

COMMENTS ON HB 383  
ON BEHALF OF  
THE TONGUE RIVER WATER USERS' ASSOCIATION  
By Brenda Lindlief-Hall

BEFORE THE SENATE NATURAL RESOURCES COMMITTEE  
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Chairman, Members of the Committee, thank you for the opportunity to submit this testimony today. I have represented the Tongue River Water Users' Association, a group of ranchers in southeastern Montana, for 7 years on coalbed methane issues, working to protect their water quality and water quantity. Water is their lifeblood, the sine qua non of the west. The Tongue River Water Users' Association has been working incredibly hard—harder than ranchers should have to—to protect the water quality of the Tongue River and its tributaries, including the ephemeral streams that are the subject of this bill. They have also been fighting to protect their senior water rights.

HB 383 is a significant revision to the Montana Water Quality Act, and carries with it significant potential for harm. Nonetheless, it contains no bonding requirements, no reclamation requirements, and no monitoring requirements, and no oversight provisions whatsoever.

Ephemeral streams provide some of highest quality water to the flows of the Tongue and other rivers and streams during spring runoff and rainfall events. The waters from ephemeral streams contribute significantly to the total flows of the Tongue River. Flows from ephemeral streams are used for irrigation, as are the waters of the mainstem of the Tongue River. Maintaining high quality water in the ephemeral streams and in the Tongue River is critical to the irrigators in the Tongue River valley. It is also critical to insuring the viability of Montana's agricultural producers. Allowing

discharges of coalbed methane water, well recognized by scientists and courts as a pollutant containing high concentrations of salts and sodium is not "insignificant." Discharges of untreated CBM water into ephemeral streams poses an immediate and possibly irreparable threat to the irrigators and agricultural producers in the Tongue River Valley. It also poses a significant threat to those with senior vested water rights.

There is no requirement that the impoundments have by-passes to insure that waters that would normally make it into the channel and ultimately contribute to the flows of the of the Tongue River and streams creeks are not impounded. Likewise, nothing in HB 383 provides for any oversight or requirements to determine whether such impoundments will capture runoff and interfere with water rights.

Montana's Board of Environmental Review established water quality standards in 2003. The water quality standards were promulgated with the input and expertise of the Department of Environmental Quality, as well as some of the nation's foremost soil scientists, hydrologists, and hydrogeologists. The water quality standards were established after a lengthy public comment period, which included many hearings and the opportunity to submit written comments and science. The CBM industry and its scientists participated significantly in the process for setting Montana's water quality standards. HB 383 would undo much hard work and would be contrary to the advice and expertise of the scientists who helped establish the water quality standards.

HB 383 is also contrary to the Montana Constitution, which requires the state to maintain a clean environment, and requires that the legislature prevent degradation of the environment. Discharges of untreated CBM water will allow significant degradation of the environment, and poses

significant risks to irrigable lands and Montana's agricultural producers. This bill does not limit these discharges to southeastern Montana. This bill would allow such discharges anywhere in Montana that CBM development occurs. This bill places not only the waters and lands of southeastern Montana at risk, but places the water quality and lands of all of Montana's rivers and ephemeral streams at risk.

The Tongue River Water Users are not trying to prevent people who want and need coalbed methane water from using the water. If people want to put CBM water in stock tanks on their private property, that is fine. HB 383, however, would allow CBM companies to discharge its wastewater into streams, without protecting some of the highest quality water that is available for irrigation. It is especially important to maintain the quality of the water of ephemeral streams in this time of extreme drought. Every drop of clean water is precious. Please protect our water and soils for agriculture.

I urge a do not pass on HB 383. Thank You.