

MINUTES OF THE MEETING  
HUMAN SERVICES SUBCOMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

January 15, 1985

The meeting of the Human Services Subcommittee was called to order by Chairman Cal Winslow on January 15, 1985 at 8:10 a.m. in Room 108 of the State Capitol.

ROLL CALL: All members were present.

In opening, Chairman Winslow indicated that there will be some additional discussion on the Certificate of Need and the 1122 Review. A copy of HB 447, last year's appropriations bill, was given to each member of the committee (EXHIBIT 1), along with a copy of SB 71 that will be changing The Certificate of Need process (EXHIBIT 2).

Don Willems, from the Environmental Sciences Division of DHES, gave a brief overview of the above division (EXHIBIT 3). He highlighted the five bureaus within the division and introduced the individual bureau chiefs:

- 1) Water Quality Bureau
- 2) Air Quality Bureau:
- 3) Food & Consumer Safety Bureau
- 4) Occupational Health Bureau
- 5) Solid & Hazardous Waste Bureau.

Solid and Hazardous Waste Bureau

Duane Robertson (8:A:069) was introduced and have his presentation of the Solid & Hazardous Waste Bureau (EXHIBIT 4).

Discussion followed concerning whether hazardous wastes are petroleum products and whether state employees would be picking up these hazardous wastes. There was an inquiry into the projects at Libby, Columbus, and Somers. Libby has ground water contamination thereby making use of personal wells impossible; Columbus also has ground water contamination stemming from an old chromium operation; Somers has a creosote problem with a pond next to Flathead Lake with the creosote seeping into the soil. Senator Story inquired what the bureau does about this.

Chairman Winslow asked what is meant by Life Cycle maintenance and how many projects are on state land.

Ray Hoffman gave everyone on the committee a handout listing the modified budget for each program under the bureau (EXHIBIT 5).

The bureau has noticed a few discrepancies in the LFA budget:

- 1) Under the Junk Vehicle Program, the bureau had asked for \$858 per year for out-of-state travel and would like to see that reinstated.
- 2) Asking for \$2,000 for 1/4 of the Display Writer Terminal and would like to see that reinstated. They already have \$8,000 for that purpose.
- 3) A difference of \$500 for Secretary of State filing fees that was reduced that much.
- 4) A request of \$10,000 per year for feasibility funding for a state hazardous waste facility. They are feeling more pressure to build a hazardous waste facility in Montana; there is a lot of interest in that thought.

A question was directed as to how many additional people the DHES is asking for; the Department of Health is asking for 240.25 people. The current level is 224 people. An additional question was asked as to what is being spent on licensing and certification and filing fees; The Secretary of State increased their filing fees, and the 1984 base budgets were based on those lower prices.

Dr. Drynan discussed the legal staff and the inability of that staff to keep up with the work load. There was a request of an increase in lawyer support last session. The executive budget has granted another attorney with operating expenses, but the funding scheme has changed.

END OF TAPE 8, SIDE A

Within the executive request for the legal reorganization there is a .5 FTE attorney for Solid Waste Bureau, .5 FTE attorney for Air Quality Bureau, and 1 FTE for Water Quality Bureau.

Dale Taliaferro (8:B:124), from the Health Planning and Resource Development Bureau, discussed the relationship of Certificate of Need and Section 1122 reviews (EXHIBIT 6).

At this point in the meeting, Chairman Winslow left and Senator Christiaens chaired the remainder of the meeting.

#### Air Quality Bureau

Hal Robbins (8:B:287) was presented to give his testimony of the Air Quality Bureau (EXHIBIT 7). He also discussed the three charts included in his presentation. Ray Hoffman again gave everyone a handout listing the modified budget for each program under the Air Quality Bureau (EXHIBIT 8).

HUMAN SERVICES SUBCOMMITTEE

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Testimony was heard from Representative Dennis Nathe regarding the Air Quality Bureau, and specifically the Poplar River Project. Representative Nathe gave to everyone a handout outlining that particular project (EXHIBIT 9). His concern is that this project used no scrubbers, making the sulfur dioxide particles adhere to the dust particles. These project plants put out more SO<sub>2</sub> in one month than the Colstrip plants in one year. He is asking for \$30,000 from the General Fund for the next biennium.

END OF TAPE 8, SIDE B

Further testimony was heard from Senator Ed Smith (9:A:007) in support of the request of \$30,000 from the Air Quality Bureau.

Questions were asked concerning the availability of legal recourse to recover any damages, and whether this \$30,000 is a one-time request or is it a necessary part of appropriations.

Representative Francis Bardanouve commented on the pollution being poured into Canada and the poor position we're in because of that.

There being no further business before the committee, the meeting was adjourned at 9:50 a.m.



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CAL WINSLOW, Chairman

DAILY ROLL CALL

Human Services Subcommittee

49th LEGISLATIVE SESSION -- 1985

Date 1-15-85

[illegible]

Exhibit 1

1-15-85

HB 447

	Fiscal 1984				Fiscal 1985			
	State	Federal			State	Federal		
General	Special	Special		General	Special	Special		
Fund	Revenue	Revenue Proprietary	Total	Fund	Revenue	Revenue Proprietary	Total	
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES								
1. Financial Management								
281,691	85,000	431,429	798,120	245,514	85,000	469,584	800,098	
2. Environmental Sciences								
a. Food & Consumer Safety								
351,874	204,000		555,874	353,428	204,000		557,428	
b. Solid Waste Management								
126,574	980,048	217,533	1,324,255	128,430	1,001,585	161,651	1,291,666	
c. Air Quality								
323,787		544,692	868,479	310,657		544,078	854,735	
d. Occupational Health								
173,227			173,227	182,017			182,017	
e. Water Quality								
219,406	20,058	1,146,628	1,386,092	222,736	20,209	1,138,807	1,381,752	
f. Subdivision Review								
	211,648		211,648		225,537		225,537	
g. Administration								
59,124	22,341	31,992	113,457	59,229	22,485	32,469	114,183	
h. Hazardous Waste Cleanup								
	220,000	1,980,000	2,200,000					
3. Management Services Division								

Fiscal 1984					Fiscal 1985				
State		Federal			State		Federal		
General	Special	Special			General	Special	Special		
Fund	Revenue	Revenue	Proprietary	Total	Fund	Revenue	Revenue	Proprietary	Total
a. Operations									
146,121		88,028		234,149	148,904		87,564		236,468
b. Laboratory									
409,167	109,953	188,222		707,342	414,163	61,530	197,294		672,987
4. Dental Bureau									
a. Dental Program									
67,572				67,572	67,232				67,232
b. Health Education									
		34,671		34,671			35,759		35,759
c. Hypertension									
		78,105		78,105			77,500		77,500
5. Nursing Bureau									
a. Administration									
125,452		25,873		151,325	127,908		25,971		153,879
b. Venereal Disease									
10,685		66,223		76,908	11,371		67,727		79,098
c. Vaccination									
20,861		139,703		160,564	21,550		142,771		164,321
d. Family Planning									
		929,934		929,934			932,975		932,975
6. Clinical Services Division									

Fiscal_1984					Fiscal_1985				
State		Federal			State		Federal		
General	Special	Special			General	Special	Special		
_Fund__	Revenue	Revenue	Proprietary	Total	_Fund__	Revenue	Revenue	Proprietary	Total
a. Administration									
	224,090	863,976		1,088,066		223,957	690,835		914,792
b. Handicapped Child Services									
		647,445		647,445			682,882		682,882
c. Newborn Transport									
		50,000		50,000					
d. Diabetes									
		34,157		34,157			19,157		19,157
e. Tumor Registry									
	52,647			52,647		53,433			53,433
f. Child Nutrition									
		1,925,033		1,925,033			1,926,479		1,926,479
g. Women Infant Children Food Program									
		4,597,281		4,597,281			4,804,064		4,804,064
h. Improved Pregnancy Outcome									
		300,000		300,000					
7. Licensing and Certification Bureau									
	130,274	393,531		523,805		145,658	392,683		538,341
8. Emergency Medical Services									
	321,543	30,000	167,128	518,671		311,686	30,000	182,565	524,251
9. Health Planning									

Fiscal 1984				Fiscal 1985			
General	State Special	Federal Special		General	State Special	Federal Special	
Fund	Revenue	Revenue Proprietary	Total	Fund	Revenue	Revenue Proprietary	Total
106,649		233,082	339,731	105,643		233,615	339,258
10. Legal Unit		159,050	159,050			160,115	160,115
11. Director's Office		83,499	351,967	273,363		83,499	356,862
268,468							
12. Audit		39,300	39,300				
13. Renal Program							
125,000			125,000	125,000			125,000
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Total							
3,544,312	1,883,048	15,396,515	20,823,875	3,531,879	1,650,346	13,090,044	18,272,269

Items 2h and 5h are biennial appropriations.

Revenue generated from fees charged hazardous waste producers must equal at least \$21,828 in fiscal 1984 and \$21,194 in fiscal 1985. If these amounts are not collected in either fiscal year, operation of the hazardous waste program will be returned to the Environmental Protection Agency. All fees collected shall be deposited in the general fund.

Federal funds received for radiation projects may be added by budget amendment.

Included in Item 2b is \$51,000 of federal spending authority in fiscal 1984 for an inventory of hazardous waste sites, which is a biennial appropriation.

Item 2c includes \$30,000 general fund for the biennium for monitoring air quality in the Scobey area and can be



## Fiscal 1984

## Fiscal 1985

	State	Federal		State	Federal		
General	Special	Special		General	Special	Special	
—Fund—	Revenue	Revenue Proprietary	Total	—Fund—	Revenue	Revenue Proprietary	Total

used only when Saskatchewan Power Units one and two are both at full operating capacity.

The department will continue grants to counties for air quality activities at the level of \$95,000 in each fiscal year.

The subdivision bureau will be operated solely from fees collected for subdivision review.

In item 3b, \$48,500 from fee revenues is authorized only for equipment purchases in the 1985 biennium.

In item 4c, \$77,500 is allocated for the hypertension program in fiscal 1985. If the federal requirement for hypertension is less than \$77,500 in fiscal 1985, all remaining funds from the hypertension allocation shall be distributed to the county for emergency medical services training activities.

Included in the appropriation in item 6a is \$138,904 of federal block grant carryover funds. The department is responsible for obtaining the required match for these funds. If no match is obtained, the carryover will revert to the federal government.

In item 9, if federal funds are less than \$125,892 in fiscal 1985, this program will cease and any remaining general fund will revert.

The total appropriations for the department include \$1,546,949 in fiscal 1984 and \$1,407,745 in fiscal 1985 from the Maternal and Child Health Block Grant and \$607,264 in fiscal 1984 and \$607,264 in fiscal 1985 from the preventative health block grant. To the extent revenues from these grants exceed those amounts, it shall be distributed to the counties. To the extent revenues from these grants are less than these amounts, distributions to the counties shall be reduced.

## DEPARTMENT OF LABOR &amp; INDUSTRY

## 1. Director's Office

177,736	177,736	179,271	179,271
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HB 447

APPROVED BY COMMITTEE  
ON PUBLIC HEALTH, WELFARE  
& SAFETY

SENATE BILL NO. 71

INTRODUCED BY HAGER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE PROCEDURE FOR REVIEWING CERTIFICATE OF NEED APPLICATIONS FOR HEALTH CARE FACILITIES; ELIMINATING APPEALS TO THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES; AMENDING SECTIONS 50-5-302 AND 50-5-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-5-302, MCA, is amended to read:  
"50-5-302. (Temporary) Notice of intent -- application and review process. (1) The department may adopt rules including but not limited to rules for:

(a) the form and content of notices of intent and applications;

(b) the scheduling and consolidation of reviews of similar proposals;

(c) the abbreviated review of a proposal that:

(i) does not significantly affect the cost or use of health care;

(ii) is necessary to eliminate or prevent imminent safety hazards or to repair or replace a facility damaged or destroyed as a result of fire, storm, civil disturbance, or

any act of God;

(iii) is necessary to comply with licensure or certification standards; or

(iv) has been approved by the legislature pursuant to the long-range building program under Title 17, chapter 5, part 4, and Title 18, chapter 2, part 1, providing the legislative findings accompanying such approval give consideration to the criteria of 50-5-304, and subject to the provisions of [section 9];

(d) the format of public informational hearings and reconsideration hearings; and

(e) the establishment of batching periods for certificate of need applications for new beds, establishment of new services, and replacement of health care facilities.

(2) At least 30 days before any person acquires or enters into a contract to acquire an existing health care facility, the person shall submit to the department and the appropriate health systems agency a notice of his intent to acquire the facility and of the services to be offered in the facility and its bed capacity.

(3) Any person intending to initiate an activity for which a certificate of need is required shall submit a letter of intent to the department. The letter of intent must be placed in the appropriate batch, if any. After expiration-of-the-challenge-period--following--the--batching



-2- SECOND READING

SB 71

Exhibit 2  
1-15-85

1 period--in-which-the-letter-of-intent-was-submitted-or-if-no  
 2 batching-is-required,-after-receipt-of-the-letter-of-intent  
 3 the-department-shall-send-the-person-an-application--form  
 4 requiring-the-submission-of-information-considered-necessary  
 5 by--the-department--to--determine--if-the-proposed-activity  
 6 meets-the-standards-in-50-5-304. Any person who applies for  
 7 comparative review by submitting a challenge letter of  
 8 intent during the challenge period immediately following the  
 9 batch must submit an application within 30 days after the  
 10 close of the challenge period.

11 (4) Within 15 calendar days after receipt of the  
 12 application, the department shall determine whether it is  
 13 complete. If, after the 15 days, the application is found  
 14 incomplete, the department shall request the necessary  
 15 additional information within 5 working days. Upon receipt  
 16 of the additional information from the application  
 17 applicant, the department shall have 15 days to determine  
 18 if the application is complete. If the department fails to  
 19 make a determination as to the completeness of the  
 20 application within the prescribed 15-day period, the  
 21 application shall be deemed to be complete. If the  
 22 applicant fails to submit the necessary additional  
 23 information requested by the department by the deadline as  
 24 prescribed by department rules for considering such reviews,  
 25 a new letter of intent and application must be submitted and

1 the application will be dropped from the current batch.  
 2 (5) After all applications in the current batch have  
 3 been designated complete--or--if--an application does not  
 4 require batching--after--it an application is designated  
 5 complete, notification must be sent to the applicants  
 6 applicant and all other affected persons regarding the  
 7 department's projected time schedule for review of the  
 8 applications application. The review period for an  
 9 application may be no longer than 90 60 calendar days after  
 10 the notice is sent unless a longer period is agreed--to--by  
 11 the applicant--or--if-the application has been batched, by  
 12 all applicants in the batch. a hearing is required, in which  
 13 case the review must be completed within 120 days after the  
 14 notice is sent or, if a challenging application has been  
 15 submitted as provided in subsection (3), within 120 days  
 16 after the notice has been sent for all such challenging  
 17 applications. A longer period is permitted with the consent  
 18 of all affected applicants. All completed applications  
 19 pertaining to similar types of services, facilities, or  
 20 equipment affecting the same health service area may be  
 21 considered in relation to each other. During the review  
 22 period a public hearing may be held if requested by an  
 23 affected person or when considered appropriate by the  
 24 department. Such a hearing must be conducted pursuant to  
 25 the provisions for informal proceedings of the Montana

1 Administrative Procedure Act.

2 (6) The department shall, after considering all  
3 comments received during the review period, issue a  
4 certificate of need, with or without conditions, or deny the  
5 application. The department shall notify the applicant and  
6 affected persons of its decision within 5 working days after  
7 expiration of the review period. If the department fails to  
8 reach a decision and notify the applicant of its decision  
9 within the deadlines established in this section and if that  
10 delay constitutes an abuse of the department's discretion,  
11 the applicant may apply to district court for a writ of  
12 mandamus to force the department to render a decision.  
13 (Repealed effective July 1, 1987--sec. 13, Ch. 329, L.  
14 1983.)"

15 Section 2. Section 50-5-306, MCA, is amended to read:

16 "50-5-306. (Temporary) Right to hearing and appeal.

17 (1) An affected person may request the department to hold a  
18 public hearing and to reconsider its decision. The  
19 department shall grant the request if the affected person  
20 submits the request in writing showing good cause as defined  
21 in rules adopted by the department and if the request is  
22 received by the department within 20 calendar days after the  
23 initial decision is announced. The public hearing to  
24 reconsider shall be held, if warranted or required, within  
25 20 calendar days after its request. The department shall

1 make its final decision and written findings of fact and  
2 conclusions of law in support thereof within 30 days after  
3 the conclusion of the reconsideration hearing.

4 (2) An affected person may appeal the department's  
5 final decision to the board by filing a written notice of  
6 appeal stating the specific findings of fact and conclusions  
7 of law being appealed and the grounds. An affected person  
8 does not have to request the department to hold a  
9 reconsideration hearing prior to filing an administrative  
10 appeal to the board. The notice of appeal must be received  
11 by the board within 30 calendar days after formal notice of  
12 the department's final decision was issued. The board shall  
13 give public notice of the appeal within 10 days, and the  
14 hearing shall be held within 30 days after receipt of the  
15 notice of appeal.

16 (3) The hearing before the board must be a hearing de  
17 novo with respect to the findings and conclusions identified  
18 pursuant to subsection (2) and must be conducted pursuant to  
19 the contested case provisions of the Montana Administrative  
20 Procedure Act. Within 45 calendar days after the conclusion  
21 of the public hearing, the board shall make and issue its  
22 decision supported by written findings of fact and  
23 conclusions of law. The board may affirm, reverse, or modify  
24 the department's decision or remand it for further  
25 proceedings.

1        {4}--the--final--decision--of--the--board---shall---be  
2        considered--the--decision--of--the--department--for--purposes--of--an  
3        appeal--to--district--court: Any affected person may appeal  
4        this the department's final decision to the district court  
5        as provided in Title 2, chapter 4, part 7.

6        {5}{3} The department may by rule prescribe in greater  
7        detail the hearing and appellate procedures. (Repealed  
8        effective July 1, 1987--sec. 13, Ch. 329, L. 1983.)"

9        NEW SECTION. Section 3. Extension of rulemaking  
10       authority. Any existing authority of the department of  
11       health and environmental sciences to make rules on the  
12       subject of the provisions of this act is extended to the  
13       provisions of this act.

14       NEW SECTION. Section 4. Effective date. This act is  
15       effective on passage and approval.

-End-

Exhibit 3  
1-15-85

ENVIRONMENTAL SCIENCES ADMINISTRATION  
STATE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

There are five bureaus within the Environmental Sciences Division: the Water Quality Bureau, Air Quality Bureau, Food and Consumer Safety Bureau, Occupational Health Bureau and Solid and Hazardous Waste Bureau. The bureaus have specific programs to manage and these programs are established by specific environmental health laws. The main job of the Environmental Sciences Division administrative office, which consists of a technical writer, secretary and myself, is to provide coordinated direction and action by the bureaus, providing interagency coordination and assistance, and providing direct assistance to the programs where the need arises. In addition to our day to day contact with the bureaus, some of our principle activities in FY 1984 were:

Assisting with the start-up and management of the East Helena lead blood study.

Providing direction and input on revision of the subdivision regulations.

Performing a detailed inventory of the division's equipment.

Doing a detailed review of water operator training materials and examinations.

Surveying various industries, businesses and government agencies on stored hazardous wastes.

Assisting in the preparation of agency preliminary environmental reviews, environmental impact statements and other reports.

Coordinating the review and commenting on environmental impact statements and other environmental reports prepared by other agencies.

Writing and editing the Montana Index of Environmental Permits published in cooperation with the Environmental Quality Council.

Coordinating and preparing the annual State/EPA Agreement and Workplan.

We expect the FY 86 and 87 Environmental Sciences Administrative program to be along similar lines to the FY 84 program. Some activities will vary and be dependent on the needs of various programs within the division.

Testimony Presented by Donald G. Willems  
Administrator

Exhibit 4  
1-15-85

Montana Department of Health and Environmental Sciences  
Environmental Sciences Division  
Solid and Hazardous Waste Bureau  
Helena, Montana 59620

FISCAL YEAR 86-87 BUDGET REQUEST

The Solid Waste Management Bureau administers four programs to protect public health and the environment in Montana. Fourteen employees are presently included in the Bureau's solid waste, hazardous waste, superfund and junk vehicle programs.

Solid Waste Management Program

The solid waste program is responsible for licensing, technical assistance, inspection, and enforcement for 245 municipal, county and private waste management systems located throughout the state. Changes in national standards have placed much stronger controls over the proper disposal of up to now exempted hazardous wastes. Bureau staff continually are involved in directing smaller quantity hazardous wastes into suitable solid waste management systems statewide.

Currently, 1.75 employees are assigned to the solid waste management program. In order to maintain a minimum solid waste program, it will be necessary to continue at the present level. The solid waste program is funded 100% by general funds.

Junk Vehicle Program

The junk vehicle program is the only statewide resource recovery program in Montana. Between 7500 and 9000 junk vehicles per year are being crushed and transported to foundries to be made into new steel products. A total of 86,000 tons have been recycled since the beginning of the program in 1974. It is considered to be the finest statewide junk vehicle program in the United States, and requests are continually received from other states for information about the program. County and city governments are very supportive because adequate funds are provided to them to handle the junk vehicle problems in their areas. The fees to the citizens of Montana are \$1.50 for a vehicle title transfer and \$.50 each time a car is re-registered.

Currently 4.25 employees are working in the program to take care of licensing 175 private wrecking yards and 56 county motor vehicle graveyards, answering complaint calls, providing technical assistance to counties, cities and private citizens, letting crushing contracts, inspecting county and private wrecking facilities and enforcing the provisions of the act and administrative rules. The junk vehicle program is funded from a special ERA account that was established for that purpose.

### Hazardous Waste Management Program

The Resource Conservation and Recovery Act of 1976 requires the institution of a national program to control hazardous wastes. The keystone of the program is control of hazardous wastes from the point of generation through treatment, storage and final disposal via waste manifests, recordkeeping and reporting. The 47th Montana Legislature passed the current "Montana Hazardous Waste Act" which authorized the establishment of a state hazardous waste program.

The hazardous waste program has 5.0 FTE's to meet the needs of the current program. The overall duties of the staff include: the review of waste manifest information and related records, the review and processing of facility permit applications, facility siting decisions, inspections and sampling, preparation of enforcement actions, development of administrative rules and preparation of reports. Also, the Bureau staff provide extensive technical assistance to the regulated community in the proper handling and disposal of hazardous waste materials. Bureau staff also maintain an active role in the state emergency response team, which coordinates and assists in the containment and cleanup of hazardous material spills. The current level hazardous waste program is funded 75/25 (Federal/State). Beginning in FY86, the 25% State funding is to be provided from the RIT Account.

### Hazardous Waste Modified

Because of the growing concern nationally about small quantity hazardous waste generators, the U.S. Congress has recently passed laws to ensure that a much larger universe of hazardous wastes are disposed in an acceptable manner. It is anticipated that at least 1000 Montana hazardous waste generators will be added to the regulated community. Examples of possible new regulated generators are: auto repair shops, paint shops, dry cleaners, printers and pesticide applicators. These changes also will place a burden on the program requiring additional resources. The Bureau is requesting an additional 3.5 FTE's in the hazardous waste program to handle the additional workload created by the addition of the small quantity generators. These 3.5 FTE's are 3 professional and one-half clerical.

### State Superfund Modified

The Montana "Superfund Act" and its companion federal "Comprehensive Environmental Response, Compensation and Liability Act" are intended to address the need for cleanup and remedial actions at sites impacted by past actions involving the dumping of hazardous substances. Under the superfund program, the state may enter into contracts and cooperative agreements with the federal government to conduct site remedial activities. Duties of the program staff include: data gathering; responsible party identification; cleanup options and detailed cost identification; cost/benefit analysis; coordination of cooperative agreements; contract monitoring; and conducting public participation activities.



The current superfund program is dealing with eight sites which are on the National Priority List. These sites are located at: Milltown, Anaconda, Butte-Silver Bow, Libby, East Helena, Somers, and Columbus. The department has entered into cooperative agreements on the Butte-Silver Bow and Milltown sites with EPA. To date, the program has expended \$30,500 state funds on remedial action on these sites. This expenditure will have been matched by approximately \$1,500,000 in federal funds. For the next biennium it is anticipated that \$503,583 in state funds and \$4,338,245 in federal funds will be expended on these sites. The state superfund program is funded 100% federal for investigations and 90/10 (Federal/State) for remedial cleanup action.

#### Hazardous Waste Inventory Modified

Many sites throughout Montana have been reported to have received hazardous materials in years past. In order to investigate these sites and initially determine if further work needs to be done, the Bureau has 1 FTE assigned to this program. It is anticipated that in the next biennium, 80 potentially abandoned hazardous waste sites will be investigated under this program. The Bureau is requesting an addition .5 clerical FTE in this program to assist the present one professional FTE. This program is 100% federally funded and bridges the gap between the hazardous waste and superfund programs.

AGENCY.  
DHES.

Program.  
Solid Waste Lawyer.

	F.Y. 86	F.Y. 87
PERSONAL SERVICE	# 15,414	# 15,420
TOTAL	# 15,414	# 15,420

FUNDING:

33.33% GENERAL, 33.33% Junk Vehicle, 25.00% R.I.T.,  
08.34% FEDERAL FUNDS. TO FUND .50 F.T.E. for legal Support  
SERVICES IN THE Solid WASTE Bureau.

AGENCY.

PROGRAM.

Level.

DHES.

HAZARDOUS WASTE INVENTORY

MODIFIED

	F.Y. 86	F.Y. 87
PERSONAL SERVICES	\$30,792	\$30,851
CONTRACT SERVICES	4,000	4,000
SUPPLIES/MATERIAL	750	750
COMMUNICATION	1,000	1,000
TRAVEL	5,000	5,000
OTHER	200	200
EQUIPMENT	199	-
TOTAL	\$41,941	\$41,941

FUND:

100% FEDERAL FUNDS FROM THE U.S. ENVIRONMENTAL  
PROTECTION AGENCY. TO FUND 1.50 ADDITIONAL F.T.G. plus  
OPERATING COST

AGENCY.Program.Level.

DHES.

Super fund

modified

	F.Y. 86	F.Y. 87
PERSONAL SERVICES	\$ 55,323	\$ 55,359
CONTRACT SERVICES	2,004,426	2,683,102
Supplies/Materials	3,759	3,759
COMMUNICATION	2,390	2,390
TRAVEL	12,904	12,904
RENT	1,000	1,000
MAINT. + Repair.	406	406
OTHER.	350	350
EQUIPMENT	2,000	0
TOTAL	\$ 2,082,558	\$ 2,759,270

FUNDING.

FUNDING IS 10% R.I.T. and 90% FEDERAL from.

ENVIRONMENTAL PROTECTION Agency. TO FUND 2.00 F.T.E  
plus operating cost.

AGENCY.

Program.

Level.

DHES.

HAZARDOUS WASTE.

Modified

	F.Y. 86	F.Y. 87	
PERSONAL SERVICE	# 79,998	\$ 80,029	
CONTRACT SERVICES.	30,000	30,000	
SUPPLIES/MATERIAL	3,600	3,600	
COMMUNICATION	3,296	2,960	
TRAVEL	8,440	8,440	
RENT	3,252	3,252	
OTHER.	900	900	
EQUIPMENT	6,000	-	
TOTAL	# 135,486	\$ 129,181	

FUNDING:

Funding is from The Environmental Protection Agency and from R.I.T. Funds. This will provide funds for 3.50 F.T.E and operating cost.

RELATIONSHIP OF CERTIFICATE OF NEED  
AND SECTION 1122 REVIEWS OF CAPITAL EXPENDITURES  
(Prepared for the 1985 Joint Appropriations Sub-  
committee on Human Services by the Bureau of  
Health Planning and Resource Development, Montana  
Department of Health and Environmental Sciences)

Exhibit 6  
1-15-85

The federal certificate of need and section 1122 regulations are to be revised according to regulations published in the Federal Register August 10, 1983. These revisions are assumed in the following discussion. Their effect will be to make 1122 reviews conform as nearly as possible to state certificate of need laws and rules in those states that have both certificate of need and 1122. In any state having only 1122 reviews, the review structure, coverage, thresholds, etc., will be set by federal laws and regulations. The intent of these regulation changes is clearly to encourage states to do both certificate of need and section 1122 reviews.

Certificate of Need (CON)

CON reviews are required by Title XV of the federal Public Health Service Act. Federal funds with a requirement for state match are currently provided under continuing resolution for health planning. The state CON program is established by state law and regulations according to certain guidelines contained in the Health Planning law and regulations.

CON approval for construction, renovation, or service changes is a requirement for licensure of certain health facilities and, as such, becomes a requirement for operation of such facilities. There are currently no federal sanctions for a state not having a CON program.

Section 1122

Section 1122 reviews are required under that section of the Social Security Act. If a state has a CON program, it is not required to have an

1122 program. The 1122 rules permit the conduct of one review for both CON and 1122 in those states that have both. The Social Security Amendments of 1983 (PL 98-21) require that states without CON must have an 1122 agreement by October 1, 1986.

The sanctions on the states for not meeting the 1122 (or alternatively CON) requirement are the withholding of Social Security Title XVIII and XIX funds. Enforcement of the section 1122 agreement in a state is similarly based on 1122 approval of capital expenditures as a prerequisite to a health facility receiving reimbursement under Title XVIII and XIX of the Social Security Act.

There are no federal funds available for 1122 review programs in the state. The states with 1122 reviews use health planning funds to support 1122. If any of the currently-pending federal health planning laws pass, these states will also have to have a CON program to continue receiving federal funds.

If Montana changed from CON to 1122, the following are the primary results:

- (1) No changes in funding for the program. Funds would still come from the health planning grant and have the same requirements including state matching funds.
- (2) The CON law would have to be repealed and an 1122 agreement signed.
- (3) Federal laws and regulations would replace those review parameters now set by the CON law.
- (4) The state would be required to file federal 1122 reports on all reviews.
- (5) Those health services that do not receive Medicaid or Medicare funds would not be reviewed.
- (6) Approval under 1122 would become a condition for health care providers to receive Medicaid or Medicare funds in Montana.

- (7) If a federal health planning law were passed, Montana could be required to reestablish its CON program in order to continue to receive federal funds for 1122.



Exhibit 7  
1-15-85

TESTIMONY

of

Air Quality Bureau  
Department of Health and Environmental Sciences

Hal Robbins, Chief

before

Joint Appropriations Subcommittee  
on  
Human Services

January 15, 1985

The Department of Health and Environmental Sciences' Air Quality Bureau would like to offer the following information in order to assist the subcommittee with its deliberations. In order to make the material easier to understand, this paper has been divided into two sections: 1) program considerations, and 2) budget considerations. Three graphs are also included at the end of the paper to depict program accomplishments and funds.

#### PROGRAM CONSIDERATIONS

The Department operates its air quality protection program under the direction of the Montana and federal Clean Air Acts (75-2-101 MCA and 42 USC 7401 et. seq., respectively). The purpose of the program is to attain and maintain air quality levels in the outdoor atmosphere considered safe to the public health and welfare. Some of the major sub-programs necessary to carry out this task include:

- a. Permit review
- b. Inspections and enforcement
- c. Ambient air quality monitoring
- d. Planning and implementation
- e. Special studies
- f. Information requests and public education
- g. Complaint response

Rather than present a long description of these tasks, it might be more informative to present some of the major accomplishments during the last biennium along with some goals for 1986/1987.

Major Accomplishments 1984/1985

## 1. East Helena Lead Plan.

The EPA and Montana adopted an ambient air quality lead standard in 1980. A plan which provides for attainment of the standard by 1986 was completed last year. ASARCO, American Chemet, City of East Helena, and the Montana Department of Highways all participated in the development and implementation of the plan.

## 2. Billings Sulfur Dioxide Study.

Although not finalized, the Bureau, in cooperation with the major Billings industries, conducted a study of the air quality in the area with an eye toward it's eventual resolution. The air monitoring data has been collected and is now being analyzed for source apportionment. A final determination should be made by the end of this year. The necessary control strategies will then be decided upon and subsequently implemented.

## 3. Ambient Air Quality Monitoring.

The Bureau collected over 500,000 pieces of data from all corners of the state over the past two years. Monitoring of ambient air quality data is a requirement of the Clean Air Act. The quality assurance procedures implemented during this time period represent a substantial improvement in data quality. The amount of data collected is also impressive considering the Bureau's staff size and budget.

## 4. East Helena Childhood Lead Study.

The Department, in cooperation with the Centers for Disease Control (CDC), Lewis and Clark County Health Department, and others too numerous to mention, conducted a major health study of the children in the East Helena area in late 1983. Fortunately, the study found that while lead levels were well above background, they were below CDC's guidelines for blood poisoning in all but a very few cases. The final report should be completed by mid-year.

## 5. Smoke Management Program.

In order to limit smoke-filled valley impacts from forest slash burning, the Bureau has developed a smoke management program which operates during the fall of each year. The Forest Service, Department of State Lands, Bureau of Indian Affairs, and numerous forest industries participate in the program and adhere to the Bureau's restrictions on fire management. Daily forecasts are made using a sophisticated system of upper atmospheric measurements and restrictions on slash burning are imposed based upon dispersion conditions, current air quality data, location, and size of the proposed burn. While not eliminating all problems with smoke from these burns, problems have been significantly reduced.

6. Permits and Inspections.

The Bureau is proud of the fact that all permits were processed within the statutory time frames authorized by the Clean Air Act. In fact, only a few cases required the entire 60 days provided by the Act. The Bureau also conducts over 100 inspections per year on various facilities.

Goals 1986/1987

1. Billings Sulfur Dioxide Study.

The Bureau plans to complete the source apportionment study and develop a plan to bring the sulfur dioxide concentrations below the Montana ambient air quality standard.

2. Visibility Requirements.

The Bureau is attempting to comply with visibility requirements as defined by the federal clean air act. The first phase of the program will be heard by the Board of Health and Environmental Sciences this March with the rest of the program to follow over the next two years.

3. Permits and Inspections.

The Bureau will continue to process all permits within the statutory time frames and will make every effort to process them ahead of schedule. Inspection of sources will continue at its present level.

4. Streamline Permits for Construction-Related Facilities.

An attempt will be made to streamline the permit review requirements for construction-related equipment. This would both reduce an administrative burden and provide the construction industry with more flexibility without sacrificing air quality.

5. Conduct Source Apportionment Studies.

The Bureau plans to conduct a source apportionment study in several western Montana cities to determine the cause of high particulate levels. Wood stove emissions are suspected as a major cause, but no proof has been assimilated. These studies would determine the source of particulates for the area.

6. Ambient Air Quality Monitoring.

The Bureau will continue to operate the ambient air quality network with a high degree of data recovery and quality.

Three graphs have been attached to this paper to characterize the Department's output over the past 5 years. The first graph demonstrates the number of permits and complaints received per year, while the second graph exhibits the quantity of ambient air quality data collected over the same period. The last graph demonstrates the funding received from the general fund and EPA (including indirect costs) to pay for these services.

#### BUDGET CONSIDERATIONS

Both the OBPP and LFA budgets do not recommend any increase in general fund appropriations above the 1985 level (\$310,657). The 1985 figure was used instead of 1984 since federal law requires the 1986 and 1987 appropriations to at least match the 1985 level.

The rest of the funding for the Bureau is provided by the Department of State Lands (1.0 FTE - funding from the Office of Surface Mining) and EPA. The anticipated funding from DSL is expected to exactly cover the cost of the FTE assigned to the program. The remaining funds must be made up by EPA. EPA has been very consistent in their funding formula and has provided \$550,000 (including indirect costs) every year since 1980.

The OBPP budget shows less federal money than is probably available. The LFA budget, on the other hand, shows more federal money than is probably available. In either case, a reduction in program will be necessary primarily as a result of vacancy savings and/or the lack of EPA funding to cover inflation costs.

No significant increase in program output is expected or was requested for either fiscal year.

Modified Budgets

## Tribal Assistance.

The LFA proposal did not address the Tribal Assistance program as recommended by OBPP. The funds are 100% federal and the program was requested by the tribes and EPA. The program, which began in 1983, provides technical assistance to tribes in order to aid the ambient air monitoring programs on their respective reservations. The reservations include: Flathead, Northern Cheyenne, Crow, Fort Belknap, and Fort Peck. The program has proved very effective and provided a dramatic increase in data quantity and quality from these tribal programs. The program is popular with the tribal personnel and has done much to generate a positive atmosphere between state and tribal governments. The OBPP proposes \$48,412 in FY86 and \$48,509 in FY87 for the program. This includes 1.0 FTE while the remaining expenses are primarily for travel, laboratory processing, data processing, and repair and maintenance. Considering no state monies are involved, the success of the past program, and the positive effects the program has had on state/tribal relations, we recommend legislative authorization of the program.

Budget Breakdown

	FY86	FY87
Personal Services	\$24,317	\$24,414
Contracted Services	11,950	11,950
Supplies and Materials	1,045	1,045
Communications	690	690
Travel	9,310	9,310
Repair & Maintenance	550	550
Other	150	150
Equipment	400	400
TOTAL	\$48,412	\$48,509

FUNDING: 100% federal funds from EPA. This will provide for 1.0 FTE and associated operating costs.

Attorney.

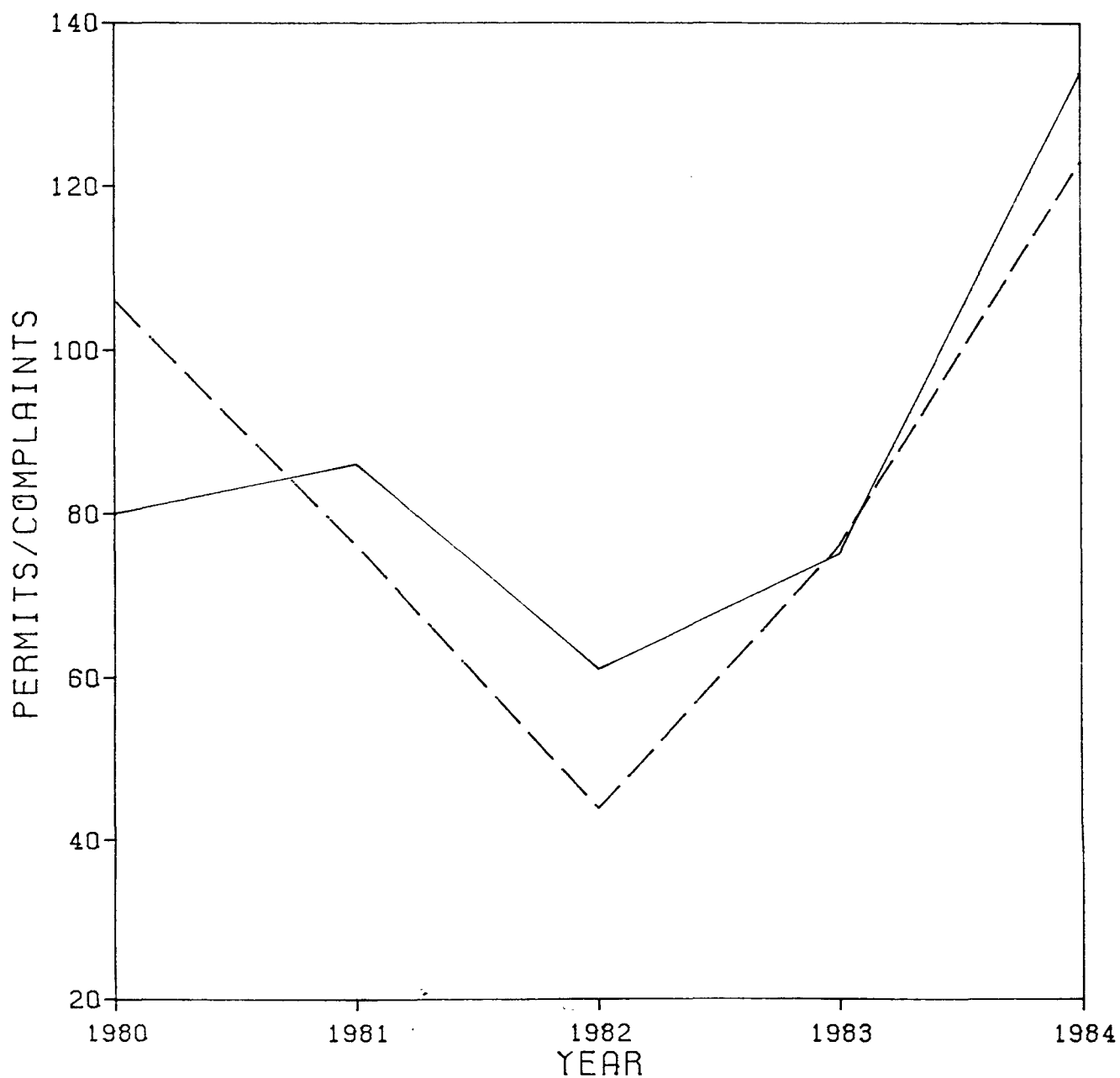
The LFA also did not include the modified funding for a 1/2 FTE to be used for legal services. The position would be used to expand the Department's ability to handle legal matters. The current staff is unable to keep pace with the needs of many programs, including air quality. The addition of this position will bring the staff to the level necessary to insure careful decisions by the Department.

Budget Breakdown

	FY86	FY87
Personal Services	\$15,414	\$15,420
TOTAL	\$15,414	\$15,420

FUNDING: 100% general funds to provide 0.5 FTE for legal services in the Air Quality Bureau.

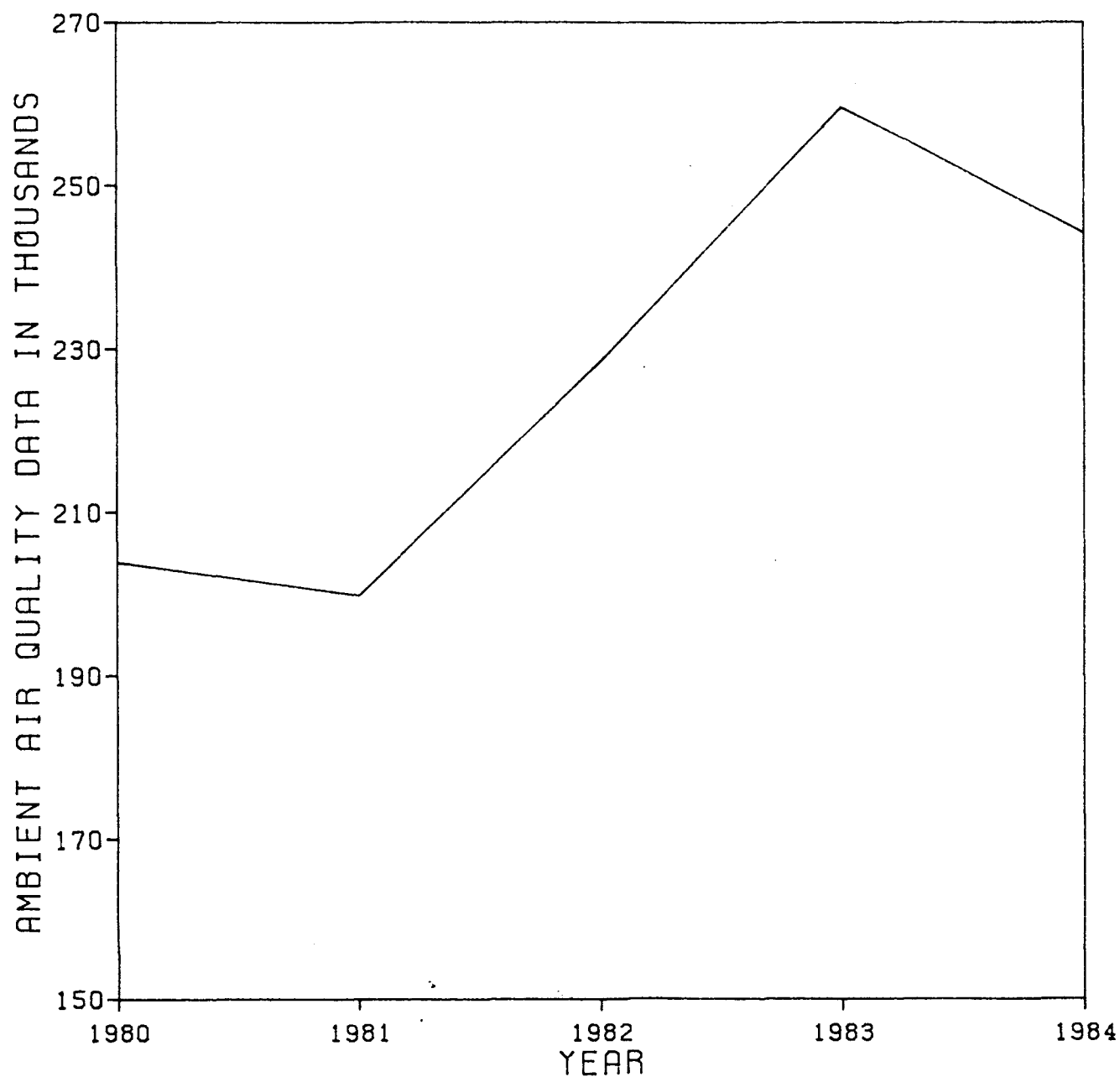
AIR QUALITY BUREAU  
DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES



— NUMBER OF PERMITS PER YEAR  
--- NUMBER OF COMPLAINTS PER YEAR

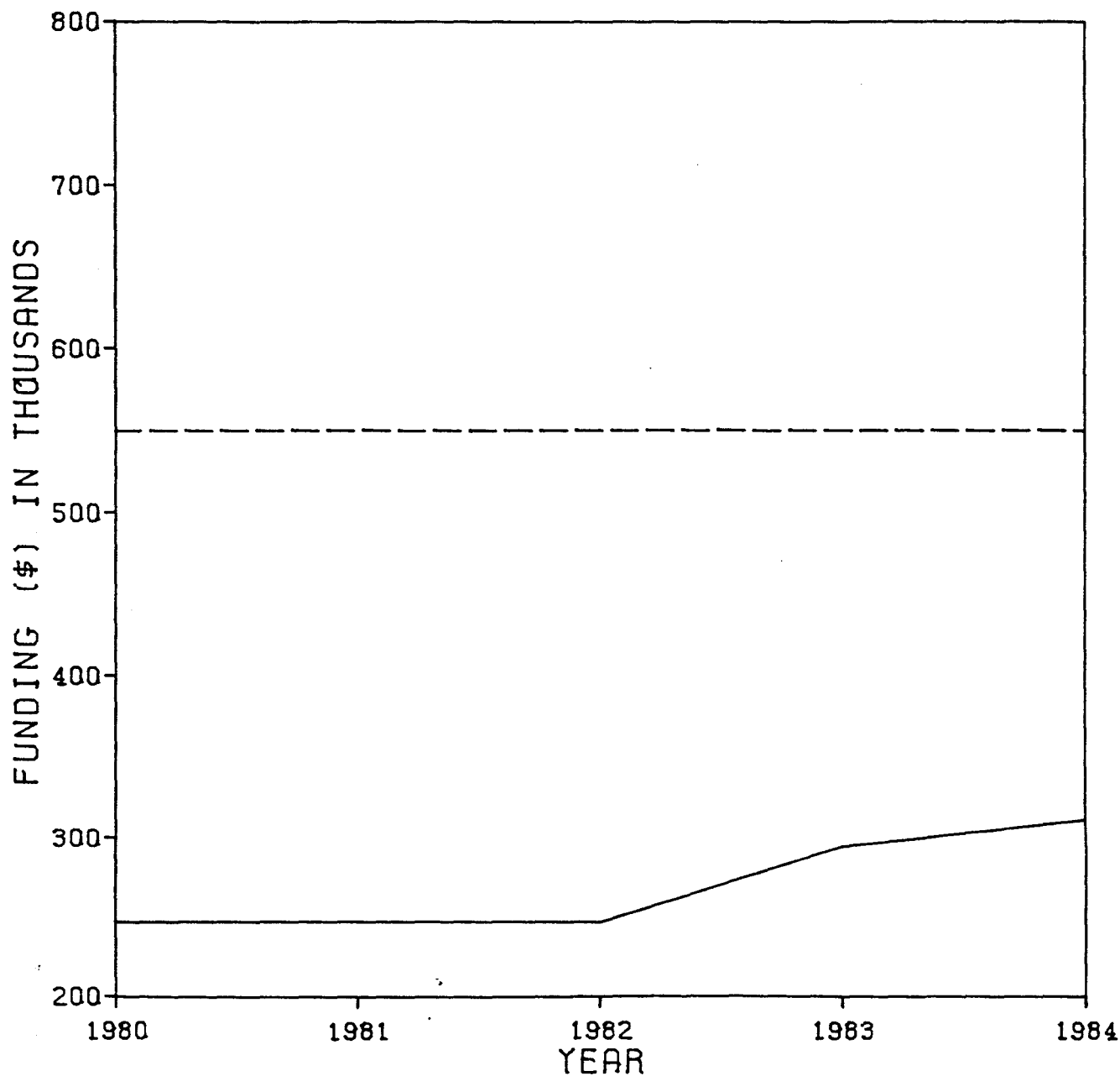


AIR QUALITY BUREAU  
DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES



— AMOUNT OF AMBIENT DATA COLLECTED

AIR QUALITY BUREAU  
DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES



— GENERAL FUND FOR BASIC AIR PROGRAM  
--- EPA GRANT FOR BASIC AIR PROGRAM

AGENCY

Program.

DHES.

TRIBAL ASSISTANCE

Modified

	F.Y. 86	F.Y. 87
PERSONAL SERVICE	\$ 24,317	\$ 24,414
CONTRACT SERVICE	11,950	11,950
SUPPLIES/MATERIALS	1,045	1,045
COMMUNICATION	690	690
TRAVEL	9,310	9,310
MAINT. & REPAIR	550	550
OTHER	150	150
EQUIPMENT	400	400
TOTAL	48,412	48,412

Funding:

Is 100% Federal from The Environmental Protection Agency. This will provide for 1.00 F.T.E and associated operating cost.

AGENCY

DHES.

Program

Air Quality Lawyer.

Level

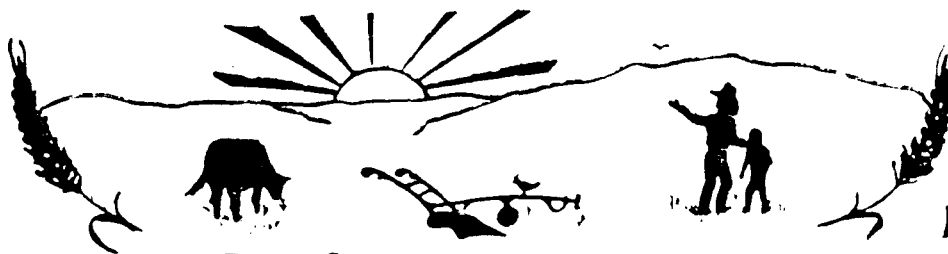
Modified

	F.Y. 86	F.Y. 87
PERSONAL SERVICE	# 15,414	# 15,420
TOTAL	# 15,414	# 15,420

Funding:

100% GENERAL FUNDS TO PROVIDE OF .50 F.T.E.

for Legal Services in The Air Quality Bureau



Three Corners Boundary Association  
P.O. Box 676-Scobey, Mt. 59263

Exhibit 9  
1-15-85

Dennis Nathe

Pertinent facts about the Poplar River Monitoring:

- \* emissions are 60% above what would be allowed for a U.S. plant
- \* NO sulfur reduction, ie. scrubbers are in place
- \* U.S. data complements Canadian data which is funded 100% of time
- \* Data necessary to recognize deterioration
- \* Data necessary to substantiate ag. losses
- \* Sulfation plates will not recognize the most hazardous high concentration(fumigation) events.
- \* Sulfation plates may NOT be acceptable in a Claims Court
- \* Amendment strengthens the monitoring program to bare minimum
- \* Allows for systematic albeit dis-continuous data gathering

Pertinent facts about monitoring Methods:

- \* Sulfation plates measure total accumulation over a time period(30 days)
- \* Amendment allows for continuation of continuous data gathering, which is averaged hourly

Other Facts: Saskatchewan Power has sold coal mine, will in a few years be using another source of coal. In that sense, the present proposed monitoring program really is a data-base, as it will be used to determine whether new coal is better or worse in terms of pollution.

## POPLAR RIVER AIR QUALITY MONITORING

The Air Quality Bureau is currently monitoring air quality in the Scobey area. Baseline data has been gathered since 1977. The purpose of continued monitoring is to determine the air quality effects on the Montana side of the International Boundary from operation of the Saskatchewan Power Corporation (SPC) Poplar River Power Project.

\$30,000 general fund for the biennium is requested for this monitoring. The attached maps indicate the location of monitoring stations in the Scobey area. The stations were established and funded by U.S. EPA through fiscal 1981. Since then, the cost has been borne by the general fund. Operation of the plant at full capacity (600 Mw) has been delayed repeatedly. As a result, an adequate measurement of baseline air quality was made, but measurements of the effects of power plant operation have not. *- plant in operation since summer 1982*

A binational committee was formed in 1981 to review air and water quality data. That committee uses data collected in Canada in combination with the Montana data to monitor plant operations. (Water quality is monitored by the U.S. Geological Survey.)

Early experience indicates that smoke stack emissions are considerably higher than new source performance standards that apply to similar plants constructed in the U.S. Sulfur dioxide emissions are uncontrolled at the plant and amount to over five tons per hour. More sulfur dioxide will be emitted in a month than in a year at Montana Power's new Colstrip plants for comparable power output.

The emission rate for the SPC plant in September, 1981 was 2.20 pounds per million Btu compared with the .6 pound per million Btu standard. In addition, the plant appears to always exceed the 20% opacity standard. (AQB memorandum, 2-25-82)

The most widely recognized measurement of pollution is made relevant to ambient air standards. To date, power plant operation has been less than half capacity and ambient air pollution levels have been low. When the second unit is commissioned later in 1983, these levels will increase. It is this increase that will be measured by the proposed monitoring.

The EPA Final EIS on the project indicates possible violations of Saskatchewan and Montana ambient standards (EPA FEIS, June, 1981, pp. 118, 205). Fumigation events are predicted which could impact the highly productive agricultural lands in the area.

(cont.)

A 1977 report by the Scientific and Engineering Advisory Panel on Poplar River Air Quality predicts a 1-2% crop loss in a 40 km (25 mile) radius of the plant resulting from sulfur dioxide emissions alone. The International Joint Commission described additional potential injury to crops from water degradation and recommended that a claims commission be established to compensate losses. Monitoring is essential so that this potential, if it materializes, can be measured and documented.

One overriding concern is the proposal for 600-1200 Mw of additional capacity using the Poplar River area coal. If located at the original site four miles north of the border, Montana will bear the brunt of more uncontrolled sulfur emissions.

The way in which the Poplar River controversy is handled has long-term implications for resolving similar international disputes. The mine proposal at Cabin Creek is one example. It too has serious air quality implications. Efforts to negotiate a trans-boundary air quality treaty to deal with new disputes over international airsheds will rely in part on the Poplar River experience.

#### SUMMARY

Baseline air quality has been monitored since 1977 near Scobey in response to Saskatchewan Power Corporations strip mine and power plant development at the international border. Construction on the project has been delayed. Full plant capacity will not be reached until fall of 1983.

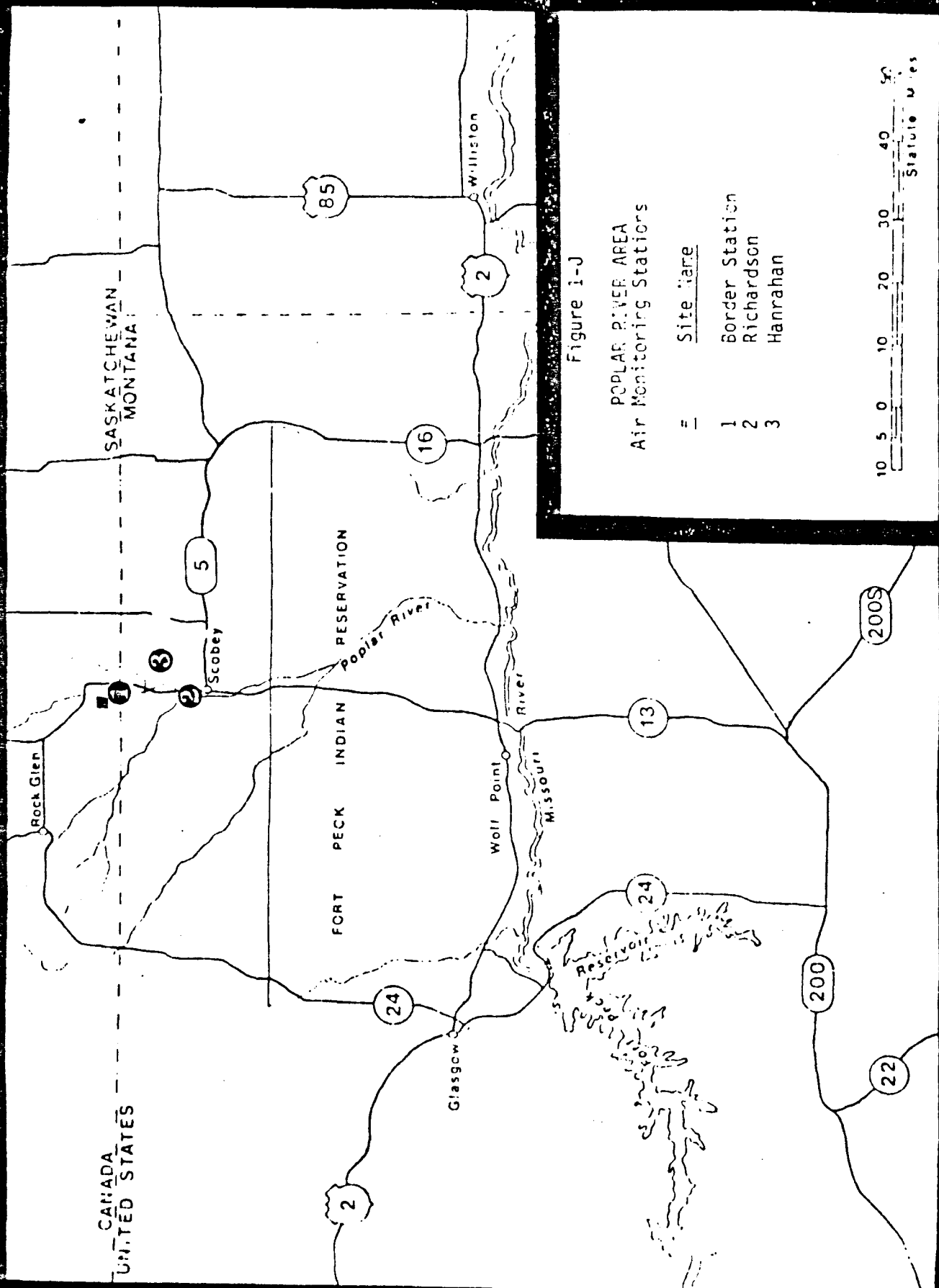
Sulfur dioxide emissions are not controlled at the plant and scientific modeling indicates that violation of air quality standards may occur. Funding for continued monitoring is requested so that Montana can determine effects the project will have on it's air quality.

Table J-I

## Poplar River Area Monitoring Site Descriptions

Site Name	County	Responsible Agency	Project	Station Type	Location/Comments
Scobey Border Site	Daniels	State AQB	Background surveillance	Rural - agricultural	80 yards west of the US Customs Office
Richardson	Daniels	State AQB	Background surveillance	Rural-near urban	1 mi N of Scobey near Hwy 13
Hanrahan	Daniels	State AQB	Background surveillance	Rural - agricultural	SE Corner, Sec. 3, T36N, R49E





As can be seen from the values in Table 7 there are no predicted violations of any ambient standards. However as much as 70 percent of the EPA PSD Class II SO<sub>2</sub> increment may be used up near the Montana Canada border at the 600 MW level.

A comparison of the results given in Table 6 with those given in the memo from Terry Thoen and Donald Henderson to David Wagoner for the 40 percent sulfur retention case show values in Table 6 to be lower. The main reason for the difference is the assumed mixing depth. The concentration estimates referred to in the memo were taken directly from the Report ARQT-3-75 prepared by R.V. Portelli. Portelli assumed "C" stability, 5 m/sec wind and 200 meters mixing depth for conditions giving maximum concentrations. The plume rise would be 590 meters for the 600 MW power plant and 440 meters for the 300 MW power plant with 5 m/sec winds. Therefore, the computational results given in Table 6 resulted from higher, more realistic mixing depths which are not likely to permit plume penetration. The lower mixing depths used by Portelli probably would be penetrated by the plume.

#### Conclusions and Recommendations

Conclusions and recommendations by the U.S. EPA are as follows.....

1. Sulfur retention by ash cannot be assumed to be greater than about 10 to 15 percent.
2. Potential pounds of SO<sub>2</sub> per million BTU are about 1.75 (assuming ten percent retention)
3. SO<sub>2</sub> emissions rates from the Poplar Plant would be in violation (by about 60 percent) of U.S. EPA and Montana emission standards if the same rates were emitted from a U.S. facility.
4. Ambient SO<sub>2</sub> concentrations expected from 600 MW of operation without SO<sub>2</sub> control will not cause violations of U.S. ambient PSD standards.
5. Ambient concentrations of particulate expected to occur resulting from the operation of the Poplar Plant at the 600 MW level will not cause violations of the EPA PSD increments assuming the plant operates their ESPs at 99.5 percent control efficiency.
6. Montana and EPA ambient air quality standards designed to protect human health and welfare will not be violated at the 600 MW level.
7. A significant portion of the EPA PSD Class II SO<sub>2</sub> increment will be used up near the Montana - Canada border.
8. Canada is advised to employ continuous stack monitoring using approved U.S. Devices for SO<sub>2</sub> and NO<sub>x</sub>. Periodic monitoring of particulates should be done.

Human Services Sub COMMITTEE

DATE 1-15-85

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.