

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Gary Spaeth, on January 17,
1989, at 8:00 a.m.

ROLL CALL

Members Present: All Members were present.

Members Excused: None

Members Absent: None

Staff Present: Carl Schweitzer, LFA
Jane Hamman, OBPP
Donna Grace, Committee Secretary

HEARING ON DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

List of Proponents and Group they Represent

Jane Holzer, Montana Salinity Control Association
Ray Beck, DNRC
Dave Darby, DNRC
Ed Steinmetz, Montana Water Court
John Armstrong, DNRC
Gary Fritz, DNRC
Van Jamison, DNRC
Rep. Vernon Westlake, House District 76
Jo Brunner, MWRA
Rep. Bert Guthrie, House District 11

Group of Opponents and Group they Represent

None.

Testimony:

Salinity Control Program

Senator Jergeson reported in behalf of the committee which had been appointed to study the saline seep project funding problem. He said it did not appear that they had a high enough priority to receive a \$300,000 grant from the long range planning committee. The

committee's decision was that \$28,750 of RIT money be added to the budget each year of the biennium to bring the total amount to be appropriated to \$100,000 per year. Senator Jergeson stated that there was some money left from the grant that was made in the last session of the legislature and he felt that they might be able to obtain some funds from the Department of Fish, Wildlife and Parks as they might be eligible to receive some habitat rehabilitation money as waterways and reservoirs were involved.

Chairman Spaeth questioned whether this was a program where the amount spent on administration was disproportionately large compared to the amount actually spent on projects. Ms. Holzer stated that a major part of their responsibility was in education and while they could operate on the reduced level of funding, if the program were discontinued it would be extremely difficult to get it going again because people who are trained and qualified would disperse into other areas of government or the private sector. It would be hard to get that sort of team back together again.

MOTION: Senator Jergeson made the motion that \$28,750 of RIT funds be added to the Salinity Control Program budget in each year of the biennium to make the total amount appropriated \$100,000 in each year.

VOTE: MOTION PASSED. Devlin, Iverson and Spaeth voted no. All others present voted yes.

Energy Division (262)

Executive Action continued from January 16:

Mr. Jamison stated that as a result of legislation introduced by Representative Iverson, the coal tax portion of alternate energy money would be de-earmarked and placed in the general fund. Therefore, approximately \$160,000 alternate energy funds would be left for funding this division.

Issue No. 3. Consulting Services, Printing and Travel. Mr. Jamison identified the items as travel and funds to print the energy emergency contingency plan. In addition, they would ask for \$3,000 to convert the petroleum monitoring program from the old computer system to the new system.

MOTION: Senator Jergeson made a motion that the executive recommendation be adopted. Discussion followed.

SUBSTITUTE MOTION: Senator Devlin made a substitute motion that the LFA recommendation be adopted.

VOTE: Chairman Spaeth asked for a roll call vote.
SUBSTITUTE MOTION PASSED. Spaeth, Devlin, Kimberley and Swift voted yes. Iverson, Jenkins and Jergeson voted no.

Issue No. 4. Filing and Printing of Facility Siting Rules. These rules have not been printed since 1984 and there have been changes to the statutes since that time as well as changes to the rules. Mr. Jamison stated that it would be in the best interests of everyone to be able to provide applicants with current rules.

MOTION: Representative Swift made a motion that the executive budget recommendation be adopted.

VOTE: MOTION PASSED. All present voted yes.

Issue No. 5. Conservation Education Equipment and Grants. The LFA reflected the agency's request and the executive has recommended less. Mr. Jamison stated that after they had looked at the numbers to see what would be available in the alternate energy account after the money was de-earmarked and the ending fund balance was transferred to the general fund, it was clear that there would not be enough revenue to fund more than what the executive branch had recommended.

MOTION: Representative Swift made a motion that the executive recommendation be adopted. No further discussion.

VOTE: MOTION PASSED. All present voted yes.

Issue No. 6. Funding shift from alternative energy funds to federal funds. Mr. Schweitzer stated that the executive budget had used oil overcharge funds together with federal funds to replace alternate energy funds. This would not affect the general fund.

MOTION: Senator Devlin made a motion that the executive recommendation be adopted.

VOTE: MOTION PASSED. All present voted yes.

Boilerplate Language. The executive has recommended the following language: "The Department may expend up to \$125,000 it may receive from the Montana Power Company and up to \$20,000 it may receive from the Western Area

Power Administration for the purposes of conducting builder training and agricultural workshops."

MOTION: Senator Devlin made the motion that the boilerplate language recommended by the executive be accepted.

VOTE: MOTION PASSED. All present voted yes.

Water Resources Division 19:B (080)

Mr. Schweitzer handed out copies of the LFA analysis for this Division (Exhibit 1).

Gary Fritz, Administrator of the Water Resources Division, explained the responsibilities of the Division. The programs for which the division is responsible include Water Rights, State Owned Water Projects, Floor Plain Management, Water Development, Renewable Resource Development Programs, Reclamation and Development, Water Reservations, Interstate/International Water Allocations, Weather Modification, Board of Water Well Contractors, Water Leasing and Dam Safety.

Mr. Fritz explained at some length the situation regarding water rights adjudication at the present time. The state received 203,000 claims as of the filing date which was April 30, 1982 and has received about 13,000 late claims since that time for a total of 216,000 claims. About 15,000 claims are in final decree, 9,900 in preliminary decree, 57,000 in temporary decrees and about 118,000 have not yet been examined.

Mr. Fritz stated that there are three issues that involve the water rights adjudication program. First, the capability of being able to grant decrees in the next biennium. None were issued in 1988 so there are no funds in the budget for actually printing and preparing the decrees. The water court has just recently resumed putting out decrees. He suggested that funds be added to the budget so that the decrees can be issued. He stated that they were requesting \$27,968 in 1990 and \$27,587 in 1991 which would include costs of microfilming and computer processing, microfilm supplies, postage and mailing.

Mr. Ed Steinmetz testified on behalf of Judge Leslie and the Water Court. He stated that this is an unusual area where there has to be a coordinated effort between the Water Resources Division and the Water Court. Four basins have been examined and the Water Court will need the printed decrees in those basins. In addition, Mr. Steinmetz said that there is a bill coming out of the

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Water Policy Committee that should be introduced any day that will require that in any water revision, published notices of existing decrees in every basin through the entire water division will be required. The Water Court supports the DNRC in their request for additional funds.

Executive Action:

MOTION: Senator Jenkins made a motion that the modified budget for the water adjudication process be adopted in the amount of \$27,968 in 1990 and \$27,587 in 1991.

VOTE: MOTION PASSED. All present voted yes.

Budget Modification. The water rights adjudication budget modification would allow 1.50 FTE which would allow records and administrative activities of the water adjudication process to continue. This budget modification relates to Issue 2 because 1.50 of the 3.00 FTE which the department stated were not necessary in Centralized Services would be reestablished with this budget modifications. The positions would be financed by general funds.

Mr. Fritz stated that these people were needed to maintain the program at current level. To restore the program as suggested in testimony on January 16 would add both money and FTE's so that the program could move on more quickly. Discussion followed.

Representative Vernon Westlake testified that he had brought that matter before the committee. He said that the Water Users had not requested a complete restoration back to the level of funding in the previous biennium. What they were requesting is that the committee consider a way to address funding that will speed up the water examination process, preferably from within the existing budget.

Representative Bert Guthrie, District #11, stated that he supported anything that would expedite the adjudication of water rights in Montana. He stated that until there is proper adjudication, it is impossible to determine how much water there is or how much is being claimed.

MOTION: Representative Swift made a motion to accept the budget modification providing 1.5 FTE for water rights adjudication.

VOTE: MOTION PASSED. All present voted yes.

Mr. Fritz continued his testimony, describing the balance of activity and responsibility within the Water Resources Division.

Representative Iverson asked how much money was currently in the RIT account. Ms. Hamman stated the fund was currently at \$75.3 million. When the fund reaches \$100,000,000, 100% of the interest and income can be used. Representative Iverson suggested that it was time to be thinking about policy on how these funds should be used.

Executive Action:

Issue No. 2. The executive budget contains \$36,000 per year for consultants to make recommendations for safety improvements on state-owned high hazard dams. Mr. Fritz stated that this would be a transfer from elsewhere into the engineering department to insure that the state owned dams comply with state statutes, particularly to have operating permits approved for each of these projects. Currently there are 25 state-owned dams that will have to obtain operating permits. Mr. Fritz stated that there is also a modified budget request which would provide 1 FTE.

MOTION: Senator Jergeson made a motion that Issue No. 2 providing \$72,000 for the biennium for the High Hazard Dam Safety program and the budget modification that would add 1 FTE be adopted.

VOTE: MOTION PASSED. All present voted yes.

Announcements/Discussion: Discussion on the Water Resources Division will continue on January 18. Meeting to begin at 8:00 a.m.

ADJOURNMENT

Adjournment At: 11:15 a.m.


REP. GARY SPAETH, Chairman

GS/dg

1426,mina

NATURAL RESOURCES

DATE _____

[illegible]

ROLL CALL VOTE

NATURAL RESOURCES

SUBCOMMITTEE

DATE 1/17/89

AGENCY

DNRC

NUMBER

1

[illegible]

TALLY

4

3

Donna Grace

Secretary


Chairman

~~Chairman~~

Motion:

Sub. Issue 3

Senator Devlin made a motion to adopt the LFA recommendation for consulting services, printing and travel for the Energy Division.

LEGISLATIVE ACTION

AGENCY: Department of Natural Resources and Conservation

PROGRAM: Water Resources Division

BUDGET ITEM	Fiscal 1990		Fiscal 1991	
	Executive	LFA Curr Lvl	Executive	LFA Curr Lvl
		Difference		Difference
FTE	122.00	120.00	2.00	2.00
Personal Services	\$3,267,281	\$3,163,695	\$103,586	\$103,586
Operating Expenses	855,165	775,029	80,136	80,136
Equipment	55,212	85,706	(30,494)	(30,494)
Non-Operating	3,340,590	46,590	3,294,000	3,294,000
TOTAL EXPENSES	\$7,518,248	\$4,071,020	\$3,447,228	\$3,447,228

FUNDING

General Fund	\$1,147,956	\$2,773,946	(\$1,625,990)	\$1,111,227	\$2,777,157	(\$1,665,930)
State Special Rev	6,320,292	1,247,074	5,073,218	3,122,085	1,242,261	1,879,824
Federal Revenue	50,000	50,000	0	50,000	50,000	0
TOTAL FUNDING	\$7,518,248	\$4,071,020	\$3,447,228	\$4,283,312	\$4,069,418	\$213,894

1. New Water Right Equipment	General Fund		Gross	
	FTE			
	0.00	\$ -0-	\$ -0-	\$(33,033)

The executive budget contains funding to purchase two 4x4 pickups while the LFA current level budget contains funding to purchase four. The LFA current level also contains \$6,033 for office equipment.

2. High Hazard Dam Safety	-0-	72,000
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The executive budget contains \$36,000 per year for consultants to make recommendations for safety improvements on state-owned high hazard dams.

	FTE	General Fund	Gross
3. <u>Consultant Services</u>		-0-	(9,694)
The LFA current level contains \$9,694 more for other types of consultant services provided state-owned dams. The LFA current level reflects fiscal 1988 expenditures.			
4. <u>TV Time for Floodplain Information (federal funds)</u>		-0-	10,200
5. <u>Increases in water engineering operating expenses</u>		-0-	20,264
A. Travel			\$10,000
B. Monitoring Reservoir Levels			\$3,400
C. Other Increases			\$5,900
6. <u>State Water Projects</u>		-0-	\$775,000
7. <u>State Water Plan</u>	2.00	142,092	142,092
The executive budget transfers 1.00 FTE from Centralized Services and 1.00 FTE from the Engineering Bureau to the Water Management Bureau. The positions would provide additional manpower for the state water planning effort. Each position costs \$54,070 for the biennium and there is \$33,952 of additional operating expenses. The LFA current level does not contain the State Water Plan increase.			
8. <u>Water Management Consultant Services</u>		21,858	21,858
The executive budget includes additional funding to develop a Powder River management plan and \$5,000 per year for emergency needs.			
9. <u>Water Management Equipment</u>		(12,415)	(12,415)
10. <u>Water Management Funding Shift</u>		(338,771)	-0-
The executive budget has transferred \$338,771 of general fund costs to Water Development Funds.			
11. <u>Board of Water Wells Travel</u>		1,032	1,032
12. <u>High Hazard Dam Consulting Services</u>		19,438	19,438

<u>FTE</u>	<u>General Fund</u>	<u>Gross</u>
	(5,224)	(5,224)
-0-		2,563,000

13. New Employee Expenses

14. Statutory Appropriation

BUDGET MODIFICATION

Table H contains the six budget modifications recommended by the executive.

Table H					
Water Resource Division Budget Modification					
<u>Modification</u>	<u>FTE</u>	- - - Fiscal 1990 - - -		- - - Fiscal 1991 - - -	
		<u>General Fund</u>	<u>Total</u>	<u>General Fund</u>	<u>Total</u>
Reclamation and Develop.					
Grant Administration	0.50	\$ -0-	\$ 15,726	\$ -0-	\$ 15,727
High-Hazard Dams	1.00	-0-	40,000	-0-	40,000
Broadwater Dam	2.00	-0-	229,843	-0-	217,960
Missouri River Reserv.	3.00	-0-	461,785	-0-	80,491
Water Rights Permits	1.00	24,873	35,873	22,500	33,500
Water Adjudication	1.50	36,321	36,321	36,363	36,363
Total Budget Modifications	9.00	\$61,194	\$819,548	\$ 58,863	\$424,041

The reclamation and development grant administration budget modification would add 0.50 FTE to monitor the reclamation and development grants that are authorized by the legislature. The position is to be financed with RIT interest.

The purpose of the high-hazard dam budget modification is to comply with current law by developing operating plans for eight state-owned high-hazard dams within the mandated five-year renewal cycle. The 1.00 FTE in this budget modification would be financed with water development funds.

The Broadwater Dam budget modification proposes to add 2.00 FTE and related operating expenses and equipment for operation of the Broadwater hydro-facility. The budget modification would be financed with income earned from hydropower generation.

The Missouri River reservation budget modification is to implement a 1985 legislative mandate to complete comprehensive water reservations proceedings in the Missouri River Basin by December 31, 1991. The budget modification is to be funded with water development funds and environmental impact statement fees be paid by federal agencies and the state's Department of Health and Environmental Sciences and Department of Fish, Wildlife, and Parks.

The water rights permit budget modification would create 1.00 FTE position to allow the department to enforce water use permits and authorizations or to investigate water right-related complaints. The position would be financed with general fund and water rights appropriation fees.

The water rights adjudication budget modification would allow 1.50 FTE which would allow records and administrative activities of the water adjudication process to continue. This budget modification relates to Issue 2 because 1.50 of the 3.00 FTE which the department stated were not necessary in Centralized Services would be reestablished with this budget modification. The positions would be financed by general fund.

VISITOR'S REGISTER

AGENCY(S) DNRC SUBCOMMITTEE _____
 DEPARTMENT _____ DATE Jan 17, 1989

NAME	REPRESENTING	SUP- PORT	OP- POSE
<i>Mike Holzer</i>	<i>MT Salinity Control Assn</i>	<i>✓</i>	
<i>Ray Beak</i>	<i>CDP/DNRC</i>	<i>✓</i>	
<i>Dave Darby</i>	<i>DNRC</i>	<i>✓</i>	
<i>Ed Steinmetz</i>	<i>MT Water Cont</i>		
<i>John Armstrong</i>	<i>DNRC</i>		
<i>Gary Fritz</i>	<i>DNRC</i>		<i>✓</i>
<i>Van Jamison</i>	<i>DNRC</i>	<i>✓</i>	
<i>Wesley Cal</i>	<i>MWRA</i>		
<i>Vernon L. Westlake</i>	<i>REP. H. D. 76</i>		
<i>Ed Brunner</i>	<i>MWRA</i>		
<i>Bob L. Hume</i>	<i>Rep HD #11</i>		

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