

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By Chairman Tom Beck, on March 13, 1989, at
1:00 P.M.

ROLL CALL

Members Present: Senator Hubert Abrams, Senator Gary
Aklestad, Senator Esther Bengtson, Senator Gerry
Devlin, Senator Jack Galt, Senator Greg Jergeson,
Senator Gene Thayer, Senator Bob Williams, and Senator
Tom Beck

Members Excused: None

Members Absent: None

Staff Present: Doug Sternberg, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 516

Presentation and Opening Statement by Sponsor:

Representative Marian Hanson, House District 100,
stated that HB 516 was before the committee two years
ago. She stated there had been some changes on page 2,
line 7 through 12. This section states when there is a
substantial difference in terrain. That was some of
the hang up when we were here two years ago and we
tried to address the concerns that were brought here
last time. This bill will not affect a herd district
in any way. It will not affect open range law."

List of Testifying Proponents and What Group They Represent:

Charlie Honencamp representing the RCNG
Tom Hopgood representing Montana Association of
Realtors
Jerry Jack representing the Montana Stockgrowers
Association, the Montana CattleWomen and WIFE

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Charlie Honencamp stated that he thought this was a good bill. "We have problems with this and I think it should be in the law. People have to tend their fences."

Tom Hopgood - "We are always concerned with rights between private property owners. I support this bill with good common sense to get through a problem."

Jerry Jack - "We rise in support of this bill. I think the added language on page 2, line 7 through 12, provides a good common sense tool that can be relied upon."

John Skufca - See exhibit 1.

Marvin Barber - "We support HB 516."

Valerie Larson - "We support HB 516 and urge you to do pass."

Questions From Committee Members: Senator Aklestad - "I need a little more of an explanation, what is the bill doing." Representative Hanson - "Property owners are mutually bound to maintain boundary fences. However, if you have to go to court, there is no visual proof that you have maintained any part of your fence...If you and your neighbor get along, this bill is not necessary. But, if you and your neighbor can't decide what part of the fence you're going to fix, this bill would decide that."

Senator Aklestad - "Does this apply to all neighbors regardless of whether they have livestock or not?" Representative Hanson - "No. If you decide not to fix your fence--if you are a wheat farmer, the guy along side of your has to maintain that fence if he runs stock. He has to maintain all of that fence until you decide to run livestock."

Senator Aklestad - "Doesn't that only pertain in the areas where there is a herd law?" John Skufca - "In a herd district, the livestock producer maintains the fences."

Senator Beck - "Most of the state has an open range law it has always been my understanding, if you didn't want livestock in your property, you fenced them out. You didn't fence your own in you fenced other peoples out of your property." Representative Hanson - "That is correct. Open range law does not address fence. This is a unwritten one. The only thing in the statutes

that says open range is all areas of the state except what has been fenced. It doesn't address how you maintain that fence at all."

Senator Bengtson - "Is there a penalty?" Representative Hanson - "There is no penalty anywhere addressed."

Senator Bengtson - "This language just tells what your rights are and if it doesn't work out then you take it to court." Representative Hanson - "There are time-frames you have to work on this. If you can't get your neighbor to fence at all, you may send him written notice and within five days you may respond and go in and fix the fence. If he doesn't pay you for fixing the fence, then you take him to court. The same goes for rebuilding a fence, only you have to give written notice of 60 days."

Closing by Sponsor: Representative Hanson - "I feel good fences make good neighbors. I urge you to pass this bill."

HEARING ON HOUSE BILL 542

Presentation and Opening Statement by Sponsor:

Representative Guthrie, House District 11, "I am sure that you all aware there are unappropriated waters in the State of Montana. The new filing process, that was initiated in 1973, is to make those unappropriated waters available to new applicants. This includes, not only surface water, but underground water applications. With regards to the surface water in the upper reaches of the Missouri river drainage, I think it is safe to say that the water flow from these drainages in the higher reaches has already been appropriated many times over. As a consequence, there is no surface water available for new applications. This is not necessarily true with the underground water. With the surface water you can see it. With the underground water, it is more difficult to predict where, in what amounts, and in what direction the water flows. The present legislation that it affects and has been since 1973, provides for a process by which applicants can file on unappropriated waters...What I would like to do with my legislation is to make it more stringent upon the applicant to prove, to the DNRC in the hearing process, that criteria. This, in effect, is putting the burden of proof where it should be with the applicant. As the law stands today, without my bill, what happens is that the applicant appears at the water hearing. The objections are heard, and because the applicant uses 'substantial credible evidence', the

DNRC will go ahead and issue the permit. Then, if there are adverse affects to prior rights, the burden is transferred from the applicant on to the objector. This will show that he has been adversely affected. The objector has two courses of action. He can on the one hand, say to himself well I can get along without that water and I have lost that water to the new applicant or I can go into District Court, which as you all know is expensive. There is one objection he can take. He can go to his neighbor and say you dried up my well when you started pumping from your new well. The neighbor is going to say, I got a permit from the DNRC that says I can. What happens the DNRC has made enemies out of the neighbors. I want to make it more stringent upon the applicant through 'clear and convincing evidence', and not 'substantial credible evidence' to prove the criteria." Representative Guthrie submitted amendments. See exhibit 2.

List of Testifying Proponents and What Group They Represent:

Jack Salmond representing himself
Valerie Larson representing the Montana Farm Bureau
Kim Enkerud representing the Montana Stockgrowers
Association and the Montana CattleWomen
Association
Jo Brunner representing the Montana Water Resource
Council
Ted Doney representing himself

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Jack Salmond - "I have been impacted by this bill. I live on the Teton River and have an adjudicated right for 2 and half cubic feet. The demands of water on this stream indicate that the allocation of water can and will be controversial. Therefore, I am very sensitive to further applicants applying for use on this stream. This bill brings those applicants that apply for a permit of less than 5.5 cubic feet of water under the same standards other water users valid objection is fine. The words 'clear and convincing evidence' will put a more stringent interpretation on the criteria the applicant must use if an objection arises. I therefore, support section four on page 5 and the amendments that add 'clear and convincing evidence' back into this bill." See exhibit 2.

Valerie Larson - "Farm Bureau supports this bill. We believe this bill puts the burden of proof on the applicant of the new water permit. It also helps the DNRC by not forcing them to grant permits that are all shaky."

Kim Enkerud - "We support this bill."

Jo Brunner - "Our association has votes for this bill without the amendments."

Ted Doney - "I too, support this bill as it is now written in front of you. It was introduced and our firm testified against the bill in the House. The problem we have here is not easy to explain. The problem Representative Guthrie has in his area is a problem. The department has been issuing permits up there that has adversely affected other water users...It's a problem with ground water, but it's not much of a problem with surface water. You can pretty well tell by measuring it, if there's going to be water to appropriate. Somebody comes in with a new permit application. There have been studies made in Representative Guthrie's area, but you still don't know how much water is in the ground for appropriation. The department issues a permit something goes wrong there is bad feelings. The problem here is if you raise the standard of proof, that will apply state wide. He's trying to take care of a problem here that's in his area and it is going to affect everybody in the state. The standard of proof of 'clear and convincing evidence' is very difficult to prove. It's the highest standard of proof in a civil case in court. I think it will be very difficult to prove by 'clear and convincing evidence' that there is water to appropriate especially ground water. It will mean in many parts of the state--shutting down the permits. Denying people permits...The House amendments will make it tougher. I don't think it will make it so tough, we're not going to have any water to develop in the State of Montana. I support the bill with the House amendments on it."

Questions From Committee Members: Senator Thayer - "The last two proponents spoke in favor of the bill with the House amendments. I was curious if the other proponents were in favor of the bill if we amended it back to its original form?" Jack Salmond - "I think the bill is an improvement by requiring the applicants the things they have to do. I agree with Representative Guthrie amendments." Carol Mosher - "Our testimony was based on the original bill (without

the House amendments)."

Closing by Sponsor: Representative Guthrie - "The DNRC represents people. When they issue permits that are not based on all the facts that could be made available, we have a situation of distrust. Those prior right holders feel their claims are being threaten. I urge you to support HB 542."

Senator Aklestad was assigned to carry HB 542.

HEARING ON HOUSE BILL 477

Presentation and Opening Statement by Sponsor:

Representative Grady, House District 47, stated, "Weeds infest 6.5 million acres of range land costing the State of Montana an estimated 47 million annually. Vehicles have been shown to be one of the major contributors to the spread of noxious weeds in Montana...All proceeds collected will be used for chemical and nonchemical noxious weed management programs. Section one assess a \$1 fee in lure per tax on all highway vehicles which is something new. Off highway vehicles have never had to address the weed problem. As we all know, they are the main contributors to the spread of weeds. The revenue is deposited into a weed trust fund. Section two increases the weed control fee on vehicles from .50 to a \$1.50 for weed management projects." See exhibit 4 and 5.

List of Testifying Proponents and What Group They Represent:

Mike Murphy representing the Department of Agriculture
Kim Enkerud representing the Montana Stockgrowers Association the Montana CattleWomen, the Montana Association of State Grazing Districts, and the Montana Wool Growers
Charlie Hahnkamp representing himself
Peggy Haaglund representing the Montana Association of Conservation Districts #8
Neal Peterson representing the Montana Weed Control Association, the Headwaters RC&D Range Committee and the Madison County Weed Control Board
Dave Pickett representing the Butte-Silver Bow Weed Board
Linda Ellison the Montana Trailbike Association
Kay Norenberg representing WIFE
Tom Hopgood representing the Montana Association of Realtors
Jim Holmon representing the Lewis and Clark Weed

District
Marilyn Murphy representing herself
Janet Ellis representing the Montana Audubon Society

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Mike Murphy - See exhibit 6.

Kim Enkerud - See exhibit 7.

Charlie Hahnkamp urges the committee to pass HB 477.

Peggy Haaglund - See exhibit 8.

Neal Peterson - See exhibit 9.

Dave Pickett - See exhibit 10.

Linda Ellison - See exhibit 11.

Kay Norenberg - "We would like to go on record as supporting
HB 477."

Tom Hopgood - "We support this bill for all the reason
previously stated."

Jim Holmon - "We also support this bill for all the reasons
previously stated."

Marilyn Murphy - "I urge passage of HB 477 without
amendments."

Janet Ellis - See exhibit 16.

Questions From Committee Members: Senator Williams - "The
list of counties. There are 50 counties, 6 counties
including Yellowstone may not levy any mill levies for
weeds?" Mike Murphy - "That may be right. I'll have
to check it."

Closing by Sponsor: Representative Grady closed.

HEARING ON HOUSE BILL 655

Presentation and Opening Statement by Sponsor:

Representative Harper, House District 44, stated, "The

Smith River has become a popular area because of the scenic beauty and fantastic fishing...We are experiencing drastic increases in the number of floaters that are using this area...Something has to be done not with only the amount recreationists, but also with the landowners along the Smith River. This bill is an attempt to provide the maximum public use of the resource while we minimize the conflicts between recreationists and the landowners." Representative Harper explained the location of the Smith River. See exhibit 12. Representative Harper indicated there was an amendment (page 2) inserted into the bill for the purpose of protecting landowners. "The access of the Smith River for recreational use will no way be minimize or infringed upon. This bill provides when the pressure gets bad enough...the department is going to authorized to implement a plan to adopt a management plan...Something has to take place in order to continue to use this river. We don't want make the landowners up there so mad, that they will just figure some way to close this thing down."

List of Testifying Proponents and What Group They Represent:

Ron Marcoux representing the Montana Department of
Fish, Wildlife, and Parks
Stan Bradshaw representing Trout Unlimited
Mike Bay representing himself
Kim Enkerud representing the Montana Stockgrowers
Association

List of Testifying Opponents and What Group They Represent:

Robert Hanson representing himself from White Sulphur
Springs
Bob Saunders representing White Sulphur Springs
George Berg representing himself a landowner on the
Smith River
John Eckhart representing himself a landowner on the
Smith River

Testimony:
Proponents:

Ron Marcoux explained the Smith River Management Plan. See exhibits 13 and 15.

Stan Bradshaw expressed that the bill emphasizes the need to reduce conflicts between landowners and recreationists by restricting the activity of the recreational users. Also, Mr. Bradshaw indicated that this bill would not attempt to codify the Smith River Management Plan.

"This is a good bill given the popularity of the Smith."

Mike Bay indicated he was representing the outfitters in and around the Helena area. Mr. Bay felt that HB 655's purpose was to limit the number of floaters on the Smith River. It would also allow the fish and game to collect fees.

Kim Enkerud - See exhibit 14.

Testimony:

Opponents:

Robert Hanson - "We are the ones that got the amendment in the bill. The question we have about this management plan is on page 14. They want to establish a scenic corridor. We don't want that to restrict our property rights. This particular part of the management plan is not acceptable to us because 80% of the property is private property...I don't think the fish and game should get into any kind of management of land. If I get a permit that guarantees me that I see a bighorn sheep and I don't see one--I don't want the Department of Fish, Wildlife, and Parks administrative ability to do this."

Bob Saunders indicated he supported the previous points made by Robert Hanson. "I have floated the Smith River three times in the last 18 years. Initially, it was a very pleasant experience. Now, the usage has become much greater. We need some limitations for using the river."

George Berg - "I agree with most of this bill. I think there should be a regulation on the number of floaters. The part I disagree with is adding the piece of river upstream from Camp Baker to Eden Bridge."

John Eckhart expressed a concern to specify the language in the management plan. The management plan is developed to regulate the floaters and I want no other intent in the language of the management plan.

Questions From Committee Members: Senator Galt - "I have no idea why you put this thing all the way to the bridge, as part of the program. Would you object to moving this down to Camp Baker? You say this is for the landowner/sportsman relationship and you're just aggravating the situation." Ron Marcoux - "The reason that was done is if the use did increase in that area we could control it. We wouldn't have an objection of

moving the boundary down to Camp Baker.

Senator Galt - "What would be your reaction of removing all of section five? Let's get that out of the picture or these people are going to go home a little upset about the whole thing." Representative Harper - "I think you have got to tell them somewhere in the bill, what you're suppose to do with the plan."

Senator Galt - "All the things that you need and all the things that you want to protect a good recreational experience and protecting the resource; I think it is all taken care of in section six. I think section five is redundant. We could take some of the good sentences in section five and add them to section six. If we strike section five, could you live with it in a year or two?" Representative Harper - "Senator, your idea of picking out some of the good might be satisfactory. The department would have to answer (the question)."

Senator Thayer - "I'm a little confused about what's going to trigger the application of this. You have an immediate effective date, but on the statement of intent (on top of page 2) it says 'the commission will have time to study...and it will adopt the rules as to the need.' When will this go from a voluntary system into a mandatory system?" Representative Harper - "The triggering mechanism is the amount abuse that does take place."

Senator Thayer - "Is there some number, you have in mind, that is going to trigger an implication of this management program? Will you go to about 200 floaters a day until this kicks in? More than 100 or what is it?" Representative Harper - "I have the parks manager from Great Falls. He will answer the question." Dave Todd - "On page 13, of the Smith River Management Plan, you can see stage two and three describing the use." Mr. Todd reads stages two and three to answer Senator Thayer's question.

Senator Devlin - "You really haven't got a real good hand with numbers right now?" Dave Todd - "We have a real good hand with numbers."

Senator Devlin - "Is your problem with the holidays? Can't you regulate that on holidays?" Dave Todd - "That's what this plan is designed to do."


Senator Devlin - "Do you have that authority now." Dave Todd - "No."

Senator Devlin - So, this bill will give you that authority to regulate the number of floaters on the river?" Dave Todd - "Yes. It will give us rule making authority."

Closing by Sponsor: Representative Harper urged the passage of HB 655.

ADJOURNMENT

Adjournment At: 2:59 P.M.


SENATOR TOM BECK, Chairman

TB/jj

ROLL CALL

AGRICULTURE COMMITTEE

DATE 3/13/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR HUBERT ABRAMS	✓		
SENATOR GARY AKLESTAD	/		
SENATOR ESTHER BENGTON	/		
SENATOR GERRY DEVLIN	/		
SENATOR JACK GALT	/		
SENATOR GREG JERGSON	/		
SENATOR GENE THAYER	/		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM BECK	/		

Each day attach to minutes.

SENATE AGRICULTURE

EXHIBIT NO. 1

DATE 9/13/89

BILL NO. HB 516

H.B. 516

Summary.

The Department of Livestock is interested in this from the standpoint that we are the ones called when problems occur with stray livestock and/or bad fences.

One overall concern we have is that livestock producers be made aware of the fact that somewhere in the future we may lose a court case dealing with livestock on highways. To date, courts have ruled with the producer.

Proposed Amendments to House Bill No. 542
Third Reading Copy

Requested by Representative Guthrie
For the Senate Committee on Agriculture, Livestock and Irrigation

March 13, 1989

1. Title, line 8.
Following: "~~FILED,~~"
Insert: "CHANGING THE BURDEN OF PROOF FROM SUBSTANTIAL CREDIBLE EVIDENCE TO CLEAR AND CONVINCING EVIDENCE FOR CERTAIN WATER PERMIT CRITERIA IF A VALID OBJECTION TO THE APPLICATION IS FILED;"
2. Title, lines 10 and 11.
Following: "CONVINCING"
Strike: "SUBSTANTIAL CREDIBLE"
Insert: "CLEAR AND CONVINCING"
3. Page 1, line 21.
Following: "~~part,~~"
Insert: ", or by clear and convincing evidence if a valid objection to the application is filed according to this part,"
4. Page 5, lines 9 and 10.
Following: "~~convincing~~" on line 9
Strike: "SUBSTANTIAL CREDIBLE"
Insert: "clear and convincing"

BILL SUMMARY--SENATE AGRICULTURE COMMITTEE
MARCH 13, 1989
PREPARED BY DOUG STERNBERG, COMMITTEE STAFF

BILL NO. HB 477, 516,
542, 655

HB 477 Section 1: increases fee for 1- or 2-year-old off-highway vehicle from \$25 to \$26; increases fee on all other off-highway vehicles from \$15 to \$16; allows for remission of the \$1 fee increase to the Dept. of Agriculture noxious weed management fund

Section 2: increases annual weed control fee on all motor vehicle registrations from 50 cents to \$1.50

Section 3: coordinates HB 477 fee increase with fee increase in HB 165 on off-highway vehicles

Section 4: provides July 1, 1989, effective date

HB 516 Section 1: requires that landowners maintain half of the fence along the land boundary unless otherwise provided; allows for maintenance responsibility by mutual agreement if there is a substantial difference in terrain or topographical features

Section 2: standard saving clause

HB 542 Section 1: requires submission of independent hydrologic or other specific evidence in order to meet the standard of criteria necessary for issuance of a water use permit

Section 2: extends present agency rulemaking authority

Section 3: provides an immediate effective date

HB 655 Section 1: short title

Section 2: outlines purpose and intent of the Smith River Management Act

Section 3: defines "commission" and "department"

Section 4: describes the part of Smith River subject to management under the Act

Section 5: assigns primary management responsibility of the Smith River waterway to the Department of Fish, Wildlife, and Parks; outlines management plan administration

Section 6: grants rulemaking authority to the Fish and Game Commission and outlines topics that rules may address, including implementation of a permit system

Section 7: allocates user fees to the state revenue fund for the use of the Department of Fish, Wildlife, and Parks

Section 8: provides a penalty for violation of a rule adopted under the Act

Section 9: extends present agency rulemaking authority

Section 10: standard severability clause

Section 11: provides immediate effective date

Report for County Weed Budgets

County	Budget Amount	Mill Levy
Beaverhead	74399.00	2.00✓
Big Horn	129452.70	0.00
Blaine	82900.00	1.33
Broadwater	40163.00	2.00✓
Carbon	58766.00	2.00✓
Carter	77500.00	2.00✓
Cascade	310098.00	2.00✓
Chouteau	79000.00	1.86✓
Custer	26526.00	1.55
Daniels	11241.00	1.05
Dawson	54350.00	0.79✓
Deer Lodge	29390.00	1.87✓
Fallon	197512.00	1.23
Fergus	61000.00	1.50✓
Flathead	202075.00	1.42✓
Gallatin	151174.00	1.30
Garfield	1100.00	1.50
Glacier	12800.00	1.60✓
Golden Valley	10586.00	2.00✓
Granite	26379.00	2.00✓
Hill County	62018.00	1.40
Jefferson	136642.00	2.00✓
Judith Basin	25550.00	2.00✓
Lake	142950.00	2.00✓
Lewis & Clark	266717.00	1.70✓
Liberty	44505.00	1.74✓
Lincoln	44986.00	1.69✓
Madison	80000.00	2.00✓
McCone	39000.00	2.00✓
Meagher	69514.00	2.00✓
Mineral	15130.00	1.97✓
Missoula	111534.00	0.60
Musselshell	75138.00	1.38✓
Park	67000.00	1.70✓
Petroleum	10000.00	2.00✓
Phillips	61400.00	1.25✓
Pondera	94875.00	2.00✓
Powder River	68255.00	1.70✓
Powell	64175.00	2.00✓
Prairie	45000.00	2.00✓
Ravalli	62040.00	1.60✓
Richland	125000.00	0.80
Roosevelt	141923.00	0.93✓
Rosebud	93418.00	0.20
Sanders	60085.00	1.50
Sheridan	94800.00	0.41
Silver Bow	88880.00	0.83✓
Stillwater	48500.00	2.00✓
Sweet Grass	28000.00	2.00✓
Toole	100000.00	1.58✓

All counties followed by a check meet the 1.6 mill requirement for the trust fund. Some counties do not levy 1.6 mills, but make up the difference from other sources of revenue.

SENATE AGRICULTURE

EXHIBIT NO. 4

DATE 3/13/89

BILL NO. 48477

Exhibit #4

HB 477 3-13-89

EVERETT M. SNORTLAND

~~SECRET~~
DIRECTOR

FAX 406-444-5409

MICHAEL MURPHY
ADMINISTRATOR
(406) 444-2402



STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

AGRICULTURAL DEVELOPMENT DIVISION
AGRICULTURE/LIVESTOCK BLDG.
CAPITOL STATION
HELENA, MONTANA 59620-0201

XXXXXXXXXXXX
TED SCHWINDEN
GOVERNOR
STAN STEPHENS

February 3, 1989

TO: Mike Murphy, Administrator

FROM: Barbra Mullin, Weed Coordinator

RE: Grants Information from 1985 through 1988

Following is information on past history of the Noxious Weed Trust Fund grants program. The information below is a fairly accurate overview of what has gone on since the Legislature originally funded the Trust in 1985.

FY86
85 9 projects were originally funded through DNRC
\$500,000 was deposited in the Trust
\$500,000 was spent over a three year period to fund the
above 9 projects

FY87
86 23 requests for funding totalling \$788,752
13 projects funded totalling \$157,389

FY88
87 25 requests for funding totalling \$1,160,577
10 projects funded totalling \$65,000
4 additional projects funded from carry-over money
totalling \$103,313

FY89
88 67 requests for funding totalling \$2,058,947
39 projects funded totalling \$610,391

FY90
FY89 77 grant requests totalling \$1,704,824
final ranking and funding will be completed the week
of February 6th
estimated revenues for this grant cycle are \$500,000
(\$150,000 from the herbicide surcharge and \$350,000
from the weed vehicle tax); as far as I can tell our
appropriations for this year is \$300,000 for herbicide
surcharge (maybe \$150,000??) and \$372,000 for the
vehicle weed

of Requests

483,095

The permanent Noxious Weed Trust Fund stands at \$1,069,948 as of December 31, 1988.

The Independent Record, Helena, Mont., Sunday, March 5, 1989—3A

Cold stalls knapweed war

By RICK HULL
Daily Interlake

CRESTON — This will be the year the biological war on knapweed gets off the ground, predicts insect researcher Jim Story. Or more accurately, into the ground.

Speaking here Thursday at the fifth annual Crops and Soils Day, Story said a root-feeding moth has just been added to the arsenal.

Not only has the Agricultural Experiment Station at Corvallis been able to collect 4,000 adult moths this fall, but he said there is proof the moths have finally established themselves outside researchers' greenhouses and in knapweed stands.

And that means there are four insect enemies at work against Montana knapweed: the root-eating moth, two seed-head-eating gall flies, and a moth that attacks seed heads on the weed.

Story says two other knapweed-attacking insects have just been introduced, three more are undergoing testing in Europe and two new knapweed enemies have been identified. If all those insects pass their screenings and are introduced, the project will have 11 potential knapweed enemies.

And that's good news, because he says it will take a combination of insects to kill off knapweed.

"We feel six is the magic number," Story said.

For example, the gall fly, by laying its eggs in the knapweed seed head, cuts seed production in

half. But half is not good enough for seeds that have nearly a 90 percent germination rate and can remain viable for 7-to-10 years.

The target, spotted knapweed, is an emigrant from eastern Europe. It took hold in California in 1922 and began a rampage through the West. In Europe, it has barely been able to hold its own.

But in North America, free of natural enemies, it exploded into an aggressive, waist-high weed that can turn pasture into worthless fields of purple flowers. Like most weeds, it is a "pioneering plant" that likes roadsides, overgrazed ranches and marginal lands. If irrigation is too expensive and quarantines fail, the rancher's only recourse is the chemicals 2,4-D, Banvil and Tordon.

Story had high hopes for a moth that lays its eggs in knapweed seed heads. The larvae eat the seeds, then burst free of the knapweed in spring as moths.

Researchers were concerned because laboratory tests revealed that the moth could survive only down to minus 20 degrees; Montana gets colder. However, there was the possibility that actual outdoor conditions might be more forgiving.

After the Jan. 31 storm, 300 seed heads were collected. None of the moth larvae in them survived.

Researchers still hope some lived and will found a more cold-resistant breed, he said. Researchers try to acclimatize all their knapweed-fighting insects to Montana's cold by raising outdoors.

Story is convinced that biological controls will eventually rein in knapweed. He bases his belief on a trip to central Europe, during which he spent four weeks looking at the weed and its enemies. The biggest patch he found — on Yugoslavia's coast — was only 4-by-16 feet of not-very-robust plants.

Story had high hopes for a moth that lays its eggs in knapweed seed heads.

FACT SHEET ON THE MONTANA NOXIOUS WEED TRUST FUND
for the Senate Agriculture, Livestock and
Irrigation Committee on
House Bill 477

The Montana Department of Agriculture is responsible for administration of the Montana Noxious Weed Trust Fund program.

The program was created in the 1985 legislature to establish a permanent trust to help fund local cooperative weed management projects that need seed money to get a good control effort established. The revenue has also been used to fund educational efforts on noxious weed management, biological control weed research, and other creative programs.

Noxious weed infestations are closely tied to transportation corridors across Montana. A map of spotted knapweed infestations in the state shows this dramatically.

The weed vehicle fee that was established in 1987 has been a great help to fulfilling the original purpose of the program. The weed vehicle fee added \$334,000 to the \$160,000 provided for grants from herbicide surcharge revenue. This significantly increased the number of projects receiving money.

The Noxious Weed Advisory Council met in early February 1989 to allocate herbicide surcharge and weed vehicle fee special revenues. The Council had approximately \$481,000 to allocate and \$1.7 million in project requests. By cutting many requests to a much lower figure and prioritizing projects, the Council funded 64 of the 78 project requests.

When project funding is cut severely, most areas will proceed with their weed management programs at a greatly reduced level. Weed control is being done, but at a lower rate than is needed to hold weed infestations to current levels. To adequately address the noxious weed problem in Montana, it is necessary for land managers to be able to establish a long-term control program that allows for reduction of weed infestation and then establishment of a long-term maintenance plan to hold weeds in check and keep them from spreading. At best, many land managers are currently in a position of only holding their own, rather than accomplishing the long-term reduction of weed infestations. Additional funding will help accomplish this goal.

Weed vehicle revenues have also been used to fund biological weed control research. This research necessitates long-term research and development of organisms that may eventually control large weed infestations in the state. Trust Fund monies have been critical in helping to establish this ongoing research and continued funding is needed.

FUNDING SUMMARY

1985 - \$1,000,000 RIT

500,000 permanent Trust
500,000 funded projects

All requests funded.

Cooperative Weed Management Areas - 5 (10 counties)
 primarily spotted knapweed and leafy spurge
Biocontrol Research - 2
Research, eradication - 1
Mapping - 1

1986 - \$157,389 funded projects

13 projects funded of 23 requests (total requested \$788,752)

Cooperative Weed Management Areas - 6 (12 counties)
Biocontrol Research - 3
Weed Mapping
Coupon Program
Weed Management with goats
Pesticide Collection & Recycling for WD

1987 - \$163,313 funded projects

15 projects funded of 25 requests (total requested \$1,160,577)

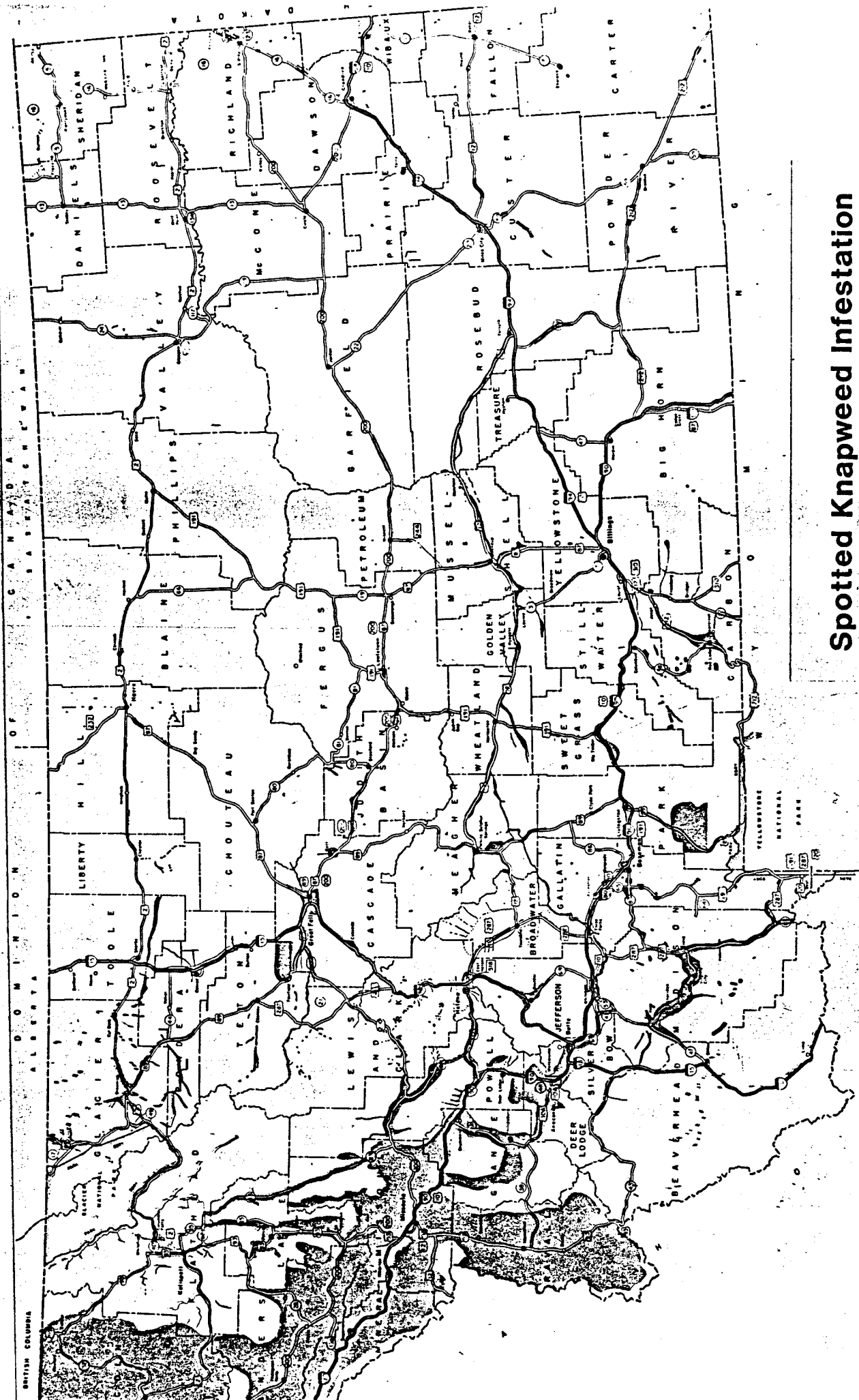
Cooperative Weed Management Areas - 10 (15 counties)
Biocontrol Research - 1
Weed Fair
WOW
Cons. Till Weed Survey
Knapweed Erosion

1988 - \$610,391 (\$139,000 oil overcharge)

39 projects funded of 67 requests (total requested \$2,058,947)

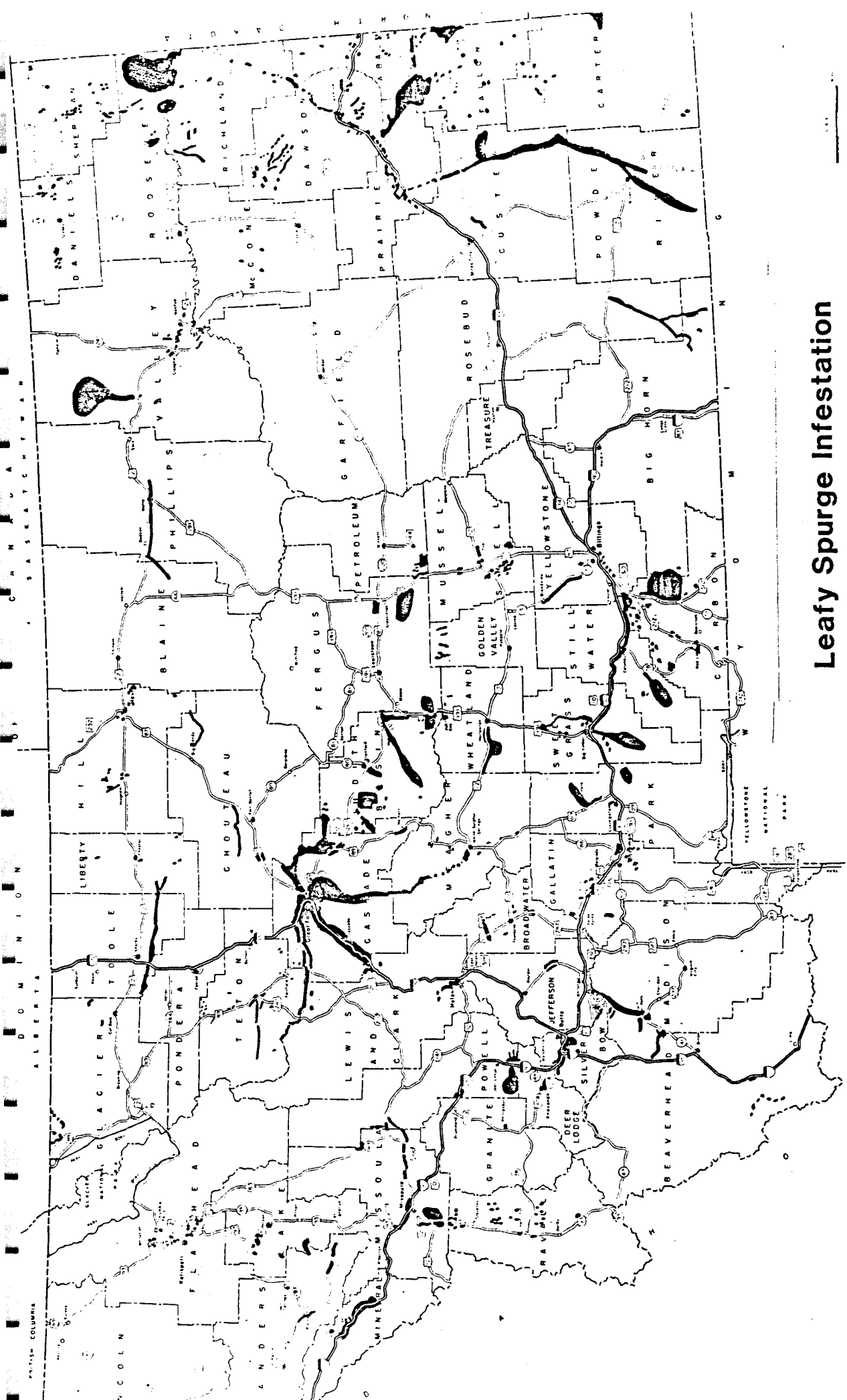
Cooperative Weed Management Areas - 22
Biocontrol Research - 6 (+ angora goats & sheep)
Spotted Knapweed Pamphlet
Weed Fair
Wick Applicators on CRP
Competition & Shading on Knapweed
Tansy Mustard Photosensitization
Cons. Till
Program for Middle School teachers
Herbicide application training mat'l for WD
Marias RBWC

Total collected by Dec. 31, 1988 into permanent Trust: \$1,069,948.89



**Spotted Knapweed Infestation
1987**

Exhibit #6
3/13/89
HG477



Leafy Spurge Infestation
1987

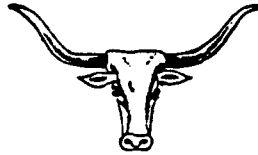
MONTANA STOCKGROWERS ASSOCIATION, INC.

SENATE AGRICULTURE
FILE NO. 7
DATE 3/13/89
BILL NO. MONTANA 59624
HB 477

P.O. BOX 1679 - 420 NO. CALIFORNIA ST. - PHONE (406) 442-3420 - HELENA, MONTANA 59624

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JEROME W. JACK	HELENA	EXECUTIVE VICE PRESIDENT
KIM ENKERUD	HELENA	NATURAL RESOURCES COORDINATOR



EXECUTIVE COMMITTEE:

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LYNN CORNWELL	GLASGOW	EARL LINDGREN	JULIE
M.E. EDDLEMAN	WORDEN	ROLAND MOSHER	AUGUSTA
NANCY ESPY	BOYES	GREG RICE	HARRISON

March 13, 1989

TO: Senate Agriculture Committee

FROM: Montana Stockgrowers Association, Montana CattleWomen,
Montana Association of State Grazing Districts, Montana Wool
Growers.

SUBJECT: House Bill 477: Revising the Funding for the Noxious Weed
Management Trust Fund.

Mr. Chairman, Members of the Committee:

My name is Kim Enkerud. I am representing the Montana Association of State Grazing Districts, the Montana Wool Growers, the Montana CattleWomen and the Montana Stockgrowers Association.

Enclosed with my testimony are maps which show the expansion of weed control projects funded through the Noxious Weed Trust Fund. As you can see, the additional funding is helping counties to control noxious weeds.

Noxious weed control also involves biological control. Approximately 30 percent of the revenue has gone towards biological control of leaf spurge, knapweed, and dalmatian toad flax. Some biological controls are the use of sheep, goats and insects. As conservation groups scrutinize chemical controls more and more, I feel there will be an increased need for biological weed control.

Noxious weeds can be found all over Montana. There was a statement made in the House Agriculture Committee that eastern Montana does not have this problem. I have to disagree, because eastern Montana does have noxious weeds. There is leafy spurge and more and more knapweed is showing up all the time. With the importation of hay this year because of the fires and drought, who knows what type of weeds will show up this spring.

The request for grants for weed control has exceeded the available funding 3 to 7 times. Noxious weeds not only affect agricultural land but recreation areas, cities and wildlife areas. There are more and more weeds turning up every year. This problem is not only an agricultural problem, but a problem of the entire State of Montana.

Ex. #7

3/13/89

HB 477

Additional funding is needed to meet state and local objectives for noxious weed management.

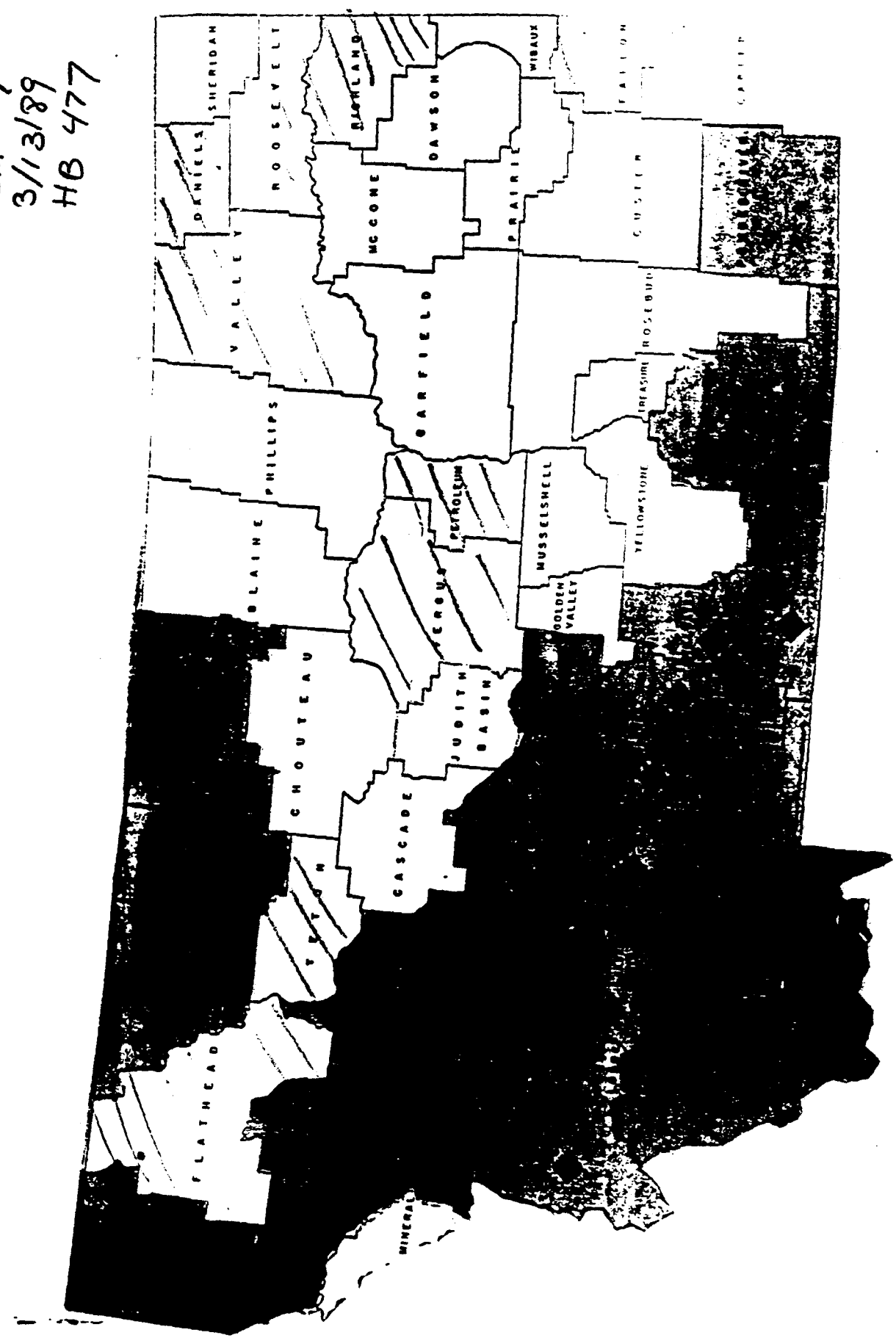
We urge the Committee to concur with HB 477.

Thank you.

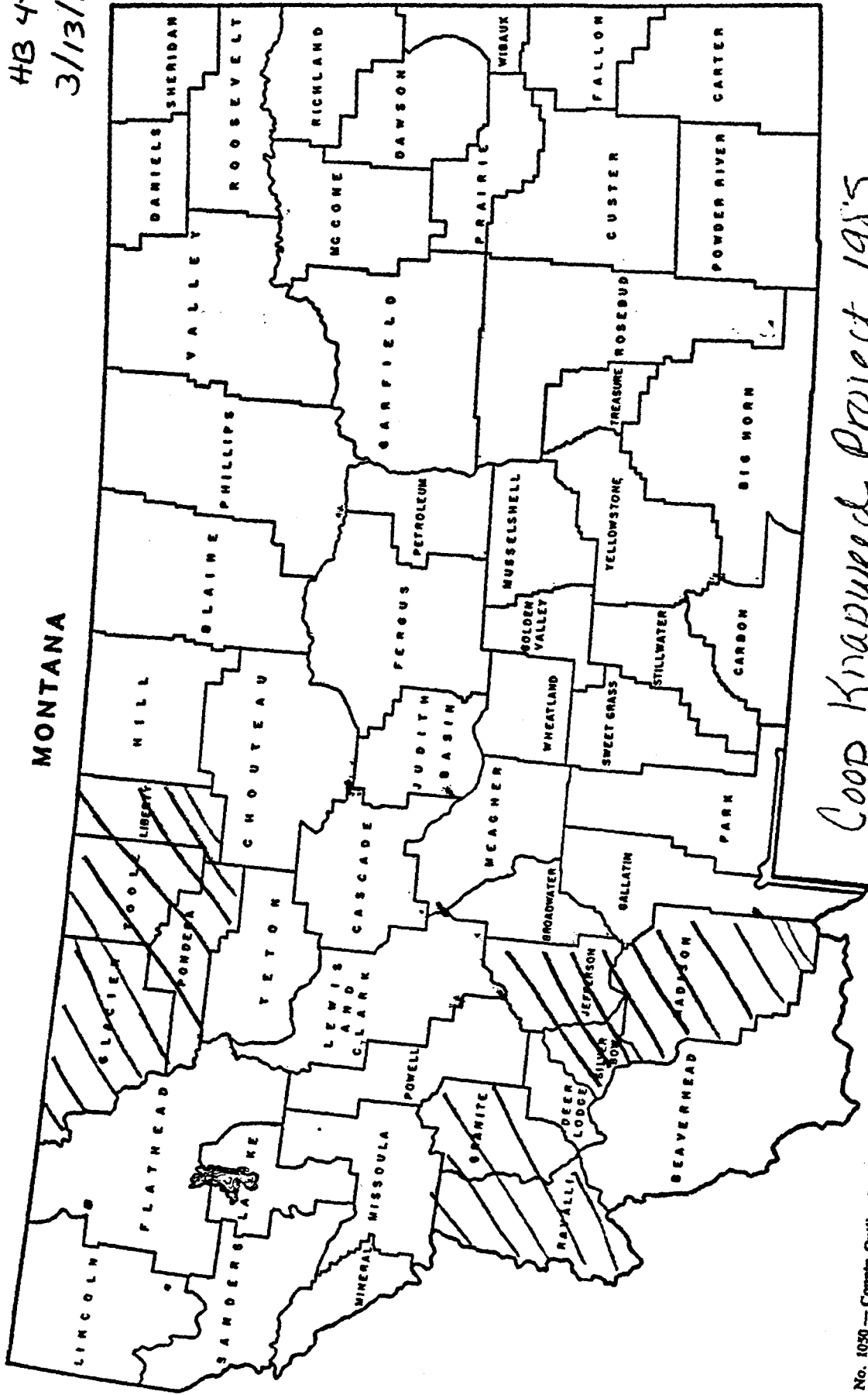
KE:ejr

Enc.

exp. Unapproved Projects - 1988: Indicate projects funded thru WAPF
Ex. #7
3/13/89
HB 477



X. 117
HB 477
3/13/87



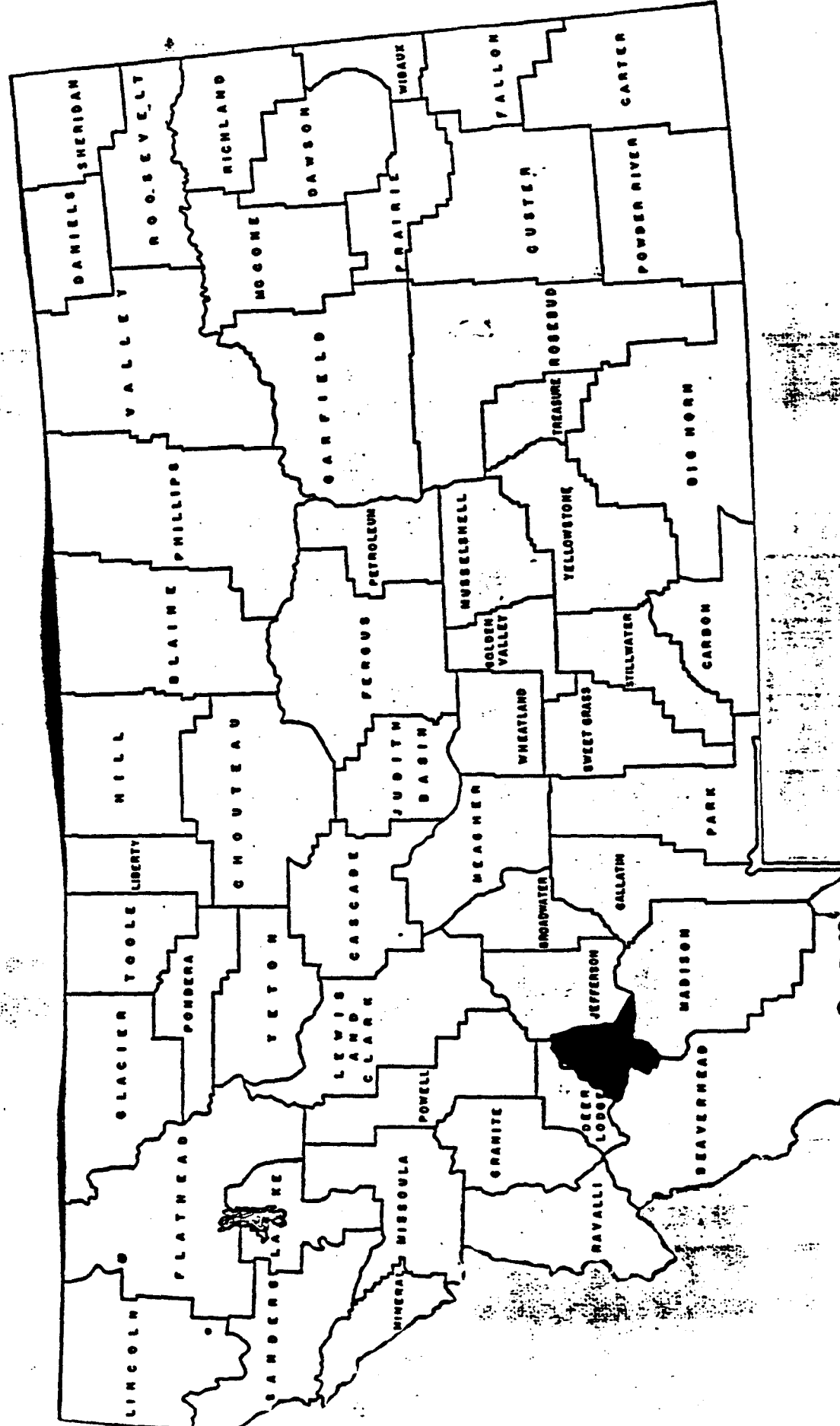
Coop Knapweed Project, 1985

Ex. #7

3-13-89

HB 477

*Coop. Rangeland Projects 1983 (Prior to NWTF)
Nonious Need Trust Fund*





SENATE AGRICULTURE

EXHIBIT NO. 8

DATE 3/13/89

BILL NO. HB 477

MONTANA Association of Conservation Districts

1 South Montana 443-5711
Helena, MT 59601
March 13, 1989

Testimony to the Senate Agriculture Committee on HB 477.

For the Record, my name is Peggy Haaglund and I am executive vice president of the Montana Association of Conservation Districts.

MACD does support HB 477.

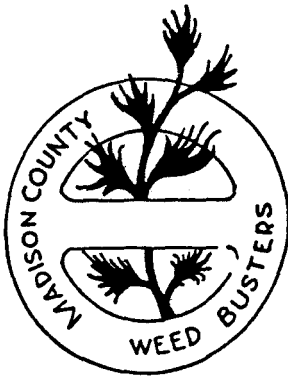
As has been stated, the weed problem in Montana is extreme. A couple of years ago, when I was working for the conservation district in Missoula, we had a group of legislators from Wyoming tour our area looking at the weed problem and visit with local ranchers. They, the legislators, were astounded at the amount of land affected and the amount of money the ranchers were putting out trying to control weeds--mainly spotted knapweed and leafy spurge.

But weeds do not just affect the ranchers and farmers. They affect the tourist industry when our scenic wonder--"purple hills"--is really hills covered with knapweed, or our wilderness areas are being infested from the hay that is carried in to feed horses and mules and when we float down our streams and the vegetation along the stream is Leafy spurge.

With the money raised from this tax, we will be able to continue the research into biological methods of controlling these weeds, which someday will be a viable method. We will continue offering grant money to those who are actively coming up with management plans to control weeds in drainages. We will be able to continue funding the work that is presently being done and fund expanded work.

Montana needs this money and raising it by increasing the tax on vehicles, which are one of the major ways the weed seed is spread, is a good method.

Thank you.



Madison County Weed Control

P.O. Box 278
Virginia City, MT 59755

SENATE AGRICULTURE
EXHIBIT NO. 9
DATE 3/13/89
BILL NO. HB477

March 10, 1989

RE: HB477, Representative Grady, Revise Funding for Noxious Weed Management Trust Fund..

TO THE RECORD

TO: Chairman & Members of the Senate Agriculture Committee:

My name is Neil O. Peterson. I am representing the Montana Weed Control Association, as their Legislative Chairperson; the Headwaters RC&D Range Committee, as their Committee Chairman, and the Madison County Weed Control Board as Madison County's Weed Coordinator.

All three (3) entities support and recommend a do pass vote, by the Senate Agriculture Committee, for Representative Grady's HB477.

The support is based on the increasing noxious weed infestations occurring in the state and their economic and environmental impact. This Bill would provide a tool for funding and public awareness for noxious weed management.

Weed management is much more than just chemical spraying. It is also weed prevention, detection, intergrated controls (such as chemical, biological and cultural) and public awareness.

HB 477 provides the means for increasing implementation of weed management programs through out the State of Montana.

Again, a do pass vote is requested from this committee.

Sincerely,

A handwritten signature in cursive script that reads "Neil O. Peterson".

Neil O. Peterson
Weed Coordinator
Madison County

NOP/ks

March 13, 1989

Statement of Support for HB 477 - Senate Agriculture Committee
By Dave Pickett, Chairman, Butte-Silver Bow Weed Board

I urge the Committee to recommend that the Senate pass this bill. I have watched the Noxious Weed Trust Fund Advisory Council wrestle with allocation of funds for 1989 projects throughout Montana at their meeting in February. One thing is obvious, there is a terrible shortfall of funds available for excellent weed management projects. When the Council has narrowed proposals to the best ones, they must fund them at rates as low as 20% of what is requested. This on top of the fact that the proposals as submitted already match requested funds at least 1:1 or greater. In order to provide real help to the many coordinated control projects, education programs, bio-control projects, and needed research, more funds must be available to invest in improving the quality and productivity of Montana's land base.

The funds are sought from a major factor in the spread of noxious weeds, our vehicles. Look at the problem moving along our highways, roads, and trails, and I hope you can agree that this is a FAIR source of weed management funds. The increase will bring the fee to \$1.50 per vehicle. This is the price of 1.5 gallons of gas each year, enough to go about 30 miles. Is this too much of a price to pay for the benefits we all get?

A common argument against this concept is that some areas with lots of vehicles aren't getting "their share" of Trust Fund grants. Don't blame the law and don't blame the Council. Last year I heard people from Missoula request funds. Their Weed Board was not supporting them and their projects were not well organized. The Council did not fund them, and spent a lot of time working with them to improve their request. The people made progress with their Weed Board. This year two Missoula control projects got \$19,500. Yellowstone County made a proposal this year for a computer program for weed mapping. The mapping hasn't been done, and no-one from the Weed Board or Weed Dept. even appeared in support, let alone any landowners. The request was rejected, and the Council will be working with them to do better next year. At the same time, many eastern Montana projects were funded, and it is obvious to me from the Council discussions that they place a high priority on funding in eastern Montana. They want to control small problems like knapweed in eastern Montana and "push the problem westward. They can't responsibly do this until local government officials, weed boards, and landowners make a commitment to work together cooperatively and efficiently. Unfortunantly, there are some areas where this commitment hasn't yet occurred.

As happened in Missoula, these programs can improve and they will need and get Trust Fund dollars in the future. To insure the needed dollars are there for all good weed management proposals, I urge you to pass the bill. Thank you.

D. Pickett

Montana Trail Bike Riders Association

P.O. Box 6118, Bozeman, MT 59771-6118

SENATE AGRICULTURE

EXHIBIT NO. 11

DATE 3/3/89

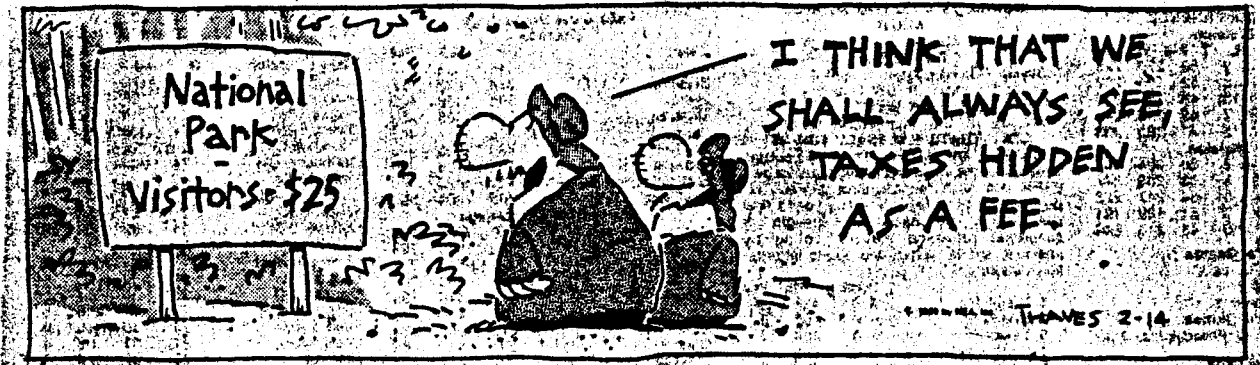
BILL NO. HB477

March 13, 1989

To: Senate Agriculture Committee

From: Linda Ellison for MTBRA

Regarding: House Bill 477; an act revising the funding for the noxious weed management trust fund...



This session, our organization has offered legislation (HB 165) which strengthens incentives for off-highway vehicle registration by providing a program, paid for by users, through which we may focus on resolving many of the environmental concerns facing off-highway vehicle use in our state. Weed control is but a portion of that picture, and we support HB 477, which has been amended to coordinate with HB 165.

In closing, I would like to share with you, information concerning the structure of the noxious weed management advisory council, and suggest to you that perhaps there is a glaring omission here.

Noxious Weed Management Advisory Council (Section 80-7-805, MCA)

1. The director of the department of agriculture who serves as chairman
2. one member who is a livestock producer
3. one agricultural crop (grain) producer
4. one member from a sportsman/wildlife group
5. one herbicide dealer or applicator
6. one member from a consumer group
7. one representative from biological research and control interests
8. one member of the Montana weed control association
9. one at-large member from the agricultural community

It is our firm belief that as part of "the problem" we should also be part of "the solution," not only as a funding mechanism, but as a working partner in the decision making process as well. While the House Agriculture Committee thought this to be beyond the scope of this particular legislation, I would suggest it to you for further discussion.

Thank you for your consideration and we solicit your support for this bill as amended.

AGRICULTURE

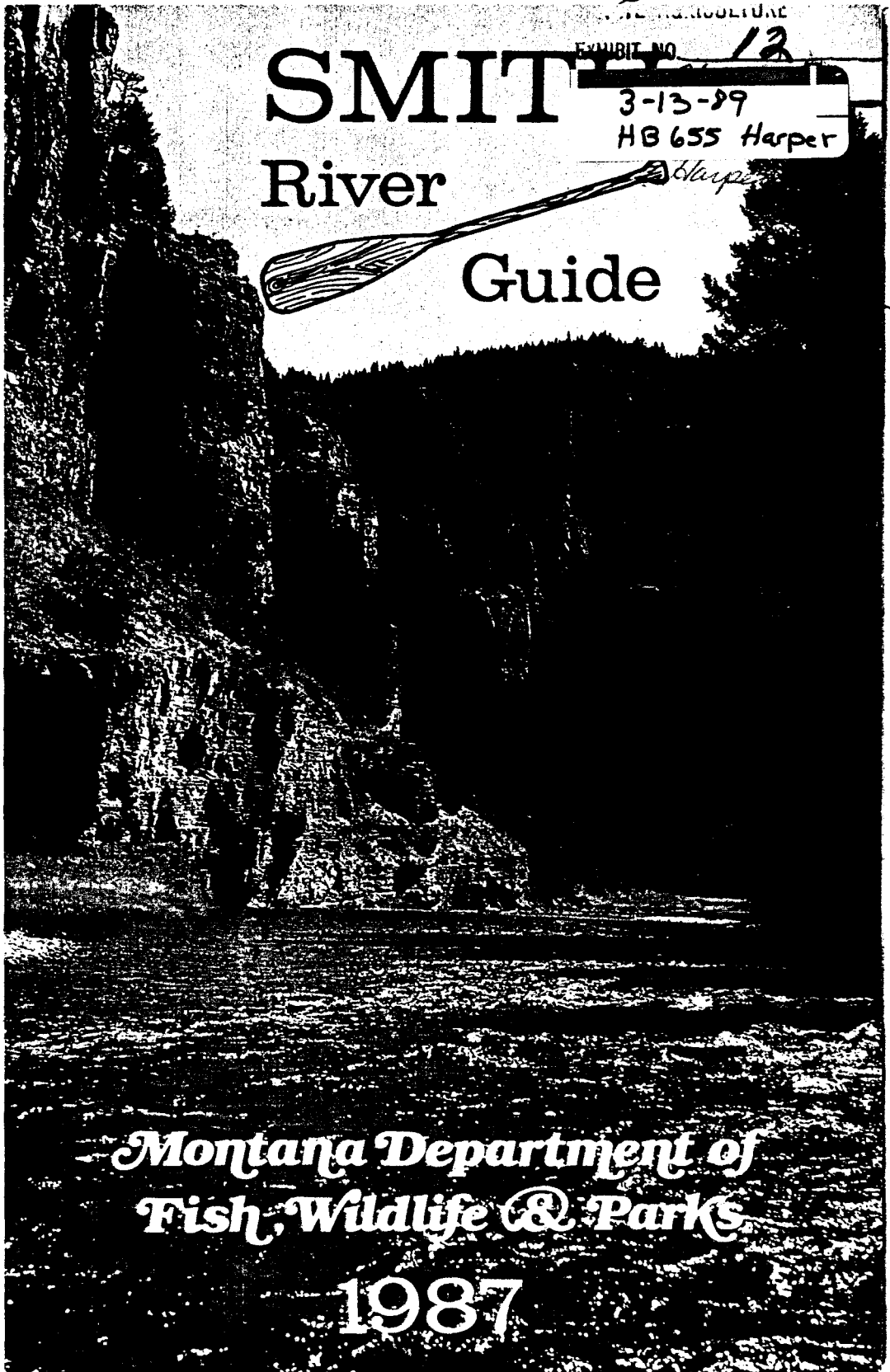
EXHIBIT NO. 12
3-13-89
HB 655 Harper

SMIT

River



Guide



Montana Department of
Fish, Wildlife & Parks

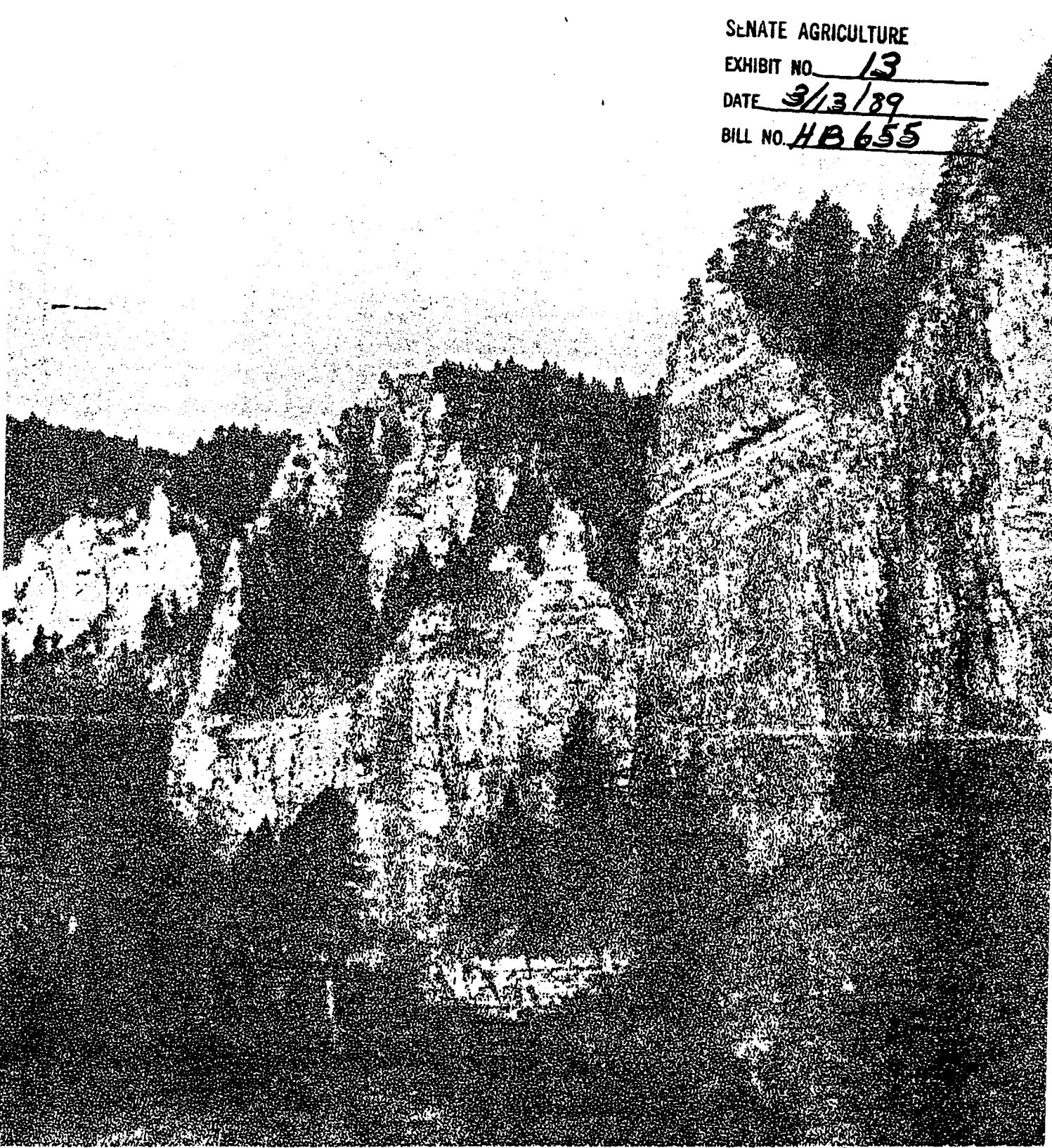
1987

SENATE AGRICULTURE

EXHIBIT NO. 13

DATE 3/13/89

BILL NO. HB 655



Smith River Management Plan 1988

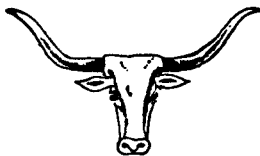
Montana Department of Fish, Wildlife & Parks

MONTANA STOCKGROWERS ASSOCIATION, INC. ¹⁴ 3/13/89

P.O. BOX 1679 — 420 NO. CALIFORNIA ST. — PHONE (406) 442-3420 — HELENA, MONTANA 59624 HB65

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LYNN CORNWELL	GLASGOW	EARL LINDGREN	JOLIET
M.E. EDDLEMAN	WORDEN	ROLAND MOSHER	AUGUSTA
NANCY ESPY	BOYES	GREG RICE	HARRISON

March 13, 1989

TO: Senate Agriculture Committee

FROM: Montana Stockgrowers Association

SUBJECT: House Bill 655: Smith River Management Act

Mr. Chairman, Members of the Committee:

My name is Kim Enkerud. I am representing the Montana Stockgrowers Association.

When House Bill 655 was heard in the House Fish and Game Committee, we were concerned that landowner rights were being jeopardized as they were not addressed in this bill. Several landowners from the Smith River area were also very concerned.

Representative Harper amended the bill so the people's concerns were addressed. I have been in contact with these people and they see no problem with House Bill 655 now.

I did have a concern with Section 5, subsection 1, part b - dealing with scenic beauty and solitude. My concern was if this is a bill to regulate use, why are scenery issues in this bill. After talking with Bob Lane of the Montana Department of Fish, Wildlife and Parks, he explained this will help regulate recreational use even more. An example is if ten floaters are affecting the floating experience, then maybe there should only be three floaters present. In turn, this will decrease the impact on a landowner's land near the stream.

The Smith River landowners were also concerned with this. After this explanation, they are more comfortable with this language in the bill.

Mr. Chairman, we hope the Committee will concur with HB655.

Thank you.

KE:ejr

HB 655
March 13, 1989

Testimony Presented by Ron Marcoux, Department of Fish,
Wildlife & Parks

The Smith River Canyon extends 61 river miles from Camp Baker to the Eden Bridge. It has long been recognized as a special place because of its limited access, scenic beauty and relatively undeveloped setting.

The canyon has no public access below Camp Baker and only limited private access due to the vertical canyon walls. More than 80 percent of the river frontage is in private ownership. At this time there are 22 public boat camps in the river corridor, 9 on Forest Service land, 6 on department land, and 7 on private land leased by the department. All 22 are managed by the department.

Public use of the canyon is typically in the form of 3-5 day float trips, with overnight camping along the river. The floating season can range from 4 to 12 weeks depending upon weather and water conditions. Use ranges between 1,200 and 2,000 floaters per season. When activity on the river exceeds 100 floaters per day, space at boat camps is inadequate, the potential for trespass and other problems such as camp site degradation is greater, and user satisfaction begins to diminish significantly. The department has relied largely on voluntary measures or natural conditions to limit or distribute recreational use on this increasingly popular stretch of river.

Since 1981, the department has been working to reduce impacts on private lands, maintain boat camps, float gates and signs, pick up litter and provide information through the distribution of a river map guide. A seasonal river ranger is employed to assist in this effort.

In 1984, due to the increasing popularity of the Smith River, an ad hoc advisory committee, including recreational users, outfitters, landowners, the Forest Service and department personnel, was created to advise the department on river management issues.

In 1988, the department published the Smith River Management Plan which is an outgrowth of the work of the ad hoc committee, extensive public involvement, and the river ranger program.

A management system has been devised which will distribute or limit use to keep peak days at or below 100 floaters per day. As use increases, more stringent management strategies will be employed, beginning with a voluntary reservation system to the most restrictive, which would be a permit allocation system.

I don't believe anyone, including the department, relishes the idea of more restrictive measures and increasing costs; however, the popularity of the Smith River and the attendant private lands and social demands make it evident that additional steps are necessary to maintain a quality experience and reduce conflicts between river users and private landowners.

HB 655 provides the Fish and Game Commission authority to regulate recreational use in the Smith River canyon based on biological and social criteria. There is no intent to regulate private land use nor in any way affect water rights. An amendment in the House Fish and Game Committee made certain this was clearly understood in the bill. The amendment is on page 2, lines 22 through 24.

The bill also provides for reasonable floater user fees as a way to offset the cost of increased corridor management. The present budget is \$23,000 per year and comes from Parks coal tax funds. A fee of \$5-\$10 per person would generate \$10,000-\$20,000 per year at current use levels. This bill proposes the design of the fee. Its amount would be set by the commission through a public rule-making process which would include hearings.

Allocation of floating use may be needed in the future. This can be a complicated and time consuming task which must balance the needs of all users, including those requiring outfitter services, as well as resource considerations. This bill proposes using the Fish and Game Commission's public rule-making process to devise a method for fairly distributing floater use.

With the authority in place as proposed by this bill, the commission and the department will have appropriate tools needed to manage the Smith River Corridor.

We urge your support of HB 655.

(This sheet to be used by those testifying on a

EXHIBIT NO. 16DATE 3/3/87BILL NO. HB 477DATE: 3/13/87NAME: Janet EllisADDRESS: Helena

PHONE: _____

REPRESENTING WHOM? MT Audubon SocietyAPPEARING ON WHICH PROPOSAL: HB 477DO YOU: SUPPORT? AMEND? _____ OPPOSE? _____

COMMENT: Across the state, at least 4.7 million acres are covered by noxious weeds. They are found in every county and every city. They follow the activities of people like a shadow — because people, particularly vehicles and people, distribute the weeds. An example is knapweed where 90% of the knapweed follows road & moving hay and where 100% of the off-road distribution occurs from off-road vehicles.

Wildlife and native vegetation is affected by noxious weeds. Vehicle fees are an appropriate funding source because of their involvement in the spread.

We ask that you vote "Do Pass" on this legislation.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Kim Enkerud	MT Stockgrowers, Cattlemen	655	✓	
" "	State Grazing Act	477	✓	
Tom Hopgood	Mount Assoc. Realtors	477/576	✓	
John Salvord	WETA	542	✓	
Martin Barber	AP AP	542 516	✓	
John Eckhard		655		✓
JACK SEDGWICK	LIVESTOCK	516	✓	
John Skufca	"	"	✓	
Steve Bradshaw	Traut Unlimited	655	✓	
Sinda Ellison	MT Trail Bike Riders Assn	477	✓	
Janet Ellis	Audubon Society	477	✓	
Neil O. Peterson	MT Weed Control Assoc Madison Co Weed	477	✓	
Jerry Jack	MT Stockgrowers, Cattlemen - base of St. George's Dist	516	✓	
Peggy Haaglund	MT Assoc. of Conservation Dist	477	✓	
Monte Clemon	LIVESTOCK	477	✓	
Robert Hanson	Self	655		✓
ELLEN BERG	SELF	655		✓
George Borg	self	655		✓
RA Saunders	Self	655		✓
Dave Pickett	Butte Weed Board	477	✓	
Bob Bone	FWP	655		
Dave Todd	FWP	655		
Valerie Jensen	Farm Bureau	HP 477	✓	
Valerie Larson	Farm Bureau	HP 516	X	
Valerie Larson	Farm Bureau	HP 542	X	
Kay Hoenke	WIFE	477	X	

DATE 3/13/89

COMMITTEE ON Agriculture

2 of 2

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Mike Bay	self	655	X	
Jim Jensen 110	MEIC - Box 1184 Helena	477 655	X	
Charles Johnson	Headwaters BCD	477	X	
Ron Marcoux	FWP	655	X	