

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

SUBCOMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By CHAIRMAN DOROTHY BRADLEY, on January 18, 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)
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 SCIENCES

HEARING ON SOLID AND HAZARDOUS WASTE MANAGEMENT BUREAU (CONT.)

Tape 1A

Roger Thorvilson, Waste Management Section Supervisor, testified on the Hazardous Waste Program. EXHIBIT 1. He also said that once a state's Hazardous Waste program is authorized, it operates in lieu of the federal program, which otherwise would be operated by the Environmental Protection Agency (EPA). It prevents duplication and provides a basis for grant assistance under a 75 percent federal-25 percent state matching formula. In 1985, Montana became the third state in the nation to receive final authorization.

The program is primarily regulatory and preventive in nature. Regulations are still being developed at the federal level and the state must develop similar regulations to implement initiatives of the federal Solid and Hazardous Waste amendments of 1984.

Waste generators can obtain permits for disposal of their own wastes or ship wastes to a commercial company to manage it for

them. Larger generators in Montana generally have their own facilities. Others have had to ship their wastes out of state because there are no in-state commercial facilities.

The Bureau is seeking three technical positions for permits and regulatory control, an additional half-time attorney to augment an existing half-time position, and a half-time clerical position, which also would augment an existing half-time position. Three of the 4 FTEs were added during the last biennium through an operations-plan change in 1990 and a budget amendment in fiscal year (FY) 1991.

The Bureau has been reviewing a permit application from Special Resource Management in Butte for waste storage, distillation of solvents, and used-fuel blending. Two cement plants have indicated interest in using hazardous-waste fuels, used oil or a combination of both as supplemental fuel for their kilns. Permits would be needed.

Used-oil regulations have been extended, impacting many handlers. There was a temporary exemption under federal law, which was incorporated into state regulations, related to mining and ore processing. EPA was developing appropriate regulations for ore processing. Regulation changes will affect the aluminum plant in Columbia Falls and lead-zinc smelter in East Helena. Further details are in the executive budget narrative, beginning on Page 104.

Taryn Purdy, Legislative Fiscal Analyst, distributed a budget summary for the Solid and Hazardous Waste Bureau and funding details for the State Superfund Program. **EXHIBIT 2 and 3**

Mr. Thorvilson testified on the Junk Vehicle Program. **EXHIBIT 4** He said the program was created in 1973 primarily to collect and sell scrap metal, remove junk vehicles from the landscape, and handle toxic materials associated with junk vehicles. The state issues annual licenses for about 240 motor vehicle wrecking facilities statewide.

Revenue for the program comes from 50-cent per year vehicle registration fees, \$1.50 title transfer fees, \$50 annual licenses for wrecking facilities and sale of scrap metal. Counties receive annual grants based on \$1 per vehicle registration or a minimum of \$5,000.

The Bureau is not seeking legislation or fee increases, but the Junk Vehicle Program balance in the next biennium will probably drop below the level needed to operate. In the second year of the biennium, county grants may have to be allocated as revenues are received, rather than in one lump sum up front at the beginning of the fiscal year.

Vic Andersen, Superfund Section Manager, distributed the FY 90-91 Biennial Legislative Report on the Environmental Quality

Protection Fund, and state and federal Superfund programs.

EXHIBIT 5-6

John Geach, Underground Storage Tank Section Supervisor, testified on the Leak Prevention Program, Leaking Underground Storage Tank Program and the Tank Installer Licensing and Permitting Program. **EXHIBIT 7**

He said leaking underground storage tanks affect nearly every Montana community. There are 350 underground storage tanks known to be leaking. EPA studies show as many as one-fourth of all the tanks in Montana may be leaking, which could mean thousands. The Leak Prevention Program requires registration of underground storage tanks in use on or after Jan. 1, 1974, that were still in the ground as of 1986. The data is used by bankers and realtors in land transactions.

The state regulates farm and residential tanks of less than 1,000 gallons, and heating-oil tanks. EPA is studying those tanks and may include them in federal regulations in the future. Owners are expected to report leaks and be financially responsible for cleanup actions. After closure, tanks must be assessed for environmental damages, which requires soil sampling. Results are submitted to the Department. Annual tank registration fees are \$20 for tanks under 1,100 gallons and \$50 for tanks over 1,100 gallons.

The Leaking Underground Storage Tank Program oversees administration of EPA grants, which are financed by 1-cent per gallon federal-gas tax revenues. Montana receives about \$700,000 per year from this fund.

Tape 1B

QUESTIONS ON THE SOLID WASTE PROGRAM

CHAIRMAN BRADLEY said the big issue in the Solid Waste Program is whether to expand the program as recommended by the Environmental Quality Council (EQC).

SEN. NATHE asked if it were possible to develop a solid waste site for garbage imported to Montana and whether anyone is checking possible locations for a state landfill. **Mr. Robertson** said the Bureau has the legal capability, but not the staff, to develop a site for out-of-state garbage. One of the bills this session will address mega-landfill siting and the moratorium on importation of solid wastes.

REP. JOHNSON asked if the fees would be sufficient to finance a mega-landfill. **Mr. Robertson** said no. The Mega-Landfill Siting Act includes additional out-of-state fees. He predicted an additional 5 FTEs would be required to monitor disposal at the landfill 24 hours per day.

Dan Gengler, Office of Budget and Program Planning, said the executive budget includes continuation of the 1989 appropriation for regulation of imported wastes.

SEN. WATERMAN asked if the EQC was planning to develop regulations for importation of wastes and mega-landfills, if legislation passes. Mr. Robertson said yes. The issue is included in the 11 solid-waste bills to be introduced during the session.

CHAIRMAN BRADLEY reminded subcommittee members that the mega-landfill issue was not before them and would be addressed later.

SEN. KEATING asked if the executive, LFA and EQC proposed budgets for the Solid Waste Program could be placed side-by-side on a spread sheet so details could be compared. CHAIRMAN BRADLEY pointed to the last page of EXHIBIT 2. She said Phase I and II are EQC issues, and that Phase I dovetails with the executive budget recommendation. Phase II is an addition that goes beyond that. The summary identifies the FTEs and funding source.

SEN. KEATING said he still wanted to see a comparison of proposed budget totals. CHAIRMAN BRADLEY said the subcommittee would review the program and budget modifications, and if there were still questions, they could be answered then.

QUESTIONS ON THE HAZARDOUS WASTE PROGRAM

SEN. KEATING asked if used oil was a hazardous waste and if cement plants were going to use it as a fuel. Mr. Thorvilson said it is not listed as a hazardous waste but is subject to regulation if it fails certain standards, which have changed recently. Used oil from gas-burning vehicles may be a hazardous waste under new federal regulations, but the EPA has not yet listed used oil though the courts have ordered it listed. Cement plants want to use used oil or hazardous wastes as substitute fuel.

QUESTIONS ON THE JUNK VEHICLE PROGRAM

SEN. KEATING asked how much revenue comes from the sale of scrap metal. Mr. Robertson said an average of \$100,000 per year since 1973. In the last two years, revenue was about \$250,000 because scrap metal prices were higher. But Junk Vehicle Program fees still won't equal the amount that must be allocated to counties. The program's surplus is dwindling, and by the end of the 1993 biennium, the balance will be down to about \$58,000. The program has been falling behind by a rate of about \$200,000 per year, so a fee increase of that amount would be needed to break even.

CHAIRMAN BRADLEY asked how much money the Legislature has taken from the program for the General Fund in the last six years. Mr. Robertson said a couple sessions ago, \$500,000 was transferred out of the Junk Vehicle account into the General Fund.

Mr. Hoffman said counties submit projected budgets and receive money up front to run their Junk Vehicle programs. With dwindling funds, the money will have to be distributed as revenues come in, which could force the counties to finance costs and seek reimbursement later. Otherwise the Department would have to get a General Fund loan to pay the counties up front.

SEN. WATERMAN asked if counties get grants of \$5,000 each year, or if the \$5,000 is spending authority. She also asked if counties have to show how they spent the money. **Mr. Robertson** said each county, regardless of how small, has administrative costs associated with the program, so they get a minimum grant of \$5,000. Some counties pool their grants to finance services. Counties must itemize expenditures at the end of each fiscal year and submit a budget that indicates how they intend to spend the money the next year. Changes in the budget must be submitted in writing and approved by the Department.

QUESTIONS ON THE SUPERFUND PROGRAM

REP. COBB asked how many sites are ready to be cleaned up and if the money is available to do the work. **Mr. Andersen** said only one site - an oil refinery near Lewistown - doesn't have a responsible party to clean it up. The state probably won't have to put up its share of the money for cleanup costs at the rest of the sites.

REP. JOHNSON asked if school districts can get state money for asbestos removal by pleading poverty. **Mr. Andersen** said not under the Superfund program. If a school district demonstrates it has no insurance, cannot issue any more bonds, and cannot remedy the situation, the district can apply for Environmental Quality Protection Fund money.

SEN. KEATING asked for clarification on the sites on the Non-National Priorities List. **Mr. Andersen** said the sites identified with asterisks had undergone emergency removal action.

SEN. KEATING asked who pays for emergency removal. **Mr. Andersen** said the EPA, when possible. In the state program, money is used to locate responsible parties, who then pay for the cleanup.

SEN. KEATING asked if the Bureau was focusing on Indian sites because federal funds were available for cleanup. **Mr. Andersen** said the EPA has jurisdiction over Indian reservations, which is why more money is spent there.

BUDGET SUMMARY REVIEW - EXHIBIT 2

Ms. Purdy said the executive budget continues the 1989 appropriation for additional permit-review staff and operating expenses, and rules writing and implementation if solid wastes are imported to Montana from out of state. No expenditures were made or fees collected in FY 90 because of the moratorium on

importation. The executive budget maintains funding for that purpose in case the moratorium is lifted in October or is successfully challenged in court. The EQC has recommended a fee for this purpose. Program Issue No. 1.

Paul Sihler, EQC researcher, said the council supports a differential-fee bill to allow a \$5-per-ton disposal fee on wastes imported to Montana. The fee would pay costs associated with regulation of out-of-state wastes. Such fees have generally be supported by the courts. The council also recommends that the Department be authorized to hire up to 5 FTEs to work at a mega-landfill. The employees would regulate the disposal of out-of-state wastes in Montana.

SEN. KEATING asked if the landfill issue is under the Solid Waste Program. **CHAIRMAN BRADLEY** said yes.

Tape 2A

Ms. Purdy said the additional 4 FTEs in the Superfund Program were added by an operational-plan change and not reviewed by the Legislature. Therefore, they were not included in the LFA budget. Program Issue No. 2.

CHAIRMAN BRADLEY asked if the FTEs were needed to identify responsible parties. **Mr. Andersen** said the positions, which are already filled, are project officers who oversee field investigations and cleanup actions.

SEN. NATHE asked for a definition of primacy. **Mr. Andersen** said there is no primacy in the Superfund Program. In other programs, primacy depends on whether the EPA or state administers the program.

SEN. NATHE asked if the EPA would be responsible for running a program if it had primacy. **Steve Pilcher, Environmental Sciences Division Administrator**, said yes.

SEN. NATHE asked how the state obtains primacy. **Mr. Pilcher** said the state must enter into a formal agreement delegating federal responsibility to the state on a program-by-program basis. The state must demonstrate to the EPA that it has the capability and statutory authority to carry out the program similar or equal to the federal agency. If the state cannot meet federal requirements, it would lose primacy and the federal government would take over the program and pay the costs.

Ms. Purdy said the State Superfund Program deals with sites that are not on the National Priority List. All expenditures are made with state funds. Program Issue No. 3.

Ms. Purdy referred to Resource Indemnity Trust (RIT) interest allocations on **EXHIBIT 3**. She said the executive budget financed the program up to the amount anticipated to be generated from 4-

percent of the RIT interest. The LFA budget maintained expenditures at the FY 90 level. The executive budget is now slightly higher than anticipated revenue because indirects have now been added in. The LFA budget is under-allocated by \$90,000. If FTEs included in the executive budget are added to the LFA budget, the additional funds would be just under \$100,000, or slightly higher than the anticipated revenue. The question is whether the subcommittee wants to appropriate the additional funds anticipated to be available in the second year of the biennium.

CHAIRMAN BRADLEY asked why it is necessary to add the full 4 percent. **Mr. Hoffman** said the 1987 Legislature determined that 4 percent of RIT interest would be used for a state Environmental Quality Protection Fund. The Department received approval from the 1989 Legislature to use up to 4 percent for state-only services because there was nothing in place to address sites that weren't on the National Priority List. The Department doesn't intend to exceed the 4 percent.

Dan Gengler, Office of Budget and Program Planning, said the figures on **EXHIBIT 3** show what the executive budget would be if modified by actions take by the subcommittee.

SEN. KEATING asked where the excess \$31,000 in the executive budget for FY 92 comes from. **Mr. Hoffman** said if indirects go up, contracted services go down. If contracted services go up, the Department's intent is to fully use, without exceeding, the 4 percent.

SEN. KEATING asked if the Department would be spending the anticipated income of \$318,000 or the current executive budget with indirects of \$349,000. **Mr. Hoffman** said the intent is to spend \$318,000. The operating budget would be reduced to agree with that figure.

CHAIRMAN BRADLEY said the motion on the issue could be to allocate the full 4 percent. Assuming reorganization doesn't take place, the amount would be less whatever indirects must be subtracted out to finance Central Services. If reorganization takes place, the whole formula would be different and the issue would have to be readdressed. The subcommittee could assume the 4 percent would stay with the program if it goes to another department.

Ms. Purdy reviewed Program Issue No. 4. She said 90 percent of the program is funded with Leaking Underground Storage Tank Trust funds and 10 percent comes from a state RIT match.

CHAIRMAN BRADLEY said the program got off to a slow start but is up to speed now and needs to be maintained.

Ms. Purdy briefly reviewed Program Issues No. 5 and 6. She said Funding Issue No. 1 deals with Solid Waste fees. The executive

budget for FY 93 replaces some General Fund in the Solid Waste Program with solid-waste fees. The total in each budget for the program over the biennium is approximately \$185,000. The additional 3 FTEs requested in the Landfill Management executive budget modification are also part of the EQC's recommendations.

CHAIRMAN BRADLEY asked for clarification on the number of FTEs at the end of Phase II in the EQC's recommendations. **Tony Grover, Solid Waste Program Manager**, distributed an organizational chart and a list of FTEs in the program. **EXHIBIT 8**

CHAIRMAN BRADLEY asked if the drop in the General Fund contribution from \$198,964 to \$103,000, as identified in the executive budget for the Solid Waste Program, is what concerns the Montana Association of Counties (MACO). **Mr. Grover** said yes. Fees may fluctuate, which would affect funding.

SEN. KEATING asked about the 1.5 FTEs requested for the permit program. **Mr. Grover** said the positions were authorized by the 1989 Legislature but not funded because no fees were collected. If the state begins to import wastes from out of state, the Bureau would like to have the positions. The EQC has proposed a \$5-per-ton importation fee, which would finance the positions.

Mr. Gengler said \$80,000 was shifted from the General Fund to the State Special Revenue Account for regulation of specific disposal sites. The remaining \$100,000 General Fund money in the executive budget was for general activities, which should be financed with General Fund money. Specific activities should be financed with fees. The funding shift was in the second year, not the first, because it will be awhile before fees begin coming in.

CHAIRMAN BRADLEY asked about the funding mix and coordination with MACO. **Mr. Sihler** said MACO doesn't believe General Fund financing should be decreased while additional fees are being imposed on local governments and taxpayers. The EQC did not specifically address the issue.

CHAIRMAN BRADLEY said counties are desperate for financial assistance from the DHES because they can't address federal regulations themselves. But the fees are difficult to accept. **Mr. Sihler** said MACO supports a funding mix of one-third from the General Fund, one-third from the per-ton fee and the final third from license and application fees.

SEN. KEATING wanted to know the source of the fee. **Mr. Sihler** said the council's funding proposal includes a 31-cent per ton solid-waste disposal fee, landfill license application fees, and annual licensing fees. **CHAIRMAN BRADLEY** said the totals are on **Page 49, EXHIBIT 10 from Jan. 16, 1991, minutes.**

SEN KEATING asked if the \$184,000 in General Fund money currently being spent was spent on the same people being asked to pay the \$80,000 in the executive budget in FY 93. **Mr. Hoffman** said yes.

SEN. KEATING asked if the rationale was to impose the fees on larger landfills since they are more site specific. **Mr. Gengler** said fees will finance costs when a responsible party is identified. Otherwise, costs are covered by the General Fund.

Ms. Purdy explained the Burlington Northern-Arco Special Projects. Program Issue 3. Costs previously were financed with RIT funds. The executive budget recommends the projects be financed with charges imposed on Burlington Northern and Arco, which have agreed to pay.

Jean Riley, Petroleum Tank Release Compensation Board Executive Director, testified on the history of the board and how it operates. **EXHIBIT 11**

Tape 2B

Ms. Riley referred to communications from Rod Sunsted and the Board's attorney regarding the board's current statutory appropriation for operating expenses. **EXHIBIT 9**

Howard Wheatley, Petroleum Board Chairman, said the workload, and therefore the number of staff needed, cannot be predicted. The Board has authority for an additional 3 FTEs, which are vacant and won't be filled unless the workload increases. He urged the subcommittee to maintain the Board's administrative funding.

SEN. NATHE asked if all existing underground storage tanks either have to be upgraded, replaced or removed by 1998, and if many service station tanks will have to be replaced in the next 3-4 years. **Mr. Wheatley** said it depends on the age of the tank and what must be done by a certain date.

SEN. NATHE asked if the Board anticipated a flurry of removals of tanks of 1,100 or fewer gallons. **Mr. Wheatley** said a few have already been removed, but he is not aware of a lot being taken out of the ground. Some are talking about the possibility of removing them, but he is not aware of a whole lot of them planning to take them out soon.

SEN. NATHE asked if the Board knew the number of tanks registered, number being removed and those that were removed before April 1. **Ms. Riley** said the Board not only covers underground tanks, but also above-ground tanks of less than 30,000 gallons, which are not registered. Because of they are not registered, the Board has no way of knowing the status of all tanks. Legislation is being drafted to cover the rest of the tanks, including small farm and residential tanks.

Mr. Hoffman said the state has been able to reimburse individuals for removal of their tanks, which they would not otherwise have been able to afford. **Ms. Riley** said the state has helped service stations to remain in business by paying for the removal of their leaking underground storage tanks.

EXECUTIVE ACTION ON SOLID AND HAZARDOUS WASTES BUREAU

Landfill Review/Permitting - Program Issue No. 1

CHAIRMAN BRADLEY said the motion would be to grant authority to fund the FTEs, contingent on the lifting of the moratorium on the importation of wastes from out of state.

SEN. WATERMAN asked if the subcommittee would eventually be dealing with an EQC bill to grant authority for up to 5 FTEs, financed with the \$5-per-ton fee. **Mr. Sihler** said the EQC has a bill to authorize the \$5 differential fee, but the mechanism to provide the 5 FTEs for regulating the importation of wastes has not been addressed. The EQC has only a recommendation that up to 5 FTEs be granted.

MOTION: **SEN. WATERMAN** moved to grant authority for 1.5 FTEs to be funded with fees that would be generated, contingent upon the lifting of the moratorium.

DISCUSSION: **CHAIRMAN BRADLEY** asked if the Department preferred to have authority for up to 5 FTEs, dependent on the lifting of the moratorium, though the Department did not request that authority. **Mr. Grover** said the Department would hope to have such authority if the moratorium is lifted and a mega-landfill is created. Otherwise, 1.5 FTEs would be adequate.

CHAIRMAN BRADLEY asked **SEN. WATERMAN** if she wanted to include two contingents in her motion. **SEN. WATERMAN** said she could not image a mega-landfill being up and running before the next legislative session. **SEN. KEATING** said if there was a mega-landfill by then, that would reflect a crisis, which would come under emergency budget-amendment criteria. **CHAIRMAN BRADLEY** said yes, according to **Mr. Hoffman**. **SEN. KEATING** said he didn't believe the contingency was needed.

VOTE: The motion **PASSED** 5-1, with **REP. COBB** voting no.

Superfund - Program Issue No. 2

MOTION: **SEN. KEATING** moved to bring the LFA's Superfund budget up to the executive budget level.

DISCUSSION: **Ms. Purdy** said the difference between the two budgets is in contract services.

CHAIRMAN BRADLEY asked **SEN. KEATING** if his motion included contract services. **SEN. KEATING** asked if this was where the contract services would offset indirect costs. **Ms. Purdy** said no. That would be in the State Superfund Program. **CHAIRMAN BRADLEY** said the matter is explained under Program Issue No. 2.

Mr. Hoffman said the Department is seeking spending authority if

the federal government provides money to address sites on the National Priorities List.

SEN. KEATING said his motion should include whatever language it takes to provide the spending authority.

VOTE: The motion **PASSED** 5-1, with **REP. COBB** voting no.

State Superfund - Program Issue No. 3

CHAIRMAN BRADLEY said the subcommittee needs to address RIT funding and FTE levels. The executive budget includes the FTEs. The subcommittee may want to clarify that the 4 percent RIT interest would be directed to the State Superfund Program, with the indirect amount being subtracted out for Central Services and figures being adjusted accordingly.

SEN. KEATING said the Department should have only the maximum amount of 4 percent RIT interest, which can be accomplished by juggling contract services.

MOTION: **SEN. KEATING** moved approval of the 4 percent RIT interest, adjusting for their share of indirects from the RIT.

VOTE: The motion **PASSED** 4-2, with **SEN. NATHE** and **REP. COBB** voting no.

Ms. Purdy said she would bring intent language to the subcommittee for review.

Leaking Underground Storage Tanks - Program Issue No. 4

CHAIRMAN BRADLEY said the Department got its Leaking Underground Storage Tank Program off to a slow start, but is up to speed and needs full spending authority for federal and RIT money.

Ms. Purdy said the LFA's philosophy was that if there was a reduction in anticipated expenditures due to inability to hire employees, the corresponding expenditures would have to be added to the LFA budget. Because the FTEs were being fully funded, the operating expenses also were put in at the appropriated and anticipated level. The LFA budget is \$67,000 less than the executive budget, but about \$200,000 higher than actual FY 90 expenditures. She noted the program is statutorily mandated.

MOTION: **SEN. WATERMAN** moved that the \$67,000 be added to the LFA budget for the Leaking Underground Storage Tank Program.

DISCUSSION: **SEN. WATERMAN** withdrew her motion after **SEN. NATHE** questioned the budget levels.

CHAIRMAN BRADLEY asked the Department if the primary difference is in contract services travel, which is needed to comply with the law. **Mr. Hoffman** said yes. The Department needs the

authority.

MOTION: SEN. KEATING moved approval of the executive budget, and if that means adding in the \$67,000, then that's the motion.

DISCUSSION: CHAIRMAN BRADLEY said it would be the total, \$67,163. SEN. KEATING said OK.

VOTE: The motion PASSED 4-2, with SEN. NATHE and REP. COBB voting no.

Equipment - Program Issue No. 5

SEN. KEATING asked if the equipment budget was zero-based. Mr. Hoffman said yes. CHAIRMAN BRADLEY said the LFA's budget is based on a three-year average.

MOTION: SEN. KEATING moved approval of the executive budget for equipment.

VOTE: The motion PASSED 5-1, with CHAIRMAN BRADLEY voting no.

Grants - Program Issue No. 6

CHAIRMAN BRADLEY said the executive budget for grants is based on the 1991 appropriated level.

MOTION: SEN. WATERMAN moved approval of the LFA budget for grants.

DISCUSSION: SEN. KEATING asked how funding is impacted in the Junk Vehicle Program if the subcommittee adopts the LFA budget. Mr. Robertson said counties will receive a grant amount based on vehicle registrations. The minimum is \$5,000. The executive budget estimates what counties are eligible to request.

SEN. KEATING asked if some counties wouldn't receive their money if the subcommittee approves the LFA budget. Mr. Robertson said the Department would have to make \$24,000 in cuts if counties request the maximum allowed.

CHAIRMAN BRADLEY asked if the Department would be insolvent during the biennium with either budget. Mr. Robertson said no. The executive budget reflects projections of an ending fund balance of \$58,000 for the biennium.

SEN. KEATING said the subcommittee should give the Department the authority to fund the counties at their allowed grant level. If not, the Department will have to cut operating expenses by \$24,000 each year of the biennium.

Ms. Purdy said \$824,000 is the maximum amount the program would owe to the counties. Counties haven't spent the maximum allowed in past years. The question is whether the subcommittee wants to

budget up to the maximum possible or a level based on past spending.

SEN. KEATING asked if counties usually ask for the full amount allowed. **Mr. Robertson** said yes. But they don't always spend it all, so it reverts back to the program.

MOTION: **SEN. WATERMAN** moved approval of the LFA budget for grants.

VOTE: The motion **PASSED** 4-2, with **CHAIRMAN BRADLEY** and **SEN. KEATING** voting no.

CHAIRMAN BRADLEY postponed action on landfill fees in Funding Issue No. 1 until the subcommittee addresses that overall budget.

Hazardous Waste - Executive Budget Modification No. 1

MOTION: **REP. COBB** moved approval of an additional 4 FTEs and related expenses, funded with federal hazardous waste money and one-fourth RIT interest.

VOTE: The motion **PASSED** unanimously.

CHAIRMAN BRADLEY postponed action on landfill management. Executive Budget Modification No. 2.

Burlington Northern/Arco Special Projects - Executive Budget Modification No. 3

MOTION: **REP. COBB** moved approval of an additional 5 FTEs and related expenses for the continuation of Superfund cleanup at the Burlington Northern rail yard in Livingston and the Atlantic Richfield Company site in the Clark Fork River Basin.

VOTE: The motion **PASSED** unanimously.

Petroleum Board - Executive Budget Modification No. 4

CHAIRMAN BRADLEY said the motion for the Petroleum Board requests for 12 FTEs should be contingent on the passage of legislation, and that the FTE authority should not exceed 12.

SEN. KEATING asked if the funding source was shifting from state special revenue to General Fund. **Ms. Purdy** said no. The funding source for administration would be state special revenue.

Tape 3A

Ms. Purdy said the executive budget proposes administrative costs be specifically appropriated by the Legislature and be included in the general appropriations bill, which requires a statutory change, as administrative costs are currently statutorily

appropriated.

SEN. KEATING asked if the question is whether to approve statutory or budgetary authority for FTEs, but that funding would always come from state special revenue. **Ms. Purdy** said yes.

SEN. KEATING said he doesn't like statutory appropriation of FTEs.

MOTION: **SEN. KEATING** moved approval of a general appropriation authority for up to 12 FTEs and to grant the Board discretion in hiring.

DISCUSSION: **SEN. KEATING** said the Board won't fill the slots unless they need them. He supports the executive budget proposal.

Ms. Purdy said the executive budget proposal would subject the Board's administrative function to appropriation by the Legislature and would be included in the general appropriations bill. **CHAIRMAN BRADLEY** said that is the motion.

REP. JOHNSON asked where the 1-cent per gallon tax goes. **Ms. Purdy** said it is deposited into the state special revenue fund, which finances the Board's administrative and compensation activities. Under the motion for the executive budget proposal, a portion of those funds would be directly appropriated by the Legislature and a portion would be statutorily appropriated.

CHAIRMAN BRADLEY said if this motion and legislation passes, the appropriation in two years would be included under state revenue funds. It isn't included now.

VOTE: The motion **PASSED** 3-2, with **SEN. WATERMAN** and **REP. COBB** voting no. **SEN. NATHE** was absent for the vote.

CHAIRMAN BRADLEY said the motion was contingent on passage of the bill removing the statutory appropriation of administrative cuts.

Landfill Management - Executive Budget Modification No. 2
Expansion of the Solid Waste Management Program - EQC Issue No. 1

CHAIRMAN BRADLEY referred to **EXHIBIT 8** and asked for a motion to adopt the solid waste proposal by the Budget Office and EQC. If it passes, the subcommittee would address funding as outlined in Funding Issue No. 1. The Landfill Management Executive Budget Modification No. 2 is the same as Phase I of the EQC Issue No. 1. The subcommittee is voting on the combination.

MOTION: **SEN. WATERMAN** moved approval of the landfill management issue as proposed in the Executive Budget Modified Additions, as well as Phase I in the EQC recommendations.

DISCUSSION: **CHAIRMAN BRADLEY** asked for simplification. She said the motion would be to approve the Budget Office and EQC

proposals, which include exactly the same number of FTEs and funding.

SEN. KEATING asked if the subcommittee was talking about the program, but not the funding. **CHAIRMAN BRADLEY** said yes. **SEN. WATERMAN** said she would move that language, as long as she was reserving the right to discuss it later. **CHAIRMAN BRADLEY** said yes.

AMENDMENT: **SEN. WATERMAN** amended her motion to approve Budget Office and EQC proposals to expand the Solid Waste Management Program.

DISCUSSION: **SEN. WATERMAN** said she believes there is a difference in funding levels and wanted **Ms. Purdy** to work out the figures.

CHAIRMAN BRADLEY said the subcommittee is addressing the request for an additional 3 FTEs in the Executive Budget Modifications and the additional 6.09 FTEs for FY 92 and 6.59 FTEs for FY 93 under the EQC Issue No 1. **SEN. WATERMAN** said she moves that, but the figures differ slightly.

CHAIRMAN BRADLEY asked if primacy was at issue, and how close the state is to retaining primacy. **Mr. Grover** said the program cannot meet EPA requirements for primacy. The state must regulate in-state wastes the same as out-of-state wastes.

CHAIRMAN BRADLEY asked if Cascade County felt the issue was urgent. **Larry Fasbender, Cascade County lobbyist**, said no one knows when new federal regulations under Subtitle D go into effect. When they do, counties believe the state should run the program.

SEN. KEATING asked if the EPA would run the program, including inspections, licensing, etc., if the state did not have primacy. **Mr. Grover** said yes.

SEN. KEATING asked if the state would have control over the program if it obtained primacy. **Mr. Grover** said the state would have some control over larger dumps. But there is some question about the constitutionality of some issues in the EQC package.

SEN. KEATING asked if the state had to have all 13 employees to obtain primacy. **Mr. Grover** said yes. **SEN. KEATING** asked who would pay if the EPA ran the program. **Mr. Grover** said the regulated community.

VOTE: The motion **PASSED** 4-2, with **SEN. NATHE** and **REP. COBB** voting no.

Landfill Fees - Funding Issue No. 1

MOTION: **SEN. WATERMAN** moved to maintain existing General Fund contributions under the LFA proposal for landfill fees.

VOTE: The motion **PASSED** 5-1, with **REP. COBB** voting no.

CHAIRMAN BRADLEY postponed action on budget figures. She said **Ms. Purdy** would work on pay-plan issues.

HEARING ON THE NATIONAL RESOURCES DAMAGE FUND

Dick Pedersen, National Resources Damage Fund Coordinator, testified. **EXHIBIT 10**

REP. COBB asked if most of the money is used for restoration. **Mr. Pedersen** said the money going through the Superfund program is being used to clean up the river basin. The money is used to replace or restore lost services, such as fishing, farming and use of groundwater. If services can't be restored, a substitute resource would be needed. The program is in the beginning stages, so it isn't known exactly how the money will be spent.

Jim Jensen, Montana Environmental Information Center Executive Director, said the money should be used to offset problems in the river basin. Millions of dollars go into the economy of the area because of its pristine nature. Ways to recover the loss may include fisheries enhancement, seeding the land once it's reclaimed, watershed integrity, livestock assistance, and efforts to achieve efficiency in production. The concern is that money is used for unrelated activities.

Mr. Pedersen said the law requires damages to be put back into the resource. The money cannot go into the General Fund.

SEN. NATHE said he thought the Superfund was supposed to be used for restoration. He asked if lawsuit money would supplement or replace Superfund money. **Mr. Pedersen** said this is part of the Superfund. Remedy is the money used to clean up and restore the basin to base-line conditions. In some cases, that may not be possible. If restoration to base-line conditions isn't possible, the state suffers an economic loss. The intent is to recover damages some other way, such as buying fishing access somewhere else in the basin. This is totally different than cleanup of contamination.

SEN. KEATING said he wanted to reconsider action on the Subdivision Bureau during wrap-up of the DHES budget. **CHAIRMAN BRADLEY** said there also is interest in reconsidering the groundwater issue. **REP. COBB** said he wanted to revisit laboratory funding and the dentist position.

CHAIRMAN BRADLEY said **SEN. EVE FRANKLIN** of Great Falls wants to talk about reinstituting the Nurses Bureau, but she did not intend to ask for a vote. The issue will be dealt with in a separate bill.

Mr. Hoffman said the Department also would like to revisit the

Subdivision issue, the laboratory position that was previously approved in a budget amendment, five surveyor positions in the Licensing, Certification and Construction Bureau, and the administrative officer position in the Director's Office.

REP. COBB said he may bring up the immunization issue to see if the subcommittee spent too much money.

ADJOURNMENT

Adjournment: 11:50 a.m.

Dorothy Bradley

REP. DOROTHY BRADLEY, Chairman

Faith Conroy

FAITH CONROY, Secretary

DB/fc

HOUSE OF REPRESENTATIVES
HUMAN SERVICES SUBCOMMITTEE

ROLL CALL

DATE 1/18/91

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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1/18/91

Human Serv.
Sub C.**WASTE MANAGEMENT SECTION**EXP 1
DATE 1-18-91
RE**HAZARDOUS WASTE PROGRAM****Program Summary**

The Montana Hazardous Waste Program is equivalent to the federal program developed under Subtitle C of RCRA. Montana was the third state nationally to receive final authorization (primacy) for its program. Pursuant to the authorization agreement, the state program is eligible for and receives renewable annual grant support from the U.S. EPA under a 75%/25% matching formula.

The program is a comprehensive control program the purpose of which is to prevent environmental and human health problems which can result from the mismanagement of hazardous wastes. At both the national and state levels, the program has been implemented in stages since its inception in 1980. Most significant of the newer program initiatives are 1) a renewed emphasis on waste reduction and recycling, 2) restrictions on the land disposal of hazardous wastes, and 3) new authorities for requiring the remediation of present problems at hazardous waste facilities resulting from disposal activities which occurred before 1980.

The current level program is staffed at 10.66 FTEs. Program controls are exercised through the issuance of permits for facilities which store, treat, or dispose of hazardous wastes and through the enforcement of regulatory controls (but not permitting) for hazardous waste generators, transporters and recyclers. The program also controls the management of used oil fuels.

Budget Issues

1. Modified Budget -- An increased staffing of 4.0 FTEs and a budget to support the associated costs of these staff are presented as a modified hazardous waste budget. These additions are related to the new program duties and directions discussed above and are important to the maintenance of state primacy. All but one of the positions have already been added via the Operations Plan Change or Budget Amendment procedures in FY90 and FY91. One additional facility management/permit writer position remains as a staff addition in FY92 under this modified budget.

Budget Item	Actual Fiscal 1990	Executive Fiscal 1992	LFA Fiscal 1992	Difference Fiscal 1992	Executive Fiscal 1993	LFA Fiscal 1993	Difference Fiscal 1993
FTE	52.00	59.25	51.00	8.25	59.25	51.00	8.25
Personal Services	1,195,869	1,751,678	1,514,520	237,158	1,749,687	1,513,028	236,659
Operating Expenses	2,214,868	6,811,310	2,328,062	4,483,248	6,833,437	2,330,892	4,502,545
Equipment	49,759	75,594	50,098	25,496	75,594	51,085	24,459
Grants	783,999	1,093,542	1,069,004	24,538	1,093,542	1,069,004	24,538
Total Expend.	\$4,243,595	\$9,732,074	\$4,961,634	\$4,770,440	\$9,752,210	\$4,966,009	\$4,788,201
<u>Fund Sources</u>							
General Fund	147,209	181,097	184,641	3,544-	180,575	184,705	84,130-
State Revenue Fund	1,750,577	2,213,706	2,101,966	111,740	2,314,949	2,104,481	209,568
Federal Revenue Fund	2,340,009	7,337,271	2,675,027	4,662,244	7,437,486	2,674,823	4,662,763
Total Funds	\$4,243,595	\$9,732,074	\$4,961,634	\$4,770,440	\$9,752,210	\$4,966,009	\$4,788,201

LFA Current Level Analysis Reference: page B-25
 Executive Budget Summary Reference: page 73
 Executive Budget Narrative Reference: page B8
 Department of Natural Resources and Environment

Current Level Issues

Reorganization Issues

1. Indirect Charges
 The entire bureau would be transferred to the proposed Department of Natural Resources and Environment under the proposed reorganization.

Appropriation Policy Issues

1. Difference in the funding base
2. Difference in computer network charges
3. Difference in inflation

Program Issues

1. Landfill Review/Permitting
 The 1989 legislature added 1.5 FTE and related expenses to develop regulations for out-of-state importation of solid wastes. The positions were not filled and no expenses were incurred due to the state's importation moratorium.
 The executive budget maintains the fiscal 1991 appropriation for the program in the event the moratorium is lifted or successfully challenged in court. LFA current level does not include the program.

FTE
 Personal Services
 Operating Expenses*

Total State Special Revenue (Proposed Landfill Fees)

1.50	1.50	\$36,131	\$36,052
1.50	1.50	\$37,760	\$37,752
1.50	1.50	\$73,891	\$73,804

*Adjusted for subcommittee action on indirect charges.

EXHIBIT 2
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 MB

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2. Superfund

The LFA current level maintains expenditures at the fiscal 1990 actual level, and FTE at the legislatively authorized level of 8.5 each year. The executive budget continues an additional 4.0 FTE added via operational plan change in fiscal 1991 and additional contract services based upon estimates of requirements.

FTE	4.00	4.00	\$117,638	\$117,376
Personal Services			\$4,574,678	\$4,574,018
Operating Expenses				
Total Federal Funds (Superfund)	4.00	4.00	\$4,692,316	\$4,691,394

3. State Superfund

Four percent of the RIT interest is earmarked for the State Superfund program. LFA current level maintains the 1989 legislature authorized level of 1.5 FTE. The executive budget includes an additional 2.75 FTE added via operational plan change in fiscal 1991, and funds the total program to equal expected income from the department's allocation of 4 percent of the RIT interest.

See the attached sheet for a further discussion.

FTE	2.75	2.75	\$80,868	\$80,684
Personal Services and Total 4 Percent RIT				

4. Leaking Underground Storage Tanks

The Leaking Underground Storage Tank (LUST) program conducts remedial action in the event of a leaking tank. LFA current level includes contract services and travel at the fiscal 1990 appropriated level of \$494,888 each year, or \$223,300 higher than actual expenditures. The executive budget includes contract services and travel at \$562,051 based upon updated estimates of increased workload.

Total State Special Revenue (12 Percent RIT Funds)			\$6,716	\$6,716
Total Federal Funds			\$60,447	\$60,447
Total Funding			\$67,163	\$67,163

5. Equipment

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

			\$25,496	\$24,459
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6. Grants

The Junk Vehicle program provides grants to counties for their cost of junk vehicle graveyard upkeep. LFA current level maintains grants based upon actual historical levels, while the executive budget is based upon the fiscal 1991 appropriated level of \$824,538 each year.

Total State Special Revenue (Junk Vehicle Revenue)			\$24,538	\$24,538
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Total

8.25	8.25	\$4,778,028	\$4,795,772
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Funding Issues

1. Landfill Fees

The executive budget proposes funding a portion of the Solid Waste/Landfill program with fees levied against landfill users beginning in fiscal 1993. The fees would require a statute change. LFA current level for the program totals \$184,705 in fiscal 1993.

General Fund Fees				(\$80,650)
				\$80,650

Executive Budget Modified Additions

1. Hazardous Waste
The executive budget includes an additional 4.0 FTE and related expenses to implement changes in the Montana Hazardous Waste Program to conform to recent amendments to the federal Resource Conservation and Recovery Act. The modification is funded with federal Hazardous Waste funds, with the required 25 percent match met with RII Interest.

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

FTE			
Personal Services	4.00	4.00	\$110,877
Operating Expenses			\$83,195
Equipment			\$9,498
Total	4.00	4.00	\$203,570
			\$110,623
			\$85,510
			\$6,410
			\$202,543
			\$50,477
			\$152,322

for subcommittee action on indirect charges

2. Landfill Management
This modification adds 3.0 FTE and related expenses for implementation of additional waste disposal regulations and response to requests for technical assistance resulting from changes in federal waste management laws. The executive budget proposes that funding be provided through a landfill fill, which would require a change in statute. This modification has been adjusted to conform to subcommittee action on indirect charges.

FTE			
Personal Services	3.00	3.00	\$78,275
Operating Expenses			\$61,531
Equipment			\$4,980
Total State Special Revenue (Fees)	3.00	3.00	\$144,786
			\$78,095
			\$61,842
			\$4,532
			\$144,469

3. BN/ARCO Special Projects
The executive budget includes 5.0 FTE and related expenses for continued activities associated with Superfund clean-up at the Burlington Northern (BN) rail yard in Livingston and at the Atlantic Richfield Company (ARCO) national priority list clean-up sites in the Clark Fork River Basin. ARCO and BN would pay the entire cost through deposits to a state special revenue fund. This modification has been adjusted to conform to subcommittee action on indirect charges.

FTE			
Personal Services	5.00	5.00	\$144,820
Operating Expenses			\$179,401
Total State Special Revenue	5.00	5.00	\$324,221
			\$144,492
			\$179,148
			\$323,640

EXHIBIT 2
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4. Petro Board

The executive budget is requesting that all administrative expenses of the Petro Board established in House Bill 603 by the 1989 legislature be appropriated in the General Appropriation Act. Funds to administer the Petro Board are currently statutorily appropriated.

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

FTE	12.00	12.00	
Personal Services		\$270,088	\$269,493
Operating Expenses		\$179,755	\$179,703
Equipment		\$10,000	\$10,000
Total State Special Revenue	12.00	12.00	\$459,843
			\$459,196
Total Executive Budget Modifications	24.00	24.00	\$1,132,420
			\$1,129,848

Environmental Quality Council Issue

1. Expansion of Solid Waste Management Program

The Environmental Quality Council has recommended expansion of the Solid Waste Management Program, to be accomplished in two phases:
A. Phase I consists of the addition of 3.0 FTE and related operating expenses. Phase I essentially conforms to executive budget modification #2 with the exception that 2.0 FTE would be added in fiscal 1992 instead of 3.0 FTE contained in the executive budget.
B. Phase II is an addition over the executive budget.

FTE	6.09	6.59	
Personal Services		\$173,411	\$187,302
Operating Expenses*		\$72,000	\$88,000
Total State Special Revenue (Solid Waste Fees)	6.09	6.59	\$245,411
			\$275,302

*Would be adjusted to conform to subcommittee action on indirect charges.

In addition, the EQC recommendation includes authority for a Solid Waste Plan.

Total State Special Revenue (Solid Waste Fees)		\$60,000	\$60,000
Total EQC Recommendation over the Executive Budget Level	6.09	6.59	\$305,411
			\$335,302

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Supplemental Comparison Sheet
 State Superfund Program

The State Superfund program is funded with 4 percent of the Resource Indemnity Trust interest. The following table shows anticipated revenues to and allocated expenditures from the fund in the Executive Budget and the LFA current level in the 1993 biennium.

TABLE 1 Allocations of the RIT 4 Percent Interest Executive Budget and LFA Current Level 1993 Biennium				
	Exec. FY92	LFA FY92	Exec. FY93	LFA FY93
Total Anticipated 4% RIT	\$318,117	\$324,529	\$344,190	\$347,561
<u>Disbursements</u>				
State Superfund Allocation	\$323,475	\$229,048	\$343,037	\$229,050
Additional Indirects*	<u>25,647</u>	<u>3,672</u>	<u>35,588</u>	<u>3,663</u>
Total Disbursements	\$349,122	\$232,720	\$368,625	\$232,713
Remainder	\$(31,005)	\$ 91,809	\$(24,435)	\$114,848
Additional FTE in Executive Budget		\$ 80,868		\$ 80,684
Additional Indirects		<u>16,982</u>		<u>16,944</u>
Total Additional		\$ 97,850		\$ 97,628
Remainder	\$(31,005)	\$ (6,041)	\$(24,435)	\$ 17,220

WASTE MANAGEMENT SECTION

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JUNK VEHICLE PROGRAM

EXHIBIT 4
DATE 1-18-91
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Program Summary

The Junk Vehicle Program is a statewide recycling program which also serves an aesthetic purpose by removing unsightly junk vehicles from public view. It operates through county junk vehicle collection programs in each of Montana's 56 counties. It also licenses and controls private motor vehicle wrecking facilities. Junk vehicles are required to be shielded from public view.

Revenue for program operation, both at the state and county level, comes from fees on motor vehicle registration and title transfers, annual motor vehicle wrecking facility license fees, and from the sale of junk vehicles as scrap metal. The purpose of the recycling program is to provide collection, storage and scrap metal recycling of those junk vehicles which have little or no parts value to private wrecking facilities.

Approximately 7,500 junk vehicles are collected and recycled by the state program (combination of county programs) each year. The DHES staffing level for this program is 4.43 FTEs.

Budget Issues

1. Ratio of Expenditures to Revenue -- At the current fee rate of \$1.50 for title transfers and \$0.50 for automobile registration, the junk vehicle revenue account balance is projected to significantly decrease over the biennium. Projected expenditures will exceed projected revenues by nearly \$500,000 over the two year period.

2. Grants Decrease -- The \$24,538 per year decrease in the LFA budget compared to the executive budget may cause counties to receive less grant funds than they require and are eligible for. Projected grant requests are expected to exceed \$800,000 for both FY92 and FY93.

FY90-91 BIENNIAL LEGISLATIVE REPORT
ENVIRONMENTAL QUALITY PROTECTION FUND

Background

The 1985 Legislature passed the Environmental Quality Protection Fund Act that established the Environmental Quality Protection Fund (EQPF). The 1989 Legislature amended the Environmental Quality Protection Act, changing its name to the Montana Comprehensive Environmental Cleanup and Responsibility Act (CECRA). The EQPF is a revolving fund in which all penalties and costs recovered pursuant to CECRA are deposited. In addition, pursuant to 15-38-202 MCA, beginning in FY90 four percent of the interest from the Resource Indemnity Trust Fund is also deposited in the EQPF. This four percent provides the base operational funding for the CECRA Program. Additionally, the 1989 Legislature also established a million dollar spending authority for the EQPF to cover unforeseen events that would require expenditures that could not wait for the 90 day Budget Amendment process.

Financial Report

Tables 1 and 2 summarize EQPF revenue and expense in FY90 and FY91 through 11/30/90. Following is a brief narrative description of the projects that includes income and expenditures.

1) State Superfund: The state Superfund (CECRA) is responsible for approximately 200 sites across the state that are eventually going to be investigated and if necessary, cleaned up. Sites are addressed on a priority basis. This program is funded by a statutory appropriation of four percent of the RIT interest. The program attempts to identify responsible parties and make them pay for site investigation and cleanup whenever possible. The 1990-91 biennium is the first time any funding has been provided. The Montana Department of Health and Environmental Sciences is still in the process of hiring 4.25 FTE's to operate the program.

<u>Expense</u>	<u>Revenue</u>
270,515.39	330,189.45

2) Livingston: Starting in 1987, DHES began enforcement efforts against the Burlington Northern Railroad (BNRR) at the Livingston shop complex. Extensive sampling revealed the site and surrounding area had become contaminated with petroleum products and solvents. DHES contracted with a law firm to help develop the complaint and associated legal documents that eventually led to a federal court ordered consent agreement that directs the site investigation and cleanup process and provides for reimbursement of state oversight costs.

<u>Expense</u>	<u>Revenue</u>
500,010.13	219,829.74
<u>83,731.82</u>	250,000.00*
583,741.95	<u>500,000.00</u>
	969,829.74

* Anticipated Revenue in FY91

3) Whitefish Lake: In July 1989 a BN train derailed near Whitefish Lake. Several rail cars fell into the lake and several thousand gallons of diesel fuel spilled into the lake. DHES responded to the incident, utilizing its emergency response contractor, Riedel Environmental Services. BNRR cleaned up the derailment under DHES oversight.

<u>Expense</u>	<u>Revenue</u>
85,018.80	85,018.80*

*Anticipated Revenue in FY91.

4) Rocker: In 1989 a health screening study was conducted at the Rocker Superfund site located between Butte and Anaconda. High levels of arsenic were found at a defunct wood treating plant in Rocker. DHES participated in gathering blood and urine samples from area children to determine the need for immediate health care. The primary responsible party, ARCO, agreed to fund the costs of supplies necessary to perform the health screening.

<u>Expense</u>	<u>Revenue</u>
4,152.27	4,152.27

5) ARCO Oversight: Four National Priority List Superfund sites are located in the Clark Fork Basin. Collectively, these sites comprise one of the largest Superfund cleanups in the United States. In 1989 one of the primary responsible parties, ARCO, agreed to provide funding to DHES to cover state costs to oversee expedited actions that ARCO wanted to undertake. This allows the state to maintain the personnel necessary to monitor studies and cleanup/removal activities that are being implemented by ARCO to speed the overall cleanup of the area. Without this funding, DHES would have limited ability to oversee any of this work and thus would be unable to ensure state interests were being safeguarded.

<u>Expense</u>	<u>Revenue</u>
24,460.50	19,105.67*

*DHES bills ARCO quarterly to get reimbursement.

6) CUT: In 1990 the Church Universal and Triumphant (CUT) reported several leaking underground storage tanks (LUST) at their property near Molheron Creek south of Livingston. DHES responded with state and contractor personnel overseeing the eventual removal of the tanks and contaminated soils. The site is still undergoing cleanup in the form of groundwater monitoring, landfarming of diesel contaminated soil, and monitoring of surface water streams in the area. The resultant enforcement actions taken against CUT necessitated the hiring of outside legal assistance. That litigation is in progress and DHES anticipates being reimbursed for all of its response and legal costs.

<u>Expense</u>	<u>Revenue</u>
226,776	Litigation pending

7) Helena Train Wreck: In February 1988 a Montana Rail Link train derailed and burned in Helena. DHES assisted and responded to that emergency and the resultant cleanup. The contaminants of concern were diesel and isopropyl alcohol. Approximately 1100 cubic yards of contaminated soil required treatment and disposal. The alcohol was treated by running the soil through an asphalt batch plant and the diesel soil was treated by biodegradation (landfarming) which was completed in October 1990. Montana Rail Link reimbursed DHES response costs.

Revenue
17,334.76

8) Wiremill Road: The Wiremill Road barrel site in Black Eagle consisted of approximately 600 barrels of waste petroleum product abandoned in an open field. The U.S. Air Force sold the barrels as surplus property sometime in the 1950's. The barrels leaked and contaminated underlying soils but not groundwater. In 1989 the Department of Defense provided DHES funding to conduct a remedial investigation and cleanup of the site. Cleanup of the barrels and contaminated soils was completed in 1990.

Expenses
233,085.77

Revenue
250,000

9) Arro Oil Refinery: The Arro Oil refinery is an abandoned oil refinery located near Lewistown. The site consists of sludge pits, lead- and petroleum contaminated soils, and petroleum contaminated groundwater that is not used for drinking water. No viable responsible parties exist for this site; therefore, DHES has used Reclamation and Development Grant funds to investigate and cleanup the site. In August 1990, lead contaminated soils were removed and disposed of at a out-of-state hazardous waste disposal facility. For the lead cleanup, DHES supplemented the grant funding with EQPF funding.

Expenses
50,337.57

10) Texaco Sunburst refinery: The Texaco Refinery site in Sunburst is an abandoned refinery that consists of sludge pits, lead- and petroleum contaminated soils, and petroleum contaminated groundwater that is not used for drinking water. In 1989 DHES and Texaco entered into a administrative order on consent for the investigation and cleanup of the site. Texaco conducted a remedial investigation in 1989-90 under DHES oversight. Texaco will conduct a feasibility study in 1991. The consent order provides for reimbursement of all state costs.

Expenses
47,152

Revenue
12,513*

*DHES bills Texaco annually to get reimbursement

11) Big West Oil refinery: The Big West Oil refinery site in Kevin is an abandoned refinery that consists of sludge pits, lead- and petroleum contaminated soils, and petroleum contaminated groundwater that is not used for drinking water. In 1989 DHES issued an unilateral administrative order to two of the primary responsible parties for a remedial investigation and feasibility. In 1989-90 DHES conducted a remedial investigation and constructed fencing using responsible party funding. The unilateral order provides for reimbursement of all state costs.

Expenses

75,600

Revenue

66,002*

*DHES bills responsible parties annually for reimbursement

12) Old Deer Lodge Prison: In March 1990 DHES discovered asbestos contamination in one building and neighboring soils at the Old Deer Lodge Prison. DHES issued a unilateral order to the responsible party for investigation and cleanup. The responsible party declined to perform the investigation and cleanup. Pursuant to the order, DHES then performed the cleanup in July 1990. DHES may recover costs in the future.

Expenses

58,645.99

13) DHES Asbestos Certification Program: For FY90-91, a portion of the four percent statutory appropriation for the State Superfund Program was designated for start-up monies for the DHES Asbestos Certification Program. In the future, the program will be funded by fees.

Expenses

57,909.97

14) Past Cost Recovery: The Superfund program was successful in negotiating several past cost settlements during the biennium. The Superfund law allows state and federal agencies to recover past costs incurred in investigating and overseeing contamination cleanups. The following is a listing of those response cost settlements:

- Anaconda Smelter: The now demolished copper smelter near the town of Anaconda and the surrounding area is now the focus of extensive field investigations and feasibility studies that will result in a permanent cleanup of the area soils, surface and ground waters.

Revenue

160,000

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- Dam. Sew. Sub.

- Butte: The Butte Addition site includes the general Butte/Walkerville area. It was contaminated by nearly 100 years of mining and smelting activities. The contaminants of concern are metals such as lead, cadmium, chromium, and arsenic. The area is undergoing extensive investigation to determine the extent of contamination and major source areas of contamination are being cleaned up or contained. These include, old mine and mill dumps, the old mill site on Timber Butte (south of town), areas of Walkerville, and selected residential yards.

Revenue
(see Milltown)

- Milltown: The Milltown dam creates a small reservoir at the confluence of the Clark Fork and Blackfoot Rivers about 5 miles east of Missoula. The reservoir trapped most of the sediments washed down from upstream, including those that were released from mining activity as far away as Butte. These sediments leached metals into the groundwater surrounding the reservoir and contaminated area wells with arsenic. A new water system was installed after the arsenic source was identified. The site is in the final stages of investigation with clean up waiting on upstream actions (ie Warm Spring Ponds, Silver Bow Creek, Anaconda Smelter, Opportunity Ponds, etc.)

	<u>Revenue</u>
Butte & Milltown	700,000

- East Helena: The ASARCO smelter site and surrounding areas are contaminated by heavy metals including lead. The smelter has been operating at this location for nearly 100 years and its past emissions resulted in the need to cleanup area soils, ground and surface waters. Field investigations at the site are nearly complete and several cleanup actions are underway or pending. These include clean up of unlined ponds on-site; removal of several source areas within the smelter that used to contribute to groundwater and air contamination; and removal of surface soils in residential yards, parks and school yards in East Helena.

Revenue
130,000

- Montana Pole: The Montana Pole site on the south edge of Butte is a defunct pole treating operation that resulted in site soils and area groundwater being contaminated by diesel and pentachlorophenol. Silver Bow Creek borders the site on the north and was being contaminated by the site. The responsible parties at this site include ARCO, Torger Oaas, and the Bank of Montana, Butte. ARCO is currently conducting field studies at the site under state oversight. The Bank has

paid its portion of past response costs incurred by the state and ARCO will be paying its portion in FY91.

Revenue
10,000

EQPF BALANCE

\$2,419,126.89	Revenue
<u>\$ 335,018.80</u>	Total Anticipated Revenue
\$2,754,145.69	Total Revenue
\$1,717,396.21	Total Expense

Balance: Total Revenue - Total Expense = \$1,036,749.48

ENVIRONMENTAL QUALITY PROTECTION FUND
07/01/89 THROUGH 11/30/90

REVENUE SOURCES	SFY 90	SFY 91	PY ADJ	ANTICIPATED REVENUE	TOTAL
4% RIT, CECRA-TRANSFER IN	285,643.83	4,874.09	1,875.13		292,393.05
4% RIT, CECRA STIP	13,169.22	24,402.18			37,571.40
4% RIT, CECRA	225.00				225.00
ARCO	130,000.00	0.00			130,000.00
ARCO	30,000.00				30,000.00
ARCO-ROCKER	4,152.27				4,152.27
ARCO-REMEDIATION INVESTIGATION	6,996.94	12,108.73			19,105.67
ARCO-CONTRIBUTION	700,000.00				700,000.00
DEPT OF DEFENSE-WIREMILL ROAD	250,000.00				250,000.00
BN LIVINGSTON-RESPONSE COSTS	120,211.68	31,590.18	68,027.88		219,829.74
BN LIVINGSTON-CONSENT DECREE	250,000.00	250,000.00		250,000.00	750,000.00
TEXACO	12,513.00				12,513.00
BIG WEST OIL	66,002.00				66,002.00
MT RAIL LINK	17,334.76				17,334.76
ASARCO	130,000.00				130,000.00
MINER'S BANK/BUTTE		10,000.00			10,000.00
BN/WHITEFISH LAKE				85,018.80	85,018.80
CECRA REVENUE-TRANSFER IN (5102)	285,643.83	4,874.09	1,875.13	0.00	292,393.05
EQPF REVENUE (5101)	1,730,604.87	328,101.09	68,027.88	335,018.80	2,461,752.64
TOTAL REVENUE	2,016,248.70	332,975.18	69,903.01	335,018.80	2,754,145.69

RECEIVED

DEC 17 1990

MONTANA DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES

ENVIRONMENTAL QUALITY PROTECTION FUND
07/01/89 THROUGH 11/30/90

EXPENDITURES	SFY 90	SFY 91	PY ADJ	ENCUMBRANCES	TOTAL
4% RIT, CEDRA	180,266.50	59,370.58	(7,513.93)	38,392.24	270,515.39
COGSWELL/EGGLESTON	500,000.00	10.13			500,010.13
WHITEFISH LAKE	84,876.02	142.78			85,018.80
ARCO-ROCKER	4,464.27	0.00	(312.00)		4,152.27
ARCO-REMEDIAL INVESTIGATION	14,784.49	8,990.95	336.77	348.29	24,460.50
DEPT OF DEFENSE-WIREMILL ROAD	234,521.05	0.00	(1,435.28)		233,085.77
BN LIVINGSTON-RESPONSE COSTS	48,388.49	31,931.57	2,416.86	994.90	83,731.82
TEXACO	14,145.15	233.35	(620.15)	33,393.65	47,152.00
BIG WEST OIL	75,600.00				75,600.00
BN LIVINGSTON/MISSION WYE					0.00
BNRR FUELING SITES OVERSIGHT					0.00
ARRO OIL REFINERY				50,337.57	50,337.57
CUT LEGAL ENFORCEMENT		18,954.75		207,821.25	226,776.00
OLD MT PRISON	55,290.51	1,855.48	1,500.00		58,645.99
ASBESTOS	47,910.60	10,019.03	(19.66)		57,909.97
CECRA EXPENDITURES	180,266.50	59,370.58	(7,513.93)	38,392.24	270,515.39
EQPF EXPENDITURES	1,032,069.98	62,119.01	1,986.20	292,895.66	1,388,970.85
ASBESTOS EXPENDITURES	47,910.60	10,019.03	(19.66)	0.00	57,909.97
TOTAL EXPENDITURES	1,260,247.08	131,508.62	(5,647.39)	331,287.90	1,717,395.21
BALANCE	756,001.62	201,466.56	75,550.40	3,730.90	1,036,749.48

Revenue currently booked less expenditures and encumbrances incurred at this time.

This worksheet does not reflect other expenditures or revenue activity to the end of SFY 91.

6
DATE 1-18-91

EXHIBIT #2
1/18/91
Human Serv.
Subcommittee

State Superfund -- CECRA

The CECRA Program within the Solid and Hazardous Waste Bureau handles the investigation and cleanup of all hazardous waste sites in Montana not on the federal Superfund National Priority List (NPL) (with the exception of 10 Resource Conservation and Recovery Act (RCRA) Transfer, Storage and Disposal (TSD) facilities being handled by the RCRA program, and the Burlington Northern Livingston site being handled as a Superfund special project). Currently, there are over 200 hazardous waste sites in Montana not on the NPL.

State funds from the Resource Indemnity Trust Fund (4% of the interest) are earmarked to support work at non-NPL sites. Under state law, all State funds spent in the cleanup effort are to be reimbursed by the parties responsible for contamination at the sites if those parties are viable.

Budget Issues

1. 2.75 FTE -- These positions were added in the biennium through an operations plan change and need to be continued in order for the program to continue at a minimal level.
2. 4% RIT Allocation -- The LFA budget does not allocate the full 4% to the program. We request that the OBPP funding be used.

BN/ARCO Special Projects

Two special projects are currently being managed under the Superfund Program. One is the Burlington Northern Railroad Livingston Rail Yard investigation and cleanup. A consent agreement between the state and Burlington Northern has been signed and the state is providing oversight of the remedial investigation, remedial design and remedial action at the site. Other BN fueling sites are also undergoing investigation.

The second special project is the ARCO project associated with expedited activities on the ARCO Clark Fork River Basin NPL sites. Arco finances these activities so the state will have the resources necessary to keep pace with the accelerated cleanup-related activities.

Budget Issues

1. 5 FTE -- 3.5 FTE for the BN Projects and 1.5 FTE for the ARCO projects need to be continued for the next biennium.
2. Funding -- An agreement between DHES and OBPP has been worked out which will provide backup funding for these projects should BN and ARCO stop reimbursing the Department. Therefore no appropriation is needed.

National Priority Sites -- Federal Superfund

Program Summary

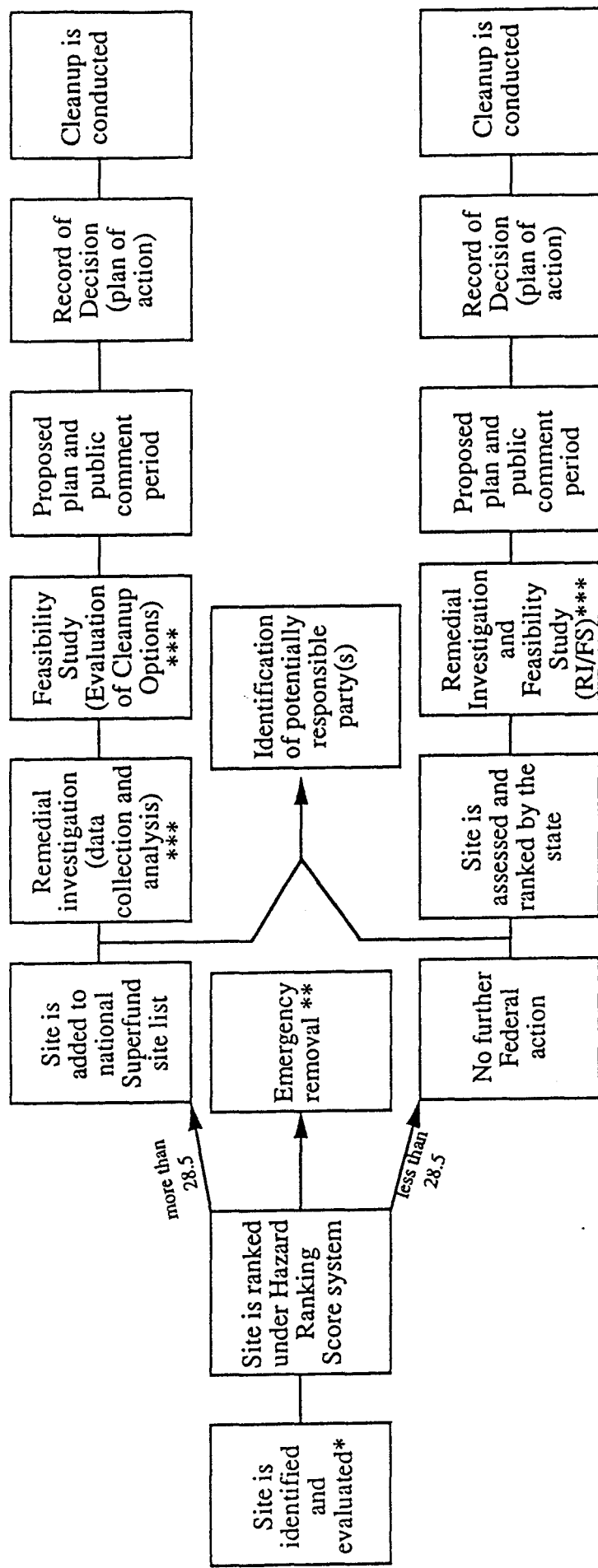
The Superfund Program administered by the Department of Health and Environmental Sciences (DHES) carries out Montana's responsibilities under both state and federal laws requiring the identification, investigation, and cleanup of uncontrolled hazardous waste sites. Currently the program involves activities at 10 sites that are on the National Priority List (NPL). Federal funds administered by the Environmental Protection Agency (EPA) are available to support virtually all state work on NPL sites. Under both state and federal law, all public funds spent in the cleanup effort are to be reimbursed by the parties responsible for the contamination at a hazardous waste site.

For the activities that are not directly related to specific sites, the EPA provides CORE funds. These funds pay for training, recruitment, general overall management, etc. The CORE program fills the need for necessary, non-site-specific activities. The CORE grant requires 10 percent state matching funds.

Budget Issues

1. 4.0 FTE - 4 people have been added to the program through operations plans changes during the biennium. These need to be continued in order to maintain the current level of operation.
2. Contracted Services -- A large part of the field work is done by DHES contractors. We need a significant amount of authority in place to demonstrate to the responsible parties that the state is in a position to perform the work with EPA in the event the responsible party refuses.
3. CORE contracted services -- The LFA budget does not have enough funding to adequately cover the training and medical monitoring needs of the program.

Federal and State Superfund process



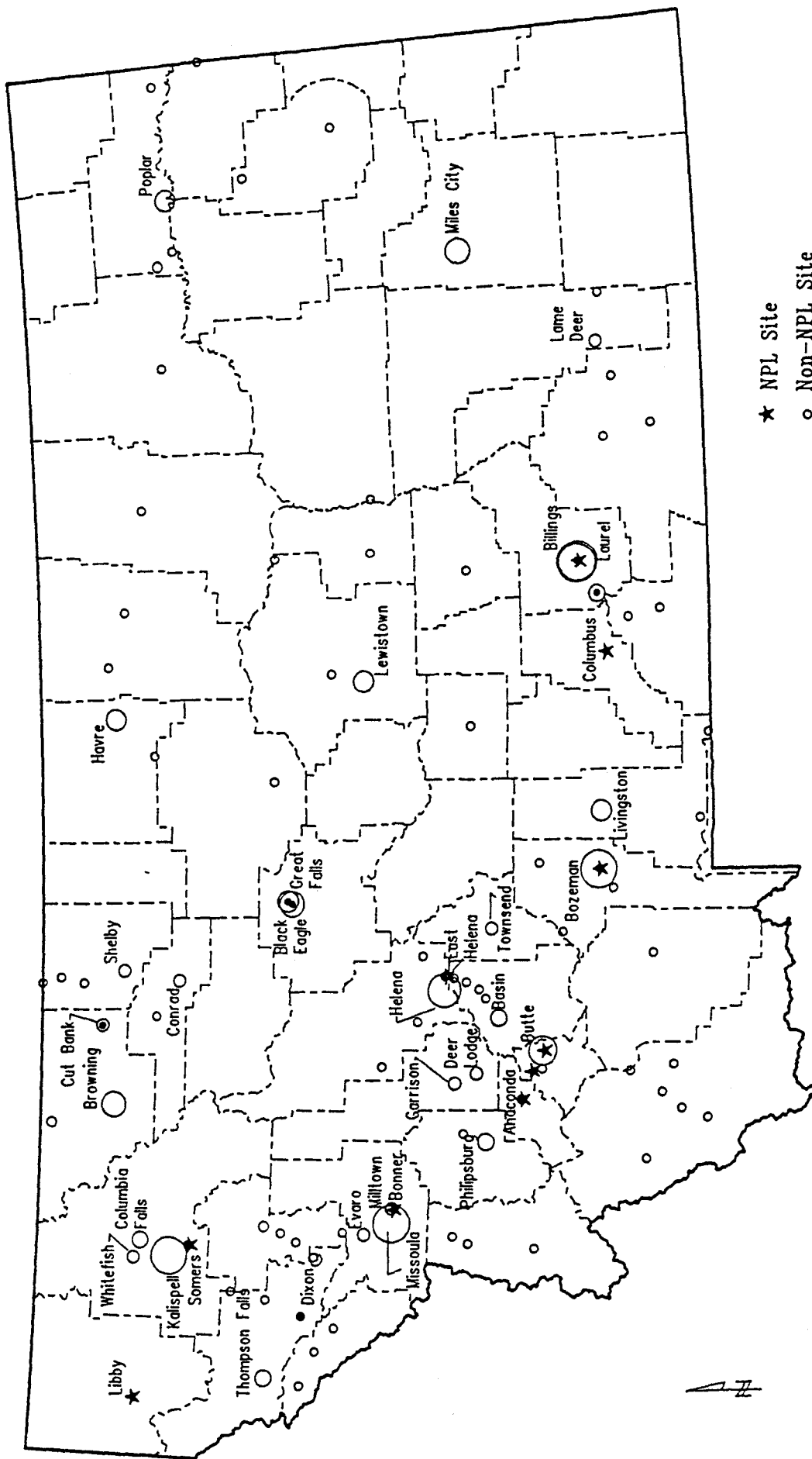
* Site evaluation includes preliminary assessment and site investigation

** Removal actions may occur at any point in the Superfund process

*** Actions taken by potential responsible parties (PRPs) unless the state or EPA assumes the lead.

Montana Hazardous Waste Sites

(Approximate Locations)



★ NPL Site

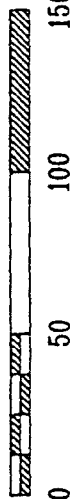
○ Non-NPL Site

○ City with Multiple Non-NPL Sites

• RCRA TSD Facility Site

NO. OF SITES: 2 3 4 5 6 7 8 9

Scale



Non-National Priorities List and/or CECRA sites in Montana

<u>SITE NAME</u>	<u>TOWN</u>	<u>Deer Lodge County</u>	
<u>Beaverhead County</u>		Montana Radiation	Anaconda
Apex Mill - Bannack State Park	Bannack	Old Montana Prison - asbestos	Deer Lodge
Big Hole Post Plant	Dillon		
Ermont Mill - Mill Tailings	Argenta	<u>Fergus County</u>	Lewistown
Hirschy Corrals	Jackson	Arro Oil Refinery	Lewistown
Thorium City Waste Dump	Grant	Berg Post and Pole	Lewistown
Tungsten Mill - Mill Tailings	Glen	Central Post & Treating Plant	Turkey Joe Ldg
		Charles M. Russell Refuge	Lewistown
		Continental Oil Co., Lewistown Ref.	Lewistown
		Kendall Venture Mine	Hilger
<u>Big Horn County</u>			
CCC Camp	Busby		
Lodge Grass Drums	Lodge Grass	<u>Flathead County</u>	
Old Crow Agency Dump**	Crow Agency	BN Derailment Site	Whitefish
		BN Fueling Facility	Whitefish
<u>Blaine County</u>		Anaconda Aluminum Company	Columbia Falls
Diamond Asphalt Co.	Chinook	Beaver Wood Products	Columbia Falls
Old Agency Landfill**	Ft Belknap	Creston Post and Pole Yard	Kalispell
Zortman Mine		Kalispell Pole & Timber Co. Inc.	Kalispell
		Kalispell Landfill	Kalispell
<u>Broadwater County</u>		Kalispell Landfill (Cemetery Road)	Kalispell
Kenison Pole Plant	Townsend	Kalispell Landfill (Willow Glen Rd)	Kalispell
Townsend Post & Pole	Townsend	Larry's Post and Treating Co.	Columbia Falls
		North American Oil Refinery	Kalispell
<u>Carbon County</u>		Plum Creek Evergreen	Kalispell
Joliet Weed District	Joliet	Reliance Refining Co.	Kalispell
BN Derailment Site	E Bridger	Somers Marina	Somers
		Yale Oil Corp.	Kalispell
<u>Cascade County</u>			
Anaconda Minerals Co., G.F. Ref.	Black Eagle	<u>Gallatin County</u>	
BN Fueling Facility	Great Falls	Asbestos Mine (Karst)	Bozeman
Bootlegger Trail Site	Black Eagle	Bozeman Old City Landfill	Bozeman
Falls Chem Inc.	Great Falls	Bozeman Solvents	Bozeman
Great Falls Ref-Phillips Petroleum*	Black Eagle	CMC Asbestos	Bozeman
G.F. City Landfill (Wiremill Road)	Black Eagle	Development Technology	Bozeman
Great Falls City Landfill (25th Av)	Great Falls	Ideal Basic Ind, Plant Site Area	Three Forks
Malmstrom Air Force Base*	Great Falls	Gallatin Gateway Asbestos	Gallatin Gate.
Western By-Products	Great Falls	Mercer Post Plant	Bozeman
		Montana State University*	Bozeman
<u>Chouteau County</u>		MRL Asbestos	Bozeman
Geraldine Airport	Geraldine	Summit-Dana Ltd.	Bozeman
<u>Custer County</u>			
Ft. Keogh Livestock&Research Lab	Miles City	<u>Garfield County</u>	
Miles City Airport	Miles City	Jet Fuel Refinery	Mosby
Miles City Oil Refinery	Miles City		
Miles City Rail Yard	Miles City	<u>Glacier County</u>	
Miles City Livestock Center	Miles City	Blackfeet Pencil Factory**	Browning
		Blackfeet Post and Pole**	Browning
<u>Dawson County</u>		Carter Oil Ref	Cutbank
BN Fueling Facility	Glendive	Chevron USA Inc. Bulk Plant	Browning
Richey Airport	Richey	Evans Post and Pole**	Browning
		Poisoned Oats Dspl**	Browning
		Carter Oil Ref	Cut Bank
		Union Oil - Cut Bank Ref*	Cut Bank

Tucson/Hebrew Academy		Milwaukee Road Right-of-Way	St. Regis
<u>Granite County</u>		<u>Missoula County</u>	
Granite Timber	Philipsburg	All American Bumper and Plating	Missoula
Londonderry Mine	Maxville	Borden Inc.	Missoula
Philipsburg Mining Area	Philipsburg	BN Derailment Site	Missoula
Sluice Gulch Leaking Mine Adit	Philipsburg	BN Derailment Site	Evato
		BN Fueling Facility	Missoula
<u>Hill County</u>		Engine Rebuilders	Missoula
BN Fueling Facility	Havre	Hart Oil	Missoula
BN Racetrack Pond	Havre	J & N Post and Pole	Evato
BN Krezelak Pond	Havre	Missoula Landfill	Missoula
Havre Refinery	Havre	Missoula Vo-Tech	Missoula
Rocky Boy Post and Pole**	Box Elder	Real Log Homes Mfg. Site	Missoula
		Precious Metals Plating Facility	Bonner
<u>Jefferson County</u>		Twin Creeks Logging Camp	Bonner
Basin Mining Site	Basin	<u>Musselshell County</u>	
Basin School Yard	Basin	Roundup Landfill	Roundup
Fohner Meadow	Jefferson City		
Jefferson County Weed District	Clancy	<u>Park County</u>	
High Ore Mine	Basin	BN Livingston Shop Complex	Livingston
Kaiser Cement	Montana City	Clyde Park Asbestos	Livingston
Wickes/Corbin Mining Site	Wickes	Jardine Arsenic Tailings	Jardine
		Mclaren Mill Tailings	Cooke City
<u>Lake County</u>		Mission Wye	Livingston
Agency Dump**	Agency	Park County Landfill	Livingston
Lake County Weed District	Ronan	Strong's Post Yard	Livingston
Midway Store Dump**	Route 93		
Old Arlee Dump**	Arlee	<u>Petroleum County</u>	
Old Charlo Dump**	Charlo	Weowna Oil Refinery	Winnett
Old Community Dump**			
<u>Lewis and Clark</u>		<u>Phillips County</u>	
Alice Creek Post and Pole	Lincoln	Malta Airport	Malta
BN Fueling Facility	Helena		
Golden Messenger Mine	York	<u>Pondera County</u>	
Goldsil Mining Company	Marysville	Conrad Refining Co.	Conrad
Helena Landfill	Helena	Fisher Flats Dump**	Valier
Helena Regional Airport	Helena	Midwest Refining Co.	Conrad
MT Dept. of Highways Shop	Helena		
Montana State Chem Lab Bureau	Helena	<u>Powell County</u>	
Mother Lode Gold & Silver Ltd.	E Helena	BN Derailment Site	Garrison
Safety Kleen	Helena	Milwaukee Roundhouse	Deer Lodge
Scratchgravel Landfill	Helena	Rocky Mountain Phosphate	Garrison
<u>Lincoln County</u>		<u>Ravalli County</u>	
Asarco Inc. Troy Unit	Troy	Bass Creek Post & Pole Plant	Stevensville
		Bitterroot Valley Sanitary Landfill	Victor
<u>Madison County</u>		S & W Sawmill, Inc.	Darby
Valley Garden Vat	Ennis		
<u>Mineral County</u>		<u>Richland County</u>	
Marble Creek Post Yard	Superior	McCulloch Purchase Station	Fairview
Milwaukee Road — Haugan	Haugan		

Roosevelt County

A & S Industries**	Poplar
BN Derailment Site	Bainville
Poplar Post Office Site**	Poplar
Tule Creek Gas Plant/Crystal Oil**	Poplar
Wolf Point Ref.(Kenco Refining)**	Wolf Point

Rosebud County

Lame Deer Drums**	Lame Deer
Old Lame Deer Dump**	Lame Deer
St. Labre Plastic Factory**	Ashland

Sanders County

Bonneville Power Administration	Hot Springs
Dixon/Perma Dump**	Dixon
Flathead Mine Area	
Muster's Post Yard	Thompson Falls
Paradise Tie Treatment*	Paradise
Revais Creek Mine**	Dixon
Thompson Falls Reservoir	Thompson Falls
US Antimony Corp	Thompson Falls

Silver Bow County

BN Fueling Facility	Butte
Butte-Silverbow County Landfill	Butte
Laurel Oil and Refining Co.	Butte
MPC Storage Yard	Butte
Roundup Refining Co.	Butte
Russell Oil Co	Butte
Stauffer Chem Co.	Ramsay

Toole County

Big West Oil	Kevin
Red Creek site	Sweetgrass
Texaco - Sunburst Works	Sunburst
Petroleum Refinery Co	Shelby

Treasure State Refining Co.

Shelby

Valley County

Glasgow Air Force Base	Glasgow
Old Poplar Landfill**	Poplar
Osewego Landfill**	

Wheatland County

Harlowton Weed Control District	Harlowton
---------------------------------	-----------

Yellowstone County

Big Horn Oil & Refining Co.	Billings
Billings Sanitary Landfill	Billings
Billings Grain Terminal	Billings
BN Fueling Facility	Billings
BN Fueling Facility	Laurel
Coffman Lumber & Treatment Co.	Billings
Conoco Landfarm*	Billings
Conoco Billings Ref*	Billings
Empire Sand and Gravel	Billings
Exxon Ref - Old Flare Site*	Billings
Exxon Refinery*	Billings
Farmers Union Central Exchg/Cenex*	Laurel
General Electric Co.	Billings
Lohoff Gravel Pit	Billings
Mont. Power Co. Frank Bird Plant	Billings
Mont. Power Co. JE Corette Plant	Billings
Montana Radiator Works	Billings
Montana Sulphur and Chem	E of Billings
Prairie View Recreational Park	Billings
Russell Oil Co.	Billings
Scott Feed Lot	Billings
Tranbas*	Billings
Union Tank Car Co.	Laurel
Yale Oil of South Dakota	Billings

National Priorities List*

Superfund sites in Montana and their national ranking out of 1,187 sites in the U.S. as of January 1991

- | | |
|--|-----|
| 1. Anaconda Smelter | 48 |
| 2. Idaho Pole (Bozeman) | 546 |
| 3. Montana Pole (Butte) | 841 |
| 4. Silver Bow Creek/Butte Area | 20 |
| 5. Milltown Reservoir | 349 |
| 6. East Helena Smelter | 29 |
| 7. Libby Groundwater | 597 |
| 8. Mouat Chromium Refinery (Columbus) | 913 |
| 9. Comet Oil (proposed) (Billings) | |
| 10. Burlington Northern/Somers Tie Treating (proposed) | |

1/18/91

Human Services
Subcommittee

UNDERGROUND STORAGE TANK PROGRAM

Leak Prevention Program

EXHIBIT 7

DATE

1-18-91

HB

1. Program Summary

The objective of this program is to protect human health and the environment from releases or leaks from underground petroleum and hazardous substances storage tanks. The release of these products into the environment threatens groundwater resources and can cause explosive vapors to seep into occupied dwellings. The program regulates UST system design, construction, installation, leak detection monitoring, operator financial assurance and closure. The program also provides technical expertise to assist tank owners and operators in the proper installation, operation and closure of their UST systems. Local designated governmental implementing agencies will assist in the program in inspection and enforcement services. Grant funds are available to these local designated implementing agencies to provide basic personnel training, inspection equipment and reimbursement for services. The leak prevention program also assists the Petroleum Release Compensation Board in determining owner compliance and eligibility for cleanup reimbursement.

2. Program Status

The UST Program is funded through a combination of earmarked annual UST registration fees and a 75% federal and 25% state RIT fund matching grant. The program's main funding mechanism of annual tank registration fees was provided by legislation passed in 1989. The first year these funds were assessed and available to the program was calendar year 1990. This funding source supports 6.75 of the programs total 11.25 FTEs. The remaining 4.5 FTE's are funded by an annual EPA grant.

During the past biennium the program was able to expand its staff, develop administrative rules and begin to implement the functions of the program. Currently, over 21,000 underground storage tank systems at 11,000 facilities have been registered in the program's database.

3. Budget issues

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

UNDERGROUND STORAGE TANK PROGRAM

Tank Installer Licensing and Permitting Program

1. Program Summary

National studies have shown that improper installation of underground storage tank systems is one of the major causes of tank failure and leakage. In addition, the improper removal of tank systems can result in serious explosions or the release of the tank contents into the environment. Legislation passed in the 1989 Montana Legislature requires UST installers, removers and inspectors to be properly licensed by the Department. A tank owner may elect to install, repair or remove his own tank if he utilizes the services of a licensed inspector. The Department is also charged with the responsibility of reviewing UST installation, repair and closure plans to ensure proper designed systems, materials and techniques are utilized. The program has .25 FTE and is funded through permit and inspection fees. These funds also reimburse local licensed inspectors for their services.

2. Program Status

Since April 1990, over 200 individuals have been examined and licensed. Tank installer, remover and inspector training and examinations have been given at several locations throughout the state. To date, over 1,000 applications have been reviewed and permits issued since the April 1, 1990 effective date of the UST Licensing and Permitting Act.

3. Budget issues

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

UNDERGROUND STORAGE TANK PROGRAM

Leaking Underground Storage Tank (LUST) Program

1. Program Summary

Montana currently has over 21,000 registered USTs. Federal EPA studies have estimated that 25 percent or more of all underground storage tanks may be leaking which would translate into over 5,000 potential leaking UST sites in Montana. Incidents of contaminated soil and groundwater are reported to DHES almost on a daily basis. Impacts from releases include contamination of drinking water, accumulation of harmful hydrocarbon vapors, and problems associated with sensitive environmental areas. The LUST staff investigates and responds to prioritized leaking UST sites where a responsible party cannot be identified or is insolvent, an emergency situation exists, or a responsible party refuses or fails to respond. Under state and federal law, the responsible party is liable for all LUST response costs incurred by DHES.

2. Program Status

The program is currently overseeing site investigations and cleanup remediations at 350 active leaking underground storage tank sites. Some of these sites have principle responsible parties who are initiating site investigations and cleanup functions. Others are LUST Trust sites where the program is coordinating all investigation and cleanup activities. In the event a responsible party was unable or unwilling to continue the remediation of a leak site, LUST funds could be utilized to ensure corrective action is completed. The LUST program is funded through an annual 90% EPA grant, 10% RIT match which supports 5.5 FTE's.

3. Budget Issues

Two areas of the LFA budget provide the program with less funding than proposed in the Executive budget. These areas are contracted services and travel. Contracted services are utilized by the program to enable LUST site investigations and corrective action cleanups where responsible parties can not be identified or are unwilling or unable to perform these functions. The number of sites which will need LUST funds can not be estimated on an annual basis. Realistically, any leak site could become a candidate for LUST funding if the responsible party could not financially complete the site investigation or cleanup.

During FY 90 the LUST program was limited in its activities by a smaller staff, position vacancies and a smaller case load. This resulted in a significant reduction in travel expenditures during the base year. The program is now close

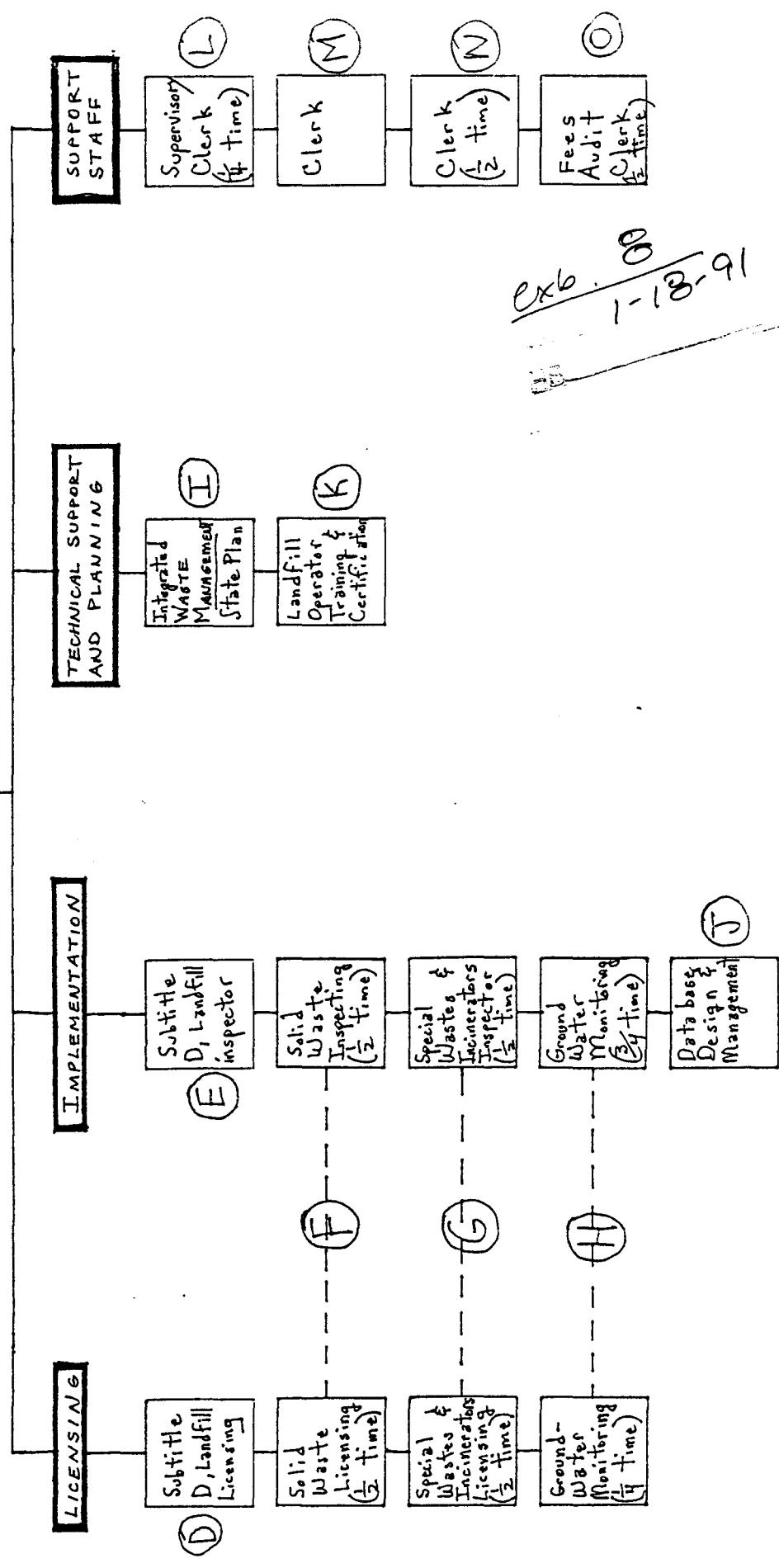
Leaking Underground Storage Tank Program - budget issues cont.

to being fully staffed and UST leak sites are being reported on a more frequent basis. It is anticipated that more travel for site investigations and remediations will be conducted in the coming biennium.

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

PROGRAM MANAGER **B**

Attorney **C**



EXB. 00
1-18-91

EX-100-70
16/31
Human
Serv.
SubC
AWG 11/13/90

SOLID WASTE PROGRAM FUNDING
January 10, 1991

DESCRIPTION	CURRENT		PROPOSED-OBPP & EQC	
	FTE	Amount	FTE	Amount
A) Bureau and Section Level Support	0.00		0.75	\$25,000
B) Program Mangement	1.00	\$35,045	1.00	\$35,045
C) Program Attorney	0.17	\$6,296	1.00	\$37,776
D) Subtitle-D Landfill Licensing	0.00		— 1.00	\$27,781
E) Subtitle-D Landfill Inspection	0.00		— 1.00	\$27,781
F) Solid Waste Licensing & Inspection	0.50	\$14,002	— 1.00	\$27,781
G) Special Waste & Incin. Lic. & Insp.	0.00		1.00	\$27,781
H) Groundwater Monitoring Lic. & Insp.	1.00	\$27,781	1.00	\$27,781
I) Integ. Waste Mgmt & State Plan Dev.	0.00		1.00	\$27,781
J) Database Design and Management	0.00		1.00	\$24,800
K) Operator Training & Certification	0.00		1.00	\$27,781
L) Supervisory Clerical	0.25	\$5,668	0.25	\$5,668
M) Clerk	0.00		1.00	\$20,564
N) Clerk (Groundwater monitoring)	0.50	\$10,282	0.50	\$10,282
O) Fees Audit Clerk	0.00		— 0.50	\$12,400
OPERATIONS		\$99,890		\$259,478
operations/salaries ratio		1.01		0.71
TOTAL	3.42	\$198,964	13.00	\$625,480
GENERAL FUND CONTRIBUTION		\$198,964		\$103,000
AMOUNT OF FEES REQUIRED		\$0		\$522,480
<hr/>				
New Applications 5/4/1				\$193,000
License Renewals 42/20/8				\$65,000
<hr/>				
Fee supported by per ton charge				\$264,480
Per ton charge				0.48

Assuming it will be possible to sole-source contract with MACO to provide landfill operators with EPA's mandatory training and certification, approximately \$47,500 of the fees could be passed back to MACO. The resulting total solid waste program budget, minus the contract to MACO, would be \$577,980.

Exhibit #9

1/18/91

Human Serv
Subc.EXHIBIT 9
1-18-91**WHEN DO YOU HAVE TO ACT?****Important Deadlines**

TYPE OF TANK & PIPING	LEAK DETECTION	CORROSION PROTECTION	SPILL/OVERFILL PREVENTION
New Tanks and Piping*	At installation	At installation	At installation
Existing Tanks** Installed: *Before 1965 or unknown 1965 - 1969 1970 - 1974 1975 - 1979 1980 - December 1988	By No Later Than: December 1989 December 1990 December 1991 December 1992 December 1993	} December 1998	} December 1998
Existing Piping** Pressurized Suction	December 1990 Same as existing tanks	December 1998 December 1998	Does not apply Does not apply

* New tanks and piping are those installed after December 1988

** Existing tanks and piping are those installed before December 1988

* NOTE: Owners of farm and residential tanks of 1,100 gallons or less capacity used for storing motor fuel for non-commercial purposes; heating oil tanks, and emergency power generator tanks which were installed before 1965 or for which the date of installation is unknown, must comply with release detection requirements by December 22, 1990. Any of these types of tanks installed on or after January 1, 1965 must follow the schedule set forth in 16.45.401(3).

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING

RECEIVED

NOV 20 1990

PETROLEUM TANK RELEASE
COMPENSATION BOARD
STATE CAPITOL

STAN STEPHENS, GOVERNOR



STATE OF MONTANA

(406) 444-3616

HELENA, MONTANA 59620

MEMORANDUM

TO: Jean Riley, Executive Director
Petroleum Tank Release Compensation Board

FROM: Rod Sundsted, Director *RS*
Office of Budget and Program Planning

DATE: November 19, 1990

RE: Executive Budget Proposed Appropriation for the
Petroleum Tank Release Compensation Board

In response to your inquiries regarding what is being proposed in the executive budget for the Petroleum Tank Release Compensation Board, the executive budget will recommend a regular appropriation for the administrative budget of the Board--that is, personal services, operating expenses, and equipment. Compensation payments would continue to be statutorily appropriated.

The recommendation is consistent with the administration's recommendation for statutory appropriations in the 1989 biennium, enacted by the 1989 Legislature. HB583 modified all existing statutory appropriations to apply only to nonadministrative expenditures. HB528, which established the Petroleum Tank Release Compensation Board, was not passed by the legislature in time for its inclusion in HB583.

Since the Petroleum Tank Release Compensation Fund is new and may require additional administrative resources once fully implemented, the executive budget recommends language authorizing the transfer of authority from the statutory appropriation pursuant to 75-11-301, MCA to the general appropriation established for the Board's administrative budget.

EXHIBIT 9
DATE 1-18-91
HB Item New Sub

Tippy & McCue

ATTORNEYS AT LAW

1215 Eleventh Avenue
P.O. Box 543
Helena, Montana 59624
406-442-4448 FAX 406-442-8018

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PETROLEUM TANK RELEASE
COMPENSATION BOARD

Roger Tippy
Mary Kelly McCue

November 26, 1990

To: Jean Riley, Executive Director
Petroleum Tank Release Compensation Board

From: Mary McCue *mm*

Re: Effect of statutory appropriation of moneys to PTRCB for administrative costs in light of Ch. 628, L. 1989, which eliminated certain statutory appropriations for administrative costs of a number of state programs and plans

The 1989 Legislature enacted section 6 of Ch. 528 which, in relevant part, established the petroleum tank release cleanup fund in the state special revenue fund. Codified at 75-11-313, MCA, the provision states that money from the fund may be used only for certain purposes, including "to administer [the petroleum storage tank cleanup act], including payment of board and department expenses associated with administration".

Section 75-11-313, MCA, specifically states that the fund is statutorily appropriated as provided in 17-7-502, MCA, and a reference to the law containing the statutory appropriating authority was listed in 17-7-502(3), MCA. In this manner the Legislature fulfilled the two technical requirements for creating a statutory appropriation, ie., listing the law containing the statutory authority in 17-7-502(3), MCA, and specifically stating that a statutory appropriation was made in the portion of the law actually making the appropriation.

During the same legislative session, the Legislature also enacted HB 583 (Ch. 628, L. 1989) which eliminated a number of statutory appropriations for administrative costs of certain state agencies. The bill deleted language from a number of statutory sections that provided for amounts to be statutorily appropriated as provided in 17-7-502, MCA, and substituted language in a number of other sections that provides that expenditures for expenses required for administration of the particular state program or plan must be made from temporary appropriations as described in 17-7-501 (1) or (2), MCA, rather than as statutory appropriations under 17-7-501(3), MCA.

The title of Chapter 628 states that the purpose of the act is "to eliminate statutory appropriations for expenses of administering or operating a program." It then lists the specific statutory provisions that are amended by the act. There is no reference to the petroleum tank storage cleanup legislation either in the title of Ch. 628, or in the body of the legislation.

Although the sponsor of HB 583 may have wanted statutory appropriations for administrative expenses to be eliminated from all state programs, the plain language of Chapter 528 speaks for itself and must be given effect. In construing a statute, the intent of the Legislature is controlling. The intent of the Legislature must first be determined from the plain meaning of the words used, and if interpretation can be so determined one may go no further and apply any other means of interpretation. Dunphy v. Anaconda Co., 151 Mont. 76, 438 P.2d 660 (1968). A court is bound to give effect to the literal meaning of the words without consulting other indicia of intent or meaning when the meaning is clear and unambiguous. United States v. McFillin, 487 F.Supp. 1130 (D.Mo. 1980); St. v. Hubbard, 200 Mont. 106, 649 P.2d 1331 (1982).

It is clear from the precise language of 75-11-313, MCA, that the Legislature intended the funds in the petroleum tank release cleanup fund be statutorily appropriated and a portion of the fund used for expenses associated with administering the law. The statute speaks for itself and there is nothing left to construe.

Had the Legislature wanted to enact the petroleum storage tank legislation, but provide that no money in the fund be used for administrative costs if Ch. 628 also were enacted, it could have included coordinating language in either Ch. 528 or Ch. 628 providing that the language in Ch. 528 allowing money to be used for such costs was void and without effect. This kind of coordinating language is often included in bills to harmonize different legislative acts passed in the same legislative session. Since the Legislature did not include such language, we must assume that they meant effect to be given the clear language of 75-11-313(3)(a), MCA, that allows money from the fund to be used for the expenses of administering the program.

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Exhibit # 10
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EXECUTIVE SUMMARY

**CLARK FORK BASIN
NATURAL RESOURCE DAMAGE ASSESSMENT AND PROGRAM
STRATEGY AND FUNDING REQUEST DOCUMENTATION**

Submitted in support of the:

Governor's Budget

January, 1991

Prepared by:

Montana Department of Health and Environmental Sciences

With Assistance of:

Montana Governor's Office

Contact:

Dick Pedersen, MDHES 444-1373

January 11, 1991

CLARK FORK BASIN
NATURAL RESOURCE DAMAGE ASSESSMENT AND PROGRAM
STRATEGY AND FUNDING REQUEST DOCUMENTATION

EXECUTIVE SUMMARY

The State of Montana filed a natural resource damage claim December 22, 1983 against the Atlantic Richfield Company (ARCO) to recover damages for injuries to natural resources in the Clark Fork River Basin. The suit was stayed pending completion of remedial investigation and feasibility studies being conducted as part of the "Superfund" process. ARCO petitioned the court in December of 1989 to lift the stay and proceed with the claim. On August 17, 1990, U.S. District Judge Charles C. Lovell issued a schedule ordering the parties in the lawsuit to complete discovery on all aspects of the case. The final pretrial order must be filed with the court by April 30, 1994.

NATURAL RESOURCE DAMAGE CLAIM COURT-ORDERED TIME FRAME	
ITEM	DATE
1. State files motions	10/01/90
2. Arco files response to motions	11/02/90
3. Arco files motions to joinder parties	06/03/91
4. State identifies expert witnesses	12/16/91
5. Arco identifies expert witnesses	05/13/92
6. Discovery concerning expert witnesses completed	12/16/92
7. Discovery on all aspects completed	05/31/93
8. State Counsel Convene, to complete final pretrial	02/14/94
9. Final pretrial order	04/30/94

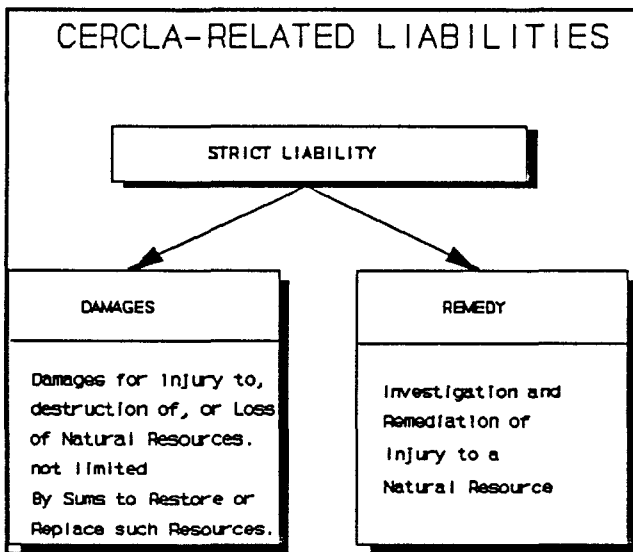
This schedule gives the State of Montana fewer than 2 years to complete a required and detailed Natural Resource Damage Assessment (NRDA) on the largest Superfund complex in the country. This report provides information and documentation for \$4,956,059.00 for full funding by the 1991 Montana State Legislature for technical, legal, and administrative activities relating to Montana's natural resource damage litigation concerning sites in the Clark Fork River Basin and other potential sites in the State of Montana.

Damages in the Clark Fork case are expected to be in at least the tens of millions of dollars.

REMEDY VS. DAMAGES

The overriding objective of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund) is to ensure that parties responsible for hazardous waste releases bear the cost of cleanup (remedy) and pay for natural resource damages (damages).

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A **remedy** case refers to the investigation and remediation of injury to a natural resource, whereas a **damage** case concerns damages for injury to, destruction of, or loss of natural resources, including the reasonable cost of assessing such injury, destruction, or loss.

The Department of Health and Environmental Sciences has been and will continue to be the lead state agency in an oversight and coordination role for the remedy case. The lawsuit and budget request reflect the damages portion of the CERCLA case.

The recovery of damages has two components:

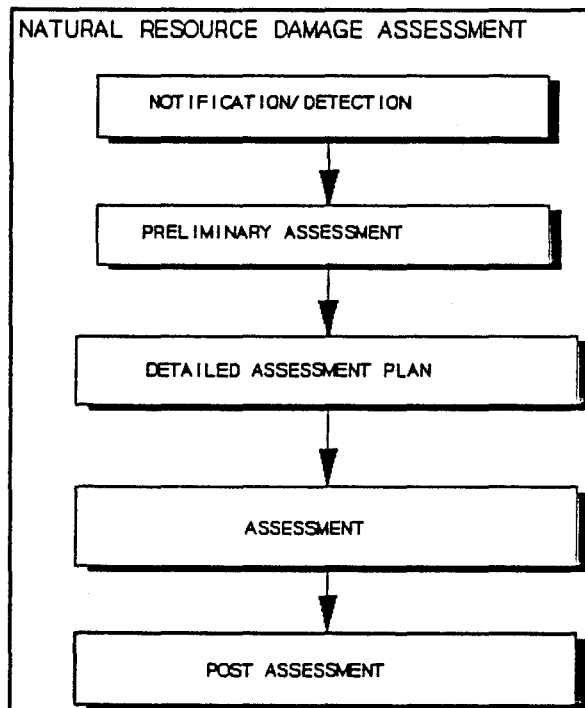
Response Costs. Agency costs, contractor costs, and legal costs incurred while assessing damages (which are the costs in this request) are recoverable under the damage case. Response costs recovered can be returned to the general fund. The probability of recovery of these costs are extremely high but not absolute.

Damages. These funds, by law, are restricted and used only to restore, replace or acquire like resources or resource services. At present, such damages cannot be deposited in the general fund. Examples of uses of these funds in past cases include:

- Buying and operating special resource areas such as wildlife sanctuaries and park areas.
- Buying fishing access in the affected area.
- Developing fish hatchery and stocking programs.
- Habitat enhancement programs.
- Natural resource public education programs.

Because the court ordered damage case will precede the remedy selection process, increased costs for the NRDA will be incurred. Greater technical efforts will be necessary than might otherwise have occurred and the exact level of remedy will not be known when the NRDA is completed.

NATURAL RESOURCE DAMAGE ASSESSMENT



The United States Department of Interior (DOI) was given the responsibility to promulgate rules to implement NRDA cases and establish guidelines for conducting assessments. The State of Montana intends to follow and be at least as comprehensive as the DOI guidelines for the Clark Fork assessment.

The NRDA for the Clark Fork River Basin will be carefully designed to obtain only that exact information required for the damage claim and will avoid unnecessary scientific assessments. To ensure this, the following three phases are to be implemented:

Phase I. Preliminary Assessment and Detailed Research Plan.

This phase reviews case statutes and existing research, develops a case strategy, provides a careful preliminary assessment of potential damage magnitudes, sets priorities for scientific and economic work, and develops a detailed research plan to meet the case strategy and objectives.

Phase II. Detailed Scientific and Economic Investigations.

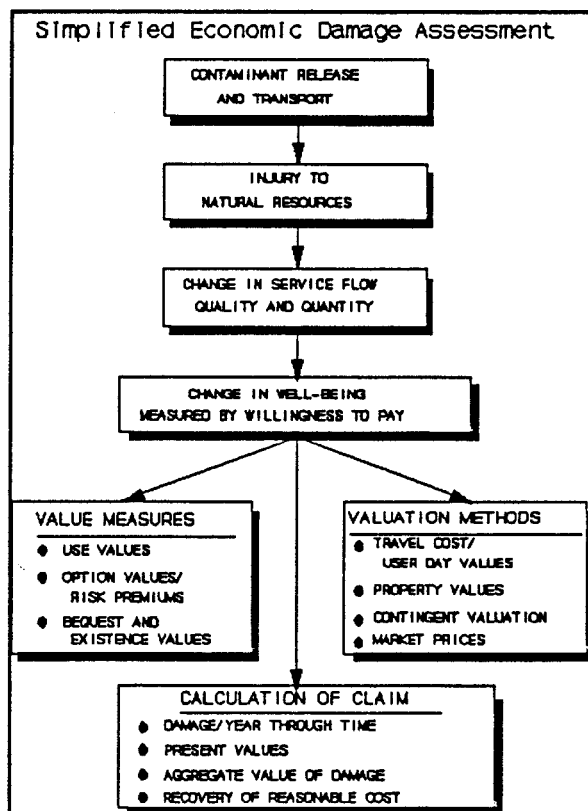
This phase completes the NRDA and has three components:

Management Support. The scientific and economic studies must be fully integrated. This requires a technical contractor working with the state's program coordinator and chief legal counsel.

Physical Injury Assessment Studies. The chemical, temporal, and geographic link between the release of contaminants and the natural resource injury must be determined. This research will be done in a manner useful to economic valuation, and involves surface water, fisheries and aquatic life, wetlands, groundwater, soils, vegetation, and air.

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Economic Valuation Studies. Available and new research will be used to assess the level and quality of use to the resource impacted in the past and future, and assign economic values to behavioral responses. A simplified economic damage assessment is shown below:



Value measures will include **use values**, which are values related to the impact of one's direct use of a resource, and **non-use values**, which includes motives to bequest the resource for use now and in the future, and to protect the existence of the resource in an uncontaminated state.

Phase III. NRDA Support to Litigation.

The NRDA must be conducted in such a manner as to increase the level of scientific defensibility and court acceptance and must be able to withstand intense attack in the courtroom. The NRDA will be coordinated with the litigation process (on-going case strategy; selection and preparation of expert witnesses; depositions; and trial preparation and testimony; etc.).

The Clark Fork NRDA and litigation schedule is shown below. As can be seen, the assessment is designed to conform to the requirements of the court ordered schedule.

NRDA AND LITIGATION SCHEDULE														
	FY 1991		FY 1992				FY 1993				FY 1994			
NRDA SCHEDULE	1/91	4/91	7/91	10/91	1/92	4/92	7/92	10/92	1/93	4/93	7/93	10/93	1/94	4/94
PHASE I														
PRELIMINARY PLAN/DETAILED SCREEN														
PHASE II SCIENTIFIC STUDIES														
Fisheries, Surface Water, Sediments, Wetlands and Regional Modeling														
Soils, Vegetation, Groundwater, Air Quality, etc														
Recreation Studies														
Total Valuation Survey														
Other Economic Analysis														
NRDA Final Report														
PHASE III Litigation Support														
LITIGATION SCHEDULE														
Initial Preparation														
Discovery and Motions														
Pretrial Preparation														

STATE RESOURCE REQUIREMENTS

The State of Montana is responsible for coordinating and managing assessments including the Clark Fork assessment and lawsuit. When considering the budget, three program elements are established in order to complete assessments and successfully proceed with the Clark Fork lawsuit:

Management and Coordination: Management and coordination of natural resource damage assessments which includes completion of the assessment on the Clark Fork River Basin requires coordination with many state and federal agencies, contractors, private industry, and the public. In order to have effective management and coordination, the program staff should include a coordinator, two technical positions (environmental specialist and economist), and an

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administrative assistant. This staff will initially work on the Clark Fork NRDA and lawsuit, but will also be available for NRDA work on other Superfund and contamination sites that potentially have natural resource injury and damages.

State Litigation Team: Litigation for a case of this magnitude requires extensive legal effort by the State of Montana. Identification of expert witnesses through discovery, depositions, case management, and assisting outside counsel in preparation for trial will require a state legal staff of 2 attorneys and 2 para-legals in fiscal year 1992 and 3 attorneys and 2 para-legals in fiscal year 1993 and beyond.

Contracting: Completing the NRDA and pursuing the natural resource damage claim will require contracting with technical and legal professional consultants with expertise in natural resource damage assessments or litigation.

The Clark Fork NRDA will require exhaustive research in the physical science and economic area. The state will not have the manpower or necessary expertise, except in an oversight and management role, to complete these tasks. Outside contracting for this effort is absolutely necessary to ensure the NRDA is completed on-time and is scientifically defensible.

The Clark Fork litigation will also require retained counsel with significant environmental and litigation expertise in this complex litigation process. Particular expertise with reference to CERCLA and the recovery of natural resource damages is needed. The state does not currently have this expertise, and cannot reasonably and expeditiously add such expertise without the guidance of outside contract legal services.

BUDGET REQUEST

The following table summarizes the budget needs for the described effort. The table is broken down into: Contract Scientific and Economic Services, Contract Legal Services, and State Agency Costs. Although broken down by fiscal year, it is important to note identified research categories cannot clearly be defined on a fiscal year basis. Therefore, it is extremely difficult to budget on a fiscal year basis and necessary to seek a biennial appropriation.

Table 1
Summary of Budget Request

	FY 1991	FY 1992	FY 1993	FY 1994
A. CONTRACTOR SCIENTIFIC AND ECONOMIC SERVICES				
<u>Phase I. Preliminary Screen/Detailed Plan</u>				
General Support/Management	\$ 30,000			
Economist	\$ 60,000			
Physical Sciences	\$ 60,000			
Phase I Total	\$ 150,000	\$0	\$0	\$0
<u>Phase II. Quantification of Injury/Damages</u>				
Technical Management/Coordination	\$ 20,000	\$ 110,000	\$ 70,000	
Economics				
- Recreation Studies		\$ 200,000	\$ 100,000	
- Total Valuation Study		\$ 200,000	\$ 100,000	
- Air, Ground Water, Soils, etc		\$ 75,000	\$ 25,000	
- Restoration/Replacement of Services		\$ 75,000	\$ 25,000	
- NRDA Summary Report		\$ 40,000	\$ 60,000	
Physical Sciences				
- Fisheries, Surface Water, Stream Sediments, Aquatic Life, and Wetlands Studies (includes regional modeling)	\$ 150,000	\$ 550,000	\$ 300,000	
- Ground Water Studies		\$ 150,000	\$ 150,000	
- Soils and Vegetation		\$ 150,000	\$ 100,000	
- Air Quality		\$ 100,000	\$ 50,000	
Phase II Total	\$ 170,000	\$1,650,000	\$ 980,000	\$0
<u>Phase III. Litigation Support</u>				
Management		\$ 50,000	\$ 50,000	\$ 50,000
Economics		\$ 50,000	\$ 50,000	\$ 50,000
Physical Sciences		\$ 50,000	\$ 75,000	\$ 75,000
Phase III Total	\$0	\$ 150,000	\$ 175,000	\$ 175,000
TOTAL (Phase I + II + III)	\$320,000*	\$1,800,000	\$1,155,000	\$ 175,000

* \$50,000 obtainable from the \$200,000 existing Fiscal Year 1991 budget

Table 1
(cont.)

EXHIBIT 10
DATE 1-18-91
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Summary of Budget Request

	FY 1991	FY 1992	FY 1993	FY 1994
B. CONTRACT LEGAL SERVICES				
Initial Preparation		\$ 135,000		
Discovery and Motions		\$ 301,500	\$ 603,000	\$50,250
Pretrial Preparation				\$185,625
TOTAL CONTRACT LEGAL SERVICES	\$0	\$ 436,500	\$ 603,000	\$235,875
C. STATE AGENCY COSTS				
Salaries + Benefits + Operating				
Program Staff		\$ 211,524	\$ 195,167	\$195,167
Legal Staff		\$ 193,002	\$ 211,866	\$211,866
Computer Document Management		\$ 100,000	\$ 50,000	
Interagency Support		\$ 15,000	\$ 15,000	
TOTAL STATE AGENCY COSTS	\$0	\$ 519,526	\$ 472,033	\$407,033
TOTAL COSTS ALL CATEGORIES	\$320,000	\$2,756,026	\$2,230,033	\$817,908
EXISTING GOVERNOR'S BUDGET		\$1,000,000	\$1,000,000	
ADDITIONAL BUDGET NEED		\$1,756,026	\$1,230,033	
TOTAL COST - FY 91 + FY 92 + FY 93 + FY 94 = \$6,123,967				
TOTAL NEED FOR FY 92 + FY 93 = <u>\$4,986,059</u>				
ADDITIONAL NEED FOR NATURAL RESOURCE DAMAGE PROGRAM BUDGET = <u>\$2,986,059</u>				

Exhibit #1
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EXHIBIT 11
DATE 1-18-91
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Budget Narrative

The Petroleum Tank Release Compensation Board was created during the 1989 Legislature. At this time the Board is administratively attached to the Department of Health and Environmental Sciences, but will attach to the new Department of Natural Resources and Environment upon reorganization. The Board provides the main financial assurance mechanism for petroleum storage tank owners as required by the Federal EPA. This assurance is to guarantee costs caused by petroleum tank releases for cleanup and third party damages for bodily injury and property damage. The Board's function is to assure that releases from petroleum storage tanks are cleaned up, and public health and the environment is protected.

The types of tanks which are covered by the fund include underground tanks and aboveground tanks of less than 30,000 gallons. This fund covers all commercial petroleum storage tanks, and farm and residential motor fuel tanks in excess of 1,100 gallons.

The Board has its own staff and funds staff within the Department. This is confusing and may be why the Board's budget is considered a part of the Solid and Hazardous Waste Bureau budget. The Board's budget stands on its own, as the Board is required to approve all expenditures and staffing of the Department. The Board presently has approved funding for nine FTE's, six department staff and three Board staff. Due to the infancy of the program the total FTE requirement is not known.

The Board was given statutory authority over the Petroleum Tank Release Cleanup Fund which was created at the same time. The monies for the Fund are from a one cent per gallon gasoline fee of gasoline distributed within the state. There is a move to make the administrative section of the Board's program a temporary appropriation. The Board does not feel that this is wise at this time. Neither the Board nor staff can predict the staffing and administrative needs due to the irregularity of leak discoveries and reporting. No one can predict when a release will occur.

Exh. #9

I do have a handout which will show the unpredictability of the administrative needs. The top page shows the upgrading schedule for underground petroleum storage tanks. Reviewing past claims indicates that typically contamination is discovered when tanks are upgraded or removed and replaced. The administrative needs of the Board are directly effected by tank activity. This is very hard, if not impossible, to determine when the activity will occur. The Board meets at least quarterly and presently is meeting about once a month. This allows the Board greater flexibility in figuring the administrative needs.

The request to change the administrative appropriation comes from the Office of Budget and Program Planning. OBPP states that a bill ^{passed} in the 1989 legislature effects the authority of the Board. I have included a memorandum from Rod Sunsted concerning this issue. He agrees that the administrative needs are not known and suggests authorizing authority to transfer funds as needed, which is in place at this time.

(Exhibit #9)

Also enclosed in the handout is a memorandum from the Board's attorney concerning the same issue. Ms. McCue states that the past legislation has no effect on the Board's statute or authority.

There are members of the Board and the public which would like to address the committee on this concern.

VISITOR'S REGISTER

Human Services

SUBCOMMITTEE

AGENCY(S) _____

DATE 1/18/91

DEPARTMENT _____

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NAME	REPRESENTING DO NOT ABBREVIATE !!	SUP- PORT	OP- POSE
Ray Hoffman	Dept of Health		
Steve Pitcher	" " "		
Judy Hanson	" " "		
Diane Rht	" " "		
Dolly M. Master			
Roger Thorburn Thorvilson	DHES, SHWB		
Janet Jessup	Huntington & Associates		
Tracy Groover	DHES, SHWB		
Paul Schler	EGC		
John C. Geach	DHES - DEPT OF HEALTH		
Dave Depew	MJ PFA		
Jean Riley	Petroleum Tank Release Compensation Board		
Edward Wheatley	" " " " "		
Vic ANDERSEN	DHES		
Dick PEDERSEN	DHES		
Michelle Miller	Poure, Roth & Robinson		

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