

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN DICK KNOX, on February 1, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Rolph Tunby, Vice Chairman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Russ Fagg (R)
Rep. Gary Feland (R)
Rep. Mike Foster (R)
Rep. Bob Gilbert (R)
Rep. Hal Harper (D)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Dore Schwinden (D)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Howard Toole (D)
Rep. Doug Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Michael Kakuk, Environmental Quality Council
Roberta Opel, Committee Secretary

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

Committee Business Summary:

Hearing: HB 263 and HB 352
Executive Action: HB 212
Presentation: Subdivision Presentation

Presentation on Montana Subdivisions

Carter Calle, Montana Audubon Legislative Fund, distributed subdivision fact packets to the Committee. EXHIBIT 1 Mr. Calle also presented a pamphlet depicting the problems associated with unreviewed subdivisions. EXHIBIT 2

REP. RANEY asked if there were western states with equally

relaxed subdivision regulations. Mr. Calle replied that subdivision laws differ from state to state. Wyoming and Utah, for example, do not have laws as lax as Montana's.

Tom Hopgood, Montana Association of Realtors, said that without subdivision reform, subdivision law is being used to further a no-growth agenda.

Steve Mandeville, Chairman, Montana Association of Realtors, said the Board of Realtors was the last bastion in land use planning regarding subdivisions. EXHIBIT 3 The housing demand drives the market: if prices are too high, demand falls off. He said the risk is too great to make improper land revisions. He stated that the Jefferson County Commission approved Helena area land division. EXHIBIT 4

Dan McGee, Association of Land Surveyors, told the committee the Association worked with the Subdivision and Platting Act every day and were, therefore, in a position to know what worked and what didn't work regarding Montana subdivision law. Current law forces everyone to deal with issues at the last moment instead of ongoing. An editorial from the Helena Independent Record regarding subdivisions was distributed. EXHIBIT 5 Mr. McGee said that any committee recommendations should be clear and succinct without ambiguity.

HEARING ON HB 352

Opening Statement by Sponsor:

REP. BRAD MOLNAR, HD 85, Laurel, said HB 352 generally revises state land leases and recreational use provisions. He stated that the language used in HB 352 was similar to language that had been worked on with the Wyoming Stockgrowers and Woolgrowers representatives. EXHIBIT 6 He said HB 352 would incorporate a workable, handy plan.

Proponents' Testimony:

Jim Richards, Montana Wildlife Federation, testified in support of HB 352 since it opens up and broadens recreational uses on state lands. Mr. Richards said the Federation would suggest an amendment to include overnight camping in some state lands areas.

Dave Ross, Audubon Legislative Fund, supported the bill that would allow casual, recreational use of fishing and hunting lands.

Tony Schooner, State Lands Coalition, stated HB 778, from the previous session, was a good compromise bill but that present Montana Code rules supersede HB 778. There is a need for public hearings for public input, he said. Mr. Schooner said the Coalition agreed with the \$5 fee in HB 352.

Opponents' Testimony:

Jim Hagenbarth, Beaverhead County rancher, said he was concerned with how preference rights would affect the 30,000 acres of land he owns. He estimated the cost of administering agricultural lands at \$1 million with \$20 million in revenue generated. Montana farmers and ranchers work for you, he told the committee, but we need your support and help.

Bud Clinch, Commissioner of State Lands, opposed HB 352. EXHIBIT 7

Sam Hofman, Agriculture Preservation Association, opposed the bill, noting that some ranchers owned only state land and needed an incentive to retain it. He said the state needs responsible lease holders.

Steve Roth, Big Sandy, stated the biggest management problem of the state is driving on state lands, which is difficult to discourage when roads are wet or snowy. He said HB 352 centralizes the management of state lands and is special interest legislation.

Ward Jackson, representing the Southwestern Montana Stockmen's Association, said HB 352 encouraged loss of the right to appeal. He stated multiple use values must be enhanced, as well as the right to sublease land.

John Robbins, rancher, said the single biggest problem is the difficulty controlling access to state lands. For 60 days out of each year, during hunting season, gates cannot be kept closed or fences kept up. A state land lease requires that we manage the land. If accessibility is changed to 12 months, it will be difficult to police this land.

Jay Linderman, rancher, said he fears loss of the multiple use concept which could lead to glaring proliferation of wildlife.

Garth Jacobson, on behalf of the Secretary of State, opposed HB 352. Mr. Jacobson said it was important to continue to revisit recreational use provisions and state land leasing.

REP. DAVE BROWN, HD 72, Butte, suggested the committee ignore extremists and table HB 352.

Michael Raffety, Dillon, state land lessee, submitted testimony opposing HB 352. EXHIBIT 8

John Anderson, Custer County, told the committee he did not want to be forced to close his land. He said too many hunters on land will also create fire hazards.

John Lord, President, Montana Stockgrowers Association, said HB 778 worked well last year and suggested the rules that worked in

Wyoming would not necessarily be effective in Montana.

Jean Johnson, Montana Outfitters and Guides Association, said the Association did not want lessee's to lose their preference. He urged the committee to keep the \$5 fee.

Lorna Frank, Montana Farm Bureau, said the Bureau had been involved with the drafting of HB 778 and wanted to see the bill stay in place. Ms. Frank suggested if it isn't broken, don't fix it.

John Anderson, opposed to HB 352, said ranching commissioners are the stewards of the land.

John Bloomquist, representing 3500 members of the Montana Stockgrower's Association, appeared in opposition to HB 352.
EXHIBIT 9

Jamie Doggett, on behalf of the Montana Cattlewomen, said they opposed HB 352.

Informational Testimony:

Al Elser, Montana Department of Fish, Wildlife & Parks, submitted testimony regarding the amount of time FWP Game Wardens spent informing sportsmen and women about state land access. EXHIBIT 10

Questions From Committee Members and Responses:

REP. HARPER said he would like to see a show of hands of those who travelled in support of HB 352 (four) and those opposed to the bill (20).

REP. FOSTER asked REP. MOLNAR what the effect of HB 352 would be on outfitter's. REP. MOLNAR stated that outfitter's cannot lease land.

REP. STOVALL asked if the state would be liable for improvements to leased land. Jeff Hagener, DSL, stated there is a provision that new lessees are required to compensate.

REP. BROOKE asked Ed Lord if his land was open for more than hunting and fishing. Mr. Lord replied there was cattle on part of the land and part was open for general hunting.

Mr. Jackson said the bill would allow the Montana Climbing Club, for example, to access his land. He said he would want to know who was on his property.

Closing by Sponsor:

REP. MOLNAR noted that \$1.50 is taken from every licensed vehicle in Montana and put toward the state recreational access fee,

which has been paid for more than once. Approximately 800,000 Montanans will suffer if HB 352 is not passed. REP. MOLNAR suggested any problems could be worked out as they had been with HB 788 last session.

HEARING ON HB 263

Opening Statement by Sponsor:

REP. JOHN COBB, HD 42, Augusta said HB 263 defines the term permit as it pertains to water quality laws. A permit definition is not found anywhere, he said.

Proponents' Testimony:

Jim Jensen, Montana Environmental Information Center (MEIC), said MEIC supports the bill in addition to any changes from the Water Quality Bureau.

Stan Brandshaw, Montana Trout Unlimited, testified in support of HB 263.

Dennis Olson, Northern Plains Resources Council, said the Council is in support of HB 263 and is equally concerned with groundwater permits. He urged the committee to support the bill with amendments.

Opponents' Testimony:

Ward Shanahan, Stillwater Mining Company, said he had been involved with the Department of Health and Environmental Sciences (DHES) regarding HB 263. He suggested the definition of a water quality permit offered by REP. COBB was improper and would not benefit the Miranda Company or Sunlight Mines.

Questions From Committee Members and Responses:

REP. TOOLE said that underneath HB 263 there was language with more meaning than was being presented.

Dan Fraser, Chief, Water Quality Bureau, DHES, said the purpose of a permit is to minimize water degradation as it relates to the State Water Quality Act. He said the several degradation bills which have been introduced this session will explain degradation content.

Closing by Sponsor:

REP. COBB said HB 263 addresses the need to define what a permit is since there are various definitions.

EXECUTIVE ACTION ON HB 212

Motion: REP. TOOLE MOVED HB 212 DO PASS.

Motion/Vote: REP. TOOLE moved to adopt the amendments presented by REP. DAILY. EXHIBIT 11 Motion carried unanimously.

Motion: REP. TOOLE moved to adopt a second set of amendments by REP. DAILY. EXHIBIT 12

Motion/Vote: REP. TOOLE moved to change the amendment that would replace "affect" with "allocate". Motion to adopt these amendments carried 14 to 2 with REPS. SCHWINDEN and TOOLE opposed.

Discussion: REP. TOOLE said the biggest problem with the Berkeley Pit is that two large corporations are facing huge liability suits, and added that HB 212 affects the entire drainage. He said the Environmental Protection Agency (EPA) is taking a weak position on the pit and MRI and ARCO are motivated to view the situation as less than an emergency. He continued by saying the current deal that has been cut takes us dangerously close to the time when the pit could endanger the environment.

REP. GILBERT said that REP. DAILY'S request was not to alter an existing contract. He stated that allocate was not the proper word to be used in the amendment.

Michael Kakuk, EQC staff attorney, suggested the phrase "affect the allocation of, etc."

REP. GILBERT said using both of the words was the right course.

Todd Everts, EQC staff attorney, told the committee that REP. DAILY wanted a termination date in HB 212 in case of future legislation. REP. TOOLE stated the termination date would be December, 1994.

Mr. Everts said the termination date would not be in effect unless there is an actual discharge into the aquifer.

REP. SWANSON asked for a definition of the phrase "mandate a plan." REP. TOOLE replied that if a responsible plan was in place, REP. DAILY was anxious for HB 212 to pass with an opportunity to revisit the issue in the future.

REP. RANEY said that REP. DAILY'S concern is that the experts do not agree with each other or with anyone else. REP. DAILY believes the potential for the gradient to turn away from the pit may be imminent, he said.

REP. SWANSON said the EPA already has authority to act in case of a discharge. REP. RANEY said REP. DAILY thinks the EPA will let the pit situation go on indefinitely.

REP. RANEY asked legal counsel if they had comments to make. Mr. Kakuk replied staff did not have anything to add.

REP. SWANSON asked if passage of HB 212 is putting the state in a position to litigate and take action when the EPA already has this responsibility? REP. TOOLE stated that the purpose of the amendments was to have the state address the situation by saying they were not satisfied with the EPA.

REP. GILBERT noted the amendments were an important part of the bill. If water continues to spill, there are emergency rules in EPA law. He indicated the EPA is federally mandated to take care of any emergency.

REP. RANEY asked where the state's cost would be a factor if a cleanup was ordered. REP. GILBERT said it was not possible to order a cleanup as the order would create a legal quagmire.

REP. FAGG said he would like to hear from Dennis Lind, Montana Resources, Inc., and Jim Jensen, MEIC, regarding the amendments.

Mr. Lind said he felt REP. DAILY'S amendments are trying to resolve the legal implications of the pit. HB 212 requires the state to take action if there is an aquifer spill. He said current legislation already directs the state and federal government to remedy any discharge. Mr. Lind said the amendments do not do what REP. DAILY requested.

Jim Jensen, MEIC, stated that HB 212 is simply not needed. The science of this project suggests no further action needs to be taken. He said he did not understand REP. DAILY'S frustration.

REP. FOSTER said there seemed to be good amendments to a bad bill.


Motion: REP. STOVALL MOVED HB 212 BE TABLED.

Discussion: REP. HARPER requested CHAIRMAN KNOX place HB 212 in a subcommittee to address REP. DAILY'S concerns. REP. HARPER asked that authorization be given to legal staff to draft a committee bill which could be sent to the federal government for input. The joint resolution would note the frustration with the progress of the pit and urge the government to do whatever they can.

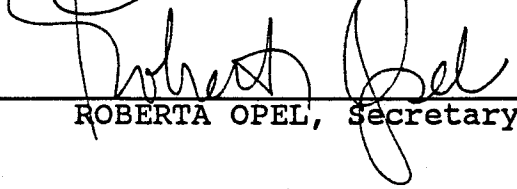
Vote: TO TABLE HB 212. Motion carried unanimously.

ADJOURNMENT

Adjournment: 7:15 p.m.



DICK KNOX, Chairman



ROBERTA OPEL, Secretary

DK/ro

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE

2-1-93

NAME	PRESENT	ABSENT	EXCUSED
REP. DICK KNOX, CHAIRMAN	8		
REP. ROLPH TUNBY, VICE CHAIRMAN	8		
REP. JODY BIRD	8		
REP. VIVIAN BROOKE	8		
REP. RUSS FAGG	8		
REP. GARY FELAND	8		
REP. MIKE FOSTER	8		
REP. BOB GILBERT	8		
REP. HAL HARPER	8		
REP. SCOTT ORR	8		
REP. BOB RANEY	8		
REP. DORE SCHWINDEN	8		
REP. JAY STOVALL	8		
REP. EMILY SWANSON	8		
REP. HOWARD TOOLE	8		
REP. DOUG WAGNER	8		

HR:1993

wp.rollcall.man

CS-09

TABLED BILL

Natural Resources

Name of Committee

HB 212

The following bill

was TABLED, by motion, on

2-1-93

, 19 93

Date

(1-2-), 19 93

Volodya G. Gok
For the Committee

L. Sullivan
For the Chief Clerk

Time

8:20 AM

CS-04
1991

Date

2-2-93

EXHIBIT 1

DATE 2-1-93

HB Subdivision Presenta

The Last Best Place is disappearing right before our eyes . . .

(Produced by the Montana Audubon Council, P.O. Box 595, Helena, MT 59624,
406-443-3949)

This document is stored at the Historical Society at 225 North
Roberts Street, Helena, MT 59620-1201. The phone number is
444-2694.

MT Audubon

Presentation Outline Carter Calle

I. Introduction

1. Thank the Chairman and members of the committee for opportunity to speak
2. Researching and documenting the problems of unreviewed subdivisions.
3. Presentation is separated into two parts:
 1. Why is the current subdivision law not effective?
 2. What are the problems caused by the weak law?

EXHIBIT

DATE

2

2-1-93

HB Subdivisions

Presentation

II. The Subdivision Law

1. What is it supposed to do?
 1. The subdivision law regulates the division of land in order to:
 1. Prevent the overcrowding of land,
 2. Lessen congestion on streets and highways,
 3. Provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress and other public requirements,
 4. Require development in harmony with nature
2. How is it supposed to do it?
 1. The subdivision law requires a local review board to assess a subdivision based on the following criteria:
 1. The basis of need for the subdivision
 2. Expressed public opinion
 3. Effects on agriculture
 4. Effects on local services
 5. Effects on taxation
 6. Effects on the natural environment
 7. Effects on wildlife and wildlife habitat
 8. Effects on the public health and safety
3. Why isn't it working?
 1. The law allows for several exemptions from review. Most of the exemptions are innocuous but there are three that represent a serious problem.
 1. Twenty acre exemption - by definition, any division of land 20 acres or larger isn't a subdivision and is therefore excluded from review.
 2. Occasional sale - the law exempts one sale of a division of land in any twelve month period.
 3. Family conveyance - the law exempts divisions of land when the land is given or sold to an immediate family member.
4. What is the result?
 1. The best way to illustrate the results these exemptions is to use a hypothetical example. A person with a 300 acre farm sells off 200 acres to a developer (not reviewed - 20 acre exemption). The developer immediately divides it into five 20 acre parcels and sells them (not reviewed - 20 acres). One

parcel is bought by a man who then sells 10 acres to his son (not reviewed - family conveyance). Both brothers sell 5 acre parcels to raise money to build houses (not reviewed - occasional sale). The result is a de facto subdivision with eight households where before there was only one.

2. This example isn't outrageous. Rattlesnake example.

5. How pervasive is the use of these exemptions.

1. Annually, 90% of all the subdivision in Montana is not reviewed

III. The Problems of Unreviewed Subdivision

1. Unreviewed subdivisions have both environmental and economic impacts associated with them.

1. Problems for counties

1. Poorly designed roads

1. Since there is no review, there is no requirement that roads be built to county standards.

1. What you typically see is a single lane dirt road that was once adequate for the little amount of traffic that it had to support. But then development occurs, the volume of traffic increases and the road simply can't handle it. The road deteriorates and becomes hazardous to drive.

2. Responsibility for road maintenance is often a question mark.

1. Broken promises by developer to maintain roads

2. No homeowners association

3. Responsibility for maintenance is especially difficult to determine if road ownership is unclear.

1. Road built on private land w/ no easement - Flathead

2. Road deeded to county - Billings

2. Often the residents become so frustrated with the road that they demand that the local government repair the road. If the government does, it is usually with taxpayer money.

1. In Gallatin County, \$150,000 was spent to improve a 13 mile dirt road leading to an unreviewed subdivision. They spend another \$15,000 a year maintaining that road. The road supervisor informs me that there are another 170 miles of dirt roads related to unreviewed development that the county has been asked to maintain.

2. Rural development occurs outside of existing infrastructure. Besides road maintenance, residents of these unreviewed and unplanned subdivisions demand services such as fire and police protection. They want school buses for their children.

3. Demand for services without a proportional contribution to the tax base.

1. 20 acre parcels are taxed as agricultural land which is considerable less than residential.

1. In Missoula County, an unimproved 20-acre tract of land yeilds approxiamately \$10/year in taxes. If taxed as residential it would yeild approx. \$300.

2. In Park County there are 1560 20 acre tracts that contribute \$9500 to the tax base. If taxed as residential tracts they would contribute over \$300,000.

4. All of this undermines efforts at planning and efforts to controll growth. Development occurs in a scatter shot fashion rather than in orderly and efficient manner. How can a local government do any meaningful planning for the future?

1. One extreme case of financial burden on a local government: Miles city has an unreviewed 20 acre development that was advertised nationally and targeted towards low income people. Many sold everything they had and moved to Montana with the dream of a new life. When the arrived they weren't able to find work. Now at least 30 of them are stuck in Miles City and living on welfare. The city often buys one way bus tickets out of town for those too poor to afford them.

2. Problems for buyers

1. Without review there is no disclosure. People buying such property often find:

1. No mineral rights - Hidden Springs
2. No utility easement
3. No access to property
4. No water or poor water quality
5. No building sites on property. (example - parcels in the Flathead that are all in the floodplain)
6. Inadequate drain fields for septic tanks
7. Inadequate roads

3. Problems with air and water quality

1. Poorly built roads cause stream sedimentation and air pollution due to dust and erosion.
2. The areas capacity for septic systems may be exceeded contaminating the water supply.

4. Safety Problems

1. Rural fire fighters and emergency medical technicians complain of:

1. Roads that are too steep, too narrow, too muddy or otherwise too dangerous for them to use their emergency vehicles on.
2. Roads with no signage
3. Roads with duplicate names or no names at all
4. No water source

EXHIBIT 2

DATE 2-1-93

subdivision

presentation

5. No precautions taken in high fire risk areas (i.e. fireproof shingles)

5. Problems for the agriculture community

1. People moving to rural areas don't understand what they are getting into
 1. They don't appreciate their fence maintenance and weed control obligations
 2. They complain about noise and odors
 3. They complain about hours of operation
 4. They complain about livestock moving
 5. They bring pets that kill or harass livestock
2. Valuable open range that ranchers depend on is being broken up and fenced off.
 1. In Jefferson county, ranchers requested and got an emergency zoning ordinance that restricts non-farm and non-ranch homes to one for every 640 acres. It also banned any further subdivision or residential development.
3. As rural areas become urbanized, property values go up making farming and ranching less viable. Unreviewed subdivision is changing the face of Montana's agricultural communities

6. Problems for wildlife

1. The most popular areas for development are along rivers and streams, in fertile valleys bottoms and in the foothills. Unfortunately, these are the areas that support the greatest diversity of flora and fauna.
 1. Development in these area destroys habitat and permanently alters the ecosystem:
 1. Riparian areas are being cleared.
 2. Winter ranges of large free-ranging animals like deer and elk are being broken up.
 3. Wildlife corridors important for seasonal migration are being closed off.
 2. All of these things are putting added pressure on wildlife.
2. People move to the country in order to get back to nature. But when wildlife start acting like wildlife they get very upset. Human-wildlife conflicts are skyrocketing.
3. The 20 acre exemption exacerbates this problem by spreading people and their impacts on wildlife over a larger area. People aren't clustered together with a natural buffer zone left between them and the animals.
 1. Grizzly bears, skunks and raccoons and other animals are attracted by trash carelessly left outside.
 2. Deer and elk find their natural forage displaced and so they adapt by eating other things like gardens and landscaping.

3. Mountain lions are attracted by the deer and elk. They often wind up killing a pet or worse a human.
4. In each instance the offending wildlife are either relocated or killed.
4. The Dept. of Fish Wildlife and Parks find themselves spending more & more staff time and money responding to complaints about nuisance wildlife which takes resources away from much more important tasks.
 1. They have an animal damage control fund paid for by hunting licenses that was originally intended to reimburse farmers for crops damaged by wildlife. Now they find themselves using that money to respond to nuisance animal complaints . The irony isn't lost on hunters who are losing hunting lands to 20 acre development.

IV. Summary

1. It isn't difficult to see how these problems affect everyone & that Montana is loosing the qualities that make it unique.

EXHIBIT 2
DATE 2-1-93
Submission
Presentation

*Development Costs
*Simplify Review Process
*Accountable Review
Authorities 3

EXHIBIT

*Private Property Rights
*Land Use Planning 2-1-93
*Affordable Housing

HB

Subdivision presentation

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STEVE MANDEVILLE, GRI

Broker Associate
Helena Board of Realtors
Salesperson of the Year 1990
Board President 1991



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7A 1/2B/93 Independent Record

Jeff Co commission to approve Helena area land division

The Jefferson County Commission indicated Wednesday it would approve a subdivision request by a Helena couple on property just south of Lewis and Clark County in the Crossfire area.

John and Dawn Betts had purchased two 20-acre tracks on flat land along Holmes Gulch Road in 1985, intending to build their home there.

John Betts told commissioners their son is handicapped and must receive assistance available in Lewis and Clark County but not in Jefferson County, so the couple abandoned plans to move.

Betts transferred one of the parcels to his wife in early 1992 as part of an estate plan, and in October split the parcel he retained in two and sold each part.

In December Dawn Betts tried to split her parcel in two for sale, but the change was denied by the Jefferson County clerk and recorder as being in violation of subdivision rules.

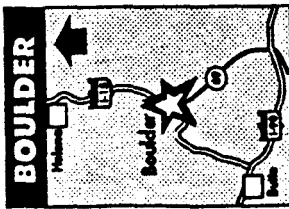
Attorney Gary Davis, representing Betts, told the commissioners the smallest parcel would be eight acres, compared to other one-acre parcels in the neighborhood. He said the split would not add to the commission's fears of extensive subdivisions causing problems with traffic and sanitation in rural areas.

Davis said the area's roads are built to county standards, electric and telephone lines are in place, and Betts has obtained approval for septic systems on the land.

Betts assured the commission he owned no other parcels in the area and was not a subdivider.

Commission Chairman Dave Anderson noted the commission had approved a similar request in 1992, with the provision that the property not be further subdivided for a period of years.

Betts agreed to the condition, and Anderson said the commission would approve the exception to the rules as soon as Davis and County Attorney Richard Llewellyn came up with the proper form of deed restriction.



1/19/93

Friends are trying to dictate city policy

The Friends of Mount Helena carried on a full blown campaign to "take" private property from Dal and Jane Smilie. Our city commission followed the Friends' advice and denied access; access the city staff stated was within city code and was similar or better than that always granted in the past.

The Friends have the ability to order policy in our city, who are they? Their president admits that they are a "non-membership" association. They consist of a board of seven elected by itself and accountable to itself only. One of the seven is reported to have lived in Alaska for two years while on the board. When asked by the Smilies, the president wouldn't even give the names of the board. Sounds like the vigilantes of the politically correct. I wonder if they have secret handshakes.

The city commission is meeting with the Friends at 4 p.m. on Jan. 21, at the City-Country Building to consider what to do with private land in Helena. The Friends have expanded their mission to include defending the "public interest" in other people's hillside lots, "ancient" lots and lots near any park. Their stated concerns include land above Gol-drush, Le Grande Canyon, Rodney and Beat-tie.

They don't want any of this land built on. Isn't it more environmentally sound to build on city lots rather than to push residents onto 20 acre wilderness tracts?

The Smilies were only the first to lose their land and their savings. If you have invested in vacant lots in much of Helena you are next. You need to be at that meeting. You better bring your attorney.

Why do our city elected officials and staff allow a small group of unelected and self-appointed radicals to set policy and take property?

Thomas M. Gustin
517 State

EXHIBIT

DATE

HB

2-1-93
subdivision
presentation

Revamp subdivision laws

When lawmakers passed Montana's subdivision law 20 years ago they included a provision that allowed developers to divide their property into parcels of 20 acres or larger without government review.

The law also provides that owners can slice off smaller tracts once a year and sell those as "occasional sales" without any review by local government. And owners can sell off parcels to family members without approval.

Twenty years ago legislators probably thought that not many people would want to buy a 20-acre tract of land, but that certainly hasn't been the case.

Speculators with a lot of cash have bought ranches or large pieces of land, divided them into 20-acre tracts and sold them off without giving any thought to access, water or public health and safety.

Local governments then have the headache of trying to provide school transportation, fire and law enforcement protection, etc.

Unplanned developments have caused major headaches throughout Montana,

AN IR VIEW

particularly in areas surrounding Bozeman, Kalispell and south of Missoula.

Gallatin County Road Superintendent Sam Gianfrancisco said unreviewed subdivisions have cost the county \$300,000 over the last five years for establishing and maintaining new access roads.

According to county figures, 108,424 acres of land in Gallatin County has been divided without any review since 1973.

Rep. Bob Gilbert, R-Sidney, who has been pushing for eight years to reform Montana's subdivision laws, almost got the job done in 1991, but it lost in the Senate by two votes after a furious lobbying effort by opponents.

Gilbert will again sponsor subdivision legislation during the current session. Sen. Steve Doherty, D-Great Falls, Rep. Emily Swanson, D-Bozeman and Rep. Russell Fagg, R-Billings, also plan to propose subdivision reform bills.

We hope the legislators can agree on one bill, and we think that probably should be Gilbert's because he has devoted so much time to the issue and has worked hard with all of those who have an interest in subdivision regulation.

Under Gilbert's bill, all land divisions of less than 160 acres would be subject to subdivision review.

Minor subdivisions (five lots or fewer under current law) would have to be approved or denied within 35 days of the application. Major subdivisions would be settled within 60 days of filing. Under current law, creation of subdivisions can drag on for years.

Of course, there is much more to Gilbert's bill. In discussing it with him, we feel Gilbert is on the right track and that his bill will provide for good, sound subdivisions. It will put some pressure on big speculators, but they have to be accountable. They shouldn't be allowed to make a conscious decision to avoid review, as is currently the case.

5
DATE 2-1-93
HB Subdivision
Representation

EXHIBIT 6DATE 2-1-93HB Subdivision Presentation

Wyoming State Land and Farm Loan Office

122 WEST 25TH STREET, HERSCHLER BUILDING
CHEYENNE, WYOMING 82002-0600
PHONE 307/777-7331

HOWARD M. SCHRINAR, DIRECTOR, 777-6629
PAUL R. CLEARY, DEPUTY DIRECTOR, 777-6629
BRYCE E. LUNDELL, STATE FORESTER, 777-7886
SHARON S. GARLAND, ASSISTANT DIRECTOR, 777-6644
ACCOUNTING & ADMINISTRATION
DAVE W. FORCE, ASSISTANT DIRECTOR, 777-6638
FARM LOANS & SURFACE LEASING
DON L. COLLAMORE, ASSISTANT DIRECTOR, 777-7309
GOVERNMENT GRANTS & LOANS
HAROLD D. KEMP, ASSISTANT DIRECTOR, 777-6643
MINERAL LEASING & ROYALTY COMPLIANCE
JIM WHALEN, ASSISTANT DIRECTOR, 777-6521
REAL ESTATE DIVISION

February 1, 1993

Mr. Brad Morlar
Montana Legislature

RE: Hunting, Fishing, and Casual Recreational Use of State Trust Lands

Dear Mr. Morlar:

Per our telephone discussion of this date, this letter is intended to clarify certain issues surrounding hunting, fishing, and casual recreational use of state trust lands in Wyoming.

As you may know, state trust lands in Wyoming are under the jurisdiction and control of the Wyoming Board of Land Commissioners. This Board is composed of our five state elected officials — Governor, Secretary of State, State Auditor, State Treasurer, and Superintendent of Public Instruction. In 1988 the Board of Land Commissioners formally adopted rules and regulations governing hunting, fishing, and casual recreational use of state trust lands.

Prior to the adoption of formal rules governing recreational activities on state trust lands there was a great deal of confusion on the part of both our agricultural lessees and the sporting public. There were misunderstandings concerning access to state lands, use of motorized vehicles, the limits of recreational activities, and the rights and responsibilities of both lessees and sportsmen. This confusion resulted in numerous complaints and several serious and dangerous confrontations in the field between those who were leasing the land and those who wanted to hunt, fish, or engage in other recreational uses on the land.

The rules that were adopted in 1988 have gone a long way in providing a simple and clear cut structure governing the rights and responsibilities of all parties. Not only has this office noticed a significant reduction in lessee-sportsmen complaints and conflicts over state lands, similar reductions have been experienced by our Game and Fish Department and federal land management agencies. I have attached a copy of a letter from Bob Budd to Governor Mike Sullivan concerning the success of our program. Mr. Budd is the executive director of the Wyoming Stockgrowers Association and signed the letter as chairman of the Wyoming Rangeland Management Coordinating Committee.

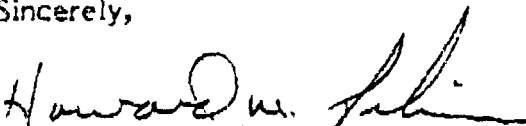
Mr. Brad Morlar
February 1, 1993
Page 2

As Mr. Budd's letter indicates, much of our success with our rules and regulations stemmed from increased information, publicity, and coordination. I have enclosed a copy of a "Dear Sportsman" letter which we widely disseminate every year as just one example. Clearly, an informed and knowledgeable public is a responsible public. Our experience has shown that the vast majority of Wyoming's farmers, ranchers, and sportsmen are respectful of one another and do their best to get along -- its a wonderful tradition and code in our great state. Our rules and regulations aided that tradition by establishing a simple and clear framework which balanced and accomnodated the interests of all parties.

Finally, we have noticed no decline in the value of or interest in leasing state trust lands as a result of our rules and regulations. No agricultural leases have been relinquished.

If there is any other information I can provide, please let me know.

Sincerely,


Howard M. Schrinar, Director
State Land and Farm Loan Office

HMS:kaw

RECEIVED

JAN 29 '90

GOVERNOR'S
OFFICE

January 26, 1990

Governor Mike Sullivan
State Capitol
Cheyenne, WY 82002

Dear Governor Sullivan:

At the November 20 meeting of the Wyoming Rangeland Management Coordinating Committee, the subject of public lands access was a topic of discussion. Several state and federal agencies, as well as interest groups represented, reported that the situation is vastly improved. In fact, the number of access-related conflicts reported during the 1989 field season was the smallest in recent memory.

The WRMCC believes that this progress is directly attributable to efforts by several state agencies to better inform the public about access laws and regulations. The State Lands Department's work to inform the public about the new regulations regarding recreational access on state lands is one example. Additionally, the State Land Office, the Wyoming Game and Fish Department, the Wyoming Recreation Commission and the State Planning Coordinator's Office cooperated with the U. S. Forest Service and BLM in the publication and distribution of a Wyoming Public Land Access brochure. This brochure is a very valuable tool for increasing the public's understanding of the complex legal and regulatory nature of the access issue and the work of these state agencies is appreciated.

These efforts, along with the BLM's Operation Respect, have served to significantly reduce the confrontational nature of the public land access question. The WRMCC wanted to make you aware of progress in this regard.

Sincerely,



Bob Budd, Chairman
WRMCC

cc: WRMCC Members

EXHIBIT 6

DATE 2-1-93

Subdivision
Presentation

EXHIBIT 7

DATE 2-1-93

HB 352

TESTIMONY OF BUD CLINCH
COMMISSIONER OF STATE LANDS

On

House Bill 352

House Natural Resources Committee

Monday, February 1, 1993

As you've heard, House Bill 352 would eliminate the recreational use license and the \$5.00 license fee for the general recreational use of state lands. It would allow and expand general recreational use of state lands without compensation. In my estimation, passage of this bill would have adverse economic and legal consequences for the state and violates federal law and the Montana Constitution.

First, the economic consequences. Last year the Department received \$160,000 in license revenues. This figure would probably increase in future years as the availability of the license becomes better known. Of this \$160,000, \$96,000 goes to the school equalization account and \$48,000 goes to reimburse lessees for damages caused by recreationists, to control weed infestation, and to pay for administration of the recreational use program.

Although the bill eliminates the income from general recreational use of state lands, it retains the Department's duty to administer a recreational use program and expands the types of

recreational use that are allowable. These administrative duties include processing of closure and restriction petitions, processing road closure requests, investigating and prosecuting violations of the recreational use restrictions. Many of DSL's costs will continue and some will probably increase.

Thus, the fiscal impact of this bill has a direct \$144,000 impact on the general fund, because the \$96,000 loss in income to the school equalization account and the \$48,000 in administrative expenses would have to be offset with general fund appropriations.

Second, this bill has a serious legal defect. The lands administered by the Department of State Lands were granted to the state of Montana in 1889 under the Montana Enabling Act, which is the federal law under which Montana became a state. The federal courts and the Montana Supreme Court have held that the Enabling Act and the state's acceptance of these lands creates a trust in favor of the trust beneficiaries, which are the state public schools and other state institutions.

With respect to these trusts, the United States Supreme Court and the Montana Supreme Court have held:

- (1) That the state is held to the same standards as the trustee of a private trust.
- (2) That the land must be administered solely for the benefit of the trust beneficiaries.

- (3) That the trust land must be administered so as to achieve the largest legitimate monetary return for the trust beneficiaries.
- (4) That the state cannot adopt a law in violation of the trust responsibilities.
- (5) That any time an interest in the land is given up, the state must receive full market value for that interest.

Thus it follows that in this day and age when private landowners charge for the right to hunt on their land and hunters and sportsmen pay for that use, the granting of the comparable right to recreate on state lands requires compensation. Therefore, by allowing a valuable use of these lands without requiring compensation, this bill violates the trust responsibility and full market value requirements of the Montana Enabling Act and the Montana Constitution.

Another potential fiscal consequence stems from this legal analysis. Should this bill pass, it is entirely possible that the department could find itself in an lawsuit alleging violation of the duties I have just described. Defense of this lawsuit could be costly and would in all likelihood be unsuccessful.

As you all well know, the recreational use access license has only been instituted for one season. While proponents may contend massive problems with the system -- I think it is

important to keep in perspective that the actual reported complaints were quite minimal in relation to the leased acreage and the number of sportsmen who utilized these lands.

In respect to the recreational fee of \$5.00, I think it quite pertinent that the committee be informed that the results of an economic study of surface uses of state lands will be presented at a Special Land board meeting on Wednesday, February 3rd. Specifically the study will address the economic values of recreation on state lands.

In conclusion, I think it is most important to remember that HB-778, which established this fee, was an artfully negotiated bill in which neither proponents or opponents were granted all their requests. But rather a delicate compromise that brought both parties closer and provided an implementable process to move forward on this issue. I feel a single season is hardly ample time to fully evaluate the success or ramifications of HB-778.

The portion of the bill that removes the preference right and requires advertising of leases will require additional funding for DSL to implement. Please refer to the fiscal note for details.

For all of these reasons the Department of State Lands respectfully requests a DO NOT PASS on HB-352.

EXHIBIT 8

DATE 2-1-93

HB HB 352

TESTIMONY ON HOUSE BILL 352
HOUSE NATURAL RESOURCES COMMITTEE

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, FOR THE RECORD MY NAME IS MICHAEL RAFFETY, I AM A STATE LAND GRAZING LESSEE FROM DILLON. I APPRECIATE THE OPPORTUNITY TO SPEAK TO YOU.

I HAVE SEVERAL CONCERNS ABOUT CHANGING OUR PRESENT SYSTEM OF PREFERENCE RIGHTS. MOST IMPORTANT TO ME WOULD BE THE NEEDLESS DISRUPTION OF A RANCH THAT HAS BEEN A LONG TIME BUSINESS ASSOCIATE WITH THE DEPARTMENT. THIS COULD HAPPEN OVER A VERY SMALL AMOUNT OF MONEY, YET BE DEVASTATING TO THE RANCH PARTICULARLY TO SMALLER FAMILY OPERATIONS. IN MY FAMILY'S CASE, THESE STATE LANDS HAVE BEEN USED BY THE RANCH SINCE BEFORE THE STATE EXISTED. I HAVE FOUND IN MY BUSINESS, THAT LONG TERM RELIABLE CUSTOMERS AND SUPPLIERS ARE THE PEOPLE FOR WHOM I WILL GO THE EXTRA MILE.

I AM CONCERNED OVER LONG TERM COSTS TO THE DEPARTMENT. IF A NEW LESSEE PAYS FOR THE IMPROVEMENTS AND PAYS AN EXCESSIVE A.U.M. FEE, THE CHANCES OF HIS INABILITY TO MEET HIS OBLIGATIONS IS MUCH HIGHER, IF THE NEW LESSEE FAILS AND HAS HIS LEASE REVOKED, THE DEPARTMENT MUST FIND YET ANOTHER LESSEE WHO IS WILLING TO BUY THE IMPROVEMENTS AND ENGAGE IN YET ANOTHER BID PROCESS.

IN THE EVENT THAT A SPORTSMEN GROUP OR ENVIRONMENTAL ORGANIZATION ACQUIRES THE LEASE, LIVESTOCK WOULD IN ALL LIKELIHOOD BE REMOVED. THIS WOULD LOWER LOCAL TAX REVENUES AND HURT LOCAL BUSINESS. ALSO, WOULD SUCH GROUPS BE WILLING TO MAINTAIN IMPROVEMENTS SUCH AS IRRIGATION, FENCING AND WATER DEVELOPMENTS? IF THEY DO NOT, CARRYING CAPACITY AND REVENUE WILL DECREASE.

I AM ALSO CONCERNED THAT REMOVING THE PREFERENCE RIGHT WILL

ALSO REMOVE THE INCENTIVE TO THE RANCHER TO CONTINUE IMPROVING HIS STATE LEASE. SINCE MY FAMILY ACQUIRED OUR RANCH, CARRYING CAPACITY HAS DOUBLED. WE HAVE FENCED STREAM BEDS, PLANTED WILLOWS AND INSTALLED RIP/RAP TO CONTROL EROSION. WE DID THESE THINGS NOT BECAUSE WE ARE REQUIRED TO OR BECAUSE THEY ARE COST EFFECTIVE, BUT BECAUSE WE FEEL AN OBLIGATION TO CARE FOR ALL LAND ENTRUSTED TO US WHETHER WE OWN IT OR NOT. IF I AM IN DOUBT OF OUR LEASE, I WILL MORE THAN LIKELY NOT INVEST TIME OR MONEY INTO THE STATE LAND WHICH WOULD RAISE ADMINISTRATIVE COSTS AND REDUCE CARRYING CAPACITY.

ANOTHER AREA WHICH NEEDS CONSIDERATION IS THE IMPACT ON FINANCING. IF A RANCH IS DEPENDENT UPON STATE LEASE, ARE FINANCIAL INSTITUTIONS GOING TO BE AS WILLING TO EXTEND CREDIT TO THOSE RANCHERS? THE TURMOIL OVER FEDERAL LAND GRAZING HAS LOWERED THE VALUE OF RANCHES DEPENDENT UPON FOREST SERVICE AND BLM LANDS. I SUGGEST TO YOU THAT THE SAME WILL HAPPEN TO RANCHES DEPENDENT UPON STATE LEASE. THIS IS HARSH TREATMENT FOR RANCHER AND BANKER.

IF H.B. 352 PASSES, THE FOLLOWING SCENARIO IS VERY POSSIBLE. TWO GRAZING ASSOCIATIONS THAT I AM FAMILIAR WITH IN BEAVERHEAD COUNTY THAT ARE HEAVILY DEPENDENT UPON STATE LANDS COULD ACTUALLY BE SET UP FOR BANKRUPTCY AND/OR TAKEOVER. OUT OF STATE INVESTORS WHO CURRENTLY HAVE A DESIRE TO ACQUIRE THESE RANCHES COULD VERY EASILY BID THE STATE FEES SO HIGH AS TO FORCE THESE GRAZING ASSOCIATIONS TO SELL ALL OF THEIR HOLDINGS AT MUCH LESS THAN THEY ARE WORTH TODAY. THIS WOULD DECIMATE 25 TO 30 FAMILY OWNED RANCHES IN OUR AREA ALONE.

I BELIEVE GOOD BUSINESS TO BE IN THE BEST INTEREST OF BOTH THE DEPARTMENT AND AGRICULTURE. H.B. 352 IS NOT GOOD BUSINESS. I REQUEST A "DO NOT PASS" ON H.B. 352. THANK YOU.

EXHIBIT 8
DATE 9-1-93
H.B. 352

EXHIBIT 9

DATE 2-1-93

HB 352

TESTIMONY ON HOUSE BILL 352
AN ACT GENERALLY REVISING THE STATE LANDS LEASING PROCESS
AND LAWS APPLICABLE TO RECREATIONAL USE OF STATE LANDS
HOUSE NATURAL RESOURCES COMMITTEE
FEBRUARY 1, 1993

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, FOR THE RECORD MY NAME IS JOHN BLOOMQUIST AND I AM AN ATTORNEY AND SPECIAL ASSISTANT FOR THE MONTANA STOCKGROWERS ASSOCIATION. THE MONTANA STOCKGROWERS ASSOCIATION IS AN ORGANIZATION OF OVER 3,500 RANCHERS LOCATED THROUGHOUT MONTANA, MANY OF WHOM UTILIZE STATE LANDS AS AN INTEGRAL PART OF THEIR GRAZING PRACTICES. I AM TESTIFYING BEFORE YOU TODAY IN OPPOSITION TO H.B. 352.

INITIALLY, THIS LEGISLATION LIKE H.B. 205, INTRODUCED BY REP. DOLEZAL, IS AN ATTEMPT TO ELIMINATE THE \$5 RECREATIONAL PERMIT FEE PRESENTLY NEEDED BY THOSE WHO UTILIZE STATE LANDS FOR GENERAL RECREATIONAL USE. AGAIN, THE STOCKGROWERS ASSOCIATION FEELS THE ELIMINATION OF THE FEE IS A VIOLATION OF THE TRUST RESPONSIBILITY WHICH THE DEPARTMENT OF STATE LANDS, THE STATE LAND BOARD AND THIS LEGISLATURE OWE TO THE SCHOOL TRUST. WE FEEL THE MONTANA CONSTITUTION REQUIRES THE TRUST BE BENEFITTED. OUR OPPOSITION TO THIS PORTION OF THE BILL IS THE SAME AS STATED IN OUR OPPOSITION TO H.B. 205.

THIS LEGISLATION ALSO REMOVES THE PRESENT DEFINITIONS OF "COMMERCIAL OR CONCENTRATED RECREATIONAL USE" AS WELL AS "GENERAL RECREATIONAL USE". THE STOCKGROWERS ASSOCIATION FEELS THAT THE REMOVAL OF THE DEFINITION OF COMMERCIAL OR CONCENTRATED RECREATIONAL USE POSES A THREAT TO STATE LANDS WHICH UNDER THE PRESENT LAW TO ACCESS STATE LANDS FOR THESE USES, REQUIRE THAT A SPECIAL USE PERMIT MUST FIRST BE OBTAINED. THIS REQUIREMENT IS A RESPONSIBLE MEANS OF INSURING THAT THE STATE SCHOOL TRUST LANDS WOULD NOT BE NEGATIVELY IMPACTED BY CONCENTRATED USE.

THIS BILL ALSO REPLACES THE PRESENT DEFINITION OF GENERAL RECREATIONAL USE WITH WHAT IS TERMED AS "CASUAL RECREATIONAL USE". THIS TERM APPEARS TO MEAN ESSENTIALLY, ANY RECREATIONAL USE WHICH MAY OCCUR AT ANY TIME OF THE YEAR. HOWEVER, IT SHOULD BE NOTED THAT THE RULES PROMULGATED UNDER MONTANA STATE LANDS ACCESS LAW BY THE STATE LAND BOARD ALLOW FOR THE BOARD TO CONSIDER OTHER RECREATIONAL USES UPON PROPER PETITION.

THE STOCKGROWERS ASSOCIATION FEELS THAT THIS IS THE MOST APPROPRIATE MEANS OF HANDLING SUCH USES AND SHOULD THERE BE STATE LANDS WHICH WOULD BE SUSCEPTIBLE TO SUCH USES, THE BOARD MAY CONSIDER THESE UPON PROPER PETITION. THESE USES MAY NOT BE COMPATIBLE WITH OTHER USES OF STATE LANDS AND MAY IN FACT BE A DETRIMENT TO THE SCHOOL TRUST ASSET AND THE RESOURCE ITSELF. THE PRESENT PROCEDURES ARE APPROPRIATE.

IN SECTION 1, THIS LEGISLATION ALSO DEFINES WHAT IS TERMED AS "AN ESTABLISHED ROAD". THIS TERM INCLUDES ANY ROAD OR ANY TRAIL INCLUDING TWO TRACT TRAILS LOCATED ON STATE LANDS. SUCH A BROAD DEFINITION OF "ROADS" UNNECESSARILY EXPANDS WHICH ROADS MAY OR MAY NOT BE UTILIZED FOR STATE LAND ACCESS PURPOSES. FURTHERMORE, THERE MAY BE A QUESTION OF WHETHER THE DEFINITION MAY ENTAIL ROADS LOCATED ON PRIVATE LANDS.

SECTION 3 OF THE LEGISLATION GREATLY EXPANDS THE USE OF MOTORIZED VEHICLES ON STATE LANDS FOR RECREATIONAL PURPOSES. THIS SECTION ALSO STRIKES THE LIMITATION ON VEHICLE USE FOR RECREATIONAL ACTIVITIES AND GREATLY EXPANDS VEHICLE USE OF STATE LANDS. OBVIOUSLY, THIS MAY PLACE THE STATE LANDS RESOURCE IN JEOPARDY AS UNCONTROLLED MOTORIZED VEHICLE USE OF STATE LANDS WILL SIGNIFICANTLY IMPACT THE TRUST RESOURCE.

SECTION 5 CONCERNING PUBLIC HUNTING AND FISHING PRIVILEGES ON STATE LANDS DOES NOT SIGNIFICANTLY CHANGE PRESENT LAW. HOWEVER, THE LAW DOES EXCLUDE CLASS

3 LANDS USED AS CULTIVATED CROP LAND AND IT IS UNCLEAR WHETHER THIS RESTRICTION IS SIMPLY SEASONAL OR EXTENDS THROUGH HUNTING AND FISHING PERIODS. UNDER PRESENT LAW, SUCH LANDS ARE UNABLE TO BE ACCESSED WHILE CULTIVATED CROPS ARE BEING GROWN BUT ACCESS MAY BE ALLOWED AFTER HARVEST DURING THE GENERAL HUNTING SEASON.

SECTION 6 CONCERNING CASUAL RECREATIONAL USE ESSENTIALLY OPENS UP ALL LANDS TO ALL USES YEAR ROUND. AGAIN, THIS YEAR ROUND USE FOR ALL PURPOSES CREATES A PROBLEM IN MANAGEMENT OF THE RESOURCE, AS WELL AS THE MANAGEMENT OF OTHER USES OF STATE LAND WHICH BENEFIT THE SCHOOL TRUST.

SECTIONS 8 AND 9 STATE THAT OPEN FIRES AND OVERNIGHT CAMPING WILL NOT BE ALLOWED ON STATE LANDS EXCEPT IN CAMPING AREAS ESTABLISHED BY THE BOARD. IT IS UNCLEAR WHEN THESE PROVISIONS WILL ALLOW FOR FIRES AND OVERNIGHT CAMPING AND WHETHER THESE IMPACTS WILL ADVERSELY AFFECT STATE LANDS.

SECTIONS 10, 11 AND 12 ARE A CAUSE OF GREAT CONCERN TO THE MONTANA STOCKGROWERS ASSOCIATION AS THESE SECTIONS DEAL WITH PRESENT SURFACE LEASING LAW AND EFFECT HOW STATE LAND LESSEES RENEW LEASES, AS WELL AS THE PROCESS ON COMPETITIVE BIDDING FOR UNLEASED TRACTS.

THE PROCESS DESCRIBED FOR LEASE BY COMPETITIVE BIDDING IN SECTION 11 CREATES A PROCESS WHICH WILL BE AN ADMINISTRATIVE NIGHTMARE FOR THE DEPARTMENT OF STATE LANDS AS WELL AS CREATING A SIGNIFICANT EXPENSE TO THE DEPARTMENT. THIS WILL ALLOW ANYONE TO COME IN AND APPLY FOR A LEASE ON STATE LANDS WHETHER IT IS LEASED OR UNLEASED WITH THE ASSOCIATED REQUIREMENT OF PUBLICATION AND NOTICE OF THE BIDS. THIS IS AN UNDUE AND UNWARRANTED PROVISION AND WILL CREATE ADMINISTRATIVE PROBLEMS FOR BOTH LESSEES AND THE DEPARTMENT OF STATE LANDS.

SECTION 12 CONCERNING THE RENEWAL OF LEASES AND ELIMINATION OF THE RIGHT OF A LESSEE TO MEET THE HIGH BID UPON RENEWAL IS A PROVISION WHICH IS NECESSARY FOR MANY OPERATORS TO MAINTAIN THE CONTINUITY OF STATE LAND PARCELS WHICH ARE SO

IMPORTANT TO THEIR OPERATIONS. THE RIGHT OF RENEWAL AND THE RIGHT OF PRESENT LESSEES TO MEET HIGH BIDS IS AN INTEGRAL PART OF STATE LAND MANAGEMENT. THERE'S NO INDICATION THAT THIS PROCESS IS NOT WORKING FOR THE SCHOOL TRUST NOR FOR THE STATE LAND RESOURCE. THIS ASPECT OF THIS BILL SHOULD BE TOTALLY DISALLOWED.

WHILE THE ISSUE OF ACCESS AND STATE LAND ACCESS HAS IN THE PAST BEEN A CONTENTIOUS ONE, IT IS CLEAR THAT THE EXISTING STATE LAND RECREATIONAL ACCESS LAW HAS WORKED. APPROXIMATELY 25-30,000 GENERAL RECREATIONAL PERMITS WERE ISSUED IN 1992 AND ONLY APPROXIMATELY 17 COMPLAINTS WERE FILED WITH THE DEPARTMENT OF STATE LANDS. NONE OF THESE COMPLAINTS HAD TO DO WITH THE RULES AS PROMULGATED BY THE STATE LAND BOARD, THE \$5 FEE, OR THE FACT THAT STATE LANDS WERE NOT OPEN YEAR ROUND FOR CASUAL RECREATIONAL USE. THE ISSUE OF ACCESS IS NOT SIMPLY ONE OF ALLOWING UNRESTRICTED FREE ACCESS TO STATE PROPERTIES. THE ISSUE MUST BE TEMPERED BY WHAT IS IN THE BEST INTEREST OF THE STATE OF MONTANA FOR THE LONG TERM PRODUCTIVITY OF THE STATE LAND RESOURCE. THIS NECESSITATES AN ANALYSIS OF IMPACTS ON THE SCHOOL TRUST AND THE CONDITION OF THE STATE LAND TRUST ASSET. EXPANDING RECREATIONAL ACCESS AND EXPANDING VEHICLE USE OF STATE LANDS WILL IMPACT SCHOOL TRUST ASSET IN A NEGATIVE MANNER.

A SPOKESMAN FOR BLM RECENTLY STATED THAT THE FEDERAL GOVERNMENT IS LOSING APPROXIMATELY 2,000 ACRES PER DAY TO NOXIOUS WEED PROBLEMS. THIS ILLUSTRATES THE POTENTIAL SEVERITY OF THE PROBLEM AND THE EFFECT ON THE PRODUCTIVITY OF THE FEDERAL LAND RESOURCE. ACCESS HAS IMPACTS AND THIS LEGISLATION SHOULD NOT BE ALLOWED TO NEGATIVELY IMPACT THE SCHOOL TRUST ASSET. THE PRESENT PROCESS ALLOWS FOR REASONED DECISIONS ON STATE LAND ACCESS.

FOR THE REASONS SET FORTH ABOVE, THE MONTANA STOCKGROWERS ASSOCIATION STRONGLY URGES A VOTE OF "DO NOT PASS" ON H.B. 352. THANK YOU FOR THE OPPORTUNITY TO TESTIFY.

**Montana Department
of
Fish, Wildlife & Parks**



Helena, MT 59620
January 26, 1993

EXHIBIT 10
DATE 2-1-93
HB 352

MEMORANDUM

TO: Representative Brad Molnar
FROM: Al Elser *AE*
SUBJECT: State Land Access Charges

Sorry this took a little longer to dig up than I expected. Enforcement costs were a bit hard to tie down. Based on sketchy information, it appears Game Wardens spent about 1600 hours last year dealing with State Lands Access. Based on an average salary of \$12.50 per hour (very rough), this comes to a total of about \$20,000.00 of personal services spent by Game Wardens. The majority of our effort in the field was devoted to education; answering questions and sorting out confusion on the part of both landowners and hunters. Wardens also attended meetings which related specifically to State Lands Access issues. Very few investigations were initiated as our officers were trying to help sportsmen and women understand the new law. It is important to remember that all warden activity of State Land Access was done in conjunction with other enforcement duties.

Another cost that I could not tie down is the amount of time our office staff spent selling access permits and remitting the resulting money. We did however, spend \$5,685 on printing five different kinds of information signs and two brochures.

I hope this is the kind of information you were looking for. If not give me a call.

C: Pat Graham

EXHIBIT 11

DATE 2-1-93

HB 212

Amendments to House Bill No. 212
First Reading Copy

Requested by Representative Daily
For the Committee on Natural Resources

Prepared by Greg Petesch
January 25, 1993

1. Title, line 8.

Strike: "75-5-601,"

2. Page 4, line 24 through page 6, line 1.

Strike: section 2 in its entirety

Renumber: subsequent sections

EXHIBIT 12
DATE 2-1-93
HB 212

Amendments to House Bill No. 212
First Reading Copy

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

Prepared by Todd Everts, Committee Staff
February 1, 1993

1. Title, line 7.
Strike: "AND"

2. Title, line 9.
Following: "MCA"
Insert: "; AND PROVIDING A TERMINATION DATE"

3. Page 1, line 10.
Following: "line 9"
Insert: "STATEMENT OF INTENT
It is not the intent of this legislation to affect the cleanup, reclamation, or legal responsibilities or obligations under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 through 9675, or the metal mine reclamation statutes, Title 82, chapter 4, part 3, as determined under an existing purchase agreement or contract."

4. Page 21, line 14.
Following: "line 13"
Following: "

NEW SECTION. Section 9. {standard} Termination. [This act] terminates January 1, 1995."

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. 263
DATE 2-1-93 SPONSOR(S) Robb

PLEASE PRINT

PLEASE PRINT

[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resources

COMMITTEE

BILL NO.

HB-352

DATE

2/2/93

SPONSOR(S)

Rep. Mounitz

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Sam Hoffman</u>	<u>Agri. Preservation Assoc -</u> <u>+ Self</u>		X
<u>CARTER CALLE</u>	<u>MT And-son</u>		
<u>Dave Brown</u>	<u>State Rep. H.D. 72</u>		X
<u>John A. Patten</u>	<u>SELF</u>		X
<u>Joyce Grande</u>	<u>Self</u>		X
<u>Glenn D. Johnson</u>	<u>MT Outfitters & Guides</u>		X
<u>JOHN C. ANDERSON</u>	<u>SELF</u>		X
<u>Jay Banovsky</u>	<u>Ruby V. Stock Assoc</u>		X
<u>Dick Todd</u>	<u>Ruby V. Stock Assn.</u>		X
<u>Mike Bann</u>	<u>Self</u>		X
<u>Kelly Flynn</u>	<u>MOA</u>		X
<u>Grant Jacobson</u>	<u>Sec. of State</u>		X
<u>PO</u>			
<u>Jim Reelers</u>	<u>MWF</u>	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. ^{HA} 352
DATE 2/1/93 SPONSOR(S) REP. MOLNOR

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
WARD JACKSON HARRISON, MT.	SW, MONTANA STOCKMEN'S ASSOC		X
David Ross Helena	MT. Audubon Legislative Fund	x	
Lynna Frank	MT. Farm Bureau		X
David W. Miller	Board of Feeder Presentation MT. Assn. Reg. Land Surveyors		
Zoe Ector III	Agricultural Preservation Assn.		X
Michael Rafferty	self		X
Steve Rolfe	Self		X
Jim Hagenbarth	Self		X
Jay Underman	self		X
John Bloomquist	MT. Stockgrowers Assn.		X
Dean Jaques	Self		X
John Robbins	Self		X
JAMIE DODGE	MT Cattlewomen		X
Ed Lord	MSGA		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Nature Resources COMMITTEE BILL NO. HB 352
DATE 4/4/93 SPONSOR(S) REP. MOLNAR

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Linda Helton	HD 19 - Rep		X
Tony Schoonen	State Lands Coalition	in part L	
Ronald B. Stevens	Himself only	In Part ✓	
Bud Lynch	DSL		✓
George Schunk	Attorney General		
Virginia Jackson	MT Cattle Women		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.