

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By Senator Greg Jergeson, on March 22, 1991, at 3:00 P.M.

ROLL CALL

Members Present:

Greg Jergeson, Chairman (D)
Francis Koehnke, Vice Chairman (D)
Gary Aklestad (R)
Thomas Beck (R)
Betty Bruski (D)
Gerry Devlin (R)
Jack Rea (D)
Bernie Swift (R)
Bob Williams (D)

Members Excused: None

Staff Present: Dave Boyer (Legislative Council).

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

Announcements/Discussion:

Chairman Jergeson introduced Dave Boyer, who was sitting in for Connie Erickson as Legal Counsel. He also introduced Michael Jergeson, Chinook, who is a student at the University of Montana.

Chairman Jergeson advised that Connie Erickson, Legal Counsel, had prepared the Gray Bill for HB 574, and copies were available for the committee members' perusal prior to Executive Action on that bill.

HEARING ON HOUSE BILL 814

Presentation and Opening Statement by Sponsor:

Representative Bob Thoft, District 63, advised that HB 814 provides for the disposition of eleven water projects in the state. The bill attempts to give those projects back to the people that are using and running them today. It provides a date of June 30, 1995 to attempt to dispose of the eleven canal projects which are listed in the bill. It provides for the option either to dispose of the projects to existing water users associations or begin charging these associations for the

Department's administrative costs. It provides for the payment to the associations equal to one year cost of operating and maintaining canal projects. They can relieve their indebtedness by the amount of one year's O & M. Relieving them of that indebtedness has some advantages to them and to the Department. It will not only reduce their indebtedness but also they will have less interest to pay. The Department may not cancel or write off accounts receivable carried on the books. This just refers to indebtedness a lot of projects have with the state, except the part they have used for relief. It provides the Department may enter on the land to carry out the purpose of this bill; it provides for an increase in the percentage of affected water users required to veto a department decision to dispose of a project, which is an important part of the bill, according to Representative Thoft. The veto is raised from 15% of the water users to 30%. He believes that is appropriate because 30% gives a better representation of those water users on any decision they want to make, and it also says that these people can veto the idea of taking over the project. He believed that summarized what is in the bill.

Proponents' Testimony:

KAREN BARCLAY, Director of the Department of Natural Resources and Conservation, stated she wished to give a little background regarding the reasons for HB 814. She stated that for the past ten years or so the Department has reviewed these projects and has attempted to dispose of some of the projects that were either abandoned or for other reasons the Legislature thought should be disposed of or put in private hands, and she cited the Daly Ditches project as an example of some of the projects they did dispose of. Two years ago an evaluation was done of all the state-owned water projects which fall in three categories: (1) multiple use projects - reservoir projects utilized not only for irrigation, but also utilized in some cases for municipal water and recreational purposes; (2) single use projects, which are being discussed today, that have existing water users Associations that are used only for irrigation; and (3) a number of projects that are abandoned and have no organized association or no users that are utilizing other canal or water associated with those. In the case of the abandoned projects, they are aggressively attempting to take those off the books of the state, because there is no utilization of those. On the first category the determination has been made that since they are multiple use projects, that is an appropriate area for the continuation of state involvement. However, the single use projects have been evaluated by the Department and also by the Ambassadors, a group appointed by the Governor and organized through the Chamber of Commerce, and the result of both these evaluations was the same recommendation that Ms. Barclay made to the Government, ie, these single use projects should be put in private hands, which would be the hands of the existing water users.

By way of clarification she stated they are not attempting to go out and issue an RFP and accept the highest bid, but what they are attempting to do through this legislation is to take these projects and turn them over and put them in the private hands of the people that are currently operating, maintaining and benefiting from these projects. While the Department thinks this is an appropriate thing for the state of Montana to do because they think it will benefit the water users, they also recognize that of the 11 projects that they have identified here, each project is a little different and each project will have to be handled separately in that some of these projects might have a concern about water rights, rights-of-way, or legal concerns. What they have developed is a four-year time frame where the Department can work with each individual water users association or water organization and resolve their particular problems. Over that four-year time frame they would provide the assistance necessary to put these projects in their private hands. If the organizations approved of the taking over of these projects, at the end of the four-year time period, or sooner, they would provide this one year O & M. At the end of the four-year time frame, if they chose not to accept the project, then they would begin charging the individual water user association for the administrative cost associated with maintaining their project. While a number of associations have asked to give them a specific dollar amount as to what that might be, they really cannot do that because each project is a little different, and one year one project might require more support and another year another may need support be it administrative, legal or engineering. They recognize that there are concerns and that the water users association would like to work together in terms of those concerns, and that is the reason they provided the four-year time frame. She distributed a map indicating the locations of the canal projects under proposed legislation for disposition of projects (Exhibit #1). She pointed out they are located all over the state and are single use projects. They currently have active water user associations, and these eleven projects pay their way, and if there are major rehabilitations efforts, they also pay for those costs. She stated they believe this is in the long-term best interest of the water users association; they can better operate these single use projects than the state can.

Opponents' Testimony:

JO BRUNNER, Executive Secretary, Montana Water Resources Association, advised that the majority of the projects that are listed in this program are members of their association and she advised there are several present who wished to address the issue.

ERNIE ICOPINI, President of the Hysham Water Users Association, advised that their main concern is their power supply. They pump all their water from the Yellowstone River, and currently they purchase their power from Western Area Power. At a meeting with Western Area Power in January they were told

that if the state no longer owned their project, they would need to form a district. The projected cost to form a district is about \$300,000 or \$52.00 an acre. The Hysham Water Users has 5,762 acres. In 1990, they paid Western Area Power \$25,175 for power or \$4.37 per acre. If they were to buy power from their local co-op, the cost would be about \$21.85 per acre, or a total cost of \$125,900. They feel this would break their project, since they could not afford the cost either way.

LARRY JORDAN, Chairman, Paradise Valley Canal Users Association, Livingston, stated they oppose HB 814 for several reasons. He presented copies of his written testimony which he read to the committee (Exhibit #2).

KEN MACKLEY, land owner in the Hysham Water Users Association, advised that he has been there since 1954, and has spent 20 years on the Board. He commented that they wished to eliminate eleven projects, but he believes they are not talking about the same type of projects. Their project charges today \$20.00 an acre for water, which he believes is pretty high compared to most. They have been up to \$25.00. Now they pay all of their own bills, get nothing from the state, and they can go on this way. His power bill for 320 acres is \$8,000. He believes if they have to go to the REA their price would double. According to what he reads in magazines, he fears the electricity cost will go up 72% in the next three years. That would mean the power bill would go to \$43.00 an acre, plus the \$15.00 they are being charged now. He personally believes that if this bill passes, he will quit because he will not be able to afford to operate. If the Legislature wants to take out some projects, that is up to the legislature, but if they take out pumping projects, he believes the end result is putting the farmers out of business, evaluating the land down to nothing.

SENATOR CECIL WEEDING, District 14, stated he represents the Hysham Pumping Canal group, and is appearing as an opponent. He wished to suggest an amendment that would delete the Hysham Pumping Canal from the list of eleven projects scheduled for disposition (Exhibit #3). He added that as previous speakers indicated, because of the power costs escalation and the costs of forming a district, it would be prohibitive for the Hysham district to make it alone. It is a paying project and he believes is mutually beneficial.

DAVID HAUG, Livingston Ditch Company, and a Board member of Livingston Water Users Association, an organization of about 143 users which manages about 3,080 inches of water, stated their project was built in 1936, and currently they have problems that need to be addressed immediately. They have an estimate for necessary work which amounts to \$200,000. It is doubtful they can find a bank to finance this project. They need access to low interest money, which without the DNRC will be a problem to get. He indicated another problem was that their first notification regarding HB 814 was on about February 8, which has not given

them much time to look at this to understand what is going on. He believes they need more time to evaluate it. They do not feel the savings are there because even with deducting an O & M from their payments, they have less than one year of O & M payments left. He feels that this bill should be killed. If it is not killed, they have some amendments they would like added (Exhibit #4).

LLOYD J. ALLEN, Augusta, stated he is part of the Florence Project and a Board Director of the Nilan Water Users Association. He added he was elected "at large" so his representation is not directly related to Florence. He wished to point out that he did not have much notice about what the DNRC had proposed to submit to the Legislature until just a couple of weeks ago. He stated the problem with it being proposed in that manner was that the association did not have time to work together at a meeting in order to address the problems and clear up some misunderstandings. He informed that Florence derives its water from Nilan, which is a multi-purpose project. It takes two contracts to get water down Florence. You must have a water purchase contract, and also the Florence Canal Project Use contract which gives the right to take water down the canal. These contracts are all scheduled to pay the project off in varying amounts of time. There is approximately 3600 acre feet of water sold to go down Florence, and in Nilan they had sold 8500 acre feet of water, which means that there is roughly 5000 acre feet of water that has to go out someplace else. He referred to the map, copies of which he presented to the committee (Exhibit #5). He said when you are talking about this project, you are talking about three separate camps of people - one on the north, one on the river, and the one on Florence. The water that is sold is sold at the dam. Presently the water for Florence costs \$7.55 at the dam. He said it takes three acre feet of water at the dam to get one acre foot of water to irrigate his ground, which gives roughly a \$22.65 cost per acre. Another problem is that Florence was conceived and inadvertently combined with Nilan, so when you talk about Florence you are actually talking about Nilan, and all the money is given to the Association, who in turns administrates it but it was never a separate organization. The Nilan Water Users Association is a Montana corporation. They have been paying their own way. He covered his other concerns regarding costs, and the abandonment of Florence which has been delivering water to Nilan. There are five people on Florence who have no other course to get water. He predicted if this bill goes through and abandonment comes about, he believes a class action suit will be brought against the state. He recommended that the bill be killed, with a recommendation to the DNRC to go back and work with the associations to try to come up with something that will be effective.

NEIL TODD, representing the Vigilante Canal Users and the West Bench Canal Users, which projects contract water from the Ruby River Storage Project, stated they have approximately 80

stockholders who use water from the project. These have been obtaining water from these projects for the past 40 years. At present they are opposed to HB 814. They feel they need more time, facts and figures specific to their projects before they can formulate any other decisions. The bill is not specific as to the retention of their current water rights. The canal users feel they should have been more involved in the drafting of the bill affecting the destiny of their projects. These two canals work very well with the state over many years. They feel they have been a good partner with the state, and they have paid their own way. Their canals are in excellent condition. All projects listed have specific problems, and all projects should not be covered with one blanket bill. He urged that the specifics of this issue be refined before passage of the law. They are not opposed to owning their canals and water rights, nor working with the DNRC. They are only opposed to HB 814 as it is written.

REPRESENTATIVE ED McCAFFREE, House District 27, stated his district includes the Hysham Pumping Canals and also the Delphia Melstone Canals. Their biggest concern is the power agreement with the Hysham project. DNRC assured him that the power contract would not change. They cannot make that assurance, and he asked to be provided with something in writing from WAPA that it would not change and they could not do that. However, they attempted to get an agreement but the last word he has is that they will not get an agreement. He urged adopting the amendment eliminating the Hysham Pumping Canals from HB 814.

ALLEN O'HAIR, rancher from south of Livingston who irrigates out of the Park Branch Canal, stated he wished to voice his concern regarding the disposition of the state-owned water projects by the Department of Natural Resources. He is a member and officer of the Park Branch Water Users Association located in the Paradise Valley in Livingston. Construction of the canal was under the auspices of the State Water Board, which later became the Department of Natural Resources. The Canal was built in 1935, and until that time the valley was dependent on small creeks for irrigation water. These creeks usually dried up about the first of July, leaving the valley practically a desert with hardly enough water for livestock. Since the canal was built, it is needless to say the economic impact to the valley and the county is immeasurable. He applauded the people in the valley for their farsightedness and the assistance of the DNRC. However, there is much left to be done to make the land more productive and more efficient in the usage of water. The expertise and knowledge and financial assistance of the DNR to get them through this most crucial time of high energy cost and the importance of efficient water usage. DNR has the responsibility to develop the resources in Montana, and let not the disposition of the canal projects be the first to fall. He believes HB 814 is not in the best interest of the water projects in Montana. His concerns are: protection of water rights, emergency financing, liability of which there are no provisions in HB 814. He recommended a "no" vote by the committee members.

Questions From Committee Members:

Senator Aklestad stated he assumed that all the projects were different when they were originally constructed. He asked who bore the burden of the construction costs. Karen Barclay, Department of Natural Resources, informed that all of the original construction costs were borne by the state and federal government. However, contracts were made for the water users to repay those costs. Senator Aklestad asked if there are separate contracts with each canal. Ms. Barclay stated they are separate, and in some cases they have different contracts with each individual water user on the project. The Department handles all the billing. In response to Sen. Aklestad's question, she advised that there are different expiration dates on each individual project and that is why the amendment which Rep. Thoft discussed allowed for the Department to pay for either one year's O & M off of the debts that are owed, or else to make a cash payment of one year's O & M to the individual water users association. There are three canals that could conceivably be debt free at the end of the four-year period.

Senator Aklestad asked who has jurisdiction over the water rights of the source that feeds these canals. Ms. Barclay advised that the state has the water rights on all of these projects.

Senator Williams asked if the Sidney power rates are the same as the Hysham rates. Ms. Barclay stated that Sidney also receives power from WAPA, but she did not know if the rates were the same. Regarding the Hysham concern, she believed it was legitimate. If these power rates were to increase, as mentioned, the Department would not, and could not, force the association to take over the project if the pumping rates were to increase so exorbitantly. They have no intention of putting people out of business. On the other hand, she believes there is an opportunity to maintain the same power rates if (1) it were a state-owned project, or (2) go to Congress to obtain fixed loan pumping rates. Senator Williams asked how firm are the WAPA rates, to which she replied that power rates all over the country are going up so she could not say how firm the WAPA rates are. She stated they would work with the water users and WAPA so that they would get the same rate as a district as they would if they continued to be owned by the state. If that were not going to happen, DNRC could not force them to take over the project. In regard to the estimated 72% increase in two to three years, she stated that WAPA has told the Department that as long as the project was utilized for the same purpose they would consider the same rates. The Department would be willing to sign a document stating the project would be used for the same purpose, and therefore should have the same power rates. They would work with the water uses to implement that kind of an agreement with WAPA, and that is the reason for the four-year period to resolve problems.

Senator Swift asked for clarification regarding the water rights, since these involve stream courses with water rights. Ms. Barclay said the state currently has the water rights; what they would intend is to turn the water rights over to the water users associations, where appropriate. She believed, for instance, that Florence is an exception because it is a storage right and the state would maintain the water right; however, they would still continue to provide a contract to the Florence water users association for the same amount of water.

Senator Swift asked if the state is into fixed rate contracts. Ms. Barclay advised that each contract is a little bit different. Senator Swift stated he understood the rates are different, but asked if they are frozen within the contract period. She deferred the question to Melvin McBeath who informed that each individual association has a water marketing contract with the Department. There is also a three-way contract with each individual water user, and that is the water purchase contract. The rate within the water purchase contract is a fixed rate for a given number of years and when that contract is paid up, then that water user does not pay that cost to the state government anymore. They will always pay their operation and maintenance costs.

Senator Swift referred to comments made that involved the time frame of notification. Ms. Barclay stated that they have met with all of the water user associations at their annual meetings, and this legislation was discussed. Subsequently, they have sent a number of letters to the associations, including one just a few weeks ago, letting them know the status of the bill. In addition, beginning July 1, there is a four-year time frame to actually work with each water users association before they would have to either accept or reject the project.

Senator Swift noted that the percentage of number of stockholders required to veto a department decision to dispose of a project was raised in each canal or water project from 15% to 30%. He asked if the water users were a part of that inclusion in the bill. Ms. Barclay stated that they did discuss the legislation, and it was the Department's feeling that 15% was not representative of the association. She pointed out that it takes 66 2/3% to petition to take over a project. The bill before the committee is the general statute. HB 814 only adds some language which specifically discusses the eleven projects, and also discusses payment of the O & M fee that would be given to these projects, and also the administrative expenses if they chose not to take them. The general bill has been on the books for some time.

In response to questions by Senator Devlin, Ken Mackley, Hysham, stated that their project is already paying all of their own bills and they pay their contract. The problem is that no one can guarantee their power bill will be the same. Without a guarantee he feels they will go broke. Senator Devlin pointed

out that Hysham and Sidney are pumping stations.

Jo Brunner, Montana Water Resources Association, stated she believed that probably everybody present does think that they should own their own water and take the systems back. The problem is that they were not aware of the notification that apparently has not been communicated to them, and the discussion did not seem to indicate this would happen this session. They feel that the discussion should be had before they sign the contract, so to speak. They would prefer to have been involved early on before the bill was written. The main complaint is the time frame.

Senator Devlin asked Ms. Brunner if she believed the users would have problems with the veto power in this bill. Ms. Brunner stated they are aware that they have to petition to begin with, and that the veto is available.

Senator Jergeson asked Ms. Barclay if she would care to comment on the issue of involvement. Ms. Barclay stated she can only speak for the last two years, but she has been told that the Department has discussed with the water users for over ten years about the possibility of turning these projects over to users. The past summer, after the decision was made to go forward with legislation such as this, they attended every annual meeting and notified the water users that they were proposing legislation. In addition, at every agricultural meeting that she has attended she has discussed disposition of these projects. They have sent at least two letters to each water users association letting them know legislation was being introduced and what it contained.

Senator Devlin asked if the veto is in current law, to which Ms. Barclay answered affirmatively, adding that the only modification is raising the number of stockholders required to veto from 15% to 30%. Senator Devlin referred to the cost of the formation of a district, and asked Ms. Barclay if she had any figures indicating such cost.

Chairman Jergeson asked what is the cost of establishing a district. Ms. Barclay stated that the cost estimate was based upon the Daly Ditches experience, and it was escalated for inflation. That particular project had a number of legal problems associated with it that required tremendous legal support to develop it. She stated they would not require that a district be formed on any of these canal projects, so there should not be any legal costs. She stated that the projects being talked about here do not have the same legal problems that Daly Ditches has, so if they chose to form a district they should not have costs anyway near the types of cost associated with the formation of the Daly Ditches district.

Senator Devlin asked that if they did not form a district, would that, in effect, not enable them to get the WAPA rates. Ms. Barclay stated that would have to be investigated.

Senator Swift commented that he believed it would be absolutely necessary that a district of some type be formed. Ms. Barclay responded by stating that some of them have existing water users associations, and some might have to form one; however, the Department would not require them to form a district. She believed that the Hysham and Sidney units might require a district because of the concerns on electricity rates.

Karen Barclay stated the reason for the bill is to provide a financial incentive to users to take over the project. There have been a number of discussions in this and previous legislative sessions about state ownership of water projects, and about the state subsidy on those projects. The question is: is it appropriate for the state to continue to provide billing services, legal support, engineering support, and financial support when other multiple users in this state feel they should have the same opportunity. She stated the Department has been under scrutiny by the Legislative body, Legislative Fiscal Analyst, and the Legislative Auditor as to how they handle these projects.

Senator Williams asked if the state became destitute, could those projects be abandoned. Ms. Barclay stated the state is destitute - it doesn't have the money. She added that in testimony someone mentioned that they might have an emergency situation and might come to DNRC for emergency monies. She stated they could probably provide emergency money, but they do not have a pot of money sitting at the DNRC to provide to these people; therefore, there are a number of grant programs and loan programs that projects in private hands would be eligible for. They are also eligible for them when the Department owns them, but they have to go through the same grant process and application as any other water user in the state. It is a two-year cycle and requires legislative approval. It is her firm belief that they have a better opportunity to receive those monies if they are in private hands than when they are Department projects.

Senator Williams asked Ken Mackley if he was using the REA for sprinkling and what his power increases have been in the last six or seven years. Mr. Mackley advised that when he started pumping 20 years ago, it was less than a cent. Now they are paying 3 1/2 cents, to where he is paying \$8,000. He added that WAPA will not sell power unless a district is formed.

Senator Aklestad asked if the state gets a preferential power rate and has a contract in existence on that rate. Ms. Barclay replied that they do have a contract with WAPA for these projects. Senator Aklestad asked how long is the contract with them as a power source. Ms. Barclay stated it is a ten year contract, and it would be transferable if certain conditions prevailed, such as it being managed for the same purpose. The Department has asked for that in writing, but to date has not received it.

Senator Aklestad asked if you need statutory direction to enter into conversation with these people and also to get transferable contracts for them. Ms. Barclay said the reason for the legislation is to offer these people some incentive for taking over the projects; they also wanted to recognize that there is concern out there about the administrative support that is provided without charging. The bill is basically the same as in the statute. In addition, it includes the amendment of raising the percentage of veto power; it specifically identifies the eleven single-use projects, and provides the one year O & M incentive.

Senator Aklestad asked if any other groups would be interested in buying these projects from the state, to which Ms. Barclay replied that she knew of none. It is not their intent to go out on the market to sell them.

By way of confirmation to Senator Aklestad, Ms. Barclay stated they would work with each water users association individually during the four-year period, and they have the veto power at any time during that period to overturn the disposal of the project to the water users association. The four year time frame deals only with the one-year O & M payment to them, and after the four years they will be charged administrative expenses.

Ms. Barclay commented that it is gratifying to have all these people discussing the kind of support that the Department has given them, and is a compliment to the people in the Department that have worked with these associations. It is her opinion they have done an excellent job in working with the water users and providing the service. She added her concern is they do not have the staff or the money to really provide the kind of support these people deserve. What they have seen throughout the state is that when these projects are owned by private water users associations, they can actually be more efficiently operated. It is her personal opinion they are better off controlling their own destiny.

Senator Rea referred to the fiscal note, and Ms. Barclay advised there would be a savings of about \$37,000 per year. They tried to calculate an average year of support, including billing, attorney's time, worker's time. She pointed out it was difficult to come up with an "average year".

Senator Devlin asked about what happens when an emergency occurs and the water users need funds to respond to the emergency. Gary Fritz, Department of Natural Resources, advised that when an emergency occurs on some projects, they have the ability to spend some money immediately to help repair those emergencies. The concern of the water users is that if these projects are turned over to them, that this assistance will no longer be available. He stated he can appreciate the concern. It is his observation that the Department, through the Water

Development Program, has an emergency fund that is still available to these people. It is only available to public entities so they would have to get a conservation district to sponsor them. Regarding the \$200,000 cost that Mr. Haug referred to, he stated that there is not a chance they would be able to provide a \$200,000 loan or grant through their normal process. These people can apply through the Water Development Program for that type of money. He revealed that the Water Development Program has \$125,000 reserve for emergencies, which he assumes is available to these people on an emergency basis. There are other funds available for other kinds of needs, according to Mr. Fritz.

Mr. Fritz stated he would like to make an additional comment regarding the power rates issue. He stated someone asked for a "guarantee" concerning rates. He stated he could guarantee that this project would not be taken over by the users if the power rates were increased. He described the bill as creating a situation where, if the State, the Department of Natural Resources, and the water users association can come to agreement on the water users taking over the project, that can happen. If the water users do not want to take over these projects, it will not happen. That is the only "guarantee" they can offer.

Senator Bruski asked if any other people other than the present water users can buy into it. Mr. Fritz advised that theoretically that is possible; practically speaking it is not possible. It is his belief that the projects do not have value except to the water users.

Senator Williams asked the DNRC how they proposed to save money, and do they plan to reduce staff. Karen Barclay advised that they have never indicated in their comments that they are trying to merely save money. If that was their intent, they would do it immediately, they would not provide any O & M incentive, but they would try to provide a scenario that was as quick as possible and would provide no cash outlay to these water users. They believe, however, that once they are transferred to the water users association, there would be a savings of staff time. They are not proposing that staff be eliminated, but their time would be applied to other water projects that need attention.

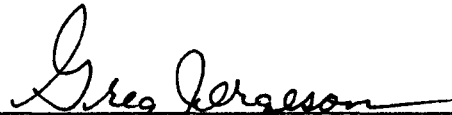
Closing by Sponsor:

Representative Thoft stated he appreciated the concerns of those present and the people they represent. He advised he participated in the disposition of the Daly Ditch in which there were a number of things that had to be resolved. They gave those people one year's O & M and they have virtually heard nothing from them since, and have heard no complaints. He stated he has never carried a bill that did virtually nothing and got such a response as HB 814. He emphasized that this bill states that in four years the water users association will start paying

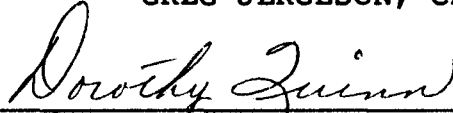
administrative costs. Anything else in the bill can be vetoed by the water users. Most of the problems that need to be worked out came to light in the testimony, and can be resolved in the four year period, according to Rep. Thoft. He reiterated that this bill changes absolutely nothing as far as the operation of the canals is concerned.

ADJOURNMENT

Adjournment At: 5:00 P.M.



GREG JERGESON, Chairman



DOROTHY QUINN, Secretary

GJ/dq

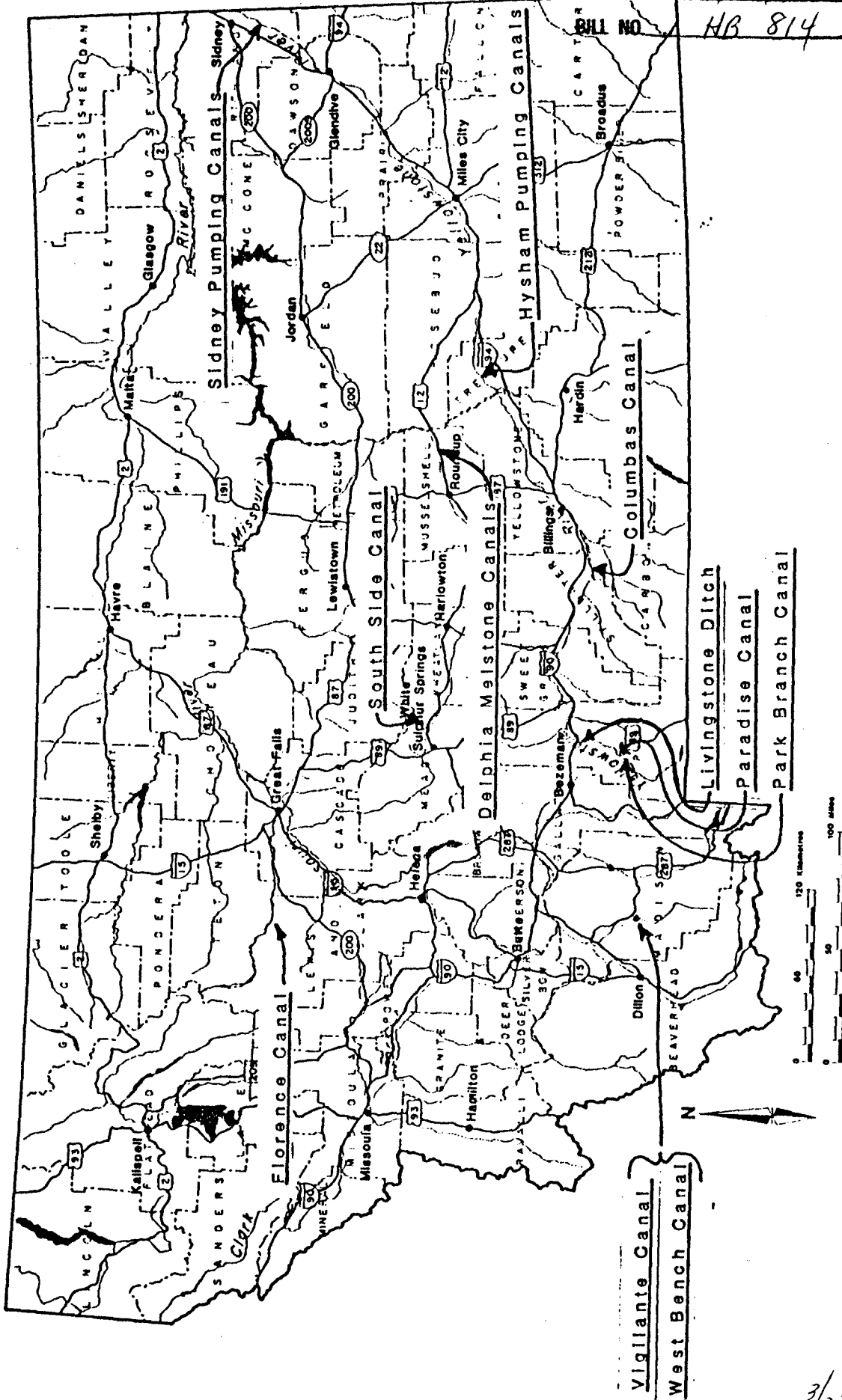
ROLL CALL
AGRICULTURE COMMITTEE

DATE 3/22/91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. JERGESON	X		
SEN. KOEHNKE	X		
SEN. AKLESTAD	X		
SEN. BECK	X		X
SEN. DEVLIN	X		
SEN. REA	X		
SEN. SWIFT	X		X
SEN. WILLIAMS	X		X
SEN. BRUSKI	X		

Each day attach to minutes.



CANAL PROJECTS UNDER PROPOSED LEGISLATION

FOR DISPOSITION OF PROJECTS

3/22/91 Ek #1

SENATE AGRICULTURE

EXHIBIT NO.

#2

DATE

3/22/91

BILL NO.

HB 814

I am Larry Jordan Chairman Paradise Valley Canal Users Assoc. We oppose HB814 for the following reasons.

1. The Canal Users Assoc. have no idea what it is going to cost them to purchase the canals or the cost of Legal fees to set up Assoc. ect. These costs should be laid out in a precise manner before this bill is passed. Why should we pay fair market value. We are paying or have already paid to construct the project.

2. Where is the D.N.R.C. going to save 36,500 dollars per year. Where is the savings when the DNRC will pay or reduce accounts recieveable to canal associations an approximate figure of 349,880 by 1996. Also, add in 110,000 estimated for ownership transfers for a total of 459,880 dollars. The DNRC estimates a savings of 36,500 dollars per year after 1995. I would like to see where they save this kind of money when they say there will be no staff reduction in the department.

3. We need a fund or access to funds to draw upon in case of an emergency. Maybe for a period of time until associations have time to build up a reserve.

4. This is a form of a question. Is the DNRC going to have all of their projects pay for administrative costs after 1995 or only the canal projects of the 11 who opt to stay with the DNRC. We feel either they all pay or nobody pays.

5. We feel we have a viable partnership with the DNRC. Three years ago we had a major problem at the head of our canal. It had filled with sand and gravel to the point where we could no longer get water from the river during low water. We cleaned the channel and with the cooperation of our two canal boards (Park Branch Canal and Paradise Valley Canal), the DNRC, Fish and Game, Soil Conservation District, and a grant from the State of Montana, we installed Iowa vanes at the head of the channel to keep the silt from filling the channel. They were just installed last Fall. This is an experimental project and if they work they may be used in other areas of the state with similar problems. Our association feels that without the DNRC's help we would never have got the project done. Representative Throft stated that all the DNRC did for the associations was settle water fights. I think the above proves differently.

Thank you for letting me present these concerns of our association. The old saying goes, "Why fix something if it ain't broken." Fits well in this case.

Thank you for your time,

Larry Jordan

Chairman Paradise Valley

Canal Users

SENATE AGRICULTURE

EXHIBIT NO. #3

DATE 3/22/91

BILL NO. HR 814

Amendments to House Bill No. 814
Third Reading Copy

Requested by Senator Weeding
For the Committee on Agriculture, Livestock, and Irrigation

Prepared by John Ilgenfritz
March 22, 1991

1. Page 3, line 21.
Strike: "(III) HYSHAM PUMPING CANALS;"
Renumber: subsequent subsections

David Hong
Eph. H.B.

SENATE AGRICULTURE
EXHIBIT NO. #4
DATE 3/22/91
BILL NO. HB 814

AMENDMENTS TO HOUSE BILL 814
REQUESTED BY THE
LIVINGSTON DITCH, PARK BRANCH CANAL AND THE PARADISE CANAL
ASSOCIATIONS

1. Page 3, Section 1 (5), line 5:
Add the words "water rights" after properties.
2. Page 4, Section 1 (6) (B), line 5:
Add the words "an entire" after the word "of", and delete the word "a" after the word "of".
3. Page 4, Section 1 (6) (B), line 10:
Insert "shall negotiate only with" after the word "department" and delete the words "shall give preference to" after the word "department".
4. Page 4, Section 1 (6) (C), line 19:
Insert "or under negotiation to dispose of on June 30, 1995" after the word "Department" and delete the words "by June 30th 1995".
5. Page 4, Section 1 (6) (C), line 20:
Insert "not" between are and responsible.
6. Page 4, Section 1 (6) (C), line 21:
Insert "are responsible" between "and" and "the".
7. Page 5, Section 1 (7), lines 5, 6 and 7, :
Delete the remainder of the sentence after the word "project".

Respectfully Submitted,

By _____

Loyal J. ...
Exhibit 4

SENATE AGRICULTURE

5

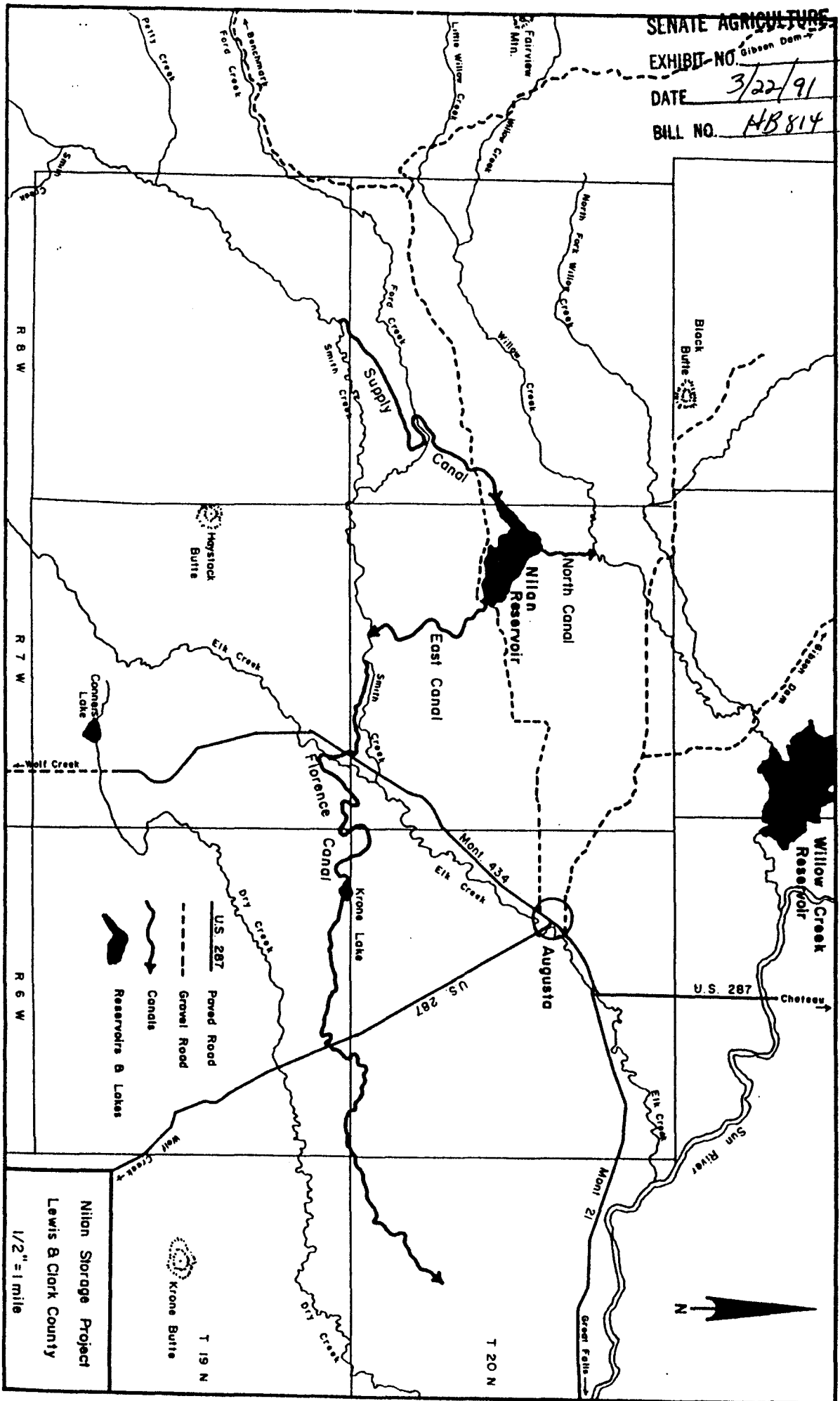
EXHIBIT NO.

DATE

3/22/91

BILL NO.

HB 814



Nilton Storage Project
Lewis & Clark County
1/2" = 1 mile



T 19 N
Krone Butte



N

DATE 3/22/91

COMMITTEE ON Agriculture

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
<u>Ray Jordan</u>	<u>Paradise Valley Canal</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>W. D. Key</u>	<u>Livingston Ditch Company</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>Allyn J. Fair</u>	<u>Pack Branch Canal</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>Lloyd J. Miller</u>	<u>Staged ^{Recreation} Water ^{Users}</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>Jay Barnosky</u>	<u>Ruby River Water Users</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>Tom Jackson</u>	<u>Ruby River Water Users</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>Michael W. Steader</u>	<u>Vigilante Canal Ass.</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>Guillermo Elson</u>	<u>" " "</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>Bob [unclear]</u>	<u>MWRs</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>Savaly Bond</u>	<u>DNRC</u>	<u>814</u>		
<u>Mel McBeath</u>	<u>DNRC</u>	<u>814</u>		
<u>Kurt Hoffmann</u>	<u>DNRC</u>	<u>814</u>		
<u>Emie Scarpino</u>	<u>Hyslop Water Users</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>Edward G. Shecker</u>	<u>Hyslop Water Users</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>Ken Mackley</u>	<u>" " "</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>George A. Warner</u>	<u>" " "</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>Jim Stephenson</u>	<u>" " "</u>	<u>814</u>		<input checked="" type="checkbox"/>
<u>Ed McCubbin Rep. H.D. 27</u>	<u>H.D. 27</u>	<u>817</u>		<input checked="" type="checkbox"/>
<u>Michael [unclear]</u>	<u>_____</u>	<u>_____</u>		

(Please leave prepared statement with Secretary)