

MINUTES OF THE MEETING OF THE APPROPRIATIONS SUBCOMMITTEE ON
ELECTED OFFICIALS AND HIGHWAYS
January 28, 1983 (Tape 40, Tape 41, Side A)

The Appropriations Subcommittee on Elected Officials and Highways met at 8 a.m. on January 28, 1983 in the Law Library Conference Room with Chairman Quilici presiding. The following members were present:

Chairman Quilici	Senator Dover
Rep. Connelly	Senator Keating
Rep. Lory	Senator Van Valkenburg
	Senator Stimatz

Also present: Leo O'Brien, LFA; Doug Booker, OBPP.
Representing the Water Courts: Lee Ann Scraudner and Judge Lessley.

Water Courts (Exhibit 1)

Judge Lessley told the committee they have prepared for review the budgets plus the respective projections of the Governor and the LFA. He pointed out that this FY84 and FY85 are going to be very important in the courts. They are under a mandate from the Legislature under SB 76 to adjudicate the water for the State of Montana, and this is the water that belongs to all the people of the State of Montana. When this is finished he hopes they do not have to spend any more on this matter.

He explained that the judges who are working on this are working on the basis of a salary projected. They are all retired judges and their salary is only the difference between their regular salary and whatever they are called in for. They are just interested in getting the task finished.

Judge Lessley stated they are going to finish the clarification of all the 200,000 water claims by March of 1983. He feels this is a fair and decent estimate. The entry of all the classified clarified claims in the main computer will be finished by July of 1983. By "clarified" he means the field offices have been doing this, going over claims, correcting them as to land descriptions, amounts, locations, etc. so they can go into the computer. Once they are in the computer, then they are verified. After printout they are ready for the water masters to prepare and check finally and to get the filings put back together with the actual claims themselves. He stated that 75% of the water in Montana is not of record at all. In other words, it is use records that come from old mining claims, and even some of these that are of record have been misused. They are finding out what is on record within a reasonable

Appropriations Subcommittee on Elected Officials and Highways
Minutes

January 28, 1983

Page two

time. If all goes right they feel they can have the notices and the preliminary decrees out in 10 of the areas by FY84. They have adjudicated two basins in the Powder River, and these were completed in approximately eight months.

He stated that members of the bench feel this might take forever, but he feels this may not be so. They have objections that they can combine, they have procedures that they can use on stipulations, and they feel they can get the job completed.

Judge Lessley stated that they have not spent any more than was necessary in the year 1983. They are projecting busy days in 1984. They are going to go all out in 1985 with four water masters and four judges across the state, and he feels they can move rapidly along. He feels this is the most important thing that can be done, because one cannot determine how one is to sell water, trade it, or use it if it cannot be determined where it is first.

Vernon Westlake, representing three agriculture preservation groups, Sweetgrass, Park and Gallatin Counties, spoke to the committee. He stated that these three groups support the recommendation that the water courts be funded for the '84 and '85 biennium by an appropriation from the state general fund. He is opposed to the water courts being funded by additional fees being paid by those claimants who have filed existing water claims. They feel this was established under SB 76, and there is a definite responsibility by the state that the water belongs to the state and consequently to the people; and this is a people's process to adjudicate the water for the benefit of all the people existing and for future use in the state.

They feel the constitutional requirement that all existing water rights be recorded in a centralized record system is definitely a people's responsibility, and consequently it should be funded by the State of Montana.

Their group is in definite support of a general fund appropriation, and they feel that this is definitely the most economical way to complete and accomplish the water adjudication process in the State of Montana.

Ken Kelly, lobbyist for the Montana Water Development Association, stated their association is a cross-section of the entire section of the State of Montana, having irrigators,

Appropriations Subcommittee on Elected Officials and Highways
Minutes
January 28, 1983
Page three

farmers, business and industry represented in their membership. They support and endorse Judge Lessley's and Mr. Westlake's testimony in that this water is owned by the people of Montana, and it is in the general interest of all of the people to have this water adjudicated.

They are also opposed to any additional levies of fees upon the water rights applicants and users who have filed applications with the Court for adjudication.

Mr. John Morrison, engineer, has been involved in many instances where the adjudication of water rights has been an important issue, and stated it has been quite a problem to sort out the good from the bad. Even in places where water has been adjudicated the records were not kept in any way that was easy to find the information that was necessary. He is wholeheartedly behind this program on behalf of the engineers of the State of Montana.

Senator Tom Hager, District 30, stated that for the past four years he has served on the Water Oversight Committee, being Chairman for the past two years. They are wholeheartedly in support of the Water Courts, and he has a great deal of respect for the people working for this. He feels it is very important that this project be continued.

Mr. Jim Mallard, representing the Railroad Brotherhoods in the State of Montana, feels we have not made an inventory of water and this is a legal way of finding this out. He would ask the committee to give them the money they need to make sure we can keep our water.

Rep. Ted Neuman, District 33, urged continued funding of the Water Courts. He feels it is absolutely essential if we are going to move ahead in the area of water development that we have a baseline to work from.

Ms. Jo Brunner, representing the WIFE organizations stated they wanted to go on record as being in support of the Water Courts also.

Mr. Bill Asher, representing the Agriculture Preservation Association, Park County and Sweetgrass Preservation Associations, wish to emphasize to the committee that the State of Montana is playing "catchup ball." We are behind our sister states, and it is imperative that we complete this adjudication process

Appropriations Subcommittee on Elected Officials and Highways
Minutes
January 28, 1982
Page four

as soon as possible. He assured the committee that after working with Judge Lessley over the years, he could assure them that the job will be done as quickly and efficiently as possible under his guidance. He feels if the process is stalled or delayed that overall the process will be more costly in the long run.

Mr. Steve Meyer, representing the Montana Association of Conservation Districts, concurred with the previous statement that the adjudication is necessary but that the fees should not come from users who have already paid.

Senator Van Valkenburg asked if the Court has taken a position as to the funding source and Judge Lessley replied they had not. They have a mandate from the Legislature and all he knows is that they are to adjudicate this water in the shortest possible way.

Senator Van Valkenburg stated it would be helpful to the committee to know what the feelings of the people were concerning the funding for this. If it were necessary would they support a tax increase to provide the funding?

Senator Hager said he thought it would be much more preferable to have a general tax increase rather than to go back to the users. He pointed out that a good deal of the claims were filed by the government agencies, forest service, BLM, the state lands, etc., who have a lot of land and a lot of water rights.

Senator Van Valkenburg stated he was not against the water courts or general fund support, but the big problem is where does the committee get the general fund to put it in?

Ms. Jo Brunner stated at many meetings she attended concerning this fee, that they were told over and over again that they would not be charged more than the \$40 fee they paid originally. She remembered hearing also over and over that the adjudication process fees would take care of it for a certain number of years, and then it would come out of the general fund. She doesn't particularly like the idea of raising taxes, but it would be a way of getting everyone involved.

Judge Lessley, stated for clarification, that 85-2-242 indicated that the Legislature, at the time they mandated this task to the Water Courts, realized at the time that if sufficient

Appropriations Subcommittee on Elected Officials and Highways
Minutes
January 28, 1983
Page five

revenue is not available from the earmarked revenue fund, they shall be paid for from the state's general fund. He added they didn't realize the shortfall, but he didn't feel anyone should be faulted too much for this. (Exhibit 4)

Chairman Quilici stated it was his understanding that the water users who filed were asked to file as many permits as they could with the understanding that the fee would be \$40 per permit up to 12 permits and it wouldn't be over \$480 total. Therefore, they filed for all the permits they could. Chairman Quilici said he knew there was a proposed bill which was going around the Legislature which would increase the fee \$10 per permit.

Senator Keating asked how many of the claims were state claims and if there were any federal claims as well. Ms. Schraudner replied there were about 35,000 federal claims and more than 10,000 for the state.

Ms. Leanne Schraudner explained her handout. (Exhibit 2) The LFA has them at current level with 5 FTE, and they have requested 11.5 FTE for FY84 and 15 FTE for FY85. The second difference is that the Governor has recommended funding with something other than general fund. The FTE that they have requested for FY84 increases from what is currently their level of five people to 11.5. She feels even the 11.5 is somewhat deceptive because the three full-time employees who are water judges they have always had; they just have never been paid before. Some of the judges are retired; their salaries are based on what the half-time and their retirement pay is. The judges have agreed they will only get paid the maximum; i.e. if they only work for three days a month, they will only be paid for three days per month. The secretarial help will be prorated, and their office rent will be prorated.

The only addition in water masters is with the additional workload with the increase in preliminary basins that they were working on. They expect to issue decrees and work out the format for ten basins in the state in FY84, and issue a portion of them in FY84 and bring on one additional water master. This would make three and they have two now.

Judge Lessley added that the original SB 76 provided that they have four water masters, one in each division, (four retired judges or otherwise one in each division), and four court reporters in each division. He explained they are not using

Appropriations Subcommittee on Elected Officials and Highways
Minutes

January 28, 1983

Page six

court reporters; they are using a wire machine, however. The committee noted that the OBPP sheet (Exhibit 3) showed no water masters for FY84 and only a half a water master for FY85. Ms. Schraudner stated she felt this might be a clerical error. For FY84 they will have four judges but only three that are paid as Judge Holter is still working fulltime and being paid. They will have three judges and three water masters and 5.5 clerks. For FY85 they will have three judges, four water masters and eight clerical.

She went on to explain that they do have an administrative assistant and a water clerk at this time, so the only other person they would increase in FY84 from the present FTE would be a secretary-receptionist of the Water Courts who would do typing, and duties that will be necessary with additional masters and work that they do for the judges.

For FY85 the judges remain the same, and they will pick up one water master. By 1985 they expect to have nine preliminary decrees which have been issued to several basins in the state and expect that they will be starting on their first issuance of preliminary decrees. In terms of clerical help, this will mean lots of mailings and notices. It is conceivable that they will need two and a half more people to help them with this task.

Senator Van Valkenburg asked Mr. Booker about the benefits in the budget of 14.5% because most of the other budgets have benefits around 19% and wondered why the difference. Mr. Booker stated this was probably without health insurance.

Ms. Schraudner stated that most of their contracted services is spent in notifying parties who filed, notices to anyone who has a new water right since 1973, notices to any federal agencies, Indian reservations, etc. or any other party who has an interest and for publicizing in all the newspapers in the area. The only projection they had to base these costs on were in the Powder River Basin and this was about \$2,500. Some basins might be more than this and some might be less.

(Begin Side B, Tape 40)

Contracted services shows a cost of \$44,000 for the notices alone. They have provided for hearings on the first ten basins for which they issued decrees in FY84. If they have four judges, and four masters the maximum days that they could be

Appropriations Subcommittee on Elected Officials and Highways
Minutes
January 28, 1983
Page seven

hearing would be 1,920 days in that year. They provided for \$36,000 for court reporters' services under contracted services in the budget because they use the recording system for most of their hearings. If it is a really complicated hearing or issue they will sometimes have to use a court reporter as the tape machine does not identify the people as well. (This would provide for about 200 days of the 1,920 that they could use a court reporter.)

Judge Lessley stated they felt it was better budgeting practice to contract these services because they will be having the hearings in various parts of the state, and if they were to hire a court reporter, the minimal amount would be about \$20,000. A staff reporter might be sitting around or may not be able to attend all of the hearings.

Supplies and materials are based on extensions of what they are using at the present time. They are spending about \$4,500 to put out notices and orders, and with the hearings they will be holding, this amount will probably be about \$10,000 in FY84 and in FY85 it will probably cost them in the neighborhood of \$20,000.

Ms. Schraudner stated that they spend about \$10,000 in telephone costs because they use the Department of Natural Resources personnel who were employed to help claimants file their claims. Now they are used to review the claims and they have to talk with them and supervise all the work that is done in nine different field offices in the state. They try to do as much as possible through the phones. She stated this was the reason why the communications was \$20,000 and in FY85 it will be \$27,000.

Travel in FY84 includes \$4,000 for the four judges and the three water masters to continue education for conferences, etc. They will probably meet about once a month in the Bozeman office. There is \$5,580 allotted for this. There is \$500 for trips to the DNRC office in Helena for one person, twice a month. She added there is \$6,465 included for trips to field offices by one person for a week at a time to check the offices, and this occurs 2.5 times a month. If they can possibly share a car with the DNRC they would not be required to purchase a car for the \$10,000 allotted. The remainder of the expenses are for maintenance costs for three state vehicles (\$3,000) and insurance on vehicles (\$1,200). For FY85 it is basically

the same travel budget but there will be the hearings for the basins that are ready, and it would not be unrealistic to have one judge or one master out one week of each month. The total expenses estimated for FY85 comes to \$55,409.

The rent is fixed at \$18,000 for the central office in Bozeman for FY84 and \$19,895 for FY85, and this includes their equipment rentals. They have provided \$8,000 for the judges. For the three other judges this would be the portion of their share they would pay on the pro-rated basis.

In other expenses they have provided for the possibility of using the computer at the Law Library. They do use a lot of of the Law Library facilities as they just don't have the library that the state does.

She stated they would like to have a computerized docket system. This would require an initial capital outlay of \$39,178. Part of this would include a word processor, and a disk. She added they have a potential payback of \$18,000 so that cost is much less than it looks at first glance. They feel that a computerized docket system could save the cost of having to hire two additional people to track the records back. She feels the savings in purchasing this could be recovered within two years easily.

The other thing provided for in the equipment budget was for office desks and more recording systems, etc., when judges are holding hearings.

The difference between their budget and the Governor's office for FY84 is that they provide for \$24,530 more, and this could be because they used the wrong percentage in figuring benefits. The difference between the LFA and Water Courts budget is because they provide for current level funding. They are asking for \$245,000 more in FY85. They are asking for \$420,000 more than the LFA and again this is because they figured on current level by the employees. The OBPP provides them with \$46,000 and this may be accounted for in the personal benefits.

Mr. Booker explained they took the Water Courts budget as presented by the Supreme Court and put it in as it was submitted. There could have been changes, however.

Mr. O'Brien stated that the budget figures have been somewhat revised, and he felt that if the three of them could get together it might be easier to make the figures better understood

for the committee, and they could prepare a spread sheet for the members about the differences.

The hearing was closed on the Water Courts. The committee recessed briefly.

Law Library

Ms. Claire Engel, Librarian for the new Law Library, gave the committee members a tour of the new Law Library facilities.

She referred the committee to a handout (Exhibit 5). In "personal services", about half the difference is because OBPP and the LFA do things differently and she could not address this. The Court has ordered an upgrade of two of her clerical people which will be effective at the beginning of the next biennium.

In "supplies and materials" there is in reality a \$100 difference. This is just for additional supplies such as staplers, etc. that are needed.

In "contracted services", their numbers are lower than the OBPP or the LFA's because the total for Westlaw has changed. When they put the budget together they did not have Westlaw in yet. At the present time they have in the budget for Westlaw \$12,731 in FY84 and \$13,494 for FY85. This covers judicial use of the system only.

There is a \$20,000 authority for a revolving account to take in the funds they will be receiving for use of this system. So this amount would have to be added into "contracted services." Mr. Booker stated they would have to appropriate this and also set up a revolving account for \$20,000 each year of the biennium. The Library will charge the agencies for the use of Westlaw. The \$20,000 will just go back and all they are getting is spending authority for the two years and the money goes back into general fund.

In "supplies and materials" Ms. Engel stated this number has increased substantially over the last fiscal year because the auditor has told them they can no longer abate expenses and they have to add money in. They anticipate that this revenue will go back to the general fund.

Appropriations Subcommittee on Elected Officials and Highways
Minutes

January 28, 1983

Page ten

In "communications" this number changed just yesterday when they received a letter from the Department of Administration that their rates have again gone up. The final figure now is \$233 a month. The biggest difference is the OCLC line which is a dedicated line. She overlooked the cost for the leased line last session. She said they have looked into the cost and there is no cheaper way to do this. (This is a cost for a leased line that hooks up the OCLC cataloging system with the computer in Ohio.)

Discussion on the costs between this or going with Centel.

In "travel" Ms. Engel told the committee she felt travel was very important because they are totally isolated from the rest of the country. There is no way to learn and communicate with other people unless they are allowed to attend some educational functions. She feels it has been reduced down to one trip, a matter of \$652 one year and \$147 another year.

O'Brien stated that the LFA allowed for one trip to the National Conference and over the '85 biennium they would be allowed approximately \$3,200. He believed the LFA budget allows somewhere in the neighborhood of \$3,600 for travel for the '85 biennium which is still more than what current level figures would be. Ms. Engel stated the \$1,796 covers the two trips.

In "rent" the differences are between OBPP and LFA.

In "repair and maintenance" they have some machinery which requires maintenance contracts and the LFA has not allowed for these.

"Other expenses" are just the dues for OCLC.

Chairman Quilici asked Mr. O'Brien to address the differences between the OBPP and LFA on "repairs and maintenance." Mr. O'Brien stated he did not realize there was an additional request for the Westlaw terminal and this would account for this difference.

On new book acquisitions Ms. Engel explained that a library cannot function without new books. Continuations will not be enough, but you do need new books when new editions come out. The laws change and they will need a new set of books. Last session they were accepted as current level but this time they have been called modifieds. She stated in 1983 it was \$70,362 and this has been reduced. The actual new book budget

Appropriations Subcommittee on Elected Officials and Highways
Minutes
January 28, 1983
Page eleven

for 1984 is \$65,710, and for 1985 it is \$70,059. They have attempted to reduce the budget from last biennium.

(Begin Tape 41, Side A)

Personal Services

Modification

Ms. Engel stated the Law Library needs more than the 5.5 FTE they presently have. They desperately need more people, and the workload increases were dramatic even before they moved and are even more so now.

Since a study was conducted, reference has increased by 117% and is continuing to increase. This does not include the Westlaw which will be a drain on them also. It does not include all the other things that make up a public library where they provide services that a public library has. All the various areas of service have increased.

She stated that they have been putting in very long hours and they all need some relief. The library has reached the point where it is of such a size that they need administration and they need it fulltime.

The reference librarian will cost them about \$26,000 a year, and they are asking for someone who has both a law and a librarian's degree to handle this workload as a Grade 15. In the original budget they also asked for a .25 for the evening hours or weekend hours to help the staff. They have added a .5 clerk to deal with the problems with the facility. The sum total over the biennium would be \$75,675 for salaries, benefits and health insurance.

The additional equipment costs are for the reference librarian. She urged the committee to accept the "travel", and the typewriter is very essential.

Ms. Engel added that if they did not receive more staff, they are going to have to cut services.

Chairman Quilici asked her to prioritize where she would have to cut. She explained the first thing she would have to do is go to the courts to request that they reduce their hours.

They offer a current awareness service which keeps state attorneys abreast of what is being published, and she suspects this would be eliminated. She feels they would not be able to handle the legislative load they have been handling. They feel they might have to cut back Westlaw also.

Equipment

Modification

The modification for equipment was discussed next. One portion is for word processing. This would allow them to have two terminals; one for her secretary's office and one for the circulation desk. (Exhibit 6)

Rep. Lory felt it might be better to rent rather than buy new equipment for at least two years.

Senator Keating questioned the rent budget from last biennium compared to now. Ms. Engel stated they did not pay rent for the prior space as the Supreme Court picked this cost up. So now the rent for the biennium is \$120,000 for the biennium. (This is 40% of their operating costs.) Rep. Lory stated he assumed her highest priority was the FTE's needed over new equipment, etc., and she stated this was so.

Pat Driscoll, from the Attorney General's office, stated that the workload has put additional demands on Ms. Engel's staff, and, while they provide excellent service, it is obvious to them that they are understaffed. He added the reference access is very closely related to what they do, and if the library does not have enough staff or are not provided enough resources to continually update their collection, it affects their ability to do their work. They therefore support both the FTE and the update of the collection.

Nellie Sullivan, from the Montana Library Association, stated that they strongly support the Law Library. She stated that she worked with a large staff who use the Law Library, and if the materials are not up to date, it certainly impedes the responsible research that has to be done. When she was a public librarian, she noticed then the advantages of having access to the State Law Library for county planners, etc. She encouraged the committee to look closely at the budget and consider their requests.

Appropriations Subcommittee on Elected Officials and Highways
Minutes
January 28, 1983
Page thirteen

J.D. Holmes, representing the Montana Arts Advocacy, said this organization is a citizens' group working since the 1979 session to do what they can to make the quality of life in Montana better than it is. They work, therefore, to better any and all culture facilities including institutions such as libraries which they consider very important. They also hope the committee sees fit to give Ms. Engel the money she needs for acquiring new books as well as keeping up with current level.

The meeting was adjourned until tomorrow morning at 7 a.m. on Saturday, January 29, 1983.



Joe Quilici, Chairman

exhibit 1
1/28/83

MONTANA STATE WATER COURTS

Biennial Budget Proposal

Fiscal Years 1984 and 1985

MONTANA STATE WATER COURTS

Proposed Budget Fiscal Year 1984
July 1, 1983 - June 30, 1984

Personnel

Water Judges ----- 3 FTE
Judge Lessley (\$14,233.00)
Judge Thomas (\$13,720.00)*based on halftime
Judge Shanstrom (\$10,788.00)*based on halftime

Water Masters ----- 3 FTE
Grade 18 Step 6
Grade 18 Step 3
Grade 18 Step 2

Clerical ----- 5.5 FTE
Grade 11 Step 6 - Accounting Technician
Grade 10 Step 3 - Administrative Assistant
Grade 9 Step 5 - Water Clerk
Grade 9 Step 2 - Secretary/Receptionist
Grade 8 Step 2 - Three halftime secretaries for Water
Judges

PERSONNEL EXPENSES ----- \$205,841.50
BENEFITS (.1449% of total personnel services) ----- 29,826.00
TOTAL ----- \$235,667.50*

*Salaries are figured on a 1983 payscale matrix with no salary increases.

Operating Expense

Contracted Services ----- \$ 25,000.00
Supplies and Materials ----- 10,000.00
Communications ----- 20,000.00
Travel ----- 30,745.00
Rent ----- 28,000.00
Other Expense ----- 5,000.00
Capital Equipment ----- \$ 52,878.00
OPERATING EXPENSE ----- \$171,623.00

TOTAL BUDGET FOR FISCAL YEAR 1984 ----- \$407,290.50

MONTANA STATE WATER COURTS

Proposed Budget Fiscal Year 1985
July 1, 1984 - June 30, 1985

Personnel

15

Water Judges ----- 3 FTE
Judge Lessley (\$14,233.00)
Judge Thomas (\$27,441.00)*based on fulltime
Judge Shanstrom (\$21,577.00)*based on fulltime

Water Masters ----- 4 FTE
Grade 18 Step 7
Grade 18 Step 4
Grade 18 Step 3
Grade 18 Step 1

Clerical ----- 8 FTE
Grade 11 Step 7 - Accounting Technician
Grade 10 Step 4 - Administrative Assistant
Grade 9 Step 6 - Water Clerk
Grade 9 Step 3 - Secretary/Receptionist
Grade 9 Step 1 - Clerk
Grade 8 Step 1 - File Clerk
Grade 11 Step 1 - Halftime Law Clerk/Technician
Grade 8 Step 3 - Three halftime secretaries for Water
Judges

PERSONNEL EXPENSES ----- \$293,133.00
BENEFITS (.1466% of total personnel services) ----- 42,973.00
TOTAL ----- \$336,106.00*

*Salaries are figured on a 1983 payscale matrix with no salary increases.

Operating Expense

\$36,000 court reporting

Contracted Services ----- \$ 80,500.00 →
Supplies and Materials ----- 20,000.00
Communications ----- 27,500.00
Travel ----- 55,409.00
Rent ----- 30,000.00
Other Expense ----- 5,000.00
Capital Equipment ----- 30,289.00
OPERATING EXPENSE ----- \$248,698.00
TOTAL BUDGET FOR FISCAL YEAR 1985 ----- \$584,804.00

MONTANA STATE WATER COURTS

I. Introduction

Description. The Water Courts, in conjunction with the Department of Natural Resources and Conservation, conducts the adjudication of the existing water rights in the State of Montana pursuant to Title 85, Chapter 2, Part 2, and Title 3, Chapter 7, M.C.A. 1978.

The Water Courts, with the assistance of the Department of Natural Resources personnel, receive claims of existing water rights (the filing deadline was April 30, 1982), clarify, verify and enter those claims into the computer in a preliminary decree format. The Water Courts then provide notice of the issuance of a preliminary decree to those claiming a right in a particular basin, record any objections filed by those claimants, conduct preliminary hearings (ie. Judge trials) to resolve those objections (presided over by a Water Judge or designated Water Master), issue a legal decision regarding those hearings and enter a final decree for each basin.

Accomplishments. A central location has been established for the Montana State Water Courts in Bozeman, Montana. This office was designed by Water Court personnel to meet the needs of the Court as it enters full operation - both for clerical functions and for personnel. At present, the Courts employ two fulltime Water Masters and two fulltime clerks. Four District Court Judges have been appointed as Water Judges and work on a parttime basis; however, Chief Water Judge Lessley joined the staff on a fulltime basis in January of 1983. A Department of Natural Resources agricultural

engineer is also housed in this central office.

A preliminary decree was issued in the Powder River Basin on May 6, 1981. Objections to that decree were filed and recorded with the Water Courts and preliminary hearings have been held. Decisions regarding those hearings are being issued by the Water Master and a final decree shall be issued on the Powder River Basin in March of 1983.

The Courts and the Department of Natural Resources and Conservation adjudication staff have produced a manual setting the procedures for the verification of the filed water right claims. Court and Department personnel are now engaged in the training of approximately 35 Department field personnel who will complete this verification process under the supervision of the Courts.

Goals. The Water Courts, together with the Department of Natural Resources and Conservation, have set goals for the completion of preliminary work on filed claims in designated priority basins within the State. Many of the selected river basins will be in, or near, preliminary decree form by Fiscal Years 1984 and 1985; as a result the Water Courts will experience an anticipated growth as the adjudication program is fully implemented.

Combined Department and Water Court adjudication program goals are as follows:

1. Completing the clarification of all filed Senate Bill 76 water right claims by field office personnel by March of 1983.
2. Entry of clarified claims into the main computer data base for a centralized record of all 200,000 claims by July, 1983.

3. Final verification of claims in priority basins, which include O'Fallon Creek, Sweetgrass Creek, the Madison River, Sage Creek, Redwater Creek, Judith River, Rock Creek, Lower Clark Fork, Upper Clark Fork and Flint Creek. This verification process will result in these claims being in preliminary decree format. (The selected basins are subject to change depending upon the Courts' ability to issue preliminary decrees in those areas where federal reserved rights are being negotiated. If the Courts cannot issue decrees in all the initial selected basins, we will begin work and issue decrees in the following basins: Sage Creek, Redwater Creek, O'Fallon Creek, Willow Creek, Big Dry Creek, Rock Creek, Frenchman's Creek, Whitewater Creek, Beaver Creek and the Belle Fouché River.

4. Issuance of notices and preliminary decrees in these ten areas during Fiscal Year 1984.

5. Upon the entry of these preliminary decrees in Fiscal Year 1984, the Water Courts will begin the hearing stages of the adjudication process which includes:

- a. An objection period of 90 days for claimants within those basins.
- b. Notice to all claimants of the end of the objection period.
- c. A period for the filing of a notice of intent to appear and participate in preliminary hearings for interested parties.
- d. Preliminary hearings on objections held before Masters and Judges.
- e. Issuance of decisions in those hearings.

f. Issuance of final decrees.

6. Ongoing verification in newly assigned designated basins by field office personnel resulting in at least nine more preliminary decrees to be issued in Fiscal Year 1985.

7. During Fiscal Year 1985, the Water Courts expect the conclusion of hearings in original priority basins and the initiation of the adjudication hearing process in the next designated basin areas when preliminary decrees have been issued.

These goals are dependent upon many variables, some of which are:

1. Complexity of the clarification and verification process.

2. The time needed by the field office personnel to complete clarification and verification, which includes the necessity to field investigate some claims.

3. Entry of claims into the computer, resolution of any clerical errors and production of the preliminary decree format in priority basins.

4. The ability of the Reserved Rights Compact Commission to reach compacts and the legislative ratifications of those compacts.

5. The number and complexity of objections filed in each basin.

II. BUDGET REQUESTS FOR FISCAL YEARS 1984 AND 1985

Revenues. 85-2-241 M.C.A. 1978 established a water right adjudication account in the "earmarked" revenue fund of the State Treasury. "Earmarked" revenue is comprised of the filing fees assessed water right claimants under 85-2-225 M.C.A. 1978.

Water Court expenses are to be paid from this adjudication account, as well as those expenses of the Department's adjudication program and the Compact Commission. It was expected that the earmarked monies would fund all adjudication program costs through the present Fiscal Year. It has now been determined that there is a "shortfall" of earmarked revenues for this year. While anticipated revenues were estimated at \$11 Million, our actual fee revenue realized was approximately \$3.8 Million. This shortfall is due to an overestimation of claims (200,000 actual - 300,000 projected - resulting in a \$7.2 Million difference), the \$480.00 maximum filing fee and the exemption for decreed rights (approximately \$4.2 Million loss of revenue created in large part by massive filings of federal claims (35,000) and state claims (10,600) all of which were entities who were assessed only \$480.00 in total). See Attachment 1.

Adjudication monies will be appropriated from the General Fund pursuant to 85-2-242 M.C.A. 1978. That provision has been interpreted by the Attorney General to allow the use of the General Fund - see Attachment 2.

Explanation of Budget Request. During the past Fiscal Year (1982), Court administrative personnel have scrutinized costs closely - operating on a "shoestring" until all the information became available to make a determination of goals and operational needs. The result is that in Fiscal Year 1982, the Courts expended 51% of the total monies budgeted. \$395,023.00 has been allotted for Fiscal Year 1983 and, at the present level of activity, the Courts' anticipate the need for \$288,183.00 to

meet the expenses of this year.

The budget for the Water Courts is contingent upon meeting the goals set by the Courts and the Department of Natural Resources and Conservation. As noted before, these goals are subject to many variables and may change in the next three years. The Water Courts budget has been designed to meet the growth needs that will occur if all goals are met. However, should the Courts and the Department need to modify these goals during the Fiscal Years 1984 and 1985 - resulting in slower growth for the Courts - budgeted monies would not be used. Dollar amounts needed for personnel, operating expense and capital equipment costs are based on the premise that "X" amount of work will be completed within the next two years. If "X" amount of work is not completed by the DRNC, the Courts budgetary needs would be less than stated.

The partnership of the Water Courts and the Department of Natural Resources and Conservation during this stage of the adjudication process and the utilization of the Department's resources for the preliminary work results in some uncertainty for total dollar amounts.

Personnel. For both Fiscal Years, personnel will be added to meet the growth of the Court workload.

Four District Court Judges have been appointed as Water Judges (3-7-221 M.C.A. 1978). Chief Water Judge Lessley has joined the Courts' staff on a fulltime basis as of January 1, 1983. The payscale for the Chief Water Judge is designated as the difference between retirement benefits and the present

District Court salary. Retirement benefits will fluctuate.

Water Judges Thomas and Shanstrom have retired as District Court Judges and will be working with the Water Courts during Fiscal Years 1984 and 1985. Salaries for these Judges shall be prorated upon the actual time worked for the Water Courts.

A third Master will be added during Fiscal Year 1984 and a fourth in Fiscal Year 1985. As the Water Courts anticipate the issuance of several preliminary decrees in Fiscal Year 1984 and several more decrees in Fiscal Year 1985, additional Masters will be needed to work in conjunction with the Water Judges conducting the objection process, preliminary hearings, writing decisions regarding those hearings and issuing final decrees when hearings are concluded. Masters, along with Department personnel, will be largely responsible for working with field office personnel as they move into verification of claims within other designated priority basins.

Clerical staff will also increase during both Fiscal Years. Increased workload from Judges and Masters, public contact, documents being received as part of the adjudication process and office administration account for the necessity of these additions. Monies have been allotted for Water Judge secretarial help. Again, these monies will be prorated based upon the actual time worked for the Water Courts. It should be noted that part of this budget proposal includes the acquisition of a word processing unit. Many of the Court documents are conducive to the use of a word processor. During Fiscal Year 1985, with the possibility of having 19 basins being adjudicated from the Water

Courts office, two clerical positions at a Grade 9 have been eliminated by the anticipated use of this word processing unit.

Contracted Services.

Fiscal Year 1984. It is the cost of providing notice of the issuance of the preliminary decree to the claimants within that basin that comprises Contracted Services expenditures for Fiscal Year 1984 (see 85-2-232 M.C.A. 1978). Preliminary decrees for ten basins are expected to be issued during this year.

Notice procedures used in the Powder River Basin have provided the Water Courts with figures upon which to estimate future noticing costs:

a. Actual Costs (labor, printing, publishing and mailing) -----	\$ 900.00
b. Microfilming Expenses -----	1000.00
c. Computer Time -----	<u>600.00</u>
PER BASIN COSTS OF NOTICING -----	\$2500.00
TEN BASINS at \$2500.00 -----	\$25000.00

Fiscal Year 1985. The Contracted Services budget for Fiscal Year 1985 totals \$80,500.00. For this year, noticing costs account for \$44,500.00.

Nine basins are scheduled for noticing of the preliminary decree, totaling \$22,500.00, based on the same estimations used in Fiscal Year 1984. The ten basins receiving notice of a preliminary decree in Fiscal Year 1984 will be ready for the second notice listing the objections filed and the request for preliminary hearings. See 85-2-233 M.C.A. 1978. This second notice is estimated at \$2,200.00 per basin (also based on the Powder River Basin) with costs only being reduced by \$300.00 -

a result of some eliminated microfilming. The total allotted for the second noticing is \$22,000.00.

\$36,000.00 has also been allotted during Fiscal Year 1985 for court reporting services. At the present time, preliminary hearings in the Powder River Basin have been taken by a SONY reporting system. While the Courts will continue to use this system where possible, it is anticipated that in those hearings involving multiple parties, a court reporter will be necessary.

Without past experience to make projections on, the Courts have budgeted monies to provide a court reporter for approximately 200 days of the possible 1920 days per year that Judges and Masters could be in hearings (20 work days per month x 12 months per year x 8 Judges and Masters = 1920 hearing days).

The costs are budgeted at:

Court Reporter Daily Charge -----	\$135.00 per day
Expenses -----	\$ <u>45.00</u> per day
	\$180.00

$\$180.00 \times 200 \text{ days to be used} = \$36,000.00$

Supplies and Materials. Supplies and materials includes office stationary, office supplies, books, subscriptions and reference materials.

During Fiscal Year 1982, a staff of four fulltime employees expended approximately \$4,500.00 for supplies and materials. Staff will increase to 11.5 fulltime employees in Fiscal Year 1984 and to 15 fulltime employees in Fiscal Year 1985. This dramatic increase in personnel and their workload (the possible adjudication of 19 basins in the Courts by Fiscal Year 1985) was used as a basis for projecting increased cost in supplies

and materials.

Communications. Postage, mailing, telephone equipment and service are included under the heading of communications.

During the present Fiscal Year, the Water Courts anticipate an expense of \$9,500.00 for communications. At the present level of activity, Court personnel deal primarily with the Central Department of Natural Resources and Conservation office in Helena. By Fiscal Year 1984, Masters and Judges will deal with at least 35 field people on a regular basis, as well as continued contact with the Central Helena office. Increased public participation in the adjudication process, scheduling and coordination of hearings between four Masters and four Judges in respective basins will also increase the level of clerical communications. Postage costs for mailing notices of hearings and correspondence regarding those hearings will increase substantially.

In addition, as new staff is added to the Water Courts central office, phone extensions must be added at the cost of \$500.00 per extension.

Rent. The Water Courts offices in Bozeman rent at \$18,165.00 for Fiscal Year 1984. \$1,835.00 was allotted for office equipment rentals. Additionally, \$8,000.00 is budgeted for rental costs of those Water Judges located in areas outside of Bozeman. (See 3-7-302 M.C.A. 1978).

In Fiscal Year 1985, Court offices rent at \$19,895.00, office equipment rental was estimated at \$2,105.00 and \$8,000.00 was again allotted for rental costs of the other three Water Judges. The \$8,000.00 rent allocation to Water Judges located

outside of Bozeman could actually be much less as these monies shall be prorated upon the actual time spent on Water Court duties, as will be their salaries and clerical help.

Other Expense. Professional and consulting services, tuition for classes, express and freight charges, and "unforeseen costs" are included in other expense. Calculations for these expenditures for Fiscal Years 1984 and 1985 were based upon the increases in staff and workload.

Travel. Lodging, meals, commercial transportation, personal car mileage, gasoline for state automobiles, automotive repair, maintenance and automotive insurance were accounted as travel expense. Based on completion of goals, Judges and Masters will travel extensively in both Fiscal Years 1984 and 1985 for hearings throughout the State and work with Department field office personnel.

Fiscal Year 1984.

Mandatory Continuing Legal Education, Water Conferences and Speaking Engagements -----	\$ 4,000.00
Water Judge Meetings at Central Office ----- (3 Judges, once a month for two days, includes per diem for mileage, lodging and meals)	5,580.00
Trips to DNRC Central office in Helena ----- (1 person, twice a month, two meals and mileage - 200 miles, 20 mpg, 1.40 per gallon)	500.00
Trips to Field Offices by One Person ----- (1 person, 1 week at a time, 2.5 trips per month)	6,465.00
1 person for 1 week = \$187.50 per diem gas in state auto = <u>28.00</u> (400 miles, 20 gpm, 1.40 per mile)	
	\$215.50 x 30 trips = \$6,465.00

*Automobile -----	\$ 10,000.00
Maintenance Costs (3 State Vehicles) -----	3,000.00
Insurance on Vehicles -----	<u>1,200.00</u>
TOTAL TRAVEL EXPENSE Fiscal Year 1984 -----	\$ 30,745.00

Fiscal Year 1985.

Mandatory Continuing Legal Education, Water Conferences and Speaking Engagements -----	\$ 5,000.00
---	-------------

Water Judge Meetings at Central Office ----- (3 Judges, once a month for two days, includes per diem for mileage, lodging and meals)	6,660.00
---	----------

Trips to DNRC Central office in Helena ----- (1 person, twice a month, two meals and mileage - 200 miles, 20 mpg, 1.50 per gallon)	564.00
---	--------

Hearings: (At least 1 Judge or Master ----- out each week of month, plus clerk for reporting)	21,060.00
---	-----------

2 persons for one week = \$375.00 per diem
gas in state auto = 30.00
(400 miles, 20 mpg,
1.50 per gallon) \$405.00 per week x 52 weeks

Field Office Trips by One Person ----- (1 person, 1 week at a time, 2.5 trips per month)	6,525.00
--	----------

1 person for 1 week = \$187.50 per diem
gas in state auto = 30.00
(400 miles, 20 gpm,
1.50 per gallon) \$217.50 x 30 trips = \$6,525.00

*Automobile -----	10,000.00
Maintenance Costs (4 State Vehicles)-----	4,000.00
Insurance on Vehicles -----	1,600.00
TOTAL TRAVEL EXPENSE Fiscal Year 1985 -----	\$ 55,409.00

*If automobiles can be acquired from the State Motor Pool,
these portions of the costs will be eliminated.

Again, the above figures are PROJECTIONS based upon the
goals stated by the Courts and the Department of Natural Resources.

Fiscal Year 1984

Fiscal Year 1985

	Courts	OBDP	LFA	Difference CTS - LFA	Difference CTS - OBDP	Courts	OBDP	LFA	Difference CTS - LFA	Difference CTS - OBDP
FTE	11.5	11.5	5.0	6.5	-0-	15	15	5.0	10	-0-
Personnel Services	235,667	270,820	123,998	(111,669)	35,153	336,106	354,298	124,246	(211,860)	18,192
Operating Expense	118,745	145,000	28,196	(90,549)	26,255	218,409	246,000	30,382	(188,027)	27,591
Equipment	52,878	16,000	9,336	(43542)	(36,878)	30,289	30,000	9,895	(20,394)	289
TOTAL	<u>407,290</u>	<u>431,820</u>	<u>161,530</u>	<u>(245,760)</u>	<u>24,530</u>	<u>584,804</u>	<u>630,298</u>	<u>164,523</u>	<u>(420,281)</u>	<u>46,072</u>
* Difference LFA recommendations and the Courts is based on current level fundings vs. Court projected staff increase and work increase.										
OBDP funds at Courts request.										
						FY 1982				
						FY 1983				
FTE	8.5	4.0	4.5			Appropriated	13.5	Actual	5.0	Savings 8.5
Total Expenditures (personnel, operating and capital equipment)	235,522	119,712	115,810			395,023	288,183	106,840		

REPORT EBSR100
DATE : 01/08/83
TIME : 16/25/25

OFFICE OF BUDGET & PROGRAM PLANNING
EXECUTIVE BUDGET SYSTEM
AGENCY/PROGRAM/CONTROL --- BUDGET WORKSHEET

PAGE 32

AGENCY : 2110 JUDICIARY
PROGRAM : 05 WATER COURTS SUPERVISION
CONTROL : 00000

CURRENT LEVEL SERVICES ONLY

AE/OE	DESCRIPTION	OBPP FY 84	LFA FY 84	DIFF. FY 84	SUB-CMT. FY 84	OBPP FY 85	LFA FY 85	DIFF. FY 85	SUB-CMT. FY 85
0000	FULL TIME EQUIVALENT (FTE)	11,50	5,00	-6,50	---	15,00	5,00	-10,00	---
1100	SALARIES	226,902	105,956	-120,946	---	296,440	105,551	-190,889	---
1400	EMPLOYEE BENEFITS	32,878	13,242	-19,636	---	43,458	13,895	-29,563	---
1500	HEALTH INSURANCE	11,040	4,800	-6,240	---	14,400	4,800	-9,600	---
	TOTAL LEVEL	270,820	123,998	-146,822	---	354,298	124,246	-230,052	---
2100	CONTRACTED SERVICES	25,000	978	-24,022	---	84,500	1,035	-83,465	---
2200	SUPPLIES & MATERIALS	10,000	5,102	-4,898	---	20,000	5,410	-14,590	---
2300	COMMUNICATIONS	20,000	5,615	-14,385	---	27,500	6,514	-20,986	---
2400	TRAVEL	60,000	3,509	-56,491	---	80,000	3,655	-76,345	---
2500	RENT	25,000	12,529	-12,471	---	27,000	13,280	-13,720	---
2700	REPAIR & MAINTENANCE		234	234	---		247	247	---
2800	OTHER EXPENSES	5,000	229	-4,771	---	7,000	241	-6,759	---
	TOTAL LEVEL	145,000	28,196	-116,804	---	246,000	30,382	-215,618	---
3000	EQUIPMENT	16,000		-16,000	---	30,000		-30,000	---
3100	EQUIPMENT		9,336	9,336	---		9,895	9,895	---
	TOTAL LEVEL	16,000	9,336	-6,664	---	30,000	9,895	-20,105	---
	TOTAL PROGRAM	431,820	161,530	-270,290	---	630,298	164,523	-465,775	---
01100	GENERAL FUND		161,530	161,530	---		164,523	164,523	---
02431	WATER ADJUDICATION	431,820		-431,820	---	630,298		-630,298	---
	TOTAL PROGRAM	431,820	161,530	-270,290	---	630,298	164,523	-465,775	---

exhibit 3
1/28/83

AND CONSERVATION
WATER RESOURCES DIVISION

exhibit 4
1/28/83



TEDESCAWINDEN GOVERNMENT

32 SOUTHWING

STATE OF MONTANA

(406) 444-2872 ADMINISTRATIVE
(406) 449-3962 ENGINEERING BUREAU
(406) 449-3760 WATER DEVELOPMENT BUREAU
(406) 449-2872 WATER MANAGEMENT BUREAU
(406) 449-3962 WATER RIGHTS BUREAU

HELENA MONTANA 59620

RECEIVED

OCT 06 1982

WATER COURTS

October 1, 1982

Judge W.W. Lessley
P.O. Box 1050
Bozeman, MT 59715

Judge W.W.:

Here are the figures and background information concerning the "shortfall" of revenues from filing fees.

As of this date, a total of 200,578 claims have been filed and a total of \$3,706,422 have been received in fees. This amounts to an average fee of \$18.47 per claim.

A total of \$2,646,778 has been spent so far by the Compact Commission, DNRC and Water Courts for the fiscal years of 1980, 1981, and 1982. A breakdown for each year is as follows:

FY 1980	\$ 425,465
FY 1981	\$ 775,763
FY 1982	\$1,445,550.

After subtracting these expenditures, the amount of money left in the adjudication account on June 30, 1982 was \$1,059,634.

Since the FY83 expenditures planned by the Water Courts, Compact Commission, and DNRC is \$1,692,588, a "shortfall" of \$575,256 occurs. As you know of course, this shortfall or the difference between our appropriation and fee revenues is covered by general fund money.

Money for FY's 84 and 85 for the adjudication program will have to be appropriated by the "83" legislature from the general fund or some other fund since the filing fee has been spent

The "shortfall" was expected and is shown in estimates of revenues and expenditures prepared during the 1979 legislature for consideration of SB76. The fiscal notes prepared then are attached for your reference. The first fiscal notes I prepared in January 1979, showed a shortfall occurring in early FY85 and a revised fiscal note of April 1979 I prepared showed a shortfall occurring in mid-FY84.

There was quite a bit of discussion at the 79 legislative session about projected revenues and expenses. This is demonstrated by the fact that the last sentence in 85-2-242 M.C.A. was added after introduction of SB76 and after considering the fiscal impact estimates. It states: "If sufficient revenue is not available from the earmarked revenue fund, the expense shall be paid from the State's general fund." See also the attached letter dated January 20, 1980 to the Legislative Finance Committee.

The shortfall occurred about one year earlier than original estimates because of several factors that are either less than expected revenues or greater expenses.

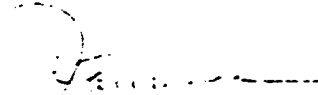
(1) \$480 limit and no fees for decrees revenue losses. These provisions for exemptions for filing fees were in SB76 when it was first introduced. The impact of these exemptions were unknown at the time the fiscal report was prepared. (See letter dated August 3, 1978 from Jim Williams to George Donaliman) The actual affect of these exemptions is \$40 fee minus the average fee received of \$18.47 or a net revenue loss of \$21.53 per claim or \$4.32 million total!

(2) Reserved Rights Compact Commission expenses. Since SB76 was amended to include the Compact Commission after the fiscal note (April 79) was prepared the extra expenditure of \$204,116 for fiscal years 80, 81, and 82 accelerated the occurrence of the shortfall.

(3) Estimate of number of claims. At the time SB76 was introduced, an estimate of 275,000 claims was used to project revenues. Since a substantial number of rights in the state were use rights an accurate estimated of the rights and thus revenues was a wild guess at best. Several estimates were made and they ranged from 178,000 claims to 433,000 claims expected. It was felt the estimate of 275,000 for revenue estimates would be a good estimate and would allow for the exemptions. Since only 200,578 claims were received there is a revenue loss of \$2.98 million.

I think that covers the what, how, and why on the "shortfall". If you need additional information or clarification, let me know and I would be happy to supply more.

Sincerely,


Laurence Siroky

CC: Gary Fritz
Leanne Schraudner ✓
Mike McLane

State Law Library of Montana

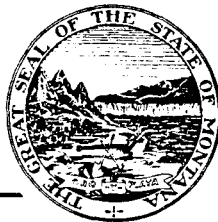


exhibit 5
1/28/83

Justice Building • 215 North Sanders
Helena, MT 59620 • (406) 449-3660

Modification FY 84-85

Personal Services

<u>Position</u>	<u>FTE</u>	<u>Grade Equivalent</u>
Reference Librarian	1	15
Library Clerk	.5	8
Library Clerk	.25	7

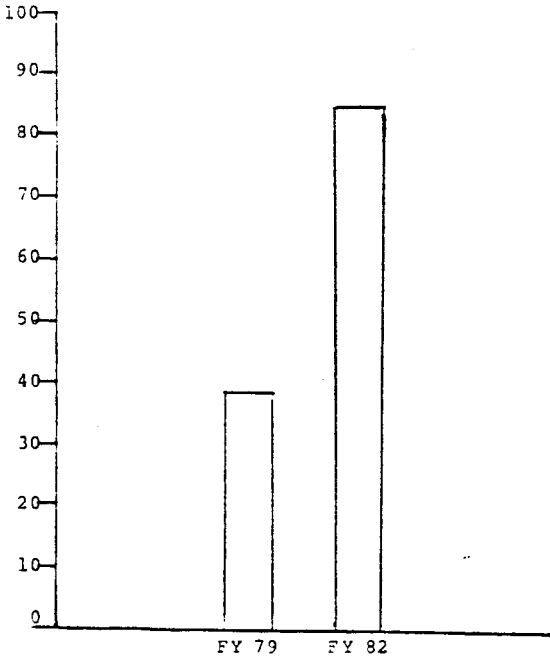
Workload Increases: FY 79 v. FY 82

In FY 79 LEAA funded a study of the State Law Library of Montana (see attached). This study stated that in FY 79 the staffing level of the State Law Library should be no less than 7.5 FTE. As indicated in the following charts the workload in the State Law Library has increased dramatically. Even so, the staffing level has yet to attain the minimal 7.5 FTE's.

	FY 79	FY 82	% Increased FY 82 From FY 79	FY 83 (Approx.)
Ref/Search				
Req. Per Month	39.33	85.50	117.39%	101.00
WESTLAW Per Month	0	0	0	14.00
ILL Per Month	0	9.08	908.00%	10.50
Photocopy Req. Per Month	49.50	164.50	232.32%	146.00
Circulation Per Month	92.33	170.75	84.93%	224.16
# Vol. Shelved Per Month	1,876.50	2,563.00	36.58%	2,216.00
Looseleaf Filing				
Time Per Month	43.42	73.75	69.85%	84.79
# Vol. Received Per Month	179.25	314.25	75.31%	193.00
# Transfer Warrants Per Month	56.58	109.60	93.71%	79.67

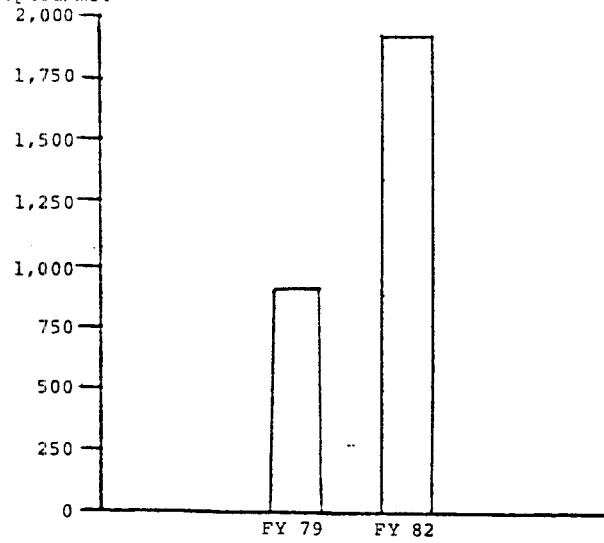
Workload Increase: Reference/Search

Average #
Ref/Search
Requests/mo.



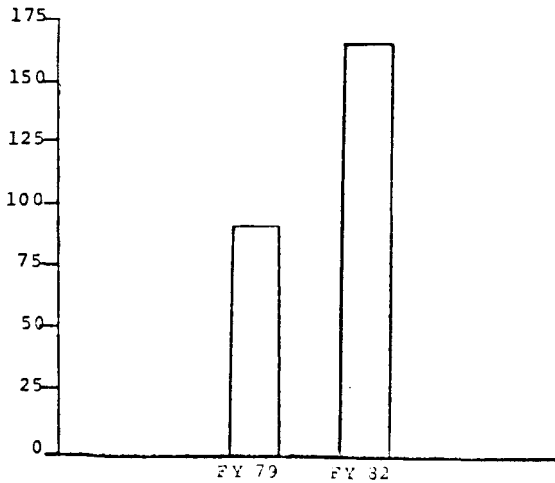
Workload Increase: Pages Photocopied

Average
Pages
Copied/mo.



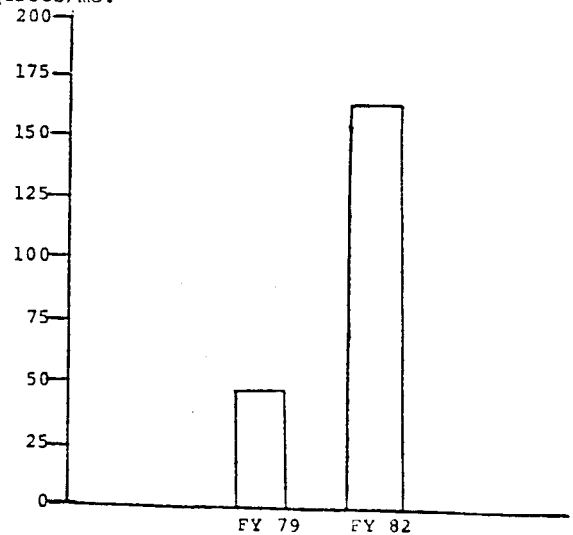
Workload Increases: Circulation

Average
Volumes
Circ/mo.



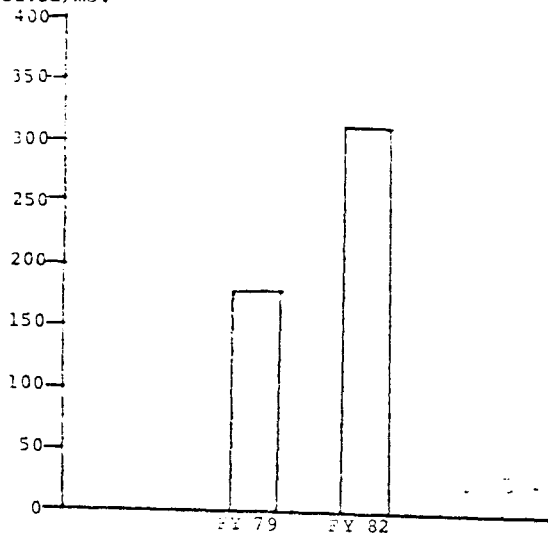
Workload Increase: Photocopy Requests

Average
Photocopy
Requests/mo.



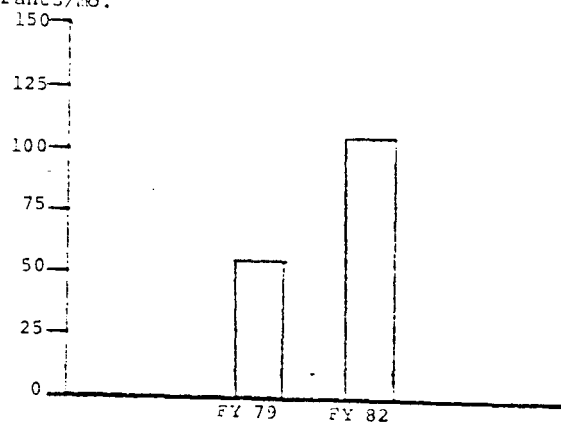
Workload Increase: Volumes Received

Average
Volumes
Received/mo.



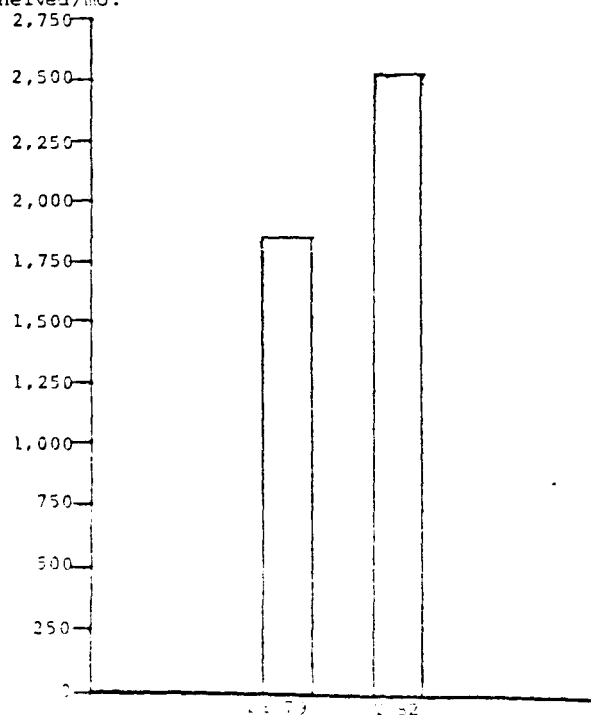
Workload Increase: Transfer Warrants

Average
Transfer
Warrants/mo.



Workload Increase: Shelving of Books

Average
Volumes
Shelved/mo.



EVALUATION OF THE MONTANA
STATE LAW LIBRARY

January 1979

Consultants:

C. E. Bolden
Donald L. Garbrecht

CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT
The American University Law Institute
4900 Massachusetts Avenue, N.W.
Washington, D.C. 20016

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION CONTRACT NUMBER: J-LEAA-011-78

III. SUMMARY OF RECOMMENDATIONS

● Existing statutes, rules and regulations governing the State Law Library should be re-examined by the Supreme Court in consultation with the State Law Librarian. The statutes and regulations should be amended as necessary to accurately describe the goals, objectives, operations and responsibilities of the Library, and the Supreme Court should actively support the Librarian in achieving these objectives.

The rules and regulations should guarantee a direct and continuing channel of communications between the Supreme Court and the Librarian relative to all policy or program developments of the judicial system potentially impacting on library services.

● Library staff should be increased to the recommended level of 7.5 FTE's by adding the following positions:

- (a) 1 professional reference/circulation librarian
- (b) 1 catalog librarian
- (c) 1 secretary/bookkeeper
- (d) 2 clerk typists

The present staff level is far below the minimum recommended and is totally inadequate to meet existing workload demands. All areas of library service are adversely affected. Solutions to numerous library problems have effectively been precluded. These problems will become more complex and costly in their solution if further delayed--especially as service demands increase.

● An organization of recommended library staff should be established along the lines recommended. Detailed job descriptions should be prepared, setting forth the duties and responsibilities of existing and recommended staff positions.

● An amended budget request should be made to the 1979 Legislature for funds to:

- (a) increase staff FTE's to the recommended level,
and

B. Staffing

Unquestionably, the most urgent problem facing the State Law Library--and one which should be addressed immediately and effectively--is the lack of a minimum staffing level. That the Library has a severe shortage of both professional and clerical support staff is not an item for

legitimate debate by anyone familiar with library operations and services. Sub-standard staffing levels directly, intensely, and adversely impact all areas of library performance, causing a series of complex and inter-related problems which effectively preclude the desirable level of professional library service. As in any endeavor, business or governmental, adequate staff is essential if the operation is to proceed in an efficient and productive manner.

The present library staff consists of:

- 0 State Law Librarian (professional)
- 0 Library Technician (para-professional)
- 0 one 1/2 FTE clerical (non-professional)
- 0 one potential 1/2 FTE clerical (non-professional)

All of the staff are intensely industrious, well-qualified and devoted to providing the highest level library service permit. Their dedication, devotion and accomplishments in light of staff limitations can only be described as exemplary. However, unless the staff problem is immediately and aggressively addressed, the level of library service will deteriorate and future growth and development will become difficult, if not impossible.

Presently, the State Law Librarian and Library Technician are under-

utilized, spending time on work that should be performed by less expensive clerical staff. The State Law Librarian, especially, is forced to spend much time on duties normally assigned to clerical personnel at the expense of her professional duties.

Matters which should be of major concern to the Law Librarian, and which only she can properly manage, include the following:

- (a) Establish policies consistent with the objectives of the Library.
- (b) Represent the Library in the Supreme Court administrative and planning sessions when they concern the Library's operations.
- (c) Interview and select applicants for staff positions.
- (d) Suggest salary ranges for staff and evaluate performance.
- (e) Prepare job descriptions that define duties, responsibilities and requirements of all positions.
- (f) Maintain effective communications with and among all staff members and keep them informed about policy matters that affect their work.
- (g) Provide for staff participation in interpreting library policies and services to library users.
- (h) Establish procedures for all library operations essential for efficient management of the library.
- (i) Institute policies and assume overall responsibilities for book selection, acquisitions, organization and maintenance of the Library collection.
- (j) Plan, organize and evaluate the Library services.
- (k) Assess and plan for space and Library equipment requirements.
- (l) Prepare and submit budget requests.
- (m) Supervise and direct all Library services.
- (n) Prepare a 5 year plan for Library growth and development.

Statistics on staffing guidelines for State Law Libraries and Supreme Court Libraries are generally unavailable. The Standards for Supreme Court Libraries, recently adopted by the Special Interest Section on State, Court and County Law Libraries provide little in the way of meaningful

guidelines. However, staffing levels of other types of law libraries with generally comparable service responsibilities and book collections can and do serve as valuable guides.

A 1977 Statistical Survey of Law School Libraries and Librarians³ revealed 15 libraries with book collections comparable in size to the State Law Library of Montana (50,000--60,000 volumes). A comparison of the average staffing level of the 15 surveyed libraries with the actual staffing level of the State Law Library follows:

	<u>1977 Staffing Levels</u>	
	<u>State Law Library of Montana</u>	<u>15 Surveyed Law School Libraries of Comparable Size</u>
<u>Staff Size (FTE):</u>		
Professional	1	3.76
Non-Professional	<u>1.5</u>	<u>3.04</u>
Total	<u>2.5</u>	<u>6.80</u>

While those not familiar with law libraries of various types may argue the differences between the goals, objectives and needs of law school libraries as compared with state law libraries, this is to ignore the fact there are many more similarities than differences and that staffing standards of a law school library comparable in size to a state law library will provide a valuable guide for establishing legitimate and productive staffing levels for state law libraries.

³ 72 Law Library Journal 318 (1978).

The addition of the staff recommended below, plus a reorganization of existing duties and responsibilities would: (1) increase productivity through better utilization of valuable staff time; (2) provide the opportunity to solve numerous operational problems heretofore unaddressed due to a lack of staff (i.e., extensive and continuing "weeding" of the collection and (3) provide man-power to meet future increased demands for library service as the collection increases and the scope of service expands.

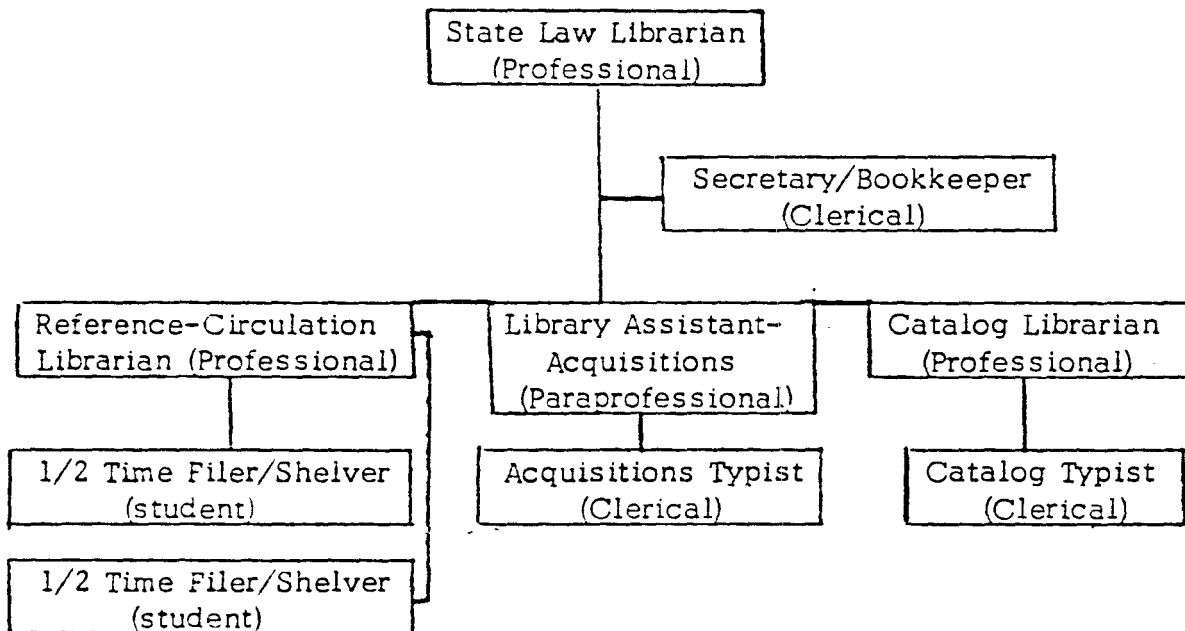
Five new FTE positions should be added to the library staff:

- (a) Catalog Librarian (professional)
- (b) Reference/Circulation Librarian
(professional)
- (c) Bookkeeper/Secretary (clerical)
- (d) Acquisitions Typist (clerical)
- (e) Catalog Typist (clerical)

Both the Catalog Librarian and the Reference/Circulation Librarian should have a Master's Degree in Librarianship and, hopefully, some practical experience, although it need not be in a law library. The Bookkeeper/Secretary should have a sound knowledge of accounting fundamentals and secretarial skills. The need for the Bookkeeper/Secretary will be more fully developed in the discussion of the Library's budget later in this report. The Acquisitions Typist and Catalog Typist can be taught basic library operations relative to their jobs, and need only accurate typing skills.

The organization chart, set forth below, showing the recommended total staff of 8 FTE positions is presented as an example only; there could be many variations. Final staff organization should be in the absolute

discretion of the State Law Librarian.



Appended to this report as Appendices A through E are (1) Position Classification Questionnaires, and (2) Job Specifications for each new recommended position, as follows:

Appendix A (pp. 82) -- Reference/Circulation Librarian
Appendix B (pp. 94) -- Catalog Librarian
Appendix C (pp. 100) -- Bookkeeper/Secretary
Appendix D (pp. 111) -- Acquisitions Typist
Appendix E (pp. 125) -- Catalog Typist

The Job Specifications are presented as brief illustrative summaries of the major duties involved in the positions recommended. Accurate and detailed descriptions should be prepared by the State Law Librarian. Salaries for new personnel should be at current market levels.

C. Budget

General fund appropriations for the library for the 1977-79 biennium were reported as:

Workload Statistics: FY 80 v. FY 82

The workload statistics used for budgeting the 83 biennium were FY 80 statistics. The following table compares FY 80 and FY 82 workload statistics. The increases are substantial.

	FY 80	FY 82	% Increased FY 82 From FY 80	FY 83 (Approx.)
Ref/Search Req. Per Month	52.58	85.50	62.61%	101.00
WESTLAW Per Month	0	0	0	14.00
ILL Per Month	2.67	9.08	240.07%	10.50
Photo. Req. Per Month	57.17	164.50	187.74%	146.00
Circulation Per Month	92.08	170.75	85.44%	224.16
# Vol. Shelved Per Month	2,604.68	2,563.00	-1.60%	2,216.00
Looseleaf Filing Time Per Month	57.17	73.75	29.00%	84.79
# Vol. Received Per Month	295.08	314.25	6.50%	
# Transfer Warrants Per Month	81.08	109.60	35.18%	79.67

MODIFICATION FY 84-85

PERSONAL SERVICES

	Ref. Libr.	Lib. Clk. III	Lib. Clk. I	Total FY 84-85
FTE	1	.5	.25	1.75
Grade	15	8	7	
Step	2	3	2	
FY 84 Salary	21,872	6,430	2,932	
FY 84 Bene.	3,093	909	415	
FY 84 Health	960	960	240	
Total	<u>25,925</u>	<u>8,299</u>	<u>3,587</u>	<u>37,811</u>
FY 85 Salary	21,872	6,430	2,932	
FY 85 Bene.	3,130	920	420	
FY 85 Health	960	960	240	
Total	<u>25,962</u>	<u>8,310</u>	<u>3,592</u>	<u>37,864</u>
Total FY 84-85	51,887	16,609	7,179	75,675

STATE OF MONTANA

AGENCY EXCEPTION ADJUSTMENT FORM

AGENCY NUMBER 2110 AGENCY NAME Judiciary
 PROGRAM NUMBER 03 PROGRAM NAME Law Library
 CONTROL VARIABLE 00000

Item Nbr. by Priority	Object of Expend. Third Level	ITEM DESCRIPTION AND JUSTIFICATION	Proposed Accounting Entity	REQUESTED 1985 BIENNIIUM		(OBPP Use Only) RECOMMENDED 1985 BIENNIIUM	
				1984	1985		
	1101	<p>Any library is far more than a warehouse for books. A library provides information. This is usually dispensed by a reference librarian.</p> <p>The Law Library currently has no one person whose primary responsibility is reference. Instead it is dealt with by whomever can most readily drop work in progress. This extremely poor situation results in frustration to users and delay and errors in library work.</p> <p>In FY 79 LEAA prepared a study of the Law Library. This study indicated that at that very moment a minimal staffing of 7.5 FTE was required (see attached). Among the recommended additional staff members was a reference librarian.</p> <p>Since FY 79 the workload in the Law Library has continued to increase and to increase substantially (see attached). Yet the Law Library has still not reached that minimal staffing level of 7.5 FTE.</p> <p>The staff cannot function efficiently or effectively under this increased workload. Our move to the new Law Library facility coupled with the addition of WESTLAW (a reference function) will substantially increase this already too great workload. A reference librarian is essential at this time.</p>		21,872.00	21,872.00	1984	1985

Continued

AGENCY EXCEPTION ADJUSTMENT FORM

AGENCY NUMBER

2110

AGENCY NAME

Judiciary

PROGRAM NUMBER

03

PROGRAM NAME

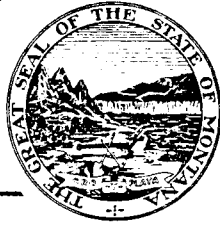
Law Library

CONTROL VARIABLE

00000

Item Nbr. by Priority	Object of Expend. Third Level	ITEM DESCRIPTION AND JUSTIFICATION	Proposed Accounting Entity	REQUESTED 1985 BIENNIAL		IOBPP Use Only) RECOMMENDED 1985 BIENNIAL	
				1984	1985	1984	1985
		Continued from previous page.					
		The reference librarian will be the equivalent of a Grade 15. (We hope to hire a dual degree person.) The position will require a typewriter and supplies. Additional funds will be needed for traveling to the AALL Conference.					
		FY 84 FY 85					
2211		Supplies		100.00			
3112		Typewriter		900.00			
2412		Out-of-state Transp.		520.00*	818.00		
2417		Meals		135.00*	135.00		
2418		Lodging		480.00*	480.00		
2801		Dues		70.00	70.00		
		*AALL will meet in San Diego in FY 84 and New York City in FY 85. Both of these cities are designated as high cost cities. These amounts are based on current level costs. Inflation must be added.					

State Law Library of Montana



Justice Building • 215 North Sanders
Helena, MT 59620 • (406) 449-3660

Modification FY 84-85

Equipment

	<u>FY 84</u>	<u>FY 85</u>
IBM 5253 CRT (2)	4,153	4,153
IBM 5219 Printer	7,916	
Maintenance	<u>1,089</u>	<u>1,731</u>
Total	13,158	5,884

Microfiche Reader	280
Microfiche Reader	<u>280</u>
	560

Exhibit 6
1/28/83

International Business Machines Corporation

130 Neill Avenue
Helena, Montana 59601
406/442-1160

January 25, 1983

Ms. Claire Engel
Supreme Court Law Librarian
Justice/State Library Building
Helena, MT 59601

Dear Ms. Engel:

Listed below are the costs of equipment and service that you requested:

	<u>Purchase</u>	<u>Lease</u>	<u>Rent</u>	<u>Monthly Maintenance</u>
1 5253 Terminal	\$4,153.00	\$ 135.00	\$ 156.00	\$ 31.00
1 5219 Printer	7,916.00	310.00	361.00	90.00
2 Connector Kits				
@ \$35.25 each	70.50			

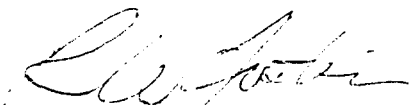
Cable @ \$.40/ft*

*Estimate approximately 200 feet required

Your 3101 terminal is not compatible with the 5520 Administrative System, and therefore cannot be used.

The prices quoted are in accordance with our current State & Local Government Price List and are firm for the period July 1, 1982 through June 30, 1983.

Sincerely,



R.W. Foster
Account Marketing Representative
National Marketing Division

RWF/01G7P.0253.3

VISITOR'S REGISTER

HOUSE Elected Officials/Highways COMMITTEE~~BILL~~ Budget Hearings: Water CourtsDATE January 28, 1983SPONSOR ~~Law Library~~~~WORK SESSION FOLLOWING HEARINGS~~

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
J.D. Holmes	Helena	MT. ARTS ADVOCACY	X Law Library	
J.H. Morrison	"	MORRISON - Maserle	✓	
M.W. Gullikson	LIVINGSTON, MT	UNITED TRANSPORTATION UNION		
Chris Jensen	Bozeman, MT	Water Courts	✓	
Dee Schueler	" "	" "	✓	
Dr. N. G. G. G.	" "	" "	✓	
Charles Landman	Helena	MEIC	✓	
SILK ASHER	BOZEMAN	APA, PCLA + SOPA	WATER COURTS	
Steve Meyer	Helena	MACD	counts ✓	
Tom Hagon	Billings	Sen. Dist 30	✓	
K.M. Kelly	Helena	MONT. WATER DEVELOPERS	✓	
Susan Cottingham	Helena	MT. ENV. INFO CTR	✓	
VERNON WESTLARK	BOZEMAN	AG. ASSNS. APA, PCLA + SCPA	✓	
Sanderson	Clarendon	Bro. Mtn. W. & E. P		
Red Munn	Helena	Dist 33	✓	
Jo Brunner	Helena	W. I.F.E	✓	
Jim Mular	Butte	PRO RLY CLERKS	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

