

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By **CHAIRMAN BOB RANEY**, on March 8, 1991, at 3:00 p.m.

#### **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  
Lisa Fairman, Committee Secretary

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

##### **Announcements/Discussion:**

#### **HEARING ON SB 283**

**Opening by Sponsor:** SEN. STEVE DOHERTY, SD 20, Great Falls, said SB 283 is introduced at the request of the Department of State Lands (DSL) to close some potential loopholes in the Hard Rock Mining Reclamation Act. Section 1 adds a new definition of the Commissioner of State Lands. Section 2 and 3 are the base of the Bill. Currently, if there are violations of statutes, rules or orders, the non-compliant entity can be taken to task by the Department. Everyone assumed that included permits, license and permit are being included in the list of statutes, rules or orders. In Section 3, the Commissioner of State Lands may order an immediate suspension of the permit whenever there is an

imminent danger to health or safety. The Bill had no opponents in the Senate Natural Resources Committee.

**Proponents' Testimony:**

**John North, Department of State Lands (DSL), supported HB 283.**  
**EXHIBIT 1**

**Paul Loaux, Northern Plains Resource Council, supported HB 283.**

**Kim Wilson, Clark Fork Coalition, supported HB 283.**

**Richard Parks, Gardiner, said they would be upset if conditions of the permit were not enforceable.**

**Opponents' Testimony: None**

**Questions from the Committee: None**

**Closing by the Sponsor:**

**SEN. DOHERTY recommended that SB 283 be concurred in.**

**HEARING ON HB 956 AND 889**

**REP. MARK O'KEEFE, HD 45, HELENA, sponsor of HB 956 and HB 889, said these Bills deal with the affects of mineral extraction of hard rock minerals and coal on water. He believes that water is the second most important resource in Montana. It is second only to air. Water affects not only the economic factor in Montana but also the social fabric. HB 956 and HB 889 set up a water protection strategy for the state that will protect the water resources from adverse effects that may be caused to those resources by the mining of coal or minerals in the State. These bills require the coal and hard rock miners in Montana to protect, restore or replace water resources that are damaged by mining activity. Mining companies will be required to put together water protection plans as a part of their application for a mine operating permit. These plans would include studies of hydrological consequences of the proposed mining activity, a two-year baseline study of the water resources identified as possibly being impacted, an outline and estimated cost of the measures proposed by the company to protect, restore or replace water resources. That will be under the Water Protection Plan. This shifts the burden of proof from the water user to the mining company. Under current law, water users who believe their water resources have been damaged, have to prove it. Under these bills, the companies have to prove they were not responsible for the damage. The bills would require financial assurance from restoration or replacement of water resources. There are bonding requirements that would require either bonds or other financial reassurance that is directed solely to the water resource. These bills allow for stronger mine enforcement provisions. It gives citizens expanded rights to report violations of mine reclamation**

law. Greater access to information to the public and appeal rights to the public. Companies with outstanding violations under these bills would be barred from receiving any new mine permits.

**Informational/Technical Testimony:**

**Denis Casey, DSL, provided informational testimony. EXHIBITS 2 and 3**

**Proponents' Testimony:**

**Paul Hawks, Northern Plains Resource Council, stated the organization believes water resources are every bit as important as mineral resources. These bill protect water during and after mining. Reclamation of mine sites must not only reclaim the land but also the water resources as well. Water is a complex resource. The key to protecting water is to plan ahead during the permit process. It is not intended to expand the term "beneficial use." EXHIBIT 4. He submitted written testimony on behalf of Carroll Merritt, Health Water Quality Board. EXHIBIT 5**

**Keith Rush, Noxon, supported HB 889. EXHIBITS 6 and 7. He submitted written testimony on behalf of the following Noxon residents: Leroy & Lola Magoffin EXHIBIT 8, Darrel & Sonja Hall EXHIBIT 9, Ernest Nicolls EXHIBIT 10, and Harry & Sheila Graeber EXHIBIT 11**

**REP. JIM ELLIOTT, HD 51, Trout Creek, said his district is concerned about water quality. Within his district lies the ASARCO-Lake Creek project, which is the largest silver mine in the western hemisphere and the proposed Rock Creek Project by ASARCO, an even larger project. He said that he questioned his constituents if they felt that water quality should be the same when a mining project is completed as it was before. 98% of the respondents agreed the water should be the same quality.**

**Jim Jensen, Montana Environmental Information Center, supported HB 889. One problem in a central Montana area is the number of bankruptcy proceedings surrounding hard rock mines. There should be sufficient bond requirements to allow water users to be compensated for water loss and loss of water quality for contaminated water supplies. Consideration regarding the potential for the loss of the business or the person's ability to make a living when bonding the mine. When a mine leaks cyanide, it will leak cyanide into surface or ground water. Water quality is a life threatening issue. He submitted written testimony on behalf of Alan Shammel, Kendal Concerned Area Residents. EXHIBIT 12**

**Nick Golder, Rancher, Colstrip, said he has seen the effects of Colstrip mining. He had been involved in getting reclamation bonds in place. They post a bond to see that reclamation would be done. Reclamation requirements have not included the water. Bonding requirements are an encouragement to reclaim surface and**

vegetation. They were innovative ideas used to get back the bond. The existing laws are fragmented and vague. The two Bills should specify exactly what would be done with the water.

**Doug McRae, Greenleaf Land and Livestock Company, South of Colstrip,** spoke about water availability and water quality.  
**EXHIBIT 13**

**Cesar Hernandez, Cabinet Resources Group (CRG),** showed slides of Asarco's Lake Creek Project. He supported the bills. **EXHIBIT 14.** He overviewed written testimony of **Jill Davies, CRG.**  
**EXHIBITS 15 & 15A**

**Janet Zimmerman, Concerned Citizens of Pony,** supported HB 889.  
**EXHIBIT 16**

**Bob Sawyer, Square Butte Grazing Association, Zortman,** supported HB 889. **EXHIBIT 17**

**Sherm Janke, Sierra Club,** said conservationists are accused of being opposed to everything. The Montana Chapter is not opposed to mining, as long as the sites are appropriate and the operation is responsible. The costs of environmental protection and rehabilitation should be handled by the extracting industry. This bill provides for both short and long term protection. This issue should not be cast in a jobs versus environment manner. He submitted written testimony for **Jeanne-Marie Souvigney, Greater Yellowstone Coalition.** **EXHIBIT 18**

**Ellen Pfister, Rancher, Bull Mountains,** supported HB 956. She reviewed information about long wall panel mining from a Bureau of Reclamation document. **EXHIBIT 19 and 20**

**Pete Tully, Rancher, Bull Mountains,** supported HB 956. **EXHIBIT 21**

**Stan Bradshaw, Montana Trout Unlimited,** supported the bills.

**Irvin Van Haur, Rancher,** said they had been promised no more water problems for at least one hundred years. They were told they had total water rights. When Kendall Mines drilled test holes in the limestone adjacent to his lands, wells went dry. These problems didn't exist until Kendall started drilling.  
**EXHIBIT 22**

**Noel Keogh, Rancher, Nye,** said a fraction of water is important to an agricultural operation. Water flows from 3.5-5 gallons per minute is what their ranch needs. The mining company has intercepted water numerous times and had problems. **EXHIBIT 23**

**Jack Heyneman, Rancher, Fishtail,** supported HB 889 and HB 956.  
**EXHIBIT 24**

**Frank Lore, Cottonwood Research Council,** an affiliate of Northern

Plains, supported HB 889 and HB 956.

Richard Parks, Rancher, Gardiner, submitted written testimony on behalf of Miriam Skertich. EXHIBIT 25

Bill Gillion, Northern Plains Resource Council, Rancher near Colstrip, supported HB 889 and HB 956. He submitted written testimony on behalf of Patty Kluver, Forsyth. EXHIBIT 26

REP. SOUTHWORTH submitted letters from his constituents supporting HB 889 and HB 956. EXHIBIT 27

Opponents' Testimony:

Alan Joscelyn, Attorney, Helena, stated his practice has included mining permitting and water quality. He is concerned with HB 889. He feels that adequate laws do exist. EXHIBIT 28

Gary Langley, Montana Mining Association, opposed the bill.

Robin McCulloch, Research Mining Engineer, Montana Bureau of Mines, opposed HB 889. EXHIBIT 29

Max Botz, Professional Engineer and Hydrogeologist, opposed HB 889. EXHIBIT 30

John Fitzpatrick, Pegasus Gold Corporation, opposed HB 889. Section 17 could be costly. A person may call the DSL and say the water has been harmed. Immediately the company is contacted. The company is to mitigate or replace the alleged damage to the water. After that the company goes to court. There is a presumption of guilt implied in this law. This invites abuse, harassment and false claims. Mr. Fitzpatrick responded to testimony by Mr. Sawyer from Square Butte. This issue has been discussed with his company. Square Butte has never provided Pegasus with facts to support their allegation.

Dave Simpson, Westmoreland Resources, Hardin, opposed HB 956. EXHIBIT 31

Fran Amendola, Chairman of the Environmental Technical Committee, Montana Coal Council, opposed HB 956. EXHIBIT 32

Ken Williams, Western Energy Company, Butte, said the coal mine permitting statutes are on a five- year basis. There is adequate protection under existing law.

Marvin Ratciff, submitted written testimony on 3/11/91 opposing HB 889. EXHIBIT 33

Jerry Hawley submitted written testimony on 3/15/91 opposing HB 889 and HB 956. EXHIBIT 34

Questions from the Committee:

REP. SOUTHWORTH asked Mr. McCulloch if the testimony was correct. Mr. McCulloch said yes, but that economic information was not covered.

REP. DICK KNOX asked if it would be possible to complete all reclamation. Mr. Botz said it is impossible to do it all in the mining area. REP. KNOX asked if it is possible with the types of technology that exists today. Mr. Botz said it is almost impossible in hard rock mining.

REP. FOSTER asked what is DSL's views regarding bonding. Bonnie Lovelace, DSL, said every application includes a reclamation plan. The Department verifies and evaluates the costs. They calculate it from a third party should the Department become responsible for reclaiming the site. REP. FOSTER asked about the water aspect. Ms. Lovelace said that with a surface mine, there are going to be hydrologic features to be considered. Some items may be itemized. Sandi Olsen, DSL, said under the Hard Rock Bonding Requirements, the Department routinely includes monitoring the treatment costs, particularly for operations where cyanide was used. The bonding cost may include permanent treatment of water coming from pits and the amounts.

REP. BROOKE asked if the drought situation in the areas had been taken into consideration during the two-year baseline study. Mr. Casey said the two-year baseline study includes two years to measure all aspects. REP. BROOKE asked if mining activity made considerable demand on water in those areas. Mr. Casey said he was not certain about the demand of the water. The one-year baseline study currently used is adequate.

REP. HOFFMAN asked if the law were in place, would Pony's situation be different. Mr. Casey said no. The Pony situation is a completely different situation. Regulations were adopted and became effective.

REP. KNOX asked Mr. Van Haur if the test holes were plugged. Mr. Van Haur said that the manager of the mine said there is no law requiring test holes to be sealed. To his knowledge, none have been plugged.

CHAIR RANEY asked REP. O'KEEFE why he did not sign the fiscal note. REP. O'KEEFE said he didn't sign the fiscal note for several reasons. He received it on the 44th day and didn't have time to review it adequately. The assumption made on the fiscal note is that there would be two FTE hydrologists and one FTE engineer, hired at Grade 15, step 12. This is not high enough wages for the work and knowledge required. The fees provided in the bill will only fund .5 FTE. The fees are set by rule and the rule-making authority is the Department. If the fees are raised on the companies to pay for the FTE, the General Fund will be relieved of a large portion of the necessary funding. If the Bill gets through, it should go to Appropriations.

**Closing by Sponsor:**

REP. O'KEEFE said there are a number of amendments that he will bring to the Committee from the proponent's of the Bill. These amendments will clean up some of the problems that the opponents brought up. He said Mr. Joscelyn left him with the feeling that the proponents were distorting the facts, specifically the Golden Maple Mining Company. The proponents were presenting their case. If there is a false claim the company must be reimbursed for all costs incurred. The collapse of the mining industry in Montana during 1985 resulted from a national collapse and not from overly strict environmental protections. The opponents did not bring in one citizen. He said the mining companies and DSL have done nothing to make right the problems that have occurred.

**HEARING ON HB 866**

CHAIR RANEY announced the subcommittees on HB 866:

Department of Health and Environmental Sciences - Reps. Toole (chair), Foster, Nelson and Measure; the Department of Natural Resources and Conservation - Reps. Wanzenried (chair), Hoffman, Southworth and Knox; and Department State Lands - Reps. Brooke (chair), Dolezal, Fagg and Ellison. These people are working with the respective departments on the reorganization bill.

**Opening by Sponsor:** REP. DAVE BROWN, HD 72, BUTTE-SILVER BOW, assured the Committee that it is simpler than it appears. Most of the changes are in name, agency or statute. The Bill reorganizes DHES, DNRC and DSL into three distinct departments with three specific missions. **EXHIBITS 35 & 36**

Sections 1-3 constitutes the major transfers that will take place between agencies to compose the new structure for the agencies. Sections 4-65 amends those statutes that have the name of one of those agencies in it and need to be changed. Sections 67-71 include the general provisions for the effective date for implementation in granting executive order to carry out the purposes of this legislation.

CHAIR RANEY suggested that, due to the late hour, those citizens, who are unpaid lobbyists, provide their testimony first so they may depart.

**Proponents' Testimony:**

Joseph Schenering, Noranda, supported HB 866. He said the recommendations to the Governor in the final report of the Governor's Advisory Council on Mine Permitting, of which he serves, are those changes recommended in HB 866.

**Opponents' Testimony:**

Warren McGee, Livingston Informed Friends of the Environment, Toxic Waste Investigation, Livingston, said the committee is

appointed by the mayor of Livingston. They have been overseeing the investigation of the toxic waste that Burlington Northern spread in Livingston. They are having difficulty getting a proper investigation. There is concern that if the departments are reorganized, they will lose their effectiveness and any progress made of the Livingston situation will be lost. HB 866 will weaken DHES's ability to protect the citizens. EXHIBIT 37

**Richard Parks, Northern Plains Resource Council, opposed HB 866. EXHIBIT 38**

**Kay Blehm, Yellowstone Valley Citizen's Council, Yellowstone County, urged the Committee not to support this Bill. The first concern is the loss of check and balances between the departments. If decisions are taken away from a board and a department with a direct input from the medical community this will also be a loss.**

**Larry Lloyd, Retired employee of Department of Health and Environmental Sciences, opposed HB 866. EXHIBIT 39**

**Additional Proponents' Testimony:**

**Ward Shanahan, Attorney, Stillwater Mining, supported HB 866. EXHIBIT 40**

**Dennis Iverson, Governor's Office, said Governor Stephens is a strong supporter of the bill because it will make the departments operate more efficiently.**

**Gary Langley, Montana Mining Association, agreed with the testimony by Mr. Schenering. The bill will expediting the permitting process for the mining industry. HB 448, which has passed the Committee and the House, will work nicely in concert with HB 866.**

**Informational Testimony:**

**Kim Wilson, Clark Fork Coalition, presenting testimony concerning the effects of the reorganization and suggested alternatives. EXHIBIT 41**

**Peggy Parmelee, Montana Association of Conservation Districts, expressed concerns with the bill. EXHIBIT 42**

**Opponents' Testimony:**

**Pete Frazier, Director of the Environmental Health Division, City/County Health Department of Great Falls, said the main concerns of health officers are that by removing many of the environmental programs from the Department of Public Health and Environmental Sciences will remove the environment from the public health area. During the development of this plan there was no involvement of local health departments, local governments**



or any public input with this Bill. A two-year study should be implemented so that public input could be provided.

**Stan Bradshaw, Montana Trout Unlimited**, said the basic idea is a good idea, but as proposed in the bill and the process of review that has been seen thus far, there are some serious problems. The Board of Natural Resources structure would have twenty additional responsibilities, as a result of this reorganization. If the bill does go forward, the Board should be restructured so particular areas of expertise would be part of the Board membership.

He opposed the process that was used with HB 866. There has been a lack of public review. A bill was presented a couple of weeks ago and there was a fiscal note. The deliberations of this agency will affect everybody in the state. Employees from the agencies will be affected and they are apprehensive about the Bill because they don't know what it means.

He suggested putting this before the Environmental Quality Council in the interim for close public scrutiny.

**Jim Jensen, Environmental Information Center**, seconded Mr. Bradshaw's comments. He gave credit to the Governor and former Representative Iverson for his work on this bill. He stated that the power that is concentrated in this agency for administration is not being offset by changes in the citizen counterbalance that is embodied in the Constitution.

#### Questions from Committee:

**REP. ORVAL ELLISON** asked if there would be too much work for the Director of the Board of Natural Resources as well as too much for a Board. **Mr. Iverson** said the charts are not as complete as they could be. There would be a deputy director for DNRC. **REP. O'KEEFE** asked about the responsibilities of the Board. **Mr. Iverson** replied said the Committee might restructure the Board of Natural Resources and Environment.

**REP. FAGG** asked **Mr. Wilson**, **Mr. Bradshaw** and **Mr. Jensen** if they would work with the Committee to come up with amendments that would make this bill palatable. **Mr. Jensen** said they would be willing to work with the Committee, but it is a burden for two to five of them to represent all of the organizations.

**REP. TOOLE** asked **Mr. Iverson** to expand on what has been done to plan space for employees. He asked if people were going to move out of buildings. **Mr. Iverson** said they have only addressed that issue superficially because of the potential changes and variations at this early stage.

**CHAIR RANEY** said he received a FAX from the Missoula County Commissioners opposing the bill. **Mr. Underwood**, City of Billings asked them to look at the Bill very hard.

REP. FAGG asked the opponents to come up with some amendments that would make the Bill work.

Closing by Sponsor:

REP. DAVE BROWN said the Missoula County Commissioner's opposition to this Bill is based on their county health department's opposition to the Bill. He asked the Board to consider the Bill despite some objection. Most groups have been informed during the course of the year. The health associations when they met in Butte last summer or fall were asked for their input.

CHAIR RANEY asked the members of the three subcommittees to meet on Wednesday and then together on Thursday to work out this bill. REP. BROOKE will chair the combined subcommittees.

ADJOURNMENT

Adjournment: 7:00 p.m.

  
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Bob Raney, Chair

  
\_\_\_\_\_  
Lisa Fairman, Secretary

BR/lf

**HOUSE OF REPRESENTATIVES**  
**NATURAL RESOURCES COMMITTEE**

**ROLL CALL**

**DATE** 3/8/91

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	✓		

Testimony of John North, Department of State Lands  
House Natural Resources Committee  
March 8, 1991  
SB 283

Under the Hard Rock Act, the Department of State Lands regulates exploration and mining for metalliferous minerals, such as gold, silver, copper, and talc. This regulation is accomplished through issuance of licenses for exploration and permits for mining. The Act generally requires the operations being conducted in a manner that does not violate air quality, water quality, and other laws and that, upon completion, the disturbed area must be reclaimed. The licenses and permits impose specific requirements that the Department finds necessary to meet the general requirements of reclamation and compliance with other laws.

Enforcement of the Act is accomplished through two procedures - civil penalties for less serious violations and permit suspension or revocation for the most serious violations. Unfortunately, the civil penalty statutes, which is on page 7 of the bill, authorizes civil penalties only for violations of the act, the rules, or an order. On its face, it does not specifically refer to violations of a permit. Similarly, the suspension statute, which is on page 8, of the bill, does not specifically refer to suspension for violations of the permit.

In practice, the Department has collected civil penalties and suspended permits for violation of the permit on the theory that, because the act requires a permit, violation of a permit is violation of the act. So far, no one has challenged this interpretation because it only makes sense that the Department can enforce its permits. Someday there could be needless litigation, however.

The second thrust of SB283 is also on page 8. It clarifies that the Commissioner can immediately suspend a permit if a violation creates an imminent danger to the health or safety of persons off the permit area. This language is essential because another statute (82-4-341) requires that the Department give the permittee 30 days to correct violations. Someone could argue that on the basis of this statute that, even in emergencies, the Department must allow 30 days to correct deficiencies. Again, no one has ever made this argument because a good regulatory program includes immediate permit suspension for emergency situations. Someday the argument could be made, however.

In short, this bill closes several loopholes in the law and thereby eliminates the possibility of needless litigation based on these technical deficiencies in the law. It does not change existing practices.

EXHIBIT 2  
DATE 3-8-91  
HB 889

Testimony of Dennis Casey  
Department of State Lands  
House Natural Resources Committee

March 8, 1991

From an administrative point of view, DSL has some concerns with HB889.

1. Funding: As cited in the fiscal note, funding is a concern. This bill adds significantly to the department's workload through the addition of numerous administrative procedures and technical reviews. The 3 FTE the department proposed are a reasonable estimate of FTE's needed. However, if various public involvement processes were misused, resources would need to be diverted from other activities.

2. Definitions: The Department questions the actual need for the definition of Water Protection Area as it currently reads. Under the current law and regulations the mine applicant consults with the Department to develop detailed baseline data collection plans which would define the hydrologic impact study area. The results of baseline data collection would allow for refinement of the hydrologic impact study boundaries early in the permitting process and expansion of data collection areas if necessary. An alternative definition could be linked to actual impact area as defined by these studies.

3. Wording: The wording of some provisions of HB889 also concerns the Department. There is an inconsistency in the use of the words "and" and "or". In most places the bill refers to "restoration or replacement" of water. In several places however the phrase "restoration and replacement" appears. The result of using the word "and" instead of "or" is that requirements are inadvertently inconsistent. The word "and" should be replaced with "or" as proposed in our amendments.

4. Self Bonding: Another concern is the provision on page 24, lines 23 through 25 line 2 (Section 10 (2)(f)) which provides the applicant an alternative to bonding by demonstrating a minimum financial worth and bond rating criteria. I wish to insert a word of caution, not only for the Committee's information but also for the interested parties and particularly the mining industry. This alternative, commonly known as "net worth" or "signature" bonding, will rarely, if ever, be accepted. Aside from costs of verifying financial statements on a regular basis, the assumption that the resources of the operator would be available, if needed, is extremely risky.

5. Mandamus and Appeals: HB889 also amends the mandamus requirements of the Act. On page 45, lines 1 through 19, the bill authorizes citizens to file affidavits alleging failure of the department to enforce the act and requires the department to investigate within 10 days. In order to assure that affidavits are not frivolous, the department feels some qualifying language is needed. In addition it is conceivable that a situation could

exist where, within 10 days, the department could not determine whether it agreed or disagreed with the affidavit. An issue may be complex enough to warrant additional study. Therefore the Department proposes lines 13-19 be modified as follows:

(2) Within 10 days of receipt of the AN affidavit THAT ALLEGES FACTS DEMONSTRATING PROBABLE CAUSE THAT A VIOLATION HAS OCCURRED, the department shall inspect the operation and location named in the affidavit and, based upon the inspection, the commissioner shall issue a written response to the person who filed the affidavit stating whether the commissioner agrees or disagrees that a violation has taken place OR STATING THAT SUPPLEMENTAL INVESTIGATION IS NECESSARY. IF THE DEPARTMENT DETERMINES THAT SUPPLEMENTAL INVESTIGATION IS NECESSARY IT MUST SET FORTH ITS RATIONALE AND PROVIDE A TIMEFRAME FOR COMPLETION OF THE INVESTIGATION. THE DEPARTMENT SHALL and provide a copy to the licensee or permittee.

In subsection (3), I am suggesting amendments that accomplish two purposes. First, the mandamus provisions need to be amended to bring them in line with traditional mandamus law. Second, the appeal process needs to be amended by replacing the appeal to the Board of Land Commissioners with a right to administrative hearing under the Administrative Procedure Act. The final decision would then be made by the Commissioner, not the Board of Land Commissioners. This is the way all administrative hearings under all the reclamation laws are conducted.

Also, I have concerns about paragraph (b) on page 46. This would require a permittee to pay the attorney fees and costs of a person or group who successfully challenged a decision of the Commissioner. This is unfair and I suggest removing it.

Finally, if the paragraph I have just discussed is eliminated, the right of a citizen to sue the permittee himself should be reinserted on page 47, lines 2 through 14.

6. Violations of Law: The language on page 50, Section 21 (1) lines 5 and 6, needs clarification. The reading of "state mine reclamation laws" here is unclear. Therefore language similar to that used on page 52, line 8 should be used. We would specifically propose line 6 be modified as follows:

"rules at an operation within this state."

7. Applicability: Finally, I have concerns about Section 27, the applicability provision. This provision applies to "proceedings begun after October 1, 1991." It is not clear what the word "proceedings" means. Does it mean: permit applications only, or does it include renewal applications, amendment applications, and revision applications? Unless this is clarified, litigation could result.



EXHIBIT 2  
DATE 3-8-91  
HB 889

DEPARTMENT OF STATE LANDS'  
PROPOSED AMENDMENTS TO HOUSE BILL 889  
(Introduced Bill)

1. Title, line 6.  
Following: "THE RESTORATION"  
Strike: "AND"  
Insert: "OR"
2. Title, line 7.  
Following: "AND"  
Insert: "RESTORATION AND CONTINUANCE OF"
3. Page 2, line 19.  
Following: "restoration"  
Strike: "and"  
Insert: "or"
4. Page 26, line 10.  
Following: "replacement"  
Strike: "or"  
Insert: "and"
5. Page 28, line 7.  
Following: "restoration"  
Strike: "and"  
Insert: "or"
6. Page 29, line 10.  
Following: "protection"  
Insert: "of water resources"  
Following: "restoration"  
Strike: ", and"  
Insert: "or"
7. Page 30, line 11.  
Following: "reclamation"  
Strike: "and"  
Insert: "or"
8. Page 32, line 4.  
Following: "and"  
Insert: "or"
9. Page 32, line 15.  
Following: "restoring"  
Strike: "and"  
Insert: "or"

Ex. 2.

3-8-91

HB 889

10. Page 33, line 3.  
Following: "restoration"  
Strike: "and"  
Insert: "or"
11. Page 33, line 8.  
Following: "restoration"  
Strike: "and"  
Insert: "or"
12. Page 45, line 13.  
Following: "receipt of"  
Strike: "the"  
Insert: "an"  
Following: "affidavit"  
Insert: "that alleges facts demonstrating probable cause that a violation of the act or rule has occurred"
13. Page 45, line 19.  
Following: "place"  
Strike: "and"  
Insert: "or stating that supplemental investigation is necessary. If the department determines that supplemental investigation is necessary it must set forth its rationale and provide a timeframe for completion of the investigation. The department shall"
14. Page 45, line 24.  
Following: line 24  
Strike: "appeal the commissioner's determination to the board"  
Insert: "request an administrative hearing"  
Following: "or"  
Insert: "if the commissioner's decision is arbitrary, capricious, or an abuse of discretion,"
15. Page 46, lines 5 and 6.  
Following: "board" on line 5  
Strike: "or bring an action in mandamus"
16. Page 46, line 7.  
Following: "occurred"  
Insert: "or bring an action in mandamus."
17. Page 46, lines 10 and 11.  
Following: "shall" on line 10  
Strike: ":(a)"
18. Pages 46 and 47.  
Following: line 14 on page 46  
Strike: paragraph (b) in its entirety
19. Page 47, line 15.  
Following: line 14

EXHIBIT 2  
DATE 3-8-91  
HB 889

Following: line 14

Insert: "(4) Any person having an interest that is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this part against any person for the violation of this part or any rule, order, or permit issued under it. However, no such action may commence:

"(a) prior to 60 days after the plaintiff has given notice in writing to the department and to the alleged violator; or

"(b) if the department has commenced and is diligently prosecuting a civil action to require compliance with the provisions of this part or any rule, order or permit issued under it.

20. Page 50, line 6.

Following: "rules"

Insert: "at an operation within the state"

-End-

EXHIBIT 3  
DATE 3-8-91  
HB 956

Testimony of Dennis Casey  
Department of State Lands  
House Natural Resources Committee

March 8, 1991

From an administrative point of view, DSL has some concerns with HB956.

1. Funding: As cited in the fiscal note, funding is a concern. This bill adds significantly to the department's workload through the addition of numerous administrative procedures and technical reviews. The 2 FTE the department proposed are a reasonable estimate of FTE's needed. However, if various public involvement processes were misused, resources would need to be diverted from other activities.

2. Definitions: The Department questions the actual need for the definition of Water Protection Area as it currently reads. Under the current law and regulations the mine applicant consults with the Department to develop detailed baseline data collection plans which would define the hydrologic impact study area. The results of baseline data collection would allow for refinement of the hydrologic impact study boundaries early in the permitting process and expansion of data collection areas if necessary. An alternative definition could be linked to actual impact area as defined by these studies.

3. Wording: The wording of some provisions of HB956 also concerns the Department. There is an inconsistency in the use of the words "and" and "or". In most places the bill refers to restoration or replacement of water. In several places however the phrase "restoration and replacement" appears. The result of using the word "and" instead of "or" is that requirements are inadvertently inconsistent. The word "and" should be replaced with "or" as proposed in our amendments.

4. Self Bonding: Another concern is the provision on page 32, lines 9 through 13 (Section 8 (2)(f)) which provides the applicant an alternative by demonstrating a minimum financial worth and bond rating criteria. I wish to insert a word of caution not only for the Committee's information but also for the interested parties, particularly the mining industry. This alternative commonly known as "net worth" or "signature" bonding, will rarely, if ever, be accepted. Aside from costs of verifying financial statements on a regular basis, the assumption that the resources of the operator would be available, if needed, is extremely risky.

5. Mandamus and Appeals: HB956 also amends the mandamus requirements of the Act. On page 81, lines 1 through 19, the bill authorizes citizens to file affidavits alleging failure of the department to enforce the act and requires the department to investigate within 10 days. In order to assure that affidavits are not frivolous, the department feels some qualifying language is needed. In addition it is conceivable that a situation could

exist where within 10 days the department could not determine whether it agreed or disagreed with the affidavit. An issue may be complex enough to warrant additional study. Therefore the Department proposes lines 13 thorough 19 be modified as follows:

(2) Within 10 days of receipt of the AN affidavit THAT ALLEGES FACTS DEMONSTRATING PROBABLE CAUSE THAT A VIOLATION HAS OCCURRED, the department shall inspect the operation and location named in the affidavit and, based upon the inspection, the commissioner shall issue a written response to the person who filed the affidavit stating whether the commissioner agrees or disagrees that a violation has taken place OR STATING THAT SUPPLEMENTAL INVESTIGATION IS NECESSARY. IF THE DEPARTMENT DETERMINES THAT SUPPLEMENTAL INVESTIGATION IS NECESSARY IT MUST SET FORTH ITS RATIONALE AND PROVIDE A TIMEFRAME FOR COMPLETION OF THE INVESTIGATION. THE DEPARTMENT SHALL and provide a copy to the licensee or permittee.

In subsection (3), I am suggesting amendments that accomplish two purposes. First, the mandamus provisions need to be amended to bring them in line with traditional mandamus law. Second, the appeal process needs to be amended by replacing the appeal to the Board of Land Commissioners with a right to administrative hearing under the Administrative Procedure Act. The final decision would then be made by the Commissioner, not the Board of Land Commissioners. This is the way all administrative hearings under all the reclamation laws are conducted.

Also, I have concerns about paragraph (b) beginning on page 82, line 19 and ending on page 83, line 5. This would require a permittee to pay the attorney fees and costs of a person or group who successfully challenged a decision of the commissioner. This is unfair and I suggest removing it.

Finally, whether or not the paragraph I have just discussed is eliminated, the right of a citizen to sue the permittee himself should be reinserted on page 83, lines 6 through 18 because this language is required by federal law.

6. Applicability: Finally, I have concerns about Section 26, the applicability provision. This provision applies to "proceedings begun after October 1, 1991." It is not clear what the word "proceedings" means. Does it mean: permit applications only, or does it include renewal applications, amendment applications, and revision applications? Unless this is clarified, litigation could result.

DEPARTMENT OF STATE LANDS'  
PROPOSED AMENDMENTS TO HOUSE BILL 956  
(Introduced Bill)

1. Title, line 7.  
Following: "RESTORATION"  
Strike: "AND"  
Insert: "OR"  
Following: "RESOURCES AND"  
Insert: "RESTORATION AND CONTINUATION"
2. Page 2, line 20.  
Following: "restoration"  
Strike: "and"  
Insert: "or"
3. Page 81, line 13.  
Following: "of"  
Strike: "the"  
Insert: "an"  
Following: "affidavit"  
Insert: "that alleges facts demonstrating probable cause that a violation of the act or rules has occurred"
4. Page 81, line 13.  
Following: "place"  
Strike: "and"  
Insert: "or stating that supplemental investigation is necessary. If the department determines that supplemental investigation is necessary it must set forth its rationale and provide a timeframe for completion of the investigation."
5. Page 81 and 82.  
Following: "may" on page 81, line 25  
Strike: the remainder of line 25 through "board" on page 82, line 1  
Insert: "request an administrative hearing"  
Following: "or" on page 82, line 1  
Insert: "if the commissioner's decision is arbitrary, capricious, or an abuse of discretion,"
6. Page 82, lines 8 and 9.  
Following: line 7  
Strike: line 8 through "mandamus" on line 9  
Insert: "request a hearing"
7. Page 82, line 10.  
Following: "occurred"  
Insert: "bring a mandamus action"
8. Page 82, lines 13 and 14.  
Following: "shall" on line 13  
Strike: ":(a)"



9. Pages 82 and 83.  
Following: line 18 on page 82  
Strike: paragraph (b) in its entirety
10. Page 83, line 19.  
Following: line 18  
Insert: "(4) Any person having an interest that is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this part against any person for the violation of this part or any rule, order, or permit issued under it. However, no such action may commence:
- "(a) prior to 60 days after the plaintiff has given notice in writing to the department and to the alleged violator; or
- "(b) if the department has commenced and is diligently prosecuting a civil action to require compliance with the provisions of this part or any rule, order or permit issued under it.

-End-

# Northern Plains Resource Council

EXHIBIT 4  
DATE 3-8-91  
HB 889 & 956

TESTIMONY ON HB889 AND HB 956  
HOUSE NATURAL RESOURCES COMMITTEE  
MARCH 8, 1991

Mr. Chairman, members of the committee: My name is Paul Hawks. I ranch near Melville in Sweet Grass County. I am Chairman of the Northern Plains Resource Council, a community-based Montana citizen's organization working on natural resource and agricultural issues.

We believe that water resources are every bit as important as mineral resources. HB889 and HB956 are designed to protect water resources during and after mining. Reclamation of a mine site must not only restore the land surface but the water resources as well, because the quality of the water resource, after mining, will be the key to a community's continued economic prosperity after mine shutdown. So the goal of these two bills is 1) to protect water resources from the outset, and 2) to restore or replace water which is impacted by mining.

We recognize that water is a complex resource and is not well understood by the agency, the company, or the water user. And that's exactly why it needs to be addressed upfront. The key to protecting the water resource is planning ahead in the permitting process and anticipating potential problems before the permit is issued. The bills before you today would require a "water protection plan" for the area around a mine site. The plan must include:

- 1) identification of all water users;
- 2) a detailed assessment of existing water resources;
- 3) the consequences of mining on the water resources;
- 4) the potential for restoring or replacing impacted water;
- 5) the estimated cost of water restoration or replacement.

Continuing instances of mining related discharges of hazardous substances into Montana's surface and groundwater necessitates improvements to state regulation of mining activities. The effectiveness of such regulations hinges upon an ability to compare water quality and quantity before mining occurs to water quality

page two

and quantity during and after mining. Meaningful water quality information must reflect natural variation in water quality and quantity that occur from season to season and from year to year. Therefore, these bills expand the required water baseline studies from one to a minimum of two years. We believe this will fit into the existing timeframes and will not slow the permitting process. As an example, Stillwater PGM resources received its exploration permit for its East Boulder mine in January 1988 and did not apply for an operating permit until March of 1990. Similarly, Noranda has been exploring since 1988 but did not apply for an operating permit for its Coboke City mine until November of 1990. Better baseline data will help determine whether or not damage has occurred, who's responsible, and how to fix the problem more quickly. The requirements of this "water protection plan" should be to everyone's benefit, whether you're the mine company, the affected water user, or the state regulator. We believe the result will be more responsible mining practices.

The companies will argue that existing laws are adequate to protect water resources. It is apparent from looking through DSL files that water resources are not being protected under the Metal Mines Reclamation Act. As of August 1990, over 20 hardrock mining companies had over 40 outstanding violations for "noncompliance" OF PERMIT CONDITIONS. Many of these violations are for water contamination. The state's coal reclamation act does contain provisions for water replacement. These need to be tightened up and incorporated into the hardrock act.

Of particular concern to neighboring water users is the ability to hold mining companies responsible for damaged water. Under HB889 and HB956, the burden of proof to determine the source of water damage would lie with the mine operator. Right now, the burden of proof rests unfairly on the impacted water user to prove water damage. Given the unpredictable nature of groundwater and the lack of adequate baseline data, this is a very expensive and difficult thing to prove. An individual cannot afford this. The company, on the other hand, has the resources and staff to prove its case. It is, after all, the party who is digging around in the water resources, and therefore, should shoulder this burden. Developing good baseline data, required in the "water protection plan", will then be in the company's best interests. The switching of the burden of proof would only extend to those water users

page three

who are identified within the boundaries of the "water protection area".

Both of these bills require the mine operator to post a bond to ensure that the "water protection plan" will be carried out without ever becoming a financial obligation of the state. The present reclamation bonding system deals primarily with surface reclamation measures and lacks complete water protection elements. The state often ends paying for cleanup when bonds do not cover protection of water resources. These two examples are from the attached "Water Damages" factsheet.

Mining companies must accept their responsibility to reclaim both the surface resources and the water resources. And bonds must be set at a realistic level to ensure that a proper job is done.

Two other provisions of HB889 and HB956 will be invaluable tools in alerting understaffed agencies to possible violators. One would expand a citizen's right to compel enforcement of suspected violations, and the other would prohibit a company in violation of state or federal laws from obtaining an operating permit.

Current Montana law, which focuses on restitution for damaged water uses, must have protection of water resources as its primary goal. Buying out a neighboring water user should never be considered the solution to fixing a water problem caused by mining. Development of the state's rich mineral resources cannot be at the expense of our invaluable water resources.

In closing, we believe these bills are about responsibility - about developing Montana's minerals in a responsible manner. Our communities are built upon trust and reliance on our neighbors, and ideally, there is no need to legislate responsibility. The industry representatives in this room feel they work for responsible companies and will argue these bills are unnecessary. But companies are only as responsible as the people who run them. And the reality is that faces change and management changes. Companies are bought and sold, and goals and operating standards change. So, unfortunately, some companies will only be as responsible as Montana's laws require them to be. And these bills must make clear to those companies who would place profits ahead of well-designed operations that we expect them to be good neighbors. There can be no compromise in protecting Montana's water resources.

-A. 7  
3-8-91

HB 889  
+ 956

# WATER DAMAGES: Shortfalls in Metal Mine Reclamations 889 + 956

## A Northern Plains Resource Council Factsheet

February 1991

### THE PROBLEM

Water is a critical resource in Montana affecting the value and productivity of the land. Groundwater is a poorly understood resource and its behavior is difficult to predict. Nevertheless, it is clear that pollution and depletion of groundwater is caused by coal and metal mining activities, waste disposal landfills, and other sources like chemical spills and underground storage tanks.

The Montana Water Quality Bureau (WQB) reports it receives 10-15 complaints per year related to suspected water damage from hard rock mining; the Department of State Lands (DSL) receives approximately 10 per year. Most complaints are reported by the mine or a citizen while some are discovered during an inspection. In most cases some form of remedial action is taken, or a lawsuit is pursued. Unfortunately, complaints do not prevent groundwater contamination. According to the rules which implement Montana's Water Quality Act, mining companies can contaminate water resources within their permit boundaries as long as the water leaving their property is not degraded (ARM 16.20.1010).

### WATER DAMAGES

—In 1988 Stillwater Mining Company's (SMC) east adit hit a groundwater spring (approximately 1000-2000 gpm), drying up a waterfall on Spring Creek. A local rancher had water rights on this creek. SMC bought out the ranch operation and the water resource remains unreclaimed.

—In 1989 at the Golden Sunlight Mine (GSM), a retaining wall failed in the tailings impoundment and released millions of gallons of cyanide laced water. The release eventually contaminated two family wells near the mine. GSM "fixed" the problem by buying out both families and never claimed responsibility for the contamination.

### BONDS DO NOT COVER CLEANUP

Even in cases where bonds are required, and reclamation plans developed, serious environmental damage can remain when companies forfeit bonds. In several instances companies have forfeited bonds because it is cheaper for them to do so. The state then has to clean up the contamination from spills or poor operating practices.

—The Intergem Mine in the Little Belt Mountains in central Montana posted a \$71,600 bond in 1982. Two years of mining resulted in damage that the state estimates will cost \$218,000 to reclaim. The site is currently unsafe and hazardous. State officials could only comment that "I would guess at the time the bond was adequate."

—At the Quartz Gulch placer mine in western Montana, the company posted an additional \$17,600 bond to cover costs of reclamation work supposed to have been completed under the original bond of \$3,200.

—At the Golden Maple Mine near Lewistown, cyanide from a heap leach operation was released into groundwater, contaminating a nearby water supply. The company's reclamation bond of \$35,500 was grossly inadequate to clean up the site. The state estimated the cost of "minimal" surface clean up to be \$115,000 to \$120,000.

—The Nellie Grant Mine 20 miles southwest of Helena was abandoned in 1982 after the company, Sparrow Resources Ltd. of Canada, folded. Bonds originally posted by the company were insufficient to cover reclamation costs. The state has already spent \$60,000 on reclamation at the site, which is contaminated with heavy metals, cyanide and arsenic. The company also left behind over \$200,000 in fines for water quality violations.

—In January 1991 the Blue Range Mine was forced to shut down after cyanide from their tailings was found in a monitoring well. The mine had posted a \$69,000 reclamation bond but it does not cover cleanup of water contamination. The company is paying for the cleanup effort but the bond does not cover possible future water problems. The environmental assessment done for the mine had predicted likely water contamination in 15 years. The reality is it took less than 3 months.

**"...between two-thirds and three-fourths of the mines that have used cyanide in Montana have had documented fluid losses."**

--Interim Study on Groundwater Quality Protection and Management, Environmental Quality Council, December 1990, p. 47.

### INHERENT BOND INADEQUACIES

The present reclamation bonding system used for hard rock mines lacks complete water protection elements. Bonds are presently calculated for water treatment and surface reclamation measures. If a problem arises and a bond is forfeited, the money can only be spent on the specific reclamation requirements outlined in the reclamation plan. This bonding does not cover reclamation failures, mistakes, emergency cleanup of contamination, or long term water resource impacts.

—In October 1988 SMC posted a reclamation performance bond for its east side mine development of \$1,381,513. Of this amount a \$50,000 lump sum is for "post-operation monitoring, water treatment, and establishment of reclamation diversion structures for mine water discharge and reclaimed tailings impoundment runoff" for 3 years after shutdown. This bond does not include the cost of water contamination clean up or water replacement if monitoring shows a groundwater pollution problem.

—In June 1989 CoCa Mines (Hog Heaven) posted a \$644,000 bond. Of this amount \$47,000 is for treating toxic milling water and post-mine monitoring. No provisions are made for clean up of spills, leaks, or emergencies if reclamation efforts fail.

—In August 1989 New Butte Mining Company posted a \$498,000 bond for reclamation. No amount is allocated to cover any possible water contamination, treatment, cleanup, replacement or monitoring.

—In July 1988 Beal Mtn. Mining (Pegasus) posted a \$2,770,172 bond of which \$1,173,770 is for treating water in the cyanide heap leach circuit and 2 years of monitoring. No amount is provided for leaks, spills, emergency releases, clean up or water replacement.

—Pegasus's Zortman Mine Inc. in June 1989 posted a \$1,421,250 bond of which \$300,000 is for water treatment of the saturated leach pad and solution ponds. The treated water will be applied to the land surface. An additional \$30,000 is for post mine water quality monitoring. If water monitoring shows the groundwater to be contaminated, none of this bond is set aside for reclaiming water resources.

**"...sources of groundwater contamination by hard rock mining operations include cyanide heap leach facilities, disposed tailings, spills and leaks, and water accumulating in abandoned pits. Fluids from these sources may contain cyanide, trace elements, heavy metals and inorganic (chemicals)..."**

**--Interim Study on Groundwater Quality Protection and Management**, Environmental Quality Council, December 1990, p. 46.

## **FINES AND VIOLATIONS**

—The Viking Mine operated a cyanide heap leach operation in Powell County until 1982. In 1985 the WQB reported that the mine's tailings pond had been overflowing for 5 years, releasing cyanide and heavy metals. The WQB repeatedly tried to have the mine owner correct the problems. In August 1990, the Forest Service notified the owner his \$6,875 bond would be forfeited if a reclamation plan was not received in 30 days. According to the WQB, it was cheaper for the operator to forfeit the bond than reclaim the area.

—In the summer 1989, El Dorado Gold Inc. discharged sediment laden water from a mine pit into Browns Gulch near Virginia City. DSL staff warned that without extensive reclamation the stream would be severely damaged. DSL complained in an Aug. 1989 memo that this mine has been shut down and "...we are now stuck with a big mess and inadequate bond." Several months later the WQB filed a complaint asking the company to reclaim the damages. Four days later the mine owner left Montana, and was later quoted as saying "if it cost me more than my bond, then I'm going to run" (WQB, 8/90).

—In August 1985 Golden Maple Mining received 4 violations for noncompliance of its permit. The violations were for conditions which threatened water quality. In September 1985 the mine received another violation for non-action on the first four violations. In November 1985 their permit was revoked and, by January 1986 another violation resulted from unpermitted exploration. A year later in Dec. 1986 the DSL was using the mine's forfeited \$35,500 bond and an additional \$305,000 out-of-court insurance settlement to reclaim the site. Water treatment for the tailings alone cost the

state \$85,000, which the bond did not cover. Golden Maple has left the state, leaving behind \$42,400 in unpaid fines and civil penalties to both the DSL and the WQB.

—Basin Creek Mine. When owned by Pangea, the mine polluted state waters with arsenic, suspended solids and pH irregularities in July 1988. The mine also discharged sediment-laden water in an unpermitted location. Pangea was fined \$6901 in addition to a \$10,000 suspended fine. Soon after, Pegasus Gold purchased the mine property, and was required to abide by the conditions of Pangea's suspended fine.

In November 1989 DSL found a puddle contaminated with cyanide off the leach pad's lined surface. Pegasus claimed it was caused by transportation of materials off the lined surface. DSL field staff recommended a \$6,000 fine. It was not until a settlement conference in February 1991 that DSL and Pegasus agreed on a \$2,600 - \$2,900 range for the fine.

In June 1990 Basin Creek was fined \$10,000 for two Water Quality Act violations and another \$5,000 for violating the operating conditions specified in Pangea's suspended fine. In addition, Pegasus must continue to operate under another suspended fine of \$10,000. Pegasus has paid a total of \$16,000 for this latest incident.

—Chelsea Resources Spotted Horse Mine. In December 1989 the DSL suspended the company's operating permit because of improper placement of tailings. The state recovered the \$75,000 bond. Chelsea Resources folded, and the bond only covered the cost of surface reclamation. In May 1990 a six inch rain storm filled the mine tailings pond with cyanide laden water. As of February 1991 the DSL has spent \$10,000 to cleanup this contaminated water.

As of August 1990 over 20 hard rock mining companies have over 40 outstanding violations for "noncompliance" of permit conditions. The fines total over \$606,000. As the above examples show some of these violations are for water contamination. As of October 1990, only \$62,050 in fines had been collected. The Department of State Lands Hardrock Bureau is unable to enforce these violations in a timely manner due to insufficient staffing, funding problems, and lawsuit delays.

## **SUPPORT WATER PROTECTION**

Stan Stephens, in his recent Report to the Citizens of Montana, has demanded "Action, not study. Cleanup, not paperwork." The mining industry uses the motto "Every day is Earth Day," claiming that modern mines can protect the environment. Nevertheless, **it is clear mining pollutes groundwater resources**. The time to act to protect Montana's water is now. Mining will come and go, but we must live with the water forever.

The Northern Plains Resource Council is seeking further protection for the state's water resources by supporting water protection or replacement legislation which will:

1. Require mines to develop water protection plans.
2. Place the burden of proof on the company to show its operation did not cause water damages if a problem is discovered.
3. Require financial assurance for mines to implement the water protection plan to restore or replace water resources.
4. Allow citizen enforcement for reporting mine violations and provide greater participation in permitting mines.

NATURAL RESOURCES COMMITTEE

Attention: Bob Raney.

Members of the Committee,

Imagine if you will the following happening to you personally.

1. Without warning you lose all the equity in your home.
2. Next the water supply to your home is poisoned making it unfit for man or beast.
3. To redeem any of your loss you must individually fight a large corporation (many of which are owned by foreign countries with practically limitless funds) in a court of law.

This scenario has actually happened in Montana and will without doubt happen many more times if we insist on operating under the century old mining laws. One family of note, the Ray McCaffertys, formerly of Whitehall, can tell you about this in much more detail having lived through just such a mess. Ironically the McCaffertys are now living in Lewistown. These people along with two other families lost their homes to cyanide and it took four years and \$80,000 in order to force the mine to pay for their home. What you do not see is the personal tragedy or the gut wrenching emotional stress a fight like this produces, it is devastating!

The mining companies are not the real culprits, it is our own State Government! The Governor evidently advocates mining at all costs, the groups such as the DSL, that are responsible for issuing the permits are either appointed directly by the governor or are under a supervisor who is appointed by the governor. The mine wanting a permit hires an affiliate of another mining company to do the study, or E.A. This document is the main source of information for state officials making the decision on the permit and is accepted generally without question. However, many times these studies are in error, such was the case in regard to the Blue Range Permit.

When are the people who are supposed to represent and protect the voters going to start doing just that? It is ironic and disgusting that the common people of this state must fight the state government for their homes and financial well being!

In our situation here in Lewistown there are 80 wells that could be contaminated, the threat to Big Spring and Spring Creek is a real possibility. Still the permit was issued to use mercury, copper, zinc, arsenic, and cyanide in a plant located above the waters mentioned. In six short weeks Blue Range Mining proved the E.A. an erroneous document. A spill took place and in a matter of weeks the cyanide reached a test well (not one to three years as the mining companies estimated.) No one knows where the cyanide will next appear and this includes Hydro-Metrics the company affiliate of ASARCO who did the original study. Because of this doubt the people located below the processing plant have seen their property values drop from 30 to 50 per cent. Would you buy a place that could lose its water supply?

My name is Keith Rush. I live in Noxon and am a forester for Champion Timberlands. I am representing my neighbors and myself. We draw water from the same aquifer and are legal water rights holders and users of five springs, two wells and one surface water source.

We are very interested in Bill #889, because we feel that our water quality and/or quantity is greatly threatened by a proposed world class silver mine. The tailings from this mine will be stored on our aquifer and its recharge zones. Since our water sources lay down gradient from this 19th century-design tailings pond, we believe there is great potential for contamination. We feel that Bill #889 would help protect us from the affects of this mining activity.

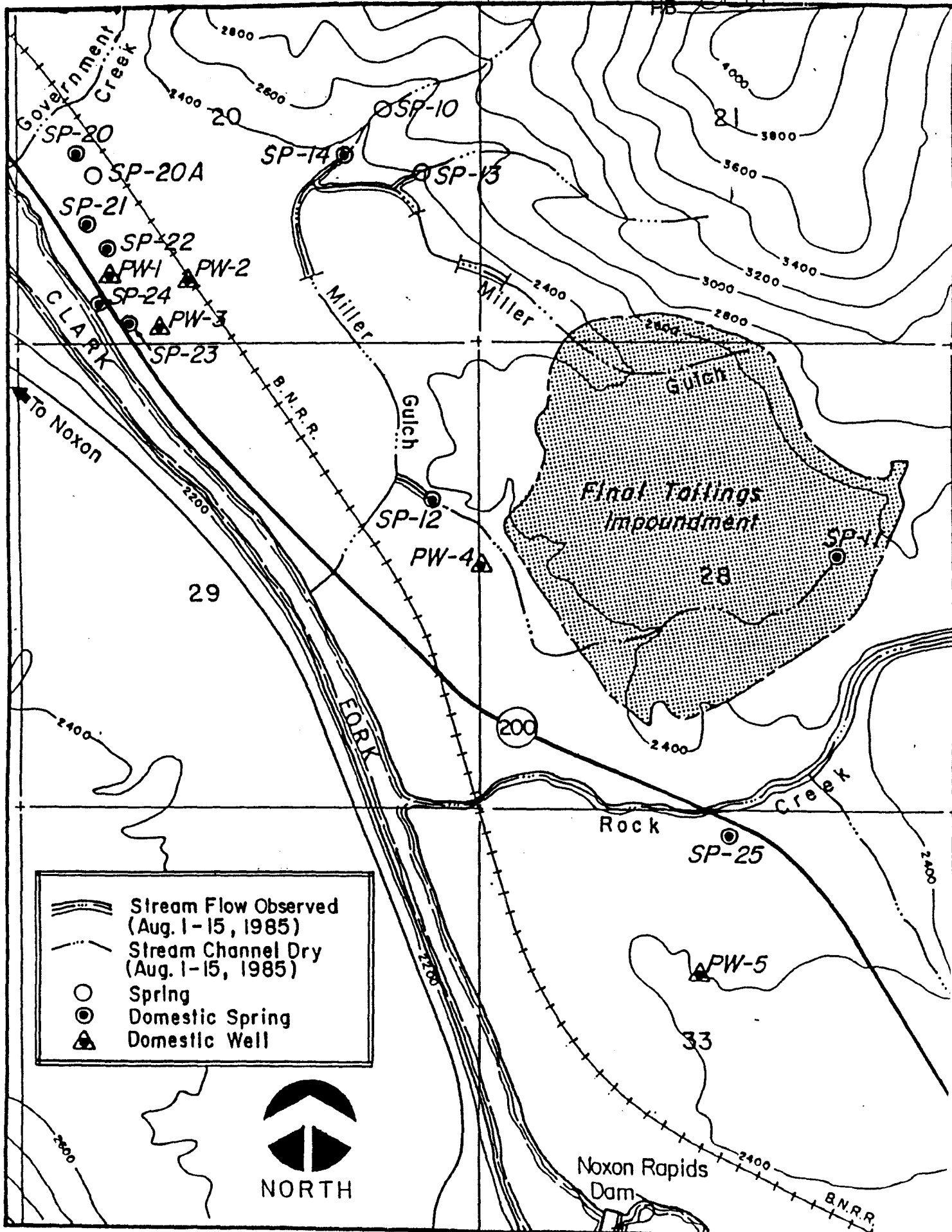
Because of a lack of protective mining legislation, we are currently collecting our own baseline data. This data collection is costing us hundreds of dollars and many hours of time and is still very limited. We feel this is an unfair responsibility. If we find later, that water contamination has occurred, the burden of proving this will fall on us, also. Bill #889 would put these financial and time responsibilities on the mining company, not the legal water users of an area.

We strongly support Bill #889 because it requires mining companies to:

- study the probable hydrological consequences of their activities
- complete a two year baseline study before any mining activities can occur
- designate water protection areas that may be affected by their activities
- outline a cost estimate to protect, restore or replace contaminated water resources.

If these provisions were law, my neighbors and myself feel our water quality would be better protected. Thank you for your time and help in this matter.





February 15, 19 91

EXHIBIT 8  
DATE 3-8-91  
HB 889

House Of Natural Resources  
Capital Station  
Helena, Mt., 59601

Dear Council Members:

We are Writing this letter pertaining to the bill no. ~~43889~~ for water protection and replacement legislation. We feel that it is a bill that will protect the water users of this valley, as well as in any mining area.

It should we think be up to the company to have the burden of proof that they are not contaminating our water supply. If they are, the financial assurance should be there to restore or replace water resouces damaged by the mining at no greater end maintenance cost to the water users.

We and our neighbors are concerned because our aquifer could be contaminated by the Proposed Asarco Rock Creek tailings impoundment.

Sincerely

LeRoy Magoffin  
Lola Magoffin

1601 hwy. 200  
Noxon, Mt. 59853

*Lola Magoffin*  
*LeRoy Magoffin*

DATE 3-8-91

HB 889

3/5/91

House of Representatives  
Natural Resources Committee

Dear Sirs:

Bill #889, "The Water Protection Act for Hard Rock Mines," is up for consideration and we believe it to be worth while and would like to see it pass.

We live in an area that will be directly affected by the prosed ASARCO Rock Creek Mine in Sanders Count.

A Water Management Area needs to be in effect here. Our springs which are our only source of consumable water need to be properly monitored. We also have several neighbors that may also be affected.

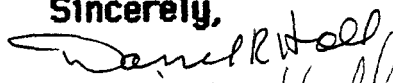
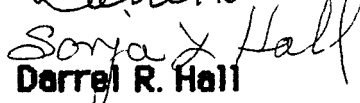
The tailings pond for the proposed mine is in the area of our aquifer. We have appealed for help in establishing a data base for our water systems but have been unable to get any assistance. We believe that since ASARCO is the reason for all of this it would be fair if they picked up the tab instead of the property owners in the area. While we have been able to meet this expense there are some that it puts a great burden on.

We are also concerned about what this system will do to the Clark Fork River that runs directly below our homes.

We feel that this bill would go a long way in protecting our water quality.

Thank you for your consideration and help in getting this bill passed.

Sincerely,

Darrel R. Hall

Sonja L Hall

Box 573

Noxon, Mt. 59853

House of Representatives  
Natural Resources Committee

Sirs:

Bill HB 889 "The Water Protection Act for Hard Rock Mines" is up for consideration and we encourage you to pass this bill.

We live in an area that will be directly affected by the proposed ASARCs. Rock Creek Mine in Sanders County.

A Water Management area needs to be in effect here. Our spring, our only source of drinking water, and the wells and springs of our neighbors need to be properly monitored. The settlement pond for the proposed ASARC operation is directly over our aquifer. We have appealed for help in this matter and due to lack of concern have been forced, at our own expense, to have our water tested at regular intervals to establish a water quality base line. This is an expensive process that is difficult for a few people to bear. The Clark Fork River is directly below us and would face the same contamination as our wells and spring.

We feel that the protection of our

If others in the area should  
be the responsibility of the incoming  
mine operators.

Investigations of the area have  
shown that any seepage occurring  
will end up in our springs and  
wells. A complete discussion of this  
can be found in Hydrometals #88 1987 A.

We urge the passage of  
Bill #HB 889

Sincerely,  
Ernest E. Nicolls  
Ernest E. Nicolls

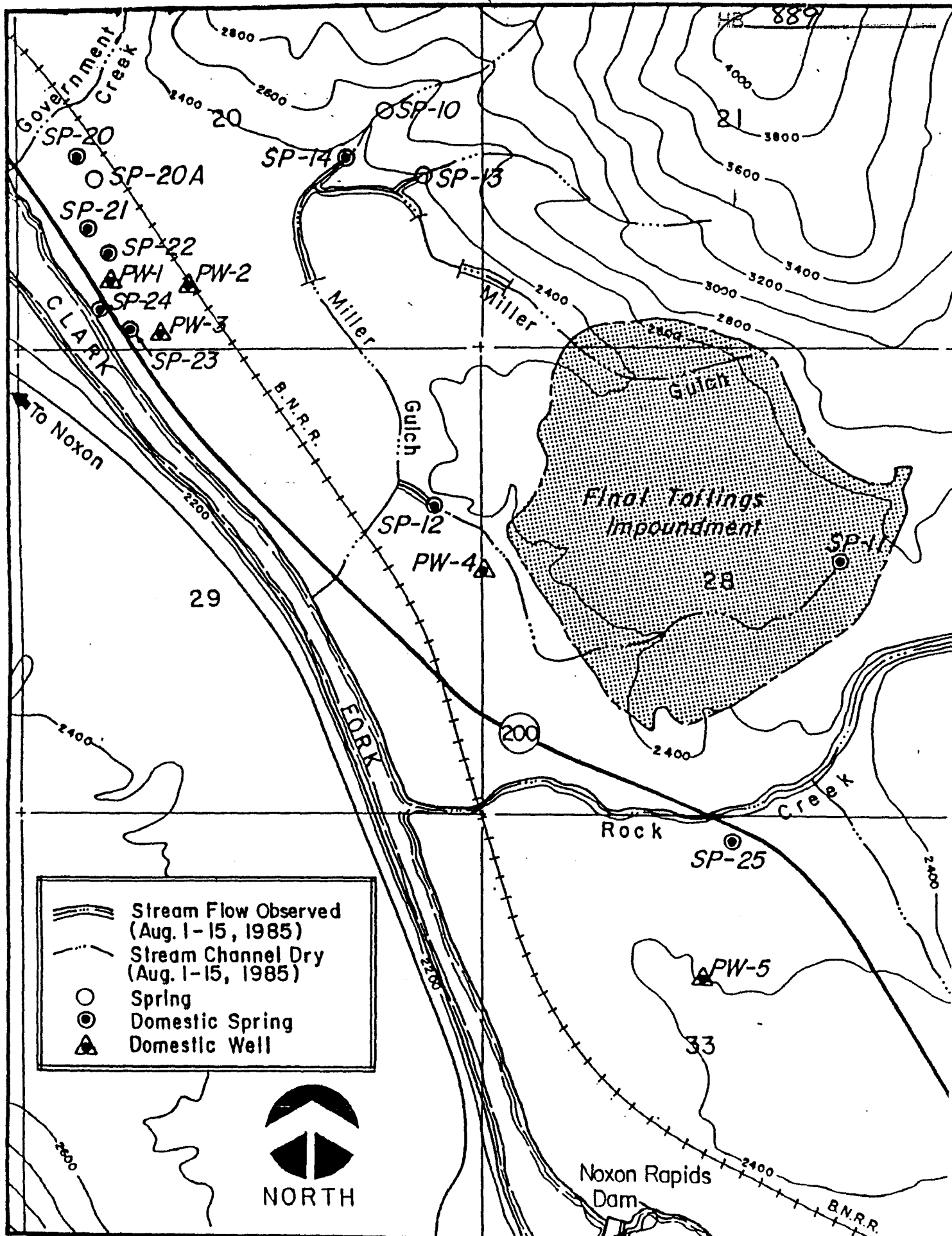


EXHIBIT 11  
DATE 3-8-91  
HB 889

MR & MRS H T GRAEBER  
P.O. BOX 502  
NOXON, MT 59853

Feb. 15, 1991

Northern Plains Resource Council  
House Natural Resources Committee  
Capital Station  
Helena, MT 59601

Dear Committee Members,

This is a letter of approval and encouragement for your efforts to pass new legislation to protect ground and surface water quality from degradation by mining activity.

We and our near neighbors could very well become victims of domestic groundwater degradation. This would occur from the proposed plan of ASARCO Mining Corporation to place a huge tailings impoundment above the groundwater aquifer that supplies the water to our drilled well, and to our improved domestic water spring. We do hold prior legally recorded water rights to both sources, dated June 9<sup>th</sup> 1955 and June 20<sup>th</sup> 1983.

I have enclosed two area map sections to illustrate the extreme potential for degradation of our two ground water sources.

As of this date, we have used our own funds to try to establish legal base-line water quality data. I resent this expense, and even

doubt that it would be sufficient or effective defense for the impending problem.

We do very much need the help and protection referred to in your descriptive brochure, dated January 30, 1991.

Therefore, we most certainly hope for, and will welcome, the passage of your proposed legislation entitled: "Water Protection act for Hard Rock Mines",  
"Water Protection, Or Replacement Legislation",  
bill No. 889.

Again, thank you, and we hope the proposed legislation will become law in a timely fashion.

Signed:

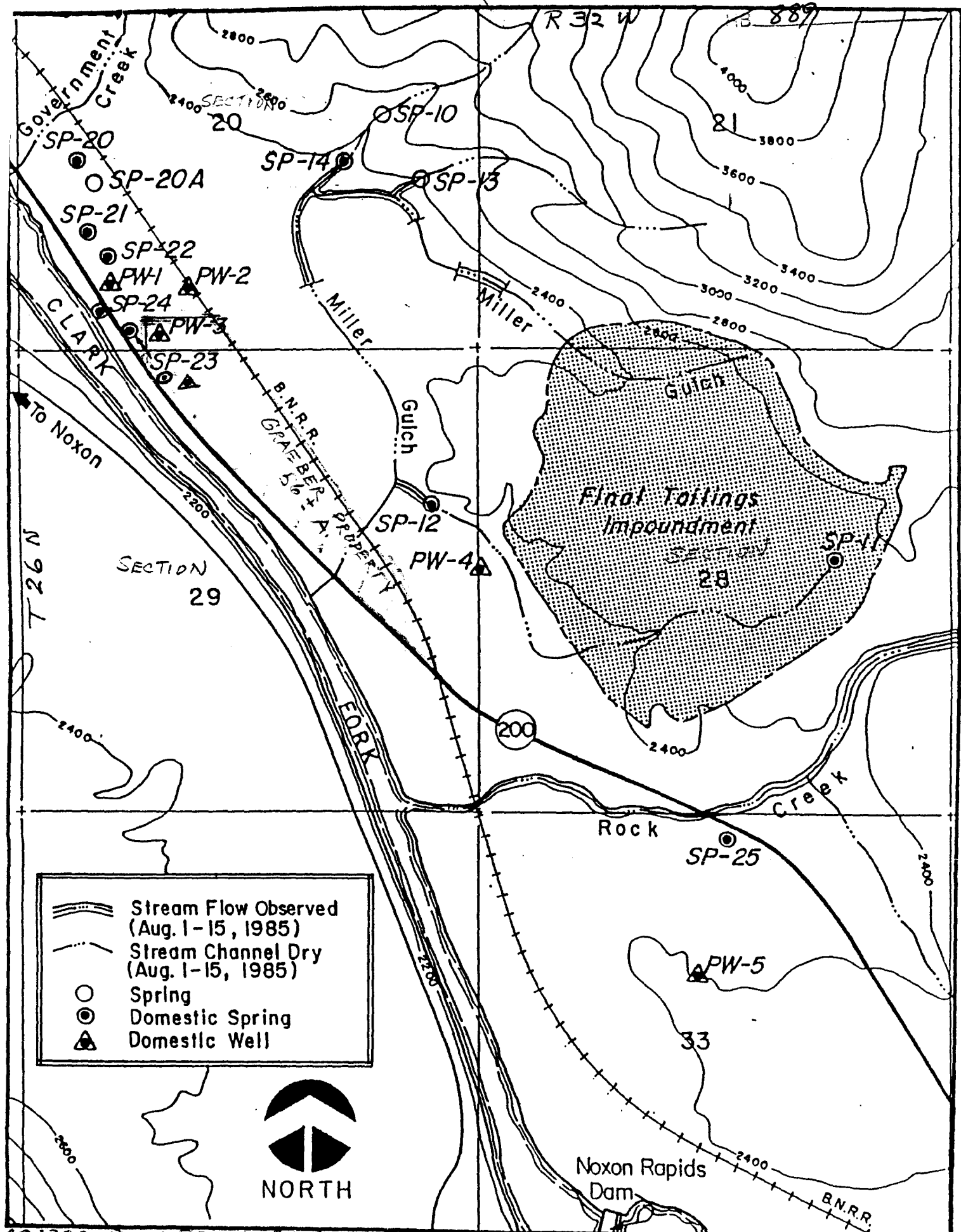
Harry T. Graeber  
Sheila Graeber

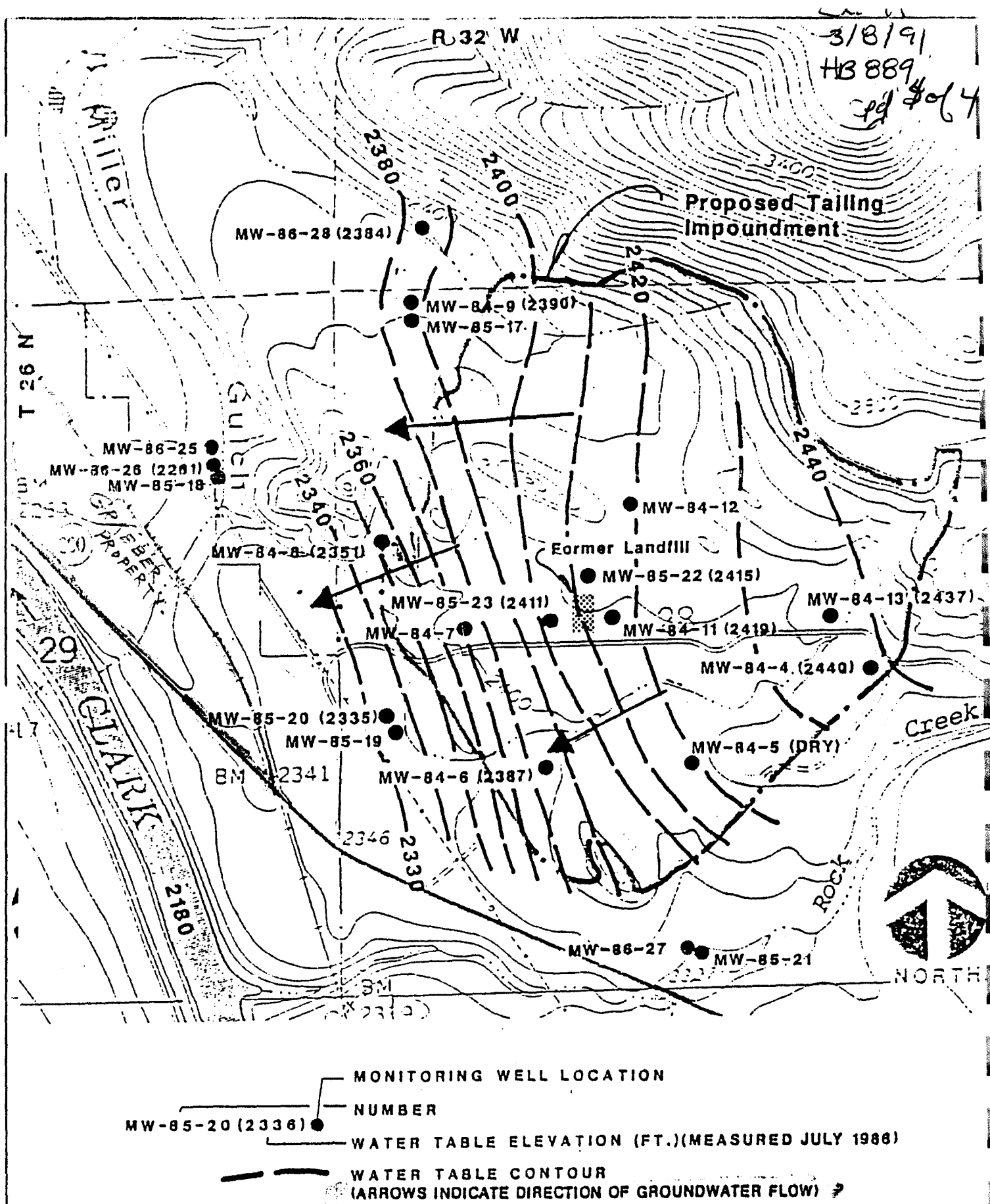
Senior citizen property owners  
and registered active voters,

P.O. Box 502

Noxon, MT 59853







**FIGURE 13**  
**GROUNDWATER TABLE MAP OF SHALLOW UNCONSOLIDATED DEPOSITS-  
 ASARCO ROCK CREEK TAILING IMPOUNDMENT**

EXHIBIT 12  
DATE 3-8-91  
HB 889

March 4, 1991

Northern Plains Resource Council  
44 N Last Chance Gulch  
Helena, Montana 59601

Dear Northern Plains Resources Council;

Paul Hawks has contacted us and asked us to submit comments for HB-889, the Water Protection or Replacement Bill.

We feel Montana's water is and will be in the future one of Montana's greatest resources. In Central Montana we are privileged to have a variety of very unique hydrologic occurrences, the Warms Springs and the Big Springs the source of the City of Lewistown's water. Both of these springs are potentially threatened if Hard Rock Mines in the area are not properly designed and enforcement actions taken by State and Federal agencies to require full adherence to the operating permits.

One area of concern is complete documentation of baseline water data. There is no baseline data available for the Kendall Ventures mine prior to the issuance of permit 00122. A citizen group in the area has pressed for better hydrologic data and great strides were made in this area but citizen groups should not be responsible for mandating where and whose water will be monitored and for what chemicals the water source will be checked.

Water rights in and around Mine Permit Boundaries must be guaranteed to prior water right holders. These Water Right holders should not have to be involved in litigation to enforce their water rights. A water right should stand on it's own if the water disappears that water should be immediately replaced.

One problem in the Central Montana area is the number of bankruptcy proceedings surrounding Hardrock Mines. There should be sufficient bond requirements to allow water users to be compensated for water loss and protection from contaminated water supplies. If the potential exists for the loss of a business or a person ability to make a living this should be taken into the bonding requirements for the mine (with regard to water loss or contamination). A severe discharge from the Kendall Ventures Mine could cause the developing fish farm to lose it's fish. Every attempt must be made to protect present and future businesses surrounding Hard Rock Mines.

If you have questions please contact us.

Sincerely;



Alan Shammel, Chairman  
Kendall Concerned Area Residents  
Hilger, Montana 59451

462-5639

**GREEN LEAF**  
**LAND & LIVE STOCK CO.**



EXHIBIT 13  
DATE 3-8-91  
HB 889-956

My name is Doug McRae. I live on a ranch south of Colstrip. The Western Energy Co. & Peabody Coal Co. operate strip mines adjacent to land I run cattle on. I also graze cattle on some of the reclamation.

Some of the problems I have encountered as far as water availability and water quality are as follows:

An area of Miller Coulee was mined which had several springs and numerous areas of surface water on it. That area had been used by my family since the late 1800's. After reclamation had taken place surface water again appeared but it tends to disappear in early to mid summer. Post mining topography does not lend itself to spring development. A well was drilled in the bottom of the reclaimed valley where, I have been told there is an abundance of water. In fact, a pipeline was installed to provide water for the truck wash at the Big Sky Mine Shop. In the fall of 1988 I used that particular portion of the reclamation as pasture for cows and calves prior to weaning. Upon weaning which results in elevated stress levels to the animals, we experienced a markedly higher incidence of sickness and death in these calves. After the death of the second calf I became alarmed because of the lack of response when I administered antibiotics to the animals which showed signs of sickness. I had Dr. Rick Smith, a Forsyth Veterinarian, perform an autopsy on this calf. The U.S.U. veterinary laboratory findings indicated that the calf had suffered a severe copper deficiency.

# GREENLEAF

LAND & LIVE STOCK CO.



Dr. Smith informed me that a copper deficiency has an adverse effect on an animals immune system. Other ways in which cattle can be affected are poor growth, diarrhea, bone fragility, and low fertility.

Through my own research and the input of people more knowledgeable about mineral deficiencies I have discovered that a copper deficiency arises because of one or more of the following reasons. A lack of copper, which we have never noticeably experienced, or excessive molybdenin or sulphates act to reduce copper solubility in the digestive tract.

When I spoke with Vern Vanastee a Peabody hydrologist about this problem he advised me that the sulphate level in that well had been high when it was drilled and <sup>that it had</sup> ~~that they have~~ dropped. I do not know what those levels initially were or what they are now.

The problem I initially encountered at this location seem to have been corrected by the addition of a mineral mix with higher levels of available copper. The cattle so eagerly consume the mineral mix in this area that I have to limit it with the addition of salt.

In another area of the ranch I was forced to replace a well which was located about 1/8 of a mile west of one of Western Energy's mines and about a mile north of Peabody's Big Sky Mine. As mining activity in this area increased the water quality decreased to the point where finally the impellers on a new submersible pump only lasted about one month. The water had a rusty tint to it and the

# GREENLEAF

LAND & LIVE STOCK CO.



EXHIBIT 13  
DATE 3-8-91  
MB 889

flow was reduced to the point where a restricter had to be installed to keep the well from being pumped dry. The new well is located about 20 feet away from the old one and I have encountered no problems with it but mining had ceased when the well was drilled.

The well that provides water for our barn and a well about a  $\frac{1}{2}$  mile south of our house both had to be replaced because of large amounts of sediment in the water.

In conclusion, I would like to say I Have no qualifications as a hydrologist so I can draw no accurate conclusion as to why these problems have occurred. All I know for sure is that they have.

EXHIBIT 11  
DATE 3-8-91  
HB 889-956



## The Cabinet Resource Group

160 Fox Lane  
Trout Creek, MT 59874

3/8/91

Dear People,

Greetings! Tailings ponds are all about mining waste rock and water, and how to dispose of them. The pulverized rock stays (somewhat) and the water goes away. Some gets reused (not at the Troy mine) some evaporates but the greatest fraction leaks out of the facility. Some of the leakage is very evident (as in my slides) but most of it is not because it leaks thru the groundwater, and groundwater is the loophole in State, Federal and Public attempts to control water pollution. In this age of diminishing clean drinking water and water rationing (Calif., New York) in some drought ridden states, it is inconcievable that we allow any industrial process to use groundwater as its sewer. Current water law is so skewed that anybody (citizen, landowner) affected by this moral disregard must then shoulder the burden of proof in any legal contention that their water rights have been affected. In this age of men on the moon, gene solicing, smart bombs, and bio-engineering its a shame that the mining industry relies on an antiquated technology (tailings ponds) to dispose and dilute its wastes. If this practice is to be allowed to continue, then it is only the prudent thing to do, to gather practible data, change the burden of proof and demand adequate compensation for those affected that is the focus of this legislation. Thank you.

Cesar Hernandez  
for CRG



## The Cabinet Resource Group

EXHIBIT 15  
DATE 3-8-91  
HB 889+956

### WATER QUALITY ISSUES

Jill Davies  
14 Old Bull River Rd.  
Noxon, Mt. 59853

March 7, 1991

Natural Resource Committee

Dear Committee member,

By way of testimony concerning hard rock mining in Montana, I submit the following graphs with this accompanying explanation. The graphs are derived from the regular DSL approved monitoring program being run at the ASARCO/TROY mine. They begin with the metals; zinc, copper, lead, iron, manganese which are contained within the rock being mined, then there are two nitrogen compounds; nitrates and ammonia which are supplied by the explosives being used in the mine, then there are four minerals; magnesium, sodium, calcium, and potassium which are either in the rock or in the reagents used in the milling process, and finally, a graph for specific conductivity which is a measure of levels of dissolved substances in the water.

The dates when the samples were taken are given along the bottom, and each period of sampling is delineated at the very bottom; first the baseline period, then the period during which construction occurred, then the period during operation before the summer of 1985, and finally the period since summer '85 to the most recent data submitted. The last two are separated because a major change in the monitoring occurred in the summer of '85. The timing of the monitoring was altered to avoid runoff conditions and winter conditions, and the analysis methodology was changed to achieve a lower detection limit for several metals. Also the mine changed operations at or near that time, ceasing to dump excess waters from the mill site directly into the creek and beginning to use percolation ponds. The macroinvertebrate monitoring was begun. Also, the sample site LC-4 was added to the monitoring program at that time. This site is further downstream from the tailings pond than the site LC-2 which was the downstream site for the tailings pond, with LC-1 being the upstream site for the tailings pond. (Though above the tailings pond, LC-1 is still below the mill site and has received many impacts from that source. At one point copper concentrations of 100 times the criteria were discovered in the stream just below the mill site.) The lb/day figures given at the right of the graphs are to give an understanding of how much a certain concentration in the water, given



the size of Lake Creek, yields in a more familiar measure - pounds. Also, the current detection limit is given at the right.

The red line is the EPA Criteria, also the state standard. The yellow markings indicate data that is given as the detection limit. This means the actual concentration of that parameter is below the value given, i.e.  $<.05$ . Notice that for copper and lead, detection limits were used that were well above the criteria until the summer of '85.

This begins my critique of the care given to water quality issues by the DSL under the authority of the Metal Mine Reclamation Act. Consistently thru 1985, the state's pronouncement was, "we find no evidence of water quality problems at the Asarco/Troy facility". First, with the detection limits being used, and because they failed to gather baseline data for most parameters, it is clear that they did not *intend* to find any evidence. Secondly, looking at the zinc graph, which contains baseline data because it is not so difficult a parameter to measure, one can see that serious impacts did indeed occur beginning with the onset of construction. The low detection limits values for zinc, copper, lead, and iron on 8-79 can be used to indicate the quality of the water before mining. Also they indicate that the technology existed for using that low of a detection limit at that time. (Contrary to statements the DSL has made.)

During construction, extremely high values of both zinc and iron were found on 2-80 only at LC-2. On 2-81, extremely high values of magnesium, sodium, calcium, and potassium can be observed at both LC-1 and LC-2 and high copper at LC-1 and a mysteriously high detection limit value for lead on that date at both LC-1 and LC-2. .1 mg/l is never used as a detection limit for lead, yet Asarco got away with it with no questions asked. If lead concentrations were anywhere near .1 mg/l on that February day in '81, 75 pounds of lead would have gone downstream.

Sometime in the history of the mine Asarco started disposing of their excess tailings water in giant 'sumps' outside of the tailings pond, in an area of course, cobbly gravel. Thus all of the 2100 gpm of tailings water which carries the slurry from the mill to the tailings pond is disposed of at the site, into the ground, either through the pond itself, or decanted to the sumps. This operation procedure was not included in the application, was not permitted under the Operating Permit. The plan of operations was changed after permitting. There was no public notice, no public review for none is provided for under the current Metal Mine Reclamation Act. According to the permitted plan of operations, no disposal of excess water was to be done anywhere on the mine site, except for a minimal amount of seepage allowed for from the tailings pond. The DSL allowed Asarco to make this change in operations, disposing of all this waste water to the ground without even having a groundwater monitoring program in place. There is no groundwater monitoring being done to this date even after several years of insistent protest from CRG. Yet it can be seen from the nitrate, magnesium, sodium, calcium, potassium, and specific conductivity graphs that this waste water is showing up in Lake Ck. at LC-4.

One thing further; although the change in monitoring and in operations in '85 yields an apparent return to normal for many parameters, the copper values are still high. Frequent discharges of 10 pounds/day are not acceptable. Copper is an extremely toxic metal. Where does this metal go? What life forms does it affect? Since the high copper value at LC-1 in the summer of 88, macroinvertebrate populations at LC-1 in the summer have been reduced to largely just beetles and clams. The mayflies, stoneflies and caddisflies that were recovering from pre-85 conditions and spills have been decimated again. This impact may have reoccurred in 89, the state has not analysed the data yet. Also, bug populations have been consistently lower at LC-2 throughout the monitoring. The sturgeon in the Kootenai River downstream of Lake Ck. have been failing to reproduce successfully for the past 10 years. High copper levels in the sediment and in fish tissues have been found in the sturgeon area.

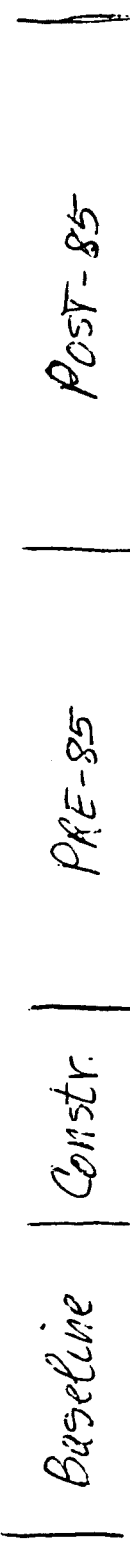
Monitoring at the Troy site is only done three times a year. The reporting of the data is submitted to the state months later for the chemical data, and a year or more later for the macroinvertebrate data. What happens at the facility during the five months between the October and March samplings? and between the March and August samplings? Who knows? Maybe we should ask the sturgeon. The state not only does not have an adequate monitoring program in place, it does not intend to develop one. CRG has been urging improvements for years. What we have gotten is a reduction in monitoring - of the parameters mentioned here, magnesium, sodium, and calcium have been dropped from monitoring. Asarco tried to drop iron, manganese, and potassium as well. Having Asarco run their own monitoring program is just not acceptable in the first place. It is the fox guarding the chicken coop. DSL's management of the program is little better.

I urge major changes in the laws and rules so that water quality can be protected in Montana.

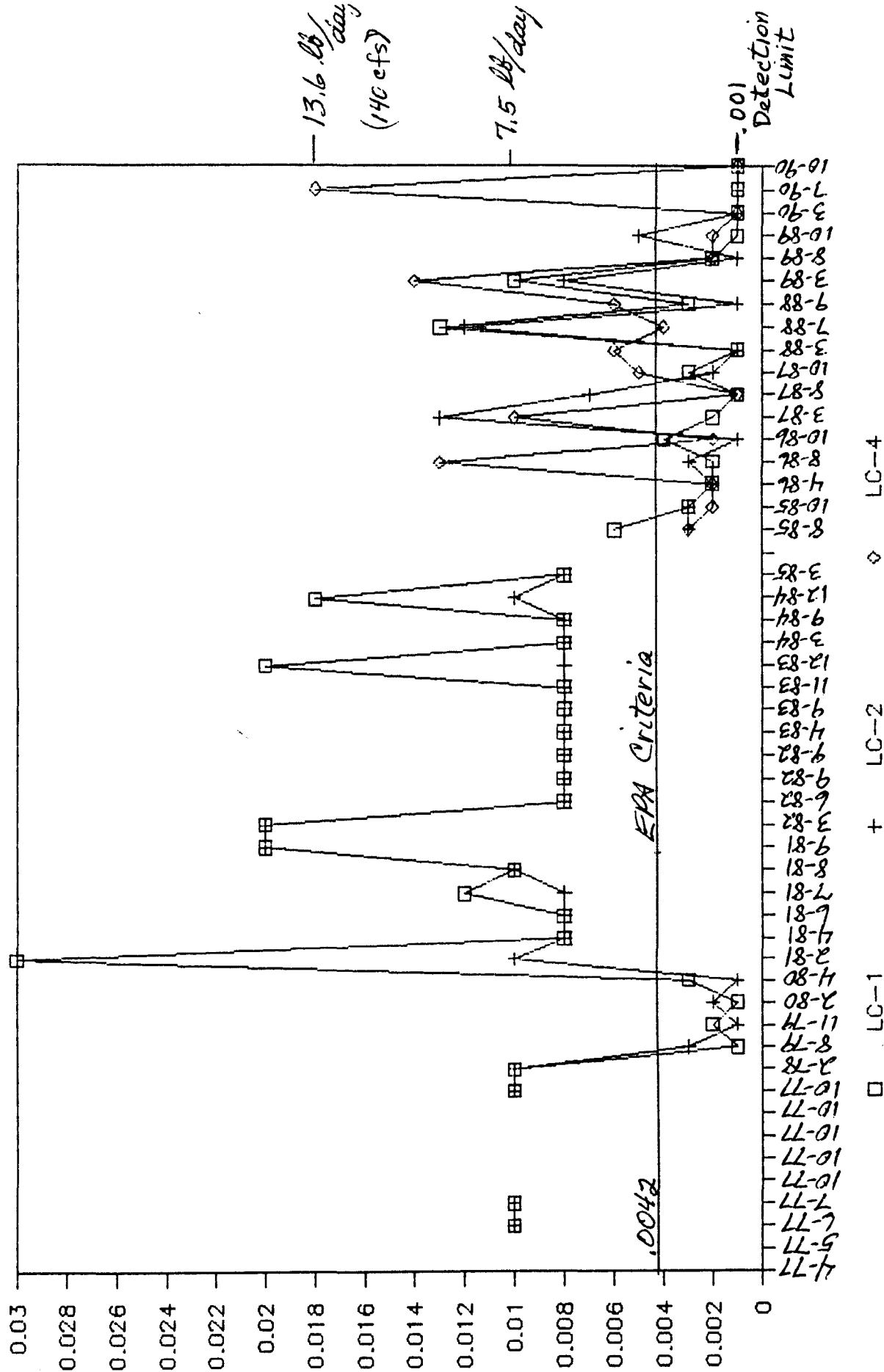
Sincerely,

*Jill Davies*  
Jill Davies

DATE 3-24-95  
HB 889-950



# COPPER

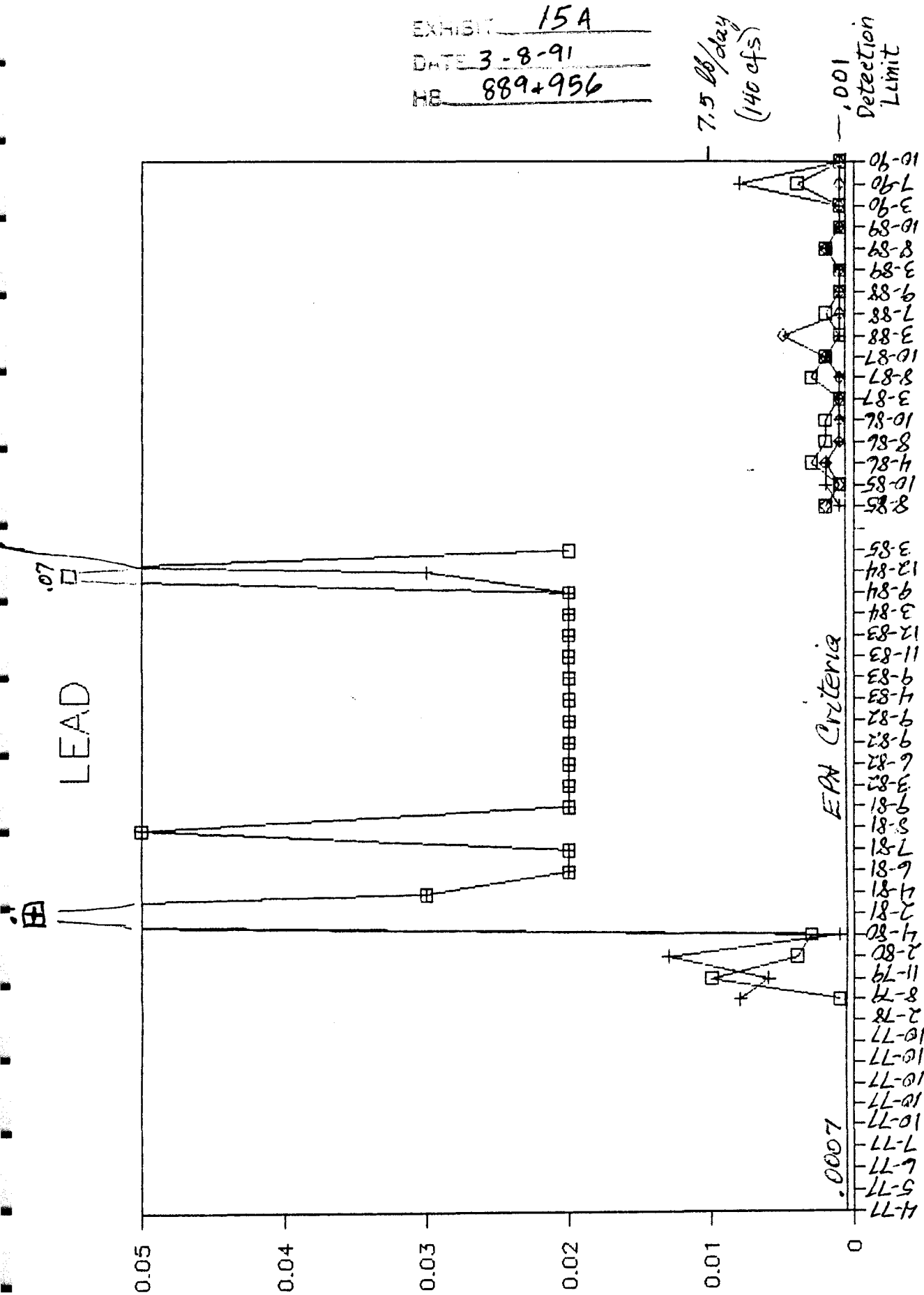


POST-85

PRE-85

Baseline | Constr

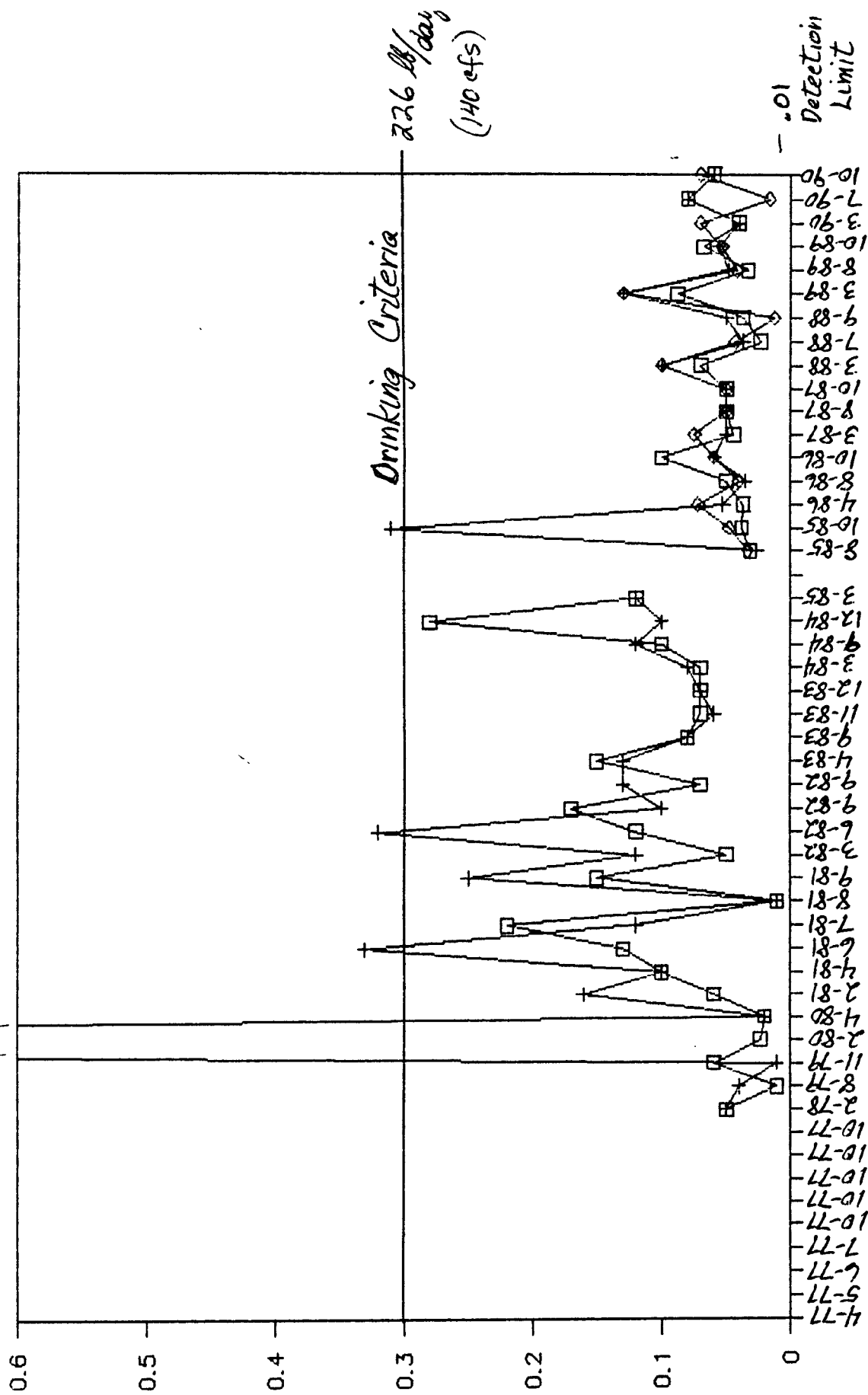
EXHIBIT 15A  
 DATE 3-8-91  
 HB 889+956



□ LC-1    +    LC-2    ◇    LC-4

Baseline | Constr. | PRE-85 | POST-85

# IRON



13.6 lb/day  
(140 cfs)

EXHIBIT 15A

DATE 3-8-91

HB 889 + 956

LC-4

LC-2

+

10

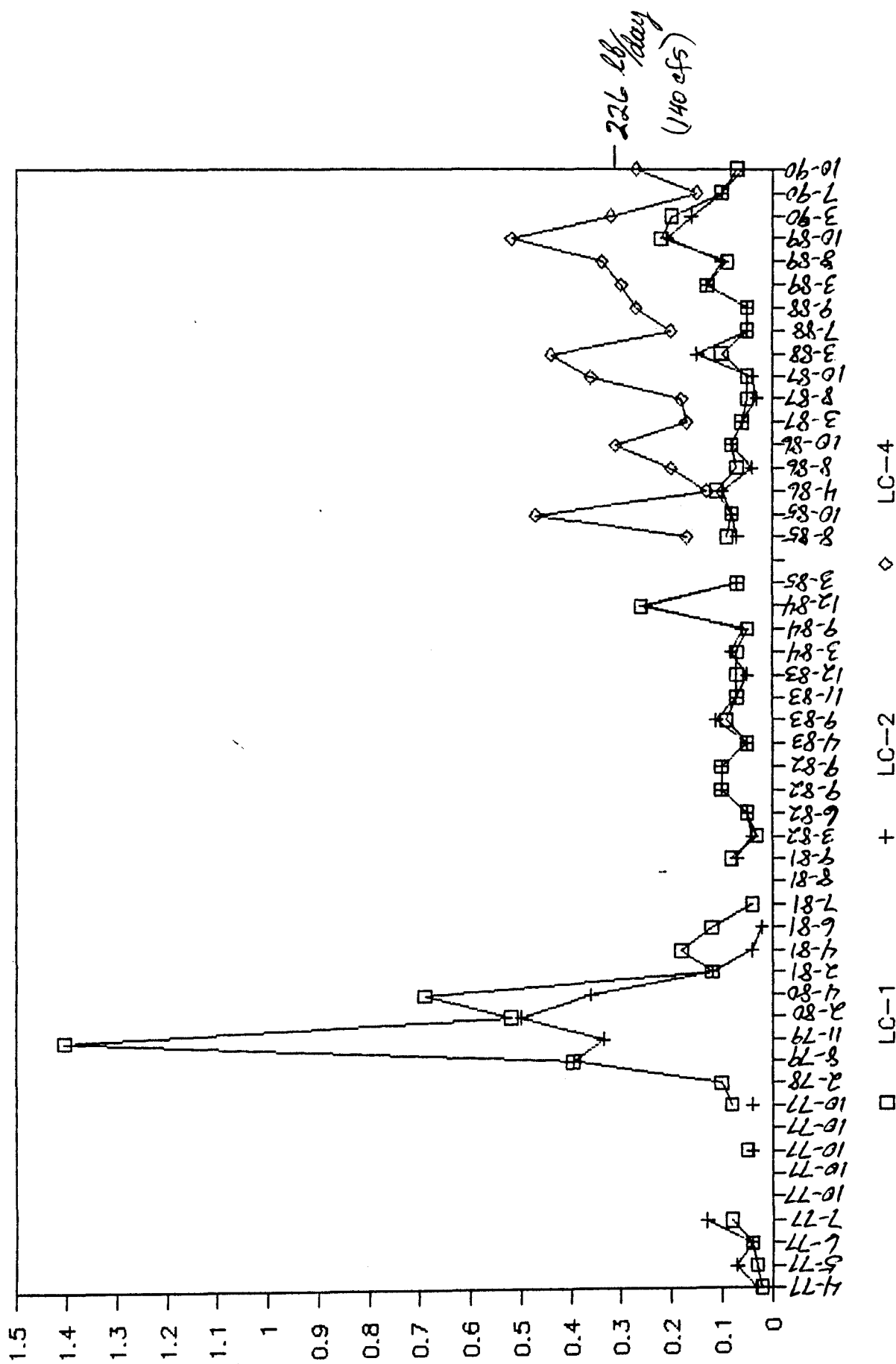


POST-85

PRE-85

Baseline	Constr.
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# NITRATE



POST-85

PRE-85

Constr.

Baseline



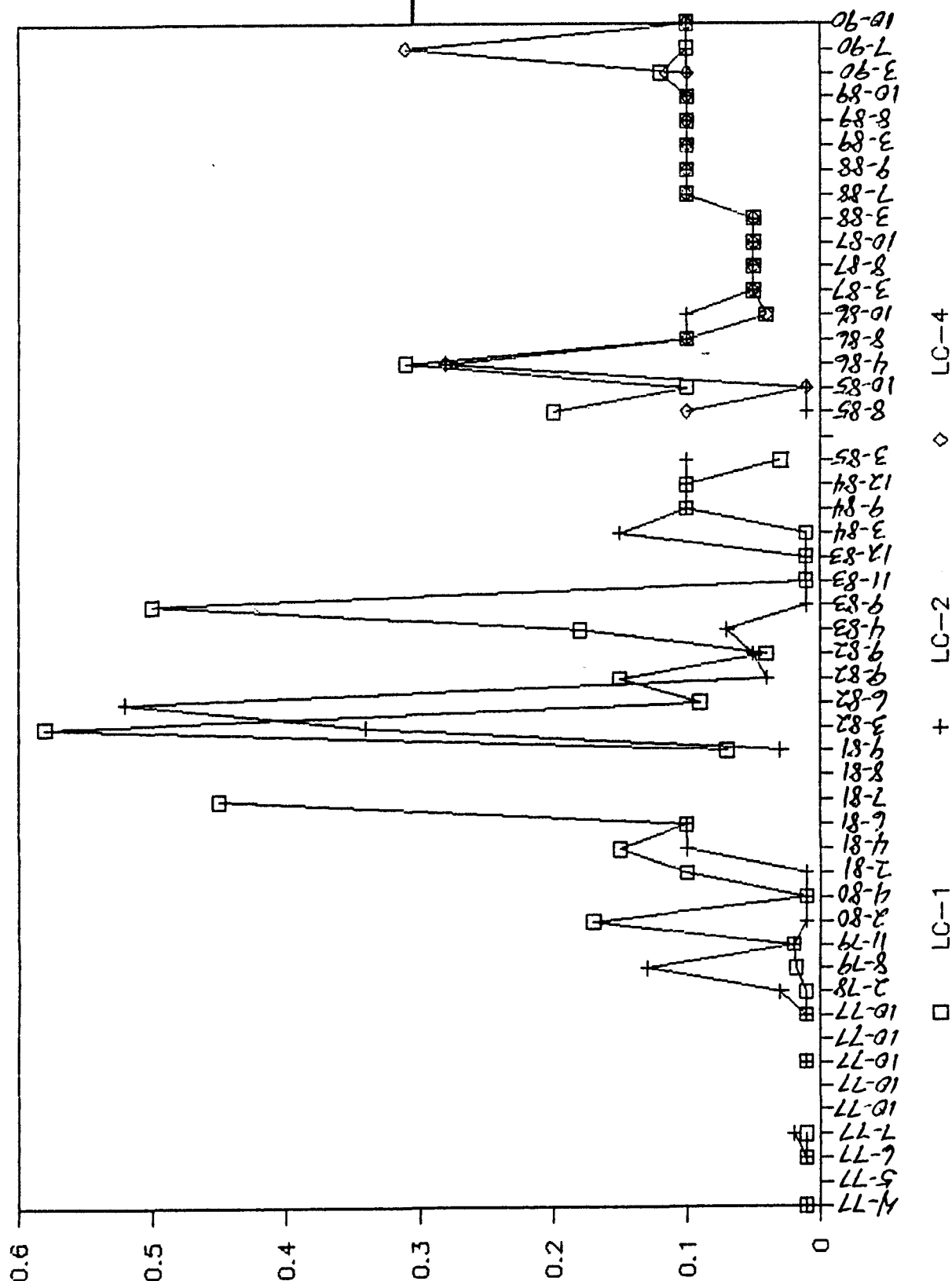
# AMMONIA

EXHIBIT 15A

DATE 3-8-91

HB 889 + 956

226 lb/day  
(140 cfs)



LC-4



LC-2

+

10-1



POST-85

PRE-85

Constr:

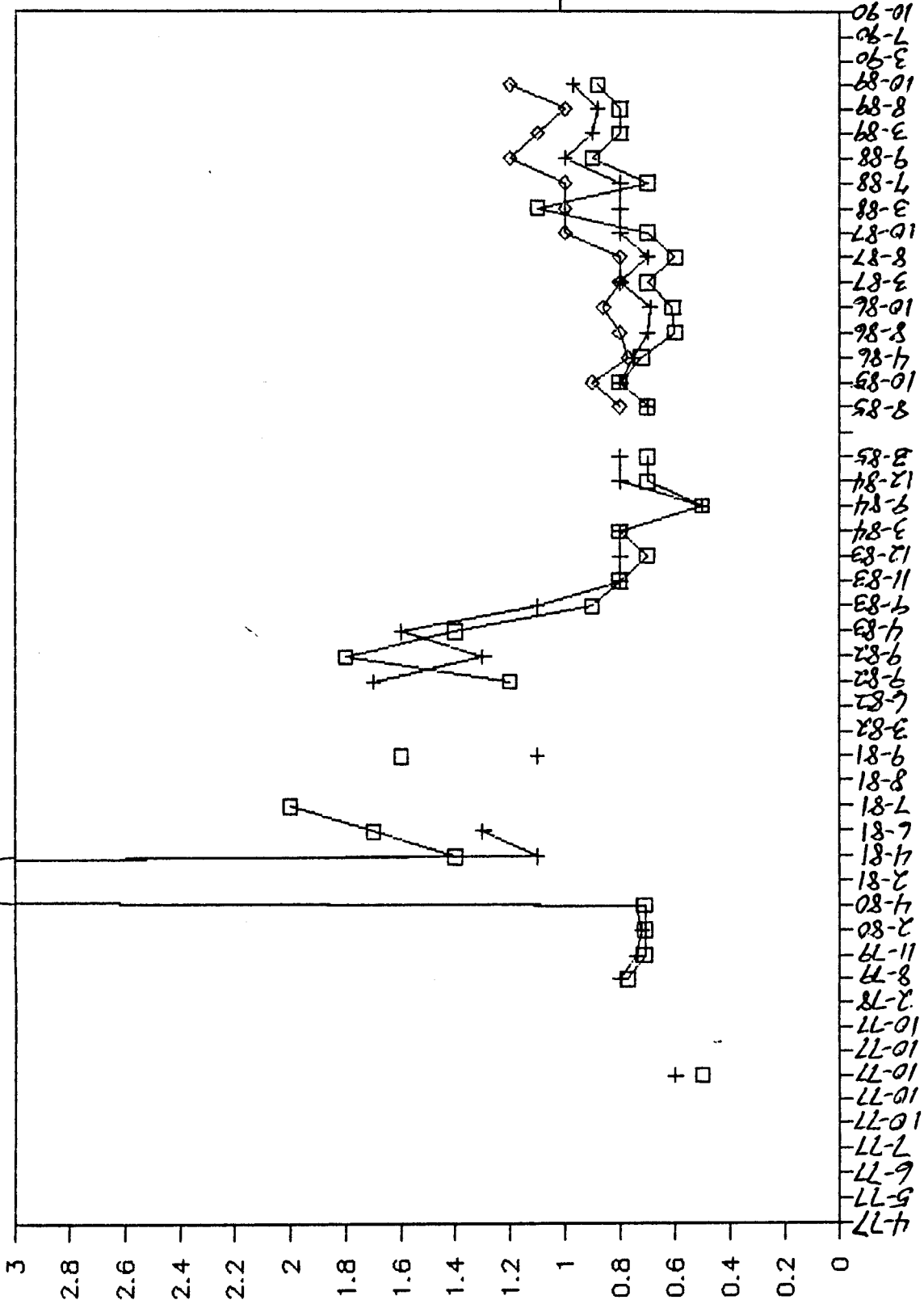
Base line



EXHIBIT 15A  
 DATE 3-8-91  
 HB 889 + 956

754 lb/day  
 (140 cfs)

SODIUM



LC-4

LC-2

LC-1

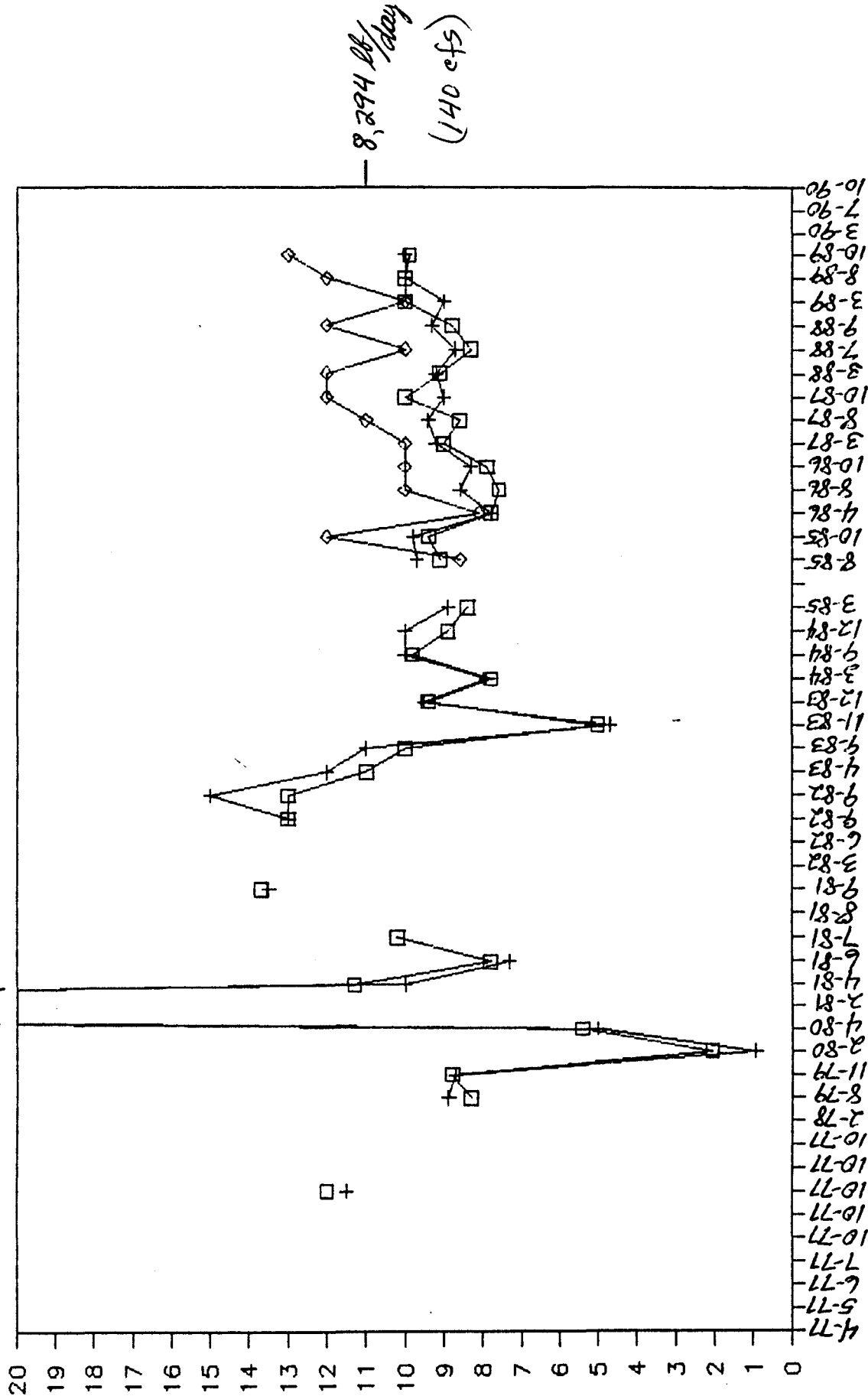
POST-85

PRE-85

Constr.

Baseline

# CALCIUM



Baseline Constr. PRE-85 POST-85

The graph plots survival percentage (Y-axis, 0 to 1.2) against time in days after hatching (X-axis, 0 to 1.2). Multiple data series are shown, each representing a different date. The series are labeled on the right side of the graph with dates in the format 'day-month-year' (e.g., 4-77, 10-77, 1-81, 4-81, 7-81, 10-81, 1-82, 4-82, 7-82, 10-82, 1-83, 4-83, 7-83, 10-83, 1-84, 4-84, 7-84, 10-84, 1-85, 4-85, 7-85, 10-85, 1-86, 4-86, 7-86, 10-86, 1-87, 4-87, 7-87, 10-87, 1-88, 4-88, 7-88, 10-88, 1-89, 4-89, 7-89, 10-89, 1-90, 4-90, 7-90, 10-90). The data points are connected by lines, and some points are marked with symbols like squares and pluses. The graph shows that survival is highest immediately after hatching and then drops significantly, with some series showing a slight recovery or stabilization over time.

HB 889 + 956

302 cfs/day  
(140 cfs)

LC-4

LC-2

+

LC-1



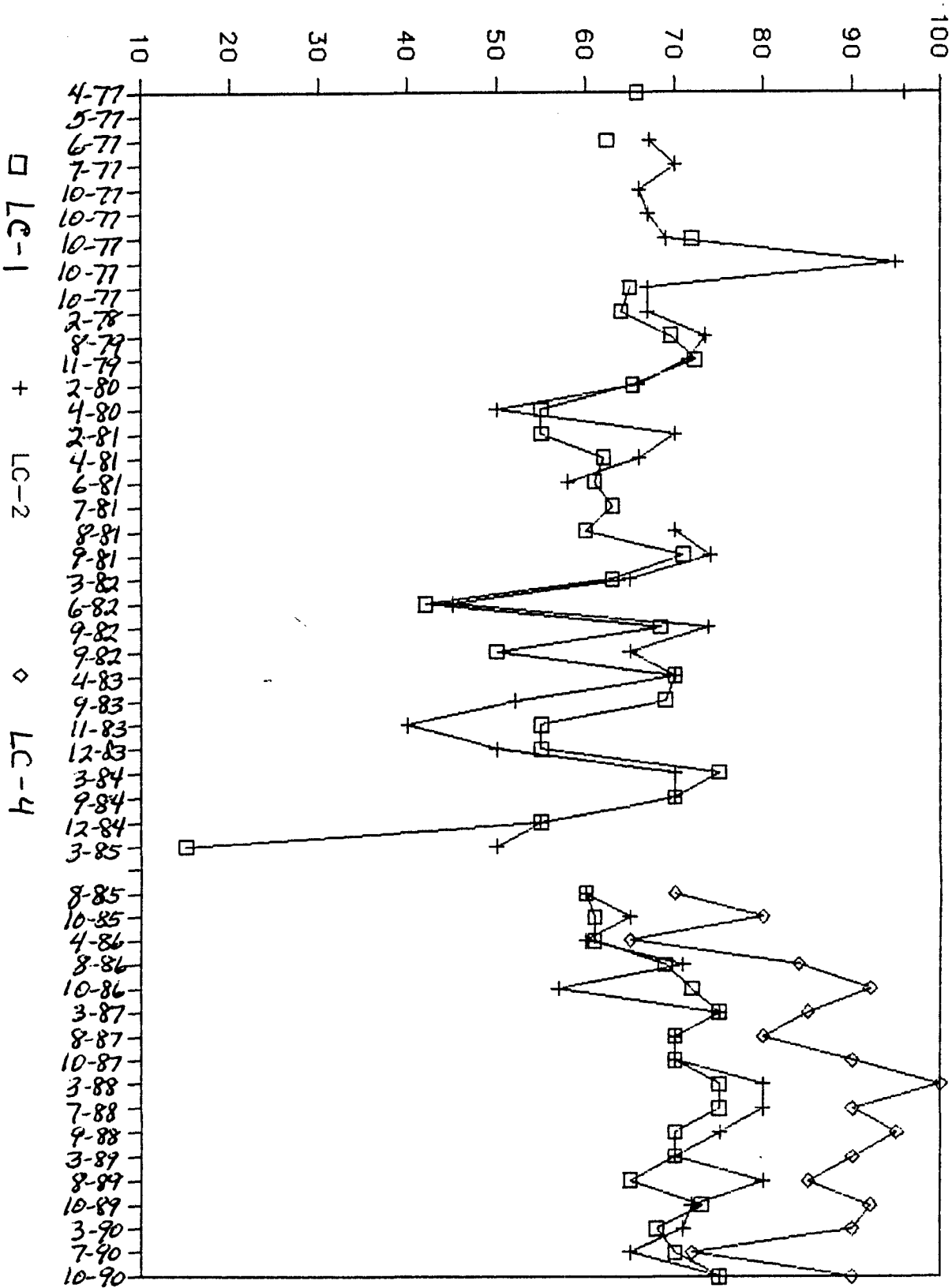
POST-85

PRE-85

Constr:

Baseline

# SPECIFIC CONDUCTIVITY



Baseline

Constr.

AKE-85

Post-85

DATE 5-8-91

HB 889

Good Afternoon. My Name is Janet Zimmerman and I live in Pony. I am speaking to you today on behalf of the 90 Members of the Concerned Citizens of Pony. We support HB 889.

As many of you know, we've had quite a struggle in our little town with a cyanide gold milling facility. An outfit called the Chicago Mining Corporation insisted on building this mill less than 3/8 of a mile upstream, uphill, and upwind of Pony. They located a facility that uses massive amounts of cyanide directly above our domestic water supply.

They took advantage of a regulatory loophole that enabled them to escape obtaining an operating permit from the DSL. No reclamation bond was required. We became concerned. We organized. WE sued the Department of Health. That lawsuit is still pending, I might add.

The state became concerned. They sued Chicago Mining Corp. to force them to get an operating permit. The state lost.

If the Water Protection Bill were law, none of this would have happened.

If a Water ~~Resource~~ <sup>protection plan</sup> had been required for this project, a tremendous amount of time and money could have been saved.

A detailed assessment of the existing water resources would have shown that water resources in the area are limited. Read the inspection reports. The company has pumped water for production from the monitoring wells, making them useless for the purpose of monitoring. The baseline studies submitted were minimal even though we requested a two year study. Hydrological features were not properly inventoried.

Water  
depletion  
problem

An assessment of the consequences of the proposed operations on the hydrology, quantity, and quality of water resources in the water protection area could have foretold the possibility of water depletion in nearby residential wells. When the mill began operations, our well showed signs of serious depletion as did several of our neighbors. When the mill shut down, the level returned to normal.

The financial assurance requirement is absolutely essential. Who could argue that CMC should not be held responsible for any degradation that should occur to our water supply? As it stands now, there is not even a reclamation bond posted.

Contamination of ground water is a very real concern for us in Pony right now. The company's so called state-of-the-art plastic liner began to leak as soon as it was put into use and continues to leak. WE've purchased the necessary equipment to set up our own water monitoring program. Chicago Mining Corporation has repeatedly violated their permit from the Water Quality Bureau. The Agency has ordered CMC to comply with permit

requirements and commitments they made in the environmental assessment but so far very little if any efforts are being made.

Why should law abiding taxpayers be forced to spend thousands of dollars in legal fees to protect their domestic water supply?

What has happened in my community is very very wrong.

The Provisions in this bill are fair and just.

If this legislature has the courage and wisdom to pass the water protection bill, It will send a clear message to the mining industry, "Only the responsible need apply". If this bill becomes law, it will serve to weed out the unscrupulous and irresponsible speculators.

The mining industry can only benefit by improved support from the public when citizens have assurance that ~~mining~~ companies will take the responsibility if water supplies are damaged as a result of mining activities.

Thank you for allowing me this opportunity. On behalf of the Concerned Citizens of Pony, I urge you to just say yes on H ~~889~~



My name is Bob Sawyer. I am a member of the Square Butte Grazing Association, at Zortman, Mont. Our Association is a group of 24 independent ranchers that summer just over 3000 cattle. This association was formed in 1969.

Square Butte Grazing Association has been a neighbor to one of the biggest heap leach gold mining operations in Montana, Zortman Mining Inc., a subsidiary of Pegasus Gold. Some of the problems that we are now experiencing could have been avoided if some portions of HB 889 would have been in effect five or six years ago. We find ourselves lacking in sufficient data to prove some of the effects on our water resources. Our association has seen a marked reduction in spring and creek flows, as well as a severe loss of production on our sub-irrigated pastures.

One of our biggest problems has been with the Rock Creek drainage, which comes out of the Little Rockie Mountains above Landusky. ZMI is located from Landusky, nearly to the top of the mountain. About three years ago we became aware that the creek was drying up. This creek went from a beaver dammed swamp to a dry creek bed in a year. The association's manger had to haul water for use in the house for about two years. This creek and well ~~were~~ were never dry during the thirties, which were record dry. The cause was the mine's use of the water from the audit that feeds the creek and the loss of hundreds of acres of water shed because of the mining.

As a livestock operation, we are not interested in a big pot of gold, but rather the water and grass that we have had since we purchased this ranch over 20 years ago. We have already spent over \$3500.00 on researching our water rights, but we lack the financial resources to take on the mining company in court to get back what is rightfully ours. It is our opinion that we should not have to go to a court of law to defend our first water right when the mine's actions affect our water resources. At the present time we are getting by because of new spring developments, a new well, and distribution

of cattle to other pastures that are not as severely affected. Our concern is for the future. Will these decreases continue? Will they escalate? Only time will tell. We are not opposed to mining and the jobs and revenue it brings to our community.

It is our feeling that some of the changes that HB 889 proposes would improve the control of water resources as they pertain to hard rock mining. This bill could solve some of the current problems and head off some of the future problems that are sure to occur.



# Greater Yellowstone Coalition

EXHIBIT 18  
DATE 3-8-91  
HB 889

March 7, 1991

Rep. Bob Raney, Chairman  
Natural Resources Committee  
Capitol Station  
Helena, MT 59620

Dear Rep. Raney:

The Greater Yellowstone Coalition would like to express its support of the water protection proposals presented in House Bill 889.

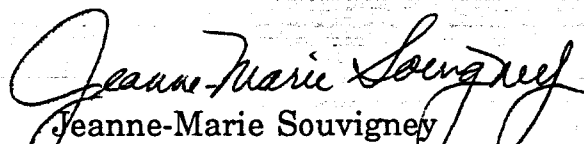
We in Montana have been left a legacy of groundwater contamination resulting from a hundred years of mining. Threats to groundwater from existing mines continue to be a serious concern, as evidenced by a spill at the Golden Sunlight Mine near Whitehall, and contaminated waters from mining operations near Lewistown.

Here in the Greater Yellowstone area, we are faced with a proposed platinum/palladium mine on the banks of the East Boulder River, a few miles north of the Absaroka-Beartooth Wilderness, and the New World Project at Cooke City, on the border of Yellowstone National Park. In both areas, water protection is extremely important. The highly acidic nature of water originating from the old mine workings at Cooke City has contributed to the pollution of this headwater area, and will likely be exacerbated by further mining activity.

Mine operators should be confident enough in their operations to ensure the protection of groundwater; if not, the mine should not be permitted. Local citizens, water users and taxpayers should not have to bear the burden of contaminated or destroyed water resources. The best way to ensure this type of groundwater protection is through a water protection plan which identifies water resources, expected consequences of operations and potential corrective actions, along with a guarantee of sufficient financial resources to provide such corrective actions. The costs of impacts of mining operations on groundwater resources are costs that should be internalized by the company, not passed to someone else.

We appreciate the opportunity to comment on this proposal, and urge your support for the groundwater protection measures in the bill.

Sincerely,

  
Jeanne-Marie Souvigney  
Program Assistant

Testimony on House Bill 956  
Members of the Committee

I am Ellen Pfister. My husband and I ranch in the Bull Mountains Northeast of Billings. My family has owned the ranch since 1942. The Bulls are a low range of prairie mountains with just enough elevation to catch some extra rain clouds to create some spring fed waters and better summer grazing. Unfortunately those same summer pastures also have under them a coal deposit, which Meridian Minerals, a wholly owned subsidiary of Burlington Resources, plans to mine by a method called longwall.

A little over 20 years ago, longwall was an experimental method of mining imported from Europe. It is now producing 30 per cent of the coal mined in the United States. Longwalling is looked upon with favor by the coal industry because the longwall machine totally removes all coal within its area of operation which may be a panel up to 900 feet wide and a mile or more in length. The actual number of men underground is relatively low, and due to the roof supports over the longwall machine itself, their safety is increased.

The area from which the coal is removed is fractured and is immediately subsided. In the case of the Bulls, the amount of subsidence is predicted to be about 7 feet in the middle of the panel and rising to the angle of draw on the edges of the panels, where there will also likely occur large cracks to the surface which may or may not heal, depending on unpredictable circumstances.

Much of the use by livestock and wildlife in the Bulls depends on live springs high on the Mountain fed by a scoria deposit over a fairly impermeable shale base. All of this lies over the coal in amounts ranging from about 200 feet to 750 feet. The closer to the scoria cap that a spring arises, the better the water quality. Subsidence caused by longwall causes the higher water to move lower, and in some cases disappear altogether. It can also lower water quality, although how severely is in controversy.

It has taken nearly <sup>Eastern</sup> twenty years for the scientific community to believe citizens when they said that this form of mining damaged their water. How water use and replacement has been handled back there has purely depended on the grit and guts of the individual citizen involved. The Eastern states have depended primarily on high rainfall to saturate the fractured rock and make their country whole again, but it is far from totally whole. We in the Bulls do not have that luxury.

There is little margin for error in the Bull Mountains case if losses in shallow water supplies, spring flows or groundwater under flows cannot be tolerated. The quantities of water available are limited to start within this semiarid region and annual recharge rates are indeed limited. Subsidence related changes in groundwater flow will not be very forgiving as can be the case in more humid regions because high annual recharge rates cannot be counted upon to "swamp out" errors in calculation or misunderstanding of the mine-related hydrologic system. Page 9 of "Review of Meridian Minerals Proposed Bull Mountain Longwall Mine No.1, Montana" by Richard R. Parizek, Professor of Hydrogeology, and President of Richard R. Parizek and Associates, 751 McKee Street, State College, PA 16803, dated December 22, 1990.

The Bull Mountain mine as currently proposed will totally undermine 12 sections and large portions of 7 more. About two more sections will be used for associated mine facilities such as rail loops and gob piles. Some of the portions of the proposed mine are currently being sold for subdivision lots by Yellowstone Properties (Patten Development). Most of the buyers are out of staters who have not been told of the potential mine. After all who would want to buy their dream lot on a coal mine if they knew.

The proposed amendments to Montana's Reclamation law are intended to treat water as a valuable resource within coal bearing areas. Without a good and reliable source of water, an area dies. In most of the scientific literature, the scientists have taken the last twenty years to discover that mining affects water quantity and quality. That discovery seems to be the only real result of Section 82-4-205 (6), MCA. There has been no real mandate for research into how to fix a broken water resource, except to just hope that it would flush out with time---time being anywhere from 100 to 1,000 years. That kind of acceptance of degradation should be unacceptable.

It has been acceptable policy to permit the degradation of the water resource within company owned lands, but that degradation travels in a plume off-site and eventually affects other people, who then have a very difficult time proving what has happened.

A data baseline needs to be established for off-site areas with a sufficient time-line to provide a better scientific basis to determine the quantity and quality of water in the area prior to disturbance. Monitoring needs to continue on a regular basis throughout mining, and the data obtained should be readily available to all parties involved.

Ex. 19  
3-8-91  
HB 956

The proposed amendments of Sec 82-4-205(6), MCA, I hope will stimulate some serious research into how to repair various kinds of water resources. I hope it results in some practical results, rather than some of the fairly harebrained things proposed so far for our area.

There needs to be a better way for the citizen in a coal area to handle water problems than the lawyers relief section of the current Section 82-4-253, MCA. The only parties who really win in that section are the lawyers for the opposing sides. The current proposed amendments should handle most water problems long before they reach that point. I know that as a citizen who faces potential problems, I would prefer to go through a process that entailed more cooperation and less confrontation.

The more I have read about the effects of longwall mining on water in the scientific literature, the more concerned I become about its effects on our ranch. I can't blame the neighbors who will chuck it all and sell to the coal company. If the mine goes in, on our North side, we will have only one neighbor left who is not an absentee corporation. I'd run, too, if there was any place I could think of to go, but there is nowhere else I want to be but there, so I will stand.

I hope you will give serious thought to passing these amendments in House Bill 956 to protect our water resource. These amendments have arisen out of nearly twenty years experience with the current law and are the products of the citizens experience with it. These proposals work to the long term interests of the State of Montana. It is as true for the rest of the state as it is for the Bulls--water is our life blood.

Submitted by:  
Ellen Pfister  
Mailing address:  
926 Yale  
Billings, Montana  
59102  
March 8, 1991

RI 9242

REPORT OF INVESTIGATIONS/1989

EXHIBIT 20  
DATE 3-8-91  
HB 889

House Natural  
Resources Committee

## Surface Fracture Development Over Longwall Panels in South-Central West Virginia

By David K. Ingram

*Garl P. Turvie*  
*P. 18*

BUREAU OF MINES



UNITED STATES DEPARTMENT OF THE INTERIOR

TESTIMONY FOR H.B. 956

EXHIBIT 21  
DATE 3-8-91  
HB 956

(water protection and restoration from mining operations)

My name is Pete Tully. My wife and I operate the family ranch in the Bull Mountains between Roundup and Billings. The reason why I am here today is to protect our livelihood as ranchers from adverse hydrological impacts directly resulting from a large scale underground coal mine presently proposed by Meridian Minerals Company. This project would be adjacent to my operation and directly underneath several of my neighbors.

Furthermore, rarely has a coal field been opened up with only one mine in operation. If this initial project is successful, a subsequent mine in this field will probably be underneath our ranch.

Faced with this possible scenario, I am obviously concerned for our ground water and surface water. As ranchers we are dependent upon our resources- grass and water. Without one or the other we are out of business. By the same token, when either of those resources become too costly to maintain we are out of business.

All indications lead me to believe that coal mining does diminish and or degrade ground and surface waters.

This summation is backed up by numerous agency and consultant reports done on the Bull Mountain area and others. Several examples of these are: 1) Montana Bureau of Mines and Geology report on coal mining the Bull Mountains by Keith S. Thompson done in 1982; 2) Department of State Lands memo and subsequent comments on the Bureau of Land Management Exchange EIS; 3) Overview reports done for Department of State Lands by Office of Surface Mining (OSM) consultants Richard R. Perizak and Henry Rauch on the Bull Mountains project; 4) USGS reports done on longwall mines in Colorado and Utah; 5) Groundwater Impact report done in West Virginia in 1987.

All of these and others unequivocally state that coal extraction, both surface and underground, often cause adverse impacts on ground and surface waters. The past history of coal mining in general backs this up. It only stands to reason that when the materials acting as aquifers are either extracted or intersected by subsidence-caused fractures, those waters shall be impacted. The only unknown is the degree to which those waters are impacted. Unfortunately, any of these impacts to either quantity or quality are generally always detrimental to the pre-mine water users.

H.B.956 is absolutely necessary to ensure the complete protection and restoration or replacement of water resources and beneficial uses of water impacted by mining operations. This bill would clear up a lot of grey areas under present laws that leave water users at the mercy of mining interests.



The passage of H.B. 956 would:

- 1) Allow the ground and surface water to be treated as valuable and inviolate longterm resources irregardless of present surface ownership;
- 2) Establish a water bond to cover restoration and replacement prior to the issuance of a permit;
- 3) Place a time frame upon the permittee to adequately temporarily restore or replace a water resource;
- 4) Restore or replace the water resource at no greater cost to the water user than under conditions prior to the permitted operation;
- 5) Allow the water protection area of a permitted project to be expanded if necessary to include all impacted water resources;
- 6) Require the permittee to shoulder the burden of proof showing that his operation did not cause diminishment or degradation of the water resource rather than vice-versa.

With this in mind, I strongly urge this committee to support the passage of House Bill No. 956. The water resources and water users of Montana deserve no less.

Hearing on H (off the cuff) <sup>no copy</sup>  
addendum to testimony given by  
Irvin Van Haur representing Van Haur  
ranch - my sons & grandsons,

I may have left the impression  
that my ranch is totally out of water  
at this time only that part of  
my ranch that is at the highest  
~~selevation~~ elevation (the part  
nearest the mine) is devoid of  
spring water. This is an area  
that has historically been summer  
pasture and within this area are  
three springs - now dry - on which  
I have 100% water rights but 100% of  
nothing is still nothing!

Irvin Van Haur

Honorable Chairman Bob Roney  
+ Members of the Natural Resource Committee  
Noel Keogh - Operate Family Ranch - Nye since 47  
3 miles N SMC

Stress importance of Water - Much concern in leg.  
Especially Springs

Small but Scattered - Hi elevations, sidehills  
+ Benches

Utilization large areas of Range otherwise  
unproductive - distance from water

Majority of grazing 1 mile - less if steep

Uses by wildlife - Elk to squirrel

Recreation - Hunting + Picnicking

Aesthetic - bubbling spring - Beautiful  
Aspen patches on hillsides in fall

Specifics of Horseman's Flat's Spring

Av  $3\frac{1}{2}$  to 5 gpm = Waters 600 AUM's

Sole Water Supply to 60% of Our Summer  
Range

May indirectly contribute to another 25%  
Important Water Source to Elk Head Calving

## History of Mining vs Water in Stillwater

Early 1950 - American Chrome (present SMC area)  
Truck loads of straw to seal off

1972 - Johns Manville - West Fork Still  
Exploration ~~phase~~ - blew Drill out of Hole

1983 - SMC West Exploration Phase  
Dried up spring used to supply domestic  
water to Family 1/4 mile from mine  
2 years to settle dispute

May 1988 - SMC east side - Spring cr (No Name)  
Initial 1500 to 2000 gpm to 300 to 400  
official figures Reported by DSL  
John Mount - Settled with purchase of Prop by SMC

Feb 1990 - SMC West  
650 gpm to  $\approx$  50 gpm

March 1990 - SMC West  
700 gpm now Reported  $\approx$  200 gpm

Total - At least 600 gpm loss from Underground

#3

EXHIBIT 23

DATE 3-8-91

HB 889

Problems for Mine - cannot let it Run to River  
overflowing Beck Ponds - Sprinkeling to Evaporate  
Snow making equip

Long term -

Big Springs State Park - Great Falls

Impressive - River - flowing into Missouri R.

Sign - 2000 yrs ago - Snow melt on Little Belts

Man scarcely on N American Cont

Giant Picture - we see only pin point  
No understanding of total Complexness

Close - not strong enough  
Nothing less please

Thanks

# Northern Plains Resource Council

EXHIBIT 24  
DATE 3-8-91  
HB 889+956

Testimony of Jack Heyneman  
on HB 889 and HB 956  
House Natural Resources Committee

I am Jack Heyneman from Fishtail. My family and I raise cattle and sheep on the West Rosebud River drainage. I am here as a representative of the Stillwater Protective Association, a grassroots citizens organization that cares deeply about the sustainability of our natural resources and our people in the Stillwater Valley. SPA is an affiliate of the Northern Plains Resource Council.

In my mind there is no question that the current concern about both our water quality and quantity is as important or perhaps more important than any issue that we or you as members of the Natural Resource Committee have been involved in.

House Bills 889 and 956 give you the opportunity to insure that water, our most precious resource, which in the long run is far more valuable than the palladium, platinum, or chrome that lies in the mountains near us will be preserved for our children and grandchildren.

I am certain that critics of 889 believe we have all the safeguards needed to protect the water resources of those that live near any hard rock mine. I would like to tell you of an incident that happened in 1988 in our valley which illustrates the shortcomings of current law.

While drilling with a 13 foot diameter boring machine, the Stillwater Mining Co. severed a large aquifer. This almost immediately cut off the supply of irrigation water going to a small dude ranch just downstream from the mine. Current Montana law required that the mining company put in measurement devices in streams near their proposed operations and record the flows periodically. These measurements were highly questionable, however, because the mining company did the measuring without any input or verification from either the land owners or the state.

The discrepancies in this information are alarming. The mining company data for Nye Creek (which was used in the EA by DSL) showed a flow of about 30 gallons per minute (gpm) in 1980, a normal precip year.

Flow in the drought year 1987 was over 500 gpm, according to the company. Data recorded in the spring of 1981 showed no flow, but in the spring of 1987, a drought year, flow was over 800 gpm. On Spring Creek, the one that was dried up, company data showed exactly the same flow, 161.6 gpm, at four different times during a six month period, September 1987 to May 1988. The irregularities

of these measurements make them highly suspect. Yet this was the only information presented to the public and used by DSL in categorizing these two water resources, one of which of course no longer exists. Information submitted to the agencies by the rancher was ignored (see enclosed sheet for more details)

In this particular case, if the land owner had not on his own, recorded and documented stream flow variance for a number of years including drought and wet years, he would have had to rely solely on the company's data to determine the amount of replacement water needed. Their records made such a mockery of any possible accuracy or integrity of recording that the company found it more expedient to simply buy out the total dude ranching operation. I don't think this is the way that any of us believe we should solve our problems. Buying out what is considered a hindrance is not acceptable.

This situation illustrates a number of problems with Montana law. Certainly this kind of large scale water disruption is unacceptable. Suffice it to say that the company felt it was obvious that their drilling caused this extreme example and that ultimately they would be responsible.

Under 889 monitoring of all the water resources both up and down stream would have been identified and evaluated. When the company applying for a mining permit knows it will be responsible to replace fully or guarantee the existing quality and quantity of water they undoubtedly will be prudent in where and how they mine. All property owners both up and down stream will be aware of this monitoring and will have the opportunity to add any other information they feel important in evaluating the quality and quantity of the water. Once the water resource is completely and accurately evaluated then the company and the Department of State Lands can determine what kind of bond will assure everyone that this resource will be fully protected.

Predicting underground water movement in broken and rocky substrata such as we have in many parts of Montana is not a perfect science. To insure the proper and fair administration of mining, this bill includes the understanding that the company, and not the people of Montana, will be responsible for the added costs of guaranteeing that we can adequately protect our most important resource.....water.

Thank you for your attention and I sincerely urge your support of HB 889 and 956.

SPRING CREEK  
"No-Name Creek"

EXHIBIT 24  
DATE 3-8-91  
HB 889 + 956

Listed below are water flow data for Spring Creek as provided to MDSL by the Stillwater Mining Company. I am also showing my own measurements taken during reasonably corresponding periods of time.

	<u>Stillwater Mining Co. Measurements</u>	<u>John Mouat's Measurements</u>
September 1987	161.6 GPM	-
January 1988	161.6 GPM	711 GPM
February 1988	161.6 GPM	328.5 GPM
March 1988	161.6 GPM	909 GPM
April 1988	-	986 GPM
May 16, 1988	-	1,431.5 GPM
May 27, 1988	76.3 GPM *	Dry

\* Presumably made on the day Spring Creek was interrupted by Stillwater Mining Company.

My measurements are based on actual weekly computations which were taken by myself. These computations can be verified by photos, sworn statements by the previous owner of Stillwater Valley Ranch for over 30 years prior to my purchase of the ranch in 1968 and other corroborating data.

I do not know the basis of Stillwater Mining's measurement computations, but am quite certain that the probability of water flow in Spring Creek being identical for 4 months in a row, taking into consideration the variables of hot weather and cold, rain and shine, summer and winter, windy and still, and all the other factors that affect water flow, are one in a million or thereabouts.

Summary Comments Concerning the Credibility of Water Flow Data  
Shown by MDSL on Page 29 of their Environmental Assessment (EA)

1. In presenting water flow data on Nye Creek and Spring Creek (No Name Creek), MDSL used only input from two mining companies. They did not come to me, the landowner for such data. This is wrong!

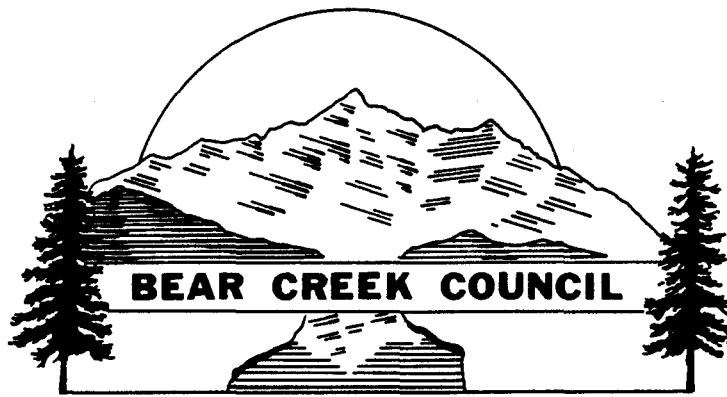
2. MDSL presented water flow data on Nye Creek from 2 different mining companies. The data which they reported is so disparate that there can be no credibility in the information presented. Despite this incredible variance in water flow data, it was still presented to the public as believable information.

3. Paragraph "M" of your EA (page 69) states as follows:

"Flows from No Name and Nye Creeks may be permanently altered" and mining operations "would permanently affect the aesthetics of this area".

Assume for a moment that Anaconda Mining had commenced mining





P. O. Box 448 — Gardiner, Montana 59030

25  
DATE 3-8-91  
HB 889+956

**Testimony of the Bear Creek Council in support of HB-889 and  
HB-956, March 8, 1991**

Mr. Chairman, members of the Committee, my name is Miriam Skertich. I own my home in Jardine MT directly beneath the Mineral Hill Mine. I am speaking on behalf of the Bear Creek Council, a local grass-roots citizens group of over 50 members and supporters. We have always been concerned about the challenges to water quality presented by mine developments. We have even started our own macrobiotic water quality monitoring project to keep track of what is going on in Bear Creek and the Yellowstone River.

My own personal experience should help explain why we want this legislation. As part of the dust suppression plan during construction of the mine, Magnesium Chloride was sprayed on the roads. The contractor used mine property adjacent to ours to mix this material. Spilled or excess material was dumped on the ground and a rain washed it into my well. The well water was not only undrinkable, you couldn't even wash in it. We went to the mine with the problem but they never would admit responsibility. After several months of head-butting we eventually hired an attorney and several thousand dollars later the mine finally drilled us a new well. At no time did they accept responsibility and we had to sign a release to get our water fixed.

If a good water protection plan had been in place this incident should not have happened. Even had a similar accident taken place both we and the company would have been better off with our bill in place. We would have gotten our well fixed within days, instead of months. More important, it would have saved us the legal fees and headaches. It would also have saved the company their legal fees and administrative time. If they were candid about this it probably cost them almost as much to run us around as it did to fix the water.

*Miriam Skertich*

EXHIBIT 26  
DATE 3-8-91  
HB 956

March 4, 1991  
Monday

House Natural Resources Committee  
Capitol Building  
Helena, Mt. 59620

R.E. In support of HB 956

Dear Committee Members:

The most devastating effects of current strip mine methods are to the aquifers which are encased in the overburden and in the actual coal beds. These aquifers are underground streams which are a part of the delicate natural balance of the region. Moreover, this groundwater, a resource which is not even owned by the coal companies, is treated by them as an aggravation rather than as an integral part of a mining and reclamation plan.

At the Rosebud Mine, operated by Western Energy Company, dragline operators encounter large amounts of water. The major portion of the mine was once a vast water recharge area (see Renick studies). Groundwater flowed into the area and was filtered as it flowed through the coal beds. The water then exited down syncline to become part of a complex system of springs and intermittent streams. Now, however, as the huge draglines plunder the overburden, the water collects in the mine cuts (see attached map and pictures). The result has been a toxic blending of total dissolved solids and soluble salts.

This noxious water is then pumped to an unused pit or to an unsealed holding pond at the perimeter of the mine where it seeps down syncline and pollutes water, soils and vegetation for miles and miles. Where once we could rely on a steady, palatable supply of water for livestock and domestic use including wells and springs which we have established water use rights, these water sources have had to be abandoned. Further, the large quantities and degraded quality of the water has rendered acres of our ranch property unusable. Soils have become saline-ridden where only salt-tolerant grasses grow. Trees have rotted and died at an accelerated pace. Swamp lands have replaced grasslands. In addition, habitat no longer has a reliable, healthy source from which to drink.

All this because government regulations have never been written to protect the abundant groundwater veins which naturally co-exist with the coal beds. A mine plan which requires numerous sites to discharge mine waste water into the headwaters of creeks which sustain our ranch should never have been permitted as was the case with the Rosebud Mine. A truly non-polluting industry would have intercepted the water, purified it, and created a system whereby it could continue on its natural pathway. Instead our ranch operation and miles of land have been impacted.

New, specific, and enforceable regulations are needed to prevent further destruction. If the Saudis can purify sea water for drinking, it is not beyond the technological means or the moral responsibility of government to settle for anything less.

HB 956 should be passed without amendment. It is without doubt the most progressive and necessary legislation effecting Montana's future. We, as a state, have no future without our water.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Patty Kluver', written over a horizontal line.

Patty Kluver  
Rt. 1 Box 2046  
Forsyth, Mt. 59327

6 Mar 91

From  
Jim Southworth  
EXHIBIT 27  
DATE 3-8-91  
HB 889

Rep. Bob Raney  
Chairman-Natural Resources Committee  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Rep. Raney,

Concerning the hard rock mining groundwater protection bill, HB 889, I would like to express my strong support of this action. I think it is long overdue.

My family and our neighbors have become very concerned about our groundwater since a mining company began exploration in 1986 on East Butte of the Sweetgrass Hills; The "Hills" are located in northern Liberty and Toole counties along the Canadian border. They serve as a sole source aquifer to the surrounding farms, ranches and small communities and in addition are damn nice to look at.

In existence now are three major rural water lines coming out of the "Hills", each serving from 100 to 150 farmsteads (2 to 3 hookups per farmstead) and each running from 100 to 200 miles across the dry rolling prairies, providing excellent water where there was very little and of poor quality.

The mining company pulled out last year probably for a couple of reasons, negative test results and strong resistance from the area's residents; and this resistance was not all from those involved with environmental organizations but mostly from those who became very aware of an important resource being seriously threatened. Don't get me wrong, we were not in any way against industry coming into this area but just the opposite; however this development had the potential of affecting our own industries negatively.

The local conservation District did sponsor a tour of the Zortman Mining Company's operation in the Little Rockies in Phillips County to get an idea of the scope of a gold strip mine using the cyanide extraction process for low yield ore. It was an impressive operation but the amount of mountain they were moving left a lasting impression on those concerned about the Sweetgrass Hills.

Because of the 1872 mining law the local residents have very little control in spite of established water rights, leases etc. So in closing I would say that this extra protection provided by HB 889 is badly needed. Thanks for listening.

Sincerely

*Arlo Skari*

Arlo Skari Box 296, Chester, MT 59522

EXH - 27  
DATE 3-8-91  
HB 889

FOAM  
Fishing Outfitters Association of Montana  
P.O. Box 275  
Sheridan, MT 59749

House Natural Resources Committee  
Representative Bob Raney, Chairman

The Fishing Outfitters Association of Montana (FOAM) supports the preservation of Montana's water quality. The continued high quality fishing in Montana is a resource that must be maintained by careful stewardship of all our resources, especially those that impact our streams and underground water supplies. HB-889 and 956 is an effort to preserve the quality of Montana water for all users. We wish to go on record as supporting that effort.

Fishing Outfitters Association of Montana  
Al Gadoury, President

Area E  
Thanksgiving Day 1984



View showing strip mine cut intercepting aquifers in and above the coal bed. Movement

EXHIBIT 27  
DATE 3-8-91  
HB 889 + 956

Beartooth Alliance  
P.O. Box 1141  
Cooke City, Mt. 59020

February 21, 1991

Representative Jim Southworth  
House Natural Resources Committee  
State Capitol  
Helena, Mt. 59620

Dear Mr. Southworth,

My name is Wade King and I am the chairman of the Beartooth Alliance, an affiliate of the Northern Plains Resource Council. We organized in response to possible development of a mine by Crown Butte Mines/Noranda Minerals Corp. Our area has already seen water resources destroyed by historic mining. The community of Colter Pass is only two miles from the proposed mining area. The mines own baseline studies show that the water table is as shallow as one foot below the surface in some areas. The potential for catastrophic water degradation is enormous. Under current law the citizen whose water is degraded is responsible for proving a developer is responsible for that degradation. Most citizens do not have the expertise or the money to hire a professional who could prove this. This puts the mining developer in a position of collecting their own baseline data (which can be falsified), and using their lawyers and political pressure to show they are not at fault, even if they are. If water is degraded so badly that it is unsafe the mines simply buy out landowners, most who do not wish to leave. This leaves us with an unhappy citizen and loss of precious water resources.

House bills HB 889 and NB 956 would prevent many of these abuses from taking place. By shifting the burden of proof to the developer they would need to protect water resources in a manner

OKee F 889 HARD ROCK MINING WATER  
OKee F 956 COAL MINING FOR WATER

that would lead to less chance of water contamination. More complete independently authorized studies would give more complete background information that would be very useful should litigation take place. The provision of the bill that requires financial assurance for restoration or replacemnt of water resources would make sure that the State will have the money to provide water if the mining company fails to do so. This assures that the tax-payers won't have to foot the bill as we do when mining companies forfeit their reclamation bonds.

These bills would also allow private citizens to report violations and gain better access to water resource information.

The Beartooth Alliance, 180 membrs strong, urge you to support HB 889 and NB 956. Thank you.

Respectfully submitted,

  
Wade King



EXHIBIT 27  
DATE 3-8-91  
HB 889 & 956

P.O. Box 1099  
Cooke City, NH 59220  
March 6, 1991

House Natural Resources Com.  
Rep. Jim Southworth

Dear Sir:

Please support two important  
water resource Bills that will be heard  
in Committee on March 8th. They are  
HB 889 (O'Keefe) and HB 956 (O'Keefe).

Also, please support HB 718 (Elliot)  
that will be heard in Committee on  
Monday, March 11th - This Bill will create  
water quality users fees.

Thank you for your consideration

Sincerely,

Mrs. Joan O'Keefe

Bridgeport  
Feb 11, 1971

Dear Jim Southworth.

One of the clubs for  
water users on - 14 Ditches  
& Golden Ditch Co. Highly  
object to Senate Bill  
212 of Brainerd's with  
Bill. It takes more  
water to raise a 6" fish  
than it does to raise a  
acre of Grain. who pays  
most taxes agriculture  
of canal. The leading  
Industry in Montana

this can be  
used on  
fishing

Gordon Boyer  
President

BEARTOOTH ALLIANCE  
BOX 1141  
COOKE CITY, MT 59020

3-4-91  
EXHIBIT 27  
DATE 3-8-91  
HB 889 & 956

Jim,

THANKS FOR TAKING THE TIME OUT OF YOUR BUSY  
SCHEDULE TO DROP ME A LINE. I HAD HOPED TO BE  
IN HELWA ON THE 8<sup>TH</sup> TO TESTIFY ON BEHALF OF  
889 & 956 BUT I'VE STARTED MY OWN BUSSINESS AND  
CAN GET AWAY. IT IS COME TO MY ATTENTION THAT  
THE MINING LOBBY HAS GOT AN ARGUMENT ADDED TO  
889 WHICH WOULD EXCLUDE ANY MINE ALREADY  
INVOLVED IN THE PERMIT PROCESS. THIS WOULD EXCLUDE  
THE MINE PROPOSED HERE. WE FEEL THAT NO CONSTRUCTION  
WAS BEGUN AND THERE IS NO REASON WHY THIS  
MINE SHOULD BE EXCLUDED. (IF THE LAW PASSES).  
I THANK YOU ON BEHALF OF MYSELF AND THE  
BEARTOOTH ALLIANCE FOR YOUR POSITION ON 889-956  
AND LOOK FORWARD TO DOIN' SOME PICKN - MAYBE  
THIS SUMMER AT OUR FUNDRAISER - MAYBE.

Sincerely

Wade

EXHIBIT 27  
DATE 3-8-91  
HB 889

February 27, 1991

Dear Representative Southworth,

We are writing to you in regards to House Bill 889. We support this bill and urge you to do so also.

We are ranchers and water contamination due to mining could be the ruination on our livelihood and also for our generations to come. Our ranch is near the platinum-pladium mine on the Stillwater.

The provisisons in the bill would certainly insure that all areas are covered that could be overlooked when a mine is issued a permit. We also agree that the burden of proof for water damages should be on the mining company. If they have the revenue to pursue the permit and the mine operation they certainly can cover any damages to water.

Let's keep Montana's waters pure, clear and unspoiled by mining operations.

Please support House Bill 889. Montana is worth it.

Sincerely,

*Paul + Cathy Donohoe*

Paul and Cathy Donohoe  
P.O. 250  
Nye, Montana 59061

EXHIBIT 28  
DATE 3-8-91  
HB 889

HB 889

House Natural Resources Committee  
March 8, 1991

Testimony of Alan L. Joscelyn

I. Current Law Contains Comprehensive Water Protection Measures:

The current law already provides for full protection of Montana's water resources and of the rights of water users.

A. Impact Prevention Measures: The following provisions insure potential impacts of mines on water resources are anticipated and minimized to the extent possible:

The Metal Mine Reclamation Act, Part 3 of Chapter 4, Title 82, MCA provides:

Every application for an operating permit must include ground water and surface water hydrologic data gathered from a sufficient number of sources and length of time to characterize the hydrologic regime (82-4-335);

Every application must include a comprehensive reclamation plan providing sufficient measures to prevent the pollution of air or water and the degradation of adjacent lands (82-4-336);

Every permittee must post a performance bond conditioned upon faithful performance of the requirements of the act (82-4-338) (a \$38 million bond, most of which was to insure protection of water quality, was required by the Department from Golden Sunlight Mines in 1990);

The Department of State Lands must deny a permit if the plan of operation or reclamation conflicts with provisions of Montana's Water Quality Laws (including the non-degradation provisions).

Montana's Environmental Policy Act, §§75-1-101, MCA, requires comprehensive assessment of impacts, including cumulative impacts of all aspects of a proposed mining operation, including impacts to surface and ground waters.

B. Protection and Enforcement Provisions: The following provisions of Montana law prohibit interference with water rights and pollution of surface or groundwater, and provide means for addressing and correcting violations:

Montana's Water Quality Act, §§75-5-101, MCA prohibits pollution or contamination of Montana's surface or groundwaters and provides the Department of Health and Environmental Sciences with full authority to address, stop and correct and violations.

Montana's Water Use statutes, generally §§85-2-101, MCA, provide for determination, recognition and protection of the rights of water users, including providing full authority for redress of any interference with valid rights.

The Metal Mine Reclamation Act, and specifically §82-4-355 MCA, enacted in 1985, provides special protection for water users from impacts caused by mining. The section provides that anyone who feels their water use has been affected by mining can file a complaint with the Department, giving the Department full authority to require the miner to replace the water in like quality, quantity and duration.

Under prevailing principles of tort law, any person who feels a mining company has interfered with his or her use of a water resource may bring an action in court for full recovery of damages. Possible causes of action would be for trespass, strict liability in tort, nuisance, and/or inverse condemnation.

II. The key provisions of HB 889 suffer constitutional infirmities:

A. Section 17, subsection (2), requires the Department to presume, for purposes of enforcement of the water protection plan, that the mine is responsible for any change in water resources or beneficial uses in the water protection area, or if any user incurs higher operating costs. Because there are so many other potential causes of such changes, this presumption appears to violate the due process guarantees of the U.S. and Montana Constitutions. Changes may be caused by natural erosion, by weather and precipitation cycles, by agricultural

practices, by other human activities, by earthquake, by fire. With regard to higher operating costs, this provision would make a mine responsible for changes caused by an increase in electrical rates.

B. Section 17, subsection (9) would replace an action by a water user for damages in the court system with an administrative hearing (presumably before the Department of State Lands), wherein the mine operator has the burden of proof, by clear and convincing evidence. This provision appears to violate Section 26, Article II of Montana's Constitution, which provides that the right to a trial by jury shall remain inviolate.

III. The bill suffers a host of other technical problems:

The bill makes numerous changes in existing law which raise many unanswered questions:

A. New definition of beneficial use. Would grant protection for virtually any use of a water resource by anyone, no matter whether a one time, casual use. More urgently, the provision raises questions as to how it should be meshed with existing water rights law. If the bill passes, will a fisherman be allowed to apply for and obtain a water right? Section 17, subsection (1), requiring comparison of a mine's right with other "beneficial uses" seems to indicate yes. Otherwise, how can seniority be judged?

B. Permit Decisionmaking. Section 16 implements new procedures for decision making. The whole purpose of Section 82-4-337 has always been to provide for some expediency in decision-making. The new provisions would require a full administrative trial type hearing by the department on any permit decision upon request of anyone who claims an interest. This would greatly increase the length of time for permitting. It would also change court review from a de novo hearing of issues by the court to judicial review under the Administrative Procedure Act.

What happens if after a hearing the Board modifies its decision. Does the full process start over with a new hearing? Apparently so, but this isn't made clear.

Section 3, subsection (24) is phrased so generally that swimming pools and toilet tanks would have to be included in the inventory of water resources.

Section 10, Financial Assurance: The existing bond provisions already require bond to provide against anything which is foreseeable. How do you determine a financial assurance figure to provide against the unforeseeable.

Section 10, subsection (2)(d) provides for the obtaining of water restoration and replacement insurance. To my knowledge there is no such product.

Section 18, subsection (3) purports to put the burden of proving necessity for expanding the water protection area on the water user, but in fact the burden is on the permittee once the user "demonstrates" a use has been diminished.

Other technical problems exist too numerous to mention here.

In summary, comprehensive protection already exists for water resources and water users. In attempting to extend protections by the extraordinary means contemplated in HB 889, constitutional protections would be violated.

7184A





EXHIBIT 29  
DATE 3-8-91  
HB 889

**MONTANA BUREAU OF MINES AND GEOLOGY**  
**MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY**  
**BUTTE, MONTANA 59701**  
**(406) 496-4180**

Robin B. McCulloch  
Staff Field Agent  
Mining Engineer

Following the nationwide destruction of the metal mining industry in 1985, Montana was left in a wake of unemployment. Less than 938 people were working in an industry which had formerly employed 2,294. Payroll dropped to less than \$27 million.

As the economy slowly recovered, companies started investing time and money in the State. Since 1987, exploration companies have invested \$20-25 million per year in Montana with annual exploration expenditures peaking in 1989 at \$28.5 million. Employment is currently around 2,200 with annual payroll and bonuses exceeding \$74.2 million.

Mining companies invested \$535.5 million in the 1980s with peak investment years being 1982 with \$151 million, 1987 with \$156 million, and 1988 with \$89.8 million. These amounts represent initial investments, while capital improvements on those properties average \$58.2 million per year. The mines employ thousands of individuals indirectly in up to 1,022 companies as they spend over \$195.3 million for goods and services supplied from all over the state.

This growth trend is expected to continue into the '90s' at the same slow steady pace. We can expect mining companies to invest up to \$580 million in five new mines and one proposed increase in production. Annual capital improvements can be anticipated to increase to \$70-90 million per year. Employment will increase another 1,600 to total of over 3,850. Payroll for metal mining may increase from \$74.2 million to \$132.9 million by the year 2000. And most important, much of the needed jobs will be in rural sections of counties which presently have little hope for jobs with the timber industry declining.

However, the future may not develop as I predict because mining is a business and as a business must be profitable and operate under a reasonable risk factor. You can see how sensitive mining is to prices and the economy, as we see production cut-backs at the Stillwater mine, near Nye; New Butte Mining in Butte; and the temporary closure of the Basin Creek mine, near Basin. Many medium sized operations are presently on hold or are being sold, as present economics won't allow development. You also have to realize that it takes 5-7 years to bring a mine on line and you have to project operating costs and commodity prices for more than 30 years to decide whether or not to start development.

House Bill 889 represents an unreasonable financial obligation and risk to the mining industry. If passed, exploration will whither and die and mineral development will stop. Existing mining operations will close as the bill will change their economic status.

TESTIMONY ON HB 889

PRESENTED BY M. K. BOTZ, P.E.

March 8, 1991

CHAIRMAN RANEY AND NATURAL RESOURCE COMMITTEE MEMBERS,

For the record, I am Maxwell K. Botz, President of Hydrometrics, Inc. and I have resided in western Montana for over 25 years. I am a professional hydrologist and have considerable experience in working on groundwater and surface water resources and have dealt extensively with water resource developments and problems in Montana associated with municipal, agricultural and industrial projects, including mineral developments. I spent six years on the faculty of the Montana College of Mineral Sciences and Technology and with the Montana Bureau of Mines and Geology, and four years as an Environmental Engineer with the Montana Department of Health and Environmental Sciences, Water Quality Bureau. I have worked with, administered and helped develop numerous water-related regulatory programs in Montana, and have a strong personal and professional commitment to protection of water resources in Montana.

House Bill 889 states its intent is to protect water resources; however, close review of this bill shows it is complex, contains sections that have little or nothing to do with water resources protection, is very duplicative of requirements contained in existing laws and regulations. This bill also has many sections that are difficult to understand and would be virtually impossible to administer. The bill mandates a very large regulatory and financial burden on both industry and the State of Montana, yet does not provide protection of water resources beyond that now provided under existing laws and rules.

Specific problems with this bill are:

1) Duplication of Existing Laws and Rules

Nearly all provisions of this bill that relate to water resources studies to be conducted, information to be obtained and the evaluation of hydrological systems duplicates the existing regulatory framework of the Department of State Lands, the Department of Health and Environmental Sciences, the DNRC or MEPA/NEPA requirements.

The requirements for water resources inventories, however, are greatly expanded. For example, under this bill (Section 4), a typical water resources study area would be 25 square miles or larger regardless of whether there is any possibility of impacts from the proposed operation. This makes no sense and imposes a very substantial and extremely costly burden on the development. Similarly, the vague definition of "beneficial uses" and "water resources" would result in costly inventory and evaluation of water resources features that have no relationship to the proposed development.

The existing law is clear -- application for a hard rock mining permit presently must demonstrate that the operation will protect water resources both during the operational phase and during and after reclamation. Sections of this proposed bill duplicate those requirements and Section 10 - a new section - requires bonding for restoration or replacement of water resources. This already is included in DSL and federal regulations. In Montana, all proposed developments must show they will not interfere with the rights of other water users and these proposed developments must meet the very stringent water quality requirements of the State of Montana including the nondegradation of water requirements of the DHES.

The effect of Section 17 and 18 of this bill on mining in Montana is easy to predict. It would prohibit any new mining operations in Montana! The requirement to restore beneficial uses in the mined area to approximately original conditions could not be met given the definition of beneficial uses. The procedure for claiming and showing water impacts from mining invites spurious claims of damage to water resources and mandates extremely costly investigations of these claims. In my experience, mining companies have shown no reluctance to evaluate any reasonable claim of water resource damage from their operations and have promptly resolved any problems created by their operation. Sections 17 and 18 of this bill would "open the door" to any and all persons to claim damages even if only to cause harassment and financial hardship.

## 2) Requirements Not Related to Water Resource Protection.

This bill contains several complex and vague sections not related to protection of water resources such as:

- a) Requirements to define priorities and values of aesthetics and wildlife habitats (SECTION 3.);
- b) Restrictions on companies doing business in Montana having any violations of federal or state mine reclamation laws or rules in the United States (SECTION 21 and 22.).

In summary, this bill does little to improve water resources protection but does impose complex, unnecessary and very expensive requirements that would further financially burden regulatory agencies and mineral developments in Montana. I appreciate the opportunity to provide this information to your committee. There is no doubt that it is important to protect our water resources, but this bill is regressive -- not progressive.

BEFORE THE NATURAL RESOURCES COMMITTEE  
OF THE  
MONTANA HOUSE OF REPRESENTATIVES, 52ND LEGISLATURE

In the Matter of House Bill No. 956           )  
To Generally Revise the Montana Strip       )  
and Underground Mine Reclamation Act       )

My name is Dave Simpson; I reside at 844 West Fifth Street in Hardin, Montana. I am employed by Westmoreland Resources, Inc., as Vice President, Operations, and I am here to testify in opposition to House Bill 956.

Westmoreland Resources, Inc. owns and operates the Absaloka Mine, a surface coal mine in Big Horn County, which in 1990 produced 4.47 million tons of coal. Since 1975, I have been responsible for environmental permitting at Absaloka Mine, and I have first hand knowledge of mine permitting requirements, including hydrologic requirements, administered by the Department of State Lands.

House Bill 956 would only duplicate existing requirements for hydrologic investigations, water protection and water replacement imposed on coal mine operators under current law and regulations. This bill seeks to solve a non-existent problem while, imposing increased costs, longer permit delays and extended bond liability on mine operators.

To quote all of the existing statutory and regulatory language regarding hydrology and water protection would require many pages, so I will only highlight current provisions. Statutory requirements include the following:

- Affected water resources must be rehabilitated, and all known or readily discoverable past and present uses of water must be investigated (82-4-222(1)).
- There must be a determination of probable hydrologic consequences both on and off the mine site, and cumulative impacts of all anticipated mining on hydrology and particularly water availability must be identified (82-4-222(1)(m)).
- Maps must be submitted showing pre-mining water resources and post mining surface and underground drainage plans (82-4-222(2)).
- In determining the amount of the bond, all costs of the reclamation plan, including water control, must be considered (82-4-233(3)).
- A permit may not be approved if the plan does not "prevent material damage to the hydrologic balance outside the permit area". (82-4-227(3)).
- A coal mine operator must replace a water supply adversely affected by coal mining. Removal of coal or description of an overlying aquifer is considered "prima facie evidence of injury". (82-4-253).

Regulatory requirements for hydrologic information to be included in a permit application are quite detailed, and include "all hydrologic and geologic data necessary to evaluate baseline conditions, probable hydrologic consequences and cumulative hydrologic impacts

of mining" (ARM 26.4.304). The applicant must include a plan for protection of the hydrologic balance (ARM 26.4.314), and detailed plans for monitoring of ground water and surface water (ARM 26.4.645 and 646). ARM 26.4.648 specifies that:

"The permittee shall replace the water supply of any owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate use from surface or underground if such supply has been affected by contamination, diminution, or interruption proximately resulting from strip or underground mining by the permittee".

It is hard to imagine hydrologic requirements more stringent or review more thorough than exists under the current regulatory program administered by the Department of State Lands. For example, Westmoreland Resources has installed over 130 monitoring wells in conjunction with its mine operation, and hydrologic data included in its permit application package fills four 3-inch binders. The proposed legislation of House Bill 956 is unnecessary because present law and regulations protect hydrologic resources and water users from any potential adverse effects of coal mining.

What, then, would be the effect if this bill becomes law? First, an applicant for a mining permit would be required to study hydrologic conditions within an arbitrarily designated "Water Protection Area" (Proposed 82-4-203(37)) extending a minimum of one mile up-gradient, two miles cross-gradient and three miles down-gradient of the application area. The hydrologic study for a permit area of one square mile would be 25 square miles, regardless of any hydrologic boundary which might exist. Present rules specify hydrologic sampling one mile up-gradient and 3 miles down-gradient, while guidelines used by DSL prescribe the scope of ground water investigation based on local aquifer characteristics. Hydrologic studies must extend sufficiently beyond the site boundary to allow assessment of any potential off-site impacts. Clearly, the present approach is superior to an arbitrary definition of a "water protection area", since site specific conditions can be addressed.

Also, no provision is made for access to private lands to conduct hydrologic sampling and investigations. Any statutory mandate for a hydrologic study area must include provision for free and unrestricted access to private lands in order to collect the required data.

The "water protection plan" defined in Proposed 82-4-203(38) and which would be required by Proposed Section 82-4-221(1) of this bill is identical to the present requirement under ARM 26.4.314 for a Plan for Protection of the Hydrologic Balance; any new requirement for a "water protection plan" cannot possibly be more rigorous than under the present regulatory program.

Proposed 82-4-221(1)(m)(iii) specifies that the hydrologic baseline study must be conducted for two years prior to application for a mining permit. Such a requirement would add a full year to the lead time required to obtain a mining permit in Montana, since baseline studies must now be conducted for at least one year.

This bill would require an applicant for a mining permit to pay a "water resources assessment fee" in addition to the basic application fee. This fee is to cover the cost of DSL review of the water protection plan, and represents a significant new cost to a permit applicant, in addition to environmental impact statement fees currently paid under MEPA, which accomplish essentially the same thing.

Currently, bond posted by the applicant must be sufficient to cover all costs of reclamation, including water replacement. This bill, in addition to duplicating the current requirement, would require a separate "water restoration and replacement financial assurance" separate

from the bond. This would clearly be a duplicative and unnecessary financial burden. Furthermore, this "financial assurance" would not be eligible for release "for a minimum of ten years after the release of the performance bond," which must remain in force for a minimum of 10 years after reclamation is complete. Hence, this bill seeks to double the minimum period of financial responsibility from 10 years to 20 years after mine closure. Such a requirement would add significantly to the bonding costs and long-term contingent liabilities associated with bonding. Some companies may find it impossible to obtain bonds to cover this extended liability period.

The "public information hearing" (Proposed 82-4-231(8)(f)) is a repetition of the provision for an "informal conference" authorized by 82-4-231(8)(e), and which "any person having an interest that is or may be adversely affected" may request regarding a permit decision. The proposed language would allow "any resident of this state" to request a "public information hearing," however thereby eliminating the requirement for legal standing. Proper standing must continue to be a prerequisite to any legal challenge.

New Section 18 would require the Department to "presume that water resources and beneficial uses in the water protection area have been diminished or degraded by the permitted operation if the number, location, quantity, rate of flow, quality or hydrologic characteristics of water resources are diminished or degraded, or if water users in the water protection area are incurring higher costs in obtaining or maintaining water resources for beneficial uses than under the conditions that existed prior to the commencement of the permitted operation". This provision is especially onerous because there are many reasons why water supplies may be degraded or higher costs may be incurred. In eastern Montana, severe drought conditions have persisted since 1979; precipitation in ten of the last twelve years has been below average, and ground water declines, diminished spring flows, and dry stock ponds are the rule rather than the exception. Wells, like any other man-made facility, do not last forever, and production may decline over time. Spring developments silt in, and differences in land use such as cropping and logging affect surface water yields. Agricultural practices, including fertilization, pesticide application, cropping and grazing practices affect quality of ground and surface water; saline seep is a good example of agricultural impact on water resources. Inflation alone is certain to increase the costs of "obtaining or maintaining water resources for beneficial use."

A mechanism exists under present law which requires a mine operator to replace water supplies adversely affected by a mine operation, but a blanket presumption of cause and effect would require that a mine operator be liable for water replacement whether the operation is at fault or not. The operator would have the burden of proof at an administrative hearing to show that the permitted operation did not cause water supply degradation, and if he is successful, the Department "may" order the water user to reimburse him for water replacement costs. But there is no provision for reimbursement of a mine operator in this circumstance for legal and other costs incurred in bringing the case to hearing. If the mine operator is found to be at fault, however, he must reimburse the water user for costs incurred to participate in the hearing. Such unequal treatment would be certain to generate frivolous claims of water degradation.

Language would be added to 82-4-251 which would prevent an operator who "has violated federal or state mine reclamation laws or rules" from receiving another permit. Under present law, this prohibition applies only to bond forfeiture; a permit may also be suspended or revoked based on a pattern of violations. The reclamation rules are very complex, and every operator in the state has received notices of violation for technical infractions resulting in minimal environmental harm. The proposed expansion of criteria which would prevent permit issuance can have no other purpose than to prevent future coal mining in Montana.

This bill seeks to revise Section 82-4-252, Mandamus. Interestingly, the following language is stricken:

Knowingly making false statements or charges in the affidavit subjects the affiant to penalties prescribed in 45-7-202.

One can only wonder what motivation there might be to remove language authorizing penalties for knowingly making false statements or charges in an affidavit charging lack of enforcement of the Strip and Underground Mine Reclamation Act.

Viewed from a cost-benefit standpoint, House Bill 956 has significant costs and no benefits. Water protection is a strong priority of present law, with emphasis at least equal to mined land reclamation and revegetation, and the proposed requirements would have no incremental benefit. The costs to mine operators, however, would be many:

- Increased hydrologic baseline study costs resulting from the arbitrary "water protection area".
- Doubled cost for hydrologic baseline studies stemming from the increase in length of study from one to two years.
- Costs resulting from an additional year added to the lead time to obtain a mining permit.
- Duplicate bonding costs associated with the "water restoration and replacement financial assurance".
- Additional bonding costs due to extending the liability period for the "financial assurance" to 20 years.
- Imposition of a "water resources assessment fee".
- Costs of defending against frivolous claims of water degradation with no way to recover legal costs.
- Costs of defending against frivolous mandamus actions.

The Federal Surface Mining Control and Reclamation Act of 1977, under which Montana has primacy, established uniform environmental protection and reclamation standards for surface coal mines in all states where coal is mined. Its purpose was to prevent a state from gaining a competitive advantage for its coal producers by not demanding effective mined land reclamation.

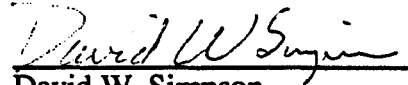
Enactment of House Bill 956 would place Montana coal producers at a competitive disadvantage by imposing costs far in excess of those incurred by coal mines in neighboring states. In a highly competitive coal market where pennies per ton determine the fate of multi-million dollar long-term coal supply contracts, the unnecessary economic burdens which would be imposed by this bill would have a negative impact on the competitive position of Montana coal mines, and consequently, on employment and tax revenue.



EXHIBIT 2  
DATE 3-8-91  
HB 956

Present law protects water resources and water users from potential adverse effects of coal mining. This bill would provide no greater protection for water, but would impose greatly increased costs to mine coal in Montana with no corresponding benefit. I urge you not to pass House Bill 956 out of this committee.

Thank you very much for the opportunity to present this testimony, and for your consideration of my views.

 3-8-91  
David W. Simpson  
Vice President, Operations  
Westmoreland Resources, Inc.

My name is Fran Amendola. I am Chairman of the Environmental/Technical Committee of the Montana Coal Council. The Coal Council represents the interests of all the major producers in Montana as well as the interests of several utilities throughout the country who purchase coal in our State, and many suppliers to our industry. On behalf of the Coal Council, I offer the following comments in opposition of HB 956 for your consideration.

#### REGULATORY OVERLAP

HB 956 is a bill which addresses an area of environmental regulation which is already covered adequately by existing regulations. Currently, detailed descriptions of hydrologic systems and protection of those systems and their users are required under regulations enforced by the Coal & Uranium Bureau, Department of Natural Resources Water Rights Bureau, and DHES Water Quality Bureau. There are no areas of this bill which provide "protection" of the water resource or user which are not addressed under the existing programs cited above.

Current regulations for nondegradation of surface and groundwater provide protection of beneficial uses. Use classes must be maintained under these regulations. Surface water quality of discharges from mining operations are regulated under the Montana Pollution Discharge Elimination System, administered by the WQB. Water Rights are protected by the DNRC. Last, detailed description of hydrologic systems is required under MDSL rule 304, the protection of the hydrologic balance is addressed under 314, prevention of material damage, and restoration of impacted wells in addition to several other aspects of hydrology are all required under current regulations (631-652) administered by the Coal and Uranium Bureau.

On the other hand, HB 956 provides serious delays for permitting by requiring 2 years of baseline studies, additional costs which will be consumed by requiring an additional fund for potential impacts and proving innocence when falsely accused of impacting a user, as well as longer liability periods which can limit expansion by extending the bond release period from the current 10 years to the proposed 20 years. It also imposes additional burdens on the various state agencies by having them evaluate and pursue poorly substantiated claims of impact as required under this bill.

If there is a great need to be more specific than the current regulations are, all of these requirements can be summarized by expanding Section 3, 82.4.205(2)(a) by including the term "hydrologic protection plan" as part of the required operating plan.

#### TECHNICAL LIMITATIONS

HB 956 presents several issues that are best left to regulation, developed by individuals with technical expertise in the field of hydrology, rather than to legislation. For example, the dimension of the water resource area, ( 1 mile upgradient, 3 downgradient, and 2 across the property) may or may not be adequate. As a point of interest, current regulation requires 1 mile upgradient and 3 downgradient unless otherwise required. Section 19 would require an operator to explain all fluctuations in water quality or quantity, natural and man-made, if a user has been impacted. It does not require the user to demonstrate that the permittee is the cause, rather only that his/her use is impacted. This even applies to individual users outside the "area".

Current regulations provide a vehicle for determining the appropriate size of the study area, and parameters which are likely impacting from the operations. These decisions should be made by technically trained individuals, rather than being specified in the Statute.

#### LEGAL ISSUES

Section 2, Definition 38 of HB 956 attempts to regulate water resources and beneficial uses outside State boundaries if they are within the boundaries of the defined water resources area. This requirement is likely to end up in a controversial legal dispute with no real winners except the attorneys. These types of issues must be thoroughly discussed with neighboring states prior to passing legislation obligating MDSL to take action.

HB 956 also raises the question of eminent domain for coal operators. In order to monitor areas that may come under question, operators will need to cover several square miles to respond properly. Access will be necessary, with further disturbance likely. Has this been considered by the authors of HB 956?

#### PROCEDURAL REQUIREMENTS

Procedurally, this bill is a nightmare. Requirements to reimburse MDSL or contractor under MDSL supervision for all expenses necessary to review the water resources protection plan is like writing a blank check to a consulting company. Without budgetary constraints or cost concerns consultants can become very expensive with the analysis inflated beyond adequate and meaningful scope. Besides, many of these expenses are already included in the EIS required for new operations at the expense of the operator under the MEPA.

Section (8) requires that no release from financial assurances be granted until a hearing is held, upon request by "a resident of this state or any person having an interest that may be adversely affected by the permittee's request for release". The same "expanded" hearings are required under the submission of Plan, Section 11. Why should the hearing for the water resource plan be different than other items in the mining and reclamation plan? Individuals adversely affected may already file objections to the plan, and request an informal hearing thereby requiring the Department to address all concerns. Surely these hearings should be limited to adversely affected parties.

New Section 18 requires that the operator be exclusively responsible for providing alternate water resources and demonstrating their innocence once accused of impacting the resource after the State has been notified. The accuser has no burden of proof to show that the operator is responsible. The accuser only has to incur higher costs for providing similar water resources, regardless of natural variation in the system. While the state may reimburse the permittee for the costs incurred providing alternate water, they are under no obligation. In addition, all costs incurred proving their innocence will not be reimbursed.

EXHIBIT 32  
DATE 3-8-91  
HB 956

Basically, the permittee is presumed guilty, must provide alternative sources of water, and prove their innocence all at their own cost while the user has only to show increased costs whether due to natural fluctuation or inflation. This type of system could cost several thousands of dollars to prove that you are not the source of the user's problem. Some reasonable probable cause approach should be applied before the permittee is required to invest this kind of money and time. State agency personnel will also be bogged-down in this endless search for answers as well.

New Section 19 provides that water monitoring beyond the boundary of the water resource area to be extended in response to a written statement and supporting information by the user, unless the permittee can show why the monitoring should not be extended. The user is not required to show that the permitted operation caused the impact, only that the user has been impacted. Regardless of man-made or natural variation, or whether the impact is the result of the permitted operation, the operator will again be responsible for expanded monitoring or the costly burden of proof. This is a lose-lose proposition for the operator. Additionally, there is absolutely no spatial limitation to extended monitoring.

These comments are a general summary of the major concerns members of the MCC have with this HB 956. This bill provides no additional environmental protection while increasing the cost to permit, operate and regulate a surface coal mine for both the permittee and the State of Montana. I strongly recommend that this committee not allow this bill to go forward.

I appreciate the opportunity to submit these comments to you. Thank you very much.

From Amanda L. 461) 757 2581 x. 200



**U. S. DEPARTMENT OF THE INTERIOR  
OFFICE OF SURFACE MINING  
RECLAMATION AND ENFORCEMENT  
DIRECTIVES SYSTEM**

Subject Number:  
REG-27

Transmittal Number:  
474

Date: 10/19/88

Subject: Water Replacement

Approval:  Title: Deputy Director

1. PURPOSE. The purpose of this directive is to provide guidance for (1) implementing the water supply replacement requirement of section 717(b) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) where OSMRE is the regulatory authority and (2) evaluating water supply replacement provisions of approved State regulatory programs. EXHIBIT 32

2. DEFINITIONS. None. DATE 3-8-91

3. POLICY/PROCEDURES. HB 956

a. Background. Section 717(b) of SMCRA requires that a person who conducts surface mining activities "shall replace the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial or other legitimate use from an underground or surface source where such supply has been affected by contamination, diminution, or interruption proximately resulting from such surface coal mine operation." The permanent program regulations at 30 CFR 816.41(h) incorporate these requirements and also contain the statement that baseline hydrologic information required in 30 CFR 780.21 and 780.22 shall be used to determine the extent of the impact of mining upon surface water and groundwater.

In promulgating the permanent program regulations, OSMRE established a policy framework within which water supply replacement is to occur. This directive clarifies OSMRE's published policy on water supply replacement.

In the preamble to the final 1979 permanent program regulations on water replacement (44 FR 15175, March 12, 1979), OSMRE articulated three concepts in response to comments on the proposed rules. The first is that SMCRA requires replacement, not compensation, for water loss. The second is that under the normal rules of administrative law, the initial burden of production and proof rests with the party asserting that a water supply has been adversely affected. Third, OSMRE stated that SMCRA requires replacement of the water supply in all instances and that the landowner cannot waive replacement, since such a waiver would not provide adequate protection for present lessees or for future owners of the property involved.

In 1983 OSMRE added the requirement at 30 CFR 816.41(h) that baseline hydrologic information required in 30 CFR 780.21 and 780.22 (permit application contents) shall be used to determine the extent of the impact of mining upon surface water and groundwater (48 FR 43980, September 26, 1983). The preamble language clarified that the alternative water supply must be capable of restoring the water user's supply that was lost due to

Post-It™ brand fax transmittal memo 7071		# of pages > 4
To	From	
From Amanda L.	Doug Davison	
Co.	Co.	
Spring Creek Coal	KRC MC	
Dept.	Phone #	
	701-223-1771	
Fax #	Fax #	
406-757-2405	701-255-0560	

surface mining impacts. OSMRE also stated that the water supply replacement requirement is tied to pre-existing uses and not to the postmining land use. OSMRE affirmed that water replacement rights operate in accordance with State water law and that the requirements of SMCRA do not change these rights except for requiring operators of surface coal mines to replace affected water supplies. Furthermore, since SMCRA requires a use be a "legitimate" use before it can qualify for replacement, OSMRE stated that any use that would be in violation of State water rights would not be a "legitimate" use.

In the preamble to the final 1979 rules on determination of bond amount (currently found at 30 CFR 800.14), OSMRE established a policy that has important implications for water replacement. Concerning situations where the unplanned consequences of mining, such as the need to abate groundwater pollution, may result in an increase in the cost of reclamation, OSMRE pointed out that the regulatory authority is authorized to impose additional bond liability in order to ensure adequate funding to complete the required abatement work (44 FR 15111, March 13, 1979). Although this preamble statement does not explicitly refer to water supply replacement, mining-related groundwater pollution is one of the primary causes of water supply problems. The implications for water supply replacement are that the unanticipated costs of replacing a water supply authorizes an increase in the bond amount.

b. Policy/Procedures. OSMRE's policy in cases where there has been contamination, diminution, or interruption of a water supply proximately resulting from surface coal mining operations is to assure water replacement equivalent in terms of quality, quantity, and duration to the supply developed for the premining use. Release of bond liability sufficient to cover the cost of water supply replacement shall not occur until OSMRE is satisfied that there is a contract between the permittee and the landowner enforceable under State laws that provides for ongoing water replacement sufficient to allow the premining use to continue without restrictions or limitations for a duration comparable to the duration expected where no mining had occurred.

(1) Quality of Replacement Water Supplies.

(a) A replacement source is acceptable in terms of water quality if the water quality of the replacement supply does not restrict or limit the premining use.

(b) In accordance with 30 CFR 816.41(h), baseline data contained in the permit shall be used to determine impacts of mining upon surface water and groundwater. In addition to the hydrologic and geologic information contained in the permit application pursuant to 30 CFR 780.21-22, the regulatory authority may also use information concerning the location and depth of water wells in the permit area and adjacent area (30 CFR 779.25(a)(10)) and information contained in preblasting surveys (30 CFR 816.62) to identify and characterize premining water supplies.

If no baseline data for the particular affected water supply exists or if inadequate data exists, then the acceptability of the replacement water supply shall be judged in comparison to water supplies put to the same premining use in the immediate surrounding area. If no such supplies exist, then the premining use shall be classified and the replacement supply compared to the state water quality standards for the appropriate use classification. If no applicable state water quality standards exist, then the replacement may be compared to applicable Federal standards, such as those established pursuant to the Safe Drinking Water Act of 1974.

(c) To the extent the permit information is insufficient, the burden of proof is with the party making the assertion that the water supply has been adversely affected. An affected party has the right to request a Federal inspection pursuant to 30 CFR 842.12.

(d) Replacement water may be treated to achieve the required quality.

(2) Quantity and Duration of Replacement Water Supplies. A replacement source is acceptable in terms of water quantity if the quantity supplied shall not restrict or limit the premining use for a duration comparable to the duration expected where no mining had occurred.

(3) Cost of Replacement Water Supplies.

(a) The permittee shall pay the capital costs of installing a replacement water supply. If the use of well water can continue, a permittee shall pay the cost of designing, drilling, and completing a new or deeper well; purchasing and installing a pump; or purchasing and/or installing a treatment system, as necessary. If the replacement water supply involves a hook up to a water supply system, the permittee shall pay the hook-up costs, including fees, purchase of equipment and supplies, and construction.

(b) If a permittee provided or was ordered to provide a temporary water supply before the replacement water supply is provided, the permittee shall pay the cost of providing the temporary water supply.

(c) Operation and maintenance costs associated with the replacement water supply shall be borne by the landowner, unless such costs are higher than those associated with the premining supply. In such cases, the permittee shall make provision to offset the increased costs.

(4) Bond Release. Bond cannot be released until an agreement is in place delineating the responsibilities of the permittee in the period following bond release. The regulatory authority has jurisdiction over replacement requirements only until final bond release. Subsequently, an agreement between the permittee and the landowner is controlling and is subject to applicable State or common law.

c. Oversight of State Programs. When evaluating a State's implementation of its approved regulatory program, OSMRE personnel shall adhere to any requirements or policies contained within or adjunct to the approved program. Where a State program does not contain any specific guidance on water supply replacement, the State program shall be considered no less effective than Federal requirements if program provisions are applied in a manner that is consistent with this directive.

4. REPORTING REQUIREMENTS. None.

5. REFERENCES.

a. SMCRA. Sections 102(b) and 717(b)

b. Federal regulations. 30 CFR 715.17(1), 779.25(a)(10), 780.21-22, 800.14, 800.15, 816.41(h), 816.62, 816.133(c)(2) and 842.12

c. Federal Register. 44 FR 15111 & 15175 (March 13, 1979) and 48 FR 43980 (September 26, 1983)

6. EFFECT ON OTHER DOCUMENTS. None.

7. EFFECTIVE DATE. Upon issuance.

8. CONTACT. Branch of Federal and Indian Programs, Division of Regulatory Programs; Telephone (202) 343-1864.



EXHIBIT 33  
DATE 3-8-91  
HB 889

OPPOSITION TO HOUSE BILL 889

TESTIMONY ON BEHALF OF THE "INDEPENDENT MONTANA MINERS"

Prepared by Marvin W. Ratcliff  
Mar 8, 1991

Chairman Bob Raney and Natural Resource Committee members:

I apologize for not presenting my testimony at the session Mar 8, but the session lasted beyond my available time. Please accept these brief comments. I will try not to be redundant with testimony I heard given.

There are only four items I will briefly describe for your consideration:

1. When we look at "Water Resource (23) Beneficial Uses (2) and Water users (24)" you see that this is all inclusive of all water used anywhere at any time by any entity. It then becomes apparent that the mining industry is somehow excluded from these entities, and their rights are not considered the same rights as the rest of the world. If it is in fact the water that is to be protected, rather than the mining industry used as a punching bag, then the regulations that are being proposed (and in fact those already in existence) should be written to apply to all users. That would include the farming community, Fish and Game, ski lodges, etc. Without taking a great deal of your time to elaborate on this point, consider: every irrigation well should be considered under the same rules, (guilty of lowering the water table until proven otherwise by the farmer). Runoff from a newly cultivated field damages the creek, pollutes drinking water etc. Think of the implications.

2. Many of the proponents of this bill were: a, farmers (who certainly would not want this bill to apply to their operation); b, members of the Great Plains coalition that testified in spite of the representative their group had sent; c, people who had not been affected adversely by mining (i.e. Noel Keough and others) who were looking forward to using the guilty until proven innocent aspect of this bill to continue their harassment and delay tactics against the miners.

3. The unmanagable inclusion of "significant aesthetics." The administrative agency of this bill (I presume State Lands) will be vulnerable to attack from anyone who chooses to challenge their definition of significant aesthetics. Project this law to apply to all water users (I am not sure this has anything to do with water). My definition of

significant aesthetics does not include all the cow pies around a salt lick or under a shade tree on top of a hill. Nor does it include an outhouse on a lake shore or a strip of barren land down a hillside called a ski run. This subject can be elaborated to the extent of the imagination.

4. Finally, that which has been said in other testimony without addressing the possible problem, 'the regulations are on the books to address the water problems and uses'. There are in fact adequate regulations to completely control and bond for potential water problems, and if this is true then it is the agencies which are at fault for not administering the existing regulations.

In summary I feel a need to emphasize:

WATER QUALITY AND CONTROL LAWS MUST BE WRITTEN TO INCLUDE ALL WATER USERS.

THE GUILTY UNTIL PROVEN INNOCENT ASPECT OF THIS LAW MAKES THE REAL IMPLICATIONS DEVASTATING, ESPECIALLY SINCE THE ACCUSER HAS NO ACCOUNTABILITY OR LIABILITY.

THE CONCEPT OF SIGNIFICANT ASTHETICS IS AN AMBIGUOUS, UNDEFINABLE CONCEPT.

THE EXISTING LAWS SHOULD BE OUTLINED AND COMPARED WITH THE ULTIMATE GOALS WITH REGARD TO WATER QUALITY, AND FIND OUT IF ANY IMPROVEMENT IS NEEDED---NOT CREATE A SERIES OF REDUNDANT REGULATIONS.

March 14, 1991

House Natural Resources Committee

EXHIBIT 34  
DATE 3-8-91  
HB 889 + 956

Dear Sirs,

I strongly oppose House Bills 889 and 956. These bills aimed at the mining industry (which includes small companies and individuals) are excessive and unneeded. The industry is already regulated nearly beyond reason and state agencies have a difficult time keeping up with regulations already in place.

Two areas of the bills especially concern me: ① Provide a performance bond to restore or replace water and ② Give citizens the authority to file complaints on suspicion.

I urge you to understand the detrimental effects this legislation would have on a much needed industry in the State of Montana.

Please oppose this legislation

Thank You

Jerry Hawley  
138 13<sup>th</sup> Ave S.

Lewistown, MT  
59457

DAVE Brown

EXHIBIT 35

DATE 3-8-91

HB 866

FACT SHEET ON THE

NATURAL RESOURCE REORGANIZATION BILL

- This bill would reorganize three existing departments of state government, and change their somewhat schizophrenic missions into three distinct departments. The missions for the three new departments would be:
  1. Management of state public health issues (new Department of Public Health),
  2. Proprietary management over state land and water resources (new Department of State Lands), and
  3. Natural resource and environmental regulation and permitting (new Department of Natural Resources and Environment).
- Simply stated, this bill changes the existing departments in the following ways:
  1. The Department of Health and Environmental Sciences
    - Contributes its Environmental Sciences Division to the new DNRE and retains the Health Services Division (which becomes the new Department of Public Health),
  2. Department of State Lands
    - Contributes its Reclamation Division to the new DNRE and acquires state water projects from the old DNRC, and
  3. Department of Natural Resources and Conservation
    - Accepts the Mine Reclamation Division from old DSL and the Environmental Sciences Division from old DHES and contributes state water projects to the new DSL.
- This bill would provide numerous benefits to Montana's public and the regulated community, including:
  1. Permitting for major projects (i.e., mines, major facilities, industrial development, etc.) would be processed by one new department (DNRE).

2. Potential conflicts of interest (i.e., mineral ownership and mine regulation at the old DSL and water project ownership and water regulation at the old DNRC) would be eliminated. Departments would be established for the two distinct purposes of proprietary resource management (new DSL) and resource regulation (new DNRE).
3. The new Department of Public Health would have a clear mission and identity concerning important public health issues (i.e., maternal and child health, communicable diseases, health planning and licensing, etc.).

- The reorganization would be accomplished in stages:

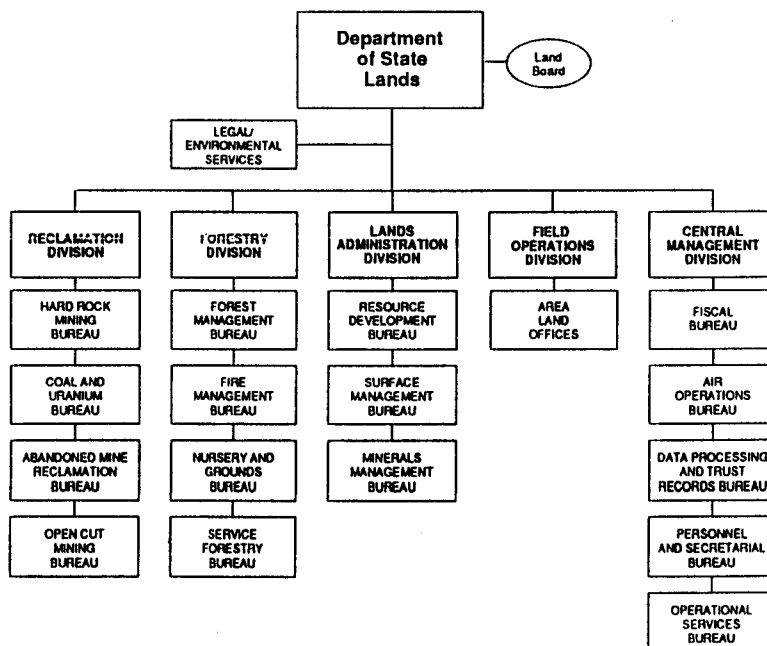
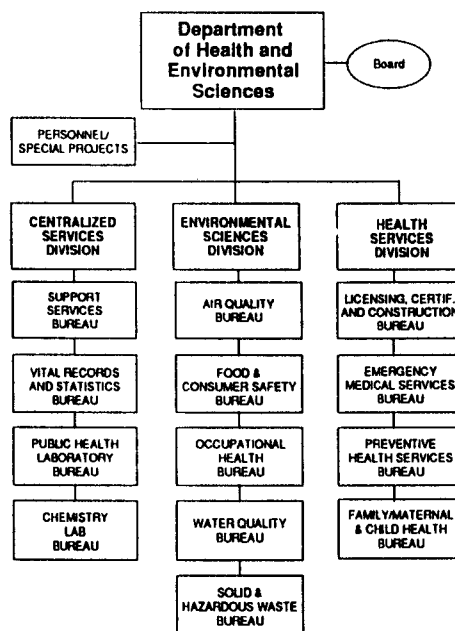
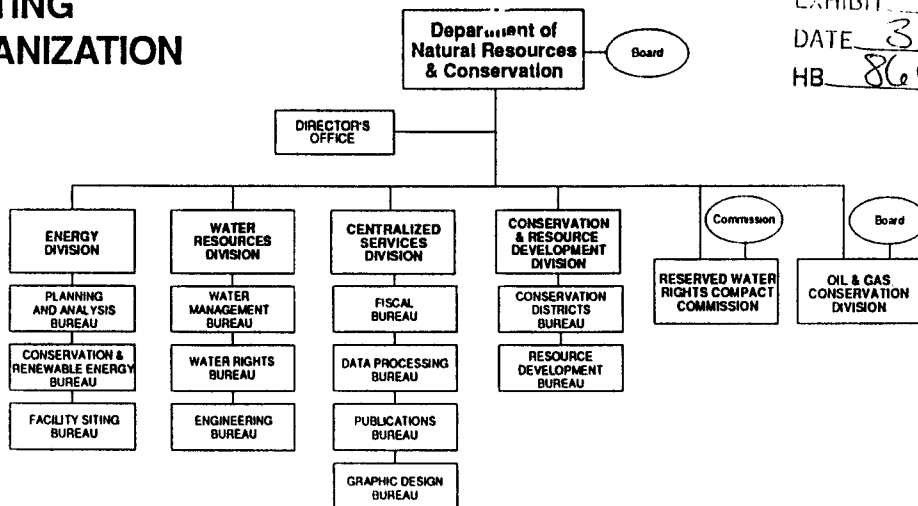
- 1) The first stage would occur in July 1991 involving the program exchanges between the old DNRC and the old DSL.
- 2) The second stage would occur thereafter and involve splitting up the old Department of Health and Environmental Sciences, thereby creating the new Departments of Public Health and the comprehensive Department of Natural Resources and Environment.

AW/lS

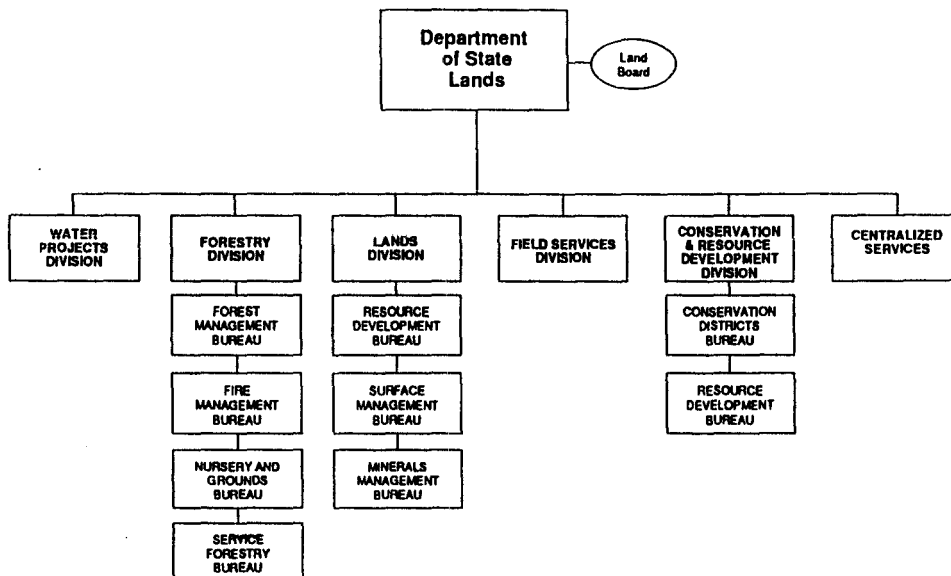
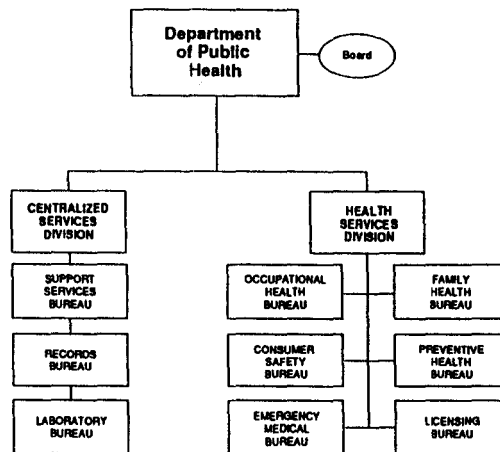
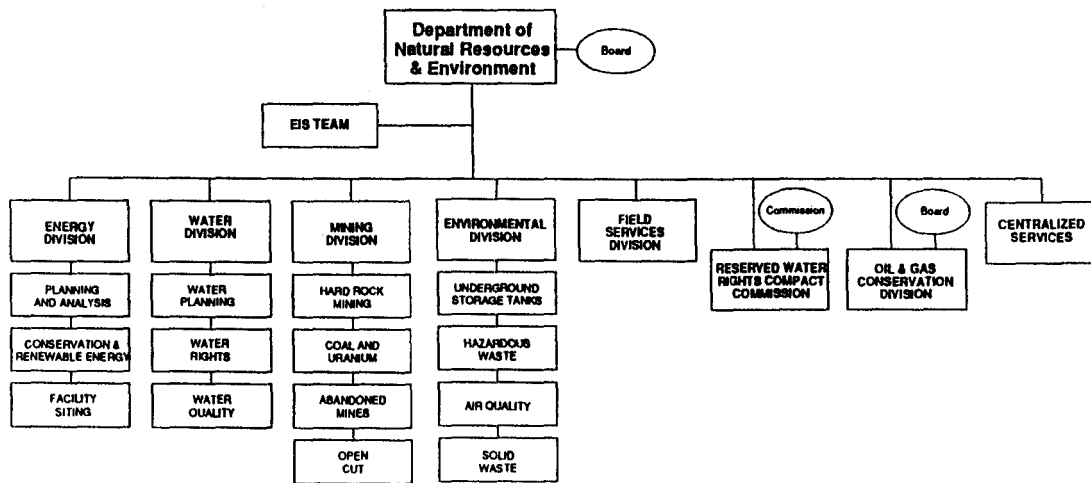
File: GOV'S. OFFICE/Reorganization

# EXISTING ORGANIZATION

EXHIBIT 36  
DATE 3-8-91  
HB 866



# PROPOSED RE-ORGANIZATION



HB 866

MAR 8, 1991

~~Topic~~Helena -  
Tox Nat Resource Comm

Name: Warren McGee - representing L.I.F.E. OF  
Livingston MONTANA - a City Council  
Sponsored Committee of Volunteers, <sup>which</sup> oversee  
~~the~~ The Toxic Waste Cleanup of BN  
Wastes within the City of Livingston.

1. We oppose passage of HB 866  
because we fear it will dilute the  
effective ness of DHEs work plans for  
this Clean-up.
2. We oppose HB 866 because we feel it  
will diminish the power of the DHEs  
to administrate and prosecute  
the Cleanup of Toxic Wastes under Livingston.
3. We oppose the passage of HB 866 because  
we suspect it has been proposed to  
this body for the express purposes to  
weaken the DHEs ability to protect the  
public's best interests and safety. IT  
WILL NOT SAVE FUNDS AS BN PAYS ALL COSTS OF  
this investigation.

Chair - LIFE



# Northern Plains Resource Council

EXHIBIT 38

DATE 3-8-91

HB 866

## Testimony of the Northern Plains Resource Council in opposition to HB-866 March 8, 1991

Mr. Chairman, members of the committee, my name is Richard Parks. I own and operate a sporting goods store and fishing outfitting service in Gardiner, MT. I am also Vice-Chair of the Northern Plains Resource Council, a statewide citizens group of some 6000 members and supporters. It is on their behalf that we rise in opposition to elements of HB-866.

We find a certain compelling logic in the proposal to move the Reclamation Division from the Department of State Lands to the Department of Natural Resources. The argument is that DSL may find itself in an internal conflict of interest, caught between its mission to maximize revenue from state land on the one hand and to protect the environment through mine permitting procedures on the other. It is the other aspects of this bill that disturb us.

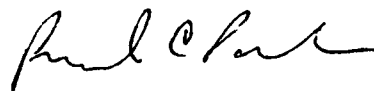
It is outside my expertise to comment on the appropriateness of the transfer of the Water Division functions now housed in DNR to DSL but we do understand that members of Conservation District boards have serious reservations.

Of particular concern to us is the wholesale transfer of the Environmental Sciences Division of the Department of Health and Environmental Sciences to the restructured Department of Natural Resources and Environment. It seems to me that this recreates, to a far greater degree, the internal conflict of interest that justifies moving the Reclamation Division. The key problem is that these agencies, Water Quality Bureau, Air Quality Bureau and so on have a mission to protect the public health. When they are brigaded with the permit issuing functions of major facility regulation and mine regulation, both of which have an inherent bias toward issuance of their permits, the health mission is likely to get lost. Given the main driving force behind this reorganization scheme we can't help but suspect that this is in fact the purpose of the whole proposal.

Is the "solution to pollution dilution?" We think that there are significant reasons why answering that question in the affirmative is dangerous but the new Board of Natural Resources and Environment would inherit the current power of the Board of Health to issue exemptions to the water quality and air quality regulations. This power to issue exemptions provides the greatest opportunity for conflict of interest. It would also inherit the massive amount of rule making about to be required by changes in the Federal laws and regulations. Add to that the requirement to reissue all the routine rules of operation required by the reorganization and we see a system set up to fail.

If the Legislature in its wisdom decides that the advantages of this reorganization outweigh the disadvantages we submit that the public interest should be safeguarded in the following ways: 1.) Delay the effective date, except for rule making purposes, for at least 2 years to allow full public involvement and consideration of the changes; 2.) Using the model of the Public Service Commission, make the new Board of Natural Resources and Environment an elective board rather than an appointed board; and 3.) Recognize, by changing their titles, the true new nature of the bureaus transferred from DHES as in Water Pollution Licensing Bureau and so on.

Thank you.

A handwritten signature in cursive script, appearing to read "Richard C. Parks".

Richard C. Parks

TESTIMONY  
to the  
HOUSE NATURAL RESOURCES COMMITTEE  
on  
HOUSE BILL NO. 866

by  
Larry L. Lloyd

Mr. Chairman and members of the Committee, my name is Larry Lloyd. I worked for the Department of Health and Environmental Sciences (DHES) for more than 21 years. During my tenure with DHES, I was Chief of the Occupational Health Bureau for approximately 17 years and for the last three years that I was with the Department, I was Administrator of the Environmental Sciences Division. I retired from State service at the end of July, 1990 but still maintain a keen interest in health and environmental concerns.

Let me start out by saying that I do not oppose the concept of re-organization. Re-organization that has been carefully planned and structured can increase functional efficiency and often result in cost savings. However, I do not believe that this is the case with the re-organization contemplated under H.B. 866.

As an individual who has dedicated a good share of his life and the majority of his professional career to the protection of public health and the environment, I have the following thoughts regarding H.B. 866.

1. H.B. 866 would give tremendous powers to the Director of the Department of Natural Resources (DNRC). The checks and balances existing within the current organization of environmental programs would be destroyed. For example, there have been several instances where DHES has cited the Department of Natural Resources and Conservation and also the Department of State Lands for violations of State environmental laws. If the environmental programs of these three agencies are combined within DNRC, it is quite conceivable that such violations will be unchecked. Also, under this proposed re-organization, the administration and enforcement of state environmental programs and laws could strongly favor either the extreme environmentalists or the polluters of our environment depending upon the philosophies and alliances of the Department (DNRC) Director.
2. Conflicts of interest may be generated by the re-organization as proposed in H.B. 866. For instance, there are times that the issuance of water use permits may not be consistent with the protection of water quality. Also, of the three agencies involved in the proposed re-organization, DHES is the only agency having

the authority to apply for stream water reservations. Would the Water Quality Bureau apply to its own agency (DNRC) if re-organized as proposed?

3. Most of the environmental programs currently residing within DHES were created and are maintained because they are public health oriented. The Board of Health membership is structured to provide the public health professionals (physicians, dentists, veterinarians, etc.) necessary to understand and deal with environmentally-associated public health concerns. The Board of Natural Resources and Conservation is not structured with a membership oriented to deal with public health problems.
4. The re-organization contemplated in H.B. 866 does not take into consideration the cooperation and coordination that must exist between the various environmental programs. Following are just a few examples of organizational problems that would be created under this proposed reorganization:
  - a. Asbestos control programs are conducted by both the DHES Air Quality Bureau and the Occupational Health Bureau. These programs are mandated by different Federal laws and are so structured that the administration of both programs is not really compatible to either bureau. However, close coordination and reporting is required between the programs. This coordination and reporting will break down under H.B. 866 with the programs operating in different departments.
  - b. Programs within the DHES Food and Consumer Safety Bureau such as the review, inspection, and licensing of trailer court water and sewer systems require close coordination with programs within the Water Quality Bureau (DNRC under H.B. 866). The proposed re-organization will almost certainly result in the demise of these close working relationships.
  - c. During episodes involving outbreaks of water-borne diseases, close coordination and communications must be maintained between the Water Quality Bureau and the DHES Health Services Division. If the agencies are in different departments, this working relationship will be difficult, if not impossible, to maintain.
  - d. Under the proposed H.B. 866 re-organization, the Water Quality Bureau would be placed in the DNRC Water Division. The Water Quality Bureau needs a close working relationship with the Solid Waste Program, the Hazardous Waste Program and the Underground Storage Tank program. These programs

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866

would be placed in the DNRC Environmental Division. The coordination of these programs is sometimes difficult under the existing organizational structure. The proposed re-organization is likely to cause severe operational problems between these programs.

- e. The Air Quality Bureau, Water Quality Bureau, the Solid and Hazardous Waste Bureau, and the Food and Consumer Safety Bureau often call upon the Occupational Health Bureau for field support, measurements and other expertise. Many of these cooperative efforts will likely die under the proposed re-organization.

It can be seen that the passage of H.B. 866 would create numerous organizational and functional problems with Montana's environmental programs.

- 5. The concept of "one-stop permitting" has been discussed for a number of years. This has been one of the driving forces spurring thoughts of re-organization of Montana's environmental programs. Most permitting complaints relate to the time span between permit application and the final permit action. The majority of this delay is created by mandates of State law such as public hearings, public comment periods and the preparation of Environmental Assessments and Environmental Impact Statements, not to mention poorly prepared and incomplete permit applications submitted by the applicants themselves. The permitting agencies would still be located in different divisions and bureaus within a new super environmental agency (DNRC) and would almost certainly still be situated in different locations. For these reasons, it is unlikely that the proposed H.B. 866 re-organization would do anything to speed up or enhance the efficiency of the permitting process.

In summary, the re-organization as envisioned in H.B. 866 has not been carefully planned and structured. If enacted, H.B. 866 will cause operational inefficiency, a reduction in communication and coordination between Montana's environmental programs and will most likely cause potential conflicts of interest that are non-existent in the present organizational structure.

H.B. 866 should be sent back to the "drawing board" for thorough planning, review and comment by the involved agencies, the EPA, the regulated community, environmental groups and the general public before any such re-organization is contemplated. Through this process serious coordination and operational problems within our environmental program services and regulation can be avoided.

Thank you for this opportunity to express my views and concerns regarding H.B. 866.

EXHIBIT 40  
DATE 3-8-91  
HB 866

Statement of Chevron, Stillwater Mining Company,  
and Stillwater PGM in Favor of HB 866

March 8, 1991

My name is Ward Shanahan, and I am the lobbyist for Chevron, which has the Stillwater mine here in Montana. We present this written testimony as proponents to HB 866.

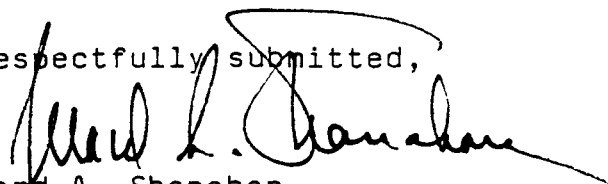
HB 866 is a part of the Governor's package on mining during this legislative session. This bill is one of the recommendations of the Mine Permitting Improvement Council and is part of the total package which has been broken into various bills during this session.

Over time, this bill will not only save money by consolidating the departments, but also save time by having permitting for mining under one roof.

In a year where the legislature is looking for ways to cut costs in government spending, this presents an opportunity for state government to be efficient.

Although there are administrative hurdles in order to combine the departments for permitting, this bill is in the best interest of both the public and industry. Chevron urges your support in this bill.

Respectfully submitted,



Ward A. Shanahan  
301 First Bank Building  
P. O. Box 1715  
Helena, MT 59624  
(406) 442-85560

7175N

CLARK FORK COALITION  
TESTIMONY OF KIM WILSON BEFORE THE HOUSE NATURAL  
RESOURCES COMMITTEE ON HB 866, MARCH 8, 1991

The Clark Fork Coalition strongly supports the idea of reorganizing the environmental agencies. However we have enough questions and concerns which need to be addressed before the change goes into effect that we cannot support the bill as drafted. We would support, in it's place, a two year study aimed at implementing reorganization with the 1993 Legislature.

**1. We believe reorganization is a good concept for the following reasons:**

- The word "environment" is in the agency name.
- It brings together regulatory bureaus that deal with specific industries (i.e. WQB & Hard Rock Bureau dealing with mine permitting).
- The reorganization will provide easier access for both industry and the public, to the permitting function of government.
- The reorganization will result in fewer lines of responsibility: i.e. DNR&E would be largely regulatory, DSL, land management, and DPH, localized public health.

**2. The bill, however, raises several questions and concerns:**

- It places too large a burden in terms of oversight, understanding of complex technical and policy issues for a single citizen's board; (see attached)
- It places too large a burden on one director;  
(Note: because of this increased burden, agency decisions may be less sound, less thought out, and therefore more easily challenged. Therefore any efficiency savings may be negated by increased challenges)
- The legislation is unclear in its assignment of divisions and bureaus and it is also vague on eliminations, additions and consolidation of bureaus and decisions.
- The bill does not spell out how it affects state employees.
- The Legislation does not spell out the purpose for reorganization, nor quantify the benefits. It is hard to accept such wholesale reorganization without some hard evidence of its benefits.

**3. Reorganization should achieve most if not all of the following:**

- Better agency performance of its duties to the public. That is, improved regulation, enforcement and implementation.
- Better use of state money and the skills of state employees.
- Improved environmental protection.
- Better access for the public to decisions.
- Better accountability for decisions of agencies.

AREAS OF EXPERTISE REQUIRED OF MEMBERS OF THE NEW  
BOARD OF NATURAL RESOURCES AND ENVIRONMENT

	<u>Technical</u>	<u>Policy &amp; Law</u>
Water Quality, General	x	x
Fish & Wildlife	x	x
Water allocation & rights	x	x
Coal mining	x	x
Hard rock mining	x	x
Sand & gravel mining	x	x
Oil & gas development	x	x
Hydro systems	x	x
Irrigation systems	x	x
Reclamation	x	x
(coal, hardrock, open cut)		
Hazardous materials	x	x
and hazardous waste		
Fuel storage	x	x
Pipeline siting	x	x
Reserved water rights	x	x
Forest practices	x	x
Wood stove pollution	x	x
Industrial air pollution	x	x
Energy conservation	x	x
Socio-economic impacts	x	x
Water treatment & wastewater	x	x
systems		



DATE 3-8-91

HB 866

HB 866

March 8, 1991

*Roggy Parmelee* Vice President

Mr. Chairman, for the record my name is Bob Schroeder and I am president of the Montana Association of Conservation Districts.

Today, on behalf of the 59 conservation districts in Montana, I rise neither in support or opposition to HB 866, but would like to discuss some of the concerns we have about the reorganization plan.

Under the proposed plan, the ~~Conservation Districts Bureau and the Resource Development Bureau~~ <sup>Conservation and Resource Development Division</sup>, other wise often referred to CARB, will be moved from the present Department of Natural Resources, <sup>to</sup> Department of State Lands.

The ~~Conservation Districts Bureau's~~ <sup>Division's</sup> responsibilities include working with the conservation districts across the state. Their work includes administration of conservation districts, the many programs district work with, the 223 grant program, the Rangeland Resources program, water reservations, and others. They also work with the state's Grazing Districts. They ~~Resource Development Bureau is the section that~~ <sup>conservation</sup> administers many of the grant programs, like Water Development, Resource Reclamation and Development grants, some of the loan programs, and so on.

Within DNRC the conservation districts also receive administrative, legal, and technical assistance from the various departments.

The conservation districts <sup>do</sup> have some apprehension about the proposed reorganization plan. The idea came up quickly, and the districts first heard about it formally at our convention in November of 1990. ~~At that time Karen Bartley spoke to us about the proposal and assured us that the proposed move would not decrease the support given to us, from any level.~~

We will <sup>not</sup> oppose the idea to move ~~these bureaus~~ <sup>the Division</sup> if the entire proposed reorganization plan is adopted. But, if just a portion of the reorganization proposal is enacted we then want the ~~same~~ <sup>Division</sup> to remain where they are. For example, if the Legislature should decide to only move the Reclamation Division of DSL to DNRC and not any of the Water Quality, then we want to stay put.

The districts have other concerns they will lose the support services they have had in the past from DNRC and I would like to explain them to you.

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(The present staff and funding of the ~~CBS~~ Division must remain the same. As you know, MACD has been attempting to address the conservation districts funding needs this legislative session, and we cannot stand a cut in this Division.) About three years ago <sup>they were</sup> this Division was able to hire more staff and as a result offer the help to the districts that has long been needed. We thank the Administration and Karen Barclay for that.)

A move like this costs money, and we do not want to see the budgets impacted in any way in order to accomplish the plan.

As you know the districts administer the state's Natural Streambed and Land Preservation Act. This Act requires that any private, non-government person or corporation who performs any activity that impact the bed or banks of a perennial stream must first apply for a 310 Permit from the local conservation district. It is a regulatory, state law, administered at the local level

(We are concerned about the possibility of losing the support of administrative, technical and legal help that we have had in the past.) <sup>from DNRC</sup> The technical help has included assistance in implementing water reservations, which districts have on the Yellowstone River basin and are in the process of applying for on the Clark Fork of the Columbia and the upper Missouri and will in the lower Missouri in the future. The reservation process is very costly, and requires knowledgeable technical assistance to accomplish the proper reservation.

Other areas the districts receive technical assistance is in water resources planning and management, project development, and energy conservation.

We must receive the same level of technical help to continue the programs adequately.

(The attorney assistance that we receive from DNRC is extremely helpful. These people are experts in conservation district law and SB-310 law--the Natural Streambed and Land Preservation Act. We often ask them for legal opinions on our laws and our concerns. They have been outstanding help and it is imperative that we do not lose that.) The legal assistance given to districts from other sources is often our weakest link in the process and the help from DNRC is a life saver. If our Division is moved, then possibly there should be consideration about moving an attorney also.

A major duty of conservation districts is to disseminate information and the Cartography services from DNRC is a help <sup>to CBS</sup>. Their services have included assisting with the formation and publication of our handbooks, lawbooks, brochures, and so on. Without that service there <sup>will</sup> be a sharp increase in the cost of publishing these materials. <sup>may</sup>

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also  
The districts are concerned about what the perception will be if or when we become a <sup>Division</sup> ~~Bureau~~ within the Department of State Lands. We urge you to consider a name change of ~~the department~~.

present

In order to maintain a maximum emphasis to the State's commitment to "conservation" as presently emphasize under the current name of Department of Natural Resources and Conservation we would suggest changing the name of the Department of State Lands to the Department of Conservation and Lands. The public will have a greater understanding of the administration authorities of the ~~Bureau~~ with that name.

*Discussion*

Mr. Chairman if the concerns of the conservation districts are adequately addressed we do not oppose this move, but if there is a decrease in the assistance given us, we strongly oppose the plan.

Thank you Mr. Chairman for the opportunity to discuss this with you and your committee.

*for* Peggy Karmel  
Bob Schroeder



March 7, 1991

EXHIBIT 43  
DATE 3-8-91  
HB 866

Honorable Representative Bob Raney, Chairman  
Natural Resources Committee  
Montana House of Representatives  
Capitol  
Helena, MT 59620

Dear Representative Raney,

I am writing in OPPOSITION to HB 866 which proposes a reorganization of the Department of Health and Environmental Sciences, Department of State Lands, and the Department of Natural Resources and Conservation.

Much of the environmental authority that HB 866 proposes to transfer from DHES to DNRC (e.g. public water supplies, local air pollution controls, solid and hazardous waste management, wastewater treatment) has a great deal to do with public health protection, yet the bill has inadequate provisions for DNRC board representation or agency mission statements that address public health protection. As director of a local health department who necessarily deals with these issues on a regular basis, I have grave concerns for the effect on public health that passing HB 866 could precipitate.

The bill is also wholly lacking in identifying the purpose, process, logistics, and costs of such a move. Clearly, the preparation that has gone into this bill is not adequate and local agencies such as this department that would be seriously affected by such a move have not been considered nor consulted.

Should the legislature determine that the changes proposed in HB 866 be considered, I respectfully suggest that a formal review process be initiated with recommendations due to the 1993 legislature. Such a process should include participation of the Environmental Quality Council, affected state agencies and local health departments.

Thank you for your consideration of my comments.

Sincerely,

  
Ellen Leahy  
Director

cc Committee Members

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

1062

Natural Resources

COMMITTEE

BILL NO. SB 283

DATE 3-8-91

SPONSOR(S) Sen. Steve Doherty

enforcement provision  
in metal mine laws

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Robert Clark	NPRC	✓	
Paul Hawkes	NPRC	✓	
Jeffrey Richowski Boronia MT Box 143	CITIZEN	✓	
Richard D. Holt	Smectopus Halls Pict. Assn	✓	
David K Zimmerman	Concerned Citizens of Pong	✓	
Ray B. Bunker	YOC	✓	
Harold C. C. C.	MT. Mining Assn.	✓	
Jim Jensen	MEIC	✓	
Wayne Van Vleet	MBMG		
John Fitzgerald	Pegasus Gold Corp	✓	
Stan Bradshaw	ITC	✓	
Dennis Casey	DSH	✓	
John Norath	~	-	

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## HOUSE OF REPRESENTATIVES

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## VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. SB 283  
 DATE 3-8-91 SPONSOR(S) Sen Deherty enforcement provision in  
 metal mine laws

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Kim Wilson	Clark Fork	283		✓
Mary Westwood	SELF	283		✓
Kristin Page	SELF	283		✓
Scott Snelsen	MWF	283		✓

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HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

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Natural Resources

COMMITTEE

BILL NO. HB 956

DATE 3-8-91

SPONSOR(S) Rep O'Keefe

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Janet Zimmerman	Concerned Citizens of Pory	X	
Richard Theltes	Sweetgrass Hills Protection	X	
Tim Biddle	WCC	X	
Pete Tully	BMLA	X	
Doug McRAE	GREENLEAF LAND + LIVES	X	
CEJAR HERNANDEZ	CADINET RESOURCES GROUP	✓	
Ken Williams	Entech		✓
Jim Mockler	MT. Can / Council		✓
Jim Jensen	MEIC	X	
Wayne Van Vleet	MBMG		
Larna Frank	Farm Bureau		X
Bill Gillin	N.P.R.C.	X	
Marvin Barber	A.P.A.		X
Debra Casey	DSL		

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HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Natural Resources

COMMITTEE

BILL NO. HB 956

DATE 3-8-91

SPONSOR(S) Rep. Mark O'Keefe ~ revise coal mining laws

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bill Harbrecht PO Box 7137 Billings Mont	Western Energy		X
R.B. MOREHEAD, JR. 1504 4th WEST ROUNDUP, MT. 59072	MERIDIAN MINERALS		X
David W Simpson Box 449 Hardin MT 59034	Watmoreland Resources Inc		X
Richard C Parks	NPRC	✓	
Herchel Robbins	MUSSEY VALLEY DRILL CORP		X
Fran Amendola	Montana Coal Council		X
Ellen Pfister	Bull Mtn Ld Owners	X	
Nick Bolding	NPRC	✓	
Frank John	LOTIONWOOD RESOURCES COUNCIL	✓	
Bob Browner		✓	
Irvin Van Haver	Van Haver Ranch	✓	
W. R. McFee	Retired - LIVINGSTON	X	
Paul Hamby	NPRC	✓	
Jeffrey Buchowiski Box 143 Bozeman MT	PRC Citizen	✓	

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## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. HB 956  
 DATE 3-8-91 SPONSOR(S) Rep O'Keefe - revise coal mining laws

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Peggy Trenn	WETA	956	✓	
DIANNA TICKNER	WESTERN ENERGY	956	✓	
Gary Spaeth	SELF	956	✓	
Mary Westwood	SELF	956		✓
Diane Lindsey	SELF	956	✓	
JOE NOVASIO	SELF	956	✓	
Kristin Page	SELF	956		✓
Smith Salsom	MWF	956		✓

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## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

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Natural Resources

COMMITTEE

BILL NO. HB 889DATE 3-8-91SPONSOR(S) Rep O'Keefe - revise hard rock mining laws

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Susan Hillstrom 1593 Hwy 200 NOXON	Resident of area	889		✓
Peggy Trenw	WETA	889	✓	
Jim Hughes	SELF	866	X	
Lucretia Northland	MT DDA	866		✓
Sandra Kuchenbrod	" "	866		✓
Mary Westwood	Self	889		✓
Gert Werner	Hous, Maunabon, 9xW	889	✓	
Kristin Page	Self	889		✓
Scott Snifson	MWF	889		✓
Marvin Barber	F.P.A.	889		✓

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HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

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Natural Resources

COMMITTEE

BILL NO. HB 889

DATE 3-8-91 SPONSOR(S) Rep. Mark O'Keefe revise hard rock mining laws

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<del>Don Grady</del> <del>End of H.</del> <del>Don Grady</del>			
Richard C. Parks	Bce	✓	
Jean Clark	Self	✓	
Jessie Moore		✓	
Pam Weller		✓	
Helen Clark		✓	
Ellen Pfister	self	✓	
Nick Alder	↓	✓	
Channing Welin	Do.	✓	
Frank Lohr	C.R.C.	✓	
Bob Sawyer	self & Square Butte Ass.	✓	
Irvin Van Hous	Van Hous Ranch	✓	
Alan Jorcelyn			X
W.R. McLee	Reta-Livingston	X	

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HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

3 of 4

Natural Resources COMMITTEE BILL NO. HB 889  
DATE 3-8-91 SPONSOR(S) Rep. O'Keefe - revise hard rock mining laws

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Marvin A. Belsky	Montana Independent Miner		X
Jim Jensen	MEIC	X	
Lorna Frank	Farm Bureau		X
John Fitzpatrick	Pegasus Gold Corp		X
Wayne Van Vleet	MSMG		
Jim Elett	HDSI	X	
M. K. Boy			X
Jack H. Symons	N.P.B.C.	X	
Sharon Broke	MSGA / MWGA		X
Dennis Casry	DSL		

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HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Natural Resources

COMMITTEE

BILL NO. HB 889

DATE 3-8-91

SPONSOR(S) Rep. O'Keefe

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Paul Naudet	NPRC	✓	
Jeffrey Buchowisch Box 143 Bozeman MT	Citizen	✓	
STERN JANKE 415 N. 17th, Bozeman 59715	SNECA CLUBS	✓	
Stan Bredshaw	M.T.U.	✓	
Keith Bush	CITIZEN	✓	
Janet Zimmerman	Concerned Citizens of Pony	✓	
Noel Keogh	Self	✓	
Kay Ritten	UCC	✓	
Pete Tully-Roundup	BMCA	✓	
Robin McCulloch	Self	<del>✓</del>	✓
John Gajusky	NPRC	✓	
CESAR HERNANDEZ	CABINET RESOURCE GROUP	✓	
Steve Brown	Noranda		✓
Harold Condon	Mt. Mining Assn.		✓

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HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

NATURAL RESOURCES COMMITTEE BILL NO. HB 866  
DATE 3-8-91 SPONSOR(S) Rep Dave Brown - reorganize DHE  
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Richard Parks	<del>BCE</del> N PRC	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
H. R. [unclear]	LIFE - LIVINGSTON		<input checked="" type="checkbox"/>
LARRY L. Lloyd	SELF		<input checked="" type="checkbox"/>
Stan Bralichari	MTU		<input checked="" type="checkbox"/>
Janet Zimmerman	Concerned Citizens of Hwy		<input checked="" type="checkbox"/>
Kirk Brown	YCC		<input checked="" type="checkbox"/>
<del>Steve</del> Steve Brown	Noranda	<input checked="" type="checkbox"/>	
Joseph Schenewing	Noranda	<input checked="" type="checkbox"/>	
Mary A. Capellan	Mt. Mining Assn	<input checked="" type="checkbox"/>	
William Subergon	City of Billings	<input checked="" type="checkbox"/>	
Jim Mocklee	MT Coal Council	<input checked="" type="checkbox"/>	
Marcin [unclear]	Morland Independent Miners		
Jim Jensen	MEIC		<input checked="" type="checkbox"/>
Wayne Van Dorst	MBMD		

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## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. HB 866  
 DATE 3-8-91 SPONSOR(S) Rep Brown - reorganize DHEs

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
DENNIS TVERSON	Gov.	866		X
Kim Willson	Clark Fork County	866		
Mary Westwood	SELF	866	X	
Tim Hall	DMRC	866		X
John Armstrong	DMRC	866		
Wayne Wetzel	DMRC	866		X
Scott Snerson	MWF	866		
Dennis Casag	DSL	866		X
DAVE BROWN	sponsor - HD #172	866	<del>X</del>	X
Pete Frazier	City - Co Health GT Fork	866	X	
WALDO STANAHAN	STILLWATER MINING	866		X
Janet Ellis	MT Audubon			

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HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

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Natural Resources COMMITTEE BILL NO. HB 866  
DATE 3-8-91 SPONSOR(S) Rep Dave Brown

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Don Allen	MT. WOOD PRODUCTS ASSN.	✓	

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