

EXHIBIT 3
DATE 2.14.05
HB 360

**Statement of PPL Montana, LLC
Before the Committee on Natural Resources of the Montana State House of
Representatives
Regarding House Bill 360
February 14, 2005**

On behalf of PPL Montana, I would like to thank the Chairman and the Committee for offering the opportunity for comment on this legislation. In light of the serious concerns presented by HB 360, PPL Montana opposes this bill.

Water rights are a crucial part of Montana's history and economic development. The drafters of Montana's 1972 Constitution included a specific provision recognizing and preserving their validity - Article IX, §3 states that "all existing rights to the use of any waters for any useful or beneficial purposes are hereby recognized and confirmed." HB 360 directly violates this constitutional mandate by subordinating the priority dates of one class of water rights in favor of all other classes. Such an unprecedented attempt to extinguish vested property rights is ill-advised for several reasons.

Irrespective of HB 360's clear constitutional deficiencies, as a matter of principle, the legislature should not be in the business of retroactively modifying vested property rights. For this reason alone, HB 360 should be rejected.

In addition, HB 360 sets a dangerous precedent that cannot be ignored. Today it's the priority dates of a select group of water rights owners. Whose property rights will be targeted for modification or elimination tomorrow -- irrigation, instream flow or even rights for personal consumption?

Although no fiscal note has yet been prepared, this Committee should not ignore the State's potential liability under this bill. A water right's value is determined primarily by its seniority date. The subordination of existing priority dates will substantially reduce the value of the affected water rights. A reduction in value of this magnitude will certainly result in Fifth Amendment takings claims against the State.

Finally, , the adjudicatory requirements of this bill are both burdensome and unworkable for the Water Court. Under HB 360, the Water Court must reopen decrees and assign new priority dates for previously adjudicated water rights. As this body has already spent the last interim determining, the Water Court's limited resources are better used elsewhere.

For these reasons, I urge the Committee to reject HB 360. Thank you.