MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN BERV KIMBERLEY, on January 23, 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)
Rep. Jerry Nisbet (D)
Sen. Cecil Weeding (D)

Members Excused:

Members Absent:

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: **CHAIRMAN KIMBERLEY** asked the committee members if they would please try to be here in order to start the meeting promptly at 8:00 A.M. The Department members were always here before the committee members.

DEPARTMENT OF STATE LANDS

Reclamation Division - EXHIBIT 1 - 2.
Roger Lloyd, LFA reviewed this program without the effects of reorganization. **EXHIBIT 3.** He stated, the Reclamation Division of Department of State Lands is proposed to move to the Department of Natural Resources and Environment. In order to make a comparison between the LFA and the Executive, reorganization is not included in this division. He reviewed the differences in the budget which are explained on this budget sheet. In the Open Cut Program, the $50,000 for FY92 & FY93 is for bond forfeitures. In the Abandoned Mine Program and Consulting and Laboratory Testing, the Executive is requesting spending authority. The $4,600 was for a computer which was not budgeted by the LFA.

Executive Budget Modifications - EXHIBIT 2, Page C-15.

Additions To The Executive Budget - **Mr. Lloyd** explained, the Abandoned Mine Rent and the Coal and Uranium Rent are two issues. In Central Management the committee had approved an Executive Budget Amendment. These two rent items are not amendments. These additions to the budget are contingent on the failure of reorganization.

Gary Amestoy, Dept. of State Lands, reviewed the budget with the committee. **Mr. Amestoy** stated, that many of the budget recommendations were made by the Montana Mine Improvement Advisory Council.

1. Administration Program - **Mr. Amestoy** stated, Item A - elimination of one FTE came about in 1989 when the legislation approved this position for a Superfund Hazard Waste Liaison. This position was to be 100% federal funds. The Environmental Protection Agency did not meet the time-frame for development of the non-coal waste program. Therefore, we did not get the funding until 1990 and we now have the grant and are ready to fill this position which will be federal funds. We are asking the committee to reinstate these funds.

SEN. DEVLIN asked, does the salary, operating expenses and Equipment fall under the federal grant? **Mr. Amestoy** said "yes." **SEN. DEVLIN** asked if there would be a liaison position if reorganization takes place? **Mr. Amestoy** replied, this position is necessary to maintain continuity between the other programs. **SEN. DEVLIN** stated, I would think there would be a savings with one liaison person for all the different groups.

Carl Schweitzer, OBPP stated, this position will be important because it will work between the Federal and state agencies.

SEN. WEEDING asked, what happens if we do not approve the budget, will it revert or is it ear-marked. **Mr. Amestoy** replied, this function would probably have to be carried out by contracted services.

Mr. Amestoy stated, on Item B, Budget Base Differences; the LFA is lower than the Executive Budget by $5,240 in FY92 and $5,395 in FY93. The LFA also eliminated $1,600 in aircraft rental in FY92 and FY93. This is for travel which is necessary and if I travel for another agency, they are billed for that travel amount. Sometimes we take our congressional leaders out to specific sites so they can see what is happening in certain areas and these costs are absorbed by the department. This difference is General Funds.

Open Cut Program - **Mr. Amestoy** stated, the $50,000 is for bond forfeitures. Every year we have a lot of abandoned Sand and Gravel operators who do not fulfill their reclamation obligations so we have to revoke their contract and forfeit the bond. We anticipate we will have approximately 5 of these each year at a cost of approximately $10,000 each in spending authority. This

is special revenue funds for reclamation of these abandoned sites and would be spent only if funds are available.

CHAIRMAN KIMBERLEY asked to explain the zero expenditure in 1990 and the $100,000 for FY92 and FY93. **Mr. Amestoy** replied, we did have some bond forfeitures in FY90, but it is a lengthy process from the time you revoke the contract and go through the legal steps of issuing the non-compliance notices.

SEN. BENGTSON asked, must these forfeitures be spent for reclamation? **Mr. Amestoy** replied, they must be spent for reclamation and on that particular project. **SEN. BENGTSON** asked, how difficult is it to get these surety bonds? **Mr. Amestoy** stated, it usually takes from 30 to 60 days. This depends on two things, 1. the amount of the surety bond and 2. where they are located. Sometimes it is more difficult if you are holding a surety bond with a bank out of state. For a surety or cash bond we would receive the full amount. For a CD we may get less due to taking the funds before the maturity date and would lose some interest. **SEN. BENGTSON** asked, how difficult is it to get a surety bond. **Mr. Amestoy** replied, for small operators it is nearly impossible, they would be required to put up a cash bond. We will take surety bonds, cash bonds and property bonds for the Open Cut program. We have a number of property bonds which we are concerned about because if these are forfeited we have to go into the real estate business. One way we could solve this is with the interest off the RIT account and use a portion for small operators. **Mr. Casey** stated, another avenue which is not available to us under the Open Cut Act, is a letter of credit. We have a revision before this legislature which will include that.

SEN. DEVLIN stated, if you had a property bond forfeiture you would have to sell that at appraised value which is hard to do. You didn't have any expenditures in 1990 what happened in 1988 and 1989?

Mr. Schweitzer explained, 1990 was the first year there was an appropriation for bond forfeitures. In the past there were probably budget amendments for this.

Mr. Amestoy stated, we are asking for spending authority if there are forfeiture and if there are none, all the better, we would not need the funds. These bonds are for private operators and are not required for counties or the Department of Highways.

Budget Base Differences of the Open Cut Program - This was for a data processor for managing records as explained previously.

SEN. BENGTSON asked, why don't you have a list of what the expenses for this position are for? **Mr. Lloyd** clarified, there were some differences we could not identify. When we went into their budget we found the $50,000 appropriation in the budget was greater than their expenditures. We asked the department why

they needed the additional amount of money and as **Mr. Amestoy** said, they need the authority for the additional amount for the Data Processing system.

Coal and Uranium Program - **Mr. Amestoy** said, as stated previously, this program is funded 30% state funds and 70% federal funds. Item A, elimination of one FTE; our hydrologist took another job with another state agency. We advertised for this position at a Grade 14 and could not get a qualified applicant to apply for this salary. We again advertised and could not hire a qualified person so in April of 1990 we petitioned the Department of Administration for a pay plan exception to increase the grade. We were not successful and finally in late 1990 an exception was approved for a Grade 15 which would be a salary of between $22,000 and $31,000. We advertised at this Grade level and currently we have 4 or 5 qualified applicants. In the meantime we contracted with the Bureau of Mines and Geology to take care of some our more pressing needs.

In the Budget Base Differences - about $10,000 per year will be needed for legal fees associated with coal mine permitting. When we have litigations we have to pay a hearing officer $48.00 per hr. Over the past 2 years we have dealt with 8 to 10 contested cases, one was in Portland and involved travel expenses.

Abandoned Mines Program - **Mr. Amestoy** stated, this program is 100% Federal Funds from a Federal tax on coal mines in Montana. When this program was passed in 1977 it had a 15 year life so it was due to terminate in 1992. In 1990 Congress extended the program to 1995. In July of 1990 the department certified to the Department of Interior Office of Surface Mining that Montana has completed all of its' abandoned coal reclamation projects. Therefore, we can now use these funds for reclamation of non-coal abandoned mines.

Item 4,A - elimination of one FTE. This position was initially approved as a modification by the 1989 legislature for cost effective reorganization. It was determined that since the AML program would soon be expanding from reclamation of abandoned coal sites to abandoned non-coal sites, it was estimated that there would be a savings of approximately $100,000 annually in administrative expenses by hiring two engineers. We hired one qualified engineer and one student engineer and as a result we got behind in our design for reclamation for abandoned mine sites. We intend to use this FTE for engineering design work, contract administration, construction monitoring, site inspection and coordination of our sand, gravel, bentonite and abandoned mine inventory.

We currently have about 6,000 sites which vary in size. We, as a State have to prioritize what our most significant abandoned mines problems are. There are a variety of sources of funds which address abandoned mine problems. Reclamation and

Development Grants Program administered by DNRC, Forest Service, Bureau of Land Management and our department. We try to prioritize these sites and take care of the worst ones.

REP. GRADY are these mines able to start up again after reclamation? **Mr. Amestoy** said, "yes, they all think they are sitting on top of the mother-lode." We put a steel grate over the opening to prevent a hazardous access.

SEN. DEVLIN asked, isn't their some responsibility of the owner of these mines? **John North, Dept.of State Lands** explained, there is a legal responsibility of the land owner and in case of an injury a potential for liability. The theory of the Abandoned Mines Program which is a Federal Program is to take care of the hazard and that is why there is a tax on the mines. If the landowner's property is enhanced, we can file a lien against the owner if there should be a sale of the property to recover some of the expense.

SEN. DEVLIN asked, if anyone was injured, would you be responsible. **Mr. North** answered, we could be liable if we took care of the hazard in a negligent fashion.

Item B, Consulting and Professional Services - **Mr. Amestoy** said, the differences are contracted services and capital outlay. In FY90 we spent over $2,000,000 in contracted services and $5,000,000 in capital outlay. We ask that the budget be approved so we can continue the engineering and complete the Abandoned Mine project.

Item C, Equipment - Computer, this is used by all the divisions.

SEN. BENGTSON asked, what sort of a reduction in AML tax are we talking about? **Mr. Amestoy** replied, 35 cents a ton for surface mined coal. 25 cents for underground coal and 15 cents for lignite coal. They are talking about reducing these figures and whatever passes in Congress will apply to Montana and Wyoming.

Since this is a Federal law and a Federal tax, all the states that mine coal are assessed this tax. If Montana doesn't spend our allocation, the tax will still be collected and used in another area in the east where they have abandoned mine problems that far exceed their ability to generate funds for the abandoned mine tax. We are only qualified to receive 50% of the funds collected.

SEN BENGTSON asked, are you going to spend more for engineering than capital outlay? **Mr. Amestoy** said, we submit a grant application for funding for engineering and construction. We have to do enough engineering to stay ahead of construction.

Item 4,C - Laboratory Testing; **Mr. Amestoy** said, we are having to do more testing and have to understand the chemical parameters we are dealing with. The budget reflects increased testing

SEN. WEEDING asked, because we have certified our abandoned coal mines, we are able to use the Federal tax in the hard rock area, is that correct? **Mr. Amestoy** answered, yes, but the fees stay in place. There is not a tax levied against other mining industries that we can use for abandoned mine reclamation.

Hard Rock Program - **Mr. Amestoy** reviewed this program. He stated, this program is funded 100% by state special revenue funds. Item A, this is an upgrade of an existing position to a mine permit coordinator position which was created because of the recommendations from the Mine Permitting Improvement Advisory Council. They felt we could improve our efficiency if we were to create this position. We ask the committee to consider this budget increase.

Mr. Schweitzer stated, we should ask the division if there has been other upgrades. There is about $38,000 for other positions for upgrades since we put the budget together. The Health and Human Services committee has been approving increases in their budgets. Since this is a legitimate expense approved by the personnel division, we should consider an increase in their budget so we don't have to absorb the additional personnel expenses.

CHAIRMAN KIMBERLEY said, **Rep. Bardanouve** indicated that he was going to look into the use of overtime for upgrading positions.

Mr. Amestoy stated, the upgrades had been approved by the Department of Administration Classification Bureau.

Item 5,B - Reclamation Bond Forfeiture; **Mr. Amestoy** stated, they are requesting approval of additional spending authority of $200,000 for the biennium. The reason we are asking for more is that the bonds are higher in the Hard Rock Program than the Open Cut Program.

Item 5,C - Hard Rock Reclamation; When the Hard Rock Reclamation was enacted it included a section that refers to the hard rock mining account. It says, "This account shall be available to the Department by appropriation and shall be expended for research, reclamation and re-vegetation of land and rehabilitation of water effected by any mining operations." The money generated by this account has never been spent. We are leaving about $100,000 in principle to be used if there is an environmental emergency where we could not get bond money quick enough. Another instance when we could use it, is if the surety has gone bankrupt and also the mining company. We would be able to use the emergency fund for reclamation. Some of the funds have been spent on engineering to develop reclamation plans. We have used some of the funds where there is an over-run of the cost of the bond for reclamation. However, we can try to retrieve the costs from the owner and if we are successful, the money will go back into the account. We would like the committee to consider the approval of $200,000 spending authority for the biennium.

Mr. Schweitzer stated, fines and fees go into this account and is only used in an emergency situation which needs an immediate response.

REP. GRADY asked, how much money is in this account now? **Mr. Amestoy** answered, approximately $100,000. **Mr. Schweitzer** stated, they are asking for spending authority of up to $200,000. The potential exists for increasing this account if for instance, a large fine was levied on a mining operation.

SEN. WEEDING asked, what are the fees? **Mr. Amestoy** replied, probably application fees which are approximately $25.

Mr. Lloyd clarified, what the department is asking is the spending authority in case they receive additional funds.

EXHIBIT 5 - REP. NISBET stated Page C-8 addresses the Hard Rock Bureau. **Mr. Lloyd** said, in the last legislative session they were given two biennial appropriations of $100,000 and $50,000 for FY91. The department is asking for $200,000 for the next biennium for bond forfeiture consulting services and $200,000 for reclamation consulting services.

Rep. Grady said, you spent $380 out of the $100,000 in the last biennium and now you want $200,000. **Mr. Amestoy** replied, that was correct, but if we should have an environmental emergency it will use most of the funds we have. **Mr. Schweitzer** stated, the reason we recommended the bond forfeiture and reclamation budget is, without spending authority they would have to go through the amendment process which is cumbersome. When emergencies occur they need to have immediate access to the funds.

Mr. Amestoy stated, we had to revoke the permit and forfeit the bond. The day we revoked the permit we had an environmental emergency. We use the money in the account to hire a contractor to take care immediate corrective action. After 30 or 60 days when we actually received the bond money, we no longer had to use this account. **SEN. WEEDING** asked if there were any penalties assessed for the forfeiture of the bond? **Mr. Amestoy** replied, we did issue notices of forfeiture, but they did not respond.

Mr. Schweitzer stated, **Mr. Amestoy** is talking about FY90 and if we had information on FY91, there may have been substantial expenditures out of that account.

Mr. Amestoy said, in FY91 on Dry Gulch we had a $35,000 bond forfeiture. We hired a contractor to do the work and the cost of the project came to about $45,000. Therefore, we had to make up the difference of about $10,000 from this account. We are trying to recover the $10,000 from the mine operator to replace the funds to the account. Whether or not we will be successful, time will tell.

REP. GRADY said, it seems that you don't know if there were funds

spend out of this account or not. You were talking about $100,000 per year and perhaps you only spent funds out of one year and this budget sheet says only $380 spent out of the biennial. **Al Christianson** answered, that money was in the account in case we did not get the bond forfeiture in time. We did get the money in time and paid the contractor out of the bond forfeiture. **Mr. Schweitzer** explained, it is a biennial appropriation so it can be spent over the two years. There could be some expenditures in 1991.

Item D, Budget Base Differences - **Mr. Amestoy** reviewed this with the committee. Included in this was $21,000 for legal fees, $3,500 for photo reproductions of administrative rules and $4,300 for an increase in consultant and professional services.

Environmental Analysis Impact - **Mr. Amestoy** stated, this is 100% state special revenue funds which are derived from fee assessment collections. We are entitled to collect the cost of the Environmental Impact Statement from the applicants under MEPA. We anticipate doing 5 environmental impact statements per year at a cost of $300,000 each for a total of $1,500,000.

REP. GRADY asked, who do you collect the EIS from on state lands? **Mr. Casey** replied, this is General Fund.

CHAIRMAN KIMBERLEY said, the General Government Committee approved the Networking Fees and the Auditing costs.

Motion/Vote: **SEN. WEEDING** moved to accept the Networking Fees and the Auditing costs. Motion **CARRIED** unanimously.

Executive Budget Modifications - **EXHIBIT 2, C-15 & C-16.**
Mr. Amestoy reviewed these modifications with the committee. With respect to Coal Bureau Modifications, I have discussed these issues with **Mr. Jim Mackler** of the **Montana Coal Council** and **Mr. Dennis Olson** of the **Northern Plains Resource Council** and they support these additional FTE's for the Coal Program.

Sen. Weeding asked, what does this reflect in the Coal Strip, Baker area. **Mr. Amestoy** stated, the law requires no reclaimed land qualifies for consideration of reclamation bond release until 10 years after the last mechanical practice was conducted on the land. There will be a lot of sites which will begin to qualify. **Mr. Schweitzer** said, the Coal and Uranium program has been approving applications and monitoring up to this point. Now we are looking at mines closing down and conducting reclamation of the land as their bond requires them to do. Therefore, we need these additional FTE's to meet the needs of the reclamation bond as these mines will want to recover their bond money.

REP. GRADY asked, are you anticipating an increase in Federal Grants to help pay for this positions. **Mr Amestoy** replied, this department is funded by 70% Federal and 30% State. This would remain the same.

REP. GRADY asked, if they phase out the 70% Federal Grants would we have to pick up the full amount and add it to the budget in the next biennium?

Mr. Amestoy replied, the only way we would lose the Federal funds would be if we lost the whole program. As long as we have the ability to administer the State and Federal program in Montana, we will have the Federal funds available.

Hard Rock Bureau Workload Modification - EXHIBIT 2, Page C-16. **Mr. Amstoy** reviewed this modification with the committee which is 100% State Funding from RIT. He stated, he visited with **Gary Langley, Montana Mining Association** and **Dennis Olson, Northern Plains Resource Council** and they both support our request to hire these FTE's.

Environmental Compliance Modification - EXHIBIT 2, Page C-16. **Mr. Amstoy** reviewed this modification with the committee which is 100% state special revenue funds. This was reviewed previously with **Mr. Amestoy's** testimony.

REP. NISBET asked, what accounts for the drop from $121,721 FY92 to $98,637 FY93 with same amount of FTE's? **Mr. Kuchenbrod** answered, part of this was the equipment.

REP. GRADY asked, are all of the FTE's going to be located in Helena. **Mr. Amestoy** answered, "yes."

Additions to the Executive Budget: **Mr. Amstoy** reviewed the following items with the committee in previous testimony.

1. Abandoned Mine Reclamation Rent - The department needs an additional 2,160 sq. feet of office space and this budget amount is for additional rent which is 100% Federal funds.

2. Coal and Uranium Rent - The department needs and additional 2,160 sq. ft. of office space and the additional amount is for rent. This department is 70% Federal funds.

REP. GRADY asked, is this over and above the figures we discussed previously? **Mr. Kuchenbrod** replied, about $82,000 was approved for Central Management which would be added to the budget to make a total of about $115,000.

3. Hard Rock Increase - **Mr. Amestoy** stated, the department needs an additional $100,000 for contract services with people who are experienced in this field. These people would be dealing with consulting and professional services, lab. testing, legal fees, photographic, printing, etc. This was a recommendation which came out of the Mine Permitting Advisory Council. Since we cannot hire personnel in all of these areas, we have to have the ability to contract these services from people who are experts in their field.

Mr. Schweitzer stated, the committee has to decide how much to spend on Grants and Administration. There will be a question as to how to fund these budget modifications. One alternative would be to use the General Fund.

REP. GRADY asked, what would happen if we funded them in this committee, do we have priority over Long Range?

Mr. Schweitzer stated, the practice has been that each committee come to some agreement as to how much each has to spend. When the revenue comes in, it goes to the administrative costs first and what's left over goes to the grants. The grants are funded on a priority basis.

SEN. BENGTSON said, I'm uneasy about all the consulting and contracting services we are talking about. Doesn't some of the expertise rub off on the rest of the people? You have all of these FTE's and you are still spending a lot of money for contracting and consulting. I would think some of your people must be experts in some of this.

Mr. Amestoy stated, we have a very qualified professional staff. However, a lot of these mining issues are so complicated, not everyone can know everything. Our people are going against national expertise who have 30 or 40 years in the business and they often tell our people we don't know what we are talking about. If they tell us our analysis is wrong, it puts us in a difficult position. However, we do make decisions on hundreds of issues.

SEN. BENGTSON asked, how many new mines are there in the last few years? Is there an increase in workload with the new larger mines? **Mr. Amestoy** replied, there is an increase and there is more to it than just issuing a permit. A lot of times after they get into their mining process, they may need an amendment to their permit because their mine may be increasing from what it was originally.

SEN. BENGTSON asked, is the legislature requiring new things each year? It should be working effectively after all these years.

Mr. Casey stated, the increased activity is the problem. The DSL budget needs additional staff as we are understaffed at present. The demands from the public continues to grow as we become more involved with the public participation process which requires more staff.

Mr. Amestoy stated, hard rock mining is changing in Montana due to the high prices of gold. A lot of low quality ore reserves are now economical to mine. They have to mine the gold as economically as they can, so they are using cyanide. So the problems are far greater than they used to be.

Changes in Executive Funding - This is to change the funding of

the Environmental Compliance Modification from Environmental Impact Statement account to Reclamation and Development account.

Biennial Appropriation Requests - Mr. Amestoy covered this in previous testimony. Request for biennial appropriations for Consulting Services in Bond Forfeiture Consulting Services. $100,000 for the Open Cut Program and $200,000 for the Hard Rock Program and $200,000 for the hard rock program.

Mr. Schweitzer stated, in Item 6, Environmental Analysis Program, we are asking this to be a biennial appropriation also. Currently the Executive is recommending $1.5 million each year. In 1981 the department asked for a budget amendment of over $1.1 million. Therefore the committee might consider making one biennial appropriation of $3 million instead of two appropriations of $1.5 million. This would give the department some flexibility and the may not have to come in for a budget amendment in one of the years.

EXECUTIVE ACTION ON THE RECLAMATION PROGRAM

Motion/Vote: REP. NISBET moved to accept the LFA Budget. Motion **CARRIED** unanimously.

Motion/Vote: REP. NISBET moved to accept the Current Level Issues of the Administration Program; 1. Salary, 2. Operating Expenses, 3. Equipment. Motion **CARRIED** unanimously.

Motion/Vote: SEN. WEEDING moved to accept the Executive Budget on Budget Base Differences. Motion **CARRIED 4 - 2, (REP. NISBET AND SEN. BENGTSON voting "no").**

Motion/Vote: SEN. BENGTSON moved to accept the Executive Budget for the biennial appropriation of the Open Cut Program. Motion **CARRIED** unanimously.

Motion/Vote: SEN. WEEDING moved to accept the Executive Budget for Coal and Uranium Program, Item A & B. Motion **CARRIED** unanimously.

Motion/Vote: SEN. BENGTSON moved to accept the Executive Budget for Abandoned Mines Program, Item A,B,C & D. Motion **CARRIED** unanimously.

Motion/Vote: REP. NISBET moved to accept the Executive Budget for Item A, upgrades for the Hard Rock Program which would add about $38,000 to the Executive Budget each year. Motion **CARRIED** unanimously.

Motion/Vote: SEN. BENGTSON moved to accept the Executive Budget for $100,000 biennial appropriation for the Reclamation Bond Forfeiture and $100,000 biennial appropriation for Hard Rock Reclamation of the Hard Rock Program. Motion **CARRIED 5 -1 (Sen. Weeding voting "no")**

Budget Base Differences, Hard Rock Program - **REP.NISBET** stated, there was $21,000 of this for legal fees, $3,500 for photo services and some smaller expenses. Are these continuing expenses. **Mr. Schweitzer** stated, these were continuing expenses in both years of the biennium

REP. NISBET asked, how many times do you change the rules in regard to the photo services. **Mr. Amestoy** replied, we are into the rules all the time, both in Hard Rock and Coal. We have 50 to 200 people on the mailing list every time we re-do the rules.

Motion/Vote: **REP. NISBET** moved to accept the Executive Budget on the Budget Base Differences in the Hard Rock Program minus $3,500 each year of the biennium for consultant services.

SEN. BENGTSON asked, are these consulting services for legal advice? **Mr. John North, DSL** replied, the fees involved would not be for attorneys. We handle all our cases internally, except if we would have to hire an attorney elsewhere. It would be cheaper than paying for transportation to fly one of our attorneys out of state. We also have to pay deposition fees and expert witness fees. If there is a need for an appeal to the Supreme Court and their is an order for a transcript, we would have to pay for it.

Mr. Lloyd explained, as **REP. NISBET'S** motion now stands, you would be adding $25,347 to FY92 and $27,414 to FY93.

SEN. WEEDING asked, is this more rule changes than in the past you have to reproduce? **Mr. Amestoy** replied, this is for drafting and reviewing of new rules which would be the result of new legislation where we have to amend our existing rules. We have to publish all the rules in the state administrative register at $35 per page.

Mr. Lloyd explained, the 1989 legislature stipulated there was $4,050 of rule printing and supplies which were not to be included in this year's budget, so the LFA did not include these items.

Substitute Motion/Vote: **SEN. WEEDING** moved to reinstate the $3,500 each year of the biennium.

Mr. Schweitzer said, there were a lot of items last time which were to be a one-time-only appropriation and not to be included in the base, so **Roger** took it out of the base.

SEN. DEVLIN asked, isn't this just for spending authority if a situation should arise?

Mr. Lloyd stated, the department also has the flexibility to move spending authority within the program.

CHAIRMAN KIMBERLEY referred to **REP. NISBET'S** motion for $3,500 less. **Sen Weeding** asked, if that was all general fund. **Mr.**

Lloyd replied, it was 30% general fund.

Motion **FAILED 3 - 3 (REP. NISBET, SEN. BENGTSON, CHIARMAN KIMBERLEY voting "no")**

Motion/Vote: **SEN. DEVLIN** moved to allow $25,000 the 1st year and $27,000 the 2nd year. Motion **CARRIED 5 - 1 (SEN. BENGTSON voting "no")**

Motion/Vote: **SEN. WEEDING** moved to accept the Executive Budget for the Environmental Analysis Program for a total of $3,000,000 biennial appropriation.

SEN.DEVLIN askwd, explain how it got from $2,028,000 up to $3,000,000?

Mr. Schweitzer explained, last year we gave them $500,000 spending authority for the EIS'S. They used up their budget and asked for a budget amendment of over $1,000,000. In 1991 the EIS'S increased dramatically, so we are asking you to combine $3,000,000 into one biennial appropriation instead of $1,500,000 each year.

Motion **CARRIED** unanimously.

Executive Budget Modifications -
REP. GRADY asked, are all three items Federal Grants or are they different? **Mr. Amestoy** replied, Coal and Uranium are 70% Federal and 30% State funds. The Hard Rock is 100% Federal Funds.

The committee agreed to postpone action on Executive Budget Modifications and Additions to the Executive Budget.

Motion/Vote: **SEN. DEVLIN** moved to accept the Executive Budget on Item 1 & 2, for additions to the Executive budget with contingency language. **Motion** **CARRIED** unanimously.

SEN. BENGTSON asked, what is the flexibility to move these funds around? **Mr. Schweitzer** replied, the only restriction is they cannot move funds from personal services into operating expenses. They can move 5% between the divisions.

ADJOURNMENT

Adjournment: 11:55 A.M.

Berv Kimberley
REP. BERV KIMBERLEY, Chair

Theda Rossberg
THEDA ROSSBERG, Secretary

BK/tr

HOUSE OF REPRESENTATIVES

NATURAL RESOURCES SUBCOMMITTEE

ROLL CALL **DATE** 1-23-91

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

EXHIBIT 1
2-23-91

RECLAMATION DIVISION
PROGRAM NUMBER 03
42.0 FTE

RECLAMATION ADMINISTRATION
C.V. 03003
2.6 FTE
FUNDING: 100% STATE

OPENCUT BUREAU
C.V. 03113
3.0 FTE

- MONTANA OPENCUT MINING ACT
- MONTANA ENVIRONMENTAL POLICY ACT
- MINERALS: SAND, GRAVEL, PHOSPHATE, BENTONITE, SCORIA
- FUNDING: 100% STATE

COAL AND URANIUM BUREAU
C.V. 03115
14.9 FTE

- MONTANA STRIP AND UNDERGROUND MINE RECLAMATION ACT (SURFACE MINING CONTROL AND RECLAMATION ACT – TITLE V)
- MONTANA MINE SITING ACT
- MONTANA ENVIRONMENTAL POLICY ACT
- MINERALS: COAL AND URANIUM
- FUNDING: 70% FEDERAL 30% STATE

ABANDONED MINE RECLAMATION BUREAU
C.V. 03167
9.5 FTE

- SURFACE MINING CONTROL AND RECLAMATION ACT – TITLE IV
- MONTANA ABANDONED MINE RECLAMATION STATUTES
- COAL AND NON-COAL
- FUNDING: 100% FEDERAL

HARDROCK BUREAU
C.V. 03185
12.0 FTE

- MONTANA METAL MINE RECLAMATION ACT
- MONTANA ENVIRONMENTAL POLICY ACT
- MINERALS: EVERYTHING NOT INCLUDED IN OPENCUT AND COAL AND URANIUM
- FUNDING: 100% STATE

ENVIRONMENTAL ANALYSIS PROGRAM ADMINISTRATION
C.V. 03333
3.0 FTE

- PROJECT SPECIFIC MONTANA ENVIRONMENTAL POLICY ACT COMPLIANCE
- HARDROCK BUREAU
- COAL AND URANIUM BUREAU
- FUNDING: 100% STATE SPECIAL REVENUE

EXHIBIT 1
DATE 1-23-91

EXHIBIT 2
DATE 1-23-91
HB Nat. Res. Div.

EXHIBIT 2
1-23-91

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%
Fund Sources					
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.

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 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.

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

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 positions 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.

Exhibit
1-23-91

PARTMENT OF STATE LANDS
CLAMATION PROGRAM (Without Reorganization)

dget Item	Actual Fiscal 1990	Executive Fiscal 1992	LFA Fiscal 1992	Difference Fiscal 1992	Executive Fiscal 1993	LFA Fiscal 1993	Difference Fiscal 1993
E	42.00	42.00	39.00	3.00	42.00	39.00	3.00
rsonal Services	979,296	1,264,902	1,187,215	77,687	1,263,936	1,186,375	77,561
erating Expenses	3,330,865	4,938,424	3,203,685	1,734,739	4,941,180	3,204,084	1,737,096
uipment	146,796	81,357	76,457	4,900	81,357	76,457	4,900
pital Outlay	5,418,821	5,000,000	5,000,000	0	5,000,000	5,000,000	0
Total Expend.	9,875,778	11,284,683	9,467,357	1,817,326	11,286,473	9,466,916	1,819,557
nd Sources							
neral Fund	270,557	315,327	293,273	22,054	315,573	292,982	22,591
ate Revenue	1,020,350	2,378,344	1,116,763	1,261,581	2,380,015	1,116,810	1,263,205
deral Revenue	8,584,871	8,591,012	8,057,321	533,691	8,590,885	8,057,124	533,761
Total Funds	9,875,778	11,284,683	9,467,357	1,817,326	11,286,473	9,466,916	1,819,557

RRENT LEVEL ISSUES: Nesbit Lfa Union

	--EXEC OVER (UNDER) LFA-- FY 92	FY93
ADMINISTRATION PROGRAM		
A. The LFA eliminated 1.0 FTE vacant all of fiscal 1990 Fed Fund		
1. Salary Fed.	$25,853	$25,796
2. Operating expenses Nesbit Ex - Union	$6,500	$6,500
3. Equipment	$300	$300
B. Budget Base Differences (general fund) 1600 aircraft travel	$5,240	$5,395
OPEN CUT PROGRAM Bengston - Ex Union		
A. Biennial Appropriation - LFA reflects $0 expenditures in fiscal 1990. Bond forfeiture	$50,000	$50,000
B. Budget Base Differences (general fund) ~~5 [illegible] in 92 + 5 300 [illegible] in 93~~ data processing → Lfa is ~~1600 travel~~	$8,709	$9,235
COAL AND URANIUM PROGRAM		
A. The LFA eliminated 1.0 FTE vacant since August 1989 Weeding Ex Union	$28,257	$28,272
B. Budget Base Differences 10,000 - legal fees + some travel a + b	$15,700	$15,702
ABANDONED MINES PROGRAM		
A. The LFA eliminated 1.0 FTE vacant all of fiscal 1990	$28,102	$28,047
B. The LFA reflects actual fiscal 1990 consulting and professional services expenditures req auth 90-2-m in engineering 5.0 M Capital outlay	$431,858	$411,858
C. The LFA reflects actual fiscal 1990 laboratory testing expenditures req. auth.	$19,573	$39,450
D. Equipment - computer Lfa did not budget	$4,600	$4,600
HARD ROCK PROGRAM Nesbit - Ex (A) Union		
A. The LFA includes a position upgrade to reflect current status 45,000 gen all upgrades would be 38,000 e.	($4,525)	($4,498)
B. Reclamation Bond Forfiture - The LFA reflects $46,095 spent of the $100,000 biennial appropriation - authority up to $200,000	$53,905	$53,905
C. Hard Rock Reclamation - The LFA reflects $380 spent of the $100,000 biennial appropriation auth for 200,000	$99,620	$99,620
D. Budget Base Differences (30 percent general fund) 21,200 legal	$28,847	$30,914

EXHIBIT 3
DATE 1-23-91
HB Nat Res Sub.

ENVIRONMENTAL ANALYSIS PROGRAM Weedway EB - 3-Million Bien - Anon

A. Environmental Impact Statement contracting - LFA reflects fiscal 1990 actual expenditures			$1,014,787	$1,014,461
CURRENT LEVEL			$1,817,326	$1,819,557

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	FTE 1992	FTE 1993		
UTIVE BUDGET MODIFICATION: Grants Federal 70% State 30%				
COAL BUREAU WORKLOAD	3.58	5.00	$143,134	$155,365
HARD ROCK BUREAU WORKLOAD 100% State	3.04	4.00	$127,118	$121,239
ENVIRONMENTAL COMPLIANCE	3.00	3.00	$121,721	$98,637
TOTAL MODIFICATIONS see changes	9.62	12.00	$391,973	$375,241

Post-Pone

TIONS TO THE EXECUTIVE BUDGET

Post-Pone

ABANDONED MINE RECLAMATION RENT - Contingent upon failure of the proposed reorganization of the the department, the department requests an increase of 2,160 square feet office rental space.	$17,784	$17,784
COAL AND URANIUM RENT - Contingent upon failure of the proposed reorganization of the the department, the department requests an increase of 2,160 square feet office rental space.	$17,784	$17,784
HARD ROCK INCREASE - The executive requests an additional $100,000 of reclamation and development funds for consulting services.	$100,000	$100,000
TOTAL ADDITIONS	$135,568	$135,568

Rent 100% fed Issues 70% Federal

SES IN EXECUTIVE BUDGET FUNDING see #3 of Exec Mods the same

The executive wishes to change funding in the Environmental Compliance modification from the environment impact statement account to the reclamation and development account.

IAL APPROPRIATION REQUESTS - The executive requests biennial appropriations for the following ecutive budget recommendations:

Consulting Services

Deulian E B - Anon

$100,000 of bond forfiture consulting services expenditures in the Open Cut program - $50,000 was appropriated in the 1991 biennium
$200,000 of bond forfiture consulting services expenditures in the Hard Rock program - $100,000 was appropriated in the 1991 biennium.
$200,000 of reclamation consulting services expenditures in the Hard Rock program - $100,000 was appropriated in the 1991 biennium.

RECLAMATION DIVISION

	Fiscal 1990 Actual	Fiscal 1991 Appropriated	Fiscal 1992 Base	Fiscal 1992 Incr/Decr	Fiscal 1992 Recommended	Fiscal 1993 Base	Fiscal 1993 Incr/Decr	Fiscal 1993 Recommended
Full Time Equivalent Employees	.00	.00	42.00	10.62	52.62	42.00	13.00	55.00
Personal Services	0.00	0	1,261,066	300,824	1,561,890	1,260,049	364,499	1,624,548
Operating Expenses	0.00	0	3,785,440	1,083,970	4,869,410	3,789,874	1,055,469	4,845,343
Equipment	0.00	0	81,357	90,375	171,732	81,357	2,500	83,857
Capital Outlay	0.00	0	5,000,000	0	5,000,000	5,000,000	0	5,000,000
Total Agency Costs	**$0.00**	**$0**	**$10,127,863**	**$1,475,169**	**$11,603,032**	**$10,131,280**	**$1,422,468**	**$11,553,748**
General Fund	0.00	0	315,327	0	315,327	315,573	0	315,573
State Special Revenue Fund	0.00	0	1,224,005	1,438,712	2,662,717	1,226,766	1,404,866	2,631,632
Federal Special Revenue Fund	0.00	0	8,588,531	36,457	8,624,988	8,588,941	17,602	8,606,543
Total Funding Costs	**$0.00**	**$0**	**$10,127,863**	**$1,475,169**	**$11,603,032**	**$10,131,280**	**$1,422,468**	**$11,553,748**

Overview

The Reclamation Program is administered by the Reclamation Division in Helena. The Reclamation Division is responsible for the administration and enforcement of all of Montana's mined land reclamation regulation 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. This program has impacts on every county in Montana. The Montana Environmental Policy Act is supplemental to the mining regulation statutes and is used to determine the environmental impacts of mine development and reclamation. Program services include:

1. reviewing applications for exploration, prospecting and mining activities;
2. calculating reclamation bond amounts;
3. making permitting decisions for the issuance or denial of mining permits and licenses for exploration and mining of all minerals including sand, gravel, copper, gold, silver, coal and uranium;
4. on-the-ground compliance and enforcement evaluations;
5. evaluation and approval of reclamation bond release applications;
6. coordination with other state and federal agencies;
7. coordination with the mineral developer, public interest groups and environmental groups;
8. preparation of the environmental impact assessment documents in the form of Environmental Analyses or Environmental Impact Statements to insure compliance with the Montana Environmental Policy Act; and
9. reclamation of abandoned mines.

The Reclamation Program (Program No. 27) is made up of the following control variables:

1. Reclamation Administration CV 03003
2. Opencut Bureau CV 03113
3. Coal and Uranium Bureau CV 03115
4. Abandoned Mine Reclamation Bureau CV 03167
5. Hard Rock Bureau CV 03185
6. Environmental Analysis Program CV 03333

EXHIBIT 4
DATE 1-23-91
HB

RECLAMATION ADMINISTRATION

	Fiscal 1990 Actual	Fiscal 1991 Appropriated	Fiscal 1992 Base	Fiscal 1992 Incr/Decr	Fiscal 1992 Recommended	Fiscal 1993 Base	Fiscal 1993 Incr/Decr	Fiscal 1993 Recommended
Full Time Equivalent Employees	.00	.00	2.60	4.00	6.60	2.60	4.00	6.60
Personal Services	0.00	0	79,695	109,528	189,223	79,652	109,284	188,936
Operating Expenses	0.00	0	517,849	1,042,721	1,560,570	517,985	1,008,409	1,526,394
Equipment	0.00	0	300	22,880	23,180	300	0	300
Total Agency Costs	**$0.00**	**$0**	**$597,844**	**$1,175,129**	**$1,772,973**	**$597,937**	**$1,117,693**	**$1,715,630**
General Fund	0.00	0	3,806	0	3,806	3,781	0	3,781
State Special Revenue Fund	0.00	0	560,073	1,133,675	1,693,748	560,193	1,103,035	1,663,228
Federal Special Revenue Fund	0.00	0	33,965	41,454	75,419	33,963	14,658	48,621
Total Funding Costs	**$0.00**	**$0**	**$597,844**	**$1,175,129**	**$1,772,973**	**$597,937**	**$1,117,693**	**$1,715,630**

Goals

Achieve effective reclamation of all lands disturbed by the taking of natural resources;

Oversee the orderly development of natural resources;

Maintain state administration of the mined land reclamation programs;

Provide efficient, effective and economic program management;

Establish and implement effective, efficient, economic and reasonable policies and internal support systems for programs administering mining and reclamation statutes;

Provide administrative and budgetary support for programs administering mining statutes;

Administer policies and procedures regarding personnel management; and

Identify and propose state and federal legislation to more efficiently implement mined land reclamation statutes.

Administer and enforce provisions of the Montana Environmental Policy Act with respect to Montana's mined land reclamation statutes.

Provide a consistent procedure to identify and evaluate primary, secondary and cumulative impacts, alternatives, mitigations and related actions;

Utilize a systematic, interdisciplinary approach to insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making;

Ensure full public disclosure and public involvement in mine permit issuance or denial actions.

To attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable or unintended consequences.

Authorization

Art. IX, Section 2 Montana Constitution
Reclamation (1) All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

75-1-103, MCA
The Montana Environmental Policy Act. As a supplemental legislation, promotes efforts to eliminate or minimize impacts of mining to the environment and provides for public participation in the permitting process. Authorizes agencies to collect fees for EIS preparation and defines areas of environmental analysis and public involvement procedures.

Base Program

The Reclamation Administration Program is made up of two control variables: CV03003, Reclamation Administration; and CV03333, Environmental Analysis Program.

The Reclamation Administration Program of the Reclamation Division is responsible for the overall management, policy development, coordination and evaluation of all programs within the Division. Specifically, the bureaus within the Division are responsible for the technical and scientific evaluations and recommendations to either issue or deny a permit to mine; compliance evaluation and enforcement of mining and prospecting operations; and reclamation of all active and abandoned mine sites. The multi-disciplinary staff conduct the technical and compliance analyses of mining, operations, and reclamation plans for proposed and existing mines and prospecting sites. Evaluations are required to consider the provisions of the specific mined land reclamation statute and the Montana Environmental Policy Act.

The Division's functions are closely coordinated with other state programs and federal agencies such as the federal Office of Surface Mining Reclamation and Enforcement, the Bureau of Land Management, the U.S. Forest Service, the Environmental Protection Agency, public interest organizations and environmental groups.

Administration of all of the mining and reclamation programs requires the management of complex scientific and technical issues. Extensive public interest, public involvement, public hearings, enforcement hearings, and issue resolution requires extensive management coordination.

The function of the Environmental Analysis Program is to prepare Environmental Impact Statements pursuant to the requirements of the Montana Environmental Policy Act. The preparation of an EIS is the responsibility of the agency that will be making the permitting decision. This is accomplished by contracting with independent third party environmental consultants that prepare the actual EIS document under the guidance of Department staff.

Current level FTE's are 2.60 to support all functions of the program. The FTE's consist of Administrator, secretary, MEPA Coordinator, and Superfund Hazardous Waste specialist.

Base Funding

A 1.0 FTE Superfund/Hazardous Waste liaison position is funded with 100% federal funds. The remaining 1.60 FTE's are funded by state funds. The state funded share of program costs are RIT.

Environmental Analyses Program funding in 100% State Special Revenue. Fees are collected from the applicant requesting the state action pursuant to 75-1-205, MCA. Spending authority is granted to the Department for projects requiring EISs.

Performance Indicators

NOTE: Performance Indicators applicable to Reclamation Administration are found in each Control Variable narrative.

Performance Indicators: Environmental Analysis Program

	FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base
Prepare EISs	9	8	5	5

Increase or Decrease from Base

1. The Executive Budget includes an increase of one (1) FTE secretarial position for FY 92/93 for the Reclamation Administration program. This position will provide the Division with clerical and program assistance currently not available under the planned reorganization of the DSL and DNRC.

FY 92	FY 93
$18,840	$18,798

2. The Executive Budget also includes an increase of $34,300 in FY 92 to offset the following costs for agency reorganization:
1. Moving Expense - $6,000
2. ADP Network - $6,500
3. Partitions and Office Equipment - $20,000
4. Phone and Computer Installation - $1,800

	FY 92	FY 93
	$34,300	0
Funding Source:		
02458	Reclamation and Development	
	$11,686	$4,140
03067	Federal Reclamation Grant	
	$41,454	$14,658

3. The Executive Budget includes an increase of $1,000,000 for each year of the biennium to prepare EISs that are associated with anticipated increases in mine permitting activity. This will bring the total program budget to $1,500,000 for each year of the biennium. This estimate is based on an estimate of 5 EIS documents at $300,000 each.

FY 92	FY 93
$1,000,000	$1,000,000

Funding Source: 92838 Environmental Impact Statements (State Special Revenue)

4. The Executive Budget includes funding for three full-time employees to provide a core staff to manage the continuing workload in preparation of EAs and EISs. These FTE's would be responsible for coordinating the environmental analysis workload, EIS contract management and interagency (state and federal) coordination. Without these FTE's, these duties become the responsibility of Hard Rock Bureau and Coal Bureau technical staffs who are already busy completing permit application reviews and inspection and enforcement activities. In December 1989 the Reclamation Division obtained approval for 3 modified level FTE positions through an Operations Plan change. These positions are being continued in this program expansion. Program cost is $121,721.

FY 92	FY 93
$121,721	$98,637

Funding Source:
01828 Environmental Impact Statements (State Special Revenue)

OPENCUT MINING

	Fiscal 1990 Actual	Fiscal 1991 Appropriated	Fiscal 1992 Base	Fiscal 1992 Incr/Decr	Fiscal 1992 Recommended	Fiscal 1993 Base	Fiscal 1993 Incr/Decr	Fiscal 1993 Recommended
Full Time Equivalent Employees	.00	.00	3.00	.00	3.00	3.00	.00	3.00
Personal Services	0.00	0	104,375	329	104,704	104,132	332	104,464
Operating Expenses	0.00	0	40,679	50,359	91,038	41,283	50,159	91,442
Equipment	0.00	0	3,319	0	3,319	3,319	0	3,319
Total Agency Costs	**$0.00**	**$0**	**$148,373**	**$50,688**	**$199,061**	**$148,734**	**$50,491**	**$199,225**
General Fund	0.00	0	78,202	0	78,202	78,137	0	78,137
State Special Revenue Fund	0.00	0	70,171	50,688	120,859	70,597	50,491	121,088
Total Funding Costs	**$0.00**	**$0**	**$148,373**	**$50,688**	**$199,061**	**$148,734**	**$50,491**	**$199,225**

Goals

Provide for the reclamation and conservation of land subjected to opencut mineral mining.

Effectively administer the Opencut Mining Act to achieve reclamation of all lands disturbed by the taking of sand, gravel, scoria, bentonite and phosphate rock.

Maintain the state's clean and healthful environment for present and future generations.

Protect the environmental life-support systems from degradation.

Preserve natural resources to aid in the protection of wildlife and aquatic resources, to safeguard and reclaim through effective means all agricultural, recreational, home and industrial sites.

Prevent unreasonable degradation of the state's natural resources.

Prevent undesirable land, surface water, and groundwater conditions detrimental to the general welfare, health, safety, ecology and property rights;

Promote successful reclamation of opencut sites by assisting operators in complying with the requirements of the law.

Strive to make permitting decisions in a timely manner;

Promote and perpetuate the taxable value of property, to protect scenic, scientific, historic, or other unique areas.

Promote effective, efficient and economic program management.

Administer the statute in a fair and unbiased manner.

Promote the health, safety and general welfare of the people of Montana.

Authorization

Art. IX, Section 2, Montana Constitution
Reclamation (1) All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

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2-4-401, MCA
he Montana Opencut Act authorizes the Department to nter into mined land reclamation contracts when it is ound on the basis of the information set forth in the pplication and an evaluation of the operation and the roposed site, that the requirements of the Act will be bserved and that the operation and reclamation of the ffected area can be carried out consistently with the urpose.

5-1-103, MCA
he Montana Environmental Policy Act. As a supplemental egislation, promotes efforts eliminate or minimize mpacts of mining to the environment and provides for ublic participation in the permitting process.

ase Program

his program requires and evaluates reclamation on pencut mines ranging in size from ½ acre to over one housand acres, including the largest underground hosphate mine in the world. Total permitted area xceeds 50,000 acres. Each of the 2300 operations that re under a reclamation contract with the Department is equired to have a site specific plan of operations and eclamation plan. The bureau staff conducts technical, cientific and legal evaluations of the permit pplications. Based upon these evaluations, the bureau ust determine whether to issue or deny the permit pplication.

ver 250 applications are received annually. Each pplication requires a pre-mine site evaluation, perating and reclamation plan evaluation, and eclamation bond calculation. The bureau conducts on-the-round compliance evaluations and issues notices of oncompliance and assesses civil penalties for violations f the terms of the Opencut Act or Opencut contract. early 200 bond releases are requested and evaluated each ear. Many more sites are actually evaluated for bond elease, but many do not meet reclamation standards. An dditional 3000 annual site evaluations should be ompleted to ensure compliance and recognize and mitigate otential and existing problems.

Operators typically request bureaus assistance as Opencut reclamation experts for ideas on reclamation techniques, problems, and mediation. Landowners and public interest groups frequently request staff assistance, public meetings and administrative appeals. Opencut Program emphasis is more on reclamation than regulation.

Technical, scientific and legal evaluations are required to consider the provisions of the Opencut Act and Montana Environmental Policy Act. Opencut mine permitting must be coordinated with requirements of other state programs and federal agencies such as Bureau of Land Management, the U.S. Forest Service, the Environmental Protection Agency, public interest organizations and environmental groups.

This program is staffed with 3 FTEs (2 FTEs located in Helena and 1 FTE in Billings.)

Base Funding

The Opencut Mining Bureau is 100% state funded. The state funding is currently a combination of RIT and General Funds.

Performance Indicators

	FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base
Applications Received	235	260	250	250
Contracts Issued	230	255	245	245
EA's Completed	235	260	250	250
Mine site evaluations (Pre, on-going, post, bond, and requests)	1574	3120	3090	3090
Assistance Requests (administrative)	160	180	175	175
Citizen Complaints	46	60	55	55
Notices of Non-compliances	22	25	25	25
Bond Release Requests	240	250	245	245
Bonds Released (full & partial)	165	180	175	175
Bonds Forfeited (reclamation under-way or complete)	6	8	7	7

Increase or Decrease from Base

1. The Executive Budget includes spending authority for $50,000 for each year of the biennium ($100,000 for the biennium) for the reclamation of Opencut Mine sites on which the Department has forfeited the reclamation bonds. The 1989 legislature approved a State Special Revenue Continuing Appropriation of $50,000, but the experience of FY 90/91 demonstrated that the Opencut Bureau requires $50,000 per year spending authority to complete reclamation. The bureau estimates 5 bond forfeitures per year at $10,000 each or $50,000 per year.

FY 92	FY 93
$50,000	$50,000

Funding Source:

02096 Reclamation Bond Forfeitures(State Special Revenue)

EXHIBIT 4
DATE 1-23-91
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COAL AND URANIUM

	Fiscal 1990 Actual	Fiscal 1991 Appropriated	Fiscal 1992 Base	Fiscal 1992 Incr/Decr	Fiscal 1992 Recommended	Fiscal 1993 Base	Fiscal 1993 Incr/Decr	Fiscal 1993 Recommended
Full Time Equivalent Employees	.00	.00	14.90	3.58	18.48	14.90	5.00	19.90
Personal Services	0.00	0	456,825	101,316	558,141	456,510	140,636	597,146
Operating Expenses	0.00	0	283,026	-61,864	221,162	284,046	-56,110	227,936
Equipment	0.00	0	37,688	35,725	73,413	37,688	2,500	40,188
Total Agency Costs	**$0.00**	**$0**	**$777,539**	**$75,177**	**$852,716**	**$778,244**	**$87,026**	**$865,270**
State Special Revenue Fund	0.00	0	218,424	25,420	243,844	218,732	28,674	247,406
Federal Special Revenue Fund	0.00	0	559,115	49,757	608,872	559,512	58,352	617,864
Total Funding Costs	**$0.00**	**$0**	**$777,539**	**$75,177**	**$852,716**	**$778,244**	**$87,026**	**$865,270**

Goals

Achieve effective reclamation of all lands disturbed by the taking of coal and uranium;

Maintain state administration of the coal mining regulatory program;

Prevent the loss of coal resources through coal conservation;

Prevent undesirable land, surface water and groundwater conditions detrimental to the general welfare, health, safety, ecology and property rights;

Maintain and improve the state's clean and healthful environment for present and future generations;

Protect the environmental life-support system from degradation;

Prevent unreasonable degradation of the state's natural resources;

Restore, enhance, and preserve the state's scenic, historic, archaeologic, scientific, cultural, and recreational sites;

Administer and enforce a reclamation program which complies with Public Law 95-87, the Surface Mining Control and Reclamation Act of 1977.

Strive to make permitting decisions in a timely manner;

Promote effective, efficient and economic program management.

Administer the law in a fair and unbiased manner.

Authorization

Art. IX, Section 2 Montana Constitution
Reclamation (1) All lands disturbed Montana Constitution taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

82-4-101 to 82-4-142, MCA
The Strip and Underground Mine Act. Authorizes the Department to review new mine sites and reclamation plans to insure that adequate information is available to properly formulate reclamation plans.

82-4-201 to 82-4-254, MCA
The Montana Strip and Underground Mine Reclamation Act. Authorizes the Department to administer and enforce all

provisions of the Act and rules regarding coal and uranium mining and prospecting.

75-1-103, MCA
The Montana Environmental Policy Act. As a supplemental legislation, promotes efforts to eliminate or minimize impacts of mining to the environment and provides for public participation in the permitting process.

Federal Public Law 95-87, Title V
Surface Mining Control and Reclamation Act of 95-87, 1977 governed by the Dept. of Interior, Office of Surface Mining Reclamation and Enforcement. Authorizes States to administer and enforce an approved program with Primacy and through cooperative agreement, on federal lands.

Base Program

The Coal and Uranium Bureau is responsible for administering the Strip and Underground Mine Reclamation Act,the Strip Mine Siting Act, and the Montana Environmental Policy Act with respect to coal and uranium mine regulation. Specifically, the Bureau is responsible for determining whether or not to issue or deny mining permits, completing on-the-ground compliance evaluations and enforcement of mining and prospecting operations and determining if the reclamation bond can be released for successful reclamation for all coal and uranium operations. The multi-disciplinary staff conducts analyses of mining, operations, and reclamation plans for mines and prospecting sites. Technical, scientific and legal evaluations are required to administer the provisions of the above described statutes. The Bureau must coordinate all permitting actions with requirements of other state programs and federal agencies such as the Federal Office of Surface Mining Reclamation and Enforcement, the Bureau of Land Management, the U.S. Forest Service, the Environmental Protection Agency, public interest organizations and environmental groups.

The Bureau's functions are closely coordinated with the Federal Office of Surface Mining Reclamation and Enforcement, Department of Interior. As provided by the Public Law 95-87, the Surface Mining Control and Reclamation Act, Cooperative Agreement the bureau administers the federal coal program (through "as effective as" regulations) on federal lands.

Current level FTE's are 14.90 to support all functions of the program. A liaison position with the Air Quality Bureau is also funded. Bureau staffing requirements are outlined in the federally approved Permanent Program.

Base Funding

Coal and Uranium Bureau is funded by a combination of state and federal funds. The federal share is based on a requirement in federal law that provides 100% federal funding for the cost of the program on federal lands and 50% funding for the cost of the program on non-federal lands. Funding is determined by actual number of acres under permit and the proportional share of federal and non-federal ownership. This results in program funding of 70% federal and 30% state. State funding is RIT. As the actual permitted acreage changes, so does the state and federal funding percentages.

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Performance Indicators

	FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base
Applications processed new and renewals	3	4	4	4
Permits issued	7	7	8	8
Amendments/Major revisions	6	5	5	5
Amendments/Revisions issued	3	3	3	3
Minor Revisions	75	80	85	85
Complete Inspections	140	140	145	145
Partial Inspections	150	150	160	160
Citizen Complaints	20	10	10	10
Notices of Noncompliance	25	25	25	25
Cessation Orders	1	1	1	1
Administrative hearings	25	25	25	25
Civil Cases	10	10	10	10
Designation of Lands Unsuitable	0	1	1	1
Alluvial Valley Floor Determ.	1	1	1	1
EISs in process	1	1	1	1
EAs in process	5	5	5	5
Prospecting Permits/Amendments	15	15	15	15
Bond releases	1	1	3	3
Federal oversights/TDNs	6	4	4	4
Rulemaking	3	1	1	1

Increase or Decrease from Base

1. The Executive Budget includes an increase in authorization for category 2102, Consulting and Professional Services in FY92 and FY93 to meet increasing requirements in specialized permitting problems. This increased activity is expected to continue through FY 93. The increase of category 2102 to $90,000 brings this item more in line with current and expected expenditures.

2. The Executive Budget included a decrease in category 2175 for system development funds for the procurement of automated modelling systems. The Bureau is completing development of its modelling program with funds available.

3. In expenditure category 2528, the Coal and Uranium Bureau has a decrease in rent/non-Department of Administration buildings. Under the proposed interdepartmental reorganization the Reclamation Division would move to the Lee Metcalf Building eliminating the need for rent in the non Department of Administration funds. All funds for Coal Bureau (Helena) rent have been transferred to Centralized Services Division, Department of Natural Resources and Environment. **(Note: The budget for the Reclamation Division's rent was based upon the assumptions that: 1) the division would be transferred to DNRE; and 2) the division would physically move to the Lee Metcalf building approximately July 1, 1991. If the Reclamation Division does not physically relocate to the Lee Metcalf Building, the amount of this decrease will need to be restored to the Coal Bureau budget.**

4. Funds in category 2827, Indirect/Administrative Costs, have been transferred from the Coal and Uranium Bureau budget to the Centralized Services Division, Department of Natural Resources and Environment. These funds are made available through the federal grant program.

FY 92	FY 93
- $67,957	- $68,339

5. The Executive Budget includes an increase of 3.58 FTE in FY 92 and 5.00 FTE in FY 93. These FTE are required to meet an existing increased workload and expected increase in FY 92. This workload results from the management of existing and new mines as they are permitted, applications for amendments to existing mines, and an anticipated workload increase due to bond release requests. The FTE positions are comprised of two hydrologists, one civil engineer, one vegetation expert and one computer statistician position.

FY 92	FY 93
$143,134	$155,365

Funding Source:

Reclamation and Development:	
$ 43,098	$ 46,831
Federal Reclamation Grant:	
$100,036	$108,534

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ABANDONED MINE RECLAMATION

	Fiscal 1990 Actual	Fiscal 1991 Appropriated	Base	Fiscal 1992 Incr/Decr	Recommended	Base	Fiscal 1993 Incr/Decr	Recommended
Full Time Equivalent Employees	.00	.00	9.50	.00	9.50	9.50	.00	9.50
Personal Services	0.00	0	269,548	835	270,383	269,149	845	269,994
Operating Expenses	0.00	0	2,699,353	-55,589	2,643,764	2,699,767	-56,253	2,643,514
Equipment	0.00	0	26,550	0	26,550	26,550	0	26,550
Capital Outlay	0.00	0	5,000,000	0	5,000,000	5,000,000	0	5,000,000
Total Agency Costs	**$0.00**	**$0**	**$7,995,451**	**$-54,754**	**$7,940,697**	**$7,995,466**	**$-55,408**	**$7,940,058**
Federal Special Revenue Fund	0.00	0	7,995,451	-54,754	7,940,697	7,995,466	-55,408	7,940,058
Total Funding Costs	**$0.00**	**$0**	**$7,995,451**	**$-54,754**	**$7,940,697**	**$7,995,466**	**$-55,408**	**$7,940,058**

Goals

Administer and enforce a reclamation program which complies with Public Law 95-87, the Surface Mining Control and Reclamation Act of 1977, Title IV and National Contingency Plan of CERCLA.

Provide for annual reclamation construction projects equal to the federal funding allocated to Montana for reclamation of abandoned mines;

Provide for the identification and reclamation of abandoned mines to eliminate hazards to health and safety;

Complete construction projects within three years of obtaining funding;

Stimulate Montana's economy by spending the state share of the abandoned mine funding;

Promote effective, efficient and economic program management.

Maintain and improve the state's clean and healthful environment for present and future generations;

Prevent unreasonable degradation of the state's natural resources;

Restore, enhance, and preserve the state's scenic, historic, archaeologic, scientific, cultural, and recreational sites affected by abandoned mines.

Achieve the reclamation of all lands disturbed by the taking of natural resources at abandoned mines.

Recognize that complete restoration to an original condition is precluded by some types of activities, however minimization of impacts to the extent practicable and reasonable is required;

Establish, on a continuing basis, the vegetative cover, soil stability, water condition, and safety condition appropriate to any proposed subsequent use of the area.

Authorization

- Federal Public Law 95-87, Title IV
Surface Mining Control and Reclamation Act of 1977
administered by the Dept. of Interior, Office Amendments
effective of Surface Mining authorizes States to
administer October 1, 1991 federally funded abandoned
mine reclamation programs.

- Montana Statutes, Title 82, Chapter 4, Part 2, 3, and 4
The Montana Strip and Underground Mine Reclamation Act, The Opencut Act, and the Parts 2, 3, and 4 Montana Metal Mine Rules and Regulations.

- Art. IX, Section 2 Montana Constitution
Reclamation (1) All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

- 75-1-103, MCA
The Montana Environmental Policy Act. As a supplemental legislation, promotes efforts to eliminate or minimize impacts of mining reclamation to the environment and provides for public participation in the reclamation process.

- Common Rule
Federal Register, March 11, 1988; pages 8034-8103. Uniform and administrative requirements for grants and cooperative agreements to state and local governments.

- CERCLA
Comprehensive Environmental Response, Compensation & Liability Act of 1980 - The State models this program through MCA 75-10-701.

Base Program

The Abandoned Mine Reclamation Bureau is responsible for administering Title IV of the Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) and the abandoned mine land portions of the Montana Strip and Underground Mine Reclamation Act, Montana Metal Mine Reclamation Act and the Montana Opencut Mining Act. The program is 100% federally funded through a federal tax on Montana's coal production. The AML Program receives approximately 50% of the federally collected funds to reclaim abandoned mine sites through annual Administrative and Construction Grants. These federal funds have been set aside specifically by federal law for a three year period to be used for abandoned mine reclamation in Montana. The function of the bureau is to spend the grant money to reclaim lands and water resources which have been adversely affected by past mining practices where there is no continuing reclamation responsibility. If these funds are not spent to reclaim sites in Montana, the money will be spent to reclaim abandoned mines in other states. The actual on-the-ground reclamation construction work is accomplished by utilizing a combination of independent engineering consultants and construction contractors. Since the program was initiated in 1978, approximately 3,750 acres of abandoned mines at approximately 2,500 individual sites have been reclaimed at a cost of $40 million. This money has gone directly into the Montana economy and has eliminated many serious abandoned mine safety and environmental problems.

The Bureau also completes reclamation projects by applying for Resource Indemnity Trust grants through the Reclamation and Development Grant Program of the Long Range Building Program that is administered by the Conservation and Resource Development Division, DSL. In addition, sites are reclaimed through use of the Governor's Emergency Contingency Fund.

The Bureau has 9.5 FTE's. These positions are made up of a Bureau Chief, Administrative Officer, 0.5 Secretary, five abandoned mine reclamation specialists, and 2 engineers.

Base Funding

The Abandoned Mine Reclamation Program is 100% Federally funded through the following annual grants:

- Administrative Grant ($2.6 million)
- Construction Grant (includes maintenance) ($4.65 million)
- Emergency Grant ($.25 million)
- 10% Set Aside Grant (for continuation of the program after 1995) ($.4 million)

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Performance Indicators

Workload Measures	FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base
Project Design	21	22	20	20
Construction Projects	15	24	15	15
Grant Applications	5	5	5	5
Financial Reports	12	12	12	12
Emergency Projects	1	1	1	1
Maintenance Projects	7	10	10	10
Coal Site Investigations	350	10	5	3
Hard Rock Investigations	2,500*	180	100	100
Sand & Gravel Invest.	0	500	200	200
Bentonite Investigations	10	10	10	10
Environmental Assessments	2	21	20	20
Records of Decision	11	21	20	20
Public Meetings	6	18	24	24
Professional Services Contract Administration	11	10	10	10
Construction Contract Administration	11	24	15	15
Inspections	200	400	275	275
Research & Development	4	3	3	3
Coordination with Federal and State Agencies	750	1,000	800	800
Secure, Open & Award Bids	3	24	15	15
Landowner Coordination	300	500	500	500
Grant Amendments/Revisions	3	3	3	3
Section 106 Compliance	76	180	100	100
Develop Procedure Manuals	4	2	0	0
Maintain Procedure Manuals	1	1	5	5
Maintain Equipment	96	96	96	96
Materials Testing	400	1,800	1,000	1,000
Personnel Appraisals	8	9	9	9
Citizen Interaction	110	180	240	240
Personnel Interviews	8	4	8	8

* An inventory of all hard rock mines was conducted in 1989/90. Six-thousand hazardous openings were inventoried.

Increase or Decrease from Base

1. Minor adjustments are shown in personnel services and in the 2,000 category which increase as shown.

	FY 92	FY 93
Personnel services	$835	$845
Contracted services	$1164	$500
Total	$1999	$1345

Funding Source: Federal Reclamation Grant

2. In expenditure category 2528, the Abandoned Mine Reclamation Bureau, has a decrease in rent/non Department of Administration buildings. Under the interdepartmental reorganization the Reclamation Division moves to the state-owned facility, Lee Metcalf Building. This reduces the requirement for rent from the Abandoned Mine Bureau in the amount of $17,874. **(Note: The budget for the Reclamation Division's rent was based upon the assumptions that: 1) the division would be transferred to DNRE; and 2) the division would physically move to the Lee Metcalf building approximately July 1, 1991. If the Reclamation Division does not physically relocate to the Lee Metcalf Building, the amount of this decrease will need to be restored to the Abandoned Mine Reclamation Bureau budget.**

FY 92	FY 93
- $17,874	- $17,874

Funding Source: Federal Reclamation Grant

4. In expenditure category 2827, the indirect/administrative costs are transferred from Abandoned Mine Reclamation budget to the Centralized Services of the Department of Natural Resources and Environment, a $38,879 reduction in base.

FY 92	FY 93
- $38,879	- $38,879

Funding Source: Federal Reclamation Grant

Control Variable Total :

	FY 92	FY 93
Personnel services	$835	$845
Contracted services	$1164	$500
Sub total	$1999	$1345
	- $17,874	- $17,874
	- $38,879	- $38,879
TOTAL	- $54,754	-$55,408

Funding Source: Federal Reclamation Grant

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HARD ROCK MINING

	Fiscal 1990 Actual	Fiscal 1991 Appropriated	Fiscal 1992 Base	Fiscal 1992 Incr/Decr	Fiscal 1992 Recommended	Fiscal 1993 Base	Fiscal 1993 Incr/Decr	Fiscal 1993 Recommended
Full Time Equivalent Employees	.00	.00	12.00	3.04	15.04	12.00	4.00	16.00
Personal Services	0.00	0	350,623	88,816	439,439	350,606	113,402	464,008
Operating Expenses	0.00	0	244,533	108,343	352,876	246,793	109,264	356,057
Equipment	0.00	0	13,500	31,770	45,270	13,500	0	13,500
Total Agency Costs	**$0.00**	**$0**	**$608,656**	**$228,929**	**$837,585**	**$610,899**	**$222,666**	**$833,565**
General Fund	0.00	0	233,319	0	233,319	233,655	0	233,655
State Special Revenue Fund	0.00	0	375,337	228,929	604,266	377,244	222,666	599,910
Total Funding Costs	**$0.00**	**$0**	**$608,656**	**$228,929**	**$837,585**	**$610,899**	**$222,666**	**$833,565**

Goals

Provide that the usefulness, productivity, and scenic values of all lands and surface waters involved in mining and exploration will receive the greatest reasonable degree of protection and reclamation to beneficial use;

Recognize the recreational and aesthetic values of our land as a benefit to the state;

Provide for mineral exploration and mining while adequately providing for beneficial use of the lands to be reclaimed;

Prevent undesirable land, surface water and groundwater conditions detrimental to the general welfare, health, safety, ecology and property rights;

Provide for the variation in reclamation specifications to account for site-specific variability;

Recognize that complete restoration to an original condition is precluded by some types of activities, however minimization of impacts to the extent practicable and reasonable is required;

Establish, on a continuing basis, the vegetative cover, soil stability, water condition, and safety condition appropriate to any proposed subsequent use of the area.

Administer and enforce a reclamation program which complies with the Metal Mine Reclamation Act and related federal statutes under the Resource Conservation and Recovery Act (RCRA), as amended.

Strive to make permitting decisions in a timely manner; and

Promote effective, efficient and economic program management.

Administer the law in a fair and unbiased manner.

Authorization

Art. IX, Section 2 Montana Constitution
Reclamation (1) All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

82-4-301 to 82-4-362, MCA
The Metal Mine Reclamation Act. Authorizes the Department to evaluate new mine sites and reclamation plans and require that adequate information is available to properly formulate reclamation plans.

75-5-602 and 75-5-401, MCA
The Water Quality Act, and ARM 16.20.1012 Authorizes the Department to assure nondegradation of groundwater occurs at exempted mining and exploration operations.

75-1-103, MCA
The Montana Environmental Policy Act. As a supplemental legislation, promotes efforts to eliminate or minimize impacts of mining to the environment and provides for public participation in the permitting process.

Base Program

The Hard Rock Bureau is responsible for administering the Metal Mine Reclamation Act and supplemental statutes. Specifically, the bureau is responsible for all permitting, on-the-ground compliance evaluations and enforcement, issuance of notices of noncompliance, assessment of civil penalties for violations of the terms of the statute or permit conditions, reclamation and bond release determinations for all mining and prospecting operations in the hard rock mining industry. The multi-disciplinary staff conduct a technical, scientific and legal analysis of mining, operations, and reclamation plans on mines and prospecting sites for compliance with the Act. Technical, scientific and legal evaluations are also required to consider the provisions of the Montana Environmental Policy Act. The Bureau must coordinate permit application evaluation with requirements of other state programs and federal agencies such as the Bureau of Land Management, the U.S. Forest Service, the Environmental Protection Agency, public interest organizations and environmental groups. The interactions between the Bureau and these agencies are outlined in agency-specific Memorandum of Understanding. The bureau is also responsible for permitting cyanide processing by Small Miners, as defined by the Act, and for ensuring a reclamation bond is held and reclamation is completed by Small Miners' placer and dredge operations.

Current level FTE's are 12 to support all functions of the program. A liaison position with the Water Quality Bureau is also funded.

Base Funding

Hard Rock funding is 100% state funded. The state funding is currently a combination of RIT and General Funds.

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Performance Indicators

	FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base
Applications processed (new)	6	10	10	10
Permits issued	3	4	5	8
Permit Renewals	90	94	99	107
Amendments/Major revisions	15	15	15	15
Amendments/Revisions issued	10	15	15	15
Resubmittals Processed	25	30	30	30
EISs in process*	8	6	4	4
EAs (Draft & Final)**	46	46	46	46
Total Operating Permits	90	94	99	107
Exploration Permits	45	45	45	45
Exploration Projects	142	142	142	142
Small Miners				
Placer	800	800	800	800
Cyanide	1	2	2	2
Other 200	200	200	200	
Inspections	1600	1600	1600	1600
Citizen Complaints	20	10	10	10
Notices of Noncompliance	25	25	25	25
Cessation Orders	1	1	1	1
Administrative hearings	25	25	25	25
Civil Cases	10	10	10	10
Bond Releases: Exploration	39	39	39	39
Bond Releases: Permits	6	6	6	6
Permit Revocationsl	1	1	1	
Bond Forfeitures Initiated	3	3	3	3
Bond Forfeitures Completed	2	3	4	3
Federal oversights*				
Rulemaking***	5	5	1	5

*EISs: 1990-East Boulder, Nye Smelter, Montanore, Asarco Rock Creek, Stansbury, New World, Big Blackfoot, Zortman Landusky
**EAs: 1990- Zortman-Landusky (Mill Gulch, Sullivan Park), Kendall, Golden Sunlight, Columbus Smelter, Amy, Goldstream, Basin Creek 003, Basin Creek 004, Tunnels, New Butte, Basin Creek 005,...
***Rulemaking: Blasting, Custom Mill, Cyanide, Placer, General Rewrite

Increase or Decrease from Base

1. The Executive Budget includes an increase of four additional FTE to assure Departmental compliance with the Metal Mine Reclamation Act and the Montana Environmental Policy Act. These FTE include (a) an engineer (b) a hydrologist; (b) records manager and (c) attorney.

The engineer and hydrologist positions are necessary to provide additional technical expertise for permit application review. The records manager position is required to maintain permitting documents (approximately 100 operating permits, approximately 1000 small miner exclusion statements, and 250 exploration licenses.) The attorney position is needed to follow through on Hard Rock enforcement actions which are required to go through judicial proceedings if challenged by the violator. In addition, the number of bonding forfeitures and enforcement actions have increased through time due to an increase in numbers of operations and changes in economic viability of certain operations.

FY 92	FY 93
$127,118	$121,239

Funding Source: Reclamation & Development

2. Bond Forfeitures and Hard Rock Mining Account
The Executive Budget includes $100,000 authority each year to reclaim sites for which reclamation bonds have been forfeited. The proposal also includes $100,000 per year for reclamation projects where imminent hazards to public health and safety exist. Each account is increased $50,000 per year over the base.

FY 92	FY 93
$100,000	$100,000

Funding Source:
02096 Bond Forfeitures
$50,000 $50,000
02451 Hardrock Mining Account
$50,000 $50,000

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ENVIRONMENTAL SCIENCES DIVISION

	Fiscal 1990 Actual	Fiscal 1991 Appropriated	Fiscal 1992 Base	Fiscal 1992 Incr/Decr	Fiscal 1992 Recommended	Fiscal 1993 Base	Fiscal 1993 Incr/Decr	Fiscal 1993 Recommended
Full Time Equivalent Employees	.00	.00	22.53	5.00	27.53	22.53	5.00	27.53
Personal Services	0.00	0	759,615	136,085	895,700	758,990	135,671	894,661
Operating Expenses	0.00	0	1,405,345	-46,603	1,358,742	1,406,571	-48,074	1,358,497
Equipment	0.00	0	26,300	-123	26,177	26,300	-123	26,177
Grants	0.00	0	98,586	91,745	190,331	98,586	92,514	191,100
Total Agency Costs	**$0.00**	**$0**	**$2,289,846**	**$181,104**	**$2,470,950**	**$2,290,447**	**$179,988**	**$2,470,435**
General Fund	0.00	0	462,313	-54,663	407,650	461,007	-51,296	409,711
State Special Revenue Fund	0.00	0	1,137,249	306,571	1,443,820	1,137,317	303,806	1,441,123
Federal Special Revenue Fund	0.00	0	690,284	-70,804	619,480	692,123	-72,522	619,601
Total Funding Costs	**$0.00**	**$0**	**$2,289,846**	**$181,104**	**$2,470,950**	**$2,290,447**	**$179,988**	**$2,470,435**

Overview

The Environmental Sciences Division Administration oversees the programs in the Air Quality, Underground Storage Tanks, Hazardous Waste and Solid Waste Bureaus.

The Air Quality Bureau is responsible for maintaining outdoor air quality levels considered safe to the public health and welfare through permit review, inspections, monitoring and information dissemination.

The Underground Storage Tanks Bureau tries to prevent leaks in underground storage tanks through identification. testing, inventory record keeping, groundwater monitoring, financial assurance for clean-up costs and implementing tank design and installation standards. The Leaking Underground Tank Trust Fund is federal funds used by states, under federal guidelines, to investigate and remediate tank leaks when the responsible party cannot be identified or when the responsible party will not act or respond quickly in an emergency situation, or when the responsible party is insolvent.

The Hazardous Waste Bureau administers a regulatory program that controls the generation, transport, treatment, storage and disposal of hazardous wastes. It also participates in the administration of the federal Superfund program, which allows the department to investigate potentially hazardous disposal sites to determine if past disposal practices are resulting threats to the public health or environment. The bureau administers the Comprehensive environmental Cleanup and Responsibility Act, also referred to as the state Superfund Act. It allows the program to investigate and clean up, or require responsible parties to investigate and clean up, all hazardous waste sites in Montana not on the federal Superfund National Priority list.

The Solid Waste Bureau provides for licensing, technical assistance, inspections and enforcement for municipal and county governments and private solid waste management systems located throughout the state. The program also provides technical assistance for activities such as recycling, special waste management and administers the Motor Vehicle Recycling and Disposal Act, which is a regulatory program that control the disposal of junk vehicles and shielding of disposal sites.

EXHIBIT 5
DATE 1-23-91
HB. Nat. Res. Leg.

EXHIBIT 5
1-23-91

DEPARTMENT OF STATE LANDS

example, in the Reclamation Division, the Executive Budget includes $2,237,320 for the biennium above the fiscal 1991 appropriation. These amounts are far above fiscal 1990 expenditure levels, which form the base of the LFA current level.

While the Open Cut Bureau (in the Reclamation Division) was appropriated $50,000 for the 1991 biennium to spend reclamation bond forfeiture proceeds, none was spent. The Executive Budget includes $100,000 for the biennium in reclamation bond forfeiture expenditures for this program. The Hard Rock Bureau was appropriated $150,000 for the 1991 biennium to spend reclamation bond forfeiture proceeds, $47,475 of which was spent. The Executive Budget includes $400,000 in reclamation bond forfeiture expenditures for the biennium, an increase of $352,525 above the LFA current level and the amount expended in fiscal 1990.

Vacant Positions

The LFA current level eliminates 3.00 FTE in the Reclamation Division, .12 FTE in the Land Administration Division, and 1.00 FTE in the Forestry Division that have been vacant much of the 1991 biennium. The total biennial cost savings is $261,451.

Federal Fire Reimbursements

The Executive Budget contains $200,000 of federal fire reimbursement transfer authority. This authority is used to spend funds reimbursed by federal agencies for DSL's assistance in fire suppression. The 1989 legislature appropriated $100,000 per year, of which $99,607 was spent in fiscal 1990. The LFA current level does not include this transfer authority, since it can be added through the budget amendment process should these federal fire reimbursements become available.

Fixed Costs

Biennial fixed costs are $50,704 higher in the Executive Budget, of which $41,212 is for increased insurance and bond costs. The LFA current level includes the amount specified by the Department of Administration, Tort Claims Division.

Equipment

Biennial equipment requests in the Executive Budget are $34,418 greater than the LFA current level. The LFA current level reflects historical expenditure levels in the Forestry Division resulting in a difference of $21,318. Equipment in all other programs is budgeted at the agency's request with the exception of a $8,500 helicopter mover and $4,600 for additional computers which are not included in the LFA current level.

Funding

New Fees
The Executive Budget includes $830,000 of funding for the Forestry Division from new taxes and fees: 1) $740,000 of additional fire protection taxes; and 2) $90,000 in additional state timber stumpage fees. Legislative approval is required to levy and collect these new taxes and fees.

Funding Switch
The Executive Budget uses $7.5 million of revenue earned from state school lands to fund the agency budget. (The Executive Budget calls this revenue "trust land administration funds".) As Table C shows, $6.8 million of this trust land administration revenue is used to fund current level operations that are supported by general fund during the 1991 biennium. An additional $0.7 million is used to fund budget modifications that would add 18.18 new FTE to the department. As discussed below, this proposed funding switch does not save general fund and raises constitutional issues.

HOUSE OF REPRESENTATIVES

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VISITOR'S REGISTER

Natural Resources SUBCOMMITTEE DATE 1-23-91

DEPARTMENT _____ DIVISION _____

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NAME	REPRESENTING
Dennis Casey	DSL
Bob Kuchenbrod	DSL
John North	DSL
Al Christiansen	DSL
Dave McClure	Montana Farm Bureau
Wayne Wetzel	DNRC
Kimberly Bernard	DSL
John Armstrong	DNRC
Gary Amestoy	DSL

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