

EXHIBIT 2
DATE 1-25-05
HB 247

STATEMENT IN SUPPORT OF HB 247
Beverly B. Hall
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My name is Beverly Hall. I live on a ranch in Stillwater County about 15 miles from the town of Absarokee. I am here today to support HB 247 in its present form.

In the spring of 2003 voters in the Absarokee High School District created the Beartooth Park and Recreation District to support recreational facilities in the town of Absarokee. The Absarokee High School District includes not only the territory close to the town of Absarokee encompassed by the Absarokee Elementary District, but also the territory of the Fishtail and Nye Elementary Districts. These two districts include land located up to thirty miles or more from the town of Absarokee.

A number of disaffected voters in the Fishtail and Nye elementary districts filed a petition pursuant to MCA 7-16-2441 to withdraw territory from the Recreation District. The petition was signed by approximately 60% of the electorate in the territory to be withdrawn and certified as sufficient by the County Clerk. Although the petition was certified by the County Clerk on August 1, 2003, the Park District Commissioners refused to hold a public hearing on the matter until June 30, 2004.

At the hearing 143 people appeared in person or by written statement and testified in support of altering the boundaries by withdrawing territory, and requested the Commissioners to call an election on that question. Approximately 20 people appeared in person or by written testimony and urged the Commission to leave the boundaries unchanged.

On July 13, 2004 the Commission met again and voted 4 to 1 to deny the petition. The reasons given by the Commissioners for refusing to call an election demonstrate a clear disregard of public concerns and amount to an absolute abuse of discretion. Despite the fact that the Board had legal counsel, there were no findings of fact or conclusions of law to support its decision. Three Commissioners made their decisions solely on the basis of their personal beliefs, with total disregard for the written record. Their decision can only be described as arbitrary and capricious.

County boards and commissions are not subject to the requirements of the Montana Administrative Procedure Act, which provides that the decisions of state agencies must be supported by findings and conclusions, and not left to personal whim. This bill is necessary to require County Park Districts to hold public hearings in a timely manner and to require them to call an election that would give disaffected property owners the opportunity to withdraw from the District. Requiring that the petition be signed by 40%

of the electorate insures that petitions will not be frivolous or filed solely for the purpose of harassment.

At the July 13 public hearing one Commissioner voiced the concern that the Park District would be split up into noncontiguous pieces by the petition in question, and that it would therefore be difficult to administer. HB 247 addresses this concern by requiring that territory proposed to be withdrawn must be compact and contiguous to a boundary of the district. I do think that we need to define the word "compact."

I hope that you will all support the passage of this bill.