

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
52nd LEGISLATURE - REGULAR SESSION**

**SUBCOMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By **CHAIRMAN BERV KIMBERLEY**, on January 22, 1991,  
at 8:00 A.M.

**ROLL CALL**

**Members Present:**

Rep. Berv Kimberley, Chair (D)  
Sen. Esther Bengtson, Vice Chair (D)  
Sen. Gerry Devlin (R)  
Rep. Ed Grady (R)

**Members Excused:** None

**Members Absent:** Rep. Jerry Nisbet (D)  
Sen. Cecil Weeding (D)

**Staff Present:** Roger Lloyd, Associate Fiscal Analyst (LFA)  
Carl Schweitzer, Budget Analyst (OBPP)  
Theda Rossberg, Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Announcements/Discussion:** **CHAIR. KIMBERELEY** announced, on  
Wednesday we will review Reclamation Division and take  
Executive Action if the committee so chooses.

On Thursday, we will review the Land Administration budget  
and Friday will be the Forestry Division.

**DEPARTMENT OF STATE LANDS**

**Reclamation Division: EXHIBIT 1 - 2.**

**Gary Amestoy, Administrator of the Reclamation Division** reviewed  
the operation of this division. He stated, we do not promote or  
prohibit mining. We are the regulatory authority for mine  
permits and reclamation activities within the state. This  
includes bonding, inspection and enforcement, and bond release  
for successful reclamation.

There are three items needed for mining in this state: 1. A  
mineable reserve or the natural resources, 2. Capital to develop  
that reserve, 3. a permit from the state. They must also be in  
compliance with Montana Reclamation laws and the Environmental  
Policy Act.

Our role is to enforce and administer Montana's Land Mine Reclamation Statutes. It is not our role to write the applicants permit, we only interpret the law

We have two clients: 1. the mine developer and 2. the public and environmental concerns.

Our division consists of 42 employees and an additional 3 FTE's which we hired through a budget amendment. These were hired to coordinate our environmental impact statements. Mr. Amestoy reviewed the Reclamation Division chart EXHIBIT 1. He reviewed each bureau within the division and the funding. The staff is made up of professional hydrologists with degrees in vegetation, soil, wildlife, air quality, mine engineering and other natural resource fields. It is their responsibility to make sure that the specifics of permit applicants comply with the state law.

Some of the groups we deal with are the Northern Plains Resource Council and their sub-groups which are the Stillwater Protective Association, Rosebud Protective Association, the Clark Fork Coalition and the Montana Environmental Information Center.

We work with the applicant to help collect the data that is needed for a mining permit. We have specific statutory time-frames so we do our reviews in a timely fashion. If we decide an Environmental Impact Statement is needed to evaluate the impact of the proposal, we also have a time-frame in which to review the EIS. We coordinate closely with other state and Federal agencies as well as the public who have an interest. Most of the mines in the state include Federal land as well as state Land. The Bureau of Land Management and U.S. Forest Service also have Federal requirements. So we coordinate with all of the other agencies that also have EIS requirements. We have an Air Quality and Water Quality liaison position also. The cost of a bond is based on the actual cost to the State for reclamation, if we have to take over the permit and reclaim the area. We have inspection and enforcement activities and if we find someone is not in compliance with the law and the permit, we can issue a notice of non-compliance and assess civil penalties. We have authority to forfeit a bond and revoke a permit if they are not in compliance.

We have requested spending authority for forfeited bonds as we feel we will have an increase in forfeitures since there are more mine sites. When the operation is over and we have reviewed the reclamation we can release the bond

With the increase in gold prices, a lot of low grade mining operations are feasible to mine. The most popular way is through the cyanide leaching process which creates some problems. However, we feel we have pretty good control over this. In the hard rock mining operation there are tailing impoundments, which we have to make sure are stable. Also, we have to make sure the hydrology and acid mining drainage is not contaminating water or soil.

In our hard rock program we presently have 90 operating permits, 1000 small mine exclusion statements and approximately 550 sites where exploration is being conducted.

**SEN. BENGTON** asked, what are the hard rock mining exclusions? **Mr. Amestoy** explained, they are mines which do not mine over 35,000 tons of material and keep their operation under 5 acres. These are excluded from the requirements of the law. However, they have to be in compliance with the water quality of the State. All of these laws have threshold limits which excludes the small miners from permits, etc.

There is approximately 2,300 sand and gravel sites in the State which include bentonite and phosphate. There are about 50,000 acres permitted and about \$7,500,000 in reclamation bonds on these sites. We have had some controversial problems with sand and gravel sites near subdivisions. In regard to coal mining we have 11 permits which included 50,000 acres. At present we have \$256,000,000 in reclamation bonds on coal mines. The Meridian Mine south of Roundup is the first major underground mine in the State. One of the issues, is dealing with underground mining wastes which have to be disposed of on the surface. We also have hydrology and transportation issues as to how they plan to move the coal to market and transportation for the employees. The Montana Coal Council is optimistic that legislation for the Clean Air Act will prompt more mining of low sulphur western coal.

The Abandoned Mine Program is not regulatory, it has to do with the reclamation of abandoned mines where there is no longer a responsible party. This program is the result of the passage of the Federal Surface Mine Reclamation Act of 1977 whereby there was a federal tax on all coal mined in the state. The state is eligible to receive these funds to reclaim abandoned mines. As a result of the transition of reclaiming coal mines to non-coal mines, we found that the non-coal mines contained hazardous substances and potentially hazardous waste. As a result of these substances such as heavy metals, arsenic, cyanide and other wastes detrimental to the environment and the public, we have to be very careful as to testing what is on the site. Under the Resource Conservation and Recovery Act, if we made the site worse by reclamation we would be buying long term liability for the State.

Governor Stevens created the Montana Mine Permitting Advisory Council which was made up of representatives from the mining industry, environmental groups and consulting firms and both state and Federal government. The purpose, was to improve the mine permitting process. If the committee would like to see the recommendations of the council, I would bring you a copy tomorrow.

The Pegasus Mine at Montana Tunnels in Jefferson County, which we will visit is a zinc, lead and silver open-pit mine. The issues we dealt with there are the reclaiming of the open-pit, waste

dumps and tailings impoundment along with the bonding issue and the final reclamation.

CHAIR. KIMBERLEY asked, where do the sapphire mines fit in? What about tearing up the Missouri River and leaving it as is? Mr. Amestoy answered, many of these small mines operate under the mining exclusion statement. As long as they stay under 5 acres we don't have a lot to do with that. The Yogo Mine is a complicated issue. The mining company which had an operating permit for a large scale mine reneged on their obligation to reclaim it. Therefore, we had to forfeit the permit and revoke the bond. Other complications are individuals who have purchased rights from the mineral and land owners to hand-dig for sapphires.

Mr. Schweitzer asked, in regard to the Montana Tunnels Mine, how long did it take to review and approve the permit and how much is the reclamation bond? Mr. Amestoy replied, we have a bond of \$1,563,000 and 1500 acres permitted. As to how long it took, Mr. Fitzpatrick can address that tomorrow.

ADJOURNMENT

Adjournment: 9:15 A.M.

  
\_\_\_\_\_  
REP. BERV KIMBERLEY, Chair

  
\_\_\_\_\_  
THEDA ROSSBERG, Secretary

BK/tr

HOUSE OF REPRESENTATIVES  
NATURAL RESOURCES SUBCOMMITTEE

ROLL CALL

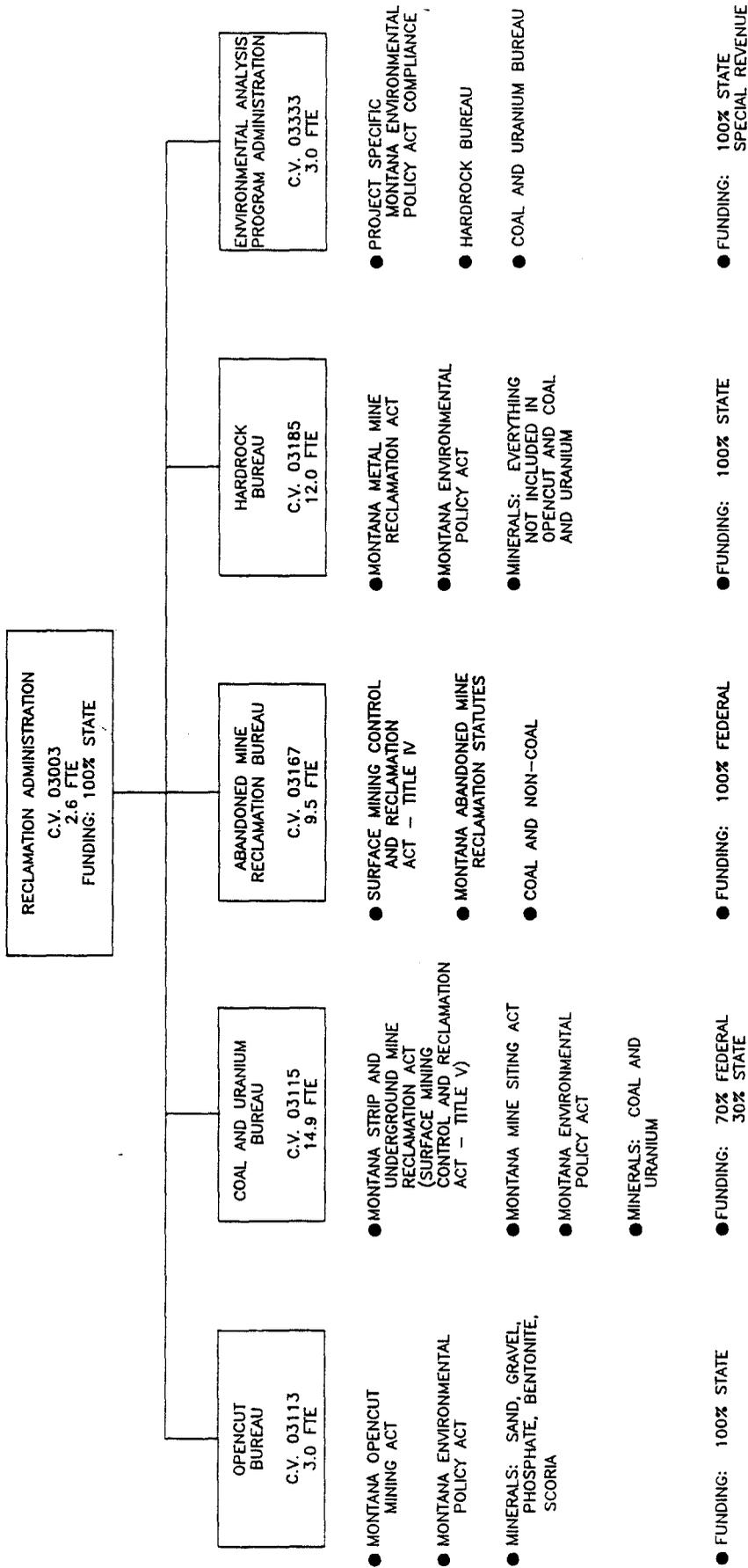
DATE 1-22-91

NAME	PRESENT	ABSENT	EXCUSED
SEN. ESTHER BENGTON, VICE-CHAIR	✓		
REP. ED GRADY	✓		
REP. JERRY NISBET			
SEN. GERRY DEVLIN	✓		
SEN. CECIL WEEDING			
REP. "BERV" KIMBERLY, CHAIRMAN	✓		

DATE 1-22-91

1-22-91  
Exhibit 1.

# RECLAMATION DIVISION PROGRAM NUMBER 03 42.0 FTE



1-22-91  
EXHIBIT 2

EXHIBIT 2  
DATE 1-22-91  
- Mr. Des. Lib.

5501 03 00000

RECLAMATION PROGRAM

Budget Item	Actual Fiscal 1990	Appropriated Fiscal 1991	- - Current Fiscal 1992	Level - - Fiscal 1993	Change 1991-93 Biennium
FTE	42.00	42.00	39.00	39.00	-3.00
Personal Services	979,296	1,291,218	1,187,215	1,186,375	4.54%
Operating Expenses	3,330,865	3,686,639	3,203,685	3,204,084	-8.69%
Equipment	146,796	81,357	76,457	76,457	-32.98%
Capital Outlay	5,418,821	5,000,000	5,000,000	5,000,000	-4.02%
Total Program	\$9,875,778	\$10,059,214	\$9,467,357	\$9,466,916	-5.02%
<u>Fund Sources</u>					
General Fund	270,557	315,561	293,273	292,982	.02%
State Revenue Fund	1,020,350	1,124,507	1,116,763	1,116,810	4.14%
Federal Revenue Fund	8,584,871	8,619,146	8,057,321	8,057,124	-6.33%
Total Funds	\$9,875,778	\$10,059,214	\$9,467,357	\$9,466,916	-5.02%

Program Description

The Reclamation program is responsible for the administration and enforcement of all Montana's mined land reclamation statutes and administrative rules. This involves the regulation of mining on all lands within the state, regardless of ownership, and the reclamation of active and abandoned mine sites. Specifically, the division and its four bureaus administer: the Montana Strip and Underground Mine Reclamation Act; the Montana Open-Cut Mining Act; the Montana Strip and Underground Mine Siting Act; the Montana Coal Conservation Act; statutes regulating hard-rock mining; and the regulatory program of the Federal Surface Mining Control and Reclamation Act.

federal funds which will be available in the 1993 biennium. Personal services increase 4.5 percent due to vacancy savings in fiscal 1990 and the fiscal 1991 pay plan increase which continues in the 1993 biennium. Because three positions (including a hydrologist and an engineering specialist) have been vacant much of the 1991 biennium, they have been removed from the current level budget for a \$162,902 biennial savings. The 33.0 percent decrease in equipment represents most of the agency's request, which includes seven replacement vehicles and 13 computers.

Current Level Budget

The program's current level decreases 5.0 percent from the previous biennium due primarily to reductions in capital outlay and operating expenses. The decrease in operating expenses results from lower insurance and bonding fees, lower consultant expenses reflecting the agency's request, the elimination of a \$90,000 one-time only federal grant, and lower indirect and administrative costs. The capital outlay expenditures for abandoned mine reclamation activities reflect the agency's estimate of the

The Reclamation program contains six programs which are financed with general fund, state special revenue, and federal funds. State special revenue includes mining fees, fines, penalties, bond forfeitures, and environmental impact statement fees. Federal funds are received from the U.S. Department of Interior primarily for abandoned mine reclamation and regulation of coal mines.

Executive Budget Modifications

Coal Bureau Workload

The Executive Budget includes \$298,499 for the biennium, 3.58 FTE for fiscal 1992, and 5.0 FTE in fiscal 1993 funded from the DSL federal reclamation grant and reclamation and development funds to

---

## RECLAMATION PROGRAM

---

meet the demands of existing workload and an expected workload increase in the 1993 biennium. The department anticipates receiving an increase in federal grant funds. The additional FTE requested include two hydrologists, one civil engineer, one vegetation specialist, and one computer statistician. These positions would allow the Coal Bureau to complete reviews of permit applications and application amendments, process bond release applications, and evaluate environmental baseline and monitoring data. The FTE difference between the two fiscal years is due to anticipated late hiring in fiscal 1992.

### Hard Rock Bureau Workload

The Executive Budget includes \$248,357 for the biennium, 3.04 FTE for fiscal 1992, and 4.0 FTE for fiscal 1993 funded from reclamation and development funds to meet the demands of existing workload and an expected workload increase in the 1993 biennium. The additional FTE requested include one records manager, one hydrologist, one mining/civil engineer, and one attorney. These posi-

tions would allow the Hard Rock Bureau to review applications for new mines, review application amendments, and monitor mining activity at permitted mines. The FTE difference in the two fiscal years is due to anticipated late hiring in fiscal 1992.

### Environmental Compliance

The Executive Budget includes an additional \$220,358 and 3.0 FTE for the biennium from the DSL environmental impact statement special state revenue account. The request would fund 1.0 FTE to provide department-wide guidance on the applicability, preparation, and distribution of environmental analyses (EA) and environmental impact statements (EIS) required under the Montana Environmental Policy Act (MEPA) and provide consistency in the interpretation and implementation of MEPA and the National Environmental Policy Act. The other 2.0 FTE are requested to handle the workload of the environmental analysis program, providing a core staff to manage preparation of EA's and EIS's and relieve technical staff of these duties.

