



League of Women Voters of Montana
3/21/05

SB269
HB 790

EXHIBIT 2
DATE 3.21.05
SB 269

Mr. Chair, Members of the Committee:

My name is Kathleen Williams, and I represent the Montana League of Women Voters. The League is a non-partisan organization. Membership is open to men and women. We rise in strong support of SB269 to define "groundwater" in four Montana basins closed to some new water appropriations.

The League carefully studies local, state and national policy and only allows advocacy on positions that have garnered consensus support in those studies. The national League adopted is proactive water policy in 1958. The Montana League supports "protecting ... water supplies against potential depletion..., while protecting existing water rights and uses, (and) instream flows..." The League also supports "water resource programs and policies that reflect the relationship of water quality and quantity to ground and surface water resources and careful analysis of existing aquifers and adjacent streams in future water allocation requests." This bill is imminently consistent with League interests.

I have been working on water issues in Montana for the last 10 years. Recently, there has been much debate about what constitutes subsurface water that is "directly or immediately" connected to surface water (important because, under the closures, these applications are not supposed to even be processed by DNRC). This debate has been held in contested case hearings and in court, requiring senior water right holders to invest significant resources to defend their rights. This bill sets a threshold for what subsurface water will be considered immediately or directly connected to surface water. And it creates a sub-process in water right permitting where scientific debate occurs between the applicant and DNRC (and anyone else who wants to watch), as it should. Moving any such debates that may occur to an earlier point in the process saves concerned senior water right holders the expense of getting involved in the scale of scientific debate that is occurring now. Passage of this bill should mean that many applications that would have generated concern from senior water right holders will not proceed, and senior holders should only need to put forth the investment to get involved if they disagree with DNRC's findings.

In summary, this bill helps better implement the tenet of water law that applicants for new rights have the burden to prove they will not adversely affect the rights of others. It addresses evidentiary and procedural problems associated with implementing the Upper Missouri Basin Closure. It will likely reduce potential out-of-priority depletions of surface water via wells and keep more water in our streams than we would see without this bill. And it will reduce the unfair and burdensome expense senior water rights holders have recently had to incur to defend their rights.

We urge a **Do Concur** on this bill. Thank you for your time. I'd be happy to answer questions.

Kathleen Williams

Chair, Natural Resources Subcommittee

Montana League of Women Voters