

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

JOINT SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN ROGER DEBRUYCKER, on January 20, 1995, at 8:00 a.m. in Room 402 of the State Capitol.

ROLL CALL

Members Present:

Rep. Roger Debruycker, Chairman (R)
Sen. Thomas F. Keating, Vice Chairman (R)
Sen. Judy H. Jacobson (D)
Sen. Loren Jenkins (R)
Rep. John Johnson (D)
Rep. William R. Wiseman (R)

Members Excused: Rep. Wiseman excused 8:00 - 9:45 a.m.

Members Absent: None

Staff Present: Mark Lee, Legislative Fiscal Analyst
Connie Huckins, Office of Budget and Program
Planning
Debbie Rostocki, Committee Secretary

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

Committee Business Summary:

Hearing: Department of Health & Environmental Sciences
-Montana Petroleum Tank Release Compensation Board
-Waste Management Division
-Water Quality Division

Executive Action: Department of Health & Environmental Sciences
-Environmental Remediation Division

HEARING ON DEPT. OF HEALTH & ENVIRONMENTAL SCIENCES
MONTANA PETROLEUM TANK RELEASE COMPENSATION BOARD

Jean Riley, Executive Director of the Montana Petroleum Tank Release Compensation Board, gave a summary of the Board's activities and responsibilities. **EXHIBIT 1.** She explained the Board was attached to the Department of Health & Environmental Sciences (DHES) for administrative purposes only, and the Board worked closely with the Environmental Remediation Division. She said the Board was funded by a 3/4 cent per gallon fee on all petroleum distributed in the state; the fee was started in 1989 and was discontinued Oct. 1, 1990 when the fund balance exceeded \$8 million. The fee was reinstated July 1, 1993 when the balance dropped below \$4 million and it is presently being assessed. She stated the fee brought in about \$5.5 million per year in revenue. In response to **SEN. JENKINS**, she said it would take legislative action to adjust the amount of the fee.

HEARING ON DHES WASTE MANAGEMENT DIVISION

Roger Thorvilson, Acting Administrator of the Waste Management Division, explained the division had been created to handle the regulatory aspects of licensing-oriented programs which had been under the Solid & Hazardous Waste Bureau. He reviewed the four environmental programs in the Division: Hazardous Waste program, Solid Waste program, Motor Vehicle Recycling and Disposal program and the Leak Prevention program. **EXHIBIT 2.** He pointed out three out of these four programs had relationship with federal authority. He said the acronym **RCRA** stood for Resource Conservation Recovery Act, which is the federal law governing waste management activities.

Mr. Thorvilson said the Solid Waste Program has had authority within state law for almost 30 years. The program flourished in the 1970's but when RCRA was passed in 1976 the emphasis began to switch from solid waste to hazardous waste. The program languished until the late 1980's when interest in solid waste issues picked up again. In response to **SEN. JENKINS**, he said subsequent to 1991 fourteen FTE have been added to the program and this program is entirely funded by the state. There is no federal presence other than the federal regulations. Part of the funding is general fund and part from fees, about 20%/80%. In addition to its main responsibility of licensing disposal sites, it is also responsible for licensing of persons who store, treat or operate resource recovery facilities, including composting operations and land treatment sites. In compliance with legislation passed in 1991, the program has updated the state Solid Waste Plan. The Program also does inspections and complaint response and technical assistance work.

Tape No. 1:B:000

He reviewed the Motor Vehicle Recycling and Disposal Program, which was initiated in 1973. This unique and exemplary state program has been recognized nationally, and is a good example of the statewide recycling program. About 155,000 tons of steel has been collected to date for recycling through this program. Support for the program is through a fee system which in return enables all citizens of the state to have junk vehicles collected by the state at no charge. Program responsibilities include inspection work, junk vehicle collection, grant renewal from DHES to the counties, contracting to have junk vehicles crushed and removed, licensing of private motor vehicle wrecking facilities and enforcement of shielding requirements.

Mr. Thorvilson then reviewed the State Hazardous Waste Program, which was initiated in the early 1980's. The federal program was amended dramatically in 1984 and some of those amendments are still translating into rule changes, which had increased the complexity of the state program. He explained although there had been modest staff growth in the program this was not expected to

continue. He said hazardous waste services were provided by the private sector. Much of the program's work is related to groundwater and surface water protection. The program works closely with the DHES Water Quality Division as well as the Air Quality Division. The program exerts hazardous waste control through permitting or direct regulatory controls. In addition they do inspection, technical assistance, permit writing and enforcement. Regarding regulatory controls, an entity generating hazardous waste has the option of operating its own treatment facility or disposal or shipping their waste elsewhere to be processed; the former is subject to permitting from this program. Montana wastes are typically shipped to a dozen or more commercial treatment or disposal facilities around the country. He said a unique aspect of this program was that permits cover even after the closure of facilities, to provide for continued monitoring of maintenance of remaining contaminants. Ash Grove is one of the facilities which has applied for a permit under this program. The program conditionally exempts from regulation facilities that produce less than 220 lbs. per month of hazardous waste.

Tape No. 2:A:000

Mr. Thorvilson stated that the program was partially funded with renewable Environmental Protection Agency (EPA) grants. Technical standards in the program are identical to EPA standards. No money is given to local governments to do inspection work due to the complexity of the work. Funding sources are Resource Indemnity Trust (RIT) dollars from the Hazardous Waste (CERCLA) Account, federal annual renewable grant dollars and minor fee inputs.

Mr. Thorvilson then gave an overview of the Leak Prevention Program, which was initiated in 1985. Growth in staff and funding occurred in 1989 but is no longer occurring. This program deals with a large number of entities.

SEN. KEATING wanted to know what the rationale was for removing tanks from the ground rather than filling them with sand and leaving them in place. **Mr. Thorvilson** said that part of the reason was to discover whether there was leakage underneath the tank. There was a presumption when the law was passed that this might likely be the case, and there is a regulatory requirement that an evaluation is necessary. If the state does not provide for this the federal government would step in to do it. **SEN. KEATING** wanted to know if there were any sanctions in the law regarding noncompliance and **Mr. Thorvilson** said there were not. **SEN. JENKINS** wanted to know if the 1989 law required soil testing if a visual inspection for leakage did not reveal any overt evidence of leakage. **Mr. Thorvilson** said there was a provision which was aimed at noncommercial tanks and waived the soil testing requirement. Any cloud on property titles would more likely be related to policies within the banking and real estate industry. He added under federal law all closures were required

to have testing but noncommercial tanks are also outside the scope of the federal law. **SEN. KEATING** submitted petroleum products were not a danger to the environment or the public health and he felt the requirements under the law were unwarranted. The hearing on the Waste Management Division was then closed.

HEARING ON DHES WATER QUALITY DIVISION

Mr. Steve Pilcher, Division Administrator, said that this division which employs 76 FTE was currently the "lightning rod for controversy" in the department. He then gave an overview of the division's responsibilities and activities. **EXHIBIT 3**. He explained the department develops procedural rules to implement what is in the statutes.

Tape No. 2:B:000

The two main federal statutes the division implements are the Federal Clean Water Act and the Federal Safe Drinking Water Act. Regarding funding the division is becoming more dependent upon fees to conduct its activities.

Mr. Pilcher described the functions of the two regional offices and seven sections contained within the division. The regional offices are located in Billings and Polson and the seven sections are Enforcement (five FTE), Surface Water Discharge (MPDES) permitting, Groundwater, Municipal Wastewater Assistance, Public Water Supply/Subdivision Review section, Ecosystems Management (Water Quality Management and Nonpoint Source Control) and Technical Studies/Support.

Primacy was initiated in 1974 for the division and at that time the authority to issue both federal and state permits was delegated to DHES. **Mr. Pilcher** said recent changes to water quality laws have made the program much more difficult to run. Permit writers now have to consider many more factors than they had to twenty years ago. These factors include nondegradation and the meaning of "natural" and requirements regarding mixing zones, total maximum daily loads, pretreatment, sludge, file monitoring and toxics monitoring. In response to **SEN. JENKINS**, he said at least eight of these twelve additional requirements were mandated under federal law and state law contained parallel language.

Regarding groundwater permitting, he said the division had recently been criticized for delegating some groundwater permitting authority to the Department of State Lands (DSL). They are now putting together rules which will probably require groundwater permits at additional facilities not previously permitted. He reviewed the Wellhead Protection program. About twelve communities are currently in the process of implementing the program.

Mr. Pilcher said the federal grants component of the Municipal Wastewater Assistance program is being phased out and for the past several years \$6-12 million in seed money has been provided by the federal government to establish a state revolving fund low interest loan program for local communities to deal with problems with their wastewater facilities. He added additional FTE were being requested to initiate a similar program for municipal drinking water systems. The Public Water Supply program (20 FTE oversee 1,900 public water supplies) has a growing list of requirements. The federal government provides limited funding and the division has primacy in this area as well. He added that the level of federal support had not kept up with the increase in requirements. The assistance part of the program has been improved due to the additional revenue generated when the department was given the authority to charge fees in 1991.

Tape No. 3:A:000

Regarding the Subdivision program, **Mr. Pilcher** said the state has experienced significant growth in the Flathead and Bitterroot areas as well as in Bozeman. The number of subdivision permit applications has gone from 864 in 1990 to 1,512 in 1994. The review fee the department receives is shared with local governments if they assist in the effort.

In the Nonpoint Source program personnel from the department work with the agricultural community to develop watershed plans. Ten thousand miles' worth of a total of 170,000 miles' worth of streams in the state are moderately impacted by agriculture. The federal government would like the department to implement a regulatory program for nonpoint source control but DHES has instead implemented a voluntary non-regulatory program and works with the local conservation districts. He illustrated the success of this approach by reviewing what had been done to control algae growth in Flathead Lake.

The Technical Studies and Support program carries out the division's nondegradation responsibilities as well as other functions. They also issue about 200 short-term exemptions from water quality standards per year. These are related to essential activities which impact water quality.

Testimony was then accepted from **Ron Egeland**, representing the engineering firm HKM and an organization called he called "Wetlands." Five years ago HKM developed an automated wetlands system for Wyoming which was authorized by the Army Corps of Engineers and the EPA and only requires one person to monitor the entire state. He expressed the opinion that the private sector is covering the issue of wetlands in a much broader sense than the state and he was opposed to having DHES use EPA money on wetlands. The Audubon Society objected to HKM's permit application for work at the Columbus airport. He said that in his opinion DHES was giving the Audubon Society \$141,000 in "walking around money." He submitted that his company's

automated technical tools could provide "tremendous" information and that the Audubon Society had "no technical ability."

Tape No. 3:B:000

He felt because the Army Corps of Engineers had been ruled as the authority in the implementing of "404" wetlands statutes the state should not set up any authority except under "401" water quality statutes. He added he was against the state being involved in wetlands because the federal government agencies couldn't even agree amongst themselves on this issue and for the present the Army Corps of Engineers should be allowed to "handle these matters." He submitted it would be too costly for the state to develop the capabilities which his company has regarding wetlands.

The hearing was then closed on the Water Quality Division.

EXECUTIVE ACTION ON DHES Environmental Remediation Division

Two booklets summarizing the accomplishments of the Superfund program from 1983-1994 were given to committee members. **EXHIBIT 4** and **EXHIBIT 5**.

Discussion: Mr. Mark Lee explained the reason for increases in indirect charges in the present law tables in all the programs is because under-recovery occurred in FY 1994 and this has had the effect of adding to the rate level. The Legislative Fiscal Analyst (LFA) feels the requested funding level for consulting for the coming biennium may have the effect of forcing the division to decrease its work in some areas in order to accommodate the increase in contract management work.

Mr. John Geach, acting administrator of the division, then spoke. Regarding the technical consulting, the Superfund program and the LUST Trust program uses a lot of contracted services for remediation work and for technical expertise from non-profit consulting sources such as Montana State University. He added he didn't feel the argument that the division's workload would increase significantly with the increase in contracts was valid in the case of this division.

SEN. JENKINS wanted to know why there had been an increase in rent. Mr. Geach explained that the division had relocated its Helena office because of a lack of space. Regional offices have been opened in Billings and Polson and this is also part of the increase.

Tape No. 4:A:000

In response to SEN. KEATING, Mr. Chisolm said the Natural Resource Damage Lawsuit program had been transferred from DHES to the Department of Justice.

REP. WISEMAN wanted to know if the flow of money from the federal government would continue to increase. **Mr. Geach** said most of his division's budget was for contracted services. He added that they had been able to recover almost 60% of what the state has spent, through cost recovery. He pointed out that some of the cleanups were quite expensive and up-front money was an important factor. In addition, the federal government has a good record of recovering money from Superfund sites and has been able to recover much of the money that passes through DHES.

(Operator error. No recording available of the following approx. 5 mins.)

Mr. Neil Marsh said there were two kinds of contracting. Private firms were involved in doing risk assessments and engineering design. The contracts with non-profit organizations were mainly with the Bureau of Mines and Montana State University. Two of the new projects which are part of the requested increase are through the Butte/Silver Bow local government. These are the three primary areas where they deal with non-profit entities.

The total existing budget for Remediation Technical consulting, using the 1994 actual expenses, is \$591,000. From there they are requesting another \$708,000 and 1996 and \$408,000 in 1997 (Present Law Adjustment No. 4).

Tape No. 4:A:188

Mr. Chisolm said there are three cooperative agreements (Silver Bow Creek/Butte sites, Montana Pole site) using contracted services funds related to work at the main federal Superfund sites in the Clark Fork basin for which DHES is the lead agency.

At Silver Bow Creek In 1994 they used \$158,000 in contracted services and \$33,000 in non-profit services and they are projecting this to stay the same in 1996 and to increase somewhat in 1997 because they will be completing the investigation and there will be an increase in the department's oversight work. The company ARCO is the responsible party for that site and will be doing most of the design work once the investigation is completed. DHES will continue to provide oversight.

The biggest portion of the increase in contracted services costs is related to the Montana Pole federal Superfund site, which is presently involved in litigation regarding liability. The EPA and ARCO have sued each other. The Department of Highways has also been brought in due to the highway right-of-way going over some of the contaminated materials. ARCO has not agreed to conduct the remedial design. Therefore, DHES has decided to go ahead with the design and the effort has been started this year. \$1.3 million in federal funding was received. EPA decided that DHES could do the best job. They said this cost will be recovered after the litigation. In 1996 about \$500,000 more will be needed. The alternative is to wait until the litigation is completed to start the remediation work.

The third portion of the contracted services funding request is related to the Butte Lead Abatement program. ARCO can be required to clean up lead in Butte yards under the EPA but this doesn't get at the issue of lead exposure in other areas. It was agreed to have a comprehensive program to address the issue of lead exposure to children. ARCO contributed about \$400,000 per year to Butte to clean up yards and source areas. The EPA contributed \$320,000 to use outside of Superfund to clean up exterior lead paint (to keep from contaminating the yards). The mechanism they used, since the EPA couldn't directly contract with the county, was that DHES agreed to be the channel for the funding. This comprises \$70,000 of the requested present law increase each year. (The \$330,000 is to be given over five years, at \$70,000 per year.) A similar program is being started in East Helena.

SEN. JENKINS submitted that the present law adjustment doubled the budget from the 1994 base and this was a "heck of an increase." **REP. WISEMAN** asked **Mr. Geach** what the effect would be if only Present Law Adjustments 1, 2 and 3 were approved. **Mr. Geach** said if this was done it would limit what they could do. The program has more sites and is entering into the more expensive cleanup phases and these cleanups would have be halted.

Mr. Chisolm said much of the increase in the budget was not "hard cash" but was for spending authority for money that would be recovered from the responsible parties. **REP. WISEMAN** said he could not justify spending \$1 to get \$.60 back. **Carol Fox**, program manager for the state Superfund program, pointed out that the funds in her area as well as the special projects area were 100% recoverable. The Environmental Quality Protection (EQP) fund recovers 60% of its costs. The only costs that can't be recovered are non-site-specific costs and administrative costs, which are just 22%. She estimated that in 1996 about \$300,000-\$400,000 would be spent out of the EQP fund. They are asking for spending authority for a contingency fund within the EQP fund for emergency actions and for orphan sites so that they will not have to go through the budget amendment process. They expect spending levels for contracted services to remain about the same as in the past.

She said they are entering into a cooperative agreement with Burlington Northern (BN) regarding their fueling facilities and more risk assessments will be done. This money is like spending authority and BN will be paying 100%. BN is billed on a quarterly basis and they are only billed for what is actually spent.

Ms. Fox stated that \$660,000 was spent in the past biennium from the EQP fund and this same amount is expected to be spent in the coming biennium, barring any unforeseen circumstances. **Mr. Chisolm** said \$1 million in spending authority was what they had in 1994 but only \$244,000 was used for contracted services. This shows up as a \$750,000 increase in 1996. They are not asking for

more authority; it is just how it shows up on the books compared to the actual spending.

Tape No. 4:B:000

SEN. KEATING asked for more information about the Arro Oil Refinery state Superfund sites in Lewistown. **Ms. Fox** explained there was a sludge pit at the refinery and the landowner had lost some livestock; it was a physical hazard as well as having toxic chemicals and had a foul smell. There was public concern. After testing it was discovered that there was 80,000 parts per million (ppm) lead in the soil. She stressed there was absolutely a public need for the projects. **SEN. KEATING** wanted to know how the state discovered these problems. **Ms. Fox** said in 1980, when the federal superfund law was enacted, there had been an effort to identify sites, but now DHES was just learning of new sites via complaints and the DSL Abandoned Mines program. Regarding the source of the money in the EQP fund, she said the state provided about \$300,000 per year (6% of the interest from the RIT) and responsible party cost recovery monies were deposited into the fund.

Mr. Chisolm said \$25,000 (10% match on federal funding) per year was the only funding the state was required to provide for the federal Superfund sites. The money which the federal government provides comes from cost recoveries from responsible parties on the federal sites. All of the eight sites in Montana have identified responsible parties who are participating in the cleanup except the Montana Pole site, where there is an unresolved debate over who the responsible party is.

The source of the Leaking Underground Storage Tank (LUST) program funding was explained by **Mr. Geach**. He said the trust funding was a 90:10 match of the federal LUST trust fund and Hazardous Waste CERCLA (RIT) money. The federal trust is funded from a 10% per gallon gasoline tax. When the state recovers money in the program it goes back into the program. The cost recovery money can only be spent after it has been recovered.

Motion: **REP. WISEMAN** moved to accept Present Law (PL) Adjustments No. 9, 10 and 11 on p. B-161; **SEN. JENKINS** seconded the motion.

Discussion: **Mr. Lee** said the indirect cost levels (PL No. 9) were based on personal services costs on the assumption that the division would be fully staffed.

Vote: The question was called for and the motion carried unanimously.

Motion: **SEN. JACOBSON** moved to accept PL No. 8 and **REP. JOHNSON** seconded the motion.

Discussion: Mr. Lee said there was a total of \$90,000 per year in non-Department of Administration rent costs and about \$60,000 per year was in the base. SEN. KEATING asked REP. WISEMAN if he expected the division to reduce its FTE if the budget was cut and he said this was his intention. SEN. KEATING surmised that they wouldn't need the rent.

Vote: The question was called for and the motion failed with SEN. JACOBSON and REP. JOHNSON voting "yes."

Motion: REP. JOHNSON moved to accept PL Adjustments No. 6 and 7. SEN. JACOBSON seconded the motion.

Substitute motion: SEN. KEATING made a substitute motion to segregate the vote on the two adjustments.

Discussion: In response to SEN. KEATING, Ms. Fox said that a total of \$320,000 was spent out of the EQP fund in the last year, including personnel costs. She pointed out that all of the costs for the Upper Blackfoot Mining Complex site as well as the Bozeman Solvent site and the Texaco Sunburst Refinery site came from the EQP fund. In response to SEN. JENKINS, Ms. Fox said they had spent \$91,000 on their largest emergency, the diesel spill at Whitefish, and all of this had been cost-recovered.

Tape No. 4:A:091

Substitute motion: SEN. JENKINS made a substitute motion to accept PL No. 6 at the level of \$350,000 in each year.

Discussion: Mr. Lee said the personal services costs which Ms. Fox referred to were located elsewhere in the budget and the actual base operating costs for the EQP fund were somewhat more than \$200,000.

Vote: SEN. KEATING seconded SEN. JENKINS' substitute motion and the question was called for. The motion carried with REP. JOHNSON and REP. WISEMAN opposed.

Vote: The question was then called for on REP. JOHNSON'S motion to accept PL No. 7. Motion carried with REP. WISEMAN opposed.

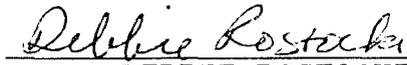
Motion/vote: SEN. JENKINS moved to accept New Proposals No. 1 and 2 on p. B-162. REP. WISEMAN seconded the motion. The motion carried unanimously.

ADJOURNMENT

Adjournment: 11:54 a.m.



ROGER DEBRUYCKER, Chairman



DEBBIE ROSTOCKI, Secretary

RD/dr

The meeting was recorded on four 90-minute audiocassette tapes.

Summary of Title 75, Chapter 11, Part 3 MCA Petroleum Storage Tank Cleanup

In 1989 the Montana Legislature passed HB 603 which created the Montana Petroleum Tank Release Compensation Board and the Montana Petroleum Tank Release Cleanup Fund. In 1991 the Montana Legislature passed HB 973 which included coverage on certain tanks which were excluded in HB 603. The following is a summary of the responsibilities of the Board and what the Fund will reimburse to owners/operators.

The Board manages the Fund and determines the eligibility of owners/operators and whether the costs claimed are reimbursable. The Board may reimburse owners/operators from the HB603 Fund for 50% of the first \$35,000 spent then 100% of the next \$965,000. The total reimbursement of eligible costs could be \$982,500 if the owner/operator spends \$1 million. The Board may reimburse owners/operators from the HB973 Fund for 50% of the first \$10,000 spent then 100% of the next \$490,000. The total reimbursement of eligible costs could be \$495,000 if the owner/operator spends \$500,000. For properly designed and installed double-walled tank systems, 100% of the eligible costs will be reimbursed on releases discovered on or after October 1, 1993.

The Board is made up of seven members appointed by the Governor for terms of three years. The members of the Board consist of the following:

- Department of Health and Environmental Sciences (DHES) Director or His Representative
- State Fire Marshal or His Representative
- Representative from the Petroleum Services Industry
- Representative from the Petroleum Marketers and Chain Retailers
- Representative from the General Public
- Representative from the Service Station Dealers
- Representative from the Insurance Industry

The Statute allows for the coverage of underground storage tanks, aboveground storage tanks with a capacity less than 30,000 gallons, and all piping connected to said tanks whether aboveground or underground. There are some types of tanks which are not covered as outlined by the statute. These tanks include:

- Tanks located at a refinery or a terminal of a refiner.
- Tanks located at an oil or gas production facility.
- Tanks that are or were previously under the ownership or control of a railroad.
- Tanks belonging to the federal government.
- Tanks owned or operated by a person who has been convicted of a substantial violation to state or federal tank rules.
- Mobile storage tanks used to transport petroleum products from one location to another.

Subject to the availability of Fund, an owner/operator who is eligible and complies with any rules adopted to implement this law must be reimbursed by the board from the Fund for the following costs caused by a release from a petroleum storage tank:

- Corrective action costs.
- Compensation paid to third parties for bodily injury or property damage.

Not all expenses to the owner/operator are covered, the following are expenses which are not covered by the Fund:

- Corrective action costs or the costs of bodily injury or property damage paid to third parties that are determined by the Board to be ineligible for reimbursement.
- Costs for bodily injury and property damage, other than corrective action costs incurred by the owner/operator.
- Penalties or payments for damages incurred under actions by the department, Board, or federal, state, local, or tribal agencies or other government entities involving judicial or administrative enforcement activities and related negotiations.

- Attorney fees and legal costs of the owner/operator or a third party.
- Costs for the repair or replacement of a tank or piping or costs of other materials, equipment, or labor related to the replacement of a tank or piping.
- Expenses incurred before April 13, 1989 (HB 603) or May 10, 1991 (HB 973).
- Expenses exceeding the maximum reimbursements (\$982,500 or \$495,000).

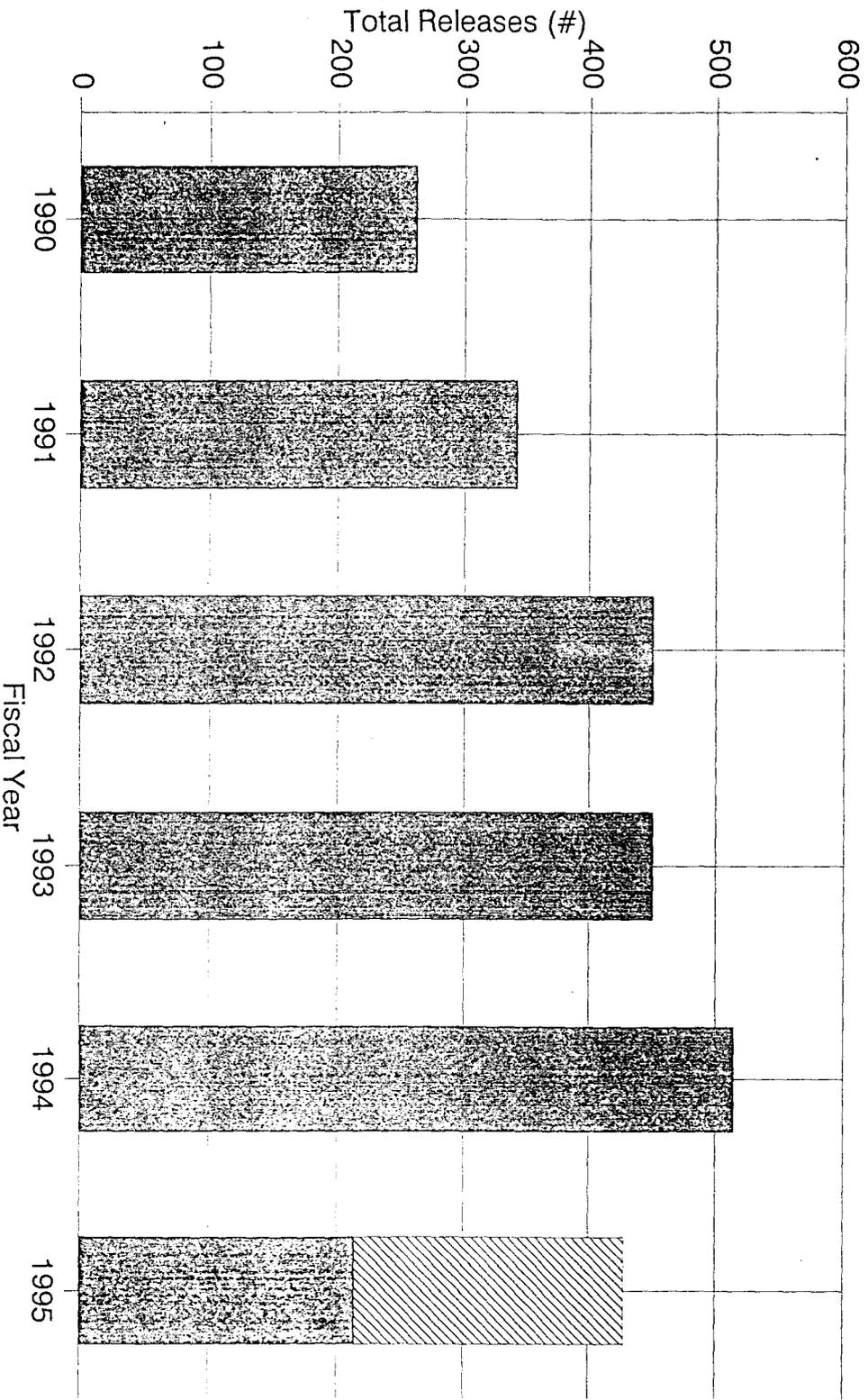
As was previously stated, the owner/operator is eligible for reimbursement if they comply with the rules governing storage of petroleum in tanks. The following are the eligibility requirements as stated in the Statute:

- The release was discovered on or after April 13, 1989, and tanks were in place at that time.
- The DHES - Underground Storage Tank (UST) Program was notified of the release within 24 hours.
- The DHES - UST Program was notified of the existence of the tank, if required, using the UST notification form.
- The release was accidental.
- The operation and management of the tank complied with applicable state and federal laws and rules when the release occurred and remained in compliance following the detection of the release.

If an owner/operator discovers or is provided with evidence that a release may have or did occur from his/her petroleum storage tank and he/she is seeking reimbursement of eligible costs the following must be done:

- Immediately notify (within 24 hours) DHES - UST Program of the release and conduct an initial response to the release in accordance with state and federal laws and rules to protect public health and safety and the environment.
- Conduct a thorough investigation of the release, report the findings to DHES - UST Program, and as determined necessary by the UST Program, prepare and submit for approval by the UST program a corrective action plan that conforms with state and federal corrective action requirements.
- Implement the approved plan, the UST Program may oversee the implementation of the plan, require reports and monitoring for the owner/operator, undertake inspections, and otherwise exercise its authority concerning corrective action.
- Document in the manner required by the Board all expenses incurred in preparing and implementing the corrective action plan.
- Submit claims and substantiating documents to the Board in the form and manner required by the Board.
- Document and submit claims and substantiating documents to the Board for any payments to a third party for bodily injury or property damage caused by a release.

Total Releases Per Fiscal Year

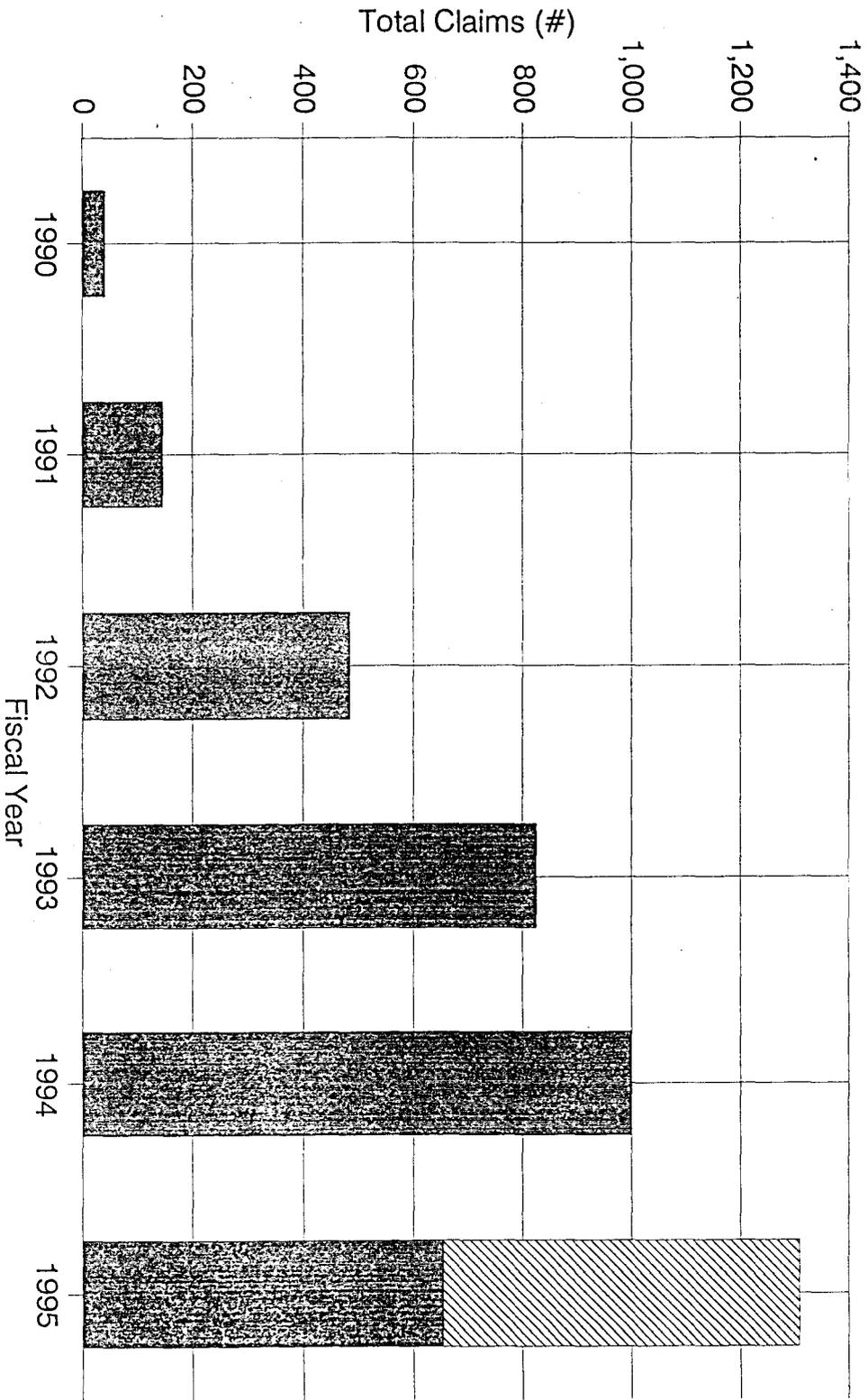


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- Projected Releases
- Actual Releases

Total Claims Received

EXHIBIT 1
DATE 1-20-95
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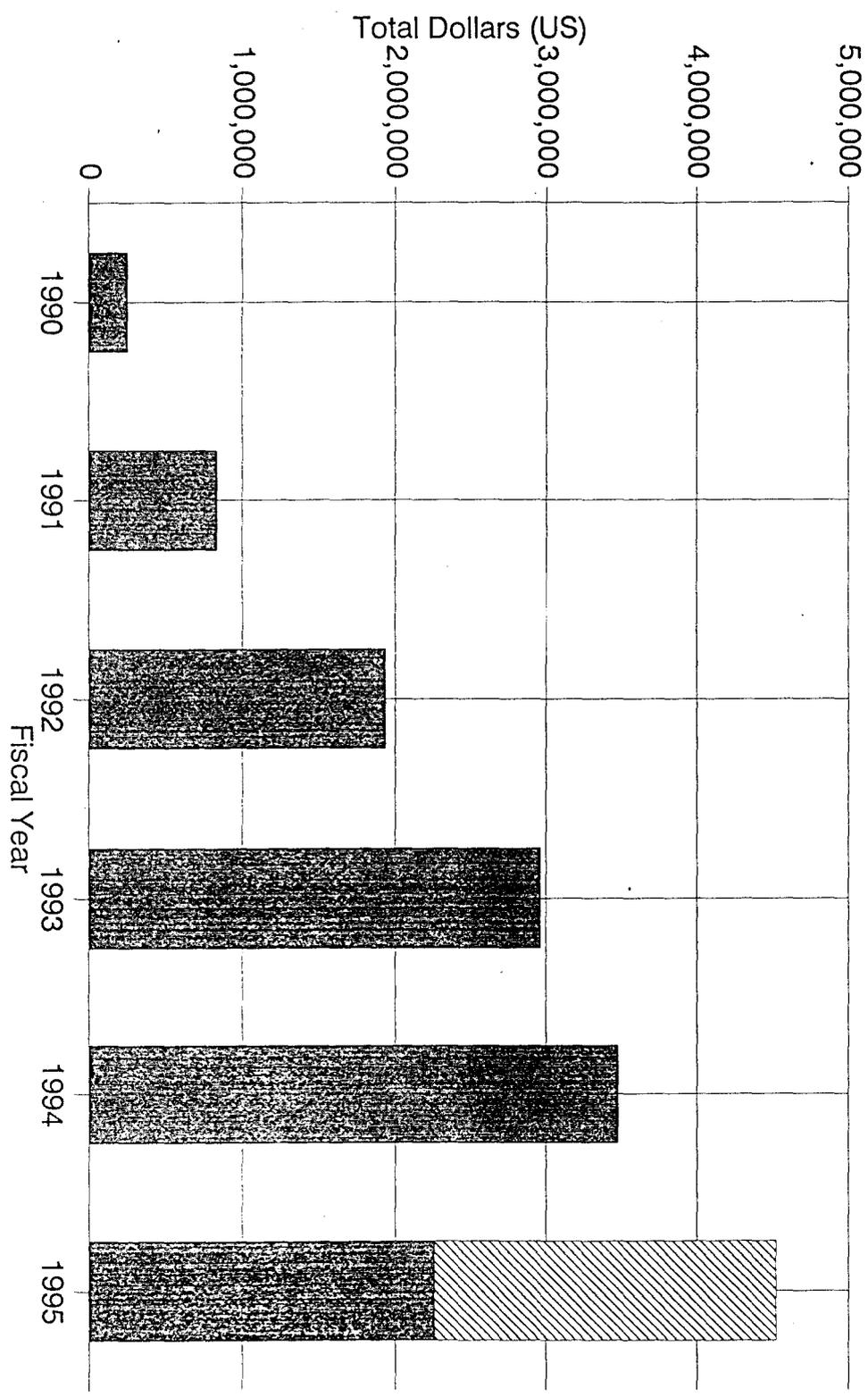


Legend

 Projected Claims

 Actual Claims

Total Dollars Reimbursed Per Fiscal Year



Legend
Projected Dollars
Actual Dollars

Dept. of Health and Environmental Sciences

Waste Management Division

Waste Management Division
Acting Division Administrator
Roger Thorvilson
444-3006
48.34 FTE

Administrative Support
444-1403

Hazardous Waste Program
Don Vidrine
444-2467
16.97 FTE

Regulatory Permitting

Solid Waste Program
Jon Dillard
444-2409
15.09 FTE

Licensing Regulatory State Plan

**Motor Vehicle Recycling
and Disposal Program**
Darrell Stankey
444-3048
3.96 FTE

Leak Prevention Program
Frank Gessaman
444-5974
12.32 FTE

Regulatory Permitting

HB

EXHIBIT
DATE 1/20/95

TITLE 75

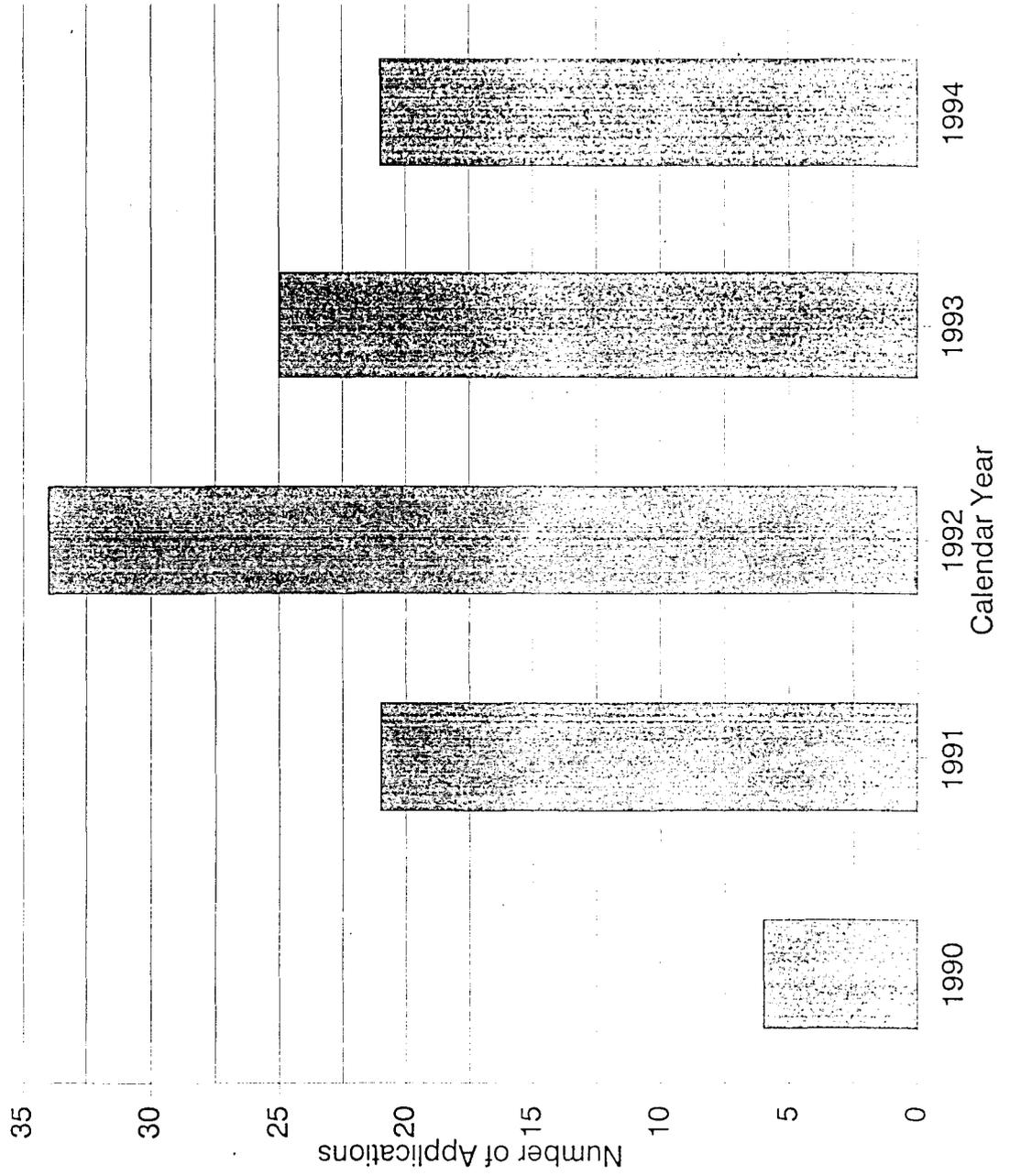
- Chapter 10, Part 4 (HW; UST)
- Chapter 11, Parts 2 & 3 (UST)
- Chapter 10, Parts 1 & 2 (SW)
- Chapter 10, Parts 8, 9 & 10 (SW)
- Chapter 10, Part 5 (JV)

FEDERAL RESOURCE CONSERVATION & RECOVERY ACT (RCRA)

- ▶ Subtitle C (HW)
- ▶ Subtitle D (SW)
- ▶ Subtitle I (UST)

Dept. of Health and Environmental Sciences
Waste Management Division
Solid Waste Management Program

SW System Applications



Dept. of Health and Environmental Sciences

Waste Management Division

Solid Waste Program

Total Complaints by Year

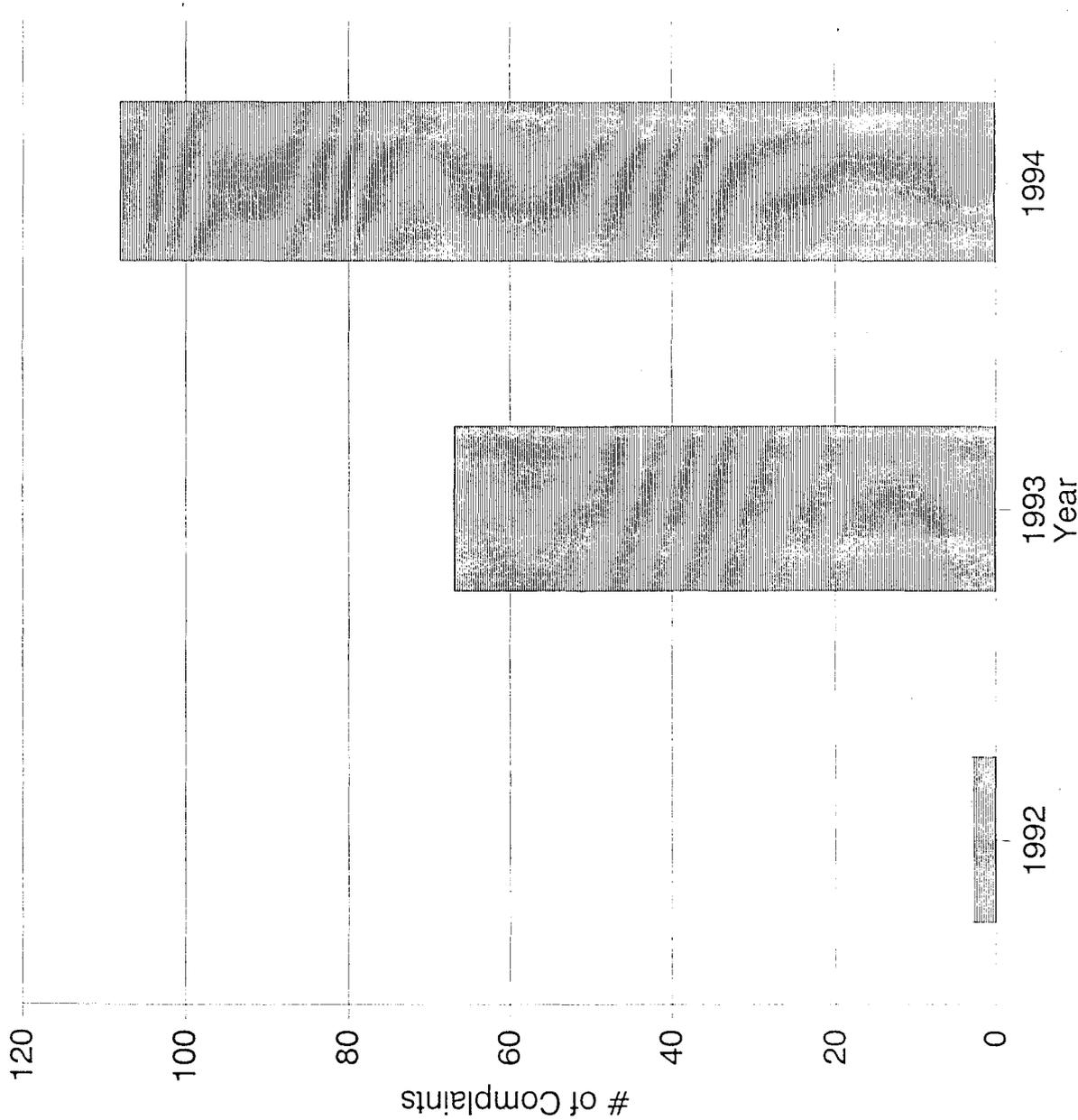


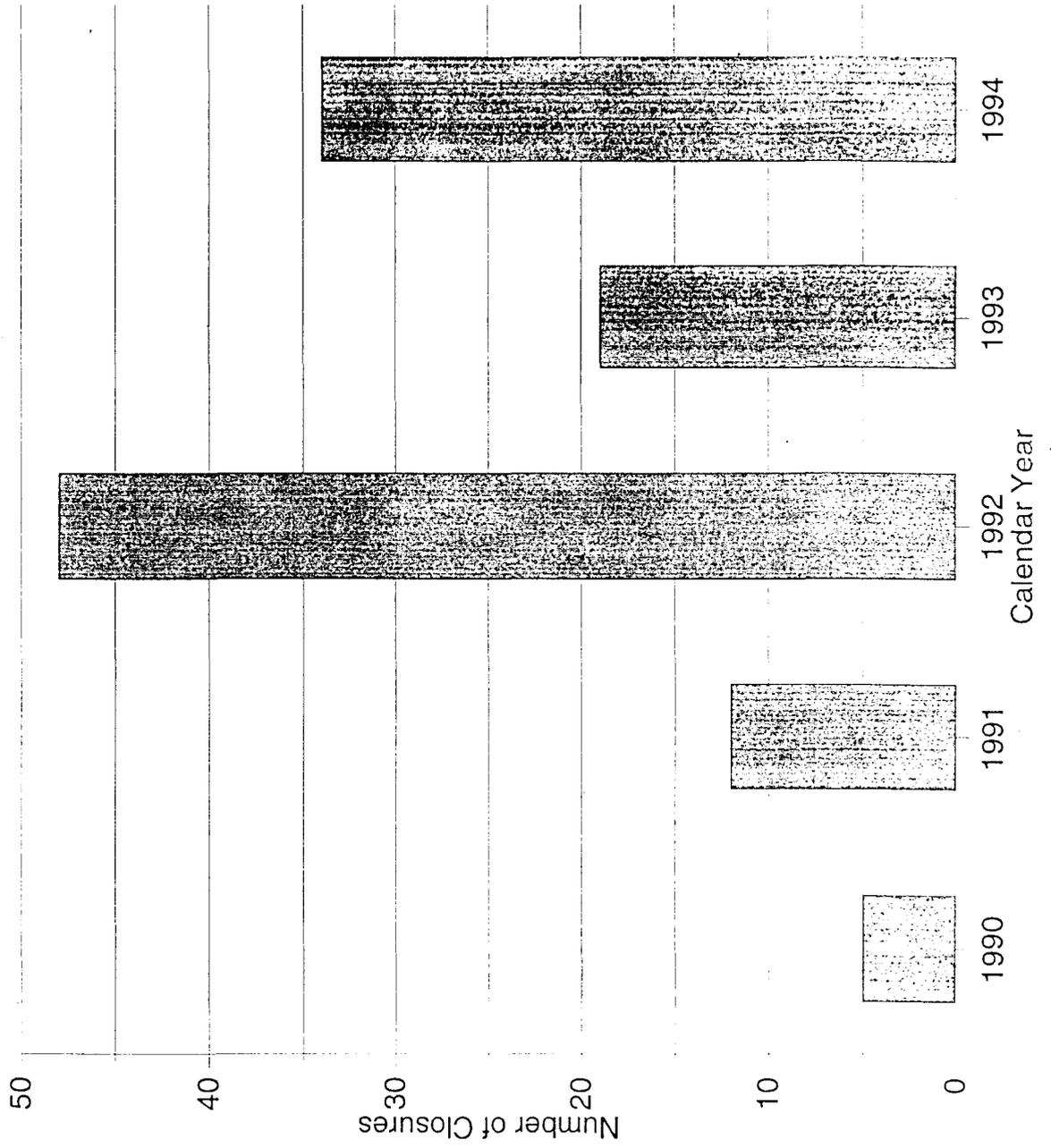
EXHIBIT 2
DATE 1-20-95
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Dept. of Health and Environmental Sciences

Waste Management Division

Solid Waste Management Program

SW Facility Closures



Dept. of Health and Environmental Sciences

Waste Management Division

Solid Waste Management Program

Municipal Solid Waste Disposal Sites

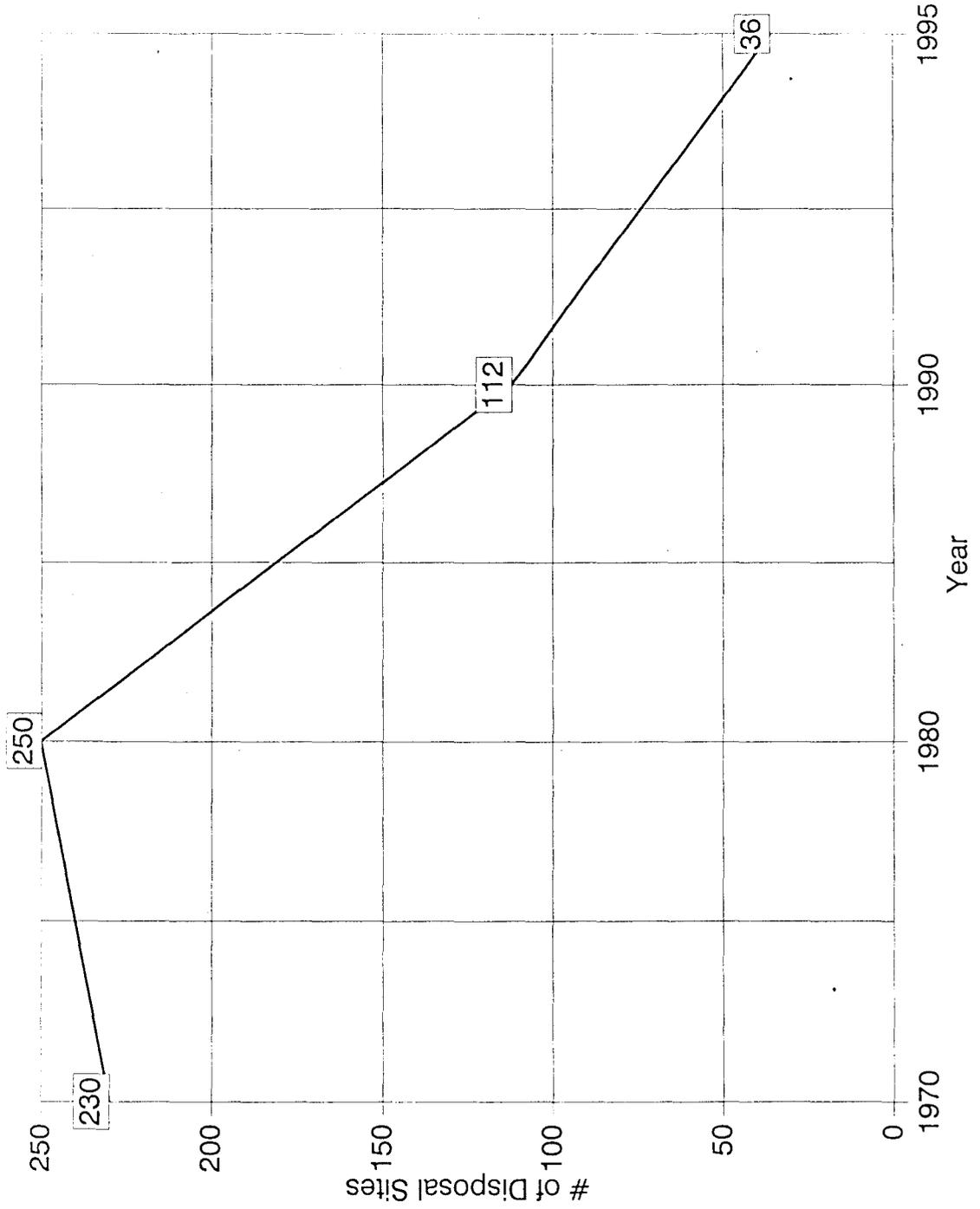


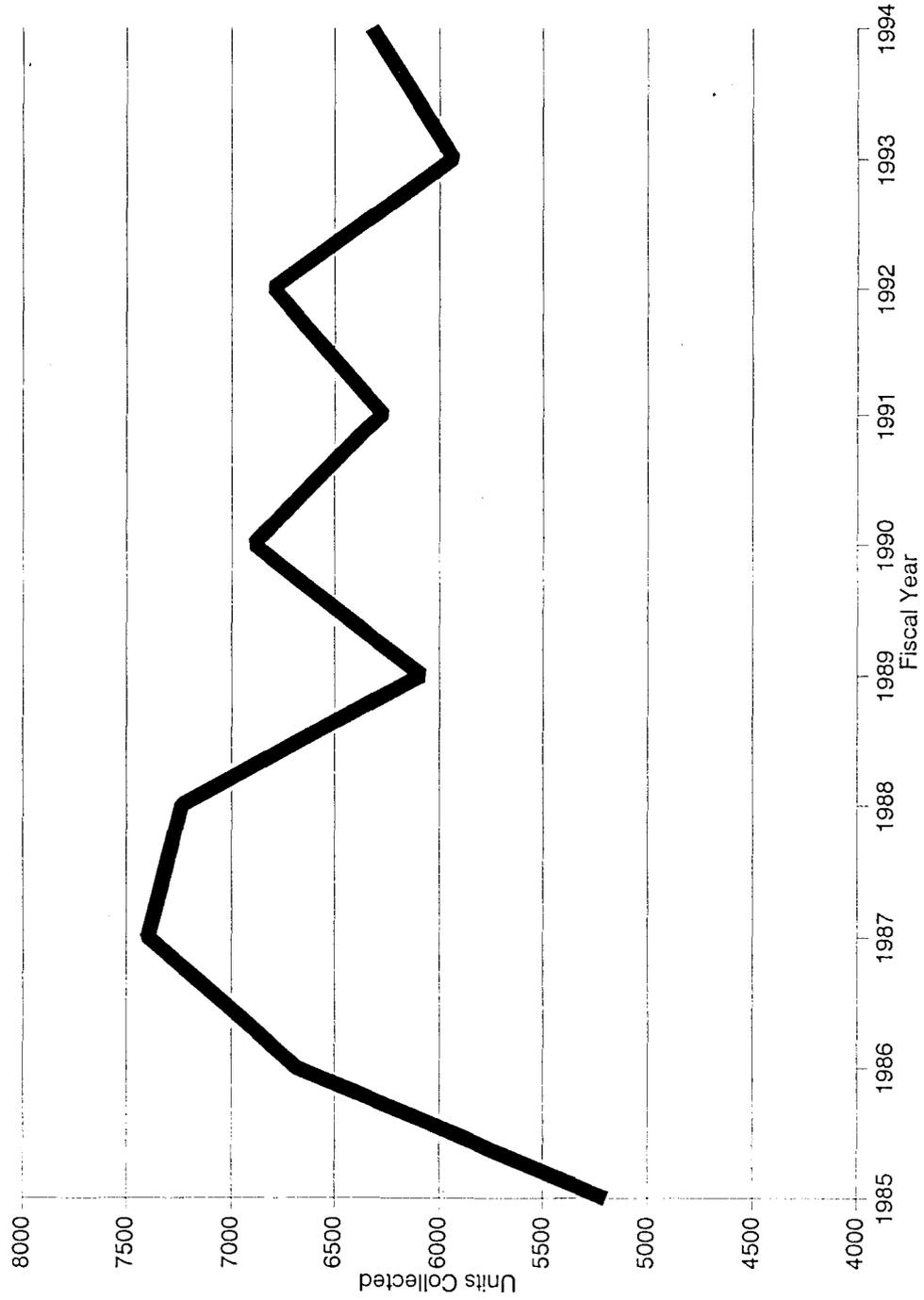
EXHIBIT 2
DATE 1-20-95

Dept. of Health and Environmental Sciences

Waste Management Division

Motor Vehicle Recycling & Disposal Program

Junk Vehicles Collected



*Dept. of Health and Environmental Sciences
Waste Management Division
Motor Vehicle Recycling & Disposal Program*

Junk Vehicles Crushed

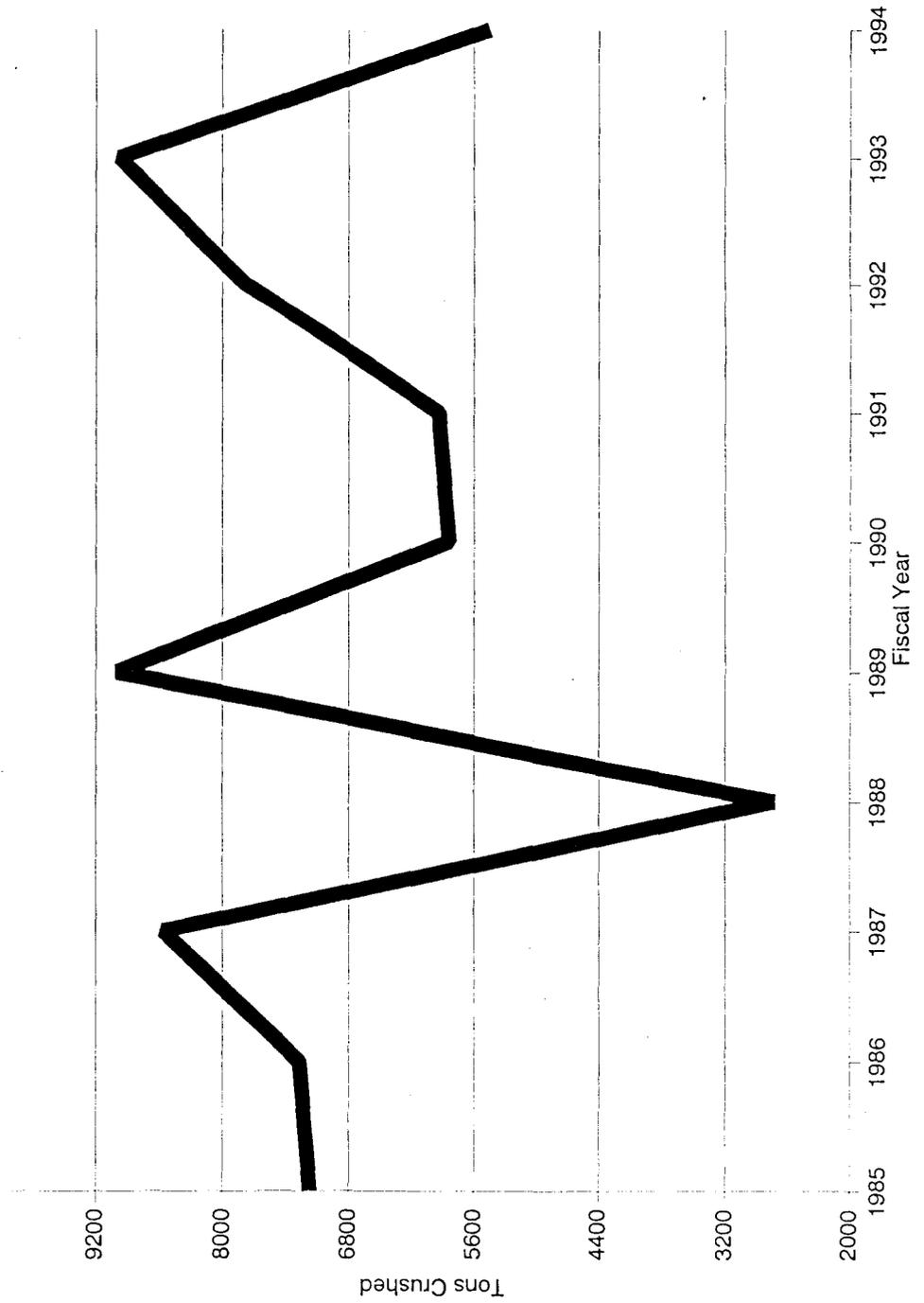


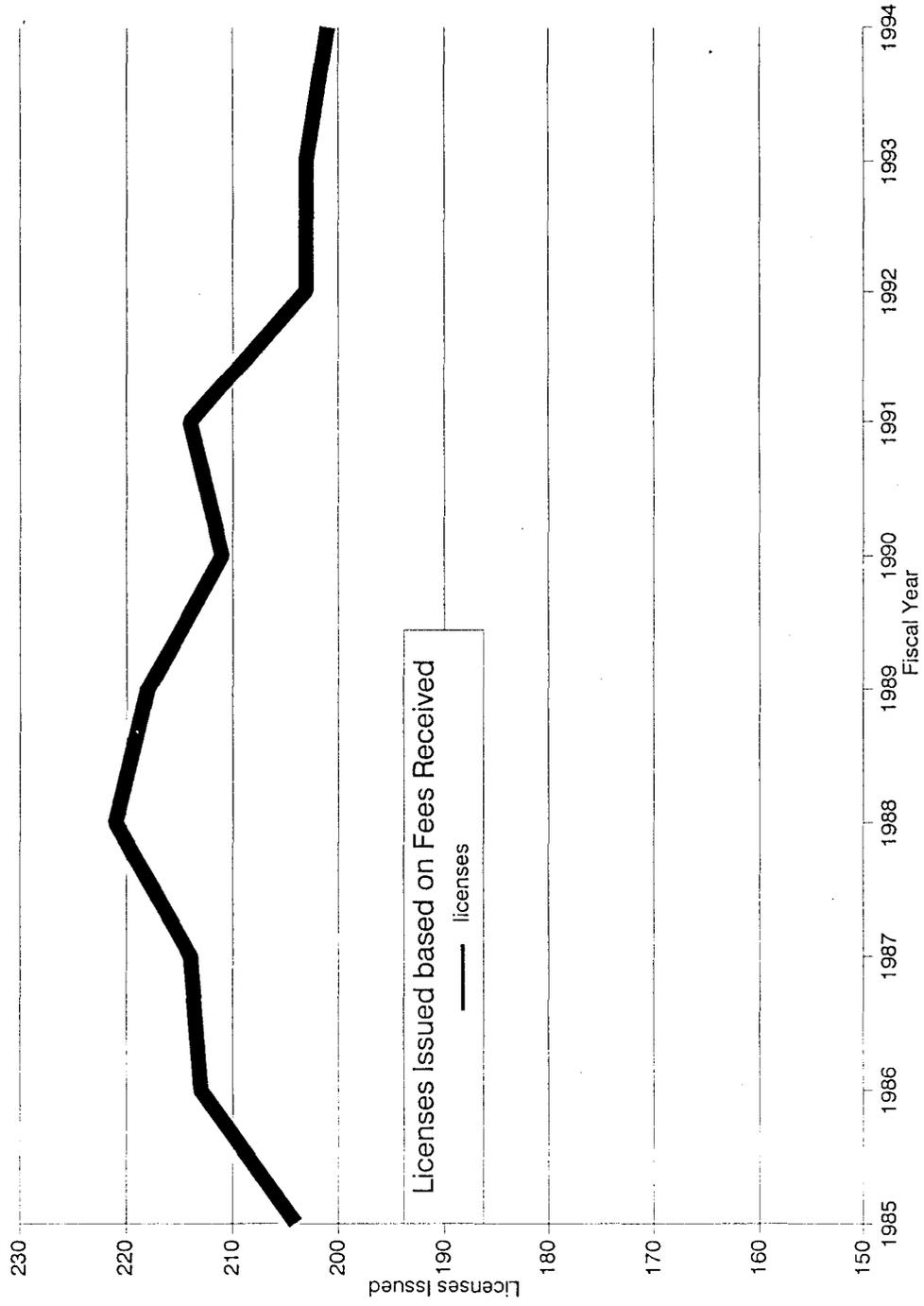
EXHIBIT 2
DATE 1-20-95
BY

Dept. of Health and Environmental Sciences

Waste Management Division

Motor Vehicle Recycling & Disposal Program

Wrecking Facilities Licensed



Dept. of Health and Environmental Sciences
Waste Management Division
Motor Vehicle Recycling & Disposal Program

Revenue Sources

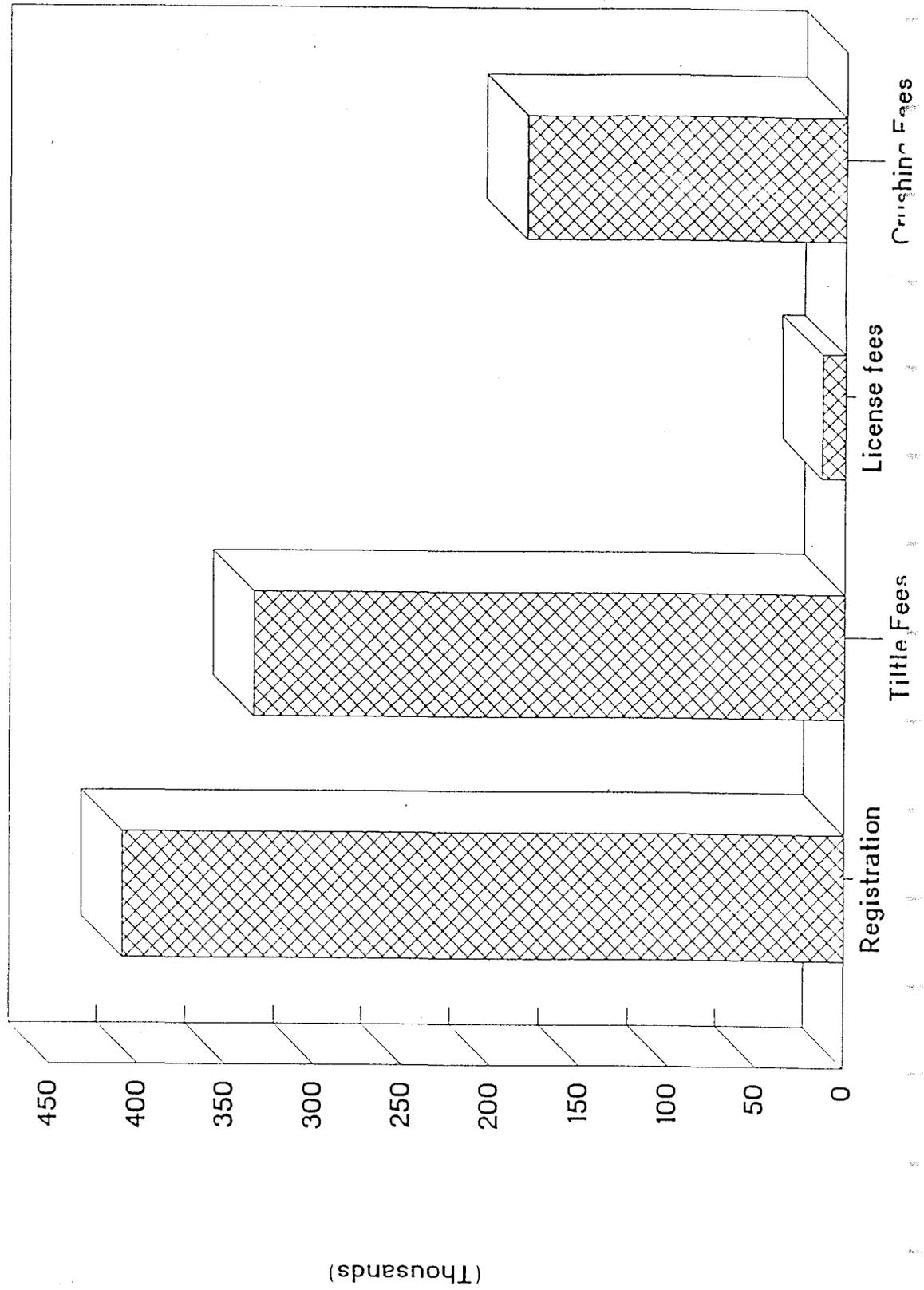


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DATE 1-20-95

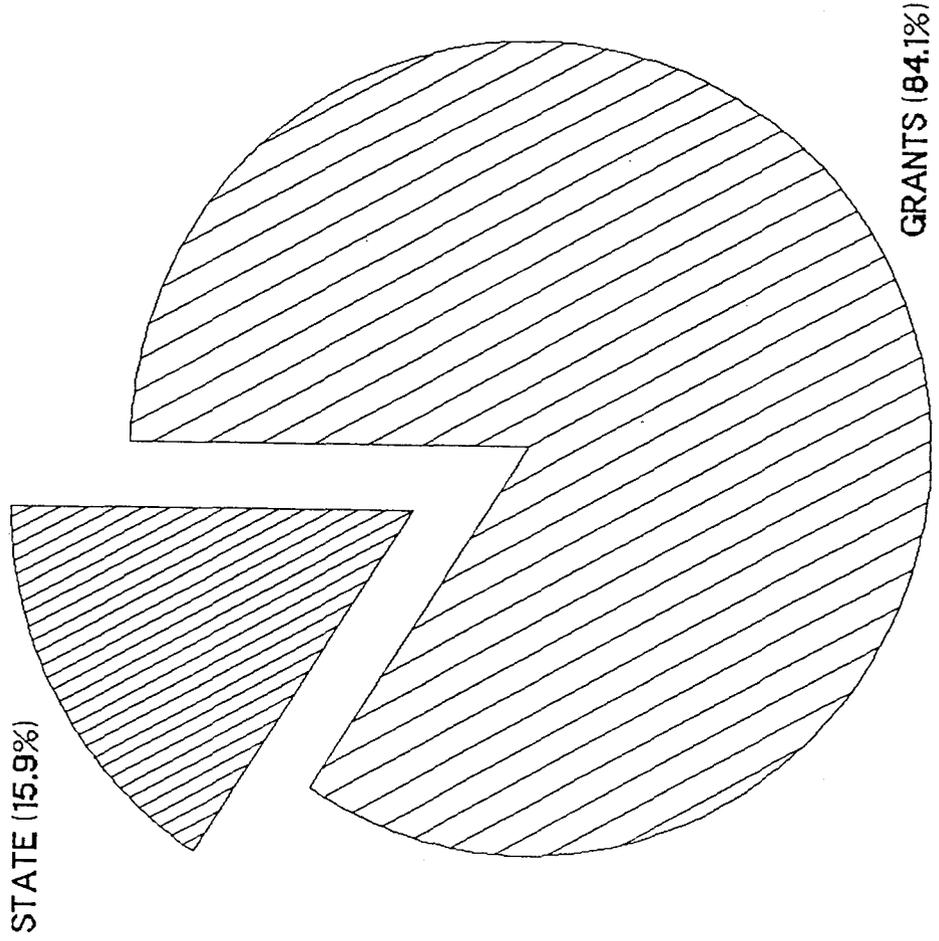
7

Dept. of Health and Environmental Sciences

Waste Management Division

Motor Vehicle Recycling & Disposal Program

Total Program Expenses



Permitted Facility Status

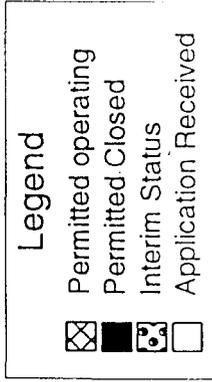
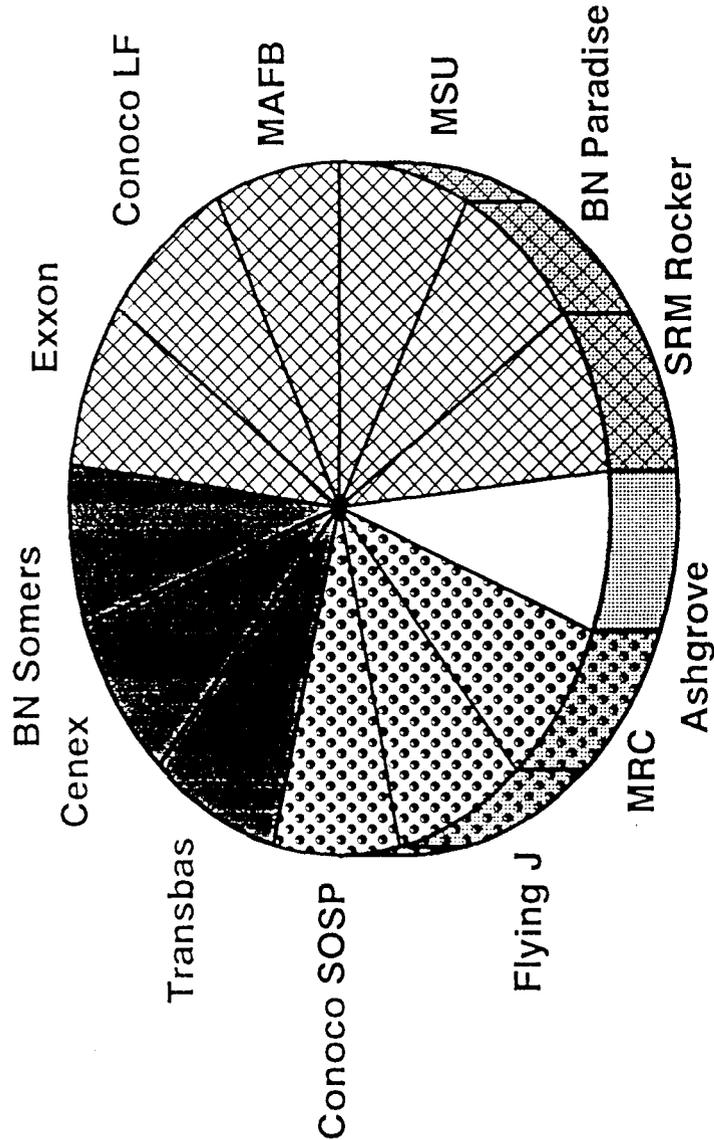
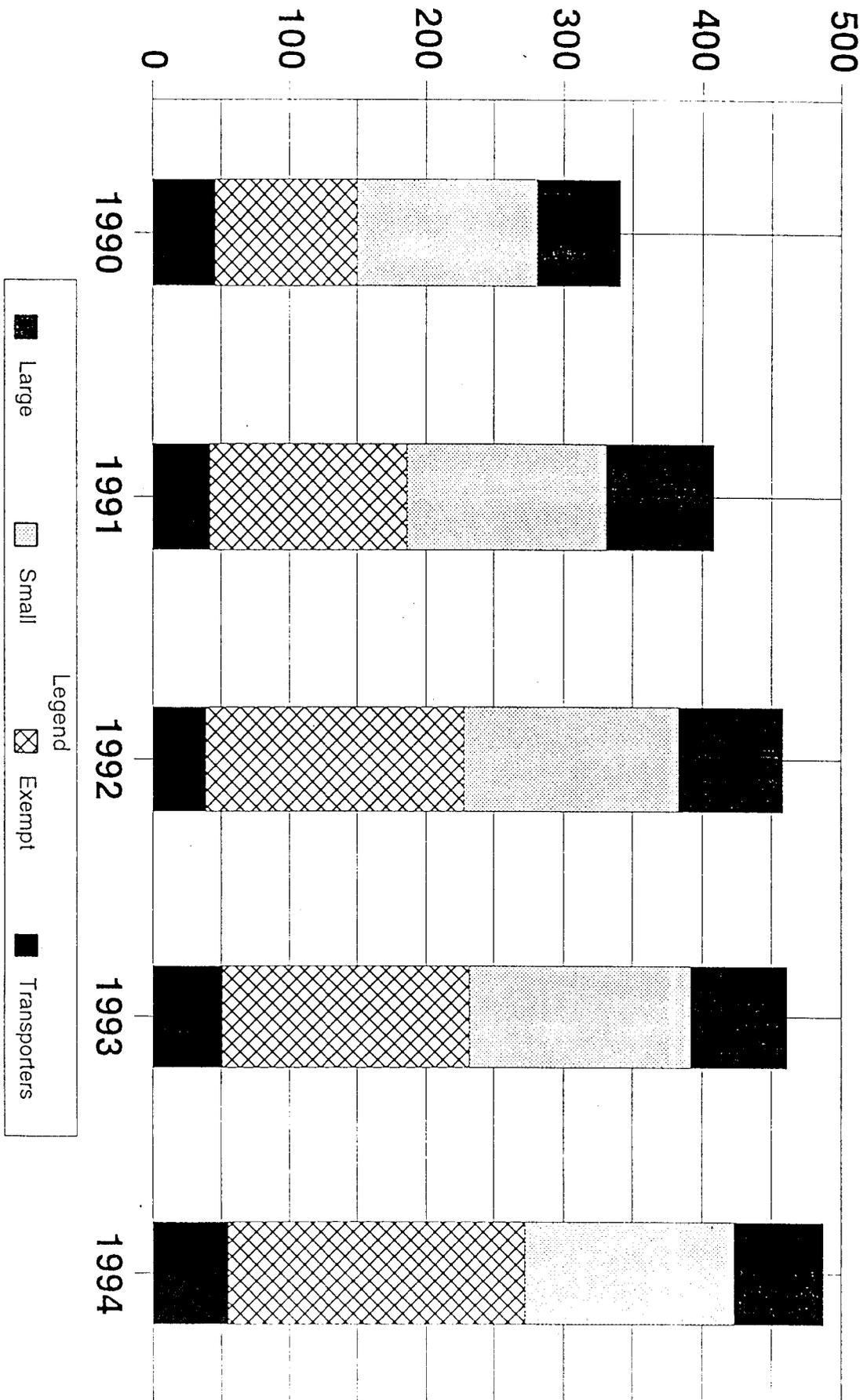


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*Dept. of Health and Environmental Sciences
Waste Management Division
UST Release Prevention Program*

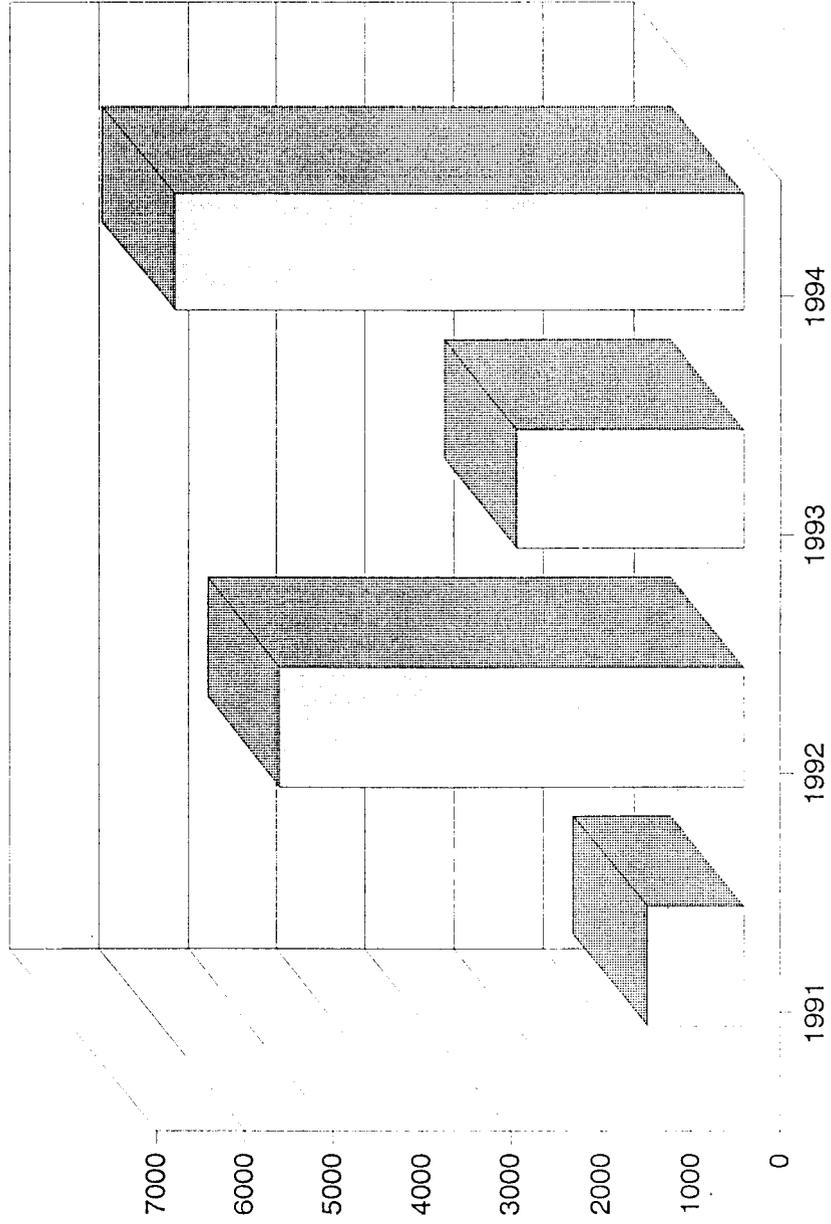
UST STATISTICS

EXHIBIT 2
DATE 1-20-95



*Dept. of Health and Environmental Sciences
Waste Management Division
UST Release Prevention Program*

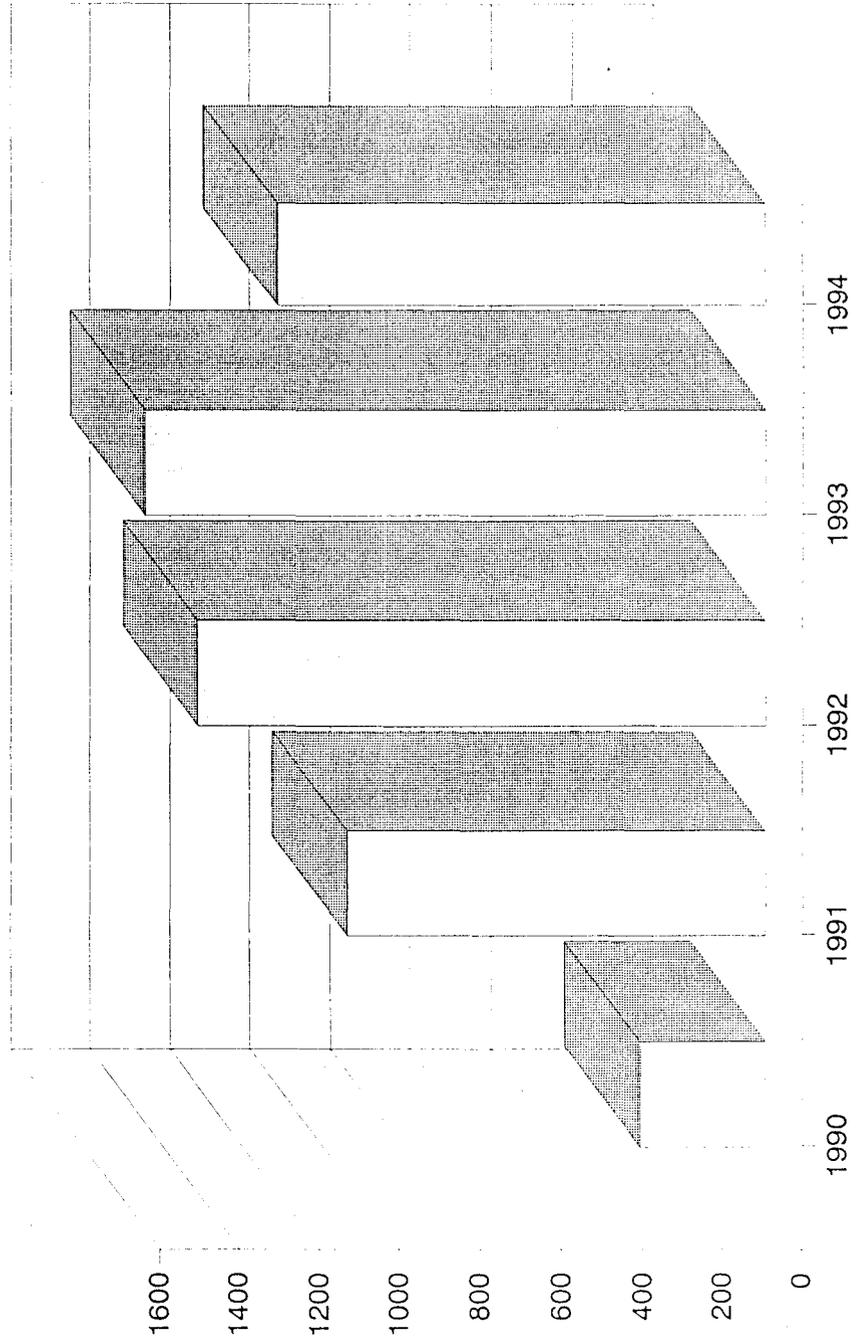
USTS REMOVED PER YEAR



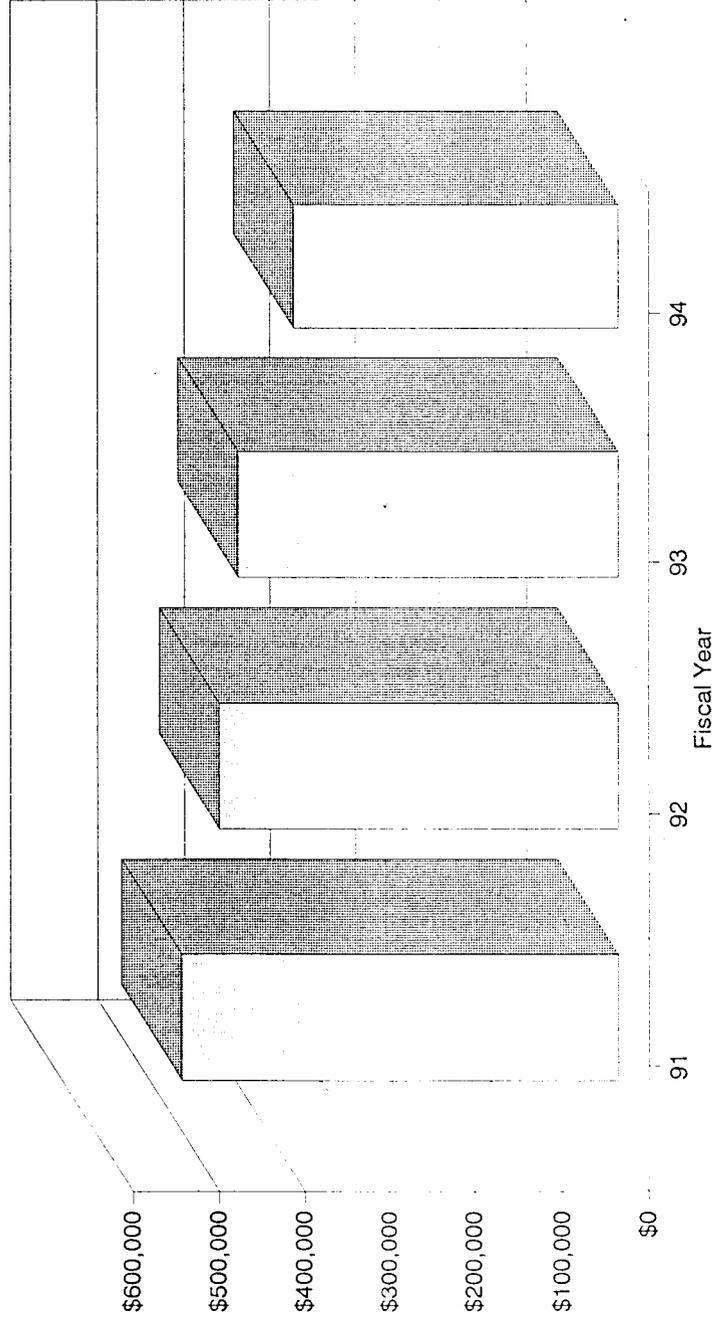
*Dept. of Health and Environmental Sciences
Waste Management Division
UST Release Prevention Program*

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DATE 1-20-95

PERMITS ISSUED PER YEAR



Revenue by Fiscal Year



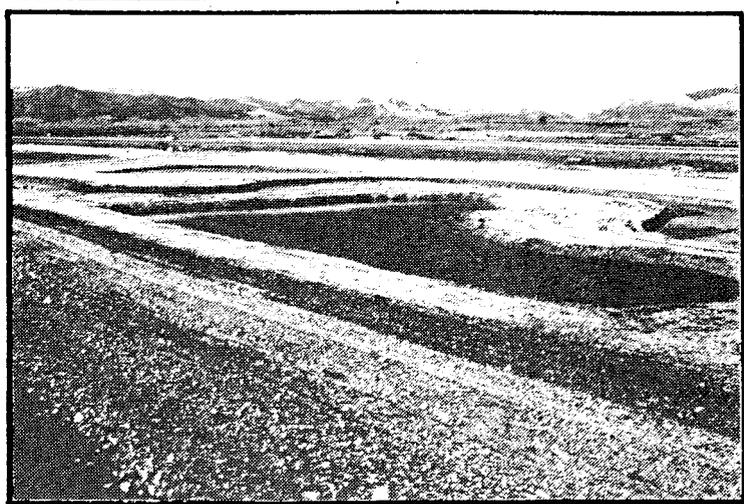
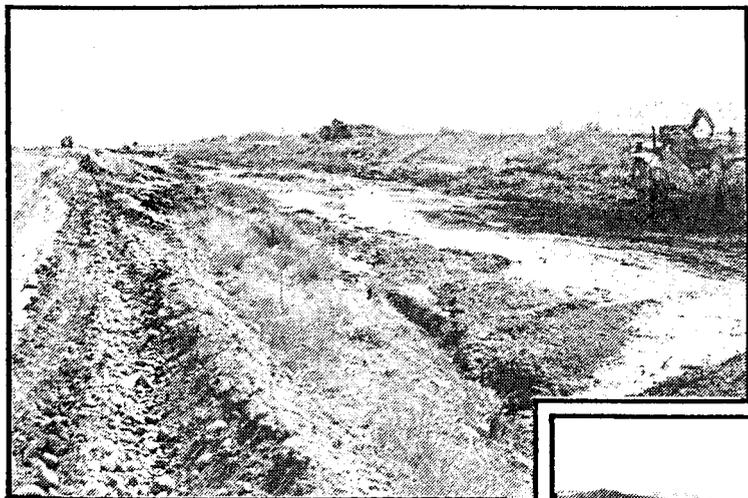


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(unbound report)

***"THE PRIMARY MISSION OF THE MONTANA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL
SCIENCES IS TO PROTECT, PROMOTE AND ENHANCE
PUBLIC HEALTH AND ENVIRONMENTAL QUALITY
FOR THE BENEFIT OF ALL MONTANA CITIZENS."***

EXHIBIT 4
DATE 1/20/95

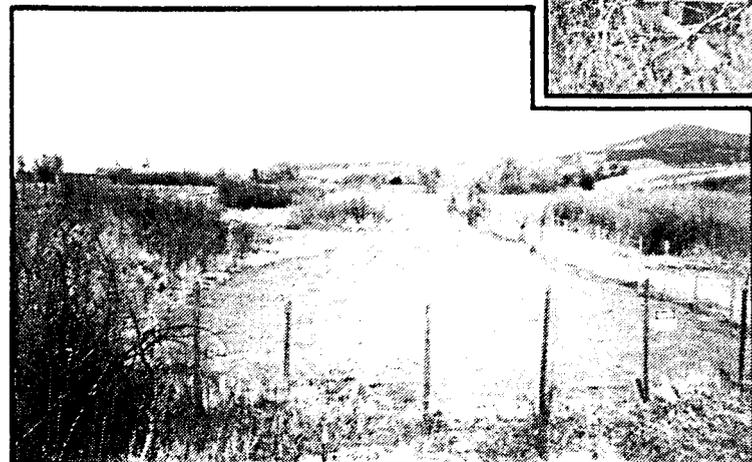


Cleaning up Montana --

Superfund Accomplishments

1983 - 1994

By the Montana Department of
Health and Environmental Sciences,
Environmental Remediation
Division





JANUARY 1995

SUPERFUND SECTION
ENVIRONMENTAL REMEDIATION DIVISION
MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
PO BOX 200901
HELENA, MONTANA 59620-0901
(406) 444-1420
(800) 246-8198

COVER PHOTOS

(Top)

Reconstruction at the Silver Bow Creek site -- protecting the Clark Fork River

Heavy metals in the Mill-Willow Bypass, adjacent to the Warm Springs Ponds, were found to be a primary cause of fish kills in the Clark Fork River. Metals concentrated on the surface of the tailings during summer dry periods were washed into the bypass, then into the Clark Fork River, during thunderstorms. Removal of the tailings and reconstruction of the bypass should help prevent further fish kills.

(Bottom)

A cleanup success story

The ARRO Oil Refinery site in Lewistown had open sludge pits until the state Superfund program used grant money to clean up the area. Sludges were the waste product of petroleum refining. After sludge removal the area was regraded and reseeded and is returning to the look of the original landscape.



PRINTED ON
RECYCLED PAPER

SUMMARY OF MONTANA SUPERFUND CLEANUPS

~ JANUARY 1995 ~

Introduction

The following is a summary of the interim and final cleanup actions that have occurred at federal Superfund or National Priority List (NPL) sites and state Superfund or non-NPL sites in Montana as of January 1995. Currently, there are eight federal Superfund sites¹ and 271 state Superfund sites. The lead agency is indicated only when the lead agency was an entity other than the Montana Department of Health and Environmental Sciences Superfund Program.

Sites designated as final cleanups are those sites where the entire site has been cleaned up, is undergoing cleanup, or the regulatory agency has selected the final cleanup remedy.

Sites designated as interim cleanups are those sites where partial cleanups have occurred or are occurring. Additional investigation and cleanup may be needed at interim cleanup sites. The date listed is the date of cleanup completion or selection of the remedy if cleanup is not yet complete. Because federal Superfund sites often cover large areas, they have been divided into numerous "operable units" which are distinct parts of the sites that can be more readily investigated and cleaned up separately. For federal Superfund sites, the list of final and interim cleanups below is identified by operable units to distinguish between the parts of the entire federal Superfund site that have final or interim cleanups.

Guide to Acronyms

- CECRA - Comprehensive Environmental Cleanup and Responsibility Act
- EPA - U.S. Environmental Protection Agency
- MDHES - Montana Department of Health and Environmental Sciences
- MDA - Montana Department of Agriculture
- WQD - Water Quality Division of MDHES
- WMD - Waste Management Division of MDHES
- DSL - Department of State Lands

Final Cleanups (completed or under construction)

Federal Superfund Sites (National Priorities List [NPL])

Anaconda: (EPA lead)

- Mill Creek - 1987
- Flue Dust - 1994
- Arbiter Beryllium - 1994
- Old Works - 1994

BN/ Somers¹: (EPA lead)

- Site-wide - 1989

East Helena Smelter: (EPA lead)

- Process Ponds operable unit (EPA lead) - 1990

Idaho Pole:

- Site-wide - 1992

Libby Groundwater: (EPA lead)

- Bioremediation of soils - 1989
- Public water supply 1986

Milltown:

- Water Supply operable unit - 1984
- Pipe Replacement - 1985

Montana Pole:

- Site-wide - 1993

Silver Bow Creek: (EPA lead)

- Warm Springs Ponds Active Area - 1993
- Warm Springs Ponds Inactive Area - 1994
- Mine Flooding - 1994

¹ Although there are now eight federal Superfund sites in Montana, the BN/Somers site was originally proposed for listing as a federal Superfund site, but was never listed because the site remedy was implemented.

Final Cleanups (completed or under construction)

State Superfund Sites
(non-NPL)

EXHIBIT 4
DATE 1-20-95

- | | |
|--|--|
| American Dental: On-going 1994 - present | Lattice Materials: 1994 |
| Belle Creek Barrel Site: 1992 (MDHES WQD lead) | Libby Barrel Site: 1992 |
| Bootlegger Trail Site: On-going 1994 -1995 | Lima UP Railroad: 1991-92 |
| Borden Inc.: 1989 | Lodge Grass Drums: 1990-91 (EPA lead) |
| BN/Paradise Tie Treatment: On-going 1985 -present (MDHES WMD lead) | MT Army National Guard Fuel Spill: 1994 |
| Camas Creek Oil Spill: under order by Confederated Salish & Kootenai Tribes, On-going 1993 - present | Montana Rail Link Asbestos: 1991 |
| Clyde Park Asbestos: 1994 | MRL 19th Street Facility ² : 1994 |
| East of Eden Barrel site: 1989 (MDHES WMD lead) | Old Libby Airport Treating Plant: 1992 |
| Glen Tungsten Mill: 1990 (DSL lead) | Old Montana Prison: 1990 |
| Great Falls City/County Barrel Site: 1994 | Railroad Tie Treating: 1994 (EPA lead) |
| Homco Facility: 1991 | Red Creek Site: 1991-92 (MDHES WQD lead) |
| Jefferson County Weed Control District: 1988 (MDA lead) | Saint Regis Battery Site: 1994 |
| Lame Deer Drums: 1990 (EPA lead) | Wilsall PCB: 1994 |
| | Wiremill Road Barrel Site: 1990 |

Interim Cleanups

Federal Superfund Sites

(National Priorities List [NPL])

- | | |
|--|---|
| Anaconda: (EPA lead)
Community Soils - 1992
Old Works - 1992 | Silver Bow Creek/Butte Area: (MDHES and EPA lead)
Priority Soils - 1987-1993
Rocker - 1989
Travona Mine Flooding - 1989
Timber Butte - 1989
Source Area - 1990
Colorado Smelter - 1992
Anselmo/Late Acquisition - 1992
Manganese Stockpile Removal - 1992
Mill-Willow Bypass - 1993
Walkerville Priority Soils Removal - 1994 |
| BN/Somers: (EPA lead)
Source removal - 1985 | |
| East Helena Smelter: (EPA lead)
Soils operable unit - 1991 | |
| Montana Pole:
First Source Removal/Control - 1985
Second Source Removal/Control - 1992 | |
| Mouat: (EPA lead)
Soils operable unit - on-going 1992 - present | |

Interim Cleanups

**State Superfund Sites
(non-NPL)**

- Alice Creek Post & Pole:** 1989 (MDA lead)
- Anaconda Aluminum Company:** 1991-92 (WQD lead)
- Apex Mill - Bannack State Park:** 1989
- Arro Oil Refinery:**
Sludge removal - 1993
Lead soils removal - 1991
- Bitterroot Valley Sanitary Landfill:** 1993-94
- Blackfeet Pencil Factory:** 1990 (EPA lead)
- Blackfeet Post & Pole²:** 1991 (EPA lead)
- Bohrman's Exxon:** 1993
- Bozeman Solvent Site:** On-going 1992 - present
- BN Derailment-Whitefish:** On-going 1989 - present (MDHES WQD lead)
- Burlington Northern Fueling Facilities:** On-going: 1973 - present (7 sites: Glendive, Great Falls, Helena, Laurel, Missoula, Havre, Whitefish)
- Burlington Northern/Livingston Shop Complex:**
17 underground storage tanks removed - 1988-89
Replacement of two city wells - 1988
Wastewater treatment plant drainline sleeving - 1988
Wastewater treatment plant retro-fit - 1990
Track pan installation - 1990
Manways replacement - 1990
River gravels removal - 1990
Cinder pile asbestos removal - 1991
Sludge removal - 1991-92
Soil vapor extraction - On-going 1992 - present
- BN/Mission Wye:** Begin in Spring 1995
- CMC Asbestos Bozeman:** 1993
- CMC Asbestos Gallatin Gateway:** 1993
- Comet Oil:** 1994
- Conoco Billings Refinery:** On-going 1990 - present (MDHES WMD and EPA lead)
- Dow Schlumberger:** On-going 1991 - present
- Exxon Refinery:** On-going: 1990 - present (MDHES WMD lead)
- Evans Post & Pole²:** 1990-91 (EPA lead)
- Falls Chemical:** 1993-94 (MDHES WMD lead)
- Farmers Union (Cenex):** On-going: 1993 - present (MDHES WMD lead)
- Flathead Post & Pole²:** 1993 (EPA lead)
- Frohner Meadow:** 1992 (DSL lead)
- Glasgow Air Force Base:** 1993 (MDHES WMD lead)
- Great Falls International Airport:** 1994
- Great Falls Refinery - Phillips Petroleum:** On-going 1990 - present (MDHES WMD lead)
- Jardine Arsenic Tailings:** 1980
- Jet Fuel Refinery:** On-going 1994 - present
- Lewis Construction:** 1990-93 (MDHES WMD lead)
- Malmstrom AFB:** On-going 1993 - present (MDHES WMD lead)
- Missoula Sawmill:** 1986-88 (MDHES WQD Lead)
- McLaren Mill Tailings:** 1991 (EPA lead)
- Moe Chevrolet:** 1990
- Motherlode Gold & Silver:** 1984 (EPA lead)
- Petroleum Refining Company:** 1993
- Pierce Packing Plant:** 1993
- Precious Metals Plating Facility:** 1991-92
- Real Log Homes Manufacturing Site:** 1994
- Richey Airport:** 1991
- Rocky Boy Post & Pole²:** 1990 (EPA lead)
- Rocky Mountain Phosphate:** 1983 (EPA lead)

SUPERFUND CLEANUPS

Transbas: On-going 1984 - present (MDHES WMD lead)

Western By-Products: 1989 (MDHES WMD lead)

Texaco Sunburst Works: 1993

West Front Battery Site: On-going 1994 - present

Twin Creek Logging Camp: On-going 1992 - present (MDHES WQD lead)

Yale Oil Refinery-Kalispell: 1993

Union Oil - Cut Bank Refinery: On-going 1986 - present (MDHES WMD lead)

² An evaluation is needed to determine whether additional cleanup is necessary.

Upper Blackfoot Mining Complex: On-going 1993 - present

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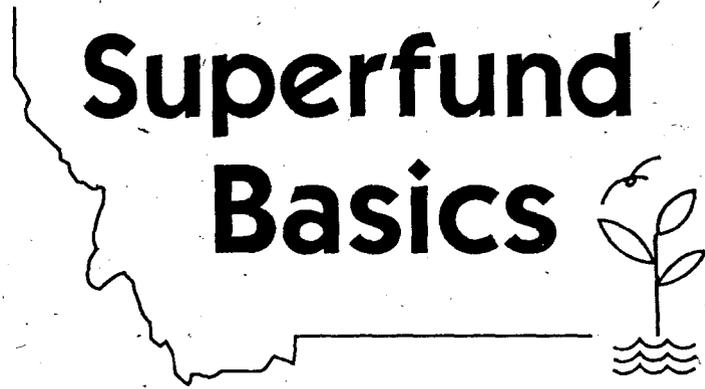
Totals

Total completed or ongoing final cleanups = 27

Total completed or ongoing interim cleanups = 66

TOTAL INTERIM AND FINAL CLEANUPS = 93

MONTANA DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES



**Overview & Accomplishments
of Superfund in Montana 1983-1993**

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

(report)

Solid & Hazardous Waste Bureau

Superfund Section

HELENA, MONTANA

NOVEMBER 1993

**SUPERFUND SECTION
SOLID AND HAZARDOUS WASTE BUREAU
MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
COGSWELL BUILDING, P.O. Box 200901
HELENA, MONTANA 59620-0901
(406) 449-4067 / (406) 443-5827
(800) 648-8465 (IN-STATE USE ONLY)**

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THE SUPERFUND PROCESS

SECTION 2 **PAGE 7**
OVERVIEW OF SITES:
FEDERAL SITES SUMMARY
STATE SITES SUMMARY

OFFICE OF THE GOVERNOR
STATE OF MONTANA

EXHIBIT 5
DATE 1-20-95



MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

November 1993

An open letter to the citizens of Montana:

The first 100 years of Montana's statehood left a colorful legacy we won't soon forget. Unfortunately the unregulated disposal of wastes from mines, smelters, refineries, railroads, wood treating plants and other operations resulted in Superfund problems we will be dealing with for years to come. The effects aren't just on the environment; they are also on the health of our people. Contamination of drinking water, air and soil has resulted in high urinary arsenic and elevated blood lead levels in children, and increased cancer rates in some Montana communities. Montanans are becoming increasingly concerned about environmentally-related health problems. These concerns center around public health, environmental effects, economic effects on our communities and methods to clean up contamination.

During the 1980s federal and state laws were implemented to address problems created by the haphazard disposal of hazardous substances in the environment. There are currently eight federal sites in Montana and more than 250 sites that will be addressed by the state's Comprehensive Environmental Responsibility and Cleanup Act. In the past 10 years the Montana Department of Health and Environmental Sciences has made definite progress in addressing the many contamination problems in our state. A lot of work remains to be done.

As Governor of Montana, I am dedicated to the health and welfare of our citizens and our state. Laws against degrading the environment must be enforced to the same degree as all other laws. I hope that all Montanans will share my concern and desire to remedy these problems and move forward into a cleaner, healthier 21st century. This booklet summarizes the Superfund program in Montana and gives an overview of how we are addressing the cleanup of hazardous substances in our state. With a better understanding of the problems, we can work together toward a better state for ourselves and future generations.

Sincerely,

A handwritten signature in cursive script that reads "Marc Racicot".

MARC RACICOT
Governor

HOUSE OF REPRESENTATIVES

Appropriation Sub-Committee Natural Resources
SUB-COMMITTEE

WITNESS STATEMENT

PLEASE PRINT

NAME Ron Egeland BUDGET MDHES WQD

ADDRESS 2727 Central Ave DATE 1/20/95
P.O. Box 9007 Helena

WHOM DO YOU REPRESENT? Welland Inc & H/Km & Assoc

SUPPORT _____ OPPOSE AMEND _____

COMMENTS: Opinion to expand Welland
Functions in Dept of Health
Water & Air

Army Corp. of Engineers could
EPH have responsibility
by Federal law - no
need for STATE or Montana
to also regulate & get Welland
reports while Federal agencies
are required to have

ME
Ron Egeland

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

NAT. Resources

Sub COMMITTEE

BILL NO. _____

DATE 1/20/95

SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Jean Riley - PO. Box 200902 Helena 59620	Petroleum Tank Release Compensation Board			
Connie Cole	Pegasus Gold Corp			
Roger Thorvilson	Dept. of Health + Env. Sciences			
Pat Corry	CITIZEN (work for DHEC but am here on my own time)			
CUTR CHISHOLM	DHEC			
Neil Marsh	DHEC			
		1		

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.