



MOUNTAIN WATER COMPANY

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**Testimony of Mountain Water Company
House Natural Resources Committee
60th Session of the Montana Legislature
OPPONENT OF HOUSE BILL 831**

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WATER LAWS IN CLOSED BASINS; DEFINING TERMS IN WATER USE LAWS; AMENDING REQUIREMENTS FOR AN APPLICATION TO APPROPRIATE GROUND WATER IN A CLOSED BASIN; PROVIDING THAT CERTAIN APPLICATIONS TO APPROPRIATE SURFACE WATER ARE EXEMPT FROM CLOSED BASIN REQUIREMENTS; PROVIDING REQUIREMENTS FOR HYDROGEOLOGIC ASSESSMENTS, MITIGATION PLANS, AND AQUIFER RECHARGE PLANS; PROVIDING MINIMUM WATER QUALITY STANDARDS FOR CERTAIN DISCHARGES OF EFFLUENT; REQUIRING THAT PREVIOUSLY APPROVED PLANS THAT WERE NOT LOCATED IN THE CLARK FORK BASIN MUST MEET CERTAIN CRITERIA; REQUIRING THAT DATA BE SUBMITTED TO THE BUREAU OF MINES AND GEOLOGY; PROVIDING FOR RULEMAKING; PROVIDING FOR A CASE STUDY AND REQUIREMENTS FOR PARTICIPATION IN THE CASE STUDY; RECOGNIZING AND CONFIRMING EXISTING APPROPRIATION RIGHTS IN CERTAIN INSTANCES; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 85-2-102, 85-2-302, 85-2-311, 85-2-329, 85-2-330, 85-2-336, 85-2-337, 85-2-340, 85-2-341, 85-2-342, 85-2-343, 85-2-344, 85-2-402, AND 85-2-506, MCA; DIRECTING THE AMENDMENT OF ARM 36.12.101 AND 36.12.120; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES."

Chairman McNutt and members of the House Natural Resources Committee:

For the record, my name is Arvid Hiller, and I am the Vice President and General Manager of Mountain Water Company in Missoula, a position that I have held since April 1, 1990. I have brought my testimony in written form and ask that it be distributed at this time to the members of the Committee.

Mountain Water Company is a regulated, private investor-owned water utility that has provided water to the residents, businesses, and institutions of Missoula for over 25 years. Currently, Mountain Water Company provides service to approximately 65,000 residents of the population of a rapidly growing Missoula County. To supply this water, Mountain Water relies on numerous municipal water rights that it has owned for many years.

Because Mountain Water Company operates under the authority of the Montana Public Service Commission ("PSC"), we are obligated to provide service to all those within our service area. With the significant growth in Missoula County both at present and into the foreseeable future, Mountain Water Company will need to seek additional supplies of clean water in order to continue to provide service to the our entire service area.

House Bill 831 poses significant hurdles for Mountain Water Company in our attempt to continue to provide high quality, clean and affordable water service within Missoula County. House Bill 831 adds into the Montana Water Use Act and, in particular, the closed basin statutes, a definition of "municipality" that is limited to only incorporated towns or cities. *See*, Section 1(15). House Bill 831 then changes the exemption from closed basin statutes from an exemption for an application for a permit to appropriate water for a municipal water supply to an exemption limited to an application for a permit to appropriate water by a municipality only. *See*, Section 12((2)(b)). As a private utility operating partially within the Bitterroot River subbasin, Mountain Water Company is primarily concerned with the proposed amendment to Mont. Code Ann. § 85-2-344.

By changing the exemption to the closed basin statutes from an exemption for municipal water supplies to an exemption only for a municipality, House Bill 831 would subject Mountain Water Company to the expensive and time-consuming hydrogeologic assessment and aquifer recharge or mitigation plan requirements of Sections 15 through 17 whenever we would need to obtain additional water to continue to provide service to Missoula and the surrounding area. This obligation would arise solely because Mountain Water provides municipal water privately rather than publicly. The requirements of Sections 15 through 17 could possibly take so long to fulfill that Mountain Water Company would be unable to provide service as demanded, thereby putting our operating authority at risk. Additionally, as a utility serving a broad population, we strive to provide the best quality service at the best value. The cost involved in complying with Sections 15 through 17 of House Bill 831 would seriously jeopardize our ability to operate without significant rate increases.

Even if Mountain Water were to pursue additional sources of water through a change of an existing water right rather than apply for a new appropriation, Section 13 of House Bill 831 still subjects such change applications to the same hydrogeologic assessment and aquifer recharge or mitigation planning requirements. All change applications are already subject to the requirements of Mont. Code Ann. § 85-2-402(2), including the requirement that any change application not result in adverse effect to existing appropriators.

By including change applications in House Bill 831 and subjecting those applications to the lengthy and expensive process of hydrogeologic assessment and mitigation or aquifer recharge plans, Mountain Water Company has little option left for affordable and feasible ways to respond to increased service demands.

We understand that the rationale for the proposed change to the municipal definition is to avoid creating a loophole from the basin closure laws for small subdivisions. Mountain Water does not fit that profile, which shows that the legislation sweeps too broadly. Mountain Water acts as the municipal supplier of water for the Missoula area and there is no rationale for treating us differently than any public water supplier.

Finally and perhaps most important, Mountain Water Company is generally concerned with the as-yet unknown ramifications of House Bill 831. Because the bill is so far-reaching and complex, we cannot yet truly know what the ultimate impacts will be. Such sweeping changes as are proposed in House Bill 831 merit careful and thoughtful consideration and analysis. Mountain Water Company is concerned with the wide net that House Bill 831 casts and urges a more cautious approach.

Mountain Water Company respectfully urges this committee to oppose House Bill 831. At the minimum we believe that the wording needs to be changed through the act so that a primary water server to a municipality is exempted from the requirements of the act. Thank you, and I will be available for any questions.

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