Board's program been finalized?

A private letter ruling has been issued by the IRS for South Dakota regarding their program. It is a standard practice to rely

on such a letter ruling when the fact situation is the same as it will be in the Montana program. State income tax treatment is currently being researched.

- 6) Who bears the financial risk associated with the Board's CRP bond program?

Bondholders will bear the risks of government nonpayment, and payment interruptions due to noncompliance. Such risks must and will be clearly stated in the offering statement. The bonds would be revenue bonds of the Board and payable only through the payments contained in its CRP program. It is anticipated that the Board as an investor of funds will be asked to buy approximately 10 percent of the CRP bonds on a subordinated basis, i.e., paid concurrently but directly after nonsubordinated bondholders. The options for bond issuance and letter of credit coverage is being actively pursued by the Board and will be obtained if available and demonstrably cost effective.

**ESTIMATED UPFRONT LOAN AMOUNT NET OF ALL COSTS
\$10,000 ANNUAL CRP PAYMENT**

<u>Bond Rate</u>	<u>8 Payments Remaining</u>	<u>9 Payments Remaining</u>	<u>10 Payments Remaining</u>
9%	50,664	54,436	57,821
10%	48,922	52,403	55,499
11%	47,273	50,488	53,321
12%	45,712	48,682	51,278

NOTE: A portion of loan proceeds may be required for capitalized interest depending upon the timing of the bond closing.

Interest Rate Calculation

Estimated Interest Rate on Loan

Bond Rate	Variable
Costs of Issuance	.60%
Loan Origination Fees	.35%
Compliance Monitoring	.25%
Trustee Fees	.05%
Credit Enhancement Fees	.25%
Annual Hold Back	.50%
Reserve Fund	<u>.44%</u>
Total	Bond Rate - 2.44%

NOTE: The annual hold back and reserve fund would be returned to farmers if not required by the program.

Appendix 1

CONSERVATION RESERVE PROGRAM CUMULATIVE TOTALS

COUNTY	25% CROPLAND	SIGNUPS 1 THRU 6		SIGNUP 7		TOTALS	
		Acres	Contracts	Acres	Contracts	Acres	Contracts
Beaverhead	32,225	1,678.8	5	1,417.1	2	3,095.9	7
Big Horn	117,125	16,786.7	35	428.7	2	17,215.4	37
Blaine	137,075	81,348.1	174	10,042.1	34	91,390.2	208
Broadwater	37,850	23,643.0	46	1,740.4	7	25,383.4	53
Carbon	37,350	11,406.7	54	2,648.8	2	14,055.5	56
Carter	40,150	37,142.2	104	4,268.5	9	41,410.7	113
Cascade	118,150	54,560.3	201	5,431.5	22	59,991.8	223
Chouteau	318,125	113,904.4	261	14,854.5	40	128,758.9	301
Custer	31,200	20,448.8	52	1,964.6	7	22,413.4	59
Daniels	146,275	134,623.3	379	7,877.3	22	142,500.6	401
Dawson	116,100	49,271.9	154	6,741.2	32	56,013.1	186
Deer Lodge	3,825	0.0	0	0.0	0	0.0	0
Fallon	67,198	60,601.2	192	3,287.3	12	63,888.5	204
Fergus	168,800	59,697.1	178	5,378.0	24	65,075.1	202
Flathead	27,100	10.0	1	0.0	0	10.0	1
Gallatin	70,075	7,834.0	21	1,645.1	4	9,479.1	25
Garfield	68,800	51,549.5	112	3,437.4	9	54,986.9	121
Glacier	123,525	50,698.0	119	1,729.3	8	52,427.3	127
Golden Valley	34,525	33,789.1	92	818.6	3	34,607.7	95
Granite	9,200	0.0	0	0.0	0	0.0	0
Hill	298,450	73,054.9	189	24,591.6	65	97,646.5	254
Jefferson	13,550	5,745.6	18	31.2	1	5,776.8	19
Judith Basin	82,850	17,411.9	57	2,441.1	6	19,853.0	63
Lake	51,400	0.0	0	229.1	1	229.1	1
Lewis & Clark	21,475	7,803.3	26	705.1	3	8,508.4	29
Liberty	150,125	59,848.9	138	11,900.6	29	71,749.5	167
Lincoln	3,325	0.0	0	0.0	0	0.0	0
McCone	136,575	84,492.2	197	19,397.1	36	103,889.3	233
Madison	26,850	9,666.0	29	0.0	0	9,666.0	29
Meagher	18,425	7,219.9	23	0.0	0	7,219.9	23
Mineral	1,525	0.0	0	0.0	0	0.0	0
Missoula	12,775	70.0	1	23.6	1	93.6	2
Musselshell	33,999	32,483.6	72	1,298.4	8	33,782.0	80
Park	31,975	9,036.8	27	1,291.5	5	10,328.3	32
Petroleum	21,356	15,130.8	30	2,634.2	7	17,765.0	37
Phillips	126,850	117,579.4	220	8,951.3	19	126,530.7	239
Pondera	146,550	29,539.8	108	1,559.1	12	31,098.9	120
Powder River	40,150	16,989.8	49	4,223.1	11	21,212.9	60
Powell	14,825	0.0	0	0.0	0	0.0	0

COUNTY	25%	SIGNUPS 1 THRU 6		SIGNUP 7		TOTALS	
	<u>CROPLAND</u>	<u>Acres</u>	<u>Contracts</u>	<u>Acres</u>	<u>Contracts</u>	<u>Acres</u>	<u>Contracts</u>
Prairie	35,025	18,082.8	57	3,309.4	5	21,392.2	62
Ravalli	24,800	2,024.1	9	283.5	1	2,307.6	10
Richland	120,200	36,298.7	128	14,692.4	45	50,991.1	173
Roosevelt	194,875	77,936.1	300	17,178.1	55	95,114.2	355
Rosebud	45,275	31,557.3	43	10,141.2	12	41,698.5	55
Sanders	12,525	1,238.4	2	0.0	0	1,238.4	2
Sheridan	173,400	101,963.4	369	11,194.7	51	113,158.1	420
Silver Bow	2,550	0.0	0	0.0	0	0.0	0
Stillwater	61,900	53,908.1	144	4,988.6	12	58,896.7	156
Sweet Grass	23,525	3,255.4	14	123.1	2	3,378.5	16
Teton	138,100	64,026.7	203	4,153.4	23	68,180.1	226
Toole	173,900	89,451.6	208	21,399.5	53	100,851.1	261
Treasure	10,750	4,001.7	11	243.4	1	4,245.1	12
Valley	197,425	110,222.1	268	29,755.8	73	139,977.9	341
Wheatland	34,025	25,088.6	69	885.9	4	25,974.5	73
Wibaux	46,300	28,017.9	100	5,357.0	23	33,374.9	123
Yellowstone	89,500	40,378.0	112	5,559.3	24	45,937.3	136
CUMULATIVE	4,321,778	1,982,516.9	5,401	282,252.7	827	2,264,769.6	6,228

MEMORANDUM OF UNDERSTANDINGBETWEEN THE STATE OFAND THE COMMODITY CREDIT CORPORATIONConservation Reserve Enhancement Program

This Memorandum of Understanding is entered into between the _____ ("the State"), and the Commodity Credit Corporation ("CCC") of the United States Department of Agriculture. The parties agree as follows:

1. This agreement involves the Conservation Reserve Program ("CRP") which is authorized by Title XII of the Food Security Act of 1985 and carried out by CCC. The regulations governing the CRP are found at 7 C.F.R. Part 704.
2. The State will carry out a special conservation reserve enhancement program under which the State makes certain enhancement payments to CRP participants. The State will, in exchange for making such payments to CRP participants, enter into agreements with CCC under which the State agrees to succeed to the interests of the CRP participants with respect to the CRP contracts. This Memorandum of Understanding sets forth the terms and conditions under which the State may be a successor in interest to the CRP contracts and receive the payments which are due and payable under those contracts.
3. The State may succeed to CRP contracts with respect to acreage subject to those contracts on farms located in whole or in part within the State.
4. The State must assume interest in all of the acreage subject to the CRP contracts by lease, right of occupancy, or otherwise. In assuming such interest, the State must maintain control over that acreage for the full period remaining under the CRP contract.
5. The State upon succeeding to the original CRP contract will be fully responsible for compliance with the terms and conditions of that contract, together with such other terms and conditions as may be specified in the successor-in-interest agreement to the CRP contract (i.e. Form CRP-1D Addendum).
6. Any payments that are due under the CRP contract for which the successor-in-interest agreement is entered into between the State and CCC will be subject to set-off with respect to debts that are owed by the CRP participants whose interest is being succeeded to by the State but only for those debts owed by such participant which are on the debt register of the County Agricultural Stabilization and Conservation Service (ASCS) Office, for the county or counties where the land is located, as of the date the agreement is executed. The debts that are on the debt register in the ASCS office are those debts that are due and owing by the CRP participants and have been reduced to claims.

- 7. CCC may make payments under the successor-in-interest agreement in the form of cash or commodity certificates. Payments made using commodity certificates shall be made in accordance with the regulations (7 C.F.R. Part 704) that are applicable to such certificates.
- 8. In order to succeed to a CRP contract, the State and the CRP participant whose interest under the CRP contract is being succeeded to by the State must sign a successor-in-interest agreement to the original CRP contract. The State must comply with all of the terms and conditions specified in that agreement and the original CRP contract.
- 9. No successor-in-interest agreement to a CRP contract shall become effective without the approval of the county ASC committee.
- 10. In the event that any CRP payments due the State under a successor-in-interest agreement to a CRP contract are inadvertently paid to the original CRP participants rather than the State, the State shall recover those payments from the CRP participants as its sole and exclusive remedy.
- 11. Section 1234 (f)(4) of the Food Security Act of 1985, as added by section 322 of the Disaster Assistance Act of 1988, provides that the annual maximum payment limitation that is applicable to the total amount of rental payments that an owner or operator may receive under the Conservation Reserve Program shall not be applicable to a State, political subdivision, or agency thereof in connection with agreements entered into under a special conservation reserve enhancement program.
- 12. This Memorandum of Understanding shall become effective as of the date of the last signature to this memorandum and may be terminated by mutual agreement in writing.

It is so agreed and understood.

(signature/date)

(signature/date)

for the State of _____

Executive Vice President
Commodity Credit Corporation

(print name)

(title)

(address)

REPRODUCE LOCALLY. Include form number and date on all reproductions.

CRP-1D Addendum
(11-01-88)

Form Approved - OMB No. 0560-0125

U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

SUCCESSOR-IN-INTEREST AGREEMENT

(ADDENDUM TO CRP CONTRACT NO. _____)

**N
O
T
E**

The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a): The authority for requesting the information to be supplied on this form is the Food and Security Act of 1985, P.L. 99-198, and the regulations promulgated thereunder (7 CFR Part 704) and the Internal Revenue Code (26 USC 8102). The information requested is necessary for CCC to consider and process the offer to enter into a Special Conservation Reserve Enhancement Program in order to determine eligibility, and to determine the correct parties to the contract. The information may be furnished to other USDA agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court, magistrate, or administrative tribunal. Aids reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing burden, to Department of Agriculture, Clearance Officer, OPRM, Room 404-W, Washington, D.C. 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

This agreement is entered into between: (1) the State of _____ ("the State"); (2) the undersigned participant(s) ("CRP participants") in Conservation Reserve Program ("CRP") contract No. _____ ("the CRP contract"); and (3) the Commodity Credit Corporation ("CCC") of the United States. The parties agree as follows:

1. The State is carrying out a special conservation reserves enhancement program in accordance with the Memorandum of Understanding between CCC and the State effective as of _____ ("MOU") and agrees to succeed to the interests of the CRP participants in accordance with the terms and conditions of the MOU and to comply with the terms and conditions of the CRP contract.
2. The CRP participants are participating or intend to participate in a special conservation reserves enhancement program conducted by the State and agree to the State succeeding to the interests of the CRP participants.
3. The State assumes responsibility for submitting any documents needed to determine compliance with the MOU and the CRP contract.
4. The terms of the CRP contract shall continue in force except as specifically modified by this Addendum.
5. All CRP payments to be made under the CRP contract as of the date that this Addendum is entered into or which become due and owing after that date, whether to be made in commodity certificates or otherwise, shall be made to the State or made pursuant to an assignment of payment made by the State.
6. The CRP participants certify that all parties who contracted with CCC under the CRP contract have signed this Addendum and that the parties signing this Addendum for the CRP participants have the authority to do so. The State certifies that the person signing this addendum has the authority to do so.
7. This Addendum shall become effective as of the date of the last signature thereto.

It is so agreed and understood.

A. Signature of State Representative and Date		
_____	Title	Name and Address of Agency
B. Signature of CRP Participants		
_____	Date	Address
Signature	Date	Address
_____	_____	_____
Signature	Date	Address
_____	_____	_____
C. Signature of Commodity Credit Corporation		
_____	Date	Title

This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or handicap.

N.D. loan program awaits OK from USDA

North Dakota farmers will soon be able to get a loan from the Bank of North Dakota and use their annual Conservation Reserve Program payments to repay the loan.

The program must still be approved by USDA.

Under the plan, farmers with land enrolled in CRP would be eligible to borrow up to 95 percent of the value of their contract with the USDA. The value is the total of the payments. Then that value is discounted approximately 60 percent to reflect the time value of the money as the bank waits for repayment through the 10 years of CRP payments.

USDA would repay the loan by assigning the farmer's annual payments to the Bank of North Dakota, which would participate with local lenders in making the loans.

Mickelson: CRP loans help save farms

Associated Press

PIERRE, S.D. — The first loans made under a new South Dakota farm financing program have helped at least a couple of farmers save their land, says Gov. George Mickelson.

One of the first loans went to Daniel Lipp of Timber Lake, who lost his farm because of foreclosure a year ago.

"This allowed him to pay off his foreclosed loan," the governor said. "This puts him back in business and gives him operating capital."

Lipp says he lost his land because he couldn't pay a Farmers Home Administration loan. The Bank of Hoven provided a loan so he could get the land back, and the state loan will allow him to repay the Bank of Hoven and also buy some livestock for the ranch, he said.

"I hope to get a little livestock in and hoping to stay on the farm. I had no more credit, so I had nowhere else to go."

I hope to get a little livestock in and hoping to stay on the farm. I had no more credit, so I had nowhere else to go.

Daniel Lipp
Timber Lake, S.D., farmer

Mickelson says the state has recently closed the first half-dozen loans under the new farm financing program. The state financing plan is tied to the federal Conservation Reserve Program, which pays farmers to idle land subject to erosion for a period of 10 years.

The state program allows South Dakota farmers to get a lump-sum payment up front for land they have enrolled in CRP. In exchange, the state will get the annual payments the farmers would have received

from the federal government. The state has issued \$10 million in bonds at an interest rate of nearly 10 percent to get the money needed for the lump-sum payments. The bonds will be repaid with the annual payments the farmers would have received from the federal government over the life of the CRP program.

Because the state must pay interest to the bondholders, the lump-sum payments to farmers will amount to less than the farm- CRP: Continued on next page

ers would have received if they had taken the annual federal payments. In effect, a loan at 11.3 percent. Mickelson says the loans will allow farmers and ranchers to reorganize their debts at less than the current prime lending rate. In the next month, 90 more loans will be made under the program, the governor said. The applications already received exceed the \$10 million available from the first bond issue, but he says farmers should continue to apply because financing for more loans. Clint Roberts, administrator of the program, says another of the first loans made under the program has also allowed a farm family to reclaim its land. The farmer, who had tears in his eyes when he received the loan check, "was able to give a check to the Farm Credit System and buy back his land," Roberts said. Mickelson says it took a long time to get Congress and Wall Street financiers to understand and accept the loan program. "I didn't think it would take this long to put together, but it's worth it," the governor said.

Continued from previous page

CRP

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

NAME: David Ewert DATE: 3/29/89

ADDRESS: 1016 5th (see work for board

PHONE: 443-4599 of Investments)

REPRESENTING WHOM? Board of Investments

APPEARING ON WHICH PROPOSAL: HB 717

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT: see Exhibit #6

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

