

MINUTES OF THE MEETING
LONG RANGE PLANNING SUBCOMMITTEE
50TH LEGISLATIVE SESSION

The meeting of the Long Range Planning Subcommittee was called to order by Chairman Rep. Robert Thoft on January 19, 1987 at 8:00 a.m., in Room 202B of the State Capitol.

ROLL CALL: All members of the Long Range Planning Subcommittee were present.

Tape 23:A:000

OIL OVERCHARGE OVERVIEW

Madalyn Quinlan, Legislative Fiscal Analyst, reviewed an oil overcharge handout to the Subcommittee (Exhibit #1).

Dave Hunter said the Executive Budget book lays out how much money is available. He included interest earnings in the calculation of the funds he projects to be available through June 30, 1987. Mr. Hunter said the executive recommendation to the Long Range Planning Subcommittee is to allocate both the federal payments and these interest earnings. Mr. Hunter said the federal requirements state the interest earnings must stay with the account and they can't become revenue to the general fund or to any other state fund. Mr. Hunter said the process they went through, when they received the Exxon monies in March 1986, was to put out a request of proposals from agencies for use of the Exxon monies. Mr. Hunter stated that the constitution requires that appropriations can only be made to state agencies. Mr. Hunter said that where programs impact local government it becomes the responsibility of DNRC or Commerce to allocate those monies. Mr. Hunter said in the case of the institutional conservation program, some of those monies can be appropriated to energy conservation in schools and hospitals.

Mr. Hunter said concern has been raised by some people that there is clearly more than an equitable share of money given to low-income programs. The executive recommendation originally did not provide for an equitable share of the stripper, so we recommend that the Subcommittee allocate \$4.75 million of the Exxon monies to the low income and weatherization trust and \$1 million of the stripper, that keeps the overall allocation the same level as the Governor's recommendation. (240)

Van Jamison presented a chart of the different oil overcharge pots - the largest being from Exxon. (The chart is the same as Exhibit #1.) Mr. Jamison presented the Subcommittee with a work sheet on the Institutional Conservation Program (Exhibit #2). He said it requires a 50/50 match from the institution. Mr. Jamison said the programs with the most flexibility are the State Energy Conservation and Energy Extension Service because these projects do not require a 1 to 1 match. Chairman Thoft asked if the figures in the executive budget are their own or the federal registers. Mr. Hunter said they are all the governor's recommendations. Chairman Thoft asked if the funds can be used to make loans. Mr. Jameson said they can buy down the interest.

Jim Nolan, SRS, said the two projects that are in need of funding are the Low Income Energy Assistance Program (LIEAP) and the Low Income Weatherization Program. Mr. Nolan said LIEAP assists low income families in paying their power bills. He said the money available is based on a number of factors, cost of fuel, and the size and geographic location of their home. Mr. Nolan said the average payment this year to low income families is \$430,000. He said LIEAP intends to serve approximately 23,000 households this year; that's less than half of the total number eligible. Mr. Nolan said the Low Income Weatherization Program is funded through three sources, 1) the Department of Energy's direct grant for weatherization assistance of \$1.7 million, 2) \$1.6 million allocated from the Exxon monies during the 1986 special session, and 3) a LIEAP transfer. Mr. Hunter said the weatherization program makes homes energy efficient. He stated there is a team of auditors that go door to door to determine what should be done to the homes within program regulations to make them energy efficient.

Van Jamison submitted a fact sheet (Exhibit #2).

23:B:000

Sen. Van Valkenburg asked if this proposal meets the requirements of an equitable allocation with low-income consumers. Jim Smith, Human Resource Development Council, said from his point of view the oil overcharge monies could not have come at a worse time. He said the Exxon monies were received in March 1986, and the 1986 stripper well monies followed later that summer. Mr. Smith said in December 1985 President Reagan signed the Gramm-Rudman Act rather than the Hollins Deficit Reduction Act. Mr. Smith said the timing of the state receiving these funds with the signing of the Gramm Rudman Act in Washington played negatively in terms of regular appropriations for fuel assistance and weatherization. Mr. Smith said last year Montana

received \$11,700,000 in fuel assistance money and about \$1,700,000 in weatherization money. Mr. Smith said during FY 198-1987 fuel assistance monies were down \$700,000, and the weatherization program was down \$500,000. Mr. Smith said during FY 1986-1987 we were able to maintain a current level in every program, except weatherization and fuel assistance. Mr. Smith said they were cut because of the availability of the oil overcharge monies.

Sue Fifield, Montana Low Income Coalition (MLIC), said there is a stipulation that states the state government must consult the low income organizations. Ms. Fifield said they were not consulted and felt they should have been. Sen. Van Valkenburg said he would like to know if Ms. Fifield believes that the Priorities for Peoples process is flawed because it does not adequately include the concerns of low income people. Ms. Fifield said yes there is a flaw in the process because there was not enough low-income representation. Ms. Fifield said the low-income representatives assumed that the PFP process had nothing to do with Exxon overcharge monies, but when Priorities for People read the initiative indeed it was. Sen. Van Valkenburg asked Ms. Fifield if, as a lobbyist for the MLIC, she can adequately represent low income people of this state in terms of a proposal to this committee. Ms. Fifield said that it would have been good if all low income groups in the state could participate. Ms. Fifield said MLIC was not consulted in the beginning, but they do have some ideas on how these monies should be spent. Ms. Fifield said MLIC would compose a proposal as to where they believe the monies would be best used for the low income consumers of Montana. Sen. Van Valkenburg said there is a requirement in the court documents with respect to this money, that there be a process which involves low income people.

Sen. Aklestad asked when the executive branch was going to draft a proposed allocation of the monies. Mr. Hunter said they requested proposals from the agencies. Mr. Hunter said they did not have a representation from PFP. Mr. Hunter said they used the document developed by SRS including the PFP recommendations. He said the PFP recommendation was used to create a trust, to hold LIEAP and weatherization harmless, and that's exactly what the Governor's recommendation is to the Subcommittee.

Rep. Bardnaouve said he prefers having a long-range means of providing money. Rep. Bardanouve said if the budget gets balanced the federal dollars might be less. Mr. Hunter said the trust is misleading. Mr. Hunter said if the federal money continues to come at the current level this fiscal year, then it would be a trust and only interest premiums would be spent. Mr. Hunter said if federal monies are cut

back in those two programs they would have the resources to keep those programs harmless and keep them at their current level of funding.

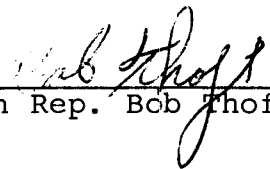
WATER DEVELOPMENT OVERVIEW

Gary Fritz, DNRC, presented a slide show for the Subcommittee.

Caralee Cheney, DNRC, said DNRC makes funding recommendations as to the level of funds for each of the Water Development projects. Ms. Cheney said they also suggest contingencies that will be needed to assure the grant funds are used as effectively as possible. Ms. Cheney said once these projects were ranked and funding recommendations were made by the DNRC staff, they were then reviewed by the division administrator and the director of the department. She said in September they were taken to the advisory council, reviewed and changes made, then the recommendations were sent to the director and the Governor. Ms. Cheney said project sponsors were notified of their ranking.

ADJOURNMENT: There being no further business the Long Range Planning Subcommittee adjourned at 11:00 a.m.

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Chairman Rep. Bob Thoft

DAILY ROLL CALL

LONG RANGE PLANNING

SUBCOMMITTEE

DATE January 19 , 1987

NAME	PRESENT	ABSENT	EXCUSED
Rep., Thoft, Chairman	✓		
Sen., Van Valkenburg, Vice-Chairman	✓		
Rep., Bardanouve	✓		
Rep., Donaldson	✓		
Sen., Aklestad	✓		
Sen., McLane	✓		
Sen., Walker	✓		

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EX-107
11/19/87
10

Renewable Resource and Water Development Programs

**Project Evaluations
and Recommendations for
1988-1989 Biennium
and
1986-1987 Biennium
Status Report**

**Presented to
the Fiftieth
Montana Legislature
January 1987**

OIL OVERCHARGE

Oil overcharge monies are allocated to states by the federal Department of Energy (DOE) or the federal court system as a result of litigation against oil companies overcharging for oil products. The funds are awarded as restitution. States must use the funds to assist those who were harmed as defined by DOE criteria.

Oil overcharge monies may not be used to replace state funds and may only be used in authorized program areas. Under DOE regulation, oil overcharge monies are to be allocated by the Governor. He must make signed assurances to the court and DOE that the funds will be expended according to the established criteria. A plan must be submitted for approval to DOE prior to expenditure of funds.

Funds available:

	Award Amount	Interest as of June 30, 1987	Total
Exxon	\$ 9,584,666	\$ 971,773	\$10,556,439
Stripper	3,290,875	223,167	3,514,042
Diamond Shamrock	220,444	14,472	234,916
Amoco	124,000	0	124,000
Total	\$13,219,985	\$1,209,412	\$14,429,397

Limits on usage of funds:

Exxon monies may be spent only on the following 5 approved programs administered by the indicated agencies:

- 1) State Energy Conservation Program - DNRC
- 2) Institutional Conservation Program - DNRC
- 3) Energy Extension Service - DNRC
- 4) Low Income Energy Assistance Program (LIEAP) - SRS
- 5) Weatherization Assistance Program - SRS

Stripper, Diamond Shamrock and Amoco monies may be spent on the same programs as Exxon or on any of the following programs:

- 1) Highway and bridge maintenance and repair
- 2) Ridesharing programs (vanpooling, carpooling)
- 3) Public transportation projects
- 4) Residential or commercial building energy audits
- 5) Grant or loan programs for weatherization or other energy conservation equipment installation
- 6) Energy assistance programs
- 7) Airport maintenance or improvement
- 8) Reduction in airport user fees
- 9) Energy conservation or energy research offices and administration

Single Program Plan:

The Department of Energy requires that states present a single program plan for any monies allocated to the 5 programs eligible for Exxon expenditures. Any monies proposed for those programs must be allocated to DNRC or SRS to meet DOE criteria. Allocations to the additional programs eligible under "Stripper" may be made separately.

Governor's Allocation:

Legislation will be proposed to the 1987 legislative session to provide appropriations to implement the allocations.

Exxon:

- 1) \$1,666,000 to SRS for weatherization. This supports the appropriation made by the June Special Session for weatherization in FY87.
 - 2) \$5,750,000 to SRS to create a trust fund for LIEAP and weatherization. The director of SRS will be allowed to spend the interest earnings on either program at his discretion. The director will be allowed to use the principal to replace federal funds if the allocation for either program is reduced.
 - 3) \$2,100,000 to the Department of Natural Resources and Conservation (DNRC) to be administratively appropriated to the Department of Commerce for a grant to build a transloading facility. Commerce will accept proposals on a competitive basis from Montana communities to build the facility.
 - 4) \$500,000 to DNRC for grants for energy conservation programs in agriculture.
 - 5) \$235,000 to DNRC for a grant to the Montana Local Government Energy Office for technical assistance to local governments and school districts.
 - 6) \$305,439 to the DNRC for the State Energy Conservation Program.
- Stripper, Diamond Shamrock, and Amoco:
- 1) \$2,000,000 to DNRC for energy retrofit revolving loans for state buildings.
 - 2) \$1,089,042 to DNRC for the institutional conservation program. These funds will be available to schools and hospitals on a competitive basis. The budget also contains approximately \$1 million of federal grant money, bringing the total funds available to schools and hospitals to \$2 million.
 - 3) \$288,000 to DNRC for the State Energy Conservation Program.
 - 4) \$50,000 to DNRC for energy conservation research and analysis.
 - 5) \$234,916 to DNRC for administration of the Energy Conservation Programs. (Diamond Shamrock)
 - 6) \$211,000 to the Department of Highways to install low pressure sodium vapor lights east of the divide.

HB

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1/19/87

January 19, 1987

EXHIBIT 3
DATE 1/19/87
HB _____

To: The Long-Range Planning Subcommittee

From: Madalyn Quinlan, Staff

Subject: Oil Overcharge Monies

The following is intended to serve as a reference for the subcommittee and other legislators as they go through the appropriation process.

1. What is "oil overcharge" money?

"Oil overcharge" money results from the repayments made by Exxon, Chevron, Amoco, Diamond Shamrock, and other domestic crude oil producers for violations of federal oil price and allocation controls between 1973 to 1981. Approximately \$14.43 million is presently available to Montana.

In March 1983, the U.S. District Court of the District of Columbia found Exxon Corporation liable for overcharges on sales of domestic crude oil for an eight year period from January 1, 1975 to January 28, 1981. The court ordered Exxon to pay the total amount of overcharges (\$895.5 million), plus interest, to the U.S. treasury for distribution to the states. Following a series of appeals, Exxon paid in excess of \$2 billion to the U.S. treasury in February 1986. The court order specifies how these funds are allocated among the states and the programs that can be funded with the overcharge monies.

Other domestic crude producers have also been ordered to pay overcharge monies. Separate settlements were signed with the Amoco, Diamond Shamrock, and Stripper Well producers. As with the Exxon agreement, these settlements define the allocation and uses of the overcharge monies. Some of these payments have been received and distributed by the federal government. Other producers have not yet paid.

2. How are funds allocated among the states and other jurisdictions?

The court ordered that overcharge monies be distributed in relation to each state's consumption of petroleum products from September 1973 through January 28, 1981. In accordance with this method, Montana receives .46 percent of the total oil overcharge monies.

3. What requirements must be met before these funds can be expended?

Prior to the release of these overcharge monies to the State of Montana, the Governor had to sign a Statement of Assurance that the funds would be expended in a manner which complied with the respective court orders. Included in this statement is the assurance that the funds will be used to supplement, not supplant, funds otherwise available for these programs under state or federal law.

The state also has to submit a "Restitutory Program" to the Department of Energy (DOE) for approval prior to the expenditure of the overcharge monies. The Amoco agreement, in its guidelines for restitution plans, says "A proper restitutory program will tend to reduce the use or cost of petroleum products or the amounts of energy used by injured consumers."

Appendix A gives examples of State Restitutory Programs that have been approved by the Department of Energy and programs which have been turned down by DOE.

4. What are the restrictions on oil overcharge monies?

Exxon monies may only be spent on the following five programs:

- 1) State Energy Conservation Program
- 2) Institutional Conservation Program
- 3) Energy Extension Service
- 4) Low Income Energy Assistance Program
- 5) Weatherization Assistance Program

The District Court Memorandum Opinion of March 25, 1983 provided the following Justification for the choice of these programs:

"The purpose of the domestic petroleum price regulations was to keep oil prices down, to relieve consumers of some of the burden of towering oil costs. The five energy conservation programs identified in Section 155 operate across the nation to reduce the same burden, either by reduction of the overall consumption through conservation or by direct financial assistance to those most in need. Although one might speculate as to alternative remedies, this court respects the wisdom of the solution chosen by Congress and shall adopt it as the most appropriate equitable remedy in the circumstances of this case."

No Exxon overcharge monies can be used for administration.

Stripper, Diamond Shamrock, and Amoco monies may be spent on the same programs as Exxon monies or on any of the following programs:

- 1) Highway and bridge maintenance and repair
- 2) Ridesharing programs (vanpooling, carpooling)
- 3) Public transportation projects
- 4) Residential or commercial building energy audits
- 5) Grant or loan programs for weatherization or other energy conservation equipment installation
- 6) Energy assistance programs
- 7) Airport maintenance or improvement
- 8) Reduction in airport user fees
- 9) Energy conservation or research offices and administration

Other projects can be funded with Stripper, Diamond Shamrock, and Amoco overcharge monies if states can reference specific programs in which these funds have been used in a similar way in previous distributions. Up to five percent of these monies can be used for administration.

5. What are the court ordered requirements for public notice?

Stripper Well agreement:

"Public Notice. Each State will give reasonable notice to the public that it has received the funds and will generally describe the types of restitutionary programs on which the State may expend the funds. Each State will conduct informal hearings at which the public may present its views concerning such expenditures. Any State which has held hearings with regard to the uses of oil overcharge refunds during the two-year period preceding the date of the Approval Order will not be required to hold additional hearings. Legislative hearings in accordance with applicable State procedures will be sufficient to comply with the requirements of this subsection."

Amoco agreement:

"States should notify affected members of the public that the State is eligible to receive a refund in this case... The public should be informed about the type of restitutionary plan which each state proposes to submit for approval of the OHA, and accorded the opportunity to contribute its ideas in the course of that process. Each application submitted must contain a statement describing the type of notice that was provided in the course of preparing the proposed plan." ("Application" refers to the State's application for approval to DOE.)

Diamond Shamrock agreement:

"Public Notice. Each State will give reasonable notice to the public that it has received the funds and will generally describe the types of restitutionary programs on which the State may expend the funds. Each State will conduct informal hearings at which the public may present its views concerning the programs for which the funds may be spent. Such notice and informal hearings may be consolidated with the notice and hearings which may be held in connection with other crude oil violation funds. Any State which has held hearings with regard to the uses of oil overcharge refunds during the two-year period preceding the date of the Approval Order will not be required to hold additional hearings. Legislative hearings in accordance with applicable State procedures will be sufficient to comply with the requirements of this subsection."

6. The Stripper Well agreement contains the stipulation that low-income consumers be provided with an "equitable share" of the funds allocated to each state. What is the complete wording of this stipulation?

Each State shall fund existing or new low-income programs in a manner that provides low-income consumers with an equitable share of the funds allocated to each State. In determining an appropriate equitable share for low-income consumers, each State may consider, among other factors, such factors as:

- i) the size of the low-income population in each State; and
- ii) the energy consumption by low-income consumers during the Settlement Period.

To qualify as a low-income program, a program must:

- i) provide benefits exclusively to low-income consumers;
- ii) have an eligibility ceiling at or below that of the Low Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq); and
- iii) otherwise meet the criteria set forth in Paragraph II.B.3.f.ii of the Agreement.

Each State shall consult with representatives of low-income groups in such State prior to establishing the appropriate equitable share of such funds to be allocated to low-income consumers and the specific low-income programs to be funded. This provision is designed to assure that States give consideration to the needs of low-income consumers and provide an equitable level of benefits to low-income consumers in each State. Nothing herein is intended to prohibit a State from spending additional funds to benefit low-income consumers.

Appendix A

STATE PLANS FOR DOE ESCROW ACCOUNT FUNDS APPROVED BY OHA AFTER 2/14/85

I. Transportation (Gasoline, Diesel Fuel)

A. General Driving Populace

1. Fuel efficient traffic signal program 1/
2. Highway traffic management program 2/
3. Motor fuel testing and re-cycling programs 3/

B. Consumers

1. Energy education for drivers training 4/
2. Ridesharing programs 5/
3. State support/marketing of public transportation 6/
4. Promotion of state energy programs 7/
5. Transportation of handicapped persons 8/

C. Commercial, Industrial, Government

1. Vehicle fleet maintenance programs 9/
2. Remanufacturing/refitting transit buses 10/
3. Alternative transportation fuel programs 11/
4. Transit system refitting loan program 12/

← II. Residential

A. Heating

1. Weatherization 13/
2. Retrofitting 14/
3. Energy audits 15/

4. Energy assistance 16/
5. Demonstration projects 17/
6. Distribution of educational material 18/
7. Conservation promotion programs 19/
8. Solar energy demonstration programs 20/
9. Solar energy lending programs 21/

B. Electricity

1. Energy education 22/
2. Energy assistance 23/
3. Promotion of high-efficiency appliances 24/

III. Commercial

A. Industrial/Agricultural

1. Conservation demonstration projects 25/
2. Fuel conservation loans/grants for fishing industry 26/

B. Small Business/Government/Education

1. Loans and technical assistance 27
2. Energy audits 28/

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STATE PLANS FOR DOE ESCROW FUNDS
REJECTED BY OHA

A. Tax Reduction

1. Energy conservation measures in government buildings 1/
2. Highway repair/maintenance 2/
3. Programs for government fleets 3/
4. Energy code revision 4/
5. Excessive administrative expenses 5/
6. Legal fees 6/

B. Health and Safety

1. Speed limit compliance 7/
2. Drunk driving law enforcement 8/
3. Overweight truck enforcement 9/
4. Emergency medical services 10/
4. Environmental protection 11/

C. Studies Lacking Immediate Benefits

1. Mass transit 12/
2. Alternative fuels 13/
3. Energy emergency plan 14/

D. Vague Proposals

1. Excessive discretion to state
and local governments 15/
2. Insufficient information 16/

E. Inequitable Distribution of Benefits 17/

EXHIBIT ⁴
 DATE 1/19/87
 HB _____

Projected Cash Flow for the
 Special Revenue Account
 FY 88-89

*Income

Project Revenues	\$ 440,000	Similar to FY 86-87
Loan Repayment	729,772	(9/86)
RIT	4,110,900	Gov. Office Projection (1/87)
Coal Severance Tax	770,494	(1/87) (377,584 + 392,910)
WD Interest	<u>100,000</u>	(1/87)
Total	\$6,151,166	

Expenditures

Water Courts	\$1,080,000	Similar to FY 86-87
Centralized Services Division	200,000	Similar to FY 86-87
DNRC Operations	1,500,000	Similar to FY 86-87
Project Rehab.	800,000	Similar to FY 86-87
Bond Debt	<u>1,187,315</u>	Similar to FY 86-87
Total	\$4,767,315	

Available for Grants	\$1,383,851
Emergency Grants,	- 125,000
RRD Earmarked for Water	+ <u>170,200</u>
Total	\$1,429,051

*Assumes no carryover from FY 87

Effective 1/7/87

~~SLIDE 1~~

~~The Water Development Bureau of the Water Resources Division in The Department of Natural Resources and Conservation administers three separate and distinct loan and grant programs:~~

- 1) The Water Development Grants and Loans,
- 2) The Renewable Resource Development Grants and Loans, and
- 3) The Resource Indemnity Trust Grants

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Pointed

SLIDE 2

WDP
The Water Development Program was established by the Montana Legislature in 1981 with funding earmarked from 4 separate sources:

- 1) 30% of the Resource Indemnity Trust Interest Income provides the majority of the program's funds;
- 2) ~~White~~ 1.25% of the Coal Severance Tax proceeds provide about \$1 million per biennium; *this money ^{first} flows thru the debt service fund* (\$770,000)
- 3) Any revenues generated by the ^{SOWP} projects and
- 4) The ~~various~~ loan repayments, *which first flow thru the debt service fund and* provide the remainder of the \$6.3 million per biennium of ~~earmarked~~ funds.

Funds are appropriated on a biennium basis by the legislature to five areas of the Water Development Program. These areas are:

- 1) The Water Development Grants which in the past 2 bienniums have been appropriated ^{a total of} \$3 million;
- 2) The Water Development ~~Private~~ ^{GO} loan program which is funded by a \$10 million General Obligation Bonding Authority, ~~with loans approved by the DNRC Director;~~ *\$4.2 mm so far, 95% for private loan approved by DNRC*
- 3) State-owned water projects rehabilitation; *\$800K*
- 4) Operations of the Water Development Program; and *\$1.5mm* *5% for public loan approved by G9*
- 5) The Water Courts *\$1.1mm*

The Water Development Program ~~also has~~ ^{the} loan capabilities, ^{to fund loans for} ~~with the~~ majority ^{of large projects} of the loans over \$200,000. These loans are funded by bond sales which are backed by 50% of the Coal Severance Tax proceeds which enter the Coal Severance Tax Trust Fund. The Coal Severance tax provides backing for the bonds and also provides legislation

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VISITOR'S REGISTER

LONG RANGE PLANNING

SUBCOMMITTEE

AGENCY (S) _____

DATE JANUARY 19, 1987

DEPARTMENT _____

NAME	REPRESENTING	SUP- PORT	OP- POSE
Jane Holzer	Mt Salinity Control Assn		
Pete Purvis	" "		
Debi Brammer	MT Assn of Conservation Districts		
Wynn Burnett	Butte Local Dev. Assn - ^{Mont Econ} _{Dev Assn}		
Rick Griffith	Butte - Silver Bow - Part of Montana		
Jim MORTON	DIST 11 NRDC		
Tom MARVIN	MONT. LOG. GOVT. Fed. Com.		
Ted Dodge	Headwaters FORD		
Archie Morris	MPC		
Janet Gessing	City of Helena		
Sue Field	MILIC		
DANA FIELD	AUDUBON		
Terri Wilner	UW Power Planning		
Tom Patton	Montana Bureau of Mines		
Marvin Miller	Mont. Bur. of Mines + Geology		
Kreg Jones	D.A. Davidson & Co.		
Kathy Hadley	National Center Appropriate Technology		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT.
IF YOU HAVE WRITTEN COMMENTS, PLEASE GIVE A COPY TO THE SECRETARY.

