

Honorable Montana House of Representatives Natural Resource Committee

Honorable Chairman Hendrick and Natural Resource Committee Members:

Re: HB 433

In opposition to HB 433.

I oppose the language of HB 433. This bill does not protect senior water right holders of Montana due to the fact that it does not address the impact of multiple exempt wells in a given hydrological area. In Section 1, Section 85-2-102 (7) MCA is amended to define "Combined appropriation" as water from the same source aquifer by two or more wells or springs for the same beneficial use that are physically connected through a distribution system. The true definition of a "Combined appropriation" should be the aggregate number of exempt wells that could be developed in permitted subdivision.

HB 433, by way of exempting non-connected water distribution systems, has the potential to impact hydrologically sensitive areas of Montana and undermine the rights of properly appropriated senior water right holders.

For illustrative purposes, assume a developer gets approval for a subdivision of ten 1 acre residential lots. Each of these lots will be served by an exempt well with a maximum appropriation of no more than 35 gallons per minute, and no more than 10 acre-feet per year. If each well produced at precisely the maximum allotment, the subdivision could conceivably utilize 350 gallons per minute or 100 acre-feet per year. This would be comparable to a very small irrigation well, which under Montana law, would necessitate a permit. Homeowners with higher producing wells could conceivably draw more water than allowed, whether through a irrigation system or other means. Since homeowners are not required to install devices to measure flow or consumption, enforcing the limits of the exempt wells becomes difficult.

While I do not oppose the use of exempt wells in Montana in certain instances, I believe HB 433 is manipulating the use of exemptions outside of the scope of what the law originally intended. No provisions exist for senior water right holders to contest a concentration of exempt wells. There are no provisions for water mitigation where a concentration of exempt wells could have a perceivable effect on ground and surface water.

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Rancher / Farmer and Senior Water Right Holder