

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON NATURAL RESOURCES

Call to Order: By Lawrence Stimatz, on February 15, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Lawrence Stimatz, Chairman (D)
Cecil Weeding, Vice Chairman (D)
John Jr. Anderson (R)
Esther Bengtson (D)
Don Bianchi (D)
Steve Doherty (D)
Lorents Grosfield (R)
Bob Hockett (D)
Thomas Keating (R)
John Jr. Kennedy (D)
Larry Tveit (R)

Members Excused: None.

Staff Present: Michael Kakuk (EQC).

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

Announcements/Discussion: Chairman Lawrence Stimatz asked Michael Kakuk, legal counsel to the committee, to present a summary of SB 212.

In Brief, Kakuk told the committee, SB 212 redefines appropriate to include instream uses and the bill includes the protection of public health as a beneficial use. Instream use is defined as a water use that is without a diversion and is within a natural or artificial stream, lake, pond, reservoir or wetland or other water course or body of water in order to provide, maintain or enhance fish and wildlife or recreational values or to protect the public health, Kakuk explained. Amendments for SB 212 bring into step the other relevant portions of existing Montana water law, he added.

Kakuk presented two water use scenarios to the committee: An individual wanting to apply for a new instream flow right permit and an individual wanting to purchase someone else's existing water rights from a willing seller and transfer that right to an

instream flow right.

Initially, application is made for a new permit for a water use instream flow within a specific body of water, Kakuk said. The applicant is required to show 1. There are unappropriated waters in the source of supply. 2. They must show that the water rights of a prior appropriator will not be adversely affected. 3. The proposed use of water will be beneficial and is a reasonably necessary amount to provide, maintain or enhance fish and wildlife or recreational values or protect the public health. 4. The proposed use must be in the public interest. Under this criteria, Kakuk said, they must show that the existing demands of state water supply as well as projected demands, such as reservations of water for future beneficial purposes including municipal water supplies, irrigation systems, minimum stream flows and protection of existing water rights and aquatic rights, are met. They must demonstrate the benefits to the applicant and the state and show the affects on quantity and quality of water for existing beneficial uses plus discuss the feasibility and availability of using low quality water. 5. They must show the affects on private property rights by the contribution to saline seep. Finally, they must show the probable significant adverse environmental impacts of the proposed use of the water, as determined by the department, are not going to be significant. Amendments to the bill have been requested by the sponsor, Kakuk said. (EXHIBIT #1).

The final scenario regards a change in water appropriation rights Kakuk said. For an applicant who has a willing seller for a water right, application would be made for a change in water right from a consumptive use (irrigation) to a non-consumptive use (instream flow). There are four items to be considered in this change of use: 1. Proposed use will not adversely affect the water rights of other persons. 2. Proposed use will be beneficial. 3. Proposed use of water is a reasonable amount needed to provide maintain or enhance wildlife or recreational values. 4. A public interest test for new permits must also be satisfied.

HEARING ON SB 212

Presentation and Opening Statement by Sponsor:

Senator Don Bianchi, District 39, stated "we are embarking on a plan that will change the policies of this state as it relates to water. The plan will give all the people of this state an opportunity to own, use and enjoy this public resource. This plan corrects an injustice that has developed over the past century or longer that is fair, equitable and is based on the free market system of this great country. Article 9, Section 3 of the Constitution of Montana states that all waters within the state of Montana are the property of the public. As a public resource, therefore, water should be used in the public interest. All government agencies should protect the public trust values of water. Today, we have the opportunity to translate the public

trust values and responsibilities of the Constitution. The protection of instream flows is first and foremost the protection of the public interest in free-flowing water. Although we have tried to protect instream flow values through a variety of policies including water reservations and water leasing studies, there is public demand to do more. We must protect the public trust values in water, Bianchi said. The question before us is "what is the best way to do this?"

Bianchi said he proposed that new water use permits for instream flow purposes be subject to rigorous and comprehensive public interest criteria. He asked the committee to consider, thoroughly, the benefits of the bill.

Proponents' Testimony:

Kathleen Hadley, Vice President, Montana Wildlife Federation, testified in support of SB 212. "Montana's most valuable resource, aside from its people, is not copper or gold, timber or cows or oil, its our water," Hadley said. "Water is a basic resource needed by our agricultural industry. Our present water laws do not protect all legitimate uses of our water. Each year over 2,000 miles of Montana streams are chronically dewatered. When our rivers run dry, floaters and fisherman stay home, valuable fish and wildlife resources are hurt, and production for hydroelectric generation decreases. Today, tourism is a very significant part of Montana economy and 100 years ago Montana did not have a national and international reputation for our fisheries and wildlife resources. As social and economic factors change in the state, there is a need to make changes in Montana water law, Hadley said. "We need to find a new balance in our water permitting system. One which will continue to protect existing water rights that will allow Montanans to file for instream permits and participate in the water permitting process," Hadley said.

"The Montana Wildlife Federation feels the present water permitting and adjudication system does not provide adequate protection for fish and wildlife resources nor for our tourism industry. We believe SB 212 will go a long way towards opening the water permitting process to Montanans. The bill will not injure existing water rights nor will it put instream flows ahead of any existing water rights or water right holders. It will simply allow us to get in line," Hadley said. SB 212 will also help slow the dewatering of our streams and lakes, she added.

John Duffield, professor of economics at the University of Montana, submitted testimony favoring SB 212. (EXHIBIT #1).

Emily Swanson testified on behalf of Patagonia, a designer and distributor of outdoor clothing. "We have brought part of our company to this state, 70 employees in Bozeman and 15 employees in Dillon and we are planning to bring our distribution center to Missoula in 1992 which will bring immediately at least 100 jobs

to Missoula. We manufacture a full line of fishing goods, therefore, it is important to us to have water in the streams. "I think this bill offers a tool for improving the situation. I certainly don't want to see the viable agricultural industry in this state injured. I don't think this bill does that. I think Montana's challenge is to have both a viable agricultural community and a viable recreational one."

Stan Bradshaw, on behalf of Trout Unlimited, testified in support of SB 212 and offered amendments. (EXHIBIT #2).

Gene Quenemoen, Bozeman, testified in support of SB 212 on behalf of the Gallatin Wildlife Association. (EXHIBIT #3).

Bruce Farling, Deputy Director of the Clark Fork Coalition, submitted testimony in support of SB 212. (EXHIBIT #4).

Jim Jensen, Director, Montana Environmental Information Center, stated MEIC supports the bill because it "offers a fair and fairly moderate approach to solving a water problem."

Tony Schoonen, fishing guide, told the committee "49% of the people in this nation like to fish. It's a quick, clean renewable resource. Without instream flows, we cannot perpetuate our industry. SB 212 will help this." Schoonen said he felt he echoed the feelings of "many fishing guides in southwestern Montana."

Wade Fredenberg, fisheries biologist, Bozeman, testified on behalf of the American Fisheries Society. The Society contains over 100 fisheries biologists across Montana. "The Montana Chapter has voted to support SB 212 because, as professional biologists, depletion of water from our streams is the single most important factor that affects fish populations in this state. This bill presents a partial solution to this problem," Fredenberg said.

Noel Rosetta testified in support of SB 212 stating he also supports the family farm and the need to protect Montana's agriculture. "As a fisherman and a hunter, I believe agriculture is one of the best ways to preserve hunting and fishing in Montana. Our wild trout fisheries are in trouble today all the way from the headwaters to the river mouths. The threat comes from logging, pesticide use, overgrazing, road construction, etc. All of these combined are destructive to the complex interworkings of a stream ecology. None are more lethal to wild trout than a dried up stream bed. The time is right to protect our wild trout fisheries. They, too, are fragile and an important part of Montana's economy. I believe SB 212 is a reasonable step in that direction."

Jim McDermid, spokesman for the Medicine River Canoe Club in Great Falls, stated "SB 212 is one of the most important pieces of legislation in recent years." (EXHIBITS #5 and #6).

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Joe Gutkoski, landscape architect, told the committee "when you dry up a stream, you destroy the aquatic life of that stream. Some insects have a 45 year reproductive cycle. It takes 5 to 8 years of minimum flow to reestablish a fishery after it has dried up. SB 212 is a step forward to retain some instream flows to annually dewatered streams." Gutkoski said he didn't feel the bill threatened the agricultural community "at all because we're talking about willing buyers and willing sellers on water rights."

John Roylance, Whitehall, stated he didn't feel there was much justice in "5% of our citizens controlling a resource that 100% of our citizens depend upon. Water quantity affects not only the financial health of agriculture but the financial well being of other important industries, as well. We cannot afford to ignore the other 95% of our population. While I'm not jumping for joy at paying for something that is mandated by our constitution for public use, I am willing to do so, acknowledging that our system of appropriation is at the root of the problem."

Janet Ellis, Montana Audubon Legislative Fund, stated that many members of audubon hunt and fish and all of the members care about wildlife. "We support this proposal. It will give us an important tool to work with. The concept is sound. (EXHIBIT #7).

Bill Holdorf, Skyline Sportsmen's Association, Butte, testified that SB 212 would help and support many of Montana's rivers. Holdorf noted that the Madison River was not dewatered even though it was used for irrigation.

Lorry Thomas, Anaconda Sportsmen's Club, said, "when the man upstairs dropped the snow and the rain, he dropped it for all of us and for all things."

Bob Bugni, Prickly Pear Sportsman Association, emphasized that SB 212 is "compromise legislation." (EXHIBIT #8).

Murray Carpenter, Missoula, stated that "instream flows are important to protect wildlife; SB 212 is a bargain for the state; everyone will benefit from this bill and no one will lose. The bill will have no affect whatsoever on anyone who has a valid existing water right. Instream flows have been considered of beneficial use in Montana since 1973. The main change needs to allow for transfer status equal to diverted or consumptive use. The legislative forum is the best place to resolve this issue. (EXHIBIT #9).

A listing of dewatered streams in Montana, prepared by the Montana Department of Fish, Wildlife and Parks, two newspaper articles from the Bozeman Chronicle as well as spending patterns of anglers is submitted as testimony for SB 212. (EXHIBIT #10).

W.F. Heinecke, Belgrade, submitted testimony favoring the bill. (EXHIBIT #11).

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Pat Roylance, Whitehall, also submitted testimony in support of the bill. (EXHIBIT #12).

Allen Schallenger, Sheridan, submitted written testimony in support of SB 212. (EXHIBIT #13).

Phil Smith, Montana Trophy Angler, Melrose, stated he was still suffering the consequences of the drought of 1988. "When the river is up," Smith said, "every town on the Big Hole is hustling and bustling. We depend on it. We're trying to work with the ranchers. We can with this bill which will help everybody. The way this bill is drafted, it does not require that there be no adverse affect on prior rights. I believe this is an oversight."

Testimony was received from the following agencies: Fish Wildlife and Parks, Instream Flow Policies in Western States (EXHIBITS #14, 15, 16); Montana Department of Natural Resources and Conservation, Instream Flows in the Missouri River Basin (EXHIBIT #17); Bioeconomics Associates, Missoula, Market Value of Agricultural Water Leased for Instream Flows (EXHIBIT #18) and U.S. Department of the Interior, Western State Instream Flow Programs: A Comparative Assessment. (EXHIBIT #19).

Opponents' Testimony:

Senator Tom Beck, District 24, said he opposed SB 212, although he said he realized that both the proponents' and opponents' had "one thing in common: we realize that water is our most natural resource in this state. Water is that clean, colorless, odorless substance that is essential for all our lives and our plants. An organized system for the appropriation of our waters is needed. I feel we have a fairly reasonable process today. Can you imagine what we'd have today if we had allowed the sale of water from one entity to another? There is nothing in this bill that restricts the out of state sale of water. If you start selling water rights, you will never see it back on the land.. you'll see instream flow. Don't sell ourselves down that instream flow. This bill is not the way to solve our problems."

Jo Brunner, Montana Water Resources Association, stated MWRA is "adamantly opposed to SB 212." Brunner submitted petitions from landowners opposed to the bill as well as testimony from MWRA. (EXHIBITS #2, 2a, 3 and 3a).

Dave McClure, Lewistown, President of Montana Farm Bureau, said the Bureau opposed SB 212 (EXHIBIT #4) because of policy statements established by the Bureau's voting members. McClure said he was speaking on behalf of the Montana Grain Growers Organization, Montana WIFE (Women Involved in Farm Economics) and the Montana Farmer's Union.

Chuck Rein, a rancher from Big Timber and a member of the Board of Directors of the Montana Stockgrowers Association, testified on behalf of his ranch, his water rights, the Montana

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Stockgrowers Association, the Montana Wool Growers Association and Montana Cattlemen. (EXHIBIT #5). Rein urged the committee to table SB 212.

Eugene Manley, Headwaters RC&D Agricultural Water Resources Committee, testified on behalf of the eight member counties. "SB 212 will start us down a river of no return," Manley said. (EXHIBIT #6).

Ted Doney, a Helena attorney who stated he works with water law, represented the Montana Dairymen's Association and told the committee that in the six years he has lobbied for the Association they had never before taken a position on any legislation until this bill. Doney said he wanted to go on record for the Association as being opposed to the bill but comments made today were his own personal views of the legislation.

Doney said he opposed the bill for two reasons: "the bill is premature and secondly it allows for private individuals and groups to obtain instream flows in their own names. The state currently has an existing leasing program to establish instream flows for recreational use. I was an active proponent of that legislation last session. There are consequences of establishing instream flow rights to the state, we need to work slowly...to see if the thing can be administered and see what impact it has on existing water rights, if any." Doney said he was the drafter of the legislation passed in 1973 (Water Use Act) that established for the first time in Montana, water reservations. "It was decided at that time not to allow private individuals or organizations to acquire instream flows," Doney said. "I think the bill would not only privatize, it would Ted Turnerize instream flows in Montana." Doney stated he felt the bill was "unmanageable" and urged the committee to allow the current water leasing process to go on.

Gary Spaeth, Montana Water User's Coalition, stated they "strenuously opposed this bill. Water is Montana's most important commodity," Spaeth said. "I feel almost all agricultural organization in Montana was opposed to the bill." Spaeth said he felt the bill was "going too far too fast."

E. Gardner Brownlee, retired district judge, Florence, urged the committee to kill SB 212. (EXHIBIT #7).

Representative Steve Benedict, District #64, opposed SB 212. (EXHIBIT #8).

Dennis Iverson, on behalf of the Stephens Administration, reminded the committee that the Administration recognizes the importance of instream flows and recognizes their value to fisheries, tourism and recreation. Iverson said, however, that the Administration is "terribly concerned about the impact of long-term transfers of water and the affect of permanently severing the land from the water." The water leasing program may

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be a "better way," Iverson said.

Ken Mesaros, Cascade rancher and member of the Montana Stockgrowers Association, stated he felt SB 212 was "probably the most dangerous piece of legislation to come before the state of Montana." (EXHIBIT #9).

Vernon Westlake, representing the Agricultural Preservation Association of Gallatin Valley, submitted testimony asking that SB 212 be killed or tabled. (EXHIBIT #10).

Jay Chamberlin, on behalf of Bitter Root Irrigation District, Hamilton, the Upper Milk River water users and the Flathead Joint Board of Control, testified in opposition to the bill. (EXHIBIT #11 and 11a).

Dave Moss, on behalf of the Beaverhead County Commissioners, opposed SB 212. "We feel like we have all the water law we need," Moss said. "If you want to do something for us irrigators, help us finance improvements on existing storage facilities or build some new ones." (EXHIBIT #11b).

J.B. Anderson, Dillon, on behalf of the Big Hole Ranchers Association, told the committee that if SB 212 is passed, it "will open a Pandora's Box of litigation. The refiling of our water rights in 1981 has become known as the attorney welfare act. That act would pale by comparison to the potential for litigation contained in this bill." (EXHIBIT #11c).

Leonard Blixrud, Choteau, representing the Teton River Water Users Commission, stated: "When you divert water from the stream to the land, you don't lose it, you only slow it up. The people of Montana would be better served as it is now, with fisheries in irrigation storage reservoirs that have been planted with fish." (EXHIBIT #11d).

Willie Day, Glendive, representing Montana Farmers Union, Dawson County Conservation District, Dawson County Farmers Union and the Buffalo Rapids Irrigation Project, stated that SB 212 "guarantees that the waters of the Missouri and Yellowstone River can be diverted." The bill is not amendable, Day said. (EXHIBIT #11e).

Ward Jackson, Harris, rancher and irrigator stated "there are three principle things wrong with this legislation one of which includes the thousands of acres of swamps and marsh that have been created since irrigation. Many of these areas will be dried up when irrigators are encouraged to sell or lease their water rights which will kill fish and ruin duck habitat."

Robert Story Jr., Stillwater County Conservation District supervisor and Water Committee chairman for the Montana Association of Conservation Districts, submitted testimony opposing the bill. (EXHIBIT #12).

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Merle Lloyd, Executive Director, Grassroots for Multiple Use, testified against SB 212. (EXHIBIT #13).

John McDonald, representing irrigators in the Upper Flint Creek Valley, said they are opposed to SB 212. He said they questioned Fish Wildlife and Parks participation in water issues.

Michelle Carosa, on behalf of the Sweetgrass County Preservation Association, stated they "strongly urge that you table SB 212."

Bill Donald, Melville, stated he felt "one of the roles of government should be to protect and nurture the natural resources of Montana and not ship them to other states. I feel that's what this bill does and that's why I'm against it."

Allen Martinell, President Water Users Irrigation Company, owners of Lima Dam, opposed SB 212. (EXHIBIT #14).

Richard Gosman, Vice-President, Water Users Irrigation Company, also opposed SB 212. (EXHIBIT #15).

Donald Berg, Martinsdale, Chairman of the Montana Stockgrower's Water Committee, stated he was "very strongly opposed to SB 212." (EXHIBIT #16).

Ole Ueland, Silver Bow, lifetime rancher and irrigator, opposed the bill. (EXHIBIT #17).

Gerald Smith, Gladda, farmer and rancher and operator of a small water system, stated that the Montana Land and Mineral Owners Association of Havre, American Water Works Association (AWWA), and the Montana Rural Water Systems were all opposed to SB 212.

Mildred Hodge, Corvallis Grange, stated the 120 members are opposed to SB 212.

Grace Ward, Hamilton, said, "I am definitely opposed to 212."

John Murphy, Circle, President of the Montana Wool Growers Association, submitted testimony in opposition to the bill. (EXHIBIT #18).

Patty Hansen, Lingenfelter Hansen Ranch, Gold Creek, testified against SB 212. (EXHIBIT #19).

Bill Garrison, Glen, on behalf of Garrison Ranchers, Inc. and Madison, Beaverhead and Silver Bow Counties, testified against SB 212. "It looks like it would be out of reason to pass a bill like this before we pass the present adjudication of Montana water not knowing how much water we are using right now. Passing this bill could have a negative affect on future upstream storage projects in Montana water basins." (EXHIBIT #20).

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Oris A. Olsen, on behalf of 250 voters from Pinesdale, stated "when water is diverted it can dry up many wells because the water is not getting to the aquifer that feeds their streams and wells. I hope you people can understand what your putting other people up against. We do oppose this bill."

Jim Schofield, Ravalli Drilling and Bitter Root Valley well contractor, said he opposed the bill "for a multitude of reasons but mainly because I don't think the DNRC or Water Rights Bureau should have the power or authority to decide on instream use."

Jim Hansen, Sweet Grass County Farm Bureau, said he would "like to know what will happen when 5% of the population (farmers and ranchers) can no longer grow crops to feed the remaining 95%?"

Tack Van Cleve, Melville, past president of the Dude Rancher's Association, said that for 70 years his family had brought "brand new money, outside money" into Montana in the recreation business. We are opposed to this bill."

Orville Lamerst, Wheatland County, said he opposed SB 212.

Don J. Marchesseault, District Director of District 2, Montana Farm Bureau and a member of the Beaverhead Water Co., said he opposed passage of SB 212. (EXHIBIT #21).

Mrs. Van Cleve, Melville rancher, said she felt "SB 212 was a sure-fired recipe for disaster in Montana. Please defeat it."

Ralph Manno, on behalf of Montana State Grange, asked "to go on record opposed to the bill."

Shirley Bugli, Water Chairwoman for W.I.F.E. (Women in Farm Economics) testified against the bill. (EXHIBIT #22).

Roger Ward, irrigator, said he was opposed to the bill.

Wally Close, Twin Bridges, testified on behalf of his neighbors who oppose SB 212. Close said the irrigators "are NOT wasting water in Clark Canyon Dam."

A spokeswoman for the Choteau Hutterites expressed opposition to SB 212 on behalf of 4,000 Hutterites.

Dave Jones, President Montana Rural Water Systems, testified against SB 212. (EXHIBIT #23).

The following individuals submitted testimony opposing SB 212:

Monte Clemow, Big Hole Ranchers and Montana Water Resources Association. (EXHIBIT #23a).

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Gary Ruff, President of the Montana Cattle Feeder Association, Custer. (EXHIBIT #24).

Alton E. and Helen Thomson, Mike and Irene Thomson, Linda and John Robel, Arlene and Marc Sande and Vernon Sande. (EXHIBIT #25).

Elmer Coscik, Mammoth Ditch Co. (EXHIBIT #26).

Robert Taylor, Billings. (EXHIBIT #27).

James Balkar, Belgrade. (EXHIBIT #28).

Dorothy Jackson and Robert Teague opposed the bill. (EXHIBIT #29).

S.A. Taylor, Mammoth Ditch Company. (EXHIBIT #30).

Peggy Olson Trenk, Executive Director WETA, Western Environmental Trade Association. (EXHIBIT #31).

Kenneth L. Kershner, Corvallis. (EXHIBIT #32).

Greg Rice, Harrison. (EXHIBIT #33).

Warren Johnson and Dwight E. Thiessen, Richland County. (EXHIBIT #34).

Vernon Woolsey, Water Commissioner, Bitterroot River and Burnt Fork Creek, Stevensville. (EXHIBIT #35).

John Venhuizer. (EXHIBIT #36).

Petition from water users on the Big Hole and Beaverhead Basins from Madison, Beaverhead and Silver Bow Counties. (EXHIBIT #37).

Elmer D. Severson, Flying E Ranch, Stevensville. (EXHIBIT #38).

Dave Strobel, Chairman, Prairie County Conservation District. (EXHIBIT #39).

Dave Jones, President, Montana Rural Water Systems. (EXHIBIT #40).

Rafter Ranch, Inc., Donald H. Jones, President. (EXHIBIT #41).

Soap County Cattle Co., Larry Kone, president. (EXHIBIT #42).

Petition from Augusta area residents. (EXHIBIT #43).

Lloyd DeBruycker. (EXHIBIT #44).

Larry J. Brooke, Pony. (EXHIBIT #45).

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to do anything. Storage may be a partial solution for instream use but there aren't any people interested in instream use that can participate in storage projects right now because there is no guarantee that the water they store has any right to stay instream. We're asking the committee to consider the opportunity for people in the state, the non-irrigators, to participate in this program of storing water for the purposes of fish, wildlife and health or whatever reasons they want to put it in streams. I think it's a matter of fairness...that the rest of us in this state who are not necessarily land owners or irrigators, have an opportunity to use water for other things than diversionary uses."

"Can we maintain Montana's irrigated agricultural industry and have enough water for streams? I say yes, because on the average only 1 out of every 5 acre feet of Montana water that is diverted is being used by crops. It is very likely, with a cooperative effort from sports people, irrigators and government agencies, that we can improve the ways we use the public's water. Maintain agriculture production and have adequate stream flows. SB 212 gives us just a start in this process.. it is not a fast fix...at best is probably a 50 or 60 year program. It was brought to you in the light of cooperation and sincerity to help maintain the agricultural economic basins in this state and also have some future economic developments such as recreation. The bill is a fair request."

ADJOURNMENT

Adjournment At: 7:48 p.m.

Lawrence Stimatz, Chairman

Roberta Opel, Secretary

LS/ro

Daniel L. Bell, Dan Bell Masonry, Victor. (EXHIBIT #46).

Allyn W. O'Hair, President O'Hair Ranch Company, Livingston.
(EXHIBIT #47).

Jack Iman, Chairman Bitterroot Conservation District, Hamilton.
(EXHIBIT #48).

Clint and Atha Stagner, Harlowtton. (EXHIBIT #49).

Steve Mayernik, Stockett. (EXHIBIT #50).

Bob Anderson. (EXHIBIT #51).

John J. Munson. (EXHIBIT #52).

William B. Taylor, Belgrade. (EXHIBIT #53).

Louise Steingruber, Willow Creek. (EXHIBIT #54).

Charles W. Proff, Dutton. (EXHIBIT #55a).

Richard Gosman, Vice President, Water Users Irrigation Company.
(EXHIBIT #55b).

Bob Wertheimer, Wertheimer Ranch, Utica. (EXHIBIT #56).

Virge Holliday, Wilsall. (EXHIBIT #57).

David T. Dearman, Wilsall. (EXHIBIT #58)

Verna Lou Landis, Wilsall. (EXHIBIT #59).

Jaci Dearman, Dearman Ranch, Wilsall. (EXHIBIT #60).

Louise and John Monroe. (EXHIBIT #61).

Robert Schmidt, Victor. (EXHIBIT #62),

Richard Waddell, Wilsall. (EXHIBIT #63).

Bob Ross, Bozeman. (EXHIBIT #64).

Melvin Novak, Nashua. (EXHIBIT #65).

Bob and Linda Davis. (EXHIBIT #66).

Steve and Sue Tibbetts, Terry. (EXHIBIT #67).

David J. Maclay, Missoula. (EXHIBIT #68).

Raymond Strasheim, Buffalo Irrigation Project, Terry. (EXHIBIT
#69).

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Petition from Roundup citizens ADAMANTLY opposed. (EXHIBIT #70).

Melvin Underdal, Shelby. (EXHIBIT #71).

Joe Meyer, Bitterroot Stockgrowers Association. (EXHIBIT #72).

Colleen Meyer, Western Montana Chapter of WIFE. (EXHIBIT #73).

Rosemarie Neuman, Bitterroot Stockgrowers Association. (EXHIBIT #74).

George R. Swan, Ruby River Water Users Association. (EXHIBIT #75).

Water Commissioners from Ward Irrigation District. (EXHIBIT #76).

Margie and Jon Lienemann, Hamilton. (EXHIBIT #77).

John Venhuizen, Potato Growers of Montana. (EXHIBIT #78).

George C. Ferguson, Sula. (EXHIBIT #79).

Juanita Ferguson, Sula. (EXHIBIT #80).

Margie J. Mickesell, Sula. (EXHIBIT #81).

John Mihesall, Sula. (EXHIBIT #82).

John Robbins, Stevensville. (EXHIBIT #83).

Marvin and Betty Witzsteon. (EXHIBIT #84).

Smith 6 Bar S Livestock, Glen. (EXHIBIT #85).

Eugene Graf, III, Bozeman. (EXHIBIT #86).

David J. Maclay, Missoula. (EXHIBIT #87).

Ann Craft, Hamilton. (EXHIBIT #88).

Dan Hurwitz, Cross H Ranch Co. (EXHIBIT #89).

Allen Scallard, Manhattan. (EXHIBIT #90).

John Patterson, Patterson Land & Livestock Company, Inc. (EXHIBIT #91).

Kenneth Kershner, Stevensville and Earl F. Wolfe, Corvallis. (EXHIBIT #92).

A petition with two signatures from individuals opposing the bill. (EXHIBIT #93).

William Stench, Sheridan. (EXHIBIT #94).

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Roy Lake, Ronan. (EXHIBIT #95).

Ruby Valley Conservation District. (EXHIBIT #96).

Larry Fasbender, Fishing Outfitters Association of Montana.
(EXHIBIT #97).

Pageville Canal Company, Gary Giem, President. (EXHIBIT #98).

Dean Hall, Billings. (EXHIBIT #99).

Madelen Taylor, Mammoth Ditch. (EXHIBIT #100).

George G. Waldner, New Rockport Colony. (EXHIBIT #101).

John Willard, Billings. (EXHIBIT #102).

Colleen Meyer, Stevensville. (EXHIBIT #103).

Gloria Paladiuk, Sidney. (EXHIBIT #104).

George Swan, Sheridan. (EXHIBIT #105).

Dale Venhyizen, Manhattan, Montana Hereford Association. (EXHIBIT #106).

Dave E. Wipf, White Sulphur Springs. (EXHIBIT #107).

Theresa Yadon,, Manhattan, asked that SB 212 BE TABLED. (EXHIBIT 108).

Questions From Committee Members:

There were no questions from the committee.

Closing by Sponsor:

Senator Bianchi stated SB 212 will allow individuals to receive and hold water rights and permits without requiring that water be diverted from a stream to protect fish, wildlife, and recreation and the public health. "SB 212 allows instream uses of water to be treated the same as all other uses of water. The bill asks for the public to have a fair shake at a public resource. SB 212 does not, in any way, alter the prior appropriations doctrine and does not change principles of water rights. The question of severability is established by law and is clearly given appropriation against adverse affects caused by changes," Bianchi said.

"The water right now can, and is, on a daily basis, separated from the land. This is in the law and has been this way forever. We've had changes of use in this state since the 1800's. We're asking that water go from a diverted use to an instream use. It's done strictly on a voluntary basis. We are not requiring ranchers

SENATE NATURAL RESOURCES COMMITTEE

February 15, 1991

Page 15 of 15

to do anything. Storage may be a partial solution for instream use but there aren't any people interested in instream use that can participate in storage projects right now because there is no guarantee that the water they store has any right to stay instream. We're asking the committee to consider the opportunity for people in the state, the non-irrigators, to participate in this program of storing water for the purposes of fish, wildlife and health or whatever reasons they want to put it in streams. I think it's a matter of fairness...that the rest of us in this state who are not necessarily land owners or irrigators, have an opportunity to use water for other things than diversionary uses."

"Can we maintain Montana's irrigated agricultural industry and have enough water for streams? I say yes, because on the average only 1 out of every 5 acre feet of Montana water that is diverted is being used by crops. It is very likely, with a cooperative effort from sports people, irrigators and government agencies, that we can improve the ways we use the public's water. Maintain agriculture production and have adequate stream flows. SB 212 gives us just a start in this process.. it is not a fast fix...at best is probably a 50 or 60 year program. It was brought to you in the light of cooperation and sincerity to help maintain the agricultural economic basins in this state and also have some future economic developments such as recreation. The bill is a fair request."

ADJOURNMENT

Adjournment At: 7:48 p.m.

Lawrence Stimatz, Chairman

Roberta Opel, Secretary

LS/ro

NR021591.SM1

Amendments to Senate Bill No. 212
First Reading Copy

Requested by Senator Bianchi
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
January 29, 1991

1. Title, line 11.

Strike: "85-2-401,"

2. Page 16, line 9.

Following: line 8

Insert:

"(a) there are unappropriated waters in the source of supply;

(b) the water rights of a prior appropriator will not be adversely affected;"

Renumber: subsequent subsections

3. Page 21, line 12 through page 22, line 3.

Strike: section 6 in its entirety.

Renumber: subsequent sections

4. Page 23, line 3.

Following: line 2

Insert: "(e) For proposed changes to instream use:

(i) the proposed use of water is in an amount reasonably necessary to provide, maintain, or enhance fish and wildlife or recreation values or protect public health; and

(ii) the proposed use is reasonable as provided in subsection 85-2-311(2)(c)."

5. Page 28, line 23.

Following: line 22

Insert: "(e) For proposed changes to instream use:

(i) the proposed use of water is in an amount reasonably necessary to provide, maintain, or enhance fish and wildlife or recreation values or protect public health; and

(ii) the proposed use is reasonable as provided in subsection 85-2-311(2)(c)."

6. Page 34, line 9.

Following: "right"

Insert: "or a portion of a water right"

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of February, 1991.

Name: Stan Bradshaw

Address: P.O.B. 1273
Helena

Helena

Telephone Number: _____

Representing whom?

MTU

Appearing on which proposal?

SB 2/2

Do you: Support? ✓ Amend? ✓ Oppose?

Comments:

Gave Oral testimony & written amendments

PROPOSED AMENDMENTS TO SENATE BILL 212
Proposed by Montana Trout Unlimited
February 15, 1991

At page 3, line 4, strike ", or use for instream use".

At page 3, line 7, strike "; or" and insert "."

At page 3, line 9, strike "." and insert "; or"

At page 3, after line 9, insert "(d) in the case of a qualified conservation group, to apply water to an instream use."

At page 3, line 16, strike "(ii) the protection of public health;".

At page 4, line 24, strike "or to protect public health", and, after "values", insert ".
more St Health Dept.

At page 5, line 11, insert "(15) 'Qualified conservation group' means any group qualified under section 501 (c)(3) of the Internal Revenue Code that has among its purposes the protection of fisheries, wildlife, recreation, or instream values."

At page 5, line 12, strike "(15)" and insert "(16)".

At page 5, line 16, strike "(16)" and insert "(17)".

At page 5, line 20, strike "(17)" and insert "(18)".

At page 5, line 22, strike "(18)" and insert "(19)".

At page 5, line 24, strike "(19)" and insert "(20)".

At page 6, line 1, strike "(20)" and insert "(21)".

At page 6, line 11, strike "' or use for instream use".

At page 6, line 12, strike "or".

At page 6, line 14, strike "." and insert ", or"

At page 6, line 15, insert "(c) in the case of a qualified conservation group, to apply water to an instream use."

At page 6, line 21, strike "(ii) the protection of public health; and".

At page 8, line 12, insert " (14) 'Qualified conservation group' means any group qualified under section 501(c)(3) of the Internal Revenue Code that has among its purposes the protection of fisheries, wildlife, recreation, or instream flows."

At page 8, line 13, strike "(14)" and insert "(15)".

At page 8, line 17, strike "(15)" and insert "(16)".

At page 8, line 21, strike "(16)" and insert "(17)".

At page 8, line 23, strike "(17)" and insert "(18)".

At page 8, line 25, strike "(18)" and insert "(19)".

At page 9, line 26, strike "(19)" and insert "(20)".

At page 22, line 9, below the existing language, insert "(2) In the case of a change to an instream use the recipient of the right must be a public agency or a qualified conservation group."

At page 22, line 10, strike "(2)" and insert "(3)".

At page 23, line 3, strike "(3)" and insert "(4)".

At page 24, line 3, strike "(4)" and insert "(5)".

At page 24, line 13, strike "(5)" and insert "(6)".

At page 26, line 10, strike "(6)" and insert "(7)".

At page 27, line 20, strike "(7)" and insert "(8)".

At page 27, line 2, strike "(8)" and insert "(9)".

At page 27, line 10, strike "(9)" and insert "(10)".

At page 27, line 13, strike "(10)" and insert "(11)".

At page 27, line 18, strike "(11)" and insert "(12)".

At page 28, line 6, below the existing language, insert "(2) In the case of a change to an instream use the recipient of the right must be a public agency or a qualified conservation group."

At page 28, line 7, strike "(2)" and insert "(3)".

At page 28, line 23, strike "(3)" and insert "(4)".

At page 29, line 23, strike "(4)" and insert "(5)".

At page 30, line 8, strike "(5)" and insert "(6)".

At page 32, line 5, strike "(6)" and insert "(7)".

At page 32, line 15, strike "(7)" and insert "(8)".

At page 32, line 22, strike "(8)" and insert "(9)".

At page 33, line 5, strike "(9)" and insert "(10)".

At page 33, line 8, strike "(10)" and insert "(11)".

At page 33, line 13, strike "(11)" and insert "(12)".

At page 34, starting at line 9, strike subsection (3) in its entirety.

SB212

Testimony of Gene Quenemoen on behalf of the Gallatin Wildlife Association

Mr. Chairman, members of the committee

My name is Gene Quenemoen and I am speaking on behalf of the Gallatin Wildlife Association of Bozeman.

The Gallatin Wildlife Association supports SB212. We feel there is a demand for a minimum amount of free flowing water in traditionally flowing streams through all seasons of the year. This demand did not exist a century ago when water rights laws were being developed. Now that conditions have changed there is a need to establish institutions which will facilitate transfers of water to new uses.

The free enterprise market system of willing buyers and willing sellers has proven to be very efficient in allocating scarce resources to the needs of people. In recent years the world has become acutely aware of this fact. In addition the market system is a better way to allocate resources than to fight over them in court.

SB212 proposes to create conditions that will let the market system work to resolve problems of water use. It does not take anyones property or alter the prior appropriations doctrine. It protects existing water rights against any adverse impact from changing water use. SB212 would resolve the problem of dewatered streams and simultaneously provide additional opportunities and options for farmers and ranchers who own water rights.

Thank you for the opportunity to testify in favor of this bill.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of Feb, 1991.

Name: Bruce Farling

Address: Box 7593

17.550.14 177 59807

Telephone Number: 542-0539

Representing whom?

Clark Fork Coalition

Appearing on which proposal?

SB 217

Do you: Support? X Amend? _____ Oppose? _____

Comments:

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page or a sheet of stationery. There is no handwriting or other markings on the page.

Testimony of Bruce Farling on S.B. 212.

Given to the Montana Senate Committee on Natural Resources, February 15, 1991.

Mr. Chairman and members of the committee I'm Bruce Farling, deputy director of the Clark Fork Coalition, a regional conservation group from western Montana that works to protect and enhance the water quality and aquatic resources of the Clark Fork watershed.

We are a conservation group of a different stripe, having distinguished ourselves at least partly by identifying common interests of conflicting parties then working up agreements on matters affecting water quality. We have negotiated agreements with Stone Container Corp., Montana Power, Burlington Northern, the City of Missoula, and currently are trying to put together a joint venture with Champion International for cooperative projects that rehabilitate streams on its industrial forestlands. We also recently took part in an 8-month dialogue and negotiation with the major players in water allocation in the upper Clark Fork basin -- including irrigators, utilities and agencies -- in an attempt to resolve the sticky problem of who gets what water from where and when. These discussions may result soon in a landmark agreement that could lead to a cooperative problem solving on water allocation disputes in the upper Clark Fork County. If it succeeds, it could also be a model for resolving disputes in some of Montana's other overappropriated basins.

We have long been involved in water allocation issues and as a result become fairly familiar with Montana's water use system and the Montana Water Use Act. We are therefore confused as to why there is so much opposition to Sen. Bianchi's measure, a bill that we urge this committee to endorse. Despite the outcry we have heard today and in the last Legislature, we have yet to hear compelling and substantive arguments on how S.B. 212 will adversely affect valid existing water rights. The bill nicely dovetails with the prior appropriation system, recognizes valid existing rights and includes a transfer mechanism already recognized in the law -- one based on a willing seller, willing buyer premise.

Moreover this bill merely recognizes the obvious: In-stream flows are a valuable use of Montana's waters. Everyone in this room needs in-stream flows, be they for fishing and recreation, dilution of effluents from your community's sewage treatment plant or job-producing industrial facility, or for the hydroelectric power that lights your reading lamp or fires the pump that runs your sprinkler irrigation system. We need in-stream flows for fish, wildlife and recreation, for sure. But we also need them to reduce the effects pollutants have on stream water that recharges aquifers used for domestic use, and for local economic development -- an example of the latter being the \$23 million Missoula and its businesses have sunk into their riverside park system, a major cog in the city's future economic

Remember to Bill Farley, p. 2

Ex. 4
2-15-91
SB 212

development plans.

S.B. 212 ~~bill~~ is a moderate approach -- indeed it's really just one building block -- that helps satisfy the varied demands Montanans place on their streams. It will not result in a flood of in-stream flow purchases, as some opponents fear. Neither the water nor money are there. But it will help guarantee that ^{free market} when water is needed in a critical situation in a specific stream, some mechanism exists to deliver that water, but only after cooperative efforts between prospective purchaser and seller have succeeded.

Montanans need to stop fighting each other over water. The real threat isn't the guy next door with the shovel, or the guy from the city with the fishing rod. It's the out of state industrial and water interests that smack their lips over the bounties of our rivers. They are in corporate boardrooms in New York, Denver and San Francisco, or downstream in the lower Missouri River states, or in California where there is no shortage of crackpot ideas to steal our water, nor shortage of money to employ them. We have to stop haggling among ourselves lest we wake up and find our water sprinkling lawns in Los Angeles or slurring our coal to the midwest. Passage of this bill will demonstrate that we can come together, that we can extend hands across the irrigation ditch for the prosperity of all Montanans.

One more thing. Montana is an urban state. It has been since the 1960 census, and according to the last count it is increasingly becoming more so. One way or the other, I suspect sometime in the not too distant future, urban Montanans will figure out some way to ensure their interests in water -- which unfortunately many of today's irrigators consider adverse -- are satisfied. Our water laws will be changed sometime. It's important to this state and its valuable agricultural industry that ranchers and farmers not do themselves a disservice ~~and~~ ^{not} instead become a cooperative member in molding that change. Digging heels in on bills such as this may make for good solidarity out on the back forty today, but it doesn't bode well for ensuring that all Montanans -- rural and urban -- are involved in shaping the water future for this state. I urge you again, to recommend to the full Senate, passage of SB 212. Thank you.

EXHIBIT NO. 5DATE 2-15-91BILL NO. SB 212WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15th day of February, 1991.

Name: James W. McDermand

Address: 3805 4th Ave South

Great Falls, MT 59405

Telephone Number: 761-0303

Representing whom?

Medicine River Canoe Club -

Appearing on which proposal?

S.B. 212

Do you: Support? X Amend? _____ Oppose? _____

Comments:

See written testimony attached.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Medicine River Canoe Club

Great Falls, Montana

February 15, 1991

SENATE NATURAL RESOURCES

EXHIBIT NO. 2

DATE 2-15-91

BILL NO. SB 212

Senate Natural Resources Committee
State Capitol
Helena, Montana

Chairman Stimatz and Members of the Committee:

My name is Jim McDermid; I am the spokesman for the Medicine River Canoe Club in Great Falls. Having a vested interest in water issues, our organization feels that Senate Bill 212 is one of the most important pieces of legislation in recent years.

It is our rivers and streams, yours and mine, that are being dried up. It is our fish that are dying. Dewatering not only affects our fish but all species of wildlife that live in the impacted ecosystem. In fact, our very lifestyle and the things we cherish in the "last best place" are being diminished by the continuing problem of rivers being reduced to trickles or even drained dry.

We are hypocritical in advertising for tourism by promoting blue ribbon trout streams and abundant water for recreation but, when tourists arrive, they are seeing barren stream beds and nearly empty reservoirs. It may be very difficult to influence them to return. Currently the upstream states of the Missouri River Basin, including Montana, are fighting for the right to keep water in their reservoirs for recreation. Yet, ironically, Montana has done nothing at this time to insure its own instream flows to help fill these reservoirs.

We can not successfully enter the 21st century with water laws devised in the 19th century---antiquated laws dictating that only water diverted from a river serves a beneficial use. We do not blame our forefathers for the laws they formulated; they met the needs of that era. However, we will all have to share the blame if we do not revise those laws to meet the needs of today's society---a society that increasingly values fish and wildlife and recognizes its enhancement of our lives and our economy.

SB 212 is a viable first step in that process because it would place instream water appropriations on an equal footing with other appropriations. We must acknowledge

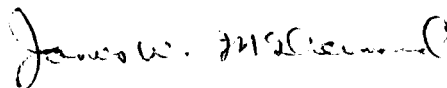
that water rights for instream flows should be as valid as water rights now granted for other purposes.

The water leasing bill of the '89 session (HB707) was a vallant effort to address problems with dewatered streams. The parties that authored this legislation were under extreme pressure in the last days of the session to produce a compromise bill. Despite the best efforts of those involved, the resultant leasing bill became an administrative nightmare and, consequently, no leases have been consummated. It is unfortunate that it has proven unworkable. SB 212 overcomes those problems by making the leasing process simpler, by making it statewide so it can truly address all our dewatering problems, and by allowing it to occur only between a willing water right owner and a willing lessee.

Another admirable aspect of the leasing provision is that a water right owner could earn additional income by leasing unneeded portions of his appropriation, yet still retain his full water right for future use. This would help alleviate some of the wasteful effects of the "use it or lose it" principle that forces water right owners to divert water even when they really don't need all of it.

This is a thoroughly researched and well formulated piece of legislation. Now is the time to prepare for problems of future droughts. Let's step out of the 1800's and into the 21st century. Please pass SB212.

Sincerely,



James W. McDermid, Spokesman
Medicine River Canoe Club
3805 Fourth Avenue South
Great Falls, MT 59405

EXHIBIT NO. 6DATE 2-15-91BILL NO. SB 212WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of February, 1991.

Name: JOHN M. ROYLAND

Address: 8 SUGARBEE ROW
WHITEHALL MT. 59759

Telephone Number: 287-5866

Representing whom?

Self

Appearing on which proposal?

SB 212

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of February, 1991.

Name: Janet Ellis

Address: _____

Telephone Number: _____

Representing whom? MT Audubon Legislative Fund

Appearing on which proposal?

SB 212

Do you: Support? X Amend? X Oppose? _____

Comments:

Many of members hunt & fish and all of our
members care about wildlife. We support this
proposal. It will give us an important tool
to work with. The concept is sound. We hope
that the committee will work with amendments
to improve any technical problems that have
been identified.

COMMITTEE NO. 8

DATE 2-15-91

BILL NO. SB 212

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of FEB, 1991.

Name: BOB BUGNI

Address: 2545 PRICKLY PEAR AVE
EAST HELENA

Telephone Number: 227-8749

Representing whom?

PRICKLY PEAR SPORTSMAN ASSN

Appearing on which proposal?

SB 212

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

THE POINT WE WOULD LIKE TO MAKE TO THE COMMITTEE IS THAT THIS BILL ^{IS} ~~WOULD BE~~ COMPROMISE LEGISLATION. THE PUBLIC IS DEMANDING A SOLUTION TO THE ~~ENV~~ DISASTER OF DEWATERING MONTANA STREAMS IN MONTANA. ~~THE~~ THE PRESENT SITUATION CANNOT CONTINUE.

DEWATER STREAMS & RIVERS CAUSES LONG TERM DAMAGE TO THE RESOURCES ESPECIALLY TO THE AQUATIC LIFE.

WE BELIEVE SB 212 IS A COMPROMISE SOLUTION.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15th day of February, 1991.

Name: MURRAY CARPENTER

Address: 402 S 3rd W

MISSOULA MT 59801

Telephone Number: (406) 728-8572

Representing whom?

Appearing on which proposal?

S.B. 212

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Montana Department of Fish, Wildlife & Parks

SERATE NATURAL RESOURCES
EXHIBIT NO. 10
DATE 2-15-91
BILL NO. SB 212



January 24, 1991

DEWATERED STREAMS LIST

The following is a preliminary list of Montana streams that support important fisheries or contribute to important fisheries (i.e., provide spawning and rearing habitats) that are significantly dewatered by man-caused flow depletions. Dewatering refers to a reduction in streamflow beyond the point where stream habitat is adequate for fish. Most man-made dewatering occurs during the irrigation season (July-September). Although most dewatering is caused by irrigation withdrawals, a few of the listed waters are dewatered through dam manipulations for both agricultural use and power production.

Dewatered streams are separated into two categories:

1. Chronic problem -- streams where dewatering is a significant problem in virtually all years; and
2. Periodic problem -- streams where dewatering is a significant problem only in drought or water-short years.

Each listed stream shows the length (in miles) of the dewatered reach. For larger/longer streams, the boundaries of the dewatered reach (Point A - Point B) are given.

For streams which have no reach boundaries given (i.e., Point A - Point B), the miles shown as dewatered are from the mouth upstream.

The dewatered reaches shown are typical for the stream. However, the number of miles dewatered in a given stream may vary somewhat from year to year depending upon water available in the stream system.

The list, which was compiled by DFWP's regional fisheries biologists from field observations, is the initial effort by DFWP to document the state's dewatered streams. Some streams may have been missed outright while others were left out because supporting evidence of the fishery value was lacking. The list will be revised as more information becomes available.

This initial list includes a total of 208 stream reaches (2,540 miles) which are chronically dewatered and 83 stream reaches (1,238 miles) which are periodically dewatered. The reaches do not overlap between categories.

drg

CHRONIC DEWATERING

<u>STREAM AND REACH</u>	<u>MILES DEWATERED</u>
<u>Beaverhead-Red Rock River Drainage</u>	
Beaverhead River	
West Side Canal - mouth	39
Big Sheep Creek	
BLM Boundary - Red Rock River	3
Blacktail Deer Creek	
Axes Canyon Rd - Beaverhead River	5.5
Horse Prairie Creek	
Red Butte - Clark Canyon Reservoir	15
Junction Creek	
I-15 - Red Rock River	4
Rattlesnake Creek	
Dillon/Argenta Rd. - mouth	7.5
Red Rock River	
Dell-Briggs Ranch	<u>6</u>
	80
<u>Big Hole River Drainage</u>	
Alder Creek	0.1
Big Hole River	
Big Lake Creek - Swamp Creek	9
Glen Bridges - mouth	24.4
Birch Creek	
Beaverhead/Willow Ditch - mouth	9.8
Governor Creek	5
Wise River	
Wise River Ditch - mouth	<u>5</u>
	53.3
<u>Bitterroot River Drainage</u>	
Bear Creek (North and South Channels)	5
Big Creek	3
Bitterroot River	
Corvallis-Stevensville	17
Blodgett Creek	1
Burnt Fork Creek	5
Carlton Creek	5
Lolo Creek	3
Lost Horse Creek	2
Mill Creek	3
Mill Creek (Trib. to Lolo Creek)	0.5
O'Brien Creek	1.5
Rock Creek	5

Skalkaho Creek	4
South Fork of Lolo Creek	0.5
Sweathouse Creek	2
Sweeney Creek	1
Tin Cup Creek	2
	<u>60.5</u>

Blackfoot River Drainage

Arrastra Creek	
Stream mile 2.5-2.0	0.5
Blackfoot River	
Seven-up Pete Creek - Poorman Cr.	11
Blanchard Creek	1.2
Chamberlain Creek	0.5
Clearwater River	3.5
Cottonwood Creek	
Stream mile 10.0-4.4	5.6
Gallagher Creek	3
Jefferson Creek	1
Nevada Creek	
Stream mile 40.0-34.0	6
Stream mile 31.7-6.4	25.3
No-Name Creek	0.5
North Fork of Blackfoot River	
River mile 12.0-6.2	5.8
Owl Creek	4.3
Poorman Creek	2
Union Creek	
Stream mile 7.0-0.5	6.5
Wales Creek	1.9
Washington Creek	
Sections 24 and 26	1
Wilson Creek	0.8
	<u>80.4</u>

Dearborn River Drainage

Dearborn River	
Bean Lake Canal - mouth	44
Middle Fork Dearborn River	4
	<u>48</u>

Flathead River Drainage

Lost Creek	
4 miles Above Lore Lake -	
Stillwater River	7
Mount Creek	
Welcome Springs - mouth	5
South Fork Flathead River	
Hungry Horse Dam - mouth	5.3

Walker Creek	
Entire Length	<u>7</u> 24.3

<u>Flint Creek Drainage (Clark Fork)</u>	
Cow Creek	3
Douglas Creek	2
Flint Creek	
Georgetown Lake - mouth	42.4
Gird Creek	1
Henderson Creek	
USFS Boundary - mouth	4
Lower Willow Creek	
Reservoir - mouth	9.4
Marshall Creek	
USFS Boundary - mouth	<u>5</u> 66.8

<u>Gallatin River Drainage</u>	
Baker Creek	10
Big Bear Creek	5
Bridger Creek	10
Gallatin River	
Gallatin Gateway - Mouth	38
Hyalite (Middle) Creek	20
South Cottonwood Creek	<u>6</u> 89

<u>Jefferson River Drainage</u>	
Antelope Creek	7
Boulder River	
Boulder - Cold Springs	36
Fish Creek	10
Jefferson River	
Headwaters - mouth	84
Little Boulder River	10
North Willow Creek	9
Pipestone Creek	8
South Boulder River	10
South Willow Creek	8
Whitetail Creek	<u>24</u> 206

<u>Judith River Drainage</u>	
Judith River	
Ackley Canal - Ross Fork	<u>22</u> 22

Kootenai River Drainage

Grave Creek	
Glen Lake Diversion Dam -	
Fortine Creek	5
Indian Creek	
Burma Road - mouth	3
Kootenai River	
Libby Dam - Montana/Idaho border	45
Phillips Creek	
US/Canada Border - Sophie Lake	3
Pleasant Valley Fisher River	
Lost Prairie - Loon Lake	25
Sinclair Creek	
Source - mouth	4
Therriault Creek	
Glen Lake Irrigation Diver. -	
US Hwy 93	<u>2</u>
	87

Little Blackfoot River Drainage

Carpenter Creek	4.8
Dog Creek	2
Galleguer Creek	3
Gimlet Creek	2
Jefferson Creek	1
Little Blackfoot River	
Elliston - mouth	25.5
No Name Creek	0.5
North Trout Creek	5.1
Ophir Creek	4
Sixmile Creek	9
Snowshoe Creek	
USFS Boundary - mouth	6
Spotted Dog Creek	
Private Reservoir - mouth	2.5
Threemile Creek	8
Washington Creek	1
Willson Creek	<u>0.8</u>
	75.2

Lower Clark Fork River Drainage

Boyer Creek	
Deemer Creek - mouth	2
Henry Creek	
Section 31 - mouth	2
Lynch Creek	
Section 10 - mouth	<u>2</u>
	6

Madison River Drainage

Blaine Spring Creek	5
Indian Creek	5
Jack Creek	6
Moore Creek	5
North Meadow Creek	5
Watkins Creek	<u>1</u>
	27

Marias River Drainage

Birch Creek	
Swift Dam - mouth	61
Dupuyer Creek	
Above Dupuyer - mouth	<u>20</u>
	81

Musselshell River Drainage

American Fork Creek	10
Big Elk Creek	10
Careless Creek	
Bercail - Franklin	25
Flatwillow Creek	
Durfee Creek - Petrolia Reservoir	69
Musselshell River	
Martinsdale - Mosby	150
North Fork Musselshell River	
Bair Reservoir - mouth	25
South Fork Musselshell River	
Muddy Creek - mouth	13
Spring Creek	6
Swimming Woman Creek	<u>20</u>
	328

Rock Creek Drainage (Clark Fork)

Brewster Creek	0.5
North Fork Spring Creek	3
Ranch Creek	1
Ross's Fork	5
South Fork Spring Creek	5
Upper Willow Creek	
USFS Boundary - mouth	<u>7.4</u>
	21.9

Ruby River Drainage

Indian Creek	
National Forest - Leonard Slough	8.5
Mill Creek	
National Forest - BN RR Bridge	6

Ruby River	
Alder, MT - Clear Creek	10
Thompson Ditch - mouth	18
Sweetwater Creek	
Irrigation Diversion - mouth	3.3
Wisconsin Creek	
National Forest - mouth	<u>7</u>
	52.8

<u>Shields River Drainage</u>	
Bangtail Creek	5
Canyon Creek	0.7
Cottonwood Creek	5.9
Rock Creek	2
Willow Creek	<u>12.2</u>
	25.8

<u>Smith River Drainage</u>	
Big Birch Creek	5
Camas Creek	5
North Fork of Smith River	
Dam - mouth	23
Smith River	
McKamey Diversion - mouth	<u>28</u>
	61

<u>Sun River Drainage</u>	
Elk Creek	
Augusta vicinity	7
Sun River	
Diversion Dam - Fort Shaw	<u>60</u>
	67

<u>Teton River Drainage</u>	
Deep Creek	
T23N, R5W, Sec 10 - mouth	5
Spring Creek	
Above Choteau - mouth	5
Teton River	
Bynum Diversion - mouth	<u>188</u>
	198

<u>Upper Clark Fork River Drainage</u>	
Bear Creek	
Forks - Clark Fork River	2.2
Blum Creek (Tributary to Gold Creek)	2

Clark Fork River	
Racetrack - Rock Creek	92.7
Cottonwood Creek	
USFS Boundary - mouth	8
Crevice Creek (Tributary to Gold Creek)	2
Dempsey Creek	
N-S Forks - mouth	8.4
Gold Creek	
Pioneer - mouth	6.5
Harvey Creek	0.5
Hoover Creek	
Miller Lake - mouth	5.4
Lost Creek	
State Park - mouth	12
Mill Creek	
BA&P Tracks - Settling Ponds	6.6
Morris Creek	4
Peterson Creek	
USFS Boundary - mouth	10.5
Powell Creek	
Powell Lake - mouth	6.5
Racetrack Creek	
USGS Station - mouth	11.3
Rock Creek	
Rock Creek Lake - mouth	10.9
Storm Lake Creek (Tributary to Warm Spring Creek)	2
Swartz Creek	0.5
Taylor Creek	
Lower Taylor Reservoir - mouth	4.7
Tigh Creek	1
Tin Cup Joe Creek	
Conley's Lake - mouth	5.2
Twin Lakes Creek (Tributary to Warm Spring Creek)	2
Warm Spring Creek	
Hwy 273 - mouth	8
Warm Spring Creek (near Garrison) Falls - mouth	5.4
Willow Creek	
Mt. Haggin WMA - Settling Ponds	6.5
	224.8

Upper Missouri River Drainage

Beaver Creek (Tributary to Canyon Ferry Reservoir)	6
Confederate Creek (Tributary to Canyon Ferry Reservoir)	4
Crow Creek	15
Deep Creek	6
Dry Creek	7

Duck Creek (Tributary to Canyon Ferry Reservoir)	3.5
Greyson Creek	4
Prickly Pear Creek	
East Helena - Lake Helena	8
Sixmile Creek	7
Tenmile Creek (Tributary to Prickly Pear Creek)	<u>13.5</u>
	74.0

<u>Yellowstone River Drainage</u>	
Big Creek	1.6
Big Timber Creek	5
Boulder River	5
Bridger Creek	3
Clarks Fork of the Yellowstone	
State Line - Bluewater Creek	107
Deep Creek	3.3
East Boulder River	
Forest Boundary - mouth	7
Eightmile Creek	2
Elbow Creek	4
Elk Creek (Tributary to East Boulder River)	2
Emigrant Creek	3
Fridley Creek	0.1
Little Trail Creek	8
Lower Deer Creek	4
Mill Creek	0.7
Mission Creek	0.8
Pine Creek	1.6
Powder River	
Montana/Wyoming Border - mouth	217.5
Pryor Creek	21
Rock Creek (Tributary to Clarks Fork of Yellowstone)	
Red Lodge - mouth	41
Sage Creek (Tributary to Shoshone- Bighorn River)	
Reservation Boundary - State Line	18
Sixmile Creek	3
Soap Creek (Tributary to Bighorn River)	9
Strawberry Creek	1
Suce Creek	1.5
Trail Creek	5
Upper Deer Creek	<u>5</u>
	480.1

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PERIODIC DEWATERING

<u>STREAM AND REACH</u>	<u>MILES DEWATERED</u>
<u>Beaverhead - Red Rock River Drainage</u>	
Beaverhead River	
Clark Canyon Dam - West Side Canal	21
Big Beaver Creek	0.7
Blacktail Deer Creek	
West Fork - Axes Canyon Rd.	19.8
Bloody Dick Creek (Tributary to Horse Prairie Creek)	10
Grasshopper Creek	
Polaris - Bannock	14
Frenchy Place Placer - mouth	6
Jones Creek	
BLM Boundary - mouth	1.5
Little Sheep Creek	
Road Crossing - mouth	7.5
Medicine Lodge Creek (Tributary to Horse Prairie Creek)	
Ayers Canyon - mouth	16.8
Peet Creek	
Jones Diversion - mouth	1.7
Sage Creek	
Rock Island Ranch - mouth	11
Trail Creek (Tributary to Horse Prairie Creek)	
Source - mouth	7
	<u>117</u>
<u>Big Hole River Drainage</u>	
Big Hole River	
Hamby Creek - Big Lake Creek	23.4
Swamp Creek - Glen Bridges	84.5
Big Lake Creek	7.5
Canyon Creek	6
Deep Creek	5.1
Divide Creek	9.5
Doolittle Creek	1.5
Fishtrap Creek	2.4
Francis Creek	7.7
Jerry Creek	3.1
Johnson Creek	3.7
Moose Creek	3.0
Mussigbrod Creek	9.4
North Fork Big Hole River	25
Pintlar Creek	10.8
Rock Creek	3
Rock Creek (Tributary to Big Lake Cr)	7

Jefferson River Drainage

Hells Canyon Creek	2
Willow Creek	<u>10</u>
	12

Kootenai River Drainage

Fortine Creek	
Crystal Lake - mouth	5
Libby Creek	
US 2 Bridge - mouth	14
Pinkham Creek	
Still Cr. in Sec. 3 - mouth	15
Young Creek	
Sec. 15-16 Crossing - mouth	<u>5</u>
	39

Madison River Drainage

Ruby Creek	<u>1</u>
	1

Milk River Drainage

Beaver Creek	
Ft. Assiniboine - mouth	6
Clear Creek	
Clear Creek Rd - mouth	<u>15</u>
	21

Musselshell River Drainage

Cottonwood Creek	<u>6</u>
	6

Shields Driver Drainage

Brackett Creek	14
Flathead Creek	12
Shields River	<u>82</u>
	108

Smith River Drainage

Hound Creek	
East Fork - mouth	25
Sheep Creek	
Jumping Creek - mouth	30

Ashley Creek	
US Hwy. 2 Bridge - mouth	20
Blaine Creek	
Above Lake Blaine - Lake Blaine	3
Brower Spring	
Hwy 424 - Kalispell	8
Dayton Creek	
Co. Line - mouth	10
Echo Creek	
Sec. 27 - mouth	3
Garnier Creek	
USFS - mouth	3
Lynch Creek	
Sec. 12 - mouth	5
Meadow Creek (Big Fork)	
USFS - mouth	3
Ronan Creek	
Lake Mary Ronan - mouth	5
Spring Creek	
North of Kalispell	5
Trumbull Creek	
USFS - Rose Crossing	<u>20</u>
	85

<u>Gallatin River Drainage</u>	
Bozeman (Sourdough) Creek	8
Gallatin River	
Spanish Creek - Gallatin Gateway	<u>10</u>
	18

10

Musselshell River Drainage

Cottonwood Creek	
	<u>6</u>
	6

Shields Driver Drainage

Brackett Creek	
Flathead Creek	14
Shields River	12
	<u>82</u>
	108

Smith River Drainage

Hound Creek	
East Fork - mouth	
Sheep Creek	25
Jumping Creek - mouth	
	30

11

Smith River	
Forks - McKamey Diversion	97
South Fork of Smith River	<u>15</u>
	167

Upper Missouri River Drainage

Little Prickly Pear Creek	
Canyon Creek - mouth	26
Missouri River	
Headwaters - Townsend	<u>42</u>
	68

Yellowstone River Drainage

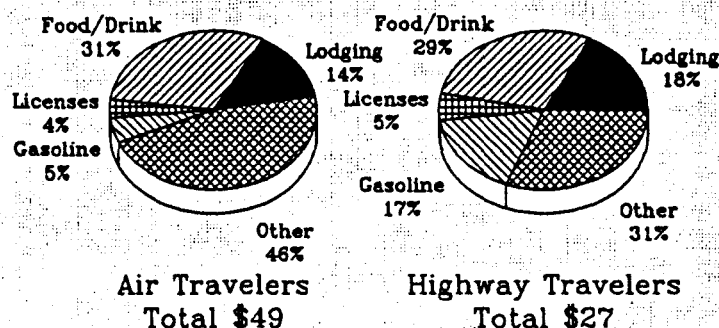
Bighorn River	
Afterbay Dam - Little Bighorn R.	42
Cedar Creek	0.7
Clarks Fork of the Yellowstone	
Bluewater Creek - mouth	32
Fishtail Creek (Tributary to	
Stillwater River)	
At Fishtail	2
Fleshman Creek	1
Locke Creek	0.3
Mill Creek	
Stream mile 4.9-0.7	4.2
Mol Heron Creek	0.8
Stillwater River	
Cliff Swallow - Rosebud Creek	11
Suce Creek	
Stream mile 3.0-1.5	1.5
Tongue River	
T&Y Diversion - mouth	20.4
Trail Creek	
Stream mile 31.2-17.7	13.5
Yellowstone River	
Springdale - Bighorn River	<u>179</u>
	308.4

	<u>Chronic</u>	<u>Periodic</u>
Total number of stream reaches	208	83
Total miles dewatered	2,539.9	1,237.6

dewater.fn/mp

Angling

Spending Patterns Per person per day, in percent



Anglers are heavy spenders: those arriving in Montana by air average \$120 per day per group (2.5 people) while groups arriving by auto spend about \$77 per day (2.9 people). Between 31% and 46% of their expenditures goes for a variety of retail goods and services. Average group expenditures per trip are \$1120 for air travelers (9.1 days) and \$700 for highway travelers (8.8 days).

Economic Significance of Angling in Montana (1988 Dollars)

	Total Industry Output	Employee Compensation
Direct Effects	\$178,300,000	\$46,800,000
Indirect Effects	91,600,000	19,000,000
Induced Effects	162,000,000	43,700,000
TOTAL IMPACT	\$431,900,000	\$109,500,000

These results may include the impacts from other market segments (such as developed campground camping). Therefore, the impacts from this market segment can not be combined with those of other segments as some overlap would occur.

Economic impacts of angling in Montana are considerable, accounting for about one-third of all impacts in Montana's non-resident tourism industry. The above impacts are for non-residents who indicated that fishing was a major reason for traveling to Montana and include the expenditures of groups that indicated their principle reason for visiting Montana was fishing. If only the expenditures of group members who fished are included, the economic significance is about 21% of that described above.

OUR OPINION

Water for sharing

Other users besides agriculture have a stake in stream flows

Montana has experienced dramatic changes in its culture, government and economy since the 1860s, but one thing has remained as stagnant as swamp slime — water rights laws.

Montana started issuing water rights to ranchers and farmers back in the 1860s. The process remains largely unchanged 130 years later, all too often to the detriment of Montana streams.

A century ago, agriculture was the main user of water. In the semi-arid West, irrigation was essential to raise crops for a growing population.

Nowadays, many different users would like to lay claim to at least some of the water, but by law cannot.

Municipalities, utilities, fishermen, boaters and other recreationists all have an interest in seeing water flow down rivers and streams. But on hundreds of miles of streams every year, they see only sun-baked rocks and dried-up riverbeds, the result of heavy irrigation.

The Montana Wildlife Federation proposes sweeping amendments to water laws that could help curb dewatering and spread the water around.

One proposal would let private groups, such as Trout Unlimited or the Montana Wildlife Federation, buy water rights from farmers.

Furthermore, the water could be kept in the stream, rather than having to remove it to retain a valid water right.

Another proposal would have the state establish minimum flows in important streams to protect fisheries from dewatering.

And a third step would require irrigators to pay a severance tax for water they take from streams. The revenue would be spent on water conservation projects to benefit agriculture as well as recreation.

The MWF water plan is bound to be hotter than a pistol in the 1991 Legislature. And the group's promise to turn the water package into a ballot initiative if lawmakers fail to pass it will further fuel emotions.

Legislators botched their chance to pass a true water reform bill the last session. The result was a watered-down bill that lets the state lease water on five streams through 1993. The leasing program is a trial effort that will not do much to solve statewide stream dewatering problems.

Agriculture is still the most important segment of the state's economy. It must continue to get water from streams.

But the tourism industry is growing in importance. Farmers and ranchers now have a lot of company standing on the banks of those streams.

Back in the 1800s, Mark Twain observed that "whiskey's for drinkin', water's for fightin'." In 1990, water should be for sharin', too.

Eventually, e

I'm basically simple-minded when it comes to visual art. My tastes run toward sunsets, desert scenes, sailing ships and that sort of lowbrow stuff, although I draw the line at clown portraits.

So as a lowbrow, I'll take the word of the experts and critics that the late Robert Mapplethorpe's controversial photography is brilliant art.

On the other hand, even someone ignorant of the finer points of art has a right to an opinion. And you don't have to be Archie Bunker to think that at least a few of Mapplethorpe's creations are revolting and disgusting.

If an art expert spent a week trying to persuade me that there is artistic merit in one particular Mapplethorpe photograph, I would listen and try to be open-minded.

But at the end of the week, I would say: "I still think that a photo of one man making wee-wee in the mouth of another man is real sicko. Go hang it on your own living room wall, if you wish. I'd rather have a travel poster."

So I can understand why some people in Cincinnati are in an uproar because Mapplethorpe's work is being shown at that city's Contemporary Art Center.

There's nothing really wrong with an occasional uproar over an art exhibit. If nothing else, the publicity increases attendance at art galleries and gets protesters out into the fresh air, waving signs and shouting for the TV cameras.

If the right of artistic expression allows an art center to show a few revolting photographs, people have the right to march outside and shout: "That's really icky."

But I think the prosecutors in Cincinnati are being a bit silly to haul a grand jury to cluck-cluck at the exhibit and bring criminal charges against the director of the museum.

Form 1040 US Indi

FOR THE YEAR ENDING 12-31-1989, OR WHATEVER YOU GET AROUND

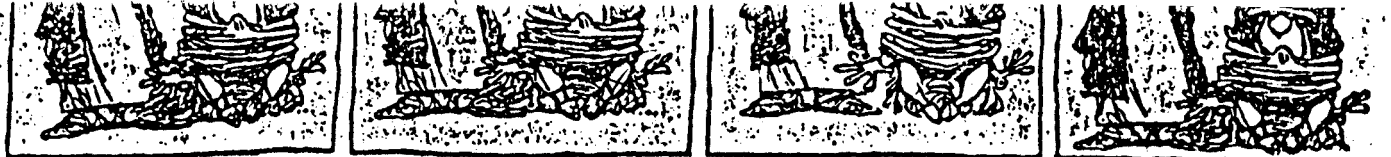
Name **JEFF DANCHEV**

Present Address of Addressee (must be filled out by Addressee)
The CHICAGO TRIBUNE

City, Town, Post Office, State, ZIP Code (98124) IS TO IF Y

REGISTERS BY DEPARTMENT OF AGRICULTURE

A. HOW MANY TALKING ONIONS DO YOU OWN?
B. NAMES C. DO ANY OF THEM PLAY THE GLOBE? YES NO



...HEZBOLLAH...

MISSOULIAN EDITORIAL

Plug holes in water law

All users can benefit by adding efficiency to water-use formula

Montana's most valuable resource isn't gold or timber or oil. It's water. Water is essential for all aspects of life in America's fourth-largest state. Montana's unparalleled fisheries and wildlife populations are directly linked to clean, abundant water. Rivers, lakes and creeks contribute immeasurably to the beauty that attracts tourists and sustains residents. Businesses and industries also rely on water as a raw material, a contributor to industrial processes and a source of hydroelectric power. And farmers and ranchers depend on water for the irrigation necessary for agriculture. Unfortunately, all but the last use — agriculture — gets short shrift under state water regulations. In the eyes of the law, virtually all water is irrigation water.

That's why hundreds of miles of Montana streams run dry each summer, thanks to the diversion of water for irrigation. The problem grows even worse in drought years.

There's hope for change, however. The Montana Wildlife Federation has embarked on a major campaign to bring Montana's water laws into the 20th century. The MWF has proposed a series of changes aimed in part at using irrigation water more efficiently, allowing more water to remain in the stream. If the 1991 Legislature doesn't address the issue, MWF promises to pursue its proposal through a statewide initiative. The proposal includes a severance tax on

water diverted from streams, the money to be used to finance projects aimed at improving irrigation efficiency, repair state-owned reservoirs and enforce water rights. Other elements of the proposal would: amend the so-called "use-it-or-lose-it" rule, which requires you to remove water from the stream in order to retain water rights; allow farmers and ranchers to sell or donate water rights to groups interested in leaving the water in the stream; require the state to establish minimum flows for certain streams.

The answer to Montana's water woes isn't to take water away from farmers and ranchers, but to help them use water more efficiently — to waste less. Although any mention of changing water laws is enough to rile Montana's agricultural interests, MWF's proposal actually outlines a way for all water users to benefit.

The organization underscores the potential for improved water use by citing figures from the Department of Natural Resources and Conservation: Nearly five acre-feet of water are diverted from Montana streams for every one used for crops (an acre-foot of water would cover a square acre to the depth of one foot).

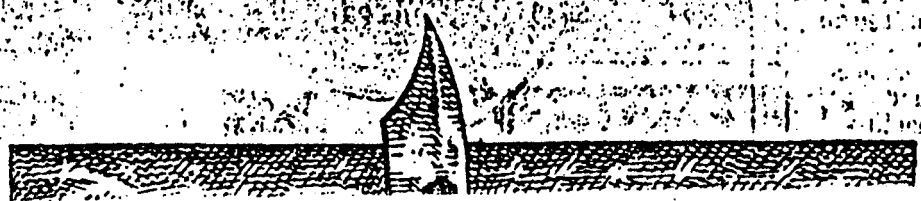
By increasing the efficiency of irrigation just 4 percent, MWF says Montanans could save — and leave flowing in the streams — more water than gets consumed by all other non-agricultural users combined.

Better water management is long overdue. Even if the MWF accomplishes nothing more than spark a statewide debate on the wise use of water, then it will have done Montanans a valuable service.

SOCIAL POLICIES

more punishment can't solve crime

its graduates do better than other children when they start school. But the program serves fewer than one in five poor children between ages 3 and 5. Another successful but meagerly funded program, the Job Corps, seeks to



SENATE NATURAL RESOURCES

EXHIBIT NO. 11

DATE 2-15-91

BILL NO. SB 212

W.F. (BILL) HEINECKE
306 N. HOFFMAN
BELGRADE, MT 59714

February 17, 1991

Senator Stimatz, Chairman
Senate Natural Resources Committee
Montana State Senate,
State Capitol,
Helena, MT 59620

Dear Senator Stimatz and members of the Committee,

I am writing in regards to SB212. I strongly urge you to support this bill and pass it favorably.

In many parts of Montana we are facing a severe impact on one of our most treasured resources, wild trout. We are blessed in this state with the finest trout fishing in the world. Yet, in many watersheds, this resource is in severe jeopardy, due to annual dewatering. SB212 is an effort to help resolve this problem.

I see by the newspaper that there was a lot of opposition to the bill during your hearing on February 15. Frankly, I find it hard to understand why anyone would oppose this bill. SB212 allows for the voluntary sale or lease of water rights. It does not require anyone to do anything against his wishes. Why should I not be able to make use of my water rights in a manner which could help another resource and at the same time help me financially? The logic of opposition escapes me.

If I am misunderstanding this issue, please advise. I truly believe that we citizens must do something right away to protect our fisheries resource. If there is another way to ensure protection of in-stream flows, please make sure that that passes.

In the absence of any alternative measure, I strongly urge you to support SB 212.

Thank you for your consideration of this letter.

Sincerely,



W.F. HEINECKE

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Allen Schallenger
240 Ruby River Drive
Sheridan, MT 59749

Dear Senator Bianchi:

Feb. 13, 1991

I am writing in support of an instream water reservation program. My background is cattle and sheep ranching, irrigated hay, pasture and crops, wildlife management and research, range management and outfitting. I am a native of Montana and have about two decades of flood irrigation experience on several watersheds.

Over the years I have observed many poor irrigation management and grazing practices which have damaged Montana's rivers and streams. History is replete with references to the results of such practices. Witness the past and present history of the Middle East.

Water use in Montana has been studied to death. With the possibility of another drought year coming up, what is needed is sensible action in the legislature and out in the watersheds to retain in our rivers and streams enough volume of clean, cold water to maintain their natural characteristics. It simply does not make good sense, economic or otherwise, to dry up sections of rivers or degrade them to the point where fish and insect life are killed or the riparian vegetation is destroyed. Fishing and tourism bring millions of dollars to Montana annually. The people coming to the nationally renowned Big Hole, Beaverhead and Ruby Rivers are not coming to observe poor water management practices. And yes, ranchers with trout streams and rivers flowing through their land can diversify and increase the income from the land by allowing people to utilize the watersheds.

Some of the sensible irrigation laws on the books are currently not being enforced in parts of Montana. Having a good diversion headgate and an accurate measuring device makes good sense and results in more efficient water use. They conserve water and protect water rights. In ranching the past several years on the Shields River, I found that the District judge doesn't enforce these requirements. I found ranchers with no measuring devices utilizing two to four times more water than their adjudicated water rights of 1911. I observed much silting and erosion of ditches through excessive flows without proper controls. Several miles of the Shields River were completely dried up, even in the wet year of 1989 which had over 25 inches of rainfall on top of heavy snowfall. The individuals involved have a very large, early water right and no working headgate or measuring device at the point of diversion from the river. They simply dam the entire river and take all the water. One of the individuals has been chairman of the county ASCS conservation committee for several years. Fish and insect kills are common on that stretch of river and fishing is not good.

Allen Schallenger

SB212-- An act to authorize any person to appropriate water for instream use, to authorize the transfer by sale or lease of existing water rights to any person for instream use, to authorize the transfer by sale or lease of instream water rights to other uses, to integrate instream use rights into Montana's prior appropriation system. amends several sections and would be immediately effective. (These amendments would allow any individual, industry, state, corporation, associaiton, etc. to file for a water permit, which would separate water from land

The effect on the economy from separating water from land could be devastating. The effect of removing water from land is devastating.

PETITION

WE, THE UNDERSIGNED OPPOSE THE PASSAGE OF SENATE BILL 212.

Robert T Michael

W. Miller

Charles F. C. C. C.

Kenneth H. Kaufman

Gabe Heidema

John M. Davis

Raymond Davis

Dean Hall

Mike Matthews

Michael M. M.

Alvin M. M.

John M. M.

Kenneth H. H.

John H.

John H. Bernbaum

Josephine W. H.

Donna H.

3742 Pioneer Rd Billings

Shepherd, Mt.

Shepherd Mont

4112 Pioneer Rd Billings, Mont.

Shepherd

3050 Yeoman Rd, Shepherd MT

Billings Montana

Billings Mont.

Billings, MT

Billings, MT

Billings, MT

Shepherd, MT

Billings MT

Shepherd, MT

1602 Broadwater Ave. 59102

3261 Chicago Rd. Shepherd Mt

Norma Halgren	6132 Chicago Rd. Shepherd
Clayton D Lindstrom	1116 Birch Blvd Bldg 7 mt 59105
Peggy Hough	5301 Homer Davis Rd Shepherd mt 5902
Mark Rubavina	817 N. 18th St. Billings
Ed Thaut	4324 Ch. Rd Bldg. mt
James Hainbichner	3715 McGill Rd Bldg. mt
Louise V. Waller	507 Remrock Rd Billings mt.
Maribeth Hakeck	331 Hunt Lane Billings MT
Ewald M Grefel	9345 Bazar Creek Rd. Shepherd
Quib Andersen	2211 Lake Elm Rd Billings 59105
Robert S. Andersen	2211 Lake Elm Rd Billings 5905
Elmer Juaneck	8528 Clark Rd Shepherd
Erving Rasmussen	1446 Mormon Peak Dr. Billings 5902
Frank Swenson	6223 Shepherd Rd E 59079
Lawrence Doughton	8124 Clark Rd. Shepherd 59170
John J. Coel	431 Kelly Lane Bldg. Mt
James Corstall	920 2nd Rd Shepherd
Edwin E. Thuermer	9705 McCrivers Shepherd.
Harold Johnson	6406 Shepherd Rd. Shepherd
Gloria Lueck	817 Agate Ave. Billings, mt.

February 14, 1991

The following undersigned object to SB212.

Lina L. Freeman

Rich Rydley

Marie L. Moyer

William Mosher

George Monson

Joyce E. Monson

LeRoy Heinle

Auguste
area

MONTANA WATER RESOURCES ASSOCIATION

501 N. Sanders • Helena, Montana 59601 • (406) 442-9555 SENATE NATURAL RESOURCES

SB212 Senate Natural Resources Committee
February 15, 1991 Oppose

EXHIBIT NO. 2
DATE 2-15-91
BILL NO. SB 212

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

The Montana Water Resources Association is a very diverse group and our members are dispersed quite freely amongst the water right holders assembled here today, with organizations, industries, or as individuals. Consequently, while MWRA is adamantly opposed to SB212, we will limit our time to discussing the structure of the next 20-25 minutes.

I also have several written testimonies for the committees consideration and several pages of names of water right holders who were not able to attend and oppose SB212, but wanted to be sure their voice was heard.

We have asked our people to speak briefly and concisely, taking no more than 2-4 minutes each, realizing that there are many here today who want to speak against this bill.

Following me will be a representatives of Farm Bureau, the Stockgrowers, Headwaters RC&D, Mr. Ted Doney, and Gary Spaeth. Some of these participants will speak for others.

Mr. Chairman, many of our people have traveled a great distance to get here, and not all will have time to speak. We respectfully request that near the end of our allotted time your reserve some time for those who

to step to the microphone, give their name, who to present you with their petitions should they have



"Montana Voice for Montana's Water"

To: SENATOR STIMATZ
Concerning: Testimony on SB212
From: Jo Brunner

- ① SENATOR BECK - (AT your invitation)
- ② JO BRUNNER - (REFERRED by SENATOR BECK)
- ③ FARM BUREAU REPRESENTATIVE
- ④ STOCK GROWER REPRESENTATIVE
- ⑤ WATER GROUPS - JIM DINSMORE (HALL)
- ⑥ TED DONEY - BELF-
- ⑦ GARY SPAETH - SUMMARY -

SENATOR BECK will speak briefly and turn
the time over to JO BRUNNER to explain
the Testimony (STRUCTURED) procedure.
Each participant will introduce himself
and who he represents.

The complete Testimony by This group
will not exceed 30 minutes.



MONTANA FARM BUREAU FEDERATION

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

STATE NATURAL RESOURCES

EXHIBIT NO. 4
DATE 2-15-91
BILL NO. SB 212

BILL # SB 212 ; TESTIMONY BY ; DAVE McCLURE

DATE 2/15/91 ; SUPPORT _____ ; OPPOSE Yes

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. I AM DAVE McCLURE, A FARMER-RANCHER FROM THE LEWISTOWN AREA AND CURRENTLY PRESIDENT OF THE MONTANA FARM BUREAU, AN ORGANIZATION OF OVER 4000 MEMBER FAMILIES. WE OPPOSE SB212 BECAUSE OF POLICY STATEMENTS ESTABLISHED BY OUR VOTING MEMBERS WHO ARE ACTIVE FARMERS AND RANCHERS. OUR POLICY STATES:

"WE SUPPORT THE CONSTITUTIONALLY GUARANTEED PRIOR APPROPRIATION WATER RIGHT DOCTRINE AND ALSO REAFFIRM OUR OPPOSITION TO ANY ATTEMPT TO PREEMPT, MODIFY, OR REPLACE THIS DOCTRINE IN MONTANA WATER LAW THROUGH THE USE OF THE PUBLIC TRUST DOCTRINE, OR ANY OTHER JUDICIAL, LEGISLATIVE, OR EXECUTIVE BRANCH VEHICLE."

THIS BILL WOULD ALLOW THE SEPARATION OF WATER RIGHTS AND, THEREFORE, WATER FROM THE LAND. SEC 8, PAGE 33, (1) AND (3) . IF A SALE OF WATER IS BROUGHT ABOUT UNDER THESE AMENDMENTS, IT WOULD RETAIN THE ORIGINAL PRIORITY DATE, BUT COULD BE TRANSFERRED TO OTHER USES BY SALES, GIFTS, OR LEASES. THE EFFECT ON THE ECONOMY OF SEPARATING WATER RIGHTS FROM THE LAND SHOULD BE TAKEN INTO ACCOUNT. LOWERED AGRICULTURAL PRODUCTION BY GOING FROM IRRIGATED TO NONIRRIGATED PRODUCTION WOULD HAVE A SEVERE NEGATIVE ECONOMIC EFFECT ON COMMUNITIES. WE HAVE APPROX. 2 MILLION ACRES OF IRRIGATED CROPLAND IN MONTANA. THE ECONOMIC BENEFITS DERIVED FROM THE GOOD MANAGEMENT OF OUR NATURAL RESOURCES (WATER AND LAND) ARE POSITIVE FOR OUR STATE.

IN MY HOME SCHOOL DISTRICT, THE TAXABLE VALUE AND THE TAXES PER ACRE WOULD BE LOWERED BY OVER 20% ON THOSE LANDS THAT WOULD BE DEWATERED BY CONVERSION TO NONIRRIGATION. THIS LOWERING OF THE TAX BASE PUTS ANOTHER STRESS ON THE ABILITY OF LOCAL COMMUNITIES TO PROVIDE SERVICES.

THERE ARE PRESENTLY SEVERAL PROGRAMS UNDERWAY TO HELP SOLVE THE ISSUE OF LOW STREAMFLOWS. I HOPE THAT CONSIDERATION OF THESE PROGRAMS WILL CONVINCE YOU THAT WE SHOULD NOT DRASTICALLY CHANGE OUR MONTANA WATER LAW.

- (1). THE PILOT PROGRAM FOR INSTREAM WATER LEASING HAS NOT PROVEN OR DISPROVEN THIS AS A VIABLE, EFFECTIVE TOOL.
- (2). THE DROUGHT MANAGEMENT SECTION OF THE STATE WATER PLAN IS DESIGNED TO HELP MINIMIZE THE EFFECTS OF DROUGHT FOR ALL OUR CITIZENS.
- (3). WATER STORAGE IS NOW PART OF THE STATE WATER PLAN AND CAN ENABLE US TO MAKE EVEN BETTER USE OF AVAILABLE WATER SUPPLIES. I UNDERSTAND THAT LEGISLATION IS BEING CONSIDERED TO DO THIS VERY THING.

FARM BUREAU POLICY STATES;

"WE SUPPORT IMPROVED OR ADDITIONAL WATER STORAGE TO INCREASE AVAILABILITY OF WATER FOR AGRICULTURE AND RECREATIONAL USE AS WELL AS TO INCREASE INSTREAM FLOW."

AND;

"WE OPPOSE ANY INSTREAM FLOW LEGISLATION UNLESS IT IS BASED ON ADDITIONAL STORAGE."

FOR THESE AND OTHER REASONS WE URGE YOU TO RECOMMEND A DO NOT PASS FOR SB 212.

THANK YOU

David L. McChesney

HEADWATERS RC&D AG WATER RESOURCES COMMITTEE
EUGENE MANLEY, SPOKESPERSON

Mr. Chairman, Mr. Vice Chairman, members of this committee, I am Eugene Manley of Drummond, Montana, retired from ranching, and 41 years as an officer of the Allendale Irrigation Co.. The last 17 years I have worked as a ranch broker, water rights consultant and ranch appraiser.

Today I represent myself, Granite County Board of Commissioners, and appear before you as spokesman for Headwaters RC&D Ag water Resources Committee. Headwaters Ag Water Committee's membership is composed of agriculture water users from Deer Lodge, Granite, Powell, and Silver Bow counties, the headwaters of the Clark Clark Fork River, Beaverhead, Jefferson, and Madison Counties on the headwaters of the Missouri.

Today I appear before you in opposition to Senate Bill 212, which if passed will start us down a river of no return on which we start riding a raft that in essence says we want to convert our water from multiple usage to an instream flow for which we receive limited benefits and deliver our water to down stream states without maximizing usage while it was under our control. I would not want to be the one who has to look posterity in the eye and tell them, in 1991 we began a process that essentially says instream flow is the way to go.

We in Agriculture have been rather naive, and we have done a rotten job of really educating the general public to the fact that our water resources within a system, or basin are far more efficiently used than the general public realizes. It is impossible to condense into five minutes that which I have learned during my fifty years of involvement in water management.

For a stream that has dry stretches of stream bed the best right that instream flow advocates would want would be a most senior right located at the mouth of a stream. One would think that should cause no problems. That most desirous right as presently used may be no part of the stream at any particular time or place, it may be formed from, and is being formed by previous irrigation practices taking place now and earlier in the season. It is in other words, formed below those dry portions of the stream. When this right is converted to an instream flow, and in essence becomes a designated water to flow the entire length of the stream we start down the road of altering flows, insidiously* changing the profile of the basin, and adversely effecting all existing water rights within the basin.

Lets go back to the days prior to when irrigation began in the West. Here we have a stream outflowing 100 cfs. We start developing irrigation, the amount diverted begins to exceed 100 cfs, the original flow, and now because of return flows we are able to divert, as development progresses, 200 cfs, 500 cfs, and finally we may reach total diversions of 600 to 1000 cfs of water, all of this from the original flow rate of just 100 cfs. This has been an ongoing process until, in many cases we have developed a highly refined basin concept of water usage, a concept that is very fragile. Please remember these concepts have developed in some cases over a period of 100 years or more. I would plead with you, that in any legislation you may consider in this session, please give this some thought.

To better illustrate what I have talked about, let me discuss what happened in our Flint Creek Basin in 1988, the driest year we have ever had, we have a storage facility on the East Fork of Rock Creek which emptied approximately 10,000+ acre feet of water into the upper Flint Creek Basin. Delivered from that initial flow were some 41,000 acre feet of water into the

existing canal systems. In addition there were 435 cfs of decreed water rights filled that would have received no water previous to the development of our storage facilities. These rights received a very minimum of 34,800 acre feet of water, so we have deliveries of some 75,800 acre feet of water, or 7.5 acre feet of usage for every acre foot of original flow. So for every acre foot of water taken out of the upper basin we lose 7.5 acre feet of usage, that is one plus acres of flood irrigated, or 5 acres of sprinkled land. In addition we must give thought to how much wetlands, sub-irrigated, and wildlife habitat we lose. Also think of what happens to our tax base in rural counties as these adverse impacts become a realization.

In the upper Clark Fork River we have undetermined tribal rights that may create the instream flow that some seek, at this time we do not know what rights may be decreed, and I am extremely disturbed that we may be in a process that may well allocate waters that do not exist. Until we get a better handle on all of these concerns, I would hope that we could get some kind of a moratorium that might prevent us from doing something very foolish.

I wish to thank this committee for the privilege of appearing before it, and being able to offer this testimony.

* From page 2. Here I mean to define insidiously as meaning; proceeding inconspicuously but with grave consequences.

SENATE NATURAL RESOURCES

EXHIBIT NO. _____

DATE _____

BILL NO. _____

HEADWATERS RC&D AREA, INC.
305 W. MERCURY, SUITE 211
BUTTE, MONTANA 59701

DATE 2/13/91

TIME 4:55 P

TELECOPY TO THE FOLLOWING NUMBER 444-4105

THE FOLLOWING PAGES ARE FOR Senator Stenmark

FIRM NAME

Chairman Natural Resources

FIRM ADDRESS

Capitol Station

FROM _____

TOTAL NUMBER OF PAGES INCLUDING THIS PAGE 2

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL BACK AS
SOON AS POSSIBLE - - FAX PHONE # (406) 782-9675
HEADWATERS RC&D # (406) 782-7333

TESTIMONY

SENATE BILL 212

AN ACT TO APPROPRIATE WATER FOR INSTREAM OR OTHER USES THROUGH
THE SALE OR LEASE OF EXISTING WATER RIGHTS.

FRIDAY, FEBRUARY 15, 1991

SENATE NATURAL RESOURCES COMMITTEE

GOOD AFTERNOON MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. MY
NAME IS KEN MESAROS AND I AM A RANCHER FROM CASCADE AND BOARD
MEMBER OF THE MONTANA STOCKGROWERS ASSOCIATION.

A WATER RIGHT THAT CAN BE SEPARATED FROM THE LAND AND SOLD TO
THE THICKEST WALLET IS SIMPLY UNACCEPTABLE.

A WATER LEASING STUDY WAS PASSED IN THE 1989 LEGISLATURE AND
THERE HAS NOT BEEN ENOUGH TIME TO PROVIDE MEANINGFUL DATA REGARDING
A PERMANENT WATER LEASING OR SALE PROGRAM.

S.B. 212 REJECTS ANY NOTION OF A STUDY AND REWRITES 100 YEARS
OF MONTANA WATER LAW WITHOUT ANY DOCUMENTATION ON THE EFFECTS TO
INDUSTRY, ACQUIFERS, LOCAL AND STATE ECONOMIES AND FUTURE
GENERATIONS.

THE EFFECT ON THE STATE AND LOCAL ECONOMIES IS POTENTIALLY
DEVESTATING. ONCE THE WATER IS REMOVED FROM THE LAND, THE LAND
VALUE PLUMMETS. THE TAX BASE IS DEPLETED AND FUTURE USE OF THAT
LAND IS SEVERELY LIMITED.

MR. CHAIRMAN, WATER IS VITAL TO MONTANA'S WELL BEING,
THEREFORE I ADAMANTLY OPPOSE S.B. 212. THANK YOU

EXHIBIT NO. 7DATE 2-15-91BILL NO. SB 212WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of February, 1991.

Name: Ken Mojars

Address: 2191 Milligan Rd

Cascade Mont. 59421

Telephone Number: 866-3318

Representing whom?

Self + Montana Stockgrowers Assn

Appearing on which proposal?

S.B. 212

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

Contained in testimony.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

February 15, 1991

Senate Natural Resources Committee Hearing

SENATE NATURAL RESOURCES

EXHIBIT NO. 10

Sen. Larry Stimatz: Chairman, Sen. Cecil Weeding: Vice Chairman, Sen. Lorents Grosfield: Member, Sen. Bob Hockett: Member, Sen. John Anderson: Member, Sen. Tom Keating: Member, Sen. Esther Bengston: Member, Sen. Ed. Kennedy: Member, Sen. Don Bianchi: Member, Sen. Larry Tveit: Member, Sen. Steve Doherty: Member:

Mr. Chairman and members of the committee, I am Vernon Westlake, representing the Agricultural Preservation Association of the Gallatin Valley and many other irrigators as well. For the record, we oppose S.B. 212.

I served in the House last session representing H.D. 76 and also served as a member of the Water Policy Committee the past two (2) years. Having had this experience and with all respect to Sen. Bianchi, I firmly believe that S.B. 212 is completely premature.

The 1989 Legislature passed H.B. 707, known as the water leasing bill. It provided for temporary authorization (Sec. 85-2-436 MCA) to establish a study and pilot program, four (4) years duration to lease no more than five (5) existing locations or reaches to maintain instream flow for the enhancement of fisheries. The Dept. of Fish, Wildlife and Parks is responsible to conduct the study and pilot program which has been in effect for two (2) years and has three (3) locations under consideration.

There are several of you serving on this committee, together with several of us that were very involved with H.B. 707, who will remember the meeting with the water users and the people representing groups concerned with maintaining minimum instream flows, which was held in Sen. Tom Beck's office. We all agreed at that time that a study and pilot program with temporary authority to lease existing water rights for instream flow was necessary to determine what problems would be created by a change of the use, diverting water for irrigation to leaving water

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15TH day of FEB, 1991.

Name: VERNON L. WESTLAKE

Address: 3186 LOVE LANE
BOZEMAN MT. 59715

Telephone Number: 388-4380

Representing whom?

APA & MYSELF AS AN IRRIGATOR

Appearing on which proposal?

S.B. 215

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

I DEFINITELY WANT TO TESTIFY - THANKS

Bitter Root Irrigation District

HAMILTON, MONTANA 59840

February 13, 1991

Chairman Stimatz
Senate Natural Resource
Rm. 405 Capitol Station
Helena, MT 59620

SENATE NATURAL RESOURCES

EXHIBIT NO. 11DATE 2-15-91BILL NO. SB 212

Chairman Stimatz:

SB212 - an act to authorize any person to appropriate water for instream use, to authorize the transfer by sale or lease of existing water rights to any person for instream use can be a very damaging law that will destroy Montana's prior appropriation system.

The very concept is elusive, and purposely confusing - how do you protest the right of your neighbor to sell his water? These amendments would allow any individual, industry, state (California) to file for a water permit, which would separate water from the land.

Here in the Bitterroot Valley, this would have a devastating effect, land worth 'with out' water on it sells for one forth of that which has water with it. Not to say with the removal of water off of the land in this valley for instream use many, I repeat many wells will go dry. With irrigation on this valleys slopes, it recharges underground aquifers, which supply water for these wells. There are many home owners that would be greatly affected, at present time with large investments in homes larger than 2,000 sq. ft. and larger which have wells only producing 2 to 5 gpm. These wells are marginal now, with no water, these homes would become worthless.

The County tax structures would be greatly affected. Lower land value brings in less tax dollars to local governments. The definition of 'instream use' allows requests for permits not only on natural streams, but artificial streams such as canals and delivery systems, lakes, ponds, reservoirs, and wetlands. This amendment would provide access for instream flow preservation to any body of water of any size.

Ignored here again, are the benefits derived from the good management of our streams, the construction of dams and reservoirs. The abundant uses by the very interests that condemn the existence of the facilities. We can not allow special interest groups to destroy what has made Montana the great state that it is today.

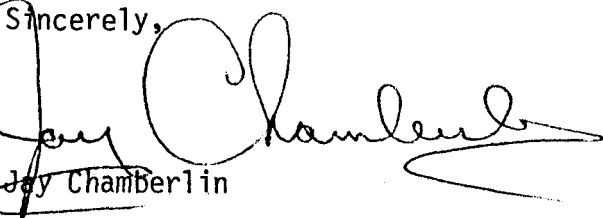
Bitter Root Irrigation District

HAMILTON, MONTANA 59840

Agriculture has been a good steward over their water, for years, spending millions of dollars to improve their systems. Dams were constructed to conserve water, storing water during spring runoff for uses later in the year when water gets short. Dams were built in the early 1900's and they work very well today.

IF IT'S NOT BROKEN, DON'T FIX IT. LEAVE OUR STATES WATER LAWS ALONE. Dams can be built to impound water for instream uses and many other uses that face Montana in the future, we must look ahead and plan. Let us not take away from those that did.

Sincerely,



Jay Chamberlin

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of MAY, 1991.

Name: Jay Chamberlin

Address: 151 N. Main St

Telephone Number: 363-1311

Representing whom?

Bitterroot Irrigation Plat Head Joint

Appearing on which proposal?

212

Do you: Support? Amend? Oppose? ☒

Comments:

6743 0001
SENATE NATURAL RESOURCES
EXHIBIT NO. 11a
DATE 2-15-91
BILL NO. SB 212

FLATHEAD IRRIGATION INFORMATION SYSTEM - GRANT PROPOSAL

SUBMITTED BY:

FLATHEAD JOINT BOARD OF CONTROL

FLATHEAD IRRIGATION INFORMATION SYSTEM - GRANT PROPOSAL

FLATHEAD JOINT BOARD OF CONTROL

PURPOSE AND USE OF DNRC GRANT

The Flathead Joint Board of Control invites the state of Montana to join a partnership of funding sources to improve irrigation water management. This grant would be used to expand an irrigation scheduling program from a few dozen growers to include all irrigators in three irrigation districts. This project could then be used as a model for future efforts across all Montana.

BENEFITS

- *Improved efficiency and profitability of irrigated agriculture
- *Factual information on irrigation water use
- *Improved crop yield and quality
- *Reduced energy consumption
- *Improved water quality

PRODUCTS OF THIS EFFORT

150-200 Irrigation System Efficiency Tests for individual irrigators. These evaluations match crop and soil requirements to system design and usually save irrigators hundreds of dollars in electricity per year.

Weekly irrigation scheduling for 100-150 fields representing the range of local soil, crop and climatic conditions (The right amount of water on at the right time). This program involves weekly evaluations of soil water, climate and crop water use to update an irrigation plan that will improve yield and quality while improving efficiency.

A computer software program adaption to aid irrigation education.

Irrigation seminars to help irrigators improve system performance and management.

A well-written and illustrated local irrigation guide tailored for local crop and soil conditions.

FUNDING SOURCES FOR THE 4 YEAR PROJECT

BONNEVILLE POWER ADMINISTRATION	\$105,000
US BUREAU OF RECLAMATION	\$ 98,000
MISSION VALLEY POWER	\$ 12,000
FLATHEAD JOINT BOARD OF CONTROL	\$ 10,000
MISSION VALLEY NEWS	\$ 1,500
DNRC RESOURCE DEVELOPMENT GRANT	\$ 92,000

Project No.: VD-6

APPLICANT NAME: Joint Board of Control - Jocko, Mission, and Flathead
Irrigation Districts

PROJECT/ACTIVITY NAME: Flathead Irrigation Information System

AMOUNT REQUESTED: \$ 92,000

OTHER FUNDING SOURCES AND AMOUNTS: \$ 7,000 - Joint Board of Control
\$ 117,000 - Bonneville Power Administration
\$ 88,500 - U.S. Bureau of Reclamation
\$ 12,000 - Mission Valley Power

TOTAL PROJECT COST: \$ 316,500

PROJECT DESCRIPTION:

The project coordinator will initiate an irrigation information system and gather data to provide irrigation information and education to the Flathead, Mission, and Jocko irrigation districts. The objective of the program is to improve the cost-effectiveness of irrigated agricultural operations in the Flathead River basin. Irrigators will learn to improve the efficiency of irrigation water use and as a result, may expect an improvement in crop yields, as well as reductions in fertilizer, pesticide, and energy use.

In short, irrigators will learn how they can improve the economics of their irrigation operations by employing better on-farm water management skills. The irrigation information and education program will involve six principal components:

1. An irrigation information system that, based on weather data and other input, will predict crop water demands.
2. A monitoring project representing the full range of soil and crop types within the district; crop growth stage and soil moisture information will be combined with predicted crop water demands to develop weekly irrigation schedules to be provided, by news release or telephone, to district irrigators.
3. Energy and water use irrigation system audits for all monitored irrigation systems will be prepared with recommendations toward improving the mechanical performance and operation of each system.
4. Demonstrations of an educational computer software package, adapted to local conditions, will be used to simulate the changes that occur in soil moisture when irrigation systems or practices are modified.
5. The production of an irrigation guide tailored to local soil types crops and climate conditions found in the district.
6. An assessment of the character of water use and the potential for improving crop yields and operation profitability, including a summary of project results and strategies recommended for state-wide implementation.

This project is a continuation of a similar effort started in 1989 by the Bonneville Power Administration (BPA), in cooperation with the Bureau of Reclamation, Mission Valley Power, and various local water user and producer groups. The previous project was established to reduce irrigation related electrical energy consumption. BPA now believes the program is not justified from an electrical energy conservation standpoint. The applicant hopes to continue the program because irrigation scheduling improves crop yields and reduces net production cost. Grant funding is requested to replace BPA funds and to include additional areas of the Flathead Irrigation Project.

TECHNICAL ASSESSMENT:

The project will be conducted in an area of the state where many, often conflicting, user and end-use demands for water exist. Irrigation water use on 15,000 to 20,000 acres of land could be directly affected by this phase of the project. A considerably larger area could be affected if tribal and non-tribal owners of acreage elsewhere in the district take advantage of the advertized irrigation schedules.

The project proposal takes a sound approach in improving resource-use efficiency by demonstrating that on-farm water management improvements can increase the viability of an irrigation operation. The technical methods proposed are similar to those used successfully in a smaller area in 1989 and 1990; quantitative documentation of yield increases, water savings, and input cost reductions from these efforts is not well presented in the application, however.

FINANCIAL ASSESSMENT:

Overall project costs are estimated at \$316,500; these include the costs incurred during the first two years of the project in 1989 and 1990. Total project costs for the next two years will be \$168,000. The applicant's request for \$92,000 will be used to secure the services of the irrigation consulting firm that carried out the field and information/education work over the past two years. The installation, operation and maintenance of two AgriMet weather data stations will be paid from funding sources such as the U.S. Bureau of Reclamation.

Budget projections were made based on work already accomplished during the first year of the project and on the Bureau of Reclamation's and the BPA's experience with similar programs elsewhere.

ENVIRONMENTAL ASSESSMENT:

The project will have positive environmental impacts to the extent that it conserves water and energy for other uses, and prevents fertilizers and pesticides from leaching through the root zone or entering runoff. No adverse environmental impacts are expected.

RECOMMENDATIONS:

DNRC recommends a grant in the amount of \$92,000 contingent upon approval of the scope of work and budget. The final report should include a comparison of crop yields, input costs, and water use for representative fields in the project area, before and during the project.

Leader 1/31/91

Irrigation project

JBC program has six components

An irrigation scheduling program was started on the Flathead Irrigation Project (FIP) two years ago.

Funded primarily by the Bonneville Power Administration (BPA), the program was established to reduce irrigation-related electrical energy consumption. BPA now believes the program is not justified from an electrical energy conservation standpoint. However, the program has a good chance of continuing, says Alan Mikkelsen, spokesman for the Joint Board of Control (JBC), which represents the irrigation district landowners on the FIP.

Mikkelsen says that the JBC has applied for a \$92,000 grant from the state water development program. According to information received from the state Department of Natural Resources and Conservation (DNRC), no serious problems are anticipated in receiving the grant.

The irrigation scheduling and education program will involve six major components:

- An irrigation information system that, based on weather data and other input, will predict crop water demands.

- A monitoring project representing the full range of soil and crop types within the district; crop growth

stage and soil moisture information will be combined with predicted crop water demands to develop weekly irrigation schedules to be provided, by news release or telephone, to irrigators.

- Energy and water use irrigation system audits for all monitored irrigation systems will be prepared with recommendations toward improving the mechanical performance and operation of each system.

- Demonstration of an educational computer software package, adapted to local conditions, will be used to simulate the changes that occur in soil moisture when irrigation systems or practices are modified.

- The production of an irrigation guide tailored to local soil types, crops and climate conditions found in the irrigation project.

- An assessment of the character of water use and the potential for improving crop yields and operation profitability, including a summary of project results and strategies recommended for state-wide implementation.

Mikkelsen says the project will be conducted in an area of the state where many often-conflicting user and end-

use demands for water exist. Irrigation water use on 150,000 to 20,000 acres of land could be directly affected by the program. Mikkelsen said a considerably larger area could be affected if irrigators not in the program take advantage of the advertised irrigation schedules.

Participating along with the JBC in the irrigation scheduling program is BPA, Bureau of Reclamation and Mission Valley Power.

The JBC is also working on a water quality and irrigation enhancement

demonstration program, Mikkelsen says. The program will involve recapturing irrigation return flows, minimizing or eliminating them from area streams and then using the water for further irrigation.

Mikkelsen said that while he believes both programs were needed, a major rehabilitation and betterment program for the irrigation project was also long overdue. "We are now operating an irrigation project with 1930s and 1940s technologies and 1991 demands and operating constraints," he says.

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION



STAN STEPHENS, GOVERNOR

LEE METCALF BUILDING
1520 EAST SIXTH AVENUE

STATE OF MONTANA

DIRECTOR'S OFFICE (406) 444-6609
TELEFAX NUMBER (406) 444-6721

HELENA, MONTANA 59620-2301

October 26, 1990

JOINT BOARD OF CONTROL
Jacko, Mission & Flathead Irrigation
Alan Mikelsen
P.O. Box 639
St. Ignatius, MT 59865

RECEIVED OCT 29 1990

Dear Mr. Mikelsen:

RE: Flathead Irrigation Information System

DNRC has completed its application review and ranking process for the Water Development and Renewable Resource Development programs. The 62 applications submitted were reviewed by staff and outside professionals. Two of these applications have since been withdrawn. I am happy to convey that your project received a favorable review and has been recommended for funding by DNRC staff. If the 52nd Legislature concurs with our assessment and sufficient money is available in the grant accounts, your project will be funded.

Attached for your information is a copy of your project's application review summary, including DNRC's funding recommendation. Also enclosed is a complete list of projects in order of ranking and any estimate of which projects would be funded if the available money for grants is the same this biennium as it was last. This information will be presented to the Water Development Advisory Council and Legislature. The funding estimates reflect the funding level provided for each program last session and are subject to legislative appropriation and revenue constraints.

We are pleased to provide a favorable recommendation for funding. As you can imagine, choosing among projects is a difficult task because each application has tremendous merit in its own right. The staff ranked each project using ranking criteria contained in the program statutes adopted by the legislature. The legislature has the opportunity to make other provisions in the appropriations bill that will dictate actual project funding levels and contingencies; projects not recommended for funding by DNRC could be funded by the legislature.

Because the Water Development and Renewable Resource Development programs are very similar in many ways,, DNRC coordinates the administration of these programs to avoid confusion and duplication. DNRC ranks all projects

under both programs based on the criteria listed in the application materials. Projects are then placed on ranking lists under the program where the application is eligible and has the greatest chance of being funded. Your project is currently recommended under the Renewable Resource Development program.

No project was recommended for more than \$200,000 total grant and loan funding. Project sponsors who submitted more than one application for elements of the same project were provided no advantage; these projects were not recommended for more than \$100,000 in grant funding and \$200,000 total grant and loan funding.

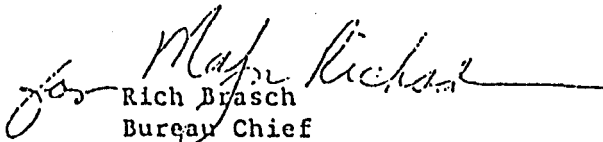
Public projects with repayment capability were recommended for grants of up to 25 percent of the total estimated project cost but not more than \$100,000; the balance of the request was recommended for a loan funding. Exceptions were sometimes made for those projects with demonstration value and repayment capability, which were recommended for grants of up to 50 percent of the total estimated project cost but not more than \$100,000. Again, the balance of the request was recommended for loan funding. Projects with no repayment capability were recommended for up to 100 percent funding but not more than \$100,000 in grant funds only.

Private entities, eligible only under the Water Development program, were limited by statute to grants of up to 25 percent of the total estimated project cost or 5 percent of the estimated funds available, whichever is less. This year the funding cap for all private entities is \$36,000 because of the level of anticipated funding. By statute DNRC cannot recommend any greater grant amount but the legislature may appropriate a larger amount if they so choose.

DNRC staff recommendations have been reviewed by both the Director and the Governor. The next step will be to present these to the Water Development Advisory Council, which we anticipate will be accomplished in November. Currently, DNRC's Director, Karen Barclay, is contacting and appointing members. When a meeting has been scheduled, you will be notified and invited to make a brief presentation to members of the Council.

I would like to thank you for your application and for your cooperation in providing any additional information requested by our reviewers. If you have questions regarding the review process please do not hesitate to contact me at 444-6668.

Sincerely,


Rich Brasch
Bureau Chief

RB:mr

enclosures

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record. SB 212

Dated this 15 day of Feb, 1991.

Name: Dave Moss

Address: Box B

Lima, Mt. 59739

Telephone Number: _____

Representing whom?

Beaverhead County Comm.

Appearing on which proposal?

Do you: Support? _____ Amend? _____ Oppose? X

Comments:

Beaverhead County Commissioners
OPPOSE SB 212.

EXHIBIT NO. 11cDATE 2-15-91BILL NO. SB 212WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15th day of February, 1991.

Name: J.B. ANDERSON

Address: 112 S. WASHINGTON

Dillon, Mt. 59125

Telephone Number: 683-2303; 683-2255

Representing whom?

Big Hole Ranchers Assn

Appearing on which proposal?

SB 212

Do you: Support? ☐

Amend? ☐

Oppose? ☒

Comments:

Bill too vague - unlimited potential
for litigation

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of Feb, 1991.

Name: Willie Day

Address: HC 66 Box 6428
Glendale Mt 39330

Telephone Number: 687-3696

Representing whom? MT Farmers Union London County
Danston County Farmers Union Conductor District
Buffalo State Education Project

Appearing on which proposal?

SB 212

Do you: Support? Amend? Oppose? ✓

Comments:

WATER USERS IRRIGATION COMPANY
RICHARD WIEBER, SECRETARY
OWNERS OF LIMA DAM AND RESERVOIR
P. O. BOX 1048
DILLON, MONTANA

SENATE NATURAL RESOURCES
EXHIBIT NO. 15
DATE 2-15-91
BILL NO. SB 212

Senate Natural resource Committee

Mr. Chairman, Members of the Committee.

My name is Richard Gosman. I own and operate an irrigated ranch in the Red Rock River Valley near Lima, Mt. I am Vice President of the Water Users Irrigation Company. W.U.I.C. own and operate Lima Dam which provides irrigation water to 26 operators. I speak for them in opposition to Senate Bill 212.

The introduction to the bill states on line 25 page one, Quote, "The Legislature finds that water rights for instream use may be integrated into Montana's prior appropriation system without injury to other water users" end quote. Here is the crux of our problem. We respectfully submit that this statement is untrue, is unfounded in fact, and is made without an understanding of Montana water law and custom.

Montana's water basins are over appropriated for normal water years. Montana water law holds that if an appropriator does not use his water for the purpose for which it was appropriated then it becomes available for the next junior appropriator. This is the basis for the development of irrigated agriculture in our State. It is a system that has been followed over the years. It has stood the test of time. It is fair. It is legal, and it does not need to be changed. The retention of water for instream flow will mean that some appropriator with a valid claim to that water will be denied its use.

Passage of this bill will mean chaos for agriculture. We respectfully request that this bill be killed in committee.

Richard Gosman, Vice President

SENATE NATURAL RESOURCES
EXHIBIT NO. 14
DATE 2-15-91
BILL NO. SB 212

Box 77
Dell, MT 59724
February 14, 1991

To: The Senate Natural Resources Committee

Mr. Chairman and Members of the Committee:

My name is Allen Martinell, president of Water Users Irrigation Company, owners of the Lima Dam. This dam stores irrigation water for about 16,000 acres on the Red Rock River in Southwestern Montana. We are opposed to Senate Bill 212 which authorizes any person to buy or lease a water right for instream use. We also oppose instream use rights being integrated into Montana's prior appropriation system as authorized under this bill. Senate Bill 212 is in direct conflict with over one hundred years of water law under the prior appropriation doctrine.

There is no need to pass any legislation until the current four year water leasing study passed during the 1989 Legislature can be evaluated. After this evaluation the people of Montana will be better able to decide the future of water leasing in the state.

If Senate Bill 212 becomes law, already struggling communities would lose tax revenues as lands presently under irrigation are reduced in value. This legislature needs to promote growth in Montana not discourage it.

We urge the defeat of Senate Bill 212 in committee. Thank you for your consideration.

Cordially,

WATER USERS IRRIGATION COMPANY

Allen C. Martinell

Allen Martinell, President

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15th day of February, 1991.

Name: Allen C. Martinell, Water Users Irrigation Co.

Address: Box 77, Dell Mont 59724

Telephone Number: 276-3380

Representing whom?

Water Users Irrigation Co.

Appearing on which proposal?

Senate Bill 212

Do you: Support? Amend? Oppose? X

Comments:

I will leave a written statement of testimony
when I get to speak along with about 450 signed
petitions opposed to Senate Bill 212

COMMENTS ON SB 212

SENATE NATURAL RESOURCES

EXHIBIT NO. 17

DATE February 15, 1991

BILL NO. SB 212

Dear Legislator:

From: Ole Ueland, Silver Bow, Montana, Lifetime Rancher, Irrigator,
Member Headwaters Resource Conservation Development, Inc.,
former Administrator Conservation Districts Division

I. Water Conservation

Water Conservation and Development and its wise use is of prime concern to Montanans especially so because of our comparatively dry climate and lack of water at critical times.

II. Public Interest

In the so called "Public Interest" water has socio-economic environmental value and is needed in about the following order of priority:

- 1) Domestic (water to drink for life itself and to keep clean, health).
- 2) Agriculture (food for life itself, and fibre to clothe ourselves)
- 3) Energy (hydro-power to in part provide for industry, agriculture, and our lifestyle)
- 4) Mining, Industry, Forestry
- 5) Fish and Wildlife, Recreation

III.

Hydrologic
Cycle

Water is continually on the move thru the hydrologic cycle coming to us in the form of rain and snow and leaving by evaporation, transpiration, and surface and groundwater movement thru streams and rivers. In the natural state, tributary streams are the first to de-water or go dry as the movement of water progresses downstream to keep rivers flowing. In the hydrologic process water is temporarily stored in the soil or by snow pack and slowed down in its movement naturally and/or by man made best management practices which/diversions for domestic, mining, agricultural, industrial, hydro-power, fish, wildlife, and recreational uses, and ultimately for socio-economic, and environmental benefits to support the tax base. These diversions are a form of offstream storage and thru return flows provide for more stable evened out year round instream flows. Under most circumstances only about 5% more or less is consumptively used thru evapo-transpiration, the remainder thru groundwater and surface water return to the streams.

IV. Alternatives

What are the best alternatives for providing instream flows?
Aside from permitting change of use by sale or lease of water rights assigned to a higher priority beneficial use, investing in upstream storage would seem to be the better option.

In addition to storage that results from aforementioned diversions, the construction of storage reservoirs to capture high water runoff for later release can be managed to contribute to a number of beneficial uses, among them instream flows.

SENATE JUDICIARY COMMITTEE
FEBRUARY 15, 1991

SENATE NATURAL RESOURCES
EXHIBIT NO. 13
DATE 2-15-91
BILL NO. SB 212

JOHN MURPHY, PRESIDENT, MONTANA WOOL GROWERS ASSOCIATION
CIRCLE, MONTANA

My name is John Murphy of Circle, Montana. I am President of the Montana Woolgrowers Association, and we wish to be on record as opposed to Senate Bill 212, a bill that will change over 100 years of Montana water policy.

It can not be emphasized enough that water is this states most important natural resource. While the state sees itself with more and more of a population far removed from Agriculture, the future of this state lies with Agricultural production. That production can not be obtained if we as a state allow water to flow from our state boundaries. Without water for irrigation and stock use, Montana will see declines in its' number one business, that being Agriculture. For certain this legislative body can change the direction and destiny of our state and its' citizens. You do that every two years through the enactment of laws.

Speaking as President of the states sheep producers association, I am saying it is not wise to change the long policy of tieing water to the land and a policy that the water be used for beneficial use of agricultural production. I hope you will think long and hard about what a small community such as where I come from, Circle, or any town in eastern Montana, would do without agriculture production. We don't have many business not tied to Agriculture. How will we support schools and local governments?

I strongly urge you to reaffirm long water policy and reject Senate Bill 212, and bills like them as a bad idea for Montanas future.

EXHIBIT NO. 20

DATE 2-15-91

DATE 2-1-11
BILL NO. SB 212

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of Feb., 1991.

Name: Bill Harrison

Address: Box 60 Glen, Kent

Telephone Number: 835-3572

Representing whom?

Representing whom? Malcolm
Benson
Darwin Ranch Inc. + other water users + Silver Bear

Appearing on which proposal?

Senate Bill 212

Do you: Support? _____ Amend? _____ Oppose?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

3067 Bugli Lane
Stevensville, Mt.
Feb. 12, 1991

SENATE NATURAL RESOURCES

EXHIBIT NO. 22

DATE 2-15-91

BILL NO. SB 212

Members of Natural Resource
Committee
Montana State Legislature

Committee Members:

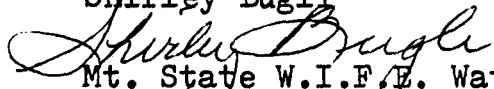
We oppose S.B. 212 for several reasons. Mainly, the consequence of separating the water from the land and the prospect of selling the water to the highest bidder would be a disaster for our state. We surely all must recognize that fact. The reasons are too numerous to mention here.

In S.B. 212 the statement appears several times throughout the bill for "the protection of public health!" What an ironic statement to be made in the ploy to take the control of waters away from the people of the state of Montana. Ironic, as no one group is as concerned about the safety of our food, fiber, water and environment as agriculture. We not only produce food and fiber but also the products used in medicines and research for public health. Agricultural contamination of ground and surface waters has long been studied and documented, therefore solutions and precautions have been addressed by most agricultural users for many years. Urban contamination has not had the intense studies and publicity. Envision the many chemicals and contaminants that are used in urban back yards and down drains. Unregulated use! Agriculture use is regulated! We are far ahead in protecting ground and surface waters for the protection of public health.

Please stop S.B. 212 now!

Sincerely,

Shirley Bugli


Mt. State W.I.F.E. Water
Chairwoman

Western Montana Chapter W.I.F.E.
Water Chairwoman

Montana Rural Water Systems is a non-profit organization that is dedicated to providing the latest information, education and Technical Assistance to protect our public waters and improve the quality of life in Montana. Our membership includes approximately 75% of all the public drinking water systems in the state.

In accordance with these principals, we rise in opposition to SB 212. While recognizing certain merits of the bill we feel that it is inappropriate to embark upon such a dangerous course with Montana's Water law at this time. We strongly urge further research into other avenues to resolve problems of stream' use and flows.

We thank you for your consideration.

Montana Rural Water Systems



Dave Jones,

MRWS President



Montana Water

*Ag water users stand like the boy with
his finger in the dike, attempting to
stave off the catastrophe that will result
if some of these bills pass.*

LEGISLATIVE UPDATE • LEGISLATIVE UPDATE • LEGISLATIVE UPDATE

MONTANA WATER LAW CHALLENGED - Proposed by the Montana Wildlife Federation and introduced by Senator Bianchi from Bozeman, Senate Bill 212 would "authorize any person to appropriate water for instream use by sale or lease of existing water rights to any person." The bill also authorizes sale or lease of instream water rights to other uses and integrates instream use rights to Montana's prior appropriation system. **HOW TO HELP:** Contact your legislator and voice your opposition to S.B. 212; point out that MSGA supports the completion of the current four-year water leasing study passed during the 1989 legislature. S.B. 212 will be heard in mid-February in the Senate Natural Resources Committee. Members of the committee include: Larry Stimatz, Chairman, Cecil Weeding, Vice-Chairman, Lorents Grosfield, Bob Hockett, John Anderson, Tom Keating, Esther Bengtson, Ed Kennedy, Don Bianchi, Larry Tveit, and Steve Doherty. Legislative Message #: 444-4800. Please call MSGA if you can testify.

WATER BILL HEARING SET

A public hearing is set on a critical water bill being considered by the Montana Legislature. Friday, February 15, at 3 p.m., the National Resources Committee will hear testimony in Room 405 of the Capitol Building.

GRASSROOTS President Mike Nickols said, "This is possibly the most important piece of legislation in this session affecting Multiple-Use. The draft bill will determine the application of in-stream water flow and be important to farmers, ranchers and recreationists."

Nickols is urging members to join together in appearing at the hearing to voice concern over the bill. "Those politicians in Helena will listen to us if we make a strong showing; numbers count in the legislative process."

There are tentative plans to arrange group transportation to Helena for the hearing. Those willing to go are asked to call Merle or Mike.

FEBRUARY 8, 1991

VOLUME 2, NO. 6

MONTANA WATER THREATENED - BEWARE S.B. 212: A bill to separate water from the land has been proposed by Senator Don Bianchi (D-Bozeman). Drafted by the Wildlife Federation, the bill authorizes any person or municipality to appropriate water for instream or other uses through the sale or lease of existing water rights. MSGA urges all members to oppose S.B. 212 and contact the members of the Senate Natural Resources Committee: Larry Stimatz, Chairman; Cecil Weeding, Vice Chairman; Lorents Grosfield, Bob Hockett, John Anderson, Tom Keating, Esther Bengtson, Ed Kennedy, Don Bianchi, Larry Tveit, and Steve Doherty. *To leave a message for any legislator, call 444-4800.*

RALLY AND HEARING SET FOR FEBRUARY 15 - We need your help! Please plan to be in Helena on February 15 for a committee hearing on S.B. 212 at 3:00 p.m. at the Old Highway Building. The MSGA staff is organizing an opposition strategy. Please call 442-3420 if you can participate. **ALSO PLAN TO ATTEND** the rally against this bill, set for 2:00 p.m. the same day at the Capitol Rotunda.

EXHIBIT NO. 231DATE 2-15-91BILL NO. SB 212WITNESS STATEMENT

To be completed by a person testifying or a person who wants
their testimony entered into the record.

Dated this 15 day of Feb., 1991.

Name: MONTE CLEMOW

Address: Box 34

Telephone Number: 689- 3145

Representing whom?

RCD Big Hole Ranchers Mont. Water Resources
ASS.

Appearing on which proposal?

SB 212

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WETA**Western Environmental Trade Association**

208 N. Montana Avenue, Ste. 104 - Helena, Montana 59601
Phone (406) 443-5541
Fax # 443-2439

February 15, 1991

SB 212 Instream Flow Act of 1991
Senate Natural Resources Committee

Submitted on Behalf of:

Western Environmental Trade Association

by:

Peggy Olson Trenk, Executive Director

Mr. Chairman, Members of the Committee, I would like to thank you for the opportunity to comment on SB 212, the Instream Flow Act of 1991.

For the record, WETA is a broad-based coalition representing labor, agriculture, recreation, mining, timber, oil and gas, business and industry and other trade associations. Our primary concern is the promotion of jobs and economic opportunities in a manner consistent with the protection of Montana's environment.

I am here today on behalf of our membership to register our strong opposition to this legislation. We do so on the basis that it presents a very clear and present danger to the future viability of all our resource industries, our economy, and the lifestyle of our citizens.

We believe allowing Montana's water to be put on the auction block to be sold to the highest bidder will ultimately result in a loss of access to a resource that is critical to the survival of our basic industries. Whether one is a rancher, a miner, a logger, or a business dependent on the availability of hydroelectric power he needs to keep the management of Montana's water in Montana. Once that water is separated from the land, it likely will never be ours again.

During the 1989 legislative session, WETA supported the current water leasing study and we urge that it be carried to completion, or perhaps even be extended if the need is demonstrated. As those involved with that issue can attest, there was considerable controversy generated by that proposal, but in the end, all parties were able to reach a compromise. That study will give the state and all those dependent on water as a resource the opportunity to consider the impacts of altering the manner in which we manage water. The fact that the progress of this study has been slow and difficult should only highlight the need for caution in making any changes in Montana's water law.

Instead, SB 212 seeks to destroy any progress made over the last two years in bringing together those individuals and groups who often hold opposing viewpoints about water management to see if there isn't a way to resolve some of the controversy that exists. The work of the task force studying drought management over the last year that resulted in a positive, pro-active piece of legislation supported by the broad spectrum of water users is a shining example of what can happen if people are given the opportunity to work together in an appropriate forum. We cannot build on efforts such as these by threatening the very survival of our state's basic industries.

We urge this committee to vote no on SB 212 and give all of us in this room the chance to find a better means of working together in a more positive, cooperative effort to resolve our differences.

Thank you again for this opportunity to comment.

SENATE NATURAL RESOURCES
EXHIBIT NO. 32
DATE 2-15-91
BILL NO. SB 212

940 Nature Way
Stevensville MT 59870
February 15, 1991

Chairman and Members
Senate Natural Resources Committee
Montana State Legislature
Helena, Montana

Gentlemen:

Following are some of the reasons I oppose Senate Bill No. 212, which is concerned with leasing and selling water:

1. Water appropriated for use on a specific piece of land should stay with that piece of land.
2. Taking irrigation water from one or more parcels of land within an irrigation project will have an adverse effect on the remaining parcels, the aquifer, and possibly domestic wells in the area.
3. S.B. 212 would allow the Department of Natural Resources and Conservation and the Board of Natural Resources and Conservation to make decisions and create rules that rightfully should be made, case by case, by a legislative body, only.

Sincerely,

Kenneth L. Kershner

Kenneth L. Kershner

Carl F. Mofe 2316 M.E. Hwy Conallie
59828

SENATE NATURAL RESOURCES
EXHIBIT NO. 33
DATE 2-15-91
BILL NO. SB 212

To: Senate Committee on Natural Resources

From : Greg Rice

Box 213

Harrison, MT 59735

I am offering testimony against Senate Bill 212. I am one of the owners of a family ranch in southwest Montana that raises both cattle and grains. The consequences of such an outrageous bill would extend far beyond the havoc it could raise in our operation.

Like most third generation ranchers we aquired our land over a period of time, adding to the base as it needed to grow with our operations. When we purchased new land one of the major concerns was the quality and amount of water that came with it. Dry barren rangeland is worth substantially less to me than irrigated cropland that can support both cattle and wheat. Every rancher here paid dearly for the land and the water rights that came with it. To separate the water from the land is a frightening thought. What chance is there for future generations to cultivate and care for land that has had it's water rights removed from it? Without adequate water a ranch becomes another banker's statistic. We support three families on our ranch as well as employing six other men who in turn support their families in our community. If

I was to sell the 130 year old water rights that come with our property I may make a huge financial gain, but what does that leave for future generations and the people that depend on the ranch for their livelihood? If the ranch isn't a viable operation, and it wouldn't be without water, what happens to the tax base generated from the ranch, the dollars that support our schools and the families that depend upon us for their living? Many large family owned ranches are being bought up by out of state interests whose only thought may be their immediate financial gain and not the tie to the land and commitment to the community that now exists.

I would think the drought situation in California right now would be enough to scare the people of this state into realizing how valuable an asset our water is. When the city of Los Angeles becomes the highest bidder for our water, where does that leave us? They have already cut out their farmers when the water supply dwindled, surely our farms and ranches don't have to pay for it too. I can't believe that this state is so "urban" that they really believe that the food they consume comes from a grocery store! Our economy is dependant upon agriculture, and it's high time the people of this state realize that the future of our state needs to keep that base. This short sighted bill doesn't begin to address the effects that turning our water rights over for "public health" would have on the economies and way of life

for virtually every community in this state. I urge you to
kill this bill.

SENATE NATURAL RESOURCES

EXHIBIT NO. 24

DATE 2-15-91

BILL NO. SB 212

Warren E. Johnson
Dwight E. Thiessen
Richland County
February 14, 1991

Atten: Natural Resources Committee
Chairman: Lawrence Stimatz

Members of the Committee:

As non-irrigated farmers, residing in the near proximity to the confluence of Montana's two great rivers, the Yellowstone and the Missouri, we are writing this letter in opposition to Senate Bill 212 Instream Flow Act of 1991.

Any bill which opens the door to the release of stored water downstream for use by out of state entities, or for purely recreational purposes, would be an irresponsible act on behalf of our legislature. The importance of our water as a stored resource is evident to us, as to many residents of Eastern Montana, who have been experiencing the prolonged drought of the past decade.

Many of you may feel that a partial release of water would not have an adverse affect to those users who have rights under current Montana law. To you, I would ask, what would the effect have been to agricultural users, if the dams had been lowered for downstream use prior to entering this decade of drought!!

It is not worth the risk to our agricultural users, the residents of the impacted communities, or to the residents of our state, to enact any legislation which could have any possible adverse affect on one of Montana's largest industries, agriculture.

Thankyou for considering this testimony.

Respectfully submitted,

Warren E. Johnson
Dwight E. Thiessen

SENATE NATURAL RESOURCES

EXHIBIT NO. 35

DATE 2-15-91

BILL NO. SB 212

RE: SENATE BILL NO. 212

NAME: Vernon Woolsey
Stevensville, MT (Ranched there all my life.)

EXPERIENCE WITH WATER:

I worked summers as the Water Commissioner on Burnt Fork Creek, appointed by the court.

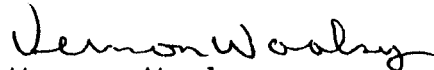
I also work for the State of Montana on the Bitterroot River, distributing water from Painted Rock Lake. I am employed by the Montana Fish and Game to distribute this water to the numerous ditch systems and also keep the water level up in some critical areas of the river.

I have worked with the Fish and Game, irrigators, Trout Unlimited, and other sportsman groups. I think I have a good relationship with all of them.

If you want confrontation, pass a bill like this. If you want cooperation learn to work together with those that have the water rights.

You are really considering the wrong water. You should be looking at saving the water that goes to waste in the spring and early summer. This water helps no one and hurts many. Small dams at the upper reaches of mountain canyons are the answer. Store the water that now hurts people clear to the Gulf of Mexico. You can buy and sell or lease stored water.

Don't try to take the use of the water away from people that have bought and paid for it in the price of the land they own.



Vernon Woolsey
Water Commissioner
Bitterroot River & Burnt Fork Creek

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I would like to go on record as opposing Senate Bill 212. I speak for myself and for many of the grain and potato farmers in Gallatin County as well as livestock farmers in our area. I wish to state a few of our reasons.

Agriculture as we know it in Gallatin County and in much of the state is tied directly to irrigation water. Without water much of our irrigated land would return to dryfarm - cropped every other year with greatly reduced production. Some would revert back to weeds and sagebrush because of insufficient rainfall to grow anything else. A large majority of the cattle in the state are wintered on hay which was grown on irrigated land. Without this hay supply a large percentage of our cattle and most of our dairies would disappear. Dryland wild hay will feed some beef cows but it certainly will not feed a dairy cow sufficiently. Without irrigation water our entire potato industry, which brings twenty million dollars annually into the state, would disappear.

In 1988, agriculture revenues in the state of Montana were 1.77 billion dollars. This is new wealth - money generated for the first time by a new calf, a bushel of wheat, a sack of potatoes, or a gallon of milk. These are renewable resources - they generate money every year - but irrigation water is necessary for a large portion of these resources.

If Senate Bill 212 is allowed to pass, it will uncouple water rights from the land by allowing leasing or sale for instream flow. This will take control of these water rights from the person farming the land. Without these water rights agriculture in Montana will decline drastically and the whole state economy will suffer.

In conclusion, let me state that farmers are very concerned with and interested in maintaining the quantity and quality of our water. We also like to hunt and fish. I feel we can all work together using far superior alternatives than what this bill will provide. I urge you to vote no on Senate Bill 212. Thank you.

John L. Venhuizen

Senate Bill 212

SENATE NATURAL RESOURCES
EXHIBIT NO. 27
DATE 2-15-71
BILL NO. SB 212

We are very much opposed to Senate Bill 212 in its entirety.

Senate Bill 212 has at least three new beneficial uses and several new terms, such as, reasonably necessary, that haven't been defined, tried or valued. The language in 212 exempts these new uses and terms from the existing appropriation rights and regulations. The lease and sale of these new uses and terms to anyone, could have a devastating effect on 100 years of Montana Water Law, that has been very carefully established.

We feel very strongly against legislation like this that could sell Montana's No 1 industry, agriculture, plus several of the other leading industries down the river. Selling these industries down the river is potentially devastating economically to the local, county and state governments.

It looks like it would be out of reason to pass a bill like this before we finish the present adjudication of Montana water, not knowing how much water we are using or have.

Passing this bill could have a negative effect on future up stream storage projects in Montana water basins, also.

David R. Stewart - Glen Bill Hanson - Glen
Mark Kamlerch - Danville
Dore Smith - Melrose
Hank Carpenter - Melrose
Edgar Johnson - Divide
Tom Crane - Melrose
Ralph G. G. - Wise River
A. D. - Melrose

Jack Malby

Walt Shuffert

Jack Kamlich

Rillon

Wise River

Nicole, Mont. Rancher

Water users on the Big Hole + Beaverhead
Basins from Medicine, Beaverhead + Silver Bow counties

FLYING E RANCH

POLLED MAINE ANJOU CATTLE

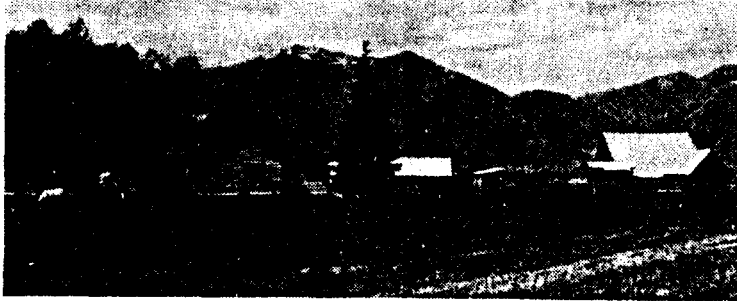
SENATE NATURAL RESOURCES

EXHIBIT NO. 38

DATE 2-15-91

SEN. NO. SB 212

Elmer D. & Bernice
Severson



480 Middle Burnt Fork Rd.
Stevensville, MT 59870
Phone (406) 777-3313

RE: SENATE BILL NO. 212

NAME: Elmer D. Severson
Retired Montana State Senator - 1990

EXPERIENCE WITH WATER:

Life time as an irrigated Farmer/Rancher.
45 Years of that time on the 1st adjudicated stream in MT.
Helped with the assistance of Judge Brownlee's court to
organize and develop a court appointed committee to manage
the Burnt Fork Water Drainage. Only one like it in the
state.
Worked on Agricultural and Water bills while in the
legislature.

Mr. Chairman and Members of this Committee:

When I retired from the Senate, I really didn't intend to be back here on business; but, I believe this bill is so dangerous that I had to come to plead with you not to pass this type of legislation. I consider this bill along with some others on the same subject to be the most dangerous acts that have ever been introduced in the State of Montana. This bill dwarfs any of the tax issues that we have had in the past.

Water is the life blood of Montana agriculture. Without it on irrigated farms and ranches, you have land that will only produce a fraction of the crops for food and fiber.

Without irrigating water, the land values would drop like 10 times. For example: \$1000/Acre to \$100/Acre. What would that do to the tax base for schools and County Governments?

Water rights are much misunderstood by the general public. The State of Montana owns the water. A farmer or rancher does not own water. A water right gives him or her the right to beneficial use of a given amount of water on a described tract of land with a priority date. If a farmer is not beneficially using water, otherwise wasting it, the court can take it from him. Water is decreed to the land in a present owners name. It is a part of the land and a substantial part of the value of that land. It is not a saleable product without the land it is decreed to.

Because I have a water right does not mean that I use it 100% of the time. I have 1st water right on the creek that I irrigate from at the rate of 1 miners inch per acre. I use this water less than 1/4 of the time during the irrigating season. When I am not using this water, other lesser water rights have the use of this water. If it were leased as this bill proposes, you would deprive lesser water rights from using this water.

What can sale or lease of water for instream flow do?

Let me use an example: In most streams the best water rights are at the lower end of the stream. WHY? Because, that is where the people first settled.

Let me use the oldest adjudicated stream in Montana, Burnt Fork Creek, Stevensville, Montana. The first water right of 507 miners inches was filed on by Major John Owen, in 1852. It was a hassle to get that water to the lower end of the creek in late summer. Taking or stealing water in those years was a fighting or shooting matter. A deal was made to trade this water upstream for water supplied by one of the ditch systems. The Fort Owen Ranch still has free water; as the ranches that the water was transferred to pay the ditch company for the water. This trade hurt no one and helped several ranches.

Now, imagine what would have happened if this water had been sold or leased down stream. I promise you, if this 507 inches of water had to travel the full length of the creek past every water user, the productive Burnt Fork area would be mighty dry!

These people bought and paid for irrigated land. Are you going to take it away?

Our water law has stood the test of time. Leave it alone. Please kill this bill.

Sincerely,



Elmer D. Severson

Sen. Natural
Resources
Rm 407B.

TESTIMONY ON S.B. 212

FEBRUARY 15, 1991

SENATE NATURAL RESOURCE COMMITTEE

BY

RAFTER RANCH, INC.
DONALD H. JONES, PRES.
RANCHER

SENATE NATURAL RESOURCES
EXHIBIT NO. 41
DATE 2-15-91
BILL NO. SB 212

GOOD AFTERNOON CHAIRMAN STIMATZ AND MEMBERS OF SENATE NATURAL RESOURCE COMMITTEE. THANK YOU FOR GIVING ME THIS OPPORTUNITY TO SUBMIT MY TESTIMONY IN OPPOSITION OF SENATE BILL 212. I AM DONALD JONES OF WISE RIVER AND A RANCHER.

I WOULD ASK THE MEMBERS OF THIS COMMITTEE TO OPPOSE THE BILL AS IT IS A DETERMINANT TO AGRICULTURE. AGRICULTURE IS THE STATES LARGEST INDUSTRY AND ITS KEY IS IRRIGATION WATER. WITHOUT IRRIGATION WATER THE WHOLE PROCESS FAILS. SOME 100 YEARS AGO THE PROCESS OF WATER RIGHTS BEGAN AS WE KNOW IT TODAY. A GREAT DEAL OF THE CROP PRODUCTION SALE FIGURES IS CREATED BY IRRIGATION. WITHOUT IRRIGATION, AGRICULTURAL INCOME WOULD DROP BY MORE THAN HALF.

IF ONE HAS EVER MADE A TRIP THROUGH THE BIG HOLE VALLEY THEY WOULD SEE HOW WATER BENEFITS EVERYONE. THE PROCESS OF IRRIGATION IN THE BIG HOLE BUILDS UP THE WATER TABLE. IT IS LIKE A DAM WITHOUT A DAM. MUCH OF THE WATER USED TO PRODUCE THE HAY CROPS IS FROM THE SNOW MELT, WHICH INCREASES THIS WATER TABLE. AS THE WATER TABLE GRADUALLY RETURNS TO THE BIG HOLE RIVER DURING THE LATE SUMMER AND FALL THIS WATER IS USED AND REUSED AS IT PROVIDES SPRINKLER WATER FOR DOWN STREAM, WATER FOR FISH AND WILDLIFE, FOOD FOR MANKIND AND WATER FOR BUTTE. THIS PROCESS KEEPS MANY SMALL STREAMS AND SPRINGS PRODUCING WATER YEAR AROUND FOR RETURN TO THE MAIN RIVERS. IF WE SELL OR LEASE THE WATERS FROM THE LAND WE WILL NO LONGER HAVE THIS PROCESS WHEN HIGH WATER SNOW MELT IS GONE, THE WATER WILL BE GONE. THE BIG HOLE RIVER WILL PROBABLY BE DRY.

THIS PROCESS THAT NOW EXISTS IS SO NATURAL TO MANY OF THE RIVERS OF MONTANA. THIS IS WHY WE HAVE WHAT WE HAVE IN MONTANA AND IS A MUST FOR FUTURE GENERATIONS. THEREFORE I ENCOURAGE YOU TO OPPOSE SENATE BILL 212.

RAFTER RANCH, INC. OPPOSES S.B. 212

Donald H. Jones PRES.
Louise J. Jones V. PRES.
Elizabeth J. Jones SECT.
Keith W. Jones SHAREHOLDER
Zyvonnie M. Jones SHAREHOLDER

SENATE NATURAL RESOURCES

EXHIBIT NO. 42

DATE 2-15-91

BILL NO. SD 2-12

Augusta-Mont.

Feb. 14-1991

We oppose house bill NO. 212 with both hands and would like to know what dumb
lone head ever dreamed up such a bad bill.

Soap Creek Cattle Co.

Larry Krone - President
P.B. Krone, Jr. - Vice President
Lance Krone - Vice President

SB212-- An act to authorize any person to appropriate water for instream use, to authorize the transfer by sale or lease of existing water rights to any person for instream use, to authorize the transfer by sale or lease of instream water rights to other uses, to integrate instream use rights into Montana's prior appropriation system. amends several sections and would be immediately effective. (These amendments would allow any individual, industry, state, corporation, association, etc. to file for a water permit, which would separate water from land

The effect on the economy from separating water from land could be devastating. The effect of removing water from land is devastating.

PETITION

WE, THE UNDERSIGNED OPPOSE THE PASSAGE OF SENATE BILL 212.

Robert T. Michael

W. G. Miller

Charles F. Coffey

Kenneth H. Kaufman

Gabe Heidema

John M. Davis

Raymond Davis

Dean Hall

Mike Matthews

Michael Wagner

Alvin F. Folsom

John Adams Norman

Kenneth H. Geiger

Donna Davis

Steven H. Bernbaum

Josephine W. Harper

Dwight Hodgson

3742 Pioneer Rd Billings

Shepherd, Mt.

Shepherd Mont

4112 Pioneer Rd Billings, Mont.

Shepherd

3050 Yeoman Rd, Shepherd MT

Billings Montana

Billings Mont.

Billings, Mt.

Billings, MT

Billings MT

Billings, MT

Shepherd, MT

Billings MT

Shepherd, MT

1602 Broadwater Ave Billings MT

3261 Chicago Rd Shepherd Mt

Norma Holgren	6132 Chicago Rd. Shepherd
Clayton D Lindstrom	1116 - Birch Blvd Bldg Mt 59105
Peggy Hough	5301 Homer Davis Rd Shepherd Mt 5901
Mark Rubavina	817 N. 18th St. Billings
Ed Thant	4324 Ch. Rd Bldg. mt.
James Kimbichner	3715 Maxwell St Bldg. mt.
Donald Verale	507 Remrock Rd Billings mt.
Maribeth Hakeck	331 Hunt Lane Billings MT
Ewald M. Hoefel	9345 Pagor Creek Rd. Shepherd
Quib Anderson	2214 Lake Elm Rd Billings 59105
Robert S. Anderson	2211 Lake Elm Rd Billings 5905
Elmer Jacobson	8529 Clark Rd Shepherd
Erving Espenback	1546 Morrison Park Dr. Billings 5902
Frank Swenson	6223 Shepherd Rd E 59079
Lawrence Doughton	8124 Clark Rd. Shepherd 59079
John J. Coel	431 Kelly Lane Billings Mt.
Jerrell Correll	920 2nd Rd Shepherd
Edwin E. Thuermer	9705 McCannick St. Shepherd.
Garold Johnson	6406 Shepherd Rd. Shepherd
Gloria Lueck	817 Agate Ave. Billings, mt.

February 14, 1991

The following undersigned object to SB212.

Lina L. Freeman

Rich Ripley

Marie D. Mepher

William Mosher

George Monson

Joyce E. Monson

LeRoy Heinle

Augusta
Area

2-10-91

Out Home mount

SENATE BILL 212 OR THE
(MONTANA DESSERT BILL)

THIS BILL IS THE BEGINNING OF
END OF MONTANA IRRIGATION IF IT PASSES.

MONTANA IS NOT A RICH STATE
FINANCIALLY AND OTHERS COULD EASILY
BUY ALL OF OUR WATER.

WATER DRAWS WATER, ANYWHERE
THERE ARE DAMS OR BODIES OF WATER
RAINFALL IMPROVES, SO HOLDING OF OUR
RUNOFF PERIODS IS ESSENTIAL TO ALL
WATER SUPPLY.

SMALL TOWN + BUSINESS EROSION;
IF THIS BILL IS ALLOWED IRRIGATION
WILL DECREASE. IRRIGATED LAND
WILL TURN TO DRY LAND, VALUES DROPPING
& PRODUCTION DECREASING. IRRIGATION EQUIP.
DEALERS WILL SUFFER + DISAPPEAR
MALT BARLEY PLANTS WILL CLOSE
HAY SUPPLY WILL DECREASE CAUSING
CATTLE NUMBERS TO ALSO DECREASE
FEEDLOTS WILL CLOSE DUE TO LACK OF
FEED SUPPLY & CATTLE.

TAXES

TAX BASE WILL ERODE (AND MONTANA
NEEDS ALL THE TAX BASE IT CAN KEEP)
THIS WILL HAPPEN BY LAND VALUES DECREASING
IRRIGATION DEALERS CLOSING
PRODUCTION DECREASING
LIVESTOCK NUMBERS FALLING
MALT HANDLERS MOVING AWAY
GRAIN PRODUCTION WILL BE REDUCED

LET US BE SURE WE ALL WORK
TO DEFEAT SB 212.

SINCERELY

LLOYD DE BRUYCKER

Lloyd De Bruycker

February 15, 1991

Senators:

My name is Larry Brooke and I come to you from my father's ranch on the North Willow Creek, a tributary of the Jefferson River. My family has been in the honorable business of feeding the world for four generations. I have come here today to address you on behalf of my dad and the other ranchers like him in this state who hold Montana water rights.

He currently maintains a 300 cow herd with some small grains on 250 inches of 1866 water (adjudicated by Judge Ben Law) or 5 1/2 CFS. This year dad brought just under \$200,000 into this state from places like Worland, Wyoming, St. Louis, Missouri and Boone, Iowa. I keep telling him he could make more if he would just look at foreign markets like Tokyo and Bagdad. He said "Kid, this money from Iowa spends just as fine in the local stores."

If he had not put this water through his 1/4 million dollar sprinkler system on poor semi arid land, he would not be paying taxes on irrigated crop land as well as on all the machinery he has.

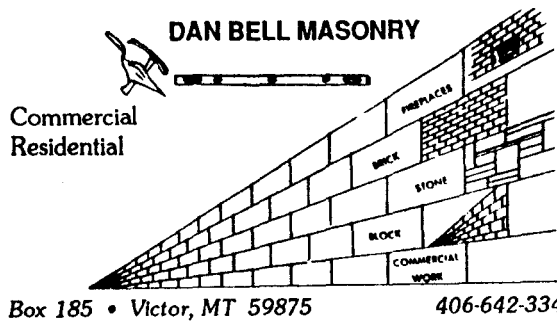
He would also have plenty of free time, since 125 cows do not take as long to feed and \$50,000 takes much less time to spend than \$200,000.

His biggest concern right now is that if this bill passes, his grand kids will be making beds, flipping hamburgers and pumping gas for a living since they have been forced out of their rightful heritage to be the fifth generation of Brooke family to feed the world.

He strongly suggests that you tell the freshman senator from Bozeman to talk to the people of Montana before introducing any more barnyard bunk such as senate bill 212.

Thank you

Larry J. Brooke
Box 243
Pony, Montana 59747
(406) 685-3406



February 14, 1991

SENATE NATURAL RESOURCES
EXHIBIT NO. 46
DATE 2-15-91
BILL NO. SB 212

To Whom it may concern,

I am a registered voter in
district **13** of the state of Montana (Ravalli Co.)
and I AM OPPOSED TO **SENATE BILL 212.**

Do Not Make It LAW.

Tax Payer,

Daniel L. Bell

Daniel L. Bell

02-14-91



O'HAIR RANCH COMPANY

BOX 955 LIVINGSTON, MONTANA 59047

SENATE NATURAL RESOURCES

EXHIBIT NO. 47

DATE 2-15-91

BILL NO. SB 212

Feb. 15, 1991

Chairman: Larry Stimatz
Senate Committee S.B. 212

It is clearly recognized that a water right user does not own the water, but simply has the right to use it. It must be taken from the stream at a specified point of diversion. Since the user does not own the water, he does not have the right to sell it or lease it.

The bill ignores the concept of the water rights law, which is the first in time, first in line.

The bill as proposed would adversely effect this concept.

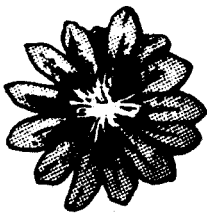
As an alternative to the leasing bill, I would suggest the committee make a study of loss of water through seepage in the irrigation ditches, leaky headgates, and generally inefficient use.

These losses could be corrected by encouraging the irrigators and assisting them to install sprinkler irrigation, reshaping the land, install headgates, and lining ditches.

This method would conserve water, improve crops, and ultimately provide more water for in-stream flow.

I strongly oppose the passage of S.B. 212 in favor of the alternatives.

Respectfully yours,
O'Hair Ranch Co.
Allyn W. O'Hair, Pres.



BITTERROOT CONSERVATION DISTRICT

1709 NORTH FIRST STREET
HAMILTON, MONTANA 59840
(406) 363-5010



Senate Natural Resource Committee on SB 212

Larry Stimatz, Chairman

SENATE NATURAL RESOURCES

EXHIBIT NO. 48

DATE 2-15-91

BILL NO. SB 212

This letter is to inform you that the Bitterroot Conservation District has voted to oppose Senate Bill 212, "Instream Flow Act of 1991" as written for the following reasons.

To the best of our knowledge, the Bitterroot river is already filled on past its capacity to provide water to those with later filings and maintain inflow during the period from the third week in July through the remainder of the season in any season that has less than average snow pack. Therefore, the only way instream flow necessary for fish habitat and even minimal irrigation can be maintained every year is by buying water from a state owned storage dam. The irrigators and those interested in maintaining instream flow have cooperatively worked out the use of the water purchased in a manner to best serve the purposes of both groups.

The only water available for inflow filing or leasing is that which comes during highwater, end of May to mid June, and that which could be bought or leased from holders of present water rights.

Since the underground aquifers are charged by water passing through canals, as well as water in the creeks and the river, it is important that the canals are well filled to their decreed capacities during the high water season, and that the decreed water that is available during low water seasons be disbursed through the canals to help maintain the levels of the underground aquifers on which all domestic wells depend.

We do not feel SB 212 addresses the above, nor do we think sufficient studies have been made of the role of the extensive system of canals in this valley in recharging underground aquifers, thereby, ensuring that it is safe to allow extensive filing on high water or leasing of water from existing water right holders. To ensure availability of additional water would require building storage facilities to be filled during high water season. Our second objection relates to that.

SB 212 does not provide any means for those interested in instream flow to participate in paying for construction of additional storage dams. Therefore, the cost of additional storage falls unfairly on the land, particularly agriculture. We do not favor any system for leasing that does not provide for an equitable distribution of the costs of storage facilities among the various groups that benefit from the use of stored water, instream flow interests, as well as land holders.

Sincerely,

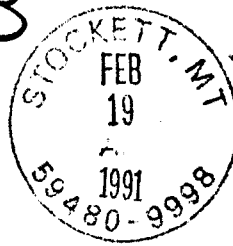
Jack Iman, Chairman



Accomplished artist Leslie Drake Robinson, a native Montanan, conveys the proud and free spirit of the west through her art. She is particularly recognized for the high quality detail of her work.

Leslie Drake Robinson
 Watercolors • Drawings • Commissions • Animals • Landscapes • Portraits
 LOLO CREEK • LOLO, MONTANA 59847 • (406) 273 6464

467B



Dear Chairman,

Just a note urging tabling
 or defeat of SB 212.

At no time should private
 individuals be allowed to buy
 or sell water rights other than
 what accompanies a land purchase.

Water is too precious to toy
 with the way brokers toy with
 the Stock Market.

Sincerely, Steve Mayernik Jr.
 Stockett, MT, 59480

Chairman, Senate Natural
 Resources Committee

MT State Senate

Capitol Station

Helena, MT

59620

SENATE NATURAL RESOURCES

EXHIBIT NO. 50

DATE 2-15-91

BILL NO. SB 212

① E. B. Anderson

SENATE NATURAL RESOURCES

EXHIBIT NO.

51

DATE

NO

The Wildlife Federation's Bill, Senate Bill 212, that Senator Bianchi is sponsoring will have many long ~~lasting~~ affects — and not just on agriculture.

If Senate Bill 212 passes you senators, the Wildlife Federation and the other supporters will be responsible for drying up 70 to 80% of Montana's wetlands. These wetlands depend solely on the diversions and the irrigation of the agriculture community. These wetlands provide habitat for much of our state's waterfowl, fish, whitetail, raccoon & other wetland species. You can also guarantee plenty of water for our downstream, out-of-state users in the spring & early summer. — But come July, Aug., & Sept. it will not be there. That is because these are the months when our streams are solely dependent on return flow from agriculture irrigation.

③ E. B. Anderson

The Wildlife Federation states that no rancher will be forced to lease ^{or sell} his water rights — however if some ag. producer elects to sell his rights and this water stays in the stream then those agriculture producers downstream will be adversely affected because they will not be receiving return flow.

It has been stated that all the water in Mont. is owned by 5% of the population — If we go back in history there was less than 1% of the population of the nation that came out west to homestead the land and prove up on the water. There are many 5 generations ranch families who fought & died for the right to own private land & ~~have the legal right to the~~ ^{have the legal right to the} water. Is it fair to legislate their water away now.

Now if you Senators can buy the bill of goods Senator Bianchi & the Wildlife Federation is trying to sell you then I have some Ocean front property in Arizona for you.

② E. B. Anderson

With this bill you would also accomplish removing livestock from Public Lands and much of the private lands in our state. The rancher, without irrigation, could no longer feed his livestock during the fall, winter & spring months. Many would be forced to sell to the highest bidder — such as the Ted Turners, the Von Trapps, and the Liz Claiborn's and yes also the Japanese. This would create a privately owned pay hunting state. Which would leave our local Mont. sportsmen dried up along with the irrigation. Many mainstreet businesses and other agriculture related businesses would be dried up, along with the tax base of our local communities.

SENATE NATURAL RESOURCES

EXHIBIT NO. 52

DATE 2-15-91

BILL NO. SB 212

Dear Senator Stimatz

I had hoped to be able to be present in person for this hearing but this is calving time and even a small outfit like ours you just better not be too far from home.

We are emphatically opposed to SB 212. We have a water right out of Blodgett Creek. This right for 120 miners inches was granted to the owners of this ranch. The water was appropriated August 1, 1894 and was decreed by Judge F O Webb on May 28th, 1907.

This water is the life blood of this ranch. After modernizing this system about 15 years ago we now have one 2 hsp pump, one 20 hsp. pump and one 5 hsp pump, are able to pump water thru ~~a~~ sprinkler line to approximately 85 acres of this 150 acre ranch. Without this water we would have a desert.

II As it is we are able to raise hay and pasture for roughly 50 head of beef cattle and also water a small evergreen shrub and tree nursery from which we obtain a part of our income.

So please vote against SB 212 and use all your influence to kill this bill.

Sincerely yours,
John F. Munson
Gree J. Mander

SENATE NATURAL RESOURCES

EXHIBIT NO. 53

DATE 2-15-91

BILL NO. SB 212

Feb 11, 1991

Senator *Lawrence Stimatzy*,
Mt. State Senate
Capital Station
Helena, Mt 59601

Dear Senator *Stimatzy*,

Please take a moment to hear my plea against Senate Bill 212!

I understand your busy workload, so I will be brief!

The State of Montana is presently filing a suit against the Army Corps of Engineers because of their poor management of our water resource and allowing it to go down stream to the Lower Missouri River States. Now we are considering legislation that would restrict the maximum utilization of our water right here in Montana!

Montana farmers can't stand another serious blow to our livelihood that this legislation would cause. This is not good legislation for Montana.

We like to fish and use Montana streams, as most Montanans do. Both agricultural and recreational use can be done in cooperation with each other. That is the Montana Way to do things! Not to put agriculture out of business to benefit others.

We have worked together for over one hundred years now. Our water rights date back to the 1880s and we have been cooperating for that long now, for the good of all. However, without this water right, we will lose our generations old family farm.

PLEASE DEFEAT this poor legislation and keep Montana green with crops, and dollars and good recreation as well.

Thank you for your time and concern,

Sincerely,

William B Taylor

William B Taylor

Box 521

Pennell Be Rd.

Belgrade, mt.

Box 65
Willow Creek, MT 59760
February 11, 1991

Sen. Lawrence Stimatz, Chairman
Natural Resources Committee
Room 405, Capitol Building
Helena, Montana 59620

SENATE NATURAL RESOURCES

EXHIBIT NO. 54

DATE 2-15-91

BILL NO. SB 212

Dear Sen. Stimatz:

I want to register my opposition to SB-212, Instream Flow Act of 1991. I am concerned about the impact this legislation will have on Montana's use of water. It seems this bill is an attempt to again bypass the adjudication process, as well as change the water law. A great deal of time and money has been expended by the water court and private property owners to protect the water rights for agriculture, municipalities, etc. We must be very careful not to allow filings after 1973 to preclude water rights existing since before the Civil War.

For some time downstream states have been attempting to get the water and until it is known what water there may be for instream uses, the adjudication system should be allowed to go forward. This legislation certainly is not in the best interests of Montana or its citizens. A reservation by other states could place Montana in the position of having to let water go by and not have enough for use here, when a drought is such that there is no rain or snow to fill the streams nor irrigation water used to replenish the aquifer.

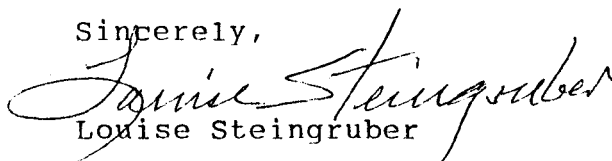
Wyoming is a good example of not having set the water needs of the state until after Nebraska had made reservations on the water in the Platte river, which leaves Wyoming with a water shortage at times.

We could find ourselves in the same position as California where the irrigation water in the San Joaquin Valley has been turned off to agriculture; consequently cutting off the supply of vegetables and fruit. Lack of water will destroy fruit and nut trees, which will take many years to replace. Believe me the same could happen here if there is no rain or snow to replenish streams soon.

The allowing of reservations in drought years, before it is known how much flow can be reserved in "normal" years, does not seem prudent for anyone and in particular the State of Montana.

A plan for water leasing was set forth in Senate Bill 707 in 1989; why not give it a chance to work before passing more legislation. The Montana Water Law has proven to be in the best interests of Montana and will protect the future, if we do not rush to change what has been proven to be good. If it wasn't best for Montana and its' many diverse interests, why would so many be trying to change it, especially those who have not lived or paid taxes in the state for very long.

Sincerely,


Louise Steingruber

Mr. Stimatz

In regards to Senate bill 212. Water leasing.

I as a land owner oppose this bill.

I as Chairman of Teton County Conservation District oppose this bill.

It is a definite change of use which could harm the other water users down the road. Some of the people leasing their water right do not use them now, the next water right uses it now, this will have a definite impact on them.

If this goes through now we as land owner and irrigator will pay for it later. I will say again we oppose this bill.

Yours Truly

Charles W. Proff
Charles W. Proff

RR 2 Box 6290
Dutton, MT 59433

I am Verna Lou Landes - Our ranch is in Gallatin Co.

I am opposed to S.B. 212

Agriculture will not survive if water is left in-stream. Diverting water for a beneficial use not only produces crops, but fills the aquifer and replenishes springs, which go back into streams.

Our livelihood depends on water. It has for over 100 years. Appropriation of the water was made in 1885 on our ranch.

Historically water rights have been used on the land. I see no reason to change this.

With so many businesses going under. Economically I don't think the legislature can afford to contribute to another failure. S.B. 212 will do that

I oppose S.B. 212

Thank you.

Verna Lou Landes
Wilsall, Mont.

SENATE NATURAL RESOURCES

EXHIBIT NO. 60

DATE 2-15-91

BILL NO. SB 212

Feb. 15, 1991

Re: SB 212

I would like to express my extreme opposition to S.B. 212. As a land owner with water rights for agriculture use those rights are a part of the value of our land.

Any action that would separate water from the land would be detrimental to agriculture all over this State. With the national economy in the decline it is in at this time, it is especially a crucial time for the support of agriculture not time to deal another blow to people trying to make a living.

Sincerely,
Jari Dearman

Feb. 7, 1991

SENATE NATURAL RESOURCES

EXHIBIT NO. 61

DATE 2-15-91

BILL NO. SB 212

Senator Larry Stimaty
Chairman Senate Resource Comm.
Capital Bldg.
Helena, MT. 59620

Dear Senator Stimaty -
We would like to go on record
as opposing Senate Bill 212.

Yours truly,

Louise Monroe

John Monroe

SENATE NATURAL RESOURCES
EXHIBIT NO. 68
DATE 2-15-91
BILL NO. SB 212

2/12/91

To the Committee on Natural Resources Montana
State Legislator, Helena Mt. In reference to
bill S-B 212.

This bill will reduce land values in
Montana and will cause many wells to go dry.
If we need more in stream flow during
low water, we should raise the height of
the dams on the lakes in the mountains or
build alternate water storage.

Robert Schmitt
365 Curlew Orchard Rd
Victor, Mt. 59875

February 14, 1991
Gallatin County

Montana Legislature

SENATE NATURAL RESOURCES

EXHIBIT NO. 63

DATE 2-15-91

BILL NO. SB 212

We are in opposition to Senate Bill 212. Leaving water in stream does not replace the groundwater. Flood irrigating depletes the DNRC. Use of the water on our ranch was appropriated as early as 1883. We have used the water as irrigation water, it replenishes the springs and goes back into the creek to be used again down stream. Leaving it in stream will let it flow right on out of the state.

Please allow Montana Agriculture remain a viable asset to the state.

Respectfully yours,

Richard Waddell
Sharon Waddell
Rt 1 Box 233
Wilsall MT 59086

SENATE NATURAL RESOURCES

EXHIBIT NO. 65
DATE 2-15-91
BILL NO. SB 212

SSR281, Box 202
Hahua, MT. 59249
February 14, 1991

Mr. Larry Stimatz
Senate Natural Resources Committee
Room 405 - Capital Station
Helena, Mont. 59624

Dear Sir,

S.B.212 is a bill that I feel very strongly opposed to. It has negative effects to all water users, whether they live in the city or on the farm. I feel the present law which provides for a study of this situation is a much better way to solve the problem.

If the water right were severed from the land, would the cost of storage construction (which is now collected through the property tax system) stay with the land, or go with the water right? If it went with the water right what kind of system would you create to collect it?

If we could create more storage in Montana we could retain more water for beneficial use throughout the season. Which would create an instream flow, and not have a negative impact on water users. In other words there would be positive impacts on everyone including the people who want the instream flows.

Thank you,

Melvin Novak
Melvin Novak

SENATE NATURAL RESOURCES

EXHIBIT NO.

66

DATE

2-15-91

BILL NO.

SB 212

Townsend, Montana
February 13, 1990

The Honorable Senator Lawrence Stimatz
State Senate
State Capitol Station
Helena, Montana 59620

Dear Senator Stimatz:

Re: SB 212

The present water right system used in Montana is older than Statehood itself. A lot of the water rights date to the early Territorial mining days. The 1972 Constitution is supposed to protect "all existing water rights". This method has worked effectively for over a century.

SB 212 is an attempt to **separate** water rights from agricultural land. This is a **gross** mistake and has far-reaching implications. Our Local and State government would be the first to feel the loss of revenue when it converts irrigated ground to dry land. This bill would be **regressive**, not progressive to the growth of Montana.

We strongly urge the defeat of this legislation.

Yours Truly,

Bob Davis

Bob Davis

Linda Davis

Linda Davis

SENATE NATURAL RESOURCES
EXHIBIT NO. 64
DATE 2-15-91
BILL NO. SB 212

Terry, MT
February 15, 1991

Natural Resource Committee
Larry Stimatz, Chairman
Cecil Weeding, Vice-Chairman
Ester Bengtson
Con Bianchi
Steve Doherty
Bob Hockett
Ed Kennedy

RE: SENATE BILL 212

Please be advised that we do not support Senate Bill 212!

We as family farmers and irrigators and caregivers for the
land hope this bill is killed in committee.

Sincerely,

Steve Tibbetts

Steve Tibbetts

Sue Tibbetts

Future Farmers--sons Todd, Cody, Brock Tibbetts

David J. Maclay
828 Ronald Avenue
Missoula, MT 59801

February 15, 1991

Senate Natural Resources Committee
Montana Senate
State Capitol
Helena, MT 59620

SENATE NATURAL RESOURCES
EXHIBIT NO. 68
DATE 2-15-91
BILL NO. SB 212

RE: Senate Bill 212 - Hearing

Ladies and Gentlemen:

I am a rancher operating in the Bitter Root near Lolo. We use water from Mormon Creek and Lolo Creek along with three adjoining ranches.

I oppose the present attempt by Bill Number 212 to change the method by which water is appropriated and used in the State.

As a biologist employed at one time by the U.S. Forest Service and the State of Montana at various times, I have become well-acquainted with the sources of most streams within the State and their uses and I believe that most appropriators use their water carefully having in mind the effects of their uses so as to not damage the fish or wildlife dependent on them. Most farmers or ranchers are also conservationists and keep in mind the other resources dependent on them. My observation over these many years is that the dependent wildlife on the streams and lakes does very well as the present rules operate.

As a word to the conservationists and also the farmers, they might well turn their efforts toward the higher reaches of the streams and build more dams and by other means retain the runoff waters for uses during dry season needs. My training and experience as a fisheries biologist tells me that retention of water in the hills of Montana benefits the fishery resource. They are above the needs of farmers and provide sources of natural runoff all the way down. The proponents of instream increases could by that process arrive without controversy in the long run.

Thank you for the opportunity to comment on this matter.

Sincerely,

David J. Maclay

DAVID J. MACLAY
828 RONALD AVE
MISSOULA, MT 59801

Buffalo Rapids Irrigation Project
P. O. Box 511
Terry, MT 59349

February 15, 1991

SENATE NATURAL RESOURCES
EXHIBIT NO. 69
DATE 2-15-91
BILL NO. SB 212

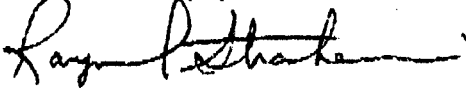
Dear Senators:

The Buffalo Rapids Project Board of Control, the governing body for the 25,000 acre Buffalo Rapids Project between Miles City and Glendive urges you not to support Senate Bill 212.

We do not feel that water should be treated as a commodity to be bought or sold. Also, we do not believe that Montana is ready to put itself in that situation. If we start a water sale scenario for instream use it could lead to water sales legislation for other uses in the future.

We thank you for your consideration.

Respectfully yours,



Raymond Strasheim
President

cc: Larry Stimatz, Chairman
Cecial Weeding, Vice-Chairman
Esther Bengtson
Don Bianchi
Steve Doherty
Bob Hockett
Ed Kennedy

SENATE NATURAL RESOURCES

EXHIBIT NO. 70

DATE 2-5-91

BILL NO. SB 212

February 15, 1991

Senator Lawrence Stimatx
Chairman Natural Resources Committee
Capitol Station
Helena, MT 59620

Dear Senator Stimatx,

The following persons would like to go on record as being
ADAMANTLY OPPOSED to SB212.

Mary Kee
113 7th West
Roundup, MT 59072

Daniel Kee
113 7th West
Roundup, MT 59072

Selma Morrison
4 Halfbreed Creek Road
Roundup, MT 59072

Gladys Womeldorf
38 Churchill Road
Roundup, MT 59072

Willa Dale Evans
4221 Highway 87 South
Roundup, MT 59072

Henry Clowes
4221 Highway 87 South
Roundup, MT 59072

Eva Boucher
423 2nd East
Roundup, MT 59072

Mary Kuzara
4250 Highway 87 South
Roundup, MT 59072

Lena Fletcher
902 3rd East
Roundup, MT 59072

SENATE NATURAL RESOURCES
EXHIBIT NO. 72
DATE 2-15-91
BILL NO. SB 212

February 15, 1991

Senate Natural Resources Committee:

Mr. Chairman:

On behalf of the Bitterroot Stockgrowers Association, who unanimously oppose Senate Bill 212, I give this testimony.

Why slap agriculture and the State of Montana in the face with Senate Bill 212, or any other bill that removes water from the land? Montana is in a financially strapped state of affairs. Revenue needs are uppermost in this legislature's mind.

Agriculture, the number one industry in the state grosses one billion, nine hundred million dollars. The state takes a whopping percentage of that in taxes, not to mention the overturning of dollars in local communities.

A great deal of that one billion, nine hundred million dollars is taken from irrigated land. You must consider what the passage of Senate Bill 212 will do. With water taken from the land, the productivity is gone. The crops and livestock that generate the money for taxing is gone. The taxable value of the land is drastically reduced and in short, the tax revenue currently assessed to agriculture will be critically decreased.

With the passage of Senate Bill 212 new and current businesses will have to be taxed at a higher rate. This bill will decrease agriculture taxation, decrease community turnover of dollars, and will require the legislature to find new ways of replacing the lost revenue due to the lost productivity of irrigated, agricultural land.

The negative impact of Senate Bill 212 is far more reaching than just the loss of crops. Homeowners' wells are in jeopardy, weeds will flourish, land value will decrease, and revenue taxes will be lost.

Sincerely,


Jay Meyer
President

SENATE NATURAL RESOURCES
EXHIBIT NO. 73
DATE 2-15-91
BILL NO. SB212

February 15, 1991

Dear Mr. Chairman:

I am Colleen Meyer

and I belong to Western Montana Chapter of WIFE

The water will leave the state faster left in the streams than when spread out over vast areas of land that hold, yet release the water to the streams more gradually. With passage of Senate Bill 212, irrigated land with water removed will not go back to native grasses and sagebrush - rather the tame grass will die inviting unsightly noxious weeds, particularly knapweed in abundance. Tourism will not replace agriculture because tourists are not going to enjoy gray, weed infested Montana.

Sincerely,

Colleen Meyer

SENATE NATURAL RESOURCES

EXHIBIT NO. 74

DATE 2-15-91

BILL NO. SB 212

February 14, 1991

Senate Natural Resources Committee

Dear Mr. Chairman:

I am Rosemarie Neuman and I belong to Butterroot Stockgrowers Assn. Our Governor and legislature is striving to bring new industry into our state. Senate Bill 212 defeats their efforts. Senate Bill 212 will decrease the taxable value of irrigated property and the income the property generates. This lost revenue will have to be replaced somehow. Will new industry want to come into this state and survive the taxes required of them? Agriculture is already a thriving, clean industry, why destroy its valuable economic effectiveness? The grass will not be greener on the other side of the fence if Senate Bill 212 passes.

I oppose Senate Bill 212 and any bill removing water from the land.

Sincerely,

R. Neuman

SENATE NATURAL RESOURCES
EXHIBIT NO. 15
DATE 2-15-91
BILL NO. SB 212

February 15, 1991

Chairman Larry Stimatz
Senate Natural Resources Committee
Capitol Station
Helena, Montana

It's unfortunate that those with agricultural interests, and others concerned about the potential impacts of Senate Bill 212, have to meet here in the Capitol of the great State of Montana in a confrontational mood with our friends from the environmental and sportsman communities.

We in agriculture have much in common with the "environmental" community and there are many areas in which we seem to have conflicts that could be solved if both sides would lay down their swords and look for equitable and mutually beneficial solutions.

Senate Bill 212, however, does not fall into this category. The water resource of this state cannot be put on the auction block! for once gone it is gone forever. Would we as citizens of this great State auction off our mountains? our people? Certainly not!! Then why should we allow the very life blood that sustains these resources to vanish downstream to those unconcerned about our future.

Senate Bill 212 is an uncreative approach to a problem of occasional low instream flows. Have other creative approaches been tried and allowed to mature? I think not. Headwater storage has been discussed for many years with no progress. Headwater storage would hold back water for late season use and provide needed additional irrigation into the gigantic sponge of our irrigated lands which assures aquifer replenishment for instream flows.

The leasing option was passed by the 1989 legislature and has yet not been explored or studied to determine its potential.

Ladies and gentlemen, we are looking at a flawed bill, the ramifications of which are far reaching economically, socially and environmentally. It does not address the issue of instream flows in a rational and common sense manner, but rather addresses the problem in a singular and unimaginative way. That cannot withstand the scrutiny of concerned Montana citizens.

Only the Lord can control the amount of water available to our bountiful lakes, rivers and streams, but fortunately we live in this great country called the U.S.A. where the voice of its people controls the politics of what happens to that water!

George R. Swan
Ruby River Water Users Association
Sheridan, Montana 59749

WITNESS STATEMENT

To be completed by a person testifying or a person ~~who~~ who wants their testimony entered into the record. SB 212

Dated this 15 day of February, 1991.

Name: John L. Venhuizen

Address: 3990 Churchill Rd
Manhattan MT.

Telephone Number: 284-3730

Representing whom?

Potato Growers of Montana

Appearing on which proposal?

SB 212

Do you: Support? ☐

Amend? ☐

Oppose? ☒

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE NATURAL RESOURCES
EXHIBIT NO. 19
DATE 2-15-91
BILL NO. SB 212

Senator Larry Stimat, Chairman
State Capital Building
Helena, Montana

Dear Honorable Senator Stimat,

I would like to express my firm
opposition to Senate Bill 212. This
concerns me because I need the
water for the irrigation of my land.

Sincerely,

George C. Terquon
8100 Hwy 93 S
Lake Mont 59871

SENATE NATURAL RESOURCES

EXHIBIT NO. 80

DATE

2-15-91

BILL NO.

SB 212

Senator Larry Stimat, Chairman
State Capital Building
Helena, MT

Dear Honorable Senator Stimat,

I would like to express my opposition
to Senate Bill 212. This concerns me
because I need the water for the
irrigation for my fields.

Sincerely,

Juanita J. Ferguson
8100 Hwy 93 South
Sula, Mt. 59871

SENATE NATURAL RESOURCES

EXHIBIT NO.

81

DATE

2-15-91

BILL NO.

SB 212

Senator Larry Stimat, Chairman
State Capital Building
Helena, MT

Dear Honorable Senator Stimat,

I would like to express my opposition
to Senate Bill 212. This concerns me
as I need the water for irrigation
on cattle.

Sincerely,
Margie J. Mikell
Co-owner - M4 Ranch
Dula, MT 59871

SENATE NATURAL RESOURCES

EXHIBIT NO. 82

DATE 2-15-91

BILL NO. SB 212

Senator Larry Stimat, Chairman
State Capital Building
Helena, MT

Dear Honorable Senator Stimat,

I would like to express my opposition
to Senate Bill 212. This concerns me
because I need the water for the
irrigation for my fields as well as water
for the livestock.

Sincerely,
John Michael
Bula, Mt. 59871

SENATE NATURAL RESOURCES

EXHIBIT NO. 83

DATE 2-15-91

BILL NO. SB 212

John Robbins
2441 Eastside Hwy
Stevensville, MT 59870

February 11, 1991

Mr. Larry Stimatz
Chairman, Senate Resource Committee
Helena, MT 59601

Re: Senate Bill 212

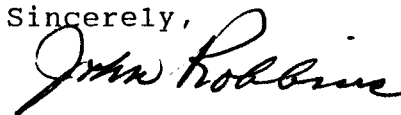
Dear Mr. Stimatz:

I am writing this letter to express my total opposition to Senate Bill 212. In my view this Bill opens the door to future erosion of personal property rights. Furthermore, in our particular valley, removing water from irrigation, especially flood irrigation, will do more harm than good to our total environment. In one small area alone where irrigation simply was changed from flood to sprinklers one pump company reports of over 40 wells going dry or having to be drilled deeper just from this change.

The water put into our aquifer continues to flow back to the river all winter long. If this water is kept in the river channel thru the hot summer months, it will be gone downstream long before the Fall and Winter season when this river is at it's lowest point.

Furthermore, the irrigators in this Valley are working very hard to work with Fish, Wildlife and Parks in maintaining adequate flows year long. I think if you canvassed the valley you'd find the vast majority of the people are not in favor of water leasing of any kind.

Sincerely,



John Robbins

jr/sr

Box 36
Dulles, MT
59871

Senator Larry Stenetz
National Resource Committee
Helena, MT.

SENATE NATURAL RESOURCES
EXHIBIT NO. 84
DATE 2-15-91
BILL NO. SB 212

Dear Senator Stenetz,

Water usage is so very important to many of us in our state. We are concerned over the contents of Senate Bill #212, to be heard this week, and urge you to vote against this bill.

The pressure in and out of the state for Montana must be enormous. It does seem a prudent move to not move on any issue until a water study, authorized in 1989 by the legislature, could be completed.

Thank you.

Sincerely,

Marvin and Betty Wetzstein
(cattle ranchers)

SENATE NATURAL RESOURCES
EXHIBIT NO. 86
DATE 2-15-91
BILL NO. SB 212

Eugene Graf, III
Box 906
Bozeman, Mt. 59715

Feb. 14, 1991

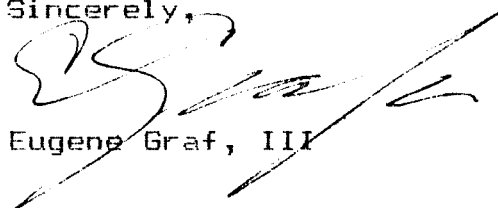
Senator Lorents Grosfield
Senate Natural Resources Committee
State Capital
Helena, Mt.

Dear Senator:

As an irrigator who lives at the end of the ditch, I strongly oppose S.B.212 allowing the transfer of existing water rights to in-stream use. As I am sure you are aware, the various users of any particular irrigation system are dependent upon one another to maintain enough volume to carry their individual right. My 350 inch water right has absolutely no chance of flowing the 8 miles from the point of diversion to my ranch by itself. Only through the cooperative joining of other farmer's water rights are we all able to deliver our water to its point of use.

If this bill is passed, this taking of property rights, the fact that the sale or lease of the water right is authorized seems to be an acknowledgement that current holders do in fact have a real and valid ownership of their water.

Sincerely,



Eugene Graf, III

SENATE NATURAL RESOURCES

EXHIBIT NO. 87

DATE 2-15-91

BILL NO. SB 212

David J. Maclay
828 Ronald Avenue
Missoula, MT 59801

February 15, 1991

Senate Natural Resources Committee
Montana Senate
State Capitol
Helena, MT 59620

RE: Senate Bill 212 - Hearing

Ladies and Gentlemen:

I am a rancher operating in the Bitter Root near Lolo. We use water from Mormon Creek and Lolo Creek along with three adjoining ranches.

I oppose the present attempt by Bill Number 212 to change the method by which water is appropriated and used in the State.

As a biologist employed at one time by the U.S. Forest Service and the State of Montana at various times, I have become well-acquainted with the sources of most streams within the State and their uses and I believe that most appropriators use their water carefully having in mind the effects of their uses so as to not damage the fish or wildlife dependent on them. Most farmers or ranchers are also conservationists and keep in mind the other resources dependent on them. My observation over these many years is that the dependent wildlife on the streams and lakes does very well as the present rules operate.

As a word to the conservationists and also the farmers, they might well turn their efforts toward the higher reaches of the streams and build more dams and by other means retain the runoff waters for uses during dry season needs. My training and experience as a fisheries biologist tells me that retention of water in the hills of Montana benefits the fishery resource. They are above the needs of farmers and provide sources of natural runoff all the way down. The proponents of instream increases could by that process arrive without controversy in the long run.

Thank you for the opportunity to comment on this matter.

Sincerely,

David J. Maclay

DAVID J. MACLAY
828 RONALD AVENUE
MISSOULA, MT 59801

Senator Larry Stimatz
Senate Resource Committee
Helena, Montana

February 9, 1991

SENATE NATURAL RESOURCES

EXHIBIT NO.

88

DATE

2-15-91

BILL NO.

SB 212

Dear Sir,

S B 212, the Instream Flo Act of 1991, is a vicious bill which I hope you will do all in your power to defeat.

To take the needed water from those in Agriculture who have had rights decreeded to them is a dreadful crime, but the crime against the land is more horrendous. It surpasses the release of oil into the Gulf by Saddam Hussein. The water table will no longer be high enough to nourish the soil to produce green grass, trees, either in the forest or in the valley, wells will dry up, including city wells. In short, people will suffer and our valley will no longer be lush and green. A geologist will confirm this.

The further tragedy is that more populous states will watch and covet our water and eventually take it, just as this bill plans to deny water to those who have century old rights to it. Government is "for the people" not against them!

Please do not allow this vicious bill to pass.

Sincerely,

Ann Craft

Ann Craft

501 N. 4th Street

Hamilton, Montana 59840

CROSS H RANCH CO.

Dan Hurwitz Box 585
White Sulphur Springs, Montana 59645
547-3520

SENATE NATURAL RESOURCES

EXHIBIT NO. 89

DATE 2-15-91

BILL NO. SB 212

15 February 1991

In Opposition to SB 212

Dan Hurwitz

Pres. North Fork Water Users (Meagher County)

This group is opposed for the following reasons.

1. Water should never be separated from the land.
2. Montana water is not adjudicated yet.
3. The language in SB 212 is very vague.
4. Total change in water laws
5. Effect on Ag + State Economics
6. Bill must be killed - Much more study needed.

Dan Hurwitz

Patterson Land & Livestock Company, Inc.

Commercial Angus Cattle

Box 150
Custer, Montana 59024

SENATE NATURAL RESOURCES

EXHIBIT NO. 91

DATE 2-15-91

BILL NO. SB 212

15 FEB 91

Dear Mr. Chairman and members of the Mont. STATE SENATE
MY name is John W. Patterson a farmer/rancher from Yellowstone Co
along the Yellowstone river. I appear before you today to oppose SB 212
for the following reasons

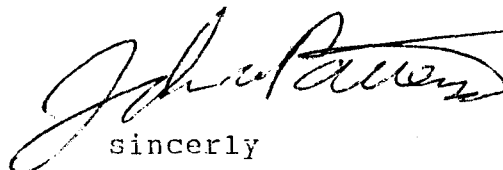
WATER THE
1 I f this bill is allowed to pass I fear that our valuable resource
lifeflood of MT as you and I KNOW IT TODAY. ALLOW ME TO GIVE YOU
AN EXAMPLE OF WHAT COULD HAPPEN. AS YOU KNOW THIS BILL WILL SEPERATE
WATER FROM THE LAND OR THE WORD IS SEVERED OR DIVORCED FROM THE LAND,

I FEAR THAT, ~~THAT~~ ^{THIS} HAS HAPPENED OUR MINERAL RIGHTS WILL HAPPEN TO OUR
WATER AS YOU KNOW THAT MANY OF OUR MT RANCHES AND FARMS NO LONGER
OWN THEIR MINERAL RIGHTS, OIL COAL GAS AND WITH THE PASSING OF THIS
INCLUDE WATER

I FEAR THAT FOREIGNS OR LARGE GIANT COORPORATIONS WILL OWN THIS
VAULABLE RESCOURCE AND THAT WILL BE DISATOUROUS FOR MT.
YOU WILL SEE THE RICH, WEALTHY COME TO MT AND BUY WATER FROM FARMERS
WHO WHEN THEY SELL THEIR WATER RIGHT IN TOUGH ECONOMIC TIMES IN ORDER TO
STAY ON THE LAND FROM THE PRESSURE OF BANKERS TO CASH IN AND PAY THE
banks off. I have seen this happen in the last ten years when
farmers were forced to sell off valuable parcels of land that was adjacent
to county rds and give the money to banks so that they could continue to
farm the remainder. There is nothing in this bill to preclude a
large downstream user(EXAMPLE) a nuclear power plant such as 3 mile
Island could come in and buy MT farmers right to use water for
their needs. The downstream state hope that MT will do this
so that they can expand their economic base at our expense

Once you sever, separate or divorce the water from the land as
we have seen in the mineral business MT will be owned by large out of
state intrewsts

In closing he who controls the water controls the land
for once the water is removed you will see property values change
and prime irrigated farm land revert to dust bowl conditions and
produce more dryland wheat at 2.00 a bu


sincerely

SENATE NATURAL RESOURCES
EXHIBIT NO. 92
DATE 2-15-91
BILL NO. SB 212

940 Nature Way
Stevensville MT 59870
February 15, 1991

Chairman and Members
Senate Natural Resources Committee
Montana State Legislature
Helena, Montana

Gentlemen:

Following are some of the reasons I oppose Senate Bill No. 212, which is concerned with leasing and selling water:

1. Water appropriated for use on a specific piece of land should stay with that piece of land.
2. Taking irrigation water from one or more parcels of land within an irrigation project will have an adverse effect on the remaining parcels, the aquifer, and possibly domestic wells in the area.
3. S.B. 212 would allow the Department of Natural Resources and Conservation and the Board of Natural Resources and Conservation to make decisions and create rules that rightfully should be made, case by case, by a legislative body, only.

Sincerely,

Kenneth L. Kershner

Kenneth L. Kershner

Carl F. Mofle 2316 M.E. Hwy Conwall's
59828

Matt, this statute was from W 174-1 Rec. C. of Montana. It was enacted in 1885, and was affirmed by the 1889 State Constitution.

make a valid appropriation for irrigation purposes. *Toohy v. Campbell*, 24 M 13, 17, 60 P 396; *Smith v. Denniff*, 24 M 20, 27, 60 P 398; *Bailey v. Tintinger*, 45 M 154, 155, 122 P 575.

The right to the use of water may be owned without regard to the title to lands on which the water is to be used. *Toohy v. Campbell*, 24 M 13, 17, 60 P 396.

Right of Landowner to Use Ditch or Easement Holder

The owner of land over which another has an easement for a ditch right of way, may use the ditch so long as such use is subordinate to the easement and does not restrict or limit its exercise. *Galan v. Lewis*, 105 M 294, 301, 72 P 2d 1018.

Unused Excess Not Appropriated

The diversion of water for domestic purposes in excess of what is required, and

89-803. (7095) Point of diversion may be changed—change of use. The person entitled to the use of water may change the place of diversion, if others are not thereby injured, and may extend the ditch, flume, pipe, or aqueduct, by which the diversion is made, to any place other than where the first use was made, and may use the water for other purposes than that for which it was originally appropriated.

HISTORY: En. Sec. 3, p. 131, L. 1885; re-en. Sec. 1252, 5th Div. Comp. Stat. 1887; re-en. Sec. 1882, Civ. C. 1895; re-en. Sec. 4842, Rev. C. 1907; re-en. Sec. 7095, R. C. M. 1921. Cal. Civ. C. Sec. 1412.

Burden of Proof of Injury

The restriction placed upon the right of an appropriator as well as to change the place of diversion as well as the use, is a matter of defense, and the burden is upon the party who claims to have been adversely affected by such change to allege and prove the facts. *Hansen v. Larsen*, 44 M 350, 353, 120 P 229.

The burden is on the party claiming to be prejudiced by a change of the point of diversion to allege and prove the facts. *Lokowich v. City of Helena*, 46 M 575, 577, 129 P 1063.

An owner of a water right, who alleges in his suit to enjoin another having a right on the same stream from changing the place of his diversion on the ground that the change will result in injury to him, has the burden of proving such injury. *Thrasher v. Mannix & Wilson*, 95 M 273, 276, 26 P 2d 370.

Where court concluded that the defendant was entitled to use its water rights out

an appropriation of the excess. *Power v. Switzer*, 21 M 523, 529, 55 P 32.

Water Necessary Per Acre

The question as to what amount of water is necessary per acre for irrigation is one of fact and never one of law, notwithstanding the adoption of the rule generally in this state to allow an inch to the acre, in the absence of evidence warranting a greater or less award. *Tucker v. Missoula Light & Ry. Co.*, 77 M 91, 101, 250 P 11.

References

Tucker v. Jones, 8 M 225, 229, 19 P 571; *Quigley v. McIntosh*, 110 M 495, 505, 103 P 2d 1067.

Collateral References

Waters and Water Courses—10, 32, 33, 132, 131, 152.
93 C.J.S. *Waters* §§ 172, 193.
56 Am. Jur. 753, *Waters*, § 306 et seq.

of a certain creek in accordance with a practice which had continued over 50 years, the burden was upon plaintiffs to show injury or prejudice if they sought to prevent the practice. *Forrester v. Rock Island Oil & Refining Co.*, 133 M 333, 323 P 2d 597, 603.

Change in Place of Diversion and Use

Under this section, the location of a flume maintained over the land of another, as well as the use of the water flowing through it, may be changed, provided the change adds no new burdens to the servient estate or causes additional damage thereto. *Pioneer Min. Co. v. Bannack Gold Min. Co.*, 60 M 254, 265, 198 P 748.

Actual diversion of water and its beneficial use existing, prospective or in contemplation constitute an appropriation, which is not affected by a change in the point of diversion or place of use. *Wheat v. Cameron*, 64 M 494, 501, 210 P 761.

Neither a change in the place of diversion of water nor a change in its use from mining to agriculture, or vice versa, affects its appropriation. *Thomas v. Ball*, 66 M 161, 166, 213 P 597. See also *Galifer v. McNulty*, 80 M 339, 362, 260 P 401; *Whitcomb v. Murphy*, 94 M 562, 23 P 2d

the place of use thereof if the change does not injure the rights of subsequent appropriators. *Spaeth v. Emmett*, 142 M 231, 383 P 2d 812, 813.

Change in Place of Diversion and Use—Judgment

The conclusiveness of a judgment as res judicata in a water right suit between the same parties or their successors in interest in a prior action is not impaired by the alleged fact that in authorizing a change of place of use or point of diversion, it violated the provisions of this section. *Brennan v. Jones*, 101 M 550, 556, 55 P 2d 697.

Where changes have occurred since the decree, brought about by appellant's change of diversion to new places or areas, increased, additional or different uses of water, he may not contend that owners of decreed rights may use the water decreed to them no matter how much they increase the use thereof on additional lands so long as they do not exceed their decreed quota as they do not to the injury of subsequent appropriators, as the limitation is based on water taken and beneficially applied on lands either in actual or contemplated irrigation at the time it was decreed. *Quigley v. McIntosh*, 110 M 495, 505, 103 P 2d 1067.

Change in Place of Diversion and Use—Placer Mining

The successors of the appropriator of water appropriated for placer mining purposes cannot so change its use as to deprive lower appropriators of their rights, already acquired, in the use of it for irrigating purposes. *Hend v. Hale*, 38 M 302, 308, 100 P 222.

Change in Place of Diversion and Use—Sale or Rental

An appropriation of water may be made for the purpose of sale or rental; but the appropriator may change the use, under this section, if subsequent appropriators are not thereby injured. *Sherlock v. Greaves*, 106 M 206, 218, 76 P 2d 87.

Clearing Irrigation Ditch

Servient landowners did not have a right to relief where changes caused by a dozer in clearing irrigation ditch would not be considered substantial changes or material

89-804. (7096) Water may be turned into natural channels. The water appropriated may be turned into the channel, or from a reservoir into a stream and mingled with

Extent of Use in Terms of Time

The fact that for many years in water right decrees have in custom of expressing water of flow per unit of time or during how many hours or could be taken or defung water which could be use taken as an adjudication were of an absolute flow, thereby removing limitation of the appropriation actually taken and applied, or to expand appropriation of subsequent detriment of subsequent *Quigley v. McIntosh*, 110 P 2d 1067.

Use May Be Clothed Interest

Property (including water) clothed with a public interest in a manner to make it a public use and affect the community makes it public; property to have been devoted to a out regard to statutory lock *v. Greaves*, 106 M 2 87.

Use of Any of Several

Where an owner of a several ditches for the lands, he had a right to at which he had a head other users were not *Tucker v. Missoula Light* 91, 99, 250 P 11.

References

City of Helena v. Rogers, 68 P 798; *Featherman v. Ir. Dist.*, 90 M 344, 3 P 310, 316, 115 P 983; *M* 93 C.J.S. *Waters* § 189 56 Am. Jur. 754, *Water*

Liability, as regards raising surface level of 1338.

to
Central
legislative

February 15, 1991

Natural Resources Committee
Mr. Chairman, Members of Committee

SENATE NATURAL RESOURCES

EXHIBIT NO. 94

DATE 2-15-91

BILL NO. SB 212

The Senate Bill 212 as presented is a slap in the face of agriculture by the Montana Wildlife Federation. The Committee should stop this bill as it is anti-agriculture and anti-Montana.

If enacted it would allow anyone to obtain water for instream uses whether in state or out of state industry. Without the water to irrigate, our lands will have diminished value, we would not continue to operate and our small communities will disappear. Not all of Montana is prime recreation, a great many of our communities depend on agriculture for their existence.

If the water is leased or sold to the unknown persons or corporations for instream uses, what happens to the wetlands that the water fowl and other aquatic life forms depend upon for their existence. How will the aquifer be recharged when the water is separated from the land?

The junior water rights will be impacted as well as down stream users.

There is a leasing study which was passed in 1989, why don't we allow enough time for this study to be evaluated and perhaps expanded upon? We should not rewrite 100 years of Montana water law without the documentation on effects to industry, aquifers, economics and future irrigation. Once the water is removed from the land it will be gone forever as I do not see any mechanism which will return it to its original use which is irrigation.

Again I ask you to oppose Senate Bill 212; for the future of agriculture and the future of Montana.

Thank You

William A. Tander

183 Mill Creek Rd.

Sheridan Mont

59749

2-15-91

76

SENATE NATURAL RESOURCES

EXHIBIT NO. 95

DATE 2-15-91

BILL NO. SB 212

To: Erwin Davis

from:

LeRoy Lake

Feb. 15, 1991
Ronan, MT. 59864

: Natural Resources Committee
Re: Senate Bill 212

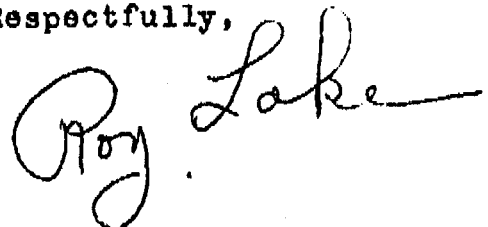
I am a land owner near Ronan, MT. Operating a diversified irrigated family farm in partnership with my son. This farm is a sole source of income for both families. I am very concerned about Senate Bill 212, being introduced before the legislature regarding the leasing of water rights on our streams.

If this should become law it could have a devistating effect on agriculture and industry in our state. Each stream now has water claims that far exceed the amount of water which normally run in the streams. Adjudication should be given a chance to work, before anything of this nature should be considered.

I do not agree with the selling or leasing of water rights. The water right or claim must remain with the area of land and the claimed use. If it is not used, it is available to other water users with water rights, which could be seriously restricted if water rights leasing or purchase were in effect.

If this Bill would be put into law it would in effect rewrite present water law. Senate Bill 212, should be vigorously rejected.

Respectfully,



1134 Old Hwy. 93
Ronan, MT. 59864

676-2178

F. 82

Feb. 15, 1991
Ronan, MT. 59864

To: Natural Resources Committee
Re: Senate Bill 212

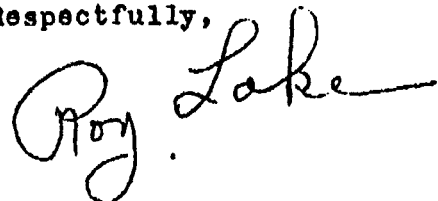
I am a land owner near Ronan, MT. Operating a diversified irrigated family farm in partnership with my son. This farm is a sole source of income for both families. I am very concerned about Senate Bill 212, being introduced before the legislature regarding the leasing of water rights on our streams.

If this should become law it could have a devistating effect on agriculture and industry in our state. Each stream now has water claims that far exceed the amount of water which normally run in the streams. Adjudication should be given a chance to work, before anything of this nature should be considered.

I do not agree with the selling or leasing of water rights. The water right or claim must remain with the area of land and the claimed use. If it is not used, it is available to other water users with water rights, which could be seriously restricted if water rights leasing or purchase were in effect.

If this Bill would be put into law it would in effect rewrite present water law. Senate Bill 212, should be vigorously rejected.

Respectfully,



1134 Old Hwy. 93
Ronan, MT. 59864

676-2178

SENATE NATURAL RESOURCES

EXHIBIT NO. 18

DATE 2-15-91

BILL NO. SD 212

February 15, 1991

To: Senate Natural Resources Committee

RE: Senate Bill 212

The Pageville Canal Company is an association of 19 irrigators. Each member has individual water rights and use a common diversion from the Big Hole River in Madison County, southwest of Twin Bridges. Our water rights are essential to sustaining our individual ranching or farming operations, as well as maintaining habitat for a variety of wildlife.

We are opposed to Senate Bill 212 for the following reasons:

1. Agriculture is the dominant industry in our Ruby Valley as well as the state of Montana. We believe separating the water rights from the land as proposed in S.B. 212 would ultimately have an adverse impact on Madison County's and Montana's economies. The impact on our economies will result from decreased agricultural production, reduced land values, and reduction in tax bases.

2. We do not believe it is in Montana's best interest to put our water up for sale to the highest bidder. In a willing buyer, willing seller scenario, the money available in Montana to purchase water for Montana's interests will be no match for bidders from outside Montana. Once the water is sold to out of state interests, that water will be gone forever for beneficial uses in Montana.

3. Montana's constitution and historical water law require diversion for beneficial uses to be valid claims of water use. S.B. 212 would change our historic water law without any study being done of what impacts there would be on our local and state economies. In addition, we believe it is premature to be contemplating selling or leasing Montana water rights until the water courts have finished adjudicating water rights on Montana's streams.

4. For any changes to be considered in Montana's historic water law, a study should be completed by a blue ribbon task force. The task force should evaluate:

Impact on downstream users and junior water rights

Impact on agriculture

Impact on municipalities

Impact on all other industries

Impact on instream flows

Impact to state and local economies

The following members of Pageville Canal Company urge your committee to recommend against passage of Senate Bill 212.

Respectively Submitted by:



Gary Glem
President-Pageville Canal
Company, on behalf of the
members:

Keith Rash
Mitch Boken
Laurence Glem
Hank Williams, Jr.
Jack Stewart
Dillet Ranches
Lott Brothers
Clara Redfield
Bud Redfield
Gary Glem

Frank Balkovetz
Lee Rampy
Malcolm & Mitchell
Van Davis
Bertha Eblen
William Kalbas
Ed Elford
Duke Novich
Nick Novich

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of Feb, 1991.

Name: Dean Hall

Address: Bullingmont

Telephone Number: 245-3383 - 2596241

Representing whom?

B.B. W.A.

Appearing on which proposal?

Do you: Support?

Amend?

Oppose? X

Comments:

EXHIBIT NO. 100DATE 2-15-91BILL NO. SB 212WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of February, 1991.

Name: Mabeline Taylor - SA Taylor

Address: _____

Telephone Number: 388-6331

Representing whom?

Mammoth Ditch

Appearing on which proposal?

water 212

Do you: Support? _____

Amend? _____

Oppose? X

Comments:

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of Feb, 1991.

Name: George M. Waldner

Address: New Rockport Colony
Rd, Box 131, Choteau, MT. 59422

Telephone Number: 406-466-2112

Representing whom?

New Rockport Colony

Appearing on which proposal?

Bill No 212

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

I am greatly opposed to this bill
I think water rights should be left as
they are now, they are complicated enough.
Montana is an agricultural state, and
farmers need water to grow crops. If
water rights are taken away from farmers
what will Mont. be like then. I really
hope this bill is going to be defeated.

Thank you

George M. Waldner

WITNESS STATEMENT

DATE 2-15-91

To be completed by a person testifying or ~~by~~ person who wants
their testimony entered into the record.

Dated this 15th day of February, 1991.

Name: John WillardAddress: 3119 Country Club CircleBellevue, MT 59102Telephone Number: (406) 259-1966

Representing whom?

Self

Appearing on which proposal?

SB 212Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

Rancher, timber grower

EXHIBIT NO. 103DATE 2-15-91BILL NO. SB 212WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of February, 1991.

Name: Calleen Meyer

Address: 3652 Meyer Lane
Stevensville, MT 59870

Telephone Number: 777-3926

Representing whom?

WIFE, Stockgrowers.

Appearing on which proposal?

SB 212

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

Our great State will be nothing
but Knapweed.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of February, 1991.

Name: Glenn J. Delaney, Jr.

Address: 201 W. Main

Sidney MT 59270

Telephone Number: 482-1708

Representing whom?

Richland County Commissioners

Appearing on which proposal?

SB 212

Do you: Support? Amend? Oppose? X

Comments:

Richland County's agriculture consists of both irrigation and dryland. Sugar beets are raised in the valley and processed by Holly Sugar. If the Factory is unable to process ^{the crops} beet average due to unavoidable winter, can factory would be forced to close - which would be devastating not only to Richland County but to the entire state. In checking with our county treasurer, she advises 1990 loans paid by Holly Sugar to the university systems and the Vocational program amounted to \$127,825. It's not fair to the residents of the state of Montana to enact any legislation having an adverse affect on Montana's largest industry, agriculture. I urge you ~~to~~ to vote "Do Not Pass"

EXHIBIT NO.

105

DATE

2-15-91

BILL NO.

SB 212

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of February, 1991.

Name:

George R. Suran

Address:

100 S. Main Spring Rd.Shelburne, VT. 05774

Telephone Number:

842-5429

Representing whom?

Ruby River Water Users Assoc.

Appearing on which proposal?

Senate Bill 212Do you: Support? ☐Amend? ☐Oppose? ☒

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of February, 1991.

Name: Dale Venhuizen

Address: 1862 Yaden Rd

Manhattan, MT 59741

Telephone Number: 284-6421

Representing whom?

Montana Hereford Assn

Appearing on which proposal?

SB 212

Do you: Support? ☐

Amend? ☐

Oppose? ☒

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

CHURCHILL CATTLE
CO.



Senator Larry Stimat
Chairman, Senate Natural Resources Committee

DALE VENHUIZEN
1862 YADON ROAD
MANHATTAN, MONTANA 59741
(406) 284-6421

Senator Stimat:

In regard to SB 212, I think a few facts are in order concerning how this bill would affect me and my family. We raise Registered Hereford cattle and Registered seed Potatoes in Gallatin County. We have annual gross sales of approximately \$400,000. We have two full time employees and 3 seasonal employees. We purchase nearly all our supplies from local businessmen.

In the past 3 years, I have paid the State of Montana \$21,545 in income taxes and have paid another \$9639 in property taxes to the County Treasurer. All of our income and revenue comes from crops and livestock raised on irrigated land. If we do not have water to irrigate when we need it, our operation would not be able to continue and we would go out of business, two families would be without work, and local businesses would be hurt. Also, I think the State would like another \$21,545 over the next 3 years from me if they could.

Without irrigation water, we absolutely could not raise potatoes and our grazing rate would be reduced 80%.
Keep Montana strong and healthy - vote to table SB 212.

Thank you,

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of February, 1991.

Name: David E. Wissy

Address: Springdale Colony

770 Borky Rd White Sulphur Springs MT 59645

Telephone Number: 406-547-3449

Representing whom?

Springdale Colony 100 people

Appearing on which proposal?

Protect our Water Rights

Do you: Support? Amend? Oppose? ✓

Comments:

We are in drought area
+ we need our water to irrigate so
there food on the table for the public

To the Montana Legislators

Please table S.B. 212 —

In response to S.B. 212 — this
would reduce the tax base +
negatively impact our farm business +
make it virtually impossible to buy
agricultural land that is irrigated in
the future. This would, if the bill
is passed, put us out of business
as we couldn't even make a living.

Half of our farm is on the game
preserve and we do not even have
control of it.

Please, please vote to table this bill.
The water rights on this place are
at least 100 years old or more.

Respectfully Submitted
Theresa Yaden
7210 #1 Ranch Rd
Manhattan, Mt.
59741

Maybe the big picture should be given some consideration. Using the water deployed on the land builds huge underground storage resevoirs called aquifers. With the aquifers full it provides water for trees, brush, and wetlands, which provides habitat for wildlife as well as a living for the irrigator. Also when the aquifers are full the water comes to the surface as springs or percolates through the ground back to the creeks and rivers. This generally happens in the late summer or early fall keeping springs creeks and rivers flowing through the fall and winter.

If the water were allowed to go on down the stream, there would be no recharge from a depleted aquifer. The creeks and rivers would not be dewatered in the summer, but would be in the fall and winter, so nothing would be gained for fisheries. When you divert water from the stream to the land you don't lose it, you only slow it up. With Irrigation we hold water in the state longer than if we let it go right on through. It would seem the people of Montana would be better served, as it is now, with fisheries in irrigation storage resevoirs, which have been planted with millions of fish. These resevoirs alone provide bountiful supplies of fish, which is a direct result of irrigation.

Water usage and water laws are complex and to change the system that has worked well for over 100 years has the potential to adversely effect the state of Montana and the people in it.

Leonard Blixrud
Teton River Water Users Assoc.
Choteau, Montana

SENATE NATURAL RESOURCES

EXHIBIT NO. 3

DATE

2-15-91

BILL NO.

SB 212

TESTIMONY ON S.B. 212
BY CHUCK REIN
MONTANA STOCKGROWERS ASSOCIATION
February 15, 1991

SENATE NATURAL RESOURCES COMMITTEE

MR. CHAIRMAN AND MEMBERS OF THE SENATE NATURAL RESOURCE COMMITTEE, THANK YOU FOR THE OPPORTUNITY TO TESTIFY TODAY IN OPPOSITION TO SENATE BILL 212. MY NAME IS CHUCK REIN. I AM A RANCHER FROM BIG TIMBER AND A MEMBER OF THE BOARD OF DIRECTORS OF THE MONTANA STOCKGROWERS ASSOCIATION. I AM TESTIFYING TODAY ON BEHALF OF MY RANCH, MY WATER RIGHTS, THE MONTANA STOCKGROWERS ASSOCIATION, THE MONTANA WOOL GROWERS ASSOCIATION AND THE MONTANA CATTLEWOMEN.

WE ARE ADAMANTLY OPPOSED TO SENATE BILL 212 AND FEEL THAT SEPARATING WATER FROM THE LAND AND SELLING MONTANA'S WATER RIGHTS FOR INSTREAM FLOW WILL RESULT IN ECONOMIC AND SOCIAL DEVASTATION TO THE AGRICULTURE INDUSTRY IN THIS STATE. IN A WILLING BUYER - WILLING SELLER SCENARIO, THE BUYER IS LIKELY TO HAVE OUT-OF-STATE INTERESTS IN MIND. FOR EXAMPLE, A LOWER MISSISSIPPI RIVER INDUSTRY OR THE CITY OF LOS ANGELES WOULD BE INCLINED TO PAY BIG MONEY FOR MONTANA'S WATER. WE CANNOT PREDICT THE SALE PRICE OF A WATER RIGHT. IT COULD BE SEVERAL THOUSAND DOLLARS OR SEVERAL MILLION DOLLARS. THE DOLLAR VALUE OF WATER CANNOT BE DETERMINED UNTIL IT IS SUBJECTED TO A "HIGHEST BIDDER" SCENARIO. THE POSSIBILITY OF THE NEXT GENERATION PURCHASING A WATER RIGHT ONCE IT HAS BEEN SOLD TO AN OUT-OF-STATE INTEREST IS VERY SMALL. SENATE BILL 212 COULD FOREVER FINANCIALLY PROHIBIT USE OF SUCH

WATER FOR AGRICULTURE IN MONTANA.

WE DO NOT OPPOSE THIS BILL BECAUSE WE LIKE DRY STREAM BEDS. ON THE CONTRARY, DRY STREAMS LESSEN THE ECONOMIC AND SOCIAL VALUE OF THE LAND. FURTHER, WE ARE ALL FRUSTRATED BY THE LAST 10 YEARS OF ALMOST CONTINUOUS DROUGHT. DRASTIC, LONG-TERM POLICY SHOULD NOT BE ADOPTED IN REACTION TO A NATURALLY OCCURRING, ECONOMICALLY THREATENING, YET TEMPORARY SITUATION. HOWEVER, WE DO NEED TO ANTICIPATE THESE ADVERSE SITUATIONS AND BE PREPARED TO DEAL WITH THEM THROUGH A RATIONAL, LOGICAL REMEDY. THAT IS WHY THE MONTANA STOCKGROWERS ASSOCIATION SUPPORTS THE CURRENT WATER LEASING STUDY LAW, THE FORMATION OF A DROUGHT ADVISORY COMMITTEE, AND IS SUPPORTING A BILL PENDING IN THIS LEGISLATURE TO EXPAND AND EXTEND THE DATE OF THAT STUDY.

THE PROPONENTS OF THIS BILL ARE GRASPING FOR QUICK-FIX SOLUTIONS TO THE DILEMMA OF DRY STREAMS, AND IN THE PROCESS DISREGARD MORE THAN 100 YEARS OF ACCUMULATED WATER LAWS. IRONICALLY, TYING THE WATER TO THE LAND IS ONE OF THE INTRICACIES THAT IS PART OF THE SOLUTION. BEFORE IRRIGATION, STREAMS THAT WENT DRY IN THE LATE SUMMER, NOW RUN YEAR AROUND. WHY? BECAUSE IRRIGATING CREATES A HUGE UNDERGROUND RESERVOIR, OR AQUIFER, THAT SLOWLY BUT CONTINUOUSLY RECHARGES SPRINGS AND STREAMS. IN A DROUGHT CONDITION, LESS WATER IS AVAILABLE TO SPREAD ON THE LAND, THUS LESS WATER WILL RETURN TO THE STREAM VIA UNDERGROUND CHANNELS. DRY STREAMS ARE CAUSED BY LACK OF WATER, NOT BY IRRIGATION, AND INSTREAM FLOW WON'T MANUFACTURE MORE WATER.

IN ADDITION TO THE NATURAL UNDERGROUND STORAGE WE HAVE ALREADY ESTABLISHED, WE NEED TO BEGIN TO DEVELOP A SYSTEM OF OFF

STREAM STORAGE. IN DRAINAGES WHERE DRY STREAM BEDS ARE AN ANNUAL PROBLEM, ONE SOLUTION MAY BE TO DIVERT WATER TO A NON-RIPARIAN AREA, STORE IT DURING THE HIGH SPRING FLOW, AND RELEASE THIS STORED WATER WHEN NEEDED TO MAINTAIN A MINIMUM FLOW OF WATER IN THE STREAM. IF WE DON'T STORE SOME OF OUR MAXIMUM FLOWS TO AUGMENT OUR MINIMUM FLOWS WE MAY FIND THAT DOWNSTREAM INTERESTS HAVE LAID CLAIM TO MONTANA'S MOST VALUABLE RESOURCE...OUR WATER.

THE DESERT LAND ACT OF 1877 FIRST STATED THAT IN THE ARID WEST REGION, THE VALUE IN WATER AND LAND WERE INHERENT. THIS CONCEPT WAS NEVER CONSIDERED IN THE HUMID EAST WHERE RAINFALL AND THUS WATER WERE ABUNDANT. IN OTHER WORDS, IN THE ARID WEST, THE VALUE OF THE LAND WOULD BE DIMINISHED -- IF NOT WORTHLESS -- WITHOUT IRRIGATION WATER. SHORTLY AFTER THE DESERT ACT, CAME A "REPORT ON THE LANDS OF THE ARID REGION OF THE UNITED STATES", AUTHORED BY JOHN WESLEY POWELL. PART OF MAJOR POWELL'S REPORT STATED THAT "THE RIGHT TO THE WATER SHALL INHERE IN THE LAND, AND IN CONVEYANCES SHALL PASS WITH THE TITLE OF THE LAND". THIS STATEMENT IS AS TRUE TODAY AS IT WAS THEN AND WE SHOULD NEVER LOSE SIGHT OF IT.

SENATE BILL 212 PROVIDES AN AVENUE BY WHICH WATER MAY BE SEPARATED FROM THE LAND AND, IN EFFECT, CONTROLLED BY THE HIGHEST BIDDER. WHAT WILL THIS STATE DO WHEN WE NO LONGER OWN THE WATER THAT FLOWS WITHIN OUR BORDERS. OUR FOREFATHERS SAW THE DANGER IN THIS AND THE POSSIBLE WATER MONOPOLIES THAT WOULD RESULT, AND I PRESUME THAT THIS BODY ALSO HAS THE WISDOM TO SEE THAT THREAT.

AGAIN, MR. CHAIRMAN, THANK YOU FOR THIS OPPORTUNITY TO TESTIFY TODAY. THE MONTANA STOCKGROWERS RESPECTFULLY URGES THIS

COMMITTEE TO CAREFULLY WEIGH THE DEVASTATING NATURE OF THIS
LEGISLATION AND VOTE TO KEEP THIS BILL "TABLED" IN COMMITTEE.

E. GARDNER BROWNLEE

FAIRINGS FARM

17474 Highway 93 South • Florence, Montana 59833
(406) 273-0241

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 2-15-91
BILL NO. SB 212

SENATE BILL No. 212

Hearing Feb 15, 1991

Name. E. Gardner Brownlee

Experience with water problems.

1940-1959 Attorney and County Attorney dealing with all aspects of water rights.
1959-1979 District Judge, Fourth Judicial District dealing with same problems.
1979-Date Retired District Judge called by the Supreme Court to handle all matters in the 4th Judicial District involving decreed water and water commissioners.

Comments on proposed legislation.

I am sure we all agree that there is not one drop of water in the State of Montana during low water periods that is not covered by some water right or appropriation.

Therefore we must examine this Bill with that in mind. If we do that it is clear that the real purpose of this Bill is to provide a means whereby water can easily be taken from the land and as the title says put to instream or other uses. So unless the real purpose is to take away Decreed Rights the Bill is unnecessary.

Why? Because our present law is adequate. My experience with water convinces me of that and during my 30 years on the Bench I have participated in many situations involving "instream" use of water and transportation of water.

Examples:

FISHING: I hear this is one of the main reasons for promoting this Bill. At the present time the Dept. of Fish and Game owns a great quantity of water in Painted Rocks lake for the sole purpose of providing an adequate flow of water in the Bitterroot River. There is no problem whatever keeping and using this water for that purpose. This lease or purchase of water was done only a few years ago. Prior to that my water commissioner on the river and I, during one extremely low water year, worked out a deal with the irrigators and kept an adequate flow of water in the river. No new law is needed for instream use of water.

STORAGE LAKES: There are many storage lakes in the State of Montana. We have over a dozen in the Bitterroot Valley. The water in those lakes belongs to somebody and is not part of the Decreed Water in the stream. Montana Law provides that the owners of that water have the right to use the stream (instream use) for the purpose of transporting that water to the place of use.

INSTREAM PONDS: Another instream use of water. Ponds are constructed in or near a stream for various purposes mostly fish or just something nice to look at. Under the present law many are being constructed with permits from the D.N.R.C. The only water used to keep the pond full is Decreed Water that belongs to some other person. It is used to keep the pond full but all of the natural flow in the stream is permitted to go downstream and is not consumed.

HYDROELECTRIC PLANTS: Another instream use of water is the operation of such plants. Again decreed water is used but not consumed. We have one such plant in the Bitterroot.

I am sure other "instream use" of water is being made at the present time. My experience in this regard is not that such use is not permitted as a beneficial use but the problem presented to the Court and the Water Commissioner is how to figure out how it can be done. Transportation of water in a stream bed results in loss of water by seepage and evaporation. Our problem is apportioning the loss between Decreed Water users and Instream Water users. This Bill will not help in any way to solve that problem.

That leads me to another great objection to this Bill. It can be likened to the opening of Pandora's Box. In the title is says "authorize transfer by sale or lease of existing water rights" then it also says "without injury to other water users". In my opinion, based on experience, that means you can but you can't.

Just the type of language that makes lawyers smile with glee, and causes sleepless nights for any Judge. I have had situations where stopping the flow of even a few inches of water in some irrigation ditch caused many of the wells in the neighborhood to go dry. In fact I have never had a situation where someone did not show some damage from the change of some part of the irrigation system. Often it takes a long period of time to really determine the amount and type of loss. I believe that the words "without injury to other users" in effect makes this Bill meaningless and it should not pass and clutter our books.

What I fear most about this Bill is that those who can least afford it will be required to suffer injury without any recourse. For example.

For one thing it will breed lawsuits. It will provide the opportunity for someone with lots of money to hire lawyers and expert witnesses to go after some other person with a Decreed Right. That other person may well find that the financial burden of defending the action so enormous as to give in and allow the big money to win by default.

Another possibility. Some Big Spender will buy land with a good water right and then transfer that water to something he calls "instream use". He can then sell the land, take a big tax loss as well as a credit for a big donation and then pat himself on the back for something he calls "preserving nature".

What about injury to the tax base. Removing valuable land from the tax base of some school district and substituting unirrigated land with little value can be certain injury to that school district.

Finally may I speak as a Judge who must from time to time look to the intent of the legislature when I try to determine the meaning of a statute. Here I see a Bill that constantly says "except for instream use". It might well mean that for that purpose all restrictions are out. I am sure the proponents of the Bill want the right to obtain Decreed Water without any problems and if this Bill passes it might well appear the legislature has the same intent.

I am convinced it is much better to retain the present law. Now a transfer of water can be accomplished for a Beneficial use, even for "instream use" PROVIDING no injury results to other water users. Actually I can't see how this Bill changes that law unless IT IS THE INTENT OF THE LEGISLATURE TO TAKE AWAY DECREEED WATER RIGHTS and keep water away from landowners and in the streams.

This Bill should be killed.

SENATE NATURAL RESOURCES
EXHIBIT NO. 16
DATE 2-15-91
BILL NO. SB 212

Senate Natural Resources Committee
Senators Ladies and Gentlemen,

I am very strongly opposed to State Senate Bill 212.

This bill would rewrite 100 years of Montana water law, with no study to determine impact on aquifers, down-stream users, junior water right holders, and the agricultural industry as a whole.

The bill also disregards and fails to acknowledge the existence of a water-lease study approved by the 1989 legislature.

S.B. 212 rejects any benefit of a study, Before a permanent water leasing or sale program is even considered, the 1989 study must be continued, and possibly modified, to provide more meaningful information.

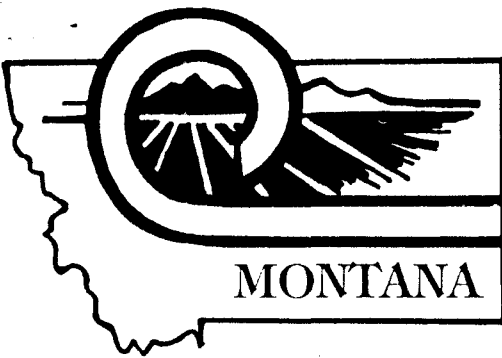


Donald A. Berg P.O. Box H Martinsdale, Montana 59053

Chairman of Montana Stockgrowers Association Water Committee

President of the Upper Musselshell Water Users Association

Irrigator of cropland and grazingland.



SENATE NATURAL RESOURCES

EXHIBIT NO. 12

DATE 2-15-91

BILL NO. SB 212

MONTANA

Association of Conservation Districts

501 North Sanders
Helena, MT 59601

(406) 443-5711

Senate Natural Resource Committee

RE: SB212

The Montana Association of Conservation Districts (MACD) opposes the passage of SB212 and asks you to ~~kill~~ ^{table} this bill.

There are two major reasons this bill should be ~~killed~~ ^{tabled}! First, the establishment of instream flow legislation based primarily on leasing should await the conclusion of the leasing study undertaken in 1989. There are too many unanswered questions about the impacts of leasing that must be investigated before permanent legislation is adopted.

The Second reason MACD opposes SB212 is that the bill will create chaos in water development issues, if adopted. MACD policy supports the concept of water leasing for instream flow based on certain conditions.

First: the rights of other appropriations are not adversely affected;

Second: the amount of water leased is only that which would have been used by a growing crop;

and finally, that the entity leasing the water will be the Montana Department of Fish, Wildlife and Parks.

Instream water rights should primarily be of benefit to the general public, not just one specific interest. It should be government agencies function to obtain instream rights under the existing law and/or further leasing legislation that may eventually be adopted.

To allow individuals *** [have to consider this law is not restricted to individuals, but to anyone who wishes to file for a permit] to hold these type of rights will clutter water right proceedings to the point that any change in use or future developments for existing water right holders will be virtually impossible.

Conservation districts are opposed to SB212 because of the effects it will have on our water reservations and our ability to place the water to use. If there are an infinite number of possible objectors, many who have no economic investment in their right, it will extremely difficult and expensive to develop Conservation Districts reserved water.

We also believe that water storage is the answer to much of the water shortage problems in Montana. By allowing anyone to obtain instream rights, and thus standing in water proceedings, it will be impossible to store water, and to construct needed storage facilities in Montana.

One of the functions of Conservation Districts is to promote wise use of natural resources while maintaining the local economic base. Much of Montana's economy is, and always will be dependent upon agriculture.

Agriculture in turn is heavily dependent upon irrigation to maintain its viability. If individuals [*** refer to above] are allowed to purchase or lease water rights and hold the water instream the economic base of many areas will be severely damaged. Again, leasing for instream purposes should be a function of government as it is better able to balance the competing needs of all concerned.

We are also greatly concerned that some of the provisions of SB212 allow instream rights applicants to circumvent permitting procedures other applicants must adhere to. A major concern is the immediate implementation clause in this bill. At the present time, Conservation Districts, as well as other government entities, are involved in the water reservation process on the Clark Fork, Upper Missouri and Lower Missouri. Establishing reservations in these areas has been expensive and time consuming.

Allowing individuals [***] to establish water rights under a more lenient process should not be allowed.

The bill should not exempt instream applicants from the 4000 acre foot and 5cfs caps which require more stringent scrutiny before permits are issued.

The bill also appears to remove the burden of proof from the applicant that his right will not adversely affect prior rights. Any new appropriation must bear the proof that prior uses will not be harmed .

Finally, the bill appears to allow individuals to establish [request?] water rights in irrigation ditches and wetland areas all of which may be private property not owned by the applicant and not open to public use.

Montana Association of Conservation Districts thanks you for the opportunity to address this matter. Again we ask you to vote ~~against~~ *To Table* SB212.

We believe the negative impacts of the bill far out weigh any possible benefits its adoption might provide.

EXHIBIT NO. 12DATE 2-15-91BILL NO. SB 212WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of Feb, 1991.

Name: Robert R Story Jr

Address: BRI Park City MT
59063

Telephone Number: 633-2746

Representing whom?

Montana Association of Conservation Districts

Appearing on which proposal?

SB 212

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

Comments on Senate Bill #212 submitted by Big Hole Ranchers' Association

The concept of transfer of property right -- Water use, by out right sale or lease, in theory, is in step with agriculture's basic belief in the proposition that a person should be able to dispose of his property as he chooses subject to certain limited constraints. Implicit in the privilege of private ownership is the obligation not to use your property to the detriment of other parties. This balancing of this interest is the basis for our system of laws. The lack of balancing of the interest of other water users is the issue that needs to be addressed by the committee and the senate.

The bill as drafted appear to open Pandora's Box. the 1981 Attorney Welfare Act (refiling water rights) would pale by comparison to the potential for litigation contained in this bill. Of concern to the Big Hole Ranchers' Association is the following:

1. How will the sale or lease be monitored in light of other users. For example: If "A" sale 100 miners inch to "B" how far does the 100 inch go downstream? 30 ft, or 3 miles? Will it vary according to time of day; month, year? How should evaporation and ditch loss be accounted for? Who will pay the fees for the person monitoring this process? Because of the complexity involved for monitoring such a system, it may require specialized personnel that would increase the cost to all concerned. Should the party leasing the water or all the water users pay for this increase in cost?

The bill needs to address how the measurement is to be made; by whom, when; what criteria to review and how the costs will be covered.

2. The term "public health" needs to be defined. Along this line of thought, the bill needs to address who or what agency determines "public health" and the elements that the reviewing party must address in making that determination must be spelled out.

3. The bill needs to address the potential problems of acquiring a right for "public health" in light of other common law and statutory law. For example, if water is acquired for "public health" then does this establish a priority over other uses? Can the general public bring an action to abate a "public nuisance". If the "public

health" is in issue could the state condemn water rights for "public health" concerns? Water quality is implicit in the phrase "public health". If water quality is in issue, can this create a "public health" concern sufficient for standing to bring an action to abate the "nuisance"?

4. The bill exempts a party from the criteria imposed upon other users when changing use or point of diversion. (see 85-2-311, M. C. A.) It would seem that the same concerns for any type of change of use or diversion should apply uniformly. The effect on prior appropriator should be addressed. The effect on return flow later in the season should be of concern. To the department in reviewing instream use.

5. Do other users have any liability for a change in water level i. e. a freeze that shortens water supply for a few days? Unless there is a 24 hour a day ditch rider/Hydrologist to monitor the various diversions, this potential exists.

6. What effect does this bill have on existing stream access legislation? Does it broaden the right of the public because they now "own" or "lease" water?

7. How do you transfer water back from "instream" use to agriculture. Can you even return to prior use? If so, do you have to go through the application process for change in place or type of use? What criteria are to be reviewed?

8. There should be a provision for award of attorney's fees and damages incurred by users if "nuisance" suits are filed. Private owners cannot afford to constantly litigate restraining orders or civil suits when the intent of the action is merely to stall for time or harass the individual owner.

9. 85-2-401 M. C. A., -- This amendment for instream use would seem to imply that an instream use with an early priority date could prevent later priority appropriators. In their attempt to obtain water i.e. the instream user could prevent the later appropriator from entering a stream to obtain his right. It appears that the intent of this provision is to restrict later appropriators from using, for example, dams etc. in the application of their right, then and in that event, this amendment should be removed from the bill.

10. 85-2-403, M. C. A. -- The exception contained in this paragraph is confusing. If I lease water for 5 years and then sell the real property --- who owns the right after the 5 year period? Do I still own the right? Does it revert to the

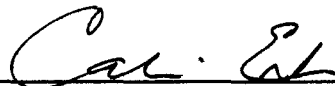
present owner of the real property? If so, can he use it for irrigation? The bill needs to address these issues.

11. When a person sells or leases water for instream use does he sell only the portion actually consumed by him in his present application? This would mean that if I sell a 500 inch right but have historically only consumed 200 inches; the other 300 returning to the stream, later appropriators could use 300 inches and only have to allow 200 inches to go down the stream? If you force later appropriators to allow the full 500 inches to go by then it would seem unfair and actually be expanding the present burden/or use of the water!

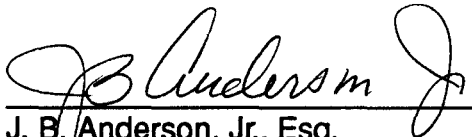
12. Can the stated use of instream right be charged without further review. For example: "A" obtains water for instream flow for recreation; could "A" a year from now sell this water right to another that may use the water differently? Could "A" charge people to "float" on his water? Could he sell it to a municipality? What limits are going to be placed on the potential charge of instream use?

In summary, this particular bill should be defeated because it does not address the concerns of all the parties that are or may be affected. It does not balance the needs of all parties nor does it establish any criteria that must be reviewed in the change of use or in determining if "public health" is a concern. In short, this bill will be the greatest moneymaker for lawyers since the 1981 attorney welfare act.

Respectfully submitted,



Calvin J. Erb, Esq.
134 East Reeder
Dillon, Montana 59725



J. B. Anderson, Jr., Esq.
112 South Washington
Dillon, MT 59725

Attorneys for Big Hole Ranchers' Association



The Big Sky Country

SENATE NATURAL RESOURCES

EXHIBIT NO. 8

DATE 2-15-91

BILL NO. SB 212

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE STEVE BENEDICT

HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620

HOME ADDRESS:
P.O. BOX 668
HAMILTON, MONTANA 59840

COMMITTEES:
BUSINESS & ECONOMIC DEVELOPMENT
EDUCATION
LABOR

SB 212

Testimony of:
Representative Steve Benedict
House District 64

February 15, 1991

Mr. Chairman and Members of the Committee:

For the record, my name is Steve Benedict and I represent House District 64, South of Hamilton.

I appear before you today, to rise in strong opposition to Senate Bill 212. Terms like "in-stream flow", "prior appropriation" and "water sale or leasing" are abstract concepts...they don't bring into clear focus, a mental picture of what this bill does...so let me bring it down to simple terms....IT'S ONE OF THE FIRST STEPS IN KILLING THE FAMILY FARM OR RANCH IN MONTANA! Don't be misled by the proponents...this bill separates water rights from the land. This is a huge geographical state, and a large part of it is family farms and ranches... they are the stewards of our land. Food doesn't come from grocery stores, it comes from our farms and ranches. The first step in crippling our number one state industry is this bill. Ask yourself this question, members of the committee, do

DATE 2-15-91

DATE 2
COMMITTEE ON Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Brian Kansen	self	212		X
Jack Lingenfelter	L-H Ranch/self	212		X
Becky Dunsenore	self			X
Harold P. Winters	self	212		X
Michael Rafferty	self	212		X
No Co.	Self	212		x
Randy Johnson	SELF	212		X
Terry A. Moring	"	212		X
Dan McIntyre	"	212		X
Russ MacIntyre	"	212		X
Sharon Th. Britton	"	212		X
Karl Nelson	self	212		X
James Dunsenore	"	212		X
Bill Victor	FUNT CREEK water users	212		X
Syd Grosfield	self	212		X
Samuel T. McLawson	self	212		X
E. Spencer Smith	self	212		X

(Please leave prepared statement with Secretary)

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
James W. Raw	SA/F.	212		X
Ron E. Skinner	Skinner Ranch	SB 212		X
Leverly A. Skinner	Skinner Ranch	SB 212		X
J.B. Hendrix	Self	SB 212		X
Keith Ropston	Self	SB 212		X
Dan Rallo	Self	212	X	
W. H. Williams	Self	212		X
Joe Guitkaski	Gallatin Wildlife Assoc.	212	X	
Alfred B. Brier	Bozeman	212		X
Clara T. Blankensma	Bozeman	212		X
James W. McDermid	Medicine River Canoe Club	SB 212	X	
Dianne McDermid	self	SB 212	X	
Rene D. Boylston	Self	SB 212	X	
Bill Gaff	Victa Mt Self	212		X
Robert B. Baker	Stevensville	212		X
Maureen C. Ellis	Red Lodge	212		X
Betty Burnett	Luther	212		X
Willard J. Hahn Sr.	Manhattan	212		X
Corrie L. Hahn	Manhattan	212		X
John M. Boylston	Whitehall	212	X	
Tat Boylston	Whitehall	212	X	
David MacKay	Wula	212		X
Robert F. Heidecker	Bozeman	212		X
Carol L. Heidecker	Bozeman	212		X
George L. Eke	Hamilton	212		X
Quane Quasintance	Hamilton	212		X

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Rose Holmstrom	W. Idaho Supplymen Assoc	SB 212		X
Mr & Mrs Jay Nelson	self	212		X
Narcia R. Luthje		212		X
Debbie Litzner	self	212		X
Lyons, Pegadichuk	Richman Co. Commissioner	212		X
R. K. Saunders	Willow Creek Ranch	212		X
Kathleen Hadley	Montana Wildlife Federation	212	X	
Robert Story	Montana Assoc. Cons. Dist	212		X
Dill Barber	Vigilante Club Self	-		X
M. J. Latt Jr	Self	212		X
Ed Lueck	Ruby River	212		X
H. L. Sauerbier	" "	212		X
Valerie Horton	NAWT	212	✓	
Sherwin Luep	Self	212		X
David R. Johnson	Self	212	✓	X
Gregg R. Swann	Ruby River Water Users	212		X
Mark Skutumpah	Self	212		X
Connel. Saunders	Willow Creek Ranch	212		X
Paul Simon	Simon Seed Potatoes	212		X
John Venhuser	3910 Churchill Rd Markham	212		X
Tommy Lutzke	Philipsburg	212		X
John Sauer & Rose	Mont. F. Bureau	212		X
Pat Powers	Roosevelt Co. Cons. Dist	212		X
Donna G. Hittner	McCone	212		X
Robert D. Nelson	Madison	212		X
Thomas J. Nelson	Madison	212		X

2-15-91

DATE 2-15-91
Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Heather J. Muigley		212		X
Shirley A. Tucker	Grassroots for Multiple Use	212		X
Emily Swanson	Patagonia	SB212	X	
Gary South	MT Water Users Ass	SB212		X
Patricia Carey	John Carey Ranch	SB212		X
Donald W. Cheares	Cheares Ranch & Biological	SB212		X
Don A. M. Quary	Myself - Ranches	SB212		X
Bill Murphy	Self	SB212		X
David Zeehnke	Zeehnke & Sons & Mtn Spud	SB212		X
Franklin Grosfield	Self	SB212		X
Gary J. Graves	Self	SB212		X
Dylan Berg	Self	SB212		X
Joe Anderson	Ranch	212		X
Peter Anderson - Rancher	Park County Leg. Assoc.	SB212		X

(Please leave prepared statement with Secretary)

COMMITTEE ON

DATE

2-15-91

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Marlene Boggio	Boggio Ranch, Snake River	212		X
Pam Ellen McLowan	Self, Mt. - Water User	212		X
Tom McLowan	Water User	212		X
Jeff Johnson	Self	212		X
Robert & Higgins	Higgins Bros. Ranch	212		X
John Elmer	Self	212		X
Harold J. Johnson	R. P. R.	212		X
Lanni Shipton Johnson	"	212		X
George Lee	Trapper Creek Ranch, Moe	212		X
Monty Glenow	RCD Big Hole Ranches Water Resources ASS	212		X
David Smith	Gallatin Co.	212		X
Uel Rosella	Self	212		X
Dan Tucker	J. M. U.	212		X
John A. Taylor	G. M. U.	212		X
James Ruark	J. M. U.	212		X
Lorraine Gillies	1500 Rock Creek Rd P-hubpsing	212		X
Janet Ellis	MT Audubon	212	X	
Dan Hauptman	Granite Co.	212		X
Janet Hauptman	Granite Co. Rancher	212		X
Sam V. Dism	Yellowstone Co. Rancher			X
M. Götter	Self - Ranch	212		X
Robert Simpson	SELF RANCHER	212		X
Jody L. Anderson	Self - Ranch	212		X
Al. Belquist	Mountain State League	212		X
John W. P. [unclear]	Panama Ranch	212		X

(Please leave prepared statement with Secretary)

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
William A. Stender	Rancher Co-alition	212		✓
Russell Schultz	Ranching	212		✓
Jay Banosky	Raily Ring Water User	212		✓
W.H. Rohlfs	Ranching	212		✓
John McDonald	Rancher	212		✓
John Cunnley	Rancher	212		✓
Rich Day	Self	212	✓	
Dwain Hall	B.B.W.A.	212		✓
Joe McEwen	Rancher	212		✓
Edna Wright	Belgrade	212		✓
Polly Wright	Belgrade	212		✓
Jan Chandler	Hamilton	212		✓
Donald E. Jones	Belgrade	212		✓
Charlita R. Jones	"	212		✓
Jim C. Ziegler	Sunset Ranch - Avon	212		✓
Ron Arthur	Rancher - Wilsall	212		✓
Ruf J. Arthur	Rancher Wilsall	212		✓
Terri Higgins	Terri Higgins	212		✓
Helen Barber	Helen Barber	212		✓
Taylor Brown	Northam Og Network	212		✓
Joe Barrett	Rancher	212		✓
John F. Bannan	" "	212		✓
Delbert R. Carter	Rancher	212		✓
Cliff Cox	Rancher BCPB	212		✓
Lail Kuntz	Rancher	212		✓
Beneé Shaffner	Rancher	212		✓

COMMITTEE ON

DATE

2-13-91

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Milly + Bill Hodge -	Corvallis Grange 18-170	212		✓
William Penaker	2022 O.D.R. Hamilton	212		✓
Dean Dubois	6C Cattle Co	212		✓
Harry Stander	6C Cattle Co.	212		✓
Ernest L. Cooper	Self.	212		✓
David Moss	Beaverhead County	212		✓
Ted Beck	Race Track Creek	212		✓
Rick Hersh	Race Track Creek	212		✓
Harry B. B. B.	Hamilton	212		✓
Edlyn O'Hair	Back Branch Canal	212		✓
Gerry O'Hair	O'Hair Ranch Co	212		✓
Ron Ostberg	Farm + Ranch	212		✓
ROBERT MANUEL	FARM + RANCH	212		✓
JERRY NYREN	GREENFIELDS IRRIGATION DIST	212		✓
Nick Komer	Greenfield Irrigation Dist	212		✓
Don Jenkins	Soldier's Mountain	212		✓
Howard Bruce	Miner's	212		✓
CHRIS HUKWITZ - WSS	RANCH - SELF	212		✓
Marilynn Frost	Corvallis	212		
et. J. J. J.	St. James			
David S. Langeman	Granite Co			✓
Mary W. Jensen	Rancher, Hall	212		✓
Carrie Verbanic	Whitman	212		✓
RAT VERBANIC	BRIDGEMOND	212		✓
Bro. Smith	Melrose	212		✓
David J. Berger	Durley	212		✓

(Please leave prepared statement with Secretary)

2-15-9

Natural Resources

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Delo Carpenter	Self	212		✓
Dane McFlane	Mont Farm Bureau	212		✓
Bert Huthrie	Self	212		✓
Andy Kleinsasser	Miller Colony	212		✓
Janet Endecott	Gaggin Herfords	212		✓
Bonnie Tolton	People for the West	212		✓
Jim Patti Hansen	Self			✓
Fennis Palmer	Self	212		✓
Charlotta Edwards	Order of W. March	212		✓
Jim O'Growley	Self	212		✓
Dane Beck	Self	212		✓
Bernie Smith	Grate Dist 32	212		✓
Francis Fehrer	San Dist 16	212		✓
Mark C. Kelly	West Side Dist 6 Deer Lake	212		✓
Bob Bugni	PRICKLY PEAR SPONSOR	212	X	
Jim Kehr	Yelena	212	X	
Chene M. Anderson	Chateau	212		✓
Margaret M. Guthrie	Chateau	212		✓
Lee Hyslop	Gallatin	212		✓
Leslie Kinnon	Gallatin	212		✓
John Danna	Gallatin	212		✓
Henry Ostle	Byrum	212		✓

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Natural Resources

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

COMMITTEE ON

DATE

2-15-91

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Don Birmingham	Fishy Bar. Administrative Ranch	212		X
Big Hillier Spring	Belgrade			X
Ric Brown	RAVALLI County, Electric			X
Andy Kleinsasser	Miller Colony			✓
Gordon McOmble	Rushfield			✓
Gerry Peterson	Philipsburg MT			✓
Phat E Willem	Harlowton, MT			✓
Phyllis Willows	" "			
Wade Fredenberg	Bozeman, MT		X	
George Wood	Sheridan, MT			X
Donald R. Beck	Larrison, MD	212		X
Don Brackman	MT		✓	
Tony Schooner	Myself - Skyline	CB 212	✓	
Franc Taylor Smith	Lewis & Clark	212		X
Harry Thomas	Frontier Sportsman		✓	
Bill Holdorf	Butte Skyline Sports	212	✓	
Moulan Beck	Deer Lodge			✓
John C. Anderson	MT Ass. Cons. Dist.	212		✓
Amille J. Summers	Shawmut Mt. Self	212		X
Phil Smith	Melrose	212	✓	
Tack Van Cheve	Dude Ranchers Assn	212	✓	X
Bill Endy	Skyline Sportsman			
W. J. Mortenson	Nelva, MT. self	212		X
Gwen Veltkamp	Lee Veltkamp farm	212		X

(Please leave prepared statement with Secretary)

SENATE NATURAL RESOURCES

TO: CHAIRMAN, NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 2DATE 2-15-91

PETITION AGAINST SB 212 INSTREAM FLOW ACT OF 1991

BILL NO. SB 212

WHEREAS, Senate Bill 212 proposed by The Montana Wildlife Federation and introduced by Senator Bianchi from Bozeman would authorize any person to appropriate water for instream use by sale or lease of existing water rights to any person, and

WHEREAS, The bill also authorizes sale or lease of instream water rights to other uses and integrates instream use rights to Montana's prior appropriation system essentially destroying the historical bond between water and the land,

WE THE UNDERSIGNED ARE UNCOMPROMISINGLY OPPOSED TO SENATE BILL 212 AND ITS INTENT.

NameAddressShelma ApellBox 85 Whitehall Mt. 59759Florence Ayer44 Kaunty Rd Whitehall, MT.Julia DoreenRt 1 Box 1114 " "Greg Smith289 McKOWN LN CARDWELLMike Francis223 Francis LaneJames Reed Sr709 N. Main WhitehallGray Jean (Booker)Box 174 WhitehallTimothy ReedDon Smith307 Winkler Rd WhitehallJohn DoreenPO BOX 447 WhitehallWilliam DoreenWhitehall MTShelly DoreenWhitehall, MT.Joe Doreen159 Yellowstone, Whitehall MontRosemary Doreen428 Hwy 55 Whitehall, MTC R Black36-5th lane Whitehall MT

TO: CHAIRMAN, NATURAL RESOURCES COMMITTEE

PETITION AGAINST SB 212 INSTREAM FLOW ACT OF 1991

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WE THE UNDERSIGNED ARE UNCOMPROMISINGLY OPPOSED TO SENATE BILL 212 AND ITS INTENT.

<u>Name</u>	<u>Address</u>
Chad J. Armstrong	Cardwell Mt. 59721
Jerry A. Rawan	57 Cemetery Hill Rd
Howard H. Jones	265 Hwy 359 CARDWELL MT.
William Ray Powell	60 Hodges Lane Cardwell MT
2be Hifstraf	118 Cemetery Hill Rd Cardwell, Mt. 59721
Shirley H. Bishop	229 So Bo Rd Cardwell Mt
John B. Armstrong	229 So Boulder Rd Cardwell Mt
Charles M. Armstrong	203 Armstrong Lane Cardwell Mt
Jane Carmody	203 Armstrong Lane Cardwell, 2100 St.
Linda Klaus	5 Armstrong Rd Cardwell Mt.
Kenneth W. Klaus	254 Hwy 359 Cardwell, Mt.
Juanita Armstrong	254 Hwy 359 Cardwell, Mt.
Forest Armstrong	246 Hwy 359 Cardwell, Mt.
Elmer H. Breckheim	946 Hwy 359 Cardwell MT.
Fry E. Armstrong	905 Hwy 359 Cardwell Mt.
Douglas L. Shaw	57 Cemetery Hill Rd. Cardwell, Mt. 59721
	184 Hwy 359 Cardwell 59721

11 February 1991

The Honorable Senator Larry Stimatz
Montana State Capitol Building
Helena, Montana

Dear Senator Stimatz,

The below listed property owners of Hamilton, Montana strongly oppose Senate Bill 212. Irrigation is essential to agriculture use in the Bitterroot Valley Area because the normal annual rainfall does not provide sufficient water for cultivated crops and pasture lands. No individual owns water, all the individual owns is the right to use the water and the right to have water in his or her possession. Thus, Senate Bill 212 would deny the citizens of this State sufficient water for agriculture use and adequate water to recharge the aquifer. Further, the passage of this Bill would greatly reduce the value of property and devalue the tax base in the State. The adjudicated water shall remain with the land and shall not be sold or leased.

(Name)	(Address)	Irrigation Dist
1. Ron L. Lambert	248 Richards Rd Hamilton	CANYON CR.
2. Betty R Cleveland	248 Richards	Canyon Creek
3. Robert W. Wadd	231 RICKETTS	CANYON CREEK
4. Donald T. Blodgett	196 RICKETTS	Canyon Creek
5. Vernifred W. Blodgett	196 RICKETTS	Canyon Creek
6. Doris Luyer	275 Heren	Blodgett Canyon
7. Catherine McTaggart	181 Oak Hill Lane	Canyon Creek
8. Dyanne L. Brown	215 RICKETTS R.D.	CANYON CREEK
9. Dave Wheeler	215 RICKETTS RD	CANYON CREEK
10. Ellen Fawcett	SE 977 Shoshone	Day Ditch Project
11. Alth. M. Muth	145 Ricketts Rd	Ham. Canyon Creek
12. Rita L. Neustrom	145 Ricketts Rd.	Hamilton Canyon
13. Jessie Faye McEntire	401 N 10 apt 315	Hamilton Mt 59840
14. L. G. Wilk	231 Ricketts	Canyon Creek
15.		
16.		
17.		

11 February 1991

The Honorable Senator Larry Stimat
Montana State Capitol Building
Helena, Montana

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	(Name)	(Address)	
1.	Chauncey Boes	497 Bowman Rd	Hamilton
2.	David Lygert	524 Wapiti Loop	HAMILTON
3.	Earl M Pollard	487 WHITETAIL DR.	HAMILTON
4.	Michael J. Chambers	553 Wapiti Loop	Hamilton
5.	Lionel D. Williams	1188 Bowman Rd	Hamilton
6.			
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17.			

11 February 1991

The Honorable Senator Larry Stimatz
Montana State Capitol Building
Helena, Montana

Dear Senator Stimatz,

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(Name)	(Address)
1. J. Randolph H. H. H.	70 Arbor Lane Box 11, HAMILTON, MT 59840
2.	59 Arbor Lane Hamilton MT. 59840
3. Orlan J. Sabor	80 Arbor Lane 59840
4. Raymond J. H.	80 Arbor Lane 59840
5. J. M. H.	80 Arbor Lane 59840
6. Kathleen S. Wood	2200 Eastside Hwy Corvallis 59828
7. Beth Holmes	438 Horizon Ln Hamilton 59840
8. Jane Ingher	1930 Mt View Orchard Dr. 59870
9. J. L. Frost	110 RICKETTS RD. HAMILTON, 59840
10.	
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17.	

11 February 1991

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Montana State Capitol Building
Helena, Montana

Dear Senator Stimatz,

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(Name)	(Address)
1. Edie Haack	278 Ricketts Rd - Hamilton, Mont 59840
2. Bessie Fisher	307 Sackett Pl. Hamilton, MT.
3. Kerry Wright	260 W. River Rd. Hamilton, Mt. 59840
4. Pamela Kemper	270 W River Rd Hamilton
5. Cynthia M Lowe	312 West River Rd. Hamilton MT
6. Arthur Opat Sr.	322 W River Rd Hamilton MT
7. Gustav Hutton	360 W River Rd Hamilton MT
8. Don Certe	366 W - River Rd Hamilton MT
9. Gene Coy	386 W. River Rd. Hamilton, MT
10. Carol Inou.	296 W. River Rd Hamilton MT
11. Leroy D Brack	269 Ricketts Road Hamilton, MT
12. Curtis Holmes	295 Bledget V. V. " " "
13. Billie Ann Baird	P.O. Box 1039 Hamilton, Mont.
14. Albert J. Bates	1001 So. 2nd, " "
15.	
16.	
17.	

11 February 1991

The Honorable Senator Larry Stimatz
Montana State Capitol Building
Helena, Montana

Dear Senator Stimatz,

The below listed property owners of Hamilton, Montana strongly oppose Senate Bill 212. Irrigation is essential to agriculture use in the Bitterroot Valley Area because the normal annual rainfall does not provide sufficient water for cultivated crops and pasture lands. No individual owns water, all the individual owns is the right to use the water and the right to have water in his or her possession. Thus, Senate Bill 212 would deny the citizens of this State sufficient water for agriculture use and adequate water to recharge the aquifer. Further, the passage of this Bill would greatly reduce the value of property and devalue the tax base in the State. The adjudicated water shall remain with the land and shall not be sold or leased.

(Name)	(Address)
1. Norman Johnson	335 Blodgett Camp Rd. Hamilton, Mont.
2. Monica Luthers	338 Canyon Creek Rd Hamilton
3. Dean Johnson	373 Blodgett Camp Rd Hamilton, MT.
4. Ned Bingham	362 Canyon Cr Rd Hamilton MT 59840
5. Stan E. Hood	251 Canyon Cr. Rd Hamilton 59840
6. LeRoy Sorenson	322 Wyatt Lane, Hamilton, MT 59840
7. Ralph L. Whorley	296 Canyon Cr. Rd Hamilton
8. Jack Roberts	310 Canyon Cr. Rd Hamilton
9. Mrs. Ron Ellis	391 Blodgett Camp Rd - Hamilton
10. Ben Erickson	134 Hawthorne - Hamilton
11. Eugene Schmitt	238 Canyon Creek Rd Hamilton
12.	
13.	
14.	

11 February 1991

The Honorable Senator Larry Stimatz
Montana State Capitol Building
Helena, Montana

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(Name)	(Address)
1. Martin Tolman	Box 458 Hwy 93 N Hamilton
2. Chad Ralls	385 Ricketts Rd. Hamilton Mt.
3. Paul L. Cyren	NW 225 Bowmar Rd. Hamilton MT 59840
4. Chad Ralls	549 Chad's Road Hamilton MT 59840
5. Lee M. Ball	491 N.W. Ricketts Hamilton MT 598
6. Jay Keen	481 Ricketts Hamilton, MT 595
7. Diana Murr	359 Ricketts Hamilton, Mt. 5
8. Larry Rogers	West Fork Deak, MT
9. Winthrop B. Bleeker	239 Blodgett Hamilton
10. Robert F Morris	NW 250 Blodgett Hamilton
11. Glenda McEntee	260 Blodgett Hamilton
12. Lewis J. Badger	NW 251 Blodgett Hamlets
13. David Evans	286 Blodgett Ham
14. Linda Evers	286 Blodgett View Dr. Hor
15. Francis Menager	550 Menager DR. 2
16. Lucile M. Parker	426 Ricketts Rd
17. Chancy C Ralls	411 Ricketts Rd

11 February 1991

The Honorable Senator Larry Stimatz
Montana State Capitol Building
Helena, Montana

Dear Senator Stimatz,

The below listed property owners of Hamilton, Montana strongly oppose Senate Bill 212. Irrigation is essential to agriculture use in the Bitterroot Valley Area because the normal annual rainfall does not provide sufficient water for cultivated crops and pasture lands. No individual owns water, all the individual owns is the right to use the water and the right to have water in his or her possession. Thus, Senate Bill 212 would deny the citizens of this State sufficient water for agriculture use and adequate water to recharge the aquifer. Further, the passage of this Bill would greatly reduce the value of property and devalue the tax base in the State. The adjudicated water shall remain with the land and shall not be sold or leased.

(Name)	(Address)
1. <i>Don Terry</i>	545 Bowman Rd, Hamilton, MT
2. <i>Goyce M. Persson</i>	545 Bowman Rd, Hamilton, MT
3. <i>Barry Persson</i>	601 Bowman Rd, Hamilton, MT
4. <i>Laurel M. Dunbar</i>	656 Bowman Rd, Hamilton, MT.
5. <i>Raymond J. Dunbar</i>	656 Bowman Rd. Hamilton, Mt.
6. <i>Tom L. Dunbar</i>	128 Dutch Hill Road Hamilton
7. <i>Randy K. Burton</i>	201 Ricketts Rd Hamilton
8. <i>Don Dunbar</i>	870 Twin View Rd - Hamilton
9. <i>Harmon L. Peterson</i>	1032 Water St. Corvallis, MT.
10. <i>Jack Dunbar</i>	135 Dutch Hill Rd Hamilton
11. <i>Tom H. Dunbar</i>	135 Dutch Hill Rd Hamilton
12. <i>Jack Teasdale</i>	P.O. Box 612 Periodale MT.
13. <i>Jack Teasdale</i>	P.O. Box 62 Periodale MT
14. <i>Paul Cook</i>	#23. COOPER HAMILTON MT
15. <i>Al Newirth</i>	PO BOX 548 CORVALLIS, MT
16.	
17.	

February 9, 1991

Senator Larry Stimat
Chairman, Senate Reserve Committee
Capital Building
Helena, MT 59620

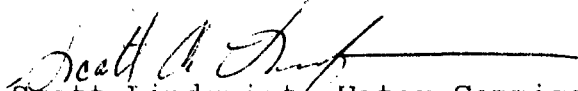
Dear Senator Stimat:

As water commissioners of the Ward Irrigation District this letter is to advise you that we are opposed to Senate Bill #212.

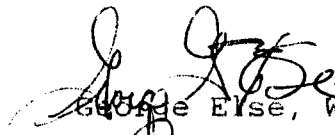
Sincerely,



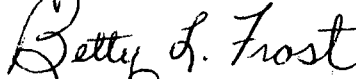
Bill Springer, Water Commissioner



Scott Lindquist, Water Commissioner



George Else, Water Commissioner



Betty Frost, Secretary/Treasurer

Senator Larry Stimatz
Chairman - Senate Resource Committee
Capital Building
Helena, MT 59620

February 12, 1991

Dear Senator Stimatz:

My name is Bob Wetzsteon. I live in the Bitterroot Valley of Western Montana. Along with the folks co-signing this letter, I am opposed to the passage of Senate Bill 212, the water appropriations bill. SB 212 is a bad piece of legislation for Montana agriculture. Please do not pass this Bill into law. Let us keep intact the water appropriation system now in place.

Thank you for hearing our concerns.

Sincerely,

<i>Bob Wetzsteon</i>	16916 EAST FORK ROAD	SULA MT 59871
<i>Edgar J. Wetzsteon</i>	Box 34	Sula, MT 59871
<i>Gary L. Wetzsteon</i>	Box 5	Sula, MT 59871
<i>Stephen J. Wetzsteon</i>	Box 4	Sula, MT 59871
<i>Damon Ward</i>	Box 64	Sula MT 59871
<i>Jerry Ehnann</i>	339 Edwards Rd.	Sula MT 59871
<i>Mike Wetzsteon</i>	Box 35	CONNER MT 59827
<i>Duane J. Wetzsteon</i>	Star Rt.	Sula MT 59871
<i>Zoe A. Wetzsteon</i>	Box 5	Sula, MT 59871

TO: CHAIRMAN, NATURAL RESOURCES COMMITTEE

PETITION AGAINST SB 212 INSTREAM FLOW ACT OF 1991

WHEREAS, Senate Bill 212 proposed by The Montana Wildlife Federation and introduced by Senator Bianchi from Bozeman would authorize any person to appropriate water for instream use by sale or lease of existing water rights to any person, and

WHEREAS, The bill also authorizes sale or lease of instream water rights to other uses and integrates instream use rights to Montana's prior appropriation system essentially destroying the historical bond between water and the land,

WE THE UNDERSIGNED ARE UNCOMPROMISINGLY OPPOSED TO SENATE BILL 212 AND ITS INTENT.

Name

Address

Wayne J. Ebe

Jim Weiss

Beverly McCarry

Jill Anderson

Paul Stewart

Bill K.

Bryan G. Miller

Edna Holt

William R. Chivalry

Bonnie Stewart

James Lee Eberline

2980 Anderson Lane Dillon MT 59725

Box 62 WISDOM MT

5600 Hwy 91 N. Dillon 59725

1175 Lakonan Dillon

Glen Mont 59732

4225 Anderson Lane - Dillon MT 59725

4225 ANDERSON LANE DILLON MT 59725

P.O. Box 306 WMC Dillon MT 59725

1775 Hwy 41 Dillon MT

P.O. Box 62 Glen MT 59732

3900 Hwy 91 S. Dillon MT 59725

TO: CHAIRMAN, NATURAL RESOURCES COMMITTEE

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WE THE UNDERSIGNED ARE UNCOMPROMISINGLY OPPOSED TO SENATE BILL 212 AND ITS INTENT.

Name

Address

John & Debbie Janiche

2205 South Red Rock Dillon

Carolyn N Wall

1134 E Barnack Dillon

Brian DeMare

1330 Fox Farm Road Dillon

Karen Mitchell

11 Cloudrest Dillon

Kend Nordahl

561 Kentucky

Bill Baker

607 S Railroad

Bill J. O'Neil

2875 Beaverhead Ln. Dillon

Will & Patti Jo Staudenmeyer

10525 Hwy #41 Dillon

Barbara Morrison-Peters West End Inn

5655 Hwy 91 N. Dillon Mont.

Craig J. Hansen

1710 Lohman Dillon Mont.

Curt K. Eaton

9900 Hwy 91 N. Dillon

Tom Barnes

4100 Hwy. 91 N. Dillon

Tom & Evelyn

704 E. Glendale Dillon

Robert R. Elford

172 Pennington Lane Twin Bridges

Vincent J. Rasmussen

Barrehead River Water Commissioner Dillon Mont.

Joey Brown

~~2200~~ 2200 Schuler Ln Dillon

TO: CHAIRMAN, NATURAL RESOURCES COMMITTEE

PETITION AGAINST SB 212 INSTREAM FLOW ACT OF 1991

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Name

Address

Shirley Rehech	2225 Old Stage Pl. Dillon MT.
Gerald S. Erickson	700 BL Kent Ave. Box 9 Dillon MT.
R. L. Reed	41 Dune Dist Rd. Sheridan, MT.
Jim Martin	200 East Dillon, MT
George Campbell	Wine House
Mike Burns	17600 HWY 524 Dillon, MT
John Ham	1700 Behrman Ave. Dillon, MT.
Dave Smail	Twist Bridges
Kentner-Kramer	7725 Hwy 91 N Dillon MT.
Eldo A. Rapp	6725 Hwy 278 Dillon MT.
Randall P. Smith	Box 3, Glen MT 59732
E. Maynard Smith	Box 7 Glen Mt 59732
Frank W. Hicks ^{Rich Creek} _{Water Commissioner}	8125 Hwy 91 N Dillon MT 59725
Rulon W. Rydiker	Box 204 Lima MT.
Jim Egghorn	Box 62 Melrose Mont 59743
Melanie Kiewall	Box 151 Wisdom MT 59761

PETITION AGAINST SB 212 INSTREAM FLOW ACT OF 1991

WHEREAS, The bill also authorizes sale or lease of instream water rights to other uses and integrates instream use rights to Montana's prior appropriation system essentially destroying the historical bond between water and the land,

Name ✓

Address

57/10

Brx 26/11/51 Don Mt 59761

Cathy Koren

200 Airport Rd. Dillon, Mt.

Don Belovich

3925 Hwy 41 Dillon

Vicki S. Dickens

765 Hemmery Rd Dillon

Paul Meyer

Villon

Karl Debus

765 Hennepin Rd. Dillon

TO: CHAIRMAN, NATURAL RESOURCES COMMITTEE

PETITION AGAINST SB 212 INSTREAM FLOW ACT OF 1991

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WE THE UNDERSIGNED ARE UNCOMPROMISINGLY OPPOSED TO SENATE BILL 212 AND ITS INTENT.

Name

Address

Ernest L. Johnson

Dillon, Montana

Trancey D. Johnson

Dillon, Montana

Robert K. Du Jardin

P.O. 294 Dillon, Mt.

Russell B. Riehl

Box 443 Dillon, MT

Michael A. Cox

621 Rock Co. Cattle Dear Lodge Mt.

Steve Johnson

9500 Blacktail Rd Dillon MT

Donald J. Jones

1405 ten mile Rd.

Clyde Doctor

Box 69 DILLON,

John Ranta

Box 732 Dillon mt

Clyde R. Walker

5235 Hwy 91 N. Dillon

James J. Gray

7300 Hwy 41 Dillon

Rich Finlay

2675 Webster Dillon MT

Jack L. Schult

1600 Sullivan Ln. Dillon, MT

Chuck Lumley

Box 391 Dillon Montana

William W. Farnham

Box 621 Dillon, Montana

Robert H. Jensen

38 N Walnut Dillon MT 59725

Ann W. Allen

3011 Walnut Dillon MT 59725

TO: CHAIRMAN, NATURAL RESOURCES COMMITTEE

PETITION AGAINST SB 212 INSTREAM FLOW ACT OF 1991

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Name

Address

Bill Rehm
Marian Ross
Steven R. Clark
Wanda Hughes
Bill Hand
Lon Fend
Lee Smith
Lola Johnson
Ash Chambers
Mike Williams
Denny Sheehan
Joe Durwell
Vivian C. Wehr
Nancy Virginia
Gladys A. Conover
John L. Conover
by S.C.

Dillon, Mont
Dillon, Mt. 2825 Hwy 91 N
Dillon Mt. 4635 Hwy 41
Dillon Mt 3925 11th St
30 S. Arizona St. Dillon. MT. 59725
P.O. 898, Dillon, MT 59725
1195 driveway Lane Dillon
29 N. Rife Dillon
75 Chapin Lane Dillon
600 Thomas Ave Dillon, MT
656 BARNETT DILLON MT
213 E. CHAPMAN, DILLON, MT.
135 E Schree Dillon MT
805 S Atlantic
P.O. Box 105. Dillon, Mt.
" " " " "

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WE THE UNDERSIGNED ARE UNCOMPROMISINGLY OPPOSED TO SENATE BILL 212 AND ITS INTENT.

Name

Address

Tige Bullard

2825 Webster Ln.

Ron Benson

Box 408 Dillon

Lillian Flynn

Big Lake, Dillon, Mt

Anna House

2140 Schuler Lane - Dillon

Red L. Butcher

1000 Hwy 324 Dillon - MT

Spring Peters

7235 Hwy 91 So. Dillon, MT

Mary Hensley

Wise River MT.

Bruce Bacon

Twins Bridge, Mt.

Mary Franko

P.O. Box 417
Melrose MT - 59743

~~James L. Lamm~~

1600 Bond Rd Dillon

Dorothy A. Fayer

4600 Carrigan Lane

TO: CHAIRMAN, NATURAL RESOURCES COMMITTEE

PETITION AGAINST SB 212 INSTREAM FLOW ACT OF 1991

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WE THE UNDERSIGNED ARE UNCOMPROMISINGLY OPPOSED TO SENATE BILL 212 AND ITS INTENT.

Name

Address

William M. Nelson

1400 University Lane, Dillon, Mont. 59725

Robert J. Lutz

3500 Hwy 91 N Dillon MONT 59725

Loren E. Simon

622 S. 9th St. Dillon Mont 59725

Robert H. Hinkle

1525 School Lane Dillon Mont

Bruce L. Clark 472 ...

John McClinton 159 Edwards Rd. Sula Mt. 59871

John Manager 669 Pleasant View Dr. Victor Mt.

Good Webster East Fork Rd Sula

Gillian Kennaker 2022 Old Ducky Rd Hamilton, MT.

A.C. Hodge 975 E Side Highway Corvallis, Mt.

Mildred Hodge

Alicia J. Hay 2568 Homecrest Rd Stevens, Mt.

Veronica E. Miller 888 S Burnt Fork Rd Stevensville MT 59870

Robert J. Allen 2603 Meridian Rd. Victor, Mt. 59875

Pat Koenig 367 N. ... Stevensville
DAVEY MT.

Larry Millage P.O. 14

Kyle Brinkerhoff 3675 East Side Hwy Stevensville, MT 59870

Bill Stange 442 Willoughby Rd Stevensville Mt. 59870
BRIAN LANGTON 2954 MITCHELL RD Victor, MT 59875

Donna McIntyre 1831 McIntyre Rd. Stevensville 59870
Jim Burgett 534 ... Stevensville

John Houtchens 5191 East side Hwy Stevensville

TO: CHAIRMAN, NATURAL RESOURCES COMMITTEE

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WE THE UNDERSIGNED ARE UNCOMPROMISINGLY OPPOSED TO SENATE BILL 212 AND ITS INTENT.

Name

Address

D. R. D. D. D.

Box 328 Whitehall, MT

Jill Compton

Box 646 WHITEHALL, MT

Paul G. Smith

247 Lower Valley Rd. Boulder Mt. 59632

Robert M. Rowell II

Box 366 Hwy 55 Whitehall Mt.

M. P. V.

Box 3 Cardwell, MT

Larry Light

100 MCKEOWN RD CARDWELL MT.

Louis Longkin

Box 556 Whitehall, MT

Kyle Ringling

Box 646 Whitehall, Mt.

Douglas L. Kalk

Box 156 Harrison, Mt. 59735

David M. Scott

RT-1 Box 1444 Whitehall

680 Hwy 55 WHITEHALL, MT

WE, THE UNDERSIGNED SENATORS AND REPRESENTATIVES OF THE STATE OF MONTANA WISH TO GO ON SB212
RECORD AS BEING IN OPPOSITION TO SENATE BILL 212.

IN ORDER FOR OUR CONSTITUENTS TO HAVE TIME TO VOICE THEIR CONCERNS ON SB212, WE ARE WILLING
TO RELINQUISH ANY TIME WE WOULD HAVE TAKEN TO THEM.

SIGNED:

NAME	DISTRICT
Jack "Doc" Rea	SD 38
James & Jim Burnett	SD 42
W.W. Hammond	SD*9
Dennis G. [Signature]	SD 10
Chuck Surpagoor	HD 73
Fred Thoms	HD 62
McLellan	HD 27
Bob [Signature]	HD 103
[Signature]	SD 5
Orval Erickson	HD# 81
Jane DeBruycker	HD 11
Bob Gilbert	HD 22
HS Hanson	HD* 87
Don Stepple	HD# 21
Francis [Signature]	SD 16
Dick Buox	HD-29
Gary C. [Signature]	SD 6
Doug L. Beck	HD 48
Roger DeBruycker	H.D. 13
Benjamin Nelson	HD 19
Mike Foster	HD 32
Marian W. Hanson	HD 100

PETITION AGAINST SENATE BILL 212
SPONSORED BY DON BIANCHI

We the undersigned are against S. 212 sponsored by Don Bianchi of Belgrade. This bill threatens our very existence in agriculture.

	NAME	ADDRESS
21.	Rick Strickman	Jackson Mt 29736
22.	Gina Nelson	Belgrade
23.	Chip Camp	Dillon
24.	Richard H. Lawton	Wisdom
25.	Sharon M. Turner	Jackson
26.	Wayne J. Denny	Jackson
27.	Alfred Klavin	Wisdom
28.	Tina Klavin	Wisdom
29.	Bob Hole	Wisdom, MT
30.	Bert Bacon	Wise River, Mont.
31.	Marta Turner	Belgrade, MT
32.	Colleen M. Bacon	Wise River, MT
33.	Ernest R. Bacon	Wise River, MT
34.	Dan Tucker	Wisdom, MT
35.	A. J. Saff	Wisdom, MT
36.	Heather J. Quigley	Avon, MT
37.	Leah R. Tucker	Dillon, MT

PETITION AGAINST SENATE BILL 212
SPONSORED BY DON BIANCHI

We the undersigned are against S. 212 sponsored by Don Bianchi of Belgrade. This bill threatens our very existence in agriculture.

NAME

ADRESS

38. Ken Hershey

Weller, Wt.

39. George J. Connor

Jackson, Wt.

40. Joseph A. Connor

Jackson, Wt.

41. Ken Frame

Jackson, Wt.

42. Robert D. Peterson

Wisdom, Mt.

42 Dale Pettit

Wisdom, Mt.

44 Clayton P. Hurdley

Wisdom, Mont.

45 Barbara Huntley

Wisdom, Mt.

46 Gene Potter

Wisdom, Mt.

47 Jean H. Potter

Wisdom, Mt.

48 Shuk R. Kulpatrik

Wisdom, Mt.

49 Bob Kulpatrik

Wisdom, Mt.

50 Frances Shodman

Jackson, Wt.

PETITION AGAINST SENATE BILL 212
SPONSORED BY DON BIANCHI

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NAME	ADDRESS
51 Monte McKenna	Box 82 Jackson Mt.
52 Dan J. Coon	Box 181 Wisdom Mt.
53 Jay Nelson	Jackson Mont.
54 Mike Pettit	Wisdom Mt.
55 W. B. Husted	Jackson Mt.
56 John T. Husted	Jackson Mt.
57 Valores Husted	Jackson Mt.
58 Joyce McDaniel	Jackson Mt.
59 Heidi Hirsch	Wisdom Mt.
60 Dick Hirsch	Wisdom Mt.
61 Jack Hirsch	Jackson Mt.
62 Ray Peterson	Hamilton Mt.
63 Ann Hirsch	Jackson Mt.
64 Marie Peterson	Wisdom Mt.
65 Steve Hirsch	Grant Mont.

PETITION AGAINST SENATE BILL 212
SPONSORED BY DON BIANCHI

We the undersigned are against S. 212 sponsored by Don Bianchi of Belgrade. This bill threatens our very existence in agriculture.

NAME	ADDRESS
66 Richard R. Weaver	Box 833 Deep River, Mt. 59122
67 Bob Wilke	Box 1112 Wisdom MT. 59761
68 Zane J. Schindler	Box 792 Jackson
69 Daine Schindler	Box 792 Jackson
70 John W. Reinhardt	R.R. Deep River MT. 59762
71 Norman Jensen	Wisdom, MT. 59761
72 Bob Rutledge	Wisdom
73 Tom Spalding	Wisdom
74 Michel A. McKee	Wisdom
75 John F. Wilke	Wisdom
76 John	Wisdom
76 Barbara M. Wilke	Wisdom
77 Tony J. Morris	Wisdom
78 Vinda Husted	Jackson MT
79 Mike Paddock	Wisdom, mt.
80 Yvonne Paddock	

OPPOSITION TO SB212
Help save Montana Water

Join with W.I.F.E. (Women Involved In Farm Economics) in OPPOSING SB 212.
As a State and Montana Agriculture, we NEED to protect Montana Water Laws and our water rights. This sheet will accompany the delegation to Helena to testify against SB 212 on February 15 1991.

NAME	ADDRESS
1. Janet L. J. J. J.	481 Croft Ln Stevensville
2. Doyle Gillman	815 Osborn Rd Corvallis, MT 59828
3. Bane Waymire	2031 MIDBEM CR VICTOR 59875
4. alan munn	599 Neely Lane Corvallis
5. Lyle Terry	1804 Pleasant Hill Dr, Victor, MT
6. Jack R. J. J.	2685 Eastside Hwy Stevensville
7. Lyle J. J. J.	3720 Foxglove Rd. Ste. 112. 59878
8. Eldon Kauffman	2683 Eastside Hwy Stevensville MT
9. William W. Wallace	BOX 97 Hall MT 59837
10. L. R. J. J.	324 Grantsdale Rd Hamilton MT
11. Patrick F. Hartless	Box 162 Arlee MT 59821 59840
12. Barbara Sabo	566 Lofthill Ln Lewis MT
13.	
14.	
15.	
16.	
17.	
18.	
19.	
20.	
21.	
22.	
23.	
24.	
25.	
26.	

KEEP MONTANA WATER IN MONTANA

We the undersigned, landowners, water users, & stockgrowers of Western Montana strongly oppose Senate Bill # 212.

NAME:

ADDRESS

Bob Kreis	Huron, Mont.
Margaret G. Kreis	" "
James Redhouse	Missoula, Mt.
Deryl C. Stover	Missoula, Mt.
James D. Rughley	Mt. mt.
Gay Cougle	Helm, Mt.
Ed. [unclear]	Missoula, mt.
Ed. [unclear]	Missoula, Mt.
George Ruffatto	Stevensville, Mt.
Arthur L. [unclear]	Missoula, Mt.
John [unclear]	Bozeman, Mt.
Linda L. [unclear]	
Bradley Hall	Helena, Mt.
Henry [unclear]	Potomac, Mt.
Tommy [unclear]	Gold Creek, MT
James A. Thomas	Gold Creek, Mt.
Christine Ruffatto	Stevensville, Mt.
Jerry Menzies	Hall, Mont.
Marjorie McEwen	Hell, Mt.
Gayle [unclear]	Hell, Mt.
Roger [unclear]	Missoula, Mt.
H. Noon Petroleum	Missoula, Mt.
Walter J. [unclear]	Kelowna, Mt.
Alvin [unclear]	Gold Creek, Mt.
Richard L. Thomas	Gold Creek, Mt.
Philip B. [unclear]	Superior, MT
James J. [unclear]	Superior, mt.
Ray [unclear]	Missoula, Montana
Bob [unclear]	Missoula, Mt.
Ernest [unclear]	Huron, Mt.

PETITION AGAINST SENATE BILL 212
SPONSORED BY DON BIANCHI

We the undersigned are against S. 212 sponsored by Don Bianchi of Belgrade. This bill threatens our very existence in agriculture.

NAME

ADDRESS

1. Walter W. Zobell Jr. Box 22, Jackson, Montana 59736
2. Beverly Zobell Box 22 Jackson, MT. 59736
3. Kerry B. Sparks Box 846 Jackson MT 59736
4. Linda C. Sparks Box 846 Jackson MT 59736
5. Robert S. Helming Box 122 Wisdom MT 59761
6. Michele Helming Box 122 Wisdom, Montana 59761
7. John T. Raymond Box 497 Jackson Montana 59736
8. Sharon Bacon Box 162 Wisdom MT 59761
9. Patti Bacon RR1 Wise River, MT. 59762
10. Ed A. Bacon RR1 Wise River, MT 59762
11. Kathryn M. Bacon R.R. 1 Wise River, MT 59762
12. Kim Bacon Wise River, MT. 59762
13. Ralph L. Smith Wise River MT 59762
14. Gayle A. Nichols Wise River, MT 59762
15. Chad H. Holland 20875 Hwy 278 Dillon, MT. 59725
16. Verna M. Holland 20875 Hwy 278 Dillon MT 59725
17. Clay A. Peterson Wisdom MT 59761
18. Kent V. Holland 20875 Hwy 278 Dillon, MT 59725

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPC
Charles Cratte	Teton Coop Canal Teton River water use		X
John H. Box	Kyle Creek 10250 Cottonwood Rd Bozeman		
Martin W. Kinn	Kimm Brothers Farming Manhattan, MT		X
C. Spencer Smith	Navelber, Foreman Belgrade, MT		X
Jean Dunsmore	Dunsmore Ranch		X
John Prinkki	Carbon County		X
Bill Stuchart	Clinton, Chouteau County		
Russell & Nora Joran	Choteau, MT		X
Shirley Bays	WIFE & GILBERT III 12111 Stevensonville		X
Calleen Meyer	WIFE, SRMN, Stockingman Stevensonville		X
Robert & Charlene Cairns	Self		X
Don Muir	4M Angus Cornwallis, MT		X
John	Sheep Creek Lake Fork		X
Dave Moss	Beanehead Co		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Alan Shurtz</i> <i>Wise River</i>			X
<i>Justin Standfield</i> <i>Wise River</i>			X
<i>Dusty Gray</i>			X
<i>Leuter Veszel</i>			X
<i>Paul Loring</i>			X
<i>Bob Anderson</i>	<i>HRC&D Big Game</i>		X
<i>Gordon Williams</i>			X
<i>John Steingruber</i>	<i>Old Hab Ditch</i>		X
<i>E. D. Clark</i> <i>Water Commissioner</i>			X
<i>Bill Jackson</i>			X
<i>Elaine K. Auestad</i>			X
<i>Walter Steingruber</i>			X
<i>Byrd Brown</i>			X
<i>Thomas Bailey</i>			X

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Susan Brooke	MT Stockgrowers MT Wool growers		✓
Kim Enkerud	MT Assoc. State grazing Dist MT Stockgrowers		✓
Jim Peterson	Exec. Vice President MT Stockgrowers		✓
Bill Donald	Cayuse Livestock Co.		✓
Chuck Rein	Rein Anchor Ranch MT Stockgrowers		✓
WARD JACKSON	JACKSON RANCH SW. MT. STOCKMEN'S ASSOC.		✓
Vernon Woolsey	Water Commissioner Bunt Fork + Bitterwater		✓
John A. Savers	Member Stock Growers 14 years in Legislature		✓
David MacLay	Self member Foothill Bureau Freeholders		✓
Jim Tamm	MT Stockgrowers		✓
BYRON BAYERS	MADISON COUNTY		✓
W.L. HANCOCK	MADISON Co.		✓
Darcy M. DeLong	Deer Lodge Co.		✓
Tom Craver	Madison		✓

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Peggy Olson Trunk	WETA		X
Robert J. Christ	Bar Co. Pomona Orange		X
352 BRADY HAWK HAMILTON			
Mildred Hodge	Corvallis Grange		X
P.O. Box 8 Dell, MT 59724			
Blake W. Hunter	Agriculture		X
940 Nature way, Stevensville			
Kenneth L. Kershner 59870	Agriculture		X
Gregg Ehmman Sula			
MT 5997	Agriculture		X
John W. W. C. C. C. C.	"		X
Cahnie Hontchons	"		X
Joe Burgett	"		X
Ethel Dykstra	Bozeman MT		X
401 MOOSE HOLLOW			
H.P. GIBSON VICTOR MT 59875	H.P. Gibson		X
PETER BURGGRAFF			
WOLF CREEK MT 59648	Agriculture		X
Evelyn M. Munson	"		X
Ivan W. Munson	"		

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Bill Larson Box 136, Alder, MT.	Buckboard Guest Ranch		X
Deanna Styner	Wife, Telus Waterworks		X
Wm M. Humphrey			X
Ray Dwig	Wife & Son		X
O. G. Billquist	Mountain State Lodge		X
Paul F. Boylan	Boylan Int		X
Arnold Gittel	Cowen, Mt.		X
Carol Luck	Alder, MT		X
Pauline Hacker	Alder MT.		X
P. L. Hacker	" "		X
Dennis Bacon	Twin Bridges		X
Harry Grose	Twin Bridges		X
Cheryl Lux	COBB RANCH, Augusta		X
Lloyd Rockman	Conner, MT.		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Don Jenkins 200 N. Brooke, Whitehall 59759	Golden Sunlight Mine Mining		✓
Noris Jenkins 200 N Brooke Whitehall 59759	House Wife		✓
3186 LOVELL-BOZEMAN LOU ANN WESTLAKE	GALLATIN APA		✓
Mike + Esther Conner Box 52, Darby, MT	CONNER ENT, Ranching		✓
Lais J. Hauptman	GRANITE CATTLE COMPANY JENSEN RANCH CO		✓
Sheila Senjanis	Charite County Pottowoman		✓
Philip Kestner	French Lick		✓
Melvin Underdal Shelby MT	self + Montana		✓
Clara J Underdal	" " " "		✓
Edward J. Pines #	GMU		✓
Donna Schuur	self (summer irrigator)		✓
Carolyn Schuur	self		✓
James Smith	Rocky Mountain Hwy		✓
Willy Lane	Barabees		✓

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<i>Deputy Towich</i>	<i>Towich Ranch</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Ferry L. Manning</i> <i>770 APC Highway</i> <i>Belleville</i>	<i>Former Rancher</i>		<input checked="" type="checkbox"/>
<i>Clinton Elger</i>	<i>Self</i>		<input checked="" type="checkbox"/>
<i>Bob Stephens</i>	<i>Mt. Grain Haven Cabin</i>		<input checked="" type="checkbox"/>
STEVE BENEDICT	HOUSE DIST 64		<input checked="" type="checkbox"/>
DENNIS TVERSON	OFFICE OF GOVERNOR		<input checked="" type="checkbox"/>
<i>Ray Maddipati</i>	<i>Upper Milk River Terr.</i>		<input checked="" type="checkbox"/>
ROBERT BUECHELER	HAMILTON		<input checked="" type="checkbox"/>
Ernest K. Stafford	Hamilton		<input checked="" type="checkbox"/>
Bob Gilbert	Helena		<input checked="" type="checkbox"/>
Roxa French	Self - Stevensville		<input checked="" type="checkbox"/>
James A. Larson	<i>Kelly Ranch</i> <i>Big Horn Mt.</i>		<input checked="" type="checkbox"/>
David E. Wapf	<i>Springdale Colony</i> <i>W.S.S.</i>		<input checked="" type="checkbox"/>
Joe S. Hofer	<i>Springdale Colony W.S.S.</i>		<input checked="" type="checkbox"/>

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Yorruin Costello	Rancher		X
Bess Stinger	Manager of Union Station		X
Robert Towner	Dalev Dick		X
Ed Hummer	Rancher		X
John Frost	Seelye Dickman		X
John up person	Person Pant		X
Shirley Smith	Rancher		X
Harry B. Perry	Rancher		X
Harry E. Menter	Rancher		X
Luc Vanover	Rancher		X
Robert Towner	Rancher		X
Charles E. Feltow	Rancher-Towner		X
Mike Foster	Rep., House Dist #32		X
Bob Sivertsen	Johnas Rancher		X

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Jessie McClurg-Hackett	Victor Mt. Ranch		X
B.G. Hackett	Mt. St. John's Ranch		X
Don Smith	Chalco		X
Charles Lucas	Lucas Ranch Inc		X
Joan F. McNamee	McNamee Ranch		X
Monte Clemens	RCD Mont. Water Resource Ass. Big Hole Ranchers		X
Rick Swanda	Skyline Ranch W. Sall Mt.		
George S. Waldner	Teton Water Association		X
William J. Wipf	Teton Water Association		X
Frederic B. Cole	Teton Water Association		X
April C. Cole	Teton water association		X
John Wynn	Teton Water association		X
Kay Gher	Golden Valley Cattlewomen		X
Richard Coad	Sherry Smith Ranch		X

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Joyce S Blackman	Stirling Ranch Co.		X
Doyle Koest	Stockgrowers		X
Gene Hanson	Jefferson Madison Grazing Assn		X
Richard Gosman	Linda Darr Water Users Innig Co		X
Bruce Ludlow	Self		X
Loft Marsh	"		X
102 N 11 Creek Rd. Sheridan Wyo	"		X
Steve Burke	"		X
249 Ruby River Drive			X
Charles M Armstrong	Self		X
Irvin Van Haur	Van Haur Ranch		X
Jerry Van Haur	" " "		X
Jim Van Haur	Dog Creek Sheep Ranch		X
Peter G. Rebish	Dillon Dist East Bench Liv Dist		X
WG (Duke) Gilbert	15 S 10th St Dillon Wyo		X
Don - Salisbury Tomahawk	Ranch Whitehall		X

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Moss Teiger	Teiger Leds LS Co		X
Charles Feddes	Chuck Feddes Ranch Inc		X
Brian Langton	Big Creek Lakes Assn		X
Gerald M. Smith	Montana Rural Water Inc.		X
"	Montana Land & Mineral Owners		X
"	American Water Works Assoc.		X
Wilbur Anderson	Vigilante Electric Co-op		X
Mary Ward	Grassroots - Bitterroot		X
Norma Ludlow	472 Willoughby Stevensville		X
Roland Mosher	Mont Stockgrowers		X
Allen C. Martenill	Water Users Irrigation Co. Luna Montana		X
Grace H. Ward	Grassroots for Multiple Use		X
Hawes Frederick	Ministry		X
Rosemarie Newman	Bellerrant Strategy Grassroots +		X

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Beth Murphy	2 Bar W Ranch		X
Jella Balachick			X
Heub Tengen	Tengen Ranch		X
Patty Tengen	" "		X
John Tenges	" "		X
Jandra Adams	Wrf Creek		X
Paul Adams	Wrf Creek		X
Dorwin Crane	Chateau Mt.		X
Lloyd Flikkema	Manhattan Valley dits		X
Arthur S. Swenson	Arrow Ranch Haulton Mt.		X
April L. Mayo - Jordan	Mayo Ranch		X
Bois Kiehl Carter	Reckell Land Cattle		X
Earl Thompson	3V Cattle Co		X
ONNIE SONES	CYRUS MINERALS		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Pat Billingsley	Deer Creek User	✓	
Dennis Mager Gold Creek Mt	6 C CATTLE Co.		✓
CRAIG BAKER Gold Creek	6 C CATTLE Co		✓
Sylvia Bryan	DB Ranch		✓
Monty S. H.	Deer Creek User		✓
Keith W. Jones	Rancher		✓
Herman Landers	Rancher		✓
E. Maynard Smith	Montana Stockman		✓
Rak Strodtman	Rancher Big Hole		
MERLE D. Lloyd	G M L		✓
Lorothy Baker	Victor Rancher		✓
John C. Baker	Victor Nk Rancher		✓
Anneil Keller	Rancher		✓
Chas. Zimmerman	Rancher		✓

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Thomas P. Pessel 2597 HWY 1057 Shandan Montana - 57747 Phone 812-5198	Rancher		X
Dean Fisher - Ph. 538-8359 315 W. Eric Leitchburg MT Banta R. George H&S Co Bat 320 Is. May	Rancher		X
Lloyd Holers Box 21 / Poplar	Rancher/Farmer		X
Patricia Van Doren	Open A Ranch		X
Richard Arent	Arent Herifords		X
Doris M. Arent	" "		X
C. Albert Carlson	Teton County		X
Brian Weedman	Weidenburg Cattle Ranches		X
Rory Ruff	Pres. Montana Cattle Feeders		X
Ron Ostberg	Farm + Ranch		X
BARBARA SCHUBERT	Golden Sunlight Mines		X
Denis FreeLund	Tooie Court Comm		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Linda Ellison	Self		X
Lynnette Hintze	Greater Richland Co. Econ. Dev. Corp.		X
Richard Boggio			X
Margie Boggio			X
Jean Nelson	Jackson Mont		X
Jay Nelson	Jackson Mont		X
MICKY W. JACKSON MT 136X184 Three Forks, MT 59729	SAMPINGTON RANCH INC. JACKSON CATTLE CO. 2 JEFFERSON VALLEY COW. DIST.		X
Leslie S. Quenemeyer	Agua Nigra Ranch, Inc. Leslie S. Quenemeyer, Inc.		X
Jack W. Giles	Manhattan Mont		X
James P. Vargles Clinton Mont			
Mike Skutumpah	Superior Seed Farms Manhattan MT		X
Jack Baker Victor Mont.	Big Creek Lake Reservoir Assn.		X
Jim Lightner	LP Ranch Inc.		X
Mary Schuler	WIFE		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Esther J. McDonald	Rancher		✓
Lois N. Nelson	Marion River Land + Livestock		✓
Marge Lockman	Cattle Feeder + Farmer		✓
Ima Kamm	rancher		✓
Betty Ann Spidle	Rancher		✓
Sue Ann Thompson	Ranchwife + Cattle Women Bus		✓
Margaretha Seiwert 204 Hogan - Huntley Mont	Ranch wife - Montana Cattle Woman	not valid mistake	✓
Don J Marchessault Box 1146 Dillon, MT	MT. Farm Bureau		✓
Betty Murphy Circle, Mont	Rancher		✓
John D Murphy Circle Mont.	Montana woodgrower		
WALT LOBELL	RANCHER		✓
James Pankh	Pack Creek Water Users		
WALTER VANDEREN	RANCHER		✓
Carl Decker Jr.	Spar Ditch Co.		✓

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Donald H. Jones Wise River	Myself		X
John D. Allhauer	Madison Co		X
Bonita D. Marchesseault	Beaverhead Co. Farm Bureau		X
LaMonte J. Johnson	M. O. G. A.		X
David Boggio	Myself wheat ditch		X
Jan Chaudhary	mwra BRID		X
Markene Boggio	Boggio Partnership Ranch		X
J D Rice	Teton River Water Users		X
Raymond B. Biddle	Teton River Water Users		X
Edward Blythe	" " " "		X
Jim Peebles	Myself Willow Creek drainage		X
Marlene Peebles	" " "		X
Otto N Bryan	Chateau Mt Teton Water Users		X
Joseph L. Peebles	St. Louis Lodge Mt		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ethel Berg P.O. Box H Martinsdale, MT 59053 Phone (406) 572-3336	Rancher		X
Virginia Jackson Box 174 Harrison MT 59735	Rancher		X
Bennie Crary Box 509	RANCHER		X
CHOTEAU, MT 59422 Douglas Co. Crary			
Box 509 CHOTEAU, MT 59422	RANCHER		X
Ruisee Palm P.O. Box 54, Dismal MT 59336	Ranching		X
Nancy Ross 306 East Story Bozeman Mont			X
Barbara K. Kinsler McMillan	Rancher		X
Grandfather	Rancher		X
Walt Belkiss	Bozeman		X
W N Williams	Bozeman		X
Peter J. Blanksma	Bozeman		X
Fern M. Henry	Opalen		X

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STEVE ALLER	SGPA		X
Dean Hall	1213 W H 12:14ag		X
Windsor Wilson	SELF		X
Terry Terland	self		X
John V. Shurgen	self		X
Dale Thuniger Manhattan	Montana Herford Assn		X
Paul L. Paul Olene Big Timber	self		X
Michelle Casaccia	SGPA		X
Lucille Anderson	Montana Cattle Women		X
Kermit Anderson	Melville Ranches		X
Vernon L. Westlake	APA		X
Paul Scheel Melville	self		X
Don Scheel Melville	self		X
James O. Benson, Melville	Sweet Grass Co. Farm Bureau		X

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ZALES ECTON	AGRICULTURAL PRESERVATION ASSO.		X
Milo J. Todd	Agricultural Preservation Assoc.		X
Loren ALBERDA	Hyline Canal Co		X
George Reich	Reich Bros		X
SAM HOFMAN	APA-SELF		X
David Hale	APA-SELF		X
Frank Elliott	APA-SELF.		X
Steve Morgan	APA-SELF		X
Brian WEIDENNAAR	WeidenAARANCHES		X
Chet Sinnema	APA - SELF		X
Louise Steingruber	APA - Self		X
VERNON WESTLAKE	APA - SELF		X
Wall Steingruber	APA - Self		X
Martin Barber	APA - "Lobbyist"		X

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Veena Kan Karidis	Rancher		X
Larry L. Sibel	Rancher		✓
Virgil Sibel	Rancher		✓
Garth Sibel	Rancher		✓
Joseph P. SKINNER	Rancher/Farmer		✓
Dan Landers	Rancher		✓
Jeff D. Youngkin	Youngkin August Ranch		X
David Velchamps	Dandies Belgrade		X
By D. ECTON	FARMER, MARHARR		X
Robert T. Allen	Farmer - Victor Mt.		X
Wan Allen	Farmer Woodstock		X
Robert Wirth	Rancher		✓
Lawrence Johnston	Chairman		X
Oran C. Olson	Retired down Ranch		X

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Donald A. Beig	Myself, Wheeler		✓
Linda Springer	myself, Correy's Hamlet		✓
Fred Springer	myself, Canyon Creek		✓
Ed Malesich	myself, East Bend irrigation		✓
Dean Pruitt	Myself, Bill Clinton		✓
Glenn Hays	Bitterroot Canyons		✓
Linda Tabor	Golden Valley Landfill		✓
Dean Frazier	Golden Valley Cattleman		✓
Lee Wittmann	Veltkamp Ranches		✓
Sidney Wykstra	Gallatin Bog area		✓
Richard Marshall	Madison Twin Bridges, MT		✓
Raymond L. Anderson	Seton, Choteau, MT 59427		✓
Norman Dykstra	Bogeman		✓
Mitch Boken	Twin Bridges		✓

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Alvin J. Bohm ^{17177 41st St. R} 17177 41st St. R	Former		✓
Debra L. Bohm ^{17177 41st St. R} 17177 41st St. R	Farmers		✓
Chet Linnem ^{100 40 Ave} 100 40 Ave	SELF - APA		✓
Kay Dorenberg	WIFE		✓
Joanell Mary	Mallin Park Co		✓
Larry Miller	Mallin Park Co		✓
HARVEY J. HACKETT ^{858 Grady Ln} 858 Grady Ln	BITTER ROOT ID		X
Mary Hackett ^{Stevensville} Stevensville	Bitterroot ID		
Swan Swan	self		X
Alice Day	Cowbells		X
Veronica E. Miller	Cowbells Bitterroot		
Caroline Davis	WIFE		✓
John Menager	Former		✓
Mike Nichols	Coburns / Slask Carb.		✓

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VISITOR'S REGISTER

SEN. NAT'L RESOURCE COMMITTEE BILL NO. SB 212
 DATE 2-15-91 SPONSOR(S) SEN. BIANCHI

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Layne M. Olsen ^{Rt 2} Fairfield	Rancher - self		X
Rudolph K. Burt - Olympia	" "		X
Karen Rice Harrison	Rancher - self		X
Doreen A. Allen	self		X
Kate Loss Fairfield	self		X
Cathy Cranmore	Billetport Cow Belles		X
Barry Rice	Rancher Self		X
KATHY ANDERSON	MT WOOD PROD. ASSN		X
Danellal Sheng Lee	ranch : selves		X
Gordon & Winnie Melle	ranch selves		X
Ray Rice	" "		X
James L. Scofield	Self		X
Dan Austin	Meagher Co Nat'l Forest		X
Ronald Jackson	Self		X

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Senate Natural Resources

COMMITTEE

BILL NO. SB 212

DATE Feb. 15, 1991 SPONSOR(S) Senator Bianchi

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Edna K. Jenkins	Dixie S Kaul		✓
Don Bassure Choteau	Selby Crop Canal Co		X
15655 Churchill Rd Sal Jacob R. Cook County	Lowland Canal Co		X
George Vogt	5504 5th Ave S Sal, 8047 Birch		X
John Kimm	Stanley Kimm & Sons Ltd Seed Potatoes		X
Roger O. Mad	worker use		X
Kyle Brinkerhoff	Brinkerhoff Inc		X
JUNE ARMSTRONG	Armstrong Ranch Gardwell MT		X
GEORGE E. TIMSON	313 E. G A A A C O N D A		X
MARJORIE TIMSON	A A A C O N D A		X
Joyce Bullock	HAMILTON		X
NINA PORTIS	HAMILTON		X
PAT IMAN	Hamilton		X
Quinn Mitrow-Langton	Victor, MT		X

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BILL NO.

DATE

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ron White	White Farm		X
Mike White	White Farm		X
John Leck	Propper Creek Ranch		X
Rick Franko	Franko Ranch		X
John Jones	Choteau Mont.		X
EAYLON ZEHNER	Bar Double + Ranch Inc		X
Albuda Angus by	Dillon, Mont.		X
Mr. George + Dony Albuda	Albuda Angus Bogara		
Braden			
Joel, Joell Dang + Rick	B-3 Dairy		X
John W. Reinhardt	REINHARDT RANCH		X
	Wise River		
	Musty Nail Ranch		X
Virge Holliday	L V Quarter Circle (Wilsall)		X
JAMES Bloom	BLACK PINE RANCH		X
Ray Waldbillig	Ray Waldbillig		X
L. Earl Reynolds	Kau Bo. Electric		X

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Senate Natural Resources

COMMITTEE

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
LEZ KETTER	FARMER KAUSPEL		X
Kelly Flynn	H. & D. H. H. Bank		X
John Harwood Lyness	Self		X
Marion Gregg			X
Lorna Frank	Farm Bureau		X
Larry Gravelly	Self		X
Jerry Olson	Self		X
B. B. B. B.	Self		X
Dubon B. Dodman	Self		X

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BILL NO. SB 212

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
John Cook 9220 Church Rd Mesa Vista Mt.	John Cook		X
Ron Bos 10401 Coochill Rd. Callet in Gateway Mt.	Ron Bos		X
Dean Kelborn	Wigmore		X
Ken Marinos Corral	Mont. Stockgrowers Assn		X
Ben Tageroll	Tageroll Ranch		X
Edward H James	James Ranch Co		X
John T. Mason	Mason Ranches Inc		
Wm. (WILMAN)	Mike High C D		X
Christine Johnson	Hall, Mt - Granite County Johnson's Fork Ranch		X
Judy Collier	Teton City		X
Lee Jacobson	Deer Lodge		X
Don Tammak	Deer Lodge		X
George H. H. H.	Chetum		
Ronald Brumard	Belgrade		X

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Senate Natural Resources

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BILL NO. SB 212

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Doug White	Frogskin Ent.		X
Francine White	Frogskin Ent		X
Dune W Voldash	Voldash Bonanza Ranch		X
Gay Thompson	711 Cartersville		X
Frank C. Thompson	RAD		X
Bil Van Emmerd	Northwestern Agency		X
John D. Helm	Helm Ranch		X
Paul H. Saunders	Weldon Creek Ranch		X
R. E. Saunders	Preservation Assoc White Sulphur Sp.		X
Elly Heib	LY Saul and Swistock, Inc.		X
Don Ueland	Ueland Ranches		X
Richard J. Beaver ⁴³³⁴ Birdseye	Spark's Ranch		X
James Brooke Box 243 Pony MT 5974	Wagon Wrench Inc		X
C. B. Brooke Pony, MT	Brooke Bros Inc		X

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COMMITTEE

BILL NO. SB 212

DATE _____ SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Rob Henneman	Logging		✓
Bill Tande	DANIEL'S County		✓
DM HALVERSON	ROOSEVELT COUNTY		X
ROD VAN DYKEN	GALLATIN County		X
John R. By	McCone Co		X
Donnie Boylan	Gallatin Cowbell Co		X
Ralph Nichols West River	Overlook Co		X
Stewart Hauptman	Granite County		X
Jerry Linn	Broadwater City		X
Jack Perkins	DLVGD		X
JOSEPH VERLANIC	DRUMMOND		X
Jack Kamlich	Divide		X
Wayne Johnson	Divide		X
Mark Kamlich	Divide, Branching		X

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Senate Natural Resources

COMMITTEE

BILL NO. SB 212

DATE Feb. 15, 1991 SPONSOR(S) Senator Bianchi

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Sid Kamps	Kamps Seed Farm		X
FRANCES E STRODTMAN	BARICHER		X
Tim Kamps	Kamps Seed Farm		X
John H. Prouwer	Farmer		X
Wayne A. Little	Ranching		X
Della Ruff	Ruff Inc Farming		X
Randall P. Smith	Smith b-S Livestock		X
Barbara Boylan	Cowbells		X
Bill Seybert	Golden Sunlight Mines		X
GENEVA R. SISK	JACKSON & TAYLOR TOOLE COUNTY		X
David A. Stewart	Beaverhead		X
Bill Garrison	Madison		X
Andy Kleinasser	Miller Colony		

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Senate Natural Resources

COMMITTEE

BILL NO. SB 212

DATE Feb. 15, 1991 SPONSOR(S) Senator Bianchi

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Gary Gien 82 Gien Lane Twin Bridges MT	Pageville Land Co		✓
Andrew VanDeBert - Augusta	Rancher		✓
Faye M. Olsen	Fairfield Rancher		✓
John & Lisa Turgeon	Rancher		✓
Mildred Hodge & Bill Hodge	Corvallis Grange (180) ^{mem.} _{members}		✓
Josabelle Maloney	Rancher		✓
John F. Thomson	Rancher		✓
Walter Brainerd	Belgrade Rancher		✓
Old Settle	Canyon Creek		✓

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EXHIBIT NO. 39DATE 2-15-91BILL NO. SB 212

VISITOR'S REGISTER

SEN. NAT'L RESOURCES

COMMITTEE

BILL NO. SB 212DATE 2-15-91SPONSOR(S) SEN. BIANCHI

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ronald C. Kelley	self		X
Dan Kelley	Ranch - self		X
Robert K. Hanson	teton county		X
ARON KING	McCone county		X
Don Randolph	Self		X
Jim Jean Kachur	Jim (Darius) (owner)		X
Steve M. (Ally)	Northwest Potato Sales Trenson and Chandler of Corn		X
Arnold McGlynn	Northwest Potato Sales		X
Shay LeBeyec	Butter mont		X

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Senate Natural Resources

COMMITTEE

BILL NO. SB 212

DATE Feb. 15, 1991

SPONSOR(S) Senator Bianchi

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DeWald Silver Bow	Self, Hedwatez RD		X
R.E. Mannix, Jr	Axon Grange		X
LARRY MITTAG DARBY MT. Bo. 4	GTASS Rod & Fish		X
John A. Green	A.H.P. A		X
Carolyn Green	Lunt Green & Associates		X
Rick Sandra	Self		X
Judy Rowland	Self		X
David Rowland			X
Ward Sheffield	Self		X
Jim Stephens	Self		X
W.A. Black	Self		X
James King	Self		X
William A. Lenz	Self		X
Opus Lenz	Self		X

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KEEP MONTANA WATER IN MONTANA

We the undersigned, landowners, water users, & stockgrowers of Western Montana strongly oppose Senate Bill # 212.

NAME :

ADDRESS

D. Marn Fennel	2022 Old Darby Rd - Hamilton, MT 59840
Dean G. Fennel	175 BLOOD Lane Hamilton mt. 59840
Robert D. Fennel	1600 Old Darby Rd Hamilton, mt 59840
Marie J. Collins	1327 Skalkaho Rd Hamilton mt. 59840
Miranda Lussendorf	1327 Skalkaho Rd Hamilton mt. 59840
Don Lee Rose	308 S. P. C. Rd. - Hamilton, MT 59840
John G. Fennel	1507 Hapenny Chel Rd. Hamilton
David W. Collins	1327 Skalkaho Rd. Hamilton mt. 59840
Walter A. Fennel	272 Golf Course Rd Hamilton, mt

KEEP MONTANA WATER IN MONTANA

We the undersigned, landowners, water users, & stockgrowers of Western Montana strongly oppose Senate Bill # 212.

NAME :

ADDRESS

Long Schallenger	528 Highway 93 Seth Hamilton
Robert L. Leonard	414 Golf Course Rd Hamilton
William R. Whitcomb	1362 Cordell's Neck Dr. Corvallis MT
Michael C. Ralls	3552 E Side Hwy Stevensville MT
John Emin	2010 9th Rd, Huron, MT 59846
Richard H. Main	Box 163 Corvallis MT 59828
Dolores R. Macen	Box 163 Corvallis MT 59828
Dan Emerson	1210 Haugy Ln. Ronan, MT 59844
Kathryn Emerson	
Reid F. Linders	412 Wilcox Ln Corvallis, MT ⁵⁹⁸²⁸
Jack Stewart	Turn Bridges Mont 59754
Martha Lloyd	206 Spud Lane Ronan Mt 59844
Jon L. Lead	206 Spud Lane Ronan Mt 59844
Thos Green	13900 Watson Rd. St. Ignace, Mt.

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Don Birmingham	Public Park Development Council	212		X
Ed Hillier Spring	Dilepade			X
Ric Brown	Ravalli County Electric			X
Gordy Kleinsasser	Miller Colony			✓
Gordon McOmber	Kearfield			✓
Gerry Peterson	Philipsburg MT			✓
Robert E Williams	Harlow, MT			✓
Phyllis Williams	"			
Wade Fredenberg	Bozeman, MT		X	
George Wood	Sheridan, MT			X
Donald R. Beck	Darrison, MT	212		X
Stan Brackman	MT		✓	
Tom Schaefer	Myself - Skyline	CB 212	✓	
Francis Taylor Smith	Lewis & Clark	212		X
Larry Thomas	Anderson Sportsman		✓	
Bill Holdorf	Butte Skyline Sports	212	✓	
Mervin Beck	Deer Lodge			✓
John C. Anderson	MT Ass. Cons. Dist.	212		✓
Amille J. Summers	Shannon MT Self	212		X
Phil Smith	Melrose	212	✓	
Jack Van Cheve	Dude Ranchers Assn	212	✓	X
Bill Endy	Skyline Sportsman			
Ed Mortensen	Helena, MT. self	212		X
Gene Veitkamp	Lee Veitkamp farm	212		X

DATE

2-18-91

COMMITTEE ON

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
James W. Raw	SA/F.	212		X
Ron E. Skinner	Skinner Ranch	SB 212		X
Lewellyn A. Skinner	Skinner Ranch	SB 212		X
J.B. Hendrix	Self	SB 212		X
Keith Ruppston	Self	SB 212		X
Alan Rollo	Self	212	X	
W. H. Williams	Self	212		X
Joe Gutkoski	Gallatin Wildlife Assoc.	212	X	
Robert B. Bozeman	Bozeman	212		X
Clara T. Blankenship	Bozeman	212		X
James W. McDermid	Medicine River Canoe Club	SB 212	X	
Dianne McDermid	Self	SB 212	X	
Russell Boylston	Self	SB 212	X	
Bill Shaff	Vista Mt Self	212		X
Robert B. Boylston	Stevensville	212		X
Wm. C. Ellis	Red Lodge	212		X
Debbie Burnett	Luther	212		X
Willard J. Hahn Sr.	Manhattan	212		X
Cornie L. Hahn	Manhattan	212		X
John M. Boylston	Whitehall	212	X	
Tad Boylston	Whitehall	212	X	
David MacLay	Meda	212		X
Robert F. Heidecker	Bozeman	212		X
Carol L. Heidecker	Bozeman	212		X
George L. Eke	Hamilton	212		X
Quinn Guenther	Hamilton	212		X

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Natural Resources

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COMMITTEE ON

DATE

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Natural Resources

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NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Heather J. Quigley		212		X
Harley A. Noble	Grassroots for Multiple Use	212		X
Smith Swanson	Patagonia	SB212	X	
Gary Smith	MT Water Users Ass	SB212		X
Ruth Carey	John Carey Ranch	SB212		X
Donald W. Pearce	Pearce Ranch & Broadcast	SB212		X
Dan A. M. Querry	Myself - Ranches	SB212		X
Bill Murphy	Self	SB212		X
Darryl Zeehnke	Zeehnke & Sons Mtn Spul	SB212		X
Franklin Grosfield	Self	SB212		X
Gary H. Graves	Self	SB212		X
Dylan Berg	Self	SB212		X
Joe Anderson	Ranch	212		X
JOHN ANDERSON - Rancher	Park County Leg. Assoc.	SB212		X

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2-15-91

COMMITTEE ON

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Rose Holmstrom	W. H. Sully Sp. of	SB 212		X
Mr & Mrs Jay Nelson	self	212		X
Marcia R. Luthje		212		X
Debbie Litzner	self	212		X
Cydney P. Gaddis	Richman Co. Commissioner	212		X
R. K. Dauben	Willow Creek Ranch	212		X
Kathleen Hadley	Montana Wildlife Federation	212	X	
Robert Story	Montana Assoc. Cons. Dist	212		X
Bill Dierbeck	Vigilante Club Self	..		X
M. J. Latt Jr.	Self	212		X
Ed Luedke	Reddy Ranch	212		X
H. L. Sauerbier	" "	212		X
Valerie Horton	NIH	212	✓	
Sherwin Keep	Self	212		X
David R. Johnson	Self	212		X
Greg R. Jarama	Red River Water Users	212		X
Frank Schutte	Self	212		X
Connel S. Saunders	Willow Creek Ranch	212		X
Phil Kinn	Lincoln Seed Potatoes	212		X
John Venhugger	3710 Churchill Rd. Manhattan	212		X
Tommy L. Lutz	Philipsburg	212		X
John S. S. & Rose	Mont. F. Bureau	212		X
Pat D. P. P.	Boysen & Co. Cons. Nat	212		X
Donna G. Whitmer	McCone	212		X
Robert D. Nelson	Madison	212		X
Thomas J. Nelson	Madison	212		X

(Please leave prepared statement with Secretary)

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Del. Carpenter	Self	212		✓
Jane McFlane	Mont Farm Bureau	212		✓
Bert Guthrie	Self	212		✓
Andy Kleinsasser	Miller Colony	212		✓
Janet Endecott	Gaggin's Herdlands	212		✓
Bonnie Tolton	People for the West	212		✓
Jim Patti Hansen	Self			✓
F. Jenni Palmer	Self	212		✓
Charlotta Edwards	Proctor's P. March	212		✓
Jim O'Crowley	Self	212		✓
Gene Beck	Self	212		✓
Bernie Smith	Groute Dist 32-	212		✓
Francis F. Schenk	San Diego	212		✓
Frank C. Wiley	West Side Dist. Co. Deer Lodge	212		✓
Bob BUBONI	PRICKLY PEAR SPURGEON	212	X	
W. K. Kuhn	Nelson	212	X	
Chlene M. Anderson	Chuteau	212		✓
Magaret M. Galtier	Chuteau	212		✓
Lee Hyman	Gallatin	212		✓
Leslie Kinnon	Gallatin	212		✓
John Downe	Gallatin	212		✓
Henry Ostle	Bynum	212		✓

COMMITTEE ON

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Marlene Boggio	Boggio Tentative Shop	212		X
Cary Ellen McLowan	Steel, MT - Water User	212	<input checked="" type="checkbox"/>	X
Tom McLowan	Water User	212		X
Jeff Johnson	Self	212		X
Barney & Higgins	Higgins Bros. Ranch	212		X
W. J. Egan	Self	212		X
Harold J. Egan	R. J. E.	212		X
Lamin Shipton	"	212		X
George Lee	Trojan Creek Ranch Mts	212		X
Monty Glenou	RCD Big Hole Ranches	212		X
David Smith	Water Resources ASS	212		X
Uel Rosella	Gallatin Co	212		X
Self	Self	212		X
Dan Tucker	G. M. U.	212		X
John A. Taylor	G. M. U.	212		X
James Ruark	S. M. U.	212		X
Lorraine Gibbs	1500 Rock Creek Rd	212		X
Janet Ellis	P. H. Gibson	212	X	X
Dan Hauptman	MT Audubon	212		X
Janet Hauptman	Granite Co.	212		X
Sam V. Dism	Granite Co. Rancher	212		X
W. J. Goetter	Yellowstone Co. Rancher	212		X
Robert Simpson	Self - Ranch	212		X
Jody L. Anderson	SELF RANCHER	212		X
Cl. Belquist	Self - Ranch	212		X
John V. Dism	Mountain State League	212		X
	Pavens Ranch	212		X

COMMITTEE ON

DATE

2-15-91

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Milly + Bill Hodge -	Cornallis Grange 18-170	212		✓
William Penaker	2022 O.D.R. ^{members} Shumeter	212		✓
Dean Dubois	6 C Cattle Co	212		✓
Harry Szwedec	6 C Cattle Co.	212		✓
Barton R. Cooper	Self.	212		✓
David Moss	Beaverhead County	212		✓
Ted Beck	Race Track Creek	212		✓
Rick Hirsch	Race Track Creek	212		✓
John B. H.	Unltd.	212		✓
Collyn O'Hair	Barb Branch Ranch	212		✓
Garry O'Hair	O'Hair Ranch Co	212		✓
Ron Osterberg	Farm + Ranch	212		✓
ROBERT MARVER	FARM + RANCH	212		✓
JERRY NYREN	GREENFIELDS IRRIGATION DIST	212		✓
Nick Koser	Greenfield Irrigation Dist	212		✓
Don Jenkins	Golden Sunlight Mtns W. Idaho	212		✓
Howard Bruce	Miners	212		✓
CHRIS HUKWITZ - WSS	RANCH - SELF	212		✓
Marilynn Frost	Cornallis	212		
et. Thos	Stevens Valley, Idaho			
David S. Hauptman	Granite Co			✓
Mary W. Bender	Rancher, Hall	212		✓
Carrie Zerlanic	Blummond	212		✓
RAT VERBANCIC	BLUMMOND	212		✓
Wendy Smith	Melrose	212		✓
David J. Berger	Ducky	212		✓

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DATE 2-15-11

Natural Resources

VISITORS' REGISTER

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VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
William A. Stender	Rancher Coalition	212		✓
Russell Schulte	Ranching	212		✓
Jay Banorby	Raily Ring Water Users	212		✓
Alfred R. Rahl	Ranching	212		✓
John McDonald	Rancher	212		✓
John Cunnley	Rancher	212		✓
Rich Day	Self	212	✓	
Dwain Hall	B.B.W.A.	212		✓
Joe Messer	Rancher	212		✓
Edward J. Wright	Belgrade	212		✓
Billy Wright	Belgrade	212		✓
Joe Chandler	Hemlock	212		✓
Donald E. Jones	Belgrade	212		✓
Charles R. Jones	"	212		✓
Jim C. Ziegler	Sunset Ranch - Avon	212		✓
Don Arthur	Rancher - Wilsall	212		✓
Karl J. Arthur	Rancher Wilsall	212		✓
Terri Higgins	Terri Higgins	212		✓
Helen Barker	Helen Barker	212		✓
Taylor Brown	Northern Og Network	212		✓
Joe Barrett	Rancher	212		✓
John F. Bauman	" "	212		✓
Delbert R. Carter	Rancher	212		✓
Cliff Cox	Rancher BCFB	212		✓
Phil Kuntz	Rancher	212		✓
Bened Shaffner	Rancher	212		✓

EXHIBIT NO. 13
DATE 11-15-88
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 11-15-88 BY SP-8 JTB

Mr. Chairman, Members of the Senate Resource Committee:

I am Merle Lloyd, Executive Director, Grassroots for Multiple Use, a Bitterroot Valley based Organization having some 1500 members, most of whom are Montana Citizens. We oppose Senate Bill 212.

1. SB 212, states Montana water belongs to the public. The water belongs to the State for the beneficial use of it's people.
2. SB 212 Relieves Instream Flow appropriation, leesee or buyers, from all the requirements others must follow for permit or appropriation. This is discrimination.
3. SB 212 also places Montana Fish, Wildlife and Parks in a superior status.
4. Leasing or selling of water rights may as described in SB 212 -
 - A. Lose the water right due to downstream interests as SB 212 does not contain restrictions, on Instream Rights: Allowing releasing, selling, giving away and permits the water to leave the State at will.
 - B. Involve the State of Montana in litigation to protect or retrieve Water Rights.
 - C. Farm or ranch lands without irrigation would cause loss of taxation to the detrimate of local governments and schools.
 - D. Irrigated fields suddenly dry lose fertility to weed infestation.
 - E. Existing water rights were required to have a point of diversion. Method of transport and a place of beneficial use. Water rights are considered real property and stay with or transfer with the land. The 1921 Montana Supreme Court Decision in the Mettler Vs Ames Realty Co. case, declared the Doctrine of Prior Appropriation to be the valid Montana Water Right Law. SB 212 is an attempt to separate the water from the land.

It is stated in the Montana Code that existing rights prior to 1973 are protected by Law. I ask you to recall how many U.S. District Court Decisions have been overturned in the 9th Court of Appeals. Can Montana take a chance with this very vital resource. We say No! The loss to domestic aquafiers and agriculture is too great.

In closing I wish to re-emphasize our opposition to SB 212. Passage of this measure imperils the future of Montana as we know it. Water, the Blood of Life, to our land could be lost forever.

There is an alternative: Water storage, which would benefit all interests. Thank you.

Merle D. Lloyd
Merle D. Lloyd
Executive Director

WITNESS STATEMENT

To be completed by a person testifying or a person who wants
their testimony entered into the record.

Dated this 15th day of FEBRUARY, 1991.

Name: MERLE D. LLOYD

Address: 1034 HAMILTON HILLS
CORVALLIS, ORT. 57828

Telephone Number: 406-961-3300

Representing whom?

GRASSROOTS FOR MULTIPLE USE

Appearing on which proposal?

513-212

Do you: Support? _____ Amend? _____ Oppose? /

Comments:

This image shows a single sheet of white paper with horizontal black ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slightly textured appearance, typical of standard office or school paper. There is no handwriting or other markings on the page.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

February 15, 1991

Dear Committee members working on Bill 212,

I am Patti Hansen of the LH Ranch and I testified at the hearing that was held on the 15th of February, against the passing of 212 from your committee. Like Ole Ueland that testified before me, I am a member of the Clark Fork Coalition Sub Committee and the reason I feel so strongly about this bill not being passed is that there are better bills being brought under consideration that are on the whole, a lot better for agriculture and less detrimental to our way of life.

Because I have been involved in fundraising for this committee and it has been so difficult to acquire enough donations to pay the lawyer, Gary Spaeth on the committee's behalf in fighting this bill, it makes me very upset when the moneys that Fish, Wildlife and Parks receives from we in agriculture for big game hunting and fishing licenses and they in turn take that money and use it for advertising on the television supporting Bill 212 and maligning agriculture water users in that ad is really a conflict of interest and I feel you should take this under consideration when you are wisely tabling Bill 212 in its entirety.

Thank you for your patience in reading my deposition.

Sincerely,

Patti Hansen

LINGENFELTER HANSEN RANCH
BED AND BREAKFAST
471 MULLAN TRAIL
GOLD CREEK, MONTANA 59733
PHONE: (406) 288-3436

Mr. Chairman, I am a member of the Natural Resources
Committee.

My name is Don J. Marchessault.
I am a District Director of ~~District 2~~
Montana Farm Bureau. I am a
member of the Beaverhead Water Co.,
a landowner and an irrigator and
would like to go on record as opposing
SB 212. Thank you.

Don J. Marchessault

SENATE NATURAL RESOURCES

EXHIBIT NO. 2

DATE 2-15-91

BILL NO. SB 212

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of FEB., 1991.

Name: GARY RUFF

Address: Box 154

CLUSTER MONTANA

Telephone Number: 956-4830

Representing whom?

PRES. OF THE MONTANA CATTLE FEEDER

Appearing on which proposal?

SENATE BILL 212

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

ON BEHALF OF THE MONTANA CATTLE FEEDERS,
WE OPPOSE SENATE BILL 212 WE NEED TO KEEP
OUR CURRENT STRUCTURE. WE REALLY DON'T NEED OUR
NEIGHBORS COMING IN AND BUYING OUR WATER. BEING
A FEEDER AND FARMER WE NEED OUR WATER.

THANK YOU FOR LETTING ME TESTIFY

GARY RUFF PRES. MONTANA CATTLE FEEDERS

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

2181 are Pot. & Sand
~~February 14-91~~

Dear Sir:

I think Bill No 212 would
be a disaster. The worst so far of it.
none of our neighbors are in favor
of it.

SENATE NATURAL RESOURCES
EXHIBIT NO. 25
DATE 2-18-91
BILL NO. SB 212

attor E. T. Hansen
Helen T. Hansen
Mike A. J. Hansen

Linda Rabel
John Rabel
Allen E. Sande
Mark Sande
Vernon S. Sande

SENATE NATURAL RESOURCES

EXHIBIT NO.

26

DATE

2-18-91

BILL NO.

SB 212

Elmer & Helen Coscik
22821 Frontage Road
Belgrade, MT. 59714

February 12, 1991

TO: Senate Committees Chairman Larry Stimatz &
Vice Chairman Cecil Weeding

It seems the MWF wishes to appropriate portions of water in the West Gallatin River and other streams and tributaries whose quantities are at present over-appropriated for irrigation. This unfound water will be taken from the farmers to flow the full length of the stream for the use of recreation and cannot be returned to be used to replace the rites that it was taken from.

I have farmed here in the Gallatin Valley for sixty years and I cannot recall a year when some of the later rite ditches weren't short of water to complete the watering of crops.

I therefore consider the SB212 sponsored by Bianchi to be one of the worst bills that could be placed in effect here in the State of Montana. When the lower reaches of the streams are short of water, the fields are also in need of irrigation, so who would be foolish enough to sell or lease their water to be wasted by letting it flow down to the areas where the benefits are no longer available to the farmers who have worked to raise crops to feed our people here in our beautiful Gallatin Valley.

Respectfully yours,

Elmer & Helen Coscik

Mammoth Ditch Co.

Elmer Coscik Pres

TO: Whom It May Concern,

RE: SB-212

Several years ago I worked as a ditch rider for two water companies. I did this under the direction of the late Judge W. W. Lessley. During this time I learned how valuable the river water was, and still is to the ranchers and farmers. I witnessed many disputes over the amount of water to which an individual is entitled, according to their shares. This would usually occur during the times the river was low and water was necessary and vital to the survival of crops and animals. Only a plan that was orderly and organized could be used during these trying times. This plan was implemented many years ago to allow each to receive the water they had paid for and were guaranteed by the law to have. If the people who so desperately need this water are to continue to have it, they must not lose their dated water rights, especially when the water flow is low, and the use of water is limited. Protection of water rights for agriculture will ensure the maintenance of river and stream flow. This means that the water in the streams and rivers will not be depleted. Should these water rights ever be lost, we will all be losers. The ranchers and farmers will not be able to produce their crops and feed their animals. We, the consumers, will not have these products available to us. This will cause a loss to the producers and much higher costs to the consumers. All of us, the rancher, the farmer, the sportsman, and anyone who uses the water or products of the water benefit from this plan.

It is beyond comprehension to think that if the water rights are removed and people, who depend on this for their living, do not have a way to SHARE the water, that there will not be total chaos to try to get water. Owning water rights is tantamount to ensuring harmony among water users and preserving the ecology of the streams environment.

I do not ranch or farm. I write this because, at one time, I had the opportunity to see how so many peoples' lives are dependent on the rivers and streams. To remove these dated water rights will be a great injustice to these people.

Sincerely,


Robert S. Taylor

3911 Heritage dr.

Billings, Montana 59102

656-6660

TO COMMITTEE MEMBERS AND THE LEGISLATORS OF MONTANA

RE: SB #212

As a Montana born irrigated farm owner, I urge you to kill Senate Bill #212. Farm lands without water does not have much value. This in turn will affect tax bases meaning that the government entities that utilize moneys derived from taxes would have less funds to operate with. The municipalities would be impacted with the farming people not having adequate income to purchase products and as a result businesses would have to cut back on personnel and inventories. Result-less income and services; less taxes.

WATER RIGHTS for the Montana farming interests have been fought for and paid for over the years to insure their income and way of life and insure the future of that way of life. WATER RIGHTS ON IRRIGATED FARMS ARE AS IMPORTANT AS THE SOIL IN THE GROWING OF CROPS!! The farmers have had to live with drought conditions over the years such as we are experiencing now and and survived. SO DID THE FISH AND WILDLIFE. These are in better condition and greater numbers today than they were when I was a boy some sixty years ago.

Agriculture has been the backbone of the State of Montana's economy and will be for some time to come. Irrigation has been an important factor in stablizing the income of the farming areas, particularly in the western part of the state, where water rights has been and are a part of the land, which contributes to the success of the irrigated farms.

It is my understanding that a law is in the codes that has never been fully implemented to do a study on the very issue that is trying to be addressed in this bill. WHY????

I URGE YOU TO VERY CAREFULLY CONSIDER THE IMPLICATIONS CONTAINED IN THIS BILL AND VOTE TO KILL IT AND FIND OUT WHY THE PRESENT LAW ON THE BOOKS HAS NOT FUNTIONED AS INTENDED!!!

James Balke
P.O. Box 382
Belgrade, MT 59714

February 12, 1991

SENATE NATURAL RESOURCES

EXHIBIT NO. 29

DATE 2-15-91

BILL NO. SB 212

To the Committee Considering S B 212

Dear Sirs,

This is in opposition to S B 212 known as the "in stream". This is something that we do not need as the problem has already been considered by past sessions. It will not be beneficial to the people of Montana, and it should be killed in committee. Thank you.

Dorothy Jane Jackson

Dorothy Jane Jackson

Robert R Teague

Robert R Teague

SENATE NATURAL RESOURCES
EXHIBIT NO. 30
DATE 2-15-91
BILL NO. SB 212

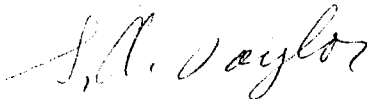
Senate Natural Resources Committee

RE: SB 212

The Mammoth Ditch Company has been in existence since 1866 or for 124 years. Our right calls for 2740 miners inches and irrigates 2,976 acres of good land.

Millions of dollars have been invested in this land and the water rights. Without the water rights all economy will suffer---farmers, ranchers, schools and downtown business. Tax base will drop due to reduced property value.

MONTANA does not need a depression due to the adoption Of Senate Bill 212.



S.A. Taylor

Secretart Treasurer of Mammoth Ditch Co.

Member of Montana Stockgrowers Association

Montana Rural Water Systems is a non-profit organization that is dedicated to providing the latest information, education and Technical Assistance to protect our public waters and improve the quality of life in Montana. Our membership includes approximately 75% of all the public drinking water systems in the state.

In accordance with these principals, we rise in opposition to SB 212. While recognizing certain merits of the bill we feel that it is inappropriate to embark upon such a dangerous course with Montana's Water law at this time. We strongly urge further research into other avenues to resolve problems of stream' use and flows.

We thank you for your consideration.

Montana Rural Water Systems



Dave Jones,

MRWS President

SENATE NATURAL RESOURCES

EXHIBIT NO.

DATE

BILL NO.

49
2-15-91
SB 212

Feb. 15, 1991

Box 541

Harborton, MT

59036

To whom it may concern;

As landowners in Wheatland County we are ~~at~~ opposed to the bill SB. 212 concerning water access. We feel this bill infringes on our ~~rights~~ as landowners and citizens.

Sincerely,

Clint and Atka Stagner

WATER USERS IRRIGATION COMPANY
RICHARD WIEBER, SECRETARY
OWNERS OF LIMA DAM AND RESERVOIR
P. O. BOX 1046
DILLON, MONTANA

SENATE NATURAL RESOURCES
EXHIBIT NO. 556
DATE 2-15-91
BILL NO. SB 212

Senate Natural resource Committee

Mr. Chairman, Members of the Committee.

My name is Richard Gosman. I own and operate an irrigated ranch in the Red Rock River Valley near Lima, Mt. I am Vice President of the Water Users Irrigation Company. W.U.I.C. own and operate Lima Dam which provides irrigation water to 26 operators. I speak for them in opposition to Senate Bill 212.

The introduction to the bill states on line 25 page one, Quote, "The Legislature finds that water rights for instream use may be integrated into Montana's prior appropriation system without injury to other water users" end quote. Here is the crux of our problem. We respectfully submit that this statement is untrue, is unfounded in fact, and is made without an understanding of Montana water law and custom.

Montana's water basins are over appropriated for normal water years. Montana water law holds that if an appropriator does not use his water for the purpose for which it was appropriated then it becomes available for the next junior appropriator. This is the basis for the development of irrigated agriculture in our State. It is a system that has been followed over the years. It has stood the test of time. It is fair. It is legal, and it does not need to be changed. The retention of water for instream flow will mean that some appropriator with a valid claim to that water will be denied its use.

Passage of this bill will mean chaos for agriculture. We respectfully request that this bill be killed in committee.

Richard Gosman, Vice President

SENATE NATURAL RESOURCES

EXHIBIT NO.

56

DATE

2-15-91

BILL NO.

SB 212

Feb 11, 1991

Sen. Larry Stimatz
Chairman, Natural Resources Comm.
State Senate
Helena, Montana

Honorable Sen. Stimatz:

I am writing to urge you to do all possible to fail passage of S.B. 212 - The instream water leasing bill. As a rancher, I realize how important Montana water rights are. Allowing this bill to pass would badly harm our state's water rights. Anyone or any group could lease or buy instream water rights and effectively stop free and open water rights as we know them. Our water is a priceless heritage to our state. Don't let this bill pass and put a price on our water.

Sincerely,
Bob Wertheimer
Wertheimer Ranch
Utica, MT

59452

Senate Bill 212

I strongly oppose SB 212.

I am Virge Holliday and have a ranch in Park County.

SB 212 is a great bill — for recreation. Is play more important than the most important industry in Montana — agriculture? We in agriculture are already suffering from drought — lack of water. With this bill it would put still more of us out of business. We are in a productive, renewable industry and when agriculture hurts the whole of Montana will hurt because many businesses in town depend mainly on agriculture.

We cannot compromise on land or water issues or it will be the end. Is not the production of food the most beneficial of water use? And what exactly does claiming of water have to do with 'public health'? Also where does the water go when it is left in stream? All the stored downstream from us will be deligh

Again - I strongly oppose SB 212.

Virge Holliday
Willroll, MT

DAVID T. DEARMAN
Rt. #1 Box 256
Wilsall, MT. 59086

SENATE NATURAL RESOURCES
EXHIBIT NO. 58
DATE 2-15-91
BILL NO. SB 212

RE: S.B. 212

As you know Agriculture is Montana's Number one industry. Should you allow Water rights to be separated from the land. Like a Vine denied water agriculture will slowly die.

You were elected to Senate to represent the public's best interest for now and into the future.

If you allow a few special interest groups such as Montana Fish and Game and recreationalist from outside the State of Montana to have their way. This state will surely deteriorate to a off and on recreation industry which will follow the ups and downs of the American economy.

Montana's future is in a strong healthy agricultural industry. This can be ascertained by keeping our water Rights with the land. (Vote NO ON S.B. 212)

Sincerely,

David T. Dearman

DAVID T. DEARMAN
Rancher & Civil Engineer

2/10/91
For Senator Stinebaugh:
Please vote NO on SB 212
"In Stream Dam Act of 1991."

SENATE NATURAL RESOURCES

EXHIBIT NO. 64 Thank you

DATE 2-15-91 Bob Ross

BILL NO. SB 212 306 E. Story

Bozeman, mt.
59715

Senate Natural Resources Committee

SENATE NATURAL RESOURCES

EXHIBIT NO. 71

DATE 2-15-91

BILL NO. 212

Ladies and Gentlemen of the Committee;

For the record I am Melvin Hudecda, Shelby,

Montana, farmer, rancher, landowner and water rights owner.

I wish to register my opposition to the concept of SB 212. It would cause me, all irrigators and the State of Montana irreparable damage.

I have invested in excess of \$100,000 to develop a base for livestock winter feed. This bill would allow me or future owners to sell our water even outside the State.

The valleys of California east of the Sierra Nevada are a prime example of the ability of a large metropolis such as Los Angeles to buy up ranches and divert water from irrigation causing these valleys to revert to former desert conditions. Senate Bill 212 would accomplish the same situation for no one can compete with waterhungry metropolitan areas.

Our livestock industry is based on, and relies on our ability to grow winter feed. This bill would in the long run destroy our base and return Montana to its former desert state.

Montana's Agriculture industry is the top in the State in value and livestock is about half of this value. It contributes to Montana's Tax base and economy far more than would be accomplished by any alternative.

I urge the Committee to resoundingly defeat this very negative bill against Montana's future economy. Thank you

Melvin Hudecda

Box 605

11/22/91

SENATE NATURAL RESOURCES
EXHIBIT NO. 76
DATE 2-15-91
BILL NO. SB 212

February 9, 1991

Senator Larry Stimat
Chairman, Senate Reserve Committee
Capital Building
Helena, MT 59620

Dear Senator Stimat:

As water commissioners of the Ward Irrigation District this letter is to advise you that we are opposed to Senate Bill #212.

Sincerely,

Bill Springer

Bill Springer, Water Commissioner

Scott A. Lindquist

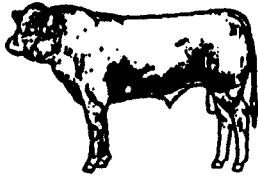
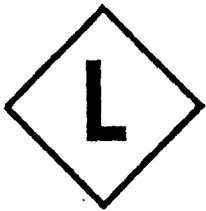
Scott Lindquist, Water Commissioner

George Else

George Else, Water Commissioner

Betty L. Frost

Betty Frost, Secretary/Treasurer



DIAMOND L LIMOUSIN

Jon & Margie Lienemann
534 Dutch Hill Rd. N.W.
Hamilton, MT 59840
(406) 961-3101

SENATE NATURAL RESOURCES

EXHIBIT NO. 77

DATE 2-15-91

BILL NO. SB 212

11 February 91

To: Committee on Natural Resources
Montana State Legislature
Helena, Mt.

Subject: SB-212

1. We would like to voice our opposition to this bill for the following reasons.

a. It bypasses the four year study of appropriated water use before the study is complete. We should let the study complete its course and then take a look at this problem.

b. This bill would divorce the water rights of 100 years^{ago} away from the land. Agriculture is the backbone of Montana's Economy and to divorce the very lifeblood of Montana's agriculture would do irreparable damage not only to this industry but to the well being of the whole state.

I hope that this committee will kill this bill and let the legislation now in force run its course.

Sincerely,

Jon H. Lienemann
Jon H. Lienemann

Margie C. Lienemann

Margie C. Lienemann

SMITH 6 BAR S LIVESTOCK
P. O. BOX 107
GLEN, MONTANA 59732
406-835-3441

February 15, 1991

SENATE NATURAL RESOURCES
EXHIBIT NO. 85
DATE 2-15-91
BILL NO. SB 212

To the Senate Natural Resources Committee:

We are opposed to SB 212 for the following reasons:

1. For more than 100 years Montana water laws have served the people of Montana well and we oppose changing these laws. It would cause chaos in the adjudication process now going on in the stream basins in Montana.
2. Permitting the sale of water rights in Montana will cause speculation in water rights, just as there is in land, and could lead to the loss of our water to the highest bidder. This could be other states, out-of-state interests, or anyone who had the money to make the highest bid. This would effectively destroy Montana's number one industry, agriculture. Because agriculture needs large amounts of land to operate its business, its existence as Montana's number one industry has been the main reason for Montana's unspoiled scenery, a big attraction for tourists and new residents moving in.
3. SB 212, as written, opens the door for endless litigation in the future.
4. The transfer or sale of water rights could have a very negative impact on local economies and on the local tax base. We don't think this is something Montana can afford to have happen.
5. Any water quality issues should be addressed in separate legislation from water rights issues.
6. Instream flows in most years are adequate for the support of fish. Even in dry years, such as the past few years, recharge water from irrigation will maintain instream flows adequate to support aquatic habitat.

We urge you to oppose this bill. It would open up the proverbial "can of worms" and we don't believe the future effects of this on the survival of the state of Montana can even be imagined at this time.

Sincerely,

E. W. Hayward Smith president
Holley R Smith
Randall P. Smith V.P.

DATE 2-15-91

BILL NO. SB 212

In regard to S.B.

Manhattan, Mont

Feb 14, 1991

Dear Chairman Stuntz & Committee:

Will you please reject this
ploy being perpetrated by Sen Beards-
as a stockholder in the Pecos Canal
in Manhattan, I am concerned about
my water right, which was secured
in 1866. With out that water
my 160 Acres is absolutely worthless.
And I mean absolute possession
not dependent on some character
or organization having the
legislative power to divert my
water for their own use.

I feel the water right is my own
personal possession. If I were to
lose this possession, what would step
to me other than to step in &
take my home or livestock or some
other property. What the difference?
I think it would be unfortunate

that we as taxpayer & property
owners have to defend something
that has been asked to us, and has
been in our possession since 1866:-

This is another example of us
the people having some strange
and-fellows in our midst:-

I ask you in good conscience
please don't take something by
legislation that you have no
right to take. I sincerely trust
that Cool fair heads will prevail.

Respectfully

Allen Seallard

245 S. Yellow Rd

Manhattan Mont

59741

P. Lane - 284-6450

TO ALL MONTANA SENATORS AND REPRESENTATIVES

DATE 2-15-91

ATTN: MEMBERS OF THE SENATE NATURAL RESOURCE COMMITTEE

BILL NO. SB 212

We the undersigned ask you to Vote Against Senate Bill 212.This is not just an agricultural issue!

We your petitioners find that Senate Bill 212 essentially eliminates any judicial process. Senate Bill 212 introduced by Senator Bianchi, has the potential to seriously impact not only agricultural users, but all industries and individuals who use water.

Essentially, the bill destroys the historical bond between water and the land, allowing for the sale of water rights to maintain instream flows. In a worst case scenario, environmental groups and/or large downstream urban centers could ultimately control significant quantities of Montana's water. Already struggling rural counties would lose tax revenue as lands presently under irrigation are reduced in value. Ranchers, farmers, miners and others could be put out of business.

For the record, we also ask you how you plan to vote on Senate Bill 212, and to please address remarks to signature #1 below.

Name

Address

1. Virginia Wheelborn Grant Mt.
2. J. H. H. Dillon Mt.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.

February 15, 1991

EXHIBIT NO. 96

DATE 2-15-91

BILL NO. SB 212

TO: Senate Natural Resources Committee

Re: Senate Bill 212

The Ruby Valley Conservation District Board of Supervisors voted unanimously at our February 13, 1991, to oppose Senate Bill 212. Our board opposes SB 212 for the following reasons:

. SB 212 would change Montana's historic water law significantly. There has been no study to determine what effects these changes would have on Montana's state and local economies.

. Agriculture is our Ruby Valley's most important industry. We believe separating the water rights from the land as proposed in SB 212 would adversely effect agricultural production, reduce land values and reduce an already shrinking tax base.

. Under the provisions of SB 212 water rights could be sold to the highest bidder. In this situation, Montana interests would not have the necessary capital to compete with out of state bidders. The effect of exporting our precious water could be devastating to the State of Montana.

. The Ruby Valley Conservation District Board of Supervisors does not believe adequate study has been done to determine what impact leasing and selling Montana's water would have on industry, agricultural interests, cities, and instream flows.

The Ruby Valley Conservation District Board of Supervisors would urge that the Natural Resource Committee vote against SB 212.

Ruby Valley Conservation
District Board of Supervisors

John Anderson, Jr.
Robert Kraai
Robert Redfield
Jay Barnosky
Stu Burns
Boyce Lott
Gary Glem

LARRY FASBENDER

LOBBYIST

P.O. BOX 367

HELENA, MONTANA 59601

(406) 442-2120

SENATE NATURAL RESOURCES

EXHIBIT NO. 97

DATE 2-15-91

BILL NO. SB 212

February 15, 1991

TESTIMONY ON SB-212

FISHING OUTFITTERS ASSOCIATION OF MONTANA

I am Larry Fasbender, speaking on behalf of the Fishing Outfitters Association of Montana (FOAM).

FOAM members are extremely interested in protecting the water resources of Montana that sustain their industry. At the same time, while both public and private interests are involved in protecting that resource, it is the feeling of the Fishing Outfitters that SB-212, as written, goes too far in allowing private interests unlimited access to the process.

Allowing Fish, Wildlife and Parks (as a public agency accessible by private interests) to have the responsibility for meeting the needs of sustaining and protecting the resource, establishes a forum for all interested parties to participate in the process. That process is still being developed and should be allowed an opportunity to demonstrate its workability before it is substantially expanded.

We therefore oppose SB-212 at this time.