

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRPERSON BOB RANEY**, on February 20, 1991,
at 3:00 PM.

ROLL CALL

Members Present:

Bob Raney, Chairman (D)
Mark O'Keefe, Vice-Chairman (D)
Beverly Barnhart (D)
Vivian Brooke (D)
Ben Cohen (D)
Ed Dolezal (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
David Hoffman (R)
Dick Knox (R)
Bruce Measure (D)
Tom Nelson (R)
Bob Ream (D)
Jim Southworth (D)
Howard Toole (D)
Dave Wanzenried (D)

Staff Present: Gail Kuntz, Environmental Quality Council
Paul Sihler, Environmental Quality Council
Michael Kakuk, Environmental Quality Council
Lisa Fairman, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

HEARING ON HJR 39

Presentation and Opening Statement by Sponsor:

REP. "FRITZ" DAILY, HD 69, Butte stated that HJR 39, as requested by the committee, addresses issues related to the Berkeley Pit and HB 380. All of the identified concerns have been addressed in the resolution. The resolution will be sent to Mr. Bill Riley of EPA, the state's Congressional delegation, and the Governor. An amendment, drafted by **Deborah Schmidt**, Environmental Quality Council, (EQC) addresses some technical problems. **EXHIBIT 1**

Proponents' Testimony:

REP. JOE QUILICI, HD 71 - Butte, supported HJR 39.

REP. BOB PAVLOVICH, HD 70 - Butte, supported HJR 39 and would like to get the message across to the EPA to fix the Berkeley Pit "hell hole".

Chris Kaufmann, Montana Environmental Information Center (MEIC), stated MEIC thinks this is the appropriate response to the Berkeley Pit situation and supports HJR 39.

Kim Wilson, Clark Fork Coalition, supported HJR 39.

Opponents' Testimony: none

Closing by Sponsor: REP. DAILY urged support of HJR 39.

HEARING ON HB 745

Presentation and Opening Statement by Sponsor:

REP. CHUCK SWYSGOOD, HD 73 - DILLON, stated House Bill 745 is an act establishing a partial basin closure in the Beaverhead River Basin and the Red Rock River Basin. The Basin is closed to all further ground water development until a study is completed. Section 1 shows the confluences involved and Section 2 gives instructions for ground water permits during the five-year moratorium. Subsection 2 of Section 2 shows the entities that are exempt from the closure. There is an emergency clause in case a well goes dry during a drought. The termination date is 1996.

Proponents' Testimony:

Pete Rebish, President of Board of Directors, East Bench Irrigation District (EBID), stated the EBID and Clark Canyon Water Supply Company supplies water to about 70,000 acres of irrigated land in Beaverhead and Madison Counties from Clark Canyon Reservoir. The Board of Directors of EBID support the temporary moratorium to close the basin 41A and 41B of the Red Rock and Beaverhead River drainages to further irrigation well permits until a study has been made on the effect of the wells already pumping. At present, permitted wells pump around 16,000 acre feet annually. Some older wells not under the permit system have no figures on how much is pumped. The Bureau of Reclamation will do a five-year study to see if water pumped from this aquifer is the same water that returns to the Beaverhead River system. The Department of Natural Resources does not have authority to deny an irrigation well permit. This past year there have been four new well permits in the basin. Mr. Rebish urged the committee to support the bill.

Holly Franz, Attorney, Montana Power Company, stated Montana Power Company is concerned about the possible effect on surface water of ground water wells in Beaverhead County. Montana Power has pledged \$50,000 for a study of the ground water aquifer in this area and asks for support of this closure which would allow this study to go forward.

Bill Staudenmeyer, Dillon, involved in the Red Rock area, stated that representatives of Lima Dam had sent written testimony supporting HB 745.

Opponents' Testimony: none

Closure by Sponsor: REP. SWYSGOOD urged support of HB 745.

HEARING ON HB 815

REP. THOMAS LEE, HD 49 - Bigfork, stated HB 815 expresses concern for the "progress" taking place which demands careful and conscientious thought on developing resources and land. The intent of HB 815 is to set up some minimum planning standards to identify areas of rapid population growth, establish minimum state standards and establish reasonable time schedules for the submission, review, adoption and enforcement of the required master plans. A Planning Advisory Council is created by this bill with duties including a report to the Governor and the legislature by November 1, 1992. **REP. LEE** quickly reviewed the sections of the bill.

Proponents' Testimony:

Ric Smith, Big Sky Real Estate, Polson, supported HB 815.
EXHIBIT 2

Jerry Sorensen, Flathead Basin Commission, supported HB 815.
EXHIBIT 3

Howard Gipe, Flathead County Commission, supported HB 815.

Chris Kaufmann, Montana Environmental Information Center (MEIC), said this is a very important bill. Because good planning has not been in place, subdivision laws have been passed to do planning. Land use planning decisions are more appropriately made in an earlier, more comprehensive process rather than development by development. The bill applies to some cities and counties and areas of rapid growth, not the entire state. There needs to be a shift of emphasis from reactive case by case review of development to one of development and resource protection, protection of wildlife habitat, degradation of lakes, loss of prime farmland, timberland and working waterfronts. MEIC supports HB 815.

Richard C. Parks, Bear Creek Council, stated that **Bear Creek Council,** a local citizens group in Gardiner, would like their

area to qualify as a rapidly growing area under HB 815. He said his county started a process of developing a master plan which was aborted by the invasion of a nontraditional developer.

Kathy Macefield, City of Helena, supported HB 815. EXHIBIT 4

Robert Rasmussen, Montana Association of Planners, supported HB 815. EXHIBIT 5

Opponents' Testimony:

Don Chance, Montana Building Industry Association, stated that numerous aspects of the bill are good. The requirement for state approval or certification disturbs the Industry Association. It undermines the local authority to find solutions to growth problems. Experience in Oregon where a similar plan was adopted has led professional planners to migrate to Washington to avoid working under the plan. A basic principle behind community planning is the community right to self-determination. This bill would strip communities of that ability. Without the requirement for state certification, the Council could support the bill. The requirement for state review makes sense.

Tom Hopgood, Montana Association of Realtors, said the Association believes this is unneeded legislation because it does not require anybody to plan who is not already planning. The Association believes that planning is a local matter and this legislation is presumptuous in directing what local units do.

William Spilker, Helena Real Estate Broker, said HB 815 is not needed because planning is already being done. Ten of eleven first class cities in Montana are already planning. A flaw in the bill is using the number of certificates of survey to determine areas of growth. Certificates of survey are not necessarily an indication of growth. The representation of the Council is imbalanced with three local planners, one government official, and two land developers. If the bill is passed, property owners should have representation on the Council. Mandatory implementation means mandatory zoning. Statutory law provides for zoning. This bill goes beyond the existing law already in place and working. The phrase "environmentally sensitive" is not adequately defined. **Mr. Spilker** expressed concern that the bill would result in not only mandatory planning but also mandatory land regulation.

Questions From Committee Members:

REP. O'KEEFE asked for clarification on the Planning Advisory Council. The bill goes into affect July 1, 1993, at which time the Council is appointed. Recommendations are to be made on October 1, 1993. This leaves very little time for the work to be accomplished. **REP. LEE** said that all interim planning and rule making will be done in the fall of 1992, before the 1993 legislature meets. Everything done in the interim is subject to

EQC review, and then is available for review during the session. **REP. O'KEEFE** said he would like to amend the bill so that the Council be appointed July 1, 1991, enabling the Council to participate in the rule making process. **REP. LEE** responded that the Council could be appointed on passage and approval of this bill. He stated he considered **Mr. Spilker's** concerns about the balance of the Council's makeup to be valid and would support an amendment addressing that situation.

REP. BROOKE asked how the Council would be funded. **REP. LEE** replied he was not sure. A fiscal note has been requested. **REP. BROOKE** inquired if the bill was considered an appropriations bill. **REP. LEE** responded that he did not ask for any money in the bill. It would only be implicit. **Rob McCracken, Department of Commerce**, added that information has been provided to the Governor's office on the fiscal impact of the bill, which is not public yet. The Governor's final determination is not known.

REP. WANZENRIED asked how closely HB 815 matches the Oregon law. **REP. LEE** responded that the Oregon law was discussed during the planning of HB 815. Oregon tries to micromanage local planning. HB 815 does not. It is not the intent of HB 815 to micromanage local planning. **REP. BEN COHEN** asked Don Chance who he was representing and to clarify what his objections were. **Don Chance** stated that he represented the Montana Building Association, which is opposed to the provision in the bill that requires state approval of local government plans.

Closing by Sponsor:

REP. LEE stated most of the opposition to this bill was centered on things that will be addressed in rulemaking and there is ample opportunity during rulemaking for citizen input to bring concerns through the Advisory Council. It is clear what happens when there is no planning. Most counties are planning, and the problem is there is no implementation of plans. This bill will help correct some problems.

HEARING ON HB 731

Presentation and Opening Statement by Sponsor:

REP. BOB REAM, HD 54 - Missoula, stated that a forest practices study was completed two years ago. Recent audit reports indicate problems continue to exist with forest land management on the narrow zone on either side of perennial streams. Forest practices within that narrow zone, 50 feet on either side of a stream, have an impact on other resources, particularly water and wildlife. HB 731 deals specifically with management practices for the resources in the riparian zone. **REP. REAM** went through the bill, outlining the sections. He presented amendments that incorporate some of the concerns of the forest industry. **EXHIBIT 6**. He stated that Janet Ellis, Montana Audubon, is working with Bud Clinch, Montana Logging Association to come up with a

consensus on amendments. It is important to have consensus of the groups involved. The bill involves a management zone that is small, in terms of acreage and proportion of the total forest land area, but crucial to water quality and wildlife resources.

Proponents' Testimony:

Janet Ellis, Montana Audubon Legislative Fund, stated one reason the bill is important is that it protects the most fragile areas that can be affected by forest harvest. This bill does not prohibit cutting timber in the streamside management zone, it requires that the riparian management zone be an area of closely managed activity. Audubon is willing to work with the timber industry to work out problems.

Steve McCue, Helena, stated he represents himself and his family who have owned a home on Lindbergh Lake in Swan Valley since 1956. He said that there are 60 cabins which draw water from the Lake. Plum Creek Timber Company owns land on Lindbergh Lake, and in 1988 upgraded an old road, and began harvesting timber on a 70% slope adjacent to Lindbergh Lake. The only legal recourse to control such activity was through the Water Quality Act. HB 731 is needed in order to have companies, such as Plum Creek, care for riparian zones, such as those found along Lindbergh Lake. Page 10, subparagraph (b), limits the liability for penalties and fines to the operator not to the landowner. The logger would be liable, but the landowner, such as Plum Creek, would not be liable. **Mr. McCue** stated that he felt that the landowner should be liable. He submitted an article regarding management practices. **EXHIBIT 7**

Jim Jensen, Montana Environmental Information Center (MEIC), supported HB 731. He stated the bill does not go far enough to address the management problems that exist on private forest lands. He suggested to hold the bill in Committee so it could be discussed in context with other upcoming forest management bills.

Scott Snelson, Montana Wildlife Federation (MWF), stated MWF concurs that riparian areas are critical to wildlife and supports the bill.

Kim Wilson, Clark Fork Coalition, supported HB 731. He stated legally, there are no options but to wait until the timber work has been completed to see if the Water Quality Act has been violated. This bill is important as it gives people the ability to be involved in the process prior to damage occurring. The Forest Service requires best management practices on all timber contracts.

Opponents' Testimony:

Bud Clinch, Montana Logging Association (MLA), stated that consensus is almost reached regarding this bill. The major area of disagreement concerns mandatory versus voluntary approaches.

Amendments removing regulatory enforcement relative to providing wildlife habitat could help develop consensus among adversarial groups on this issue. Industry has been making efforts to educate loggers and to improve acceptance and implementation of best management practices. **Mr. Clinch** stated he opposed the bill as it is introduced but is willing to continue work with **REP. REAM** to arrive at a consensus.

Don Allen, Montana Wood Products Association (MWPA), opposed HB 731 for reasons stated by **Mr. Clinch**. He stated the sensitivity of the streamside areas is an important issue.

Susan Brooke, Montana Stockgrowers Association (MSGA), opposed HB 731. She stated that MSGA supports the efforts of MLA and MWPA.

Lorna Frank, Montana Farm Bureau, concurred with MSGA.

Peggy Parmelee, Montana Association of Conservation Districts, opposed HB 731. She stated the Natural Streambed and Preservation Act and statutes 75-7-101 through 75-7-124 already provide for protection. A voluntary approach is appropriate for managing streamside areas. She provided informational handouts.
EXHIBIT 8 & 9

Questions From Committee Members:

REP. DICK KNOX stated that on page 6, line 16 - 18, defines a riparian management zone to extending beyond the high water mark to include wetlands and to areas that provide additional protection in zones with steep slopes or erosive soils. In a situation like that, the riparian zone could be expanded far beyond the 50 feet. **REP. REAM** agreed. A riparian management zone needs to be flexible. This could be addressed in rulemaking.

REP. COHEN asked **Mr. Wilson** what is the applicability of the statutes mentioned by **Ms. Parmelee**. **Mr. Wilson** responded that the 310 Act, referred by **Ms. Parmelee**, deals with specific instances of stream crossings. It does not apply to potential logging on lake shores or main drainages unless a road is crossed.

REP. BROOKE asked **REP. REAM** to clarify how the bill would affect agricultural activity. **REP. REAM** stated that when a similar bill was introduced last session, an amendment was added that excluded agriculture and grazing from the requirements of the bill. If this is not in the current bill, **Rep. Ream** is amenable to inserting it.

Paul Sihler, EQC, said the concern could be addressed in the rulemaking section.

Closing by the Sponsor:

REP. REAM stated it was not his intention to make guidelines but rather to provide direction with "teeth". He stated that he was not succumbing to the pressures of industry, as some have suggested. Industry provided some positive ideas which are found in Sections 4 and 5.

HEARING ON HB 724

Presentation and Opening Statement by Sponsor:

REP. JIM ELLIOTT, HD 51 - Trout Creek, stated the bill is to ban the sale of substitute logs to companies who are selling logs to overseas destinations. Around July 30, 1990, a federal law was enacted which allowed states to ban the sale of state logs for overseas export. While Montana has promulgated a rule to do this, there is a loophole which permits the sale of substitution logs. This bill will allow the state of Montana to refuse to sell timber to a company for one year after the date the company last exported logs from its own land. It is economically feasible to ship logs overseas through the Port of Lewistown, Idaho. There is a need to keep timber jobs in Montana. The law does not prohibit interstate shipment and sale of logs.

Proponents' Testimony:

Christian MacKay, read testimony on behalf of Don Judge, Montana State AFL-CIO. Mr. Judge supported HB 724. EXHIBIT 10.

Janet Ellis, Montana Audubon Legislative Fund, supported HB 724. She stated that Audubon feels this is an environmental bill. Between 1978 and 1988 lumber production increased by a total 302 million board feet in the state, but jobs decreased by 2800 people. The main reasons were increased mechanization and increased log exports.

Stan Bradshaw, Montana Trout Unlimited, concurred with previous testimony and supported HB 724.

Keith Olson, Executive Director, Montana Logging Association, supported HB 724.

Don Allen, Montana Wood Products Association, supported HB 724. He said the export of logs is a non-issue.

Opponents' Testimony: none

Questions from the Committee: none

Closing by Sponsor:

REP. ELLIOTT urged the committee to send the bill to the floor.

HEARING ON HB 908

Presentation and Opening Statement by Sponsor:

REP. HAL HARPER, HD 44 - Helena, stated this bill does three things. First, it asks the Department of Natural Resource and Conservation to identify water courses that are chronically dewatered. Second, it asks the Board to adopt rules requiring an operator with an appropriation facility to install and maintain devices on those stretches that are identified. Third, it provides money for grants and loans from the water development fund for these measuring devices. The amendments address concerns brought up by several people.

Proponents' Testimony:

Stan Bradshaw, Trout Unlimited, supported HB 908. He stated that he has been involved the last two years in the water planning process. There was a strong consensus that water measuring devices are an important part of the allocation process. It is time that action be taken to require measuring devices in areas where there is a chronic problem. The proposed amendments take care of questions that have come up.

Susan Lenard, Montana Audubon Legislative Fund, supported HB 908. **EXHIBIT 12.**

Lorna Frank, Montana Farm Bureau, supported HB 908. **EXHIBIT 13.**

Scott Snelson, Montana Wildlife Federation, supported HB 908. He stated that to properly manage the water resource, it is necessary to know where the water is going and when.

Jim Peterson, Montana Stockgrowers Association, supported HB 908 with proposed amendments.

Gary Spaeth, Montana Water Users Association, supported HB 908.

Opponents' Testimony:

Jo Brunner, Executive Secretary, Montana Water Resources Association (MWRA), opposed HB 908. **EXHIBIT 14.**

Questions From Committee Members:

REP. ELLISON asked Mr. Spaeth under what existing conditions are measuring devices required. **Mr. Spaeth** said it was primarily at the request or direction of the water judge, generally upon application of either the water commissioner or users along that stream. If there is a dispute between individual water users who go to court, the judge will direct the parties to install measuring devices.

Closing by Sponsor:

REP. HARPER said his purpose in introducing the bill is for this state to get its water house in order. Major conflicts will be coming with downstream users.

HEARING ON HB 732

Presentation and Opening by Sponsor:

REP. BEN COHEN, HD 3 - Whitefish, stated HB 732 has two main sections. Section 1 is intended to regulate loose loads traveling to the dump. It is not intended that every dump or farm truck have a tarp over the top. It is aimed at securing those loads that blatantly fall out. Section 2, the dumping penalties, is aimed at people who avoid landfills and dump over the edge of roads. The violations must be prosecuted by the county attorney. The money paid in violation of this section will be deposited in a county account to be used for the prosecution of illegal dumping. REP. COHEN proposed the following amendment: Page 1, line 12; following the word "vehicle" insert "except a commercial motor vehicle."

Proponents' Testimony: none

Opponents' Testimony: none

Questions From Committee Members:

REP. FOSTER asked Rep. Cohen if the bill applies within city or town limits where people are going to a dumpster. REP. COHEN replied that the language reads "on a public highway". People would be driving slower for a shorter distance to a dumpster within city limits. REP. KNOX stated there is a need to absolutely narrowly define the problem of load spilling enroute to the dump. REP. COHEN said the commercial truckers thought the exclusion would work for them, however, agriculture may need a similar exclusion.

HEARING ON HB 918

REP. JIM SOUTHWORTH, HD 86 - Billings, stated HB 918 is an act to revise the definition of solid waste and to amend Section 75-10-103, MCA. Solid waste is defined on page 2, line 23. The bill is introduced on request of the Natural Resources Committee.

Proponents' Testimony: none

Opponents' Testimony: none

Questions From Committee Members:

REP. COHEN asked if recyclable materials are included in the definition. REP. RANEY reminded REP. COHEN that this is a committee bill that makes this section of the Code consistent with all other sections of the Code.

HEARING ON HJR 30

REP. VICKI COCCHIARELLA, HD 59 - Missoula, said HJR 30 asks for the legislature's support of Congress' passage of the Forest Resources Conservation and Shortage Relief Act of 1990. EXHIBIT 15. This resolution sends to Congress support for the position that they have taken, and to the world the message that Montana's forest land must be cared for, that logs will not be exported and that value-added products are important in Montana.

Proponents' Testimony:

Don Allen, Montana Wood Products Association, supported HJR 30. He stated that timber availability is a problem, and the Association does not want to increase the problems by exporting logs from state lands. It is appropriate to send this message to Congress.

Christian MacKay, read testimony on behalf of Don Judge, Montana State AFL-CIO. He supported HJR 30. EXHIBIT 16.

REP. O'KEEFE supported HJR 30.

REP. REAM supported HJR 30.

Opponents' Testimony: none

Questions From Committee Members: none

HEARING ON HB 749Presentation and Opening Statement by Sponsor:

REP. ORVAL ELLISON, HD 81 - McLeod, stated HB 749 makes an adjustment to the Hard Rock Mining Impact Act. When the Act was originally passed, it was intended for the Hard Rock Impact Board to be as autonomous as possible. This bill clarifies that the Board would have the authority to hire its own staff. There is a change in dates that the funds are transmitted to the counties, due to the time lag of funds coming in.

Proponents' Testimony:

Carol L. Ferguson, Hard Rock Mining Impact Board, submitted written testimony on behalf of Ric Young, Hard Rock Mining Impact Board. EXHIBIT 17.

Richard Parks, Northern Plains Resource Council, stated this issue was very hot this spring. This bill seems an appropriate way to fix it.

Opponents' Testimony: none

Questions From Committee Members: none

HEARING ON HB 924

Presentation and Opening Statement by Sponsor:

REP. BRUCE MEASURE, HD 6 - Kalispell, stated HB 924 provides first right of refusal to public recreational trail users upon the sale of a railbed. REP. MEASURE encouraged the committee to pass the committee bill.

Proponents' Testimony:

REP. COHEN supported HB 924.

REP. RANEY supported HB 924.

Kathy Macefield, member of Gold Country Rails to Trails, a local volunteer organization of trying to convert railroad beds into trails for recreational users throughout this county, supported HB 924.

REP. O'KEEFE supported HB 924.

Opponents' Testimony:

Leo Berry, Burlington Northern Railroad (BN), said his goal is to convince the committee that its support is ill placed in this bill. BN is not opposed to rails to trails and the kind of principles people are trying to accomplish. This bill has been quickly drafted, and time has not been available to develop it in a manner in which it deserves to be addressed. Mr. Berry pointed out flaws in drafting of the bill. The ICC has jurisdiction over railroads. A railroad cannot be abandoned without ICC approval. ICC loses jurisdiction when approval is granted, and jurisdiction goes to the state. If there is a corridor which has been acquired by purchase or by easement with reversionary interest, it goes back to person giving the railroad easement. Rails to trails puts a hold on that. If a public interest group wants to acquire the corridor, it can meet with the railroad to do that. For the purposes of ICC, it is not abandoned if a group acquires it, then the reversionary interest does not apply. In effect, the rail corridor is being rail banked, the easement remains and it can be used for transportation at a later date. HB 924 is a different concept of transferring the legal ownership to another party. Under the Congressional plan, the law requires that the state or private organization must manage corridor, be responsible for liability, and taxes must be paid. HB 924 does not blend into the national scheme. Mr. Berry asked the committee not to support the bill.

Kim Enkerud, Montana Stockgrowers, Montana Woolgrowers and State Grazing Districts, opposed HB 924. EXHIBIT 18.

Lorna Frank, Montana Farm Bureau, opposed HB 924. EXHIBIT 19.

Carol Mosher, Montana Cattlemen, opposed HB 924 because of concern with the agreements made with former owners of right of ways.

Bob Stephens, Montana Grain Growers Association, stated the Grain Growers are concerned about weed control, about maintenance and other questions not answered in the bill. He stated that until more answers are available, Montana Grain Growers are opposed to this bill.

Questions From Committee Members:

REP. COHEN asked **REP. MEASURE** if under the bill the land automatically turns into recreation lands. **REP. MEASURE** answered that it merely grants first right of refusal. **REP. COHEN** inquired that if a group was to propose a recreational use for a section of railroad right of way, would it have to address all the questions raised by the public. **REP. MEASURE** responded that there would have to be public input because few of these groups have funds to pursue recreational trails. Normally, representatives from agricultural and urban populations make up the groups. **REP. COHEN** said that Mr. Berry found confusion in Section 3 on page 4. He asked for clarification. **REP. MEASURE** responded that Mr. Berry represents the railroad. The concern was in subsection 2 where there could be a conflict of interest. Under item 4, under the right of reversion, lines 21, 22, 23 could be taken out. Agriculture interests are concerned about the right of reversion. The first right of refusal will not interfere with standard property law. When the railroad acquired the right of way, some property was granted by the United States, some granted by individuals, some was purchased. Some easements were purchased and a right of reversion was granted so when the railroad was done using the property as a railroad, it reverted to the adjacent landowner.

Closing by Sponsor:

REP. MEASURE said this is not a bad bill, though it has some problems. The problems can be worked out on the floor of the House or in the Senate. He recommended that Mr. Berry work with the sponsor to agree on some amendments for the House or Senate floor.

HEARING ON HJR 31

Presentation and Opening Statement by Sponsor:

REP. BOB RANEY, HD 82 - Livingston, said as much energy leaks through American windows every day as flows through the Alaskan pipeline. On this fortieth day, the legislature has done nothing to develop an energy policy. If something is not done prior to next session, there will again be no plan. The Environmental Quality Council has an excellent staff to study energy between now and the next session of legislature. By assigning the task

to the EQC, a study can be made to develop an energy plan for Montana, with the input of Montanans during the next two years. An amendment is being proposed that the EQC do this study in cooperation with the Department of Natural Resources and Conservation and the Consumer Council. **EXHIBIT 20**

Proponents' Testimony:

Bob Anderson, Public Service Commission, supported HJR 31. EXHIBIT 21.

George Ochenski, supported HJR 31. He stated it is important to bring together knowledge and focus energies to produce a plan to move Montana forward.

Richard Parks, Northern Plains Resource Council, supported HJR 31.

Susan Lenard, Montana Audubon Legislative Fund, supported HJR 31. EXHIBIT 22.

John Lahr, Montana Power Company, supported HJR 31. He said that often energy studies do not come together. EQC could bring all of these studies together. Mr. Lahr would like the legislature to oversee the study.

Allen Davis, Department of Natural Resources and Conservation, supported HJR 31 and the amendment proposed by REP. RANEY to utilize the resources available to state government to pursue this initiative.

Opponents' Testimony:

Jim Jensen, Montana Environmental Information Center, opposed HJR 31. He stated that over the last decade there have been numerous studies. It is time to act. Two years is too long to wait.

Questions From Committee Members: none

Closing by Sponsor:

REP. RANEY said studies work. Groundwater quality protection and management, solid waste management, megalandfill siting act, oil disposal criteria and a moratorium on importation of waste are all examples of results from studies being acted on. An energy policy cannot be developed in the few weeks left of the legislative session. In the interim the EQC could pull together information and form a policy.

EXECUTIVE ACTION ON HJR 31

Motion: REP. SOUTHWORTH MOVED HJR 31 DO PASS.

Motion: REP. SOUTHWORTH moved to amend HJR 31. **EXHIBIT 20**

Motion/Vote: REP. RANEY moved to amend the amendment in (1) include "and the Consumer Council", and that same language into the Whereas. Motion carried unanimously.

Motion/Vote: REP. SOUTHWORTH MADE A SUBSTITUTE MOTION THAT HJR 31 DO PASS AS AMENDED AND BE PLACED ON THE ALTERNATE CONSENT CALENDAR. Motion carried unanimously.

EXECUTIVE ACTION ON HB 749

Motion/Vote: REP. ELLISON MOVED HB 749 DO PASS AND BE PLACED ON THE ALTERNATE CONSENT CALENDAR. Motion carried unanimously.

EXECUTIVE ACTION ON HB 918

Motion/Vote: REP. SOUTHWORTH MOVED HB 918 DO PASS AND BE PLACED ON THE ALTERNATE CONSENT CALENDAR. Motion carried unanimously.

EXECUTIVE ACTION ON HB399, HB744 & HB671

CHAIR RANEY asked REP. O'KEEFE to chair the executive session on the subdivision bills as he was integrally involved. REP. O'KEEFE said the subcommittee of Gilbert, O'Keefe, Wanzenried, Barnhart and Ellison met three times on this bill, and the proposal passed the subcommittee unanimously.

The recommendation of the subcommittee is to table HB 399, REP. CONNELLY'S bill. One portion important to the sponsor, the rights of private property owners, is included in the final proposal.

Motion/Vote: REP. O'KEEFE MOVED TO TABLE HB 399. Motion carried unanimously.

The subcommittee chose to incorporate some of the issues in HB 744, the bill drafted by the Montana Association of Planners, in HB 671.

Motion/Vote: REP. O'KEEFE MOVED TO TABLE HB 744. Motion carried unanimously.

HB 671, sponsored by REP. GILBERT, is the proposed bill with numerous changes. A mark up bill reflects the proposed changes. EXHIBIT 23. REP. O'KEEFE stated he would go through the bill, with the help of EQC staffer, Michael Kakuk, outlining the changes.

Mr. Kakuk said the title of the bill will stand, except for removal of "76-3-403" and line 12 "providing for suits against a governing body". REP. O'KEEFE stated that on page 2, in the Statement of Purpose, the language which had been stricken, lines 2 through 8, are reinstated. The resulting statement reflects what was in HB 744 and HB 399. Page 3, line 16, the section on

"dwelling unit" has been stricken. The intent of the sponsor was to cover work camps with this section, and it is covered elsewhere. Page 4, line 17, the definition of minor subdivisions is modified. On page 5, line 25, the primitive tract exemption was struck. There was concern among the members of the committee that primitive tract exemption would be abused and the committee felt it would not be needed. Page 6, line 16, special subdivisions have been further defined. Regarding subdivision, page 6, line 24, Mr. Kakuk had spoken with the Department of Commerce regarding its concern that by leaving the language of the original bill, the door is open to the "remainder" issue. If the intent of the committee is that there should be no remainder and that every parcel should be reviewed, that language should be stricken.

Motion: REP. O'KEEFE moved to amend to strike the language on line 2 and 3, page 7, of original HB 671.

Discussion:

REP. O'KEEFE stated the intent of this legislation is to look at all parcels created. If a parcel of land is divided from a larger parcel, both parcels created are reviewed, not just the split parcel. REP. HOFFMAN stated that he did not understand how eliminating that sentence changes the meaning from create to segregate. Mr. Kakuk said it does not change from create to segregate, it reinforces that there are no remainders. Typically a remainder is something left over after creating a parcel, and according to an Attorney General's opinion, remainders are not to be reviewed by the local government. If it is the intent of this committee that all parcels should be reviewed, the language should be changed from segregated to created. In order to prevent someone from saying he is not going to convey a parcel, which would not fit under the definition of subdivision, and therefore would not be reviewed, language should be clear that every division of land, unless it falls under an exemption, is a subdivision and will be reviewed by the local government.

REP. HOFFMAN spoke against the motion on the basis that the remainder should not be subject to the minor subdivision requirements. The remainder will still be subject to DHES approval. REP. WANZENRIED asked Mr. Kakuk what would be the worst thing that would happen by leaving the language in and what is avoided by taking it out. Mr. Kakuk responded that by taking it out one avoids someone taking a 40 acre parcel, splitting in half and saying that parcel is not for conveyance, and then at a later date conveying it or splitting it again. That 20 acres then is not reviewed. By leaving the language in, if 5 acres are split from a 100 acre tract for conveyance and the other 95 acres kept, that information goes to the subdivision review officer or local governing body. If the reviewing body is told that the 95 acres will be maintained as a residence and will not be conveyed, that should be the scope of the review.

REP. ELLISON asked if 5 acres are segregated from a 10 acre tract, 5 acres would be subject to review, would the other 5 acres be reviewed. **Mr. Kakuk** replied that if two parcels are created, in the current language it is ambiguous. Someone can say they are not going to convey, even though it is created, and therefore it does not fall within the definitions. It goes back to the remainder issue - is it reviewed by the local government. If the language is left in, the ambiguity goes to court for resolution.

REP. COHEN said part of the problem is that the first sentence is not grammatically correct. You can't say, a division of land or land so divided that creates parcels. You could say, parcels are created.

Vote: Motion to strike the language on line 2 and 3, page 7 carried 15-2 with Reps. Hoffman and Foster voting no and Rep. Southworth absent from voting.

REP. O'KEEFE explained that on page 7, line 4, insert amendment #2, which further defines subdivision as any residential condominium or building, any area regardless of its size that will provide multiple space for recreational camping vehicles or dwelling units, and work camp structures constructed to exist for longer than a year. On the bottom of page 7, language was cleaned up.

Top of page 9, line 1, "survey requirements" was taken out. **Mr. Kakuk** said that under current law, divisions created by rent or lease are not required to have certificates of survey. If someone leases land for purposes other than agriculture, it must be reviewed by the local government but a certificate of survey does not have to be filed.

REP. HOFFMAN commented on page 7, vii, a division created by operation of law or an order of a court. He said that a partition action is a dispute between two parties who agree to split a property but cannot decide who gets the piece next to the stream. In this case, you go to court and the judge appoints a referee to split it. The property may not pass DHES or minor subdivision requirements, so cannot be split normally.

Motion: **REP. HOFFMAN** moved that a period be placed after the word "state" on line 1, page 8, and eliminate the rest of the paragraph.

Discussion:

REP. TOOLE stated the reason this was modified from current law is to get away from banks holding a security interest in a piece of property, foreclosing, and the property being put on the market without review. This language also prevents a judge from dividing a piece of land to evade subdivision requirements.

Mr. Kakuk asked if the amendment was actually necessary. It is saying that everything under vii is not a subdivision. **REP. HOFFMAN** stated his intent is that when a judge orders a split, that it is not a subdivision subject to review. **REP. RANEY** asked if a judge would divide property in violation of the law. **REP. TOOLE** replied that judges are fully empowered to partition property. **REP. GILBERT** said it is stated in the bill that in the absence of an agreement between the parties to the sale, a division could be created by an order of court pursuant to the law of eminent domain. **REP. HOFFMAN** replied that is only in the case of eminent domain. There are three exceptions of court ordered splits: divorce, eminent domain, and estate.

Motion: **REP. HOFFMAN** made a substitute motion to put a period after the word "state" on line 6, page 8, and to strike the remainder of lines 6 and 7.

Discussion:

REP. O'KEEFE said that brings eminent domain back into subdivision. **REP. TOOLE** said no. It not only allows eminent domain, it allows partition action because both fit the definition of division that in the absence of an agreement can be created by the court.

Vote: Motion carried 11-5 with Reps. Dolezal, Wanzenried, Southworth, O'Keefe, and Raney voting no. Reps. Brooke and Knox were absent from voting.

REP. O'KEEFE explained that on page 9, line 16, insert amendment #3. This language is to insure that mining was addressed. **Mr. Kakuk** said there was a concern that a division of land created for mining would be reviewed as a subdivision. Amendment #3 says a division created for mining, if there has been application made for a contract or permit or if a contract or permit has been received, is not a subdivision. When the mining is complete, or if the mine sells part of the property, that becomes a subdivision and will be reviewed.

REP. RANEY asked if the entire property is sold for a homestead, will it be a subdivision. **REP. O'KEEFE** said if there is no division, then it would not be defined as a subdivision and would not undergo a review except for sanitation review as required by the county. **REP. BROOKE** stated that she felt that creates a loophole. **REP. O'KEEFE** asked **Mr. Kakuk** if there is a place in the bill to put this exemption so the situation could be reviewed for exemptions to the subdivision. **REP. RANEY** said there is a problem in taxing property where people build on a mining claim, and the property is taxed as a mining claim. **REP. TOOLE** said the loophole is when an application is submitted, an exemption is obtained with no intention of pursuing mining. Subdividing is done, and no mining is done. **REP. FOSTER** stated that the bill deals with unknowns and remote possibilities but not with real situations that will create problems if the language is not

included. **REP. O'KEEFE** said that he is hearing the desire expressed to close the loophole. **REP. HOFFMAN** said he cannot think of an example where mining property would be split. **REP. REAM** stated the language is not splitting mining property, it says making a division of land. **REP. O'KEEFE** pointed out that submitting the application is not a simple process. Once it is submitted you are locked into mining.

REP. O'KEEFE explained amendment #11 on page 9, line 24. He stated that **SEN. BENGTON'S** bill, concerning irrigation ditches, was incorporated here. Section 5, on page 10, was stricken. Page 14, section 11, the language concerning survey requirements was removed. Language was added that said 1/16 or larger need not be surveyed.

REP. HOFFMAN asked how 1/16 was settled upon. **REP. O'KEEFE** replied that the subcommittee felt that since 1/16 was a 40 acre plot, any subdivision smaller than 40 acres should be surveyed. The initial bill wanted any subdivision smaller than 640 acres surveyed. **REP. HOFFMAN** said if it were dropped to 1/32 it would drop the cost to the purchaser or seller, and it would still be adequately described.

REP. O'KEEFE explained that on page 15, Section 13 had been removed when the bill was introduced, the subcommittee put it back in. On page 17, local subdivision regulation, all original language is inserted back into the bill, and amendment #4 is added. Page 18, line 17, inserts the general statute telling the local governing body the time frame a notice of the application and hearings must be published. Page 19, lines 8 and 9 have been struck, and amendment #12 is added which includes Sen. Bengtson's concerns.

REP. TOOLE asked what is a water users entity. **REP. O'KEEFE** answered that water user entity as defined in the codes elsewhere and includes irrigation districts, ditch companies, water-user associations.

REP. O'KEEFE referred to page 23 at the top, under the contents of the environmental assessment. Language is put back in on lines 5 and 6 that gives the local governing body the right to look at any relevant and reasonable information required.

Page 25, line 5, stated that informational hearings for a major subdivision are reduced to one. On line 6, recommendations may be made for 20 days following the hearings. Line 24, makes the notice of informational hearing the responsibility of the governing body. On lines 15 through 20, the oath requirement and hearsay evidence were struck. On page 26, line 6, language has been inserted to let the governing body decide when they need to make a decision. On page 27, the language from line 6 through 16 is struck, and amendment #5 added. Any person who can prove substantially he has been adversely affected by the subdivision can ask for a hearing.

REP. HOFFMAN stated that the substantial language is not there. That language should be included because there could be a problem with property owners next to the division asking for a hearing to stall the subdivision. REP. GILBERT said when the committee talked about this, the language "substantial credible evidence" was taken out. Mr. Kakuk said substantial credible evidence is still part of the requirement if mitigation is imposed.

Motion: REP. HOFFMAN moved to that "substantial" be added prior to "adversely affected" in amendment #5.

Discussion:

REP. COHEN asked how substantial adverse affect is proved. REP. GILBERT stated people go to the governing body ask for a hearing, state the problems and the governing body determines if the problems are substantial and grant a hearing. REP. MEASURE stated that "substantial" is not a necessary term. The individual requesting a hearing must be judged by the body. He opposed the amendment. REP. HOFFMAN stated that it is necessary to have "substantial impact" included. The implication of a substantial impact needs to be put in words. The ability of the governing body to assess costs of the hearing against that citizen has been removed. The citizen has nothing to lose by requesting a hearing. REP. GILBERT stated that he would endorse the amendment because the word substantial is not a bad tradeoff for removing the oath and the citizen not having to pay for hearings.

Vote: Motion to insert "substantial" in front of adversely affected on amendment #5 carried 13-5. Reps. O'Keefe, Raney, Cohen, Wanzenried and Measure voting no.

Motion: REP. HOFFMAN moved to put back in the language on page 27, line 21 through 24, having to do with assessing costs against the person requesting a hearing.

Discussion:

REP. MEASURE opposed inserting the language.

Vote: Motion to insert language for assessing costs failed.

REP. O'KEEFE stated that on page 28, section 8, amendment #6 is inserted. It regards impacts on cultural or historical resources, environment, or wildlife.

REP. HOFFMAN asked Rep. Gilbert, referring to the notice to be given each adjoining landowner on paragraph 7, page 28, line 15, who is responsible for the research to find out who the landowners are. REP. GILBERT said current law requires the governing body to give notice. Mr. Kakuk clarified that it is not current law but that it is included in a new section of this bill. REP. HOFFMAN asked if notice "by the governing body" needs

to be inserted. Mr. Kakuk said there is no harm inserting it if it helps clarify intent.

Motion: REP. GILBERT moved to insert in section 7 where appropriate" by the governing body" notice of the hearing.

Discussion:

REP. MEASURE asked Mr. Kakuk who was in the best position to give the notice. Mr. Kakuk replied that in zoning, the governing body has that responsibility and in current subdivision law where posting or noticing is required, it is also the responsibility of the governing body.

Vote: Motion to insert "by the governing body" carried.

REP. HOFFMAN commenting on amendment #6, stated that it is so broad that it would be difficult to address all of those concerns and satisfy the concerned parties opposed to the subdivision.

REP. O'KEEFE asked Rep. Hoffman to turn to page 35, lines 16 through 23, which is the existing law that has been struck. The committee attempted to leave in section 8, the impacts for the review process. REP. HOFFMAN asked if the list of criteria on page 35 included minor subdivisions or just majors. Mr. Kakuk replied that it includes all subdivisions.

REP. O'KEEFE addressed mitigation measures on page 29. REP. TOOLE stated that the wording "it is recognized that in some instances the unmitigated impacts may preclude development or approval" invites someone to say if you mitigate those impacts, the approval can be mandated.

Motion/Vote: REP. TOOLE moved the language be changed to "it is recognized that in some instances the impacts of the proposed developments cannot be sufficiently mitigated and will preclude approval of the plat". Motion carried unanimously.

REP. O'KEEFE addressed page 33, section 23, park dedication. Existing law park dedication numbers were higher than what is proposed by the subcommittee. Amendment #7 on page 32, deals with density requirements. The reasoning behind reducing the size of park dedication is an acknowledgement that park dedication was abused. Some local governments would take cash. The committee felt the reduced amount was sufficient.

REP. COHEN asked why it was not required that the money be used for parks. REP. ELLISON said it did not seem fair to charge people for parks located someplace else. REP. COHEN said people use parks that are not necessarily next to their house. They will come to use a well-developed park. He stated that he objected to cut in the amount of money for parks.

Motion: REP. MEASURE moved that whatever percentages were in the law on the books be applied to these parkland categories.

Discussion:

REP. GILBERT objected to the motion. The committee heard considerable evidence there has been abuse of these funds. Cash in lieu of has been used as an unfair tax on developers. The money was often used in different areas. REP. HOFFMAN stated that he agreed with Rep Gilbert. In response to Rep. Cohen's concerns, REP. HOFFMAN stated that occasional sales, single splits, and old exempted splits are going to be paying park fee, there will be more income to the park account.

REP. MEASURE WITHDREW HIS MOTION.

REP. O'KEEFE stated that amendment #8, page 33, line 8, is a compromise between "the subdivider shall make the park dedication in land or cash at his discretion" and "the governing body will demand at their discretion". Page 34, line 21 and 22, amendment #9, addresses capital facilities relating to public health and safety.

REP. HOFFMAN stated that he has a problem with the language "but not limited to". It leaves it open for the governing body to determine requirements. Language should be specific as to what capital facilities are. REP. COHEN said it is reasonable for a county to require roads be paved in a subdivision. REP. RANEY said it can vary not only from county to county, but from subdivision to subdivision.

Motion: REP. HOFFMAN moved to strike the subcommittee amendment.

Discussion:

REP. TOOLE stated that he was surprised to see the language questioned, as flexibility is needed for divisions. REP. WANZENRIED said this amendment was discussed at length in the subcommittee. REP. ELLISON said if the language is stricken, there will have to be additional language.

REP. HOFFMAN WITHDREW HIS MOTION.

REP. WANZENRIED, momentarily acting as chair, stated that on page 35, line 14, section 21 is inserted to allow the governing body to review the criteria found in section 21. Mr. Kakuk suggested that line 1, page 36, be deleted as it is not a primary criteria to review a proposed subdivision. REP. WANZENRIED stated that the following language was added to the bottom of page 36: "including but not limited to". REP. HOFFMAN objected to the language.

REP. WANZENRIED explained that on page 37, lines 2 through 3 concerning mud slides, landslides, avalanches, strike the language "in the past 25 years". The language on line 18 has been changed from "recommended" to "required". REP. HOFFMAN asked for a definition of approved construction techniques. REP.

GILBERT responded that one of the approved construction techniques would involve using a floating slab in an area of high water table. In an earthquake fault zone, the house would have to be built earthquake-proof using approved construction techniques.

REP. WANZENRIED explained that on page 38, insert amendment #10 for lines 11 and 12. Mr. Kakuk stated the amendment brings the language into conformity with amendment #6. A technical change is needed in the amendment, part (c). The words "wildlife and" need to be added.

Motion/Vote: REP. RANEY moved the language "wildlife and" be added to amendment #10. Motion carried.

REP. WANZENRIED stated that on page 39, to keep the minor and major subdivision in conformity, the subcommittee language will have to be amended to make it consistent with Rep. Toole's motion earlier.

Motion: REP. GILBERT moved to amend the subcommittee language to make it consistent with Rep. Toole's language, "it is recognized that in some instances the unmitigated impacts may preclude development or approval".

Discussion:

REP. TOOLE said this language is the same, it does not have the unmitigated. REP. RANEY said the options are to amend this to bring it into conformity with the "cannot be sufficiently mitigated" language, or reamend the other one to bring it into conformance with this.

Motion/Vote: REP. GILBERT made a substitute motion that Rep's Toole language be replaced by the language in this section. Motion carried.

REP. HOFFMAN questioned the original language on page 45, line 21. He asked what subdivision would be excluded from the provisions of chapter 3. Mr. Kakuk said the intent was to have no exceptions in this bill, so instead of listing subdivisions that were exempted from review, definitions were made which defined those which were not subdivisions. Mona Jamison, Montana Planners Association, said this is old language that slipped by the drafters. It should come out. Mr. Kakuk said the easy way out would be to strike the language starting after subdivision on line 21. It would then read, "A subdivision must be submitted for review according to the provisions of this part."

Motion/Vote: REP. COHEN moved to strike the language starting after subdivision on line 21. Motion carried.

REP. HOFFMAN suggested to adopt the same amendment for page 46 as the court ordered language on page 8.

Motion: REP. HOFFMAN moved that starting on line 7, page 46, at the end of the word "state", insert a period and eliminate the rest of that sentence.

Discussion:

Ms. Jamison asked why would you want to exempt those additions from sanitary review. REP. HOFFMAN said a judge is going to order that division. There are certain provisions, like partition action, which provide the judge with that power. If there is a conflict in statute, the judge will win. REP. GILBERT said there is a bill that passed the House and is in the Senate that will require DHES to form rules that will require every county in the state of Montana to have sanitary inspectors for water and septic tanks. REP. HOFFMAN said what the committee did was put in three court order exceptions. There are other exceptions that a judge can make.

Vote: Motion to insert a period at the end of the word "state", line 7, page 46, and eliminate the rest of the sentence carried.

Motion: REP. HOFFMAN moved to insert a new subparagraph (g), on page 46, line 19, "a division created to provide security for construction mortgages, liens, or trust indentures".

Discussion:

REP. HOFFMAN stated the language in this amendment is exactly what is in the present statute which has a list of certain divisions which are not subdivisions. Mortgage language is missing. There are lenders who will loan money to a property owner with security a Trust Indenture. A Trust Indenture is limited to 30 acres. If a person owns 100 acres and wants financing, the lender needs a description of the 30 acres. A plat must be drawn. This does not create a second interest in the property unless there is a foreclosure. The purpose of the survey is on the Certificate of Survey. Mr. Kakuk said this amendment only applies to sanitation in subdivision, and would be reviewed by local government.

Vote: Motion to insert subparagraph (g) on page 46 carried.

REP. WANZENRIED, referred the committee to page 48, line 9. Mr. Kakuk stated an error had been made in drafting that repealed all the local governing review authority. To correct the errors, repealer section 35 is separated into two sections. Corrections are also made to section 39.

Motion: THE SUBCOMMITTEE MOVED TO ACCEPT THE AMENDMENTS TO HB 671.

Vote: Motion to accept the amendments to HB 671 carried unanimously.

Motion: REP. TOOLE MOVED HB 671 DO PASS AS AMENDED.

Discussion:

REP. FAGG stated concern that the Montana Association of Realtors does not support this bill. REP. HOFFMAN said this is not a bad bill, it just goes farther than he can accept. This is too big a step. One concern is the definition of what a minor subdivision is. REP. ELLISON stated that he has concerns about the bill. It went through the subcommittee with numerous compromises. The bill will go to the Senate where it will be amended further. REP. BROOKE stated she believes this is a good step, perhaps a larger step than is acceptable to some. She stated that she supports the bill fully. REP. COHEN suggested that because the amount of money allocated to parklands changed, may mean that the bill does not have to meet the deadlines.

Vote: Motion that HB 671 DO PASS AS AMENDED carried 14 to 4.
EXHIBIT 24.

EXECUTIVE ACTION ON HB 844

Motion: REP. O'KEEFE MOVED HB 844 DO PASS.

Motion: REP. WANZENRIED moved to amend the title of the body of HB 844, and include an appropriation of \$100,000 to cover the fiscal note. **EXHIBIT 25**

Discussion:

REP. WANZENRIED said this was discussed in subcommittee. REP. O'KEEFE stated the subcommittee's concern is that HB 671 may disintegrate on the House floor or in the Senate. This bill would meet some of the responsibility to deal with the subdivision question by leaving the existing law intact, and repealing the three most despicable exemptions in the law. By putting in the appropriation, the bill can be held until the 63rd day.

Vote: Motion to amend HB 844 carried unanimously.

Motion: REP. O'KEEFE MADE A SUBSTITUTE MOTION THAT HB 844 DO PASS AS AMENDED.
REP. O'KEEFE WITHDREW HIS MOTION.

Motion/Vote: REP. O'KEEFE MOVED TO PASS CONSIDERATION OF HB 844 AS AMENDED. Motion carried.

EXECUTIVE ACTION ON HB 815

Motion: REP. SOUTHWORTH MOVED HB 815 DO PASS.

Discussion:

Gail Kuntz noted an amendment is needed to correct four places where the year 1993 was used when it should have been 1992, and there were amendments on page 12 and page 18 to amend in language that says the Department of Commerce may not substitute its judgment for that of a unit of local government as to detailed content of a master plan, and a clause is being added in two places "if the plan and regulations meet the minimum standards established pursuant".

Motion/Vote: REP. COHEN moved to amend HB 815 as stated by Ms. Kuntz. Motion to amend carried unanimously.

Motion/Vote: REP. BROOKE MADE A SUBSTITUTE MOTION THAT HB 815 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 637

REP. COHEN stated that REP. ARLENE BECKER met with concerned individuals and developed some amendments. REP. COHEN distributed copies of the proposed amendments. EXHIBIT 26

Motion: REP. COHEN moved to adopt amendments. EXHIBIT 26

Discussion:

REP. COHEN stated it is now a significantly different bill no longer requiring the any kind of prior notice, and taking out some of the more stringent terms. Referring to the handout, Amendment #1 is a statement of intent. Amendment #2 is section 1, line 1, notification of pesticides. Amendment #4 on top of page 2, strike language "for a period of 48 hours prior to" and insert language of amendment 4. Amendment #7 deletes the telephone number of applicator. Amendment #8 allows applicator to use existing signs until June 30, 1993. Amendment #6 is withdrawn from consideration.

REP. TOOLE asked if a uniform sign is being used at this time. He was told no. REP. HOFFMAN asked if subsection 4 could be made discretionary; instead of "shall" the word "may" be inserted. REP. O'KEEFE objected to "may". This is a notice bill. An option could be given to comply with (a) can either broadcast or (2) publish once in whatever paper serves that area. REP. HOFFMAN suggested either putting up 8 X 10 signs or in lieu of, the notice may broadcast. REP. FOSTER feels there should be another option to place notice where there is no radio station and only a weekly paper.

Motion/Vote: REP. HOFFMAN moved to amend amendment #8, subsection 4, line 5, by striking "shall" and insert "may"; and on line 2, strike "must" and insert "may be provided". Motion to amend the amendment carried.

Motion: REP. O'KEEFE moved to reinstate amendment #6.

Discussion:

CHAIR RANEY ruled all amendments as amended were still before the committee and the motion was not necessary.

REP. COHEN reviewed Amendment #9 and stated that the bill has a fiscal note, it will require some money, and does not have to meet the deadline.

Motion: **REP. COHEN** moved to adopt the amendments as amended.

Motion: **REP. GILBERT** moved to strike the words "weeds or" on amendment #2.

CHAIR RANEY stated that it appears that the bill is not ready to be before the committee. The sponsor did not have the amendments ready. The committee will pass for the day. If the sponsor wants the bill to pass, she should be back with proper amendments by Friday.

REP. COHEN added that this bill will have an appropriation and therefore does not need to meet the deadlines. **CHAIR RANEY** asked Rep. Cohen to find out from the Speaker if the bill can be put on the list of bills that do not have to make Transmittal.

EXECUTIVE ACTION ON HB 732

Motion: **REP. COHEN** MOVED HB 732 DO PASS.

Motion/Vote: **REP. COHEN** moved to adopt the amendments including the amendment which reads, following the work "vehicle" insert "except a commercial motor vehicle or a vehicle used for unprocessed agriculture products". Motion to adopt the amendments carried.

Discussion:

REP. COHEN said in comparing the fines and penalties in HB 732 with the fines and penalties passed in Rep. Hanson's bill, stricter penalties are contained in Rep. Hanson's bill. **Ms. Kuntz** said that the language in subsection 1 could be taken out of Rep. Cohen's bill and Rep. Hanson's bill would apply. **REP. COHEN** asked if the language were left in HB 732, what would be the result. **Ms. Kuntz** replied it would leave it to the Senate to reconcile the difference.

Motion: **REP. WANZENRIED** moved to leave the penalties in **REP. COHEN'S** bill.

Discussion:

REP. TOOLE said he did not think it spoke well for the committee to send the problem to the Senate. **REP. GILBERT** said there is a large difference between Rep. Hanson's bill and Rep. Cohen's bill. Rep. Hanson's bill was aimed at people who were throwing

garbage out. Rep. Cohen's bill is aimed at accidental loss because of improper loading or perhaps a broken rope. It is an unintentional act. REP. RANEY said that is not true. Section 2 and Section 1 of Rep. Cohen's bill are two separate things.

Motion: REP. TOOLE made a substitute motion to amend the bill by removing all the contents of Section 2 of the bill and substituting the contents of Rep. hanson's bill so that the bills will conform.

Motion/Vote: REP. MEASURE made a substitute motion to strike section 2. Motion carried.

Motion/Vote: REP. MEASURE MOVED HB 732 AS AMENDED DO PASS. Motion carried 17-1 with Rep. Gilbert voting no.

EXECUTIVE ACTION ON HJR 30

Motion/Vote: REP. DOLEZAL MOVED HJR 30 DO PASS AND BE PLACED ON THE ALTERNATE CONSENT CALENDAR. Motion carried unanimously.

EXECUTIVE ACTION ON HB 908

Motion: REP. O'KEEFE MOVED HB 908 DO PASS.
REP. O'KEEFE moved to adopt the amendments. EXHIBIT 27

Discussion:

REP. BROOKE said there was a concern about the meters being near the point of diversion. REP. ELLISON said that can't be done because some of the water rights have been filed designating the point of measurement as the point where the water enters the product.

Vote: Motion to adopt the amendments carried unanimously.

Motion/Vote: REP. O'KEEFE MADE A SUBSTITUTE MOTION THAT HB 908 AS AMENDED DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 724

Motion/Vote: REP. O'KEEFE MOVED HB 724 DO PASS AND BE PLACED ON THE ALTERNATE CALENDAR. Motion carried unanimously.

EXECUTIVE ACTION ON HB 731

REP. REAM said this is an appropriation bill. There is an amendment for appropriation language to make certain it is an appropriation bill.

Motion/Vote: REP. REAM moved to adopt the amendment to put appropriation language in HB 731. Motion carried unanimously.

EXECUTIVE ACTION ON HJR 39

Motion: REP. WANZENRIED MOVED HJR 39 DO PASS.

Motion/Vote: REP. O'KEEFE moved to adopt the amendment to HJR 39. EXHIBIT 28. Motion to amend carried unanimously.

Motion/Vote: REP. WANZENRIED MADE A SUBSTITUTE MOTION THAT HJR 39 DO PASS AS AMENDED AND BE PLACED ON THE ALTERNATE CONSENT CALENDAR. Motion carried unanimously.

EXECUTIVE ACTION ON HB 745

Motion/Vote: REP. GILBERT MOVED THAT HB 745 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 351

REP. COHEN passed out an amendment to HB 351, statement of intent, and read the amendment to the committee. EXHIBIT 29

Motion: REP. COHEN MOVED HB 351 DO PASS.

Motion: REP. COHEN moved to adopt the amendment.

Discussion:

REP. WANZENRIED asked if these BMPs have the same status as the water BMPs. REP. COHEN said they will be voluntary BMPs, which will hopefully protect people in the state from being criticized for inattention to the matter. REP. GILBERT stated he opposed the amendment because he opposes the bill which takes a water quality bill and turns it into a wildlife bill. REP. KNOX expressed agreement with Rep. Gilbert. The scope of this bill goes too far. REP. COHEN said the existing legislation involves voluntary BMPs for forest practices. That is what the intent was from the beginning of the study. Forest practices were being examined and the EQC included wildlife concerns during the study. Wildlife concerns are a legitimate concern in forest practices. REP. RANEY asked if Rep. Cohen was sure that EQC studied that. REP. COHEN replied that he understood people were added to the committee who could give input on wildlife. REP. GILBERT said wildlife people were added, but it was made clear that wildlife was a side issue and was not the thrust of the bill. It was done for the specific reason that when you add wildlife, all other things have a tendency to get shunted off to the side. The main concentration was forest practice and damage to the watershed. REP. MEASURE stated agreement with Rep. Gilbert. The forest management issue is very difficult, and one reason it is not resolved at the national level is because everybody wants a piece of the pie. There is a good wildlife management agency separate from State Lands Department, and the bill dilutes the purpose of State Lands. He stated that he would support the bill because it is voluntary and not mandatory.

Vote: Motion to amend HB 351 carried 12-6 with Reps. Nelson, Hoffman, Gilbert, Foster, Knox, and Ellison voting no.

Motion/Vote: REP. COHEN MADE A SUBSTITUTION MOTION THAT HB 351 AS AMENDED DO PASS. Motion carried 11 to 7. EXHIBIT 30

EXECUTIVE ACTION ON HB 233

Motion/Vote: REP. FAGG MOVED THAT HB 233 DO PASS AS AMENDED. Motion failed 6 to 12. EXHIBIT 31.

Motion/Vote: REP. FAGG MOVED TO RECONSIDER THE ACTION ON HB 233 ON FRIDAY. Motion carried unanimously.

EXECUTIVE ACTION ON HB 539

Ms. Kuntz distributed copies of a marked up bill and the amendments. EXHIBIT 32. She stated that Rep. Daily has inserted financial assurance requirements in place of bonds to provide a wider range of options of how fiscal assurance can be made that clean up will be done. The original bill basically gave local governments veto authority over consent decrees, administrative orders. That has been changed to put a modification requirement for local government. The Department of Health and Environmental Sciences (DHES) has to receive comment from local governing bodies in areas where these work plans, consent decrees and administrative orders would apply. On page 4 language is reinstated that requires DHES to hold a public meeting. Amendments in subsection 2 bottom of page 4, say that when a final decision is made regarding the Department comments on an EPA workplan or the approval of an order, they have to have a response summary explaining what the Departments disposition was of the public comments.

Section 3 on page 5 is struck. DHES pointed out that this is defeating current law, that the Department already has the power to collect costs that have been incurred. Section 4 is amended on page 8 to put in place the financial assurance language. The same language goes into section 5. Section 7 provides retroactive applicability. Local government will have a more clear role in working with DHES.

Motion: REP. O'KEEFE MOVED HB 539 DO PASS.

Motion: REP. O'KEEFE moved to adopt the amendments.

Discussion:

REP. BROOKE asked if concerns of the Clark Fork Coalition were addressed. Ms. Kuntz said Kim Wilson was part of the group that met with the staff.

Vote: Motion to adopt the amendments carried unanimously.

Motion: REP. O'KEEFE moved to adopt the amendments.

Discussion:

REP. BROOKE asked if concerns of the Clark Fork Coalition were addressed. Ms. Kuntz said Kim Wilson was part of the group that met with the staff.

Vote: Motion to adopt the amendments carried unanimously.

Discussion:

REP. COHEN said ARCO testified they disliked the term "affected area" and wanted the words "area in which the site is located". He asked if anything was done about that. Ms. Kuntz replied that the wording had been changed.


Motion: REP. O'KEEFE MADE A SUBSTITUTE MOTION THAT HB 539 AS AMENDED DO PASS. Motion passes 13-5 with Reps. Ellison, Knox, Gilbert, Foster and Nelson voting no.

EXECUTIVE ACTION ON HB 630

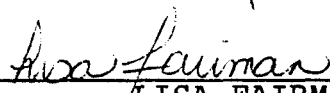
Motion/Vote: REP. O'KEEFE MOVED HB 630 DO PASS. Motion carried unanimously.

ADJOURNMENT

Adjournment: 9:50 pm



BOB RANEY, Chair



LISA FAIRMAN, Secretary

BR/lf

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE 2-20-91

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	/		
REP. BOB GILBERT	/		
REP. BEN COHEN	/		
REP. ORVAL ELLISON	/		
REP. BOB REAM	/		
REP. TOM NELSON	/		
REP. VIVIAN BROOKE	/		
REP. BEVERLY BARNHART	/		
REP. ED DOLEZAL	/		
REP. RUSSELL FAGG	/		
REP. MIKE FOSTER	/		
REP. DAVID HOFFMAN	/		
REP. DICK KNOX	/		
REP. BRUCE MEASURE	/		
REP. JIM SOUTHWORTH	/		
REP. HOWARD TOOLE	/		
REP. DAVE WANZENRIED	/		
REP. BOB RANEY, CHAIRMAN	/		

12:15
2-21-91
JDN

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Joint Resolution 31 (first reading copy -- white) do pass as amended.

Signed: 
Bob Raney, Chairman

And, that such amendments read:

1. Title, line 8.

Following: "POLICY"

Insert: "IN COOPERATION WITH THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE CONSUMER COUNSEL"

2. Page 2, line 22.

Following: line 21

Insert: "WHEREAS, the Department of Natural Resources and Conservation, Energy Division, and the Consumer Counsel have considerable expertise and information related to energy production, consumption, and conservation in Montana; and"

3. Page 3, line 6.

Following: "Council"

Insert: ", in cooperation with the Department of Natural Resources and Conservation and the Consumer Counsel,"

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report
that House Bill 749 (first reading copy -- white) do pass .

Signed: Bob Raney
Bob Raney, Chairman

10:20
2-21-91
JDB

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report
that House Bill 918 (first reading copy -- white) do pass.

Signed: 
Bob Raney, Chairman

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 11

Mr. Speaker: We, the committee on Natural Resources report that House Bill 671 (first reading copy -- white) do pass as amended.

Signed: _____

Bob Raney, Chairman

And, that such amendments read:

1. Title, line 12.

Following: "SUBDIVISIONS;"

Strike: remainder of line 12

2. Title, line 15.

Following: "76-3-402,"

Strike: "76-3-403,"

3. Page 2, line 11.

Following: "to"

Insert: promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; to require that whenever necessary, the appropriate approval of subdivisions be contingent upon a written finding of public interest by the governing body; and to

4. Page 2, lines 13, 15, 16, and 17.

Following: "divisions;" on line 13

Insert: "to"

Following: "survey;" on line 15

Insert: "to"

Following: "subdivisions;" on line 16

Insert: "and to"

Following: "subdivisions" on line 17

Strike: "; and protect public health, safety, and welfare"

5. Page 2, line 19.

Following: "owners."

Insert: "For the purpose of this chapter, rights of property

February 22, 1991
Page 2 of 11

owners include the right to use, enjoy, improve, sell, and convey, in total or in part, real property so long as the exercise of the rights does not deny these rights to other property owners or adversely affect public health, safety, and welfare."

6. Page 3, line 10.
Following: first "of"
Strike: "one or more"

7. Page 3, lines 16 and 17.
Following: line 15

Strike: subsection (4) in its entirety
Renumber: subsequent subsections

8. Page 4, line 4 through line 8.
Following: line 3
Strike: subsection (8) in its entirety
Renumber: subsequent subsections

9. Page 4, line 12.
Following: "owner"
Insert: "the right of"

10. Page 4, line 17 through line 24.
Following: "of" on line 17
Insert: "the first"
Following: "five" on line 17
Strike: "or fewer"
Following: "parcels" on line 18
Strike: ". A second or subsequent minor subdivision" on line 18
Following: "1991" on line 19
Strike: remainder of line 19 through "application" on line 24

11. Page 5, line 25 through page 6, line 6.
Following: line 24
Strike: subsection (17) in its entirety
Renumber: subsequent subsections

12. Page 6, line 17 through line 20.
Following: "plan" on line 17
Strike: "pursuant to 76-1-601,"
Insert: "and"
Following: "projects" on line 18
Insert: "adopted"
Following: "76-1-601" on line 19
Strike: "1"
Following: "and" on line 19

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2-27-91
703

February 22, 1991
Page 3 of 11

Strike: "either" on line 19 through "or" on line 20
Following: "regulations" on line 20
Insert: "adopted"

13. Page 6, line 25.
Following: "that"
Strike: "it"
Following: "creates"
Strike: "one or more"

14. Page 7, line 1 through line 10.
Following: "acres"
Strike: ", exclusive" on line 1 through "year" on line 10
Insert: ". The term includes:
 (i) any resubdivision;
 (ii) any residential condominium or building;
 (iii) any area, regardless of its size, that provides or
will provide multiple space for recreational camping vehicles or
dwelling units; and
 (iv) work camp structures constructed to exist for longer
than 1 year"

15. Page 7, line 25.
Following: "by"
Insert: "operation of law or an"

16. Page 8, line 6 through line 7.
Following: "state" on line 6
Strike: "pursuant" on line 6 through "30)" on line 7

17. Page 9, lines 1 and 2.
Following: "the" on line 1
Strike: "survey" on line 1 through "the" on line 2

18. Page 9, line 6.
Strike: "or"

19. Page 9, line 17.
Following: line 16
Insert: "(xiii) a division of land made for the purpose of
 mining when an application has been submitted or a permit or
 contract received under the provisions of Title 82, chapter
 4."

20. Page 9, line 24.
Following: line 23
Insert: "(26) "Water user entity" means an entity as described
 in 7-12-1151 and irrigation districts as provided in 85-7-
 101."

21. Page 10, line 22 through page 11, line 9.

Following: line 21

Strike: section 5 in its entirety

Renumber: subsequent sections

22. Page 14, lines 13 and 14.

Following: "as" on line 13

Strike: "1/32"

Insert: "1/16"

Following: "or" on line 14

Insert: "as"

23. Page 15, lines 13 through 21.

Following: line 12

Strike: section 13 in its entirety

Renumber: subsequent sections

24. Page 17, line 18.

Following: "shall"

Insert: ", in a manner that protects the rights of property owners,"

25. Page 18, line 10 through line 13.

Following: "~~services.~~"

Strike: "implementing" on line 10 through "land." on line 13

Insert: "providing for the orderly development of their jurisdictional areas; for the coordination of roads within subdivided land with other roads, both existing and planned; for the dedication of land for roadways and for public utility easements; for the improvement of roads; for the provision of adequate open spaces for travel, light, air, and recreation; for the provision of adequate transportation, water, drainage, and sanitary facilities; for the avoidance or minimization of congestion; and for the avoidance of subdivision that would involve unnecessary environmental degradation and the avoidance of danger of injury to health, safety, or welfare by reason of natural hazard or the lack of water, drainage, access, transportation, or other public services or would necessitate an excessive expenditure of public funds for the supply of these services. For the purpose of this chapter, rights of property owners include the right to use, enjoy, improve, sell, and convey, in total or in part, real property so long as the exercise of the rights does not deny these rights to other property owners or adversely affect public health, safety, and welfare."

26. Page 18, line 17.

Following: "procedures"

Insert: ", based on the minimum requirements as provided in 7-1-4127,"

27. Page 18, line 22.

Strike: "20 and 21"

Insert: "18 and 19"

28. Page 19, line 2.

Strike: "26"

Insert: "24"

29. Page 19, lines 8 and 9.

Strike: "financial" on line 8 through "values" on line 9

Insert: "if a proposed major, minor, or special subdivision lies partly or totally within the boundaries of a water user entity, that the proposed plat of the subdivision be submitted for review to the water user entity to ensure that the existence and location of all water user facilities are properly noted on the plat. Water user facilities include but are not limited to canals, laterals, open drains, and closed drains"

30. Page 22, line 21.

Strike: "and"

31. Page 23, line 9.

Strike: "26"

Insert: "24"

Following: "]"

Insert: "; and (3) additional relevant and reasonable information as may be required by the governing body"

32. Page 24, lines 5 and 6.

Following: "than" on line 5

Strike: "two"

Insert: "one"

Following: "informational" on line 5

Strike: "hearings"

Insert: "hearing"

Following: "The hearing" on line 5

Strike: "or" on line 5 and "hearings" on line 6

33. Page 24, line 24 through page 25, line 3.

Following: "The" on line 24

Strike: "first"

Following: "expense." on line 25

Strike: "If" on line 25 through "petitioner." on page 25, line 3

34. Page 25, line 6.

Following: "than"
Strike: "10"
Insert: "20"

35. Page 25, line 15 through line 20.
Following: "form" on line 15
Strike: ", and" on line 15 through "actions" on line 20

36. Page 25, line 24.
Following: "given"
Insert: "by the governing body"

37. Page 26, line 6 through line 8.
Following: "decision" on line 6
Insert: "to approve, disapprove, or conditionally approve the
subdivision application"
Following: "or" on line 7
Strike: "hearings" on line 8
Insert: "after the time for a hearing has expired"

38. Page 27, line 6 through line 16.
Following: line 5
Strike: subsection 4 in its entirety
Insert: "(4) Within 15 days following submission to the
governing body of a complete application by the subdivider,
a public hearing on the subdivision may be requested by the
subdivider or by a citizen who demonstrates that he would be
substantially adversely affected by the subdivision."

39. Page 27, line 18.
Strike: "petitions"
Insert: "requests a hearing"

40. Page 27, line 20.
Strike: "20"
Insert: "18"

41. Page 27, line 21 through line 24.
Following: "officer" on line 21
Insert: ", "
Following: "and" on line 21
Strike: ", if" on line 21 through "The" on line 24
Insert: "the"

42. Page 28, line 13 and line 18.
Following: "given" on line 13
Insert: "by the governing body"
Following: "hearing" on line 18
Insert: "by the governing body"

43. Page 28, lines 22 and 23.

Following: "on" on line 22

Strike: "the" on line 22 through "probable" on line 23

Insert: "cultural or historical resources or environmental or ecological resources, including wildlife and wildlife habitat, are probable or that the subdivision would cause substantial adverse fiscal costs to the local government"

44. Page 29, line 2.

Following: "in"

Insert: "this"

Following: "subsection"

Strike: "(4)"

45. Page 29, line 8.

Following: "impacts."

Insert: "It is recognized that in some instances the impacts of a proposed development may be unacceptable and will preclude approval of the plat."

46. Page 29, line 12 through line 19.

Following: "(12)" on line 12

Strike: "In" on line 12 through "(b)" on line 19

47. Page 31, line 16.

Following: "approved"

Insert: "final"

48. Page 31, lines 22 and 24, page 32, lines 2 and 5.

Following: "(a)" on line 22

Strike: "7.5%"

Insert: "10%"

Following: "(b)" on line 24

Strike: "5%"

Insert: "7.5%"

Following: "(c)" on page 32, line 2

Strike: "2.5%"

Insert: "5%"

Following: "(d)" on page 32, line 5

Strike: "1.25%"

Insert: "2.5%"

49. Page 32, line 8 through line 23.

Following: "(2)" on line 8

Strike: "Based" on line 8 through "acre." on line 23

Insert:

"When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a master plan under Title 76, chapter 1, or pursuant to zoning regulations

under Title 76, chapter 2, the governing body may establish park dedication requirements based on the community need for parks and the development densities identified in the plans or regulations. Park dedication requirements established under this subsection are in lieu of those provided in subsection (1) and may not exceed 0.03 acres per dwelling unit."

50. Page 33, line 8 through line 9.

Following: line 7

Strike: subsection (5) in its entirety

Insert: "(5) The governing body, in consultation with the subdivider and the planning board or park board having jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both."

51. Page 34, line 21.

Following: "extending"

Insert: "capital facilities related to public health and safety, including but not limited to"

52. Page 35, line 14.

Following: line 13

Insert: "[section 19],"

Strike: "26"

Insert: "24"

Following: "1"

Insert: ", "

53. Page 36, line 1 through line 3.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

54. Page 36, lines 11, 12, 13, and 16.

Following: "(i)" on line 11

Strike: "for a primitive tract:" on line 11 and "(A)" on line 12

Following: "provided;" on line 12

Strike: "and" on line 12 and "(B)" on line 13

Insert: "(ii)"

Following: line 15

Strike: "(ii) for any other tract," on line 16

Insert: "(iii)"

55. Page 36, line 25.

Following: "by"

Strike: "the following"

Following: "hazards"

Insert: ", including but not limited to"

56. Page 37, lines 2 and 3.

Following: "occurred" on line 2

Strike: "in" on line 2 through "years" on line 3

57. Page 37, line 18.

Following: "be"

Strike: "recommended"

Insert: "required"

58. Page 37, line 24.

Strike: "(3)(f)"

Insert: "(3)(e)"

59. Page 38, line 8.

Strike: "20 and 22"

Insert: "18 and 20"

60. Page 38, lines 11 and 12.

Following: line 10

Strike: subsections (b) and (c) in their entirety

Insert: "(b) cultural or historical resources;

(c) environmental or ecological resources, including
wildlife and wildlife habitat; and"

61. Page 38, line 22.

Strike: "20"

Insert: "18"

62. Page 39, line 15.

Following: "impacts."

Insert: "It is recognized that in some instances the impacts of a
proposed development may be unacceptable and will preclude
approval of the plat."

63. Page 39, line 19 through page 40, line 1.

Following: "(g)" on line 19

Strike: "In" on line 19 through "(ii)" on page 40, line 1

64. Page 40, line 6.

Strike: "23"

Insert: "21"

65. Page 41, line 12.

Strike: "6"

Insert: "5"

66. Page 41, line 21.
Following: "to"
Insert: "76-3-403 and"

67. Page 43, line 10.
Strike: "23"
Insert: "21"

68. Page 44, line 15.
Strike: "23"
Insert: "21"

69. Page 45, line 21 through line 22.
Following: "subdivision" on line 21
Strike: "excluded" on line 21 through "3" on line 22

70. Page 46, line 8 through line 9.
Following: line 7
Strike: "pursuant" on line 8 through "30)" on line 9

71. Page 47, line 1.
Following: page 46
Strike: "and"

72. Page 47, line 5.
Following: "rule"
Insert: "; and (i) a division created to provide security for
construction mortgages, liens, or trust indentures"

73. Page 48, lines 9 and 11.
Following: "Repealer." on line 9
Insert: "(1)"
Following: "76-3-210," on line 11
Insert: "MCA, are repealed. (2) Sections"

74. Page 48, line 14.
Strike: "6, 20 through 24"
Insert: "18 through 22"
Strike: "26"
Insert: "24"

75. Page 48, lines 16 and 17.
Strike: "6, 20 through 24"
Insert: "18 through 22"
Strike: "26"
Insert: "24"

76. Page 49, lines 4 and 5.
Following: "3," on line 4

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Page 11 of 11

Insert: "30,"
Following: "and" on line 4
Strike: "32"
Insert: "33(1)"
Strike: "31, 33, and 34" on line 5
Insert: "29, 31, 32, and 33(2)"

CLERICAL

House Bill No. 671

Date: 2/22

Time: 1:pm.

(Legislative Council Staff) caj

☒ Natural Resources
S / (H) Standing Committee

(Chairman) Barclay
Harney

☐ S / H Committee of the Whole

(Sponsor) _____

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

20. Insert: " (26) (23) "

An objection to these corrections may be registered by the Secretary of the Senate, the Chief Clerk of the House, or the sponsor by filing the objection in writing within 24 hours after receipt of this notice.

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 815 (first reading copy -- white) do pass as amended.

Signed: Bob Raney
Bob Raney, Chairman

And, that such amendments read:

1. Page 2, line 3.
Following: "November 1,"
Strike: "1993"
Insert: "1992"

2. Page 2, line 22.
Following: line 21
Strike: "1993"
Insert: "1992"

3. Page 12, line 6.
Following: "regulations"
Insert: "if the plan and regulations meet the minimum standards established pursuant to 76-1-601 and [section 12]"

4. Page 18, line 3.
Following: "regulations"
Insert: "if the plan and regulations meet the minimum standards established pursuant to 76-1-601 and [section 12]"

5. Page 18, line 25.
Following: "October 1,"
Strike: "1993"
Insert: "1992"

6. Page 19, line 23.
Following: "November 1,"
Strike: "1993"
Insert: "1992"

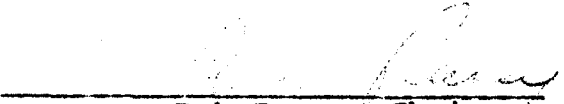
12:45
2-21-91
JDB

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 732 (first reading copy -- white) do pass as amended.

Signed: 
Bob Raney, Chairman

And, that such amendments read:

1. Title, lines 5 through 8.

Following: "VEHICLES" on line 5

Strike: the remainder of the title in its entirety

Insert: "."

2. Page 1, line 12.

Following: "vehicle"

Insert: ", except a commercial motor vehicle or a vehicle transporting unprocessed agricultural products,"

3. Page 1, line 17 through page 2, line 16.

Strike: section 2 in its entirety

Renumber: subsequent section


12:45
2-21-91
J D G

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report
that House Joint Resolution 30 (first reading copy -- white)
do pass.

Signed: 
Bob Raney, Chairman

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 5

Mr. Speaker: We, the committee on Natural Resources report that House Bill 908 (first reading copy -- white) do pass as amended .

Signed: _____

Bob Raney, Chairman

And, that such amendments read:

1. Title, line 6.

Following: "THE"

Insert: "ACQUISITION,"

Following: "INSTALLATION"

Insert: ", "

2. Title, line 13.

Following: "85-1-604,"

Insert: "85-2-102,"

3. Page 1, line 25.

Following: "legislature"

Insert: ", where reasonable and practical,"

4. Page 2.

Following: line 8

Insert: "Section 1. Section 85-2-102, MCA, is amended to read:

"85-2-102. (Temporary) Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Appropriate" means to:

(a) divert, impound, or withdraw (including by stock for stock water) a quantity of water;

(b) in the case of a public agency, to reserve water in accordance with 85-2-316; or

(c) in the case of the department of fish, wildlife, and parks, to lease water in accordance with 85-2-436.

(2) "Beneficial use", unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses;

(b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141; and

(c) a use of water by the department of fish, wildlife, and parks pursuant to a lease authorized under 85-2-436.

(3) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(4) "Certificate" means a certificate of water right issued by the department.

(5) "Change in appropriation right" means a change in the place of diversion, the place of use, the purpose of use, or the place of storage.

(6) "Commission" means the fish and game commission provided for in 2-15-3402.

(7) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(8) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(9) "Existing right" means a right to the use of water which would be protected under the law as it existed prior to July 1, 1973.

(10) "Ground water" means any water beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water, and which is not a part of that surface water.

(11) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(12) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency thereof, or any other entity.

(13) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water but not a private corporation, association, or group.

(14) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other manmade waterways.

~~(14)~~ (15) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

~~(15)~~ (16) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

~~(16)~~ (17) "Water division" means a drainage basin as defined in 3-7-102.

~~(17)~~(18) "Water judge" means a judge as provided for in Title 3, chapter 7.

~~(18)~~(19) "Water master" means a master as provided for in Title 3, chapter 7.

~~(19)~~(20) "Well" means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn. (Terminates June 30, 1993--sec. 11, Ch. 658, L. 1989.)

85-2-102. (Effective July 1, 1993) Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Appropriate" means to divert, impound, or withdraw (including by stock for stock water) a quantity of water or, in the case of a public agency, to reserve water in accordance with 85-2-316.

(2) "Beneficial use", unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses; and

(b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141.

(3) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(4) "Certificate" means a certificate of water right issued by the department.

(5) "Change in appropriation right" means a change in the place of diversion, the place of use, the purpose of use, or the place of storage.

(6) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(7) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(8) "Existing right" means a right to the use of water which would be protected under the law as it existed prior to July 1, 1973.

(9) "Ground water" means any water beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water, and which is not a part of that surface water.

(10) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(11) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency thereof, or any other entity.

(12) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water but not a private corporation, association, or group.

(13) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(14) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(15) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other manmade waterways.

~~(15)~~ (16) "Water division" means a drainage basin as defined in 3-7-102.

~~(16)~~ (17) "Water judge" means a judge as provided for in Title 3, chapter 7.

~~(17)~~ (18) "Water master" means a master as provided for in Title 3, chapter 7.

~~(18)~~ (19) "Well" means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn."

Renumber: subsequent sections

5. Page 3, line 25.

Strike: "2"

Insert: "3"

Following: "to"

Insert: "acquire,"

Following: "install"

Insert: ", "

6. Page 4, line 3.

Following: "dewatered"

Insert: ", except that where the board specifically finds that the installation of measuring devices along the entire water course is not practicable within the 2 year deadline, it may establish a later deadline"

7. Page 4, line 24.

Strike: "and"

8. Page 4, line 25.

Following: "dewatering"

Insert: ";

(f) existence of temporary or final decrees;

(g) history, if any, of conflict among water rights holders on the watercourse; and

(h) practicality and reasonableness of installing measuring devices on diversions along the watercourse"

9. Page 5, line 12.

Following: "and"

Insert: "acquisition and"

10. Page 8, line 2.

Following: "and"

Insert: "acquisition and"

11. Page 8, line 23.

Following: "Section"

Strike: "2"

Insert: "3"

12. Page 8, line 25.

Following: "section"

Strike: "2"

Insert: "3"

CLERICAL

HOUSE Bill No. 908

Date: 2/21/91

☒ S NATURAL RESOURCES
H Standing Committee

(Chairman)

Raney
RANEY

Time: 4:10

☐ S / H Committee of the Whole

SBA
(Legislative Council Staff)

(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

Amendment #6 should read: one word
Insert: " ... the entire water course ... "
... 2-year deadline ... "

An objection to these corrections may be registered by the Secretary of the Senate, the Chief Clerk of the House, or the sponsor by filing the objection in writing within 24 hours after receipt of this notice.

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report
that House Bill 724 (first reading copy -- white) do pass .

Signed: Bob Raney
Bob Raney, Chairman

HOUSE STANDING COMMITTEE REPORT

12:15
2-21-91
JDB
February 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Joint Resolution 39 (first reading copy -- white) do pass as amended.

Signed: Bob Raney
Bob Raney, Chairman

And, that such amendments read:

1. Page 2, lines 15 and 16.

Following: "area" on line 15

Strike: ", which prompted the construction of"

Insert: "when the West Camp was sealed off with"

12:45
2-21-91
TDB

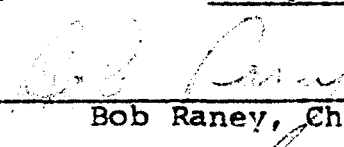
HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report
that House Bill 745 (first reading copy -- white) do pass.

Signed: _____


Bob Raney, Chairman

12:15
2-21-91
JDP

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 351 (first reading copy -- white) do pass as amended .

Signed: 
Bob Raney, Chairman

And, that such amendments read:

1. Page 1.

Following: line 9

Insert:

"STATEMENT OF INTENT

A statement of intent is provided for this bill to clarify the responsibilities of the department of state lands. It is the intent of the legislature that the department develop best management practices for wildlife. The goal of the best management practices should be to provide a diversity of habitat and to assure the greatest diversity of species within those habitats for the survival and reproduction of enough individuals to maintain the native wildlife populations of Montana forest lands. In developing these best management practices, the department should consult with wildlife officials from federal, state, and private agencies and organizations and consider the experiences of other states."

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JDR

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 8

Mr. Speaker: We, the committee on Natural Resources report that House Bill 539 (first reading copy -- white) do pass as amended.

Signed: 
Bob Raney, Chairman

And, that such amendments read:

1. Title, line 6.

Following: "ACT,"

Strike: "REQUIRING APPROVAL OF A CONSENT DECREE BY THE LOCAL GOVERNING BODY,"

Insert: "CLARIFYING THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES MAY TAKE REMEDIAL ACTION AT A SITE THAT IS SUBJECT TO THE FEDERAL COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980,"

2. Title, line 7.

Following: "FOR"

Strike: "PERFORMANCE BONDS"

Insert: "FINANCIAL ASSURANCE"

3. Title, line 10.

Following: "PUBLIC"

Insert: "MEETING OR"

4. Title, line 11.

Following: "PROPOSED"

Insert: "WORKPLAN,"

Following: "ORDER"

Insert: ", "

5. Title, lines 11 and 12.

Following: "DECREE;" on line 11

Strike: remainder of lines 11 and 12 in their entirety

6. Title, line 13.

Following: "75-10-704,"

Insert: "75-10-711,"

Following: "75-10-713,"

Strike: "75-10-714,"

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February 21, 1991
Page 2 of 8

7. Title, line 14.

Following: "75-10-719,"

Insert: "AND"

Following: "75-10-721,"

Strike: "AND 75-10-723,"

Following: "MCA"

Insert: "; AND PROVIDING A RETROACTIVE APPLICABILITY DATE"

8. Page 1, line 15.

Following: line 14

Insert: "STATEMENT OF INTENT

A statement of intent is required for this bill to provide guidance to the department of health and environmental sciences concerning rulemaking to establish the specific terms and conditions of financial assurance that a liable person is required to provide pursuant to 75-10-719 and 75-10-721. The department shall consult and to the greatest extent practicable rely upon financial assurance concepts and requirements contained in federal regulations that implement the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended."

9. Page 2, line 14.

Following: "forfeited"

Strike: "performance bonds"

Insert: "financial assurance"

10. Page 3, line 13.

Following: line 12

Insert: "Section 2. Section 75-10-711, MCA, is amended to read:

"75-10-711. Remedial action -- orders -- penalties -- judicial proceedings. (1) The department may take remedial action whenever:

(a) there has been a release or there is a substantial threat of a release into the environment that may present an imminent and substantial endangerment to the public health, welfare, or safety or the environment; and

(b) the appropriate remedial action will not be done properly and expeditiously by any person liable under 75-10-715(1).

(2) Whenever the department is authorized to act pursuant to subsection (1) or has reason to believe that a release has occurred or is about to occur, the department may undertake remedial action in the form of any investigation, monitoring, survey, testing, or other information-gathering as authorized by 75-10-707 that is necessary and appropriate to identify the existence, nature, origin, and extent of the release or the threat of release and the extent and imminence of the danger to

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Page 3 of 8

the public health, safety, or welfare or the environment.

(3) Any person liable under 75-10-715(1) must take immediate action to contain, remove, and abate the release. Except as provided in 75-10-712, the department is authorized to draw upon the fund to take action under subsection (1) if it has made diligent good faith efforts to determine the identity of the person or persons liable for the release or threatened release and:

(a) is unable to determine the identity of the liable person or persons in a manner consistent with the need to take timely remedial action; or

(b) the person or persons determined by the department to be liable under 75-10-715(1) have been informed in writing of the department's determination and have been requested by the department to take appropriate remedial action but are unable or unwilling to take action in a timely manner; and

(c) the written notice to each person informs him that if he is subsequently found liable pursuant to 75-10-715(1), he may be required to reimburse the fund for the state's remedial action costs and may be subject to penalties pursuant to 75-10-715(3).

(4) Whenever the department is authorized to act pursuant to subsection (1) or has reason to believe that a release that may pose an imminent and substantial threat to public health, safety, or welfare or the environment has occurred or is about to occur, it may issue to any person liable under 75-10-715(1) cease and desist, remedial, or other orders as may be necessary or appropriate to protect public health, safety, or welfare or the environment.

(5) A person who violates or fails or refuses to comply with an order issued under 75-10-707 or this section may, in an action brought to enforce the order, be assessed a civil penalty of not more than \$10,000 for each day in which a violation occurs or a failure or refusal to comply continues. In determining the amount of any penalty assessed, the court may take into account the nature, circumstances, extent, and gravity of the noncompliance and, with respect to the person liable under 75-10-715(1), his ability to pay; any prior history of such violations; the degree of culpability; the economic benefit or savings, if any, resulting from the noncompliance; and any other matters as justice may require. Civil penalties collected under this subsection must be deposited into the environmental quality protection fund established in 75-10-704.

(6) A court has jurisdiction to review an order issued under 75-10-707 or this section only in the following actions:

(a) an action under 75-10-715 to recover remedial action costs or penalties or for contribution;

(b) an action to enforce an order issued under 75-10-707 or this section;

(c) an action to recover a civil penalty for violation of

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Page 4 of 8

or failure to comply with an order issued under 75-10-707 or this section; or

(d) an action by a person to whom an order has been issued to determine the validity of the order, only if the person has been in compliance and continues in compliance with the order pending decision of the court.

(7) In considering objections raised in a judicial action regarding orders issued under this part, the court shall uphold and enforce an order issued by the department unless the objecting party can demonstrate, on the administrative record, that the department's decision to issue the order was arbitrary and capricious or otherwise not in accordance with law.

(8) Instead of issuing a notification or an order under this section, the department may bring an action for legal or equitable relief in the district court of the county where the release or threatened release occurred or in the first judicial district as may be necessary to abate any imminent and substantial endangerment to the public health, safety, or welfare or the environment resulting from the release or threatened release.

(9) The department may take remedial action pursuant to subsection (1) at a site that is regulated under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, if the department determines that remedial action is necessary to carry out the purposes of this part."

Renumber: subsequent sections

11. Page 3, line 14.

Following: "of"

Insert: "workplan,"

Following: "order"

Insert: ", "

12. Page 3, line 15.

Following: "comments --"

Insert: "meeting --"

13. Page 3, lines 16 and 17.

Following: "before" on line 16

Strike: "final approval by"

14. Page 3, line 17.

Following: "department"

Strike: "of"

Insert: "submits comments to the U.S. environmental protection agency on a proposed workplan or approves"

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Page 5 of 8

15. Page 3, line 18.
Following: "consent"
Insert: ", "
Following: "75-10-711"
Insert: ", "

16. Page 3, line 22.
Following: "proposed"
Insert: "workplan,"
Following: "order"
Insert: ", "

17. Page 3, line 25.
Following: line 24
Insert: "(b) receive comments from the county commissioners and governing bodies of cities, towns, and consolidated local governments in whose geographical area of jurisdiction the proposed workplan, administrative order, or consent decree would apply;
Renumber: subsequent subsections

18. Page 4, line 3.
Following: "proposed"
Insert: "workplan,"
Following: "order"
Insert: ", "

19. Page 4, line 5.
Following: "~~person~~,"
Insert: ", and upon written request by 10 or more persons or by a group having 10 or more members (but not including a liable person), "

20. Page 4, line 6.
Strike: "hearing"
Insert: "meeting"

21. Page 4, line 7.
Following: "proposed"
Insert: "workplan,"
Following: "order"
Insert: ", "

February 21, 1991
Page 6 of 8

22. Page 4, line 8.

Following: line 7

Insert: "(d) at the request of the county commissioners or the governing body of a city or town or of a consolidated local government within whose area of jurisdiction a remedial action site is located, conduct a public hearing; and"

Renumber: subsequent subsections

23. Page 4, line 8.

Following: "to"

Insert: "relevant"

24. Page 4, lines 10 through 12.

Following: "~~meeting~~" on line 10

Insert: "meeting or"

Following: "hearing" on line 10

Strike: remainder of line 10 through "area" on line 12

25. Page 4, line 13.

Following: "proposed"

Insert: "workplan,"

26. Page 4, line 14.

Following: "order"

Insert: ", "

27. Page 4, line 16.

Following: line 15

Insert: "department's comments on the workplan or the"

28. Page 4, lines 16 through 22.

Following: "public." on line 16

Strike: "The" through "reasons." on line 22

Insert: "The administrative record supporting the department's comments on the workplan or the approved order or decree must contain the department's response summary prepared pursuant to subsection (1)(e)."

29. Page 4, line 23 through page 6, line 2.

Strike: section 3 in its entirety

Renumber: subsequent sections

30. Page 8, line 6.

Following: "department"

Strike: "shall"

Insert: "may"

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2-21-91
JDR

February 21, 1991
Page 7 of 8

31. Page 8, line 7.

Strike: "posting of a bond"

Insert: "liable person to provide financial assurance"

32. Page 8, line 8.

Following: "long-term"

Insert: "operation and"

33. Page 8, line 9.

Following: "site."

Insert: "The liable person shall provide the financial assurance by any one method or combination of methods satisfactory to the department, including but not limited to insurance, guarantee, performance or other surety bond, letter of credit, and qualification as a self-insurer."

34. Page 8, line 12.

Following: "exemption --"

Strike: "performance bond"

Insert: "financial assurance"

35. Page 9, line 18.

Following: "require"

Strike: "a performance bond"

Insert: "financial assurance"

36. Page 9, line 19.

Following: "person"

Strike: "or a remedial action contractor"

37. Page 9, lines 20 and 21.

Following: "ensure" on line 20

Strike: the remainder of lines 20 and 21

Insert: "the long-term operation and maintenance of the remedial action site. The liable person shall provide the financial assurance by any one method or combination of methods satisfactory to the department, including but not limited to insurance, guarantee, performance or other surety bond, letter of credit, and qualification as a self-insurer."

38. Page 9, line 22 through page 10, line 18.

Strike: section 6 in its entirety

Renumber: subsequent section

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Page 8 of 8

39. Page 10, line 25.

Following: line 24

Insert: "NEW SECTION. Section 7. {standard} Retroactive
applicability. [This act] applies retroactively, within the
meaning of 1-2-109, to occurrences after June 30, 1985."

12:45
2-21-91
TDB

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report
that House Bill 630 (first reading copy -- white) do pass .

Signed: Bob Raney
Bob Raney, Chairman

EXHIBIT 1
DATE 2-20-91
~~HJR~~ 39

Amendments to House Joint Resolution No. 39
First Reading Copy

Requested by Rep. Daily
For the Committee on Natural Resources

Prepared by Deborah Schmidt
February 20, 1991

1. Page 2, lines 15 and 16.
Following: "area" on line 15
Strike: ", which prompted the construction of"
Insert: "when the West Camp was sealed off with"



BIG SKY REAL ESTATE

19 S. Shore Route, P.O. Box 1037
Polson, Montana 59860
(406) 883-5201 / Fax (406) 883-5389

EXHIBIT 2
DATE 2-20-91
HB 815

February 20, 1991

Representative Bob Raney
House National Resource Committee
Capital Station, Helena

Dear Representative Raney,

I am writing this letter in strong support of HB 815.

I am a Real Estate broker involved in sales and managing with Century 21 Big Sky Real Estate. I am the top producer for the Century 21 system in Montana for 1990. I served as president of the Lake County Board of Realtors for two consecutive terms.

Our community is being flooded with newcomers. These people are moving here because housing is affordable and the quality of life is unsurpassed. We are becoming a retirement and vacation heaven. This trend has a very positive influence on the economy of Lake County, in fact, I believe it is the primary factor in the very strong economy we are currently experiencing.

In order to remain attractive to newcomers and our residents, it is essential to have good strong land use planning and zoning. Lake County, or Montana, can not afford to lose what is making it so very attractive. In fact, it is key to our economy to maintain and enhance our precious resources.

HB 815 is good for business. I urge your strong support.

Sincerely yours,

Ric Smith
Broker/Manager

RS/rc

FLATHEAD BASIN COMMISSION

EXHIBIT 3
DATE 2-20-91
HB 815

EXECUTIVE DIRECTOR
OFFICE OF THE GOVERNOR
CAPITOL STATION
HELENA, MONTANA 59620
(406) 444-3111

723-5TH AVENUE EAST
KALISPELL, MONTANA 59901
(406) 752-0081

February 19, 1991

Representative Bob Raney
House Natural Resources Committee
Capitol Station
Helena, MT 59620

Re: House Bill 815 on requiring master plans and development regulations

Dear Chairman Raney:

I am Chairman of the Flathead Basin Commission (FBC) which was established by the Montana Legislature in 1983 to protect water quality in the Flathead. The FBC supports H.B. 815 as a positive measure to promote good land use planning in the larger counties and areas experiencing rapid growth in Montana.

In 1989, the FBC voted to actively pursue a community land use planning initiative designed to protect water quality now and in the future. This decision resulted from a growing realization that everything we do on land impacts water quality, and that on-going development and pressures for future development in the Flathead pose a significant threat to water quality. The FBC believes that this growth and development can be accommodated without damaging water resources if it is well-planned in respect to location and design.

The FBC conducted a day-long forum in Kalispell last September to examine the issues concerning land use planning and the future of the Flathead. It was attended by 125 people, and the overall sense that came out of the workshop was that the Flathead needs to move forward with development of land use plans and regulations.

The FBC will assist in that effort by continuing to provide forums to increase public participation, discussion and understanding of the planning process. The FBC has no authority to mandate improved land-use planning in the Flathead, but the Commission does have

the ability to elevate the issue and mobilize the community to take firm, determined action to improve planning efforts.

The FBC commends Representative Lee for taking his own initiative to prepare and propose this legislation. It fits well with the objectives of the Basin Commission, and will provide a very significant mandate for us in the Flathead to move forward with positive and productive land use planning. The FBC urges that H.B. 815 be passed.

We thank you for consideration of our testimony.

Sincerely,

A handwritten signature in cursive script, reading "Jerry Sorensen".

Jerry Sorensen, Chairman
Flathead Basin Commission

JS/lc

Commissioners
Russell J. Ritter, Mayor
Margaret A. Crennen
Tom Huddleston
Mike Murray
Blake J. Wordal



EXHIBIT 7
DATE 2-20-91
HB 815

City-County
Administration Building
316 North Park
Helena, MT 59623
Phone: 406/442-9920

William J. Verwolf
City Manager

City of Helena

February 20, 1991

File: HB815.'91

Chairman Raney
House Natural Resources Committee
State Capitol Building
Helena, Montana 59620

Dear Chairman Raney and Members of the House Natural Resources Committee:

My name is Kathy Macefield and I am appearing on behalf of the City of Helena which supports planning and HB 815.

A few comments about HB 815:

The City of Helena supports maintaining the flexibility to allow the local government to determine the detailed content of the master plan and its development regulations as presently stated in HB 815.

The planning statutes (76-1-601, MCA) presently identify a variety of considerations that may be addressed as part of the master plan (comprehensive plan). As a result, all of these elements are presently optional.

With HB 815, these considerations would become mandatory elements of the plan. An existing comprehensive plan may need to be revised to include the additional (i.e., mandatory) elements. Therefore, I also urge you to consider providing a means for local governments to adequately fund planning so that this bill can be successfully implemented.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Macefield". The signature is written in dark ink and is positioned above the typed name of the signatory.

Kathy Macefield, City of Helena Planning Director

MONTANA ASSOCIATION OF PLANNERS

EXHIBIT 5
DATE 2-20-91
HB 815

February 20, 1991

Representative Raney, Chairman
House Natural Resources Committee
Capitol Station
Helena, Montana 59620

Subject: Testimony in support of HB-815

Mr. Chair, members of the Committee:

My name is Robert Rasmussen, and I wish to submit the following testimony on behalf of the Montana Association of Planners (MAP). The Association supports the concepts proposed by Representative Lee in HB-815.

Uncontrolled land development has created a myriad of problems for local governments and other political subdivisions which are obligated to provide certain public services. The recently completed Rural Development Study by the Environmental Quality Council identified many areas of concern, and several pieces of legislation have been introduced in an attempt to address some of the problems. HB-815 provides another mechanism for addressing such problems through adoption of locally developed comprehensive plans and subsequent implementation of those plans.

In spite of experiencing problems with unguided or uncoordinated development, many local jurisdictions have found it difficult to adopt effective plans for their communities. HB-815 would require that certain jurisdictions experiencing rapid growth develop and adopt a plan that meets minimum standards established by the Department of Commerce. This would provide a much needed focus on a community's goals for the future, and mechanisms by which to achieve those goals.

Representative Lee has been very cautious in his approach, so that comprehensive plans are truly a reflection of each local community's character, developed and implemented at the local level. This is a most appropriate form of local control for the management of local resources.

The Association of Planners encourages your support of HB-815.

Amendments to House Bill No. 731
First Reading Copy

Requested by Rep. Ream
For the Committee on Natural Resources

Prepared by Paul Sihler
February 20, 1991

1. Title, lines 5, 7, and 12

Strike: "RIPARIAN"

Insert: "STREAMSIDE"

2. Page 1, lines 16,
Page 2, lines 1, 6, 12, 15, and 24.
Page 4, lines 7, 10, 13, and 19.
Page 4, lines 11, 15, and 24.
Page 5, lines 1, 4, and 8.
Page 6, line 9.
Page 7, lines 2 and 4.
Page 8, line 12.
Page 9, lines 9 and 20.
Page 10, line 21.
Page 12, line 18.
Strike: "riparian"
Insert: "streamside"

3. Page 1, line 21.
Strike: "protection"
Insert: "management"

4. Page 2, line 3.
Following: "forestry"
Insert: "and water quality"

5. Page 2, line 5.
Following: "watershed"
Insert: "and water quality"

6. Page 3, line 11.
Strike: "adverse"
Following: "wildlife"
Insert: "habitat"

7. Page 3.
Following: line 7
Insert:

"To the extent practical, the department should conduct onsite consultations under [section 4] in conjunction with consultations or inspections conducted pursuant to Title 76, chapter 13, parts 1 and 4."

8. Page 3.

Following: line 11

Insert:

"It is the intent of the legislature that the department establish an interdisciplinary technical committee to assist the department in adopting the rules. The members of the committee should have technical knowledge or expertise in water quality, wildlife management, or forest management, and include representatives from the U.S. forest service; U.S. bureau of land management; the Montana departments of health and environmental sciences and fish, wildlife, and parks; conservation districts; the Montana state university extension forestry program; the forest products industry; and the conservation community."

9. Page 4, line 25.

Strike: "protection"

Insert: "management"

10. Page 6, line 9.

Strike: "Riparian"

Insert: "Streamside"

11. Page 6, line 12.

Following: "wildlife"

Insert: "habitat"

THE WALL STREET JOURNAL

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MONDAY, JUNE 18, 1990

VOL. CXXII NO. 118 ★

Unkindest Cut?

Timber Firm Stirs Ire Felling Forests Faster Than They Regenerate

Burlington Northern Spinoff
Clear-Cuts Ancient Stands
Granted by Abe Lincoln

Spooked by Corporate Raiders

By DENNIS FARNEY

Staff Reporter of THE WALL STREET JOURNAL

PEND OREILLE COUNTY., Wash.—
"For Us, Every Day is Earth Day," Plum
Creek Timber Co. assured the Pacific
Northwest in an advertisement last April.
Depicting a forester tenderly planting a
seedling, the ad concluded: "Our Roots are
Here."

But so are its stumps—which may
prove to be the company's most enduring
legacy.

From the green mountain walls of west-
ern Montana to the misty Cascades of cen-
tral Washington, Plum Creek is chainsaw-
ing a trail of profits and cut-over forests
across the Pacific Northwest. It is rapidly
felling old-growth forests, including trees
that predate this nation by a century or
more. It has cut to the very banks of pris-
tine trout streams. It has bulldozed a road
into one de facto wilderness area and
threatened to do the same to another.

The land it is doing this to is its own,
part of a 1.4 million-acre forest empire
that was a gift from President Abraham
Lincoln himself. Nevertheless, Plum
Creek, a publicly held limited partnership
spun off from Burlington Northern Inc.,
has become one of the Pacific Northwest's
most controversial corporate citizens. By
its own figures, the company has been log-
ging the forest Lincoln gave away at per-
haps twice the rate it can regenerate it-
self.

Board Feet

"Within the industry, they're considered
the Darth Vader of the state of Washing-
ton," says Rep. Rod Chandler, Republican
of Washington, who is drafting more-re-
strictive federal legislation covering pri-
vate logging. "And I think they've earned
it."

What is unfolding here is a case study
in the public costs of private decisions. It
also demonstrates how a board-room effort
to maximize shareholder values can leave
an enduring mark upon the land—and,
some fear, perhaps contribute to an eco-
nomically crippling regional timber short-
age in future decades.

Plum Creek's "only concern," charged
an angry Idaho Gov. Cecil Andrus after
personally photographing a company
clear-cut in 1987, "appears to be cashing
out their equity at everyone else's ex-
pense."

PR Issue

Plum Creek has grown accustomed to
such talk. "There's no question—we can't
deny the fact—that we have a bad image,"
says David Leland, president and chief ex-
ecutive officer. He corrects himself:
"Have had a bad image." He says the
company is reforesting its cut-over lands
and argues it has "tried to be good neigh-
bors to the citizens who live around us."
He thinks the solution may lie in "more
professional publicity work," a better job
of letting people know "what we're doing
and how we're going about doing it."

Yet what Plum Creek does, and how it
does it, has a way of startling people.

Last year it jolted Bozeman, Mont., by
announcing plans to log in South Cotton-
wood Canyon, an old-growth forest treas-
ured by hikers and hunters. Responding to
anguished citizens, Congress rushed
through a \$1 million land-acquisition ap-
propriation. But Plum Creek is holding out
for more. It now talks of bulldozing roads
this summer. Negotiations continue.

Plum Creek also jolted northern Idaho
last year by bulldozing a logging road into
prime elk habitat proposed by both Gov.
Andrus and Idaho GOP Sen. James
McClure as a special management area.
After a furor, Plum Creek sold 12,055 acres
for eventual exchange to the state fish and
game department. But the company con-
tinues to ask \$1 million—too much, environ-
mentalists protest—for the timber rights
on one key 640-acre tract. Logging there,
at the headwaters of an unspoiled trout
stream, remains a possibility.

Even what Plum Creek says, and the
way it says it, also has a way of unsettling
people.

Cutting Old Trees for Japan

Late last year, Rocky Mountain Re-
gional operations director Bill Parson
spoke to the issue of "sustained-yield for-
estry," in which forests are logged no
faster than they can regenerate them-
selves. On a company-sponsored tour of
Plum Creek operations, Mr. Parson told a
Montana state legislator: "We have never
said we were on a sustained-yield pro-
gram, and we have never been on a sus-
tained-yield program. Let's get to the
heart of it. Sure, it's extensively logged,
but what is wrong with that?" The com-
pany doesn't deny the remarks, but CEO
Leland says they are "not an accurate
statement" of company philosophy.

Plum Creek's accelerated logging dates
back to the early 1980s. One driving force
is a voracious demand from Japan, partic-
ularly for huge logs from ancient groves;
the beautifully grained wood looks exqui-
site in exposed-wood construction. But in-
creasing logging profits was part of a
larger Burlington Northern strategy, con-
ceived in an era of hostile takeovers, to
boost shareholder values.

Richard M. Bressler, chairman of both
Burlington Northern and Plum Creek, says

Please Turn to Page A7, Column 1

Unkindest Cut? Timber Firm Stirs Ire in Northwest By Clear-Cutting Old Growth for Japanese Market

Continued From First Page

Wall Street regarded Burlington Northern as a stodgy railroad company; undervaluing its gas, oil and timber holdings. "I was concerned that if we didn't do something about that, somebody else would see those values ... and would do something to make those values known," he says. "So that's when the scheme was hatched to separate the business into its component parts."

Thus, in 1988 Burlington Northern spun off Burlington Resources Inc., an energy and natural-resources concern. A year later, Plum Creek Timber was spun off as a limited partnership. The spinoffs increased shareholder values by "several billion dollars," says Mr. Bressler. Plum Creek also loaded itself with \$325 million in debt, another takeover deterrent.

Although little known nationally, Plum Creek is intertwined with the nation's history. It is named for the site of its first lumber mill, the Minnesota creek immortalized by Laura Ingalls Wilder, author of "Little House on the Prairie" and "On the Banks of Plum Creek." Today the company is, after Weyerhaeuser Co., the Northwest's largest timber owner.

Its economic cornerstone is a framed document on the wall of its corporate suites, signed "A Lincoln, Dec. 29, 1864." Amid the Civil War, Mr. Lincoln granted the country's railroads vast tracts of land as incentive to build lines to the Pacific. A large share went to the railroads eventually absorbed into today's Burlington Northern.

For more than a century, Mr. Lincoln's timber grants were treated as something of an afterthought. Even today, volunteers Mr. Bressler, "I don't know anything about trees, particularly."

But buried within the land-grant document were always the seeds of massive ecological disruption. The government parceled out the lands to the railroads in corridors of checkerboard squares, each square about three-fourths the size of New York's Central Park. The railroads typically were given every other square. Now the checkerboard on the map is turning into ugly reality on the ground.

A case in point is a company clear-cut here in the mountains of northeastern Washington. Straight-edged as an Iowa cornfield, oblivious to topography, the clear-cut runs right up to the edge of a U.S. Forest Service square. On the Forest Service side is a sweet-scented stand of cedar and spruce, the ground springy with moss and the detritus of decades. On the Plum Creek side is a desolation of stumps, water-filled skid marks and roads that encoil the mountainsides. Discarded beer cans litter the boundary itself; an official Forest Service marker lies toppled in the mud.

Timber Shortage Seen

"This is an accounting decision, not a forestry decision," charges John Osborn, a doctor and environmentalist who has spearheaded the fight against accelerated

ready overcut their corporate forests. Now they'll use their financial clout to [outbid others and] overcut the public forests." The eventual losers, he predicts, will be small sawmills and timber-dependent towns.

Rep. Chandler shares that fear, foreseeing a timber shortage that will approximately halve the next generation of mill-loggers. "I grew up in the kind of area where the dream was to graduate from high school and own a logging truck," he says. "I see a lot of dreams being smashed by what I consider some pretty shortsighted decisions by private industry."

The spreading blotches of logged-over land come at a pivotal moment in Northwestern logging. "The timber wars," some call it. The leading protagonists in this multi-front war seem alike only in their utter commitment to opposing views.

Environmentalist Osborn, who coordinates the Inland Empire Public Lands Council, is a man driven by the ecological destruction he sees all around him. His Spokane living room resembles a military command post. Maps wallpaper every wall; papers blanket the floor. Stuck to a file box is a one-word sign: "Bugged." It is a warning to himself—perhaps unwarranted, he concedes—not to trust the security of his own phone lines.

"We're kind of in the belly of the beast here," he says. "The levels of intimidation are very high." Asked if he's been threatened himself, his response is terse: "No comment."

A Red Flag

Dr. Osborn argues that the Northwest has reached the end of the "timber frontier"—the complacent certainty that just over the next ridgeline would always be more virgin forest to fell. "What's over the next ridgeline now is the Pacific Ocean," he says. Of Plum Creek, he says: "There is no more egregious example of rapid liquidation."

"Liquidation" is a red-flag word to Mr. Leland, sitting in Plum Creek corporate headquarters high above the Seattle harbor. "As a matter of fact, we started accelerating our cut in '82, '83 to get on to a sustained-yield cut," he argues. "Our view, and the view of most people who have studied this, is that to move from a natural stand to a managed stand we have to get rid of the older, slower-growing trees."

But Mr. Leland's own figures indicate something far removed from sustained yield. Last year, he says, Plum Creek cut 597 million board feet; this year it targets about 500 million; in a few years it expects to throttle down to 450 million. Even the lowest figure, however, is well above his estimate of the annual growth rate of Plum Creek's forests: About 250 to 300 million board feet. Moreover, a Plum Creek prospectus last year put the figure even lower: "Approximately 210 million."

Much of Plum Creek's future course could be affected by what is currently being discussed in the other Washington, the

the U.S. is exporting jobs along with timber, is close to banning the export of logs cut on state-owned lands; a similar ban already applies to federal lands. But since neither ban would affect private lands such as Plum Creek's, logging pressures would if anything intensify there.

In addition, Congress remains stalemated over Idaho and Montana wilderness bills. In still another flashpoint issue, the federal government must address the plight of the northern spotted owl by June 23; declaring the tiny owl "endangered" could well put great tracts of old-growth forest off-limits.

Heightened Sensitivity

Meanwhile, there are signs that Plum Creek has become somewhat more environmentally sensitive recently. For instance, Marcy Golde, a leader of the Washington Environmental Council, says the company has been "very forthcoming" in negotiating standards for cutting in the Cascades—though she estimates that the company's flexibility has come after it is already about two-thirds done there. The company says its harvest is slightly less than half finished.

The company also now leaves buffers along streams, spares individual trees where eagles and spotted owls nest, and preserves tree corridors for wildlife migration. From the air, they look like green sidewalks across cut-over areas. Plum Creek says it is willing to swap ecologically sensitive land for publicly owned lands elsewhere, but complains that such swaps can take a decade. It has offered to sell land to homeowners but, says Mr. Bressler, gets "very few takers."

"Most people," he says, "would rather we own the trees so they can look at them, rather than they own the trees so they can look at them."

But those moves have done little to assuage people like the group of Spokane sportsmen who gathered one recent night to hear from some Plum Creek middle managers. Dean Lydig, a hunter and retired lawman, whipped out photos of Plum Creek clear-cuts. "The land speaks for itself," he said, his voice tight with emotion. "It speaks for itself."

James K. Lehner, the easy-going manager of Plum Creek's Coeur d'Alene, Idaho, division, assured Mr. Lydig that the company is trying to do better. Then he told the group: "We've got a public-relations problem, and we've got a problem where people just don't quite believe us."

BankAmerica Unit to Buy Line

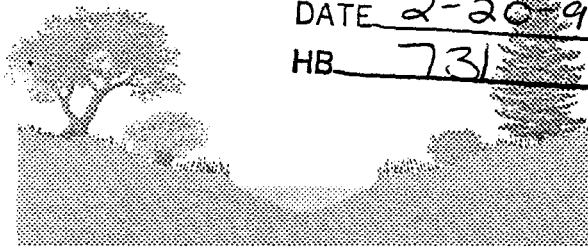
SAN FRANCISCO—BankAmerica Corp. said its Bank of America unit agreed to acquire the corporate trust business of Sanwa Bank of California. Neither the terms nor the amount of assets involved in the transaction was disclosed.

Corporate trust operations involve services such as acting as trustee on a corporate customers' bonds among other

MONTANA'S NATURAL STREAMBED AND LAND PRESERVATION ACT

(310 permit program)

EXHIBIT 9
DATE 2-20-91
HB 731



Anyone planning to
work in or near a
stream must obtain
a 310 permit from
the local conservation
district office.

For permit applications
and information, contact:

A Guide to Stream Permitting in Montana

GUIDE TO REQUIRED PERMITS

MONTANA STREAM PROTECTION ACT

MONTANA FLOODPLAIN AND FLOODWAY MANAGEMENT ACT

SHORT-TERM EXEMPTION FROM MONTANA'S SURFACE WATER QUALITY STANDARDS

MONTANA NATURAL STREAMBED AND LAND PRESERVATION ACT

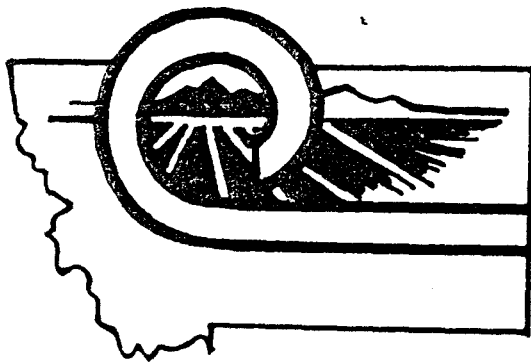
MONTANA LAND-USE LICENSE OR EASEMENT ON NAVIGABLE WATERS

MONTANA WATER USE ACT

FEDERAL CLEAN WATER ACT - SECTION 404

FEDERAL RIVERS AND HARBORS ACT AND OTHER LAWS THAT MAY APPLY

A COOPERATIVE EFFORT OF THE



Montana Association of Conservation Districts

501 North Sanders • Helena, MT 59601

This brochure was cooperatively developed and funded by the Montana Association of Conservation Districts, the Montana Department of Natural Resources and Conservation, the U.S. Environmental Protection Agency, the Montana Department of Health and Environmental Sciences, the Montana Department of Fish, Wildlife and Parks, the Montana Department of State Lands, and the U.S. Army Corps of Engineers.

April 1990



EXHIBIT 10
DATE 2-20-91
HB 724

DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

TESTIMONY OF DON JUDGE ON HOUSE BILL 724, HEARINGS OF THE HOUSE NATURAL RE-SOURCES COMMITTEE, FEBRUARY 20, 1991

Mr. Chairman and members of the Committee, for the record, my name is Don Judge, representing the Montana state AFL-CIO, here in support of HB 724.

The recent layoffs of some 1100 workers at the Champion mills in Libby and Missoula exemplify the problems besetting the timber industry in Montana today. Because of a national recession, an uncertain market for processed timber and a failure to resolve timber sale appeals and disputes companies such as Champion are struggling, at times unsuccessfully, to remain operational. The export of unprocessed timber from Montana can only compound these problems.

Currently, state and federal law prohibits the export of unprocessed timber originating from state and federally owned lands. There is, however a loop-hole in existing law that allows private landholders in Montana to export unprocessed timber from their own lands and then substitute timber purchased from state lands for the exported supply.

This bill provides that purchasers of timber from State lands first agree that this timber will not be used in substitution for exported unprocessed timber originating from private lands in Montana.

This bill would amend Rule 26.6.411 A.R.M to effectively close the loop-hole that has, in the past, allowed the export of raw logs out of Montana to the detriment of the Montana economy and its workers.

The sponsors of the Lolo and Kootenai Accords, a coalition of timber industry workers and conservation groups in Montana have repeatedly taken a position to stand as adversaries to the continued export of raw logs from this state. Even though Montana, at this time, does not see a large quantity of its raw logs sent over seas the enormous demand for such exports from states like Washington and Oregon create an even greater demand for Montana logs as replacements for these exports.

HB 724 is a good bill to curb substitution of exported private land logs and we encourage you to give it a "do pass" recommendation. Thank you.

Amendments to House Bill No. 908
First Reading Copy

Requested by Rep. Harper
For the Committee on Natural Resources

Prepared by Paul Sihler
February 20, 1991

1. Title, line 6.
Following: "THE"
Insert: "ACQUISITION,"
Following: "INSTALLATION"
Insert: ", "

2. Title, line 13.
Following: "85-1-604,"
Insert: "85-2-102,"

3. Page 1, line 25.
Following: "legislature"
Insert: "where reasonable and practical"

4. Page 2.
Following: line 8
Insert:

"Section 1. Section 85-2-102, MCA, is amended to read:
"85-2-102. (Temporary) Definitions. Unless the context
requires otherwise, in this chapter the following definitions
apply:

- (1) "Appropriate" means to:
 - (a) divert, impound, or withdraw (including by stock for stock water) a quantity of water;
 - (b) in the case of a public agency, to reserve water in accordance with 85-2-316; or
 - (c) in the case of the department of fish, wildlife, and parks, to lease water in accordance with 85-2-436.
- (2) "Beneficial use", unless otherwise provided, means:
 - (a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses;
 - (b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141; and
 - (c) a use of water by the department of fish, wildlife, and parks pursuant to a lease authorized under 85-2-436.
- (3) "Board" means the board of natural resources and conservation provided for in 2-15-3302.
- (4) "Certificate" means a certificate of water right issued by the department.
- (5) "Change in appropriation right" means a change in the place of diversion, the place of use, the purpose of use, or the

place of storage.

(6) "Commission" means the fish and game commission provided for in 2-15-3402.

(7) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(8) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(9) "Existing right" means a right to the use of water which would be protected under the law as it existed prior to July 1, 1973.

(10) "Ground water" means any water beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water, and which is not a part of that surface water.

(11) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(12) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency thereof, or any other entity.

(13) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water but not a private corporation, association, or group.

(14) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other manmade waterways.

~~(14)~~(15) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

~~(15)~~(16) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

~~(16)~~(17) "Water division" means a drainage basin as defined in 3-7-102.

~~(17)~~(18) "Water judge" means a judge as provided for in Title 3, chapter 7.

~~(18)~~(19) "Water master" means a master as provided for in Title 3, chapter 7.

~~(19)~~(20) "Well" means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn. (Terminates June 30, 1993--sec. 11, Ch. 658, L. 1989.)

85-2-102. (Effective July 1, 1993) Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Appropriate" means to divert, impound, or withdraw (including by stock for stock water) a quantity of water or, in the case of a public agency, to reserve water in accordance with 85-2-316.

(2) "Beneficial use", unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses; and

(b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141.

(3) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(4) "Certificate" means a certificate of water right issued by the department.

(5) "Change in appropriation right" means a change in the place of diversion, the place of use, the purpose of use, or the place of storage.

(6) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(7) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(8) "Existing right" means a right to the use of water which would be protected under the law as it existed prior to July 1, 1973.

(9) "Ground water" means any water beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water, and which is not a part of that surface water.

(10) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(11) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency thereof, or any other entity.

(12) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water but not a private corporation, association, or group.

(13) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(14) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(15) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other manmade waterways.

~~(15)~~ (16) "Water division" means a drainage basin as defined in 3-7-102.

~~(16)~~ (17) "Water judge" means a judge as provided for in Title 3, chapter 7.

~~(17)~~ (18) "Water master" means a master as provided for in Title 3, chapter 7.

~~(18)~~ (19) "Well" means any artificial opening or excavation

in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn."

Renumber: subsequent sections

5. Page 3, line 25.

Strike: "2"

Insert: "3"

Following: "to"

Insert: "acquire,"

Following: "install"

Insert: ", "

6. Page 4, line 3.

Following: "dewatered"

Insert: ", except that where the board specifically finds that the installation of measuring devices along the entire water course is not practicable within the 2 year deadline, it may establish a later deadline"

7. Page 4, line 24.

Strike: "and"

8. Page 4, line 25.

Following: "dewatering"

Insert: ";

(f) existence of temporary or final decrees;

(g) history, if any, of conflict among water rights holders on the watercourse; and

(h) practicality and reasonableness of installing measuring devices on diversions along the watercourse"

9. Page 5, line 12.

Following: "and"

Insert: "acquisition and"

10. Page 8, line 2.

Following: "and"

Insert: "acquisition and"

11. Page 8, line 23.

Following: "Section"

Strike: "2"

Insert: "3"

12. Page 8, line 25.

Following: "section"

Strike: "2"

Insert: "3"

EXHIBIT 12
DATE 2-20-91
HB 908

Montana Audubon Legislative Fund

Testimony on HB 908
House Natural Resources Committee
February 20, 1991

Mr. Chairman and Members of the Committee,

My name is Susan Lenard and I represent the Montana Audubon Legislative Fund. The Audubon Fund is composed of nine Chapters of the National Audubon Society and represents 2,500 members throughout the state.

It is surprising, in light of the importance of water in our state, that a bill such as HB 908 has not already been implemented. When a resource of such value is utilized by so many, the need for assuring the protection of valid, existing water rights is hardly questionable.

There may be those opposed to this bill because of the cost of installing and maintaining water measuring devices. But the cost to those fisheries, agricultural, industrial, municipal, and recreational uses who are impaired by the loss of water must be considered.

Chronically dewatered watercourses need to be studied. This bill would protect water rights, not threaten them.

Audubon asks for your support of HB 908. Thank you.



MONTANA FARM BUREAU FEDERATION

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

EXHIBIT 12
DATE 2-20-91
HB 908

BILL # HB-908 ; TESTIMONY BY: Lorna Frank

DATE Feb. 20, 1991 ; SUPPORT Yes ; OPPOSE _____

Mr. Chairman, members of the committee, for the record, I am Lorna Frank representing the Montana Farm Bureau.

Since the current law requires owners or operators to install and maintain suitable controlling and measuring devices, we feel HB-908 re-inforces the present law.

Something needs to be done if agriculture and the sportsman are ever going to get along in this state and stop this constant bickering over water. The installation of measuring devices is not the complete answer, but is one step closer to a solution.

We feel that the point of measurement should be as close as possible to the point of diversion. Which is not addressed in this bill, maybe it was left out on purpose for the Board of Natural Resources and Conservation or the Water Court to determine where those measuring devices should be located.

We support the amendments presented by Rep. Harper and urge this committee to give HB-908 a do pass as amended.

SIGNED: _____

Lorna Frank



EXHIBIT 14

DATE 2-20-91

HB 908

501 N. Sanders • Helena, Montana 59601 • (406) 442-9666

HB908

HOUSE NATURAL RESOURCES

FEB. 20, 1991

MONTANA WATER RESOURCES ASSOCIATION

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

Mr. Chairman, the Montana Water Resources Association has long had a policy of support for a gradual implementation of measuring devices on diversions from streams. We believe that knowing how much water is being diverted is beneficial to the diverter and to other users. And we believe that this bill has been amended to make it much more palatable. I would have dearly loved to have come in on this bill as a proponent.

BUT ---- We also are firm believers that if a measuring device is mandated in order to increase the flow of the stream for the benefit of fisheries, that that benefit should be obligated to, in the very least, share the cost of the purchase and installation of the device.

You will note that the language in this bill does not use the words---- instream flow---or for that matter instream anything. It talks about dewatering watercourses. Chronically dewatering watercourses.

Those are really nice words, but they do not change the meaning and the purpose of this bill. That purpose is too mandate the purchase and installation, when applicable, of measuring devices in an effort to keep more water in streams, chronically dewatered or not.

We heard a bill yesterday that would allow access to public lands, or waters---and were told that it was not an access bill. It was---and this is an instream flow preservation bill. A rose by any other name is still a rose.

The amendments added, in several places explanatory words--the devices will be acquired and installed---when the Board makes the decision that it is necessary. The list of factors is lengthy and certainly covers about any instance you can think of. We have no problem with that--- what we do have a problem with is who is going to pay for the acquisition and installation of measuring devices when mandated to -- even though we are using different words here---increase instream flows.

Even the cheapest of measuring devices cost money to purchase and to install. Spreading the obligation to install over two years, time wise is a good idea---the costs will still be to the diverter.

If the arguement is that the diverter has used water over his permit-- has been using water that is not his to use---then should we not address

Ex. 14
2-20-91
HB 908

user fees by recreation on existing delivery systems and storage facilities that are financially maintained by private entities.

I requested an amendment that would require those benefiting by an increase in an instream flow to help finance the costs of purchase and installation of measuring devices. Whether it be from an increase in fishing, or boating licenses, an additional dollar on a conservation stamp, MWRA beleives that those who benefit ought to help finance the costs.

Thank you.

drawal from warehouse for consumption, of any article described in items 960.50 through 960.70 of the Appendix to the Tariff Schedules of the United States (as in effect on August 11, 1985) which was made after August 11, 1985, and before January 1, 1987, shall be liquidated or reliquidated as though such entry or withdrawal had been made on August 11, 1985 and the Secretary of the Treasury shall make the appropriate refund of any duties paid with respect to such entry or withdrawal.

SEC. 485. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title, the amendments made by this title shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1990, and before April 1, 1991, any entry—

(A) which was made after the applicable date and before October 1, 1990, and

(B) with respect to which there would have been no duty, or a lesser duty, if any amendment made by section 311, 312, 377, 419, 423, 426, 428, 432, 434, 436, 438, 440, 441, 442, 445, 446, 450A, 461(a)(36), 462(d), 472, 474, 475, 477, 479C, 484B, or 484C applied to such entry,

shall be liquidated or reliquidated as though such amendment applied to such entry.

(2) For purposes of this title—

(A) The term "applicable date" means—

(i) if such amendment is made by section 442, December 31, 1987,

(ii) if such amendment is made by section 438, October 1, 1988,

(iii) if such amendment is made by section 311, 312, 377, 419, 426, 428, 432, 434, 440, 441, 445, 446, 450A, 462(d), 472, 474, 475, 477, 479C, 484B, or 484C, December 31, 1988,

(iv) if such amendment is made by section 436, July 1, 1989,

(v) if such amendment is made by section 461(a)(36), December 31, 1989, and

(vi) if such amendment is made by section 423, January 31, 1990.

(B) The term "entry" includes any withdrawal from warehouse.

(C) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(c) CORNED BEEF.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1990, and before April 1, 1991, any entry of corned beef in airtight containers—

(1) described in subheading 9902.16.02,

(2) to which the column 1 general rate of duty in effect on December 31, 1989 would have applied if entry had been made on such date, and

(3) that was entered after December 31, 1989, and before October 1, 1990,

shall be liquidated or reliquidated at the column 1 general rate of duty in subheading 9902.16.02 in effect on December 31, 1989, and the Secretary of the Treasury shall refund any duties paid with respect to such entry in excess of such column 1 general rate.

(d) STAGED RATE REDUCTIONS FOR CERTAIN GOODS.—

(1) Any staged reductions of a special rate of duty set forth in subheading 5111.19.10 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before October 1, 1990, and are

scheduled to take effect on or after October 1, 1990, also apply to the corresponding special rates of duty set forth in subheadings 5111.11.20, 5111.20.10, 5111.30.10, 5111.90.40, 5111.90.50, 5112.11.10, 5112.20.10, 5112.20.20, 5112.30.10, 5112.30.20, 5112.90.40, 5112.90.50, and 5803.90.11 (relating to certain woven fabrics and gauze) of such Schedule (as added by section 472).

(2) Any staged rate reduction proclaimed by the President before October 1, 1990, that—

(A) would take effect on or after October 1, 1990; and

(B) would, but for any amendment made by section 472 (relating to certain woven fabrics) or 475 (relating to chipper knife steel), apply to a special rate of duty set forth in any subheading of the Harmonized Tariff Schedule of the United States that is listed in column A;

applies to the corresponding special rate of duty set forth in the subheading of such Schedule that is listed in column B opposite such column A subheading:

Column A	Column B
5111.11.10	5111.11.30
5111.11.60	5111.11.70
5111.90.60	5111.90.70
5112.11.00	5112.11.20
5112.20.00	5112.20.30
5112.30.00	5112.30.30
5803.90.10	5803.90.12
7226.91.10	7226.91.15
7226.91.30	7226.91.25

(3) The amendments made by section 472 shall not affect any staged reductions of a rate of duty set forth in subheadings 5112.19.10, 5112.19.60, 5112.90.30, 5112.90.60 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990.

(4)(A) Any staged reductions of a special rate of duty set forth in subheading 6810.19.10 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990, shall apply to the corresponding special rate of duty in subheading 6810.19.14.

(B) Any staged reductions of a special rate of duty set forth in subheading 3926.90.90 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990, shall apply to the corresponding special rate of duty in subheading 6810.19.12.

(B) Any staged reductions of a special rate of duty set forth in subheading 9022.29.40 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990, also apply to the corresponding special rate of duty in subheading 9022.90.70.

TITLE IV—EXPORTS OF UNPROCESSED TIMBER

SEC. 487. SHORT TITLE.

This title may be cited as the "Forest Resources Conservation and Shortage Relief Act of 1990".

SEC. 488. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Timber is essential to the United States.

(2) Forests, forest resources, and the forest environment are exhaustible natural resources that require efficient and effective conservation efforts.

(3) In the interest of conserving those resources, the United States has set aside mil-

lions of acres of otherwise harvestable timberlands in the western United States, representing well over 100,000,000,000 board feet of otherwise harvestable timber.

(4) In recent years, administrative, statutory, or judicial action has been taken to see an increased amount of otherwise harvestable timberlands for conservation purposes.

(5) In the next few months and years, additional amounts of otherwise harvestable timberlands may be set aside for conservation purposes, pursuant to the Endangered Species Act of 1973, the National Forest Management Act of 1976, or other expected statutory, administrative, and judicial actions.

(6) There is evidence of a shortfall in the supply of unprocessed timber in the western United States.

(7) There is reason to believe that any shortfall which may already exist may worsen unless action is taken.

(8) In conjunction with the broad conservation actions expected in the next few months and years, conservation action is necessary with respect to exports of unprocessed timber.

(b) PURPOSES.—The purposes of this title are—

(1) to promote the conservation of forest resources in conjunction with State and Federal resources management plans, and other actions or decisions affecting the use of forest resources;—

(2) to take action essential for the acquisition and distribution of forest resources or products in short supply in the western United States;

(3) to take action necessary, to meet the goals of Article XI 2.(a) of the General Agreement on Tariffs and Trade, to ensure sufficient supplies of certain forest resources or products which are essential to the United States;

(4) to continue and refine the existing Federal policy of restricting the export of unprocessed timber harvested from Federal lands in the western United States; and

(5) to effect measures aimed at meeting these objectives in conformity with the obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 489. RESTRICTIONS ON EXPORTS OF UNPROCESSED TIMBER ORIGINATING FROM FEDERAL LANDS.

(a) PROHIBITION ON EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM FEDERAL LANDS.—No person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United State, or sell, trade, exchange, or otherwise convey such timber to any other person for the purpose of exporting such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States.

(b) SURPLUSES.—

(1) DETERMINATIONS BY SECRETARY CONCERNED.—The prohibition contained in subsection (a) shall not apply to specific quantities of grades and species of unprocessed timber originating from Federal lands which the Secretary concerned determines to be surplus to domestic manufacturing needs.

(2) PROCEDURES.—Any determination under paragraph (1) shall be made in regulations issued in accordance with section 553 of title 5, United States Code. Any such determination shall be reviewed at least once in every 3-year period. The Secretary concerned shall publish notice of such review in the Federal Register, and shall give the public an opportunity to comment on such review.



EXHIBIT 16
DATE 2-20-91
HJR 30

DONALD R. JUDGE
EXECUTIVE SECRETARY,

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

TESTIMONY OF DON JUDGE ON HOUSE JOINT RESOLUTION 30 BEFORE THE
HOUSE NATURAL RESOURCES COMMITTEE, FEBRUARY 20, 1991.

Mr. Chairman and members of the Committee, for the record, my name is Don Judge, representing the Montana State AFL-CIO, and we are here in support of House Joint Resolution 30.

The timber industry in the western United States is in dire straights. Modernization of plants, diminishing resources, a recession in the building industry, and an inability to resolve appeals and disputes have backed this industry into a corner. Unfortunately, Montana is no exception. The recent layoffs of Champion Mills will leave about 1100 Montana workers out of a job, temporarily we hope.

Halting the exportation of raw logs from our state lands is one small step we can take to help Montana workers in the timber industry. Millions of board feet of raw logs are being sold to Asian countries who are selling finished products back to us at a large profit. In the meantime, we are losing a value-added process which has the potential to employ thousands of mill workers for years to come.

Anytime a value-added process is lost, it has drastic effects on the entire economy. In 1990, the federal government banned the export of raw logs from certain state and federal lands because of these drastic job losses. This landmark law was passed in order to breathe some life back into the timber industry. Now, instead of exporting a raw resource, we sell foreign countries a finished product which has been processed by American workers.

HJR 30 gives our support to the Forest Resources Act. It tells Congress and our congressional delegation that we care about Montana mill workers and keeping value-added processes alive in our state.

We strongly urge your favorable consideration of HJR 30.

Thank you.

EXHIBIT 17
DATE 2-20-91
HB 749

DEPARTMENT OF COMMERCE
LOCAL GOVERNMENT ASSISTANCE DIVISION

COGSWELL BUILDING — ROOM C 211
CAPITOL STATION

STAN STEPHENS, GOVERNOR



STATE OF MONTANA

(406) 444-3757

HELENA, MONTANA 59620-0522

February 20, 1991

House Natural Resources Committee
House of Representatives
Montana State Legislature
Helena, Montana 59620

Re: HB 749

Dear Chairman Raney and Members of the Committee:

HB 749 addresses two matters, neither of which affects the substantive provisions of the Hard-Rock Mining Impact Act.

The purpose of Section 1 is to reaffirm and clarify beyond doubt the historic interpretation of the Board's hiring authority, as it has been understood since the Act came into existence in 1981 by the Environmental Quality Council and the Board, and, with the exception of the immediate past Director, by the Department of Commerce. Following some disagreement with the past Director of the Department, the Board of County Commissioners of Stillwater County asked the Environmental Quality Council to determine whether clarifying language might be appropriate to forestall any repetition of the problem and to ensure the continued hiring and policymaking independence of the Board. The amendment proposed in Section 1 resulted from that request.

The purpose of Section 2 is to adjust the date on which the Board transfers unexpended administrative and operating monies proportionally among the counties in which metal mines license tax paying mines are located. The existing date was established in 1989 to correspond with the statutory fiscal years. However, this did not take into account either the real-world time-lag in receiving bills and making fiscal year-end payments nor the statutory requirement that the Board must meet its administrative and operating expenses before allocating money to the county subaccounts. The proposed amendment would allow for the realties of fiscal year-end payment procedures and would bring the transfer procedure into compliance with other requirements.

Please note that the amount of money transferred to the counties will not be affected. From the counties' perspective, the two or three month shift in timing should not pose any problem. Even after they receive the money, it is not immediately available to them for expenditure. The money a county receives from this transfer must be allocated entirely to the county's hard-rock mining impact trust reserve account, where it will remain until the taxpaying mine closes or reduces its workforce by 50 percent or more.

HB 749
2-29-91
page 2 of 2

Ex. 17
2-20-91
HB 749

The Hard-Rock Mining Impact Board supports the proposed amendments, which should facilitate consistent interpretation and implementation of the Hard-Rock Mining Impact Act.

If you have questions about HB 749, I encourage you to raise them with our Administrative Officer, Carol Ferguson, whom I have asked to attend your hearing on my behalf.

Sincerely,

Rick Young^{by g}

Rick Young, Acting Chairman
Hard-Rock Mining Impact Board
Montana Department of Commerce
Helena, MT 59620
(406) 444-4473

EXHIBIT 18
DATE 2-20-91
HB 924

TESTIMONY

HOUSE BILL 924

WEDNESDAY, FEBRUARY 20, 1991

AN ACT PROVIDING A FIRST RIGHT OF REFUSAL FOR A RIGHT OF WAY TO
PUBLIC RECREATIONAL TRAIL USERS UPON THE SALE OF A RAILBED.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, FOR THE RECORD, MY
NAME IS KIM ENKERUD. I AM HERE BEFORE YOU ON BEHALF OF THE
MONTANA STOCKGROWERS, MONTANA WOOL GROWERS, AND MONTANA
ASSOCIATION OF STATE GRAZING DISTRICTS.

WE HAVE MEMBERS OF THE AGRICULTURAL INDUSTRY WHO HAVE
LIVESTOCK SCALES, LIVESTOCK CORRALS, AND ELEVATORS ALONG THESE
RAILROAD RIGHT-OF-WAYS. PERHAPS THE RECREATIONAL INTERESTS WOULD
NOT BE INCLUDING THESE AREAS IN THEIR RAILS-TO-TRAILS PROGRAM,
BUT THERE IS NO ASSURANCE IN THIS BILL THESE NECESSARY FACILITIES
WOULD BE EXEMPT. AND IF THESE GROUPS ARE INTERESTED IN THE AREA,
WE ARE CONCERNED THE FACILITIES WILL BE REQUIRED TO BE REMOVED,
THUS DISRUPTING AGRICULTURAL BUSINESSES.

MAINTENANCE OF THESE RIGHT-OF-WAYS IS ALSO NOT CONSIDERED IN
THIS BILL. FIRE SUPPRESSION, NOXIOUS WEED CONTROL, LITTER, AND
TRESPASS ARE A FEW OF THE AREAS WHICH NEED TO BE ADDRESSED.
WHILE THE RECREATIONAL GROUPS MAY SAY THEY WILL BE RESPONSIBLE,
ANY LACK OF MAINTENANCE WILL ADVERSELY AFFECT THE ADJACENT
LANDOWNERS. NOXIOUS WEEDS WILL SPREAD, FIRE MAY GET OUT OF

Ex. 18

2-20-91

HB 924

PAGE 2

CONTROL, INADVERTENT TRESPASS ONTO PRIVATE PROPERTY MAY OCCUR.
SOME OF THESE AREAS MAY NEED TO BE FENCED FROM PRIVATE LAND. WHO
WILL BUILD AND MAINTAIN THE FENCES?

MR. CHAIRMAN, THIS BILL RAISES MANY QUESTIONS IN THE MINDS
OF THE LIVESTOCK INDUSTRY.

WE ASK FOR A DO NOT PASS ON HOUSE BILL 924.



MONTANA FARM BUREAU FEDERATION

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

EXHIBIT 19
DATE 2-20-91
~~HB 924~~

BILL # HB-924; TESTIMONY BY: Lorna Frank

DATE Feb. 20, 1991; SUPPORT _____; OPPOSE Yes

Mr. Chairman, members of the committee, for the record I am Lorna Frank, representing the Montana Farm Bureau.

We are opposed to HB-924. Adjacent landowners or the owner of the property underlying the easement should be given the right to buy abandoned railbeds at a fair market value before the land is offered to anyone else for what ever purpose.

In some cases the land owners contract with the rail road company said that if the rail road lines were abandoned the land would revert back to the landowner. That land can not and should not be put to some other use.

This is an erosion of private property rights and weakens all other rights guaranteed to individuals by the Constitution.

We urge this committee to do not pass HB-924.

SIGNED: Lorna Frank

Amendments to House Joint Resolution No. 31
First Reading Copy

Requested by Rep. Raney
For the House Committee on Natural Resources

Prepared by Gail Kuntz
February 18, 1991

1. Title, line 8.

Following: "POLICY"

Insert: "IN COOPERATION WITH THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION"

2. Page 2, line 22.

Following: line 21

Insert: "WHEREAS, the Department of Natural Resources and
Conservation, Energy Division, has considerable expertise and
information related to energy production, consumption, and
conservation in Montana; and"

3. Page 3, line 6.

Following: "Council"

Insert: ", in cooperation with the Department of Natural
Resources and Conservation,"



PUBLIC SERVICE COMMISSION

2701 Prospect Avenue • Helena, Montana 59620-2601
Telephone: (406) 444-6199

DATE 2-20-91
HJR 31

February 20, 1991

Howard Ellis, Chairman
Danny Oberg, Vice Chairman
Bob Anderson
John Driscoll
Wallace W. "Wally" Mercer

To: House Natural Resources Committee
From: Bob Anderson, Public Service Commissioner *BA*
RE: HJR31

The purpose of this missive is to support HJR31, a significant step in energy policy development in this legislative session.

Observations

It's tough to legislate when there's a war going on. The conflict in the Middle East has diverted the national attention to a large extent. However, one issue has been highlighted by the war: *energy policy*.

Remember the 1970s? Montana was a national and regional leader in the energy issues of the times. Why is energy important to Montana? First, we are an energy consuming state. Because of our location, our climate, our low population density, and our large size, energy is vital to our economy. Second, we are an energy producing state. We have important fossil and renewable energy resources which can not only meet our needs but could play an important role in our export economy. Finally, energy production and consumption have significant environmental and social effects.

During the 1980s we lost our resolve to seek energy independence. Two reasons for this stand out. First, the globe was awash in oil and the price was low. By August 1, 1990, the price of gasoline at the pump (in inflation-adjusted terms) was the lowest it had been since the early part of the century. Second, the philosophy of the Reagan administration was to get the government out of planning and let the market work its magic.

Montana Audubon Legislative Fund

Testimony on HJR 31
House Natural Resources Committee
February 20, 1991

Mr. Chairman and Members of the Committee,

My name is Susan Lenard and I testify today on behalf of the Montana Audubon Legislative Fund. The Audubon Fund is composed of nine Chapters of the National Audubon Society and represents 2,500 members throughout the state.

Audubon supports the intent of HJR 31. We feel recent study of energy resources and energy use in Montana is required in order to develop a state energy plan. We support an energy policy that is developed with long term goals in mind. Environmental costs are of immediate importance when developing an energy policy and we are pleased that Representative Raney's legislation addresses that issue.

We do feel, however, that energy conservation should not be considered as an option in the Pacific Northwest region to meet future demands for electricity. (lines 6 & 7 page 2)

We strongly support extensive study and development of the uses of renewable resources in the state of Montana. This piece of legislation would set up the framework for an energy policy based upon a wide variety of energy options.

Audubon recognizes the present need for a comprehensive energy bill now, but we also recognize the need to use current and accurate information.

We ask for your support of HJR 31. Thank you.

2/20/91

HB 671

Insert #1 page 2, line 19

"For the purpose of this chapter, rights of property owners include the right to use, enjoy, improve, sell and convey in total or in part real property so long as the exercise of such rights does not deny these rights to other private real property owners or adversely effect public health, safety and welfare."

Insert #2 page 7, line 4

"The term includes:

- (i) any resubdivision;
- (ii) any residential condominium or building;
- (iii) any area regardless of its size, that provides or will provide multiple space for recreational camping vehicles or dwelling units; and
- (iv) work camp structures constructed to exist for longer than 1 year."

Insert #3 page 9, line 17

"(xiii) a division of land made for the purpose of mining where an application has been submitted or a permit or contract received under the provisions of Title 82, chapter 4."

Insert #4 page 18, line 10 (following "services.")

"For the purpose of this chapter, rights of property owners include the right to use, enjoy, improve, sell and convey in total or in part real property so long as the exercise of such rights does not deny these rights to other private real property owners or adversely effect public health, safety and welfare."

Insert #5 page 27 line 6

"(4) Within 15 days following submission to the governing body of a complete application by the subdivider, a public hearing on the subdivision may be requested by the subdivider or a citizen who demonstrates that he would be adversely affected by the subdivision."

Insert #6 page 28, line 22 (following "impacts")

"on cultural or historical resources, or environmental or ecological resources, including wildlife habitat, are probable, or that the subdivision would cause substantial adverse fiscal costs to the local government,"

Insert #7 page 32, line 8

"When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a master plan under Title 76 chapter 1, or pursuant to zoning regulations under Title 76 chapter 2, the governing body may establish park dedication requirements based on the community need for parks and the development densities identified in the plans or regulations. Such park dedication requirements shall be in lieu of those provided in subsection (1) and may not exceed 0.03 acres per dwelling unit."

2/20/91

HB 671

Insert #8 page 33, line 8

"The governing body, in consultation with the subdivider and the planning board or park board having jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication shall be a land donation, cash donation, or a combination of both."

Insert #9 page 34, line 21 (following "extending")

"capital facilities related to public health and safety including but not limited to"

Insert #10 page

"(b) cultural or historical resources;
(c) environmental or ecological resources, including wildlife habitat;"

Insert #11 page 9, line 24

"(26) "Water user entity" means an entity as described in 7-12-1151 and irrigation districts as provided in 85-7-101."

Insert #12 page 19, line 8

"(f) if a proposed major, minor or special subdivision lies partly or totally within the boundaries of a water user entity, that the proposed plat of the subdivision be submitted for review to the water user entity to ensure that the existence and location of all water user facilities are properly noted on the plat. Water user facilities include, but are not limited to, canals, laterals, open drains and closed drains."

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INTRODUCED BY *House* BILL NO. *671*
Barry Anderson Wallin
 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 MONTANA SUBDIVISION AND PLATTING ACT; REDEFINING
 SUBDIVISION; REMOVING CERTAIN EXEMPTIONS; PROVIDING AN
 EXPEDITED REVIEW PROCESS FOR MINOR SUBDIVISIONS AND SPECIAL
 SUBDIVISIONS; PROVIDING PUBLIC HEARING GUIDELINES AND AN
 OPTIONAL INFORMATIONAL HEARING PROCEDURE; ESTABLISHING
 PRIMARY CRITERIA FOR REVIEW OF ALL SUBDIVISIONS; PROVIDING
 CERTAIN ADDITIONAL REVIEW REQUIREMENTS FOR MAJOR
 SUBDIVISIONS; PROVIDING FOR SUITS AGAINST A GOVERNING BODY;
 AMENDING SECTIONS 7-16-2324, 76-3-102, 76-3-103, 76-3-104,
 76-3-105, 76-3-301, 76-3-302, 76-3-304, 76-3-305, 76-3-401,
 76-3-402, 76-3-403, 76-3-404, 76-3-405, 76-3-501, 76-3-507,
 76-3-601, 76-3-603, 76-3-608, 76-3-610, 76-3-611, 76-3-613,
 76-3-614, 76-4-103, 76-4-125, AND 76-6-203, MCA; REPEALING
 SECTIONS 76-3-201, 76-3-202, 76-3-203, 76-3-204, 76-3-205,
 76-3-206, 76-3-207, 76-3-208, 76-3-209, 76-3-210, 76-3-504,
 76-3-505, 76-3-604, 76-3-605, 76-3-606, 76-3-607, AND
 76-3-609, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
 APPLICABILITY DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-3-102, MCA, is amended to read:

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"76-3-102. Statement of purpose. It is the purpose of
 this chapter to ~~promote the public health, safety, and
 general welfare by regulating the subdivision of land; to
 prevent overcrowding of land; to lessen congestion in the
 streets and highways; to provide for adequate light, air,
 water, supply, sewage disposal, parks and recreation areas;
 ingress and egress; and other public requirements; to
 require development in harmony with the natural environment;
 to require that whenever necessary, the appropriate approval
 of subdivisions be contingent upon a written finding of
 public interest by the governing body; and to require
 uniform monumentation of land subdivisions and transferring
 divisions; require that the transfer of interests in real
 property be made by reference to plat or certificate of
 survey; provide simple, clear, and uniform guidelines for
 review of subdivisions; ^{and to} promote environmentally sound
 subdivisions; and protect public health, safety, and welfare
 in a manner that also protects the rights of property
 owners." *Insert 1*~~

Section 2. Section 76-3-103, MCA, is amended to read:

"76-3-103. Definitions. As used in this chapter, unless
 the context or subject matter clearly requires otherwise,
 the following words or phrases shall have the following
 meanings:

(1) "Certificate of survey" means a drawing of a field

-2-

INTRODUCED BILL

HB 671

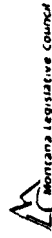


EXHIBIT 24
DATE 2/20/91
HB 671

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 2-20-91 BILL NO. 671 NUMBER _____

MOTION: HB 671 Do Pass as amended

NAME	AYE	NO
REP. MARK O'KEEFE, VICE-CHAIRMAN	/	
REP. BOB GILBERT	/	
REP. BEN COHEN	/	
REP. ORVAL ELLISON	/	
REP. BOB REAM	/	
REP. TOM NELSON		/
REP. VIVIAN BROOKE	/	
REP. BEVERLY BARNHART	/	
REP. ED DOLEZAL	/	
REP. RUSSELL FAGG		/
REP. MIKE FOSTER	/	
REP. DAVID HOFFMAN		/
REP. DICK KNOX		/
REP. BRUCE MEASURE	/	
REP. JIM SOUTHWORTH	/	
REP. HOWARD TOOLE	/	
REP. DAVE WANZENRIED	/	
REP. BOB RANEY, CHAIRMAN	/	
TOTAL	14	4

Amendments to House Bill No. 844
First Reading Copy

Requested by Rep. O'Keefe
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
February 20, 1991

1. Title, line 6.

Following: "EXEMPTION;"

Insert: "APPROPRIATING FUNDS TO THE DEPARTMENT OF HEALTH AND
ENVIRONMENTAL SCIENCES;"

2. Page 9, line 13.

Following: line 12

Insert:

"NEW SECTION. Section 6. Appropriation. There is
appropriated \$100,000 from the general fund to the department of
health and environmental sciences for fiscal year 1993."

Amendments to House Bill No. 637
First Reading Copy

Requested by Rep. Becker
For the Committee on Natural Resources

Prepared by Gail Kuntz
February 20, 1991

1. Page 1, line 18.

Following: line 17

Insert: "STATEMENT OF INTENT"

A statement of intent is required for this bill to provide direction to the department of agriculture for enforcement of the requirements of [section 1] relating to notification of pesticide applications. Pursuant to the provisions of 80-8-306(3), if the department receives a complaint that a person other than a licensed applicator has failed to comply with the notification requirements of [section 1] and the complaint constitutes the person's first alleged violation of [section 1], the department shall contact the person by telephone to discuss the complaint and to inform the person of the requirements of [section 1]. If the department receives a second complaint that a person has failed to comply with [section 1], the department shall investigate the complaint consistent with the department's existing procedures for responding to alleged violations of Title 80, chapter 8."

2. Page 1, line 21.

Following: "pesticide"

Insert: "to control weeds or insects or applying a pesticide"

3. Page 1, line 25.

Strike: "(3)"

Insert: "(5)"

4. Page 2, line 1.

Following: "(2)"

Strike: "For a period beginning 48 hours prior to and"

Insert: "At the time of each application of a pesticide and for a period"

5. Page 2, line 2.

Following: "after"

Strike: "each"

Insert: "the"

6. Page 2, line 15.

Following: "application;"

Insert: "and"

7. Page 2, line 18.

Strike: line 18 in its entirety

Ex. 26 2062
2/20/91
HB 637

8. Page 2, line 23.

Following: line 22

Insert: "(3) Commercial applicators may use their existing signs and sign materials in lieu of the requirements of subsection (2)(a) and (2)(b) until June 30, 1993. Thereafter, commercial applicators's signs must comply with the requirements of subsection (2).

(4) In lieu of the notification required by subsection (2), a unit of the state, federal, or local government, including a weed management district, mosquito control district, or other public entity, that applies or causes to be applied a pesticide over any portion of the land area within its jurisdiction that lies within the boundaries of an incorporated city or town may provide public notice on the day of the intended application. Notice may be provided by a radio or television broadcast and must include:

(a) a general description of the area where the pesticide will be applied;

(b) the common or trade name and the chemical name of the pesticide to be applied;

(c) the date of the pesticide application; and

(d) the name of the unit of government or other public entity responsible for the pesticide application and the name and telephone number of a person who may be contacted by interested citizens."

Renumber: subsequent subsections

9. Page 3, line 5.

Following: "pesticides"

Insert: "; (c) applications of pesticides on an emergency basis for purposes of self-defense from insect attack"

Amendments to House Bill No. 908
First Reading Copy

Requested by Rep. Harper
For the Committee on Natural Resources

Prepared by Paul Sihler
February 20, 1991

1. Title, line 6.
Following: "THE"
Insert: "ACQUISITION,"
Following: "INSTALLATION"
Insert: ", "

2. Title, line 13.
Following: "85-1-604,"
Insert: "85-2-102,"

3. Page 1, line 25.
Following: "legislature"
Insert: "where reasonable and practical"

4. Page 2.
Following: line 8
Insert:

"Section 1. Section 85-2-102, MCA, is amended to read:

"85-2-102. (Temporary) Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Appropriate" means to:

(a) divert, impound, or withdraw (including by stock for stock water) a quantity of water;

(b) in the case of a public agency, to reserve water in accordance with 85-2-316; or

(c) in the case of the department of fish, wildlife, and parks, to lease water in accordance with 85-2-436.

(2) "Beneficial use", unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses;

(b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141; and

(c) a use of water by the department of fish, wildlife, and parks pursuant to a lease authorized under 85-2-436.

(3) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(4) "Certificate" means a certificate of water right issued by the department.

(5) "Change in appropriation right" means a change in the place of diversion, the place of use, the purpose of use, or the

place of storage.

(6) "Commission" means the fish and game commission provided for in 2-15-3402.

(7) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(8) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(9) "Existing right" means a right to the use of water which would be protected under the law as it existed prior to July 1, 1973.

(10) "Ground water" means any water beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water, and which is not a part of that surface water.

(11) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(12) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency thereof, or any other entity.

(13) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water but not a private corporation, association, or group.

(14) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other manmade waterways.

~~(14)~~(15) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

~~(15)~~(16) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

~~(16)~~(17) "Water division" means a drainage basin as defined in 3-7-102.

~~(17)~~(18) "Water judge" means a judge as provided for in Title 3, chapter 7.

~~(18)~~(19) "Water master" means a master as provided for in Title 3, chapter 7.

~~(19)~~(20) "Well" means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn. (Terminates June 30, 1993--sec. 11, Ch. 658, L. 1989.)

85-2-102. (Effective July 1, 1993) Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Appropriate" means to divert, impound, or withdraw (including by stock for stock water) a quantity of water or, in the case of a public agency, to reserve water in accordance with 85-2-316.

(2) "Beneficial use", unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses; and

(b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141.

(3) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(4) "Certificate" means a certificate of water right issued by the department.

(5) "Change in appropriation right" means a change in the place of diversion, the place of use, the purpose of use, or the place of storage.

(6) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(7) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(8) "Existing right" means a right to the use of water which would be protected under the law as it existed prior to July 1, 1973.

(9) "Ground water" means any water beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water, and which is not a part of that surface water.

(10) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(11) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency thereof, or any other entity.

(12) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water but not a private corporation, association, or group.

(13) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(14) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(15) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other manmade waterways.

~~(15)~~(16) "Water division" means a drainage basin as defined in 3-7-102.

~~(16)~~(17) "Water judge" means a judge as provided for in Title 3, chapter 7.

~~(17)~~(18) "Water master" means a master as provided for in Title 3, chapter 7.

~~(18)~~(19) "Well" means any artificial opening or excavation

in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn."

Renumber: subsequent sections

5. Page 3, line 25.

Strike: "2"

Insert: "3"

Following: "to"

Insert: "acquire,"

Following: "install"

Insert: ", "

6. Page 4, line 3.

Following: "dewatered"

Insert: ", except that where the board specifically finds that the installation of measuring devices along the entire water course is not practicable within the 2 year deadline, it may establish a later deadline"

7. Page 4, line 24.

Strike: "and"

8. Page 4, line 25.

Following: "dewatering"

Insert: ";

(f) existence of temporary or final decrees;

(g) history, if any, of conflict among water rights holders on the watercourse; and

(h) practicality and reasonableness of installing measuring devices on diversions along the watercourse"

9. Page 5, line 12.

Following: "and"

Insert: "acquisition and"

10. Page 8, line 2.

Following: "and"

Insert: "acquisition and"

11. Page 8, line 23.

Following: "Section"

Strike: "2"

Insert: "3"

12. Page 8, line 25.

Following: "section"

Strike: "2"

Insert: "3"

DATE 2/20/91
~~HJ~~ HJR 39

Amendments to House Joint Resolution No. 39
First Reading Copy

Requested by Rep. Daily
For the Committee on Natural Resources

Prepared by Deborah Schmidt
February 20, 1991

1. Page 2, lines 15 and 16.
Following: "area" on line 15
Strike: ", which prompted the construction of"
Insert: "when the West Camp was sealed off with"

EXHIBIT 29
DATE 2/20/91
HB 351

Amendments to House Bill No. 351
First Reading Copy

Requested by Rep. Cohen
For the Committee on Natural Resources

Prepared by Paul Sihler
February 20, 1991

1. Page 1.

Following: line 9

Insert:

"STATEMENT OF INTENT

A statement of intent is provided for this bill to clarify the responsibilities of the department of state lands. It is the intent of the legislature that the department develop best management practices for wildlife. The goal of the best management practices should be to provide a diversity of habitat and to assure the greatest diversity of species within those habitats for the survival and reproduction of enough individuals to maintain the native wildlife populations of Montana forest lands. In developing these best management practices, the department should consult with wildlife officials from federal, state, and private agencies and organizations and consider the experiences of other states."

EXHIBIT 30DATE 2/20/91HB 351

HOUSE OF REPRESENTATIVES

NATURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 2/20/91 BILL NO. HB 351 NUMBER 1MOTION: ~~wait~~ Do Pass as amended

NAME	AYE	NO
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓	
REP. BOB GILBERT		✓
REP. BEN COHEN	✓	
REP. ORVAL ELLISON		✓
REP. BOB REAM	✓	
REP. TOM NELSON		✓
REP. VIVIAN BROOKE		✓
REP. BEVERLY BARNHART	✓	
REP. ED DOLEZAL	✓	
REP. RUSSELL FAGG	✓	
REP. MIKE FOSTER		✓
REP. DAVID HOFFMAN		✓
REP. DICK KNOX		✓
REP. BRUCE MEASURE	✓	
REP. JIM SOUTHWORTH	✓	
REP. HOWARD TOOLE	✓	
REP. DAVE WANZENRIED	✓	
REP. BOB RANEY, CHAIRMAN	✓	
TOTAL	11	7

Do Pass

EXHIBIT 31
DATE 2/20/91
HB 233

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 2/20/91 BILL NO. HB 233 NUMBER 1

MOTION: HB 233 DO PASS

NAME	AYE	NO
REP. MARK O'KEEFE, VICE-CHAIRMAN		/
REP. BOB GILBERT	/	
REP. BEN COHEN		/
REP. ORVAL ELLISON		/
REP. BOB REAM		/
REP. TOM NELSON	/	
REP. VIVIAN BROOKE		/
REP. BEVERLY BARNHART		/
REP. ED DOLEZAL		/
REP. RUSSELL FAGG	/	
REP. MIKE FOSTER	/	
REP. DAVID HOFFMAN	/	
REP. DICK KNOX	/	
REP. BRUCE MEASURE		/
REP. JIM SOUTHWORTH		/
REP. HOWARD TOOLE		/
REP. DAVE WANZENRIED		/
REP. BOB RANEY, CHAIRMAN		/
TOTAL	6	12

Failed 6 - 12

will reconsider action on 2/22

Amendments to House Bill No. 539
First Reading Copy

Requested by Rep. Daily
For the Committee on Natural Resources

Prepared by Gail Kuntz
February 19, 1991

1. Title, line 6.
Following: "ACT;"
Insert: "CLARIFYING THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES MAY TAKE REMEDIAL ACTION AT A SITE THAT IS SUBJECT TO THE FEDERAL COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980;"
Following: "REQUIRING"
Strike: "APPROVAL OF A CONSENT DECREE BY THE"
Insert: "CONSULTATION WITH CERTAIN"
2. Title, line 7.
Following: "GOVERNING"
Strike: "BODY"
Insert: "BODIES"
Following: "FOR"
Strike: "PERFORMANCE BONDS"
Insert: "FINANCIAL ASSURANCE"
3. Title, line 11.
Following: "PROPOSED"
Insert: "WORKPLAN,"
Following: "ORDER"
Insert: ", "
4. Title, lines 11 and 12.
Following: "DECREE;" on line 11
Strike: remainder of lines 11 and 12 in their entirety
5. Title, line 13.
Following: "75-10-704,"
Insert: "75-10-711,"
Following: "75-10-713,"
Strike: "75-10-714,"
6. Title, line 14.
Following: "75-10-719,"
Insert: "AND"
Following: "75-10-721,"
Strike: "AND 75-10-723,"
Following: "MCA"
Insert: "; AND PROVIDING A RETROACTIVE APPLICABILITY DATE"
7. Page 1, line 15.
Following: line 14
Insert: "STATEMENT OF INTENT"

A statement of intent is required for this bill to provide guidance to the department of health and environmental sciences concerning rulemaking to establish the specific terms and conditions of financial assurance that a liable person is required to provide pursuant to 75-10-719 and 75-10-721. The department shall consult and to the greatest extent practicable rely upon financial assurance concepts and requirements contained in federal regulations that implement the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended."

8. Page 2, line 14.

Following: "forfeited"

Strike: "performance bonds"

Insert: "financial assurance"

9. Page 3, line 13.

Following: line 12

Insert: "Section 2. Section 75-10-711, MCA, is amended to read:

"75-10-711. Remedial action -- orders -- penalties -- judicial proceedings. (1) The department may take remedial action whenever:

(a) there has been a release or there is a substantial threat of a release into the environment that may present an imminent and substantial endangerment to the public health, welfare, or safety or the environment; and

(b) the appropriate remedial action will not be done properly and expeditiously by any person liable under 75-10-715(1).

(2) Whenever the department is authorized to act pursuant to subsection (1) or has reason to believe that a release has occurred or is about to occur, the department may undertake remedial action in the form of any investigation, monitoring, survey, testing, or other information-gathering as authorized by 75-10-707 that is necessary and appropriate to identify the existence, nature, origin, and extent of the release or the threat of release and the extent and imminence of the danger to the public health, safety, or welfare or the environment.

(3) Any person liable under 75-10-715(1) must take immediate action to contain, remove, and abate the release. Except as provided in 75-10-712, the department is authorized to draw upon the fund to take action under subsection (1) if it has made diligent good faith efforts to determine the identity of the person or persons liable for the release or threatened release and:

(a) is unable to determine the identity of the liable person or persons in a manner consistent with the need to take timely remedial action; or

(b) the person or persons determined by the department to be liable under 75-10-715(1) have been informed in writing of the department's determination and have been requested by the department to take appropriate remedial action but are unable or unwilling to take action in a timely manner; and

(c) the written notice to each person informs him that if he is subsequently found liable pursuant to 75-10-715(1), he may be required to reimburse the fund for the state's remedial action costs and may be subject to penalties pursuant to 75-10-715(3).

(4) Whenever the department is authorized to act pursuant to subsection (1) or has reason to believe that a release that may pose an imminent and substantial threat to public health, safety, or welfare or the environment has occurred or is about to occur, it may issue to any person liable under 75-10-715(1) cease and desist, remedial, or other orders as may be necessary or appropriate to protect public health, safety, or welfare or the environment.

(5) A person who violates or fails or refuses to comply with an order issued under 75-10-707 or this section may, in an action brought to enforce the order, be assessed a civil penalty of not more than \$10,000 for each day in which a violation occurs or a failure or refusal to comply continues. In determining the amount of any penalty assessed, the court may take into account the nature, circumstances, extent, and gravity of the noncompliance and, with respect to the person liable under 75-10-715(1), his ability to pay; any prior history of such violations; the degree of culpability; the economic benefit or savings, if any, resulting from the noncompliance; and any other matters as justice may require. Civil penalties collected under this subsection must be deposited into the environmental quality protection fund established in 75-10-704.

(6) A court has jurisdiction to review an order issued under 75-10-707 or this section only in the following actions:

(a) an action under 75-10-715 to recover remedial action costs or penalties or for contribution;

(b) an action to enforce an order issued under 75-10-707 or this section;

(c) an action to recover a civil penalty for violation of or failure to comply with an order issued under 75-10-707 or this section; or

(d) an action by a person to whom an order has been issued to determine the validity of the order, only if the person has been in compliance and continues in compliance with the order pending decision of the court.

(7) In considering objections raised in a judicial action regarding orders issued under this part, the court shall uphold and enforce an order issued by the department unless the objecting party can demonstrate, on the administrative record, that the department's decision to issue the order was arbitrary and capricious or otherwise not in accordance with law.

(8) Instead of issuing a notification or an order under this section, the department may bring an action for legal or equitable relief in the district court of the county where the release or threatened release occurred or in the first judicial district as may be necessary to abate any imminent and substantial endangerment to the public health, safety, or welfare or the environment resulting from the release or threatened release.

(9) The department may take remedial action pursuant to

subsection (1) at a site that is regulated under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, if the department determines that remedial action is necessary to carry out the purposes of this part."

Renumber: subsequent sections

10. Page 3, line 14.

Following: "of"

Insert: "workplan,"

Following: "order"

Insert: ", "

11. Page 3, line 15.

Following: "comments --"

Insert: "meeting --"

12. Page 3, lines 16 and 17.

Following: "before" on line 16

Strike: "final approval by"

13. Page 3, line 17.

Following: "department"

Strike: "of"

Insert: "submits comments to the U.S. environmental protection agency on a proposed workplan or approves"

14. Page 3, line 18.

Following: "consent"

Insert: ", "

Following: "75-10-711"

Insert: ", "

15. Page 3, line 22.

Following: "proposed"

Insert: "workplan,"

Following: "order"

Insert: ", "

165. Page 3, line 25.

Following: line 24

Insert: "(b) receive comments from the county commissioners and governing bodies of cities, towns, and consolidated local governments in whose geographical area of jurisdiction the proposed workplan, administrative order, or consent decree would apply;

Renumber: subsequent subsections

17. Page 4, line 3.

Following: "proposed"

Insert: "workplan,"

Following: "order"

Insert: ", "

18. Page 4, line 5.

Following: "~~person~~,"

Insert: ", and upon written request by 10 or more persons or by a group having 10 or more members (but not including a liable person),"

19. Page 4, line 6.

Strike: "hearing"

Insert: "meeting"

20. Page 4, line 7.

Following: "proposed"

Insert: "workplan,"

Following: "order"

Insert: ", "

21. Page 4, line 8.

Following: line 7

Insert: "(d) at the request of the county commissioners or the governing body of a city or town or of a consolidated local government within whose area of jurisdiction a remedial action site is located, conduct a public hearing; and"

Renumber: subsequent subsections

22. Page 4, line 8.

Following: "to"

Insert: "relevant"

23. Page 4, lines 10 through 12.

Following: "~~meeting~~" on line 10

Insert: "meeting or"

Following: "hearing" on line 10

Strike: remainder of line 10 through "area" on line 12

24. Page 4, line 13.

Following: "proposed"

Insert: "workplan,"

25. Page 4, line 14.

Following: "order"

Insert: ", "

26. Page 4, line 16.

Following: line 15

Insert: "department's comments on the workplan or the"

27. Page 4, lines 16 through 22.

Following: "public." on line 16

Strike: "The" through "reasons." on line 22

Insert: "The administrative record supporting the department's comments on the workplan or the approved order or decree must contain the department's response summary prepared pursuant to subsection (1)(e)."

28. Page 4, line 23 through page 6, line 2.

Strike: section 3 in its entirety

Renummer: subsequent sections

29. Page 8, line 6.

Following: "department"

Strike: "shall"

Insert: "may"

30. Page 8, line 7.

Strike: "posting of a bond"

Insert: "liable person to provide financial assurance"

31. Page 8, line 8.

Following: "long-term"

Insert: "operation and"

32. Page 8, line 9.

Following: "site."

Insert: "The liable person shall provide the financial assurance by any one method or combination of methods satisfactory to the department, including but not limited to insurance, guarantee, performance or other surety bond, letter of credit, and qualification as a self-insurer."

33. Page 8, line 12.

Following: "exemption --"

Strike: "performance bond"

Insert: "financial assurance"

34. Page 9, line 18.

Following: "require"

Strike: "a performance bond"

Insert: "financial assurance"

35. Page 9, line 19.

Following: "person"

Strike: "or a remedial action contractor"

36. Page 9, lines 20 and 21.

Following: "ensure" on line 20

Strike: the remainder of lines 20 and 21

Insert: "the long-term operation and maintenance of the remedial action site. The liable person shall provide the financial assurance by any one method or combination of methods satisfactory to the department, including but not limited to insurance, guarantee, performance or other surety bond, letter of credit, and qualification as a self-insurer."

37. Page 9, line 22 through page 10, line 18.

Strike: section 6 in its entirety

Renummer: subsequent section

EXHIBIT 32
DATE 2-20-91
HB 539

38. Page 10, line 25.

Following: line 24

Insert: "NEW SECTION. Section 7. {standard} Retroactive
applicability. [This act] applies retroactively, within the
meaning of 1-2-109, to occurrences after June 30, 1985."

GREY BILL

CLARIFYING THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES MAY TAKE REMEDIAL ACTION AT A SITE THAT IS SUBJECT TO THE FEDERAL COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LC 0208/01 LIABILITY ACT OF 1980;

52nd Legislature

LC 0208/01

House Bill No. 539
Daryl K. Kory

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE

STATE COMPREHENSIVE ENVIRONMENTAL CLEANUP AND RESPONSIBILITY ACT; REQUIRING APPROVAL OF A CONSISTENT DECISION BY THE LOCAL GOVERNING BODY; PROVIDING FOR PERFORMANCE BONDS TO ENSURE COMPLIANCE WITH AGREEMENTS AND TO PROVIDE FOR LONG-TERM

MAINTENANCE OF REMEDIAL ACTION SITES; REQUIRING A RESPONSE TO WRITTEN COMMENTS OR COMMENTS RECEIVED AT A PUBLIC HEARING

ON A PROPOSED ORDER, OR DECREE; CLARIFYING THAT ADMINISTRATIVE COSTS MUST BE RECOVERED WHEN POSSIBLE; AND

AMENDING SECTIONS 75-10-704, 75-10-713, 75-10-714, 75-10-719, 75-10-721, AND 75-10-722, MCA."

STATEMENT OF INTENT

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-10-704, MCA, is amended to read:

"75-10-704. Environmental quality protection fund. (1) There is created in the state special revenue fund an environmental quality protection fund to be administered as a revolving fund by the department. The department is authorized to expend amounts from the fund necessary to carry out the purposes of this part.

(2) The fund may be used by the department only to carry out the provisions of this part and for remedial

actions taken by the department pursuant to this part in response to a release of hazardous or deleterious substances.

(3) The department shall:

(a) establish and implement a system for prioritizing sites for remedial action based on potential effects on human health and the environment; and

(b) investigate, negotiate, and take legal action, as appropriate, to identify responsible parties, to obtain the participation and financial contribution of responsible parties for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.

(4) There must be deposited in the fund:

(a) all penalties, forfeited performance bonds, natural resource damages, and remedial action costs recovered pursuant to 75-10-715;

(b) all administrative penalties assessed pursuant to 75-10-714 and all civil penalties assessed pursuant to 75-10-711(5);

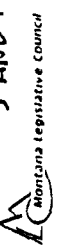
(c) funds appropriated to the fund by the legislature; and

(d) funds received from the interest income of the resource indemnity trust fund pursuant to 15-38-202.

(5) Whenever a legislative appropriation is insufficient to carry out the provisions of this part and

AND PROVIDING A RETROACTIVE APPLICABILITY-2- INTRODUCED BILL

DATE



HB 539

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

PLEASE PRINT

[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Natural Resources COMMITTEE BILL NO. 745
DATE 2-20-91 SPONSOR(S) Surfgood Beaverhead basin enclosure

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Gary Fritz	DNR C	✓	
Peter G. Rebish	EBID Dillon	✓	
Stan Bradshaw	MTU	✓	
Willy Franz	Montana Power Co.	✓	
Bill Staudenmeyer	Lima Dam	✓	
J. Brumm	MWA	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Natural Resources

COMMITTEE

BILL NO. 815
master plan

DATE 2-20-91 SPONSOR(S) Rep Lee

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Janet Ellis	MT Audubon	X	
Stan Bradshaw	MTU	✓	
Chris Kaufman	MEIC	✓	
Don Chance	MT. ENDERBY IND. ASSN		✓
Tom Hopgood	MT Assoc Realtors		✓
Richard C Parks	BCC	✓	
Jessy Sorensen	Flathead Basin Comm	✓	
Kathy Macfield	City of Helena	✓	
Roger Rasmussen	MT Assoc. of Planners	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Natural Resources

COMMITTEE

BILL NO. 731
riparian BMPs

DATE 2-20-91

SPONSOR(S) Ream

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Janet Ellis	MT Audubon	X	
Richard Pinks	self	✓	
Kim Wilson	Clark Fork Corlin	✓	
Stan Bradshaw	MTU	✓	
Jim Thorne	MSGA		✓
Mark Brooke	MSGA		✓
CAROL MASHER	MT. CATTLEWOMEN		X
Dore Allen Highway Dept Assoc	Mont. W. Ind. Assoc.		X
Peggy Parmelee	MT Assoc. Cons. Dist		X
Lorna Frank	Farm Bureau		X
Scott Snelson	MT wildlife Federation	X	
Jim Jensen	MEIC	x	
Cedron Jones 940 Wilder Helena	self	x	
Op Brumm	MSGA		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Susan Levard

self

X

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Natural Resources COMMITTEE BILL NO. 724
DATE 2-20-91 SPONSOR(S) Elliot timber export

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Janet Ellis	MT Audubon	X	
Stan Bradshaw	MTU	✓	
DAN EDWARDS	OCAW	X	
Don Judge	MT STATE AFL-CIO	X	
Gordon Wend	SELF	✓	
Jim Jensen	MEIC	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Natural Resources COMMITTEE BILL NO. 908
2-20-91 DATE SPONSOR(S) Harper dewatered water courses

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Stan Bradshaw	MTU	✓	
Lerna Frank	Farm Bureau	✓	
Jim Hume	MSGA	✓	
CAROL MOSHER	MT. CATTLEWOMEN	✓	
Larry Roberts	MT-Water Users Council	X	
John Brown	MARS		✓
Jim Jensen	WELC	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Natural Resources COMMITTEE BILL NO. 732
DATE 2-20-91 SPONSOR(S) Cohen Secured loads

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Natural Resources COMMITTEE BILL NO. 918
DATE 2-20-91 SPONSOR(S) Southworth solid waste
deformation

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Natural Resources COMMITTEE BILL NO. HJR 30
 DATE 2-20-91 SPONSOR(S) Cocchiarella Forest relief act

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Janet Ellis	MT Audubon	X	
CHRISTIAN MACKAY	MT STATE AFL-CIO	X	
DAN Edwards	ACLU	X	
Don Judge	MT STATE AFL-CIO	X	
Don Allen	MT. Wood Products Assn	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Natural Resources

COMMITTEE

BILL NO. 749
hard rock mining pro P151ms

DATE 2-20-91

SPONSOR(S) Ellison

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Richard Parks	APRC	✓	
Carol L. Ferguson ^{for Rick Young} for ^{chm!}	Hard Rock Mining Impact Bel	✓	
Ward Sherman	Chevron/Stillwater	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. 924
 DATE 2-20-91 SPONSOR(S) Measure Recreational
1st right of refusal
 PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Stan Bradshaw	MTU	✓	
Lorna Frank	Form Bureau		X
STAN BRADSHAW	MT SKATE AFTERS	X	
Jim Pittman	MSSA		X
CAROL MOSHER	MT. CATTLEWOMEN		X
Bob Stephens	MT. Grain Growers Assn		X
Leo Berry	BNRR		X
Eileen Brooke	Stockgrowers/Woolgrowers		X
Kathy Macefield	Self	X	
Kim Enkerud	MT Snake Grazing District MT Stockgrowers, MT Woolgrowers		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
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**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Natural Resources

COMMITTEE

BILL NO.

HJR 31
EQC energy sta

DATE 2-20-91

SPONSOR(S)

Raney

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Richard C. Prokes	APRC	✓	
GEORGE OCHENSKI	SELF	✓	
John Lahr	MPC	✓	
Susan Leonard	MAIP	X	
Jim Jansen	MEIC		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.