MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN DICK KNOX**, on April 7, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

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

Members Excused: None

Members Absent: None

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

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

Committee Business Summary:
Hearing: SB 389 and HB 692
Executive Action: None

HEARING ON SB 389

Opening Statement by Sponsor:

REP. TOM TOWE, HD 46, Billings, presented SB 389, a study to determine the effects of sulphur dioxide in the Billings/Laurel area. **EXHIBITS 1** and **1a** According to 1992 air pollution statistics, Billings has the worst air in the United States,

EXHIBIT 2, and has been given 18 months to develop an air pollution plan. He said foul air emissions have prevented at least three companies from relocating to this city. The bill should progress only as a study. **EXHIBIT 3 and 3a** An annual sulphur dioxide emissions study was submitted as testimony. **EXHIBIT 3b** **SEN. TOWE** presented minutes of the Natural Resources Committee, 50th Legislative Session, **EXHIBIT 3c**, discussing ambient air standards in the Yellowstone River Valley.

Proponents' Testimony:

Mary Westwood, Director of Governmental Relations, Montana Sulphur and Chemical Company, Billings, said she was an initial opponent of the bill but amendments proposed in the Senate swayed her position. **EXHIBIT 4**

Opponents' Testimony:

Janelle Fallan, Montana Board of Oil and Gas, said they had been proponents to the bill, but are opposed to the amendments.

Ted Doney, on behalf of ASARCO, Rosebud Energy, and Billings Generation Inc., said the bill, as amended, will put many businesses out of compliance. **Mr. Doney** said he could support the original bill, but not the present bill. A study on Billings air pollution is negligible.

Carlton Grimm, Montana Power Co., said the bill, as amended, is difficult to analyze.

Tom Nelson, Exxon, Billings, said they oppose the bill as written.

Mike Cooney, on behalf of Conoco, said they have made a $140 million commitment to the Billings refinery industry. Conoco is not opposed to a health study.

Rex Manuel, representing CENEX, opposed the bill as amended. Originally, the bill was fair and feasible but, as amended, all that industry has worked for will be destroyed.

Jeff Chaffee, Bureau Chief, Air Quality, Department of Health and Environmental Sciences (DHES), said the DHES is providing technical assistance but is not taking a position on the bill. **EXHIBITS 5 and 6** DHES amendments to SB 389 were proposed. **EXHIBITS 7 and 7a**

Jim Jensen, Montana Environmental Information Agency (MEIC), told the committee that the amended bill is a waste of time. There will never be enough people in Montana to determine pollution impacts.

Questions From Committee Members and Responses:

REP. TOOLE asked **Mr. Grimm** if he agreed with **Mr. Jensen's** testimony. **Mr. Grimm** responded that Montana Power is doing a good job monitoring ambient air quality. He commented that the Hannah bill is not necessarily a better bill.

Mr. Chaffee stated sulphur dioxide emissions in Billings and Laurel have risen slightly in recent years. SB 389 was rewritten to note that federal standards are now exceeded in this area.

REP. BROOKE asked **Mr. Chaffee** to describe the repercussions of noncompliance by industry. **Mr. Chaffee** replied that new limits will be set.

REP. BROOKE asked **Mr. Chaffee** to explain the bill contents without amendments. **Mr. Chaffee** replied the bill, as amended, is more relevant to state ambient air quality standards than federal. There is growing concern about achieving state air quality.

REP. WAGNER asked **Mr. Grimm** if emissions could be reduced to improve air quality. **Mr. Grimm** replied there will be some sulphur dioxide reductions. The Clean Air Act directly affects the power companies as well as other industries.

REP. SWANSON asked **SEN. TOWE** who will be financially responsible if SB 389 is passed with only the study portion. **SEN. TOWE** replied that industry will pay for the study, funding both monitoring and compliance mandates as authorized by the legislature.

Closing by Sponsor:

SEN. TOWE complimented those who had worked on SB 389. Problems with the bill surfaced regarding who will support the study. He expressed disappointment that parties involved were unable to come to an agreement on the bill.

HEARING ON HB 692

Opening Statement by Sponsor:

REP. DAVID WANZENRIED, HD 7, Kalispell, said HB 692 represents the culmination of work with the national park service, quantifying reserve water rights within Glacier and Yellowstone National Parks as well as the Big Hole. HB 692 addresses existing ground and surface water users: how much water is needed for consumptive and surface water uses.

Riparian areas near the Big Hole Battlefield need to be maintained, **REP. WANZENRIED** told the committee. Five-percent of

water available in Yellowstone and Glacier Parks is reserved for current reserved water use.

Informational Testimony:

Barbara Cosens, legal counsel, Reserved Water Rights Compact Commission, presented the proposed groundwater areas for the compact, **EXHIBIT 9,** including Yellowstone Park where the entire instream flow has reserved water rights. Groundwater studies are important for determining future hydro-thermal uses.

Proponents' Testimony:

Chris Tweeten, on behalf of the Compact Commission and the attorney general's office, distributed a pamphlet, "Negotiations for Reserved Water Rights." **EXHIBIT 10**

SEN. LORENTS GROSFIELD, SD 41, Big Timber, testified as a member of the Reserved Water Rights Compact Commission. **EXHIBIT 11**

Owen Williams, on behalf of the National Park Service and spokesperson for the Reserved Water Rights Compact Negotiation Team, emphasized the proposed agreement, HB 692, is sensible as it protects water-related resource values of each park. **EXHIBITS 12 and 12a**

Karen Fagg, on behalf of the Racicot Administration, testified the state's goals have been accomplished through HB 692.

Don MacIntyre, legal counsel, Department of Natural Resources and Conservation, said HB 692 provides effective water management systems with minimal burden to water users. **EXHIBIT 13**

Jo Brunner, Montana Water Resources Association (MWRA), testified in strong support of the Reserved Water Rights Commission.

Jeanne-Marie Souvigney, Associate Program Director, Greater Yellowstone Coalition, testified in support of HB 692 but stated the Coalition would like to see stronger language regarding federal funding. **EXHIBIT 14**

Richard Parks, Gardiner, rose in support of HB 692. **EXHIBIT 15**

Michael Scott, representing The Wilderness Society, submitted proponent testimony. **EXHIBIT 16**

Joan Humiston, on behalf of the Beartooth Alliance, and Northern Plains Resource Council, said both groups support the bill.

Julia Page, Bear Creek Council, Gardiner, submitted petitions listing Montana residents favoring the Yellowstone Reserve Water Right Compact. **EXHIBIT 17**

Mark Holston, Director, Flathead Basin Commission, said they look forward to formal adoption of the negotiated agreement. **EXHIBIT 18**

J. Blaine Anderson, Jr., Dillon, submitted proponent testimony. **EXHIBIT 18a**

Opponents' Testimony:

Richard Buley, on his own behalf, opposed the bill as it applies to Cooke City and Soda Butte Creek. The bill interferes with development of property with a water right. This bill has been railroaded through the committee without input from Cook City residents, he said. He urged tabling of the bill.

Hays Kirby, Cooke City, testified in support of water limitations and opposition to HB 692.

Donald M. Vondra, President, United Bank of Absarokee, concurred that passage of HB 692 will have a negative impact on the ability of financial institutions to finance property in the area surrounding Yellowstone Park. **EXHIBIT 19**

Warren Patten Jr., Cooke City, testified in support of water rights as they relate to property rights. **EXHIBIT 20**

Bernard Afielokamp, Cooke City, stated he is concerned about the loss of a water right devaluing his property. **EXHIBIT 21**

Lynda Sullivan, Cooke City, representing All Seasons Hotel, Pine Tree Cafe and Ma Perkins Cafe, opposed HB 692 as amended. **EXHIBIT 22**

Ken (last name not registered), Cooke City, agrees with water rights protection in Yellowstone Park but said insufficient notice was given to receive public comment on the Compact. **EXHIBIT 23**

Linda Sullivan, on behalf of her Cooke City neighbors, asked for more time to review the Compact's final draft.

Ken Huffer, prospective property owner in Cooke City, stated he supported work done by the Compact but requested an additional amendment and further study.

Bernard Feldkamp, on his own behalf, said he is also concerned about the devaluation of property rights.

Questions from Committee Members and Responses:

REP. FAGG asked **Susan Cottingham, Program Director, Reserved Water Rights Compact Commission, DNRC,** for assurance that the Compact has been available for review. He noted the gentlemen from Cooke City concerned with his water rights should be advised

that water does not go with the land. **Ms. Cottingham** said that everyone will continue to hold their water rights.

REP. TOOLE asked if there are situations that will be precluded by the bill. **Ms. Cosens** said the Compact protects water rights prior to 1993. Many mining uses are considered non-consumptive, she added.

REP. WAGNER asked for an explanation of public noticing regarding the Compact plus a detailing of the numbers present at related meetings. **REP. WANZENRIED** explained that approximately 300 people were notified, in addition to the media. He stressed that everything possible was done to properly notice the public.

REP. WANZENRIED reported meeting attendance as follows: Kalispell, Wisdom, Bozeman and Gardiner reported 15, 10, 30 and 75 citizens, respectively.

REP. STOVALL asked if it is possible to remove water from the Clark Fork drainage. **REP. WANZENRIED** replied the Clark Fork drainage is a closed basin.

REP. HARPER asked **Mr. Williams** what the Park Service would be requesting if forced to go to litigation. **Mr. Williams** replied they would be looking at a claim for national flow.

REP. BIRD asked **Mr. Buley, attorney,** how the Compact will affect his business. **Mr. Buley** said there is no current affect on his business but there could be in the future. The Compact prohibits impoundment of water on Silver Bow Creek. All businesses could eventually be affected due to degradation.

REP. RANEY asked **Ms. Cosens** to explain any alterations to impoundments. **Ms. Cosens** said the Compact will prohibit future impoundments on Soda Butte Creek but will not prohibit tributary impoundments. She added that Cooke City could possibly put in a sewage system.

Closing by Sponsor:

REP. WANZENRIED told the committee removing Soda Butte Creek will clearly affect the Compact. If the legislature doesn't enact the Compact, reserved water rights decisions will become judicial. The silences of the legislature will be more detrimental than not enacting HB 692.

ADJOURNMENT

Adjournment: 7:15 p.m.

DICK KNOX, Chairman

ROBERTA OPEL, Secretary

DK/ro

HOUSE OF REPRESENTATIVES

Natural Resources COMMITTEE

BILL NO.

ROLL CALL DATE 4-7-93

NAME	PRESENT	ABSENT	EXCUSED
Jody Bird	✓		
Vivian Brooke	✓		
Rugg Fagg	✓		
Gary Feland	✓		
Mike Foster	✓		
Bob Gilbert	✓		
Hal Harper	✓		
Scott Orr	✓		
Bob Raney	✓		
Dore Schwinden	✓		
Jay Stovall	✓		
Emily Swanson	✓		
Howard Toole	✓		
Doug Wagner	✓		
Rolph Tunby, Vice Chairman	✓		
Dick Knox, Chairman	✓		

HR:1993

1988 - 31,900
1989 33572
1990 31,180
1991 30,467

EXHIBIT 1
DATE 4-7-93
HB SB 389

Zaidlicz

United States Environmental Protection Agency | Office of Air Quality Planning and Standards Research Triangle Park NC 27711 | 450-R-92-001 October 1992

Recd 12-16-92

AIR

EPA

National Air Quality and Emissions Trends Report, 1991

Billings 8th worst for Ann + 24hr.

Total Emissions 30,467 Tons

341 Cities of 344 American Cities only 6 Cities had worst SO_2 pollution for both 24hr & Annual readings

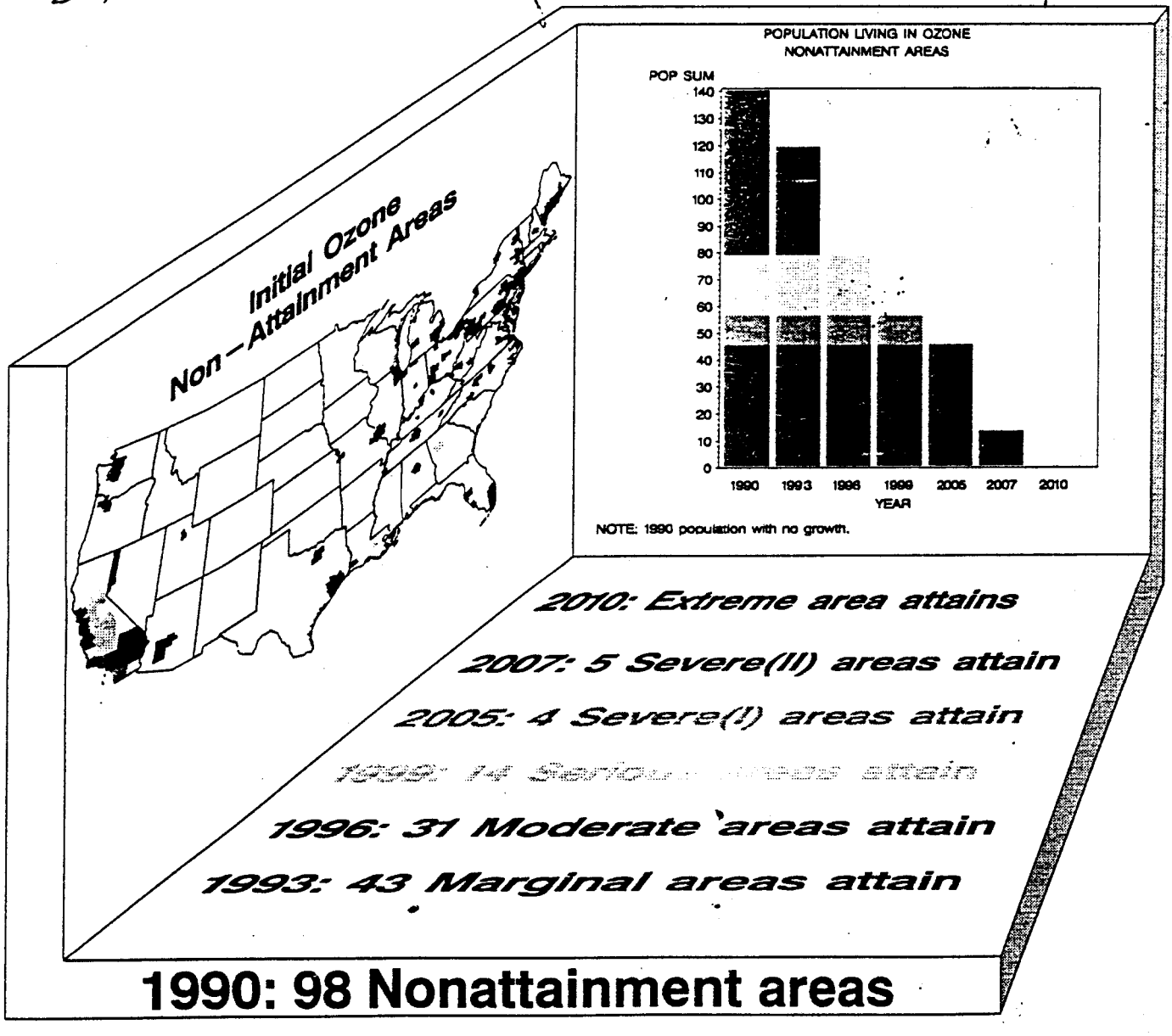

TABLE 4-5. 1991 METROPOLITAN STATISTICAL AREA AIR QUALITY FACTBOOK
PEAK STATISTICS FOR SELECTED POLLUTANTS BY MSA

METROPOLITAN STATISTICAL AREA	1990 POPULATION	PM10 2ND MAX (UGM)	PM10 WTD AM (UGM)	SO2 AM (PPM)	SO2 24-HR (PPM)	CO 8-HR (PPM)	NO2 AM (PPM)	OZONE 2ND MAX (PPM)	PB QMAX (UGM)
ABILENE, TX	120,000	ND	ND	ND	ND	ND	ND	ND	ND
AGUADILLA, PR	156,000	ND	ND	ND	ND	ND	ND	ND	ND
AKRON, OH	658,000	59	30	0.015	0.052	3	ND	***0.13***	0.07
ALBANY, GA	113,000	ND	ND	ND	ND	ND	ND	ND	ND
ALBANY-SCHENECTADY-TROY, NY	874,000	55	25	0.007	0.031	5	0.017	0.1	0.04
ALBUQUERQUE, NM	481,000	117	31	ND	ND	***10***	0.003	0.09	ND
ALEXANDRIA, LA	132,000	ND	ND	ND	ND	ND	ND	ND	ND
ALLENTOWN-BETHLEHEM, PA-NJ	687,000	80	30	0.009	0.041	7	0.02	0.12	0.46
ALTOONA, PA	131,000	65	26	0.011	0.044	2	0.015	0.11	ND
AMARILLO, TX	188,000	46	IN	ND	ND	ND	ND	ND	ND
ANAHEIM-SANTA ANA, CA	2,411,000	116	46	0.002	0.012	9	0.045	***0.2***	0.06
ANCHORAGE, AK	226,000	148	37	ND	ND	***10***	ND	ND	ND
ANDERSON, IN	131,000	65	28	ND	ND	ND	ND	ND	ND
ANDERSON, SC	145,000	ND	ND	ND	ND	ND	ND	0.09	0.02
ANN ARBOR, MI	283,000	ND	ND	ND	ND	ND	ND	0.11	0.01
ANNISTON, AL	116,000	78	29	ND	ND	ND	ND	ND	ND
APPLETON-OSHKOSH-NEENAH, WI	315,000	ND	ND	ND	ND	ND	ND	0.09	ND
ARECIBO, PR	170,000	ND	ND	0.004	0.011	ND	ND	ND	ND
ASHEVILLE, NC	175,000	53	24	ND	ND	ND	ND	0.08	ND
ATHENS, GA	156,000	ND	ND	ND	ND	ND	ND	ND	ND
ATLANTA, GA	2,834,000	83	36	0.008	0.044	7	0.025	***0.13***	0.04
ATLANTIC CITY, NJ	319,000	71	34	0.004	0.011	5	ND	***0.14***	0.03
AUGUSTA, GA-SC	397,000	50	IN	0.004	0.017	ND	ND	0.1	0.01
AURORA-ELGIN, IL	357,000	ND	ND	ND	ND	ND	ND	***0.13***	ND
AUSTIN, TX	782,000	42	25	IN	0.01	3	0.016	0.1	ND
BAKERSFIELD, CA	543,000	***411***	***70***	0.004	0.011	8	0.03	***0.16***	ND
BALTIMORE, MD	2,382,000	90	37	0.009	0.031	8	0.033	***0.16***	0.04
BANGOR, ME	89,000	48	25	ND	ND	ND	ND	ND	0.01
BATON ROUGE, LA	528,000	70	28	0.008	0.036	5	0.019	***0.14***	0.05
BATTLE CREEK, MI	136,000	72	29	ND	ND	ND	ND	ND	ND
BEAUMONT-PORT ARTHUR, TX	361,000	58	26	0.008	0.059	2	0.012	***0.13***	0.03
BEAVER COUNTY, PA	186,000	66	30	0.02	0.087	3	0.019	0.11	0.19
BELLINGHAM, WA	128,000	98	IN	0.006	0.021	ND	ND	0.07	ND
BENTON HARBOR, MI	161,000	ND	ND	ND	ND	ND	IN	0.12	ND
BERGEN-PASSAIC, NJ	1,278,000	92	45	0.01	0.04	8	0.031	***0.14***	0.03
BILLINGS, MT	113,000	65	23	0.017	0.085	6	ND	ND	ND
BILOXI-GULFPORT, MS	197,000	ND	ND	0.006	0.034	ND	ND	ND	ND
BINGHAMTON, NY	264,000	52	26	ND	ND	ND	ND	ND	ND
BIRMINGHAM, AL	908,000	133	42	0.007	0.019	8	ND	0.11	***2.6***
BISMARK, ND	84,000	51	21	ND	ND	ND	ND	ND	ND

BLOOMINGTON, IN	109,000	ND	ND	ND	ND	ND	ND	ND	ND
BLOOMINGTON-NORMAL, IL	129,000	ND	ND	ND	ND	ND	ND	ND	ND
BOISE CITY, ID	206,000	152	IN	ND	ND	9	ND	ND	ND
BOSTON, MA	2,871,000	65	33	0.012	0.057	4	0.035	***0.13***	0.04
BOULDER-LONGMONT, CO	225,000	72	24	ND	ND	7	ND	0.1	ND
BRADENTON, FL	212,000	ND	ND	ND	ND	ND	ND	0.1	ND
BRAZORIA, TX	192,000	ND	ND	ND	ND	ND	ND	***0.13***	ND
BREMERTON, WA	190,000	ND	ND	ND	ND	ND	ND	ND	ND
BRIDGEPORT-MILFORD, CT	444,000	64	33	0.012	0.045	6	0.025	***0.15*** *	0.02
BRISTOL, CT	79,000	51	23	ND	ND	ND	ND	ND	ND
BROCKTON, MA	189,000	ND	ND	ND	ND	ND	ND	***0.15***	ND
BROWNSVILLE-HARLINGEN, TX	260,000	72	28	ND	ND	ND	ND	ND	ND
BRYAN-COLLEGE STATION, TX	122,000	ND	ND	ND	ND	ND	ND	ND	ND
BUFFALO, NY	969,000	66	27	0.014	0.071	4	0.022	0.11	0.04
BURLINGTON, NC	108,000	ND	ND	ND	ND	ND	ND	ND	ND
BURLINGTON, VT	131,000	53	24	0.008	0.022	4	0.017	ND	ND
CAGUAS, PR	275,000	ND	ND	ND	ND	ND	ND	ND	ND
CANTON, OH	397,000	62	33	0.01	0.037	3	IN	0.12	ND
CASPER, WY	61,000	19	IN	ND	ND	ND	ND	ND	ND
CEDAR RAPIDS, IA	169,000	73	30	0.008	0.053	5	ND	0.08	ND
CHAMPAIGN-URBANA-RANTOUL, IL	173,000	61	30	0.005	0.038	ND	ND	0.08	ND
CHARLESTON, SC	507,000	52	27	0.005	0.03	5	0.013	0.09	0.05
CHARLESTON, WV	250,000	59	29	0.009	0.04	2	0.02	0.12	0.03
CHARLOTTE-GASTONIA-ROCK HILL, NC-SC	1,162,000	61	31	0.003	0.015	7	0.016	0.12	0.01
CHARLOTTESVILLE, VA	131,000	57	28	ND	ND	ND	ND	ND	ND
CHATTANOOGA, TN-GA	433,000	83	38	ND	ND *	ND	ND	0.1	ND
CHEYENNE, WY	73,000	45	IN	ND	ND	ND	ND	ND	ND
CHICAGO, IL	6,070,000	129	46	0.019	***0.147*** #	6	0.032	***0.13***	1.32 @
CHICO, CA	182,000	95	38	ND	ND	9	0.016	0.09	ND
CINCINNATI, OH-KY-IN	1,453,000	78	34	0.026	0.099	5	0.03	***0.14***	0.11

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PM10 = HIGHEST SECOND MAXIMUM 24-HOUR CONCENTRATION (Applicable NAAQS is 150 ug/m3)
= HIGHEST ARITHMETIC MEAN CONCENTRATION (Applicable NAAQS is 50 ug/m3)
SO2 = HIGHEST ARITHMETIC MEAN CONCENTRATION (Applicable NAAQS is 0.03 ppm)
= HIGHEST SECOND MAXIMUM 24-HOUR CONCENTRATION (Applicable NAAQS is 0.14 ppm)
CO = HIGHEST SECOND MAXIMUM NON-OVERLAPPING 8-HOUR CONCENTRATION (Applicable NAAQS is 9 ppm)
NO2 = HIGHEST ARITHMETIC MEAN CONCENTRATION (Applicable NAAQS is 0.053 ppm)
O3 = HIGHEST SECOND DAILY MAXIMUM 1-HOUR CONCENTRATION (Applicable NAAQS is 0.12 ppm)
PB = HIGHEST QUARTERLY MAXIMUM CONCENTRATION (Applicable NAAQS is 1.5 ug/m3)
ND = INDICATES DATA NOT AVAILABLE
IN = INDICATES INSUFFICIENT DATA TO CALCULATE SUMMARY STATISTIC
UGM = UNITS ARE MICROGRAMS PER CUBIC METER
PPM = UNITS ARE PARTS PER MILLION

* - Impact from an industrial source in Leeds, AL. Highest site in Birmingham, AL is 0.15 ug/m3.

- Localized impact from an industrial source. Compliance action has been taken and problem has been resolved.

@ - Impact from an industrial source in Chicago, IL. Highest population oriented site in Chicago is 0.10 ug/m3.

EXHIBIT 1
DATE 4-7-93
SB 389

TABLE 4-5. 1991 METROPOLITAN STATISTICAL AREA AIR QUALITY FACTBOOK
PEAK STATISTICS FOR SELECTED POLLUTANTS BY MSA

METROPOLITAN STATISTICAL AREA	1990 POPULATION	PM10 2ND MAX (UGM)	PM10 WTD AM (UGM)	SO2 AM (PPM)	SO2 24-HR (PPM)	CO 8-HR (PPM)	NO2 AM (PPM)	OZONE 2ND MAX (PPM)	PB QMAX (UGM)
CLARKSVILLE-HOPKINSVILLE, TN-KY	169,000	ND	ND	0.006	0.029	ND	ND	ND	ND
CLEVELAND, OH	1,831,000	109	***56***	0.015	0.064	6	0.029	***0.13***	0.31
COLORADO SPRINGS, CO	397,000	107	29	ND	ND	7	ND	0.09	0.03
COLUMBIA, MO	112,000	ND	ND	ND	ND	ND	ND	ND	ND
COLUMBIA, SC	453,000	114	34	0.004	0.025	6	0.009	0.11	0.05
COLUMBUS, GA-AL	243,000	75	27	ND	ND	ND	ND	0.1	***2.04*** *
COLUMBUS, OH	1,377,000	79	33	0.008	0.033	7	0.012	0.12	0.15
CORPUS CHRISTI, TX	350,000	72	IN	0.004	0.035	ND	ND	0.11	ND
CUMBERLAND, MD-WV	102,000	32	IN	0.009	0.028	5	ND	0.1	ND
DALLAS, TX	2,553,000	83	27	0.003	0.01	5	0.02	0.12	1.11 #
DANBURY, CT	188,000	53	26	0.008	0.032	ND	ND	***0.14***	ND
DANVILLE, VA	109,000	ND	ND	ND	ND	ND	ND	ND	ND
DAVENPORT-ROCK ISLAND-MOLINE, IA-IL	351,000	72	38	0.007	0.024	ND	ND	0.1	0.01
DAYTON-SPRINGFIELD, OH	951,000	61	30	0.006	0.023	4	ND	0.12	0.08
DAYTONA BEACH, FL	371,000	ND	ND	ND	ND	ND	ND	ND	ND
DECATUR, AL	132,000	68	28	ND	ND	ND	ND	ND	ND
DECATUR, IL	117,000	85	36	0.007	0.039	ND	ND	0.1	0.03
DENVER, CO	1,623,000	96	42	0.008	0.035	***10***	0.028	0.11	0.11
DES MOINES, IA	393,000	77	33	ND	ND	6	ND	0.07	ND
DETROIT, MI	4,382,000	117	42	0.012	0.053	8	0.022	***0.13***	0.07
DOTHAN, AL	131,000	62	28	ND	ND	ND	ND	ND	ND
DUBUQUE, IA	86,000	ND	ND	0.004	0.028	ND	ND	ND	ND
DULUTH, MN-WI	240,000	62	26	0.004	0.039	5	ND	ND	ND
EAU CLAIRE, WI	138,000	ND	ND	ND	ND	ND	ND	ND	ND
EL PASO, TX	592,000	121	45	0.012	0.055	***11***	0.028	***0.13***	0.46
ELKHART-GOSHEN, IN	156,000	ND	ND	ND	ND	ND	ND	ND	ND
ELMIRA, NY	95,000	61	IN	0.005	0.022	ND	ND	0.1	ND
ENID, OK	57,000	ND	ND	ND	ND	ND	ND	ND	ND
ERIE, PA	276,000	68	IN	0.01	0.044	4	0.013	0.11	0.07
EUGENE-SPRINGFIELD, OR	283,000	***184***	30	ND	ND	5	ND	0.09	0.02
EVANSVILLE, IN-KY	279,000	68	37	0.019	0.095	3	0.021	0.12	ND
FALL RIVER, MA-RI	157,000	50	IN	0.009	0.052	ND	ND	ND	ND
FARGO-MOORHEAD, ND-MN	153,000	45	19	ND	ND	3	ND	ND	ND
FAYETTEVILLE, NC	275,000	52	27	ND	ND	6	ND	0.1	ND
FAYETTEVILLE-SPRINGDALE, AR	113,000	46	24	ND	ND	ND	ND	ND	ND
FITCHBURG-LEOMINSTER, MA	103,000	ND	ND	ND	ND	ND	ND	ND	ND
FLINT, MI	430,000	61	25	0.005	0.019	ND	ND	0.1	0.01
FLORENCE, AL	131,000	57	24	0.004	0.033	ND	ND	ND	ND
FLORENCE, SC	114,000	ND	ND	ND	ND	ND	ND	ND	ND
FORT COLLINS, CO	186,000	58	25	ND	ND	***10***	ND	0.09	ND

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FORT LAUDERDALE-HOLLYWOOD-POMPANO BEAC	1,255,000	42	18	ND	ND	6	0.009	0.1	0.03
FORT MYERS-CAPE CORAL, FL	335,000	ND	ND	ND	ND	ND	ND	0.08	ND
FORT PIERCE, FL	251,000	ND	ND	ND	ND	ND	ND	ND	ND
FORT SMITH, AR-OK	176,000	47	25	ND	ND	ND	ND	ND	ND
FORT WALTON BEACH, FL	144,000	ND	ND	ND	ND	ND	ND	ND	ND
FORT WAYNE, IN	364,000	57	28	0.005	0.019	5	0.011	0.1	ND
FORT WORTH-ARLINGTON, TX	1,332,000	48	25	0.002	0.006	4	0.014	***0.15***	0.02
FRESNO, CA	667,000	142	***60***	0.004	0.013	9	0.025	***0.16*** *	ND
GADSDEN, AL	100,000	82	33	ND	ND	ND	ND	ND	ND
GAINESVILLE, FL	204,000	ND	ND	ND	ND	ND	ND	ND	ND
GALVESTON-TEXAS CITY, TX	217,000	43	23	0.007	0.05	ND	ND	***0.15***	0.02
GARY-HAMMOND, IN	605,000	***167***	42	0.009	0.042	5	0.022	0.12	0.17
GLENS FALLS, NY	119,000	41	20	0.004	0.02	ND	ND	ND	ND
GRAND FORKS, ND	71,000	67	IN	0.004	0.06	ND	IN	ND	ND
GRAND RAPIDS, MI	688,000	67	28	0.003	0.013	4	IN	***0.15***	0.02
GREAT FALLS, MT	78,000	72	IN	ND	ND	7	ND	ND	ND
GREELEY, CO	132,000	80	IN	ND	ND	8	ND	0.1	ND
GREEN BAY, WI	195,000	55	23	0.006	0.042	ND	ND	0.1	ND
GREENSBORO-WINSTON SALEM-HIGH POINT, NC	942,000	66	35	0.007	0.027	7	0.016	0.11	ND
GREENVILLE-SPARTANBURG, SC	641,000	52	31	0.003	0.018	ND	IN	0.11	0.04
HAGERSTOWN, MD	121,000	ND	ND	ND	ND	ND	ND	ND	ND
HAMILTON-MIDDLETOWN, OH	291,000	87	35	0.009	0.044	ND	ND	0.12	ND
HARRISBURG-LEBANON-CARLISLE, PA	588,000	56	28	0.008	0.026	5	0.02	0.11	0.04
HARTFORD, CT	768,000	58	28	0.009	0.041	9	0.02	***0.15***	0.04
HICKORY, NC	222,000	ND	ND	ND	ND	ND	ND	ND	ND
HONOLULU, HI	836,000	63	18	0.002	0.01	3	ND	0.05	0.02
HOUMA-THIBODAUX, LA	183,000	ND	ND	ND	ND	ND	ND	0.1	ND
HOUSTON, TX	3,302,000	108	37	0.007	0.047	7	0.028	***0.2***	0.03
HUNTINGTON-ASHLAND, WV-KY-OH	313,000	63	36	0.017	0.073	5	0.014	***0.14***	0.04
HUNTSVILLE, AL	239,000	71	28	ND	ND	4	0.014	0.11	ND

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PM10 = HIGHEST SECOND MAXIMUM 24-HOUR CONCENTRATION (Applicable NAAQS is 150 ug/m3)
= HIGHEST ARITHMETIC MEAN CONCENTRATION (Applicable NAAQS is 50 ug/m3)
SO2 = HIGHEST ARITHMETIC MEAN CONCENTRATION (Applicable NAAQS is 0.03 ppm)
= HIGHEST SECOND MAXIMUM 24-HOUR CONCENTRATION (Applicable NAAQS is 0.14 ppm)
CO = HIGHEST SECOND MAXIMUM NON-OVERLAPPING 8-HOUR CONCENTRATION (Applicable NAAQS is 9 ppm)
NO2 = HIGHEST ARITHMETIC MEAN CONCENTRATION (Applicable NAAQS is 0.053 ppm)
O3 = HIGHEST SECOND DAILY MAXIMUM 1-HOUR CONCENTRATION (Applicable NAAQS is 0.12 ppm)
PB = HIGHEST QUARTERLY MAXIMUM CONCENTRATION (Applicable NAAQS is 1.5 ug/m3)
ND = INDICATES DATA NOT AVAILABLE
IN = INDICATES INSUFFICIENT DATA TO CALCULATE SUMMARY STATISTIC

UGM = UNITS ARE MICROGRAMS PER CUBIC METER
PPM = UNITS ARE PARTS PER MILLION

* - Impact from industrial source.

- Impact from an industrial source in Collin County, TX. Highest site in Dallas, TX is 0.19 ug/m3.

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TABLE 4-5. 1991 METROPOLITAN STATISTICAL AREA AIR QUALITY FACTBOOK
PEAK STATISTICS FOR SELECTED POLLUTANTS BY MSA

METROPOLITAN STATISTICAL AREA	1990 POPULATION	PM10 2ND MAX (UGM)	PM10 WTD AM (UGM)	SO2 AM (PPM)	SO2 24-HR (PPM)	CO 8-HR (PPM)	NO2 AM (PPM)	OZONE 2ND MAX (PPM)	PB QMAX (UGM)
INDIANAPOLIS, IN	1,250,000	79	38	0.012	0.036	6	0.018	0.11	***1.64***
IOWA CITY, IA	96,000	ND	ND	ND	ND	ND	ND	0.06	ND
JACKSON, MI	150,000	ND	ND	ND	ND	ND	ND	ND	ND
JACKSON, MS	395,000	48	24	0.005	0.011	5	ND	0.09	0.07
JACKSON, TN	78,000	47	27	ND	ND	ND	ND	ND	ND
JACKSONVILLE, FL	907,000	59	34	0.006	0.072	4	0.014	0.1	0.03
JACKSONVILLE, NC	150,000	44	24	ND	ND	ND	ND	ND	ND
JAMESTOWN-DUNKIRK, NY	142,000	53	23	0.013	0.048	ND	ND	0.1	ND
JANESVILLE-BELOIT, WI	140,000	ND	ND	ND	ND	ND	ND	0.11	ND
JERSEY CITY, NJ	553,000	92	36	0.014	0.042	8	0.028	***0.14***	0.06
JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA	436,000	78	33	0.014	0.055	3	0.019	0.12	ND
JOHNSTOWN, PA	241,000	70	33	0.015	0.043	5	0.019	0.11	0.19
JOLIET, IL	390,000	77	34	0.006	0.022	ND	ND	0.12	0.02
JOPLIN, MO	135,000	ND	ND	ND	ND	ND	ND	ND	ND
KALAMAZOO, MI	223,000	59	IN	IN	0.015	3	IN	0.08	0.02
KANKAKEE, IL	96,000	ND	ND	ND	ND	ND	ND	ND	ND
KANSAS CITY, MO-KS	1,566,000	101	45	0.006	0.031	6	0.016	0.12	0.05
KENOSHA, WI	128,000	ND	ND	0.003	0.015	ND	0.012	***0.15***	ND
KILLEN-TEMPLE, TX	255,000	41	22	ND	ND	ND	ND	ND	ND
KNOXVILLE, TN	605,000	72	42	0.009	0.052	5	ND	0.11	ND
KOKOMO, IN	97,000	ND	ND	ND	ND	ND	ND	ND	ND
LA CROSSE, WI	98,000	ND	ND	ND	ND	ND	ND	ND	ND
LAFAYETTE, LA	209,000	ND	ND	ND	ND	ND	ND	0.08	ND
LAFAYETTE, IN	131,000	ND	ND	0.01	0.074	ND	ND	ND	ND
LAKE CHARLES, LA	168,000	52	23	0.004	0.02	ND	ND	0.12	ND
LAKE COUNTY, IL	516,000	ND	ND	ND	ND	ND	IN	0.12	ND
LAKELAND-WINTER HAVEN, FL	405,000	ND	ND	0.005	0.016	ND	ND	ND	ND
LANCASTER, PA	423,000	51	IN	0.006	0.023	3	0.018	0.12	0.04
LANSING-EAST LANSING, MI	433,000	ND	ND	ND	ND	ND	ND	0.11	0.02
LAREDO, TX	133,000	72	IN	ND	ND	ND	ND	ND	ND
LAS CRUCES, NM	136,000	108	40	0.016	0.09	7	ND	0.1	0.16
LAS VEGAS, NV	741,000	143	***58***	ND	ND	***12***	0.03	0.09	ND
LAWRENCE, KS	82,000	ND	ND	ND	ND	ND	ND	ND	ND
LAWRENCE-HAVERHILL, MA-NH	394,000	35	18	0.008	0.032	ND	ND	***0.13***	ND
LAWTON, OK	111,000	54	IN	0.002	0.005	ND	ND	ND	ND
LEWISTON-AUBURN, ME	88,000	66	IN	0.006	0.023	ND	ND	ND	0.02
LEXINGTON-FAYETTE, KY	348,000	53	27	0.008	0.026	5	0.016	0.1	ND
LIMA, OH	154,000	ND	ND	0.006	0.021	ND	ND	0.1	ND
LINCOLN, NE	214,000	67	30	ND	ND	9	ND	0.07	ND
LITTLE ROCK-NORTH LITTLE ROCK, AR	513,000	58	28	0.003	0.012	ND	0.009	0.1	0

LONGVIEW-MARSHALL, TX	162,000	ND	ND	ND	ND	ND	ND	0.11	ND	
LORAIN-ELYRIA, OH	271,000	87	31	0.008	0.033	ND	ND	0.1	ND	
LOS ANGELES-LONG BEACH, CA	8,863,000	***215***	***66***	0.005	0.015	***16***	***0.055***	***0.31***	***2.31***	#
LOUISVILLE, KY-IN	953,000	67	37	0.012	0.05	7	ND	***0.13***	0.06	
LOWELL, MA-NH	273,000	ND	ND	ND	ND	6	ND	ND	ND	
LUBBOCK, TX	223,000	79	26	ND	ND	ND	ND	ND	ND	
LYNCHBURG, VA	142,000	53	28	ND	ND	ND	ND	0.09	ND	
MACON-WARNER ROBINS, GA	281,000	ND	ND	0.003	0.016	ND	ND	ND	ND	
MADISON, WI	367,000	55	IN	0.002	0.014	5	ND	0.11	ND	
MANCHESTER, NH	148,000	49	20	0.009	0.049	6	0.016	0.1	0.02	
MANSFIELD, OH	126,000	62	IN	ND	ND	ND	ND	ND	ND	
MAYAGUEZ, PR	210,000	ND	ND	ND	ND	ND	ND	ND	ND	
MCALLEN-EDINBURG-MISSION, TX	384,000	ND	ND	ND	ND	ND	ND	ND	ND	
MEDFORD, OR	146,000	***166***	44	ND	ND	***11***	ND	0.07	0.03	
MELBOURNE-TITUSVILLE-PALM BAY, FL	399,000	ND	ND	ND	ND	ND	ND	0.09	ND	
MEMPHIS, TN-AR-MS	982,000	54	29	0.008	0.025	7	0.024	0.11	***1.83***	@
MERCED, CA	178,000	122	***52***	ND	ND	ND	ND	ND	ND	
MIAMI-HIALEAH, FL	1,937,000	61	29	0.001	0.003	8	0.015	0.12	0.02	
MIDDLESEX-SOMERSET-HUNTERDON, NJ	1,020,000	65	30	0.007	0.025	4	ND	***0.13***	1.15	
MIDDLETOWN, CT	90,000	51	25	ND	ND	ND	ND	***0.17***	ND	
MIDLAND, TX	107,000	ND	ND	ND	ND	ND	ND	ND	ND	
MILWAUKEE, WI	1,432,000	78	33	0.007	0.038	5	0.024	***0.18***	0.06	
MINNEAPOLIS-ST. PAUL, MN-WI	2,464,000	136	31	0.011	0.076	***11***	0.024	0.09	1.42	+
MOBILE, AL	477,000	73	38	0.009	0.05	ND	ND	0.09	ND	
MODESTO, CA	371,000	145	***54***	ND	ND	9	0.024	0.11	ND	

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O3 = HIGHEST SECOND DAILY MAXIMUM 1-HOUR CONCENTRATION (Applicable NAAQS is 0.12 ppm)
PB = HIGHEST QUARTERLY MAXIMUM CONCENTRATION (Applicable NAAQS is 1.5 ug/m3)
ND = INDICATES DATA NOT AVAILABLE
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UGM = UNITS ARE MICROGRAMS PER CUBIC METER
PPM = UNITS ARE PARTS PER MILLION

* - Impact from an industrial source in Indianapolis, IN. Highest population oriented site in Indianapolis, IN is 0.05 ug/m3.

- Impact from an industrial source in Commerce, CA. Compliance action was taken and the problem was corrected. Highest population oriented site in Los Angeles, CA is 0.14 ug/m3.

@ - Impact from an industrial source in Memphis, TN. Highest population oriented site in Memphis, TN is 0.06 ug/m3.

+ - Impact from an industrial source in Eagan, MN. Highest population oriented site in Minneapolis, MN is 0.05 ug/m3.

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TABLE 4-5. 1991 METROPOLITAN STATISTICAL AREA AIR QUALITY FACTBOOK
PEAK STATISTICS FOR SELECTED POLLUTANTS BY MSA

METROPOLITAN STATISTICAL AREA	1990 POPULATION	PM10 2ND MAX (UGM)	PM10 WTD AM (UGM)	SO2 AM (PPM)	SO2 24-HR (PPM)	CO 8-HR (PPM)	NO2 AM (PPM)	OZONE 2ND MAX (PPM)	PB QMAX (UGM)	
MONMOUTH-OCEAN, NJ	986,000	ND	ND	ND	ND	6	ND	***0.15***	ND	
MONROE, LA	142,000	58	25	ND	ND	ND	ND	ND	ND	
MONTGOMERY, AL	293,000	60	26	ND	ND	ND	ND	0.09	ND	
MUNCIE, IN	120,000	ND	ND	ND	ND	ND	ND	ND	ND	
MUSKEGON, MI	159,000	ND	ND	ND	ND	ND	ND	***0.15***	0.01	
NAPLES, FL	152,000	ND	ND	ND	ND	ND	ND	ND	ND	
NASHUA, NH	181,000	58	21	0.005	0.02	7	ND	0.11	0.01	
NASHVILLE, TN	985,000	95	38	0.016	0.085	6	0.01	0.12	***2.31***	*
NASSAU-SUFFOLK, NY	2,609,000	65	25	0.009	0.039	7	0.029	***0.18***	ND	
NEW BEDFORD, MA	176,000	51	20	ND	ND	ND	ND	***0.13***	ND	
NEW BRITAIN, CT	148,000	55	IN	ND	ND	ND	ND	ND	ND	
NEW HAVEN-MERIDEN, CT	530,000	152	47	0.013	0.063	6	0.028	***0.18***	0.08	
NEW LONDON-NORWICH, CT-RI	267,000	59	24	0.007	0.027	ND	ND	***0.14***	ND	
NEW ORLEANS, LA	1,239,000	66	29	0.005	0.028	4	0.019	0.11	0.03	
NEW YORK, NY	8,547,000	101	IN	0.018	0.068	***10***	0.047	***0.18***	0.05	
NEWARK, NJ	1,824,000	77	37	0.013	0.047	***11***	0.034	***0.14***	1.04	
NIAGARA FALLS, NY	221,000	70	27	0.012	0.056	2	ND	0.1	ND	
NORFOLK-VIRGINIA BEACH-NEWPORT NEWS, VA	1,396,000	60	28	0.007	0.022	6	0.02	0.11	0.03	
NORWALK, CT	127,000	77	39	ND	ND	ND	ND	ND	ND	
OAKLAND, CA	2,083,000	118	36	0.003	0.012	7	0.024	0.12	0.2	
OCALA, FL	195,000	ND	ND	ND	ND	ND	ND	ND	ND	
ODESSA, TX	119,000	31	IN	ND	ND	ND	ND	ND	ND	
OKLAHOMA CITY, OK	959,000	51	23	0.001	0.005	6	0.012	0.11	0.04	
OLYMPIA, WA	161,000	99	26	ND	ND	ND	ND	ND	ND	
OMAHA, NE-IA	618,000	108	41	0.002	0.009	8	ND	0.08	***2.33***	#
ORANGE COUNTY, NY	308,000	ND	ND	ND	ND	ND	ND	ND	1.03	@
ORLANDO, FL	1,073,000	55	31	0.002	0.007	5	0.012	0.1	0	
OWENSBORO, KY	87,000	60	30	0.009	0.044	4	0.011	0.09	ND	
OXNARD-VENTURA, CA	669,000	79	39	0.002	0.01	4	0.024	***0.16***	ND	
PANAMA CITY, FL	127,000	ND	ND	ND	ND	ND	ND	ND	ND	
PARKERBURG-MARIETTA, WV-OH	149,000	57	IN	0.014	0.06	ND	ND	0.12	0.02	
PASCAGOULA, MS	115,000	ND	ND	0.006	0.017	ND	ND	0.1	ND	
PAWTUCKET-WOONSOCKET-ATTLEBORO, RI-MA	329,000	85	32	0.008	0.031	ND	ND	ND	ND	
PENSACOLA, FL	344,000	ND	ND	0.006	0.127	ND	ND	0.11	0	
PEORIA, IL	339,000	52	28	0.008	0.089	6	ND	0.1	0.02	
PHILADELPHIA, PA-NJ	4,857,000	93	40	0.015	0.047	7	0.034	***0.16***	***3.62***	+
PHOENIX, AZ	2,122,000	112	50	0.005	0.013	***10***	0.021	0.12	0.11	
PINE BLUFF, AR	85,000	42	IN	ND	ND	ND	ND	ND	ND	
PITTSBURGH, PA	2,243,000	154	39	0.024	0.105	6	0.031	0.12	0.08	
PITTSFIELD, MA	79,000	ND	ND	ND	ND	ND	ND	0.1	ND	

PONCE, PR	235,000	58	IN	ND	ND	ND	ND	ND	ND	
PORTLAND, ME	215,000	71	22	0.009	0.032	ND	0.016	***0.14***	0.03	
PORTLAND, OR-WA	1,240,000	***159***	28	0.006	0.024	9	IN	0.11	0.1	
PORTSMOUTH-DOVER-ROCHESTER, NH-ME	224,000	50	20	0.007	0.021	ND	0.015	***0.13***	0.02	
POUGHKEEPSIE, NY	259,000	ND	ND	0.008	0.03	ND	ND	***0.13***	ND	
PROVIDENCE, RI	655,000	69	36	0.012	0.044	7	0.025	***0.16***	0.04	
PROVO-OREM, UT	264,000	***241***	47	ND	ND	***12***	0.023	0.08	ND	
PUEBLO, CO	123,000	57	30	ND	ND	ND	ND	ND *	ND	
RACINE, WI	175,000	ND	ND	ND	ND	6	ND	***0.14***	ND	
RALEIGH-DURHAM, NC	735,000	51	26	ND	ND	9	0.016	0.11	ND	
RAPID CITY, SD	81,000	***166***	30	ND	ND	ND	ND	ND	ND	
READING, PA	337,000	67	28	0.011	0.039	5	0.022	0.12	1.28	$
REDDING, CA	147,000	74	29	ND	ND	2	ND	0.08	ND	
RENO, NV	255,000	***181***	39	ND	ND	***12***	ND	0.09	ND	
RICHLAND-KENNEWICK-PASCO, WA	155,000	***281***	31	ND	ND	ND	ND	ND	ND	
RICHMOND-PETERSBURG, VA	866,000	60	28	0.011	0.092	4	0.024	0.12	ND	
RIVERSIDE-SAN BERNARDINO, CA	2,589,000	***189***	***76***	0.004	0.011	8	0.043	***0.25***	0.07	
ROANOKE, VA	224,000	63	34	0.004	0.019	ND	0.014	0.1	ND	
ROCHESTER, MN	106,000	43	23	0.003	0.039	6	ND	ND	ND	
ROCHESTER, NY	1,002,000	65	24	0.013	0.049	4	ND	0.11	0.03	
ROCKFORD, IL	284,000	55	22	ND	ND	5	ND	0.09	0.04	
SACRAMENTO, CA	1,481,000	130	36	0.007	0.034	***11***	0.024	***0.16***	0.04	
SAGINAW-BAY CITY-MIDLAND, MI	399,000	86	30	ND	ND	2	0.008	ND	0.03	
ST. CLOUD, MN	191,000	34	13	0.002	0.008	ND	ND	ND	ND	
ST. JOSEPH, MO	83,000	120	44	ND	ND	ND	ND	ND	ND	

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PM10 = HIGHEST SECOND MAXIMUM 24-HOUR CONCENTRATION (Applicable NAAQS is 150 ug/m3)
= HIGHEST ARITHMETIC MEAN CONCENTRATION (Applicable NAAQS is 50 ug/m3)
SO2 = HIGHEST ARITHMETIC MEAN CONCENTRATION (Applicable NAAQS is 0.03 ppm)
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NO2 = HIGHEST ARITHMETIC MEAN CONCENTRATION (Applicable NAAQS is 0.053 ppm)
O3 = HIGHEST SECOND DAILY MAXIMUM 1-HOUR CONCENTRATION (Applicable NAAQS is 0.12 ppm)
PB = HIGHEST QUARTERLY MAXIMUM CONCENTRATION (Applicable NAAQS is 1.5 ug/m3)
ND = INDICATES DATA NOT AVAILABLE
IN = INDICATES INSUFFICIENT DATA TO CALCULATE SUMMARY STATISTIC

UGM = UNITS ARE MICROGRAMS PER CUBIC METER
PPM = UNITS ARE PARTS PER MILLION

* - Impact from an industrial source in Williamson County, TN. Highest site in Nashville, TN is 0.11 ug/m3.

- Impact from an industrial source in Omaha, NE.

@ - Impact from an industrial source in Orange County, NY.

+ - Impact from an industrial source in Philadelphia, PA. Highest site in Philadelphia, PA is 0.11 ug/m3.

$ - Impact from an industrial source in Reading, PA.

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TABLE 4-5. 1991 METROPOLITAN STATISTICAL AREA AIR QUALITY FACTBOOK
PEAK STATISTICS FOR SELECTED POLLUTANTS BY MSA

METROPOLITAN STATISTICAL AREA	1990 POPULATION	PM10 2ND MAX (UGM)	PM10 WTD AM (UGM)	SO2 AM (PPM)	SO2 24-HR (PPM)	CO 8-HR (PPM)	NO2 AM (PPM)	OZONE 2ND MAX (PPM)	PB QMAX (UGM)
ST. LOUIS, MO-IL	2,444,000	103	49	0.016	0.056	7	0.026	0.12	***5.56***
SALEM, OR	278,000	ND	ND	ND	ND	8	ND	ND	ND
SALEM-GLOUCESTER, MA	264,000	ND	ND	0.009	0.032	ND	ND	ND	ND
SALINAS-SEASIDE-MONTEREY, CA	356,000	48	23	ND	ND	2	0.012	0.09	ND
SALT LAKE CITY-OGDEN, UT	1,072,000	***221***	***54***	0.012	0.069	8	0.029	0.11	0.09
SAN ANGELO, TX	98,000	ND	ND	ND	ND	ND	ND	ND	ND
SAN ANTONIO, TX	1,302,000	58	29	ND	ND	4	ND	0.11	0.03
SAN DIEGO, CA	2,498,000	79	41	0.004	0.02	8	0.029	***0.18***	0.04
SAN FRANCISCO, CA	1,604,000	85	35	0.002	0.013	8	0.024	0.07	0.06
SAN JOSE, CA	1,498,000	128	36	ND	ND	***10***	0.031	0.12	0.05
SAN JUAN, PR	1,541,000	98	IN	0.003	0.022	6	ND	0.08	0.03
SANTA BARBARA-SANTA MARIA-LOMPOC, CA	370,000	67	37	0.001	0.007	6	0.024	0.1	ND
SANTA CRUZ, CA	230,000	43	24	ND	ND	1	0.01	0.1	ND
SANTA FE, NM	117,000	40	15	0.001	0.005	4	0.003	0.08	ND
SANTA ROSA-PETALUMA, CA	388,000	77	IN	ND	ND	4	0.015	0.1	0.02
SARASOTA, FL	278,000	68	29	0.003	0.034	7	ND	0.1	ND
SAVANNAH, GA	243,000	ND	ND	0.002	0.009	ND	ND	ND	ND
SCRANTON-WILKES-BARRE, PA	734,000	66	29	0.011	0.045	5	0.018	***0.13***	0.06
SEATTLE, WA	1,973,000	131	IN	0.01	0.028	9	ND	0.11	0.56
SHARON, PA	121,000	73	36	0.008	0.032	ND	ND	0.11	0.09
SHEBOYGAN, WI	104,000	ND	ND	IN	0.012	ND	IN	***0.16***	ND
SHERMAN-DENISON, TX	95,000	ND	ND	ND	ND	ND	ND	ND	ND
SHREVEPORT, LA	334,000	100	28	0.002	0.009	ND	ND	0.11	ND
SIOUX CITY, IA-NE	115,000	66	28	ND	ND	ND	ND	ND	ND
SIOUX FALLS, SD	124,000	57	19	ND	ND	ND	ND	ND	ND
SOUTH BEND-MISHAWAKA, IN	247,000	65	30	0.007	0.031	3	IN	0.11	ND
SPOKANE, WA	361,000	103	44	ND	ND	***12***	ND	0.08	ND
SPRINGFIELD, IL	190,000	49	25	0.008	0.048	4	ND	0.1	ND
SPRINGFIELD, MO	241,000	35	19	0.005	0.053	7	0.008	0.08	ND
SPRINGFIELD, MA	530,000	67	29	0.012	0.039	7	0.026	***0.13***	0.04
STAMFORD, CT	203,000	56	33	0.01	0.041	6	ND	***0.15***	ND
STATE COLLEGE, PA	124,000	ND	ND	ND	ND	ND	ND	ND	ND
STEUBENVILLE-WEIRTON, OH-WV	143,000	130	44	***0.034***	0.11	***14***	0.021	0.12	0.1
STOCKTON, CA	481,000	134	***52***	ND	ND	8	0.025	0.11	ND
SYRACUSE, NY	660,000	79	35	0.003	0.016	8	ND	0.11	1.13
TACOMA, WA	586,000	129	IN	0.008	0.024	9	ND	0.09	0.02
TALLAHASSEE, FL	234,000	ND	ND	ND	ND	ND	ND	0.05	ND
TAMPA-ST. PETERSBURG-CLEARWATER, FL	2,068,000	72	31	0.007	0.042	5	0.013	0.11	***2.27***
TERRE HAUTE, IN	131,000	95	32	0.013	0.044	ND	ND	0.1	ND
TEXARKANA, TX-AR	120,000	45	22	ND	ND	ND	ND	ND	ND

TOLEDO, OH	614,000	62	26	0.007	0.022	4	ND	0.12	0.48
TOPEKA, KS	161,000	56	IN	ND	ND	ND	ND	ND	0.02
TRENTON, NJ	326,000	58	31	0.012	0.033	4	ND	***0.15***	ND
TUCSON, AZ	667,000	133	39	0.002	0.007	6	0.024	0.09	0.05
TULSA, OK	709,000	73	29	0.01	0.057	5	0.017	0.12	0.21
TUSCALOOSA, AL	151,000	62	28	ND	ND	ND	ND	ND	ND
TYLER, TX	151,000	37	19	ND	ND	ND	ND	ND	ND
UTICA-ROME, NY	317,000	60	24	ND	ND	ND	ND	0.1	ND
VALLEJO-FAIRFIELD-NAPA, CA	451,000	90	33	0.002	0.008	8	0.019	0.11	0.06
VANCOUVER, WA	238,000	87	25	IN	0.028	***10***	ND	0.1	ND
VICTORIA, TX	74,000	ND	ND	ND	ND	ND	ND	0.1	ND
VINELAND-MILLVILE-BRIDGETON, NJ	138,000	ND	ND	0.007	0.023	ND	ND	0.12	ND
VISALIA-TULARE-PORTERVILLE, CA	312,000	135	***66***	ND	ND	5	0.022	0.12	ND
WACO, TX	189,000	ND	ND	ND	ND	ND	ND	ND	ND
WASHINGTON, DC-MD-VA	3,924,000	71	31	0.013	0.038	9	0.03	***0.14***	0.05
WATERBURY, CT	222,000	65	31	0.009	0.038	ND	ND	ND	0.69
WATERLOO-CEDAR FALLS, IA	147,000	73	IN	ND	ND	ND	ND	ND	ND
WAUSAU, WI	115,000	ND	ND	0.005	0.026	ND	ND	ND	ND
WEST PALM BEACH-BOCA RATON-DELRAY BEACH	864,000	38	21	0.002	0.011	3	0.012	0.09	ND
WHEELING, WV-OH	159,000	68	34	0.026	0.085	6	ND	0.11	0.04
WICHITA, KS	485,000	94	39	0.006	0.038	6	ND	0.1	0.02
WICHITA FALLS, TX	122,000	55	27	ND	ND	ND	ND	ND	ND
WILLIAMSPORT, PA	119,000	67	31	0.007	0.026	ND	ND	0.1	ND
WILMINGTON, DE-NJ-MD	579,000	65	33	0.013	0.044	4	0.028	***0.15***	0.07
WILMINGTON, NC	120,000	50	26	ND	ND	ND	ND	ND	ND
WORCESTER, MA	437,000	47	21	0.009	0.029	7	0.023	***0.14***	ND
YAKIMA, WA	189,000	***173***	37	ND	ND	9	ND	ND	ND
YORK, PA	418,000	69	IN	0.007	0.02	4	0.021	0.11	0.05
YOUNGSTOWN-WARREN, OH	493,000	85	34	0.01	0.035	2	ND	0.12	ND
YUBA CITY, CA	123,000	101	39	ND	ND	ND	ND	0.1	ND
YUMA, AZ	107,000	56	IN	ND	ND	ND	ND	0.09	ND

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PM10 = HIGHEST SECOND MAXIMUM 24-HOUR CONCENTRATION (Applicable NAAQS is 150 ug/m3)
= HIGHEST ARITHMETIC MEAN CONCENTRATION (Applicable NAAQS is 50 ug/m3)
SO2 = HIGHEST ARITHMETIC MEAN CONCENTRATION (Applicable NAAQS is 0.03 ppm)
= HIGHEST SECOND MAXIMUM 24-HOUR CONCENTRATION (Applicable NAAQS is 0.14 ppm)
CO = HIGHEST SECOND MAXIMUM NON-OVERLAPPING 8-HOUR CONCENTRATION (Applicable NAAQS is 9 ppm)
NO2 = HIGHEST ARITHMETIC MEAN CONCENTRATION (Applicable NAAQS is 0.053 ppm)
O3 = HIGHEST SECOND DAILY MAXIMUM 1-HOUR CONCENTRATION (Applicable NAAQS is 0.12 ppm)
PB = HIGHEST QUARTERLY MAXIMUM CONCENTRATION (Applicable NAAQS is 1.5 ug/m3)
ND = INDICATES DATA NOT AVAILABLE
IN = INDICATES INSUFFICIENT DATA TO CALCULATE SUMMARY STATISTIC

UGM = UNITS ARE MICROGRAMS PER CUBIC METER
PPM = UNITS ARE PARTS PER MILLION

* - Impact from an industrial source in Madison County, IL. Highest population oriented site in St. Louis, IL is 0.21 ug/m3.

- Impact from an industrial source in Tampa, FL.

Billings Av = .017
24h = .085

341 Cities

Annual
9 =>
7 >

24 Hr.
11 =>
8 >

EXHIBIT 1
4-7-93

EXHIBIT 19
DATE 4-7-93
HB SB 389

SENATE BILL 389

The air quality in Billings - the All American City - is bad. For a tourist attraction in the great American West known for its wide open spaces and pristine environment, it is a disgrace.

THE PROBLEM

FACT: According to the Air Quality Emissions Trend Report of the EPA, Billings is **the seventh worst city in the nation** for S02 pollution. In the last five years, only Pittsburgh, Pa., and Steubenville, Ohio, have been consistently worse than Billings.

FACT: A growing number of people have complained of respiratory and breathing problems in the Billings area, particularly in Lockwood which is down wind from most pollution sources. Many notice remarkable improvement when they leave Billings.

FACT: In 1987, the Legislature adopted a lower federal standard for Billings and Billings became the only area in the State of Montana with an SO_2 standard equal to the less stringent federal standard.

FACT: The Industry promised, in 1987, when the Hannah bill was passed, that they would clean up their act and voluntarily improve the air quality in the Billings area. Since then **the sulfur dioxide emissions have actually increased.** In 1987 the SO_2 emissions in the Billings area were **31,908 tons.** In 1992 the SO_2 emissions were **33,464 tons.** (In fairness, some companies have spent a great deal of money and have done a good job in reducing and limiting SO_2 emissions but others have not.)

FACT: According to the most recent computer modeling procedures now being used to determine compliance with federal standards, **Billings exceeds the lower federal standards.**

FACT: The Federal Environmental Protection Agency has issued a call for a revision of the current state implementation plan (SIP) because dispersion modeling shows non-compliance with the federal standards. Montana has 18 months to obtain federal approval to a revised plan and 5 years from February of 1993 to comply. **If they don't approve our plan, they will take over and develop and enforce their own plan in the Billings area.**

FACT: At least three new ventures which would have employed numerous people gave as one of the reasons for not locating in Billings, the air pollution problem.

FACT: Surrounding states, North Dakota, Oregon, Washington, Wyoming, and Colorado, now have higher SO_2 standards than Montana. Only Idaho and South Dakota rely on the lower federal standards that currently exist in Billings.

FACT: Billings is the dirtiest city - in terms of SO_2 emissions - in the nation in which Exxon has a refinery. Areas such as the Bay Area in California have more refining and yet enforce twice as strict a standard.

DATE 4-7-93
~~HB~~ SB 389

SUMMARY OF NATIONAL AIR QUALITY EMISSIONS TREND REPORT (EPA)

YEAR		MOST HIGHLY POLLUTED CITIES	SO2 AM (PPM)	SO2 24 HR (PPM)
1987	1	STEUBENVILLE-WEIRTON, OHIO-WEST VIRGINIA	.033	N/A
	2	PITTSBURGH, PA	.025	N/A
	3	BILLINGS, MT	.024	N/A
	4	WHEELING, WV-OH	.025	.077
	5	NEW YORK, NY	.024	.083
	6	SALT LAKE CITY	.022	.093
1988	1	STEUBENVILLE-WEIRTON, OHIO-WEST VIRGINIA	.035	.077
	2	PITTSBURGH, PA	.028	.083
	3	BILLINGS, MT	.021	.093
1989	1	STEUBENVILLE-WEIRTON, OHIO-WEST VIRGINIA	.035	.127
	2	BEAVER COUNTY, PA	.023	.128
	3	BILLINGS, MT	.022	.121
	4	PITTSBURGH, PA	.024	.106
	5	WHEELING, WV-OH	.026	.076
1990	1	STEUBENVILLE-WEIRTON, OHIO-WEST VIRGINIA	.039	.131
	2	PITTSBURGH, PA	.028	.171
	3	BEAVER COUNTY, PA	.023	.108
	4	HUNTINGTON-ASHLAND, WV-KY-OH	.018	.126
	5	BILLINGS, MT	.017	.095
	6	CINCINNATI, OH	.017	.075
	7	CLEVELAND, OH	.017	.08
	8	DETROIT, MI	.018	.07
	9	LOS ANGELES, CA	.018	.092
	10	SALT LAKE CITY, UTAH	.019	.08
	11	WHEELING, WV-OH	.026	.068
1991	1	STEUBENVILLE-WEIRTON, OHIO-WEST VIRGINIA	.034	.110
	2	CINCINNATI, OH-KY-IN	.026	.099
	3	PITTSBURGH, PA	.024	.105
	4	BEAVER COUNTY, PA	.020	.089
	5	CHICAGO, IL	.019	.147
	6	EVANSVILLE, KY-IN	.019	.095
	7	BILLINGS, MT	.017	.085
	8	WHEELING, WV-OH	.026	.085
	9	NEW YORK, NY	.018	.068
	10	HUNTINGTON-ASHLAND, WV-KY-OH	.017	.023

EXHIBIT 3
DATE 4-1-93
HB SB 389

YEAR	SO2 EMISSIONS
1987	31, 908 Tons
1988	33, 037 Tons
1989	33, 770 Tons
1990	31, 069 Tons
1991	30, 467 Tons
1992	33, 464 Tons

Six-Year Average: 32, 206 Tons

EXHIBIT 3
DATE 4-7-93
HB SB 389

CHAPTER NO. 504

[HB 534]

AN ACT DIRECTING THE AMENDMENT OF RULE 16.8.820, ADMINISTRATIVE RULES OF MONTANA, TO MAINTAIN EXISTING AIR QUALITY THROUGH ADOPTION OF THE FEDERAL ANNUAL AVERAGE AND 24-HOUR AVERAGE STANDARDS FOR AMBIENT AIR QUALITY FOR SULFUR DIOXIDE IN AREAS CURRENTLY EXCEEDING THE STATE ANNUAL AVERAGE AND 24-HOUR AVERAGE STANDARDS; REQUIRING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO STUDY THE HEALTH EFFECTS OF SULFUR DIOXIDE IN AREAS WITH MAJOR INDUSTRIAL SOURCES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. The Board of Health and Environmental Sciences shall amend Rule 16.8.820, Administrative Rules of Montana, to read:

"16.8.820 AMBIENT AIR QUALITY STANDARDS FOR SULFUR DIOXIDE

(1) No person shall cause or contribute to concentrations of sulfur dioxide in the ambient air which exceed any of the following standards:

(a) Hourly average: 0.50 parts per million, 1-hour average, not to be exceeded more than 18 times in any twelve consecutive months;

(b) Twenty-four hour average: 0.10 parts per million, 24-hour average, not to be exceeded more than once per year, *except that persons causing or contributing to ambient 24-hour average concentrations of sulfur dioxide that exceeded more than once 0.10 parts per million during 1985 must be considered in compliance with this rule if ambient concentrations do not exceed 0.14 parts per million more than once per year;*

(c) Annual average: 0.02 parts per million, annual average, not to be exceeded, *except that persons causing or contributing to ambient annual concentrations of sulfur dioxide that exceeded 0.02 parts per million during 1985 must be considered in compliance with this rule if ambient concentrations do not exceed 0.03 parts per million.*

(2) Measurement method: For determining compliance with this rule, sulfur dioxide shall be measured by the pararosaniline method as more fully described in Title 40, Part 50 (Appendix A) Code of Federal Regulations (1979), or by an approved equivalent method."

Section 2. **Study of effects of sulfur dioxide on health and environment.** (1) To the extent that funds are available, the board shall conduct an ongoing study in areas of Montana where there are major industrial sources of sulfur dioxide. The study shall concentrate on the effects on human health and the environment of ambient sulfur dioxide concentrations separately and in conjunction with particulates.

EXHIBIT 3a
DATE 4-7-93
~~HB~~ SB 389

SB 389 as amended by Sen. Towe April 7, 1993.

Section 1. Section 75-2-206, MCA, is amended to read:

"**75-2-206. Study of effects of sulfur dioxide on health and environment.** (1) The department shall commission studies in the Billings and Laurel area where there are major industrial sources of sulfur dioxide. The studies must be conducted by credible, unbiased consultants who are experienced in the kind of studies described in this section. The studies must include:

(a) a literature search and analysis regarding the effects of sulfur dioxide on human health, including sensitive populations. The literature search and analysis must include:

(i) a review and analysis of studies by the environmental protection agency concerning the health effects of sulfur dioxide;

(ii) a review and analysis of sulfur dioxide health-related studies conducted in the Billings and Laurel area; and

(iii) a review and analysis of other studies concerning the health effects of sulfur dioxide;

(b) a review and analysis of the feasibility of conducting scientifically valid, epidemiological health studies in the Billings and Laurel area; and

(c) a study to determine whether additional enhanced ambient monitoring is useful in adequately protecting human health. The purpose of this study is to determine the adequacy of existing ambient monitoring in the Billings and Laurel area and must address the need for monitoring for ambient air concentrations of sulfur dioxide at 5-minute intervals and in a manner that detects concentrations of sulfur dioxide up to 5 parts per million.

(2) The department shall report the results of these studies to the 1995 legislature. Based on the results of the feasibility study required under subsection (1)(b), the department, with the concurrence of the environmental quality council, shall determine:

(a) whether further study on the health effects of sulfur dioxide in the Billings and Laurel area is necessary;

(b) whether the studies in subsection (1)(b) would produce credible results; and

(c) whether additional enhanced ambient monitoring is necessary to adequately protect human health.

(3) If the department, with the concurrence of the environmental quality council, determines that further health studies are warranted as provided in subsection (2), then it shall provide for those studies, the results of which the air pollution control advisory council shall report to the 1997 legislature.

(4) Funding for the studies must be provided pursuant to 75-2-211(5)."

NEW SECTION. SECTION 2. **Coordination instruction.** If House Bill No. 318 is passed and approved, then the reference to "75-2-211(5)" in [section 1 of this act] is void and the code commissioner is instructed to change this reference to "[section 12 of House Bill No. 318]". -End-

EXHIBIT 26
DATE 4-1-93
HB 389
SB

BILLINGS - LAUREL AIR QUALITY TECHNICAL COMMITTEE

ANNUAL SULFUR DIOXIDE EMISSIONS - TONS/YEAR

COMPANY	1988	1989	1990	1991	1992	AVG.
EXXON Refinery	12,124	12,176	11,218	11,310	10,028	11,371
CENEX Refinery	7,037	7,314	7,835	7,151	8,381	7,544
MPCo. - J.E. Corette	7,001	7,447	5,265	6,125	9,012	6,970
MT SULPHUR & CHEMICAL Co.	3,607	3,525	3,397	2,760	3,327	3,323
CONOCO Refinery Jupiter Sulfur (Kerley)	2,845	3,144	3,094	2,745 5	2,212 54	2,808 54
WESTERN SUGAR	425	164	261	376	450*	335
TOTAL/YEAR	33,039	33,770	31,070	30,472	33,464	32,363
(TONS/DAY)	(90.5)	(92.5)	(85.1)	(83.5)	(91.7)	(88.7)

* Estimated - 1992

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To SEN Tom Towe	From Jim Haney
Co.	Co. DHES-AQB
Dept. STATE SENATE	Phone # 657-7617
Fax # 8-140-4105	Fax # 657 2057

JJH/AQB-DHES/3/93

SUMMARY OF NATIONAL AIR QUALITY EMISSIONS TREND REPORT (EPA)

YEAR		MOST HIGHLY POLLUTED CITIES	SO2 AM (PPM)	SO2 24 HR (PPM)
1987	1	STEUBENVILLE-WEIRTON, OHIO-WEST VIRGINIA	.033	N/A
	2	PITTSBURGH, PA	.025	N/A
	3	BILLINGS, MT	.024	N/A
	4	WHEELING, WV-OH	.025	.077
	5	NEW YORK, NY	.024	.083
	6	SALT LAKE CITY	.022	.093
1988	1	STEUBENVILLE-WEIRTON, OHIO-WEST VIRGINIA	.035	.077
	2	PITTSBURGH, PA	.028	.083
	3	BILLINGS, MT	.021	.093
1989	1	STEUBENVILLE-WEIRTON, OHIO-WEST VIRGINIA	.035	.127
	2	BEAVER COUNTY, PA	.023	.128
	3	BILLINGS, MT	.022	.121
	4	PITTSBURGH, PA	.024	.106
	5	WHEELING, WV-OH	.026	.076
1990	1	STEUBENVILLE-WEIRTON, OHIO-WEST VIRGINIA	.039	.131
	2	PITTSBURGH, PA	.028	.171
	3	BEAVER COUNTY, PA	.023	.108
	4	HUNTINGTON-ASHLAND, WV-KY-OH	.018	.126
	5	BILLINGS, MT	.017	.095
	6	CINCINNATI, OH	.017	.075
	7	CLEVELAND, OH	.017	.08
	8	DETROIT, MI	.018	.07
	9	LOS ANGELES, CA	.018	.092
	10	SALT LAKE CITY, UTAH	.019	.08
	11	WHEELING, WV-OH	.026	.068
1991	1	STEUBENVILLE-WEIRTON, OHIO-WEST VIRGINIA	.034	.110
	2	CINCINNATI, OH-KY-IN	.026	.099
	3	PITTSBURGH, PA	.024	.105
	4	BEAVER COUNTY, PA	.020	.089
	5	CHICAGO, IL	.019	.147
	6	EVANSVILLE, KY-IN	.019	.095
	7	BILLINGS, MT	.017	.085
	8	WHEELING, WV-OH	.026	.085
	9	NEW YORK, NY	.018	.068
	10	HUNTINGTON-ASHLAND, WV-KY-OH	.017	.023

Continued stories

Air

From Page One

Another way of analyzing the local sulfur-oxide issue is to ask whether two multina-onal corporations with plants in Billings oper-e under more restrictive standards here than sewhere in the United States.

The two corporations are Exxon Corp., the orld's largest oil company, which has a refin-y in Lockwood, and DuPont, whose Conoco ibsidiary operates a refinery on Billings' South ide.

Exxon's other U.S. refineries are in Baton ouge, La., Benicia, Calif., Linden, N.J., and aytown, Texas.

Conoco also has domestic refineries in enver, Ponca City, Okla., and Lake Charles, a.

A Gazette inquiry last week found that xxon and other industries in Benicia — which in the San Francisco-Oakland metropolitan ea — must comply with standards that are ore restrictive than the federal and Montana rms. Industries in Benicia must comply with iteria established by the Bay Area Air Quality istrict for a nine-county area.

For example, average sulfur-dioxide levels r one hour cannot exceed 0.25 parts per mil-n in the Bay Area. That is twice as restrictive the 0.5 ppm standard used in Montana. And, e Bay Area's 24-hour average standard is 0.05 m, compared with the 0.14 ppm rule in the Billings-Laurel area and the 0.10 ppm rule for the rest of the state.

Oklahoma, Louisiana and New Jersey use sulfur-dioxide standards that parallel the federal rules, but Colorado's standards are more restrictive than either the federal or Montana yardsticks.

"So far, sulfur dioxide hasn't really been a problem for us in our state," said Chris Roberie, head of compliance for Louisiana's Environmental Quality Department. The department has a larger problem with ozone levels, he said.

Exxon has one of its larger refineries, capable of processing about 500,000 barrels of oil a day, in Baton Rouge. However, sulfur-dioxide levels remain relatively low, partly because that refinery and others in Louisiana don't process large volumes of high-sulfur crude oil, Roberie said.

An official in the Texas Air Quality Board was unsure whether that state follows the federal rules or has more restrictive state rules. However, he said all of Texas meets national sulfur-dioxide standards except part of the Houston area, which has the state's largest concentration of refineries.

A state-by-state comparison, however, overlooks an important fact: Sulfur-dioxide pollution isn't considered a major problem in most cities where Exxon and Conoco have refineries, according to state air quality officials.

The reason? Emission levels in Ponca City and Linden fall below federal standards, according to Oklahoma and New Jersey officials. Also, the U.S. Environmental Protection Agency's Emissions Trends Report for 1991 — the most recent available — shows Billings had higher sulfur-dioxide levels than in three metropolitan areas with more — and larger — refineries than in Billings.

The areas with lower sulfur-dioxide measurements than Billings are Houston, which encompasses Exxon's Baytown refinery; Lake Charles, the site of a Conoco refinery; and Baton Rouge, which has an Exxon refinery.

Montana and Surrounding States SO2 Ambient Air Quality Standards

State	Annual average (ppm)	24 Hour average (ppm)	3 Hour average (ppm)	1 Hour average (ppm)
Montana [a]	0.02	0.10[1]	-	0.5[2]
Billings/Laurel	0.03	0.14[1]	-	0.5[2]
Idaho	0.03	0.14[1]	0.50[1]	-
North Dakota	0.023	0.099	-	0.273
Oregon	0.02	0.10[1]	0.50[1]	-
South Dakota	0.03	0.14[1]	0.50[1]	-
Washington[b]	0.02	0.10[1]	-	0.40[1,3]
Wyoming	0.02	0.10[1]	0.50[1]	-
Colorado	Incremental[c]	Incremental[c,1]	0.266[1]	-
Utah — set on a case-by-case basis using the Best Available Control Technology (BACT)				
Federal Standard	0.03	0.14[1]	0.50[1]	-

FOOTNOTES

1-Not to be exceeded more than once per year
2-Not to be exceeded more than 18 times per year
3-0.25 ppm is not to be exceeded more than two times in any 7consecutive days

a-Billings/Laurel existing sources exempted from 24 Hour and annual Montana standards per 1987 legislation
b-Washington State's objective is: SO2 shall not be greater than 0.30 ppm average for 5 minutes
c-Colorado State standards for SO2 are expressed as allowable amounts of increase in ambient concentrations (increments) over an established baseline. Baseline is defined as level of SO2 that existed on the effective date of the regulation (August, 1977).

SOURCE: Montana Air Quality Bureau

Air bureau stays neutral

By CLAIR JOHNSON
Of the Gazette Staff

The Montana Air Quality Bureau will take no position on a bill in the Legislature that would tighten air quality standards for sulfur dioxide in the Billings-Laurel area.

Bureau Chief Jeff Chaffee said Friday that he plans to attend the Monday afternoon hearing on SB 389 to provide background information if necessary but that he will not take an official position.

"We haven't been directly asked to," Chaffee said. He said the bureau, which is within the Department of Health and Environmental Sciences, did not initiate the measure.

SB 389, sponsored by Sen. Tom Towe, D-Billings, would return the Billings-Laurel area to the more restrictive state standards, tighten the state's one-hour standard and require a health study.

Towe is sponsoring the bill at the request of three Billings men who have long fought for clean air in the Yellowstone Valley. The bill is scheduled for its first hearing at 3 p.m. before the Senate Public Health, Welfare and Safety Committee.

The 1987 Legislature relaxed standards in the Billings area to federal standards to enable industries to comply with regulations. Former Rep. Tom Hannah, R-Billings, sponsored the legislation, which has become known as the "Hannah Bill."

Back then, the Department of Health opposed Hannah's bill, saying sufficient health data existed to conclude that the state's standards were reasonable. In addition, the department said, it believed that EPA health information indicated a need for stricter limits on concentrations of sulfur dioxide.

EXHIBIT 3b
DATE 4-7-93
SB 389

Comparison shows air standards in line with neighboring states

By CLAIR JOHNSON
and DENNIS GAUB
Of the Gazette Staff

Are Montana's air quality standards for sulfur dioxide more restrictive than other states'? A comparison of eight neighboring states suggests they are not.

Only Billings and two other states in the region use the more lenient federal standards, according to information compiled in 1991 by the Montana Air Quality Bureau in the Department of Health and Environmental Sciences.

The comparison looked at standards in Montana, Billings, Colorado, Idaho, North Dakota, South Dakota, Oregon, Utah, Washington and Wyoming.

The issue of what standards are appropriate for the Billings area will come before the Senate Public Health, Welfare and Safety Committee at 3 p.m. Monday. The committee will hold a hearing on SB 389, sponsored by Sen. Tom Towe, D-Billings, which would essentially return Billings' standards to the more restrictive state standards, tighten Montana's one-hour standard and provide for a health study.

Proponents of the bill argue that the federal standards do not adequately protect public health in the Billings area, which has six major industrial sources of the pollutant.

Opponents argue that the federal standards are adequate and that forcing industries to comply with stricter standards may cost the area jobs.

The 1987 Legislature relaxed the standards for the Billings area to bring the industries into compliance.

Sulfur dioxide is a respiratory irritant and a component of acid rain. The pollutant is formed by burning fossil fuels like coal or oil.

Although monitoring information has shown the industries in compliance with the current standards, recent computer modeling studies show violations of both the federal and state standards.

Based on the modeled violations, the federal Environmental Protection Agency last week officially notified the state that it must revise its emission control plan, called a State Implementation Plan, for the Billings area. The state has 18 months in which to respond or else face sanctions.

Jim Hughes, an environmental specialist in the state Air Quality Bureau's Billings office, said a survey of all 50 states probably would not show Montana as among those states having restrictive air quality standards both for ambient air and emissions.

Ambient air is air in the atmosphere. Emissions are pollutants that typically come out of industry stacks.

Hughes said that Montana's emissions standards are "very lenient and not progressive with modern times."

Montana's ambient standards for sulfur dioxide are about the average among the more stringent standards but are not the most stringent, he said.

(More on Air, Page 13A)

■ Responding to City Council/1C

	FEDERAL	STATE	YELL. CO
1 Hour	No Fed.	0.50	0.50
3 Hour	0.50	0.50	0.50
24 Hour	0.14	0.10	0.14
Annual	0.03	0.02	0.03

FEDERAL
MONTANA &
YELLOWSTONE COUNTY

EXHIBIT 30
DATE 4-1-93
HB SB 389

CONSIDERATION OF SENATE BILL 397: Sen. McCallum, Senate District 26, introduced SB 397 as an act to provide funding to the Department of Revenue for administration of special revenue accounts for tax checkoff programs.

Sen. McCallum said that the funds would be provided to the Revenue Department to cover the administration of the annual income tax checkoffs. In addition, the Department of Revenue would be allowed to charge each special revenue account $1 per checkoff contribution or $2,000, whichever is greater.

PROPONENTS: Sen. Severson represented the Fish and Game Committee, and he asked for a bill with a standard figure for checkoffs.

QUESTIONS (AND/OR DISCUSSION) FROM THE COMMITTEE: Sen. Halligan and Sen. Severson said they would figure out the charge by Department of Revenue to deal with the mechanics of checkoffs. The bill wasn't posted due to time constraints, so that it could be referred to the House as soon as possible.

CLOSING: Sen. McCallum thanked the committee for hearing a revenue bill in Natural Resources.

DISPOSITION OF SENATE BILL 397: Sen. Severson made a motion that SB 397 DO PASS. Motion CARRIED unanimously.

CONSIDERATION OF HOUSE BILL 534: Rep. Tom Hannah, House District 86, introduced HB 534 which deals with the sulphur dioxide emissions in Billings. Rep. Hannah reported that HB 534 would do the following:

> Increase the SO_2 emission standard in the Yellowstone Valley from Montana's standard to the federal level standard both on the 24-hour and annual basis.

Three refineries, the sugar beet factory, the sulphur processing plant and a coal-fired electric generating plant put the Yellowstone Valley at periodic times in violation of State standards. The Yellowstone Valley, however, is in compliance with federal standards.

Rep. Hannah called the committee's attention to the Statement of Intent that was attached to HB 534 in the House of Representatives, and he cited six points in the Statement of Intent.

Rep. Hannah then submitted information to support his statements. (Exhibit 1) Rep. Hannah stated that companies had already voluntarily found some means to reduce SO_2 emissions. He said that Billings is the only city in the State that has a sulphur dioxide problem. The reason the problem exists is because industries are located there that were built prior to the enactment of plant standards. At present Billings is operating on the federal standards and has never been out of compliance with the federal standards. Rep. Hannah repeated several times that HB 534 is a "status quo" bill because it will not allow the air in Billings to get worse. He said he believes as a result of the passage of HB 534, there will be cleaner air in Billings because industry and State departments are talking towards an agreement that will bring about a reduction in sulphur dioxide that they had never considered before.

PROPONENTS: Dan Farmer, Billings Chamber of Commerce, spoke on behalf of Jim Scott, President of Billings Chamber of Commerce, and Mr. Farmer read Mr. Scott's testimony which stated that the Chamber of Commerce supports HB 534 because the Billings Chamber supports both jobs and clean air. (Exhibit 1) He also stated that when the House heard the bill, 250 Billings residents who favored HB 534 traveled to Helena in buses. Mr. Farmer submitted a list of their names as an exhibit to these minutes. (Exhibit 2) As a private citizen, Mr. Farmer submitted his testimony in support of 534. (Exhibit 3)

Henry Hubble, Manager of Exxon Refinery in Billings, testified in support of HB 534. Mr. Hubble stated that the federal standards proposed in HB 534 are very strict health-based standards, designed to protect the health of the most sensitive members of society with an adequate margin of safety and to protect agriculture, visibility, and aesthetics. He stated that all areas in Billings meet federal air quality standards; in fact, the Air Quality Bureau has estimated that most areas in Billings meet the State's air quality standards and that changing the standards will not degrade state air quality. He submitted an SO_2 Air Quality Measurement Table that showed Billings is in a downward trend due to the voluntary industry efforts. This table (Exhibit 4) which was compiled from State data, shows that average SO_2 measurements in Billings have decreased from 0.027 to 0.021 ppm between 1983 and 1985. Mr. Hubble said he does not believe that the compromise that is now being discussed with the Department of Health would be legal without the passage of HB 534. He urged the committee to concur with HB 534. (Exhibit 5)

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Robert Holtsmith, Manager, Billings Refinery, Conoco, Inc., testified that Conoco supports HB 534. Mr. Holtsmith said that since the health of the community is protected by the federal standards, Conoco does not believe that the State standards are necessary or valid. He stated that Conoco is a participant in a joint law suit, filed in 1980, to challenge the State statute. However, the lawsuit has remained dormant while there is an attempt to reach agreement on the issue. Mr. Holtsmith reported that the recent meetings among affected industries, the Air Quality Bureau, and concerned citizens have shown progress. Mr. Holtsmith urged the committee to enact legislation mandating Montana's Air Quality Standards for Sulfur Dioxide Emissions be made identical to the federal National Ambient Air Quality Standards. (Exhibit 6)

Louis J. Day, Refinery Manager at the CENEX Refinery in Laurel, testified in support of HB 534. He stated that CENEX had invested $5,7000,000 in a sulfur dioxide reduction program in 1977, and the plant achieved an 80% reduction in the ambient sulfur dioxide concentration in Laurel in 1979. However, there are presently rules before the Board of Health which would require additional emission reductions up to 45% at CENEX Refinery. If implemented, CENEX would be required to commit to an investment which may well exceed $70,000,000. (Exhibit 7)

Carlton D. Grimm, Montana Power Company, said that HB 534 would have the effect of granting existing industry in Billings a permanent variance from the present State ambient standards. He stated that Montana Power has been convinced for years that federal standards were based on extensive studies and hearings; therefore, federal standards are sufficient to protect public health and welfare. In Montana Power's opinion, the stringent State ambient sulphur dioxide standards are not necessary and were based upon an inadequate record. Furthermore, the cost to comply with State standards is exorbitant. Mr. Grimm explained that MPC endorses intermittent control along with adoption of HB 534. Even though there is an agreement being negotiated which would comply with HB 534 Statement of Intent, Mr. Grimm specifically stated that MPC would not sign such an agreement if HB 534 were not passed. (Exhibit 8)

Kenneth L. Williams, Entech/Western Energy Co., Butte, testified in support of HB 534. Mr. Williams stated that Western Energy Company supplies coal from a Rosebud Mine at Colstrip to the J.E. Corette Generating Station in Billings. He stated that the economic impacts would reach into and affect all sections of Montana; therefore, he urged the committee to concur with HB 534. (Exhibit 9)

Dr. Ronald E. Burnam of the Fellow American College of Chest Physicians, who resides in Billings, testified in favor of HB 534. Dr. Burnam stated that SO_2 concentrations of 0.25 ppm--ten times the federal standard--or less did not induce symptomatic bronchoconstriction in exercising asthmatics (short-term exposure). He also reported that studies since 1981 have showed no evidence of adverse effect on lung function at levels of .04 ppm (long-term exposure). Dr. Burnam then questioned the validity of the Montana Air Pollution study that has been quoted in the local media as a reason for more stringent standards. NOTE: Dr. Burnam summarized his remarks and mailed them to Natural Resources Committee on March 16. (Exhibit 10)

Mike Micone, Western Environmental Trade Association, supported previous testimony and he emphasized one point and that was that the Department would probably suggest that HB 534 would not be needed because they are reaching agreements with industry. Mr. Micone stated to the contrary: "HB 534 will provide the basis whereby those agreements can be reached." He said HB 534 deserved the support of the committee.

Gene Pigeon, Montana-Dakota Utilities (MDU), went on record as supporting HB 534--"Clean Air and Jobs." MDU Resources services plants in Billings when ambiet conditions warrent shutting down their fuels and transferring to natural gas. Mr. Pigeon said that MDU recommends that the committee support HB 534.

Time had run out for other proponents to testify, and Jo Brunner who represented the Montana Cattlefeeders submitted written testimony only. (Exhibit 11)

At that point, Sen. Keating asked other proponents to stand, and 13 people stood in support of HB 534.

OPPONENTS: Howard Toole, Board of Health, Missoula, testified against HB 534. He said the conflice on this subject in Billings had let to the proposal of rule-making in regard to the annual and 24 hour standards. He indicated that the Board and the Department are committed; and if the Legislature wanted them to continue to try to work out a consensus approach to the problem, the Board of Health possibly could engage in new rule-making proceedings and re-visit standards with appropriate administrative action. Mr. Toole was concerned that the passage of HB 534 would make negotiation impossible. He stated that if Billings is allowed to be in compliance with the federal standard only, there would be no incentive for further negotiations. Mr. Toole said that the Legislature

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had given the BHES the authority for policy making in the area of environment, and they were willing to accept that responsibility and would continue to do so. However, Mr. Toole suggested that if HB 534 were passed, the Board of Health ". . . would look at other matters!"

Hal Robbins, Department of Health and Environmental Sciences, testified that he recognized the Legislature's right to control policy, but he objected to HB 534 because it would interfere with the administrative process. The Department of Health and Environmental Sciences had adopted the air quality standards for Montana in the first place, and he believed that the Board should be given an opportunity to implement those standards. Mr. Robbins reported that the standards were adopted only after lengthy public hearings and testimony, and he suggested that the issue was not within the realm of the Legislature. He stated that the duty and implementation should remain the province of an independent board since it had been created specifically for that purpose and has the time necessary to insure a fair implementation. Furthermore, Mr. Robbins stated that sufficient health data exist to conclude that the existing Montana ambient air quality standards are reasonable to protect public health. (Exhibit 12)

Rep. Kelly Addy, House District 94, opposed HB 534. He said that HB 534 is a classic example of what prompted Sen. Mansfield to say when the environmental movement was still in its infancy, "We have to strike a balance." Rep. Addy said that there must be a balance between jobs and environment, and that each consideration is as valid as the other. He stated he objected to the following:

1. Proposal will be a permanent change--there is no sunset in the bill.

2. Bill "tinkers" with the 24-hour standard in which asthmatics would have to pay the penalty.

Rep. Addy said that the people in the Yellowstone Valley should be given a choice of which air quality standards they prefer. Rep. Addy then distributed amendments that were offered by Rep. Harper on the Floor of the House. (Exhibit 13)

Eileen Morris, a resident of Yellowstone County and also a Northern Plains Resource Council representative, testified against HB 534 (Exhibit 14). She distributed two review documents for the committee members to read:

1. Summations from the final Environmental Impact Statement on the Ambient Air Quality Standards Study, dated February 14, 1980 (Exhibit 14-a)

2. EPA's Second Addendum to Air Quality Criteria for Particulate Matter and Sulfur Oxides (1982): Assessment of Newly Available Health Effects Information (Exhibit 14-b).

Ms. Morris said that the issue involved is not how much clean air will cost, but who will pay the cost. If Montana industry is not required to control its air pollution, Ms. Morris stated that many in the State would suffer the consequences by ill health. Ms. Morris urged that the Committee not concur with HB 534.

Wendy Anderson, Public Health Association of Montana, testified for Carolyn M. Hamlin, Assistant Professor of Public Health Nursing. Ms. Hamlin's testimony reported that chronic obstructive lung disease is the fifth leading cause of death in Montana. Pneumonia and influenza follow as the sixth leading cause. Both of these death rates exceed the same disease-related death rates in the U.S. Therefore, it seems logical that proposed voluntary standards would be risky. Considering sulfur dioxide as one of the three major sources of air pollution which would result in a decreased quality of life and high medical expenses, Ms. Anderson stated that HB 534 cannot be allowed to pass out of committee. (Exhibit 15)

Claudia Massman Montana Environmental Information Center Action Fund, opposed the passage of HB 534. She said that clean air is a good State policy, and reducing Montana's air quality standards would do little to solve Montana's antibusiness climate, and result only in a loss of clean air. Ms. Massman purported that maintaining clean air would be an economic benefit to Montana because people would be attracted to the State by its largely unspoiled environment. (Exhibit 16)

Rick Berg, rancher from Glen, opposed HB 534 because of the effect it would have on agriculture and tourism. He said that SO_2 has horrible effects on agriculture as stated in a congressional report that he had read. He said that wheat, alfalfa, barley and other plants suffer leaf damage, growth inhibition, and increased mortality from SO_2 levels that are even lower than the national air quality standards.

In regards to tourism, Mr. Berg asked how many people would drive across country to breathe the air that is worse than where they left. He wondered if the tourists would take Montanans at their "word," that there really are mountains somewhere out in the haze. Mr. Berg stated that, even if we disregard all of the aforementioned objections, even if we don't care that Billings' children already have diminished lung capacities, even if we forget that Montana is renowned for its crystal clear air and sky to tourists throughout the world, even if environmental concerns are not the committee's concerns, HB 534 would set a horrible precedent to let the notion go forth that when industry threatens to "take their ball and go home," Montana will throw up her arms and say Go ahead, have your way with me." Mr. Berg concluded by saying, "Let that idea get a foothold in the State, then it's Goodbye, Big Sky!" Mr. Berg asked that HB 534, which amounted to panic legislation in his opinion, not be passed.

Scott L. Fraser, Yellowstone Valley Citizens Council, submitted written testimony (Exhibit 17). Mr. Fraser urged the committee to abandon HB 534. However, if the committee felt that HB 534 should be passed, Mr. Fraser submitted some amendments. (Exhibit 18)

Don Lees, a resident of Billings, gave testimony that his wife died in the summer of 1985 and he was of the opinion that her death was hastened by dirty air. His wife was asthmatic. Her attacks and dates of hospital admittance correlated with the pollution incidents in Billings. Mr. Lees respectfully asked the committee not to pass HB 534.

Jim Carlson, Missoula City-County Health Department, objected to HB 534 because administrative procedure would be set aside. Mr. Carlson said he was concerned about the industries not following due process. There is a concern of the legality of the standard that was appropriately promulgated and the constitutionality of HB 534. What the bill would do is set a different standard for the Billings area than it does for the rest of the State. Therefore, people's health protection would not be provided for in the Billings area. Mr. Carlson said that the bill would not adequately protect coniferous forests which are the econmic base of Western Montana, and the federal standard does not protect coniferous forests. HB 534 would set a poor precedent in saying that industries who fight rather than cooperate with a set standard may find relief in the legislature. He said that there have been a

number of industries in the State who have cooperated and complied with State standards--ASARCO, Colstrip, and Missoula Pulp Mill.

Sen. Keating asked the other opponents to stand, and 12 additional people stood.

Testimony from opponents was submitted to the secretary as follows. Because of time constraints, testimony was written only.

Montana Association of Churches (Exhibit 19)
Audubon with proposed amendment (Exhibit 20)
League of Women Voters (Exhibit 21)
Montana Senior Citizens (Exhibit 22)
Yellowstone Basin Group (Exhibit 23)
Ed Zaidlicz with newspaper article (Exhibit 24)

QUESTIONS (AND/OR DISCUSSION) FROM THE COMMITTEE: Sen. Walker asked if the State air standards were being enforced in Billings. Mr. Toole said that the State air standards had been in litigation for years and there has not been any strict enforcement effort brought by the State. Sen. Walker asked about a comprehensive review study of the standards, and Mr. Toole indicated that he would like to see such a study be undertaken because BHES had deferred twice for lack of good data.

In reply to Sen. Severson's inquiry, Mr. Robbins said he thought maybe 20 states have higher standards than the federal standards, but he wasn't sure.

In the course of the discussion it was reiterated that other areas in the State are complying with State standards and there is a tax reduction for companies that install pollution control equipment. There was concern expressed by some members of the committee about BHES' authority being usurped if HB 534 were passed.

Sen. Halligan asked Mr. Hubble if he would support legislation that would allow tax credits for installation of air pollution devices, and Mr. Hubble said that would make sense to him. It was repeated time and again by representatives of industry that as long as federal standards were being met, the public's health was protected. Board of Health people insisted that others in the State could and did meet State criteria and Billings industries should do likewise.

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Sen. Yellowtail referred to the Statement of Intent, and he asked why companies should negotiate. Mr. Hubble said industries have made a public commitment and it's good faith.

Sen. Walker asked Sen. Regan for her comments, and she said that HB 534 disturbs her since BHES and industry are already working on solutions. She said she does not believe that industries would close if they were held to State standards.

CLOSING Sen. Hannah distributed a table showing locations of monitors in the Billings area and a letter to EQC from Mr. Robbins. (Exhibit 25) Rep. Hannah said he feels it's wrong to assume that industry would not leave the State. HB 534 is a good preserver of jobs in his opinion. He said that the question to finally answer is why do we need this bill. Frankly, Rep. Hannah felt that BHES is only negotiating with the companies because of the existence of HB 534. He reported that HB 534 had received 72 votes in the House and concluded his remarks by saying it is important and critical to the economic life of industry in Billings. It can be documented that that there will be clean air, and SO_2 in the Billings area would go down with the passage of HB 534.

There being no more business to come before the Committee, Sen. Keating adjourned the meeting at 2:57 p.m.

THOMAS F. KEATING, Chairman

nm

ROLL CALL

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 3/13/87

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Keating, Chairman	✓		
Sen. Cecil Weeding, Vice Chairman	✓		
Sen. John Anderson	✓		
Sen. Mike Halligan	✓		
Sen. Delwyn Gage	✓		
Sen. Lawrence Stimatz	✓		
Sen. Larry Tveit	✓		
Sen. "J.D." Lynch	✓		
Sen. Sam Hofman	✓		
Sen. William Yellowtail	✓		
Sen. Elmer Severson	✓		
Sen. Mike Walker	✓		

Each day attach to minutes.

EXHIBIT 30
DATE 4-7-93

EXHIBIT 9C

DATE 4-7-93

SB 389

DATE March 13, 1987

COMMITTEE ON Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppose
[illegible]	[illegible]	HB534		X
[illegible]	[illegible]	[illegible]		X
[illegible]	[illegible]	[illegible]		X
Ed BARTLETT	MONTANA POWER	HB534	X	
[illegible]	[illegible]	HB534	X	
Janet Ellis	MT Audubon	HB534		X
[illegible]	Northern Plains Resource Council	HB534		X
[illegible]	MEIC	HB534		X
[illegible] FRASER	[illegible]	HB534		✓
[illegible]	[illegible]	HB534		✓
[illegible] BERG	[illegible]	HB534		✓
[illegible]	[illegible]	HB534		✓
[illegible]	Self	HB534		✓
Carlton D. Grimm	Montana Power Company	HB534	X	
[illegible]	MT Dept. of Health	HB534		✓
[illegible]	MT Board of Health	534		X
[illegible]	[illegible] County	534		X
[illegible]	NPRC	534		X
Edwin [illegible]	Health Board [illegible]	534		X
[illegible]	[illegible]	534	X	
Bob Hollsmith	Conoco	534	X	
[illegible]	Conoco	534	X	
[illegible]	Cenex	534	X	
Mike [illegible]	WETA	534	X	
Bert Olsen	Conoco	534	X	
Ken Williams	Western Energy	534	X	

(Please leave prepared statement with Secretary)

DATE March 13, 1987

COMMITTEE ON ______________________

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
[illegible]	[illegible]	[illegible]		✓
Stacy Stenberg	MT Dept of Health	534		X
Dan Farmer	MDU / CTC	534	X	
Gene Pigeon	MDU Resources Group	534	X	
[illegible]	Cattlefeeders	534	X	
David [illegible]	Mt Mtn Mushers	HJR 19	X	
Mark [illegible]	Helena Citizen Com.	HJR 19	X	
Henry Hubble	Exxon	534	X	
Anne [illegible]	concerned citizen	534		✓
" "	"	HJR 19	✓	
Tom Tully	NPRC	534		✓
Mike Koen	Citizen	534		✓
LINDA COLLINS	BEAR CREEK COUNCIL GARDINER MT	534		X
Stuart Doggett	Mt [illegible]	534	X	
[illegible]	MPC	534	X	
[illegible]	CENEX	534	X	
Ted Robbins	ASARCO, INC	534	X	
Karla Gray	MPC	534	X	
Jan Cool	Exxon	534	X	
Jo Brunner	MONTANA CATTLEFEEDERS	534	X	
Art Wittich	Montana Power	534	X	
Bob Quinn	Mont Power Co.	534	✓	
Anne Black	NPRC	534		X
[illegible] MD	Concerned Citizen	534	✓	
Richard [illegible]	" "	534	✓	
Thomas A. Nelson	Exxon	534	X	

(Please ... ve ... red ... tem ... with ... ret ...)

DATE March 13, 1987

COMMITTEE ON ______________________________

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Tom Schey[illegible]	Exxon Co. USA	534	✓	
Stan [illegible]	"	534		✓
B. [illegible]	Am. Assoc. Univ. Women	534		✓
[illegible] Hansen	Self - Billings	534	✓	
[illegible] Wright	"	534	✓	
Sandy [illegible]	self	534		✓
[illegible]	Montana Public Health Assn	534		✓
[illegible] (Allison)	NPRC	534		✓
Bill Opitz	DHES	534		✓

EXHIBIT 36
DATE 4-7-93
SB 389

(Please ...

EXHIBIT 3C
DATE 4-7-93
HB SB 389

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
HOUSE OF REPRESENTATIVE
50TH LEGISLATIVE SESSION

February 4, 1987

The meeting of the Natural Resources Committee was called to order by Chairman Tom Jones on February 4, 1987, at 1:00 p.m. in the SRS Auditorium.

ROLL CALL: All committee members were present with the exception of Reps. Grady, Kadas and Harp who were excused.

HOUSE BILL NO. 534: Rep. Tom Hannah, District #36, sponsor, stated HB 534 pertains to ambient air standards as it relates to sulfur dioxide, and primarily, as it related to the Yellowstone River Valley and the industries that are there. This is important, stating the substance of the bill is found on Page 1, liens 23-24, and Page 2, line 1. The effect of these changes are simply to take the current air quality standards for sulfur dioxide, at the state level, and raise them to the existing federal level in two areas; the annual and the 24-hour. It effects sulfur dioxide only, not particulate or any other chemicals that might be in the air. It effects simply, sulfur dioxide, and because of that, it primarily effects Billings. In fact, this bill regards only one community in this state that has an industry base, as Billings does. Billings is the only community in this state that has any pressure on whether or not it ought to be within the state or federal standards for sulfur dioxide emissions. This bill effects one community, namely, Billings. There are new plant standards, and if another community tried to develop an industrial base the size of Billings, the new plants would be manufactured and put together is such a way that sulfur dioxide and other emissions would be much less than they are now. The net effect of this bill is to simply maintain the status quo. Currently, Billings is operating at the federal level through on ongoing allowance from the State Board of Health which is allowing industry to work and emit under the federal standards. We are not asking to allow industry to put more sulfur dioxide in the air, but simply to maintain the status quo. This bill will do that; however, one of the most important points of the bill has been industries' agreement to reduce emissions during air inversion standards. The majority, if not all, of the 24-hour violations for sulfur dioxide occur during the time when we get an inversion. This inversion traps smoke, particulate and dust from automobiles and, of course, sulfur dioxide. Usually, this occurs half a dozen times a year, which many people say is

the main problem for respiratory disease aggravated by sulfur dioxide. We are working toward an agreement. In fact, Exxon has already reduced, through some technological means, their sulfur output by 15%, with Conoco moving in the same direction. The oil refineries have agreed to try and monitor this; to reduce during air inversion periods by going to a natural gas burn, which results in a reduction anywhere from 10% to 40%, depending on the crude being burned. Montana Power has agreed to cut down on the amount of electricity produced out of the Corette Plant. It is significant that we are heading in the direction for cleaner air for Billings. This bill points out two important aspects: taking the pressure off those industries which allows them to operate, and sets the stage for some cooperation and agreement with the Board of Health in resolving the 24-hour standard violations.

PROPONENTS: Rep. Bruce Simon stated, for the record, he does support this measure.

Rep. Jack Ramirez statedthese industries have been corporate citizens in the City of Billings and Yellowstone County. The reason his family is in Montana, is because of the refinery. His father became an accountant for, what was then, Carter Oil Company, and did the auditing for oil distribution made to the bulk plants from the refinery. For those years, that refinery had been an integral part of our community and continues to be a good corporate citizen by its voluntary efforts in trying to reduce the S02 emissions. It must be taken into account the social good that has come from educating families and children, providing homes and many jobs for our community. We want to preserve it, because, it is not only our past, but our future. The Corette Plant, which is extremely important to our future and the MHD project, depends on the existence of that plant and is important to our community and the State of Montana. He urged the committee to be flexible in seeing these industries through this time of their needs.

Henry Hubble, Refinery Manager, Exxon, distributed testimony (Exhibit 1). He stated the EPA standards proposed in this bill are health based standards, designed to protect the health of the most sensitive members of society with an adequate margin of safety, protecting agriculture, visibility and anesthetics. The Billings area does not exceed any federal air quality standards, and there are no other areas in Montana which come close to violation of the State S02 standards. Most importantly, S02 air quality measurements in Billings continue to show a steady downward trend due to voluntary industry efforts. This table, which was compiled from EPA data, shows that average S02 measurements in Billings have decreased from .026 to .022. Exxon, in the

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last decade, has spent millions of dollars in energy conservation and emissions reduction equipment to improve air quality. In conclusion, we have tried to work through the administrative process in good faith. We have been willing to make reductions, but at the same time, have asked the Board of Health to consider the negative economic costs associated with achieving the existing state standards. The Board has not indicated a willingness to re-evaluate and/or change the state standard. We feel continuing through the administrative process is costly to industry and the state; however, the legislature is in the best position to assess state economic impacts. Passage of this legislation will allow for the protection of human health and air quality, which will help Montana industries remain competitive.

Jim Scott, Billings Chamber of Commerce, distributed testimony (Exhibit 2). It is appropriate the Chamber can testify on HB 534, which effects both profitability of existing industry and quality environment. There are two very important issues in the question of SO2 levels in the Yellowstone Valley. The first is standards of acceptable levels of SO2. The Chamber believes the federal standards are appropriate, given current health information and current economic conditions in our community. Having more stringent state standards seems counterproductive. Compliance will become more expensive for the industries involved and will put numerous jobs at risk. Secondly, while air quality is made up of numerous components, we are concerned with SO2 levels. The fact that SO2 levels are high relative to other cities, which studies have shown, is a negative for Billings in attracting new industry and a weakness we must address. Progress is being made to address the problem that exists and needs to continue through a cooperative and good faith effort of the industries, the Department of Health and the community.

Bob Holtsmith, Manager, Conoco, distributed testimony (Exhibit 3). He stated Conoco applauds the action of the Legislature to consider eliminating more stringent state sulfur dioxide emission standards and implement the federal Nation Ambient Air Quality for several reasons. We feel the national standards have been established after rigorous review to protect even the most sensitive members of the community. Their federal standards are subjected to scientific and public review. Also, special scrutiny by an independent national board of leading health scientists, known as the Clean Air Scientific Advisory Committee. The federal standards are under periodic, legally required review. The current review has produced little data to indicate the 24-hour, or the annual average, should be stringent. State industries could better utilize their resources to remain competitive. The refining industries in

the Yellowstone Valley not only compete with each other, but with other refineries as well. These refineries have only to achieve the federal ambient air quality standards. Emission controls for improving air quality are expensive; however, Conoco is willing to spend its fair share to prevent any endangerment to human health or the environment. In this case, however, we do not believe any such endangerment exists. Despite our beliefs, the present air quality standards are not reasonable. Conoco has consistently offered to reduce its sulfur dioxide emissions by some 15%. Conoco will continue to cooperate with the state to decrease emissions, even if the state standards are changed to the federal level.

Louis Day, Refinery Manager, CENEX, distributed testimony (Exhibit 4). In accordance with a 1977 stipulation between the Air Quality Bureau and the Billings area industry, CENEX invested millions in a sulfur dioxide emission reduction program to achieve a 15% reduction in plant sulfur dioxide emissions. This investment program, completed in 1979, showed an 80% drop in the ambient sulfur dioxide concentration in Laurel. There are, presently, rules before the Board of Health, which will require additional emission reductions of up to 45%. These rules, if implemented, will require the immediate commitment to an investment exceeding $70,000,000. Any additional regulation will affect the economic viability of our operation. CENEX will reduce the sulfur dioxide emissions from the refinery for short time periods, by 10% to 20%, if necessary, to comply with the federal 24-hour standard. Such a program can be implemented without the major economic impact of the proposed rules but would require the revision of the present Montana ambient standards.

Carlton Grimm, Director, Generation System Development for Montana Power, distributed testimony (Exhibit 5). We support adoption of the federal annual 24-hour ambient standards. Our position is we would offer voluntary intermittent emission reductions at the J.E. Corette Plant. Along with this, would be the sue of a continuous monitor which acquires the emissions from our plant. Also, the participation in ambient monitoring with other industries, the Department of Health and the Board of Health. At this time, Mr. Grimm summarized background information contained in his testimony. He stated, they felt the federal standards should be adopted and are prepared to comply with intermittent emission reductions at the Corette Plant. We believe this approach protects the health of the people in Billings and will allow existing industry to continue operations which provide margins below the federal standards and the opportunity for some economic growth in the area.

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Ken Williams, representing Western Energy, distributed testimony (Exhibit 6). Western Energy is concerned that failure to adopt the changes contemplated by HB 534 may cause the loss of coal sales. A fuel switch to Wyoming Coal would have serious economic consequences on Montana by the total loss of coal severance tax revenues, coal gross proceed taxes, as well as other taxes. However, the human tragedy is greater with loss of direct and indirect mining jobs that would weaken the economic vitality of Montana. Mr. Williams then summarized testimony regarding employment figures. From those figures, one sees the economic impacts of the coal switch significant to the State of Montana, which goes beyond the totals of coal taxes, jobs, and direct expenditures. The impacts would reach into and effect all sections of Montana's economy.

John Gibson, Division Manager, Montana Dakota Utilities, commended Rep. Hannah for initiating a bill, in attempt to come up with legislation that is not so stringent that it runs industry out of the state, yet affords clean air to those living in the industry area. Those industries are providing good paying jobs and tax base that Montana needs so badly. The current Montana standards threaten the future of these industries. He believed that emissions occur only a few days each year, when atmospheric conditions are heavy. It seems we would hear very little concern about air quality in Billings if those few days were eliminated. From previous testimony, one of the solutions to help reduce air emissions on those days is by the use of clean burning natural gas. MDU is a natural gas distributor in the Billings area and several other towns in Eastern Montana. MDU has an abundance of natural gas available, and pledge their cooperation to serve those customers on days when they might be having air quality problems. He believed there are alternatives to imposing standards so strict that it forces industry to close its doors.

Mike Micone, Executive Director, Western Environmental Trade Association, stated WETA believes industry has been making great strides in Billings and are committed to further reductions of S02 emissions. The record indicates industry has worked with the department for a number of years in an effort to reduce the emissions in Billings. In looking at the department's testimony presented in June, they stated it would only be fair to allow the administrative process to come to a decision regarding emission reduction, before taking any legislative action. They have stated there is no action pending before the board, which in any quantitive way, dictates action by the Legislature. They believe administrative processes could continue and it is time for this Legislature to take some action to allow their standards to comply with national standards. Montana, legally,

must discontinue the sending of signals to our neighbors out-of-state, that Montana is an anti-business state.

Dan Farmer, Billings Chamber of Commerce, distributed testimony (Exhibit 7). Mr. Farmer, a chemical engineer, stated from an engineering stand-point, the information given of the present Montana standard, is inadequate to support, with any degree of accuracy, in two ways. First, no model has been developed to accurately determine the source and amount of S02 emissions and the probable effect of a reduction at any of the six emitting companies. Reliable data is essential to an accurate decision. Secondly, no health data has been presented to justify Montana's lower S02 level. Federal studies are, by all accounts, considered to be accurate and have an adequate margin of safety. There is no known health reason to justify Montana's lower S02 Ambient Air Standard. If no benefit is shown, how can we justifiably force businesses to spend millions to reduce.

At this time, Rep. Hannah asked those in support to simply state their names.

Terry Carmody, representing Montana Farmer's Union; Jo Brunner representing Montana Cattle Feeders Association; Stuart Daggett representing Montana Chamber of Commerce; Carol Mosier representing Montana Stockgrower's and Montana Cattlemen.

OPPONENTS: Rep. Joan Miles stated she is testifying because she has an alternative proposal in the works and wanted to stress a few points because reference will be heard to at least some of the ideas that will be talked about. She had hoped this would be in bill form by now; however, it was clear, she would not be able to delay this hearing. She emphasized, if she lived in Billings and was facing this situation, particularly if her livelihood depended on this, she would be in the audience also. She felt it is a big problem that must be addressed. However, HB 534 as written now, is not the way to do it. This is not the same bill that was before them in June when they heard the only standard the people wanted changed was the annual standard. They heard in committee and on the House floor, the sponsor was concerned about the short term standards, but had no intention of changing short term standards. Rep. Miles did not understand why, suddenly, they need to change both long and short term standards. She stated it was not appropriate to disregard the standards that were defended as being necessary for public health six months ago. Those were defended as being important for the protection of the health of the people in Billings and now, in essence, they must disregard and change the standard. She understood, after

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listening to the proposals, industries' concern about going through an administrative process without knowing what the outcome was going to be. The proposal she was putting together,. hopefully, addresses all the things being looked at. They have heard a lot about the willingness of industry to look at intermittent controls and to cut back on production during inversion periods. Her proposal addressed continuing administrative process with very clear directives from the Legislature, not considering scrubbers and continuous monitoring devices acceptable in this situation. Any agreement drawn up, should be the short-term intermittent voluntary type cutbacks, and will be put in writing, to make sure that they do in fact, get it. It also states nothing will be done regarding enforcement of industries' to change the process, until at least June of 1988. This gave a year and a half to arrange some kind of administrative agreement by October, 1987, which would be implemented in June, 1988. This gave them needed time, before they had to start doing anything regarding intermittent cutbacks or slowing emissions down during inversions. The industries are frustrated because there has been a real reluctance to look at standards again, and it would direct the department and Board of Health to go through this processing and start looking at those standards in light of all the new data and changes the EPA is expected to make. Personally, she felt at that point, enough new information was coming about and enough concern had been expressed, that they should direct the Board of Health to do this. They must consider what was going on in Billings, regarding jobs, social good, the past and the future. They need to consider alternative proposals before they jump in and change standards they knew nothing about.

Ed Zaidlicz, member of Montana Health Board, Billings, distributed testimony (Exhibit 8). He stated for six years, the Board has patiently waited for the professional staff of the Department of Health and Environmental Science plus the six contributing companies to reach some reasonable and equitable solution to this growing problem. He must rise to the defense of the Air Quality Bureau's interminable effort to bring about some progress. Based on the record, they are professionally competent and fully committed to serving the public under the state and federal law. Now, at the peak of deliberations, to reduce this complex issue to a simple face off of job versus "bureaucratic standards" may prove to be a serious mistake. To simply "legalize" the status quo by discarding the state standard and relying on the lenient federal, ignores a host of surfacing concern. By EPA evaluations, covering 70 major cities over four years, Billings has received national recognition of having the dirtiest (SO2) pollution of any city but Pittsburgh. We are now the "Pittsburgh of the West". The trend for Pittsburgh

is improving, and unless we take concise action, we shortly will be the "Pittsburgh of America". Rep. Hannah's efforts to relax the S02 standard, by relying on the federal, is to safeguard jobs and tax base while ensuring adequate health safeguards. Considerable concern exists that those objectives can be reached. Our recent economic downturn has stimulated creditable and creative efforts, at local and state levels, to improve our economic opportunities for new business, existing operations, and to fully capitalize on the generally recognized potential of fully exploiting tourism. To lock the current air quality into a "status quo" posture would prove hard to rationalize in light of those efforts. Mr. Zaidlicz encouraged the concerned public and legislators to allow the administrative process to continue to completion and not be stampeded into an ill-advised irreversible action. Threats of plant closures should not interfere with the public's right to be fully informed and involved.

Hal Robbins, representing the Department of Health Air Quality Bureau, distributed testimony (Exhibit 9). He stated the department had several concerns about the bill. The first being, status quo, which they feel are not good enough. We are in the middle of administrative process and would like that to continue to work the problem out. In light of those kinds of things, they asked that HB 534 do not pass. Specifically, in regard to the status quo questions and the standards. There have been many health studies done and information compiled on sulfur dioxide emissions and their effects. Epidemiological studies show health risks occurred in the range of .03 to .06 on an annual average. At those levels, existed increased mortality rates for people having respiratory diseases, and increased disease symptoms themselves. As far as short term standards are concerned, clinical evidence showed effects in the .08 to .11 ppm range with the standard set a .10. Evidence showed decreases in various lung functions, especially in children, worsening health threats among the sensitive population, which included asthmatics or asthmatic problems, people with chronic destructive pulmonary diseases, and people with allergy type reactions. That group accounted for approximately 10% to 20% of the population. A study was done in the Billings area, which looked at air pollution effects on the population of the state, which was called the Montana Air Pollution Study and was funded by the 1977 and 1079 Legislatures. His testimony did present some results of that study.

Scott Frasier, Chairman of the Yellowstone Valley Citizens Council, distributed testimony (Exhibit 10). He stated much has been said about the economics of this issue. Unfortunately, the focus had been misdirected. The economic scope

was greater than the limited business interests of six Billings industries. Considerations must take into account the total business climate of Billings, as well as the entire state of Montana. It is important to note that only Yellowstone County is, and has been, unable or unwilling to meet the state standards for sulfur dioxide. This bill would ease the air quality standards for all of Montana allowing previously compliant industries to emit 50% more SO2. Are we to place the entire state's air quality in jeopardy to accommodate the motives of a few industries in Billings. Because the Billings area is basically meeting the federal standards of SO2, this bill would essentially legalize the status quo for Billings' air quality. Included in the status quo is an air quality ranking for Billings second only to Pittsburgh in sulfur dioxide. There would be a cap on industrial expansion since the ambient SO2 concentration is very near the federal limit. Without emission improvements, the refineries would be restricted to operating at their present output of about 75% capacity. If the state standard is kept, and if the administrative process is allowed to work through the Board of Health, we are optimistic that an equitable solution is possible.

Carolyn Hamlim, President, Montana Public Health Association, distributed testimony (Exhibit 11). She stated MPHA supported the right to breath clean air. Although effects of SO2 are controversial, a two-year study by Pemberton and Goldberg in 1954 showed high sulfur dioxide standards were consistently correlated with higher bronchitis death rates in 35 county boroughs analyzed. We have the technology to remove sulfur compounds from industrial flue gases. The U.S., in 1986, spent $32.4 million on research and cleanup of environmental and chronic disease through the CDC budget alone. Could the state of Montana afford to be so hind-sighted. Further, did the state of Montana wish to gamble with the health of its citizens.

Paul Berg, Chairman of the Yellowstone Basin Sierra Club, submitted testimony (Exhibit 12). He stated proponents for HB 534 have frequently asked those who favor a more stringent state ambient air quality standard to prove the federal standard is unhealthy. There have been studies indicating sulfur dioxide is harmful in concentrations below .03 ppm. Unfortunately, such studies are often inconclusive. Lack of undisputed evidence does not lead to the conclusion that .03 ppm SO2 is safe; rather it indicates, in many long-term cause and effect toxicity studies, it is very difficult to establish conclusions satisfactory to everyone.

Steve Dogherty, a Great Falls resident, stated in 1981, enforceable standards were adopted. However, a republican legislature very wisely rejected a notion that a scientific

and health decision should be made in a pressure cooker atmosphere. There was ample evidence of that pressure cooker atmosphere being placed upon them that day. Often times, in leaving a message, today we honor, applaud and award commitment, achievement and excellence. Think about the message that accompanies HB 534. Did it promote and reward aggressive enforcement of the law, or did it promote innovative technology. Would it reward creative individuals in businesses. Long term, would the message be, "it's okay to wait for the political winds to change and hope you can change the rules of the game, not in the middle of the game but at the end of the game, so you can benefit and others may pay". Think about the message that will accompany the passage of the bill, and what it means to the future economic development of Montana to defeat it.

Earl Thomas, Executive Director, American Lung Association, submitted testimony (Exhibit 13). He stated HB 534 weakened our clean air standards. The Constitution says the state and each person shall maintain and improve a clean and healthful environment for Montana for present and future generations. HB 534 would not maintain or improve clean air, but in fact weaken it. We estimate that 75% of all lung disease can be prevented.

Torian Donohoe, law student, emphasized this bill represents the most elementary tenant of history, that history repeats itself. In the early days of Montana statehood, the Legislature was held hostage by the copper industry, which threatened to shut down, if demands were not met. Today, after almost 100 years of statehood, the Legislature is again being threatened with reduced coal sales, plant closures and lost jobs. Don't allow that standard, which was adopted after two years of effort by men and women on the Board of Health, with volumes of testimony both by industry, health professions, and the citizens of Montana, fall victim to economic scare tactics. If you honestly believe the changes in the SO2 standard are warranted, please provide for a study, with the same level of technical expertise and careful consideration exercised when the standards were initially adopted. The people of Montana deserve nothing less. While no one wants to see jobs lost in Billings, the answer is interim solutions which address those specific problems, not wholesale replacement of the state standards, with a lesser federal standard and the absence of adequate technical information and careful consideration.

Due to a time shortage, Chairman Jones asked people to state their name and position.

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Rick Meis, representing the Environmental Information Center presented testimony in opposition to HB 534. (Exhibit 14).

Tom Tully, a Billings resident, presented testimony in opposition to the bill (Exhibit 15).

Russ Brown, representing the Northern Plains Resource Council, presented summations of both the final ambient air quality environmental impact statement, and the second addendum on air quality. NPRC opposes HB 534 (Exhibit 16).

Wendy Alderson, presented testimony on behalf of Grace Edwards, Chair/Yellowstone County Commissioners, in opposition to HB 534. (Exhibit 17).

Mignon Waterman, on behalf of Montana Association of Churches, submitted testimony in opposition to HB 534. (Exhibit 18).

Joan Tool, representing the League of Women Voters of Montana, submitted testimony in opposition to HB 534. (Exhibit 19).

Roger Young, President, Great Falls Chamber of Commerce, submitted testimony in opposition to HB 534. (Exhibit 20).

Rep. Addy stated the .02 standard has been in place for six years, causing no one to shut down and no lost jobs. The air quality, while it may not be .02, is better, and wanted to know if it will get any better by going to .03.

Rep. Hannah stated this was the whole intent of the bill, which did two things, providing a solution for the board and industry. The board kept putting out proposals on non-definable standards so no one has been able to put together any kind of model establishing where things come from and how it should be used. It seems they had reached a stale-mate with the department and this bill would generate the kind of discussion and agreements that were necessary, which are represented in the voluntary reductions that are already in place by Exxon, with Conoco promising a 15% reduction. Thus, the result will end the non-winable debate between industry and the department for cleaner air.

Rep. Addy stated the reason they had received cooperation was due to the .02 standard, and asked Rep. Hannah if he felt the same amount of cooperation would exist if the standard were raised.

Rep. Hannah stated he thought they would.

Rep. Addy stated if the bill passed, the air would not get any dirtier; however, if it did not, the air would not get any cleaner and he just is not sure what the bill did.

Rep. Hannah replied they had the commitment from industry to clean up the air. In a way, they had not been able to reach an agreement with the department, which was during the times they had air inversion periods. They had agreed to reduce sulfur dioxide emissions, which would go a long way toward reducing during those times when the 24-hour violations had occurred.

Rep. Addy asked Rep. Hannah how he felt about a provision in the bill that sunsets the legislation at the end of the biennium, so the Legislature in 1989 would also have to review the problem.

Rep. Hannah stated they had been reviewing the problem since 1980, and they could not seem to get any kind of an agreement finally in place by the board and the Department of Health and Industry. Rep. Hannah stated he felt they should finally end this, and they would get cleaner air and have the standards as a result.

Rep. Addy stated as long as industry knew this legislation would come up for review in two years, it should be a factor that may persuade them to vigorously pursue reduction efforts. If they thought they had won the ballgame, if already complying, and need not do anything else to comply with the law in the State of Montana, they might just take their ball and go home. Why not put a sunset in.

Rep. Hannah stated the assumption there was that industry, will in fact, continue to deal in a dishonest fashion with the state of Montana and if we don't leave this hook in industry, they will go ahead and increase emissions.

Rep. Simon stated regarding Rep. Miles' testimony, that he had shifted horses, by going from an annual standard to include the 14-hour, and he seemed to indicate there was a breach of faith on his part, and asked him to elaborate on why he did go to that measure.

Rep. Hannah stated he agreed with Rep. Miles regarding the real health effects of the 24-hour standard; however, he had the legislative staff from EQC write the Board of Health in a letter asking if the Legislature, in its upcoming session, were to change the annual standard on sulfur dioxide emission, what would be the board's response and what would the department do to that. He did have the response and would distribute (Exhibit 21). They, in effect, stated they felt the same standards of enforcement were necessary to bring

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about compliance in the annual as well as the 24-hour standard. To change the annual standard would have been an absolute useless task, because the board would have continued in the same way. He had no choice, but to either abandon the bill or address the 24-hour standard. The result of that was industries' agreement to voluntarily reduce during environmentally difficult times in the valley.

Rep. Simon asked Mr. Grimm in the levels of S02 they are talking about, what color and what odor does sulfur dioxide have.

Mr. Grimm stated it is a colorless, odorless gas at these levels.

Rep. Simon asked Mr. Grimm in regard to his testimony, he had stated it would cost MPC $40 million to put scrubbers on the Corette Plant in Billings, and wondered how much it would cost annually to operate those scrubbers, and also, who was going to pay for them.

Mr. Grimm stated, in their best estimation of the annual operating costs of these scrubbers, it would run between $2.5 and $3.5 million dollars. As far as who would pay, that seemed to be the question. The Department of Health assumed that it would be passed on the the rate payers, and he stated that is quite presumptious of the Department to come forward and state.

Rep. Raney stated in the June session, Rep. Hannah discussed .10 as being the level most important to human health, and now it was .14. Somewhere along the line, you had said you had done this because industries have agreed to voluntarily shut down during emission times like this. Rep. Raney wondered if any plan were made to get that into statute or writing so we knew they are, in fact, going to do it or should they feel they could trust them.

Rep. Hannah stated he intended to trust them, and felt this issue would not go away. If industry were to throw up; their hands and say they had what they wanted, another bill would probably be in this legislature very quickly, to address that particular issue. Rep. Hannah felt industry would go ahead and implement what they said they were going to do.

Rep. Meyers stated Missoula had often times been referred to as having problems with their air, and wondered if that would have the same force and effect on Missoula as it did in Billings.

Rep. Hannah stated the law would be statewide the way it was drafted. The key ingredient, regarding the situation in the state of sulfur dioxide, was Billings was the only area that had anywhere close to the sulfur dioxide emissions as opposed to other kinds of emissions.

Rep. Addy commended Mr. Hubble and Exxon for making the effort and going to the trouble and expense to reduce emissions 15%. The thing that made it such a frustrating issue, is they don't really have any hard data, and it seemed they don't have the capability to enforce the standard that they had on the books presently. In your opinion, is it realistic to expect us to be able to develop a workable, viable model for that portion of the Yellowstone Valley that Billings is in.

Mr. Hubble stated he was not an expert in model development; however, he felt they could make a lot of improvements in the model that had been developed.

Rep. Addy then asked how long would it take and how much would it cost.

Mr. Hubble stated he really didn't know, but in hearing some figures, it was about $300,000, which he felt was very well spent, when talking about the kinds of investments they were going to be required to make.

Rep. Addy asked Mr. Hubble what was needed to be done to clean up Billings' image as the "Pittsburgh of the West".

Mr. Hubble stated one of the things they must do, was to get the facts. They were making comparisons with compliance monitors which were set up to measure the absolute highest concentrations in Billings and using that to compare against a more "urban comparison", that being the only data they had available for the Billings area at that time.

Rep. Addy asked once they got the accurate data, where would they go from there.

Mr. Hubble stated he thought they would find they were again in compliance with federal standards, and will still show themselves to be out of compliance in specific areas, with the state standards.

Rep. Roth asked Mr. Grimm if the MHD project is implemented at the Corette plant, would that reduce the S02 emissions by that plant, and if so, by how much.

Mr. Grimm stated the MHD proposal, of course was in conceptual form presently. It was some time off, but the

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expectation was that it would reduce the emissions somewhat, but how much, they did not know.

Rep. Roth asked if they had an estimate.

Mr. Grimm stated just in estimating, someplace between 10 and 20%.

In closing, Rep. Hannah stated one of the reasons that Pittsburgh's air was cleaning up, was they no longer had the steel mills. The point simply being, we have a battle we are fighting in the Yellowstone Valley and is, a subjective battle in many ways. Many of us are worried about preserving and maintaining industrial base in the only industrial city in our state. We are also worried about the impacts of the national economy, oil and gas economy, and of our own state economy. Many of us are looking at the fact that there are jobs, and there is a tax base. We are talking about people who actually make a living off of the jobs they have, important jobs that are important to the community. The question is, is Billings going to be any better off if they continue to put the pressure on industries to the point where one or two of them would leave. If we do, and that were to happen, would we be better off, or would we be better off as a state and a community to say, we recognize we have a problem, and we have a solution that will work for our community, to keep our community running, keep industry there, which will result in cleaner air.

The solution for industry is to voluntarily comply. That is a creative alternative that has come out of the legislature, not the experts, that would reduce emissions during the times that there are air inversion problems. We will go to a natural gas burn in our refineries, which would reduce anywhere from 10-20%. We will also reduce the kilowatt reduction from the Montana Power Plant that will result in less coal being burned and less sulfur coming out. We will do our part to try and reduce the impacts of sulfur dioxide in our valley during these air inversions, because we believe these are important businesses for our community. The end result is a better cooperation between the department and the Board of Health. Secondly, we will have a stronger industry in our valley, and moving in the direction of having cleaner air. The result of HB 534 will be cleaner sulfur dioxide emissions in the Yellowstone Valley, which will offer some growth. Finally, hopefully, to send a message that we are trying in Montana and in Billings, to clean up our air and say to big business, we'd like to keep you here.

ADJOURNMENT: There being no further business, the meeting was adjourned at 2:56 p.m.

Tom Jones, Chairman

MONTANA SULPHUR & CHEMICAL COMPANY

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EXHIBIT 4
DATE 4-7-93
HB SB 389

April 7, 1993

Dear House Natural Resources Committee Member:

Montana Sulphur & Chemical Company wishes to express its opposition to Senate Bill 389 as passed by the Senate. Montana Sulphur would favor a substitute measure that would provide for a study of sulfur dioxide health effects in the Billings-Laurel area.

Since 1956, Montana Sulphur has been the major pollution control facility handling waste gases from the Exxon refinery in Billings. Our company has steadily improved its pollution control processes and equipment and is currently able to recover 95% of the sulfur in the gas streams sent to it by the Exxon refinery. In other words, the 3,300 tons of emissions from Montana Sulphur in 1992 actually represent over 60,000 tons of sulfur dioxide which was not emitted into the Billings air in 1992.

In 1987, many of the Billings industries sought assistance from the Legislature to protect them from enforcement of the state air quality standard for sulfur dioxide in the Billings area. The Billings and Laurel industries argued that they were making efforts to reduce their emissions and they needed more time to address the problem of sulfur dioxide in the Billings-Laurel airshed. They also agreed that it might be appropriate to do a health effects study of sulfur dioxide in the Billings area. To date, no health effects study has been completed.

Montana Sulphur took a position of neutrality on the 1987 legislation, known as the Hannah bill. As a pollution control facility, we did not believe that we should support legislation that might result in more pollution. Unfortunately, it appears that there has been an increase in the amount of sulfur dioxide emitted in the Billings-Laurel area despite expensive and extensive efforts to reduce emissions by some area industries like Montana Sulphur.

One of the other reasons Montana Sulphur could not support the Hannah bill was its circumvention of the normal process for setting air quality standards. The state air quality standards for sulfur dioxide were established after extensive scientific study, numerous public hearings and full participation by all members of Montana's Board of Health, the entity charged with investigating and establishing such standards.

For those same reasons, Montana Sulphur must oppose Senate Bill 389 in the form in which it passed the Senate. Once again, this measure seeks to circumvent the normal procedure for establishing air quality standards. And this time it may result in a potential reduction in air quality not only in Billings, but elsewhere in Montana. The more stringent state standard on sulfur dioxide was established in part because Montana has better air than other places. Montana Sulphur will not be a party to anything that would degrade that air.

In addition, the Billings-Laurel area is now under a federal State Implementation Plan call which will require those Billings industries who have not done so to make a serious effort to reduce their sulfur dioxide emissions. SB 389, as passed by the Senate, could interfere with the orderly progress of that process.

As always, Montana Sulphur remains hopeful that all the industries in the Billings area will work toward a solution to the sulfur dioxide problem that will be of benefit to the community. We remain willing and able to assist our fellow industry colleagues in this process. But we cannot go along with "legislative solutions" which do not address the underlying problem.

We urge you to reject the Senate version of SB 389 and ask you to support any alternative proposal for a health study.

Sincerely yours,

Mary E. Westwood

Mary E. Westwood
Director of Governmental Relations

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Department of Health and Environmental Sciences

Issues and Concerns with SB 389

As amended in the Senate, SB 389 provides for the following:

1. A study of the health effects of sulfur dioxide (SO2) and an evaluation of the feasibility of conducting a scientifically valid epidemiological health study in the Billings-Laurel area.

2. An evaluation of the current 1-hour state ambient air standard, including the number of allowable exceedances, with a report to the 1997 Legislature on the appropriate standard for the Billings-Laurel area.

3. Authority for the department to adopt rules requiring continuous emission monitoring (CEMs) for sulfur dioxide consistent with Title V of the Federal Clean Air Act.

4. Restoration of the state 24-hour and annual ambient SO2 standards on July 1, 1997 unless the Air Pollution Advisory Council or the department make findings that the state standards are unnecessary. A procedure of setting negotiated goals for the meeting the state ambient SO2 standards is also established.

Department staff were unable to obtain a copy of the amended bill for review until after approval by the Senate Public Health Committee. The bill moved quickly through the Senate, and is now in the House for a hearing before the House Natural Resources Committee. A thorough review of the amended bill has revealed numerous technical and substantive concerns (see attached memo from Tim Baker, counsel to the Air Quality Bureau). Because of the significant nature of these concerns, the Department has proposed substantial amendments to the bill (see attached). In its current form, SB 389 was the product of discussions between Senator Towe and industry lobbyists. The department did not participate in these discussions. While Senator Towe is willing to discuss further changes to the bill, industry lobbyists are unwilling to consider the department's amendments, and have threatened to kill the bill if any amendments are made. Because of the magnitude of the problems with this bill as amended by the Senate, the department is now in the position where remaining neutral is no longer the best course of action. The department should oppose the current version of SB 389 unless it is amended. A brief outline of the department's concerns with the bill (and proposed amendments) follows:

- The language in the amended bill that provides the department with authority to require continuous emission monitors (CEMs) is likely to be the source of future disagreement. During our review of this language with both Senator Towe and industry lobbyists, it was clear that they could not agree on the interpretation of the current language. We indicated that we interpreted the current language as providing the department with broad rulemaking authority to require CEMs as the department determined was necessary, as long as such requirements were consistent with Title V of the federal Clean Air Act. Senator Towe agreed with our interpretation. The industry lobbyists stated that they interpreted the language to allow the department to (by rule) require CEMs only as required by Title V, and indicated that they will sue the department if the broader interpretation is adopted. Clearly, this issue needs clarification before being written into law. In a previous legal opinion, the department has

concluded that some authority to require CEMs already exists for the Board of Health and Environmental Sciences. Accordingly, the department recommends that the current language in SB 389 either be clarified or deleted. At the request of Senator Towe, we have prepared amendments that clearly provide for the broader authority to require CEMs.

- The bill establishes the Air Pollution Control Advisory Council (APCAC) with the role of overseeing the health studies and making recommendations and findings on the adequacy of the state ambient air standards. The role of the APCAC, as described in the Montana Clean Air Act, is to advise the department as we develop and implement an air pollution control program. The makeup of the Council fits this role, with broad representation from numerous occupations. The role of the Board of Health and Environmental Sciences (BHES), as described in the Montana Clean Air Act, is to establish the rules to implement the air pollution control program through a public hearings process. BHES adopted the state ambient air standards in 1980 after an extensive study by the department and multistep public involvement in the process. The Board is currently charged with the responsibility of performing a study of the effects of sulfur dioxide on health and the environment, "to the extent that funds are available" Section 75-2-206 MCA. Switching roles from the rulemaking body charged with protection of public health and environment to an advisory group is not appropriate in conducting public health studies and making findings on the adequacy of health based ambient air quality standards. Utilizing the APCAC in the role described in the bill is not appropriate.

- The new Section 3 of the amended bill provides for the 24-hour and annual state SO2 standards to go into effect in 1997, unless findings by the APCAC or the department show they are not necessary. This section is unclear as to the status of the state standards during the interim. Are they on-hold during this evaluation period? Does this make the current state SO2 standards unenforceable in areas of the state outside of the Billings-Laurel area? Furthermore, the role of the APCAC and the department in finding the standards necessary is very unclear on both methodology and process. Although the current state ambient standards were the result of an extensive process under the Montana Administrative Procedures Act, the current bill makes no provision for public participation, criteria for decision making, or judicial review. Again, the bill has inserted both the council and department into a role previously occupied by the BHES. An additional concern with this section is the procedure for establishing "goals" for the industries to meet in achieving compliance with the more restrictive state standards. This appears to be a process which will not result in enforceability of the goals (or emission limits) by the department. For all of these reasons, this section of the bill is not workable and adds further confusion to the ambient air standards issue in both the Billings-Laurel area and statewide.

Department staff have suggested to Senator Towe that he consider our proposed amendments, or consider amending the bill to provide only the health review and feasibility study for the Billings-Laurel area. The health review in conjunction with the department's efforts in revising the State Implementation Plan (SIP) for the Billings-Laurel area should provide a much clearer picture on which to base decisions on the state ambient SO2 standards. This approach is also more in line with the department's available resources for the coming biennium. The department strongly recommends that the bill be amended as we have proposed, or that it be limited to a health review to be reported to the 1995 Legislature.

EXHIBIT 5
DATE 4-7-93
SB 389

M E M O R A N D U M

TO: Jeff Chaffee

FROM: Tim Baker TRB

RE: SB 389, Second Reading Copy, Comments

DATE: March 31, 1993

The bill has been substantially amended, and I have engaged in a thorough review of the latest version. Although I looked at this version of the bill at the meeting on Monday, this was my first glimpse of the bill as it appeared in one piece and with all of the anticipated amendments. At this point, the Department is not taking a position on the bill, but is providing technical assistance.

Pages 1 and 2, lines 21-25 and 1-12; page 7, lines 1-6. At two places the bill refers to requiring SO_2 CEMs "consistent with Subchapter V". I would interpret this language to allow us to require CEMs as we determine appropriate, as long as it was consistent with Title V. This is supported by the language in the Statement of Intent on pages 1 and 2, lines 25. The term "consistent" allows the Department to require SO_2 CEMs, as long as doing so is not "inconsistent" with a requirement of Title V. For example, if Title V subsequently does not require CEMs at all, then it could still be consistent (not in conflict with) Title V to require them. It appears that the Department has been given rulemaking authority to implement this provision. Currently, the Board of Health and Environmental Sciences may by rule require CEMs. See Section 75-2-203, MCA.

The new section 3 raises many issues and concerns. First, the application of the statutory ambient standards remains unclear as to whether or not they apply on a statewide basis. The language in subsection (1) needs to be made clearer in stating the connection to the standards contained in HB 534. Otherwise, I think someone may argue that the legislature has by implication repealed the state ambient standards, and deferred their effectiveness to 1997. Also unclear is the intent of the bill as to the continuing validity of the 1-hour standard. Assuming that it continues to be valid (which is in itself not altogether clear, since one could imply a repeal here as well), then what happens to it after the statutory standards become effective in 1997? The implication of repeal at that time will be much stronger. While a finding of "implied repeal" is not favored in the courts, there are exceptions.

In subsection (2)(A), the language refers to setting a "goal" for each company, as opposed to standards or requirements. As I understand it, the framework of this language is as follows:

the Department will establish goals for each of the sources that are identified in the modelling studies as contributing to violations of the standards (I assume that we are only setting goals for those sources actually identified as "causing or contributing" to the standards, but this is not clear); this will include a "feasible timeframe" for meeting those goals (question: may the "feasible timeframe" run past the effective date of the new standards?); after the effective date of the standards, and if there is a violation of the standards, any source not meeting their goal may be enforced against for the failure to meet the standards (as opposed to the failure to meet the goal). This is my understanding based upon my attendance at the meeting of 3/29; the language of the bill does not make this scheme clear.

Of course, ambient standards are health-based, and for that reason should never be exceeded. If the statutory state ambient standards survive all of the interim study and review, it will be because it has been determined that they are health-based. With the federal ambient standards, the idea is that underlying emissions limits are derived from the applicable ambient standards, and are applied to each contributing source. Those underlying emissions limits are then directly enforced, thus preventing an exceedance of the ambient standards from ever occurring. The scheme in SB 389 works quite differently, and allows the health-based state ambient standards to actually be exceeded before any enforcement action is taken.

In addition, it is unclear how the standards violation may be demonstrated. If only through actual monitoring, then how good is the protection for public health? As EPA has noted, modelling is acceptable, and in some respects is a better indicator than actual monitoring, which is limited in scope by the number of monitors. With monitoring, it is possible that the sources could be failing to meet their goals, and yet no violation would be recorded. Or the situation may arise where the only source not meeting its goal clearly could not have been associated with the standards violation (and would raise the argument that it could not have been "causing or contributing" to the violation). If such violations can be established through modelling, then the expense and time involved in litigation (and defending the model) may be prohibitive in some cases. Ease of enforcement is one reason why underlying emissions standards are established. Finally, if we were to rely on monitored violations, it seems unlikely that there would ever be more than one or two days of violation to pursue, which may not be enough incentive for a source to take the (expensive) steps necessary to meet its goal.

A few comments about (3)(A) and (B) are appropriate, as I am concerned about the implications of these two subsections. These subsections appear to vest in the advisory council [(A)] and the Department [(B)] an absolute veto right over the effectiveness of the state ambient standards. In regards to (A), what principles

are to govern the council's conclusion, and is there any right to have this reviewed in court? The current standards were the result of a lengthy and comprehensive public process. The same questions could be asked of the Department's role under (B). What would be the basis for the Department's finding? The health studies (there is no reference)? In addition, are these "veto rights" one-time, or could they be exercised after the standards become effective? As a final observation, (B) seems like an odd provision, given the role of the ambient standards in assuring the protection of public health.

I have other concerns about this bill, which are of a more technical nature.

EXHIBIT 5
DATE 4-7-93
SB 359

DATE 4-7-93
HB SB 389

M E M O R A N D U M

TO: Jeff Chaffee

FROM: Tim Baker TRB

RE: SB 389, Second Reading Copy, Comments

DATE: March 31, 1993

The bill has been substantially amended, and I have engaged in a thorough review of the latest version. Although I looked at this version of the bill at the meeting on Monday, this was my first glimpse of the bill as it appeared in one piece and with all of the anticipated amendments. At this point, the Department is not taking a position on the bill, but is providing technical assistance.

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I have other concerns about this bill, which are of a more technical nature.

EXHIBIT 6
DATE 4-7-93
SB 389

EXHIBIT 7
DATE 4-7-93
HB SB 389

SB 389

Amendments Proposed by
Department of Health and Environmental Sciences

a. Page 1, line 23. Following: "monitoring". Insert: "."

b. Page 2, lines 1 through 2. Strike: "CONSISTENT WITH" through "ET SEQ.". Insert: "The Department may require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources. The Department may also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources." **[This language is from Section 110(a)(2)(F) of the federal Act.]**

c. Page 2, line 3. Strike: "to require". Following: "monitoring". Insert: "is necessary".

d. Page 2, lines 10 through 12. Strike: "uncertainty" through "point". Insert: "the benefits attendant to requiring continuous emission monitoring in regard to promoting sound operation and maintenance practices, the prevention or mitigation of equipment malfunctions, and the enhancement of enforcement and compliance." **[This language is from EPA rulemaking requiring CEMs.]**

e. Page 4, lines 6 and 7. Strike: "AIR POLLUTION" through "2-15-2106". Insert: "The Board of Health and Environmental Sciences established in 2-15-2104".

f. Page 5, line 24. Strike: "AIR POLLUTION" through "COUNCIL". Insert: "Board of Health and Environmental Sciences".

g. Page 6, line 12. Strike: "AIR POLLUTION" through "COUNCIL". Insert: "Board of Health and Environmental Sciences".

h. Page 6, lines 14 through 20. Strike: "(4) WITH THE ADVICE OF" through "LAUREL AIRSHED".

i. Page 7, lines 3 and 4. Following: "HEARING". Strike: "INVOLVING AFFECTED INDUSTRIES, adopt rules to". Insert: ",".

j. Page 7, lines 5 and 6. Following: "monitoring". Insert: ",". Strike: "CONSISTENT" through "ET SEQ." Insert: "including the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources. The Department may also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources.

(2) Before the Department may require continuous emission monitoring under subsection (1), it shall first determine whether such a requirement is necessary, and if the installation of continuous emission monitoring is technically and economically feasible." **[This language is from EPA rulemaking requiring CEMs.]**

Renumber subsequent section.

Add new section: "(4) The board shall adopt rules to implement the provisions of this section."

k. Page 8, lines 15 through 25. Strike: "AIR QUALITY STANDARDS" through "DEPARTMENT".

Page 8, line 15. Following: SECTION 3. Insert: "Except as provided in [subsection (2) of section 4], on July 1, 1997, the Board of Health and Environmental Sciences shall amend Rule 16.8.820(1)(b) and (c), Administrative Rules of Montana, to read:

"16.8.820 AMBIENT AIR QUALITY STANDARDS FOR SULFUR DIOXIDE

(1) No person shall cause or contribute to concentrations of sulfur dioxide in the ambient air which exceed any of the following standards:

(a) [unchanged]

(b) Twenty-four hour average: 0.10 parts per million, 24-hour average, not to be exceeded more than once per year;

(c) Annual average: 0.02 parts per million, annual average, not to be exceeded.

(2) [unchanged]"

Section 4. (1) Upon approval by the Environmental Protection Agency of a revised state implementation plan for sulfur dioxide in the Billings and Laurel area, the Department shall:

(a) conduct modeling and such other studies as may be necessary to analyze ambient sulfur dioxide levels and to identify the sources of sulfur dioxide emissions that are causing or contributing to those levels. Findings based upon these studies must be the basis for negotiations with each source that is identified. The department shall be responsible for establishing a goal for each source that is causing or contributing to the ambient sulfur dioxide levels, with the result that compliance with the ambient standards contained in ARM 16.8.820, as amended by [section 3], is assured. These goals shall be established only after consultation with the affected source, and after a public hearing. Each goal shall be based on each source's relative contribution to ambient sulfur dioxide levels, and shall be designed to reduce that source's contribution of sulfur dioxide emissions to any exceedances of the ambient standards contained in ARM 16.8.820, as amended by [section 3]. Any goal established by the department shall include a feasible time frame for the source to meet its goal, except that such time frame may not extend beyond July 1, 1997. The goals for each source established under this subsection (1)(A) shall not become requirements of this chapter that are enforceable by the department until July 1, 1997.

(b) make a status report to the 1997 legislature.

(2) The standards contained in [section 3] shall become effective on July 1, 1997, unless the 55th legislature by statute imposes existing or other ambient standards."

NOTE: Need to amend codification and coordination instructions as appropriate.

l. Page 9, lines 1 through 23. Strike: "SHALL:" through "AMBIENT AIR STANDARDS".

m. Page 9, line 24. Following "SECTION". Strike: "4". Insert: "5".

n. Page 10, line 4. Following "SECTION". Strike: "5". Insert: "6".

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES
DIRECTOR'S OFFICE

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STATE OF MONTANA

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Cogswell Building, Room B204
Helena, MT 59620 Tele 444-2545

EXHIBIT 7
DATE 4-7-93
SB 359

EXHIBIT 19
DATE 4-7-93
HB SB389

THE AGREEMENT

The industry agreed not to further oppose the bill if it was amended to include the following:

1) A study costing up to $200,000 for this biennium and another $200,000 in the next biennium, if the first study demonstrated that further study was feasible. This study is to be paid for by the industry according to the amount of SO2 each company emits into the Billings air. It would consist of a literature search and, if feasible, a full epidemiological study of SO2 emissions on health in the Billings area. It would also include a further study of whether additional enhanced ambient air monitoring is necessary in Billings.

2) The Department may require continuous emission monitors (expensive monitors placed right in each stack) consistent with the Federal Clean Air Act.

3) Upon approval by the EPA of the revised State Implementation Plan, the Department shall conduct modeling studies with reference to the higher state standards. After negotiation with each company and a public hearing a goal for each company will be established. These goals will then be enforceable on July 1, 1997. This solves the difficult problem of how to enforce an ambient standard against six contributing polluters with completely different degrees culpability or fault.

4) The higher state standards (0.10 ppm for a 24 hour average and 0.02 ppm for an annual average) will be implemented on July 1, 1997, unless

a) The study results demonstrate that the existing standards are adequate to protect human health,
b) The Department determines that the companies have made sufficient changes to provide an adequate margin of safety for the health and welfare of local citizens, or
c) The 1997 Legislature reimposes the federal standard or adopts some other standard.

5) The Department will study the current one hour standard and recommend to the 1997 Legislature what standard and the number of exceedences should be applicable. Currently there are 18 exceedences allowed - only the 19th exceedence is considered a violation of the standard.

6) The Air Pollution Control Advisory Council shall supervise the study and certify its results.

EXHIBIT D
DATE 4-7-93
HB 692

Amendments to House Bill No. 692
First Reading Copy

Requested by Rep. Wanzenried
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
April 7, 1993

1. Page 4, line 21.
Following: "consumptive"
Insert: "use"

2. Page 42, line 10.
Following: "Jule"
Insert: ", Rubideau,"

3. Page 77, line 3.
Following: "or"
Insert: "until the Department"

PROPOSED CONTROLLED GROUNDWATER AREAS, Yellowstone National Park area, Montana

EXHIBIT 9
DATE 4-7-93
HB 692

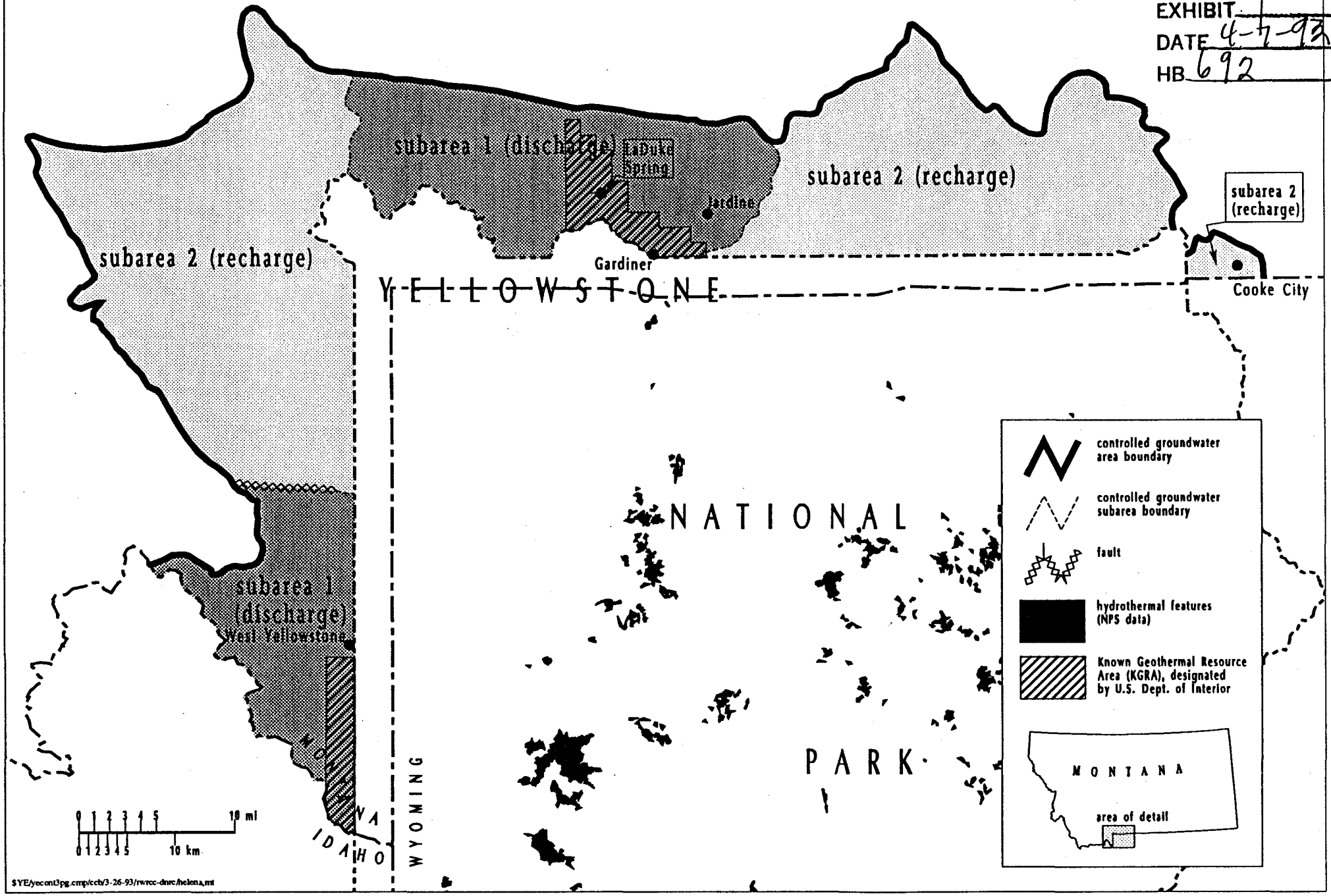

EXHIBIT 9a
DATE 4-7-93
HB 692

MESSAGE

for RWRCC

date 4/1 time 4 pm

WHILE YOU WERE OUT:

Mr. / Miss / Mrs. Carol + Jerry Nash

of Gardiner (in CYWA)

phone

Telephoned	☒	Please Call	☐
Returned call	☐	Will Call Again	☐
Wants to see you	☐	Urgent	☐

message: They Strongly support the concept of the Supermajority for the TOC.

Message taken by

Exhibit 9a contains several dozen letters to the Montana Reserved Water Rights Compact Commission in favor of stronger geothermal regulation. The complete document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

EXHIBIT 10
DATE 4-7-93
HB 692

RESERVED WATER RIGHTS COMPACT COMMISSION/
NATIONAL PARK SERVICE
U.S. DEPARTMENT OF THE INTERIOR

NEGOTIATIONS FOR RESERVED WATER RIGHTS

INTRODUCTION

During the spring of 1992 the Montana Reserved Water Rights Compact Commission (RWRCC) and the National Park Service (NPS) resumed negotiations for federal reserved water rights for five NPS units in Montana: Yellowstone National Park, Glacier National Park, Big Hole National Battlefield, Little Bighorn Battlefield National Monument and Bighorn Canyon National Recreation Area.

BACKGROUND

The RWRCC was established by the Montana Legislature in 1979 as part of the state-wide general stream adjudication process. The RWRCC is composed of nine members, four appointed by the Governor; two appointed by the President of the Senate; two appointed by the Speaker of the House, and one appointed by the Attorney General.

The RWRCC is authorized to negotiate settlements with federal agencies and Indian tribes that claim federal reserved water rights within Montana. A federal reserved water right is a right to use water that is implied from an act of Congress, a treaty, or an executive order establishing a tribal or federal reservation. It is a right that is recognized by federal law and need not be pursued through the standard state process for appropriation of water.

Members of the RWRCC Negotiating Team for NPS issues are:

-Representative Dave Wanzenried, Chairman of the Negotiating Team
-Senator Lorents Grosfield
-Representative Bob Thoft
-Mr. Chris Tweeten, Chairman of the RWRCC

Negotiators for the NPS are:

-Mr. Owen Williams, Chief of the NPS Water Rights Branch
-Mr. Rich Aldrich, Field Solicitor for the Department of the Interior in Montana
-Mr. Eric Gould, U.S. Department of Justice

After more than a year of intensive technical work by NPS and RWRCC staff and 13 negotiating sessions, the parties have reached agreement on issues relating to Glacier National Park, Yellowstone National Park, and Big Hole National Battlefield. Public comment has been received during Open Houses held in West Yellowstone and Gardiner and during public meetings in Kalispell, Wisdom, Bozeman and Gardiner. In addition, the agreements must receive approval from the full RWRCC and NPS management. The resulting Compact must be adopted by the legislature. Finally, the Compact will be integrated into Water Court decrees for each water basin. The goal of the RWRCC and NPS is to present a Compact to the 1993 session for the three units mentioned above. Negotiations will continue on Bighorn Canyon National Recreation Area and Little Bighorn Battlefield National Monument. The RWRCC asks that comments be directed to the RWRCC at 1520 E. Sixth Avenue, Helena, MT, 59620.

BIG HOLE NATIONAL BATTLEFIELD

Big Hole National Battlefield was created by an Executive Order on June 23, 1910 as a memorial to members of the Nez Perce Bands and the soldiers of the 7th U.S. Infantry who fought or died in the Battle of the Big Hole, August 9-10, 1877. Land was added by Presidential Proclamation on June 29, 1939, and by Congress in 1963. The 655 acre Battlefield marks the spot of the turning point in the Nez Perce War, which started June 15, 1877. Approximately 55,000 visitors tour the site each year.

The Battlefield carries a reserved water right for the purposes defined in the 1910 and 1939 reservations. The 1910 reservation was "for military purpose for use in protecting said monument...." (Executive Order 1216, June 23, 1910) The 1939 addition to the Battlefield, which contains the North Fork of the Big Hole River, was reserved "for the proper care, management, and protection of the historic landmarks included within the monument...." (Presidential Proclamation, June 29, 1939) The RWRCC and NPS agree that a purpose for reserving the Battlefield was historic interpretation. The RWRCC and the NPS agree that the priority date is June 9, 1939. (See the enclosed map for illustration of the watersheds surrounding the unit.)

Summary of Agreements between the National Park Service and the Reserved Water Rights Compact Commission for Big Hole National Battlefield.

Consumptive Use

The NPS and RWRCC have reached agreement on NPS consumptive uses, which include water for the visitor center, administrative offices, picnic area, maintenance area, residences, and irrigation within the Battlefield. The total amount agreed to is 7.14 acre feet per year. This amount is based on past water use, as well as a margin of use to allow for management flexibility and response to increased visitation.

Instream Flow Rights - North Fork of the Big Hole River

Because a purpose of the park is to preserve the historic condition of the Battlefield site, the NPS and RWRCC have agreed that a federal reserved water right exists for an amount of instream flow necessary to maintain the channel format and riparian habitat. The river channel bed and riparian vegetation played a role in the actual battle.

The RWRCC and the NPS agreed that an NPS water right for 10 cubic feet per second (cfs) of instream flow on the North Fork of the Big Hole River from November through March would be subordinated to water rights existing as of the effective date of the compact. From April through October the NPS will have a water right for instream flow in the amount left in the river after all existing consumptive uses are satisfied. If in any month the total consumptive use exceeds 5% of the estimated average monthly flow, the North Fork Big Hole River basin will be closed in that month to new appropriations for consumptive use upstream of the Battlefield.

Existing rights to divert water from points within the Battlefield and transport it for use off the Battlefield will not be affected by this agreement.

Groundwater

In addition to instream flow rights, there are clauses in the compact relating to groundwater appropriations. These agreements take into consideration the effect on

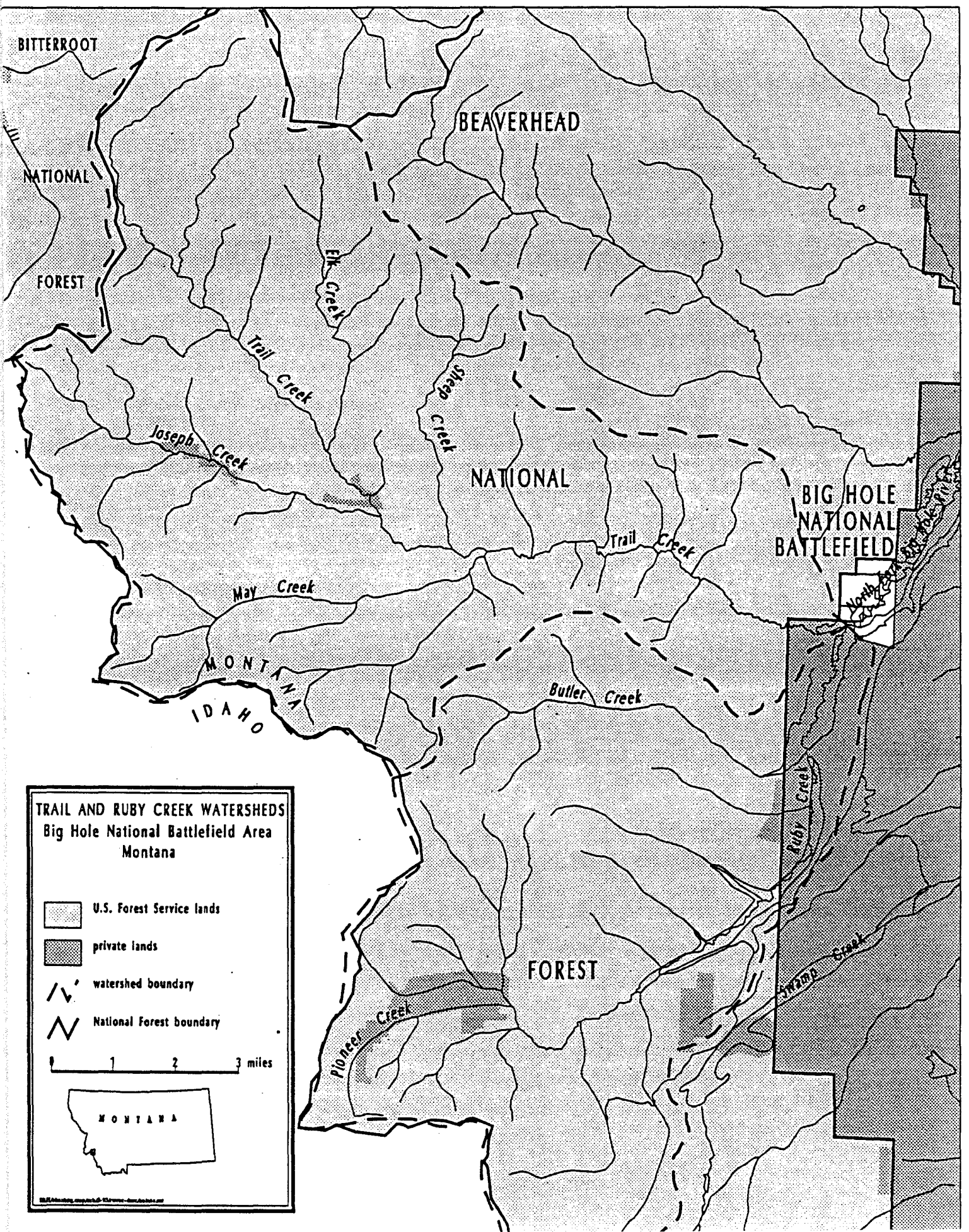
BITTERROOT
NATIONAL
FOREST
BEAVERHEAD
Elk Creek
Trail Creek
Joseph Creek
Sheep Creek
NATIONAL
BIG HOLE
NATIONAL
BATTLEFIELD
Trail Creek
May Creek
MONTANA
IDAHO
Butler Creek
Ruby Creek
Swamp Creek
FOREST
Pioneer Creek
TRAIL AND RUBY CREEK WATERSHEDS
Big Hole National Battlefield Area
Montana
U.S. Forest Service lands
private lands
watershed boundary
National Forest boundary
0 1 2 3 miles
MONTANA

EXHIBIT 10
DATE 4-7-93
HB 692

GLACIER NATIONAL PARK

Glacier National Park was created by an act of Congress on May 11, 1910. One million acres in size, the park is visited by over 2 million people each year. A federal reservation such as Glacier carries a reserved water right for the purposes for which the land was reserved. Glacier National Park was reserved "as a public park or pleasure ground for the benefit and enjoyment of the people of the United States." (36 Stat. 354) In reserving the park from the public domain, Congress specifically directed the Secretary of the Interior to "provide for the preservation of the park in a state of nature so far as is consistent with the purposes [of the reservation] and for the care and protection of the fish and game within the boundaries thereof." The RWRCC and the NPS agree that the priority date for Glacier is May 11, 1910.

Summary of Agreements between the National Park Service and the Reserved Water Rights Compact Commission for Glacier National Park

Consumptive Use

The NPS and RWRCC have reached agreement on NPS consumptive uses, including water for park administrative and domestic uses, park concessions, maintenance sites, ranger stations, campgrounds, lodges, and other places of use within Glacier. The total amount agreed to is 567.8 acre-feet per year. The amount is based on what water has been used in the past, and a margin of use to allow for management flexibility and response to increased visitation.

Instream Flow Rights

Due to the preservation purposes of Glacier that include "care and protection of fish and game within the boundaries...," a federal reserved water right exists for instream flow (to keep water flowing in the streams as necessary to protect the resources "in a state of nature...").

In order to more easily address the issues involving reserved water rights for Glacier, the negotiators agreed to break the various watersheds down into categories based on the types of streams involved, as illustrated on the enclosed map.

Category 1 includes all streams that headwater in the park and flow directly out. These streams will be dedicated to instream flow, minus any NPS consumptive use claims. No private claims exist on these streams.

Category 1a includes all streams that headwater in the park and flow out through non-federal land within the Park. The water in these streams is dedicated to instream flow, except for that used by existing private water rights holders within the Park. The rights of such inholders are protected.

Categories 2 and 3 were established for Yellowstone National Park to include all streams that headwater in the State of Montana outside of the Park and flow into the Park. There are no Category 2 or 3 streams associated with Glacier.

Category 4 streams are special case streams requiring individual treatment for quantification. They include the North Fork and Middle Fork of the Flathead River, Divide Creek, Jule Creek and Wild Creek.

In addition to the above clauses, the agreement recognizes the right of the NPS to maintain natural lake levels in lakes within Glacier National Park, minus NPS consumptive uses and other valid State water rights. The NPS may divert water for fire suppression as necessary.

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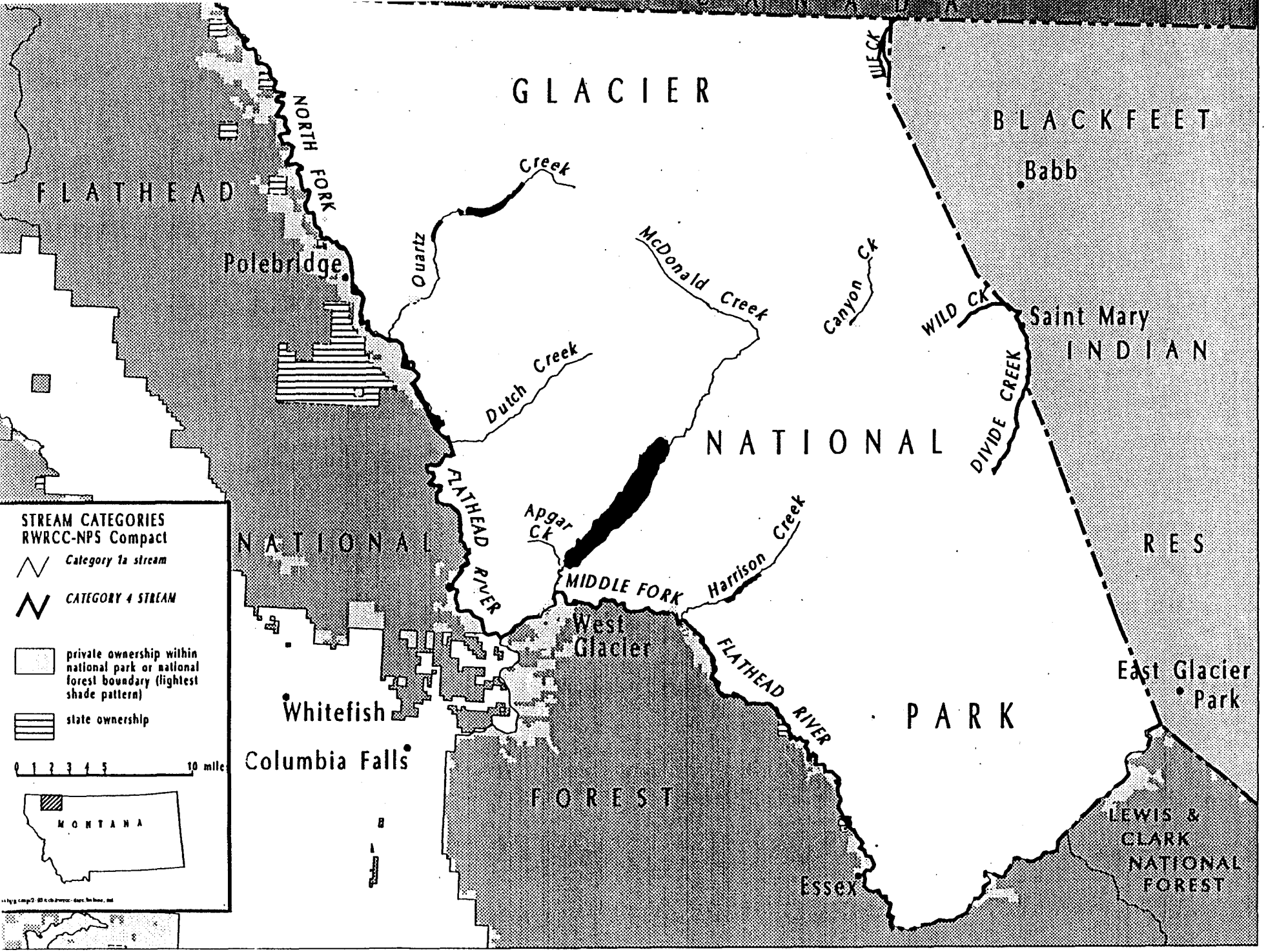
GLACIER
BLACKFEET
Babb
FLATHEAD
NORTH FORK
Creek
Quartz
McDonald Creek
Canyon Ck
WILD CK
Saint Mary
INDIAN
Polebridge
Dutch Creek
DIVIDE CREEK
NATIONAL
FLATHEAD RIVER
Apgar Ck
Harrison Creek
RES
NATIONAL
MIDDLE FORK
West Glacier
FLATHEAD RIVER
East Glacier Park
Whitefish
PARK
Columbia Falls
FOREST
LEWIS & CLARK NATIONAL FOREST
Essex
STREAM CATEGORIES
RWRCC-NPS Compact
Category 1a stream
CATEGORY 4 STREAM
private ownership within national park or national forest boundary (lightest shade pattern)
state ownership
0 1 2 3 4 5 10 mile
MONTANA

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North Fork Flathead River
(cfs = cubic feet per second)

	Ave. Monthly Flow [1] (cfs)	Estimated Existing Consumptive Claims (cfs)	Estimated Available For Future Use (cfs)	Estimated Total Use (Current+ Future) (cfs)	Estimated Percent Increase In Use	Percent Of Flow Remaining Instream
Oct	1183.9	45.6	11.8	57.4	26.0	95.1
Nov	1200.6	15.6	12.0	27.6	77.0	97.7
Dec	900.4	15.5	9.0	24.5	58.1	97.3
Jan	750.2	15.4	7.5	22.9	48.7	96.9
Feb	721.7	15.4	7.2	22.6	46.9	96.9
Mar	886.3	15.5	8.9	24.4	57.2	97.3
Apr	3386.5	6.1	6.1	12.2	100.0	99.6
May	10028.6	11.5	11.5	23.1	100.0	99.8
Jun	10011.2	46.8	46.8	93.7	100.0	99.1
Jul	4053.0	61.1	40.5	101.6	66.4	97.5
Aug	1618.3	61.1	16.2	77.2	26.5	95.2
Sep	1183.3	59.1	11.8	70.9	20.0	94.0

Middle Fork Flathead River

	Ave. Monthly Flow [2] (cfs)	Estimated Existing Consumptive Claims (cfs)	Estimated Available For Future Use (cfs)	Estimated Total Use (Current+ Future) (cfs)	Estimated Percent Increase In Use	Percent Of Flow Remaining Instream
Oct	1062.2	31.5	10.6	42.1	33.8	97.1
Nov	1156.2	30.7	11.6	42.3	37.6	97.3
Dec	923.4	11.8	9.2	21.0	78.3	96.9
Jan	712.9	10.9	7.1	18.0	65.5	96.7
Feb	695.0	10.9	6.9	17.8	63.8	96.6
Mar	813.9	10.9	8.1	19.0	74.7	97.0
Apr	3178.1	27.8	27.8	55.6	100.0	98.7
May	9765.8	31.6	31.6	63.2	100.0	99.5
Jun	10300.6	35.1	35.1	70.2	100.0	99.5
Jul	4020.0	35.1	35.1	70.2	100.0	98.8
Aug	1365.4	35.0	13.7	48.7	39.0	97.2
Sep	972.9	34.8	9.7	44.5	28.0	96.6

Estimated Existing Consumptive Claims are basin totals which include claims on tributary streams.

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[1] From USGS station 12355500: North Fork Flathead River near Columbia Falls.

[2] From USGS station 12358500: Middle Fork Flathead River near West Glacier.

YELLOWSTONE NATIONAL PARK

Yellowstone National Park, the world's first national park, was created by an Act of Congress on March 1, 1872 (17 Stat. 32). The 2.2 million acre park contains approximately 10,000 hydrothermal features, 3,000 of which are geysers and hot springs. Approximately 2.9 million people visit Yellowstone National Park each year.

When reserving Yellowstone Park from the public domain, Congress specifically directed the Secretary of the Interior to provide "...for the preservation, from injury or spoliation, of all timber, mineral deposits, natural curiosities, or wonders within said park, and their retention in their natural condition." Yellowstone National Park carries a reserved water right for these purposes. The RWRCC and the NPS agree to a priority date of March 1, 1872.

Summary of Agreements Between the National Park Service (NPS) and the Reserved Water Rights Compact Commission (RWRCC) for Yellowstone National Park

Consumptive Use

The NPS and RWRCC have reached agreement on Park Service consumptive uses, including water for park administrative and domestic uses, concessions, maintenance sites, visitor centers, lodges, entrance stations, backcountry patrol cabins, day use areas, and other places of use within the Montana portion of Yellowstone National Park. The total amount agreed to is 174.9 acre feet per year. This amount is based on past water use, and a margin of future use to allow for management flexibility and increased visitation.

Instream Flow Rights

The preservation purposes of Yellowstone National Park, including "all timber, mineral deposits, natural curiosities, or wonders within said park," mean that a federal reserved water right exists for instream flow. This instream flow right keeps water in the streams as necessary to protect park resources as required by the founding Act.

In order to more easily address the issues involving reserved water rights for Yellowstone National Park, the federal and state negotiators agreed to separate the various watersheds into categories based on the types of streams involved, as shown on the enclosed map.

> Category 1 includes all streams that headwater in the park and flow directly out. After subtracting the NPS consumptive use, the remainder of flow in these streams will be dedicated to instream flow. No private claims exist on these streams.
>
> Category 2 includes all streams, with no private claims or private land, which headwater in and flow out of wilderness areas directly into Yellowstone National Park. After subtracting NPS consumptive use and U.S. Forest Service consumptive use, the remainder of the water in these streams is dedicated to instream flow. If Congress should remove the Wilderness status of the areas outside the park, it was agreed that these streams may be reclassified.
>
> Category 3 includes streams that headwater in Montana and flow into Yellowstone Park. The water in these streams, minus the sum of NPS

consumptive uses, and U.S. Forest Service consumptive uses will be for instream flow. The instream flow right would be subordinate to current and future private uses up to 5% of the estimated average monthly flow. Additional protections for instream flow during years of less than normal precipitation include:

> The NPS has a right to maintain a critical level of flow of water in the streams at the point at which they enter Yellowstone National Park. Flow measurements would be taken at the park boundary. It would be subordinate to existing uses (as ultimately decreed by the Water Court) as of December 31, 1992 and to any non-consumptive uses such as those for the Department of Fish, Wildlife and Parks.

Category 4 streams are treated individually due to special circumstances. These streams include the Gallatin River and Soda Butte Creek.

> On the Gallatin River, all the flow minus NPS consumptive uses, and U.S. Forest Service consumptive uses will be dedicated to instream flow. The instream flow right will be subordinate to existing and future non-federal uses in the amount of 5% of the estimated average monthly flows.
>
> On Soda Butte Creek, instream flow will be the flow remaining after satisfying NPS consumptive uses, and U.S. Forest Service consumptive uses. The instream flow right will be subordinate to current and future non-federal uses up to 5% of the estimated average monthly flow. If current use exceeds 5% of the estimated average monthly flow the instream flow right will be subordinate to current use.
>
> As with Category 3 streams, the parties have agreed that during periods of less than normal flow the NPS has a reserved right to maintain a critical level of flow at the point Soda Butte Creek enters Yellowstone National Park. This flow will be subordinate to any domestic use of less than 35 gpm with a priority date before January 1, 1993; to any municipal right recognized under state law with a priority date before January 1, 1993, and to any non-consumptive use. The critical level flow will equal the average monthly flow minus 5%. When flows in Soda Butte Creek fall below this level, junior non-federal uses of water to which the NPS has not subordinated its right will be curtailed in order of reverse priority until the critical level is attained.
>
> No new consumptive use appropriations will be allowed after consumptive uses total 5% of the average monthly flow.
>
> Abandoned water rights will become available for re-appropriation only during months in which decreed and permitted use does not exceed 5% of the average monthly flow and only in an amount that does not exceed 5% of the average monthly flow. This also applies to Category 3. Another general section applying to Category 3 and 4 is that the limits on non-federal use apply to all tributaries upstream of the reserved water right.
>
> The Madison and Yellowstone Rivers are gaged streams. The flows of these rivers, less NPS consumptive uses and U.S. Forest Service

consumptive uses, will be dedicated to instream flow. The instream flow right will be subordinate to existing and future non-federal uses in the amount of 5% of the average monthly flow.

Additional agreements include:

As part of the settlement, the State of Montana agrees to grant the United States a water right to the natural flow from springs in Bear Creek that contribute to the Yellowstone River.

Geothermal

The NPS and the RWRCC agree that when Congress set aside Yellowstone National Park it intended to reserve water necessary to preserve hydrothermal features within the park. The hydrothermal features are a unique and irreplaceable State, national, and international resource and represent one of the few undisturbed hydrothermal systems in the United States. However, little is known about the interrelationship of hydrothermal features within the park and groundwater in surrounding areas of Montana.

The compact does not recognize a reserved water right to groundwater outside the boundaries of Yellowstone National Park. Instead, the proposal places restrictions on the development of groundwater adjacent to the park to prevent adverse effect on the NPS 1872 reserved water right to groundwater within the reserved land of the park necessary to preserve hydrothermal features.

Due to the difficulty of quantifying the water necessary to preserve hydrothermal features within Yellowstone National Park, designation of a controlled groundwater area will protect the reserved right while allowing controlled groundwater development adjacent to the park. The enclosed summary explains the agreements-in-principle for a controlled groundwater area.

Groundwater, Impoundments, Non-consumptive Uses

In addition to instream flow rights, there are clauses in the Compact relating to groundwater appropriations, impoundments and non-consumptive uses. These agreements take into consideration the effect on existing users and on NPS instream flow rights.

New wells (appropriated after the date of the compact) will not be included in limitations on surface water appropriations unless they are hydrologicaly connected to surface flows tributary to the Category 3 and 4 streams. An applicant for a well in excess of 35 gpm will be required to submit a report prepared by a qualified professional showing that the well is not hydrologically connected to surface flow. Owners of new wells of 35 gpm or less will be required to have a permit, but will not be required to show hydrologic connection to surface water; rather, if the United States objects to the well, it will have the burden of showing hydrologic connection to surface water.

The RWRCC and NPS have agreed that no new impoundments shall be permitted after the date of the compact on the mainstems of Category 3 and 4 streams. Impoundments in place as of December 31, 1992 are protected but may be called on Soda Butte Creek in dry years by the United States' critical flow right. Existing impoundments may be repaired or rehabilitated providing the repairs do not cause the impoundment to exceed its original capacity.

The NPS will subordinate its water right to a future non-consumptive use of water

if it does not cause a reduction in the source of supply, does not delay the return of the diverted water to the source of supply or adversely affect the quality of the water as it enters Yellowstone National Park.

In addition to the above clauses, the agreement recognizes the right of the NPS to maintain natural lake levels in lakes within Yellowstone National Park, minus NPS consumptive uses. The NPS may divert water for fire suppression as necessary.

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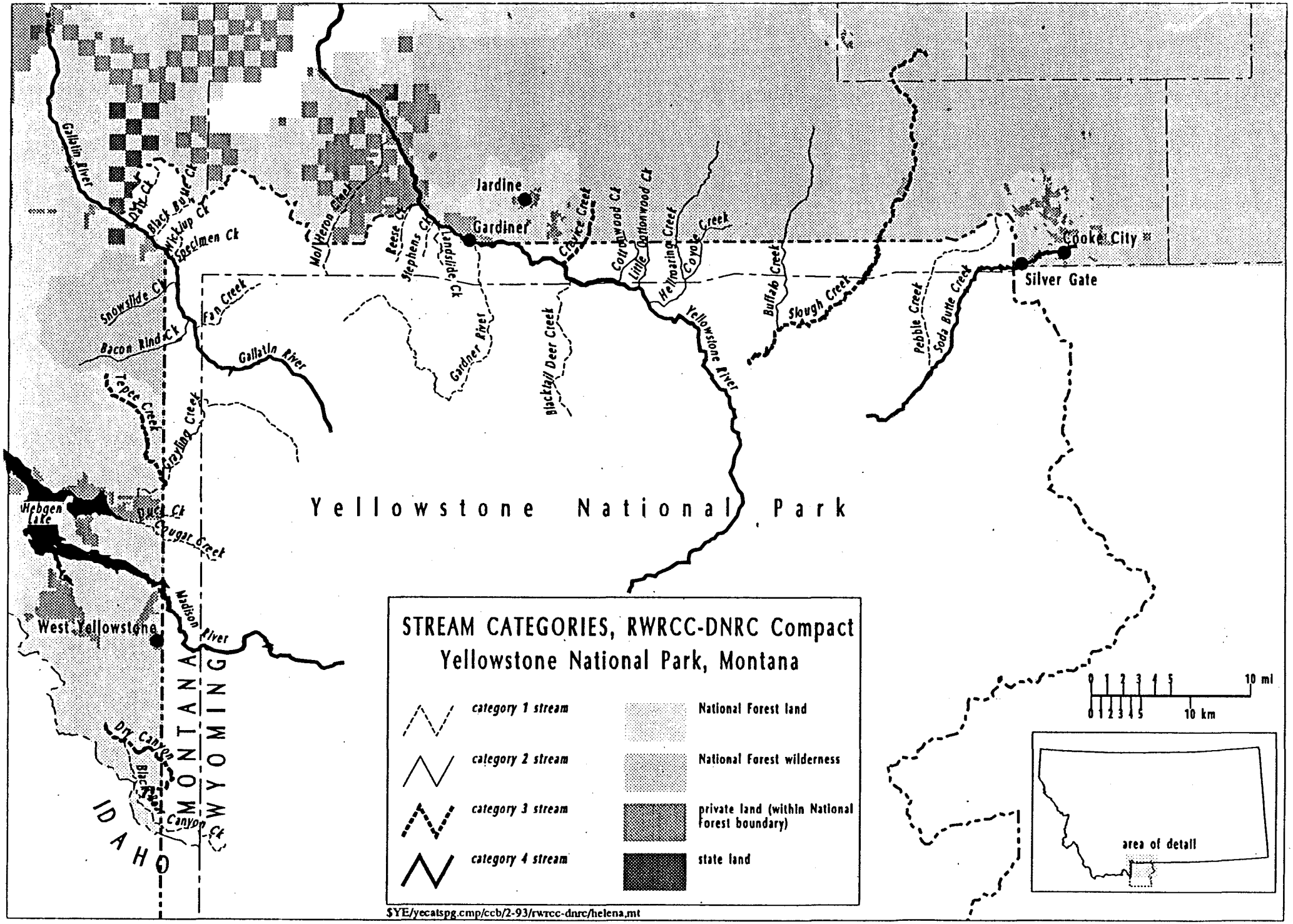

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EXHIBIT 10
DATE 4-7-93
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YELLOWSTONE CONTROLLED GROUNDWATER AREA

Introduction

This is a summary of proposed compact language for a Yellowstone Controlled Groundwater Area in Montana. The parties are presenting the proposal to the public at this stage in negotiations to allow response to public concerns prior to finalization of the agreement.

Statement of Intent for the Yellowstone Controlled Groundwater Area:

As explained in the attached Yellowstone surface water summary, Yellowstone National Park was reserved for the express purpose of "preservation, from injury or spoilation, of all timber, mineral deposits, natural curiosities, or wonders within said park, and their retention in their natural condition." 17 Stat. 32. The Montana Reserved Water Rights Compact Commission and the National Park Service recognize that Congress intended to reserve the water necessary to preserve the hydrothermal features within the reserved land of the park.

Although the proposed Compact does not recognize a reserved water right to groundwater outside the boundaries of the park, the RWRCC and the NPS agree that a controlled groundwater area be created to restrict development of hydrothermal water adjacent to the park to the extent necessary to prevent adverse effects on the NPS 1872 reserved water right to groundwater within the park. The goal of establishing and administering such an area is to allow no impact to the hydrothermal system within the park.

The NPS and the RWRCC tentatively agree that:

-unrestricted use of groundwater next to Yellowstone National Park may interfere with the NPS water rights for the preservation of hydrothermal features within the park;

-prevention of adverse effect on the NPS reserved water right within the park is a benefit to the State and to the United States;

-the public interest and welfare requires that a corrective control be adopted;

-the cooperative State-federal management established by the proposed Compact is the most effective means to protect the reserved water right to groundwater necessary to protect the hydrothermal features within the park.

Establishment of the Yellowstone Controlled Groundwater Area

Within 120 days of the date of the Compact, and within 60 days of any decision by DNRC to modify the area, DNRC will publish notice outlining the description of all lands included in the Controlled Groundwater Area, the purpose of the area or its modification, and the permit requirements, restrictions, inventory and monitoring applicable within the discharge (Subarea 1), and recharge (Subarea 2) areas.

Funding of the Yellowstone Controlled Groundwater Area

Because the NPS agrees that it will receive a benefit from a controlled groundwater area, and because there are national and international benefits extending beyond the boundaries of Montana, the federal government agrees to reimburse the State for the

expense of establishing and administering the controlled groundwater area, and for the cost of inventory or monitoring of wells within the area, subject to appropriations by Congress.

Initial Boundaries of the Yellowstone Controlled Groundwater Area

The initial boundaries of the proposed controlled groundwater area, as well as Subareas 1 and 2, are illustrated on the enclosed map.

A five-member Technical Oversight Committee will be established to recommend modifications of boundaries and other restrictions, review scientific evidence relating to the area, advise the Department of Natural Resources and Conservation regarding administration and to consult with the Montana Bureau of Mines and Geology on inventory and sampling. The Committee members will include: one appointed by the National Park Service, one appointed from the Montana University system by the Montana State Geologist, one from USGS, one from DNRC, and one selected by the other four members. Each member will serve a five-year term, subject to renewal.

Modification of the Yellowstone Controlled Groundwater Area

The Technical Oversight Committee will: review the boundaries of the area, review initial restrictions on groundwater development and future modifications of those restrictions; assess the cumulative impact of all development in the area; review changes in the groundwater and hydrothermal systems revealed by inventory and analyses done by the Bureau of Mines and Geology; review new scientific evidence pertinent to the area; present evidence and make recommendations to DNRC, and review applications for appropriation of hydrothermal groundwater on request by DNRC.

The initial review will take place within one year of the receipt of the inventory report done by the Bureau of Mines and Geology. The inventory will include all existing wells within the area and will take place during the 3 years following adoption of the Compact and appropriations of funds by Congress.

Subsequent reviews will take place every five years or following the issuance of 75 provisional permits to appropriate water within the area by DNRC, whichever comes first. Review may also be initiated on request by the State or the United States.

Within six months of the initiation of a review, the Committee will provide a report, including recommendations for modification, to DNRC and to the NPS. Recommendations shall be based on a determination by the Committee that modification is necessary to prevent adverse effect to the hydrothermal system within Yellowstone National Park. Prior to implementation of any recommendations, DNRC will hold a hearing in which the State, the U.S., and any potentially affected party may present evidence rebutting the recommendations of the Committee.

Initial Restrictions on Groundwater Development within the Yellowstone Controlled Groundwater Area

Until the initial boundaries or restrictions are modified, the following initial restrictions apply to groundwater appropriations with a priority date on or after January 1, 1993. The restrictions will not apply to appropriations prior to January 1, 1993. Those appropriations will be subject to inventory and sampling of current use in order to assess current levels of groundwater development, to record the cumulative

effect of current and future development, and to provide baseline data on the characteristics of the groundwater and hydrothermal systems.

-The RWRCC and the NPS agree that further restrictions on water less than 60°F are not currently necessary to prevent adverse effect on the Yellowstone hydrothermal system. In the future, restrictions on the development of cold water may be imposed if cold water development might injure the hydrothermal system within the Park.

-Initial restrictions on appropriations of groundwater with a temperature of 60°F or greater include the following:

The parties have agreed that, unless boundaries or restrictions are modified, or unless the Technical Oversight Committee determines that a specific appropriation can be made without adverse effect on the hydrothermal system within the Park, no permits will be issued to develop hydrothermal water that is connected to the hydrothermal system within the Park.

To provide notice to potential appropriators and guidelines to DNRC, the agency charged with issuing permits, the parties are currently working on a means to define the waters to which the restriction applies. In general, it is agreed that:

*In Subareas I (discharge area) and II (recharge area), no restrictions shall currently apply to groundwater with a temperature of less than 60°F.

*In Subareas I and II, groundwater between 60° and 85°F that is simply at normal temperature for the depth of production will not be restricted from appropriation. The applicant will be required to meet specific criteria showing that the elevated temperature is not due to discharge from the Park.

*In Subarea I there is a strong presumption that any elevated water temperature is due to discharge from the park, thus, groundwater with a temperature greater than 85°F cannot be appropriated without approval by the Technical Oversight Committee.

*In Subarea II there is a chance that elevated water temperature is not related to the Park, thus, the applicant will have the opportunity to show by a high standard of proof that the elevated temperature is not due to discharge from the Park.

<u>Appropriations of Groundwater within the Yellowstone Controlled Groundwater Area</u>

1. **After January 1, 1993 and before the effective date of the Compact:**

The initial restrictions outlined above will **not** apply to appropriations of groundwater during this time period <u>unless</u> the following conditions are met:

-Within 120 days of the date of the Compact, DNRC will provide the NPS with notice of all groundwater appropriations within the area which have priority dates on or after January 1, 1993 and before the date of the Compact.

-The NPS has until completion of the inventory of existing wells to raise a valid objection showing that the appropriation meets the criteria for application of one or more of the initial restrictions mentioned above. If the NPS can make such objection the appropriator will be given an opportunity to request a hearing. At that hearing, the NPS has the burden of showing that the criteria for application of one or more of the initial restrictions apply. Use of the appropriation will be stayed pending the final decision.

2. **After the effective date of the Compact:**

-All groundwater appropriators within the area, regardless of size, must get a permit.

-Permit applications will go through the standard permitting process as currently required by DNRC for wells over 35 gpm, with the addition of restrictions on the development of hydrothermal water. However, for wells under 35 gpm or less than 10 acre-feet, the process will be expedited by allowing objection only on the basis that the restrictions on development of hydrothermal water should apply, i.e., the temperature is high enough to be restricted.

-Permit applications for appropriations of groundwater within the area shall include a statement of the intended temperature of the appropriation.

Inventory and Sampling of Groundwater

-Within three years of the notice, all groundwater appropriations with a priority date before the effective date of the Compact will be inventoried by the Montana Bureau of Mines and Geology. The inventory will include such information as well depth, water or pump level and water temperature. Federal funding will cover the cost of the inventory.

-Following the inventory, the Bureau will sample wells selected in consultation with the Technical Oversight Committee.

-The Bureau will maintain a database on the Yellowstone Controlled Groundwater Area, and it will include information from the NPS regarding wells in the Montana portion of Yellowstone National Park. The information in the database will be available to the public.

Administration of the Yellowstone Controlled Groundwater Area

-The Yellowstone Controlled Groundwater Area will be administered pursuant to State law and the terms of the Compact. In addition, DNRC will provide the NPS with notice of any application to appropriate groundwater within the area in the same manner and time as required by State law for notice to groundwater appropriators in a controlled groundwater area.

-The NPS may be an objector to any application for appropriation of groundwater within the area.

PROPOSED CONTROLLED GROUNDWATER AREAS, Yellowstone National Park area, Montana

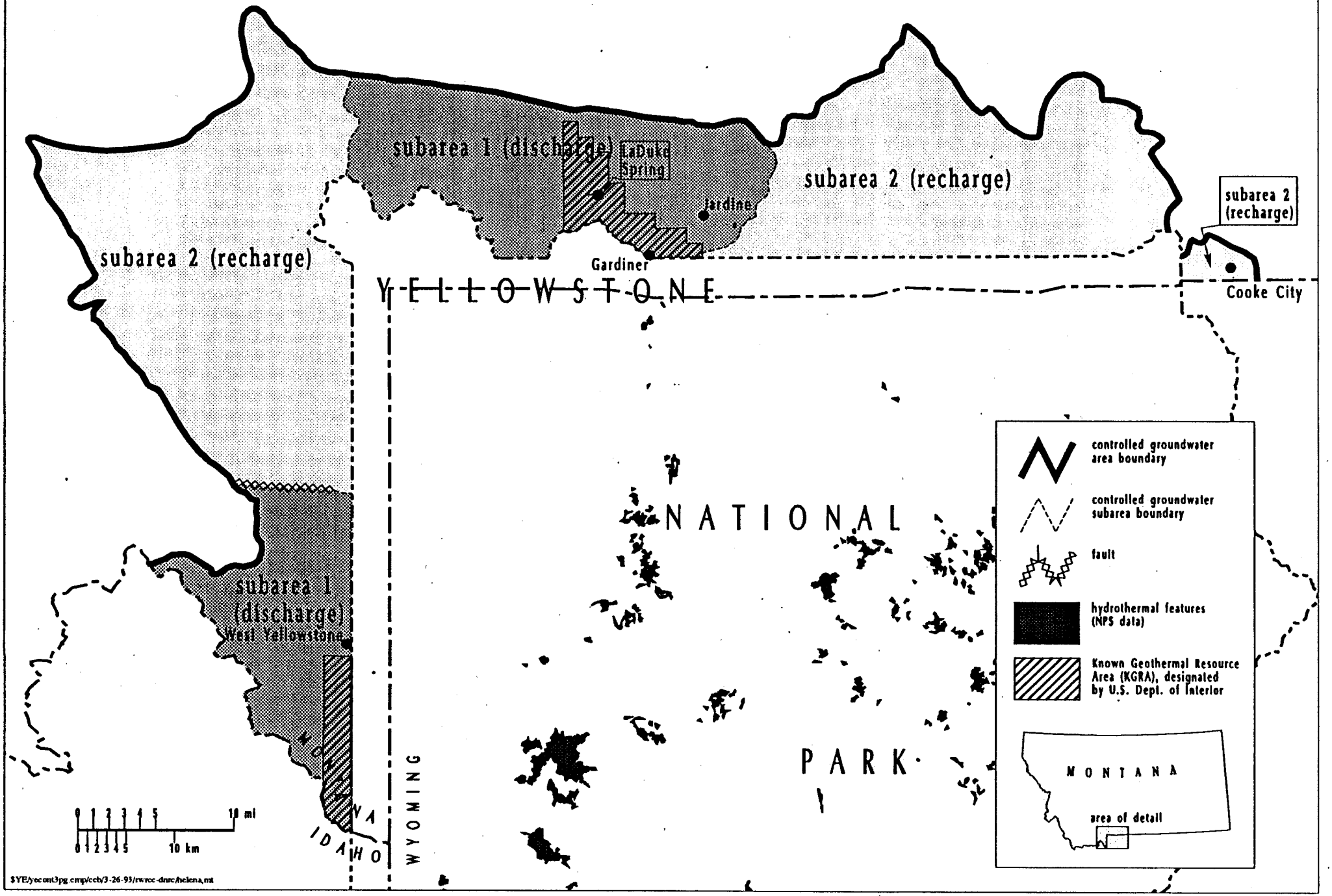

EXHIBIT 10
DATE 4-7-93

DEFINITIONS - Hydrologic Terms

Acre-foot: A unit of measure commonly used to express water volume. One acre foot of water will cover one acre of land to a depth of one foot. This equals 325,851 gallons.

Actual Consumption: Also termed "net depletion." The actual amount of water consumed by a water use. Water diverted is generally not totally consumed and some of the water returns to the stream.

Appropriation: Use of water recognized under state law.

Average/Mean Monthly Flow: The average rate that a stream flows during a given month, expressed in cubic feet per second (cfs). Averages are calculated from stream flow measurements (stream gage records). Rates generally differ for each month of the year due to the seasonal nature of temperature and precipitation.

cfs: A unit of measure used to express stream flow rates. The letters stand for cubic feet per second.

Consumptive Use: Refer to non-consumptive use.

Estimated Average Monthly Flow: An estimate of the true average monthly flow of a stream. Estimates are obtained through indirect methods when stream gage records are not available.

Groundwater: Water existing beneath the ground surface.

Instream Flow: Water remaining in the stream channel which is not available for consumptive use. Instream flow is needed to sustain stream channel values, fish and wildlife populations, streamside habitat and water quality and provide for recreation activities.

Mean Monthly Flow: See Average Monthly Flow

Minimum Flow Requirement: The minimum flow rate which is designated to remain in a stream channel for instream flow purposes.

Non-Consumptive Use: When applied to mining or hydropower use with a priority date of January 1, 1993 or later, refers to appropriations not causing a net loss in the source and where water is returned to the stream with little or no delay and without adverse effect of the quantity or quality of water. Relating to other uses, refers to a water right considered to be non-consumptive by the decree, permit or law authorizing the use.

Quantification: The process of measuring, quantifying, or allocating water to a particular use.

Riparian: Relating to the general streamside (sometimes lakeside) environment.

Watershed: The area drained by a stream system. A watershed is defined by the topographic divide, and several watersheds fit together to form a river basin.

EXHIBIT 11
DATE 4-7-93
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HOUSE BILL 692

WATER RIGHTS COMPACT
STATE OF MONTANA
UNITED STATES OF AMERICA, NATIONAL PARK SERVICE

EXHIBIT 11
DATE 4-7-93
HB 692

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525

IN REPLY REFER TO:

TAKE PRIDE IN AMERICA

EXHIBIT 12
DATE 4-7-93
HB 692

TESTIMONY OF OWEN R. WILLIAMS

NATIONAL PARK SERVICE

RESERVED WATER RIGHTS COMPACT NEGOTIATION TEAM SPOKESPERSON

ON HOUSE BILL 692

April 7, 1993

Thank you for the opportunity to testify on behalf of the National Park Service (NPS) with regard to the Draft Compact between the State of Montana and the United States for reserved water rights in Big Hole National Battlefield, and Glacier and Yellowstone National Parks. To begin with, let me provide some background about myself and the Federal negotiating team. I am Owen Williams, Chief of the National Park Service's Water Rights Branch in the Water Resources Division. While located in Fort Collins Colorado, this unit is attached to the NPS's Washington Office. I served as the NPS lead in Compact negotiations and my staff, led by Chuck Pettee, provided the technical support required by the team. Richard Aldrich, who is the Field Solicitor from Billings, served as the lead from the Department of the Interior's Office of the Solicitor. The team also included three attorneys from the Department of Justice (Eric Gould, James DuBois, and Dave Gehlert.)

As you are aware, approximately fourteen months ago the State of Montana, through its Reserved Water Rights Compact Commission, and the United States, through the National Park Service, committed to a concerted effort to negotiate issues to produce a federal Reserved Water Rights Compact. Before you is the product of that effort; one in which both parties may take pride, in my opinion.

I am unable, today, to speak for anyone other than the negotiation team itself. However, the team, joined by line officers of the affected parks, has passed the draft Compact on to the responsible officers of the Department of the Interior and the Department of Justice with a strong recommendation for approval. Washington staff of these Departments have concurred and recommended approval to their principals. Approval has been recommended because, in our collective view, this agreement accomplishes several things which are of paramount importance for the protection of these three NPS units.

First, the Compact protects the water-related resource values of each park to accomplish each "reservation's purposes". It provides instream flows for fish, riparian vegetation, and recreation and it assures that the free-flowing character of the rivers and streams of Yellowstone and Glacier will continue into the future. Protected, also, will be the historical context of Big Hole National Battlefield. The generations which follow us will have the opportunity to reflect upon and be enlightened by this important memorial to the history of this great country and its people.

Second, water for the use of existing and future visitors and staff will be assured. The existing and reasonable future consumptive uses of water at these units will be quantified by the Compact and will be protected. This gives both the State and the NPS the certainty needed to respond to growth when it occurs. Also, private water rights holders will be more secure in the knowledge that their rights are no longer put at risk by an un-quantified senior Federal Reserved Right.

Third, the Compact will avoid the substantial expenditures of financial and staff resources that are associated with contentious and uncertain litigation. During times of heightened concern over governmental expenditures, this is not a trivial matter.

Fourth, while recognizing existing water uses, the Compact also makes provision for a reasonable level of future water development by the people of Montana in tributary streams. This development can occur in an unhurried and planned manner because the Compact settles the un-quantified Federal Reserved Right question and provides protection for present and future non-federal uses. Similarly, the NPS can plan with more certainty because the Compact will specify the level of future water use of the surface and ground water which is tributary to the parks.

Finally, the Controlled Groundwater Area provisions will provide critically important protection for the Yellowstone hydrothermal system. The State and the NPS will be able to work together to improve our scientific understanding of the hydrothermal system before taking actions which could imperil this internationally important resource. At the same time, the people of Montana will be able to make reasonable and careful use of the ground water that does not affect the hydrothermal system.

I want to emphasize that this agreement is sensible for all parties. It is the view of the NPS negotiators that a good litigation case with very substantial supporting data could be brought to court. It is also our view that little would be served by such a course of action. Instead, through the Compact existing private water rights will be protected. Also, future water development will be provided for in virtually all drainages while the protection required for these nationally important NPS units will be assured.

In conclusion, I would like to recommend that this body take favorable action on the NPS Compact. I would also like to reiterate the NPS's commitment to continue negotiations to settle Federal Reserved Water Rights claims at Bighorn Canyon National Recreation Area and Little Bighorn Battlefield National Monument.

EXHIBIT 12
DATE 4-7-93
HB 692

EXHIBIT
DATE 4-7-93
HB 692

... to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations

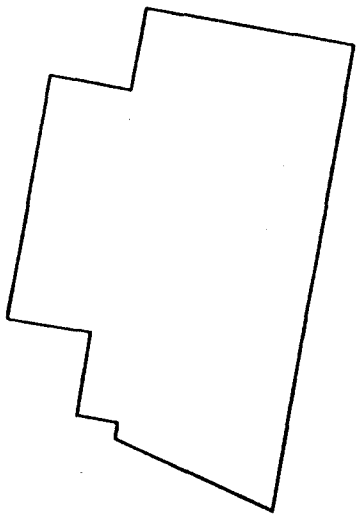
August 25, 1916
16 U.S.C. 1

BIG HOLE NATIONAL BATTLEFIELD

"...public lands...are necessary for the proper care, management, and protection of the historic landmarks included within the monument;"

Proclamation 2339
June 29, 1939
53 Stat. 2544

EXHIBIT 12a
DATE 4-7-93
HB 692



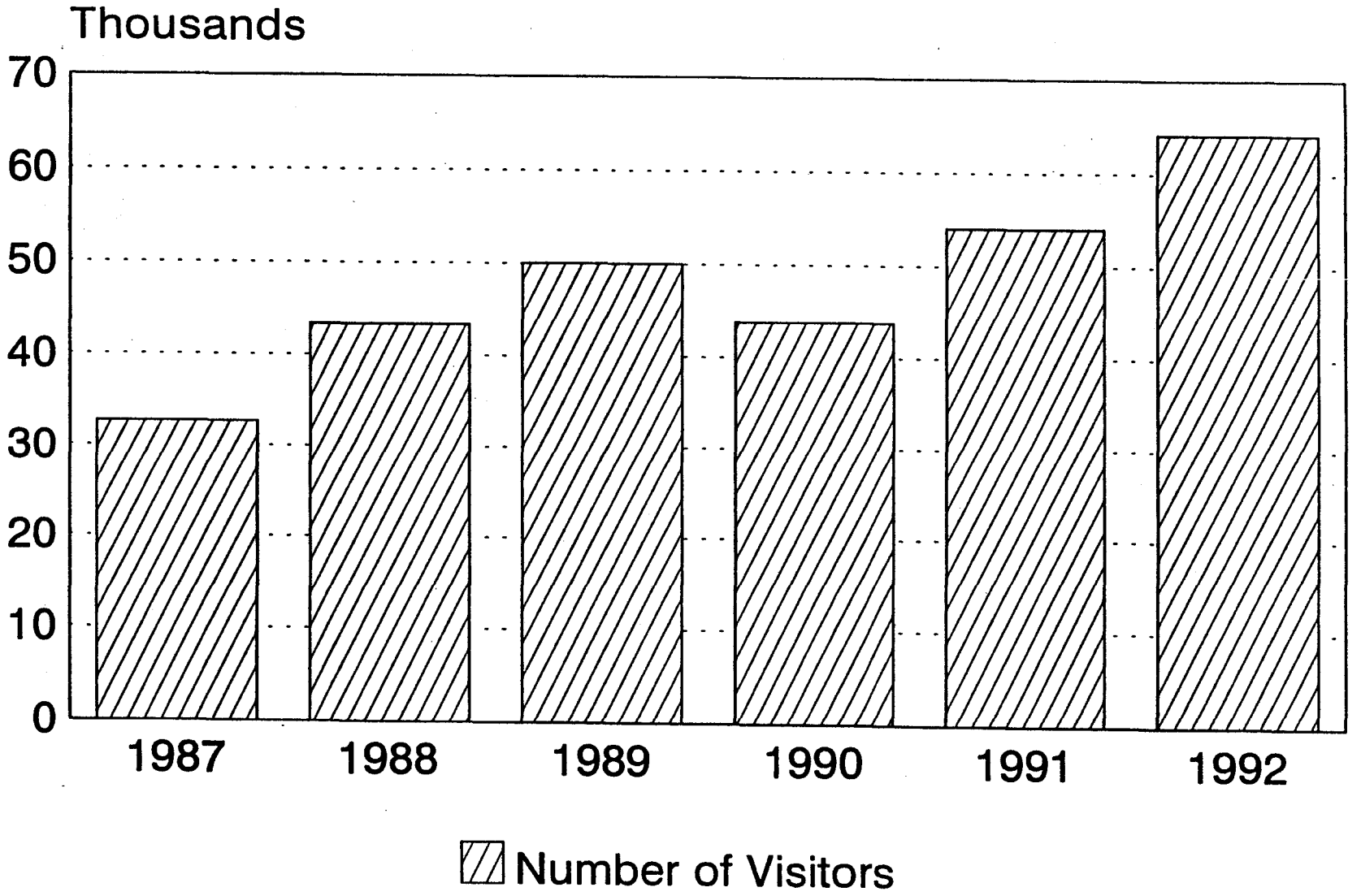
BIG HOLE NATIONAL BATTLEFIELD

In order to preserve historic features and sites associated with the Battle of the Big Hole and to facilitate their administration and interpretation,..."

77 Stat. 18
May 17, 1963

Big Hole National Battlefield

Parkwide Visitation (1987-1992)



GLACIER NATIONAL PARK MAY 11, 1910

... " a public park or pleasure ground for the benefit and enjoyment of the people of the United States...in a state of nature..., and for the care and protection of the fish and game within the boundaries thereof...."

(36 Stat. 354)

EXHIBIT 12a
DATE 4-7-93
HB 692

GLACIER NATIONAL PARK

Parkwide Visitation (1982-1991)

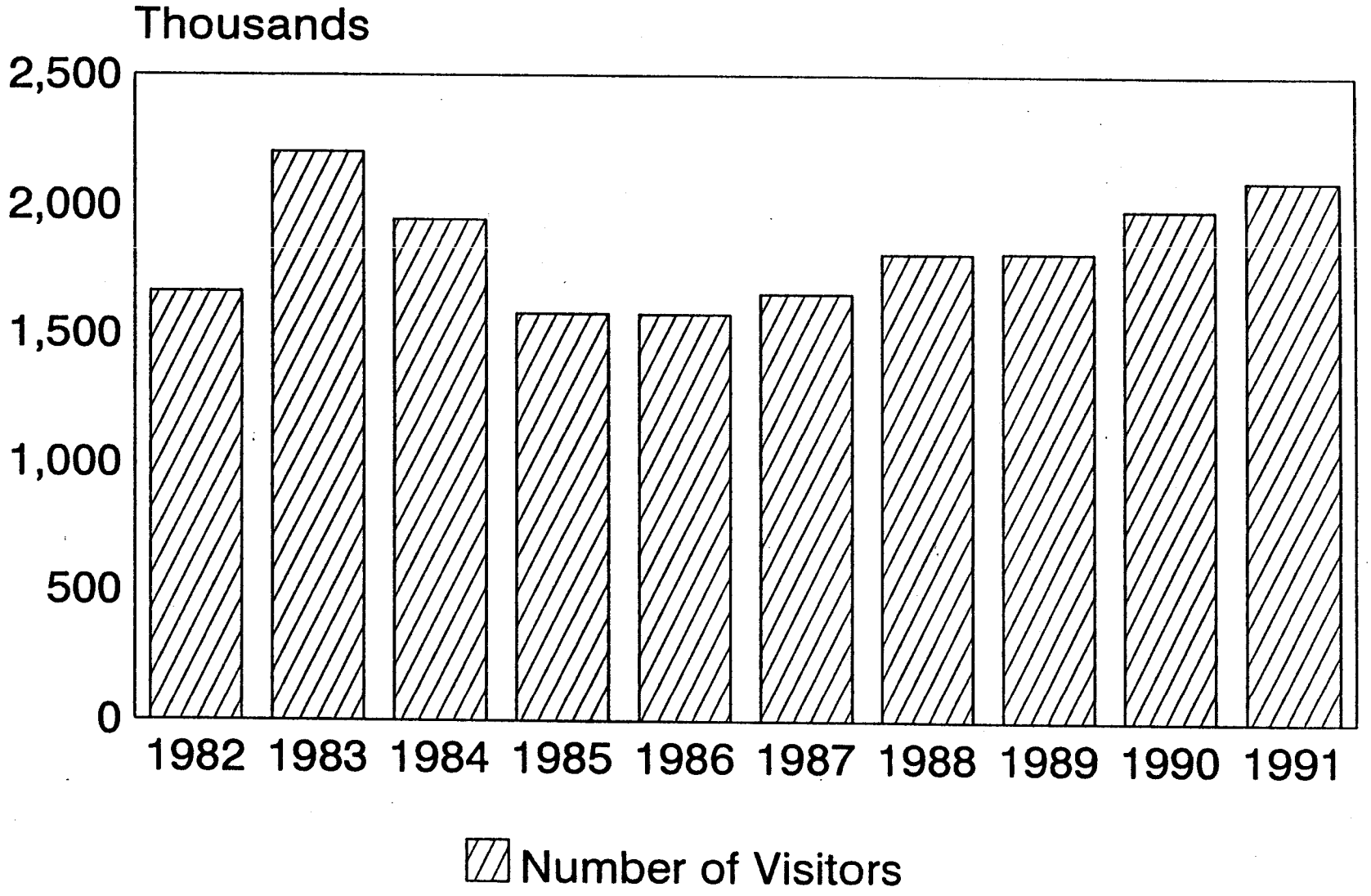


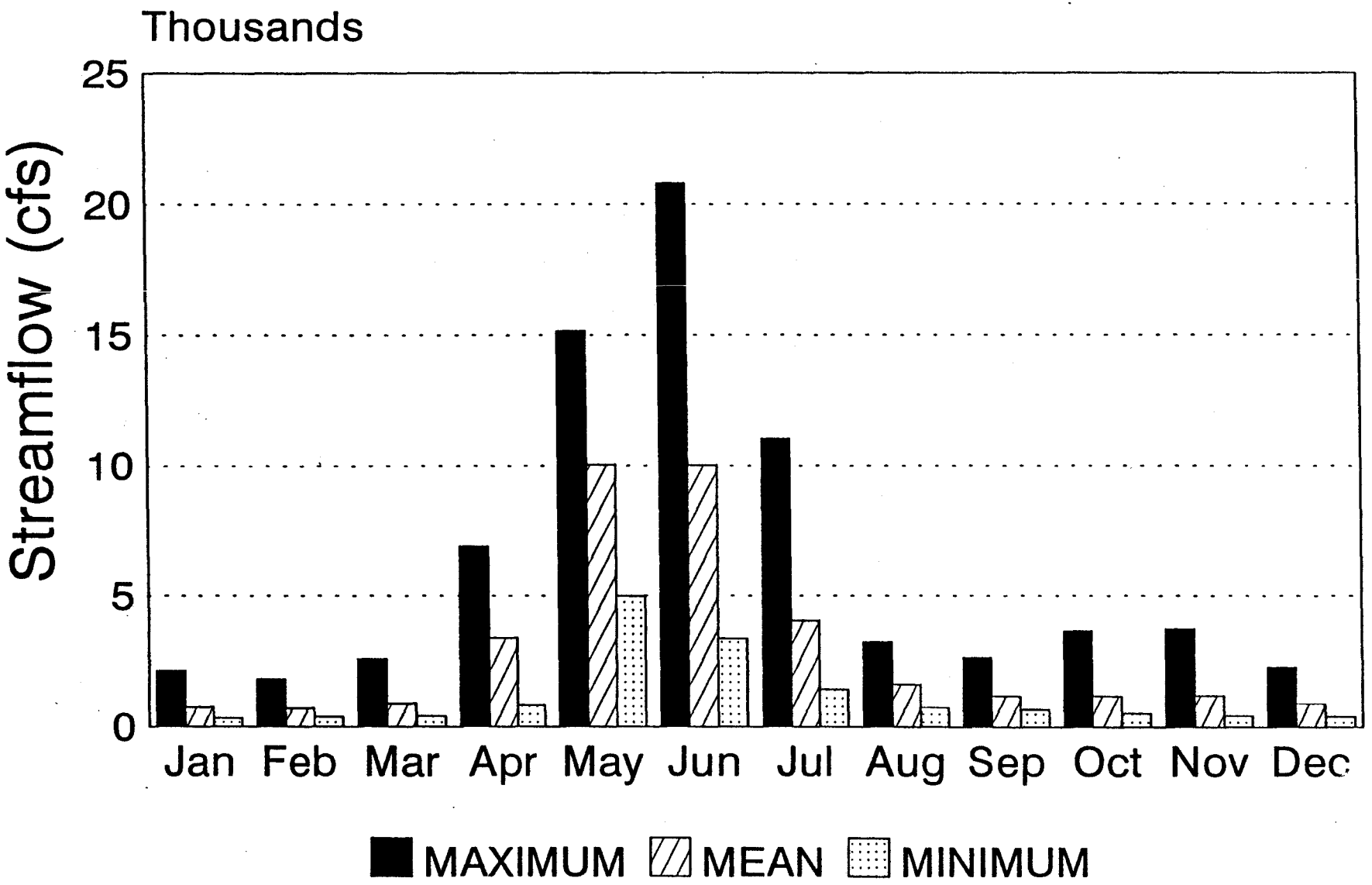
EXHIBIT 12a
DATE 4-7-93
HB 692

NPS Consumptive Use
Glacier National Park

	Acre-feet per Year	Gallons per Minute
NF Flathed River Basin (76LJ)		
North Fork Areas	4.70	70
Backcountry Cabins/Use	4.14	55
MF Flathead River Basin (76I)		
Mc Donald Creek Areas	246.00	1720
Middle Fork Areas	0.70	10
Backcountry Cabins/Use	4.48	55
Saint Mary River Basin (40T)		
Northern Border Areas	2.20	20
Many Glacier Area	166.40	600
Saint Mary Area Areas	128.40	915
Backcountry Cabins/Use	3.52	40
Two Medicine River Basin (41M)		
Two Medicine Areas	6.40	70
Backcountry Cabins/Use	0.57	5
Cut Bank River Basin (41L)		
Backcountry Cabins/Use	0.37	5
Milk River Basin (40F)		
Backcountry Use	0.02	
TOTAL	567.80	

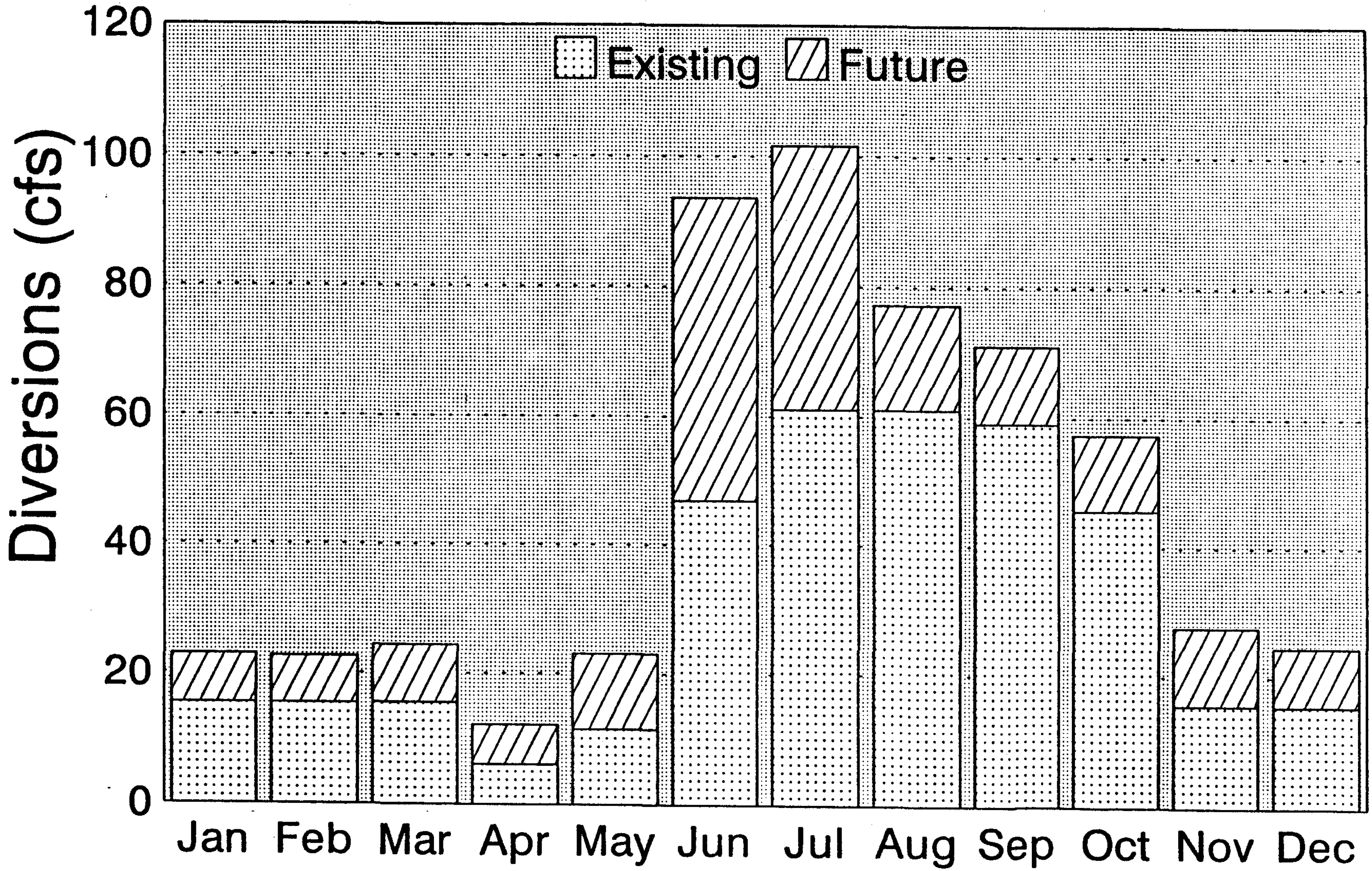
HISTORICAL MEAN MONTHLY FLOWS

N. FORK FLATHEAD RIVER NR COLUMBIA FALLS (ID # 12355500)



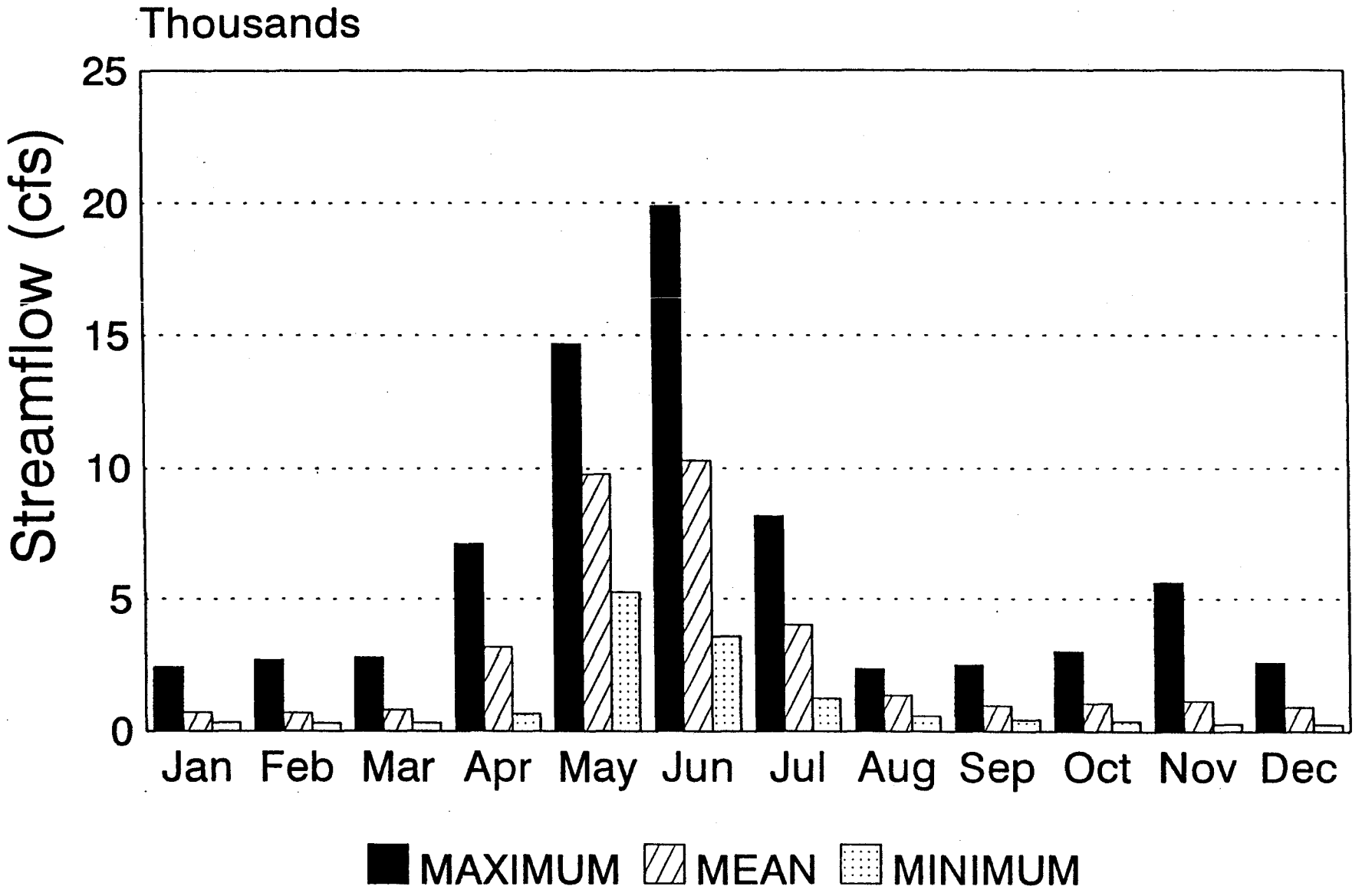
WATER AVAILABLE FOR DIVERSION

North Fork Flathead River



HISTORICAL MEAN MONTHLY FLOWS

MIDDLE FORK FLATHEAD RIVER NR W. GLACIER (ID #12358500)



WATER AVAILABLE FOR DIVERSION

Middle Fork Flathead River

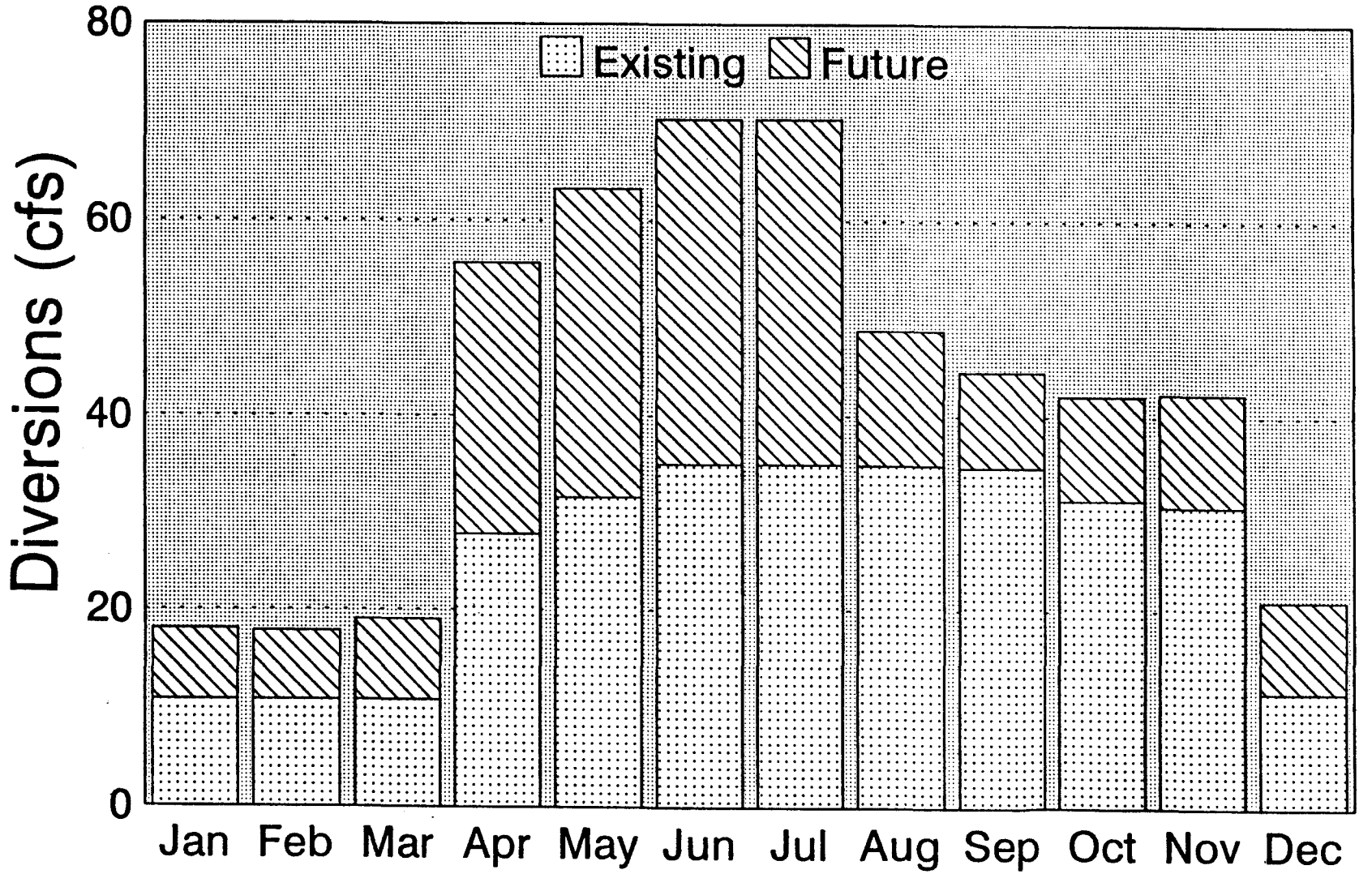


EXHIBIT 12a
4-7-93

YELLOWSTONE NATIONAL PARK

"...a public park or pleasuring-ground for the benefit and enjoyment of the people...for the preservation, from injury or spoliation, of all timber, mineral deposits, natural couriosities, or wonders within said park, and their retention in their natural condition."

(17 Stat. 32)

Yellowstone National Park

Parkwide Visitation (1980-1991)

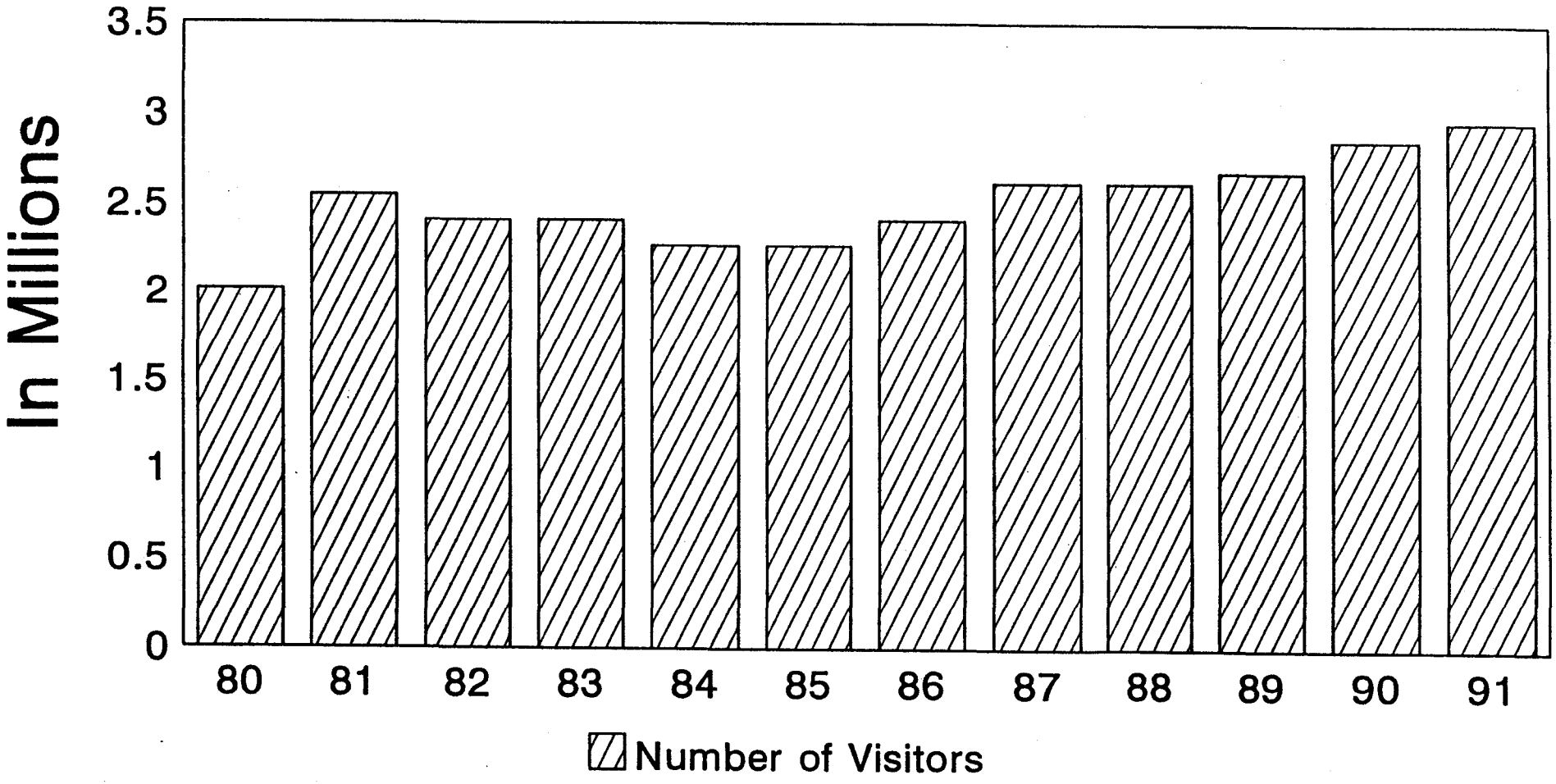


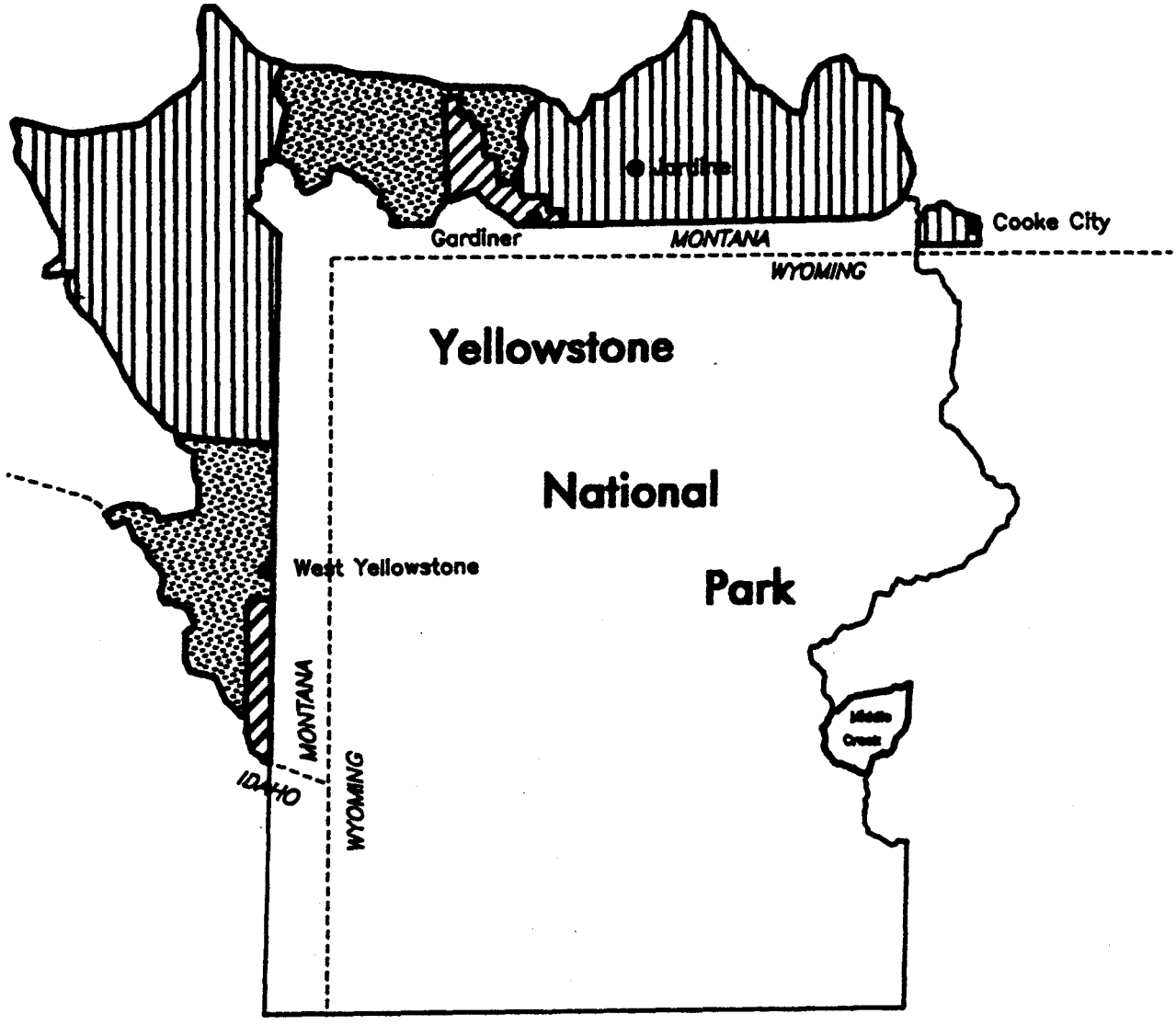
Exhibit 12a
Date: 4-7-93
HB 493

NPS Consumptive Use
Yellowstone National Park

	Acre-feet per Year	Gallons per Minute
Yellowstone River Basin (43B)		
North Entrance Area	1.70	35
Stephens Creek Facilities	12.00	50
TW Facilities (Gardner)	58.70	300
Northeast Entrance	15.60	50
Backcountry Use	10.70	
Backcountry Patrol Cabins	2.00	15
Day Use Areas	2.40	6
Gallatin River Basin (41H)		
Northwest Entrance Area	15.00	50
Backcountry Use	2.80	
Backcountry Patrol Cabins	0.50	10
Day Use Areas	0.60	6
Madison River Basin (41F)		
West Entrance Area	48.90	200
Backcountry Use	2.80	
Backcountry Patrol Cabins	0.50	10
Day Use Areas	0.70	6
TOTAL	174.90	

Proposed Controlled Groundwater Area

Yellowstone National Park area, Montana



State Boundary

Controlled groundwater subarea boundary

Subarea I

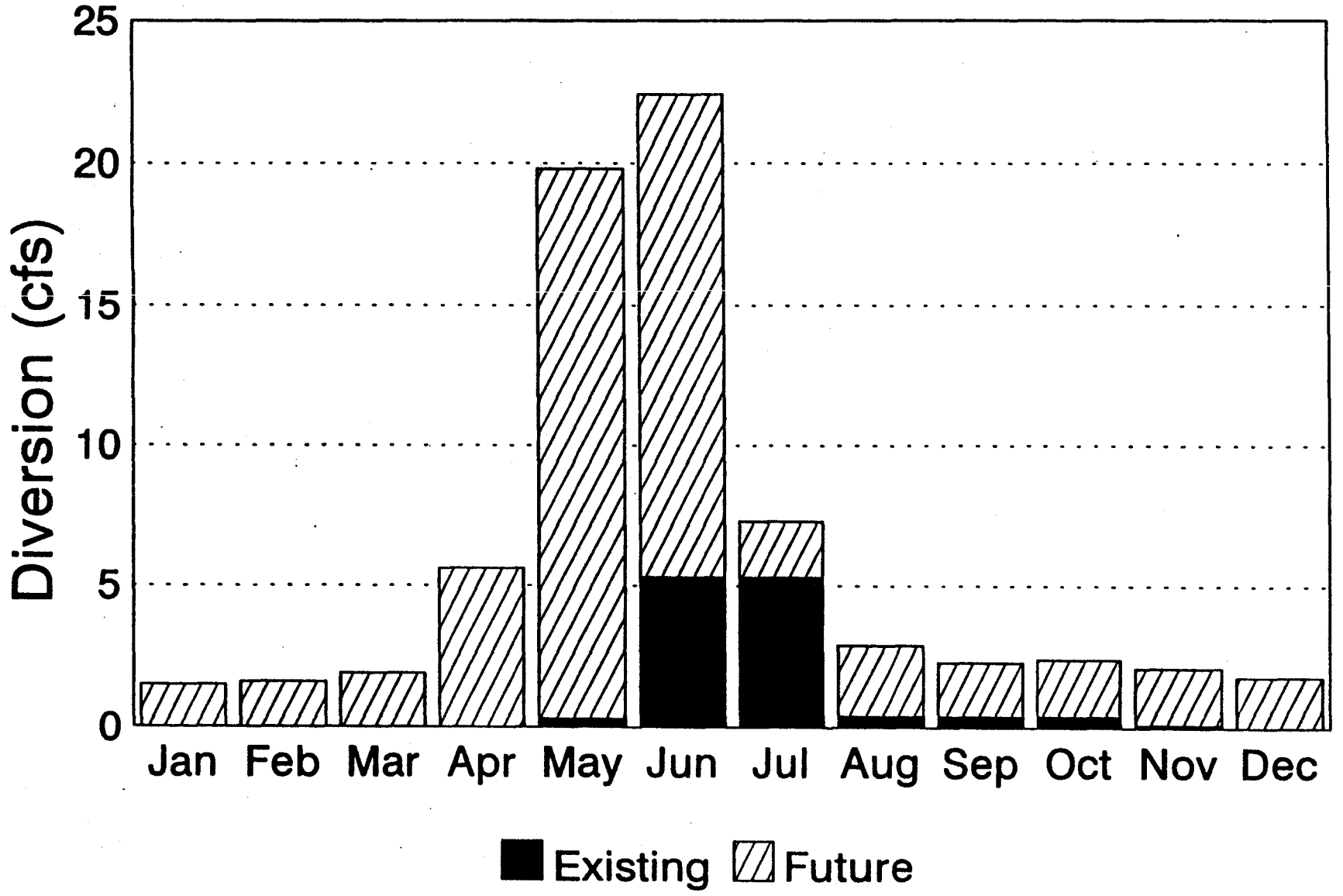
Subarea II

Known Geothermal Resource Area (KGRA)

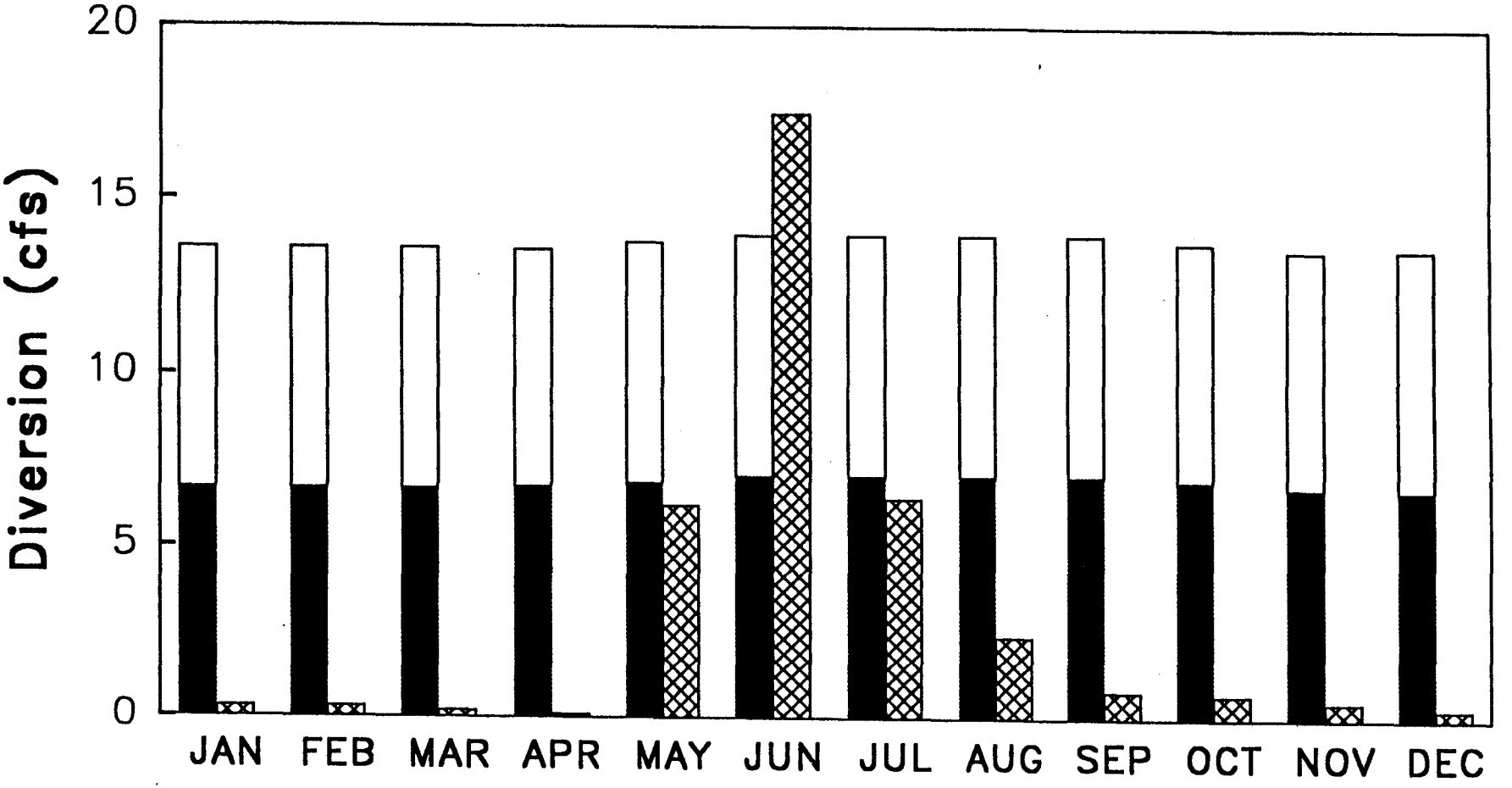
EXHIBIT 12a
DATE 4-7-93
HB 692

EXISTING AND FUTURE WATER USE

Non-Federal Water Development, Slough Creek



NON–FEDERAL WATER USES
Soda Butte Creek



■ Existing Municipal & Small Domestic Claims

□ Additional Existing Non–Federal Claims

▨ Five Percent of Estimated Average Monthly Flow

EXHIBIT 12a
4-7-93

EXHIBIT 10
DATE 4-7-93
HB 692

House Bill No. 692

DNRC Testimony

The Department of Natural Resources and Conservation supports House Bill No. 692. The DNRC has worked closely with the Reserved Water Rights Compact Commission to set up workable administrative systems for each of the Park Service Units that provide effective water management with the minimum burden to water right users.

One of the major areas of DNRC involvement will be with the Yellowstone Controlled Groundwater Area. The controlled Groundwater Area created by this Compact fits well with the general controlled groundwater area statute under the Water Use Act but it also provides for more expedited, low cost procedures for small cold water users than is usually required of permit applicants.

Full Federal funding will be provided to the DNRC for the establishment, administration, and enforcement of the Yellowstone Controlled Groundwater Area. Funding will also go to the Bureau of Mines and Geology for inventorying and monitoring of water use within the Controlled Groundwater Area. Funding will come in a lump sum Federal appropriation to the State, and a statutory appropriation of these funds is provided for in Section 2 of this Bill.

The Compact embodies a strong commitment to state administration and jurisdiction. In this respect the Compact covers much more than a court could in just decreeing water rights. The Compact assures that the State will continue to have the lead role in administering her water resources.

EXHIBIT 14
DATE 4-7-93
HB 692

Greater Yellowstone Coalition

April 7, 1993

Rep. Dick Knox
House Natural Resource Committee
Capitol Station
Helena, MT 59620

Dear Rep. Knox:

The Greater Yellowstone Coalition would like to express its support for HB 692, the Water Rights Compact negotiated between the state and National Park Service. Our focus has been on the Yellowstone Park settlement.

I would like to speak briefly about our perspective on this Compact. For the last two years, we have expressed strong support for the Old Faithful Protection Act proposed by Congressman Pat Williams. That bill failed during the last session, renewing concerns that the hydrothermal systems within Yellowstone National Park remained at risk from geothermal development outside the park.

Rep. Williams has reintroduced his Old Faithful Protection Act. We have consistently urged both the Compact negotiators and Rep. Williams' office to coordinate language in the respective proposals. We believe that coordination is occurring.

It's worth keeping in mind, however, that while Congress is a better forum for addressing broad, multi-state concerns about development around the park, the individual states have the responsibility and authority over water permitting, which is why this Compact is so important. It settles the park's instream flow rights, thus clarifying the status of existing and future state water users. It also establishes a very important controlled groundwater area outside the park to address the geothermal development concerns. By doing so, it protects the National Park Service's - and indeed, the national and even international - interests in maintaining the integrity of the hydrothermal systems and features for which the park was established 120 years ago, while also allowing continued well development outside the park.

Ideally, these water rights issues would have been settled a long time before now, but that's not the time frame we're working in. The National Park Service seems to also recognize the difficulty of settling these issues now, based on its 1872 water right, and we believe it has gone to great lengths to accommodate existing users by subordinating its senior water right to virtually all existing junior water uses.

We believe this Compact is certainly preferable to having these rights litigated, and think Montana water users have received a better deal than we might otherwise receive if the National Park Service were to try to have its 1872 water right decided in court.

While we would like to see stronger language regarding the state's commitment to implementing the controlled groundwater area, and the issue of federal funding, we support the Compact nonetheless. We will continue to work to ensure the federal funding that's necessary, and towards that end, we testified before an Appropriations Subcommittee in Washington D.C. two weeks ago in support of this funding. We have also contacted members of our delegation and others asking for their support, and will continue our efforts in this regard.

The Coalition, which includes hundreds of members and many member organizations within the affected area, recognizes the very long and arduous process that has occurred to reach this point. We commend the negotiators and Compact Commission staff for the significant efforts they have made to inform, educate and respond to all interests.

We urge the committee's support for this bill. Thank you.

Sincerely,

Jeanne-Marie Souvigney

Jeanne-Marie Souvigney
Associate Program Director

EX 15
DA 4-7-93
HB 692

Parks' Fly Shop

GARDINER
MONTANA
59030

TESTIMONY OF RICHARD PARKS IN SUPPORT OF THE COMPACT COMMISSION RECOMMENDATIONS FOR YELLOWSTONE PARK
APRIL 7, 1993

Mr. Chairman, members of the Committee, for the record my name is Richard Parks. I own and operate a sporting goods store in Gardiner, Montana; and more importantly for this matter, property about 500 yards from La Duke Spring north of Gardiner. I appear today on behalf of myself and Paul Miller who owns the adjacent property.

Mr. Miller has a developed geothermal well on his property for which he holds an existing water right. Our property clearly has potential for geothermal development. Mr. Miller has made his well available to the Geological Survey for monitoring purposes but has otherwise chosen not to exploit his right. He wants you to know that he has made that choice in recognition that his rights in that well pale in comparison to the importance of protecting Yellowstone's integrity. For my own part I can tell you that I share that sense of concern.

We believe that the Compact proposal before you today is a neccessary step to protect the resource that is not just butter, but bread as well, for our community. It seems to us a balanced resolution of the problems associated with the complexities of water law and the interlocking claims of private and public interests. We support ratification of the Yellowstone Water Compact. I appreciate the opportunity to appear and I am prepared to answer any questions you may have, thank you.

Richard C. Parks

NORTH ENTRANCE TO YELLOWSTONE NATIONAL PARK

EXHIBIT 16
DATE 4-7-93
HB 692

THE WILDERNESS SOCIETY

STATEMENT OF MICHAEL D. SCOTT REPRESENTING
THE WILDERNESS SOCIETY ON HB 692,
THE STATE/NATIONAL PARK SERVICE WATER RIGHTS COMPACT
APRIL 7, 1993

The Wilderness Society is a national conservation organization dedicated to the protection of our nation's public land. We have over 300,000 members nationwide, with some 2,000 in Montana.

The Society strongly supports HB 692. This important piece of legislation takes a great step forward in the protection of Glacier, Big Hole Battlefield and Yellowstone National Parks.

YELLOWSTONE'S CONTROLLED GROUNDWATER AREA

By far the most controversial part of the compact before the committee this afternoon is the proposal to regulate cold, warm and hot water around Yellowstone National Park. The Society believes the regulations proposed in HB 692 are fair and equitable, both to Montana and Yellowstone.

Yellowstone's portion of the compact operates under a simple premiss - take no chances with Yellowstone's world-renowned geysers, hot pots and fumaroles. The compact creates a Controlled Groundwater Area which regulates to use of all surface and subsurface waters in order to protect Yellowstone's reserved water right.

In order to assure that the Park's features are protected, the compact assumes all subsurface hot water to be interconnected to Yellowstone National Park and thus, in virtually all cases, unavailable for development.

Warm water is treated with a slightly lower level of concern, however, it must be clearly demonstrated that such water is in no way connected to Yellowstone's underground hydrothermal systems.

Cold water is presumed to be unconnected to the Park's thermal systems and is thus generally available for development. The compact contains an expedited review process for cold water, allowing wells of 35 gpm, or 10 acre feet per year, to be permitted without indepth review.

NORTHERN ROCKIES REGIONAL OFFICE
105 W. MAIN STREET, SUITE E, BOZEMAN, MT 59715
(406) 586-1600

To review permits, make recommendations on boundary changes and to change standards a Technical Oversight Committee is created. This committee is composed of scientific appointees of the state and federal governments and is required to make decisions on a 4-1 supermajority. The purpose of the supermajority requirements is to allow change to the CGA and its regulations to occur only by virtual consensus of the scientists of the TOC.

In sum, the compact does an excellent job of protecting Yellowstone's reserved water rights. Both the state and the National Park Service are to be commended on their willingness to hammer out an accord that represents to best interests of both entities.

SODA BUTTE CREEK

We realize that there are still areas of controversy and confusion locally. People in Cooke City are concerned about the allocation of 95% of the flows in Soda Butte Creek to Yellowstone.

This allocation was based on a 1987 study of the flows in Soda Butte Creek and will accommodate existing uses and a small increment of growth.

It is important to note that Yellowstone's water right to Soda Butte Creek is senior to any of those around Cooke City. Had the Park Service gone to court to quantify its right, it is entirely possible that a court would rule that the Park is entitled to 100% of Soda Butte's flows.

The Park Service's willingness to subordinate its senior right to existing junior rights is a clear indication of compromise in the compact process.

TECHNICAL OVERSIGHT COMMITTEE SUPERMAJORITY

Similarly, Montana's willingness to agree to a 4-1 supermajority for decisions of the TOC was an important element of compromise to the final decision.

Some have argued that the TOC will never agree if it has to comply with a 4-1 vote. However, given the authority vested in the TOC by the compact, it is important that there be virtual consensus on decisions which may effect Yellowstone's thermal wonders. Anything less is playing Russian Roulette with our nation's first national park.

CONTINUING NEED FOR FEDERAL LEGISLATION

This compact is a key element in our efforts to protect Yellowstone's hydrothermal systems. But, for several reasons, there is a continuing need for federal legislation.

First, the compact does not deal with existing wells, such as that owned by the Church Universal and Triumphant, which draw hot water within the CGA. Congress needs to decide whether to permit the operation of such wells.

Since the compact only deals with Montana's portion of the area around Yellowstone, Congress needs to decide how it will protect Idaho and Wyoming's part of the Park.

Montana has made and important step forward with this compact. We believe it could well serve as a basis for developing a uniform set of criteria for the protection of Yellowstone's hydrothermal systems. The Society will work with the Reserved Water Rights Compact Commission, the Governor and Representative Williams to develop amendments to his bill, "The Old Faithful Protection Act of 1993". We envision that those amendments will use the criteria developed in the compact as standards which the Secretary of Interior will apply to the entire perimeter of Yellowstone. The amendments should also allow a state to operate a program if it meets to criteria set forth in federal legislation.

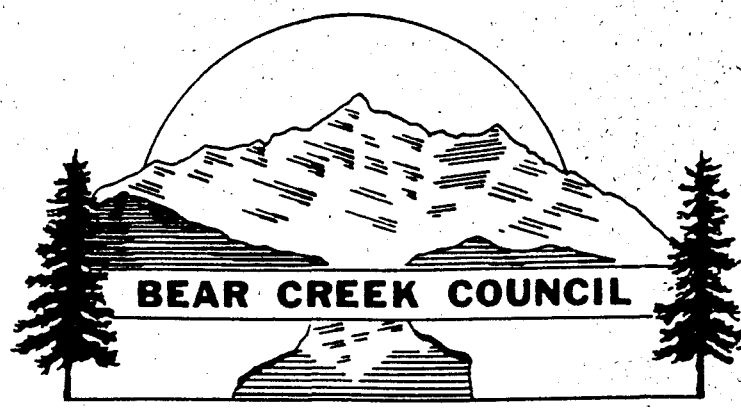
We also need federal legislation to mandate and fund the studies described in the compact to better understand the nature of the hydrothermal interconnections between Yellowstone and surrounding lands.

Finally, federal legislation is needed to authorize payment to Montana to implement the provisions of the compact. The state estimates it will need a one-time payment of $2.3 million to cover its share of expenses under the compact.

CONCLUSION

We urge the Natural Resources Committee to act favorably on HB 692. This important legislation will approve an historic agreement between Montana and the National Park Service designed to protect the water resources and hydrothermal systems of Montana's national parks in perpetuity.

EXHIBIT 17
DATE 4-7-93
HB 692



P. O. Box 448 — Gardiner, Montana 59030

April 6, 1993

Testimony before the House Natural Resources Committee on the Compact negotiated between the United States and the State of Montana concerning federal reserve water rights in the area around Yellowstone National Park.

Mr. Chairman and Members of the Committee:

My name is Julia Page. I live in Gardiner and own and run a river outfitting business there. Our business as well as every other business in town is largely dependent on tourists visiting Yellowstone Park. I feel strongly that those of us who live next to the park have a special responsibility to see that our activities (both private and commercial) don't damage the park's natural resources. It is a privilege to live where we do.

I am speaking today for the Bear Creek Council, a local affiliate of the Northern Plains Resource Council. Bear Creek Council believes that the protection of Yellowstone National Park's geothermal features is of the utmost importance, yet we also are concerned that Montanan's valid water rights be protected. We believe that the Montana Reserved Water Rights Compact Commission has negotiated an agreement that does both. We urge the Legislature to ratify this compact. We are including a petition signed by many citizens living in the Gardiner area who support the compact.

Thank you.

Julia Page

Julia Page
for Bear Creek Council

EXHIBIT 17
DATE 4-7-93
HB 692

To: Montana Legislature & the Reserve Water Rights Compact Commission
From: Undersigned Montana Residents & Other Citizens
RE: Yellowstone Reserve Water Right Compact
DATE: Mar. 18, 1993

We the undersigned urge the Montana Legislature to adopt the general provisions Yellowstone Compact as currently written on March 18, 1993. We believe that the negotiated agreement between Montana and the federal government provides the necessary protection to Yellowstone Park's spectacular geothermal systems while at the same time protecting valid water rights.

We agree that the unrestricted use of groundwater adjacent to Yellowstone Park may harm geothermal features within the Park. Therefore, we endorse the creation of a Controlled Groundwater Area and support the proposed restrictions on groundwater wells. We support the requirement for a permit for cold water wells and believe it should be an expedited process. We support the ban on wells with water temperatures above 85° unless applicants can prove beyond a doubt that pumping from such wells would not adversely impact geothermal features.

Since the purpose of the Controlled Groundwater Area is to protect Yellowstone's geothermals, we believe it is appropriate to use federal funding to conduct the inventory and monitoring.

NAME: (Print)	ADDRESSS	SIGNATURE
1. Carolyn R. Rees	POB 416 Gardiner MT	Carolyn R. Rees
2. Kate McCormick	BOX 476 Gardiner MT	Kate McCormick
3. Lynn M. Coy	- Po Box 664 Gardiner MT	Lynn M. Coy.
4. Peter White	Box 69 Gardiner MT	Peter White.
5. Peter Wilkinson	Box 889 Gardiner MT	Peter Wilkinson
6. Margaret Hamilton (MARGARET HAMILTON)	Box 566 Gardiner, MT.	Margaret Hamilton

FLATHEAD BASIN COMMISSION

EXECUTIVE DIRECTOR
OFFICE OF THE GOVERNOR
CAPITOL STATION
HELENA, MONTANA 59620
(406) 444-3111

723 FIFTH AVENUE EAST
KALISPELL, MONTANA 59901
(406) 752-0061

EXHIBIT 18
DATE 4-7-93
HB 692

April 7, 1993

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

Dear Sir:

The work of the Reserved Water Rights Compact Commission in negotiating reserved water rights between the State of Montana and the National Park Service has addressed several fundamental concerns of the Flathead Basin Commission.

First, it has demonstrated a high level of cooperation between state and non-state entities, a growingly important factor in resolving issues that involve multiple parties.

Second, it reflects a concerted effort to use the best scientific data available to determine management strategies for precious aquatic resources in Montana.

Third, it has incorporated the element of a well-planned public involvement process to insure the effective participation of the public and the protection of their interests.

The process, as it relates to Glacier National Park, appears to have successfully addressed a number of key concerns of the Flathead Basin Commission, including consumptive use and instream flow rights. Given the importance of these aquatic resources, both in terms of the Flathead Basin itself and in the larger context of the headwaters of the Columbia River system, the efforts expended through the negotiation and public involvement portions of the process have done much to insure the responsible future use of this critical resource.

Both the State of Montana and the National Park Service should be commended for working so effectively to accomplish this task.

Although the Flathead Basin Commission has not had the opportunity to formally consider the final negotiated agreement, it has been periodically udpated on the progress of the negotiations and had had the opportunity to monitor the public involvement portion of the process. We look forward to formal adoption of the negotiated agreement and encourage the House Natural Resources Committee to give the implementing legislation serious consideration.

Respectfully,

Marc Loleton

EXHIBIT 189
DATE 4-7-92
HB 692

LAW OFFICES
J. BLAINE ANDERSON, JR.
112 S. WASHINGTON
DILLON, MONTANA 59725
(406) 683-2303

J. BLAINE ANDERSON, JR.
CATHERINE S. SANDS

FAX: (406) 683 2304

April 7, 1993

Representative Dick Knox
Chairman
House Natural Resources Committee

RE: Reserved Water Right Compact Commission--Big Hole Battlefield Reserved Water Right

Dear Mr. Chairman:

I am an attorney practicing law in Dillon, Montana, and represent the Ruby Water Company which consists of three entities, Jack Hirschy Livestock, Dick Hirschy Cattle Company, and Mark Clemow Ranches, Inc. On their behalf, I extend their support and ask you to pass the reserved water right provided for in the water rights compact arrived at between the National Park Service and the State of Montana as it relates to the Big Hole Battlefield.

The Compact Commission held a Public Hearing in Wisdom, Montana, and explained the process they had gone through to arrive at their compact. The compact in all respect seems to be balanced, insures continued viability of prior existing appropriations, and exempts storage, to allow for the completion of the Ruby Dam project--a project which has been implemented on Ruby Creek in the Big Hole Valley, up stream of the Big Hole Battlefield.

I commend the Commission on their thoughtful analysis and balanced approach in preserving prior existing appropriations of water. Unfortunately, I could not attend the hearing on this bill, but I urge you to pass this legislation.

Sincerely,

J. Blaine Anderson, Jr.
Attorney at Law

JBA/dje

UNITED BANK
OF ABSAROKEE, N.A.

P.O. Box 480
Absarokee, Montana 59001

Telephone
(406) 328-4742

EXHIBIT 19
DATE 4-7-93
HB 692

April 6, 1993

Mr Hayes Kirby
Silver Gate, Montana

Re; House Bill 692

Dear Mr Kirby,

I have given some consideration to the effect of the above referenced proposed House Bill with particular consideration as to the effects of the passage of this bill and the future of any financial assistance one might expect. If I understand your concerns properly I would concur that passage of the Bill must have a negative impact on a financial institutions ability to finance property in the area surrounding the park.

As most everyone is aware today, Financial institutions are under considerable pressure for proper documentation in the lending arena. We are required to show that we have a first mortgage position on the secured property without exception unless duly noted and accounted for in loan consideration. Second, we must show that there is a proper access easement to the property. Finally, we must show that the property has adequate value versus all funding requirements.

It is in the area of property values that give me particular cause for concern. When we attempt to ascertain the value of a piece of property we hire a outside appraiser to present a market value at that point in time. Federal direction under FIRREA regulations make this appraisal mandatory in properties that exceed $100,000 and strongly suggests appraisals on any thing under this level. The fact that the state is proposing to strip Water Rights from the property would certainly have a negative impact on the valuations previously placed upon the property. It has been my experience that people wishing to locate in this type of area want the water and want usage of it for their personal consumption.

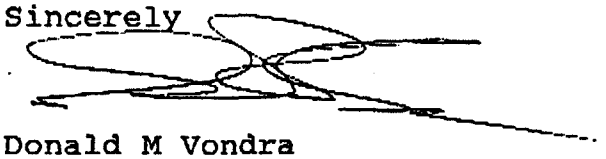
As a Banker, I would have serious cause for concern if this proposed activity were planned for my market area. My concern would be for what impact the loss of Water Rights would have on what we identified as collateral value on the property and the possible change in the current market value due to the loss of water rights. This would also be a change in the terms of our lending agreements and a decision to renew or possibly call a note would need to be addressed as we would no longer have the same collateral position we previously enjoyed.

Also for consideration is the effect of this law on my market area. I would have a concern about our water sources as I believe they begin within the 10 mile radius discussed. If so would the State and Federal Governments have a superior portion to our agriculture base preventing the area ranchers ability to use water for irrigation purposes? The commandeering of the water rights may suggest so.

The final point to be addressed and I believe most important is that the State of Montana is attempting to out right steal what has always been a portion of the land. If they are successful in their attempts with this Bill it will set a precedent for any future attacks against landowner rights they decide to pursue. Water is and will continue to be a important issue for Montana landowners and we cannot afford to allow the state to sell off our most precious asset.

Kirby, good luck in your efforts to stop this bill and if I can be of further assistance please do not hesitate to contact me.

Sincerely



Donald M Vondra
President

EXHIBIT 20
DATE 4-7-93
HB 692

HOUSE OF REPRESENTATIVES

Natural Resources COMMITTEE

WITNESS STATEMENT

PLEASE PRINT

NAME Warren E. Patten Jr. BILL NO. 691

ADDRESS Rt 1091 Cooke City DATE 4-7-93

WHOM DO YOU REPRESENT? Cooke City

SUPPORT _____ OPPOSE X AMEND _____

COMMENTS: I live in the area & want to stay there and let my children have my home.

HR:1993
CS15

EXHIBIT 21
DATE 4-7-93
HB 692

HOUSE OF REPRESENTATIVES

Natural Resources COMMITTEE

WITNESS STATEMENT

PLEASE PRINT

NAME BERNARD AFELOKRMP BILL NO. 692

ADDRESS COOKE CITY MT DATE April 7 93

WHOM DO YOU REPRESENT? SELF

SUPPORT _____ OPPOSE X AMEND X

COMMENTS: I AM CONCERNED of LOSSING WATER RIGHT ON LAND THERE FOR MAKING IT WITH LESS IN VALUE. MAKING LAST 10 YEAR OF WORK of LITTLE VALUE

HR:1993
CS15

EXHIBIT 22
DATE 4-7-93
HB 692

HOUSE OF REPRESENTATIVES

Natural Resources COMMITTEE

WITNESS STATEMENT

PLEASE PRINT

NAME LYNDA SULLIVAN BILL NO. 692

ADDRESS Cooke City Mt DATE 4/7/93

WHOM DO YOU REPRESENT? All Seasons Hotel Pine Tree Cafe MA PERKINS CAFE

SUPPORT _____ OPPOSE X AMEND X

COMMENTS: Police not adequately given Lack of data to support staking of our water rights and giving them to the Park system. No evidence of impact of 4 mile of Soda Butte Creek. Devaluing of our property and basically eliminating any prospects of growth or improvement.

We support the Park, however we are citizens of Montana and do not believe our rights should be handed to another entity without giving us an opportunity to review and propose alternative methods of protecting resource

HR:1993
CS15

EXHIBIT 23
DATE 4-7-93
HB 692

HOUSE OF REPRESENTATIVES

Natural Resource COMMITTEE

WITNESS STATEMENT

PLEASE PRINT

NAME Ken BILL NO. 692

ADDRESS Po 1032 Cooke City-Mt DATE 4-7-93

WHOM DO YOU REPRESENT? Self

SUPPORT ____ OPPOSE X AMEND X

COMMENTS: Agree that protection of Yellowstone Nat. Pk is needed. However —

Shortage of time for public notice & comment not ~~de~~enough. for proper public comment.

Shortage of proper studies to establish use of water in Soda Butte Valley.

As forcast by the 'Compact' there would be no Room for growth in CookeCity-Silvergate

Currant estimated use of local water users is now in excess of Compact agreement figures. (Dept of Mt. Natural Resourses)

HR:1993
CS15