

HOUSE APPROPRIATIONS SUBCOMMITTEE ON NATURAL  
RESOURCES AND BUSINESS REGULATION - MINUTES  
February 3, 1983

The meeting was called to order at 8:15 a.m. in Room 132  
of the Capitol Building, Helena, Montana, by CHAIRMAN  
MANUEL.

Roll Call: MANUEL, BOYLAN, STOBIE, SMITH, LANE, HEMSTAD  
- Present  
Absent - NONE  
Staff Present - DICK GILBERT, LFA; CAROLYN  
DOERING, OBPP; PATTI SCOTT,  
SECRETARY.

DEPARTMENT OF NATURAL RESOURCES (Tape #40 Side A-001)

WATER RESOURCES AND PLANNING DIVISION (Executive Session)

PERSONAL SERVICES

The 1983 level for FTE's was 126.99. The LFA reduced the  
1983 by four FTE's because they had been vacant for the  
entire FY82 year. OBPP figures for FTE's were:

1983 level	126.99	FTE
Hiplex	-1.25	
Daly Ditch	-3.15	
RWRCC (COMPACT COMM.)	+5.00	
Water Development	+11.00	
	<u>138.59</u>	TOTAL FTE FOR OBPP

This information was not received by the LFA and thus the  
difference of 15.60 in this program. The Department stated  
that two of the four FTE's deleted by the LFA had been filled  
about six months ago with a Yellowstone River Compact  
Coordinator and a Water Project Engineer. The Department  
requested the other two FTE's be filled at current level, or  
through the Modification in this program.

OBPP also included \$30,000 in overtime for Water Rights  
and Water Projects Work. About 75% of this need is from  
earmarked funds, with the remaining 25% General Funded.

Reserved Water Rights Compact Commission member compensation  
was inadvertently not included and totals about \$6,000 per  
year.

SENATOR SMITH asked why the FTE's were left vacant. MR.  
BERRY responded that there was no money to fill them last  
session. The Department reorganized when it created the

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Water Development Program. They combined the Water Sciences Bureau and the Water Planning Bureau.

The other two FTE's are for the hearings officer and a clerical person to process hearings. These positions did not have sufficient funds.

GARY FRITZ stated they also needed the Vacancy Savings.

MR. FRITZ stated that they could not use other employees who assist in water right claims for hearings, because they were not properly trained to be able to conduct hearings.

CAROLYN DOERING clarified that last session, the Legislature set up an earmarked account for the fees from water right permits to go into. But the Legislature did not appropriate the money. The money was sitting in the earmarked revenue account, but the Department could not use it. So the Department asked OBPP for a Budget Amendment to use the earmarked revenues (Water Rights permit monies) to fund the two vacant positions. OBPP stated they did not consider it an emergency and told the Department they would have to come to the Legislature. The Department does have a Budget Amendment in.

MR. BERRY clarified these positions are solely for NEW PERMIT APPLICATIONS. They are not for the Water Adjudication Program. The Water Rights Adjudication Act was to establish claims to existing water rights claimed prior to July 1, 1973. These claims are currently being adjudicated by Judge Lessley, and this is what all the hearings statewide were about.

NEW PERMIT APPLICATIONS are for new water permit applications, and is appropriated by the Department. The Department is required by statute to settle any contested claims through the hearings process within 60 days. They currently have a backlog of approximately 75 hearings, and some applicants have waited two years before their applications could be acted upon.

SENATOR BOYLAN questioned how the Department could continue appropriating water, when the Adjudication process is many years from being done. In essence, the water has not yet been quantified. MR. BERRY felt the Adjudication process

and the Appropriation process were not conflicting with each other.

The Water Compact Commission is part of the Adjudication process in negotiating with the Indians on trying to quantify the reserved water rights. These are part of the "vacant four FTE's" in that one FTE was filled six months ago for the Yellowstone River Compact Commission.

OVERTIME (Tape #40 Side A-260)

The Division's actual overtime payments in 1982 were \$27,813 (\$13,000 for Daly Ditch.) The Division needs \$30,000 overtime for Water Rights and Water Projects work. About 75% of this is from earmarked funds and 25% from General Fund. OBPP included \$30,000 overtime in their budget.

SENATOR SMITH stated he felt the overtime of the employees who conducted the various hearings around the state was a waste of money since so few people showed up. MR. BERRY stated that for the most part, people did come, but the "big rush" at the end also accounts for much of the overtime.

MR. BERRY stated that now these field people are busy recording all of this information into the computer and "verifying" the claims. When the staff has verified a claim, the Judge then gets an abstract and holds the hearings.

(Tape #40 Side A-326)

JUDGE LESSLEY was present, and clarified that he is dealing with the ADJUDICATION PROGRAM and those water rights before 1973, not to be confused with the NEW WATER RIGHTS PERMIT APPLICATIONS, in which the Department itself holds hearings, and is requesting an additional hearings officer.

JUDGE LESSLEY stated that the field people (MR. BERRY was talking about) are verifying these claims and registering the claims in the computer. After he receives the abstracts, he then holds the hearings. The field people then go to the next area scheduled for hearings and start verifying claims again. MR. BERRY stated these 47 people in the Adjudication Program who verify claims will begin to drop off as claims are settled.

Forty-one FTE's work with Water Rights Permits. CHAIRMAN MANUEL asked if overtime was still going to be necessary,

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now that the rush in filing for Adjudication is over. GARY FRITZ stated there will be some dropoff, but that there will always be overtime in Water Rights and Water Projects areas. There will not be much overtime with the Adjudication program, and those 47 people verifying claims.

FUNDING IN WATER RESOURCES AND PLANNING DIVISION (Tape  
#40 Side B-001)

SENATOR BOYLAN asked how the funds are spent. MR. BERRY stated the Adjudication program operated off of an earmarked account. There are RIT monies (\$732,000 FY82). General Fund Appropriation in FY82 was \$1.7 Million and approximately \$2 Million FY83. They are asking \$2.2 Million for FY84 and FY85.

DICK GILBERT explained that the OBPP Budget included Water Rights Adjudication monies, which actually is not there yet. There is a bill in to raise user fees for water adjudication. This is what OBPP used in their budget. MR. GILBERT, as the LFA, used General Fund monies, because this is what the law said to use in this event. SENATOR SMITH stated he has told his area that \$40.00 was going to be the only charge. The bill in this session does not clearly state exactly who will be charged. It is feasible that everyone who has already filed will again have to pay another fee.

PERSONAL SERVICES (Water Resources and planning) (Tape #40  
Side B-060)

REPRESENTATIVE HEMSTAD wanted to know why the LFA had not received the proper information from the Department in order to prepare his budget and make a recommendation. MR. BERRY was not sure why, and CAROLYN DOERING stated that it was an oversight, and the papers may have been lost in transition.

REPRESENTATIVE HEMSTAD MOVED TO ACCEPT THE OBPP FUNDING MINUS THE FOUR FTE'S AND NO OVERTIME.

SENATOR SMITH MADE A SUBSTITUTE MOTION TO ACCEPT THE OBPP FUNDING - INCLUDING ALL OF THE 138.59 FTE'S. SENATORS SMITH AND LANE VOTED YES. CHAIRMAN MANUEL VOTED YES. SENATOR BOYLAN VOTED NO. REPRESENTATIVES HEMSTAD AND STOBIE VOTED NO. MOTION FAILED.

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REPRESENTATIVE STOBIE MOVED TO APPROVE 136.59 FTE'S. MO-  
TION PASSED WITH REPRESENTATIVE HEMSTAD VOTING NO.

REPRESENTATIVE HEMSTAD stated the Department had filled the  
other two FTE'S just six months ago, in time for the session.  
They were mandated by the Legislature to fill the positions.  
The Department used the Vacancy Savings from these posi-  
tions to fund the Pay Plan.

CAROLYN DOERING stated Department: HAD to fund the Pay  
Plan. If the Department loses these positions, and the  
Committee comes back and takes Vacancy Savings again, the  
agencies have no place to absorb the Pay Plan.

REPRESENTATIVE HEMSTAD felt it was the Governor's responsi-  
bility.

OVERTIME (Tape #40 Side B-165)

REPRESENTATIVE STOBIE MOVED TO ACCEPT \$15,000 IN OVERTIME.  
MOTION PASSED WITH CHAIRMAN MANUEL VOTING NO.

CAROLYN DOERING clarified that whoever used overtime would  
be charged, whether it came from General Fund or other funds.  
The Committee felt there was some justification for overtime,  
because these kinds of meetings (water rights) must be held  
at night so the public may attend. The original request  
was for \$30,000.

OPERATING BUDGET

CONTRACTED SERVICES

SENATOR SMITH MOVED TO ACCEPT THE OBPP FIGURES. MOTION  
PASSED UNANIMOUSLY. (REPRESENTATIVE HEMSTAD WAS EXCUSED.)

SUPPLIES AND MATERIALS

REPRESENTATIVE STOBIE MOVED TO ACCEPT THE LFA FIGURES.  
MOTION PASSED UNANIMOUSLY. (REPRESENTATIVE HEMSTAD WAS  
EXCUSED.)

COMMUNICATIONS

REPRESENTATIVE STOBIE MOVED TO ACCEPT \$220,000 FY84 and  
\$245,000 FY85. MOTION PASSED UNANIMOUSLY. (REPRESENTATIVE  
HEMSTAD WAS EXCUSED.)

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TRAVEL (Tape #40 Side B-431)

SENATOR SMITH MOVED TO ACCEPT THE \$50,000 INCREASE IN TRAVEL AND LINE ITEM THIS AMOUNT FOR TRAVEL ONLY. MOTION PASSED UNANIMOUSLY. (REPRESENTATIVE HEMSTAD WAS EXCUSED.)

The Department stated it needs the \$50,000 in travel (\$30,000 for in-state and \$20,000 out-of-state) for Water Rights Adjudication, Indian Water rights negotiations and Interstate Water Compact negotiations. The negotiations with the Indian Reservations and project monitoring will take a lot of in-state travel. The out-of-state is to Washington, D.C. for the Indian negotiations.

RENT, UTILITIES, REPAIR

REPRESENTATIVE STOBIE MOVED TO APPROVE THE OBPP FIGURES FOR RENT, UTILITIES AND REPAIR. MOTION PASSED UNANIMOUSLY. (REPRESENTATIVE HEMSTAD WAS EXCUSED.)

OTHER EXPENSES

SENATOR SMITH MOVED TO APPROVE THE OBPP FIGURES. MOTION PASSED UNANIMOUSLY. (REPRESENTATIVE HEMSTAD WAS EXCUSED.)

EQUIPMENT (Tape #41 Side A-001)

SENATOR SMITH MOVED TO ACCEPT \$51,500 FY84 and \$24,000 FY85. MOTION PASSED UNANIMOUSLY.

The Committee felt the Department could use their Diesel Truck for a few more years, as \$12,000 is too much money at this time.

OTHER IMPROVEMENTS (Tape #41 Side A-055)

These are Water Development Funds. They include feasibility studies such as Middle Creek, Bear Reservoir, Willow Creek, and project repair on Douglas Canal, etc. These are State-owned projects. The monies come from interest on RIT and revenues on State-owned projects.

REPRESENTATIVE HEMSTAD MOVED TO ACCEPT THE LFA FUNDING FOR \$500,000. MOTION PASSED UNANIMOUSLY.

FUNDING (Tape #41 Side A-211-500)

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REPRESENTATIVE STOBIE MOVED TO APPROVE THE OBPP FUNDING LEVELS. MOTION PASSED WITH REPRESENTATIVES HEMSTAD AND STOBIE VOTING YES. SENATORS LANE AND BOYLAN VOTED YES. CHAIRMAN MANUEL AND SENATOR SMITH VOTED NO.

There was considerable discussion on this motion. \$1,000,000 of RIT is included by OBPP in the operations of Water Resources and Planning Division (FY84 \$803,300 and FY85 \$1,820,500). This is to offset the General Fund. Also, OBPP is taking about \$300,000 of RIT monies a year in Water Development funds to support the Engineering Bureau, previously supported by General Fund. With the crunch on the General Fund right now, MS. DOERING felt she had to look to other sources to fund this operation besides the General Fund.

MR. BERRY disagrees with these actions because OBPP is taking \$300,000 from the Water Development account, and funding the Engineering Bureau. This money should be available for projects in Water Development and not to run operations. MR. BERRY recommends leaving RIT monies available for Water Projects. MR. BERRY stated the Engineering Bureau has historically been funded off the General Fund. MR. BERRY does not feel RIT monies should be used to run operations. There are already some RIT monies in Engineering as a result of last session.

CHAIRMAN MANUEL noted this is a very complicated question, to use \$2.6 Million of General Fund or offset with RIT. The Committee voted (above) to offset with RIT.

MODIFICATIONS IN WATER RESOURCE AND PLANNING (Tape #41  
Side A-500)

Detailed descriptions of these modifications are included in the January 31, 1983 minutes.

1. STATE FLOODPLAIN ASSISTANCE PROGRAM

SENATOR BOYLAN MOVED TO ACCEPT THIS MODIFICATION. MOTION PASSED UNANIMOUSLY.

2. HEARINGS OFFICER AND SECRETARY

REPRESENTATIVE STOBIE MOVED TO ACCEPT THIS MODIFICATION. MOTION PASSED WITH SENATOR BOYLAN VOTING NO.

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3. NATIONAL WATER USE DATA SYSTEM (NWUDS)

REPRESENTATIVE STOBIE MOVED TO ACCEPT THIS MODIFICATION.  
MOTION PASSED UNANIMOUSLY.

4. TONGUE RIVER DAM REHABILITATION

REPRESENTATIVE HEMSTAD MOVED TO APPROVE THIS MODIFICATION.  
MOTION PASSED WITH SENATOR BOYLAN VOTING NO.

SENATOR SMITH felt they have "studied it to death."

5. COONEY DAM (Tape #41 Side B-001)

SENATOR BOYLAN MOVED TO APPROVE THIS MODIFICATION. MOTION PASSED  
UNANIMOUSLY.

SENATOR BOYLAN noted this will complete the project, and we  
can finally "close the book" on it.

VACANCY SAVINGS FOR WATER RESOURCES AND PLANNING

REPRESENTATIVE STOBIE MOVED TO APPROVE 1%. SENATORS SMITH,  
LANE AND BOYLAN VOTED NO. REPRESENTATIVE HEMSTAD VOTED NO.  
CHAIRMAN MANUEL AND REPRESENTATIVE STOBIE VOTED YES. MOTION  
FAILED.

REPRESENTATIVE HEMSTAD MOVED TO APPROVE 3%. SENATOR BOYLAN,  
REPRESENTATIVE HEMSTAD, AND REPRESENTATIVE STOBIE VOTED YES.  
SENATORS LANE AND SMITH VOTED NO. CHAIRMAN MANUEL VOTED NO.  
MOTION FAILED.

REPRESENTATIVE STOBIE MOVED TO RECONSIDER 1%. MOTION FAILED  
WITH ONLY REPRESENTATIVE STOBIE VOTING YES.

REPRESENTATIVE HEMSTAD MOVED 2%. REPRESENTATIVE HEMSTAD AND  
SENATOR BOYLAN VOTED YES. SENATORS LANE AND SMITH VOTED NO.  
CHAIRMAN MANUEL AND REPRESENTATIVE STOBIE VOTED NO. MOTION  
FAILED.

SENATOR BOYLAN MOVED FOR 4%. SENATOR BOYLAN AND REPRESENTATIVE  
HEMSTAD VOTED YES. CHAIRMAN MANUEL, SENATORS SMITH AND LANE,  
AND REPRESENTATIVE STOBIE VOTED NO. MOTION FAILED.

SENATOR LANE MOVED FOR 1/2% VACANCY SAVINGS. CHAIRMAN MANUEL,  
REPRESENTATIVE STOBIE, SENATOR BOYLAN AND SENATOR LANE VOTED  
YES. REPRESENTATIVE HEMSTAD VOTED NO. MOTION PASSED.



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SUPPLEMENTAL FOR \$575,000 FOR THE WATER ADJUDICATION PROGRAM  
(Tape #41 Side B-225)

Details on this supplemental are included in the January 31,  
1983 minutes.

SENATOR BOYLAN MOVED TO APPROVE THIS SUPPLEMENTAL. MOTION  
PASSED WITH REPRESENTATIVE STOBIE VOTING NO. (Senator Smith  
was excused.)

The meeting was adjourned at 11:54 a.m.

  
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REX MANUEL, Chairman