

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **SUBCOMMITTEE ON HUMAN SERVICES & AGING**

**Call to Order:** By **CHAIRMAN DOROTHY BRADLEY**, on January 16, 1991,  
at 8:05 a.m.

#### **ROLL CALL**

**Members Present:**

Rep. Dorothy Bradley, Chairman (D)  
Sen. Mignon Waterman, Vice Chairman (D)  
Rep. John Cobb (R)  
Rep. John Johnson (D)  
Sen. Tom Keating (R)

**Members Absent:** Sen. Dennis Nathe (R)

**Staff Present:** Taryn Purdy, Senior Fiscal Analyst (LFA)  
Dan Gengler, Budget Analyst (OBPP)  
Faith Conroy, Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Announcements/Discussion:**

#### **DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCE (DHES)**

#### **HEARING ON ENVIRONMENTAL SCIENCES DIVISION (CONT.)**

**Mitzi Schwab**, Food and Consumer Safety Bureau Chief, testified.  
**EXHIBIT 1**

**Jeff Chaffee**, Air Quality Bureau Chief, testified. **EXHIBIT 2**

**Taryn Purdy**, Legislative Fiscal Analyst, reviewed budget Program Issues. **EXHIBIT 3** from January 15, 1991, minutes. The 1989 Legislature authorized \$1 million in spending authority for potential expenditures from the Environmental Quality Protection Fund, which was established to recover civil penalties, clean-up costs, etc., from responsible parties. In FY 90, the Department spent \$1,032,000 for that purpose. Because the appropriation was made in a separate appropriations bill, HB 333, it was not included in the LFA budget. The executive budget includes \$1 million per year in spending authority in the 1993 biennium for potential expenditures.

**SEN. KEATING** asked where the money comes from and what it is used for. **Ms. Purdy** said there are various sources of income, which is

used for environmental emergencies requiring Department action. The fund is essentially a revolving account.

**SEN. KEATING** asked if the \$1 million would be an actual appropriation or spending authority. **Ray Hoffman, DHES Administrator**, said the Environmental Quality Protection Fund has a significant balance due to ARCO and Burlington Northern recoveries. The fund was established to enable the Department to respond to environmental catastrophes. The Legislature provided \$1 million in authority in the event a polluter did not take clean-up action. The Department also has used the funds for immediate clean-up action to halt further environmental damage, before it is known if the polluter will take responsibility.

**SEN. KEATING** asked if the \$1 million was being placed into an account or if the money was spending authority. **Ms. Purdy** said the Department cannot spend more than is in the fund. The \$1 million would be authority to spend money out of the fund.

**Mr. Hoffman** said the Solid and Hazardous Waste Bureau would provide a full accounting of the Environmental Quality Protection Fund to clarify where the funds came from, how much was spent last year and the existing balance.

**SEN. KEATING** asked if the \$1 million was a statutory appropriation, if appropriation committees were to determine the desired fund balance, and if \$1 million is a good estimate of need. **Ms. Purdy** said it is difficult to predict. **Mr. Hoffman** said the only reason more than \$1 million was spent last year was because an emergency budget was requested.

**Ms. Purdy** explained Funding Issue No. 1. Division administration is financed with General Fund money and Resource Indemnity Trust (RIT) interest. The Department receives 12 percent of the interest on the RIT account, which affects the Solid and Hazardous Waste, and Water Quality bureaus.

The Department and executive budget propose to finance Division administration with an indirect assessment against all Division programs, including Occupational Health, Food and Consumer Safety, Air Quality, Solid and Hazardous Waste, and Water Quality bureaus. The federal government essentially approves of this, though additional negotiations are needed to settle the issue.

The intent is to replace General Fund and RIT money primarily with federal funds. Some General Fund and state special revenue also will go into indirect assessments.

**Mr. Hoffman** distributed information on indirect rate calculations. **EXHIBIT 3**. Previously, Division administration was funded with state money, while the majority of programs were federally funded. The Department wants a two-tier system to charge federal programs their share of administrative costs. The federal government is willing to do so.

**SEN. WATERMAN** asked if the programs would pay two indirect costs, one to the Department of Health and a second within the Division. **Mr. Hoffman** nodded yes and said program officials are willing to pay both.

**SEN. KEATING** asked if the \$150,000 was a savings to the General Fund or the state special revenue account. **Mr. Hoffman** said the state is saving about \$90,000. Programs within the Division are state funded and must assume their fair share of the cost of administration.

**Ms. Purdy** explained the history of the Asbestos Program, Funding Issue No. 2. Page 2 of EXHIBIT 3 from January 15, 1991, minutes. The program was established last biennium with a direct appropriation from RIT interest. Program income was to be deposited directly into the RIT. The executive proposes to directly finance the Asbestos Program, and an additional FTE and related operating expenses with fees.

The Air Quality budget modification would add 6.5 FTE and related expenses in response to new federal Environmental Protection Agency (EPA) requirements. The funding would come from fees charged to polluters. The addition of the fees requires a statutory change, which is pending.

**SEN. KEATING** asked for a breakdown on the additional FTEs. **Mr. Chaffee** said there would be two half-time clerical positions, a person to operate the ambient air quality monitoring station in Billings; two environmental engineers for compliance and enforcement; a meteorologist; and a half-time lawyer to fill out a full FTE in the air quality program.

**SEN. KEATING** said he wanted some assurance from the Bureau that its policy paves the way for more industry and compliance within state standards. **Mr. Chaffee** said the Bureau already filled six of the 6.5 FTEs through a budget amendment last biennium. The modification would continue the positions. The Bureau's policy is to ensure the permit program meets federal mandates for the least amount of money possible. The Bureau wants a fee structure to be in place before federal mandates, to avoid being told what to charge.

**SEN. KEATING** asked **Mr. Chaffee** if the state would ever reach the monitoring stage and not require as many employees. **Mr. Chaffee** predicted growth in programs as federal requirements change. He did not believe there would be a reduction in staff, though there may be some adjustments when the state reaches the maintenance stage.

**SEN. KEATING** asked about Montana's air quality. **Mr. Chaffee** said it is good overall, but there are isolated problems that are some of the most severe in the nation. Libby and East Helena are examples.

Tape 1B

**SEN. WATERMAN** asked about the status of sulfur dioxide emission reductions in Billings and whether new industry can locate in the area. **Mr. Chaffee** said the 1987 Legislature exempted existing industries in Billings from state sulfur dioxide ambient air quality standards. Industries in Billings have to meet only federal standards, which are less stringent than state standards. A study is underway to determine how bad the air is in Billings. Existing industries are decreasing their emissions and are nearly meeting state standards. Before new industries can come into the area, the Bureau must demonstrate improvements in air quality. Existing industry will have to reduce emissions to enable industrial expansion.

**REP. JOHNSON** asked for clarification on the additional 6.5 FTEs because he was missing one. **Mr. Chaffee** said the sixth position is in the air toxics and planning section. The person is charged with developing a federally mandated air toxics program.

**Ms. Purdy** explained the Asbestos Control Program under Executive Budget Modifications. Asbestos permit fees would fund an additional FTE to help with the increased workload.

#### EXECUTIVE ACTION ON ENVIRONMENTAL SCIENCES DIVISION

Votes were taken on issues in **EXHIBIT 3** from January 15, 1991, minutes.

**MOTION:** **REP. COBB** moved approval of \$1 million in spending authority each year from the Environmental Quality Protection Fund. Program Issue No. 1.

**VOTE:** The motion **PASSED** unanimously.

**MOTION:** **REP. JOHNSON** moved approval of the executive budget proposal to fund administration with an indirect assessment of programs in the Environmental Sciences Division. Funding Issue No. 1.

**VOTE:** The motion **PASSED** unanimously.

**DISCUSSION:** **SEN. KEATING** asked if the intent of Funding Issue No. 2 is to prevent additional RIT money from being spent. **CHAIRMAN BRADLEY** said money taken from the RIT was replaced with fees collected by the Division. The subcommittee's action would dispense with the go-between.

**MOTION:** **REP. JOHNSON** moved approval of the executive budget proposal to fund the Asbestos Program with income generated by fees, contingent on a statutory change this session.

**VOTE:** The motion **PASSED** unanimously.

**SEN. KEATING** asked if the Air Quality Executive Budget Modification was already in the executive budget. **Ms. Purdy** said yes.

**MOTION:** **SEN. KEATING** moved approval of the additional 6.5 FTEs, contingent on a statutory change.

**VOTE:** The motion **PASSED** unanimously.

**MOTION:** **SEN. KEATING** moved approval of the additional 1.0 FTE in the Asbestos control program, contingent on a statutory change. Executive Budget Modification No. 2.

**DISCUSSION:** **SEN. KEATING** asked if the modification was in the LFA budget. **Ms. Purdy** said no modifications are included in the LFA budget.

**VOTE:** The motion **PASSED** unanimously.

**Mr. Hoffman** said it isn't known how much federal money will be available in the Air Quality Program. If federal money comes in at a higher level than anticipated, it is the intent of the Department to use the money in place of fee funds. The Department would like to add authority in the next biennium to expend fee funds. He asked the subcommittee to waive emergency criteria for budget amendments on earmarked funds. The Department currently has to declare an emergency to gain access to that money. A budget amendment would still be required.

**CHAIRMAN BRADLEY** asked if that wasn't the intent behind the emergency criteria. **Mr. Hoffman** said yes. But the Department knows there will be additional federal money received. He couldn't seek a budget amendment after the session ends without first meeting emergency requirements. Without the waiver, he may not be able to use the additional fee revenue received.

**SEN. KEATING** said the subcommittee in the past has given spending authority to Social and Rehabilitative Services, and Labor and Industry when they anticipated additional federal funds. That meant the departments did not need to seek a budget amendment or demonstrate it was an emergency.

**SEN. WATERMAN** asked if the Department was seeking authority to spend the federal funds rather than fees collected. **Mr. Hoffman** said state law requires agencies to spend money from other funding sources before using state money. The Department doesn't know how much it will collect in fees from industries. It also isn't known how many people are needed to administer federal changes in Air Quality standards. If emergency criteria were

waved, the Department would still have to go through the Legislative Finance Committee. He doubts the Department could prove a life-and-death situation to meet emergency criteria.

**SEN. WATERMAN** asked if the Department wanted authority to employ additional FTEs beyond the ones specified. **Mr. Hoffman** said yes, but with full review by the interim committee and the executive.

**CHAIRMAN BRADLEY** asked if **Mr. Hoffman** brought sample language. **Mr. Hoffman** said no, but he would draft language with **Ms. Purdy**. He noted that the executive already approved the request.

**SEN. KEATING** said he did not feel comfortable authorizing unknown FTEs. He asked how the Department received authorization for six of the requested 6.5 FTEs in the current biennium. **Mr. Hoffman** said the additional FTEs were financed with federal funds received last biennium.

**SEN. WATERMAN** asked why the Department couldn't do the same thing the next time. **Mr. Hoffman** said it could. **CHAIRMAN BRADLEY** said the subcommittee could deal with the matter once language is drafted.

**REP. COBB** asked if the Department had sufficient employees to handle a backlog of permit requests. **Mr. Chaffee** said it takes a long time to complete the permit process with existing staff. **Mr. Pilcher** said the workload in the Air Quality Bureau has increased significantly. Projects cannot proceed until permit reviews are completed. Existing staff is overwhelmed by the workload. **Mr. Chaffee** said the Bureau missed statutory deadlines on some projects. Two of the proposed 6.5 FTE are in the compliance and enforcement area and will provide assistance. He anticipates a need for additional staff to meet upcoming federal requirements.

**REP. COBB** asked how many people are needed to meet statutory deadlines and to handle the backlog. **Mr. Chaffee** said it isn't known what will be required by EPA. An early estimate showed another 6 FTEs would be needed in addition to the 6.5 FTEs requested in the budget modification.

**REP. COBB** asked if additional FTEs were needed to address the backlog, regardless of upcoming EPA requirements. **Mr. Chaffee** said yes, in the Air Quality permit program.

**REP. COBB** asked how many FTEs were needed to get the work done and if the Bureau had requested more. **Mr. Chaffee** said the Bureau needs 6.5 FTE to remain at the same level. An additional 6 FTE would be needed to address upcoming EPA requirements. He estimated some of the six would be needed to address needs in the permit program.

**SEN. KEATING** asked how many FTEs are needed to handle the backlog of permit applications and to meet statutory deadlines. **Mr. Chaffee** estimated approximately three of the additional 6 FTEs

beyond the requested 6.5 FTEs.

**SEN. KEATING** asked if the Bureau could use contract services. **Mr. Chaffee** said no, because of certain restrictions.

**CHAIRMAN BRADLEY** asked **Mr. Chaffee** if he could fill the work schedules of three more employees if the positions were approved. **Mr. Chaffee** said yes.

**SEN. WATERMAN** asked if it has been difficult to recruit trained employees because of inadequate salaries. **Mr. Chaffee** said yes. Six of the 6.5 FTE have been filled with entry-level employees because it is difficult to attract experienced personnel.

**SEN. WATERMAN** asked how long it takes to attract and train employees. She indicated low salaries were causing the Bureau to waste valuable time and money training employees. She asked about staffing levels. **Mr. Chaffee** said the Air Quality program has been able to maintain full staff. One position is in the process of being filled. The Bureau deliberately sought entry-level personnel because it is easier to attract them. It takes from six months to a year to train an employee, depending on the duties.

**SEN. WATERMAN** said she heard that lag time for training new employees was slowing the permit process, and private industry was hiring Department personnel after they are trained. **Steve Pilcher, Environmental Sciences Division Administrator**, said state agencies in the environmental program have traditionally served as training grounds for industry and private consulting firms. Recruitment and retention have been difficult. To address the problem, the Bureau received authorization for blanket pay exceptions for environmental engineers and is seeking similar pay exceptions for environmental specialists. Recruiting and retention problems hurt the agency's ability to conduct timely reviews.

**SEN. WATERMAN** asked the funding source for the blanket pay exceptions. **Mr. Gengler** said the administration wants the issue to be dealt with in the context of the pay plan. Blanket pay exceptions for environmental specialists have not yet been approved, so the increases do not appear in the executive or LFA budgets. Blanket pay exceptions for environmental engineers have been approved, but are not reflected in either budget.

**SEN. WATERMAN** expressed concern that Department officials would be forced to finance the increases with vacancy savings if the pay plan isn't approved. She asked why funding for the environmental engineers was not in proposed budgets. **Mr. Gengler** said the administration's position is to address pay exceptions through the pay plan.

**SEN. WATERMAN** asked if there were other pay exceptions not financed in the executive or LFA budgets. **Mr. Hoffman** said the License and Certification personnel issue was addressed, but the

environmental engineers and environmental specialists' pay exception was not. There are no other exceptions.

**MOTION:** SEN. WATERMAN moved that the budget agreed upon by the subcommittee reflect salaries granted to the environmental engineers.

**DISCUSSION:** CHAIRMAN BRADLEY asked how much it would cost. Mr. Hoffman said the Department would calculate the cost and bring the information to the subcommittee. He estimated the impact at more than \$600,000 per year and recommended further discussion before action is taken.

REP. COBB said he wanted the Department to provide additional information on the issue and funding of three additional FTEs for the permit program.

CHAIRMAN BRADLEY suggested the subcommittee postpone action on personal, operating expenses and equipment until additional information is presented.

SEN. WATERMAN asked that it be noted when employees are being paid differently from what is requested in proposed budgets.

HEARING ON THE WATER QUALITY BUREAU

Dan Fraser, Water Quality Bureau Chief, provided an overview of the Bureau. EXHIBIT 4

Ms. Purdy distributed the Water Quality Bureau budget summary. EXHIBIT 5

Tape 2A

Fred Shewman, Permits/Groundwater Section Supervisor, testified on the Surface Water program. EXHIBIT 4, Page 1

John Arrigo, Ground Water Program Manager, testified on the ground water program. EXHIBIT 4, Page 2

Scott Anderson, Municipal Wastewater Assistance Section Supervisor, testified on the Construction Grants Program, State Revolving Loan Program and the Training Program. EXHIBIT 4, Page 3-4

Mr. Fraser testified on the Public Water Supply/Subdivision Section. EXHIBIT 4, Page 5-7. He distributed and discussed the recommendation of the Public Water Supply Task Force, and the executive summary report to DHES, Gov. Stan Stephens and the 1991 Legislature. EXHIBIT 6-7

He said the executive budget does not reflect the task force's recommendation. FTEs in the Department of Health have been reduced and work is being done through contract services. The



Bureau needs funding levels recommended in the executive budget and legislation to allow fees to be charged in the Public Water Supply Program.

The Bureau also is seeking legislation to remove caps on subdivision fees, which are used to offset costs. Fees would be returned to the General Fund. Mr. Fraser said he hopes legislation will be introduced to require the Department to review public water and sewer systems for their long-term economic viability, as well as construction standards.

Loren Bahls, Water Quality Management Section Supervisor, testified on Water Quality Management and Clark Fork monitoring. EXHIBIT 4, Page 8-9

Tape 2B

Jack Thomas, Non-Point Source Pollution Control Program Supervisor, testified. EXHIBIT 4, Page 10-11

Abe Horpestad, Technical Studies and Support Section Supervisor, testified. EXHIBIT 4, Page 12

Gail Kuntz, Environmental Quality Council (EQC) staffer, summarized the council's findings in the groundwater protection management study. She noted additional staff is needed in the Water Quality Bureau's groundwater program and the Subdivision Section's legal unit. EXHIBIT 6 from January 15, 1991, minutes. Pages 68-70

Arnold Peterson, Montana Rural Water Systems Inc. Legislative Co-Chairman, testified in support of additional Bureau funding to retain primacy over EPA programs. EXHIBIT 8

Dick Nisbet, Director of Public Works for the City of Helena, Montana Public Water Supply Task Force representative, and National Director of the Montana Section of the American Waterworks Association, testified in support of the task force's recommendations. He said he delivered a letter of support from the Helena City Commission to Mr. Fraser. Water users will probably have to pay the costs for the Bureau to retain its primacy.

Will Selser, Environmental Health Division Director for the Lewis and Clark City-County Health Department, said it is increasingly difficult to obtain state assistance for technical problems because the number of requests are outstripping the agency's ability to do the job. He supports funding to retain primacy.

REP. JOHNSON asked how long the turnaround time would be for groundwater discharge permits if the Bureau had the additional FTEs requested. EXHIBIT 6, Page 69, from January 15, 1991, minutes. Mr. Arrigo estimated 30-60 days to review the permit

application and a mandatory 30-day public notice period, for a total of three to four months. One permit application is a year old.

**REP. JOHNSON** asked how the inspection period would be shortened with additional staff. **Mr. Arrigo** said the Bureau wants each facility to be visited at least once per year, quarterly if possible. Since development of the program in 1982, the Bureau has received between 75 and 80 permit applications. About 60 have actually been issued. The Bureau has some discretion in the permit-review process. If the facility is not a significant source of groundwater pollution, the Bureau may not require a permit. Much of the Bureau's time is spent trying to help facilities reach the point where a permit is not needed. More permits are processed than are actually issued. Currently, about 25 facilities have valid permits.

**SEN. WATERMAN** asked if more staff is needed than requested. **Mr. Arrigo** said two positions deal with permit issues, spills, complaints and information requests. The Bureau is seeking EPA funding for two more positions for pollution prevention. Another two positions are needed to help reduce the backlog in permit applications. The EQC recommended two more positions, but neither budget funds those positions.

**REP. COBB** asked for a summary of funding needs for the additional positions, and the funding source. **Mr. Hoffman** said he would provide the information.

**SEN. WATERMAN** asked what would happen if the subdivision review process was expanded to include 20-acre lots and above. **Rick Duncan, Environmental Specialist and Manager of the Subdivision Review Program**, said removal of the 20-acre exemption could double or triple the workload. The number of 20-acre subdivisions being platted around the state varies from year to year. Last year the Bureau reviewed 820 subdivisions. There have been 520 reviews so far this fiscal year. The Bureau is seeking an additional employee to inspect new systems. Projections indicate one additional FTE would be sufficient to handle the workload.

**Mr. Hoffman** said the executive budget does not address the possible expansion. A fiscal note would be requested with the legislation. At that time the Department could estimate staffing needs and the legislation's financial impact.

**SEN. WATERMAN** asked if the proposed budget included money for statewide water-quality monitoring. **Mr. Bahls** said a statewide surface-water monitoring program exists, but federal funding will drop from \$200,000 per year to \$100,000 per year. The funding loss will require a cut in contract services, possibly in planning and assessment grants to local conservation districts and counties.

**SEN. WATERMAN** asked about the effect of the funding loss. **Mr.**

**Bahls** said it is difficult to measure. Several hundred-thousand dollars is available in the next biennium in the Non-Source Pollution Program for similar activities.

**CHAIRMAN BRADLEY** said the subcommittee will have to decide if it wants to replace lost federal funds with RIT funds. If that is done, it would decrease county grants. **Ms. Purdy** agreed to outline the impacts.

**SEN. WATERMAN** asked what is needed to finance approved positions so the Department doesn't have to use vacancy savings. She also asked how many positions were needed and how much money would be needed to finance them. **CHAIRMAN BRADLEY** said each agency faces the same dilemma and it isn't proper for the subcommittee to deal with the issue differently than others.

**SEN. WATERMAN** said she isn't sure the pay plan includes new money to pay for the reclassifications or if agencies are going to have to finance the change through vacancy savings. **Mr. Gengler** said amounts to bring employees up to market levels will be fully funded. Cost-of-living adjustments would come out of vacancy savings. Increases, such as blanket pay exceptions, would be fully funded.

**CHAIRMAN BRADLEY** asked if the pay plan reflects previously reclassified positions. **Mr. Gengler** said it intended to, but details had not been worked out yet. The budget director indicated an amount would be added to the pay plan, provided it represents progression toward market rates.

**SEN. WATERMAN** said reclassification doesn't qualify as progression toward market rates. She stressed that money should be added to the budget to pay approved levels. **Mr. Gengler** said the administration agrees with that. The question is, should the funding be in the general appropriations bill or the pay plan. The director's decision was for it to be in the pay plan.

**REP. JOHNSON** asked if the pay plan included sufficient money to pay surveyors at the approved grade level, without using vacancy savings. **Mr. Hoffman** said blanket pay exceptions allow the Department to pay the individual higher than the level authorized in the state pay plan. He stressed that the increases will come through the pay plan. **REP. COBB** said he believes the pay plan will fail to accomplish what is intended by pay exceptions. He would check with the chairman of the Appropriations Committee.

**CHAIRMAN BRADLEY** distributed a summary of subcommittee action.  
**EXHIBIT 9**

**Ms. Purdy** distributed Environmental Quality Council recommendations on funding for the Solid Waste Management Program. **EXHIBIT 10**


**CHAIRMAN BRADLEY** said the Solid and Hazardous Waste presentation

will be done from the executive narrative, beginning on Page 90.

**ADJOURNMENT**

**Adjournment:** 11:45 a.m.

  
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REP. DOROTHY BRADLEY, Chairman

  
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FAITH CONROY, Secretary

DB/fc

HOUSE OF REPRESENTATIVES  
HUMAN SERVICES SUBCOMMITTEE

ROLL CALL

DATE 1/16/91

NAME	PRESENT	ABSENT	EXCUSED
REP. JOHN COBB	✓		
SEN. TOM KEATING	✓		
REP. JOHN JOHNSON	✓		
SEN. DENNIS NATHE		✓	
SEN. MIGNON WATERMAN, VICE-CHAIR	✓		
REP. DOROTHY BRADLEY, CHAIR	✓		

HR:1991  
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FOOD AND CONSUMER SAFETY BUREAU  
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES  
January 16, 1991

Exhibit # 1  
DATE 1-16-91  
Human Serv.  
Sub Committee

Madam chairman and members of the subcommittee, my name is Mitzi Schwab. I am the chief of the Food and Consumer Safety Bureau of the Department of Health and Environmental Sciences.

The primary goal of the Food and Consumer Safety Bureau's programs is to safeguard the health of the Montana and traveling public by insuring sanitary conditions through health inspections of regulated establishments. This Bureau has been assigned administrative responsibility through environmental control of 21 public health statutes and 17 rules.

Major bureau programs provide education, training and enforcement services for licensed establishments, including food establishments, public accommodations, septic tank pumpers and trailer courts/campgrounds/youth & work camps. In 1990, 7500 establishments were issued licenses.

Bureau Public Health Sanitarian Consultants provide program services directly to industry and the public in addition to providing program support to 62 sanitarians in 35 local health agencies serving Montana's 56 counties and other public health professionals. In each licensed establishment program, bureau services include: plan review, complaint and epidemiological investigations, training of employees and management, consultation & inspection service, local health authority assistance, on-the-job training of local sanitarians, local health agency program evaluation and enforcement actions. Within each program, bureau personnel are expected to be knowledgeable and to provide expertise over a broad-range of industrial applications.

The Food and Consumer Safety bureau is the designated state coordination office with the U.S. Food and Drug Administration (F.D.A.) in the regulation of food, drug and cosmetic supplies and establishments. The federal standards and their application have been adopted by Montana in the Montana Food, Drug & Cosmetic Act.

This past year the bureau's licensed establishment programs have been extensively evaluated and reviewed in conjunction with the F.D.A., local health agencies and regulated industry representatives. The review process included a statewide inspection survey of food service establishments by the F.D.A. and the bureau, major program evaluations of local health agencies covering 24 of 56 counties and numerous meetings with local health agency sanitarians, environmental health directors, health officers, local boards of health and industry representatives. As a result of that review process, DHES will be proposing statutory revisions for food establishments, public accommodations and trailer courts/campgrounds/youth & work camps which address issues including adequate program funding, requiring accountability of program performance for grant payments, provisions to insure services are available to all Montana counties and improving enforcement capabilities.

The objective is to have major program improvements through statutory and rule revisions in-place during FY 91 with implementation to occur in FY 92 and FY 93. Bureau personnel will be standardizing local health agency sanitarians for inspection purposes in all 35 local health agencies, providing extensive training, education and services to meet program objectives.

A late fee penalty will be requested to assist timely licensure of septic tank pumpers, which has been successfully implemented in the bureau's other licensed establishment programs during FY 90.

Other program inspections and services provided by this bureau include: community homes for the developmentally disabled, consumer product safety act, group day care homes for children, institutions, jails, Montana Clean Indoor Air Act, mosquito control districts, schools, and public swimming pools and spas.

For these programs the bureau also provides the same services as the licensed establishment programs. Particularly with community homes, institutions and jails, the bureau is the primary service provider. Inspections of community homes, group day care homes and jails are public health responsibilities in conjunction with the regulatory authority of other state agencies, Social Rehabilitation Services, Family Services and the Department of Justice.

This bureau is also the designated state coordination office with the U.S. Consumer Product Safety Commission (C.P.S.C.) regulating recalls of consumer products, complaint and project investigations and providing public education services through news and promotion distribution.

As part of the bureau program review process regulation of swimming pools and spas was analyzed. As currently provided the Food and Consumer Safety Bureau has primary responsibility for insuring safety and sanitary conditions of an estimated 1200 pools and spas statewide without staffing or budgetary provisions. Participation by local health agencies in the inspection process is not uniform. DHES will be proposing statutory revisions to license swimming pools and spas with the same provisions of the licensed establishment statutes.

As the primary provider of program field training and continuing education of state sanitarians the bureau provides two formal educational conferences and regional training seminars each year.

The Food and Consumer Safety Bureau's operating costs are funded by general fund. Grants to local health agencies from licensed establishment fees are provided through the local board inspection fund administered by the bureau. The Bureau is authorized 8.0 FTE.

Further details of the composition, duties and responsibilities of the Food and Consumer Safety Bureau with a breakdown of services by each unit of the Bureau can be referenced in: 1) Executive Budget Narrative Reference p. 37 - 43 and 2) "The Environmental Sciences Division, Summary of Primary Functions and Responsibilities".

At this time I would invite the Committee to make comment or inquiry concerning any of this Bureau's goals, programs, functions or future direction as presented. Thank you for this opportunity.

Mitzi A. Schwab, Chief  
Food and Consumer Safety Bureau  
Phone Extension: 2408 or 5309

DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES  
AIR QUALITY BUREAU

DATE 1-16-91  
HB

Exhibit #2  
1/16/91  
Human Serv  
Subc.



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

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TESTIMONY

Presented by  
Air Quality Bureau  
Environmental Sciences Division  
Department of Health and Environmental Sciences

Jeffrey T. Chaffee, P.E., Chief

Before  
Joint Appropriations Subcommittee  
on  
Human Services

January 15, 1991



Department of Health and Environmental Sciences  
Environmental Sciences Division  
Air Quality Bureau

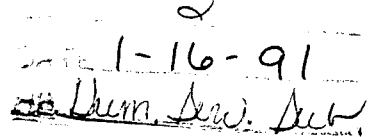
The Montana Department of Health and Environmental Sciences (DHES) appreciates this opportunity to offer information on Montana's Air Quality Program to the subcommittee. Our testimony will concentrate on an overview of the base program, an explanation of the modified request for program expansion, and a brief review of major accomplishments to date and significant goals for the coming biennium.

Base Program

The Air Quality Bureau (AQB) is responsible for implementation of the Montana and Federal Clean Air Acts (§ 75-2-101 MCA and 42 U.S.C. 7401 et seq., respectively). These laws require AQB to attain and maintain air quality levels in the outdoor atmosphere considered safe for public health and welfare. A number of the key tasks necessary to accomplish this mandate include:

- **Permit Reviews:** Reviews of facilities before starting construction or expansion are conducted to assure that appropriate air pollution control equipment is installed and air quality standards are met. AQB currently conducts approximately 100 new source reviews per year for over \$400 million in new construction projects in Montana.
- **Inspections/Enforcement:** To assure continued compliance of industrial sources with air pollution standards, AQB completes a scheduled program of inspections and takes appropriate enforcement actions where necessary.
- **Ambient Air Quality Monitoring:** Surveillance of the air quality across the state is provided by over 25 monitoring sites.
- **State Implementation Plan (SIP):** In order to receive delegation of federal air quality regulations and maintain responsibility for the state air quality program, a SIP has been developed and submitted to the Environmental Protection Agency (EPA). This SIP must be updated periodically to include new regulations or to address areas that fail to comply with air quality standards. AQB is preparing revisions to the SIP in cooperation with local health agencies, communities, and affected industries to define solutions to noncompliance problems in several areas of Montana.
- **Complaint/Information Response:** AQB relies on citizen comments and complaints to help bring air quality problems to our attention. We attempt to be as responsive to each individual complaint or request for information as possible to assure good public service.

## Complaints Per Calendar Year



Funding for the base air program is outlined in the Executive Budget and is comprised of state general fund at a maintenance of effort level and federal grant dollars.

### Modified Request

Montana currently has primacy for the federal air quality program in our state; our goal is to continue full delegation of federal air quality regulations to assure that we have control over implementation of all air pollution regulations in the state. The importance of continued primacy is underscored by the recently passed amendments to the Federal Clean Air Act (CAA). To address expanding federal requirements for state air programs, AQB submitted a modified request as part of the Executive Budget for the 1992-93 biennium. Today, we are asking for your approval of the modified request. Although the scope and schedule of federal requirements driven by the CAA are presently being reviewed, it is likely this modified request will only provide the groundwork for implementing the federal requirements, and additional resources will probably be needed in the future.

A number of key sections of the CAA amendments requiring near-term attention are as follows:

1. **Operating Permits/Fees** - EPA is issuing draft regulations governing an operating permit system in April 1991 and is requiring that states immediately begin developing authority and a plan for a state operating permit system. States must submit an operating permit program, complete with adequate resources, for EPA approval by November 1993. Failure to submit an adequate program will open us to sanctions and risk a federally run program.
2. **State Implementation Plan (SIP)** - The CAA amendments set statutory time schedules for development of SIPs for areas violating ambient air standards. Montana must submit area specific SIPs for six communities exceeding particulate (PM-10) standards by November 1991, revise carbon monoxide plans for Great Falls and Missoula within two years, and submit a major new lead control SIP for the East Helena area by February 1992. In addition, EPA is requiring Montana to correct a number of deficiencies in our overall statewide SIP before they will approve any area specific SIPs. If we fail to meet these statutory schedules, EPA may impose sanctions through withholding of federal funds and limiting construction of new industry, and they may develop a federal plan.
3. **Sulfur Dioxide (SO<sub>2</sub>) SIPs** - EPA is requiring the AQB to revisit two old SO<sub>2</sub> SIPs for the Billings/Laurel and East Helena areas which regulate a number of the state's largest industries. They will issue a SIP call in June 1991 and they will require the AQB to address numerous deficiencies over the next two years.

2  
DATE 1-16-91  
H. B. M. Dir. Air

4. Numerous other areas will require increased resources to stay in the driver's seat for the program. Examples include development of an acceptable enforcement program, increased compliance monitoring of industrial sources, more monitoring and dispersion modeling, and an increased role for county air programs in solving local problems.

These are the major requirements being added to the existing program that will require near term attention. Over the longer term (next 3-5 years), additional growth will be required to run a federally acceptable program.

This modified request includes the following resource and funding plan for the next biennium:

#### Executive Budget

Full Time Equivalent (FTE):	6.5
Funding Authority:	\$326,000 (approx.) per year
Revenue Source:	Permit fees

Expansion of the Air Quality Program is being funded through air quality permit fees. The department will make full use of available federal funds for the program; however, fee funding authority is crucial to address the need for additional growth to meet federal requirements; the need to move from a required 25% state funding match to a 40% match as mandated by the CAA amendments; and, the need to meet permit fee requirements in the federal amendments to the CAA. We respectfully request that you approve this modified request to assure that Montana continues our primacy for the Air Quality Program.

#### Accomplishments and Goals

The Montana Air Quality Program has accomplished much in the past two years and we feel that our efforts are visible in improved air quality in many areas, and in orderly and environmentally compatible economic growth. However, much remains to be done and recent changes in the Federal Clean Air Act require states to do more to assure that their citizens breathe healthy air. Some examples of important advances and challenges are as follows:

##### 1. State Implementation Plans (SIPs)

Montana has made significant progress in implementing the federal particulate (PM-10) standards established in 1987. In conjunction with local governments, we have developed and submitted PM-10 SIPs (control plans) for Missoula and Kalispell. AQB staff, working with the community of Libby, have developed a set of local regulations to control the most severe PM-10 problem in the state. Many of the tasks necessary to develop PM-10 SIPs for the cities of Columbia Falls and Thompson Falls are underway. We are also working closely with ASARCO in the development of a SIP for the East Helena Lead problem. However, significant efforts lie ahead:

- All PM-10 SIPs must be developed and submitted to EPA by November 1991.
- Carbon Monoxide SIPs for Great Falls and Missoula must be revised in the next two years.
- A major new Lead SIP for East Helena must be submitted by February 1992.
- Sulfur Dioxide SIPs for East Helena and Laurel/Billings will require rewrites.

## 2. Billings Sulfur Dioxide (SO<sub>2</sub>)

Significant strides have been accomplished recently in breaking the deadlock over the Billings area SO<sub>2</sub> problem. Cooperation of industry and government through the Billings-Laurel Air Quality Technical Committee (BLAQTC) has resulted in the collection of important data and information. Air quality permits issued to Conoco for their Coker/Sulfur Recovery Project and to Montana Sulfur and Chemical for a new sulfur recovery facility have limited SO<sub>2</sub> emissions from two of the six industrial sources. However, additional efforts are necessary:

- To permit new industrial sources of SO<sub>2</sub>, existing sources will likely have to give up part of their emissions or submit to emission limits.
- A dispersion model will need to be developed to accurately define air quality and identify sources of any violations of standards.
- An updated SIP will need to be prepared that assures protection of air quality standards and defines how further industrial development will be allowed.

## 3. Permitting and Enforcement Programs

AQB has been running an air quality permitting program that has provided timely review of new and expanded facilities. We have permitted over \$400 million of new construction projects in Montana in the last year. We have also operated a compliance/enforcement program which has emphasized the importance of complying with air quality regulations. However, significant additions to these programs must be added in the next several years to maintain primacy:

- An operating permit program with associated fees must be developed and approved by the EPA.
- Major rulemaking must be accomplished to update existing permitting regulations and formulate new ones.
- Our enforcement program must be strengthened to meet federal requirements and thereby keep EPA from overfiling on enforcement cases. (Their penalty collection capabilities are much greater than ours.)

Page 2  
1-16-91  
-B. Dean, Sec. Del.

#### 4. Maintenance of a Delegated Air Quality Program

As mentioned earlier, Montana has continued to maintain primacy for the air pollution control program in our state. This has been accomplished by the significant efforts of existing personnel in taking on additional workload. However, this overload of existing staff cannot continue and it will not allow continued delegation of the federal program. Therefore, we must be allowed to expand to address the incoming federal requirements. Failure to do so will mean transfer of control to others who have no direct interest in Montana and its future.

DHES would be pleased to address any questions you may have on Montana's Air Quality Program.

EXHIBIT 3  
 DATE 1-16-91  
 -B-

Exhibit #3  
 1/16/91  
 Hum. Svc.  
 Subc.

CALCULATION OF INDIRECT RATE FOR ENVIRONMENTAL SCIENCES DIVISION  
 EXECUTIVE BUDGET FIGURES USED AS BASIS

		FY 92	FY 93
DIVISION ADMIN BUDGET	30031	149,134	149,098
AIR QUALITY	30033	603,258	602,786
OCC HEALTH	30034	120,061	120,064
FOOD & CONSUMER	30039	266,314	265,968
ASBESTOS	30040	40,094	40,037
AIR-MOD	92033	168,671	168,284
ASBESTOS-MOD	92040	30,085	30,015
JUNK VEHICLE	40041	142,457	142,213
SUPERFUND	40042	369,586	369,273
HAZARDOUS WASTE	40043	327,175	326,457
UNDERGROUND TANKS	40044	325,822	325,518
SOLID WASTE	40045	99,503	99,428
STATE SUPERFUND	40046	122,129	121,848
LUST	40047	161,717	161,460
LANDFILL REVIEW	40048	36,131	36,052
SUPERFUND CORE	40142	159,621	159,635
TANK INSTALLERS	91552	7,537	7,519
HAZ WASTE-MOD	92043	110,877	110,623
LANDFILL-MOD	92048	78,275	78,095
BN/ARCO-MOD	92049	144,820	144,492
WATER QUAL MNGMNT	50051	148,752	148,731
WATER POLL CONTROL	50052	274,104	273,924
WATER PERMITS	50053	137,323	137,440
CONSTRUCTION GRANT	50054	255,129	254,613
GROUNDWATER	50055	67,440	67,454
WASTEWATER OPER	50056	26,105	26,172
SUBDIVISIONS	50057	90,877	90,690
SAFE DRINK WATER	50058	317,849	317,767
SRF	50059	27,902	27,838
CLARK FORK MONITOR	50062	35,270	35,414
NON POINT SOURCE	50063	56,029	56,047
GROUNDWATER-MOD	92055	60,294	60,158
SAFE DRINK-MOD	92058	222,180	221,676
NON POINT-MOD	92063	55,796	55,668
PERSONAL SERVICES ENVIRONMENT DIV		5,089,183	5,083,359
ESTIMATED FILL RATE--75%		0.75	0.75
PERSONAL SERVICES BASE		3,816,887	3,812,519
DIVISION ADMIN COSTS		149,134	149,098
PERSONAL SERVICES BASE		3,816,887	3,812,519
IND RATE--DIVISION COSTS/BASE		3.9072%	3.9107%

490

490

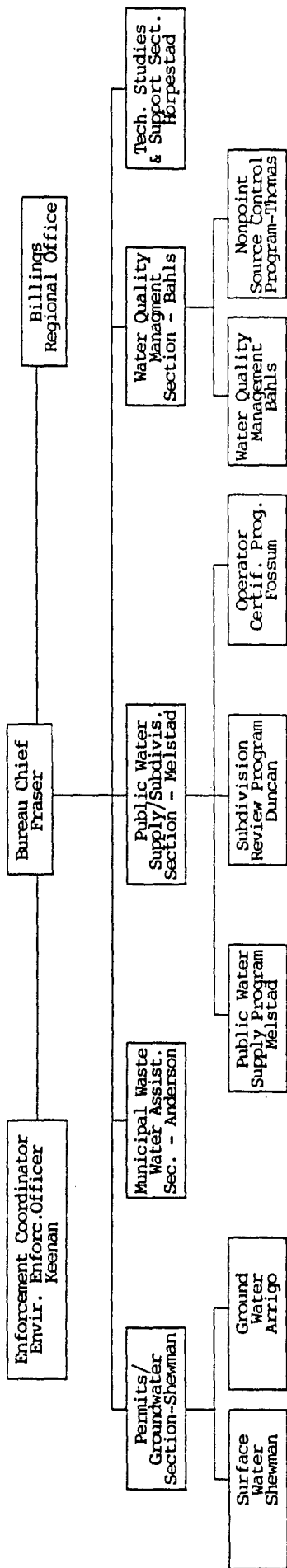
EXHIBIT 4 Exhibit # 4  
DATE 1-16-91 1/16/91 Human Serv.  
Subc.  
DE \_\_\_\_\_

# *Water Quality Bureau*

*Montana Department of Health and Environmental Sciences  
Environmental Sciences Division  
Water Quality Bureau  
Cogswell Building, Room A-206  
Helena, Montana 59620-0909  
Telephone: (406) 444-2406*



# WATER QUALITY BUREAU



- 1) Issue & administer ground-water & surface water permits
- 2) Provision of hydro-geological expertise
- 3) Public inquiries
- 4) Spills and complaints
- 5) Industrial pre-treatment program
- 6) Enforcement

- 1) Grants and loans for planning, design, and construction.
- 2) Engineering review
- 3) Training and T.A.
- 4) Small community outreach
- 5) Facility evaluations

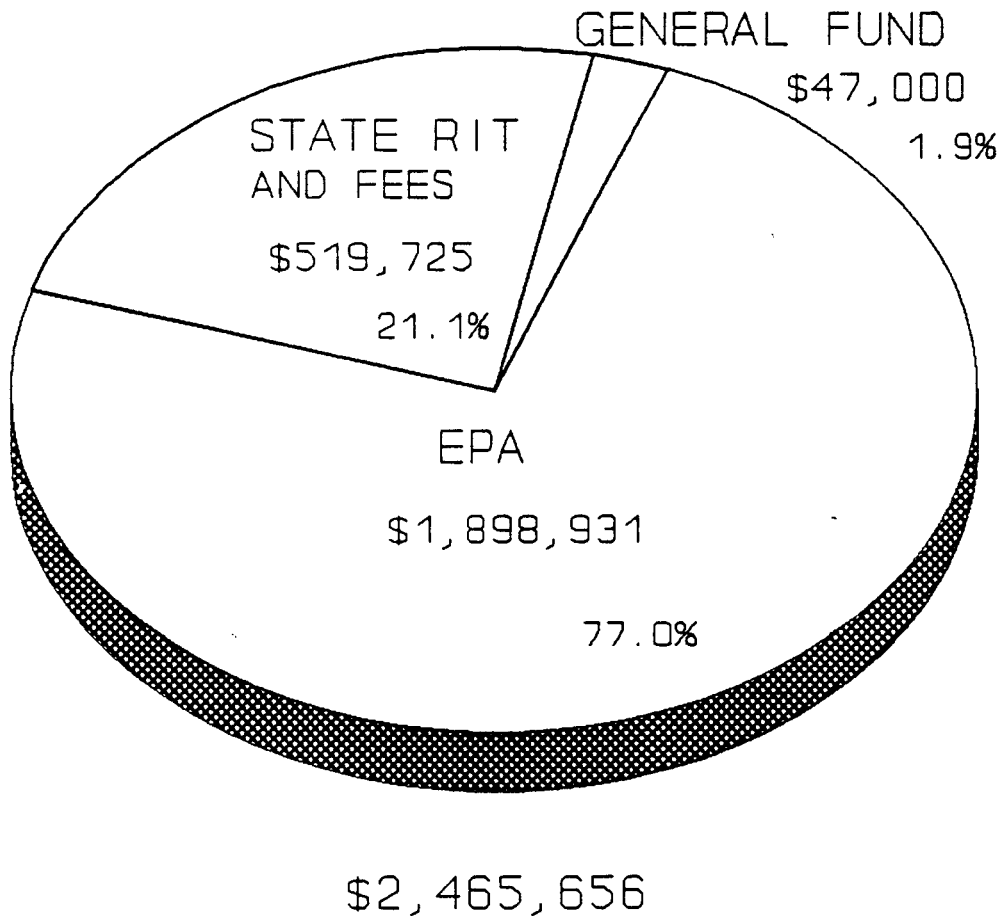
- 1) Subdivision review
- 2) Licensing of water/ww operators
- 3) PWS regulation
- 4) Engineering review
- 5) Training and T.A.
- 6) Public response
- 7) Inspections
- 8) Enforcement

- 1) Surface water monitoring
- 2) Planning for protection of state waters
- 3) Identify waters impaired by pollution
- 4) NPS pollution control

- 1) Develop and revise water quality STDs
- 2) Management of water quality data
- 3) T.A. to other sections
- 4) Water quality studies
- 5) Enforcement

# LFA BASE FOR WQB

EXHIBIT 4  
DATE 1-16-91  
Hm. Dev. Sub.



## MAJOR BUDGET ISSUES OF THE WATER QUALITY BUREAU:

GROUNDWATER PROGRAM: 100%

NON-POINT SOURCE PROGRAM: 100%

PUBLIC WATER SUPPLY/SUBDIVISION/OPERATOR CERTIFICATION PROGRAMS: 100%

# PERMITS/GROUNDWATER SECTION

## SURFACE WATER PROGRAM

### I. Program Summary

This program is the federally delegated NPDES program under the federal Clean Water Act and is funded with federal funds. The program must meet minimum federal requirements dictated by federal regulations and is audited by a local representative of the US EPA.

Under this program, all public and private facilities that discharge liquid wastes to state surface waters are required to have waste discharge permits which control the quality of these wastes. The permittees are required to sample their discharges on a regular basis and report the results to the department, which reviews them and follows up on compliance problems, taking appropriate enforcement action as necessary. Also, the data are entered on a national database monthly for 295 of the roughly 400 permittees. Program personnel do compliance sampling inspections once per year on 50 of the "major" permittees and less than 10% of the rest in order to verify the "self monitoring" data submitted.

Another requirement of the program is the Industrial Pretreatment Program, which is similar to NPDES in that it requires industries which discharge to city wastewater plants to obtain permits to protect the wastewater plant from possible deleterious effects from the industrial discharge. Program staff either issue and maintain these industrial permits or provide oversight to the cities that issue the permits. Some of the staff activities are training, oversight, consultation, permit drafting, and compliance sampling. This program is not yet fully implemented due to staff limitations.

In addition to NPDES duties, program staff record and followup all spills of oil and hazardous substances. These occur at a rate of 250 to 300 or more per year. Also, assistance is given in investigating and following up on complaints to the WQB, and in reviewing DSL operating permit applications for compliance with the Water Quality Act.

### II. Program Status

As shown above, our present budget allows us to maintain about 400 NPDES permits, along with various other duties. We generally issue about 160 new permits per year. Our biggest weaknesses are not being able to field inspect many of the new permittee's sites before they are issued, and not being able to compliance sample as much as we would like. We feel the major permittees should be sampled 4 times per year and minor permittees once per year. However, this would require additional resources.

Other problems we are experiencing are related to increasing complexity of permits and increasing federal requirements for the NPDES program. Examples are new sludge and toxics requirements in permits, permit requirements for stormwater discharges, implementation of the pretreatment program, etc. These requirements demand more resources.

One final area that could use additional manpower is in field inspecting more of the spills that occur. As it is now, most of the spills that occur, other than the most major ones, are handled over the phone to obtain cleanup. Field inspection would lend a higher degree of confidence that proper cleanup actually occurred.

### III. Major Budget Issues

Our current level budget supports 3.5 FTE. There are no major problems with the current budget for maintaining the current level of services. However, as noted above, the current level may not be the optimum level desired.

## GROUNDWATER PROGRAM

3-31 4  
DATE 1-16-91  
HE Mun. Sew. Div.

### I. Program Summary

The ground water program is responsible for administration of the Montana Ground Water Pollution Control System (MGWPCS). MGWPCS regulations include ground water quality standards, a ground water classification system, a nondegradation rule, and a MGWPCS permit program. The standards serve as the basis for all ground water quality decisions in Montana. Therefore, program staff must coordinate with other state programs and agencies, such as in the review of Department of State Lands operating permit applications, to ensure consistent compliance with ground water standards and protection of human health.

The MGWPCS rules grant the department specific powers to require clean up of spills that may cause ground water contamination. The program is also jointly responsible for the administration of the Montana Agricultural Chemical Ground Water Protection Act with the Department of Agriculture. Except for \$15,000 provided by fees on pesticide registrations, the ground water program is funded entirely by EPA grants.

### II. Status

Staff shortages have severely hampered the implementation of the ground water program. Five staff positions are assigned to the program but four are vacant because of the difficulty of recruiting and retaining qualified hydrogeologists.

About 25 different facilities currently hold valid MGWPCS permits. Approximately 6 to 10 permit applications are received and processed annually, and two to four permits are typically issued each year. Limited staff resources are consumed responding to spills and complaints. About 30 spills are reported to the department every month and at least one spill each month requires detailed followup activity. Because ground water moves very slowly, ground water cleanup activities often last several years. As a result of this phenomenon, the workload necessary to keep track of and maintain compliance at these site grows continuously. During 1990, the ground water program reviewed and tracked ground water clean up activities at over 50 different sites.

### III. Budget Issues

Budget Modification -- Ground water pollution prevention is much cheaper than ground water cleanup. The EPA will provide approximately \$102,000 for new ground water pollution prevention programs for each year of the next biennium. These programs include: establishment of wellhead protection areas around public water supply wells, development of pesticide management plans to detect and prevent ground water contamination by pesticides and fertilizers, and the assessment, classification, and prioritization of Montana's ground water resources to assist in the proper management and protection of those resources. Initial funding for these programs and two FTEs was included in a 1990 budget amendment. The LFA's budget proposal does not contain funding for these new programs. Spending authority for these funds and positions is requested.

Montana Agricultural Chemical Ground Water Protection Act -- \$15,000 was provided to the department in 1990 for implementation of the Act. These funds were not spent in 1990 because of staff shortages. Spending authority for these funds is requested to help the department fulfill obligations mandated under the Act.

# MUNICIPAL WASTEWATER ASSISTANCE SECTION

## CONSTRUCTION GRANTS PROGRAM

### I. Program Summary

The Construction Grants Program provides grants to public entities to plan, design, and build wastewater collection and treatment systems. The program is funded entirely with federal funds with performance of technical and financial functions for administration of the program delegated to the state through formal written agreements. The program staff is primarily technical in nature and is made up of five environmental engineers, one environmental specialist, and two administrative employees. Program responsibilities include processing of grant documents, performing environmental assessments of proposed projects, reviewing engineering reports and project plans, overseeing construction, approving pay requests and other financial documents, evaluating facility performance and long-term ability of the facility to meet permit requirements. This program provides a service to the communities of Montana and is not regulatory in nature.

### II. Program Status

The program is undergoing a significant transition as a result of the desire of Congress to phase out the Construction Grants program concurrent with the initiation of the new State Revolving Loan program. Although grant funds are still available for this program, no new appropriations for the program will be received after FFY 1990. Current workload activity in the program is significant with over forty-five active projects representing approximately 60 million dollars in construction work. Work obligations for this program are expected to last into the latter half of this decade before all federal funds have been expended. Sufficient federal funds are available to support the staff through this period.

This program has experienced a serious problem with recruitment and retention of qualified environmental professionals, threatening the ability of the section to meet mandated workplan goals upon which receipt of the federal funds are conditioned. Project reviews, grant processing and ultimately the construction of costly wastewater treatment facilities have been delayed. The program currently has two vacant positions out of a total of 8.3 FTE's. Full staffing of this program would allow fulfillment of work responsibilities including all commitments to EPA.

### III. Major Budget Issues

Budget issues include the reduction in operating costs in the LFA budget and reduction of pass through grants to small needy communities. Actual operating expenses in FY 90 were low due to vacant positions. At full staffing, higher costs are anticipated. Areas likely to be underbudgeted included travel, contracted services and communications. Another budget issue pertains to pass through grants intended to assist small needy communities in the planning and design of construction projects. We believe that this budget item should be increased to the requested level as these grant funds are extremely important for communities to get projects started. We are actively promoting use of these funds and anticipate additional demand. Lastly, a potential shortfall in the personal services budget can be anticipated.

## STATE REVOLVING LOAN PROGRAM

BIT 4  
DATE 1-16-91  
-E. D. M. Sen. Sub.

### I. Summary of Program

This program provides low interest loans to communities to build water pollution control facilities in a manner very similar to the construction grants program. The program is capitalized with federal grants matched with state funds raised through special revenues generated through the sale of state general obligation bonds. Although initially federally supported, the program is designed to become a perpetual source of financial assistance for eligible projects fully administered under state authority. The enabling legislation for this program was passed last session.

Work responsibilities in this program are similar to the Construction Grants Program with the additional tasks of evaluating the financial capability of communities to repay loans and other aspects unique to loans. The DNRC is providing the department assistance in the financial aspects of the program including the general obligation bond sale. This program has one FTE specifically budgeted although it is intended that the staff of the grants program will provide technical support and ultimately will be transferred over to this program.

### II. Status of Program

This program received its first Federal Capitalization Grant in September of 1990 for \$9.315 million dollars. The processing of over 12 million dollars in construction loans this spring to six communities is planned.

### III. Major Budget Issues

The only budget issue in this program pertains to the source of revenue identified in the executive budget. This budget indicates all revenues supporting this program come from federal special revenues. In actuality, 83.3% of the funds come from federal special revenue while the rest are state special revenues derived from the sale of state G.O. bonds.

## 109(B) TRAINING PROGRAM

### I. Program Summary

This program represents a cooperative effort between Northern Montana College and the WQB to support a statewide operator training program. The Montana Environmental Training Center was established in conjunction with this effort supported with a \$500,000 grant provided by the EPA. The budget requested for this program is needed to support the Training Coordinator hired by NMC with one half of the persons salary provided by this program.

### II. Program Status

The Coordinator was hired over a year ago. The Training Center is successfully meeting its' goals in providing training for environmental professionals.

### III. Major Budget Issues

No issues



LETTER A

J. E. Pizzini

A. J. Opitz

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VIII, MONTANA OFFICE  
FEDERAL BUILDING, 301 S. PARK, DRAWER 10096  
HELENA, MONTANA 59626-0096

Ref: 8MO

August 7, 1990

Steve Pilcher, Director  
Water Quality Bureau  
Environmental Sciences Division  
Department of Health and Environmental Sciences  
Cogswell Building  
Helena, Montana 59620

**RECEIVED**

AUG 9 1990

**MDHES  
DIRECTOR'S OFFICE**

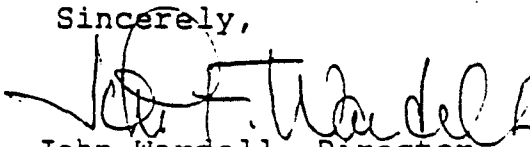
Dear Steve:

I want to express EPA's concern with the high turnover rate and continual vacancies which you carry in the Construction Grants Program.

Over the last several years the number of active construction grants projects has increased substantially while available staff has diminished. The need to hire and retain experienced engineers and environmental scientists is critical to the success of these projects. Although the current staff is making a valiant effort to stay on top of the workload, you are behind schedule on obligations, outlays, initiations of operations, physical completions -- every program measure which we track. At the same time you have fallen far behind schedule in completing your application for the State Revolving Loan Fund -- possibly jeopardizing millions of dollars in federal funds which must be obligated in the next two months.

I encourage you to take the steps necessary to fill all existing vacancies expeditiously and with qualified, experienced personnel. If there is anything which I can do to assist you, please contact me or my staff immediately.

Sincerely,

  
John Wardell, Director  
Montana Office

cc: Max H. Dodson

# PUBLIC WATER SUPPLY/SUBDIVISION SECTION 4

DATE

1-16-91

HE Dum New Sub.

## PUBLIC WATER SUPPLY PROGRAM

### I. Program Summary

The public water supply program is responsible for implementation of Montana Laws Regarding Public Water Supply. The program's goal is to assure water from public and private water systems is microbiologically, radiologically and chemically safe to drink. Major activities of the program include;

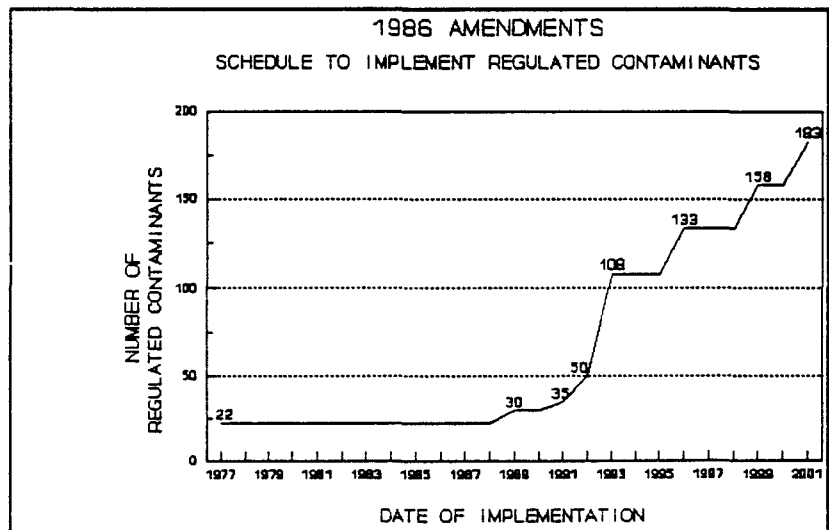
- inspections & sanitary surveys
- oversight of PWS monitoring and reporting
- establishment of minimum state design standards and engineering review of public water and sewer systems to ensure compliance with those standards.
- training and technical assistance
- emergency response
- assistance to the public regarding water supply problems
- enforcement

The public water supply program has existed since 1907. Primacy under the federal Safe Drinking Water Act was granted by EPA in the late seventies and, since that time, funding has been provided largely by federal grants.

### II. Status

Public concern about the safety of drinking water has grown and in 1986 Congress responded to this concern with the 1986 Amendments to the Safe Drinking Water Act. These amendments are very prescriptive and mandate;

1. disinfection of all public systems,
2. filtration of all surface water systems,
3. substantial increases in monitoring requirements,
4. establishment of standards for dozens of new contaminants and,
5. establishment of a state wellhead protection program.



### PUBLIC WATER SYSTEMS

Montana's public water systems face a immense challenge in the mandates of the 1986 Amendments. Our records show that our systems' non-compliance rates are over twice the national average.

- surface water systems
- volatile and synthetic organic contamination
- radon
- disinfection

The requirements will compel Montana's systems to expend huge amounts of money for capital improvements and increased costs of operation and maintenance. Most of our systems are small, therefore, diseconomies of scale will make compliance very difficult.



## **PUBLIC WATER SUPPLY PROGRAM**

The program faces serious challenges as more toxic contaminants and disease-causing organisms are being found in Montana's drinking water.

The Montana program is staffed at about 55% of the level necessary to meet its duties prior to the 1986 amendments and we are over two years behind in the adoption of new rules required for primacy retention. We have been informed by EPA that primacy will be withdrawn unless the state provides adequate resources for program implementation.

### **III. Major Budget Issues**

Significant increases in state funding must be provided in order for the state to maintain primacy and the federal funding. The Governor authorized a Public Water Supply Task Force to evaluate the situation and to make recommendations for consideration by the department, the administration and the legislature. The Executive Summary of the Task Force's Report is attached. Though these recommendations were not finalized in time for inclusion in the Executive Budget they are generally endorsed by the administration and, with some modifications, recommended for adoption by the legislature.

## **SUBDIVISION REVIEW PROGRAM**

### **I. Summary of Program**

The subdivision program is responsible for review of subdivisions of land under the Sanitation in Subdivisions Act. These parcels of land are reviewed to ensure adequate water supply (quality and quantity), sewage disposal, solid waste disposal and storm water drainage. All such divisions of land are reviewed by program staff or contracted counties to see minimum design standards are complied with and the developments do not endanger public health or the environment.

While the program is regularly plagued with controversy it is very important for the protection of public health and the environment and for providing assurance infrastructure created to serve new development is not substandard. Too often the tendency has been to maximize profits by minimizing development costs. While attractive to the developer this has often cost the homeowner and taxpayer dearly in terms of public health, property values and the creation of public water/sewer systems not economically viable and which may need replacement prior to full development.

### **II. Status of Program**

This program has had significant vacancy problems. When fully staffed at the base level we are only capable of technically meeting the review deadlines established in the act. "Timely" reviews, standards and rule development, follow-up on approved subdivisions, inspections, planning and enforcement are non-existent. Additional resources would be necessary to fully implement the intent of the act.

### **III. Major Budget Issues**

The loss of primacy for the Public Water Supply Program would adversely impact the Subdivision Program. Therefore, it has been evaluated as a part of the Public Water Supply Task Force's work and recommendations are included in the task force's report.

## WATER/WASTEWATER OPERATORS' CERTIFICATION PROGRAM

EXHIBIT 4  
DATE 1-16-91  
HB Dum. Sew. Sub.

### I. Summary of Program

Montana requires certification of operators of public water and wastewater systems. Training and certification is deemed essential to ensure individuals in charge of public systems meet minimum knowledge, competence and experience requirements for protection of public health and the environment. Operators of public systems must possess the expertise necessary to see that complex treatment processes are operated in such a manner as to protect consumers and the quality of state waters.

The program provides a variety of training materials and administers exams to test proficiency in chemistry, microbiology and hydraulics as well as operation and maintenance of water and sewer systems. In order for the operators to maintain the level of competence demanded by advancing technology and increased regulation, the department has adopted rules requiring continuing education.

Ultimately, the quality of water served to the public or discharged to state waters is in the hands of the operator. Training of operators to help them understand the significance of their work and to improve their expertise on the job is perhaps our most important tool.

### II. Status of Program

The program currently handles the certification of approximately 1300 operators. Mandates of the 1986 Amendments to the Safe Drinking Water Act will increase this number by about 250 and will require many more operators to have continuing education requirements. Much of the data management is currently being automated to minimize, as much as possible, the impact upon the program.

### III. Major Budget Issues

This program has also been a part of the evaluation of the Public Water Supply Task Force and recommendations concerning it are included in the task force's report.

# WATER QUALITY MANAGEMENT SECTION

## WATER QUALITY MANAGEMENT

### I. Program Summary

#### Water Quality Assessment

1. This program **collects information on surface water quality**, which is used to classify streams, develop standards, write discharge permits, prioritize nonpoint source control projects, enforce violations of standards, and for other purposes.
2. This program **prepares reports on water quality conditions and trends**, including a biennium report to EPA and Congress required by the Clean Water Act (CWA).<sup>1</sup>

#### Water Quality Management Planning

1. This program **prepares plans to prevent or control all sources of pollution** at the project, watershed or river basin level.
2. This program **provides water quality assessment and planning grants** to counties, conservation districts and basinwide organizations (e.g., the Flathead Basin Commission).

### II. Program Highlights (1990-1991 Biennium)

1. Developed a customized version of EPA's Waterbody System, enabling program staff to track the conditions of Montana's 50,000+ miles of streams, 4,000+ lakes, and 2 million acres of wetlands.
2. Awarded 22 water quality assessment and planning grants to 16 conservation districts and counties, and to the Flathead Basin Commission.
3. Initiated the Montana Reference Stream Project.
4. Prepared the 1990 Montana Water Quality Report.<sup>1</sup>
5. Participated in the Flathead Basin Forest Practices/Water Quality and Fisheries Cooperative.

### III. Major Budget Issues

#### Base Budget

Congress has authorized a reduction in the base water quality management grant to states from \$200,000 per year (from Sections 205j and 604b of the CWA) to \$100,000 per year (from Section 604b). This change will be effective beginning in SFY 1992. The EPA can assure no replacement funding for lost 205j funds at this time (Rick Claggett, Water Quality Management Branch Chief, EPA Region VIII, pers. comm., January 14, 1991). **The state program can expect no more than about \$100,000 of federal (Section 604b) funds in each of SFY92 and SFY93.**

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<sup>1</sup> Department of Health and Environmental Sciences. June 1990. MONTANA WATER QUALITY -- 1990. Water Quality Bureau, Helena. 21 pp. +Appendix.

To partially compensate for this loss of federal funds, the state would eliminate the water quality assessment and planning grants to local agencies, for a savings of \$80,000 per year. (Conservation districts are already receiving several hundred thousand dollars per year in pass-through grants under the CWA Section 319 Nonpoint Source Control Program.)

#### Modified Budget

None

1-16-91  
DATE 1-16-91  
H. Dunn, Dir. Sub.

### CLARK FORK MONITORING

#### I. Program Summary

This program monitors water quality at a network of 32 stations on the Clark Fork River, including major tributaries and point source discharges, from Butte to the Idaho line. Samples are collected 16 times per year and analyzed for nutrients, heavy metals, suspended sediment and other constituents. An assessment of the river's ecological health is conducted once per year (in August) using macroinvertebrates and algae. Dissolved oxygen surveys are conducted in years with low streamflow.

Monitoring results are used to gauge the effectiveness of ongoing pollutant reduction strategies for nutrients (Stone Container, City of Missoula) and hazardous wastes (Silver Bow Creek Superfund Project). They are also used to set pollutant limits in reissued discharge permits, to revise stream classifications and standards, to identify sources and causes of pollution, to monitor long-term trends in water quality, and as baseline for evaluating the effects of proposed developments (e.g., the ASARCO Rock Creek Mine near Noxon).

Data from the project are being compiled and entered onto the DHES data management file and the EPA water quality data file (STORET).

#### II. Program Status

The Clark Fork Monitoring Program began in 1985. There are now enough data in the file to begin looking for trends. Long-term water quality data bases are rare and extremely valuable for trend analysis.

The program leader receives on the order of 6 to 10 requests each month for data or an evaluation of data collected under the program. These requests come from other Bureau programs (Permits, Enforcement, Standards), from other bureaus in the department, from other agencies in state government (DFWP, DNRC), from federal and local government agencies, from consultants and university researchers, and from environmental groups and the public.

The program leader is currently involved in a three-state assessment of water quality in the Clark Fork River/Lake Pend Oreille/Pend Oreille River System. Data from this program have been used to calculate loads of nutrients and other pollutants being discharged into Lake Pend Oreille by the Clark Fork River, and to determine their sources in Montana.

This is the only basin-wide surface water quality monitoring program funded and operated by the State of Montana. (The Flathead Basin Monitoring Master Plan is funded with a mix of federal, state, county, private and Indian revenues.) The State does not operate fixed-station monitoring programs in any of the other river basins (Kootenai, Missouri, Yellowstone, St. Mary and Little Missouri).

#### III. Major Budget Issues

None

## NONPOINT SOURCE POLLUTION CONTROL

### I. Program Summary

**Nonpoint Source Pollution** is water pollution originating from diffuse sources such as agriculture, forest practices, or mining. Approximately 95 percent of the water pollution in Montana is attributed to nonpoint sources. The federal Clean Water Act was amended in 1987 to include Section 319 that required each state to complete an assessment of waters impaired by nonpoint source (NPS) pollution and to develop a comprehensive NPS management program. Montana was one of only two states to submit the required NPS Assessment Report and NPS Management Plan by the August 4, 1988 deadline and subsequently receive full program approval. Section 319 also authorized up to \$400 million to be provided to states with approved management plans over the next four fiscal years.

The management program developed in Montana consists of the implementation of watershed improvement projects to demonstrate the use of **best management practices (BMPs)** adopted in the management plan for each of the primary source categories of NPS pollution - agriculture, forest practices, and mining - and a monitoring program to track the results of each project. To promote the use of the voluntary BMPs being demonstrated, a statewide educational program was also initiated to inform land owners and managers of the water quality improvements being achieved through the use of various pollution control techniques.

### II. Program Status

The NPS program administered by the Water Quality Bureau is supported wholly by federal funding provided through the Clean Water Act. In FY 90, the first year program implementation funds were available from EPA to those states with approved NPS programs, the Bureau was able to fully or partially fund 12 projects, and the education and monitoring programs. The state was able to secure from EPA three grants totaling \$948,477 and began spending the funds in FY 91. To meet the requirement of a 60% federal and 40% non-federal match we selected four grants provided by DNRC to other entities as the state match in the amount of \$946,700. Each of these grants was approved for projects that control NPS pollution. The following table illustrates those projects funded during the past fiscal year along with the educational and monitoring programs. We expect to implement similar priority projects and programs in future fiscal years.

<u>PROJECT</u>	<u>319 FUNDS</u>	<u>NON-FEDERAL FUNDS</u>
Otter Creek	\$ 60,000	
East Spring Creek	\$ 75,000	
Musselshell River	\$125,000	
Alt. Irrig. Diversions	\$ 30,000	
Godfrey Creek	\$210,055	
Ninemile Creek	\$ 94,600	
Threemile Creek	\$ 89,560	
Silviculture Demo.	\$ 17,960	
Groundwater	\$ 68,900	
Monitoring	\$ 41,320	
CD Administration	\$ 15,000	
Education Program	\$ 93,052	
Blackfoot River	\$ 15,000	\$407,000
Bullhead Salinity Control	\$ 13,000	\$ 39,700
Elkhorn Creek		\$300,000
MSCA Salinity Control		\$200,000
<b>TOTAL</b>	<b>\$948,447</b>	<b>\$946,700</b>

Projects are typically sponsored by conservation districts with technical and financial assistance provided by the Soil Conservation Service, Agricultural Stabilization and Conservation Service, the Department of Fish, Wildlife and Parks, Extension Service and others. A coordinated, interagency approach for program implementation is required under Section 319 and crucial to the success of the program.

### III. Major Budget Issues

#### Base Level

The funding source for the base level budget, approximately \$100,000 per year, has been Section 205(j)(5) of the federal Clean Water Act. As specified in that section, the state used the funds for NPS program development and planning. That funding source is no longer available. Therefore, the base program budget will now be funded from Section 319 grant funds secured by the state from EPA for NPS program implementation.

#### Modified Level

The modified level budget will also be fully funded from Section 319 grant funds. Based on the projected funding levels authorized in Section 319, the state anticipates that we will be able to secure up to \$1.5 million in each of the next two fiscal years, most of which is in contracted services that will be provided to sponsors for project and program implementation. The 2 FTEs shown in the modified level budget were previously authorized under budget amendments approved in FY 90 and 91.

The EPA annually sets a target grant for each state which represents the minimum the state may receive from the total regional NPS allocation. In addition, each state is eligible to compete for funds on a regional basis for project and program implementation. Montana has been very successful in the past receiving a relatively high target grant in federal fiscal year 1990 as compared to other states in the western region. In addition, we received a supplemental allocation of over \$105,000 after EPA deemed the state's NPS program **exemplary**. Based on recent EPA projections, the state expects annual appropriations for NPS program implementation to moderately increase in future years.

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1-16-91  
Edum. Dev. Sub.

# TECHNICAL STUDIES & SUPPORT SECTION

## WATER POLLUTION CONTROL

### I. Program Summary

The water pollution control program is responsible for the general protection of water quality in Montana. This is accomplished through enforcement of Montana laws regarding water pollution control, maintenance of the water quality data system, review of all developments which may affect water quality for compliance with the surface water quality standards and the nondegradation rules, and issuance of short term authorizations, to violate water quality standards, and "401" certifications.

### II. Program Status

At the present time about 200 allegations of water pollution are received each year. It is not possible to investigate all of these in a timely manner so they are prioritized and there is a large backlog of allegations which are awaiting investigation. From these and other enforcement referrals such as the public water supply program, the surface water discharge permit program (MPDES) and ground water permit program (MGWPCS) about 15 formal enforcement actions are instituted per year. There are currently about 65 active formal enforcement cases which are being processed by one attorney who is not able to keep up with the incoming cases.

The water quality data system was implemented about 20 years ago on the state's mainframe computer and is at present barely useable. In addition the Department of Administration which maintains the mainframe no longer supports Mark 4, which is the major "language" used in our data handling system. At our request EPA is investigating possible replacements for our data system.

The Department of State Lands has issued about 100 operating permits and over 1500 small miner exclusions. Most of the large mines require extensive involvement by DHES. The Department of Health and Environmental Sciences involvement in these permits may include participation in environmental analysis, permit development, nondegradation petitions and compliance monitoring. At the present funding level it is not possible for the department to adequately participate in the environmental analysis of all of these activities and there is no routine compliance monitoring of them.

About 175 short term authorizations (3As) and 100 "401" certifications are issued each year. However, due to a lack of manpower only about half of these applications are adequately processed.

### III. Major Budget Issues

There is no problem with maintaining the present level of services with the present budget.

DATE : 01/14/91  
TIME : 20/02/12  
CURRENT LEVEL COMPARISONS

Exhibit #5  
1/16/91  
Human Serv.  
Subc.

	FY 92	FY 93	FY 92	LFA----
				---Exec Over (Under)

FTE	Amount
---	-----
	(\$197,957) (\$197,851)

	(3,570)	(3,663)
	\$17,078	\$17,078
	(\$2,131)	\$388

**\$3 749**

	\$155 222	\$155 222
--	-----------	-----------

(\$27.633) (\$27.633)



3. Ag-Monitoring

The executive budget maintains \$15,000 each year from the Department of Agriculture to monitor groundwater pollution as a result of pesticide application. Because this appropriation was made via legislative appropriation, it is not included in LFA current level. The executive is proposing that the allocation be funded with permit fees. In the 1991 biennium, the allocation was general fund, with permit fees deposited to the general fund.

Total State Special Revenue (Permit Fees)

\$15,000 \$15,000

• Grants

a) Construction Grants Program

This program provides grants to communities in advance of the receipt of federal grants for construction projects. The authority needed in any year is a function of demand. The executive budget includes of authority each year, while the LFA current level includes the average of the previous three years' actual grants.

Total Federal Funds

\$110,000 \$110,000

b) Subdivisions Program

The Subdivisions program provides grants to counties for review of subdivisions less than five acres in size. The executive budget includes grants at the fiscal 1991 appropriated level of \$45,000 each year, while LFA current level includes grants based upon actual historical expenditures.

Total General Fund

\$13,000 \$13,000

c) Public Water Supply

Grants are made from this program to local entities to collect samples and perform sanitary surveys. The executive budget maintains the fiscal 1991 appropriated level of 50,970 per year, while LFA current level is based upon actual expenditures.

\$22,000 \$22,000

• Equipment

Differences in equipment are due to differences in the funding base used.

\$4,052 \$4,052

Total Current Level Issues

0.0 0.0 \$108,810 \$111,342

# Committee Issue

When the budgets were originally prepared, the anticipated level of federal funds to support the Water Quality Management Program was approximately \$80,000. Of this amount, approximately \$80,000 was required to be regranted to conservation districts. Information from the EPA indicates federal funding will total \$100,000, with no regranting requirement.

The program is funded with a grant from the Department of State Lands for the support of a partial FTE plus indirect assessments, and the federal grant, with the remainder of the funding provided with Resource Indemnity Trust interest (RIT).

Total allocations in the LFA current level and the executive budget are as follows:

	Exec FY 92	FY 93	LFA FY 92	FY 93
RIT Interest	\$86,251	\$87,603	\$62,494	\$62,865
State Lands	\$18,301	\$18,562	\$19,685	\$19,727
Federal Funds	\$181,208	\$180,165	\$212,882	\$212,512

	\$24,336	\$24,325	\$5,725	\$5,718
US Indirect adjustment for subcommittee action	\$310,096	\$310,655	\$300,786	\$300,822

Total Program

Since regrants would no longer be required, the following adjustments would be made:

Subtraction of Budgeted Regrants	(\$80,000)	(\$80,000)	(\$76,608)	(\$76,608)
RIT Interest	\$109,602	\$110,117	\$103,684	\$103,676
State Lands	\$20,494	\$20,538	\$20,494	\$20,538
Federal Funds	\$100,000	\$100,000	\$100,000	\$100,000
Total Program	\$230,096	\$230,655	\$224,178	\$224,214

As shown, the net result is to increase RIT interest used to support the Water Quality Management Program.

SUE: Should federal funds be replaced with RIT interest, or should the program be reduced?

	FY 92	FY 93	FY 92	FY 93
--	-------	-------	-------	-------

This was replaced with Exhibit 1, 1/17/91.

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1-16-91  
Hum. Serv. Div.

# Executive Budget Modified Additions

## Groundwater Pollution

The executive budget includes 2.0 FTE and related operating expenses to implement new federally mandated groundwater quality protection programs. The new programs include wellhead protection, pesticides in groundwater, and nonpoint pollution control.

This modification has been adjusted to reflect subcommittee action on indirect charges.

FTE	2.0	2.0	\$60,294	\$60,158
Personal Services			\$51,555	\$52,218
Operating Expenses			\$2,000	\$1,507
Equipment				

## Total Federal Funding

### Nonpoint Source Pollution

This modification adds funds to develop and implement a nonpoint source water pollution control program as required by 1987 amendments to the federal Clean Water Act. No FTE would be added for program administration, with the remaining funds passed through to non-profit organization to implement on-the-ground nonpoint source controls.

This modification has been adjusted to reflect subcommittee action on indirect charges.

FTE	2.0	2.0	\$55,796	\$55,668
Personal Services			\$1,346,839	\$1,348,996
Operating Expenses			\$22,000	\$20,000
Equipment				

## Total Federal Funding

### Public Water Supply

Via this budget modification the executive adds FTE and related expenses to implement federally mandated program expansions in the Safe Drinking Water program. The majority of the operating expenses would be used for contract services and laboratory testing.

This modification has been adjusted to reflect subcommittee action on indirect charges.

This is an adjusted modification to the one contained in the executive budget.

FTE	9.25	9.75	\$259,727	\$274,228
Personal Services			\$608,337	\$597,238
Operating Expenses			\$14,860	\$14,860
Equipment			\$50,000	\$50,000
Grants				

## Total Budget Modification

### Total Safe Drinking Water Fees

Total Federal Funds			\$625,531	\$630,209
			\$307,393	\$306,117

### Subdivisions

This modification adds 1.0 FTE each year to the Subdivisions Program. This modification has been approved by the executive but is not included in the executive budget.

FTE	1.0	1.0	\$27,724	\$27,724
Personal Services			\$17,452	\$17,452
Operating Expenses				

## Total General Fund

	1.0	1.0	\$45,176	\$45,176
--	-----	-----	----------	----------

this was replaced with 2.0 FTE from

5  
1-16-91  
Dum. New. Sub.

5. Wastewater Operators  
This modification, which is approved by the executive but not included in the  
executive budget, would add .25 FTE each year to the Wastewater Operators program.

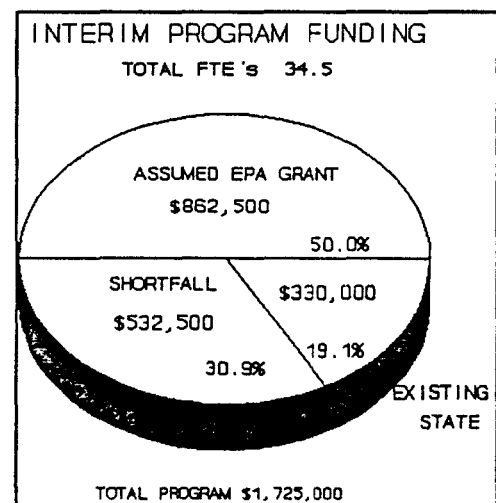
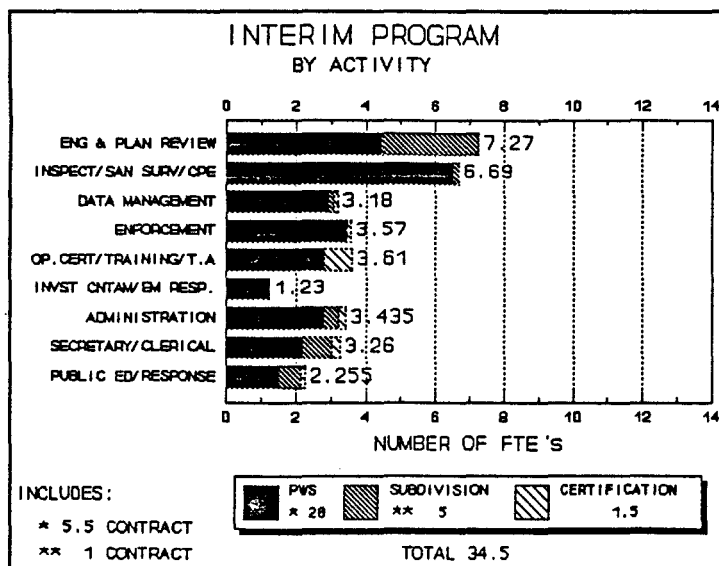
FTE	0.25	0.25	
Personal Services		\$4,815	\$4,815
Operating Expenses		\$5,741	\$5,741
Total State Special Revenue (Wastewater Operator Fees)	0.25	0.25	\$10,556
total Executive Budget Modified Additions	14.50	15.00	\$2,527,140
			\$2,530,605

this was required  
with 2/1/91  
1/17/91

## OPTIONS CONSIDERED BY THE TASK FORCE:

	FTE	TOTAL COST	FFY 91 GRANT	EXISTING STATE \$	SHORTFALL
Option 1: Full State Program & Full Primacy	59.25	\$2,962,500	\$586,200	\$330,000	\$2,046,300
Option 2: Retain Primacy w/ a Minimal State Prog.	43.05	\$2,152,500	\$586,200	\$330,000	\$1,236,300
Option 3: Full State Program with no Primacy	30.12	\$1,506,000	none	\$330,000	\$1,176,000
Option 4: Training and Technical Assistance Only	18.05	\$ 902,500	none	\$330,000	\$ 572,500
Option 5: No Primacy & No State PWS Program	10.95	\$ 547,500	none	(Subdiv.) \$168,895 (Op. Cert.) \$ 39,421	\$ 339,184
Option 6: Repeal of All Programs	- 0 -	Transferred to other entities	none	none	?

## OPTION SELECTED AND PLAN FOR IMPLEMENTATION:



# PROPOSED PLAN FOR

IMPLEMENTATION OF TASK FORCE RECOMMENDATIONS (FTE'S)

PROGRAM PWS SUBDIVISION CERT. TOTALS

OP/

	* CON-TRACT		DHE		* CON-TRACT		DHE		* CON-TRACT		DHE		CON-TRACT	
	DHE		DHE		DHE		DHE		DHE		DHE		DHE	
CURRENT LEVEL	9.5	1.0			3.3	1.0	1.0				13.8	2.0		
FY '92	18.75	4.5			4.3	1.0	1.25				24.3	5.5		
FY '93	19.25	8.7			4.3	1.0	1.25				24.8	9.7		

\* SERVICES TO BE PROVIDED THROUGH CONTRACTS WITH LOCAL GOVERNMENT UNITS, CONSULTANTS, MRWA & MAP.

EXHIBIT

6

DATE

1-16-91

BY

Dem. Sec. Sec.

RECOMMENDATIONS OF THE

PUBLIC WATER SUPPLY TASK FORCE

DATE 1-14-91  
 HB  
 Human Ser  
 Subc.

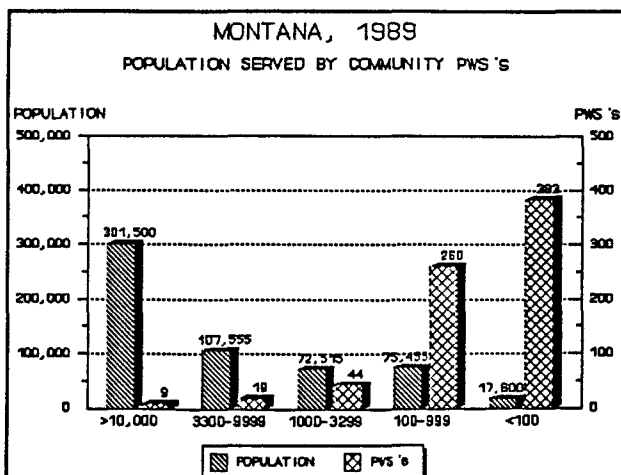
In the spring of 1990 Governor Stephens authorized a Public Water Supply Task Force. The task force was asked to perform a complete evaluation of the current situation and to make recommendations to the department, the governor and the legislature. The task force was given no limits other than to determine what actions would be in the best interest of the people of Montana. The Public Water Supply Task Force's membership represented several organizations and agencies including;

- Montana Rural Water Systems Inc.
- The Midwest Assistance Program
- County Commissioners
- The League of Cities and Towns
- The Public Service Commission
- The Environmental Quality Council
- Local Health Departments
- The Montana Environmental Health Association
- The Montana Consumer Council
- Montana State University
- The Montana Water/Wastewater Advisory Council
- Consulting Firms and organizations representing Montana's consulting engineers
- The Montana Environmental Training Center
- The US Environmental Protection Agency (Denver & Helena)
- City of Billings
- City of Helena
- The Governor's Office
- Montana Section of the American Water Works Association
- Montana Department of Commerce

IS THERE A NEED FOR A STATE PUBLIC WATER SUPPLY PROGRAM?

The compliance problems, infrastructure needs and public health related deficiencies of our systems make it apparent there is a need.

CAN THE PROGRAM BE HANDLED BEST AT THE STATE/LOCAL LEVEL OR SHOULD WE GIVE IT BACK TO EPA?



The federal program is primarily related to monitoring and enforcement. There is very little emphasis on preventive activities designed to avert public health problems and costly formal enforcement actions. Most of Montana's systems are small and will have difficulty in meeting the standards and treatment requirement without technical assistance and training.

EXHIBIT 7  
1/16/91  
Human Serv  
Subc.

EXHIBIT 7  
DATE 1-16-  
HB

Report to  
DHES  
Governor Stephens  
the 1991 Legislature



prepared by the  
MONTANA  
Public Water Supply  
Task Force





Montana Rural Water Systems is a ~~non-profit private~~ corporation established in 1979 to provide training and technical assistance to community-type water systems with less than 25,000 population throughout our state. The membership by these systems has grown to represent a majority of community-type systems in our state since that time. In the 13 years of working with these systems on a day-by-day basis, we have helped these systems solve many problems. By meeting with administrators and operators of these systems, we have learned to know the needs and desires of the people that not only run these systems but the people they serve as well.

Because of the problems developing from the primacy issue and the new regulations by EPA, MRWS and AWWA initiated a request to the governor for a Task Force to study the issues. MRWS supports the retention of primacy by the State of Montana for our drinking water program. Members of MRWS served on the Task Force and are in agreement with the findings of the Task Force. MRWS feels the drinking water program should be supported by general fund as it affects the general health of all the people of Montana and that those programs affecting individual systems should continue to be financed by user fees; such as operator certification, plan and specification review, etc. and that any excess of these funds remain in the department for their specific use.

The amendments to the Safe Drinking Water Act of 1986 have created economic problems on a number of small systems and therefore these systems will have difficulty in trying to meet additional monitoring and compliance requirements as set forth under the new regulations. This makes it imperative that those aspects of the drinking water program that effect public health be financed through general funds.

MRWS does not promote additional regulations but because water systems have been mandated by the Federal Act to do additional monitoring and meet additional requirements to protect public health, MRWS supports the request for additional funds to allow the State of Montana to retain its primacy and to meet the requirements of the Federal Act.

Arnold Peterson,  
MRWS Legislative Co-chairman

Ray Wadsworth,  
MRWS Executive Director

January 16, 1991

9  
1-16-91  
Exhibit  
1/16/91  
Hum. Serv. Sub. Human Serv.  
Subc.


## HUMAN SERVICES SUBCOMMITTEE

### Summary of Subcommittee Action

To date the Human Services Subcommittee has:

1. Added a medical director to advise the department on medical issues and policies.
2. Changed funding of the Legal Unit from general fund to proprietary income, while ensuring that general funded programs will receive legal counsel as needed.
3. Added 2.0 FTE in the laboratories to ensure that testing of newborns for PKU and of water are completed in a timely manner.
4. Added \$200,000 of general fund each year to ensure the availability of sufficient measles vaccine to provide the recommended second dose.
5. Voted to allocate any additional funds received from the maternal and child health block grant over the amount anticipated to the counties to provide local services.
6. Added 10.0 FTE surveyor staff of the requested 15.0 FTE to the Licensing, Certification, and Construction Bureau to ensure that medicaid licensure of health care facilities is completed in a timely manner and that all federal regulations and requirements are met.
7. Expanded the WIC, Child Nutrition, Chronic Disease, Sexually Transmitted Diseases, and AIDS programs to maximize federal funds.

1/16/91

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Sub.


# STATE OF MONTANA ENVIRONMENTAL QUALITY COUNCIL

STATE CAPITOL  
HELENA, MONTANA 59620  
(406) 444-3742

EXHIBIT 10  
DATE 1-16-91

Deborah B. Schmidt, Executive Director

GOV. STAN STEPHENS  
Designated Representative  
Art Wittich

HOUSE MEMBERS  
Bob Gilbert, Chairman  
Jerry Driscoll  
Ed Grady  
Bob Raney

SENATE MEMBERS  
Cecil Weeding, Vice Chairman  
Tom Beck  
John G. Harp  
Bill Yellowtail

PUBLIC MEMBERS  
Doug Crandall  
Thomas M. France  
Tom Roy  
Everett E. Shuey

January 14, 1991

Representative Dorothy Bradley  
Chair, Human Services Subcommittee  
Montana Legislature  
Capitol Station  
Helena, MT 59620

Dear Representative Bradley:

At the direction of the 1989 Legislature, the Environmental Quality Council (EQC) conducted a study of solid waste management in Montana. After an intensive evaluation of impending federal regulations, demands for state services, and the need to manage waste in a more efficient and environmentally sound manner, the EQC recommended a comprehensive package of legislative and administrative modifications to the existing solid waste management regulatory framework.

As you might expect, these improvements will come at additional cost to the citizens of Montana. However, the EQC and nearly all of the interest groups involved in the study strongly asserted the compelling need for these additional services. These services include not only better regulation and enforcement for landfills but efforts to reduce the solid waste stream through a comprehensive, updated planning process in which state government will take the lead.

Attached is a detailed list of the EQC's recommendations for funding the state's solid waste management program. A brief summary of those recommendations includes:

1. The solid waste program should be funded by a combination of continued support from the General Fund and user fees.
2. The user fee should be collected through a requirement for an operating license from DHES.

Rep. Dorothy Bradley  
January 14, 1991  
Page 2

3. The annual license fee should include:
  - a base rate component;
  - a component based on the volume of waste being disposed;
  - a fee for review of new license applications.
4. Recommended funding levels for the solid waste program are \$614,003 for FY 92 and \$614,067 for FY 93. General fund accounts for \$184,641 in FY 92 and \$184,705 in FY 93. The remaining \$429,362 in each fiscal year would be generated from solid waste fees.

At your subcommittee hearing on Wednesday, January 16, Paul Sihler and Janet Jessup will present the EQC's funding recommendations in more detail. Attached for your review is a copy of the funding chapter from the final report on SJR 19 and a detailed presentation of the recommended budgets for the Solid Waste program. These recommendations have been modified from the EQC's original proposal, following discussions with the DHES and the Montana Association of Counties. It is my understanding that these parties now agree on the recommended budgets and means of funding.

Please let me know if we can provide you with further information. Thank you for your consideration.

Sincerely yours,



Representative Bob Gilbert  
Chairman

enclosures

10  
DATE 1-16-91  
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## SECTION V.

### FUNDING FOR THE STATE SOLID WASTE MANAGEMENT PROGRAM

#### **A. BACKGROUND**

Funding for state solid waste regulation, planning, and assistance to local governments has declined in the face of new federal requirements. In recent years the primary source of funding for regulation and planning has been the state General Fund. The state's solid waste program was started with federal (EPA) funds and Resource Indemnity Trust Fund interest in the 1970s. In 1981 the federal funding ended. The staff level dropped from 5 to 1.75 fulltime equivalents (FTE) when the program was assumed by the General Fund. In 1989, an additional 1.5 FTE were authorized by the Legislature for the ground water monitoring program, bringing the staffing to its current level of 3.41 FTE.

Only five states in the country have fewer state employees dedicated to solid waste management (HI, UT, ID, NV, SD), while Montana ranks approximately 14th in the number of active landfills. The average state expenditure for solid waste programs is \$800,000.

The 1992-93 Legislative Fiscal Analyst's proposed annual budget of \$184,000 for the solid waste program maintains current funding levels. Current funding levels, however, are inadequate for the Department of Health and Environmental Sciences to adequately implement existing programs and responsibilities. Due to lack of staff, legitimate regulatory control of landfills and other solid waste management systems is effectively non-existent. Reported violations of environmental standards go uninvestigated; unlicensed landfills remain open; and, annual inspections occur only every couple years. Further, the department has not been able to process the growing number of applications for solid waste licenses for new facilities, just when prompt service is essential due to the impending Subtitle D regulations.

Additional funding and staff are necessary for the state to maintain primacy over the solid waste program. Solid waste program staff estimate that a minimum of three additional FTE will be required in order to adopt a federally approved Subtitle D program. Additional staff are also needed if the department is to effectively regulate and manage the importation of solid and infectious waste. In the last year, the department has received license applications for two incinerators that will dispose of out-of-state infectious waste, and two separate proposals have emerged for mega-landfills that would import solid waste.

## B. POLICY OPTIONS

The SWMAC considered the following options for state funding:

1. Per Ton Fee. The state fee per ton of disposal is the most direct way of relating the revenue to the amount of service consumed. The fees charged by other states vary widely from 50 cents to \$10 per ton. In terms of administration, this fee would require some new collection mechanism and may not be the most "tax efficient" to collect. Not all facilities currently weigh solid waste; however, Oregon (at 50 cents/per ton) has a method for estimating volume for small facilities. If it is assumed that Montana annually produces 552,780 tons of solid waste, a fee of 90 cents per ton would be required to generate \$500,000, if this was the only new fee.

2. Permit and Application Fees. Montana currently charges no application or permit fee. In order to provide an ongoing source of revenue any permit fee would have to be on an annual basis. A permit fee may become the method of enforcing the collection of most types of surcharge. In other words, the permit fee could be based on tons or households, but enforced by withholding the permit. The other potential method of collection would be direct state collection through the income or property tax system.

A simple permit fee could leave the option to the local government on how to raise the money. Montana currently has 112 licensed landfills. A flat minimum fee of \$4,464 would produce \$500,000. If the number of landfills decreases as a result of increased federal regulations, as is expected, a larger fee would be required. A flat fee would be efficient to collect and enforce.

3. Tipping Fee Surcharge. The tipping fee surcharge would impose a state surcharge on all tipping fees collected by local governments. Not all local governments raise revenue for solid waste systems through tipping fees. This system would be moderately efficient in that it would use the local revenue collection system where tipping fees are used. A surcharge would be less "tax effective" than the per ton charge in that it has little relation to volume.

If a tipping fee or similar method were used that imposed a flat rate on each consumer, the potential revenue could be estimated from the number of households. Based on 305,000 households state wide, and assuming some avoidance of the fee, a flat rate of approximately \$1.64 would be required to produce \$500,000.

A surcharge could be based on a percentage of local revenues. Assuming some uniformity of local fees, this method would more effectively link consumption of service to cost. The Department of Revenue estimates that local government collections, excluding local general tax dollars, were \$6,989,000 in the most recent tax year. Using an estimate of \$8,000,000 for all local revenues for solid waste, a surcharge of 6.25 percent on local fees would produce \$500,000. In order to use a tipping fee surcharge the legislature might be required to dictate some uniformity in how local governments raise revenue for solid waste services.

4. Disposal Fees. Ten states have special fees for disposal of "problem" waste products. According to the Congressional Research Service, the most common fee is for tires, and generally is \$1 per tire. In Minnesota and Wisconsin, the tire fee is assessed as a part of vehicle registration fees. The 1976 "State Solid Waste Management Strategy" estimates that Montana disposes of 680,000 tires each year. If a fee on tires were collected, some special recycling or disposal services would need to be funded to dispose of used tires. A fee on new tires would require a new collection system and would not be efficient. A fee collected with auto registration could be collected with the current collection system.

5. Local Option Method. The Department of Health and Environmental Sciences could be authorized to establish two or three methods of imposing the fee in rules, all directed at producing the same amount of revenue in relation to the amount of service provided. For example, a flat permit fee could be supplemented by a tipping fee or a per ton charge as selected by the local government unit. The fees would be based on a schedule to produce equal revenues for relatively equivalent volumes of solid waste.

## C. COUNCIL DELIBERATIONS

The initial discussion by the SWMAC related to whether funding should come from consumer fees (enterprise basis) or general tax revenue (public health basis.) Alternative financing of solid waste, as opposed to general tax support, is provided by 31 states and The District of Columbia, according to the Congressional Research Service. The most common source of revenue is a surcharge on local waste disposal (23 states). The direction provided by the Advisory committee was as follows:

- o Direct services (collection and disposal) should be funded by direct fees;
- o Costs of monitoring and planning should be related to volume regulated;

- o Licensing should be a flat rate; and,
- o Some funding is the responsibility of all citizens.

In considering new revenue sources, the SWMAC considered the measures "tax efficiency and tax effectiveness". Tax efficiency indicates how difficult or expensive collection of the tax may be. Tax effectiveness measures how effective the tax is in taxing those who should be paying for the service. Tax effectiveness relates to other public policy. For example, if the goal is to have those who produce more solid waste pay more, an effective tax would have rates increase with the volume of waste.

The Advisory Committee finally decided that the burden of any new source of revenue should be placed upon those who receive service from the state solid waste program. For purposes of comparison, funding of \$500,000 per year for the state program was assumed. It was also assumed that some funding would continue with general tax dollars. The funding level was later increased by the Council, as the needs of the solid waste program were presented. The Council felt it was important that the funding level be adequate to insure timely review and to provide technical assistance where needed.

In reviewing the options, the EQC agreed that any funding system should reflect the following:

- o fees should reflect volume of solid waste;
- o the cost to the state of reviewing applications and completing the annual licensing process;
- o some incentive for waste reduction; and,
- o some incentive for consolidation of small systems.

Staff of the Department of Health and Environmental Sciences presented a budget for the solid waste program that would provide support staff for additional review and inspection, implementation of Subtitle D regulations, and implementation of other solid waste programs being proposed by the Council (e.g., integrated waste management household hazardous waste). This proposal would increase the division's staffing from the current level of 3.41 FTE to 13 FTE at full implementation, and in FY 93 would require funding of approximately \$614,000. Total additional revenue required above the General Fund amount of \$184,000 would be approximately \$429,000. The Council has supported this proposed budget. A description of the proposed budget is included in Appendix K.



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The Council also recommended a fee system structure that combines annual permit (or licensing) fees, application fees for new landfills, and a per ton, volume-based fee. The annual and application fee amounts represent estimates of actual review costs as provided by the solid waste program; however, the final proposal was modified somewhat to reduce the impact on smaller operators. The per ton fee reflected the desire of the Council to have the fee structure incorporate the capacity of the facility being regulated and to encourage the reduction of volume in accordance with other Council objectives. In order to simplify the administration of the fee system, standards for estimating volume at sites that do not use scales were included as well as conversions for weight and volume.

The fee proposal and the estimated associated revenues are outlined in Table 1 below. A major facility is defined as having a planned capacity of 25,000 tons per year; an intermediate facility would have in excess of 5,000 tons per year but less than 25,000; and a minor facility would have less than 5,000 tons per year.

**Table 1. Fee and Revenue Assumptions**

o	There are 552,780 Tons of trash disposed of annually;	
o	There will be 70 licensed landfills during the next biennium with the following "base" license fees:	
	- 8 Major Facilities @ \$3,500 =	\$28,000
	- 20 Intermediate Facilities @ \$3,000 =	60,000
	- 42 Minor Facilities @ \$2,500 =	<u>105,000</u>
	Total=	\$193,000
o	A "volume" fee of \$.31 per ton will generate:	\$171,362
o	There will be 10 new applications each fiscal year generating the following application fees:	
	- 1 Major Facility @ \$10,000 =	10,000
	- 4 Intermediate Facilities @ \$7,500 =	30,000
	- 5 Minor Facilities @ \$5,000 =	<u>25,000</u>
	Total	65,000
	<b>Total Fee Revenue:</b>	<b>\$429,362</b>

**NOTE:** The number of new landfills for which applications will be received, and the total number of landfills that will be licensed annually, were estimated by the

Department of Health and Environmental Sciences. An assumption has been made that the new Subtitle D regulations will result in the closure of many existing landfills and the consolidation to fewer and larger disposal facilities.

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#### **D. SUMMARY OF RECOMMENDATIONS**

The Council's legislative proposal for funding the state's solid waste management program is contained in Appendix J. A brief summary of those recommendations includes:

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**Recommendation #21:**

The solid waste program should be funded by a combination of continued support from the General Fund and user fees.

**Recommendation #22:**

The user fee should be collected through a requirement for an operating license from the Department of Health and Environmental Sciences.

**Recommendation #23:**

The annual license fee should include:

- \* a base rate component;
- \* a component based on the volume of waste being disposed; and,
- \* a fee for review of new license applications.

**Recommendation #24:**

The recommended annual funding level for the FY 92 and FY 93 solid waste program is \$614,000, with a total staff at full implementation of 13 FTE.

## Appendix K

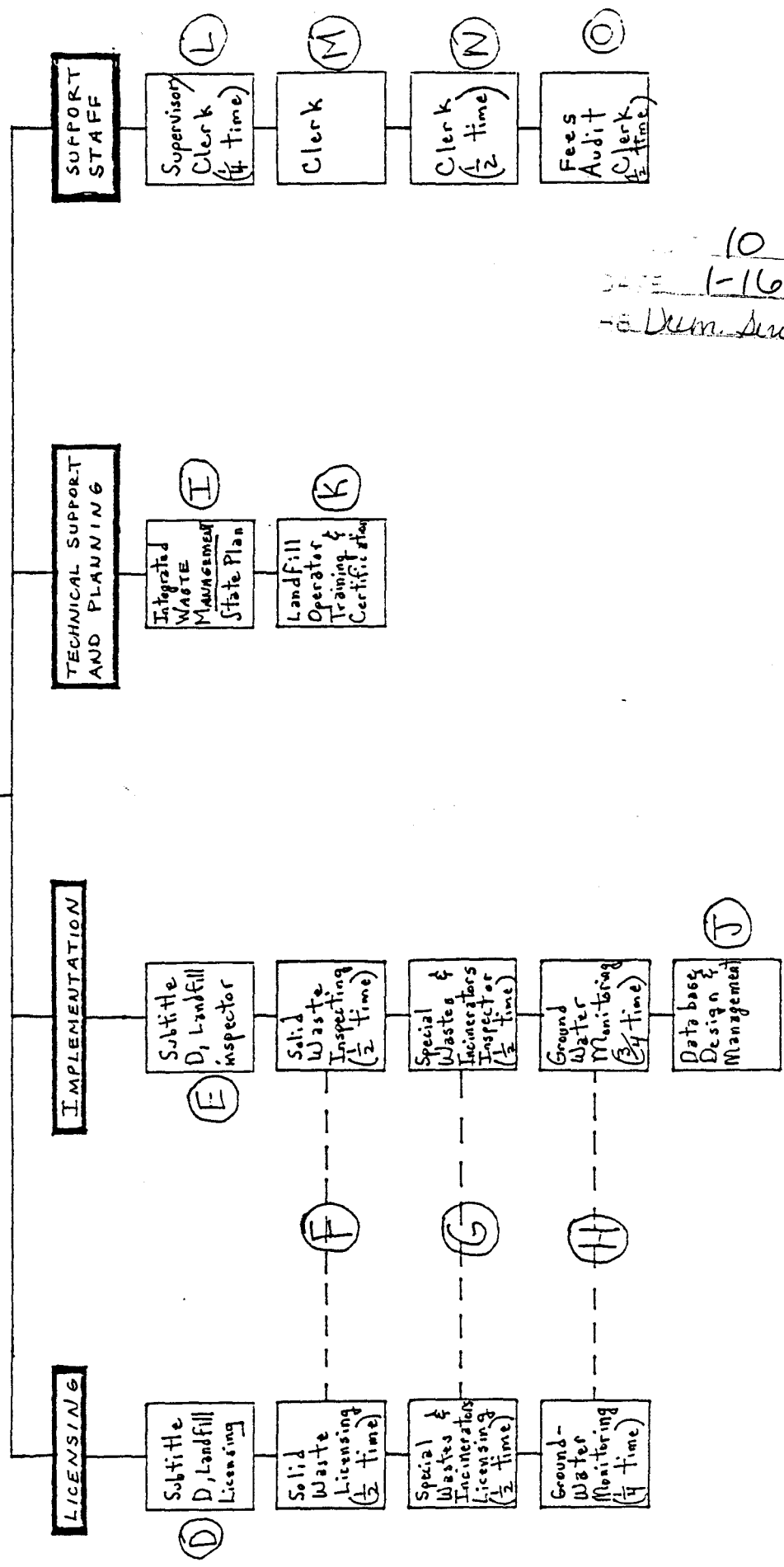
### SOLID WASTE DIVISION - RECOMMENDED BUDGETS, FY1992 AND 1993

	FTE	Function	FY 1992	FY 1993
<b>BASE EXPENDITURES</b>				
Program Manager	1.00	Administer Solid Waste	\$35,045	\$35,045
Solid Waste Inspector	0.50	License & inspect landfills	\$14,002	\$14,002
Attorney	0.16	Solid waste rules & enforcement	\$6,296	\$6,296
Clerk	0.25	Solid waste support	\$5,668	\$5,668
Clerk	0.50	Solid waste support	\$10,282	\$10,282
Water Monitor	1.00	Monitor ground water data	\$27,781	\$27,781
Adjust to LFA Budget			\$224	\$147
total Personal Services			\$99,298	\$99,221
Program Operations			<u>\$85,343</u>	<u>\$85,484</u>
Total Base Expenditures	3.41		\$184,641	\$184,705
<b>Revenues for Base</b>				
General Fund			\$184,641	\$184,705
Solid Waste Fees			<u>\$0</u>	<u>\$0</u>
Total Revenue			\$184,641	\$184,705
<b>MODIFIED EXPENDITURES</b>				
<b>Phase 1:</b>				
Solid Waste Inspector	0.50	Current workload inspection	\$13,890	\$13,890
Licensing / Inspector	2.00	Sub title D	\$27,780	\$55,560
Solid Waste Clerical	0.50	Sub Title D records & reports	\$8,480	\$8,480
Operations			<u>\$59,588</u>	<u>\$60,215</u>
Total Phase 1	3.00		\$109,738	\$138,145
<b>Phase 2:</b>				
Accounting Clerk	0.50	Collection of permit fees	\$12,400	\$12,400
Allocation of Admin Costs	0.75	Pay share of admin. salaries	\$25,000	\$25,000
Planner / technician	1.00	Integrated Waste Information	\$13,890	\$27,781
Planner / technician	1.00	Special Wastes & incineration	\$27,781	\$27,781
Data Manager	1.00	Create & run four data bases	\$24,800	\$24,800
Attorney	0.84	New rules, enforcement & EIS	\$31,480	\$31,480
Operator Trainer	1.00	Training required by EPA	\$27,780	\$27,780
Clerical Support	0.50	Support for additional staff	\$10,280	\$10,280
Operations			<u>\$72,000</u>	<u>\$88,000</u>
Total Phase 2	6.59		\$245,411	\$275,302
Total Phases 1&2			\$355,149	\$413,447
Solid Waste Plan			<u>\$60,000</u>	<u>\$30,000</u>
<b>TOTAL ALL EXPENDITURES</b>	<b>13.00</b>		<b>\$599,790</b>	<b>\$628,152</b>
<b>Revenue Needed:</b>				
General Fund			\$184,641	\$184,705
Solid Waste Fees			<u>\$429,362</u>	<u>\$429,362</u>
Total Revenue			\$614,003	\$614,067
Fees Generated (at \$.31/ton plus base fees)			\$429,362	\$429,362
Fees Needed			<u>\$415,149</u>	<u>\$429,234</u>
Year end Balance of fees			\$14,213	\$128

**Bureau and Section Level (3/4)** **A**

**PROGRAM MANAGER** **B**

**Attorney** **C**



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## VISITOR'S REGISTER

Human Services

SUBCOMMITTEE

AGENCY (S) \_\_\_\_\_

DATE 1/16/91

DEPARTMENT \_\_\_\_\_

NAME	REPRESENTING	SUP- PORT	OP- POSE
Ray Hofema	DHES		
Dolly McMaster			
Alvin C. Howe	DHES		
Judy Hanson	DHES		
Roen Bahls	DHES		
<del>Steve P. Picher</del>	<del>DHES</del>		
Jack Thomas	DHES		
Scott Arlason	"		
Don Zoller	"		
Dave Depew	M I P E A		
Rick Duncan	DHES		
Armed Poterson	Mont Rural Water		
Jeff Claffee	DHES		
John Army	DHES		
Arnd Sheerman	DHES		
Gail Kuntz	EPC staff -		
Alc Hopwood	DHES		
Will I Selser	L & C City-County Health		

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