

MINUTES OF THE  
LONG-RANGE PLANNING SUBCOMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

April 9, 1985

The meeting of the Long-Range Planning Subcommittee was called to order by Chairman Robert Thoft on April 9, 1985 at 8:10 a.m. in Room 437 of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL 952: Representative Dennis Iverson (87:A:005), District 12, bill sponsor, said this bill will appropriate funds for two years to the select Committee on Water Marketing of the Missouri River Basin. He said the money will be used for planning and water reservations on the Missouri River.

Representative Iverson said the planning funds will be spent in three areas: 1) future litigation; 2) for a Missouri River compact; and 3) planning for potential Congressional action. He said Montana does not have an inventory of its water use or needs and, if Congress should decide to divide up the water in the Missouri River Basin, the state has no information to backup its claims. A reservation process will tie up the most amount of water in the shortest amount of time.

Representative Iverson (87:A:044) explained the funding contained in the bill for various state departments:

\$26,200	Water Policy Committee
\$167,500	Department of Natural Resources and Conservation (DNRC) \$12,500 for 5 municipal water reservation applications \$60,000 for 6 conservation districts \$95,000 for DNRC support services
\$30,000	Department of State Lands
\$165,000	Department of Fish, Wildlife and Parks (FW&P) Spending authority \$93,750 - federal Dingle-Johnson money \$71,250 - FW&P License Revenue Account
\$50,000	Department of Health and Environmental Sciences (DHES) \$40,000 - federal Dingle-Johnson money \$10,000 - General Fund

Representative Iverson (87:A:064) said the funds requested for the next biennium are \$76,700 from the General Fund, \$78,500

from the Resource Indemnity Trust (RIT), \$78,500 from Water Development, \$71,250 from FW&P license revenue, and \$93,750 from federal Dingle-Johnson money. These combine for a total appropriation of \$398,700, of which this Legislature would need to appropriate \$233,700.

Proponents: Pat Graham (87:A:079), Chief, Research and Special Projects Bureau, Fisheries Division, FW&P, said he is appearing on behalf of James Flynn, Director, FW&P. He said House Bill 952 provides the appropriation needed to implement House Bill 680. The FW&P appropriation in this bill will serve two purposes: 1) it will enable the department to prepare an application for instream flows to protect aquatic eco-systems in the Upper Missouri River Basin; and 2) it will also provide funds for a grant to DHES which will be used to assist it in preparation of its water reservation application.

Willa Hall (87:A:099), League of Women Voters, said water is vital to everyone in Montana. The state cannot afford to wait to reserve water on the Missouri because of the importance of reservations in the future allocation of the water in the basin.

Susan Cottingham (87:A:109), Montana Chapter of the Sierra Club, said the club has followed this issue closely through the interim study phase and hopes the Legislature can find funding to further implement the water reservations process.

John Shontz (87:A:120), from Richland County, said funding of this bill is important because of developments outside of Montana in relation to water in the Missouri River. He said the state of North Dakota is planning a pipeline which will supply the city of Dickinson with domestic and irrigation water. The water for this project will come from the Missouri River Basin. He said he believes what states outside of the basin do with the water has a terrific impact on Montana's water supply.

Russ Brown (87:A:158), Northern Plains Resource Council, said the council believes this bill will provide seed money for a more comprehensive and long-term water policy in Montana.

Don Reed (87:A:162), Environmental Information Center, said the reservations and planning process, in conjunction with adjudication and water development, is the only way of protecting Montana water.

Gary Fritz (87:A:169), Administrator, Water Resources Division, DNRC, said the department will be interested in protecting agricultural interests and consumptive use interests with its appropriation in this bill. He said he too believes that Montana needs to protect its water uses against those of downstream states.

Jo Brunner (87:A:182), Water Chairman, Women Involved in Farm Economics, said this group supports the bill.

Opponents: None

Committee Discussion: Chairman Thoft (87:A:189) asked if the relationship, in the bill, between FW&P and DHES can be cleared up. Mr. Graham said FW&P will be given authority to give DHES a grant for preparation of an instream water reservation. Mr. Graham said both departments have interests in instream water reservations and there is no double budgeting in the bill.

Senator Van Valkenburg (87:A:111) asked how the reservation process works and how long it takes for applications to go through the process. Gary Fritz said the only reservation process which has occurred in Montana was on the Yellowstone River. It took applications five years to go through the entire process, but DNRC is hopeful the process will be faster on the Missouri. Mr. Fritz said only public entities are allowed to apply for a reservation, private individuals cannot. The applications are submitted to the Board of Natural Resources, which does an Environmental Impact Statement on the applications and then grants the water reservations.

Senator Van Valkenburg (87:A:235) asked if the appropriation in House Bill 952 is all the government money needed for the water reservation process for the next biennium. Mr. Fritz said DNRC does not have any additional money in its operating budget to spend on this, it will only be using the money in this bill. He said he knows the money allocated for municipalities is not sufficient and some of the municipalities will have to share costs for their water reservation applications.

Senator Van Valkenburg (87:A:252) asked if House Bill 680 requires the water reservation process on the Missouri. Representative Iverson said House Bill 680 does require that all water reservation applications be submitted within two years. Then the board has two years to make its determinations on them. He said the appropriation in House Bill 952 will not get the process done that rapidly and an amendment to it is necessary. The amendment will have coordinating language to House Bill 680 concerning the deadline for applications and water reservation determinations.

Senator Fuller (87:A:276) asked what the \$20,000 for the Department of State Lands will be used for. Mr. Fritz said the department will be reserving water rights on state lands which are leased to individuals who use the water for irrigation purposes.

Senator Van Valkenburg (87:A:236) asked how the board allocates the reservations. Mr. Fritz said, with the Yellowstone reservation, municipalities were given the first priority then, in the upper basin, instream flows were first with irrigation reservations next. In the lower basin, irrigation reservations came before instream flows and storage reservations.

Senator Van Valkenburg (87:A:307) asked how the reservations mesh with water rights adjudication. Mr. Fritz said water rights adjudication is for rights existing prior to 1973. The water reservations are for future uses. Senator Van Valkenburg asked how future water availability can be determined if the adjudication process has not been finished. Mr. Fritz said DNRC has a fairly good idea of the water available because of the adjudication process, but there will always be some uncertainty about the amount of water available in the future. He said DNRC does study water availability for the board in order to reduce the risk involved in estimating water quantities.

Senator Fuller (87:A:344) asked if the \$78,500 to come from the Water Development Program is above the amount of projects the subcommittee has already recommended for funding in that program. Mr. Fritz said yes.

Representative Ernst (87:A:349) asked what would happen if the money is not appropriated this session. Representative Iverson said the longer the state waits to establish its water reservations, the more critical the issue will become. He said North Dakota has appropriated \$1 million because it anticipates a lawsuit in the future with Montana over the issue of water rights. If Montana is to protect its interests from downstream states the appropriation to begin the process must be made now.

Chairman Thoft (87:A:379) asked why each department needs a separate appropriation in the bill. He asked if the various departments could communicate their needs to DNRC to have a more coordinated effort. Representative Iverson said each department has a different interest in the reservation process. Mr. Fritz said each department has expertise in its particular interest and DNRC would not have similar expertise in the many different areas. Chairman Thoft asked for the budget breakdown for each department.

WATER DEVELOPMENT PROGRAM, REVENUE ESTIMATE: Caralee Cheney (87:A:458), Chief, Water Development Bureau, Water Resources Division, DNRC, said originally the department thought there would be \$3.1 million available for funding of water development projects. Now DNRC believes only \$2.4 million is available and this will fund projects through number 42, rather than 54.

Chairman Thoft (87:A:474) asked if the committee should go back and try to reprioritize projects or rewrite House Bill 947. Ms. Cheney said no.

Ms. Cheney (87:A:499) said one of the reasons the revenue estimate is lower is because the bonds for private irrigation projects, which are approved directly by DNRC, are repaid with coal tax money until loan repayments start to come in.

Senator Van Valkenburg (87:A:531) asked if there is any interest subsidy on these types of loans. Ms. Cheney said no.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, LEGACY PROGRAM PROJECTS, HOUSE BILL 922: Chairman Thoft (87:A:603) asked what the revenue estimate is for the Legacy Program. Madalyn Quinlan, Staff Analyst, Office of the Legislative Fiscal Analyst, said it is \$8.3 million. She said the total estimate for the RIT interest is \$9.8 when the \$1.5 million fiscal 1985 ending balance is carried forward.

Chairman Thoft (87:A:628) asked how much money is available under the Governor's Legacy Program proposal. Gene Huntington, Senior Administrative Assistant, Governor's Office, said the Governor's proposal would make \$4.5 million available for the Legacy Program.

Senator Fuller (87:B:001) asked how many projects will be funded with the \$4.5 million. Larry Fasbender, Director, DNRC, said fourteen projects will be funded with the money. Ms. Quinlan (87:B:010) said in the first fourteen projects, number 4 has already been funded in the Water Development Program and Project 12 has been funded in the Renewable Resource Development Program (RRD).

Ms. Cheney (87:B:020) said House Bill 922 contains language which states that projects in more than one program will not receive duplicate funding. She said the money requested by Project 4 in the Legacy Program is an additional request to the funding in the Water Development Program. Chairman Thoft asked if the applicants have already received \$100,000 and are still requesting \$257,000 more. Ms. Cheney said yes.

Representative Bardanouve (87:B:037) asked how much money is needed to fund the first 14 projects. Ms. Quinlan said \$4,068,524.

Chairman Thoft (87:B:057) asked how the \$1 million in Project 1 will be used. Representative Harper (87:B:058) said half of the money from the herbicide tax will be spent on projects and the other portion will be put into a weed trust and allowed to accumulate until the balance of the trust has reached \$2.5 million. At this time the \$2.5 million can then be used to fund weed projects. Keith Kelly, Director, Department of Agriculture, said \$500,000 of the Legacy funds will be put

into the weed trust fund and the other \$500,000 will be used to fund weed projects in the order they were prioritized by DNRC.

Chairman Thoft (87:B:075) asked how much revenue will be raised from the herbicide tax in the next biennium. Mr. Kelly said \$250,000 will be raised per annum and half of the total raised goes to fund projects. Chairman Thoft asked if there will be \$750,000 in the weed trust by the end of the biennium and \$750,000 available for project funding. Mr. Kelley said yes.

Chairman Thoft (87:B:097) said he thought the committee already funded weed projects in another program. Ms. Cheney said the RRD program has several weed projects in the category of "Improvements to Ag Lands", but the subcommittee recommended they be funded from the Legacy Program.

Senator Van Valkenburg (87:B:185) said he would like to assume that \$4.5 million will be available for funding and he would like to go through projects and either recommend them for funding or delete them until the \$4.5 million is spent.

Committee discussion on the Legacy projects was as follows.

Project 1, Montana Department of Agriculture, Weed Control: Senator Van Valkenburg (87:B:192) asked how many of the RRD weed projects will be funded from the \$500,000 available for projects. Mr. Kelly said the Marias River Basin Weed Control Project and the Jefferson County Conservation District Weed Project will both receive partial funding. FW&P's Noxious Plant Control and the Department of Agriculture's Weed Management Project will not receive funding. Mr. Kelly said because there are so many weed proposals being submitted in the various programs the emphasis for weed management coordination becomes even greater. He also said the Department of Agriculture's Weed Management project will be funded in House Bill 500.

Project 3, FW&P, Bannack Apex Mill Rehabilitation: Both Senator Van Valkenburg and Representative Bardanoue voiced concerns about this project. Representative Bardanoue (87:B:335) said he has reservations about the mill rehabilitation and not the reclamation portion of this project.

Don Hyyppa (87:B:340), Administrator, Parks Division, FW&P, said a good portion of the project is for hazardous waste cleanup. He said of the \$227,000 recommended for funding, \$40,000 relates to interpretive work and the balance is for cleanup and stabilization of the mill building.

Senator Van Valkenburg (87:B:360) said his concern with this project is the amount of general public benefit which will result from this project. He said he feels other projects have greater public benefits than this one.

Don Hyyppa (87:B:380) said there is a serious problem with the wastes at the mill and this problem will have to be addressed at some point. He said he feels this project would be an appropriate use of Legacy money.

Senator Fuller (87:B:389) asked if the site qualifies for either the Hazardous Waste Program or the Superfund Program. Mr. Hyyppa said DHES and the Department of State Lands are both studying the site, but he does not know if there will be any federal funds available from the Superfund. He said there might possibly be federal mine reclamation monies available for it in the future.

Representative Bardanouve (87:B:406) asked if FW&P only receives a portion of the project funding will the project results still be worthwhile. Mr. Hyyppa said yes.

Project 4, Montana Bureau of Mines and Geology, Groundwater Information Center: Representative Bardanouve (87:B:440) asked if the 5 FTEs in this project will become permanent employees of the bureau. Tom Patton, Montana Bureau of Mines and Geology, said there is some support throughout the state to keep the FTEs on permanently. He said the bureau looks at the Legacy funds as soft money and will look for funding elsewhere in the future or will try to get as much done with the funds made available this session. If the backlog of data can be put on the computer then the bureau will return to its lower level of funding. He said there is alot of groundwater information collected, but it is difficult to make it available to the public. This project will be an attempt to make the information more available.

Chairman Thoft (87:B:499) asked if the project will have the same information on computers at DNRC and Montana Tech. Mr. Patton said no. The water development funds are to purchase a computer and software for the bureau because Montana Tech's computers cannot be used for this.

Project 5, Deer Lodge County, Erosion Control: Senator Van Valkenburg (87:B:583) said he thinks this is a good project and it is the kind of project the RIT Program was designed for, however, he sees two problems with it: 1) is the Anaconda Minerals Company only putting \$3,600 of in kind services into a project which will benefit its property; and 2) the project is somewhat ambitious and perhaps should be scaled down.

George Ochenski (87:B:623), Environmental Information Center, said there was a suggestion to put a lien on the property so the state can recover any funds used for reclaiming the land.

Senator Van Valkenburg (87:B:629) said he will support the project on two conditions: 1) the state must have some securing interest in the timber which might eventually be produced as a result of the project; and 2) the project is cutback.

Representative Bardanouve (87:B:651) asked the current value of the land. Mr. Ochenski said it is quite ravaged and there is not much value involved. Representative Bardanouve asked if the land can be deeded to the state. Ms. Cheney said DNRC is exploring this possibility. She said she talked with the project sponsors. Initially the Anaconda Minerals Company was not willing to do this, but DNRC will try to apply some pressure in this area.

Chairman Thoft (87:B:678) said he feels there should be a matching requirement on the project.

Representative Bardanouve (87:B:696) asked if any reclamation has ever been done on the land. Ms. Cheney said no.

Representative Bardanouve (88:A:002) asked if the land is capable of growing trees. Ms. Cheney said there will be some experimentation done with varieties of metal tolerant trees to ensure the trees will grow.

Senator Fuller (88:A:009) asked if this land is contained in a Superfund site. Ms. Cheney said DNRC has asked the project sponsor to confirm that Superfund money will not be available. She said the Superfund people do not believe they can fund this project.

Representative Dave Brown (88:A:015), District 72, said there should be language in the bill which says the state does not assume liability if the project is funded.

Project 6, MSU, Stream Restoration Confederate Gulch and Deep Creek: Senator Van Valkenburg (88:A:030) said he has no problems with this project as long as DNRC's conditions for the project are imposed. Senator Fuller (87:A:041) said this area could fall under the small miners exemption and there should be some assurance the area will not be remined after it is reclaimed.

Project 7, DHES, Hazardous Waste Management Collection: Chairman Thoft (88:A:048) asked if a similar project had been done in Missoula. Dr. John Drynan, Director, DHES, said the Environmental Protection Agency funded this proejct in an effort to help Montana get rid of some of its hazardous wastes. He said the project was highly successful.



Chairman Thoft (88:A:066) asked how much expansion the \$800,000 will fund. Dr. Drynan said DHES is currently permitting around 112 to 120 hazardous waste generators. This project will increase the number of permits to 1,400 generators.

Project 8, Butte-Silver Bow, Butte Hill Mining Reclamation:  
Senator Van Valkenburg (88:A:108) said he is concerned about the portion of this project which deals with ballfields. Representative Brown said the ballfields are contaminated and the city would like to reclaim them.

Chairman Thoft (88:A:130) asked how much funding is related to the ballfields. Ms. Cheney said \$271,000 will be used to reclaim four ballfields and the remaining funding is for a drainage ditch.

Senator Van Valkenburg said he is inclined to subtract out the funding for the ballfields. Representative Brown said he feels the funds should go back to the areas where the mining industry has created problems. He said the ballfields were built prior to knowledge of the contamination problem and the project deals with a human health issue.

Ms. Cheney (88:A:162) said the ballfields were not Butte's priority in this project. But DNRC recommended funding for this portion of the project because it does not conflict with the Superfund area.

Chairman Thoft (88:A:176) asked how the contamination will be eliminated and how deep it is in the ballfields. Ms. Cheney said the contamination will be sealed off by covering the ballfields, but she does not know how deep the spoils are in the area.

Project 9, Toole County, North Toole County Reclamation Project:  
Senator Van Valkenburg (88:A:196) asked why there is \$117,000 for contingencies in this project. Ms. Cheney said DNRC is only recommending funding for two of the demonstration sites and it will look at the budget in order to determine if reductions can be made.

Representative Bardanaouve (88:A:218) asked if the Toole County Conservation District cannot supply some of the office needs. Ms. Cheney said originally the conservation district did not think it could because of the size of the project, but it might be able to now that the project has been scaled down.

Project 13, Montana Governor's Office, Cabin Creek Reference to the IJC: Representative Bardanaouve (88:A:253) asked if there will be federal reimbursement for the state appropriation on this project. Brace Hayden, Governor's Office, said the

\$20,000 federal supplemental is to pay for the state's participation in the deliberation between now and the end of this fiscal year. The state will be receiving about \$95,000 from Senator Max Baucus for the project and the \$20,000 of federal funds will be paid back at this time. The \$80,000 in this grant is needed in addition to the federal money and other funds.

Senator Fuller (88:A:271) asked what the money will be used for. Mr. Hayden said the largest cost in the project is for travel expenses of state employees. These employees will be participating in the reference and the travel involved is quite extensive.

Senator Fuller (88:A:286) asked Mr. Hayden to provide the committee with a detailed budget on this project.

Chairman Thoft (88:A:292) asked DNRC to go back and review the top fourteen projects and make recommendations on which projects might be reduced in an effort to find funding for House Bill 952.

Poplar River Air Quality Monitoring: Representative Bardanouve (88:A:296) said the Appropriations Committee suggested to Representative Nathe that the funds for this project might be available in the Legacy Program.

Senator Fuller (88:A:313) asked how much money is needed for the monitoring. Representative Dennis Nathe, District 19, said \$15,000 is needed for air quality monitoring on the Poplar River.

Project 24, Montana State Library, Natural Resources Information System and Natural Heritage Program: Senator Fuller (88:A:317) asked how much money is needed for this project. Representative Bardanouve said he feels this is an important project.

Mary Linda Kemp (88:A:324), Northern Lights Institutes, said the budget for this project has been reduced to \$225,561 (EXHIBIT 1).

There being no further business before the subcommittee the meeting was adjourned at 10:05 a.m.

  
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ROBERT THOFT, Chairman

LONG RANGE PLANNING SUB COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date April 9, 1985

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LEGACY PROGRAM REQUEST: NATURAL HERITAGE PROGRAM & NATURAL RESOURCE  
INFORMATION SYSTEM

PROGRAM COSTS

NATURAL HERITAGE PROGRAM	291,592
NATURAL RESOURCE INFORMATION SYSTEM	<u>84,109</u>
	375,701

FUNDING SOURCES

NATURE CONSERVANCY	75,140
DEPT. OF FISH, WILDLIFE & PARKS	<u>75,000</u>
	150,140

<u>TOTAL AMOUNT REQUESTED</u>	\$225,561
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## VISITORS' REGISTER

LONG-RANGE PLANNING SUB COMMITTEEBILL NO. HOUSE BILL 952 ANDDATE APRIL 9, 1985RIT PROJECTSSPONSOR IVERSON

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Susan Cottingham	Helena Mt. Sierra Club	952	
Howard Peavy	MSU BOZEMAN	952/922	
Tom Patton	MBMG - Butte	922	
Ray Bech	CDID / DNRC	952/922	
Willa Dall	League of Women Voters	952	
DON REED	MEIC	952	
DON HYPAN	DFWP		
Tom THORSON	FRZ		
Pat Graham	DFWP	952	
Russ Brown	Northern Plains Res. Cncl.	952	
DIME BROWN	House Dist #72	922	
D. IVERSON		952	
Gary Fite	NDNRC	X	
John D. ...	Ag. Leg. ...	2011 FEB 952 922	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.