

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 3, 1995,
at 3:00 PM

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Jeff Weldon (D)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

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

Committee Business Summary:

Hearing: HJR 10, HB 201, HB 292
Executive Action: None

{Tape: 1; Side: A}

HEARING ON HJR 10

Opening Statement by Sponsor:

REPRESENTATIVE DICK KNOX, HD #93, Winifred, said HJR 10 was a result of the legislative audit of the natural resource agencies, and was requested by the Environmental Quality Council (EQC). He commented that the most important part of the resolution was stated on line 13: "the people...of the State of Montana demand

that the laws of this state be enforced in a consistent, fair and effective manner..."

The legislative audit uncovered some problems with the consistency of the regulatory process, which impacted its fairness. He and the EQC felt it was necessary to evaluate the regulatory process and the way it was being carried out.

He said the resolution mandated consultation with natural resource agencies in other states, and suggested the EQC pursue alternative funding sources to conduct the study and report its findings and recommendations to the 55th legislature. No additional funding would be requested from the state.

Proponents' Testimony:

Janet Ellis, Montana Audubon Legislative Fund, supported the resolution.

Jeff Barber, Northern Plains Resources Council, strongly supported the resolution.

Anne Hedges, Montana Environmental Information Center, said she was a member of the Hazardous Waste Working Group Subcommittee of the EQC and after a year and half studying hazardous waste they hadn't been able to study enforcement of the programs. She urged the committee to pass the bill. She also urged that the results of the study suggested by the bill be read and considered by the next legislature.

Steve Kelly, Friends of the Wild Swan, seconded Ms. Hedges' comments.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

None

Closing by Sponsor:

REPRESENTATIVE KNOX stated that he hoped the resolution would pass, and the fact that industry representatives had not attended the hearing would indicate they agreed. In the House hearing there was a good cross-section of support from industry and environmental advocates. He said he had heard industry people almost beg for consistency in enforcement of environmental laws; it was very important for them to know exactly what to expect. Also, it was important that the state know the regulatory process was fair.

HEARING ON HB 201Opening Statement by Sponsor:

REPRESENTATIVE ALVIN ELLIS, JR., HD #23, Carbon County, said he carried the bill as a representative of the Montana public school system and for Montana's economy (**EXHIBIT #1**).

Proponents' Testimony:

Barton Cooper, Boulder, said he was a logging contractor who operated mostly in the Deer Lodge and Lewis and Clark Forests. He supported the bill (**EXHIBIT #2**).

Cary Hegreberg, Executive Vice-President, Montana Wood Products Association, said HB 201 was not about the typical debate between environmentalists and the forest products industry. It was about management of a productive, valuable asset in the interest of public education.

The timber industry has been impacted by numerous environmental laws and lawsuits aimed at stopping timber harvest on federal lands. **Mr. Hegreberg** said that should not be allowed to happen on state trust lands. He cited the DSL annual report on state trust land management for 1994 (**EXHIBIT #3**).

John Hegnes, Superintendent, Seeley Lake Elementary School, supported HB 201 because he had been involved in a lawsuit with DSL regarding a timber sale near Gardiner. Before the lawsuit was filed, the timber sale started at approximately 70 acres, but ended with 29 acres, and he wondered what happened to the other 41 acres. As one beneficiary of the trust, the elementary schools could have used the revenue from those 41 acres.

He said he went to a timber sale site near Frenchtown. Sixty-five acres of timber were left for white-tailed deer habitat, and he knew that Fish, Wildlife & Parks people received the benefit from that land, and he wondered why the schools were not paid for those 65 acres.

Peggy Trenk, Western Environmental Trade Association, supported HB 201 because the bill would not allow over-harvest of state timber lands. All applicable laws would apply, and a reasonable return would be guaranteed for the school trust.

Loran Frazier, School Administrators of Montana, stated that the trust lands were given to the state for the benefit of schools, and his group would like to see a profit from those lands. He certainly supported the amendment for technology.

Jim Foster, Montana Rural Education Association, said approximately 170 schools belong to his organization. They also support HB 201. They have confidence in the DSL and believe that the DSL would not abuse the state forest resource. It would

provide additional technology for public schools and he urged the committee to pass the bill.

Jim Tutwiler, Montana Chamber of Commerce, urged support of the bill.

Lorna Frank, Montana Farm Bureau Federation, said members of her organization believe there should be orderly development of Montana's natural resources while protecting water quality. She also urged a do pass recommendation.

Ron Stegmann, Superintendent of Schools, East Helena, said East Helena is designated by the state as an under-funded district and doesn't have a lot of money; consequently, their technology equipment is limited. He urged support of the bill while considering protection of Montana's natural resources.

REPRESENTATIVE BOB REAM, HD #69, Missoula, said he appeared in support of the bill as amended, but strongly objected to the fixed annual harvest of 50 million board feet mentioned on page 1, line 14. He thought a variable should be allowed - up or down. He distributed a table showing Montana timber harvest 1945-1991 (**EXHIBIT #4**). He also pointed out that the bill would require an additional appropriation to fund the extra 12 FTE's and the independent study mentioned in the bill; he hoped that money would be included in HB 2.

Opponents' Testimony:

Bud Moore, Condon, said he owned a small acreage of forest lands that he attempted to manage under light-on-the land forestry practices. His management encompasses the entire scope of forestry from planting trees to a mom-and-pop sawmill.

He said he worked for the Forest Service for many years and had considerable experience with set quotas. He knew how they worked and didn't work. He felt set quotas didn't work too well over the long term.

He appeared as an opponent to the bill, but also saw considerable good in it.

{Tape: 1; Side: B}

Bob Love, Columbia Falls, said he was an independent logger and thought forestry should focus on keeping forests intact. He agreed with the intent of the bill, but thought it was poorly conceived because it mandated forestry by "political default."

He thought the result of the bill would be litigation from environmental groups and the outcome of that litigation would be a zero cut. He thought there was a surplus that could be used but it should be cut properly and with a long-term goal in mind.

Steve Kelly, Friends of the Wild Swan, opposed the bill because it would not solve Montana's school crisis and the 50 million board feet timber target would jeopardize long-term productivity of state forest lands. (EXHIBIT #5)

Tony Schoonen, State Lands Coalition, Skyline Sportsmen & Anaconda Sportsmen, said the organizations he represented were not opposed to responsible logging but thought the 50 million board feet harvest in HB 201 would cause serious problems. Wildlife and fisheries are dependent upon Montana's forests, including state, federal and private. His groups would like to see what alternatives are available and respond to them.

Janet Ellis, Montana Audubon Legislative Fund, said the current harvest on state lands was approximately 30 million board feet and HB 201 demanded 50 million board feet be cut. That increase would mandate lower standards and more clear-cutting. The programmatic EIS on timber management has been going on for three years and she urged the committee support that EIS process. The harvest of 50 million board feet was just one alternative. She urged the committee to give the bill a do not pass.

Jim Jensen, Executive Director, Montana Environmental Information Center, said almost everything that could be said about the bill had been said, with several exceptions.

He said **Mr. Hegreberg** had commented on a garden approach to forestry that ignored the need for mineral recycling. When trees die and fall on the land, minerals are recycled into the soil. Clear-cutting and removal of the residue now required would, over the long-term, substantially reduce the mineral values in forest soils and diminish the productive nature of those soils.

The third party contract requirement seemed to him to be insulting to the DSL. DSL is known throughout the United States for its high quality, progressive forestry management. DSL is in the last stages of an environmental review and forest plan and it seemed unnecessary to hire someone to tell them how to do their jobs.

He also thought the state would be challenged by adjoining landowners for the diminished value of their private property by irresponsible or clear-cut forestry that would be forced by the 50 million board feet requirement.

He said jobs have been lost because forest managers have harvested beyond the sustained yield rate.

John Gatchell, Montana Wilderness Association, told the committee members of his organization hunt, fish and hold leases on state lands and contribute to the school trust.

He said they do support logging, done properly and in the right places. **Mr. Clinch**, the Commissioner of State Lands, was

formerly a lobbyist for the Montana Logging Association, and has made statements about changing public perception through excellence in forestry and **Mr. Gatchell** thought that was true. He also thought there had been positive changes in the last 1-1/2 years and members of his organization have found some new common ground with the Montana Logging Association.

He said state foresters have generally done a much better job of practicing selective logging than the U.S. Forest Service.

He objected to the mandated 50 million board feet cut and urged the committee to vote against HB 201.

Jim Richard, Montana Wildlife Federation, was concerned about the effect increased cutting would have on fisheries and wildlife. He also was concerned about the target cut.

George Ochenski, Montana Chapter, Trout Unlimited, said the committee had heard many reasons why the people he represented were concerned about impacts on streams, and whether the increased cut would push some species into endangered status. He said he had talked to **Glenn Marx** of the Governor's Office, who said there was nothing in the bill stating anything would happen if 50 million board feet were not harvested. He also said **Mr. Clinch** had told him it would be possible to achieve the mandated cut without hiring more people. **Mr. Ochenski** commented that this was surprising to him because each time he had suggested a particular action to the DSL, a large fiscal note was suddenly attached.

Stan Frasier, Helena, said he had heard a lot about proper forest management. As an example he pointed out that the U.S. Forest Service has been in business over 100 years and has never made a profit on its timber program. He thought the reason was that they had a politically set target. He opposed the bill.

Questions From Committee Members and Responses:

CHAIRMAN GROSFIELD asked **Madalyn Quinlan, Office of Public Instruction**, what the bill might do as far as planning for schools was concerned and how the new fund being set up by this bill would affect school reserves.

Madalyn Quinlan said the bill would allow a school district to receive the money in the form of a grant from the state. The money would go directly into the technology fund created at the district level. The district could take money out of its general fund and move it over to match the money received from the state. The technology budget could be up to 2% of the general fund budget. A low spending school district could not spend its entire base budget and move it over into the technology acquisition fund. She didn't know whether the amendment would

require the transfer of general fund monies within the existing budget.

REPRESENTATIVE ELLIS said when he first thought about the bill he considered requiring a match and did include some language about transferring money. **SENATOR BROOKE'S** amendment would take that out. He hoped **SENATOR BROOKE'S** amendment would be adopted by the committee.

CHAIRMAN GROSFIELD said he thought **Superintendent Keenan** had talked about a technology fund and thought this bill would be the same thing. He asked if there were another bill on the same subject. **Ms. Quinlan** said SB 351 was killed. That bill was the OPI's grant program for educational technology.

CHAIRMAN GROSFIELD asked **Mr. Clinch** if the range of 45-55 million board feet were reasonable from the prospect of sustainable yield. He also asked about the timing of the EIS.

Bud Clinch, Commissioner of State Lands, responded that the EIS would not predict a sustainable yield number. It would provide a number of alternative management strategies with various levels of harvest. The 45-55 million board feet range was certainly a much more flexible management target for DSL and he would be comfortable with that range.

SENATOR CHRIS CHRISTIAENS, said he was confused by the number of FTE's mentioned in the fiscal note. **Mr. Clinch** said DSL determined that 12 additional FTE's would be required to implement the bill. Nine FTE's would be required during the first fiscal year, and after that the number would escalate to 12.

SENATOR CHRISTIAENS asked what had happened to the DSL budget at this point in the session. **Mr. Clinch** replied that following the hearing on HB 201 the House Committee on Appropriations reopened the section of the budget covering DSL and included that fiscal note into HB 2.

SENATOR CHRISTIAENS asked about the targeted cut and quotes attributed to **Mr. Clinch**. **Mr. Clinch** said at one time 35 million board feet was the harvest on state lands. Since he had been recently appointed to his present job, he had wanted to make it clear that the harvest on state lands would not increase because of his previous job with the logging industry.

SENATOR WILLIAM CRISMORE, asked **Mr. Clinch** about a statement attributed to **Steve Kelly** that **Mr. Clinch** had testified in support of this bill in the House. He asked why he had not come forward at the present hearing.

Mr. Clinch said that was not the first time his presence at hearing was misconstrued as being either a proponent or an opponent. The record would show that he testified as neither a

proponent nor opponent in the House, but merely came to answer questions.

Closing by Sponsor:

REPRESENTATIVE ELLIS commented that this bill would be funded by 2% of increased yield from trust lands. He was opposed to putting staffing costs into the bill. The fiscal note shows an impact on the state budget and that should be addressed by **SENATOR BROOKE'S** amendment.

The bill would not change the fact that State Lands resource managers would still be managing the resource and timber companies would not be deciding by themselves whether or not forests would be clear-cut.

{Comments: Chairman Lorents Grosfield relinquished the Chair to Vice Chairman Larry Tveit in order to present a bill in another committee.}

HEARING ON HB 292

Opening Statement by Sponsor:

REPRESENTATIVE DAN FUCHS, HD #15, Billings, told the committee HB 292 was drafted to eliminate arbitrary and capricious administration, ensure accountability of local reviewing authorities, and provide a more efficient review of subdivisions.

The fiscal note pointed out that the bill was expected to create one additional hour of work. The bill would more clearly define the steps in obtaining approval for a subdivision.

Proponents' Testimony:

John Shontz, Montana Association of Realtors, supported the bill because it stated that if an application for a sanitary permit (septic tank, etc.) from a reviewing authority were denied, the reason must be stated in writing, the evidence must be listed, and the appeals process must be outlined. At present, that information is not always provided in written form. Government entities that do not provide this information in writing leave themselves open to litigation. He thought it was a very reasonable bill.

Anne Hedges, Montana Environmental Information Center, also supported the bill because it will hold everyone accountable.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

SENATOR CHRISTIAENS asked **Steve Pilcher** how the bill would affect the Department of Health.

Steve Pilcher, Department of Health & Environmental Sciences (DHES), said his department had testified in opposition to the bill when it was introduced because it merely outlined the procedure they were currently following. If the bill required more documentation, DHES would not have the resources, and their request for additional resources in HB 2 had not met with a favorable response. He said it was very difficult to keep up with subdivision activity and it had been necessary to hire consultants to assist DHES employees to meet timeframes in current law.

SENATOR CHRISTIAENS asked if the bill went beyond the scope of present activities by his department. In response, **Mr. Pilcher** distributed copies of a subdivision review (**EXHIBIT #6**).

REPRESENTATIVE FUCHS said the steps in the bill were being done at the state level; the problem was with local reviewing authorities. Thirty-five percent of the time, applications were reviewed at the local level and the bill was intended to require that local authorities follow the state's example.

ACTING CHAIRMAN TVEIT asked why **Mr. Pilcher** had testified against the bill in the house, but was neutral in this hearing until called upon.

Mr. Pilcher said it just a matter of priorities. He had testified in the same way in the House. He signed in as an opponent. He was back and forth between hearings and wasn't sure whether or not he would be available to answer questions at this hearing. He agreed the bill would have a much greater impact on local government, but wanted to clarify the department's role.

ACTING CHAIRMAN TVEIT asked if **Mr. Pilcher** felt the bill was unnecessary because DHES was already doing what the bill mandated.

Mr. Pilcher said DHES was not completely certain that the process they were following would satisfy all the requirements of HB 292. If more detail were necessary, additional resources would be required and those resources were identified in the fiscal note.

SENATOR CHRISTIAENS asked what would happen to the bill if no FTE's were available.

REPRESENTATIVE FUCHS said he didn't understand what costs Mr. Pilcher referred to. He pointed out that the fiscal note said the current revenue from subdivision fees was sufficient and only one hour of additional technical staff would be used for each subdivision approval. He said he thought it was just as easy to do it right the first time and that the counties should follow the state's guidelines.

Mr. Pilcher said he was just concerned that legislation might be passed that could not be implemented because of the lack of funding. That has happened before and he wanted to be sure it would not happen again.

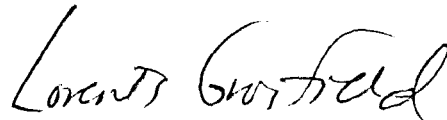
Closing by Sponsor:

REPRESENTATIVE FUCHS told the committee he had no more comments.

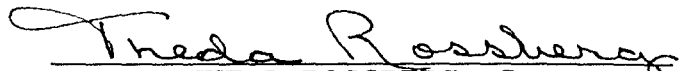
{Comments: the meeting was recorded on 2 tapes, 60 minutes each side.}

ADJOURNMENT

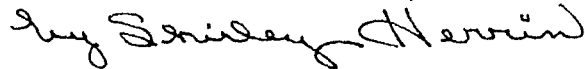
Adjournment: 6:00 PM



LORENTS GROSFIELD, Chairman



THEDA ROSSBERG, Secretary



LG/TR

DATE _____

SEN

SEN

SEN

Introduction to HB 201
Prepared for Rep. Alvin Ellis

FILED NO. 1
DATE 3-03-95
BILL NO. HB 201

Mr. Chairman, members of the Committee, I am sponsoring this legislation because it is a win-win proposal for Montana's public school system, and for Montana's economy. For background, when Montana was granted statehood in 1889 by the U.S. Congress, we were given about six million acres of land to be held in trust for the benefit of public education and specific institutions. The Enabling Act, and subsequently the Montana Constitution, clearly spell out the intent to manage these lands for the benefit of public education, and other worthy objects of the state as implemented by other institutions which were granted land.

These beneficiaries have a legal, constitutional right to expect a reasonable return on investment from trust lands. The courts, including the Montana and the U.S. Supreme Court, have affirmed that trust lands must be managed solely in the interest of designated beneficiaries, not the general public.

We're all aware of the debates over grazing and recreation fees on state lands. The issue is supposedly geared around maximizing revenue to the school trust. But meanwhile, timber production from 600,000 acres of forested trust lands has been faltering at far less than sustained yield levels, resulting in millions of dollars of forgone revenue each year.

Who is accountable for that lost revenue? The Board of Land Commissioners is responsible for the management of state lands, but the legislature is ultimately accountable to the legal beneficiaries of trust lands. If the Land Board were successfully sued for gross negligence, and financial damages awarded to trust beneficiaries, who would pay? The Legislature would have to come up with the money, and let me tell you, it would be in the tens of millions of dollars.

This bill directs the Board of Land Commissioners to do what they should have been doing all along. That is to manage these lands to produce sustainable timber revenues each year, forever.

In the House Education Committee, we amended this bill to assure that additional timber revenues do indeed accrue to public schools. HB 201 establishes a technology acquisition fund for public schools, funded by timber revenues in excess of 1994 levels. Instead of "clearcuts for kids" as opponents have called this bill, I prefer to think of it as "renewable trees for P.C.s."

There has been a lot of emotional rhetoric flying around concerning HB 201. You'll hear a lot of the accusations in a few minutes. But if you look through the packets I've provided, you'll see this bill is based on sound, defensible data.

- 1) According to research conducted by the U.S. Forest Service-Intermountain Research Station, Montana's state lands are growing about 127 million board feet of timber every year. About 30 million board feet of timber is dying, leaving **net new growth of 97 million board feet each year.**
- 2) The Department of State Lands latest estimate of sustained yield was 50 million board feet. Since that number was published in 1985, annual timber sales have averaged only about 30 million board feet. So in the past 10 years, 200 million board feet could have been sold, but wasn't. **At today's prices, that forgone timber revenue would be about \$60 million.**
- 3) This bill does not mandate widespread clearcutting. Opponents have tried to scare the public and scare legislators by saying state lands will be destroyed by clearcuts. DSL currently prescribes clearcutting only about 5 percent of the time, and that percentage would not substantially increase. Opponents are deliberately misreading and distorting the fiscal note, which refers to even-age forest management.
- 4) Based on FY '93 statistics, the State of Idaho and State of Washington were both earning about 7 or 8 percent return on the value of forest lands. Montana was earning 1.1 percent. That has increased in the last two years, but is still not an adequate return on investment.

This is a good bill. It will provide funding for schools, it will lead to more productive, healthy forests, and will help our economy by providing jobs and tax base in the forest products industry.

I would like to propose a "friendly amendment" suggested by the Department of State Lands, which gives them more flexibility in implementing the law. The first is to insert a range of 45 - 55 million board feet in place of 50. The second is to allow for other management activities to supersede site-specific timber sales if more revenue can be generated.

I urge you to debate the merits of this bill using facts and sound judgement, not with emotion and rhetoric. I hope you'll give it a do pass recommendation, and I reserve the right to close. Thank you.

SENATE NATURAL RESOURCES

EXHIBIT NO. 2

DATE 3-03-95

BILL NO HB-201

B.L. Cooper Inc.

Firewood - Logging

P.O. Box C 225-3886

Boulder, Montana 59632

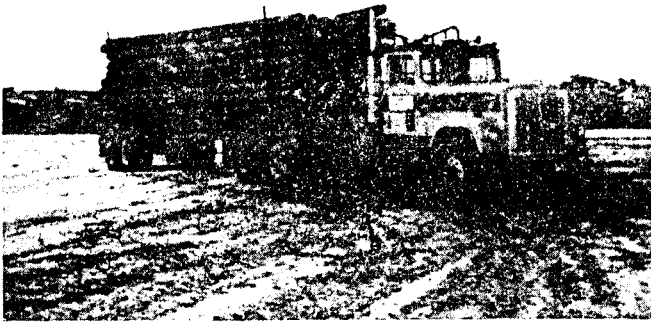
Barton L. Cooper, President



HOUSE BILL 201

Barton L. Cooper
Boulder, Montana 59632

I have been a logging contractor for 26 years and our primary jobs have been U.S. Forest Service Timber Sales. We usually work in the Deerlodge and Helena Forests. Our contracts have required selective harvesting and clear-cutting, so we have considerable experience from harvesting with these methods. Past experience indicates to us that clear-cutting is a more cost effective harvest tool. When developing a management plan for a stand of timber, there are many things a forester must consider, among which is stand type and species. If the stand is predominantly lodge pole pine, which is quite common in this area, clear-cutting is a good harvest method. When selective harvest is used in lodge pole pine forests, most leave trees blow over. This results in considerable loss. It is more expensive to harvest selectively. The owner of the timber stand, (in this case the State of Montana) receives less money per acre, because some of the trees were selectively not harvested and their value is most often lost even if they are salvaged at a later date. Lodge Pole Pine is not a shade tolerant species so stand regeneration is much better in open harvest areas. Selective harvest in Douglas Fir and Ponderosa Pine stands is more successful as they have a better root system. In the past few years, there has been con-



STATE NATURAL RESOURCES

HEAT NO. 2

DATE 3-03-95

BILL NO. 58-201

B.L. Cooper Inc.

Firewood - Logging

P.O. Box C 225-3886

Boulder, Montana 59632

Barton L. Cooper, President

siderable debate about clear-cutting. I would suggest to this committee that most of the clear-cutting controversy has been sponsored largely by individuals who are not familiar with forest stewardship. I recommend do pass on HB 201 and ask that my statement be entered into the record.

STATE TRUST LAND MANAGEMENT

Manage the State's Trust Land Resources to produce revenues for the trust beneficiaries while considering environmental factors and protecting the future income generating capacity of the land.

The Congress of the United States, by the Enabling Act approved February 22, 1889, granted to the State of Montana, for common school support, sections sixteen and thirty-six in every township within the state. Some of these sections had been homesteaded, some were within the boundaries of Indian reservations, and yet others were otherwise disposed of prior to the passage of the Enabling Act. To make up for this loss, and in lieu thereof, other lands were selected by the state. In addition to the common school, the Act and subsequent acts granted acreage for other educational and state institutions. The original common school grant was for 5,188,000 acres. The additional acreage provided for other endowed institutions included 668,720 acres, for a total of 5,856,720 acres. These acreage figures have fluctuated throughout the years due to land sales and acquisitions.

The Enabling Act provided that the proceeds from the sale and permanent disposition of any of the trust lands or part thereof, shall constitute permanent funds for the support and maintenance of the public schools and the various state institutions for which the lands have been granted. The Montana Constitution provides that these permanent funds shall forever remain inviolate, guaranteed by the state against loss or diversion.

The Enabling Act further provides that rentals received on leased lands, interest earned on the permanent funds arising from these lands, interest earned on deferred payments on lands sold, and all other actual income, shall be available for the maintenance and support of such schools and institutions.

The purpose of the trust land management program is to administer and manage the timber, surface and mineral resources for the benefit of the common schools and other endowed institutions in the State of Montana. The Department's obligation of this management and administration is to obtain the greatest benefit for the school trusts. The greatest monetary return must be weighed against the long-term productivity of the land to ensure continued future returns to the trusts. The program is divided into four primary functions: Forest Management, Mineral Management, Surface Management, and Special Uses Management.

The trust land management program has been returning average annual revenues of 26.3 million dollars to the school trusts over the past five years. Those revenues have been obtained through an average annual expenditure of 2.9 million dollars. Therefore, the ratio of dollars returned to dollars expended is 9 to 1.

Land Ownership of Endowed Institutions
Original Grants and Current Acreage

<u>Grant</u>	<u>Original Acreage</u>	<u>Current Acreage</u>
Common School.	5,188,000	* 4,620,260 — ** 5,658,259
University of Montana	46,720	18,556 — 33,754
Montana State University - Morrill Grant	90,000	63,780 — 77,600
Montana State University - Second Grant	50,000	31,058 — 47,277
Montana College of Mineral Science and Technology	100,000	59,507 — 86,250
State Normal School	100,000	63,455 — 88,102
School for Deaf and Blind	50,000	36,574 — 41,171
State Reform School	50,000	68,877 — 78,850
Public Buildings	182,000	186,350 — 231,390
Total	5,856,720	5,148,417 6,342,653

* Surface Acreage

** Mineral Acreage

Note: \$3.22 return vs. \$9 return for Department of State Lands, Department wide management.

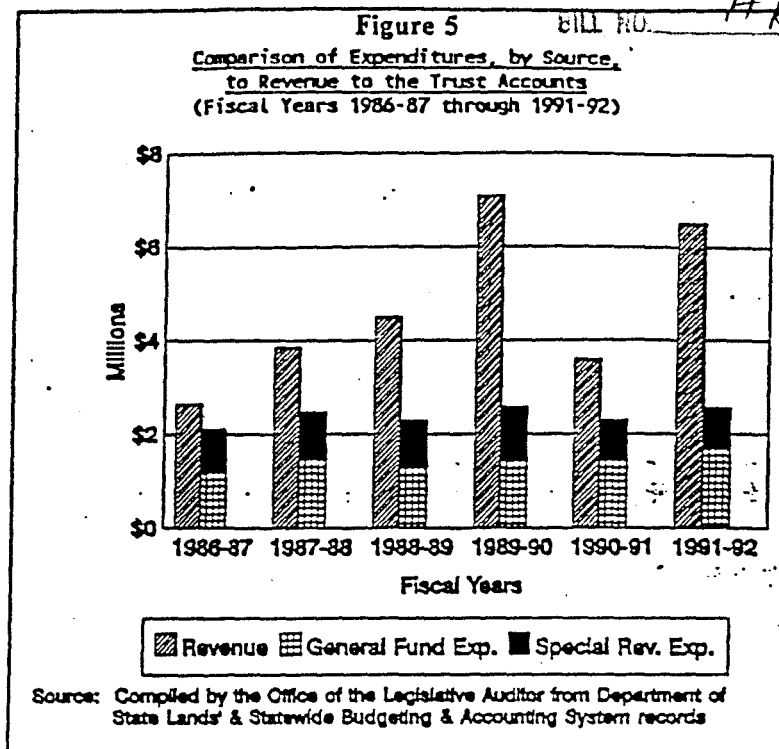
Chapter III Forest Management Program

GENUINE NATURAL RESOURCES

EXHIBIT NO. 3

DATE 3-03-95

BILL NO. HB 201



What is the Amount of
Return?

We compared revenue generated for the trusts to expenditures for fiscal years 1986-87 through 1991-92. Overall, we found sales of forest products contributed an average of \$1.98 to the trust for every dollar in expenditures. This amount does not include interest earned by the trust funds. The General Fund rate of return from sales of forest products for fiscal years 1986-87 through 1991-92 was \$3.22 for every dollar spent.

If the program was not funded and the General Fund money needed for the program was placed directly in the trust accounts, it would have yielded approximately \$1.07 for every dollar invested. State Special Revenue Fund moneys expended by the program are generated from sales of forest products so they would not be available to invest if timber was not sold.

Chapter III

Forest Management Program

In 1985 the legislature appropriated funding for 8 additional positions to allow DSL to harvest timber on trust land at a sustained yield of 50 million board feet per year. At that time, 50 million board feet per year was DSL's most accurate estimate of biological sustained yield on trust land. The estimate was based upon inventory information available at the time.

In fiscal year 1985-86, 27 timber sales sold approximately 49.6 million board feet, up from 21.8 million board feet sold in the previous year. Since that time the number of timber sales each year has decreased, as has the number of board feet sold. As stated earlier, this decrease is primarily attributed to efforts to minimize environmental impacts from sales of forest products.

As discussed earlier, department officials believe they can currently sell 25 to 27 million board feet a year in the next biennium without an increase in staff. With an increase of seven full time equivalents (FTE), they believe they can harvest 30 to 35 million board feet a year in the next biennium. These two estimates take into consideration the items which limit the number of timber sales (discussed in the previous sections), and the timber available for harvesting, and are both below biological sustained yield. The estimates are based upon the professional judgement of land office personnel. We were not able to verify the accuracy of the numbers.

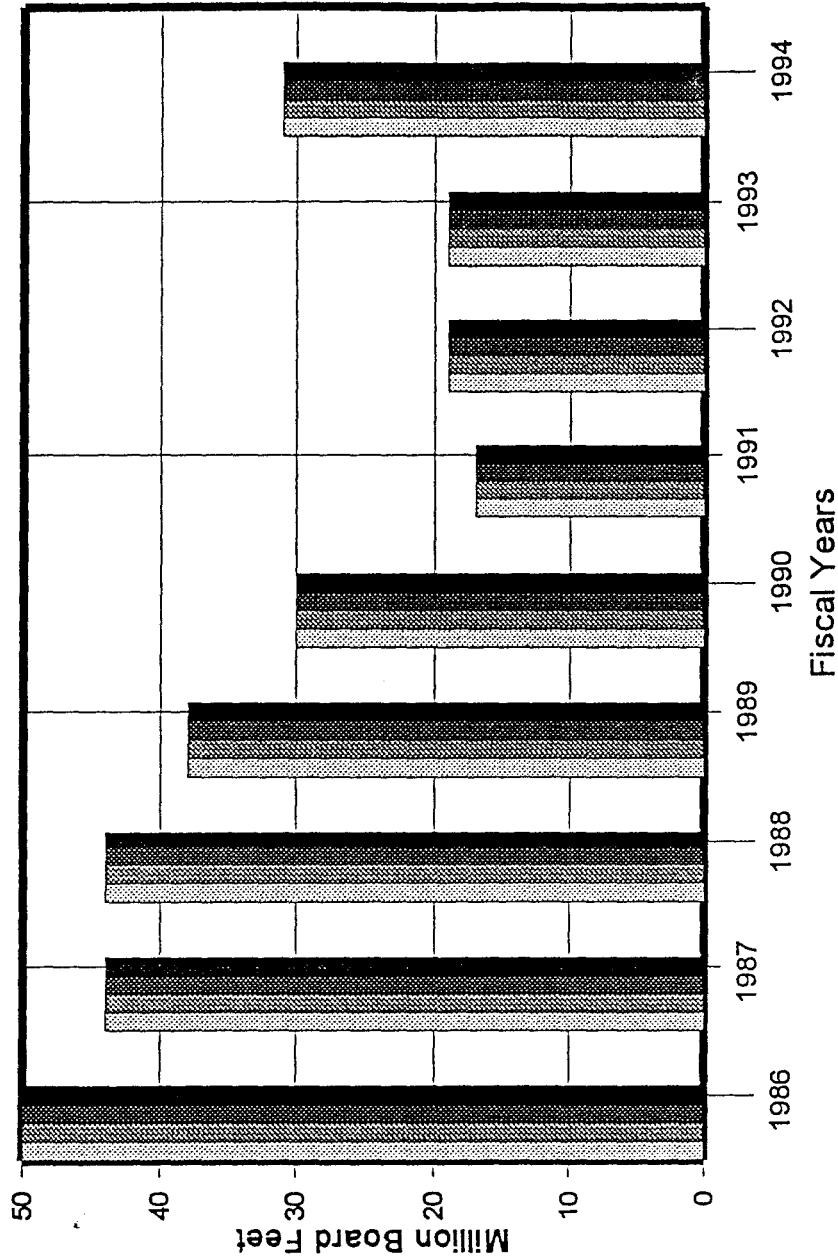
What is Brush Disposal and How Does it Ensure a Resource in the Long-Term?

Brush disposal projects accomplish reduction of fire hazard by cutting up (lopping) branches left from harvesting trees on trust land, mechanical piling, burning, and associated site preparation for reforestation. Work for reforestation (ensuring a new stand of trees in the future either through natural regeneration or planting seedlings) includes mechanical site preparation by a bulldozer during brush disposal operations. Disposal can be done by the sale contractor, DSL staff (usually summer FTE used to fight fires), or the work can be contracted.

Collections from timber sales finance brush disposal. A maximum of eleven dollars per thousand board feet of harvested timber is collected from the sale contractor for brush disposal.

Montana Trust Land Timber Sales

50 MILLION BOARD
FEET = SUSTAINED
YIELD



ONE MILLION BOARD FEET = APPROXIMATELY \$300,000

3-03-95

HB-201

STATE OWNED FOREST LANDS

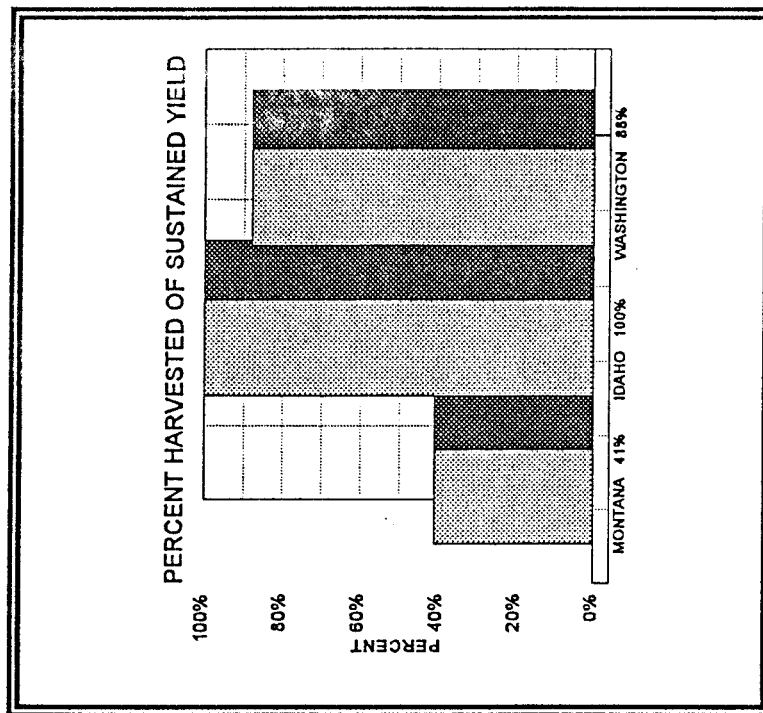
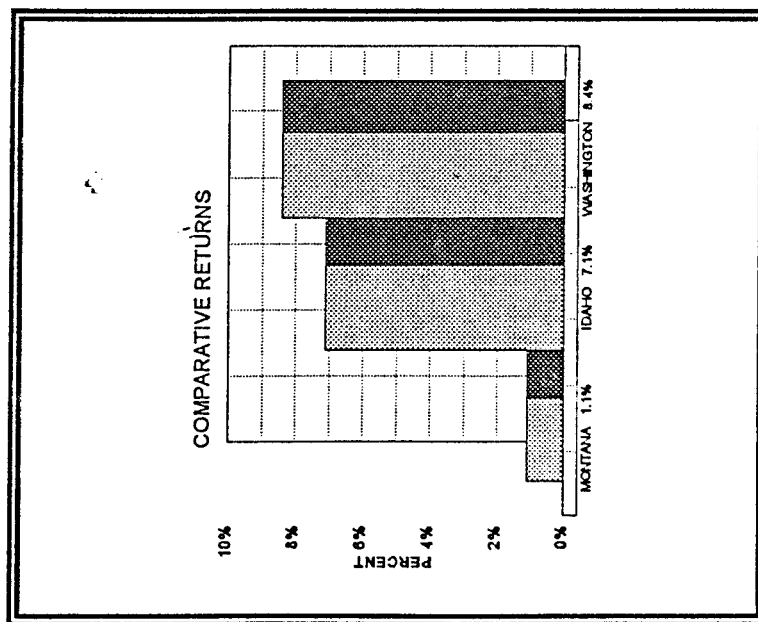


Figure 1
LANDS VALUED:
MT @ \$300/acre
ID @ \$500/acre
WA @ \$800/acre

Note: These are FY 1993 statistics, timber sale volume has increased in FY 1994 and 1995

3
3-23-95
BILL NO. 14B-201

United States
Department
of Agriculture

Forest Service

Intermountain
Research StationResource Bulletin
INT-81

September 1993



Montana's Forest Resources

Roger C. Conner
Renee A. O'Brien

CHANGE IN SAWTIMBER INVENTORY BY OWNER

Annual sawtimber removals from timberland outside NFS play a prominent role in Montana's timber supply. The net change in sawtimber inventory on these lands is an indication of the potential for continuing to harvest at current levels:

Components of change	Owner class			
	State	Other public	Forest industry	Nonindustrial private
	----- Million board feet (Scribner rule) -----			
Total growth	126.8	85.4	228.1	549.2
Mortality	-29.4	-18.3	-54.7	-79.4
Net growth	<u>97.4</u>	67.1	173.4	469.8
Removals	-39.1	- 8.2	-381.2	-271.1
Net change	+58.3	+58.9	-207.8	+198.7
Percent change in inventory	+ 1.3	+ 2.1	- 3.2	+ 1.3

Given present levels of net growth and removals, the outlook for the sawtimber resource on State timberland and on other public timberland is somewhat promising. The same can be said of nonindustrial private timberland. Total sawtimber inventory volume on these lands is increasing, although at an average of just 1.6 percent annually. Forest industry sawtimber inventory, on the other hand, suffered a net loss.

The 1988 removals level from industry timberland was roughly 220 percent of net annual growth. The 381 million board feet of sawtimber cut from forest industry timberland and the volume lost to mortality decreased net sawtimber inventory by almost 208 million board feet—3.2 percent.

High levels of removals can be beneficial in some sawtimber stands, particularly older stands. In such cases, removals can reduce the risk of losses to mortality. Harvesting older stands can also return acres stocked with slow-growing timber back to productive condition. At the same time, the demand for a continued supply of sawtimber volume also should be considered. If high levels of removals are continued over the long term, the practice can lead to future sawtimber shortages. The potential impact on the future structure of Montana's timber resource outside NFS can be illustrated by an estimate of the percent change in number of softwood growing-stock trees by diameter class between the base year of 1979 and 2019 (fig. 14).

Based on remeasurement data, the actual change in numbers of trees between successive surveys—1979 and 1989—was used to calculate rates of change for growth, mortality, and removals for each diameter class. These rates were held constant during stand projections for the next three decades—specifically for the years 2000, 2010, and 2020. The percent change in numbers of trees by diameter class, rather than the actual change in number of trees, was used in the figure to help smooth the distribution curves.

(Revised estimates of sustained yield and financial returns:
Provided by Montana Wood Products Association based on latest data)

MONTANA TRUST LANDS

Annual Growth	127mmbf
Annual Mortality	29mmbf
Approximate Sustained Yield *	55mmbf
Actual 1993 - 1994 Sales	31mmbf
Opportunity Lost	24mmbf
	X \$300,000mmbf
	= \$7.2 million

All classified grazing lands in Montana generate about \$4 million in revenue to the school trust.

* Conservative estimate based upon environmental laws, topography, harvesting constraints, etc.



Darby Public Schools

District Number 9

209 School Drive

Phone (406) 821-3841 ~ Fax (406) 821-3974

Darby, Montana 59829

SENATE NATURAL RESOURCES

EXHIBIT NO. 3

DATE 3-03-95

BILL NO. HB-201

January 19, 1995

Cary Hegreberg
Montana Wood Products Association
33 South Last Chance Gulch
Helena, MT 59601

Dear Cary:

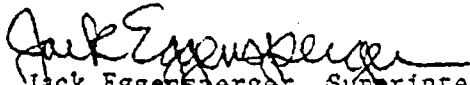
I am writing this letter in support of HB 201, "Sustained Yield From School Trust Lands." None of the district trustees or I are able to get away to come to Helena to testify in person on January 20.

We sincerely feel that not only is managing forested trust lands to provide maximum revenues from a sustained yield program prudent, but it is the constitutional mandate. At a time when sources of revenue for schools are causing consternation among some state residents, it seems only a matter of common sense that this particular source be managed to provide maximum revenues under a sustained yield management program.

We also feel that the State Lands Board has been remiss in its constitutional duties in overseeing management of forested school trust lands. If legislative action is necessary to remedy this situation, then we support such action.

It is in the best interests of our most precious natural resource, our children, to manage this resource in such a manner as to provide for schools at the present as well as managing for the future.

Sincerely,


Jack Eggenberger, Superintendent

SCHOOL DISTRICT NUMBER SIX

P.O. BOX 1259
COLUMBIA FALLS, MONTANA 59913

DATE: January 20, 1995

TO: Members of the House
Natural Resource Committee

RE: Hearing on House Bill 201

FROM: Ryan D. Taylor, Superintendent



The intent of this letter is to support the concepts espoused in H.B. 201.

This legislation is timely. It is definitely needed. It clarifies once and for all the designated role that forested state trust lands are to play in our State's economic and fiscal programs.

Thank you for the opportunity to comment on this most important piece of legislation. Please feel free to contact me if I can be of any assistance.

SENATE NATURAL RESOURCES

EXHIBIT NO. 3

DATE 3-03-95

BILL NO. HB 201

Doug Gamma
5350 Ashley Lake Road
Kila, MT 59920

January 20, 1995

Montana Wood Products Association
Aspen Court, Suite 2-B
33 S. Last Chance Gulch
Helena, MT 59601 Fax (406)443-2439


Dear Sirs:

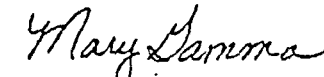
With regard to HB 201 - "Sustained Yield from School Trust Lands", please notify the members of the House Natural Resource Committee that we are very much in support of the bill.

It seems mighty ridiculous to have a renewable resource rotting in the woods when it could be educating our children, which is what the school trust lands sections were set up for.

As a school board member of District 54, I know how short of money our school district is. It is a critical situation. Please support HB 201.

Sincerely,


Doug Gamma
Trustee, District 54


Mary Gamma
Parent of 4 children

KEN HALVERSON, SUPERINTENDENT
(406) 825-7144
KATHY ZULEGER, DISTRICT CLERK
(406) 825-3113
FAX (406) 825-3114

CLINTON ELEMENTARY
DISTRICT #32
19075 E. MULLAN ROAD
P.O. BOX 250
CLINTON, MONTANA 59825-250

JEFF WEBBER, CHAIRMAN
(406) 258-6688
KAY JAMES, VICE-CHAIRMAN
(406) 258-5481
CLIMATE, NATURAL, RESOURCES
DISTRICT NO. 3
DATE 3-03-95
CALL NO. 14 B-201

February 1, 1995

Representative Don Larson
House District 58
State of Montana
Capital Station
Helena, MT 59620

Dear Representative Larson,

I recently read in the Seeley-Swan Pathfinder that you thought the bill (HB201) brought by the Montana Wood Products Association to harvest 50 million board feet of timber per year off of State Lands was "dumb". You also stated that "It is embarrassing and uncomfortable when you are opposed to a bill that a constituent is supporting, unbeknownst to you." Rep. Larson, let it be further 'beknownst' to you that this constituent (in your district) strongly supports this bill.

This bill was designed to force the state to manage the "School Trust Lands" as they were originally set up to do - to fund our public schools. School trust lands were not set aside to provide wildlife habitat or for their aesthetic value or to provide recreational opportunities. They were set up to provide revenues for our schools.

From the data that I have seen there is no forest management reason that 50 MMBF cannot be harvested on a sustainable level. We are only harvesting 30 MMBF because the state is caving in to protectionist pressures. I do not advocate using unsound forest management practices. Nor do I believe that maximizing revenues off of state lands necessarily degrades the value of that land for other interest. But if it does, so be it.

You and I both know what a struggled it is to get adequate funding for our schools. This bill has received strong support from school districts in Montana. As communities loose property tax value from mill-closures and downsizing, as recently happened in Bonner and Superior, managing our school trust lands to maximize value will be more critical. I would ask that you change your opposition to HB 201 and show support for education in House District 58.



Jeff Webber
Chairman, District 32
Clinton Elementary School District

cc: Clinton Elem School Trustees

TABLE 1

Montana timber harvest from various ownerships, 1945-1991

Thousand Board Feet, Scribner

Year	Total	National Forest	Tribe	BLM	State	Private	NIPF	Industrial
1945	322,240	123,223	27,600	650	68,784	103,984	---	---
1946	388,354	87,139	32,800	100	38,387	229,928	---	---
1947	466,960	166,409	33,800	100	70,154	196,497	---	---
1948	556,035	187,757	39,200	913	74,594	253,571	---	---
1949	543,424	176,808	41,800	1,178	72,612	231,027	---	---
1950	589,913	136,844	51,000	4,325	63,119	334,625	---	---
1951	506,597	181,537	32,000	2,308	105,856	184,897	---	---
1952	542,793	227,205	33,600	1,605	90,287	190,096	---	---
1953	636,910	296,020	28,600	3,128	87,618	221,543	---	---
1954	660,462	319,989	38,800	6,031	73,154	222,448	---	---
1955	782,145	471,453	45,600	2,875	77,076	185,141	---	---
1956	886,861	497,827	28,600	6,497	50,414	303,523	---	---
1957	697,985	479,161	24,600	5,556	25,585	163,083	---	---
1958	828,528	395,465	31,000	8,736	23,674	369,653	---	---
1959	938,952	445,254	23,900	12,355	35,885	421,558	---	---
1960	942,870	480,043	21,600	17,336	22,833	401,058	---	---
1961	1,091,818	482,393	31,500	3,308	34,555	540,062	---	---
1962	1,116,900	631,900	19,800	7,200	30,100	424,600	---	---
1963	1,293,200	726,200	18,200	9,900	25,200	509,600	---	---
1964	1,259,500	722,100	37,700	12,500	28,000	459,200	---	---
1965	1,316,200	774,600	30,000	19,900	28,700	463,000	---	---
1966	1,338,200	785,700	57,100	19,400	23,300	453,700	---	---
1967	1,177,600	658,700	61,900	13,500	40,300	403,200	---	---
1968	1,339,400	796,900	83,900	19,400	34,000	405,200	---	---
1969	1,302,400	799,700	78,800	15,000	46,700	362,200	---	---
1970	1,093,500	651,700	53,500	15,800	28,800	344,300	---	---
1971	1,243,500	738,600	76,000	5,000	21,800	402,100	---	---
1972	1,082,100	558,000	82,600	4,300	30,400	406,600	---	---
1973	1,117,423	564,131	98,013	2,605	23,259	(429,415)	215,710	213,706
1974	1,088,283	495,341	82,663	3,298	7,561	(499,400)	228,679	269,721
1975	1,008,700	444,542	48,644	4,847	9,764	(500,903)	148,671	352,233
1976	1,106,144	470,361	44,090	4,474	17,316	(569,904)	231,076	338,827
1977	1,121,569	494,854	45,986	5,095	18,825	(556,809)	218,198	338,611
1978	1,164,973	452,113	53,570	5,088	27,488	(626,714)	222,170	404,544
1979	1,089,902	446,158	42,589	5,417	28,272	(567,466)	227,875	339,591
1980	938,928	402,745	38,015	5,598	25,968	(466,602)	148,641	317,961
1981	935,561	426,638	38,000	9,060	28,652	(434,011)	134,055	299,956
1982	828,119	265,808	29,762	10,587	29,530	(492,432)	93,529	398,903
1983	1,151,066	502,465	37,922	14,803	27,140	(568,738)	132,937	435,801
1984	1,043,056	412,276	44,973	5,341	24,887	(555,579)	151,416	404,163
1985	1,117,087	504,177	18,843	7,923	26,045	(561,326)	114,469	446,657
1986	1,260,432	504,026	13,081	9,112	26,187	(708,026)	139,335	568,691
1987	1,376,466	602,863	24,020	6,608	55,615	(687,360)	167,291	520,069
1988	1,199,798	486,033	56,021	7,710	41,527	(608,507)	168,844	439,663
1989	1,278,811	520,939	70,787	6,472	43,950	(636,663)	180,760	455,903
1990	1,118,864	424,827	45,557	5,108	31,470	(611,902)	267,383	344,519
1991	919,185	317,532	43,773	7,071	26,893	(523,916)	244,822	279,093

Note: From 1973-1991, private harvest is divided into NIPF (nonindustrial private) and industrial private. This division is unavailable prior to 1973. The amount in brackets under Private is the total of the NIPF and Industrial columns.

Sources: 1977-1991 - USDA Forest Service, Region 1, Timber Harvest Summary, Missoula, MT.
 1962-1976 - Schuster, Ervin G. 1978. Montana's timber harvest and timber-using industry: a study of relationships. Montana Forest and Conservation Experiment Station, School of Forestry, University of Montana, Missoula.
 1945-1961 - Derived by the Bureau of Business and Economic Research, University of Montana, Missoula.

forest values, our culture, and ultimately bankrupts the ability of school trust forests to produce revenue.

H.B. 201 benefits lumber and pulp producers at taxpayer expense.

Ask Montana's school children what they think? They know what ails our school systems. I believe students would prefer to save our living forest to a bleak future of stumps, clearcuts and pocket full of change for their schools.

Section 2(2) establishes a 50 million board feet annual cut that becomes a "requirement" (Section 3(1)) prior to a completed state-wide forest inventory and study. H.B. 201 promotes corporate welfare, not Montana schools.

A sustainable timber harvest target can be reasonably determined with a scientifically-based forest management plan. I believe the 55 million board feet per year (mmbf/yr) "biological capability" figure (See Exhibit A, Attached) presented by Commissioner Bud Clinch is deliberately inflated and misleading. It is highly likely that 55mmbf/yr is an inaccurate figure that deserves close public scrutiny and independent professional review. The figure was derived from U.S. Forest Service research data, not from Department of State Lands' (DSL) own field studies. To base a multi-year, statewide timber harvest schedule on uncontested Forest Service data and analysis is asking for trouble.

Currently, **DSL operates its timber program with no statewide standards and guidelines.** In 1991, and again in 1994, DSL promised two separate Montana District Court Judges that it would produce a state-wide, programmatic forest management plan and Environmental Impact Statement (EIS), with statewide standards and guidelines. **Today, no plan exists.**

It is wrong to assume higher harvest volumes will generate a net revenue increase. A timber-only forest management strategy ignores the potential of sustaining other public values produced by school trust forests. A co-dominant relationship between timber and recreation is one obviously viable alternative that will produce greater long-term benefits for the school trust without destroying public forests. There are other viable management strategies that will also work better than simply clearcutting school trust forests as fast as you can.

DSL's annual cut averaged 28.5 mmbf/yr from 1957 through 1991. Only once, in 1987, did DSL cut 50 million board feet. Overcutting causes detrimental environmental effects that ultimately produce real clean-up costs to the State of Montana. Clean-up and habitat restoration costs often exceed the revenue generated by cutting down wild forests.

The H.B. 201 Fiscal Note states: "Approximately 40% of the total harvest will be from even-aged management, which may include some clearcutting." All even-aged management is clearcutting in various forms. Do not be fooled by silvicultural jargon.

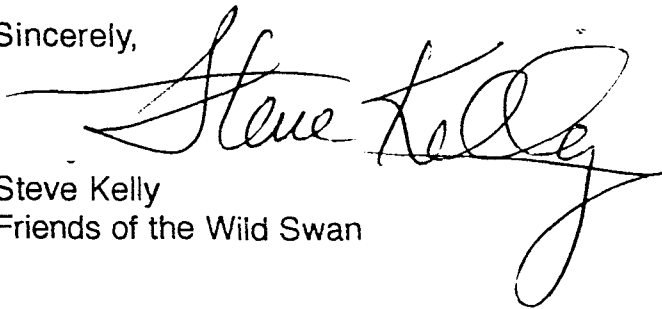
"Shelterwood" means a two-stage clearcut. "Seed-tree" means a two-stage clearcut. "Group selection" means smaller clearcuts. Even-aged management is tree farming, where all the trees are the same age, the same height, and often the same species. This is not the kind of forest management the public supports. It is not the kind of forest management that supports sustainable wildlife and fish populations.

In its current form, H.B. 201 represents a bill that cannot comply ... "with all existing state and federal laws". (Section 1). It is fiscally unsound and environmentally destructive. Friends of the Wild Swan supports the study (Section 2(1)) provision. We oppose, in the strongest terms, the mandatory annual cut level of 50 million board feet (Section 2(2)) **before** a proper study has provided the data and analysis necessary to determine a biologically-based, sustainable annual harvest level.

In addition, I strongly urge the House Education Committee to **take a hard look at the various bills that may affect school trust lands as a package** to get a clearer picture of what the timber industry's agenda is really about. I have looked at these bills, and I believe this legislature is being duped by industry lobbyists, and by Governor Racicot's appointed Commissioner of State Lands, himself a former timber industry lobbyist. I urge you to stay focused on what is best for school kids in the long-run, and keep that vision of what Montana means to the people you represent in mind. You cannot possibly support H.B. 201 and maintain productive, healthy forests for future generations.

Thank you for the opportunity to comment on H.B.201.

Sincerely,



Steve Kelly
Friends of the Wild Swan

Friends of the Wild Swan
P.O. Box 5103
Swan Lake, Montana 59911

Montana Senator Lorents Grosfield, Chairman
Senate Natural Resources Committee
State Capitol
Helena, Montana 59620

March 3, 1995

Dear Chairman Grosfield:

On behalf of Friends of the Wild Swan, a non-profit conservation group based in Swan Lake, please accept the following comments in opposition to H. B. 201.

Sustained yield is a well-defined biological term being deliberately twisted for political purposes to deceive the public and the 1995 legislature. Sustained yield of timber cannot be determined without analysis of the data. No state-wide analysis has been done.

H.B. 201 cannot solve the perceived financial crisis affecting Montana school districts. I suggest that the "dead wood" in our schools is a more significant problem than dead wood in our forests. HB 201 is a misapplied quick cash solution to an overstated problem (not enough computers). When it comes to schools, no amount of money is ever enough.

A hard, 50 million board feet timber volume target will jeopardize the long-term productivity, and profitability, of school trust forests. A politically-produced target will break the back of another important trust, the trust the public has in professional forestry, and in Montana Department of State Lands (DSL).

If H.B. 201 is enacted into law, Montana stands to lose important public values that define who we are and why we live here. Forests are part of our culture. We cannot build up our schools by cutting our forests down.

H.B. 201 fails to acknowledge vast differences between forest management and tree farming. Tree farms do not provide big game winter range. Tree farms do not provide habitat for hundreds of other wildlife species that live in school trust forests. Tree farms do not protect water quality and fisheries. Tree farms do not account for the fact that environmental capital keeps property values high by maintaining quality lifestyles. H.B. 201 spends this precious environmental capital as if there were no tomorrow.

Abandon this trees-are-a-crop strategy before it bankrupts Montana's irreplaceable



Department of Health and Environmental Sciences
STATE OF MONTANA HELENA, MONTANA 59601

A. C. Knight, M.D.

~~XXXXXXXXXXXX~~
CLIMATE NATURAL RESOURCES
DIRECTOR
EXHIBIT NO. 6
DATE 3-03-95
BILL NO. HB-292

November 8, 1977

Mr. Clinton E. Fuchs
2723 Miles Avenue
Billings, MT 59101

Re: Gibbon Subdivision, 2nd Filing
Yellowstone County

Dear Mr. Fuchs:

We are required by Section 69-5003, R.C.M. 1947 to take final action on a subdivision proposal within 60 days of receipt of plans. This is to inform you that the material submitted for the above referenced proposal is incomplete for our review purposes. The deficiencies are noted on the attached sheet.

Because of the inadequate information, we herewith decline to approve the proposed division. Unless the information required by law and regulation is submitted to this office and found to be adequate, we cannot produce a statement that the subdivision is free of sanitary restriction.

You may obtain the necessary information and re-submit the application for our review; but if you do so, please use the Submittal title noted above to assure that the information is placed with your particular proposal.

If you have any questions on the above, please feel free to call on us at 449-3946.

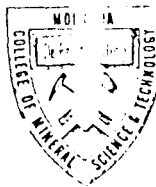
Sincerely,

James Melstad
Subdivision Bureau
Environmental Sciences Division

JM:dg
Enclosures
cc: E. Stow, R.S., Courthouse Rooms 310-311, Billings

ADDITIONAL INFORMATION REQUIRED

1. The enclosed copy of a letter from the Montana Bureau of Mines and Geology points out that the water supply situation in this area is an unknown in terms of further subdivision development. Because of the questionable supply, we will require that Sections (7)(a)(ii) and (7)(e) of our regulation (enclosed) be complied with. The Kaufman well could perhaps be used for some of the testing, but I feel that a hydrogeologist's or qualified professional engineer's report will also be necessary to adequately address the water supply question. Please submit the results of the testing and the report when they are complete.
2. The soils descriptions provided in the Environmental Assessment indicate that bedrock may be a problem. Section (9)(e)(vi) of the regulations stipulates that test holes or hammer seismic tests shall be provided where bedrock may exist. Please provide at least ten test holes or hammer seismic tests at well scattered locations throughout the subdivision. The tests should be conducted by someone competent in the field of soils science. Particular attention should be directed toward the presence of any bedrock, in addition to descriptions of at least the top six feet of the soil profile.
3. The drainage for Plateau Place and portions of Pioneer Road and Timber Trail appear to drain to the northeast corner of the subdivision. Please clarify where this runoff water will drain when it leaves the subdivision. If the adjacent landowner does not want this drainage over his property, a French drain or similar facility should be considered and may be required.
4. We are required to have a copy of the final plat for our final review. Please submit a copy when completed.



SENATE NATURAL RESOURCES

EXHIBIT NO. 6

DATE 3-03-95

BILL NO. HB-292

MONTANA BUREAU OF MINES AND GEOLOGY

MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY

BUTTE, MONTANA 59701

(406) 792-8321

May 19, 1977



Mr. Richard Gee, Director of Current Planning
Billings-Yellowstone City-County Planning Board
Room 303, Courthouse
Billings, Montana 59101

Dear Mr. Gee:

Regarding the Oxbow Subdivision, Second Filing, in sec. 1, T. 1 N., R. 26 E., Yellowstone County, the following comments are submitted for your consideration. The application was reviewed for ground- and surface-water potential, sewage-disposal plans, and geologic hazards. Our comments are made without the benefit of field examination, using existing reference materials and the information provided by the applicant. Should the applicant disagree with our interpretation of the available data, we will reconsider comments for which additional technical data and narrative are provided by a qualified professional geologist, hydrogeologist, or engineer.

The proposed subdivision does not lie within a 100-year floodplain.

Septic systems will generally be adequate except on Wr Class soils, where slopes of 15 percent or steeper may preclude their use.

The ground-water supply does not seem adequate to support such a great number of wells in this area. The Judith River Formation normally yields only 5 to 15 gallons per minute except where it has excellent porosity or where fractures enhance water movement. The lowered water levels in wells adjacent to the proposed subdivision are almost certainly the result of overdrafts on the aquifer. The normal rate of ground-water percolation through the Judith River Formation is sufficiently slow that last year's lowered precipitation amounts should not affect wells for several years, so therefore it is probably not the cause for lower well-water levels.

Well spacings of 250 feet apart or less will almost certainly create severe well interference and accelerate the lowering of water levels in the aquifer. If the water in the Judith River Formation becomes depleted, wells will have to be deepened at least 750 feet to encounter water of the Eagle Formation.

Water quality in much of the Judith River Formation is marginal for domestic use. Water samples should be taken from adjacent wells or from test wells within the proposed subdivision and analyzed for their suitability for human use. If water from the Judith River Formation here is of acceptable quality, we would recommend that the subdivider drill several wells in the area and use them as part of a centralized water supply system for the proposed subdivision. Even the use of a centralized water supply system, however, may not be adequate to prevent excessive lowering of water levels in the Judith River aquifer.

May 19, 1977

Mr. Richard Gee

- 2 -

There is little ground-water recharge to the Judith River Formation in this area. Most of the recharge derives from the west. Recharge from the north or northwest is uncertain because of the northeast-trending fault north of this area.

Because of potential geologic problems with the Cushman Bainville loam and Worland loam, as pointed out in the Environmental Assessment (page 3 and 5), we urge caution and perhaps an on-site inspection by a professional geologist or soils engineer. At the time of this inspection, attention should also be given to the slope west of the proposed subdivision for potential landslides or rockfalls.

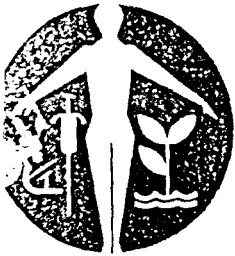
Sincerely,

Robert N. Bergantino
Hydrogeologist

H. G. McClernan
Economic Geologist

RNB:HGM:ech

Copy to DCA/Division of Planning



Department of Health and Environmental Sciences
STATE OF MONTANA HELENA, MONTANA 59601

A. C. Knight, M.D.

~~XXXXXXXXXXXX~~
DIRECTOR

December 23, 1977

SENATE NATURAL RESOURCES

EXHIBIT NO. 6

DATE 3-13-95

BILL NO. 17 B-292

Mr. Clinton Fuchs
2723 Miles Avenue
Billings, MT 59101

Re: Cxbow Subdivision, 2nd Filing
Yellowstone County

Dear Mr. Fuchs:

We are required by Section 69-5003, R.C.M. 1947 to take final action on a subdivision proposal within 60 days of receipt of plans. This is to inform you that the material submitted for the above referenced proposal is incomplete for our review purposes. The deficiencies are noted on the attached sheet.

Because of the inadequate information, we herewith decline to approve the proposed division. Unless the information required by law and regulation is submitted to this office and found to be adequate, we cannot produce a statement that the subdivision is free of sanitary restriction.

You may obtain the necessary information and re-submit the application for our review; but if you do so, please use the Submittal title noted above to assure that the information is placed with your particular proposal.

If you have any questions on the above, please feel free to call on us at 449-3946.

Sincerely,

James Melstad
Subdivision Bureau
Environmental Sciences Division

JMK
Enc.

cc: Ed L. Stow, Courthouse, Rms. 310-311, Billings 59101

SENATE NATURAL RESOURCES
EXHIBIT NO. 6
DATE 3-03-95
BILL NO. H.B. 292

ADDITIONAL INFORMATION REQUIRED --

Oxbow Subdivision 2nd Filing
Yellowstone County

1. A hydrogeologists' assessment of the groundwater supply is necessary because of the question raised by the Montana Bureau of Mines and Geology on the depletion of the Judith River Formation. Also, our regulations have no provision for waiving the requirement, especially where the adequacy of the supply has been questioned.

The services of a hydrogeologist(s) are available in Bozeman, although this is not meant as a recommendation for the services of a particular professional. Please keep in mind that cisterns may be proposed as a water supply if a hauler will certify that he can provide service to the subdivision. If wells are to be utilized even for an auxiliary source, the hydrogeologists' assessment is still necessary.

2. The soils test will still be required. Soils holes dug on Pleasant View Subdivision revealed fragmented sandstone at depths as shallow as 10 inches. The large area encompassed by Oxbow Subdivision - 2nd leaves much unknown in terms of soils. Seven well scattered holes would be adequate to determine if bedrock conditions may be present. If it appears that bedrock conditions are present, more holes may be required.

3. A copy of the final plat is still required.

JM:mk

See following letter.
JM

STATE OF MONTANA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
CERTIFICATE OF SUBDIVISION PLAT APPROVAL
(Section 69-5001 through 69-5010, R.C.M. 1977)

SENATE NATURAL RESOURCES

EXHIBIT NO. 6
DATE 3-03-95

To: County Clerk and Recorder
Yellowstone County
Billings, Montana

BILL NO. 11 B-292
No. 56-70-111
U.S. S 70/PM

THIS IS TO CERTIFY THAT the plans and supplemental information relating to the subdivision known as Ordow Subdivision, Second Filing, in Section 1, T1N, R26E consisting of eight-two (82) lots have been reviewed by personnel of the Subdivision Bureau, and,

THAT the documents and data required by Section 69-5001 through 69-5010, R.C.M. 1947 and the rules of the Department of Health and Environmental Sciences made and promulgated pursuant thereto have been submitted and found to be in compliance therewith, and,

THAT approval of the plat of said subdivision is made with the understanding that the following conditions shall be met:

THAT the lot sizes as indicated on the plat to be filed with the county clerk and recorder will not be further altered without approval, and,

THAT the lots shall be used for single-family dwellings, and,

THAT the individual water system will consist of cisterns constructed in accordance with the criteria established in ARM 16-2.14(10)-S14340 and the most current standards of the Department of Health and Environmental Sciences, and,

THAT water for cisterns shall be obtained from the City of Billings and shall be hauled by a licensed water hauler, and,

THAT the individual sewage treatment system will consist of a septic tank and subsurface drainfield of such size and description as will comply with Yellowstone County Septic System Regulations and ARM 16-2.14(10)-S14340, and,

THAT the subsurface drainfields for lots in Blocks 2 and 4 shall have absorption areas of sufficient size to provide 205 square feet per bedroom and the subsurface drainfields for lots in Blocks 1, 3 & 5 shall have absorption areas of sufficient size to provide 190 square feet per bedroom and the subsurface drainfields for lots in Block 6 shall have absorption areas of sufficient size to provide 175 square feet per bedroom, and,

THAT the bottom of the drainfield shall be at least four feet above the water table, and,

THAT no sewage treatment system shall be constructed within 100 feet of the maximum highwater level of a 100 year flood of any stream, lake, watercourse, or irrigation ditch, nor within 100 feet of any domestic water supply source, and,

THAT water supply and sewage treatment systems will be located as shown on the approved plans, and,

THAT plans for the proposed water and individual sewage treatment systems will be reviewed and approved by the Yellowstone County Health Department before construction is started, and,

THAT the developer shall provide each purchaser of property with a copy of the plat, approved location of water supply and sewage treatment system and a copy of this document, and,

THAT instruments of transfer for this property shall contain reference to these conditions, and,

THAT departure from any criteria set forth in the approved plans and specifications and ARM 16-2.14(10)-S14340 when erecting a structure and appurtenant facilities in said subdivision without Department approval, is grounds for injunction by the Department of Health and Environmental Sciences.

No. 56-78-111-46

E.S. S 78/84

Page 2

STATE NATURAL RESOURCES

EXHIBIT NO. 6

DATE 3-03-95

BILL NO. HB 292

YOU ARE REQUESTED to record this certificate by attaching it to the plat of said subdivision filed in your office as required by law.

DATED this 23rd day of January, 1978.

A.C. KNIGHT, D.D., F.C.C.P.
DIRECTOR

By: [Signature]
Edward W. Casne, Chief
Subdivision Bureau
Environmental Sciences Division

Owners Name:

Clinton Fuchs

DATE 3-3-95

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HSR 10, HB 201, HB 292

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
John Gatchell	MT WILDERNESS	201		X
Robert Ethridge		201		X
John Helms	Seeloy Lake Glen	201	X	
JOHN E. BRADOT	N.A.	201		X
Stan Frasier	Self	201		X
Jim Richard	MT. WILDERNESS FED	201		X
Jim Jensen	MEIC	201		X
Cary Hegreberg	MT Wood Prod. Assoc.	201	X	
Jim Intwile	ms change	201	L	
Beth Wheatley	Self	201		X
George Ochenski	TROUT UNLIMITED	201		X
Tom Schoon	State Land Coal	201		X
IC	Skylar's Spoke	201		X
Tom Schoon	IC	HSR 10	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-3-95

SENATE COMMITTEE ON 1177 RESOURCES

BILLS BEING HEARD TODAY: HJR 10 HB-201
HB-892

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
<i>Arley A Adams</i>				
<i>Alan A Adams</i>				
<i>Anne Hedgys</i>	<i>MEIC</i>	<i>HJR 10</i>	<i>X</i>	
		<i>HB 292</i>	<i>X</i>	
<i>Steve P. Allen</i>	<i>DHES</i>	<i>HB 292</i>		<i>X</i>
<i>J. Shontz</i>	<i>MT Assn Rotten</i>	<i>292</i>	<i>X</i>	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-3-95

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: HJR 10 HB 201
HB - 292

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Lorna Frank	MT. Farm Bureau	HB201	X	
Peggy Trenk	WETA	HB201 HJR 10	X X	
Bob Anderson	USBA	HB 201	X	
Lorna Frank	STAN	HJR 201	X	
Ronald STEGMANN	EAST Helena School Dist #9	HB201	X	
Barton L Cooper	B. L Cooper Inc	HB201	X	
Jim Foster	MREA	HB201	X	
Madalyn Quinlan	OPI	HB 201		
Virginia Egli	leg aid for Weldon	HJR-10 HB 201 HB 292		
Janet Ellis	MT Audub	HJR 10 HB 201	X	X
Bob Love		201		X
BUD MOORE	SELF	201		X
Steve Kelly	Friends of the Wild Swan	201		X
Tony Schommer	State Lands Coalition	201		X

SKS Line Sportsman
 VISITOR REGISTER Arizona Sportsman 2

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY