

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN BERV KIMBERLEY, on January 31, 1991,
at 8:00 A.M.

ROLL CALL

Members Present:

Rep. Berv Kimberley, Chair (D)
Sen. Esther Bengtson, Vice Chair (D)
Sen. Gerry Devlin (R)
Rep. Ed Grady (R)
Rep. Jerry Nisbet (D)
Sen. Cecil Weeding (D)

Members Excused:

Members Absent:

Staff Present: Roger Lloyd, Associate Fiscal Analyst (LFA)
Terri Perrigo, Associate Fiscal Analyst (LFA)
Carl Schweitzer, Budget Analyst (OBPP)
Theda Rossberg, Secretary

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

Announcements/Discussion: CHAIRMAN, KIMBERLEY stated, we would
continue with Gary Fritz's testimony on the Water Resources
Division.

DEPARTMENT NATURAL RESOURCES AND CONSERVATION WATER RESOURCES DIVISION

Mr. Fritz stated, there were a few more issues on dam safety he
would like to discuss with the committee.

There is a dam by Clinton owned by a Mr. Wallace which was
inspected by the Corps of Engineers and classified as high
hazard. They estimated what the maximum flood would be and that
he would have to enlarge his spillway. Our study was ten times
smaller than estimated by the Corps of Engineers. We cut the
amount he had to enlarge the spillway by 1/20th. Mr. Wallace had
the equipment to enlarge the spillway. However, he was repairing
his roof and fell through and was in the hospital for some time.

Three of his neighbors came over with cats and other equipment and in a short time enlarged the spillway so it would meet with state law.

SEN. DEVLIN asked, did his dam come off the high hazard list then?

Mr. Fritz replied, because the dam is over 50 acre feet it is still regulated by the Dam Safety Act and has to be inspected every 5 years.

SEN. DEVLIN asked, have any dams been taken off the high hazard category?

Mr. Fritz replied, not that I'm aware of. We had some disputes with dam owners as to whether or not their dams were high hazard. In some cases we discovered the dam owner was correct and delisted them as high hazard.

SEN. WEEDING stated, I recall when the Dam Safety Act first came into being their specifications required that the Tongue River Dam needed a greater capacity spillway than anything on the Missouri or Mississippi because of the flood potential. Using their criteria, we would have to mow down the hills out there to make room for the flow.

Mr. Fritz stated, when the Corps of Engineers first started they came up with huge probable floods. That is still the perception out there. Since we now have the State Dam Safety law we don't have to go with the Corps of Engineers estimates.

WATER RIGHTS BUREAU: EXHIBIT 1.

Mr. Fritz reviewed this bureau with the committee. He stated, there are 46 FTE in the program. This program was established in 1973 with the passage of the Water Use Act. This act was to establish the process for securing water rights permits in the state. You have to get a water rights permit from the DNRC. The Constitution mandated we had to keep a centralized record keeping system. The State of Wyoming has had this type of a process before 1900. The other Western States have had a water rights program for many years. Montana is one of the last in the west to institute a water law program as we have now.

The department is supposed to issue the new water rights permits unless the existing water rights adversely affect someone already using the water. In 1989 we approved 486 permits for new water users and in 1990 about 380. The people who object to these new water user applications have increased over the years. When people object we go to a hearing. If they don't agree with our decision they can appeal to the district court. We held 46 hearings in 1990 and issued about 2,000 certificates for water users of less than 100 gallons per minute. We also process change applications for different system changes in their water use because these changes could affect someone's water rights.

Some of the problems revolve around the fact that the finalized water development project doesn't always correspond to the permit that was issued. We have to verify that they followed their permit. We do about 300 verifications each year and we have a back-log of about 7,500 we have not completed yet. Since 1973 we have issued about 9,500 permits.

The biggest complaint from water users is, DNRC continues to issue permits when there isn't any water in the stream. We issue permits and walk away and never check to see if they comply. Water users can petition us to close water basins so we don't issue any more permits for water rights.

SEN. BENGTSON asked, what sort of a process do you go through to close a water basin?

Mr. Fritz stated, it can become fairly involved. When a petition comes in we work very closely with the petitioner to make sure the petition is adequate. These closures take the form of a rule and we try to come up with a rule through a hearing. Some of these closures are closed to a certain usage of the water. Also, if there are water shortages we can close it a certain time of the year. This process takes over a year and some people get discouraged because our process is too long. We are trying to shorten that time period. The biggest petition we have at present is the Musselshell. We are within a couple of months of resolving this. We should close the Musselshell during irrigation.

SEN. DEVLIN asked, are these other water users or the general public? Mr. Fritz replied, they have to be water users.

Mr. Fritz said, they have been putting a ground water study proposal together for some time to establish a state-wide monitoring program.

REP. GRADY asked, is this for drilling wells or for surface water also? Mr. Fritz answered, it would be for both. It would establish a moratorium on ground water use greater than 100 gallons a minute and all surface water use, except for domestic, municipal, stock and industrial uses. Basically it would prevent large irrigation projects.

REP. GRADY asked, what affect does this have on the proposed wildlife bill?

Mr. Fritz stated, HB212 would allow a private individual to get a water right permit for in-stream purposes and the study would prevent that. It would also allow an existing user to sell their rights as that would only be a change.

SEN. BENGTSON asked, is HB212 contingent upon completion of that study? Is there an appropriation to continue that study?

Mr. Fritz said, the moratorium on the Beaverhead River has been

in place for 5 years. That is the projected time that ground water evaluation would take. The department is asking for \$100,000 which would be matched with money from the Bureau of Reclamation, Montana Power and local water users money.

The study that was done of the water right adjudication process by a Denver Law firm a few years ago said our records were the best they had seen in the western United States. We have had over 1500 request for water rights information. We have all the water rights information computerized available to the public.

Water Rights Adjudication: EXHIBIT 1.

Mr. Fritz gave a brief history of this program. In 1979 the legislature established the Water Rights Adjudication program which requires everyone in the state with a water right that was effective prior to 1973 to file a claim with the department. This had to be done by April of 1982. We received over 200,000 claims because of that process. After about 3 years we began to run into problems. The Department of Fish, Wildlife and Parks challenged the water courts handling of the adjudication program and submitted to the Supreme Court a written supervisory control which means they challenged the way the program was handled.

In 1987 after this controversy had been waging back and forth between FWP, Indian Tribes, water court, federal government and DNRC, the Natural Resources Appropriations Subcommittee cut our budget by a half million dollars per year. They thought it was a waste of money because of all the problems we were having. At that time our budget was about 1.2 million dollars so that was a substantial cut. The Supreme Court said they were going to settle this and were going to adopt claim examination rules which they did in July of 1987. In 1989 the legislature put \$150,000 back in our budget. The program is running very well now and we have put together an information manual which is very helpful.

SEN. BENGTON stated, this is a judicial system and the courts will decide not DNRC.

Mr. Fritz said, DNRC has never asserted jurisdiction for water rights decisions.

SEN. BENGTON said, it is unfortunate we are going to be faced with controversy of water rights with HB212 because we have already settled so many issues in a professional way. I feel we can settle this in-stream flow without legislation.

SEN. DEVLIN said, he recalled when the consultant from Colorado came up and took a look at our program and he thought our program was proceeding at a very good pace. I asked him how long this was going to take. He said, Colorado had been at it for a hundred years.

Mr. Fritz said, Judge Lester served 11 years as the chief water judge and we worked well together. Judge Loble was appointed as

the chief water Judge in 1990.

When we have claims to examine we never go out in the fields, we look at aerial photos and point out question to the water court. The water court issues a temporary decree. Objections can be filed by the preliminary decree and the final decree has to be settled by the water court.

Mr. Fritz reviewed a map with the committee. There over 200,000 claims in the state and of them 15,000 are in the final decree in 6 basins. He pointed out the areas that we in the final stage and the areas still pending. There are 102,000 claims we have not examined as yet. Judge Leslie agreed with the federal government and the Indian tribes that the water courts would not adjudicate claims that included the reservations. Judge Loble has recently written the tribes to see if they would object to us examining claims on the reservation that have nothing to do with Indian water rights. Therefore, we may be moving into basins that include the reservations in the future.

SEN. BENGTON said, the reason we have to be careful about the reservations is because of a letter from the Department of Interior in Washington D.C., which warns Montana, if we adjudicate the basins within federal and Indian lands we would be guilty of making temporary decrees on private water rights. They said we were not taking into consideration the unsettled water right claims with the Indians and the federal government.

SEN. DEVLIN asked, would you explain, when you have a compact signed how does that affect going in and finishing that basin?

Mr. Fritz replied, now that there is a compact on the Fort Peck Indian reservation we are examining claims in that basin. The decree will go to a preliminary decree. The compact becomes a part of the preliminary decree. The rights of other water users can object to this compact and the adjudication process. If the water court would change that compact in some way and it was no longer in force, we would have to renegotiate the water rights. Everyone is expecting that the water court will not change the compact. The legislature said, these are the water rights of the Indian tribes so I don't anticipate the water courts will change that.

SEN. BENGTON asked, when are all these water right issues going to be over? I guess the decree or the preliminary decree is better than nothing.

SEN. WEEDING asked, is this the work that went on since 1982? Are older adjudications still being honored?

Mr. Fritz answered, that is correct. There are a number of decrees that were put in under the old system handled by the district courts. There are a lot of complaints as they had to re-file their water rights and go through this process. The

water court adopts what was previously done.

We anticipate it will take 11.8 years to finish examining these claims and another year to print all the decrees. Therefore, in 12 years we will be finished examining claims. Then, we will have to go through the temporary decree stage which has to be settled. Then the preliminary decree stage, followed by the final decree, then to the supreme court before you have a final decree. We examine the claims at about 1.82 per person per day. In the Milk River basin we examine about 3 per day as they are mostly stock. We have 20 people working on claim examinations.

We have 3,217 late claims, and most of them have been abandoned. There are people depending upon those water rights for their ranches and farms. These are people who have missed the deadline and have had their water rights abandoned by law.

SEN. WEEDING stated, they had all kinds of opportunities to file those claims. They had extensions and if my livelihood depended on water, I surely would have filed a claim.

REP. GRADY stated, there was some misinterpretation then that you really didn't have to file an adjudicated water right. I believe there are some law suits involving this.

Mr. Fritz said, there was some confusion but we did our best to let everyone know they had to refile. We are still receiving late claims today.

SEN. WEEDING asked, are these treated as a new claim now?

Mr. Fritz said, we are instructed by the court to treat them as any other claim. When they publish these temporary and preliminary decrees they will be marked as being late claims so people can object to them. In some cases if you had a very good excuse you may be able to file.

Engineering Bureau: EXHIBIT 1

Mr. Fritz gave an over of this bureau. We have about 20 FTE who have the responsibility of the flood plain program as well as administering state-owned water projects.

SEN. BENGTON asked, when you identify the flood plain does the local government take your word for it?

Mr. Fritz said, people always challenge the flood plain procedure. We put together a preliminary flood designation or map. We hold hearings on those proposals in the local area and people come to voice their opinion. Finally the Board of Natural Resources has to designate those flood plains. They also have to adopt the rules the local government has proposed. After that, local government of counties and cities regulate the flood plain. Counties have a flood plain administrator who regulates the flood plain. People can still petition the bureau to take their land

out of the flood plain which has to go before the board. The flood plain is designated by elevation which makes it easier than by area.

Administration of State Owned Water Projects:

Mr. Fritz reviewed this project with the committee. In the early 30's Governor Cooney and President Roosevelt put together a state water development project. WPA and PWA were created to build water projects throughout the state. The reason was for economical development trying to mitigate the effects of the drought at that time. Therefore a special legislative session was held and Montana became the only state which took advantage of this and actually built state-owned water projects. That is why the state owns the Tongue River Dam, Battle Creek, etc. All but 52 of those have gone back to the owners. Therefore, DNRC has ownership of 52 projects that irrigates 12% of the land or 400,000 acres. We have 34 active projects and 18 inactive projects. Of the 52, 14 have canals only, 20 are reservoirs, 16 have canals and reservoirs and 2 don't have anything. The city of Highwood has wells which were developed by the state. The state used to operate these projects but, they now have water users associations. We continue to collect payments from these projects because when these were built they signed contracts with the state. We provide technical assistance to the water users if a canal has washed out or a canal need rebuilding, etc.

SEN. WEEDING asked, does the state plan on eliminating any more reservoirs?

Mr. Fritz replied, we don't feel we should abandon reservoirs where there is a potential for public liability.

Mr. Fritz showed pictures of some of the different state-owned reservoirs and canals and some of the work they do. He reviewed the Tongue River Dam which is the most high hazard and some of the problems that have to be corrected. We spent about \$9,000 to correct a cavitation problem which causes erosion of some of the concrete. This erosion was about 3 inches deep so they used marine epoxy with concrete over the top of that which works better than anything they tried before. We used our own engineers to correct this problem which would have cost a lot more to hire contractors.

SEN. BENGTSON asked, do you do most of your own work or do you contract it out?

Mr. Fritz answered, We contract out most of the work.

He stated, when they did the Tongue River repairs they had the river shut off for 2 days. We did these repairs in the fall when the water level was low.

Rehabilitation of State Owned Projects:

Mr. Fritz reviewed some of the projects which have high hazard

and some of the work that remains to be done. Ms. Barclay asked us to put together a plan for the remaining high hazard dams. She wanted a 6 year plan as to how we would handle rehabilitation, which we have done. This plan is about 40 pages long and I will provide a copy to the committee if they so desire.

He stated the high hazard priorities are: Tongue River, Middle Creek, North Fork of the Smith, Painted Rock, Ruby Dam, Nevada Creek, Gold Creek, Dead Mans Basin and Glacier Lake.

First of all we try to do emergency repairs before it gets worse. On other projects, we don't completely rehabilitate them but we do as many repairs as our funds allow. We did a lot of work on Painted Rock due to cavitation erosion. Middle Creek is under rehabilitation now. The contract has been let and we are proceeding ahead with repairs. We hope to do the Tongue River Dam also.

Mr. Fritz showed pictures of the Tongue River Dam and the potential flood if the dam should fail. Because of the energy of the flow in the spillway it was eating away the wing-walls on each side. The wall is 30 feet high and if it keeps eroding away it will take out the spillway and the dam will fail. When the dam was built they didn't use modeling testing at that time.

SEN. BENGTSON asked, was this the same construction of the dam that failed in Idaho?

Mr. Fritz answered, the dam in Idaho was designed properly, but the reason it failed was due to piping around the abutment of the dam which took out the earth-fill and caused a void. They apparently didn't properly seal the materials the dam was built on.

He stated, after the flood of the Tongue River in the 70's the major damage around the wing walls and the damage to the concrete of the spillway, we received a million dollars of emergency federal funds to patch it up. The dam itself is okay, it is just the spillway which needs repairing. This is our number one priority as it would take only a small flood to cause extensive damage to property and possibility of loss of life which we could be liable for.

Broadwater Power Project:

This is the only state-owned hydropower project located at Townsend, Montana. We built this project because we needed to generate revenues. The committee will be taking a tour of this project on Saturday morning.

In 1978 the board approved a conceptual plan for the hydropower project with the understanding DNRC would use the revenue to help fix the hazardous dam problems. A bill was submitted to the Legislature in 1979 allowing the state to enter the hydropower

business. That bill was defeated due to the legislators from the Dillon area. In 1981 Senator Turnage carried a bill to the legislature to create a hydropower facility to create revenue for the department. There was a lot of opposition as people didn't think the state belonged in that business.

We secured a FERC license for the development of that project. In 1987 the legislature approved the construction of the project with the authorization of coal severance tax bonds. The project is 10 mega-watts in size and generates 61 million kilowatt hours each year. Coal severance tax bonds of 22.2 million dollars were sold and 3.8 million dollars in taxable bonds were sold for a total of 26 million dollars. A little over 2 million dollars is in the debt service reserve account.

Mr. Fritz showed a chart of how the revenue flows from the project. The project is not completely finished so we have not closed out the construction contract. The power is sold to the Montana Power Company. They pay us \$24,000 per month which goes into the operation and maintenance account. We put \$7,000 per month into the equipment account. From here the money flows into the bond account which we use to pay our debt service. The excess money goes into the water development special revenue account to be used for rehabilitation of state-owned water projects. The first \$400,000 per year flows into this account and when the excess revenues are greater than \$400,000, 25% flows into the water users account until it reaches \$1,000,000. The water users association can use the interest from that account for irrigation projects which is a part of the Broadwater project. The Broadwater project originally was for irrigation for land between Townsend and the Helena basin.

SEN. BENGTSON asked, what obligation do you have to those irrigation water users?

Mr. Fritz replied, these water users have been operating and making repairs for irrigation for over 50 years. These people think they own this project, but they don't. The ownership belongs to the state through the DNRC. They felt they were the ones who kept this project in place for many years so we felt they should be a part of the hydropower project. After negotiations with the water users we agreed they should get a percentage to be used only for irrigation purposes.

SEN. WEEDING asked, were the water users self-supporting prior to this project?

Mr. Fritz said, they were self-supporting. This was one project that paid more to the state than was expended.

Ms. Barclay stated, these water users were in a position to oppose this project and since they have been taking care of the irrigation project over the years, we felt they were entitled to some compensation and is the reason we established the trust

fund.

Mr. Fritz said, we estimate the net rate of return of revenue to the state will be between 10-16 million dollars. Which will take care of a large portion of the high hazard water projects.

Mr. Schweitzer stated, the accountant for the project called him and said she had deposited \$200,000 into the water development account from this revenue, so we are already seeing some returns from this project.

Mr. Wetzel stated, this 10-16 million dollars of revenue over the next several years would be over and above the cost to operate and pay off the bond.

Water Management Bureau: EXHIBIT 2.

Mr. Fritz reviewed the bureau with the committee. He stated, they have 18.5 FTE in this bureau one of which is the program manager for the Board of Water Well Contractors. There are four issues currently in the water plan cycle: drought management, storage policy, storage financing and storage regulation.

This bureau provides staff support for the Missouri River Basin litigation with the Corps of Engineers. In Alberta, they are developing storage on the Milk River and there is a possibility we could lease storage from them. This bureau also provide the staff for the Saskatchewan project in the Battle Creek project. The bureau provides the staff support to the Disaster Advisory Council.

He stated, he would like to explain the background of the Pick Sloan Line which was perfected in South Dakota. In 1944 the Flood Control Act created the basis for all these Missouri River Dams. Part of the plan was to develop major irrigation in Montana, North Dakota and South Dakota. The dams have been developed and water supplies are available for navigation down stream, so most of the water goes downstream out of these states and few irrigation projects have been developed. Therefore, we feel that Montana has been shortchanged. South Dakota has been leading the effort to try and get some benefits out of the Pick Sloan program. They spent about one half million dollars putting together the Pick Sloan initiative. We created a Pick Sloan Committee to present to the legislature so we can come up with a tool to receive some of the benefits of the Pick Sloan Program. We are hoping to have the endorsement of the legislature for this program.

SEN. BENGTON said, last session there was a resolution passed to do an economic analysis to find out what the dollar amount was that we were cheated out of. That report would be useful for testimony if someone had to go for a congressional appropriation.

Mr. Fritz stated, the Water Reservation Process is also handled by this bureau. This is to allow public entities to reserve

water for future irrigation and municipal purposes and allow state and federal agencies to allow for rights of in-stream purposes. There is going to be legislation to address how the bureau administers water reservations.

The Board of Water Well Contractors will be given other duties in 1985 other than just licensing water well drillers. They had to make sure water wells were properly drilled, monitor construction and monitor the well itself. This board is attached to the department for administrator purposes only.

SEN. BENGTSON asked, how are they going to interface with the ground water assessment?

Mr. Fritz stated, they are not involved directly but are involved indirectly. They are required to maintain a log of every well that is drilled. These logs go to DNRC for ground water certificates or notice of completion of ground water use. We then transmit a copy to the Bureau of Mines and Geology.

This is a 5 member board, 2 appointed by the Governor, a member of our department, Department of Health and Bureau of Mines and Geology.

SEN. WEEDING asked, what is your source of funding?

Mr. Fritz replied, water well drillers are assessed fees for their license which fund this program.

EXHIBIT 3 - Budget.

Ms. Perrigo reviewed the budget with the committee. She stated, there is less than \$100 difference between the Executive and the LFA budget. Item D. Program Issues identify the programs which make up that difference.

Item D.1, LFA didn't include \$20,000 for Missouri River Basin Association dues because they were inactive that year.

Item D.2, \$1,800 was omitted from the LFA budget for Board of Water Well Contractors members.

Item D.3, \$96,905 was not included in the LFA budget for Broadwater Dam operations/maintenance. \$25,000 per month goes into that account but in FY90 the amount was not all spent because the dam was still under construction.

Item D.4, \$32,246 was not included in the LFA budget for equipment. Some of the equipment is related to the Broadwater Dam.

Item D.5, The LFA included \$44,000 more than the Executive for overtime. This was need to pay for some of the work on the Broadwater Dam which is no longer needed.

Item D.6, \$64,000 not included in the LFA budget for transfer of funds.

Item D.7, \$3,400 is included in the LFA budget for debt service for dept. DEC system.

Language Issues:

Item 1 - Appropriation of up to \$1,000,000 into the Broadwater Water Users Association in case the hydropower project were sold.

Item 2 - Biennial Appropriation for \$336,000 from the Broadwater Replacement and Renewal account for repair and replacement of equipment for the dams. This should be line a item so they cannot be spent for any other purposes.

Item 3 - If there is a request to do a development analysis, the hydro developer must pay the cost. The department needs authority to spend these funds.

Item 4 - The department needs authority to spend bond forfeitures from water well licenses.

The Legislative Council would like to have a dollar amount assigned to these appropriations and insert them in the budget in a line item.

On Item 4, they may be able to come up with a figure on bond forfeitures, but it would be difficult to set an amount on Item 3.

Taryn Purdy, LFA stated, that it is the legislatures feeling that language would not be appropriate.

Ms. Perrigo stated, only Items 3 & 4 would be line items rather than language.

SEN. WEEDING asked, are these fees under Item 3, filing fees?

Mr. Fritz replied, the hydropower statute allows for private parties to lease our facilities. The question is, what should the private party be charged? It would cost us money to make an assessment as to what the cost would be. The statute requires that they pay our cost of that assessment. Therefore, we need some kind of mechanism to authorize authority to spend these monies.

REP. BARDANOUVE asked, is there a plan to sell the Broadwater Hydropower plant?

Ms. Perrigo replied, there is not at this point any plan to sell this project. However, if the project would be sold the department has an agreement with the Broadwater Water Users Association and the irrigators to have a million dollars in a trust for them which they can use the interest to make repairs to

their irrigation projects. They need the ability to put this million dollars into a trust account if the project were to be sold.

Ms. Barclay clarified, they did not have any plans to sell the Broadwater Hydro Project. However, we have had some requests from companies presented to the Board of Natural Resources who indicated they may be interested in purchasing the Broadwater. We have sent them information and that is as far as it has gone. The board feels they should evaluate an offer if it sounds reasonable.

REP. BARDANOUVE asked, can the department sell a project of that magnitude?

Ms. Barclay stated, the department cannot. It requires approval of the board, the local water users and approval of FERC. I don't believe we need legislative approval.

REP. BARDANOUVE said, are you saying you don't need legislative approval? Ms. Barclay replied, that is my understanding.

SEN. WEEDING asked, who are these potential buyers?

Ms. Barclay said, the most recent one is a firm from Maryland called Cinogists. They have a number of facilities like this throughout the country. We had an inquiry from a Montana firm and a Minnesota firm called IHD.

REP. BARDANOUVE asked, what would you do with the money if you sell it.

Ms. Barclay replied, the first thing would be to pay off the bonds and then the million dollar responsibility. Any additional revenue would be for rehabilitation of state-owned water projects which was the original intent of the project. If we ever had a buyer we would have to get competitive bids.

REP. BARDANOUVE said, the legislature authorized this project and once we authorized it you are saying you can sell it without the legislature's approval.

Mr. Fritz stated, this is a state-owned water project which is governed by the statutes and can be disposed of with the approval of the board. The legislature is not a part of that process.

Ms. Barclay said, the Ambassadors which was established 5 or 6 years ago evaluated privatizing potential in each department. Their recommendation was, if we privatized anything in the department we should concentrate on the canal projects. They had no plan as far as privatizing the Broadwater. However, if we were offered an enormous amount of money for the Broadwater, we should consider looking into it.

Mr. Wetzel stated, both the Constitution and law dictate that we receive fair market value. We have done some calculations on the Broadwater and it is worth about \$49,000,000 to the state. So if we had any realistic offer we would consider it. The money would still go to rehabilitation of state water projects regardless of how it was received.

REP. BARDANOUVE asked, what was the principal and are you receiving any revenue now? Mr. Wetzel explained \$26,000,000 in bonds was the principal. In the first 18 months of operation we deposited \$200,000 in the water development and \$57,000 last January for a total of \$257,000 over and above expenses. We are making money even though it has been a low water year.

Ms. Barclay stated, we sold 26 million dollars in bonds but 2 million was not invested in construction but went into a debt services account.

SEN. WEEDING asked, is that the Maryland firm who showed some interest about ten years ago?

Mr. Fritz said, this is a different firm, but one of the people in the current firm was with the other firm back then.

SEN. WEEDING asked, why would they want to own a project in Montana?

Mr. Fritz said, because they thought they could make money on this project.

Ms. Perrigo continued with the budget issues:

Additional Issues - Item 1. these are pay exceptions which have already been approved so neither the LFA or the Executive approve \$202,023 for the biennium

Item 2. Neither the LFA or the Executive include the pay exceptions of \$35,572 for the biennium.

Budget Modifications: Ms. Perrigo explained, all of the modifications are biennial appropriations except Missouri River Reservation FTE and the Poplar River Monitoring request.

Mr. Schweitzer said, in regard to the State Owned Water Projects modification, there is an additional 200,000 which could be put into this account.

Mr. Fritz reviewed the budget.

Program Issues - \$10,000 for the Missouri Basin Association dues. This association is composed of 10 Missouri basin states. We have been working with them on litigation with the Corps of Engineers. The dues have been reduced from \$15,000 to \$10,000 and we feel it is very important to be involved with these states.

SEN. DEVLIN asked, is there any special revenue for these funds? What is the mix of funds?

Robin Harper, DNRC replied, about 50% Reclamation and Development funds, Water Development funds and 15% General Fund. This is the funding scheme we are using under the LFA proposal.

Ms. Perrigo said, any funding mix that affects RIT is still not solved. The LFA used a higher level of funds than the Executive.

SEN. BENGTON stated, she had attended some of these association meetings and felt this was important to belong. The tribes come to these meetings along with some top notch people that are involved in this. It provides more input and understanding between the upper and the lower basins. I feel Montana should take an active part in these discussions.

SEN. WEEDING said, this doesn't seem like enough money to pay for an Executive Director and also pay for legal council. Are the legal fees coming from another source?

Ms. Barclay said, this \$10,000 will not cover both. North Dakota, South Dakota and Montana are involved in litigation. We are also challenging some of the other states against the Corps. When they eliminated their staff a few years ago, they had about \$100,000 balance. Also, the tribes will be paying the same amount of dues. About 60% of the dues go to fund the staff.

Compensation of Board of Water Well Contractors members - **Mr. Fritz** stated, we do have to pay these members and it amounts to about \$900 each year of the biennium.

Broadwater equipment and maintenance - We fund this from revenues received from the Broadwater project. It was not in full operation in FY90 which the LFA used as a base. We need these funds for equipment and maintenance now that it is in full operation.

Some of the equipment budget is not Broadwater related. Of the \$14,123 about \$8,917 is for the Broadwater. \$5,000 is in the water right adjudication program for two microfiche, and \$200 in the Board of Water Well contractors. The \$200 will be used to buy a filing cabinet. The \$5,000 is general fund and the \$200 is special revenue.

SEN. DEVLIN asked, are these special revenues RIT with the exception of the water well fund?

Mr. Schweitzer said, there is some water rights funds and the difference is the RIT. We will make a recommendation after the meeting tomorrow with Long Range Planning.

Equipment - **Mr. Fritz** said, \$200 of the equipment was for a camera for the office person to take pictures to show the Board

of Water Well Contractors what is happening when we get complaints.

In regard to the microfiche machine, the recommended life of this machine is 50,000 copies. One is 19 years old without a counter, but it would be well over 50,000. One which is only a few years old has 104,000 copies. We have another machine which is 21 years old with 62,000 copies. The public uses these machines to get copies of their water rights records.

SEN. BENGTON asked, is there a state swap or surplus where you can swap equipment?

Mr. Fritz replied the Department of Administration has a surplus property program. By law, every agency has to submit their surplus property to a surplus property program. If it isn't any good, they issue a destroy order on it.

REP. GRADY stated, in all these equipment budgets, I am sure a lot of it is bought used.

Overtime - Mr. Fritz stated, we feel this item can be deleted from the budget. We may spend some money on overtime for the Broadwater and if so, we will have to take it out of the normal operating budget.

Fund Transfers - He stated this a funding switch and is not needed in the budget.

Debt Services - Mr. Schweitzer said, this is a proposed reorganization of the Engineering Bureau going to State Lands. When the Engineering Bureau was in DNRC they needed this \$1,700 to pay for their portion of the computer costs. When they moved to State Lands we took this out of the budget. Therefore, I would suggest taking the LFA until reorganization has been decided.

Language Issues - Mr. Fritz stated on Item 4, the Board of Water Well Contractors had some forfeitures of bonds of \$4,000 each in FY90. This would allow them to spend those funds.

Mr. Schweitzer stated, on Item 1 and 2 language could be put in or line-item for up to \$1,000,000 in the Broadwater Water Users' Association. Also, do the same with \$336,000 to repair and replace equipment.

On Item 3, we could either give them spending authority up to so much or give them a budget amendment for fees from Development Analysis.

Mr. Fritz stated, probably \$20,000 would be enough for Item 3 and \$50,000 for bond forfeitures, Item 4.

HOUSE NATURAL RESOURCES SUBCOMMITTEE

January 31, 1991

Page 17 of 17

Additional Issues - Item F-1 F-2, pay exceptions. Mr. Fritz stated, this was already covered in discussion.

ADJOURNMENT

Adjournment: 12:05 P.M.



REP. BERV KIMBERLEY, Chair



THEDA ROSSBERG, Secretary

BK/tr

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES SUBCOMMITTEE

ROLL CALL

DATE 1-31-91

NAME	PRESENT	ABSENT	EXCUSED
SEN. ESTHER BENGTON, VICE-CHAIR	✓		
REP. ED GRADY	✓		
REP. JERRY NISBET	✓		
SEN. GERRY DEVLIN	✓		
SEN. CECIL WEEDING	✓		
REP. "BERV" KIMBERLY, CHAIRMAN	✓		

WATER RIGHTS/FLOODPLAIN MANAGEMENT

	Fiscal 1990 Actual	Fiscal 1991 Appropriated	Base	Fiscal 1992 Incr/Decr	Recommended	Base	Fiscal 1993 Incr/Decr	Recommended
Full Time Equivalent Employees	74.20	74.50	74.20	2.00	76.20	74.20	2.00	76.20
Personal Services	1,845,055.54	1,976,200	2,026,247	79,077	2,105,324	2,023,141	79,083	2,102,224
Operating Expenses	412,311.93	395,059	386,350	29,726	416,076	382,283	28,870	411,153
Equipment	32,066.03	22,358	22,358	0	22,358	22,358	0	22,358
Debt Service	4,645.00	5,957	5,957	0	5,957	5,957	0	5,957
Total Agency Costs	\$2,294,078.50	\$2,399,574	\$2,440,912	\$108,803	\$2,549,715	\$2,433,739	\$107,953	\$2,541,692
General Fund	2,078,913.52	2,320,205	2,360,933	-16,727	2,344,206	2,353,828	-17,609	2,336,219
State Special Revenue Fund	215,164.98	79,369	79,979	73,238	153,217	79,911	73,270	153,181
Federal Special Revenue Fund	0.00	0	0	52,292	52,292	0	52,292	52,292
Total Funding Costs	\$2,294,078.50	\$2,399,574	\$2,440,912	\$108,803	\$2,549,715	\$2,433,739	\$107,953	\$2,541,692

Goals

- o To incorporate an initial response and follow-up program for complaints regarding alleged water use violations and reduce the number and seriousness of complaints.
- o To eliminate the backlog of currently pending contested-case hearings.
- o To improve the computer systems used to process and retrieve information from the central files.
- o To concentrate adjudication support work in priority basins.
- o To strive to enforce preliminary and temporary preliminary decrees and permits to enhance local water use management.
- o To reduce processing time for all permit and water use authorization applications.
- o To minimize losses from flooding in Montana by guiding floodplain development.

o To balance the public's desire to develop and occupy floodplains with nature's need to discharge floodwaters.

Authorization

Article IX, Section 3(4).

Provide administration, control, and regulation Montana Constitution of Montana's water rights.

85-2-101 - 85-2-141, MCA

Make water resources available for appropriation. Establish and maintain a centralized water rights record system. Prescribe administrative procedures, forms, and requirements. Adopt rules to close highly appropriated basins and permits. Prevent unnecessary waste and unlawful use of water.

85-2-218 - 85-2-243, MCA

Recommend basin priorities for adjudication. Receive and catalog filings of claims of existing water rights. Object to temporary preliminary or preliminary decrees. Issue certificates when decrees are finalized. Provide adjudication information and assistance to water judges.

DATE 1-31-91
BY your good friend

5-2-302 - 85-2-323, MCA
process applications for water right permits. Prepare and publish notices of water right applications and handle objections. Specify terms of water right permits and revoke or modify them if necessary. Assist the Board of Natural Resources and Environment with ongoing water reservation administration. Adopt administrative rules to reject, modify, or condition permits in highly appropriated basins. Administer basin permit suspensions and closures.

5-2-401 - 85-2-426, MCA
assign priority dates on water rights. Grant or deny proposed changes. Administer water right abandonment procedures. Handle water right transfers.

5-2-505 - 85-2-518, MCA
prevent groundwater waste and contamination. Manage controlled groundwater areas and groundwater rights.

5-5-101 - 76-5-406, MCA
establishes a program for identifying lands unsuitable for development because of flood hazards; authorizes establishment of administrative rules.

4 CFR, Parts 59-77
establishes National Flood Insurance Program that makes flood insurance available for sale in communities that enforce floodplain regulations; establishes minimum floodplain development standards; and authorizes financial assistance to state's Community Assistance program for providing technical and administrative assistance to communities on enforcing flood loss reduction standards.

ase Program

The Water Rights Bureau consists of nine field offices and a central Helena office. The field office staff is responsible for administering division programs in addition to water right duties in their local areas. The Bureau's three major functions include new water rights administration, adjudication, and centralized record-keeping.

The purpose of the new water rights administration program is to process and protect Montana water rights applied for after July 1, 1973. This involves handling applications, publishing public notices, resolving objections, and processing notices of completion. It also includes responding to petitions for drainage basin closure, evaluating petitions requesting designation of controlled groundwater areas, assessing extension-of-time requests for water right permits or change developments, and processing interim permit applications for testing purposes.

The centralized record-keeping activity involves keeping computerized records for about 213,000 water rights established prior to July 1, 1973, and for more than 75,000 permits, certificates, and changes issued since July 1, 1973. Microfilm records are also made of each file. Approximately 10,000 ownership changes occur each year, and the department responds to more than 10,000 inquiries per year pertaining to water right records. In addition, state law requires the department to provide quarterly and annual water right record reports to clerk and recorder offices in every county.

The adjudication support program is aimed at confirming and protecting water rights established before July 1, 1973. This mainly involves providing information and assistance to the water courts for use in decree preparation to determine the legal status of water rights. Information that is reviewed concerning claims includes location and amount of irrigated acreage, means and location of diversion, flow rate, volume priority date source, and period of use. The water court uses this department-supplied information to issue preliminary decrees. The decrees often have objections and require further information from the department. This information may involve field investigations, records research, interviews, and report writing.

The Floodplain Management Section assembles and reviews floodplain information to ensure that it meets appropriate standards, presents the mapping to the Board of Natural Resources and Environment, and makes a recommendation to designate floodplains. Generally, two to four designations occur per year. Following the

designation, the affected local government must adopt appropriate floodplain regulations. The section provides assistance to local officials in adopting and implementing ordinances. Under the Federal Community Assistance Program, the section monitors local assistance and provides administrative and technical assistance to local governments. The Floodplain Management Section also disseminates vital information to enforcement officials about the National Flood Insurance Program and other floodplain management-related matters.

Base Funding

The Water Rights Bureau has traditionally received the major portion of its funding from the general fund. It does, however, derive a small amount of funding from the Water Rights State Special Revenue Fund (02430), which realizes revenues of about \$70,000 per year from water right fees collected. The same arrangement is proposed for fiscal years 1992 and 1993.

The Floodplain Management program operates with both state special revenue funds and federal funds.

Performance Indicators

Permits Issued
Permits Verified
Changes Issued
Certificates Issued
Transfers Processed
Hearings Scheduled
Claims Examined
Information Requests
Complaint Litigations
Administrative Rule Writing
Basin Closures
Prepare or update floodplain designations
Review local floodplain programs
Rewrite floodplain rules

Certain work of the bureau is not readily adaptable to performance indicator quantification. Public assistance, a primary bureau function, is a performance factor that is monitored but not quantified. It involves telephone inquiries, walk-in visitors, complaints about alleged violations, etc., all of which attest to the considerable amount of time devoted to this activity.

	FY90 Actual	FY91 Enacted	FY92 Base	FY93 Base
404	404	350	350	350
100	100	100	100	100
148	148	250	250	250
2,268	2,268	2,200	2,200	2,200
12,000	12,000	12,000	12,000	12,000
44	44	48	55	60
7,000	7,000	7,500	8,000	8,000
1,520	1,520	1,600	1,700	1,800
1	1	4	6	6
1	1	1	2	2
2	2	1	2	3
3	3	2	2	2
9	9	10	9	10
1	1	1	0	0

DATE 1-31-91

Increase or Decrease from Base

<u>Item</u>	<u>Explanation</u>	<u>Fiscal 1992</u>	<u>Fiscal 1993</u>
Reorganizations:			
(1) Floodplain Program	This program and its 2 FTE will remain in the Water Resources Division when the Engineering Bureau relocates to DSL. It includes some federal funds.	\$125,530	\$125,562
(2) Billings Engineer	One position that provides engineering support to the division will remain behind to continue that purpose when the Engineering Bureau goes to DSL.		
Position Reduction	At the direction of OBPP, one position will be deleted from the Water Resources Division next biennium.	(\$19,136)	(\$19,070)

WATER MANAGEMENT

	Fiscal 1990 Actual	Fiscal 1991 Appropriated	Base	Fiscal 1992 Incr/Decr	Recommended	Base	Fiscal 1993 Incr/Decr	Recommended
Full Time Equivalent Employees	18.50	18.20	18.50	3.00	21.50	18.50	3.00	21.50
Personal Services	487,846.79	537,660	562,397	87,220	649,617	561,755	87,026	648,781
Operating Expenses	201,978.71	215,007	212,117	395,337	607,454	212,705	20,264	232,969
Equipment	14,211.95	14,602	14,602	0	14,602	14,602	0	14,602
Grants	0.00	0	0	18,000	18,000	0	18,000	18,000
Debt Service	2,842.72	3,189	3,189	0	3,189	3,189	0	3,189
Total Agency Costs	\$706,880.17	\$770,458	\$792,305	\$500,557	\$1,292,862	\$792,251	\$125,290	\$917,541
General Fund	166,220.10	35,235	43,454	-3,504	39,950	43,847	-3,509	40,338
State Special Revenue Fund	540,660.07	735,223	748,851	504,061	1,252,912	748,404	128,799	877,203
Total Funding Costs	\$706,880.17	\$770,458	\$792,305	\$500,557	\$1,292,862	\$792,251	\$125,290	\$917,541

Goals

- o To administer the water reservation statute in an accurate and timely fashion.
- o To continue the development of the statewide water plan that resolves water resource conflicts and problems throughout Montana in an efficient and effective manner.
- o To conduct special studies to resolve problems with water resource issues such as drought, adjudication prioritization, and basin closure.
- o To assist the Reserved Water Rights Compact Commission by providing technical expertise regarding quantification for negotiations on reserved water rights.
- o To promote sound groundwater management in Montana.
- o To maximize public benefits and minimize public risks from weather modification activities in Montana.
- o To prepare environmental impact statements on major state actions involving management of the state's water resources.

o To ensure the competency of monitoring and water well drillers and contractors and to prevent the waste and contamination of groundwater resources within the state.

Authorization

85-2-316, MEPA

The DNRE is responsible for determining that the reservation applications are correct and complete, making sure that an adequate environmental impact statement is completed, coordinating the reservation process, and providing the necessary assistance to the Board of Natural Resources and Environment.

85-1-203

The DNRE is required to develop a comprehensive inventory of the state's water resources and formulate a comprehensive, coordinated, multiple-use water resource plan.

85-1-101

Provides ten policy considerations that direct the actions of the DNRE with regard to the planning and development of the state's water resources and the development of the state water plan.

1-31-91
44-401-05

5-2-217, 85-2-702(3)

If the Reserved Water Rights Compact Commission negotiations are not successful, the DNRE and Attorney General's office are required to prepare for and litigate the Indian and federal reserved water rights as part of the statewide adjudication.

5-5-1-101(9), 85-1-203, 85-2-506, 85-2-507

The DNRE is to develop a comprehensive groundwater management inventory and technical justification for controlled groundwater areas and develop groundwater management plans.

5-3-101 - 85-3-204

The DNRE is required to determine whether an applicant is qualified to conduct weather modification activities and ensure that certain requirements are met. Final decisions are made by the Board of Natural Resources and environment.

5-1-101 - 75-1-324

Prepare environmental impact statements on major actions affecting the state's water resources.

7-43-101 - 37-43-402

The Board of Water Well Contractors is required to establish and enforce minimum standards for the installation of monitoring and water wells, respond to consumer complaints, and ensure that the individuals who install monitoring and water wells are qualified to do so.

ase Program

The Water Management Bureau is comprised of 18.5 FTE and is organized into two sections: Planning and hydrosciences. The Planning Section deals with a variety of issues such as the development of the state water plan, water reservations, interstate and international negotiations, and special studies. The Hydrosciences section is more technically oriented and deals with areas such as technical hydrological issues, groundwater management, environmental impact statements, and monitoring well and water well licensure.

Currently, a number of projects and activities are being pursued by this bureau and should be summarily described.

Water Reservations

Reservation proceedings will be completed next biennium in the Clark Fork Basin above Milton. It is conceivable that reservation applications will be submitted for other portions of the Clark Fork River Basin and Flathead River Basin. (The Missouri River Basin reservation proceeding is ongoing but addressed separately in a modified level request.)

State Water Plan

The following plan sections will be completed by 1993: Agricultural Water Use Efficiency, Instream Flow Protection, State Water Rights and the Federal Energy Regulatory Commission, Water Resource Data Management, Drought Management and Water Storage, Milk River Basin Implementation Strategy, Water Quality, and probably one to two more. The planning staff is required to implement many of the recommendations from the plan sections. For example, a new focus and agenda on water storage is recommended that must be developed and implemented. With greater demands for Montana's water resources within and outside the state, the need for basin planning is becoming critical. Basin planning will be initiated in a number of basins experiencing conflicts and problems. Moreover, a number of statewide issues may also be addressed.

Columbia River. The DNRE needs to work with the appropriate users within the basin to develop a unified position so that our input into the Columbia River Systems Operation Review process takes Montana's needs and interests into account. This major federal review will affect the re-negotiations of the 1964 Columbia River Treaty and the Northwest Power Coordinating Agreement. Accomplishing this task will require the basin water users to agree on the best approach to maximize all water uses, including the reserved water of the Salish-Kootenai tribes. The DNRE will participate in developing a strategy for dealing with competing water uses in the basin.

Yellowstone River Basin. A number of concerns with the Yellowstone River Compact needs to be addressed. The water quality issue in the Powder River Basin needs to be better understood in the event that Wyoming again tries to develop the better quality water and allows the poor quality water to enter Montana. Water quality studies and a simulation model are being developed for the basin to maximize water use in Montana and Wyoming. It is questionable whether the Yellowstone River Compact provides the benefits to Montana that were initially contemplated when formalized in 1950. Montana needs to work with Wyoming to modify the compact, if necessary, to meet contemporary needs within the basin. This might require a formal mechanism for apportioning flows between the two states.

Southern Tributaries of the Milk River and Poplar River. Governor Stephens and Saskatchewan's Premier Devine have initiated a joint water management initiative. During the 1993 biennium, the DNRE and its Saskatchewan counterparts will be negotiating a formal agreement on the apportionment on the Poplar River and determining Montana's apportionment needs and storage requirements from a proposed storage project on Battle Creek half a mile north of the U.S. boundary. DNRE will also assess the environmental impacts to Montana from the proposed projects.

Milk River. Montana will be determining and possibly finalizing an agreement on the potential for leasing 50,000 acre-feet/year from an Alberta storage project to relieve part of the water shortage problem in the Montana portion of the basin. DNRE needs to jointly assess the environmental impacts from the proposed project.

Special Studies

A number of important special studies to address problems across the state are ongoing.

1. Musselshell River Basin. Working with local water users, the DNRE is building a water supply model of the basin and assisting local groups to develop options for resolving water shortage problems within the basin. During the biennium, a number of solutions will be implemented.

2. Milk River Basin. A number of the strategies for relieving water shortage problems in the Milk River Basin will be implemented. The DNRE will assist the water users in implementing the strategy.

3. Indian Tribes. Coordinate with Indian tribes in the water planning effort and work jointly with a number of the tribes to resolve water problems. For example, assist the Blackfeet Nation in defining irrigation projects on Cutbank Creek and potential sources of water supply. Moreover, assist the Reserved Water Rights Compact Commission in its negotiations by providing technical assistance and review.

4. Water Rights. Conduct studies with appropriate water users to determine water available for future appropriation and assist in the initiation of appropriate action. Studies in the Missouri, Flathead and Clark Fork river basins will be ongoing.

5. Drought Management. Provide the Disaster Advisory Council and interested parties with information regarding the status of state drought conditions. As necessary, help local basin water users to better manage water supplies among competing uses.

6. Missouri River Arsenic Studies. Determine the characteristics, mobility, and risks of arsenic concentrations in the Missouri River Basin and their effects on water availability for future use.

Technical Assistance

The Water Management Bureau includes professionals with expertise in the fields of policy analysis, economics, hydrology, geohydrology, soils, agricultural engineering, and civil engineering. Technical assistance is provided to the Governor's office, local water users, other departments of state government, and various bureaus and divisions within DNRE. Technical assistance is provided in the following areas: water rights, reservoir operations, new project development, instream concerns, impact assessments, development of proactive groundwater management plans, and optimization and maximization of water use.

Groundwater Management

Because there is less surface water to appropriate, more users are turning to groundwater as their source of supply. Groundwater problem areas and conflicts are increasing. The DNRE will be developing proactive groundwater management plans that solve potential problems before they become unsolvable. Moreover, the DNRE will be addressing surface-groundwater interactions and effects on existing water rights.

Weather Modification

Every year there is at least one request to conduct weather modification activities in Montana. The DNRE needs to be able to assess the project and applicant based on the criteria identified in the statute.

Environmental Impact Statement

Every major action involving water rights or water resource activities such as new projects may require an environmental impact statement under MEPA. The staff is required to develop these EISs.

Board of Water Well Contractors

The following items will be addressed by the Board.

1. Enforcement of the water well and monitoring well construction standards through periodic field inspections.

Performance Indicators

Water Reservations

Ensure that reservation applications are correct and complete.

EISs are comprehensive and adequately address all impacts and public input.

Provide the Board with technical support to assist it in its decision-making process.

State Water Plan

Component completion: Biennium 91 - 1; Biennium 93 - 4. For components requiring DNRE action for implementation, such action will be measured by successful implementation.

2. Respond to consumer complaints through field investigations. There are an average of 12 complaints a year.

3. A training program for licensees will be established with possible continuing education requirements.

4. Each year there are approximately 170 water well contractors, 20 water well drillers, and 100 monitoring well constructors who must renew their licenses by July 1. Water well contractors and monitoring well constructors must also submit current bonding information each year.

5. The examinations for each license category are annually reviewed and updated as needed.

6. Approximately 10 new water well contractors, 10 monitoring well constructors, and three new drillers apply for licensure each year.

Base Funding

The Water Management Bureau and Board of Water Well Contractors have traditionally received a small portion of their funding from the general fund and the majority from state special revenue funds. These state special revenue funds include water development, reclamation and development and water well funds. A similar combination of funding sources is proposed for FYs 1992 and 1993.

Special Studies

The Water Management Bureau conducts studies that successfully resolve problems regarding issues such as drought management, basin closure, controlled groundwater, etc.

Groundwater Management

The bureau develops information about groundwater resource characteristics and successfully resolves concerns about conflicting use, water quality protection, and supply.

Weather Modification

Acceptable performance is indicated by maximized public benefit and minimized public risk.

Environmental Impact Statements

Performance is measured by consideration of all relevant impacts and public input and timely completion of the EIS process.

Board of Water Well Contractors

Satisfactory performance is indicated by correct installation of monitoring and water wells following established standards, timely resolution of complaints to the satisfaction of the parties involved, overall improvement of the drilling industry, and protection of groundwater resources from waste and contamination.

Increase or Decrease from Base

<u>Item</u>	<u>Explanation</u>	<u>Fiscal 1992</u>	<u>Fiscal 1993</u>
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Modification Requests:

(1) Missouri Basin Reservation

The Missouri Basin Reservation program, ongoing since created by the 1985 Legislature, includes 3.0 FTE and an annual appropriation for personal services, \$85,943 in FY 92 and \$85,747 in FY 93, and a biennial appropriation for operating expenses, \$375,743.

\$461,686 \$ 85,747

(2) Poplar River Monitoring

The Poplar River Monitoring program was established to address both apportionment and water quality issues. This program funds work done by DNRE, DPH, and the Bureau of Mines.

\$ 33,050 \$ 33,750

Water Mediator Training

DNRE is statutorily required to provide training for water mediators and commissioners.

\$ 4,490 \$ 4,490

EXHIBIT 2
DATE 1-31-91
BY

1-31-91
Exhibit #3

Budget Item	Actual Fiscal 1990	Executive Fiscal 1992	LFA Fiscal 1992	Difference Fiscal 1992	Executive Fiscal 1993	LFA Fiscal 1993	Difference Fiscal 1993
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FTE	120.20	120.20	120.20	0	120.20	120.20	0
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Personal Services	3,250,639	3,533,516	3,556,123	(22,607)	3,528,305	3,551,068	(22,763)
Operating Expenses	1,134,286	1,090,702	1,029,906	60,796	1,088,788	1,022,679	66,109
Equipment	123,707	79,107	64,984	14,123	79,107	60,984	18,123
Capital Outlay	4,500	0	0	0	0	0	0
Transfers	2,100,823	32,000	0	32,000	32,000	0	32,000
Debt Service	12,483	11,226	12,926	(1,700)	11,226	12,926	(1,700)

Total Expend	6,626,438	4,746,551	4,663,939	82,612	4,739,426	4,647,657	91,769
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Fund Sources

General Fund	2,263,903	2,600,290	2,407,000	193,290	2,594,069	2,396,865	197,204
State Revenue Fund	4,281,603	2,093,969	2,217,034	(123,065)	2,093,065	2,210,887	(117,822)
Federal Revenue Fund	80,932	52,292	39,905	12,387	52,292	39,905	12,387
Total Funds	6,626,438	4,746,551	4,663,939	82,612	4,739,426	4,647,657	91,769

LFA Current Level Analysis Reference: page C-38

Executive Budget Summary Reference: page 90 (DNRE), and page 83 (State Lands)

Executive Budget Narrative Reference: page 17 (DNRE) and page 23 (State Lands)

Current Level Issues

A. Reorganization Issues
NONE

B. Appropriation Policy Issues (Non-action items)

1. Difference in Computer Network Charge
2. Difference in Inflation

C. Budget Base Differences

10,486	10,486
(11,404)	(6,092)
4,411	(1,057)

-----Executive Over (Under) LFA-----

EXHIBIT 3
DATE 1-31-91
LE For Des Sub.

D. Program Issues

1. Executive budget includes \$20,000 more than LFA for Missouri Basin Association dues. <i>Budget approved</i>	10,000	10,000
(mix of general fund/state special revenue)		
2. Executive Budget includes 1800 more than LFA for compensation for Board of Water Well Contractors members. <i>Budget approved</i>	900	900
(state special revenue)		
3. Executive Budget includes \$96,905 more than LFA for Broadwater Dam operations/maintenance. <i>Budget approved</i>	45,796	51,109
(State Special Revenue)		
4. Executive Budget includes \$32,246 more than LFA for equipment. (mix of general fund/state special revenue) <i>Devlin 4-1</i>	14,123	18,123
5. LFA includes \$44,000 more than Executive Budget for overtime which is no longer needed. <i>Vislet approved</i>	(22,000)	(22,000)
(state special revenue)		
6. Executive Budget includes \$64,000 more than LFA for fund transfers no longer necessary. <i>right</i>	32,000	32,000
(state special revenue)		
7. LFA includes \$3,400 more than Executive Budget for debt service for department <i>right</i>	(1,700)	(1,700)
DEC system. (mix of general fund and state special revenue)		

TOTAL \$82,612 \$91,769

E. Language Issues

1. There is appropriated from the Broadwater Water Users' Association Account established by agreement dated July 24, 1987, up to \$1 million if needed to transfer the Broadwater hydropower project to a purchaser. (state special)
2. There is appropriated \$336,000 from the Broadwater Replacement and Renewal account to repair and replace facility equipment and to service the bond debt if needed. (state special revenue)
3. There is appropriated an amount up to the amount received from hydropower developers for performing developmental analyses as required in 85-1-514, MCA. (state special revenue)
4. There is appropriated an amount up to the amount received from bond forfeitures of water well licenses for costs of remedial actions on wells as provided in Section 36.21.505 ARM. (state special revenue)

EXHIBIT 3
 DATE 1-31-91
 HB Yax Rev. Am.

F. Additional Issues

1. Neither the Executive Budget nor the LFA includes \$202,023 for pay exceptions already approved. (mix of general fund/state special revenue)	101,202	100,821
2. Neither the Executive Budget nor the LFA includes \$35,572 for pay exceptions pending approval. (mix of general fund/state special revenue)	17,819	17,753
7. Executive Budget Modifications (all but Poplar River Monitoring are biennial appropriations)		
1. Missouri River Basin Reservation	3.0 3.0	461,686 85,747
2. Poplar River Monitoring	33,050	33,570
3. State Owned Water Projects	800,000	
4. Middle Creek Dam	3,896,925	
5. Smith River	1,600,000	
6. Tongue River Dam	2,000,000	

W.D. [Signature]

MODIFIED BUDGET REQUEST

Department of Natural Resources & Conservation Water Resources Division

Missouri River Reservation

This modification continues the Missouri River reservation process which was passed by the legislature in 1985. During the 1993 biennium the department expects to prepare the EIS on reservation applications in the lower Missouri and Little Missouri River basins, in addition to assisting the Board of Natural Resources and Conservation with case hearings on water reservation requests.

Funding for the modification consists of \$166,826 from the Department of Fish, Wildlife, and Parks' miscellaneous state special revenue account and \$380,607 from water development state special revenue funds.

Object of Expenditure	Fiscal 1992	Fiscal 1993
FTE	3.0	3.0
Personal Services	\$ 85,943	\$85,747
Operating Expenses	375,743	0
TOTAL	\$461,686	\$85,747
<u>Funding</u>		
State Special Revenue	\$166,826	
RIT State Special Revenue	\$294,860	\$85,747

EXHIBIT 3
DATE 1-31-96
-B. M. M. M. M.

MODIFIED BUDGET REQUEST

Department of Natural Resources & Conservation
Water Resources Division

Poplar River Monitoring

This modification uses water development funds to monitor water quality and quantity on the Poplar River at the international boundary between Montana and Saskatchewan in accordance with a bi-national monitoring committee request. As part of this request, \$18,000 per year will be granted to the Bureau of Mines for groundwater monitoring. The remaining funds will be used to contract with the United States Geological Survey (USGS) for 50 percent of the cost of collecting water quality and quantity information.

Object of Expenditure	Fiscal 1992	Fiscal 1993
Operating Expenses	\$15,050	\$15,750
Grants	18,000	18,000
TOTAL	\$33,050	\$33,750
<u>Funding</u>		
State Special Revenue	\$33,050	\$33,750

MODIFIED BUDGET REQUEST

Department of Natural Resources & Conservation
Water Resources Division

Rehabilitation Water Projects

DNRC is responsible for 23 state-owned water storage projects constructed in the 1930's and 1940's. This modification would provide the department with an \$800,000 biennial appropriation from the water development account to support construction and pre-construction activities on three of these projects: 1) Tongue River Dam, where \$300,000 would be used to complete a feasibility study and match federal funds; 2) Middle Creek Dam, where \$300,000 would be used to oversee construction and conduct field inspections; and 3) North Fork Smith River Dam, where \$100,000 would be used to conduct a feasibility study. In addition, \$100,000 would be used for miscellaneous emergencies and repairs on other state water projects.

Object of Expenditure	Biennial Expenditure
Capital Outlay	\$800,000
<u>Funding</u>	
State Special Revenue	\$800,000

EXHIBIT 3
DATE 1-31-91
HB For Po. Sub

MODIFIED BUDGET REQUEST

Department of Natural Resources & Conservation
Water Resources Division

Smith River

This modification adds authority to spend \$1,600,000 in federal funds during the next biennium to rehabilitate the water project on the North Fork of the Smith River, where seepage and an undersized spillway have caused stability concerns. The federal funds will be in the form of a loan, which will be repaid by the water users. Although the water users have agreed to this arrangement, no formal agreements have yet been signed with the users or the federal government.

Object of Expenditure	Biennial Expenditure
Capital Outlay	\$1,600,000
<u>Funding</u>	
Federal Funds	\$1,600,000

MODIFIED BUDGET REQUEST

Department of Natural Resources & Conservation
Water Resources Division

Middle Creek Dam

This modification adds authority to spend \$3,896,925 in federal funds during the next biennium to bring the Middle Creek Dam up to present dam safety standards and provide additional storage capacity. Funding for this project will be derived from a U.S. Bureau of Reclamation loan for \$3,121,925 and a federal grant for the remaining \$775,000. The loan will be repaid by the City of Bozeman and the water users. A formal agreement among the water users, the City of Bozeman, and the state has been signed.

Object of Expenditure	Biennial Expenditure
Capital Outlay	\$3,896,925
<u>Funding</u>	
Federal Funds	\$3,896,925

EXHIBIT 3
DATE 1-31-91
HB Harper, Dew

MODIFIED BUDGET REQUEST

Department of Natural Resources & Conservation
Water Resources Division

Tongue River Dam

This modification proposes spending \$2,000,000 over the biennium to complete final design specifications for the Tongue River Dam once the feasibility study is completed. Under the National Dam Safety Program, the U.S. Army Corps of Engineers has classified the Tongue River Dam as an unsafe high-hazard structure. Funding for this project will consist of \$1,600,000 from a U.S. Bureau of Reclamation grant and \$400,000 in state bond proceeds backed by the coal severance tax trust fund.

Object of Expenditure	Biennial Expenditure
Capital Outlay	\$2,000,000
<u>Funding</u>	
State Special Revenue	\$ 400,000
Federal Funds	1,600,000

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

DATE 1-31-91 COMMITTEE _____ BILL NO. _____
SPONSOR(S) _____

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Wayne Welzel	DNRC			
John Armstrong	DNRC			
KAREN Barclay	DNRC			
TARYN PURDY	LEA			
Anna McMillin	DNRC			
Gary Lutz				
Robin Harper	DNRC			

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.