

# Montana State Legislature

## **2013 Session**

### **Additional Documents include:**

- \* Business Report**
- \* Roll Call- attendance**
- \* Standing Committee Reports,**
- \* Table Bills, Fiscal reports etc.**
- \* Roll Call Votes**
- \* Witness Statements**
- \* Informational items**
- \* Visitor Registrations**
- \* Any other Documents;**
  - ~ Petitions if any?**
  - ~ Any and all material handed in after the meeting end.**

**The original is on file at the Montana Historical Society and may be viewed there.**

**Montana Historical Society Archives  
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**BUSINESS REPORT**

**MONTANA SENATE  
63rd LEGISLATURE - REGULAR SESSION**

**SENATE AGRICULTURE, LIVESTOCK AND IRRIGATION COMMITTEE**

**Date:** Tuesday, February 12, 2013  
**Place:** Capitol

**Time:** 3:00 PM  
**Room:** 335

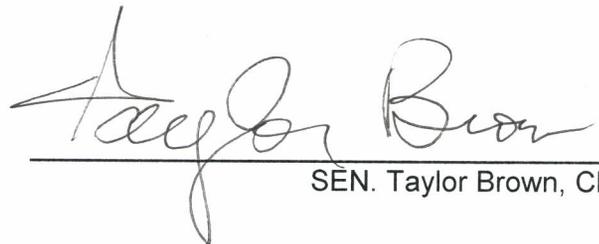
**BILLS and RESOLUTIONS HEARD:**

HB 115 - Revise slaughterhouse regulations - Rep. Christy Clark  
SB 216 - Revise requirements for landowner apiary sites - Sen. Bruce Tutvedt  
SB 252 - Generally revise irrigation district laws related to elections - Sen. Matthew Rosendale

**EXECUTIVE ACTION TAKEN:**

SB 252 - Do Pass  
HB 114 - Be Concurred In.

**Comments:**



SEN. Taylor Brown, Chair

**MONTANA SENATE**  
**Roll Call**  
**AGRICULTURE, LIVESTOCK, AND IRRIGATION**

DATE: 2/12/13

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
SEN. TAYLOR BROWN, CHAIR	✓	
SEN. ERIC MOORE, VICE CHAIR	✓	
SEN. SHANNON AUGARE	✓	
SEN. SCOTT BOULANGER	✓	
SEN. MARY CAFERRO	✓	
SEN. SUE MALEK	✓	
SEN. TERRY MURPHY	✓	
SEN. MIKE PHILLIPS		✓
SEN. SCOTT SALES	✓	
SEN. SHARON STEWART-PEREGOY	✓	
SEN. JANNA TAYLOR	✓	



**SENATE STANDING COMMITTEE REPORT**

**February 12, 2013**

**Page 1 of 1**

Mr. President:

We, your committee on **Agriculture, Livestock and Irrigation** recommend that **Senate Bill 252** (first reading copy -- white) **do pass.**

Signed: \_\_\_\_\_

*Taylor Brown*  
*Senator Taylor Brown, Chair*

- END -

**Committee Vote:**

**Yes 11, No 0**

Fiscal Note Required

SB0252001SC.swr



**SENATE STANDING COMMITTEE REPORT**

**February 12, 2013**

**Page 1 of 1**

Mr. President:

We, your committee on **Agriculture, Livestock and Irrigation** recommend that **House Bill 114** (third reading copy -- blue) **be concurred in.**

Signed: \_\_\_\_\_

A handwritten signature in cursive script that reads "Taylor Brown".

*Senator Taylor Brown, Chair*

To be carried by Senator Shannon Augare

- END -

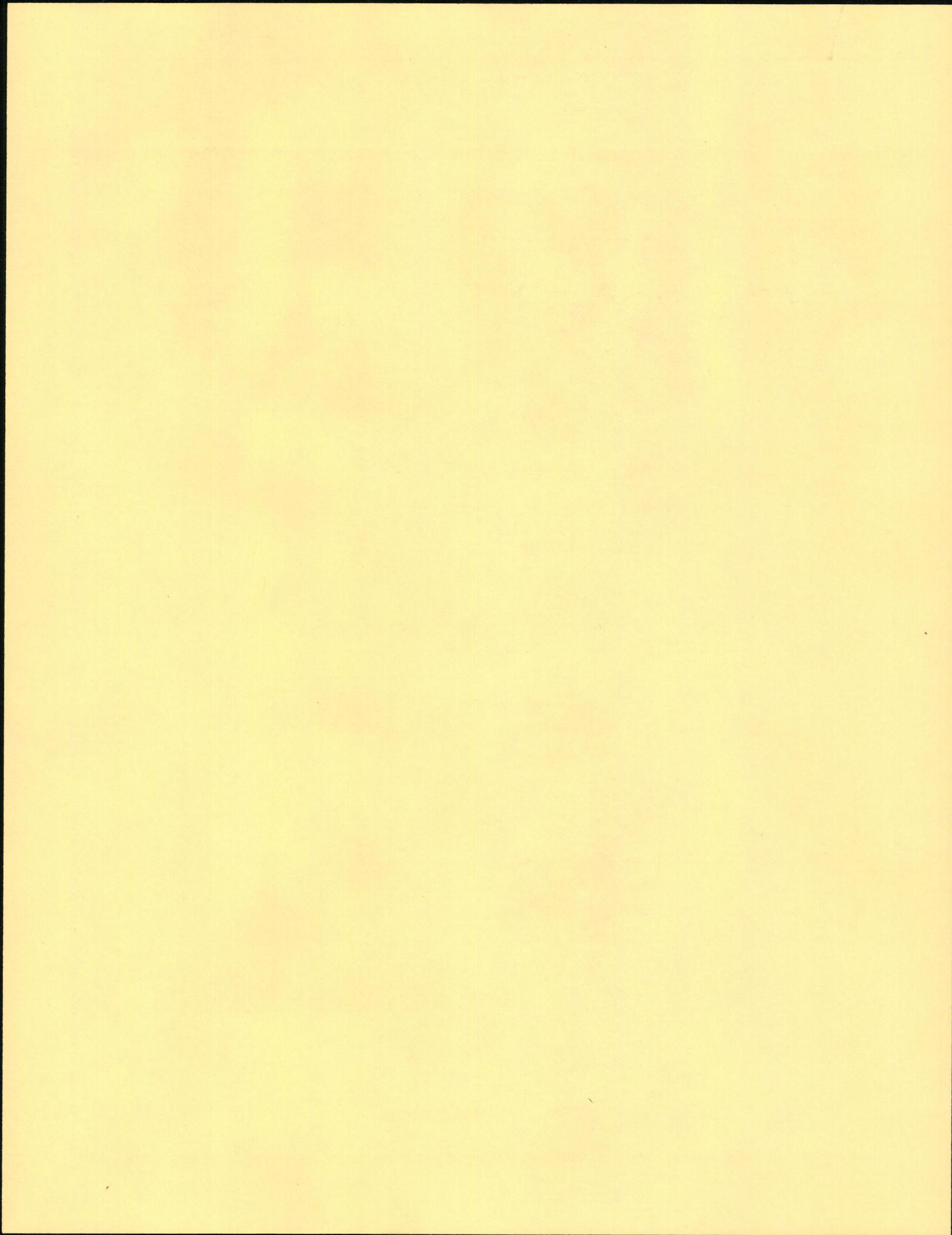
**Committee Vote:**

**Yes 11, No 0**

Fiscal Note Required

HB0114001SC14306.swr

















**MONTANA STATE SENATE**  
**Visitors Register**  
**SENATE AGRICULTURE, LIVESTOCK AND IRRIGATION COMMITTEE**

Tuesday, February 12, 2013

SB 216 - Revise requirements for landowner apiary sites

Sponsor: Sen. Bruce Tutvedt

PLEASE PRINT

Name	Representing	Support	Oppose	Info
James Rehm	MT. State Beekeepers Assoc		X	
Frey Fullerton	Glover County Honey Co.		X	
Spencer Drange	Drange Apiary		X	
Jodie Drange	Yellowstone Valley Honey Co.		X	
Jeny Biomenhenk	Beekeeping Tech		X	
Bill Morrison	SELF		✓	
BILL MITCHELL	MITCHELL BROS HONEY		X	
Bert Wustner	Berts Bees Lolo MT		X	
Craig Rodenburg	Honeyland Inc Wolf Point		X	
Mark Jensen	Smooth Honey Co. Inc		X	
Eric Hay Honey	Hamilton Honey		X	
Tom Hamilton	Hamilton Honeyville		X	
Robert Burns	Beaverhead Honey Co.		X	
Scott Clark	Clark Honey Inc		X	
Ben Larson	Larson Apiaries		X	
Vance Gilbraith	Hobbyist		X	
Nick Clark	Clark Honey Inc		X	
Kegan Flake	Arlec Apiaries		X	
Just Clark	Clark Honey		X	
Terrod Hemphill	Hemphill Apiaries		X	
Tiffany Patterson	Hemphill Apiaries		X	
BRENDA CUNNINGHAM	BEECLINE HONEY CO		X	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

**MONTANA STATE SENATE  
Visitors Register**

Agriculture, Livestock, and Irrigation Committee

Date 2/12/13

Bill No. SB-216 Sponsor(s) Sen Bruce Tutvedt

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Lloyd Cunniff	BEELINE Honey Co		X	
Donna Rise	mt. Dept. Ag			X
Jan Foley	MT Dept. Ag			X
Shawn Wentzel	Wentzel Apiaries		X	
Jim Rodenberg	HONEYLAND INC		X	
Don and Pam Gregory	Snowy MT Honey		X	
Derek & Vivienne Anderson	Anderson Apiaries		X	
Cheryl Tibbitts	Arlee Apiaries		X	
Walt Albrecht	Bellevue Apiaries		X	
Gary Kusapel	Self	X		
Levi Gregory	SNOWY MONT HONEY		X	
Jacob Cawgill	MT Farmers Union		X	
Allison Wentzel	Montana Beeline		X	
Teed R. Larson	LARSON Apiaries		X	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

## Whiting, Elizabeth

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**From:** Mike and Barb McAdams <mbmcadams@q.com>  
**Sent:** Sunday, February 10, 2013 8:23 PM  
**To:** Whiting, Elizabeth  
**Cc:** 'Kathryn Britton'  
**Attachments:** SB-216 Apiary Landowner Category.doc

Dear Ms. Whiting;

Please give to the Senate Agriculture Committee the attached letter in opposition to SB-216. Thank you, Kathryn Britton

Kathryn M. Britton  
PO Box 9035  
Kalispell, MT 59904

Montana Senate  
2013 Senate Agriculture Committee  
Helena, MT 59620-0500

Dear Sir or Madam:

Re: Requesting a vote against SB-216: Revise Requirements for Landowner Apiary Sites

SB-16 seeks to change the Landowner category so that commercial beekeepers can manage another landowner's bees. This would effectively eliminate the protection the 3-mile rule is designed to provide for both honeybees and beekeepers. A commercial beekeeper would be able to contract with multiple adjacent landowners for sites with forage that "benefit from the presence of bees".

Since the 1980s, it has been well documented that the honeybee populations have been in decline from diseases and pests, especially the varroa destructor mite, which has devastated the beekeeping industry. Major contributing factors in the bees' susceptibility to these pests and diseases are bee malnutrition; close proximity to infected hives; exposure to insecticides, fungicides, and other chemicals, from both agricultural and in-hive use; and other stresses.

Montana's 3-mile distance rule between commercial apiary sites is designed to offer a level of protection to our local bees by reducing close contact with infected hives from migratory beekeepers, and preventing malnutrition from overuse of good forage sites. Single-crop farming with weed-free fence lines, roadsides, and croplands results in a huge loss of forage for all our pollinating insects. Thus, there are even fewer good forage sites available. Saturate these areas with hives and all of them can suffer from malnutrition and exposure to the diseases and pests brought in by migratory beekeepers.

Enforcing the current laws regarding re-registration of sites is all that is needed to open new sites for use. Pollination contracts effectively provide for the crop growers. Please don't eliminate the 3-mile distance requirements for the sake of our honeybees and the beekeeping industry.

Kathryn M. Britton  
Backyard Beekeeper

Hello again,

It seems that LC1131/SB95 has been re-write with a new bill number with the same purpose.

This new bill still guts the 3 mile rule. This recent change will allow a commercial beekeeper to 'manage' a landowner site and each site may have up to 24 hives. Currently a landowner is not limited to a number of hives on said property, regardless of the number of commercial hives in the area. Changes to 3) (line 19-21) guts the purpose of having a landowner registration (to allow an landowner to have more than 5 hives and not be required to be a commercial/general registration). This will allow a commercial/general apiaries to 'lease' their unlimited number of hive to a land owner, then care for those hives.

One of the main issues with too many bees in an area is disease and overgrazing. You wouldn't allow every land owner to lease out their property to be a feed lot. With cattle, they can be contained to the property. Bees cannot. If my neighbor on his 2 acres has 24 or more hives 'leases out' to a commercial keeper (whom has the resources place 24+ hives) next door to my 2 hives on my 8 acres; my hives will suffer. The disease brought in by the transient bees, will affect my bees. Bees do visit other hives. If a hive is weak or small, a strong hive will rob it and possible kill the queen.

These changes are written by either someone with no knowledge of bee husbandry or from a commercial point of view with no concern to local bee populations.

Also I am assuming that the funding request will be the same for this as SB95, which was to defund it. Making any oversight impossible.

Thank you for your time,  
Lori Franke, Kalispell MT

Hello:

My name is Lori Franke. I am a member of the Flathead Beekeepers Club. I am a new beekeeper (landowner). I want to let you know that I am OPPOSED to SB 95, even in my small bee keeping experience, I can see that this bill is not a positive move for bee culture in Montana.

I find the removal of the 3 mile limit very disturbing.

The 3 mile spacing of commercial apiaries helps to prevent the spread of bee diseases especially with many commercial apiaries migrating their bees from state to state to pollinate crops. These bees are exposed to many different diseases, pests, and pesticides which they bring back to Montana. The 3 mile spacing helps to assure that an area is not over grazed by more bees than the area can handle. Over grazing and a flood of out of state bees, could be devastating to the small farm or hobby beekeepers (5 or less hives) by putting the local bees at risk of starvation and disease. (You may not be aware; bees do visit other hives and queens will breed with any drones in the area.) The local bees may be the most important way of insuring healthy stocks of bees for the future to prevent CCD.

This bill was not crafted with local beekeepers or the health of the local (year round Montana residing) bees in mind. If changes are wanted and needed, they should be constructed by those who understand Montana bee culture (local hobbyists beekeepers, in-state commercial keepers (ones who don't ship in and out of state) and educational specialists (I know there are a few in our college system).

Please do not pass SB95 or any form of this bill. It not a positive step for honey bees in Montana.

Sincerely,  
Lori Franke  
Kalispell MT  
406-755-6262

## Whiting, Elizabeth

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**From:** Larry and Sharon Hadley <lshadley@centurytel.net>  
**Sent:** Wednesday, February 06, 2013 11:06 AM  
**To:** Whiting, Elizabeth

Hello:

I am a bee keeper and I absolutely object to the passing of bill SB-216 which would do away with the three mile rule. Our landscaping has changed, where in the past we had farm land with alfalfa fields giving the bees plenty open graze, we now have small tracks of land with homes on them. This means less feed for bees.

Large apiary I am sure are aware of the diseases that can be passed from one hive to another, over grazing and crowding of apiary's makes all our bee's more vulnerable to these diseases. At least three miles apart gives all our bees a breathing space yet should allow plenty of pollination of crops.

We all know our bee's are trouble, Colony Collapse Disorder. No one is really sure what is causing this, A list of possible causes for bee Colony Collapse Disorder includes beekeeper management practices, new pesticides, pesticide use patterns, nutritional deficits associated with extensive monocultures, climate change, exotic parasites and pathogens, diminished immunity to pathogens or even interactions among two or more of these factors.

By placing commercial bee keepers less than three miles apart can very easily cause over grazing which weakens the local bees making them more susceptible to diseases and starvation.

Please carefully consider what the passing of bill SB-216 means, not to just the hobby beekeeper, but to all beekeepers. We all know we must do our best to protect our bees. Wikipedia states, "As a rule of thumb the foraging area around a beehive extends for two miles (3 km), although bees have been observed foraging twice and three times this distance from the hive. Foraging at extreme distances wears out the wings of individual bees, reduces the life expectancy of foraging bees and therefore the efficiency of the colony." The three mile rule will keep over grazing to a minimum protecting not only commercial bee keepers but our small hobby bee keepers as well, while sufficiently pollinating crops and the landscape.

Thank you for the opportunity to defend all bees and the area they need for their well being.

Sincerely  
Sharon Hadley  
280 Beaver Lake rd  
Whitefish, MT 59937

Please forward this letter to all members of the Ag Committee.

Hello Elizabeth:

This is Veronica Honthaas from Columbia Falls. I am a founding member of the Flathead Bee Club. I am writing in opposition to SB 216. I request that you forward my email to all members of the Ag Committee.

I am against SB 216 for the following reasons:

1) SB 216 is another attempt to deregulate apiculture in the state. The current laws maintaining a 3-mile distance requirement between commercial apiary sites are important for the health and well being of bees in Montana. This distance requirement is important for the following reasons:

a) To insure an area is not over populated with bees beyond its carrying capacity.

b) To help protect the health of Montana bees. Many commercial bee companies rely on pollinating out of state agricultural crops. This interstate transporting of bees places great stress on the bees and exposes them to many different diseases.

c) The three-mile area spacing can help reduce spreading of bee diseases and parasites like mites and foul brood.

2) SB 216 "guts" the 3 mile restriction by allowing any landowner to have 24 hives on their property and allows that these hives may be managed by someone other than the landowner with no regard for the 3 mile restriction.

3) The 3 mile restriction will prevent mass dumping of out-of-state migratory bees to our Montana valleys. These migratory bees are possible sources of bee diseases and a threat to the health of all Montana bees if we do not have some controls on the spacing of apiary sites.

4) Since the current law already allows for the greater density of temporary apiary sites for the pollination of crops, i.e., orchards, etc. there is no need to change this part of the existing law.

Sincerely,

Veronica Honthaas

825 Kelley Rd.

Columbia Falls, MT 59912

892-0280

## Whiting, Elizabeth

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**From:** Jack Kuehn <jack.kuehn@gmail.com>  
**Sent:** Sunday, February 10, 2013 8:31 PM  
**To:** Whiting, Elizabeth  
**Subject:** SB 216

Dear Senator Taylor Brown:

As a professional beekeeper and researcher with 30 years experience in the field of honeybees and beekeeping, I am writing to the Senate Agriculture Committee in opposition to SB 216. The sponsor of the bill, Senator Bruce Tutveldt was kind enough to communicate with me about his reasons for sponsoring this bill, which, he said have to do with providing pollinators for canola and other crops which benefit from honeybee visitation. I do not believe this is sufficient reason to change the existing law, since the existing law clearly provides for temporary apiaries for pollination purposes.

The current Apiary Registration law does three very important things:

- 1) It limits pest and disease spread. We have had MT beekeepers with problems like CCD, but not one of their neighbors contracted it. Now that resistance to many treatments is becoming more common, **isolation to avoid spread is once again the only reliable protection,**
- 2) It protects against over-crowding and exceeding carrying capacity, protecting bee health and honey/pollen yields for the beekeeper. Last thing any beekeeper wants is for a semi-load of bees to end up across the fence from your beeyard - no one wins, and it is not good for anyone's business.
- 3) It reduces conflicts and provides a means for pesticide applicators/growers to identify and warn beekeepers of planned applications, giving them both the ability and making sure that they can't claim that they didn't know whose bees were at risk - couldn't give notice. SB 216 would make it impossible for the Department of Agriculture to track the locations of apiaries.

SB 216 would prevent the Department of Agriculture from serving beekeepers in Montana, and performing basic regulatory functions designed to benefit all beekeepers. Please withdraw this bill, or vote against it.

I invite you to contact Dr Jerry Bromenshenk at UM in Missoula. He is an internationally recognized honeybee expert, and can give you unbiased facts.

Thanks for your time, I am available to discuss this at any time.

--

Jack Kuehn  
133 Old Morris Trail  
Whitefish, MT 59937

(406)862-1035  
(406)274-0072 cell  
[jack.kuehn@gmail.com](mailto:jack.kuehn@gmail.com)



MONTANA  
Department of  
AGRICULTURE

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Brian Schweitzer  
Governor

Ron de Yong  
Director

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In Re: Never Give Up Apiary, Bear Paw Apiary, and Mr. Krueger

Finding of Facts and Final Order

**After examining all the information presented prior to and at the hearing of June 20, 2012, the Department of Agriculture finds and orders as follows. This is the final decision of the Department and judicial rights to appeal to District Court start on the date of this order and end 30 days after.**

**Findings of Fact**

1. The current legal framework creating a three mile buffer zone around a registered apiary is legislatively mandated in MCA § 80-6-111 in order to control diseases, pests, and other contagious or infectious diseases among bees, hives, and apiaries and to control, limit, and prevent interference with the proper feeding and honey flow.
2. MCA § 80-6-111 (6) allows for a hearing and then grants the Department discretion to issue or refuse to issue new apiary sites. Such a hearing was held on June 20, 2012.
3. Other states have abandoned this framework either legislatively or judicially. Judicial abandonment was usually based on antitrust laws.
4. The Montana legislature allows conflicting hobby (MCA § 80-6-114) and landowner sites (MCA § 80-6-113) but such sites require ownership and stewardship of the bees by the landowner.
5. Pollination sites (MCA § 80-6-112) may conflict but are limited in time scope and bear the limitation in 1(a)(iii) "the only purpose of the pollination apiary site is to pollinate a commercial agricultural crop." The law does not specify if the purpose refers to the apiarist or the commercial crop grower.
6. MCA § 80-6-102 (7) gives preference to the older of any two conflicting sites.
7. According to MCA § 80-6-104 every registered apiarist site other than a hobbyist site must be stocked with 10 working hives for 10 consecutive days between April 1 and October 1 of each year or it is forfeited. An exception may be granted by the Department if the sites cannot be used because of natural disaster or other circumstances.
8. No such exception under MCA § 80-6-104 was sought for any of the sites involved in this matter nor was any evidence presented warranting such an exception.
9. Never Give Up Apiaries ("NGU") is owned by Mr. Arvon Fielding.

10. Bear Paw Apiaries ("BPA") is owned by Mr. Marshall Anderson.
11. Gary Krueger is a landowner wishing to have his and his son's crops serviced by an apiarist but not wanting to own bees himself. Mr. Krueger would prefer to have a commercial apiary site established on his property, from which he would obtain rent, as opposed to a pollination site, a service for which he would have to pay.
12. One of Mr. Krueger's crops is canola. Mr. Krueger contends that canola experiences significant (5%) increases in yields when exposed to bees throughout the growing season. The exact amount of the benefit is somewhat in debate but that there is some benefit to the crop grower appears likely.
13. Mr. Krueger is a landowner but not an apiarist. He has sent in written objections related to this matter. Since the issue at hand involves a commercial apiary site as opposed to a landowner or hobbyist site, Mr. Krueger's submission will be treated as arising on behalf of NGU, the apiarist he intends to obtain bees from (as either a commercial or pollination site).
14. The current registration system law requires that landowner consent be given in writing at the time of the original registration but not with each registration renewal. This has resulted in registration documents that are in some cases nearly 30 years old. Nothing in the law specifically requires an apiarist to know the name of the current landowner.
15. This creates the situation where an apiarist, (BPA) in this case, was unable to come up with a list of the current owner of many of his sites.
16. The current law places the burden of proving non-use on the person seeking to have a site declared abandoned. This, coupled with the lack of a requirement of knowing who the current owner is, increases the anti-competitive nature of the law.
17. Knowing, at a minimum, the name of the person whose land you are using and keeping records to prove the use of said land, would greatly decrease the anti-competitive nature of the law.
18. The Department has allowed slight movement of a registered site (to avoid bears for example) but always within sight of the previous location and on the same property owner's land. Under no conditions should such movement "change the 3 mile radius" unless a proper change request was made under MCA § 80-6-103.
19. BPA admits site 4045 is a duplicate of site 6611, site 6065 is a duplicate of site 6281, and site 6066 is a duplicate of site 6280.
20. BPA admits nonuse and does not object to 4068 being voided for abandonment.
21. BPA admitted nonuse of sites 4075, 4068, and states lack of bees. The Department was never noticed of this prior to the hearing and no evidence (other than a verbal statement) was presented.

22. Sites 8095 and 8096 were used prior to registration and after BPA gained knowledge of NGU intention to try to void other nearby sites.
23. The location of site 8095 was incorrectly mapped by the Department's software that registered the sites. This has been corrected.
24. No owner of record was identified by BPA for sites 4045, 4046, 4049, 4053, 4055, 4057, 4062, 4064, 4071, 4076, 4078, 5259, 5262, 6069, 6610, 6613, and 6722.
25. NGU was granted registered apiarist site 7786. This should not have happened as it conflicted with the 3 mile radius of BPA registered sites. It would have been eligible as a landowner site as it is also Mr. Fielding's (NGU owner) home.
26. Site 4050 was apparently moved to a nearby location that was owned by a different family member than the original location. This new location was renumbered as site 8094. The record is unclear as to whether the site 4050 was used every season but no clear evidence by a non-interested party or statement of non-use was presented. *How moved closer*
27. An apiarist should not benefit from their own failure to keep adequate records nor laxness in updating site locations.
28. Neither NGU nor BPA has contended that the other parties bees are diseased or pest ridden.
29. It is unclear whether NGU or BPA have enough bees available to service Mr. Krueger's needs.

**The Department orders as follows:**

30. Sites 4045, 6065, and 6066 are voided because of duplication with sites 6611, 6281, and 6280 respectively.
31. Site number 4068 is voided for abandonment and was not contested.
32. Sites number 4073, 4074, 4075, and 4068 were not used the required number of days at least one season or more. Given the severe trade restriction that registrations give their owners, the sites are voided for non-use.
33. *How* Site 4050 *TOT* has been replaced by site 8094, which appears to be a continuation of 4050. The Department recognizes that the timing of the placement of this site by BPA does lend credence to the claim by Mr. Krueger and NGU that the placement was intended to further restrict Mr. Krueger from placing bees on his land. The Department has no actual evidence, however, on which to base a denial of the registration of site 8094.
34. Site 4051 is correctly registered to BPA. The only error was the landowner's name was misspelled (Olson as opposed to Olsen).
35. Site number 7786 is retroactively deemed a landowner site as it does and always has conflicted with preexisting registered sites required by MCA § 80-6-102 (7).

36. BPA sites 4045, 4046, 4049, 4053, 4055, 4057, 4062, 4064, 4071, 4076, 4078, 5259, 5262, 6069, 6610, 6613, and 6722 will be voided on August 30<sup>th</sup>, 2012 unless signed documents indicating continued use by the current land owner are provided to the Department before that date.

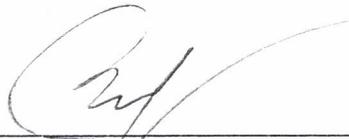
37. BPA registration on sites <sup>6241</sup>8106, 6280, 4059 with updated locations are all upheld as proper.

8904  
TOT

38. Mr. Krueger would normally be unable to get an apiarist site on his property as it would still conflict with BPA registered site (8094). Given the unusual history of conflicts and abandonment and the extraordinary effort to try to resolve the situation, the lack of disease and pest allegations, Mr. Krueger's stated and uncontested need for a large amount of bees given his Canola plan, and the testimony at the hearing, the Department will grant Mr. Krueger the ability to have an apiarist of his choice apply for either of the previously requested locations on his land as an apiary site. But these apiary sites will be treated as a landowner site not an apiary site as far as the three mile rule applies. If the sites are not used they will be abandoned and the entire process must begin again.

Ordered July 2, 2012 by

Hearings Officer Cort Jensen



Under the Authority of

Director Ron de Yong

