

EXHIBIT

DATE

1  
1.28.05

NO.

403

**Proponent Testimony: HB 403**

A BILL FOR AN ACT ENTITLED:

"AN ACT REMOVING THE EXEMPTION FOR A WATER RIGHT PERMIT FOR A WATER ALLOCATION FROM GROUND WATER WHERE THE WITHDRAWAL FROM A WELL OR DEVELOPED SPRING IS 35 GALLONS A MINUTE OR LESS AND 10 ACRE-FEET A YEAR OR LESS FROM THE SAME SOURCE FROM TWO OR MORE WELLS OR DEVELOPED SPRINGS, REGARDLESS OF WHETHER THEIR DIVERSION WORKS ARE PHYSICALLY CONNECTED OR NOT, IN CERTAIN INSTANCES; PROVIDING THAT A WATER RIGHT PERMIT MUST BE OBTAINED FOR ALL PARCELS CREATED BY A MAJOR SUBDIVISION OR A SUBSEQUENT MINOR SUBDIVISION PRIOR TO FINAL PLAT APPROVAL IF THE WATER SUPPLY IS A DOMESTIC WELL; AMENDING SECTIONS 76-3-609, 76-3-611, AND 85-2-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."A

Submitted by:

Vivian M. Drake, 75 W. Lincoln Road, Helena, MT 59602

My name is Vivian Drake. I reside at 75 West Lincoln Road in Helena. I co-own an engineering consulting firm with my husband. I have degrees in both civil and hydrogeological engineering. Prior to my consulting work, I supervised the Lewis & Clark County Water Quality Protection District for 9 years. As a private citizen, I have been actively pursuing groundwater protection measures for the past 6 years through application to the DNRC for a controlled groundwater area for Helena's North Hills. I have also assisted several citizen groups pursuing similar endeavors in other parts of the State.

Because of this work and my personal experience with dry and unusable wells, I strongly support HB 403. In my experience, exemption of individual wells or springs from permitting requirements has seriously impacted water availability from already over-allocated and drought-impacted aquifers throughout Montana. In 1996, over a period of two months, my family's water well and those of 5 of my neighbors went dry. At the same time, with a growth rate of over 70%, Helena's North Hills saw continued drilling of exempted individual and subdivision water wells which subsequently impacted senior water right holders in the area. A similar situation occurred outside Helena in Colorado Gulch. These are not isolated situations relative only to the Helena area. It has occurred in the Flathead, Gallatin, and Beaverhead Valley, as well as high-growth areas located over sensitive and limited bedrock aquifers near Missoula, Billings, and the Paradise Valley.

Cumulative impacts from installation of exempted wells and springs have not been adequately evaluated in Montana. Given the current drought situation and rapid growth in many Montana communities, the withdrawals occurring from these exempted wells and springs are having serious and costly impacts to senior water rights holders. What is the point of having a senior water right if your neighbor installs an exempted well and the senior well goes dry? The burden is then on the senior water right user to prove he is impacted by the new exempted well. As the continued installation of exempted wells occurs, aquifers

can be depleted to the point that many wells are simply no longer productive rendering property values worthless. Land without water has little to no value.

It is even more egregious when a subdivision is approved with a number of exempted wells supplying water to the new homes. Subdivisions ranging in size from 2 to 145 lots in Helena's North Hills have been proposed and approved without adequate review to ensure future groundwater availability. The water supplies that have been proposed and approved are individual exempted wells, under 35 gpm. As an example of how much water can be withdrawn, through exempted wells, a subdivision with 20 lots, i.e. 20 individual wells, utilizing 15 gpm pumps, can conceivably pump over 400,000 gallons of water in one day! That is more than one acre foot of water. If the subdivision is comprised of one-acre parcels and is located east of the continental divide, the 20 exempt wells could pump more water in 20 days than could be replaced by natural precipitation in an entire year. It is absurd to continue to allow wells and springs to be installed with exemptions. It is essential that all productive wells and springs be permitted so water use records can be maintained and aquifer depletion can be monitored, to ensure that Montana's precious aquifer resources do not continue to be over-allocated and over used. I urge this Committee to pass this bill. Thank you.