

**Northern Plains Resource Council Testimony on HB 24
January 19, 2011**

Mr. Chairman and members of the Committee, this testimony is submitted on behalf of Northern Plains Resource Council; a grassroots conservation and family agriculture organization that organizes Montana citizens to protect our water quality, family farms and ranches, and our unique quality of life. We focus on land stewardship, land and water rights, and promoting strong rural economies.

Water – both on the surface and in the ground – belongs to the State of Montana. This resource is to be held in public trust for future generations. Consequently, water does not belong to any individual, but an individual water user can obtain a “water right” from the state to beneficially use that water for a specific purpose. The established procedure for obtaining a water right has worked well for generations in our rural, agriculturally based state.

Water rights holders are often small, family farmers and ranchers producing food and providing good stewardship of their land. But, with the urbanization of some parts of Montana, agricultural land there is being turned into subdivisions. And, with the 35-gallon/minute exemption to needing to obtain a water right, many thousands of new water wells have been drilled for subdivision homeowners. Consequently, the general idea behind HB 24 is understandable and addresses a serious problem.

Additionally, we recognize that this bill is the result of the hard work of the Water Policy Interim Committee during this last inter-session, which began as a discussion of how to solve the problem of urbanization of agricultural lands in closed basins. Members of Northern Plains actively participated in the WPIC and traveled to Helena on multiple occasions to participate in the meetings, and we testified, when appropriate, about the issues before the WPIC.

Despite recognizing the serious issues that this bill seeks to remedy, Northern Plains is forced to oppose HB 24 because of the unintended consequences that we believe would result from this bill as currently written.

We believe that HB 24 expands the use of water marketing and that speculation and privatization of water will be the end result. Because an applicant would not have to specify where he/she is going to use the water as mitigation (contracts do not have to be signed under this bill), speculation in water can and will likely result. Senior water rights holders – who are Montana’s backbone agricultural economy – will lose when water marketing becomes the new “Code of the West” with regard to water.

This bill takes the authority of managing the public’s water away from the State and gives it to individuals by removing the sideboards for water marketing in closed basins (see Section 2, Subsection 1(f); Section 3, Subsection 9(c)(5); and Section 3, Subsection 10). We believe this bill increases the potential for an individual or a private corporation (national or international) to obtain a senior water right to Montana’s waters and potentially speculate on the value of that water and possibly even market that water (potentially out of state) to the detriment of Montana

water rights holders who use our water beneficially for agricultural production. We believe that this bill is the first step down that road.

Additionally, when you change the purpose of a valid water right with a defined beneficial use for irrigated agriculture to use as domestic water for homes in a subdivision, water regimes change. Return flows and season of use change. All of this has an impact on down-gradient or downstream water rights holders. Water marketing, as this bill allows, has the potential for water to be removed from the drainage or aquifer – and this will impact Montana's water and her water rights holders significantly.

For these reasons, Northern Plains believes that this bill is too broadly composed and will lead to unintended consequences. The bill needs to be amended to address these valid concerns that we have raised. Northern Plains opposes HB 24 as currently presented, and we urge you to vote "NO" on this version of the bill. Thank you for your consideration of our comments.