

EXHIBIT 3
DATE 2-1-05
HB 342

**STATEMENT TO
the LOCAL GOVERNMENT COMMITTEE
MONTANA HOUSE OF REPRESENTATIVES
FEBRUARY 1, 2005**

REGARDING HB 342

I support HB 342 for the following reasons:

MAJORITY RULE

The legislature has already established the majority rule in SIDs. That is, if a majority of property owners protest against an SID, then the SID is not created.

This bill closes up two loopholes that allow a minority to impose a sewer SID on a majority.

NO WAIVERS OF RIGHT OF PROTEST

HB 342's title begins, "An act prohibiting the waiver of the right to protest for a special improvement district. . ."

What the right of protest is: The right to protest an SID is the only "vote" and often the only real input, the homeowners get. A sewer SID is usually crafted, promoted, and imposed by people other than the affected homeowner (most often by local government). Property owners aren't given any vote, but they have a veto in the form of a protest. This veto is guaranteed them by state law.

What a waiver does: When a homeowner signs a protest waiver, he doesn't just lose his right to respond "no" a particular SID - he commits his property to a "yes" response to every future sewer SID ever to come. Waivers run with the land.

For example, when protests are counted to see whether over 50% of property owners protested, owners with waived rights are counted among the total number of owners. They are counted as "yes" votes, regardless of the owners' true opinions.

Imagine if any legislator buying a hunting or fishing license were required to sign a waiver that neither she nor any future legislator from her district would ever vote on any bill relating to hunting or fishing. Instead, she would be counted as favoring every bill that comes along, even if she disagrees with it.

Who has to sign waivers: Local governments vary. In Missoula (according to Andy Short, Missoula City/County Health Dept.), waivers are mandatory for homeowners needing a permit to repair a septic, put on an addition, or add a drainfield. Waivers are also put on land titles in new subdivisions within the wastewater service area.

An individual could choose to do without a hunting or fishing license for a year or two. A property owner with a failed septic can't wait even a day or two for a repair permit. She has no choice then, and she'll never have a choice again. Her protest rights are gone for good.

Developers of subdivisions sign waivers that bind future homeowners, running with the land for all time.

Why waivers exist: The purpose of waivers is to deprive citizens of the only decision-making power they have over SIDs.

The argument that we can't trust citizens with a veto power, even when the issue involves their own homes and neighborhoods, is an argument against democracy.

Is the decision about waste treatment important? You bet. So is the selection of our legislators and governor - a choice we put to the people. So is passing school bonds - a choice we put to the people. That's how democracy works.

The short-term consequences of waivers: Waivers enable local government to "stack the deck," by counting as "yes" the opinions of people whose true response would be "no". This subverts majority rule.

In one situation, a sewer SID was opposed by property owners representing 76% of the cost of the SID. A few of them, however, had previously been deprived of their right to protest, so the entire neighborhood was forced into the SID.

Secondly, use of waivers creates a false appearance of public support when there is none. Property owners who can't vote are counted as supporters of the SID.

Thirdly, the use of waivers is uniformly perceived as unfair by citizens forced to sign them. State legislators gave property owners just one means to stop an unwanted SID -- this protest process -- and local government strips away that legal right.

The long-term consequences: A waiver of the right to protest becomes part of the title to the land. It is permanent.

Back in the days when sewers were regarded as high tech, so were electric typewriters. Imagine if the land title for schools required every school to provide students with electric typewriters. We now live in the computer age.

We also live at a time when modern on-site sewage treatment systems are as effective as centralized plants. They cost less, and don't discharge effluent into rivers. Who knows what the technology of the future will bring. We should not commit landowners for hundreds of years in the future to technology that is already becoming outdated.

The other long-term consequence of waivers is widespread loss of the protest right. Over the next fifty years, most properties will require some sort of repair work. Every repair will lead to a waiver. Eventually, everybody's right will be waived. This was not the intention of the state legislators who gave citizens the protest right.

Inalienable rights: The right to vote is inalienable. You can't give away, sell, or assign to the city your voting right.

The Montana legislature has given property owners final say over SIDs. Like a vote, it should be inalienable. It should not be stripped away in return for a one-time repair permit. Getting a repair permit is not a crime.

In Montana cities we now have two classes of citizens. Property owners who have ever needed a repair permit - or who bought homes in certain subdivisions -- cannot freely support or oppose a sewer SID. Other citizens have the full rights granted them by the state legislature.

NO OVERRULE OF A 50% PROTEST

HB 342's title continues: ". . .and eliminating the ability of the governing body to overrule a protest for a sanitary sewer district."

A sewer SID can be ruinously expensive for homeowners. In one town, a retired couple was assessed over \$40,000 so a sewer main could be run past their horse pasture. Of course, the sewer would be useless to the horses! The couple faced losing property that had been in their family four generations. That story had a happy ending, because homeowners defeated the SID through their protests.

A sewer SID can cost a property owner tens of thousands of dollars. This expense is devastating to young families, retired couples, and the working poor; it's hard, in fact, on most Montanans.

Because a sewer SID is so costly, homeowners should have greater say than with other SIDs. Instead, they have less. Currently, homeowner protests can be overruled unless they represent more than 75% of the cost of the district.

The 75% threshold was established back when sanitary sewers 1) were only offered inside cities, and 2) were the best known technology. Both of those conditions have changed.

1) Sewers are now imposed on suburban and rural areas. They are used as a tool to expand the city's tax base, generally without regard to the wishes of the people who live there.

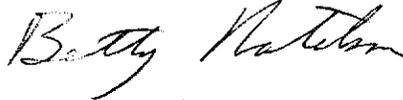
2) This is the 21st century. Modern improved onsite systems are highly effective at waste treatment.

A central sewer system transports waste through underground pipes which, over the years, lose structural integrity. Partially cleaned wastewater from a treatment plant is discharged into a river, causing visible and measurable pollution.

By contrast, decentralized systems treat waste onsite and then discharge treated water into the ground, a natural filter.

Certainly, if over half of homeowners decide they want central sewer service, they can impose that system on the minority who don't want it. However, a minority of supportive homeowners should not force a majority into an SID.

Respectfully submitted,

A handwritten signature in cursive script that reads "Betty Natelson".

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