

MINUTES

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

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD** on March 10, 1995,
at 3:30 PM

ROLL CALL

Members Present:

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

Members Excused: Sen. B. F. "Chris" Christiaens
Sen. William Crismore

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: HB 351, HJR 26, HJR 25, HJR 24, HJR 22,
Executive Action: HJR 22, HJR 25

{Tape: 1; Side: A}

HEARING ON HB 351

Opening Statement by Sponsor:

REPRESENTATIVE RAY PECK, House District 91, Havre, presented HB 351. This bill was drafted by request of the Board of Land Commissioners. He presented amendments to the committee. This bill is in response to a question which arose at the University of Montana. Practically all the units have had some questions and issues dealing with the transfer or sale of land and he felt the legislation was necessary based on that situation. He

represents Northern Montana College in Havre, and they had a question develop regarding farmland near the experiment station that was under the control of MSU. It involved a farmer who wanted to sell land to the experiment station for a reasonable price. They owned some other land near Big Timber which they sold to acquire the funds to make the purchase to expand the experiment station. Farmers in the Havre area wanted an opportunity to get involved in the bidding of the land which was transferred to the experiment station. This bill is related to a HB 352 which addressed a problem which the foundations have with the units of the university system. This includes the transfer of funds which cannot be audited once they are sent to the foundation because the foundation is a private corporation. This bill is a vehicle per the Land Board's request for legislation which grants the authority to dispose of state land but places some limitations on it. One of the limitations is that it must go through a public sale process which includes legal notice and a bid. This would all be subject to review by the Land Board. The House committee took the amendments from HB 350 and put them into HB 351. On page 3, the amendments reinsert the language which was stricken on lines 6, 7, and 8. **EXHIBIT 1** The next amendment is on line 11. This is clarification language.

Proponents' Testimony:

REPRESENTATIVE CAROLYN SQUIRES, House District 68, Missoula, stated her support of the bill.

George Schunk, Office of the Attorney General, presented a handout which explained the amendments, **EXHIBIT 2**. Currently, there are two problems with the bill as amended by the House. The first one is to make sure that after the Board of Regents conducts the public sale process, whoever makes the best offer for the land would win the bid. The other problem is a little more difficult to grasp. It is outlined as the clarification of the standard of review by the landlord. The language in the bill, as amended, gives the landlord certain criteria which they have to follow when deciding whether to concur in a sale which has been conducted by the Regents and has been finalized. Things to consider that are in the best interests of the state are, full market value, and if the sales procedures were followed. The Attorney General wants to make sure the procedures are fair and that the review authority of the Land Board over the regent land sales involve a substantive review. There would be a chance to concur in the sale or reject it on grounds of whether it benefits the state as a whole. Land Board members are elected from constituents across the state.

Mr. Schunk stated that **LeRoy Schram**, Attorney, Board of Regents, had gone over amendments with **Mr. Schunk** and **REPRESENTATIVE PECK**. They do not have an agreement on the standard of review. **Mr. Schram's** position is that the Land Board's review should be limited to whether full market value was obtained and whether there was public notice of sale. The Land Board would like

another area of review on the sale. This would be similar to the procedure of the Land Board in regard to the Fish and Game Commission when they use license fees to acquire land. If the sales are over \$100,000 in value and a certain acreage they would need the approval of the Land Board.

Gerard Berens, Save the Fort, spoke in support of HB 315 with proposed amendments by the Attorney General's Office. The Regents are an appointed board and generally land sales in the state are conducted by elected officials such as the Land Board, county commissioners and school boards. For reasons of academic autonomy, the Regents are appointed for seven year terms. This autonomy should not extend to the sale of public assets. The regents do not have an experienced staff and have not adopted any definitive policies and procedures for the sale of land. The oversight of the Land Board will give the regents structure which is needed. In the case at Fort Missoula, they did not publish a legal notice of sale. They had a variety of appraisals with a variety of values which were as high as \$1.2 million and they received \$450,000. The buyer now states that after receiving the zoning and \$2 million of subdivision costs, they feel the property is worth \$8.9 million without a house on it. In HB 352 the regents are arguing for the right to transfer real property to their foundations for sale. They promised a return of scholarship funds of some unknown amount; however, after they transferred to the foundation they argued that the sale was no longer public and that this was a private sale conducted by a private foundation.

Mr. Berens said they feel the best method of ensuring some accountability on the part of the Regents is to have the Land Board oversee their sales and to look at it from the viewpoint of elected officials which are inherently more responsive to the public than appointed officials.

Carole Incoronato Toppins, Save the Fort, stated the Board of Regents is obviously not equipped to sell land. They have no expertise and no trained staff. They are not accountable to the public. They rubber stamp requests from the university presidents and the foundation. Since final approval of sales rests with the Board of Regents they are ultimately responsible to make sure that everything is handled in a prudent manner. They tried to deal with the Regents for eight months on the Fort Missoula issue. Even after receiving proof that something was wrong, the Regents refused to address the problem. In Missoula, the greatest threat to their history and their public lands has come from the University of Montana. Alan Matthews, City Historic Preservation Officer, has called Fort Missoula the site of the most important event in Montana through this century. The Board of Regents approved a below market value sale.

Shirley Juhl, Save the Fort, read from an article in their newsletter. "There is new legislation flying through the legislature that effectively will stop the university from ever

selling public land again without full public participation as well as Land Board approval. The problems the universities are having stem from a poor track record, when it comes to selling public lands they have declared dormant. The community wants to have a high regard for the university, but why do they insist on making it difficult by doing things like the Fort Missoula deal? After listening to both the university and to "Save the Fort" group, the Natural Resource Committee of the House strengthened HB 351 to make the university follow better procedures. The strengthened bill passed the House 95-5. The thinking must be that all things, including the university, need a set of rules to go by. Just letting the university make up processes as they go along is not good enough when it comes to disposing of public land. All we want is accountability."

David McEwen, President of Save the Fort, stated that there was a lot of secrecy in the negotiated deal of the university. The secrecy is what prompted all the problems which occurred. It is their feeling that this bill will force a public means by which land that the university system does not want for educational purposes anymore can be liquidated.

LeRoy Schram, Legal Counsel for the Montana University System, presented an amendment, **EXHIBIT 3**. This bill should not be viewed through the lens of Fort Missoula. While it was controversial, the Regents did act appropriately. They had lands they were not using and it was a responsible matter to try to liquidate these lands. This bill deals only with non-trust land. The trust land given to the university is already under the Land Board control. The legislation would control the sale of the non-trust land which is typically campus land, city lots for extra housing, land which may be willed to the university system, etc. He presented his written testimony, **EXHIBIT 4**. The statute will set out the kind of notice which is needed for public notice. This would be four weeks notice in a paper in the locale in which the sale is being held. Mr. Schram stated that **Glenn Marx, Governor's Office**, had stated that these amendments still express the Governor's point of view. **Mr. Schram** believes that, as written, the bill has serious constitutional concerns. There is a need to reconcile the powers of the two boards. Giving the Land Board the ability to veto a sale on the "best interests" matter would raise serious constitutional questions. The first three amendments would be the same as the Attorney General's amendments. The fourth amendment is the key and hinges on what the substantive grounds for review would be. If the university has non-trust land which they cannot use for university purposes and wish to liquidate, should the Land Board stop the sale? That raises the constitutional question of who sets the standard for disposing this land if all the procedures are correct. He felt this bill should focus on the procedures. They are not asking for anything unusual. Other departments sell state land without review by the Land Board. The Transportation Department and the Department of Fish, Wildlife and Parks sell land on their own.

Opponents' Testimony:

Ross Best commented that he talked to **Mr. McEwen** and **Ms. Juhl** about the land in Fort Missoula. They suggested a petition drive to put the question of municipal zoning on the ballot for the people to decide. As the sale of the land from the U of M Foundation to the developers approached, it occurred to him that there were some constitutional problems with the sale. In May he wrote letters to the Governor, Attorney General, Land Board and the Board of Regents arguing that the sale was unconstitutional and should be reversed. The Land Board has dealt with this question on a monthly basis since July.

When the first Constitution of Montana was adopted in 1889, the state was a very different place. There was no way to foresee the extensive and outstanding university system which we have. There was concern about fraud with state lands. In other states, when the federal government gave land, that land was ripped off by speculators and people who had contacts with members of the legislature. The guarantees put in place in 1889 were carried forward in the 1972 Constitution. The reason there is a problem is that the Constitution has conflicting grants of authority. On the one hand it says that the land board has the authority to direct, control, lease, exchange and sell lands which have been or may be granted for the support and benefit of the various state educational institutions. On the other hand, it gives the Board of Regents authority that the Regents did not have under the 1889 Constitution. It gives them full power, responsibility and authority to supervise, coordinate, manage and control the Montana University System. On the one hand the Land Board has authority over all lands granted for the benefit of universities and on the other hand the regents have full power, control and responsibility over the university system.

Everyone has recognized that there is a conflict. Lawyers try to harmonize provisions to do the least damage possible to each provision. The purpose of the Land Board in relation to educational lands is to hold them for the people and guarantee that the highest level of scrutiny is given to any transactions with those lands. The purpose of the Land Board is to apply higher standards than may be applied to other state lands. What is the purpose of the grant of authority to the Regents? It is to guarantee a degree of freedom and responsibility for the university system. The way to do the least harm to the two provisions is to say that as long as the land is being used by the university system, the Regents have control of it. If they decide that they don't need it for educational purposes, except that they need the money which comes from the land, the authority has to go with the Land Board.

There has been a distinction made between the lands that are referred to in the part of the Constitution that established the land board and some other lands. He believes that the Land Board has authority over all land which has been given to the state for

the benefit of higher education. He believes the Constitution has provided a higher level of protection of school lands and university lands.

The reasonable way to resolve the conflict is to tell the Regents that when they need the land for legitimate educational purpose, it is theirs. When they are no longer interested in the land, there will be the staff and the expertise to make the decision. The five members of the Land Board are all elected, full time officials. The Regents are part time appointees. They are at the mercy of their staff and the president of the university. Another complicating factor is the foundations. In the Fort Missoula case, the property was transferred to a foundation and the foundation claimed that it was private. It is preferable to have the decisions made by statewide elected officials. He stated that **Mr. Schram** referred to non-trust lands. The Constitution states that all lands of the state are public lands of the state and are held in trust for the people. Public lands are to be used for the purposes for which they were dedicated. There are no non-trust lands under the authority of the regents or the land board. All lands of the state are trust.

Questions From Committee Members and Responses:

SENATOR JEFF WELDON asked **Mr. Best** if this bill did in fact correspond to his argument that decisions ultimately should rest with the State Land Board.

Mr. Best stated his concern was based upon the problems with Fort Missoula. When the Foundation and the University decided to sell the land, they did not take bids. They issued a request for proposals. They asked prospective buyers to submit proposals and as part of those proposals they had to explain how other land could be developed. They had to provide for infrastructure. His concern is that since the Regents are not familiar with the process, they may take an easy way out which ends up costing the people a lot of money. It is up to the legislature to tell the agencies of the executive branch how land is to be sold. The general outline needs to be provided by the legislature.

SENATOR WELDON asked **REPRESENTATIVE PECK** why he felt the responsibility for disposing of the land should rest with the regents. He also asked him to comment on the amendment proposed by the legal counsel for the university system stating that the sale would be final unless the Regents subsequently reviewed the Land Commissioners' concerns and thereafter vote to approve the sale or exchange. **EXHIBIT 3.**

REPRESENTATIVE PECK stated that ultimately the authority resides with the Land Board. The Regents conduct the sale but the Land Board is the reviewing authority. The amendment **Mr. Schram** proposed puts that in a circular operation by saying that even if the land board says no they can still decide to go ahead with the sale. He feels it would be very unwise for the Regents to do so

in face of a no from the Land Board. He doesn't believe the amendment should be on the bill but he would not have a problem with it.

SENATOR VIVIAN BROOKE commented that the testimony from **Ms. Juhl** was that the House amended the bill and strengthened it. Both the attorney general and the Regents' representatives are proposing amendments to reinstate the stricken language. She asked if that language was taken out in the House or if it was in the original bill.

REPRESENTATIVE PECK stated it was taken out in the House committee. HB 351 had a companion bill which he had drafted earlier. The committee in the House took some of the things out of HB 350 and put them into HB 351 and used HB 351 because it came from the Land Board.

Mr. Schram stated it was taken out in committee, but he thought it may have been taken out by mistake because there was no discussion to do so in executive action.

REPRESENTATIVE PECK stated he supported reinstating the language. He supported all of the amendments with the exception of the final amendment **Mr. Schram** proposed.

SENATOR WELDON stated some of the proponents argued accountability. In the Fort Missoula case under this bill, the Land Board could have stopped the sale if they had determined that the land was more valuable to the state in its present form than after the sale. The Land Board may have been more responsive to that argument because as elected officials they would feel the pressure that constituent groups can make. He asked **Mr. Schram** if he saw a different type of accountability between the Land Board and the Regents because of the nature of their positions.

Mr. Schram stated he did. The Land Board under all versions of the bill would have an absolute veto if the price wasn't proper or there had not been public notice. The crucial item is the wording "in the best interest of the state or the system". If there is a better use, it is imperative for the Land Board to say they would agree to trade or purchase the land. Should the assets of the university system be diverted to another state use at the discretion of a board other than the Board of Regents? The Land Board should be able to go back to the Regents and state that there is a better use for the land.

CHAIRMAN GROSFIELD asked **Mr. Schram** to comment on the \$450,000 versus \$45 million.

Mr. Schram stated that the \$45 million figure was bogus. That would include the value of all the homes that would be built on the land.

CHAIRMAN GROSFIELD asked **John North** what the situation was involving trust land versus non-trust land.

John North, Department of State Lands, replied that section 4, Article X of the constitution deals with the Board of Land Commissioners. That section states that it has authority over lands which have been or may be granted for the support of education. Section 11 of that same Article talks about all lands which are owned by the state being held in trust. The distinction is that the board of land commissioners in Section 4 would administer lands which were granted in trust to the state. The transcript of the Constitutional Convention talks about school trust lands. The way he reconciles the two sections is that Section 4 refers to lands which are granted to the state in trust.

CHAIRMAN GROSFIELD stated the question would be who had the last say with respect to university lands. He stated there appears to be a conflict. The amendments resolve the issue of authority in a different manner. By passing this bill, would they be in danger of passing an unconstitutional bill?

Mr. North stated Section 9 does not specifically talk about land but does state that the Board of Regents had the authority to supervise, coordinate, manage, or control the university system. There are two ways of reconciling. One was suggested by **Mr. Best** and one suggested by **Mr. Schram**, which would be the Land Board only controls lands which are granted in trust and the Board of Regents has the ability to control lands which are not granted in trust under Section 9.

CHAIRMAN GROSFIELD stated that if they passed the bill with the amendments that the sponsor proposed, would this bill cause a constitutional challenge?

Mr. North stated that **Mr. Schram** raises a credible argument. He would not predict how a court would ultimately decide this issue.

CHAIRMAN GROSFIELD stated the entire process seemed to be convoluted.

REPRESENTATIVE PECK commented that with **Mr. Schram's** amendments there would be a convoluted situation. He felt that **Mr. Schram** extended the constitutional authority of the Regents well beyond what most other lawyers would agree to. **CHAIR. GROSFIELD** asked if there was a possibility that the Board of Regents would sue the Board of Land Commissioners? **REP. PECK** didn't think that would happen. He suggested excluding **Mr. Schram's** last amendment. Five elected state officials who sit on the Land Board will be pretty conscientious in terms of their decisions.

Closing by Sponsor:

REPRESENTATIVE PECK stated this is not a case about the University of Montana. Western is the only unit he does not have anything on in his file. People are questioning the sale of land. This bill is a vehicle to define the question of who has the authority over the sale of state lands. This bill sets up a fair procedure and defines it precisely and states that the Land Board shall review the sale and that it cannot be final on the part of the Regents until they do. This bill also makes procedures consistent and it involves elected officials in the control of big money items. The interest of the state is better served by having the land commissioners, their staff and expertise be the ones to review the sales. That doesn't prohibit a resale effort on the part of the university. It doesn't prohibit negotiations.

HEARING ON HJR 26**Opening Statement by Sponsor:**

REPRESENTATIVE AUBYN CURTISS, House District 81, Fortine, presented her written testimony in support of HJR 26. **EXHIBIT 5.**

Proponents' Testimony:

Ron Klaphake spoke in support of HJR 26 and asked the committee to look at the provisions within the resolution which speak for themselves. Within the Northern Region of the United States Forest Service there are 15 national forests or national grasslands and 28 million acres of land. The proposed Forest Service reorganization would not simply downsize the Forest Service or the regional office. In Missoula, they have become accustomed to that. The regional office has been reduced from over a 1,000 to 300 in the last few years. Downsizing is important and there should be more of it. But to reduce the number of regions from nine to seven and to transfer the authority of the Regional Forester to Denver is objectionable to them. Governor Racicot asked the same questions they asked. He wanted to know what this decision making authority would mean to maintaining the resource and the ecology of our particular area. He asked for the cost benefit analysis for the recommendation. They have not provided one.

Mr. Klaphake stated that it is a lot easier for Regional Foresters and bureaucrats in Washington, D.C. to travel to Denver than it is to Missoula. The people who are most affected by the decisions of the U.S. Forest Service Regional Office live in this area. There are 20 million acres of forest within 150 miles of Missoula. The individual logger and the environmentalist will now have to travel to Denver. He stated this was a faulty plan which was not in the best interests of the people who are concerned about our national forests. The Regional Forester is the one who arbitrates the decisions between supervisors. He

quoted a 1974 Senate Committee Report on the Forest Service Regional Forest Management Act, "Regional offices of a forest service shall be so situated as to provide the optimum level of convenient useful service to the public giving priority to the maintenance and location of facilities in rural areas and towns near the national forest and forest service program locations in accordance with standards set forth in the Act of 1970." This is being violated. They expect downsizing; however, this is a bad recommendation. He presented his written testimony, **EXHIBIT 6**.

James Freeman, President of Northern Rocky Mountain Retiree Association, stated their support of HJR 26. From its inception in 1905, the Forest Service has had a regional headquarters in Missoula. It is important to strengthen the coordination and shared goals between Montana leadership and the federal program managers. It is not the time to tear these ties apart. Closing the Forest Service Regional Office in Missoula and moving the functions of that office to Denver, Colorado would unnecessarily complicate coordination. The position of the Regional Forester would be eliminated with those duties assigned to a four person team. Personal accountability appeared to be shifted upward to the Chief's level in the Washington office. This centralization will reduce the level of importance which is given to the needs of Montana's National Forests and the citizens. They support responsible cost reduction; however, this proposal has been developed without any idea of the possible costs and benefits associated with the changes.

Vern Hamre stated he was District Forest Ranger for five years. He was Forest Supervisor for six years. During the last ten years of his employment, he was the Regional Forester in the intermountain region of the Forest Service. The proposed realignment of the Forest Service regions looks like change merely for sake of change. It was a response to the administration's directive to reinvent government. The reorganization is poorly conceived, and would result in poor service to the people of Montana. It would take people away from on the ground management of the forests, and it will probably not save any money. He presented his written testimony, **EXHIBIT 7**.

Bob Gibson stated he had served 37 years with the Forest Service. He urged support of this resolution. The centralization of most agencies puts distance between reasonable decisions on issues further from home. The people who live here understand the issues.

John Milodragovich commented that he served 38 years with the Forest Service. There is a need to reduce costs but that should not be done at the expense of inadequate service to the public. We should also be mindful that the Forest Service was established because the people of Idaho and western Montana united to protect themselves by forming associations. The Forest Service established Region One which was a large tract of national forest land across Montana, Northern Idaho, and part of Eastern

Washington. The reorganization proposal came out on December 6 without any consultation with the people in the organization. The Regional Forester found out about it when he arrived in Washington, D.C. and the decision had already been announced. There was absolutely no consultation with our three Congressional representatives. This occurred despite the fact that under the laws under which the Forest Service operates, the National Forest Management Act specifically states that there must be public involvement in the decisions dealing with the national forest lands. The proposal of the Regional Leadership Team would mean that four people would deal directly with their counterparts in Washington, D.C. The buck has to stop somewhere. A public agency run by committee is doomed to failure. The ecological land units is the major thrust of this reorganization. The regional boundaries were set along ecological units. The ecological land units around Denver and Ogden are in the same territory as ecological land units on the Kootenai. Nowhere in the report does it cover the fact that we have to provide goods and services from these lands. Senator Baucus asked what the cost savings were. He was told that had not been determined yet.

Jim Richard, Montana Wildlife Federation, stated their support of the resolution because they believe the decisionmaking should be where the resources and the issues are.

John Gatchell, Montana Wilderness Association, stated their support of this resolution particularly for the reason of accountability.

Opponents' Testimony: None

Questions From Committee Members and Responses:

CHAIRMAN GROSFIELD asked **Mr. Gibson** about a federal act which stated that current employees could not be involved in political activities.

Mr. Gibson stated that was why there were not Forest Service employees at this hearing. The group present at the hearing reflected the feelings of the people in the region and certainly in Missoula.

CHAIRMAN GROSFIELD, referring to page 2, lines 27, 28 and 29, commented that personnel reductions or relocations would leave the maximum number of decisionmaking personnel. He stated that his understanding of the language of the resolution was that if reductions needed to be made, those reductions should be made from the people working in the field and not from the decisionmaking personnel. He asked if that was the intention.

Mr. Klaphake stated the focus of that sentence is that the maximum number of decisionmaking personnel in each forest service be maintained in the forest nearest the office which they

oversee. This is intended to be the supervisor's office, the regional and district offices.

CHAIRMAN GROSFIELD believed the bill stated that if there was to be reduction in staff, the reduction should be made in the workers out in the field and the middle level bureaucrats should not be reduced.

Closing by Sponsor:

REPRESENTATIVE CURTISS stated there was a potential for the loss of 335 jobs which will make a large economic impact. The mutually beneficial working relationship between the Forest Service and the University Forestry School will be lost. There is no cost benefit justification for the move. The concentration and consolidation of Forest Service activity in the Denver area appears to violate the letter and spirit of the Federal Forest and Rangeland Resources Planning Act which requires the Forest Service to give priority in locating regional offices in rural areas and towns near the national forests.

{Tape: 2; Side: B}

HEARING ON HJR 25

Opening Statement by Sponsor:

REPRESENTATIVE JOE QUILICI, House District 36, Butte, presented HJR 25. The resolution asked the State of Montana to support the continued development and demonstration of innovative technologies for the treatment of mine waste, energy, and other related environmental wastes with the country. Butte has three or four entities that handle hazardous waste cleanup. The Western Environmental Technology Office is handling a considerable amount of testing and clean up in the area. Metanetix is a corporation which has invested \$40 million in extracting heavy metals from the waters coming out of the Kelly Mine. Right now it is not economically feasible for them because they do not have buyers for the type of metals they are extracting. Micro Tech is cleaning up an area in Butte called the Idaho Pole Plant. One of the worst chemicals used was PCP to treat the poles. The reservoirs are full of PCP. Butte is the biggest Superfund Site in the nation today. One of the biggest industries in the country will be hazardous waste cleanup. They are working with companies worldwide. The Western Environmental Technology Office (WETO) has had federal funding. He hoped Congress and other federal agencies would recognize these technologies and help them cleanup these hazardous waste problems all over the country.

Proponents' Testimony:

Eric Williams, Pegasus Gold, stated they fully support this resolution.

Gary Langley, Executive Director of the Montana Mining Association, stated their support of the resolution.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REPRESENTATIVE QUILICI commented that the Colorado Tailings in Butte had over 100 years of mining and smelting. They received Superfund and ARCO monies for remedial action of that site. Instead of cleaning up, \$40 million was spent to transfer these tailings from the Butte site; however, the contaminants were still there. Today's technology will cleanup the contaminants.

HEARING ON HRJ 24**Opening Statement by Sponsor:**

REPRESENTATIVE HAL HARPER, House District 52, Helena, presented HJR 24. He handed out an article from the Independent Record, EXHIBIT 8. This resolution is an attempt to get a handle on the problems people are experiencing with riverside development. Our state is changing rapidly. People fear the loss of quality of life. Legislators from the Water Policy Committee recently toured the Big Hole River to look at instream flows. The people he was with were concerned with the development of huge houses which were literally hanging over the edges of the river. Montana residents' quality of life is wrapped up in the use of these areas. Park County attempted to adopt 300 foot setbacks. Madison County attempted to adopt 500 foot setbacks because of what was happening to the Madison River. Local farmers sell their fields to the highest bidder. They are increasingly worried that the non-farming public will set up blanket zoning. Riverbanks are the most attractive and lucrative areas for development. The resolution lists the reasons why the streamside corridors are important. This is a very complicated matter which involves the interplay of land and water rights, subdivision rights, fish, wildlife and habitat protection. This resolution is modeled after the resolution which established the Public Wildlife and Private Lands Council. That committee came up with a break through agreement wherein sports people, landowners and the Department of Fish, Wildlife and Parks agreed on ways to provide access and protect our landowners and handle these access problems.

Proponents' Testimony:

George Ochenski, Trout Unlimited, stated this problem is all around us. With unlimited money, people can do whatever they want. This resolution is not regulatory in nature. It would have Montanans sit down and try to figure out how to get a handle on development in the corridors which line our rivers.

Jim Richard, Montana Wildlife Federation, commented that during the past year he had served on two cooperative efforts which were successful. One dealt with access to state lands and the other dealt with instream flows. This resolution by **REPRESENTATIVE HARPER** lends itself to the same type of cooperative, collaborative effort. He also serves on the Smith River Coordinated Resource Management Committee. This committee was formed three or four years ago and has been quite successful in dealing with issues involving the Smith River.

Candace Torgerson, Montana Stockgrowers Association and Montana Cattlemen's Association, stated they support the resolution. The legislature should encourage cooperation between the various groups. They have some concerns with the resolution starting on line 14. In the hearing on HB 349 in the House, the Governor's representative suggested the Governor was not in favor of appointing further study groups. The resolution on line 18 requires some of the agencies to provide administrative assistance. She questioned whether this would require some funding.

Paul Roos, Helena Outfitter and Retailer, stated he had been a fly fishing outfitter and guide since 1967. For a number of years he has been telling people that the largest threat to Montana's environment is unplanned development along riparian areas. He had a client who bought property on the Black Foot River. He built his dream home within a few feet of the stream. He wishes it wasn't there now. This problem is very open ended. This is a problem for statewide regional and local groups. On the Missouri River below Craig lots were sold along the Missouri. There were about five or six different inexpensive homes built there. Of those five or six, four are for sale and have been for sale for a long time. No one wants them including the people who built them.

Opponents' Testimony:

Cary Hegreberg, Montana Wood Products Association, stated they are a reluctant opponent. This is a good concept which needs to be addressed. He handed out two brochures, **EXHIBITS 9 and 10**. Several years ago, the forest products industry entered into a voluntary program of implementing forestry best management practices. They spent a great deal of time, money, education, and energy to educate people on how to protect water quality through forestry practices. In the 1991 Session they worked with conservation organizations in addressing streamside

corridors in passing the Streamside Management Act. They again spent time, money, energy and resources educating their members, foresters and landowners. He concurs with **REPRESENTATIVE HARPER** in that it is ironic that someone can build a house on top of a stream. If you were operating a rubber-tired log skidder within 50 feet of that same stream, you would be subject to citations. In the last session of the legislature a resolution was passed dealing with riparian habitat for wildlife. The Montana State University Extension Forestry has put together a handbook which they are funding through voluntary contributions. They have fought many political battles and cooperated with many people in trying to develop consensus based management in terms of forest practices. They have come a long way and they do not want to go back and retread the same water.

Larry Brown, Agricultural Preservation Association, stated they rise also as reluctant opponents to this bill. There are a lot of good concepts in the resolution and they support the concepts. They do not believe this is an issue which should be transferred into the Governor's Office. They believe these are local issues which are being voiced by a local minority. This should be dealt with on a local basis. From an agricultural perspective, they are concerned about the aspect of fencing. The average high water mark in terms of stream access is something which needed to be considered before this went forward. The problem is the rules, regulations, laws, local zoning ordinances, etc., which are already on the books. This resolution is seen as another opportunity to develop land use restrictions. **REPRESENTATIVE HARPER** brought up a good point when he referred to the mansions which are being built on rivers. The 300 and 500 foot setbacks are an interesting concept. That is a long way from the edge of the water and there are lots smaller than that which people have invested in and that could be the first step toward taking of private property. There is at least a 100 foot setback to develop a sewer system along the streams. He found a problem with line 19, page 2, the administrative assistance from the state or local agencies. They have heard in this session reference to watershed work groups; watershed planning, etc. He submitted that any administrative assistance be by invitation and in an advisory capacity only, unless it would affect local ordinances or laws which would apply to that site specific situation.

Questions From Committee Members and Responses:

SENATOR BILL WILSON asked what the problem was with the four cabins for sale on the Missouri?

Mr. Roos answered that the homes he is talking about are on a bend about three to four miles above the last interchange in the canyon. The point he was trying to make is that sometimes the people who develop along streams and buy property could use more foresight and assistance in doing what they are doing. There is

no doubt that people who like to float the river come for what they see and experience.

CHAIRMAN GROSFIELD asked if the Governor had reached the point where he wanted a little more input on the requests for assistance which go to his office.

REPRESENTATIVE HARPER stated that this Governor has shown an exceptional ability to get results out of task forces and groups which he has appointed. He has shown that he has an incredible ability to urge groups to reach consensus positions.

CHAIRMAN GROSFIELD asked **REPRESENTATIVE HARPER** what his thoughts were about funding?

REPRESENTATIVE HARPER stated he did not see any need to ask for funding. Money could always be gained from outside donations. There should not be a substantial amount of money involved.

CHAIRMAN GROSFIELD, referring to lines 23 through 25 on page 2, asked how the Secretary of State would know to whom the copies of the resolution should be sent?

REPRESENTATIVE HARPER stated that persons interested in the bill would have to provide them with a list. They did not want to exclude anyone.

Closing by Sponsor:

REPRESENTATIVE HARPER commented that the timber industry should not be affected by this resolution. They could be exempted. They are to be commended for the Best Management Practices they came up with. If this could be shared with the people building homes on the sides of rivers, they could save agricultural interests and recreationalists a large amount of problems. In order to get the motivation going at the local level, the issue sometimes needs to be raised to the highest levels of state awareness. That is what this resolution attempts to do. When the Governor contacts someone to serve on a task force or council to raise an awareness level, people respond. That is why this issue is brought in this form.

HEARING ON HJR 22

Opening Statement by Sponsor:

REPRESENTATIVE BILL TASH, House District 34, Dillon, presented HJR 22 which deals with a need to provide solutions for air quality standards. This resolution was prompted by operators in his area who have had a problem with not being able to make minor modifications in a timely and efficient manner because of the inflexibility of the permit requirements through the Clear Air Act. Under present law, a operator who wants to make a minor modification in his plant must first get a preconstruction permit

and an amendment to its operating permit. The preconstruction permit must be obtained before they can order new equipment for any modification. The operators would like to have the flexibility to order the materials and equipment and start some preconstruction work for minor modifications so that when the amended operating permit is issued they do not have a long delay in being able to take advantage of approved modification. The resolution allows some planning by the Department as well. This was amended in the House Natural Resources Committee.

{Tape: 3; Side: A}

Proponents' Testimony:

WILLIAM KRAMER, Montana Mining Association, said streamlining the air quality preconstruction process in Montana is necessary to allow industries to remain competitive in global markets. These industries include not just mining but also manufacturing and the timber industry. These are industries which create wealth from raw materials, not merely redistribute it or consume it like other sectors of the economy. If they don't produce a new product or more of a product, someone else will.

Mr. Kramer said that industry must be able to utilize new and better technology in as efficient a manner as possible. They must be able to cut costs wherever possible and maximize production. Under current air quality regulations in the state, they have a disadvantage over industries in other states and countries. For example, in Montana they cannot even replace a fan with a more efficient model without obtaining a preconstruction permit first. Current regulations forbid construction on any air quality related projects prior to obtaining a preconstruction permit. Construction has been determined by the Air Quality Division to include pouring concrete or even signing a binding contract. Obtaining a permit, at best, takes about 80 days from the time the Air Quality Division determines it is complete. Before that, time must be allowed to prepare an application. Due to the short construction season in Montana, this may require pouring concrete in the wintertime which is both costly and unpleasant. They also may not enter into a binding contract which may stop the purchase of equipment, even the manufacturing of equipment if you are obtaining custom equipment. Altogether these delays can hold off starting construction of a project by six months or more.

Mr. Kramer added that current air quality regulations in Montana are a one-size-fits-all approach. There is no mechanism for waivers or exemptions based on size or impact of the project. Streamlining the permit construction process would allow industry to be more competitive so they could react more quickly to market demands and thereby more quickly implement new technology and ideas. The permitting process may be streamlined in Montana while still adequately protecting air quality. The purpose of the Montana Clean Air Act is to protect air quality. He didn't

see how stopping someone from pouring concrete or signing a binding contract would protect air quality. HJR 22 will not roll back any environmental regulations but merely fine tune existing regulations and lighten the burden on both industry and regulatory agencies.

Gary Langley, Executive Director of the Montana Mining Association, commented that soft mineral industries must respond to market conditions. The purpose of this bill is to allow them to modify their plants so they can respond to market conditions in a timely manner. They have discussed this resolution with the people at the Air Quality Bureau and they have indicated their cooperation by helping with the drafting of this resolution.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR KEATING asked if the Air Quality Bureau had been involved in the drafting.

Jan Sensibaugh, Air Quality Division, stated that when **REPRESENTATIVE TASH** first brought the resolution to their attention, they were concerned that it was to draft legislation dealing with other items than their rules. They drafted the amendments and the resolution as amended meets with their approval.

SENATOR COLE asked what the normal time for a permit would be.

Ms. Sensibaugh replied that their statutory requirements are that they must issue a permit 75 days after a complete application is submitted. Sometimes it takes them a little while to work with the facility to get a complete application. They generally need additional information which adds 30 days to the permitting process.

Closing by Sponsor:

REPRESENTATIVE TASH stated this resolution will solve these problems in an environmentally correct way.

EXECUTIVE ACTION ON HJR 22

Motion/Vote: **SENATOR WELDON** MOVED HJR 22 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY on oral vote.


EXECUTIVE ACTION ON HJR 25

MOTION/Vote: **SENATOR FOSTER** MOVED HJR 25 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY on an oral vote

{Comments: the meeting was taped on 3, 2 hour tapes.}

ADJOURNMENT

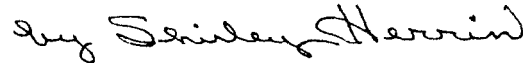
Adjournment: 6:30 PM



LORENTS GROSFIELD, Chairman



THEDA ROSSBERG, Secretary



LG/TR

Check

DATE 3-10-95

SEN

SEN:1995
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CS-09


SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 13, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HJR 22 (third reading copy -- blue), respectfully report that HJR 22 be concurred in.

Signed: 
Senator Lorents Grosfield, Chair


Amd. Coord.
SA Sec. of Senate

CHUCK SWYSGOOD
Senator Carrying Bill

581017SC.SPV


SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 13, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HJR 25 (third reading copy -- blue), respectfully report that HJR 25 be concurred in.

Signed: 
Senator Lorents Grosfield, Chair


SA Amd. Coord.
Sec. of Senate

J.D. LYNCH
~~CHIEF CLERK~~
Senator Carrying Bill

581019SC.SPV

Amendment to HB 351

P. 3, line 6

Following: "system."

Insert: "If the board of regents sells the land, the sale must be to the offeror whose proposal the board determines to be most advantageous to the system, taking into consideration price and the other evaluation criteria listed in the request for proposals"

P. 3, line 14

Following: "VALUE"

Strike: "OR"

Insert: ", "

P. 3, line 15

Following: "LAND"

Strike: "IF THE BOARD OF LAND COMMISSIONERS DETERMINES"

Insert: ", or"

P. 3, line 16

Following: "SALE"

Insert: "or exchange"

P. 3, line 16

Following: "SYSTEM"

Strike: ", I"

Insert: ". When the board of land commissioners refuses to concur in the sale or exchange of land i"

P. 3, line 17

Following: "SALE"

Insert: "or exchange"

Explanation of Proposed Senate Amendments to HB 351 148351

1. Bid process

One important goal of HB 351 is to assure that when university land is sold, it is publicly sold--in an open market with all parties having an equal opportunity to purchase. Language which would have added to that assurance was struck by the House:

If the board of regents sells the land, the sale must be to the offeror whose proposal the board determines to be most advantageous to the system, taking into consideration price and the other evaluation criteria listed in the request for proposals.

Since there is no requirement in the legislation that a sale be awarded to the highest bidder, the omitted provision is key to insuring that sales be conducted with impartiality according to advertized terms of sale. The amendments would reinsert this language in HB 351.

2. Clarification of Standard of Review by Land Board

The bill as amended in the House reads as follows on page 3, line 11 [Section 2(5)]:

The board of regents may sell or exchange the land only if it obtains the concurrence of the board of land commissioners. The board of land commissioners may refuse to concur if it determines that the sale or exchange does not return to the state full market value or that the sale procedure did not provide the public a reasonable opportunity to submit proposals to purchase the land. If the board of land commissioners determines that the sale is not in the best interests of the state or system, it shall notify the board of regents of that determination and the sale is not final.

It could be argued that the first and third sentences are not consistent with the second sentence. The amendments offered would clarify the language as follows:

The board of regents may sell or exchange land only if it obtains the concurrence of the board of land commissioners. The board of land commissioners may refuse to concur if it determines that the sale or exchange does not return the state full market value, ~~or~~ that the sale procedure did not provide the public a reasonable opportunity to submit proposals to purchase the land, or if the board of land commissioners determines that the sale or exchange is not in the best interests of the state or system. When the board of land commissioners refuses to concur in the sale or exchange of land it shall notify the board of regents of that determination and the sale or exchange is not final.

Sen _____ moves to amend H.B. 351, second reading copy, as follows:

Page 3, lines 6, 7 and 8

Reinstate the stricken language.

Page 3, line 16

Following: "SALE"

Insert: "or exchange"

Page 3, line 17

Following: "SALE"

Insert: "or exchange"

Page 3, line 17

Following: "FINAL"

Insert: "unless the regents subsequently review the land commissioners' concerns and thereafter vote to approve the sale or exchange."



THE MONTANA UNIVERSITY SYSTEM

2500 BROADWAY

HELENA, MONTANA 59620-3101

(406) 444-6570 FAX (406) 444-1469

SENATE NATURAL RESOURCES
EXHIBIT NO. 4
DATE 3-10-95
BILL NO. H B 351

COMMISSIONER OF HIGHER EDUCATION

OFFICE OF LEGAL COUNSEL

3

TO: Senate Natural Resources Committee

FROM: LeRoy H. Schramm
Chief Legal Counsel *[Signature]*

RE: H.B. 351

DATE: March 10, 1995

This bill fills a void in present statute and establishes a procedure within which both the Board of Land Commissioners and the Board of Regents can fulfill their constitutional and statutory roles without conflict over who has what authority. For that reason, the University System is in general support of the bill. However, the bill as presently written contains one serious flaw. It allows the Board of Land Commissioners to disapprove University System land sales on three grounds: 1) if full market value is not achieved, 2) if proper public sale procedures are not used, and 3) if the sale is not in the best interests of the state or university system. It is this third factor which raises questions. It is neither wise nor constitutional for the Land Board to have an absolute veto over the disposal of university land on such general and subjective grounds. The Governor has previously voiced concern over this issue and has publicly spoken out in favor of a provision that would allow the Land Commissioners to force a reconsideration of a sale on such "best interests" grounds. If the Land Board refused to concur on a sale based on these grounds the sale could not be made unless the Regents reviewed the sale in light of the Land Board's concerns and still voted to proceed. Such an amendment is attached hereto for your consideration. It is important to note that even with the amendment the Land Board can totally prevent a sale or exchange if full market value is not obtained or if improper sale procedures are not used.

LHS:jb

SENATE NATURAL RESOURCES
EXHIBIT NO. 5
DATE 3-10-95
BILL NO. HJR-26

March 9, 1995

TESTIMONY

HJR 26

AUBYN CURTISS, REPRESENTATIVE HD 81

Senator Grosfield, Members of the Committee:

For the record my name is Aubyn Curtiss, representing House District 81 in Lincoln County.

Mr. Chairman:

This resolution urging Montana's congressional delegations strong opposition to moving the United States Forest Service Regional headquarters from Missoula to Denver is important to many Montanans.

Some of them are here to testify and I would appreciate the opportunity to close.

I'd like to close briefly and perhaps reiterate some important points.

1. There is potential not only for the loss of over 325 jobs, and service connected jobs as well -- a real economic impact.
2. The mutually beneficial working relationship between the forest service and the University forestry school will be lost.
3. There is no cost benefit justification for the move.

4. Finally, the concentration and consolidation of forest service activity in the Denver urban area appears to violate the letter and spirit of the Federal Forest and Rangeland Resources Planning Act, (specifically 19 USC @ 1609) which requires the forest service give priority in locating regional offices in rural areas and towns near the national forests.

I urge your concurrence in sending a message to Congress and the administration that this element of the restructuring plan is not in the best interest of Montanans. It is not cost effective, and will inhibit the ability of forest administrators to do their job in the best possible way.

Thank you for your consideration and a favorable recommendation.

REINVENTION OF THE FOREST SERVICE: A COMMUNITY RESPONSE

*Missoula, Montana, U.S.A
February 21, 1995*

Members of several Missoula community organizations have been meeting since December to review and share ideas regarding the Forest Service reinvention plan. While our concern for jobs in Missoula is important, of much greater importance are broader issues that affect all regions and citizens of the United States. We support changes that will improve the quality of ecological management of Forest Service lands as proposed in the reinvention document, but we are not in support of some of the structural changes as presented. Many good ideas are represented in the strategic plan; implementation of agency goals, however, will require public trust. Trust will come only if the Forest Service is willing to give serious consideration to concerns expressed by the public. We hereby ask the Forest Service to constructively consider the following principles and issues in revising the December 6, 1994 reinvention proposal:

Consider All The Scientific Evidence On Ecological Regionalization. An immediate concern is the misrepresentation of the major part of the Northern Rocky Mountains (western Montana, Northern Idaho, and northeastern Washington) as part of a "Dry Temperate Steppe Region". Overwhelming, long-term scientific documentation treats the area as a "Temperate Mesophytic Coniferous Forest Region". This area has more similarity with west-side Oregon and Washington forests than with the central and southern parts of the Northern Plains. Splitting the Northern Rocky Mountains in a north-south manner to accommodate headquarters locations in Denver, Colorado, and Ogden, Utah, cannot be ecologically justified. A closer examination of published, ecological regionalization schemes is needed to truly make ecological considerations part of the rationale for adjusting regional boundaries.

Establish Regional Boundaries In Relation To Distribution Of Lands And People. Any map of the United States showing distribution of national forest system lands clearly illustrates why the Northern Region was established as "Region One". The greatest concentration of national forest land is in the Northern Rockies of northern Idaho and western Montana. This region also represents the greatest concentration of Forest Service employees close to the land, serving the people. Moving regional decision-makers—away from concentrated areas of Forest Service lands and worker activity—to remote urban areas runs counter to the concept of decentralization and responsibly "caring for the land and serving the people."

Revise Regional Operations To Obtain Benefits Of Decentralization. We fully support reduction of the size and cost of regional offices. All offices can be streamlined, with many functions transferred to the forest and district levels. This re-engineering to flatten the organization and get resources and decision-making closer to the land and people is well documented and widely supported. The consolidation of

regions, however, sends exactly the opposite message to employees and the public. Consolidating regions creates employee resistance to the strategic plan as a whole. Locating regional offices and decision-making nearer to the land, nearer to the employees, and nearer to the public—regularly and intimately associated with national forest system lands—allows the Forest Service to reap the benefits of decentralization.

Consider The Economic Implications of Proposed Changes. Given the adaptive nature of the reinvention process, some of the economic implications are difficult to estimate. It is clear that the Region One office has a substantial impact on the Missoula area economy while some other regions do not impact their economies as significantly. The office's current employment of 326 workers and payroll of approximately 18 million dollars represents five percent of the Missoula County economic base. In addition, the office spends approximately \$5 million annually in the Missoula area on supplies, furnishings, and business services. The economic impact of the regional office is more than these direct expenditures. For example, the regional office generates considerable economic activity in the form of travelers coming to Missoula. In 1993, for example, an estimated 1,900 Forest Service employees traveled to Missoula for training sessions sponsored by the region. Assuming an average length of stay and average spending for business travelers, total expenditures in the Missoula area were \$600,000; of that, \$185,000 was spent on retail purchases, \$155,000 in eating and drinking establishments, \$115,000 for hotels and motels, \$95,000 on gasoline, auto rentals and other transportation, and \$50,000 on miscellaneous services. This represents only Forest Service training sessions in Missoula and does not include the large number of private sector and other federal employees coming to Missoula to do business with the regional office.

Support Rather Than Abolish The Northern Region. The Northern Region has provided strong leadership for Forest Service efforts in new perspectives and the move toward ecosystem management through sustainable ecosystems proposals and strategies. The Northern Region already is part of a "National Center of Excellence" in public land and natural resource management, practicing a greater degree of collaboration with a wider range of "partners" than most, if not all, other regions in the country. Forestry interests are represented by the 1,000-student School of Forestry at the University of Montana, the Montana Forest and Conservation Experiment Station, the Northern Fire Laboratory, the Northern Aerial Fire Depot and Smokejumper Center, the Missoula Forestry Sciences Laboratory, the Aldo Leopold Wilderness Research Center, the Arthur Carhart National Wilderness Training Center, and the Missoula Technology Development Center. Partners in the collaboration include the headquarters for the Montana State Forester, the Rocky Mountain Elk Foundation, the Boone and Crockett Club, the field offices for the National Wildlife Federation, the Craighead Wilderness and Wildlife Institute, the Defenders of Wildlife, the Montana Department of Fish, Wildlife and Parks, and the Intermountain Forest Industry Association, as well as numerous other environmental interest groups. Where is there a better location to implement collaboration on natural resource issues? Removal of regional forest service leadership to a far-removed, urban location is out of context with the collaboration and partnership principles espoused in the Forest Service's strategic plan and with the opportunities that already exist in Missoula.

In addition, the proposed relocation runs counter to the intent of providing for better land stewardship and public service. We believe that decisions of a regional leadership team are best made by people living in the affected communities and near to the land. Denver, Colorado, and Ogden, Utah, are very remote from western Montana and Idaho. Western Montana and northern Idaho have long been recognized as part of the greater Pacific Northwest or the Inland Empire as a cultural, scientific, and socio-economic region. There are few significant cultural ties between the Northern Rockies and Denver or Ogden.

Consider An Emerging Paradigm In Social-Political Structure. One of the benefits of ecosystem management policy and philosophy should be serious reexamination of local-state-federal relationships. Considerable literature emanating from the Center for the New West and other sources has challenged existing paradigms and the common cultural and political baggage of thinking about communities and regions. Current classification schemes limit our understanding of how local, state, and federal entities might operate together to support effective socio-economic systems. National policy has misled communities into believing they can prosper independently of one another. The focus needs to be on real places (communities) and the regions surrounding them, whose long-term prosperity depends upon figuring out how to make social regions operate as natural economies, such as they are capable of being. National agencies need to help nurture these concepts of social reorganization rather than continue to strengthen top-down strategies that hinder, rather than help communities and states in meeting the needs of their citizens. This philosophy, if endorsed, would lead to true decentralization of government organizational structures designed to more effectively care for the land and serve the people. It follows, therefore, that smaller regions would be more effective than larger regions for federal agencies.

SUMMARY. The principles that are articulated above suggest maintaining regional decision-making in the Northern Rockies, and distributing rather than consolidating control. In addition, these principles call for building on the strengths of established collaboration, restoring an administrative leadership presence of Forest Service research in the Northern Rockies, and following social-economic boundaries wherever possible to make government work for the people. In essence, this means implementing ecosystem management policy in a decentralized manner. Retaining the Northern Region and letting agency structure be secondary to accomplishing the noble goals and objectives of caring for the land and serving the people is the natural conclusion. The strategic plan is timely and will stimulate action. If the Department of Agriculture and Forest Service respond to suggestions for change, then the goals will be accomplished sooner, rather than later. We offer to help in any way that we can.

STATEMENT OF VERN HAMRE ON J.R. 26 BEFORE
THE MONTANA SENATE NATURAL RESOURCES
COMMITTEE, MARCH 10, 1995

NATURAL RESOURCE
JOURNAL NO. 7
DATE 3-10-95
BILL NO. HJR-26

My name is Vern Hamre. I reside near Gallatin Gateway, Montana.

I am retired after a thirty-five year career with the U.S. Forest Service. I was a District Forest Ranger for five years at Sula on the Bitterroot National Forest. I was Forest Supervisor of the Helena National Forest for six years. I was Regional Forester of the Intermountain Region of the Forest Service for ten years, a position identical with the one Dave Jolly holds in Missoula.

The proposed realignment of Forest Service regions looks to me like 'change for change sake'. It appears to be solely a response to the Administration's directive to reinvent government. It will result in a decline in service and responsiveness to the people of Montana. It will not improve on the ground management of the forests. It can easily result in less attention on the ground while employees are trying to figure out how to make a flawed organizationn work. And, it probably will not result in significant savings.

Montana State government and Montana forest users will have lower quality service if the Northern Regional Office in Missoula is closed. The Governor, who frequently talks with the Regional Forester, will have to talk with one in Denver who will not have the intimate knowledge of local conditions. The Montana Department of Fish, Wildlife and Parks, the Highway Department, water resource people and the State Forester can all travel to Denver to do their business with the Forest Service. Or, the State agencies can call ten separate National Forest offices and try to get a uniform and coordinated response.

Montana's forest users in the business of recreation, livestock and timber, as well as the environmental groups, will have to travel to Denver to resolve their problems.

Supposedly the proposed new regional boundaries were drawn up to conform to "ecosystems". This is a fallacious argument. Dr. Robert Pfister, nationally known ecology professor at the University of Montana Forestry School, developed the ecosystem classification used by the Forest Service called "habitat types". Dr. Pfister says the new regional organization has nothing to do with sound science.

Politically, Montana is not in a strong position in the U.S. Congress to oppose the reorganization. Do you believe Senator Murkowski and Representative Young from Alaska, who chair the substantive committees in the House and Senate will

Vern Hamre on J.R. 26

P.2-7

3-10-95

HJR-26

tolerate the closing of the Forest Service Regional Office in Alaska? Do you believe Senator Gorton from Washington who chairs the Appropriations Committee will allow eastern Washington to be reassigned to the Ogden Regional Office? It is also unlikely that ~~Senator~~ Senator Hatfield from Oregon, number two on the substantive Senate committee, will go along with reassigning eastern Oregon to Ogden. Montana's delegation will need to enlist all the help they can get to save the Missoula Regional office.

In summary, the reorganization plan is poorly conceived. It will result in poorer service to Montanans. It will take people away from on the ground management of the Forests. It probably will not save any money.

Property values increase subdivision of Flathead

L.R.-36

KALISPELL (AP) — Rising property values in western Montana are putting pressure on many local farmers to sell their fields to the highest bidder.

At the same time, falling crop prices, higher costs and a changing political climate, have members of the old grain-growing guard concerned that areas like Flathead Valley could soon be filled with houses and "hobby" farms.

"Eventually they're going to have to make that choice, and they're not going to be selling to a farmer," said Henry Galpin, a West Flathead Valley producer.

BOB SANDERS SPARKED THE DEBATE when he persuaded county commissioners last week to allow him to cut his 187-acre Lower Valley farm into 20-acre lots. Now his brother, Ray Sanders, wants to do the same on his 700-acre farm.

Traditional farmers are cynical about the 20-acre "ranchettes" that are cropping up on land once owned by families like the Sanders clan. They see them as nothing but 19 acres of weeds gobbling up productive land.

And they're finding that they're way of life is clashing with their new neighbors, many of whom are fresh from the city and unaccustomed to pesticide spraying and bailers running until the wee hours of the morning.

"We aren't out there to just annoy people who have moved in," Brian Schweitzer said. "We're just doing what we did for years."

Bill Voermans added: "It used to be people waved at me when I moved my equipment on the road; now they give me the middle finger."

YET FARMERS ARE JUST as worried that the non-farming public will decide to preserve open space by slapping on blanket agricultural zoning in farming areas. When property can be sold only as cropland, farmers will see their equity plunge from between \$3,000 and \$5,000 an acre to the \$1,200 and \$1,500 range, they say.

"We want to be part of the loop, because if we're not, we'll take a huge financial bath," said farmer Bruce Tutvedt.

Not all the pressure on farmers is local.

The national market dealt a 30-percent price cut to the wheat and cattle industries over the past year, and government subsidies no longer promise to make up the difference, as budget cutting becomes a priority.

ADD RISING FERTILIZER PRICES to the mix and many farmers are finding it hard to stay in the field.

"It's just a matter that you have two lines on a graph — one is cost and the other is what you get," said Galpin. "And they've met; there is no daylight between them."

The county commission could ease some of this pressure, several farmers say, by reviving plans for protecting agricultural land and open spaces.

The proposals included right-to-farm laws, agricultural districts where home purchasers are warned about farm odors and noises and cluster development of fallow corners of farms.

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DATE 3-10-95

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: HJR 22 HJR 24
HJR 25 HJR 26 HB-351

< ■ > PLEASE PRINT < ■ >

Check One

| Name | Representing | Bill No. | Support | Oppose |
|--------------------|-------------------------------|----------------------------------|---------------|--------|
| Maggie Pittman | USFS | HJR 26 | | |
| William R. Kraemer | MT. Mining Assoc. | HJR- 22 ²² | ✓ | |
| RON KLAPHAKE | Self (MAEDC) | HJR-26 | ✓ | |
| GARY LANGLEN | MT. MINING ASSN | HJR 25 HJR 22 | ✓ | |
| CANDACE TORGESSON | MT. Cattlemen & Mt. State Egn | HJR 24 | ✓ | |
| ANGELA JAMACARO | MT Mining Assoc | HJR 25 | ✓ | |
| Jim Richard | MT. Wildlife Fed | HJR 24 HJR 21 | ✓ | |
| Paul Rods | Self | HJR 24 | ✓ | |
| GEORGE OCHENSKI | TROUT UNLIMITED | HJR 24 | ✓ | |
| ROSS BEST | | HB 351 | | ✓ |
| ERIC WILLIAMS | PELAGUS GOLD | HJR 25/22 | X | |
| Larry Brown | AG RES. Assoc | HJR 24 | HB | X |
| Cory Hegreberg | MT Wood Prod. Assn. | HJR 24 | | X |
| | | | | |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-10-95

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: HJR-22 HJR 24
HJR-25 HJR-26 HB-351

< ■ > PLEASE PRINT < ■ >

Check One

| Name | Representing | Bill No. | Support | Oppose |
|-----------------------------|--|----------|---------|--------|
| JOHN R. MILODRAGOVICH | SELF | HJR #26 | ✓ | |
| ROBERT R. MILODRAGOVICH | SELF | " | ✓ | |
| Glenn Freeman | " | HJR #26 | ✓ | |
| GERHART H. NELSON | Northern SELF | HJR #26 | ✓ | |
| Vern Hamre | Self | HJR #26 | ✓ | |
| Bob Gibson | Self | HJR #26 | - | |
| James H. Freeman | Northern Rocky Mountain Retiree Assn. (FS Retiree) | HJR #26 | ✓ | |
| George Schunk | AG | 351 | ✓ | |
| Gerard P. Behrens | SAVE THE Fort | 351 | ✓ | |
| Carole Incorporated Toppins | Save The Fort | 351 | ✓ | |
| DAVID McEWEN | " | 351 | ✓ | |
| Bill Allen | MT Audubon | HJR 24 | ✓ | |
| Shirley Juhl | Save the Fort | HB 351 | ✓ | |
| John R. Milodragovich | " " " | HB 351 | ✓ | |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY