

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chair Bianchi, on March 19, 1993, at 3:20 p.m.

ROLL CALL

Members Present:

Sen. Don Bianchi, Chair (D)
Sen. Bob Hockett, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Lorents Grosfield (R)
Sen. Tom Keating (R)
Sen. Ed Kennedy (D)
Sen. Bernie Swift (R)
Sen. Chuck Swysgood (R)
Sen. Henry McClernan (D)
Sen. Larry Tveit (R)
Sen. Cecil Weeding (D)
Sen. Jeff Weldon (D)

Members Excused: None.

Members Absent: None.

Staff Present: Paul Sihler, Environmental Quality Council
Leanne Kurtz, Committee Secretary

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

Committee Business Summary:

Hearing: HB 280, HB 408
Executive Action: None.

HEARING ON HB 280

Opening Statement by Sponsor:

Representative Bob Gilbert, HD 22, said HB 280 generally revises the Montana Subdivision and Platting Act in its entirety. He said the bill is designed to replace a statute that has caused many problems since its 1973 inception. Representative Gilbert discussed the definitions in Section 2, including agricultural producer, minor and major subdivisions, property rights, and agricultural exemptions. He said there were concerns that someone could submit a mining claim and turn it into a

subdivision without review. Representative Gilbert noted language on page 10, lines 10-20 address that concern. He said the government may sue a developer under current law if he or she fails to follow the rules and regulations. He added a developer may sue a government entity under case law. Representative Gilbert said HB 280 would make current law consistent with case law. He said the bill changes the conditions under which one can sue, noting it does not create a new cause of action. Representative Gilbert stated counties could establish joint planning boards and said on page 14, HB 280 stresses that subdivision regulation must protect the rights of property owners as defined in 76-3-103 MCA. He said page 15 deals with water user entities, adding there was concern about a ditch or water project immediately adjacent to a subdivision. He discussed how HB 280 deals with bonding provisions, contents of an Environmental Assessment, and the review process. He said HB 280 drastically streamlines and clarifies the review process. Representative Gilbert stated there cannot be more than one informational hearing on a subdivision under HB 280. He said the bill does away with the public interest criteria, and addresses the criteria for local government review. Representative Gilbert stated HB 280 encourages the governing body and the subdivider to work together to develop mitigation for potential adverse effects of a subdivision. He stated HB 280 cuts in half requirements in current law for park dedication, and discussed an amendment which gives local governments more flexibility in dealing with several minor subdivisions adjacent to one another. Representative Gilbert discussed how HB 280 would be implemented, and stressed the current law needs a comprehensive overhaul. He said many people buy 20 acres to avoid the review process, maintain only 1 or 2 acres, and the rest is overrun by weeds.

Proponents' Testimony:

Becky Donaldson, Helena resident, said HB 280 protects the environment and provides for safe, organized development. She said HB 280 will hold public officials accountable for their planning decisions. Ms. Donaldson described her difficult experience with trying to sell a parcel of land in 1988. She said the county asked her and her husband to form a minor subdivision rather than selling the land as an occasional sale. Ms. Donaldson listed the following as problems she thinks HB 280 would address: 1) rules do not reflect the intent of the law; 2) slow feedback from county officials; 3) no clear prices for county services; 4) hidden requirements; and 5) confusion due to inadequate rules. Ms. Donaldson said HB 280 addresses the issues that have made it impossible for her to work within the system "in a mutually responsible manner."

Jim Nugent, city attorney, City of Missoula, read from written testimony (Exhibit #1).

Kris Roberts, president, Helena Board of Realtors, said the Board

has unanimously voted to support HB 280. Ms. Roberts stated HB 280 streamlines review of minor subdivisions and establishes subjective criteria for major subdivisions.

Russell Ritter, representing Inland Properties, said Inland Properties has real estate holdings in 8 Montana counties. He said he supports HB 280 as well as HB 408 because they are comprehensive and would provide a level of consistency in subdivision planning throughout Montana.

William Spilker, Helena real estate broker, read from written testimony (Exhibit #2).

Ted Doney, Montana Dairyman's Association, said he supports both HB 280 and HB 408. He said dairy farmers are under pressure to subdivide because it is some of the best land in Montana. Mr. Doney said current law results in the creation of "20 acre weed tracts". He said the Association has developed a list of 7 criteria that need to be met in order for the members to support a subdivision bill. The criteria are: 1) increase in the exemption from subdivision review would have to be no more than 160 acres; 2) a bona fide agricultural use exemption; 3) a family conveyance provision for each member of a family; 4) elimination of the "applause meter"; 5) maintenance of the existing adjoining common boundary exemption; 6) definition of tracts of record; and 7) appropriate exemptions for bona fide agricultural buildings. Mr. Doney stated both HB 280 and HB 408 meet these criteria, so the Dairyman's Association supports both bills.

Jo Brunner, executive director, Montana Water Resources Association (MWRA), said HB 280 recognizes the concerns of water rights entities. She discussed problems MWRA members have had with unreviewed subdivisions and said if HB 280 passes, people who purchase land will be aware of the fact that the water facilities on the property are not theirs to use.

Jerry Hamlin, Helena homebuilder, realtor/broker, and member of the planning board, said he opposes HB 408 because he does not think it thoroughly addresses the problems he has encountered with the current subdivision law. Mr. Hamlin said HB 280 streamlines the process, adding that existing criteria is too subjective. He said the cost of housing is a function of the cost of land, and cautioned the Committee that there will soon be no affordable housing because land costs are getting too high.

Horace Brown, county surveyor, Missoula County, read from prepared testimony (Exhibit #3), and handed out graphics of land splits in the Missoula area (Exhibit #3A) using the Certificates of Survey exemptions.

Stan Bradshaw, Montana Trout Unlimited (MTU), said MTU is primarily concerned with how unregulated subdivisions affect water quality. He said HB 280 presents a net improvement over the existing law.

John Bloomquist, Montana Stockgrowers Association, said he concurs in the criteria listed by Ted Doney. He said the Association supports both HB 280 and HB 408 as they both address the criteria.

Don Allen, Montana Wood Products Association (MWPA), said MWPA supports both HB 280 and HB 408, but said HB 280 contains reference to silviculture and HB 408 does not. He discussed the importance of land exchanges and suggested the Committee insert "silviculture" with "agriculture" in HB 408.

Brian McNitt, Montana Environmental Information Center (MEIC), stated MEIC supports HB 280, but is concerned with local governments' ability to decide whether an exemption is an evasion of the subdivision law.

Marilyn Hoblitt, Missoula realtor, said her main concern is that local governing bodies have the opportunity to review all land splits. She added a workable, streamlined process is extremely important. Ms. Hoblitt stated she opposes HB 408, because more comprehensive reform is needed.

Janet Ellis, Montana Audubon Legislative Fund, said Audubon supports HB 280, but has the same concerns expressed by Mr. McNitt.

Opponents' Testimony:

Donna Maddox, Whitefish City Council, said the Council opposes HB 280 because the bill does not provide adequate tools to deal with developers. She stated HB 280 puts local governments "back to square one", as they will have to write all new regulations. Ms. Maddox said Whitefish is a rapidly developing area, and local officials do not have the time to adjust to a completely new regulatory framework. She urged the Committee to support HB 408 and reject HB 280.

Jim Richard, Montana Wildlife Federation and Montana Association of Planners, read from prepared testimony (Exhibit #4).

Dean Stipe, Moise wheat farmer, said he opposes both HB 280 and HB 408 because of the 160 acre exemption. He said he would like to sell 40 and 80 acre parcels of his land according to how the sprinkler systems are set up, but these bills would make that difficult. Mr. Stipe said the occasional sale has been the biggest subdivision problem.

Tom Muri, former Whitefish City Attorney, read from prepared testimony (Exhibit #5) and stated it is Representative Gilbert's intent to stop litigation in the land use area. Mr. Muri said litigation in the past 20 years has resulted in a more objective understanding of the law. He stated the review process is not onerous and to start over with a completely new law would

"necessitate the re-education of planners, surveyors, city and town council members, county commissioners." Mr. Muri said he believes the biggest problem is the unwillingness of elected officials to follow the recommendations of county planners. He said he opposes HB 280 and supports HB 408.

Art Whitney, Montana Chapter of the American Fisheries Society, submitted written testimony expressing opposition to HB 280 and support for HB 408 (Exhibits #6 and #6A).

Sherm Janke, Montana Chapter of the Sierra Club, stated the Sierra Club is a "lukewarm supporter" of HB 280, but it has too many problems. He said there may be considerable litigation in the future because "adverse" as it relates to property rights is not clearly defined. Mr. Janke stated the Sierra Club opposes exemptions for divisions of land both for the purposes of mining, and for interest in oil, gas and minerals. He said the Sierra Club objects to the requirement for only one informational public meeting, as public testimony always improves a proposal.

Blake Wordal, Lewis and Clark County Commissioner, said the County opposes HB 280 for reasons already presented. He said he is concerned about limiting public involvement in subdivision review.

Don Spivey, Columbia Falls resident and member of the Flathead County Planning Board, described the application process for a subdivision. He said the process is often held up by developers requesting postponements. He said the planning board relies heavily on the public hearings when making decisions to issue permits, adding the process is already slanted toward developers and he does not think it can be streamlined. Mr. Spivey stated the Whitefish area is being inundated with development proposals from all over the country, and suggested the permit process be made more difficult. He said he supports simplifying the process for minor subdivisions, adding the Board supports HB 408. Mr. Spivey said there is a sense of urgency in Flathead County, as 20 Certificates of Survey per week are reviewed.

Richard Idler, Bigfork resident, stated a complete rewrite of the current law is unnecessary and may be self-defeating in the long run. He added he supports HB 408 because it is more concise and addresses the immediate need to close the loopholes in current law.

Brooks Martin, Bozeman resident, said he supports HB 408 and opposes HB 280. He said Representative Gilbert is attempting to speed up the review process by reducing public input. Mr. Martin said removing the public interest criteria would be a step in the wrong direction.

Kelly Flaherty, Canyon Creek resident, member of the Lewis and Clark County Consolidated Planning Commission and member of Montana Cattlemen, said HB 280 hinders her right to protest.

She said she has the right to voice her opinions in a public arena.

Dan McGee, Montana Association of Registered Land Surveyors (MARLS), submitted prepared testimony (Exhibit #7), and said SB 343 was the best subdivision reform bill.

Christine Mangiantini, League of Women Voters, said the League opposes HB 280 and supports HB 408.

Kathy Macefield, City of Helena planning director, submitted prepared testimony (Exhibit #8).

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Hockett said the language "substantially adversely affected" on page 20, line 24 seems vague, and asked Representative Gilbert to comment. Representative Gilbert said the language is a standard of law that is understood by every attorney in the state. Senator Hockett asked Michael Kakuk, Environmental Quality Council (EQC) attorney and drafter of HB 280, to comment. Mr. Kakuk said "substantial adverse impact" may be heavily litigated and would depend on case law to determine the exact meaning.

Senator Hockett asked Representative Gilbert why HB 280 removes public input. Representative Gilbert stated he has not removed public input, he has removed the "applause meter". He said HB 280 provides a mechanism for an informational public hearing for every subdivision. Representative Gilbert said an objector should have to prove he or she will be adversely affected by a proposed subdivision.

Senator Swysgood asked if Mr. Nugent offered amendments in the House Committee. Alec Hansen, Montana League of Cities and Towns, said Mr. Nugent's testimony before the House Committee was similar. Senator Swysgood asked Representative Gilbert if Mr. Nugent's concerns were addressed in the House Committee. Representative Gilbert said he does not want local government entities that make the final decisions involved in frivolous lawsuits.

Senator McClernan asked Tom Hopgood, Montana Association of Realtors, to comment on the Association's position. Mr. Hopgood stated he did not testify on HB 280 because there is no unanimity among the members of the Association.

Senator Weeding asked if people testifying at the House hearing had similar criticisms regarding the limits on public participation. He asked if Representative Gilbert had given any thought to putting some public interest criteria back in the bill. Representative Gilbert stated the problem with the current method of public review is it often becomes a shouting match "where reason is not the ruler, rather emotion is," and it becomes difficult to make rational decisions. He stressed HB 280 does not disallow public input, but requires an objector to justify his or her opposition to a subdivision.

Senator Swift asked what is significant about 160 acres and why exemptions are provided for agricultural land owners only. Representative Gilbert stated there has to be a cut-off point for review of land. He added a 40 acre exemption would not solve the problem, and the 160 acre provision resulted from discussions with agriculturalists. Representative Gilbert said a provision for non-agricultural family transfers is included in amendments he has proposed for HB 280. Senator Swift asked why HB 280 allows agricultural and forest land owners to subdivide below 160 acres. Representative Gilbert stated HB 280 does not allow subdivisions below 160 acres for agriculture, except for estate purposes, to build a house for a hired hand, or to pass land on to a family member. Senator Swift commented that HB 280 directs attention only to agricultural land owners, adding other people should have the same rights.

Senator Bianchi asked if "environmental or ecological resources" on page 24 is broad enough to include wildlife and wildlife habitat. Representative Gilbert directed Senator Bianchi to page 26, line 1, stating "anything that is environmental or ecological, and that includes wildlife, will be considered" in a review.

Senator Swysgood asked for a definition of "sheet flooding". Representative Gilbert stated the term means water running across flat ground, similar to a "gullywasher". Senator Swysgood said HB 280 addresses drainage problems, including the potential for sheet flooding. He stated drainage problems in western Montana differ from the east and wondered if they are addressed somewhere in the bill. Representative Gilbert said he thinks the bill addresses the issue, but said he would not object to adding language particular to the drainage problems in western Montana.

Closing by Sponsor:

Representative Gilbert asked the Committee to consider his amendments dated March 11, and commented on the dissention in the Montana Association of Realtors. He stated he does not believe case law is indicative of good law. Representative Gilbert said HB 280 is a complex bill, but simple to understand, adding current law is not objective. He said there would be very few ways to evade this law.

HEARING ON HB 408Opening Statement by Sponsor:

Representative Russell Fagg, HD 89, said the House Natural Resources Committee incorporated the best parts of two other subdivision bills in the drafting of HB 408. He said HB 408 removes the "applause meter" by taking out the public interest criteria, the basis of need criteria, and the expressed public opinion criteria. Representative Fagg said the "applause meter" is the single biggest objection that realtors and developers have to the current subdivision law. He stated HB 408 removes the occasional sale exemption, increases the 20 acre exemption to 160 acres, and changes the family sale exemption so that "anybody can make one family sale per family member per county." Representative Fagg directed the Committee members to a handout explaining HB 408 (Exhibit #8A). He said he has been contacted by several groups requesting amendments for HB 408, but added he opposes any amendments because the bill is the result of a delicate compromise.

Proponents' Testimony:

Note: several individuals expressed support for HB 408 during their testimony on HB 280.

Representative Emily Swanson, HD 79, said HB 408 incorporates the best parts of her subdivision bill, Representative Fagg's bill and Representative Brandewie's bill. She said HB 408 is a clean, simple approach. Representative Swanson said Gallatin County is one of the fastest growing areas in Montana, and subdivision reform was among the top three concerns of residents during her campaign. She said HB 408 closes loopholes in the current law, but the majority of the existing law works. Representative Swanson said HB 408 had the support of 80% of the House on third reading.

Alec Hansen, Montana League of Cities and Towns, discussed the loopholes in current subdivision law and submitted testimony from the City of Missoula (Exhibit #9).

Steve Powell, speaking on behalf of the Ravalli County Commission and the Association of Counties, discussed Missoula's Linda Vista subdivision, which is experiencing water quality deterioration as a result of contamination from septic systems. He said this is the sort of problem subdivision review is aimed at preventing. Mr. Powell stated HB 408 will not eliminate land divisions, it will simply subject them to a local review process. He discussed the relationship between local governing bodies and planning boards, stating that the Ravalli County Commission recently reversed a recommendation by the local planning board that a subdivision be denied because there was not adequate rationale.

He said the commissioners will only deny a subdivision project for very good reasons because they will be held accountable and could be taken to court.

Kelly Flaherty, Canyon Creek resident, member of the Lewis and Clark County Consolidated Planning Commission and member of Montana Cattlewomen, said she is seeing more and more agricultural land taken out of production as a result of unreviewed subdivisions. Ms. Flaherty stated HB 408 clearly addresses problems with the current law.

Blake Wordal, Lewis and Clark County Commissioner, stated in the last 3 months, 250 parcels of over 20 acres have been proposed for creation in Lewis and Clark County through Certificates of Survey. He said this week, 73 deeds for parcels of 20 acres have been filed in the clerk and recorder's office.

Sherm Janke, Montana Chapter of the Sierra Club, stated HB 408 is similar to SB 261. He discussed the various groups that support HB 408, and stated it would be beneficial to insert language addressing the effects of taxation as a criteria.

Lisa Bay, Lewis and Clark County Conservation District, said the District unanimously passed a resolution to advocate subdivision reform, and said she hopes the Committee recognizes the broad coalition that supports HB 408.

Everett Steiger, chairman of the Tri-County Wildland/Urban Interface Fire Working Group, expressed the group's support for HB 408.

Paul Roos, an outfitter and member of the Blackfoot Chapter of Trout Unlimited, said the current subdivision law is not working. He noted it will be difficult to quantify what has happened to Montana's water quality from non-point sources of pollution caused by unplanned development.

Ted Lange, Northern Plains Resource Council (NPRC), said HB 408 effectively closes loopholes in the current law without rewriting the law. He said HB 280 may create serious new problems and loopholes.

Tonia Bloom, League of Women Voters, read from prepared testimony (Exhibit #10).

Peggy Munos, League of Women Voters, read from prepared testimony (Exhibit #11).

Stan Bradshaw, Montana Trout Unlimited, said he concurs with the testimony of Paul Roos, adding he likes the simplicity of HB 408. Mr. Bradshaw submitted a letter from Ric Smith, a Polson realtor (Exhibit #12) in favor of HB 408.

George Schunk, representing the Office of the Attorney General,

stated he supports all three subdivision bills before the Legislature, as they seek to remedy the problem of unreviewed land divisions and occasional sale exemptions. Mr. Schunk discussed the attorney general's role in subdivision litigation, and said the Department of Justice urges the Legislature to pass a subdivision reform bill this session.

Horace Brown, Missoula County Surveyor, stated he supports both HB 280 and HB 408.

Steve Heberly, planning director, Flathead Regional Development Office, said unreviewed land division is the major problem, adding over 6,600 lots have been approved since passage of the Subdivision and Platting Act. Mr. Heberly stated HB 280 is bad public policy, as it will "turn the process upside down" and take the impetus off developers.

Sharon Stratton, Flathead County Commissioner, said she supports HB 408 and opposes HB 280.

Brooks Martin, Bozeman resident, urged the Committee to support HB 408.

Janet Ellis, Montana Audubon Legislative Fund, expressed support for HB 408.

Brian McNitt, MEIC, expressed support for HB 408.

Jim Richard, Montana Wildlife Federation and Montana Association of Planners, read from prepared testimony (Exhibit #12A), and submitted letters from the Park County Attorney (Exhibit #12B) and the Gallatin County Commissioners (Exhibit #12C).

Lawrence Gallagher, City of Kalispell, expressed support for HB 408.

Kathy Macefield, planning director, City of Helena, read from prepared testimony (Exhibit #13).

Don Spivey, Columbia Falls resident, member of the Flathead County Planning Board, and representing Citizens for a Better Flathead, said he supports HB 408 and opposes HB 280.

Handouts from the Greater Yellowstone Coalition were distributed at the hearing (Exhibits #13A and #13B).

Opponents' Testimony:

Note: several individuals expressed opposition to HB 408 during their testimony in support of HB 280.

Steve Mandeville, legislative chairman, Montana Association of Realtors (MAR), stated the Association unanimously opposes HB

408. He said MAR supports a strong, well-defined subdivision law that is simple, understandable and able to streamline the review process. Mr. Mandeville said MAR believes the public interest criteria must be removed before objectivity can be reached in the process.

Tom Hopgood, Montana Association of Realtors, stated the Association opposes HB 408, and clarified that MAR has placed no advertisements in any newspapers regarding the subdivision issue.

Dan McGee, Montana Association of Registered Land Surveyors (MARLS), said Montana must have a subdivision law "that is clear on the face as to the requirements and responsibilities of the developer and the local government." Mr. McGee said the criteria and procedures should be clearly definable, assuring compliance on behalf of the developer and the local governing body. He stressed the importance of distinct legislative intent in passage of a subdivision law. Mr. McGee stated MARLS supports the kind of comprehensive planning referred to by Steve Powell, adding he is concerned about giving too much control to local governments.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Swysgood asked Mr. McGee which subdivision bill he prefers. Mr. McGee said he prefers HB 280 because it addresses park requirements and provides comprehensive regulation that would be uniform from county to county.

Senator Doherty asked Representative Fagg why the criteria dealing with effects on taxation was deleted. Representative Fagg said that criteria was not looked at very often and county commissioners have had difficulty getting a handle on taxation. He said local services are still addressed in the bill, adding he hopes that language will allay Mr. Janke's concerns about taxation.

Senator Doherty asked if it was Representative Fagg's intent that the phrase "local services" would deal with effects on taxation. Representative Fagg said that is his intent.

Senator Bianchi asked Mr. Roos to elaborate on his concern about groups of people buying large tracts to subdivide. Mr. Roos said he has overheard clients discussing plans to band together to buy large pieces of land. He said he wondered if there would be potential for a large group of people to skirt the intent of HB 408 by buying 160 acres or more and, without a transfer of deed, build a number of recreational homes on it. Representative Fagg

stated Mr. Roos' concern would be a planning problem, not a subdivision issue.

Senator Weeding asked Representative Swanson if rights of property owners have been addressed in HB 408. Representative Swanson stated landowners had expressed concern primarily about family conveyance and a clear definition of "tract of record". She said an enumeration of property rights was not as much of a consideration to agricultural groups as family conveyance.

Senator Grosfield asked Representative Fagg why he is concerned about amending HB 408 and sending back to the House for approval. Representative Fagg discussed lobbying pressures and possible retaliation in the House for actions the Senate has taken on unrelated House bills.

Senator Swysgood said he thinks Representative Fagg may be trying to "hamstring" the Committee, adding he objects to having to accept the bill as is if the Committee thinks changes may be in order. Representative Fagg stated he would support an amendment if the Committee truly feels it would improve the bill, but added he thinks HB 408 would stand a good chance of dying if it goes back to the House.

Senator Bianchi said he thinks minor amendments could be made, as only the amendments would return to the House, not the entire bill.

Senator Doherty discussed the difficulty in getting public interest criteria in the 1973 subdivision bill, and asked Representative Fagg what he would think about inserting that provision. Representative Fagg stated reinserting the public interest criteria would upset the delicate balance of HB 408.

Closing by Sponsor:

Representative Fagg emphasized the cross section of support for HB 408, and said loopholes in the current law need to be closed. Representative Fagg discussed his negotiations with the Billings realtors, who refused to support HB 408 because they were adamantly against doing away with exemptions. He said HB 408 is a simple bill that directly addresses the current problems, and cautioned the Committee that HB 408 could be killed in its entirety on third reading in the House.


SENATE NATURAL RESOURCES COMMITTEE

March 19, 1993


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ADJOURNMENT

Adjournment: 6:50 p.m.



SENATOR DON BIANCHI, Chair



LEANNE KURTZ, Secretary

DB/lk

ROLL CALL

SENATE COMMITTEE NATURAL RESOURCES DATE 3/19/93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Bianchi	✓		
Sen. Hockett	✓		
Sen. Bartlett	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Keating	✓		
Sen. Kennedy	✓		
Sen. Swift	✓		
Sen. Sunsgaard	✓		
Sen. McCernan	✓		
Sen. Treitz	✓		
Sen. Weeding	✓		
Sen. Weldon	✓		



OFFICE OF THE CITY ATTORNEY

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March 18, 1993

93-111

House Natural Resources Committee
Montana State Legislature
Capitol Station
Helena, Montana 59620

RE: HB 280

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 3/19/93
BILL NO. HB 280

Honorable Senate Natural Resources Committee:

The City of Missoula and Montana League of Cities and Towns have both adopted resolutions urging the repeal of the current broad family transfer and occasional sale subdivision exemptions.

The use of subdivision exemptions in urban areas generally results in avoidance of any park land dedication, undedicated unpaved roads that contribute to air pollution and construction of residences that pollute the aquifer with sewage because they are not connected to municipal sanitary sewer systems.

City of Missoula officials would urge Section 76-3-204 MCA to reinstate 40 Montana Attorney General Opinion No. 57 (1984) holding that:

A developer's construction of 48 four-plexes, to be used as rental occupancy buildings, on a tract of land owned by the developer is a "subdivision", and consequently must be submitted for local review under the Subdivision and Platting Act.

The 1985 Montana State Legislature negated this attorney general opinion by amending Section 76-3-203 MCA to its current language. A development with 48 four-plexes would have a substantial impact on all government services and should be subject to subdivision review. Enclosed is a March 25, 1991 memorandum to City officials from a City planner identifying a proposed '60 rental unit project involving several buildings which was not subject to subdivision review. The effect of the 1985 State Legislature's amendments to Section 76-3-204 MCA is to allow a significant and substantive subdivision exemption that allows avoidance of subdivision review for developments that have an obvious and clear impact on government services.

Finally City of Missoula officials have concerns about the provisions of HB-280 in Section 4, lines 1-13, page 12 and subsection 7(3), lines 18-22, page 16 expressly identifying damage lawsuits against local government bodies and deleting legislative immunity for local government bodies. These provisions may intimidate local government decision making.

House Natural Resources Committee

March 18, 1993

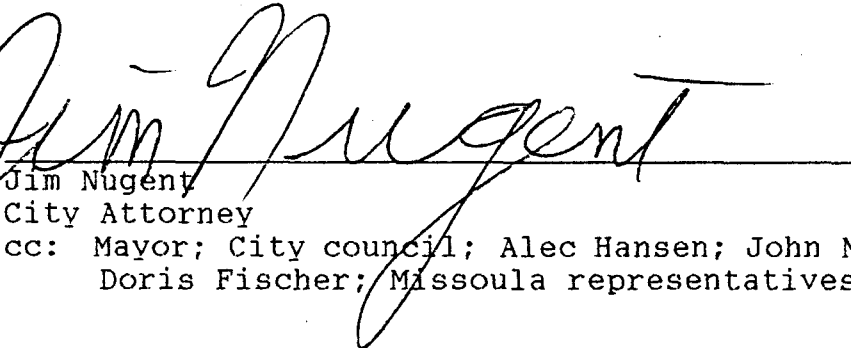
Page Two

Local government body ELECTED officials, conscientiously endeavor to reasonably and equitably in good faith apply the provisions of the Montana Subdivision and Platting Act. It is quite expensive to defend even meritless lawsuits. Liability insurance coverage generally does not exist for local government land use decisions. Thus, the costs of defending litigation and/or any damage award will be directly borne by the taxpayers.

HB-280 may impose a chilling effect on applying the "Montana Subdivision and Platting Act" in the public interest.

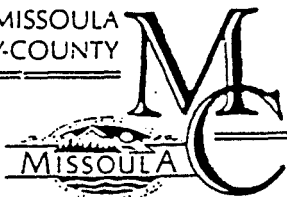
Thank you for your consideration of these matters.

Yours truly,



Jim Nugent
City Attorney

cc: Mayor; City council; Alec Hansen; John Merrell; Barb Martens;
Doris Fischer; Missoula representatives; Subdivision file



TO: Jim Nugent, City Attorney

FROM: Barbara Martens, Planner II
Office of Community Development

3/27/91
Barbara Martens

DATE: March 25, 1991

RE: Informational Item: Property located at the southeast corner of the intersection of 39th Street and Hillview Way.

An individual has plans to and has discussed plans with the Office of Community Development Staff to construct two sixteen dwelling unit buildings, one twelve dwelling unit building and two eight dwelling unit buildings at the southeast corner of 39th Street and Hillview Way. This construction project would consist of sixty (60) dwelling units. The developer states that he will retain ownership of all the dwelling units and therefore would not trigger statutory subdivision review.

As you will recall in our previous discussions with Rich Weddle, Attorney for the Department of Commerce, Rich Weddle informed us that Section 76-3-204 MCA would allow for the construction of these dwelling units, without requiring that they be reviewed through the subdivision process, so long as all units are retained in single ownership. This individual has stated directly that he intends to retain all units in single ownership. Other applicable regulations would still apply.

Section 76-3-204 MCA. Exemption for conveyances of one or more parts of a structure or improvement. The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement, whether existing or proposed, is not a division of land, as that term is defined in this chapter, and is not subject of the requirements of this chapter.

The Staff of the Office of Community Development urged and encouraged that the developer consider the benefits of going through the subdivision process prior to constructing the units. Some of these benefits are 1). should the developer ever wish to sell any units, subdivision review will be necessary; and 2). if subdivision review occurs upfront possible delays or problems may be alleviated by addressing standards prior to construction, etc.

cc: Mayor Dan Kemmis
City Council Members
Chuck Stearns - Finance Officer/City Clerk
Mike Kress - Director of the Office of Community Development

HB 280

My name is William Spilker, I reside at 801 Harrison, Helena, MT. I am a licensed real estate broker, I am appearing here on my own behalf.

I consider myself well informed on the issue of subdivision legislation and the way this law has been administrated in this state. I have been involved as an applicant ~~as~~ and owner in 4 minor subdivisions - 2 being approved - 2 being disapproved; I have been a participant as an owner in the division of a large tract of land into 20 acre parcels. I have been a participant as an owner in the use of the occasional sale, agricultural, relocation of common boundaries and mortgage financing exemptions provided for in the existing act. I have also been involved in these activities many times as a real estate agent representing a principal. I feel I have a practical working knowledge of this act.

Secondly this is the 8th session which I have stood before a committee of this legislative testifying on this subject. I was a participant of the EQC task force that worked diligently to craft legislation that might satisfy or at least be somewhat acceptable to the divergent interests relating to this issue.

Subdivision reform is complex. It goes well beyond the mere idea of eliminating the 20 acre definition and the so called loophole exemptions in the act which has been the focus heretofore. Any meaningful reform also has to address objectivity in the review process and criteria, accountability of local officials, and the protection of real property rights. Hopefully this will result in a situation whereby a person wishing to divide some property can do so with a degree of predictability and not be subject to a set of moving criteria that impose costly and unattainable requirements that preclude the ability to develop ones property. HB 280 ACHIEVES THESE GOALS WHERE THE HB 406 AND SB 261 SHORT

I hope this committee and the Legislature keep in mind the results of any subdivision regulations will have a major direct effect on the availability and the ultimate cost of housing for the citizens of this state.

HB 280 does close the so called loopholes that have received so much attention i.e. the 20 definition (now 160 acres) the occasional sale (repealed) the

SENATE NATURAL RESOURCES

EXHIBIT NO. 2

DATE 3/19/93

HB 280

family conveyance (repealed) and should satisfy those concerns.

HB 280 also has some positive features regarding private property rights and providing a better review process. To a major extent the subjective nature of the act has been addressed with the elimination of the major culprits: express public opinion and the basis of need as criteria for the approval of a subdivision. Throughout the act the bill goes a long way toward giving specific definitions and direction as to the how and criteria used by a governing body in review process.

Representative Gilbert has given specific attention to the protection of private property rights. This has been accomplished by #1 amending the purpose section of the act to include the protection of private property rights in the review process (page 2, line 6); #2 adding a definition of private property rights (page 6) and #3 the rights of property owners must be protected in developing the regulations. (page 14 lines 3-5).

A second major feature of this legislation is the streamlining of the review process especially with respect to the minor subdivision when it is the first five parcels of a tract of record. The criteria are definite - requiring 5 conditions to be met. These conditions are not all that different from what is required of an occasional sale division under the existing act. Yet these conditions still provide for protection of public health, safety and welfare.

Further with respect to the review process the act also establishes a category as a special subdivision. A special subdivision occurs when the subdivision conforms to a master plan, a long range public works plan and zoning regulations. Again this law sets up a procedure for an abbreviated and predictable review.

- Amend — LINE 5 page 7

I support HB 280. I complement Rep. Gilbert on his efforts. In my opinion a major feature of this act is the positive tone which has been injected into the legislation. I believe it will give property owners a new confidence when considering the development of their properties. ^{This BILL} ~~It~~ needs to be passed.

~~without changes.~~ (Amend line 5 page 7)



March 19, 1993

Chairman ^{Blanchi} ~~Blanchi~~ and members of the ^{Senate} ~~House~~ Natural Resources Committee:

My name is Horace Brown and I am County Surveyor for Missoula County. Thank you for the opportunity to comment on House Bill #280. We are glad to support this bill because it will allow Missoula County to plan for growth and the resulting demand for services. There is an increasing need to be able to review all divisions of land in order to determine the impact of land splits on services and our ability to tax for those services.

In Missoula County, 12% of the land divided from 1973 to October of 1992 was reviewed for subdivision. 88% of the land divided in that time was not reviewed. I would like to be able to give ~~the~~ current date percentages; however, the best I can offer are these graphics.

Within the last three weeks, three Certificates of Survey have been received in Missoula County which divide 1,274 acres into 60 tracts. These divisions are exempted under current law because they are 20 plus acres ^{or more} and will not be reviewed for access, impact on services, taxation or public health and safety.

As you can see, these tracts are near some of our approved subdivisions but also are located in areas where we have had to accept many other Certificates of Survey.

13 tracts totaling 265 acres in the Six Mile Road area
31 tracts totaling 672 acres in Butler Creek
16 tracts totaling 337 acres off Mullan Road

Each of these Certificates of Survey will impact our ability to prepare for growth in these areas and will in turn impact all the County taxpayers' cost for services, especially for costs related to the infrastructure. The second set of graphics I have given you in a packet. This set is an illustration of the use of Certificates of Survey exemptions to split a 20 acre parcel into five smaller parcels.

The last page lists the types of exemptions used. And will you please notice that the entire process occurred within one month and four days.

SENATE NATURAL RESOURCES

EXHIBIT NO. 34

DATE 3/19/93

BILL NO. HB 280

If there is no change in our legislation for Certificates of Survey which allows no review for division of 20 acres or more and exemptions such as we have in this example of a five lot split up the Rattlesnake Valley, we will be dealing with uncontrolled land splits in all of the 1,274 acres in the first illustration.

We also urge you to retain the provision, "effective on passage and approval."

Again, thank you for this opportunity to testify.



Horace S. Brown
County Surveyor

SENATE NATURAL RESOURCES

EXHIBIT NO. 3A

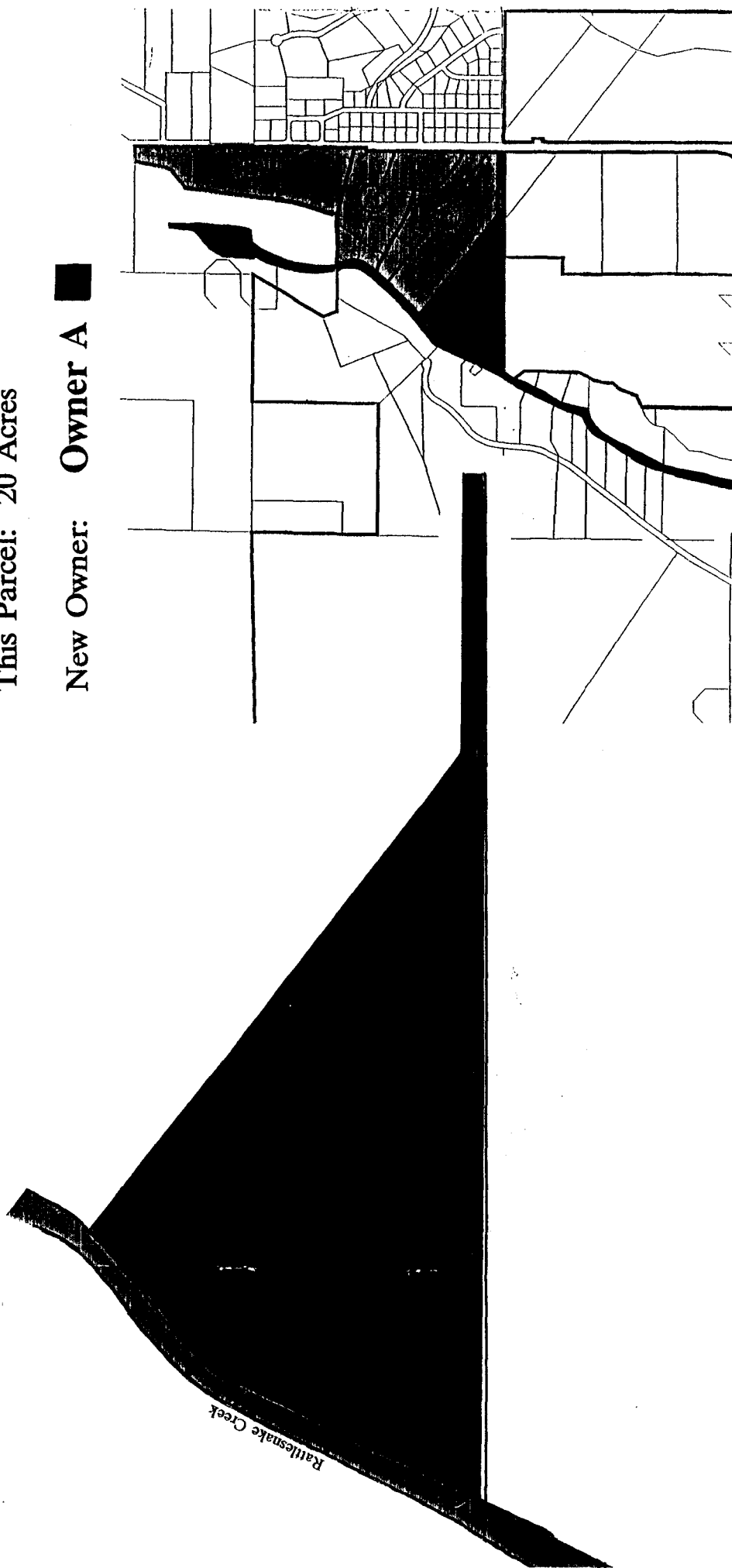
DATE 3/19/93

BILL NO. HB 280

One of Four Parcels Split from 87.55 Acres

This Parcel: 20 Acres

New Owner: **Owner A** ■



OCCASIONAL SALE: March 13, 1991:

■ Owner A to Owner B ■



OCCASIONAL SALE: March 13, 1991:

■ Owner A to Owner B ■

■ COURT ORDER/PARKS: March 26, 1991:

Msc. to City of Missoula



OCCASIONAL SALE: March 13, 1991:

■ Owner A to Owner B ■

■ COURT ORDER/PARKS: March 26, 1991:
Mssl. to City of Missoula

FAMILY TRANSFER: April 17, 1991:

■ Owner A to Owner A1 ■

FAMILY TRANSFER: April 17, 1991:

■ Owner B to Owner B1 ■

TESTIMONY ON HB 280
before the Senate Natural Resources Committee
by JIM RICHARD representing the
MONTANA WILDLIFE FEDERATION AND MONTANA ASSOCIATION OF PLANNERS

I AM JIM RICHARD. TODAY I AM REPRESENTING THE MONTANA WILDLIFE FEDERATION AND THE MONTANA ASSOCIATION OF PLANNERS.

BOTH ORGANIZATIONS HAVE BEEN INTERESTED IN SUBDIVISION REFORM FOR MANY YEARS. THE MEMBERS ARE INTERESTED IN FUNCTIONAL, CONVENIENT COMMUNITIES THAT MINIMIZE THE COST OF SERVICES, AND IN PROTECTING WILDLIFE, HABITAT, SPORTSMEN'S ACCESS AND WATER QUALITY.

WE WANT TO COMMEND REP GILBERT FOR THE YEARS HE HAS WORKED ON SUBDIVISION REFORM, AND FOR HELPING TO MAKE SUBDIVISION REFORM A PUBLIC ISSUE. VERY PROBABLY, WITHOUT REP GILBERT, MONTANA WOULD NOT BE POSITIONED TO ENACT REAL SUBDIVISION REFORM THIS SESSION.

HB 280 CONTAINS A NUMBER OF FUNDAMENTAL PROBLEMS THAT CONFLICT WITH TRUE SUBDIVISION REFORM.

1. HB 280 deletes the current umbrella language "Unless the method of disposition is adopted for the purpose of evading the chapter...". This language has been absolutely essential over the past 20 years in allowing local government to determine whether an exemption was properly used. Proper use of evasion criteria has been upheld by the Montana Supreme Court. Without this or similar language, the exemptions in HB 280 could be used to evade the purpose of the law, and local government would have no authority to prevent abuse.

2. Not only is HB 280 silent on abuse of exemptions, Section 6 contains new exclusionary language that would prevent local government from defining and dealing with attempts to evade the act. A further disincentive for local government to prevent abuse of exemptions is Section 4, which specifically allows lawsuits against the governing body to recover monetary damages if the subdivider believes a local regulation exceeds the authority of the statute.

SENATE NATURAL RESOURCES

EXHIBIT NO. 4

DATE 3/19/93

BILL NO. HB 280

3. As a result of the above prohibition against local government's preventing abuse exemptions, exemptions in HB 280 will be used to create unlimited parcels of any size without review. This circumstance would be worse than the present "occasional sale" exemption, which is at least limited to one time per year:

Even if the problems with exemptions in HB 280 are remedied, there is little gain if local government cannot conduct an effective review of subdivision proposals.

4. HB 280 repeals 76-3-504 which sets minimum requirements for local subdivision regulations, and Section 6 replaces that language with a limited and exclusionary set of requirements for local regulations.

5. Section 12 deletes the finding of public interest and the 8 criteria as part of the basis of approval. The bill provides 3 general considerations as part of the approval, but with Section 6's prohibition against a local government's amplification of the statutory provisions and the threat of lawsuits provided under Section 4, it is doubtful that a governing body can specifically consider wildlife, habitat, and water quality in its decision to approve or disapprove a subdivision.

6. Sections 9 and 12 limit the information that can be used in reviewing a proposed subdivision, which would lessen the accuracy and thoroughness of the review and approval decision.

7. Section 11 greatly restricts the public's right and opportunity to become knowledgeable about a proposal and to participate in decision-making process. Public hearings would be replaced by "informational hearings" that would be held only upon request, and governing body decisions would be made in "executive proceedings." Over the years, public comment has been a vital asset in identifying issues and problems and the means of overcoming those problems, and HB 280 would significantly reduce this benefit.

8. Again, Section 4's broad provisions for lawsuits against the governing body would tend to stifle a proper review.

AGAIN, MWF AND MAP COMMENT REP GILBERT FOR HIS LONG EFFORTS TOWARD SUBDIVISION REFORM. HOWEVER, WE MUST OPPOSE HB 280.

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SENATE NATURAL RESOURCES

EXHIBIT NO. 7

DATE 3/19/93

BILL NO. HB 280, HB 408

- SYNOPSIS OF HOUSE BILLS 408 & 280 -

PREPARED FOR: THE MONTANA SENATE NATURAL RESOURCES COMMITTEE HEARINGS, MARCH 19, 1993

PREPARED BY: THE MONTANA ASSOCIATION OF REGISTERED LAND SURVEYORS

I. PRINCIPLE: "BASIC PROPERTY RIGHTS ARE FUNDAMENTAL TO ANY LAND USE LAW".

A. HOUSE BILL 408:

1. does not recognize, address, nor protect basic and fundamental property rights.
2. surrenders all basic property rights to local government.
3. expresses the following attitudes:
 - a. that dividing land is a privilege granted by government, not a basic right.
 - b. that only government can be trusted for the welfare of Montana.
 - c. that all of the problems associated with the Act are related to the owner or developer and not with government.

B. HOUSE BILL 280:

1. does recognize and address basic property rights.
2. lacks definitive specifics to guarantee those rights.
3. dilutes the property rights principle with language that in effect grants local governments the final decisions.

II. PRINCIPLE: "A "SUBDIVISION LAW" DOES NOT A "PLANNING LAW" MAKE".

A. HOUSE BILL 408:

1. grants all authority to local governments for the determination of review criteria and process; it is not specified in the bill.

B. HOUSE BILL 280:

2. specifies certain specific review criteria and procedures for local governments.

C. Neither bill specifies or requires any responsibility, or provides incentive for local governments to plan comprehensively and appropriately.

D. Both HB 408 and HB 280 adopt "bandaid approaches" to planning, which, in the absence of any real or comprehensive planning, reacts to submitted proposals, and attempts to control land division problems by regulation, rather than preventing the same through the foresight required in planning.

III. PRINCIPLE: "THE PROBLEMS WITH THE CURRENT LAW CAN BE ADDRESSED USING COMMON SENSE, AND SHOULD BE CLEARLY AND SUCCINCTLY STATED IN THE LAW".

A. HOUSE BILL 408:

1. makes only a limited attempt at identifying and solving any problems associated with the current MSPA.
2. eliminates the occasional sale and 20 acre definition for a subdivision, but does nothing to address the inequities imposed by local governments.
3. attempts to address perceived problems by simply handing the same over to local government without specifying either the problem or the solution.



american fisheries society

MONTANA CHAPTER

MARCH 19, 1993

House Bill 280

Testimony on behalf of the
Montana Chapter of the American Fisheries Society
before the
Senate Natural Resources Committee

Mr. Chairman and members of the committee, my name is Art Whitney and I am here on behalf of the Montana Chapter of the American Fisheries Society. The American Fisheries Society is an international organization of fisheries professionals that promote the wise use and management of fisheries and aquatic habitat.

Although our Chapter supports the concept of reforming subdivision law to remove exemptions that allow for unreviewed division of Montana land, we oppose House Bill 280. This bill does not add simple amendments to existing law but instead adds complication by making major revisions to present subdivision law. In addition, HB 280 removes all public interest criteria and tends to be anti-local government by placing into law certain liability provisions to protect private property rights.

Our Chapter feels HB408 is a more appropriate bill for addressing subdivision reform. House Bill 408 makes simple amendments to existing law and removes the two most contentious public interest criteria in present law. Regulatory review of most land divisions that are presently exempt would act to minimize adverse impacts to Montana's aquatic habitat and water quality. The Montana Chapter of the American Fisheries Society supports subdivision reform legislation that eliminates loopholes by making simple amendments to the existing law.

SENATE NATURAL RESOURCES

EXHIBIT NO. 6

DATE 3/19/93

BILL NO. HB 280



american fisheries society

MONTANA CHAPTER

House Bill 408

Testimony on behalf of the
Montana Chapter of the American Fisheries Society
before the
Senate Natural Resources Committee
March 19, 1993

Mr. Chairman and members of the committee, my name is Art Whitney and I am here on behalf of the Montana Chapter of the American Fisheries Society. The American Fisheries Society is an international organization of fisheries professionals that promote the wise use and management of fisheries and aquatic habitat.

Our Chapter supports House Bill 408. Our Chapter feels HB408 is a more appropriate bill for addressing subdivision reform than House Bill 280. House Bill 408 makes simple amendments to existing law and removes the two most contentious public interest criteria in present law. Regulatory review of most land divisions that are presently exempt would act to minimize adverse impacts to Montana's aquatic habitat and water quality. The Montana Chapter of the American Fisheries Society supports House Bill 408 because it eliminates loopholes by making simple amendments to the existing law.

SENATE NATURAL RESOURCES
EXHIBIT NO. 6A
DATE 3/19/93
BILL NO. HB 408

SENATE NATURAL RESOURCES

EXHIBIT NO. 5

DATE 3/19/93

BILL NO. HB 280

Montanans are exploited and damn proud of it. It's a damn dumb thing to be proud of. As the former City Attorney of Whitefish, and a sixth generation Montanan, I witnessed a community and a region exploited because of Montana's inadequate subdivision laws. Money and friendship dictated land use policy; not fair, efficient, flexible and certain land use laws.

It is ironic that Montana's premier ski resort, The Big Mountain, has been developed and planned out to assure maximum and beneficial use for the many while the inadequate subdivisions laws and zoning regulations have resulted in Whitefish and Flathead Valley being "developed" resulting in limited access to our lakes, rivers, streams -- our way of life. More importantly, the community of Whitefish and the Flathead Valley is a classical example of the lack of coordination of road systems, sewer and water systems, fire protection, that has resulted in land erosion and the degradation of the land and lakes of the Flathead Valley due to unrestricted and unplanned "subdivisions."

Subdivision reform, as embodied in SB-261 and HB-408, while not a cure all, is a much needed step in the right direction. Neither side of this issue have to be doomed. We do not need to be split into factions of developers and realtors (pro-progress) and conservationist (planned progress.) Planned growth and subdivision reform will avoid the boom and bust mentality that permeates Montana and Montanans and assures a future for not only this generation, but unborn generations as well.

I support SB-261 and HB-408 because they effectively eliminate occasional sales, eliminate the 20 acra and above exemption and greatly reduce the abuse of family transfers. The basic law is sound and does not need to be completely rewritten, which is the basic intent of HB-280.

4. does not conform to the Statement of Purpose of the Act in that it does not provide for the public welfare, in that it does not protect private landowner rights, does not identify and address the actual current problems in Montana. History has proven in the last 20 years that anything left to interpretation will be subject to the interpretation of one and all. Such interpretations by non-elected bureaucrats can and will constitute the law of the land until overturned by legal action.
5. does not provide for the public welfare in that it leaves the door open for continuous litigation over constitutional rights.
6. retains the subjective language, "unless the method of disposition is adopted for the purpose of evading this chapter" rather than recognizing any wrong doing as fraud.
7. makes no specific or definitive provisions for Sections 76-3-501 (Local Subdivision Regulations) and 76-3-504 (Minimum Requirements for Subdivision Regulations).
8. makes no revision to the existing park requirements, including the cash in lieu of park extortion currently required for minor subdivisions.
9. has an "immediate effective date" which would create chaos for many local governments and landowners.
10. In that 76-3-605 has been stricken from HB 408, are there no public hearings for subdivisions according to that bill, or is that being left entirely to the local governments to administer?
11. refers to legal and physical access, but does not define the same or include them in any criteria or process.

B. HOUSE BILL 280:

1. does attempt to address problems with divisions from the perspective of both the local government and the developer or landowner.
2. does attempt to specifically address the solutions to problems in the text of the bill.
3. does attempt to provide for the welfare of the local government as well as the landowner.
4. limits the discretion of non-elected bureaucrats.
5. deletes the subjective language of "evasion" and increases the penalty for violations.
6. makes specific provisions for both 76-3-501 and 76-3-504. Thus, both the developer and the local government will know ahead of time what the rules are and what is expected of them.
7. completely revises the park requirements and makes park dedications more equitable.
8. does allow time to develop the needed changes in the law, while still being effective at passage.
9. has cumbersome language which makes the bill subject to interpretation.

C. Neither HB 408 nor HB 280 make any provision for dealing with the problems associated with existing land tracts with regard to legal or physical access or utility easements in any instruments of conveyance.

MARLS BELIEVES:

1. That it is critical to Montana to write a law:
 - a. that is clear on the face as to the requirements and responsibilities of the developer and the local governments. It is of little concern how many rules are in a law, if those rules are clearly itemized so that all parties know what is expected of them.
 - b. that deals with subdivisions as being part of a larger plan, encouraging local governments to complete the plans.
 - c. that requires a person developing land to meet clearly definable criteria and procedures, such as legal access, physical access, utility easements, water and sewer, etc.
 - d. that assures compliance on the part of both the governing body and the developer.
 - e. that is equitable and mutually responsible by all persons and entities to one another, the environment and the public.
2. That 20 acres is an appropriate definition of a subdivision if and only if the law specifically addresses requirements for legal and physical access, utility easements and water and sewer. If these items are addressed in the text of the law, we believe the 20 acre definition is as good as a 160 acre definition (defined for homesteads in 1868!), or no acreage definition at all.
3. That impact on the natural environment and public services is a function of density rather than the size of divisions of land.
4. That there is an obligation to the public and buyers to address the presence or absence of legal, physical access and utility easements to existing lots today.

EXHIBIT # 7
DATE 3-19-93
HB-280-408

HB's 280 & 408, page 3

5. That there should be a tiered system of subdivisions identified in the law so that rural or recreational subdivisions are not reviewed by or for the same criteria or process as urban subdivisions.

POSSIBLE AMENDMENTS TO HB 408:

- elimination of park dedication for minor subdivisions.
- specific road standards for public and private roads (per SB 343).
- definition of and procedures/criteria for single division minor subdivisions (per SB 343)
- provision for Record of Survey as defined in SB 343.
- change implementation time to allow local governments time to implement the required changes in regulations.
- change administrative rules to allow for 18 x 24 plat sizes as well as 24 x 36 for cost savings and county storage savings.
- change the agricultural use exemption to any use that does not require sewer or water to correspond with the Sanitation in Subdivision Act.
- include provisions to address legal and physical access in instruments of transfer for existing as well as proposed divisions; this to help solve current problems as well as future ones (per SB 343).
- include provision in local regulations to allow for private roads which do not meet the requirements for public roads (per SB 343).
- include provision for requirement that roads meet the vehicular use clause as stated in HB 280 and SB 343.
- include park requirements as per HB 280 and SB 343.

PROPOSED AMENDMENTS TO H.B. 280

- elimination of park requirement for minor subdivisions.
- specific road standards for public and private roads (per SB 343).
- definition of and procedures/criteria for single division minor subdivisions (per SB 343)
- provision for Record of Survey as defined in SB 343.
- change administrative rules to allow for 18 x 24 plat sizes as well as 24 x 36 for cost savings and county storage savings.
- provide for an exemption for divisions which will have no requirement for sewer or water (to correspond with the Sanitation in Subdivision Act.)
- include provisions to address legal and physical access in instruments of transfer for existing as well as proposed divisions; this to help solve current problems as well as future ones (per SB 343).
- include provision in local regulations to allow for private roads which do not meet the requirements for public roads (per SB 343).
- reduce the violation criteria to reasonable and acceptable levels.

Commissioners

Kay McKenna, Mayor
Margaret Crennen
Tom Huddleston
Colleen McCarthy
Mike Murray



City-County
Administration Building
316 North Park
Helena, MT 59623

Phone: 406/447-8000

William J. Verwolf
City Manager

City of Helena

March 19, 1993

Mr. Chairman and Senators:

My name is Kathy Macefield and I am the planning director for the City of Helena and I support subdivision reform. Although I appreciate Representative Gilbert's efforts over the past several years to correct some of the problems of the subdivision law, I must oppose HB 280 on behalf of the City of Helena.

As a city planner, I am concerned about how the land surrounding the city is divided and developed, and the ability to grow in an orderly manner that's cost-effective for the taxpayers -- in both the short-term and the long-term. A city or county can adopt a comprehensive plan that identifies how and where its future growth is desired; however, good subdivision laws are needed to help implement the plan.

Subdivision review means facilitating the division and development of land in a responsible manner that is not harmful to the environment or to the property owner. With good subdivision review, how the land development will affect wildlife, agriculture, public health and safety, and the environment can be considered.

HB 280 increases the size threshold and eliminates the occasional sale which are the two largest problems or loopholes in the existing law. However, HB 280 completely rewrites the existing law by beginning with the statement of purpose; severely limits the opportunity for public comment based upon a perceived problem with an "applause meter"; provides a convoluted review procedure that is extremely difficult to read and understand; and goes a long way beyond what is necessary to fix the problems of the existing subdivision law. Therefore, I ask you to please NOT pass HB 280. Thank you.

Sincerely,

Kathy Macefield
Kathy Macefield

SENATE NATURAL RESOURCES

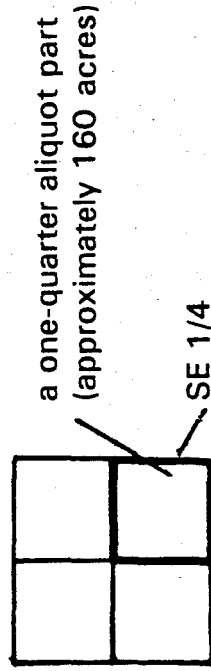
EXHIBIT NO. 8

DATE 3/19/93

BILL NO. HB 280

● Changing the 20-acre definition of subdivision to 160 acres will remedy the great proliferation of large unreviewed parcels. Where developers have been able to find some market for 20-acre parcels, the cost of 160 acre parcels will be high enough that virtually no market will exist, and thus economics will prevent widespread creation of 160 acre parcels just to avoid review. Also, parcels of 160 acres almost always will be agricultural in character, and rarely would cause the kind of problems contemplated by the subdivision law.

● The new definition refers to a "one-quarter aliquot part of a United States government section." The diagram below shows a government section divided into four quarter sections, called one-quarter aliquot parts. The highlighted aliquot part, which means one of equal parts, is referred to as the SE 1/4 of the government section.



● Two of the present eight public interest criteria are "basis of need" and "expressed public opinion." By deleting these two criteria, HB 408 will remove some of the subjectivity of the current review process by adding more certainty for subdividers.

● Landowners will be able to transfer their property to heirs in increments without review by using the family conveyance exemption in combination with the current exemptions for agriculture and relocation of a common boundary.

Montanans have become aware that reform of the Montana Subdivision and Platting Act is greatly needed. The 20-acre definition of subdivision, and the "occasional sale" and "family conveyance" exemptions have allowed vast acreage of land to be divided without local government review. The resulting unplanned, haphazard land development creates adverse impacts in many forms, as described on the following pages.

HB 408 provides a balance by not only addressing the problems of the exemptions, but also by streamlining the review process for subdividers by removing some subjectivity from the review criteria.

Specifically, HB 408:

- Changes the 20 acre definition to 160 acres or a one-quarter aliquot part of a section;
- Eliminates the "occasional sale" exemption;
- Limits the "family conveyance" exemption to a single gift of land in each county to each family member;
- Changes the public interest criteria by deleting the criteria for basis of need, expressed public opinion, and effects on taxation;
- Defines "tract of record"
- Requires provision of easements for future utility expansions;
- Requires provision of legal and physical access to each parcel.



PROBLEMS CREATED BY EXEMPTIONS

The exemptions from local government review have resulted in haphazard unregulated land development that creates a number of problems for citizens, taxpayers, lot buyers, farmers and ranchers, and local governments:

- **Problems for farmers and ranchers:** heavy traffic on rural roads; interference with movement of livestock and farm machinery; complaints about noise and odors from normal agricultural activities; interference with fence maintenance, irrigation systems; increased incidents of trespass; spread of noxious weeds; increased nuisance by dogs and people.
- **Increased public costs (taxes):** new development increases the costs of maintaining and upgrading roads, providing police and fire protection, ambulance service, weed control without a corresponding increase in tax revenues. Average cost of county services per household is \$770, while county tax revenues from a new house and lot are approximately \$250. Planned, orderly growth can reduce this fiscal shortfall on residential property that agricultural, commercial and industrial properties must pick up.
- **Problems with roads and access:** steep grades, sharp curves and blind intersections; increased accidents, dust and road deterioration; poor design and construction; high maintenance costs; inadequate or improperly installed culverts, poor drainage; lack of legal access, lack of easements for roads or utilities.
- **Effects on wildlife:** loss of wildlife habitat, winter range, calving areas, riparian areas; loss of traditional access for hunting and fishing; increased conflicts between humans and wildlife.
- **Spread of weeds:** roads and increased vehicle use will accelerate spread of weeds; idle parcels and improperly constructed facilities and unreclaimed disturbed areas foster weed growth;

These problems can be prevented though effective local government review. Passage of HB 408 would give local government the authority to conduct proper review -- and thus to ensure that proposed land developments result in well designed, functional, livable residential neighborhoods that minimize costs to taxpayers.

A BROAD SPECTRUM OF CITIZENS SUPPORT HB 408

Agriculture. The Montana Stockgrowers Association, Montana Dairymen's Association and other ranchers and farmers support HB 408 because it addresses the problems haphazard development create for agriculture. Importantly, farmers and ranchers will be able to implement estate planning by using the family conveyance exemption in combination with the existing exemptions for agriculture and relocation of a common boundary.

Local Government. City and county elected officials, local planners, rural fire fighters, disaster and emergency service providers support HB 408 because expanded local services could be more effectively provided, and at less cost to taxpayers.

Conservationists. Sportsmen, wildlife advocates and other conservationists favor HB 408 to protect habitat, water quality, and fishing, hunting and recreation access.

Property rights. Realtors, surveyors and developers raise property rights as an argument against subdivision reform. The 5th Amendment of the U.S. Constitution and Article II of the Montana Constitution unequivocally protect private property rights. HB 408 does not affect property rights, nor prohibit subdivision; it simply requires that development occur in a responsible manner.



OFFICE OF THE CITY ATTORNEY

435 RYMAN • MISSOULA, MT 59802-4297 • (406) 523-4614

March 18, 1993

SENATE NATURAL RESOURCES 93-112

EXHIBIT NO. 9
DATE 3/19/93
BILL NO. HB 408

Senate Natural Resources Committee
Montana State Legislature
Capitol Station
Helena, Montana 59620

RE: HB-408 REVISING MONTANA SUBDIVISION AND PLATTING ACT

Honorable Senate Natural Resources Committee:

The City of Missoula and Montana League of Cities and Towns have adopted resolutions urging the repeal of the current broad family transfer and occasional sale subdivision exemptions.

The use of subdivision exemptions in urban areas generally results in avoidance of any park land dedication, undedicated unpaved roads that contribute to air pollution and construction of residences that pollute the aquifer with sewage because they are not connected to municipal sanitary sewer systems.

City of Missoula officials would urge amendment of HB-408 so that the family exemption is repealed and Section 76-3-204 MCA be amended to reinstate 40 Montana Attorney General Opinion No. 57 (1984) holding that:

A developer's construction of 48 four-plexes, to be used as rental occupancy buildings, on a tract of land owned by the developer is a "subdivision", and consequently must be submitted for local review under the Subdivision and Platting Act.

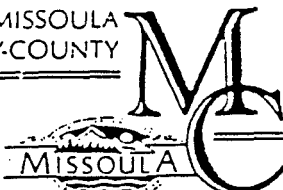
The 1985 Montana State Legislature negated this attorney general opinion by amending Section 76-3-203 MCA to its current language. A development with 48 four-plexes would have a substantial impact on all government services and should be subject to subdivision review. Enclosed is a March 25, 1991 memorandum to City officials from a City planner identifying a proposed '60 rental unit project involving several buildings which was not subject to subdivision review. The effect of the 1985 State Legislature's amendments to Section 76-3-204 MCA is to allow a significant and substantive subdivision exemption that allows avoidance of subdivision review for developments that obviously impact on government services.

Thank you for your consideration of these matters.

Yours truly,


Jim Nugent, City Attorney

cc: Mayor; City council; Alec Hansen; John Merrell; Barb Martens;
Doris Fischer; Missoula county senators; Subdivision file



TO: Jim Nugent, City Attorney

FROM: Barbara Martens, Planner II
Office of Community Development

3/27/91
Barbara Martens

DATE: March 25, 1991

RE: Informational Item: Property located at the southeast corner of the intersection of 39th Street and Hillview Way.

An individual has plans to and has discussed plans with the Office of Community Development Staff to construct two sixteen dwelling unit buildings, one twelve dwelling unit building and two eight dwelling unit buildings at the southeast corner of 39th Street and Hillview Way. This construction project would consist of sixty (60) dwelling units. The developer states that he will retain ownership of all the dwelling units and therefore would not trigger statutory subdivision review.

As you will recall in our previous discussions with Rich Weddle, Attorney for the Department of Commerce, Rich Weddle informed us that Section 76-3-204 MCA would allow for the construction of these dwelling units, without requiring that they be reviewed through the subdivision process, so long as all units are retained in single ownership. This individual has stated directly that he intends to retain all units in single ownership. Other applicable regulations would still apply.

Section 76-3-204 MCA. Exemption for conveyances of one or more parts of a structure or improvement. The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement, whether existing or proposed, is not a division of land, as that term is defined in this chapter, and is not subject of the requirements of this chapter.

The Staff of the Office of Community Development urged and encouraged that the developer consider the benefits of going through the subdivision process prior to constructing the units. Some of these benefits are 1). should the developer ever wish to sell any units, subdivision review will be necessary; and 2). if subdivision review occurs upfront possible delays or problems may be alleviated by addressing standards prior to construction, etc.

cc: Mayor Dan Kemmis
City Council Members
Chuck Stearns - Finance Officer/City Clerk
Mike Kress - Director of the Office of Community Development

March 19, 1993

TO: Senate Natural Resources Committee
FROM: Tonia Bloom for the League of Women Voters of Montana
RE: HB 280 and HB 408

On behalf of the League of Women Voters of Montana I would like to rise in support of the effort, exemplified by both the bills before you today, to eliminate the major exemptions to Montana's subdivision laws. The League has a long standing commitment to good land use planning and orderly growth and recognizes that these goals will not be possible until the existing subdivisions laws are reformed. For more than a decade the twenty acre exemption, the occasional sale exemption and the unrestricted family conveyance exemption have combined to create a pattern of land development in which up to 90% of land divisions are not subject to review.

Review is the ounce of prevention that prevents the pound of cure. In Montana we are piling up many pounds of cure which will have to be paid for by local taxpayers, as well as by many unwary individual landowners. It is neither good government, good planning nor good fiscal policy to allow the majority of land divisions in the state to go unreviewed for access, adequacy of roads, accessibility of fire protection, protection from hazards, the possibility of stream degradation or interference with existing irrigation rights.

Both HB 280 and HB 408 eliminate these major exemptions. HB 408 does so with minor changes in the review process to streamline minor subdivision review. HB 280 is a major rewrite of the Subdivision and Platting Act. The League of Women Voters urges you to support the simpler approach embodied in HB 408. We believe it is premature to alter the existing review process until we have had a chance to see how it works when it is applied to more than a minority of land divisions. We are also concerned that HB 280 may go too far in detailing local review criteria and upset the balance between state guidelines and local discretion. This will not work in a state as diverse as Montana with widely varying patterns and rates of land development.

We urge your support for HB 408 and for the elimination of the major exemptions to the laws.

SENATE NATURAL RESOURCES

EXHIBIT NO. 10

DATE 3/19/93

BILL NO. HB 280, HB 408

March 19, 1993

To: Senate Natural Resources Committee
Senator Don Bianchi, Chairman

From: League of Women Voters of Ravalli County

Re: HB 408 and HB 280

The League of Women Voters of Ravalli County has followed land use and subdivision laws for over 20 years. Our first local study looked at how those issues impacted Ravalli County. We are now in the third year of updating positions taken in the early 70's.

The county is again experiencing a real estate boom and an influx of new residents, many of retirement age. The local paper almost weekly details the existing problems with rapid growth and the coming problems with growing school populations and increasing workloads for local governments. There is support for planning now that did not exist in the 70's.

The county planner is revising the old county plan which was really no plan at all. However, the best plan in the world will not make up for the de facto subdivision occurring through the exemptions in the law.

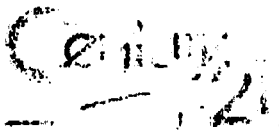
Our observations of the current situation in our county lead us to support HB 408 at this time. It is a simpler solution and the costs can be analysed for two years as each county goes through the change in procedure. The important thing is to stop the costly and ill-advised division by exemption of what is left of land in Ravalli County and Montana.

SENATE NATURAL RESOURCES

EXHIBIT NO. 11

DATE 3/19/93

BILL NO. HB 280, HB 408



Big Sky Real Estate

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

March 19, 1993

Senator Bianchi
Senate Natural Resource Committee
Helena, Mt. 59601

Dear Senator Bianchi,

My name is Ric Smith. I am Broker/Manager of Century 21 Big Sky Real Estate in Polson, Montana. I had really hoped to attend the hearing in front of your committee today. Unfortunately I had obligations at my office that were unavoidable.

Montana needs subdivision reform now. We are in danger of losing what makes our state special, we are in danger of losing our quality of life. Reforming subdivision law in Montana will help insure Montana maintains the very qualities we all desire.

What is especially exciting to me is that this is not a "job versus the environment" issue. Subdivision reform is good for the business of Montana. Subdivision reform will allow property values to increase, subdivision reform will insure quality products for consumers.

Mr. Chairman, and ladies and gentlemen of this committee, once again I feel obligated to comment on the tactics of the Realtors. First of all, I am a Realtor. The behavior of my fellow Realtors is most embarrassing to me. Even if I were able to understand the philosophy of fighting subdivision reform, the tactics employed by the Realtors is quite disturbing. They have waged a campaign of disinformation and fear. The Realtors have once again chosen to avoid the issues. I have wondered where the many out of work KGB agents have gone. Having witnessed the Realtors anti-subdivision campaign, I now know the KGB is working for the Realtors in Montana. The Realtors do not represent myself and there are others who feel the same way.

I support HB 408. It is a balanced bill that adjusts the present law. I do not believe we need to completely rewrite the present law. We can solve the problem with subdivision reform with some adjustments.

Again, I apologize for not attending your hearing. Please support subdivision reform and I urge the passage of HB 408.

I appreciate your time.

Sincerely,

Ric Smith
Broker/Manager

RS/rec

SENATE NATURAL RESOURCES
EXHIBIT NO. 12
DATE 3/19/93
BILL NO. HB 408

TESTIMONY ON HB 408
before the Senate Natural Resources Committee
by JIM RICHARD
representing the
MONTANA WILDLIFE FEDERATION AND MONTANA ASSOCIATION OF PLANNERS

HB 408 is a balanced bill that not only addresses the problems of the exemptions, but also streamlines the review process for subdividers by removing some subjectivity from the review criteria.

POINTS

- Changing the 20-acre definition of subdivision to 160 acres will remedy the great proliferation of large unreviewed parcels. Where developers have been able to find some market for 20-acre parcels, the cost of 160 acre parcels will be high enough that virtually no market will exist, and thus economics will prevent widespread creation of 160 acre parcels just to avoid review. Also, parcels of 160 acres almost always will be agricultural in character, and rarely would cause the kind of problems contemplated by the subdivision law.
- Two of the present eight public interest criteria are "basis of need" and "expressed public opinion." By deleting these two criteria, HB 408 will remove some of the subjectivity of the current review process by adding more certainty for subdividers.
- Landowners will be able to transfer their property to heirs in increments without review by using the family conveyance exemption in combination with the current exemptions for agriculture and relocation of a common boundary.
- **Property Rights.** Realtors, surveyors and developers have always raised property rights as an argument against subdivision reform. The 5th amendment of the U.S. Constitution has protected private rights of Americans for 200 years. Article II of the Montana Constitution and its predecessor clause in the original state Constitution have protected Montanan's property rights for 100 years. The constitutionality of the Montana Subdivision and Platting Act has been upheld by the Montana Supreme Court.

HB 408 does not diminish property rights. It simply requires that development occur in a responsible manner.

Realtors, surveyors and developers are not concerned about property rights. They are only interested in protecting their opportunities to do slipshod, unreviewed development that passes the real costs on to lot buyers and the taxpayers.

SENATE NATURAL RESOURCES
EXHIBIT NO. 312A
DATE 3/19/23
BILL NO. HB 408

● **Comprehensive Planning as a substitute for subdivision reform.**

The argument by realtors and surveyors that comprehensive planning and zoning is a better alternative than subdivision reform is the height of hypocrisy. Real estate and development industry has been the single greatest barrier to enacting effective local comprehensive plans in Montana. They have rarely, if ever, supported local efforts to adopt land use plans, and time after time have spearheaded opposition to local planning. It is irresponsible and unethical for these people to advance comprehensive planning as a substitute for subdivision reform when they have worked so vigorously against local planning efforts.

Park County Attorney

Wm. Nels Swandal

Tara DePuy Deputy

Jon M. Hesse Deputy

414 East Callender — Livingston, MT 59047

Telephone: (406) 222-6120 ext. 239

March 17, 1993

Senator Don Bianchi, Chairman
Senate Natural Resources committee
State Capitol
Helena, MT 59620-1702

Re: Support for HB 408

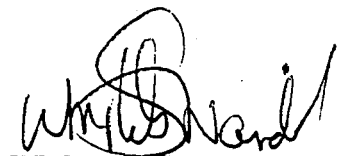
Dear Senator Bianchi:

As county attorney and as an individual with interests in agriculture in Park County, I urge your committee's support for HB 408. HB 408 is a balanced bill which not only addresses the problems of the current exemptions contained in the law but also streamlines the review process for subdividers. This bill represents the best hope of preserving agricultural land, giving local governments the ability to control the costs associated with uncontrolled development, and protecting buyers while not unduly restricting private property rights.

While I strongly support HB 408, I oppose HB 280. A major rewrite of the existing law is not necessary to correct the problems we now have. As you are aware, HB 280 would negate years of case law and Attorney General's Opinions. Further, language in the bill places significant legal and liability burdens on local governments. Local taxpayers should not have to shoulder additional burdens.

I appreciate the effort you and your committee have made to provide subdivision reform for Montana.

Sincerely,


WM. NELS SWANDAL
Park County Attorney

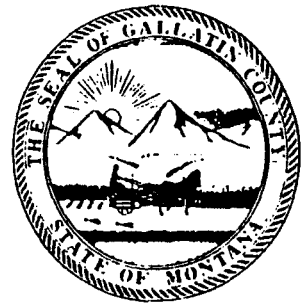
wns/la

SENATE NATURAL RESOURCES
EXHIBIT NO. 12 B
DATE 3/19/93
BILL NO. HB 408

State of Montana

County of Gallatin

Bozeman



March 19, 1993

Dear Chairman Bianchi and Members of the Senate Natural Resources Committee:

The Gallatin County Commission strongly supports House Bill 408. The time for subdivision reform is now and this is the bill that accomplishes it most simply.

Since 1973, 108,425 acres of land have been divided without review in Gallatin County. These unreviewed divisions have caused higher road maintenance costs, negative impacts on agricultural operations, increased costs to taxpayers, proliferation of noxious weeds and heightened wildfire danger.

We urge you to vote favorably and pass HB 408 on to the full Senate.

GALLATIN COUNTY COMMISSIONERS

A handwritten signature in cursive script, reading "A D Pruitt", written over a horizontal line.

A. D. Pruitt, Chairman

A handwritten signature in cursive script, reading "Deb Berglund", written over a horizontal line.

Deb Berglund, Member

A handwritten signature in cursive script, reading "Jane Jelinski", written over a horizontal line.

Jane Jelinski, Member

SENATE NATURAL RESOURCES
EXHIBIT NO. 12 C
DATE 3/19/93
BILL NO. HB 408

f:\plng\s2\natres.ltr

Planning Office

Commissioners
Kay McKenna, Mayor
Margaret Crennen
Tom Huddleston
Colleen McCarthy
Mike Murray



City-County
Administration Building
316 North Park
Helena, MT 59623
Phone: 406/447-8000

William J. Verwolf
City Manager

City of Helena

March 19, 1993

Mr. Chairman and Senators:

My name is Kathy Macefield and I am the planning director for the City of Helena. I am supporting HB 408 on behalf of the City of Helena.

As a city planner, I am concerned about how the land surrounding the city is divided and developed, and the ability to grow in an orderly manner that's cost-effective for the taxpayers -- in both the short-term and the long-term. A city or county can adopt a comprehensive plan that identifies how and where its future growth is desired; however, good subdivision laws are needed to help implement the plan.

Subdivision review means facilitating the division and development of land in a responsible manner that is not harmful to the environment or to the property owner. With subdivision review, how the land development will affect wildlife, agriculture, public health and safety, and the environment can be considered.

Subdivision review also provides a way to address how the adjacent property owners will be affected, including how and where roads will be constructed and connected, how stormwater drainage will be accommodated so the downhill neighbor is not flooded, and how fire protection will be provided to limit the potential for spreading fire for example. The future buyer of the subdivided property will know who maintains the road serving the lot, whether or not water and sewer can be provided, how close the school bus travels to the area, and what the plans are for the rest of land in the subdivision.

As a technical point, sanitary review only addresses whether or not a septic system and replacement field, or if public sanitary sewer service, can be installed to serve the property. These other development issues are not addressed during sanitary review.

HB 408 increases the size threshold and eliminates the occasional sale which are the two largest problems or loopholes in the existing law. HB 408 provides simple amendments to existing law to correct the problems and benefits Montana's citizens.

I ask you to please pass HB 408 as it has been submitted to you. Thank you.

Sincerely,

Kathy Macefield
Kathy Macefield

SENATE NATURAL RESOURCES
EXHIBIT NO. ~~12~~ 13
DATE 3/19/93
BILL NO. HB 408



Greater Yellowstone Coalition

SENATE NATURAL RESOURCES
EXHIBIT NO. 13A
DATE 3/19/93
BILL NO. HB 406

Honorable Members of the Committee,

The unregulated sprawl of subdivision development in Montana will have long-term, irreversible effects on the landscape, on our quality of life and on our community well-being.

The Greater Yellowstone Coalition has been monitoring development trends in Greater Yellowstone for ten years. Of the landscape changes we have documented, perhaps none is more startling than the speed at which subdivisions are gobbling up open space and agricultural lands. In the five counties that make up the Montana portion of the Ecosystem, over half a million acres have been subdivided into tracts of 200 acres or less. In 1991, during a two week period, more than 5,000 acres were subdivided into 20 and 40 acre parcels in Park and Gallatin counties. Many of these subdivisions are located on prime agricultural lands, in critical wildlife habitats, or in areas of high scenic value.

It is not difficult to predict the impact that these developments will have on the future of agriculture. Gallatin county for example, lost 23% of its farmlands to subdivision in the past two decades. Noxious weeds are becoming firmly established on postage stamp ranchettes and are spreading to neighboring farms. And agricultural operations are increasingly becoming the target of complaints by transplants from more urban areas.

Subdivisions seriously threaten our wildlife heritage. Rural private lands encompass winter range essential for the survival of elk, deer and pronghorn. For example, 25% of Yellowstone Park's northern elk herd winters on private lands. Private lands harbor other important habitats such as riparian corridors and wetlands. Sixty-two plants and animals that the Nature Conservancy considers to be "sensitive" species in Greater Yellowstone, are found on private lands. These are the same areas being sliced and diced into rural subdivision.

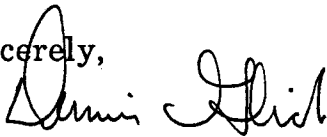
Unregulated subdivision is also hard on the wallet. Besides the loss agricultural revenue, the fiscal and economic impacts of rural sprawl can be disastrous for communities. Leap frog development characterizing many of these subdivisions requires substantial and perpetual expenditures of scarce tax dollars. This includes the construction, maintenance and plowing of roads, expansion of schools and other financially draining services.

Population growth rates in the counties of Greater Yellowstone are literally some of the highest in the nation. We need to prepare ourselves to effectively manage that growth. Reforming the subdivision law is absolutely essential:

- Remove the 20 acre exemption. Reviews should also occur for platted and unplatted unsold land.
- Remove the occasional sale exemption.
- And tighten the family conveyance provisions.

This and future generations will thank you for doing so.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Glick". The signature is fluid and cursive, with the first name "Dennis" and last name "Glick" clearly distinguishable.

Dennis Glick
The Greater Yellowstone Coalition

SENATE NATURAL RESOURCES
EXHIBIT NO. 138
DATE 3/19/93
BILL NO. HB 408

THE FISCAL AND ECONOMIC
IMPACTS OF LOCAL
CONSERVATION AND COMMUNITY
DEVELOPMENT MEASURES

A Review of the Literature

Commissioned by the



Greater Yellowstone Coalition

P.O. BOX 1874 ♦ BOZEMAN MT 59771 ♦ (406)586-1593

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

Luther Propst *Executive Director* and Mary Schmid
The Sonoran Institute, Tucson, Arizona
February 20, 1993

DATE 3/19/93SENATE COMMITTEE ON Natural ResourcesBILLS BEING HEARD TODAY: HB 280, HB 408

Name	Representing	Bill No.	Support	Oppose
Everett M. "Sonny" Stiger	Tri-County Fire Group	408	✓	
Janice Horner		408		✓
Darye Horner		408		X
ANDREW EPPLE	BOZEMAN CITY-COUNTY	408	✓	
Jenny Milheim	Self	408	✓	
Tonia Bloom	League of Women Voters of Montana	280		✓
Tonia Bloom	"	408	✓	
Peggy Munoz	League of Women Voters of Ravalli Co.	408	✓	
Veggy Munoz	"	280		✓
Kilmer, Thomas R	Self	280 408	✓	
Kathy Maccefield	City of Helena	408	X	
Kathy Maccefield	City of Helena	280		X
Janet Ellis	MT Audubon Leg Fund	280 408	X X	
ART WHITNEY	MT CHAPTER J AM. FISH. Soc.	280 408	X	X
Ph Beaudry	Stillwater Center	408	X	
Steve Powell	MACO - Ravalli Count	408	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3/19

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB 280, HB 408

Name	Representing	Bill No.	Check One	
			Support	Oppose
W ^m Spilker	Self	HB 280 HB 408	X	X
D Spilker	SELF + CFSF	408	X	X
SHERM JANKE	MONTANA CHAP. SIERRA CLUB	280 408	u	
Marianna Young	Self	All Policies	✓	
Kelly FLAHERTY	MT. CATTLEWOMEN SELF	280 408	X	X
Jerry Hamlin	Self	HB 280 HB 408	X	X
Donna Outchly	SELF	208		
Laurens Graft	City of Kalispell	308 408	X	X
Tom Hopwood	MT. ASSOC. Realtors	408		✓
Jeff Brunner	MUPC	408	✓	
Ted Doney	MT. Dairymen's Assn.	408 280	X	
Bob Stephens	MT. Grain Growers Assn.	408 280	X	
Don Allen	MT. Wood Products Assn.	280 408	X	X (W. Allen)

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3/17/93
 SENATE COMMITTEE ON Natural Resources
 BILLS BEING HEARD TODAY: HB 280, HB 408

Name	Representing	Bill No.	Check One	
			Support	Oppose
CHRISTINE MANGIANTINI	League of Wm. Voters	280		X
CHRISTINE MANGIANTINI	League of Wm. Voters	408	X	
TOM MURI	Former City Atty	408	X	
TOM MURI	Whitefish	261	X	
TOM MURI		280		X
Sharon L. Stratton	Flt & Co Commissioner	408 + X 280		X
Donna Maddy	City of Whitefish	408	X	
" "	" " "	280		X
Steve Herbaly	Flashed Bay Dwl	280		✓
" "	" " "	408	X	
Jim Richy	MT Wildlife Fed	408	X	
DEAN FISHBE	MT Assoc Planners	280		X
Becky Donaldson	Self	280	X	
Richard L. KERR	"	408 280		X
HORACE BROWN	MSGA County Supt	408 280	X	
Blake F. Motal	Advis & Clark County	408 280	X	X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3/19
 SENATE COMMITTEE ON Attitud Brown
 BILLS BEING HEARD TODAY: HB 280, HB 408

Name	Representing	Bill No.	Check One	
			Support	Oppose
James Wilkerson	Self	280	X	X
ANDREW EPFLE	BOZEMAN CITY-COUNTY	280		X
LISA BAY	SELF / L. CLARK CONS. DIST	408	X	
"	SELF	280		X
John Beaudry	Stillwater County	280		X
Steve Mandeville	MT Assoc Realtors	408		X
Richard D. Ideo	SELF	280		X
Richard D. Ideo	SELF	408	✓	
Brooks Martin, Bozeman	Self	280 408	X	X
DAN MCGEE	MARLS	280 408		X
Rita Roberts	Bozeman Municipal Relations	280	X	
Geo Schunk	MT Attorney General	280/408	X	
Ted Lange	Northern Plains Resource Council	408	X	
Stan Bradshaw	MT TIL	408/280	✓	
Jim Nugent	CITY OF MISSOULA	408/280	with Amendments	
Edward L. Francis	RT Ranch	408/280	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3/19
 SENATE COMMITTEE ON Natural Resources
 BILLS BEING HEARD TODAY: HB 280, HB 408

Name	Representing	Bill No.	Check One	
			Support	Oppose
Paul Rees	Paul Rees Outfitters, Inc	280 408	✓	
Brian McNIH	MEIC	280 408	✓	
John Bloomquist	Mt. Stacks	280 408	✓	
Marilyn Hoblitt	Mossy Ln. M	280 408	✓	
Glenda Bradshaw	self	408	✓	
Jennifer Bottomly	Self	408	✓	
Bob Hoffman. A.P.A	Ag. Pres. Assoc	408	✓	
Dou Erickson	Self-	408		✓

VISITOR REGISTER

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DATE 3/19/93

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB 280 HB 408
Gilbert FA66

Name	Representing	Bill No.	Check One	
			Support	Oppose
Becky Shaw		280	X	
Arnold Keller		280		
Julius E. Hines	City of Helena			
James Bill Ford				
Cheryl Donner	City of Helena	280		X
Paul Krutz	City of Helena	280		X
Dustin Cowling	City of Aberdeen	280	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3/19/93

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB 280 HB 408

Name	Representing	Bill No.	Check One	
			Support	Oppose
<u>Cheryl Donnell</u>	<u>City of Helena</u>	<u>408</u>	<u>X</u>	
<u>John Kutz</u>	<u>D.</u>	<u>408</u>	<u>X</u>	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY