

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
53rd LEGISLATURE - REGULAR SESSION**

**JOINT SUBCOMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By CHAIRMAN ROGER DEBRUYCKER, on February 2,  
1993, at 8:00 A.M.

**ROLL CALL**

**Members Present:**

Rep. Roger DeBruycker, Chairman (R)  
Sen. Cecil Weeding, Vice Chairman (D)  
Sen. Gerry Devlin (R)  
Sen. Greg Jergeson (D)  
Rep. John Johnson (D)  
Rep. William Wiseman (R)

**Members Excused:** None

**Members Absent:** None

**Staff Present** Terri Perrigo, Legislative Fiscal Analyst  
Florine Smith, Office of Budget & Program  
Planning  
Theda Rossberg, Committee Secretary

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

**Committee Business Summary:**

Hearing: DEPARTMENT OF NATURAL RESOURCES &  
CONSERVATION  
Water Resources Division  
Executive Action: DEPARTMENT OF NATURAL RESOURCES &  
CONSERVATION  
Water Resources Division

**EXECUTIVE ACTION  
WATER RESOURCES DIVISION**

Budget Continuation - EXHIBIT 1.

**Motion/Vote:** SEN. DEVLIN moved to approve the Executive for the  
5% FTE reductions. Motion CARRIED unanimously.

Gary Fritz, Administrator of the Water Resources Division,  
continued with the budget items.

**Operating Expenses:**

1. Broadwater Dam Current Level Expansion - There is a necessity to shift from construction funds to operational and maintenance funds. These consultants have been with the department on binding arbitration. These consultants are needed through the next biennium. The construction bond funds used previously to pay these consultants are depleted. Now they will have to pay them through the hydropower revenues.

Wayne Wetzel, Director, DNRC, reviewed a chart with the committee that showed accounts that were set up from the sale of bonds. They received revenue from the Montana Power Company for the hydropower they provided for their system. The first monies received go into the operations and maintenance account. An annual maintenance is done on that project. The account builds up during the year until the maintenance starts. The cost is usually around \$300,000. This is the account that needs to be increased, because of the need to build up a cap of about \$600,000 for the cost of the most expensive piece of machinery in the plant.

The bond account revenue is about the same as the bond payments. Any excess revenue out of the bonds is distributed each year on January 1st into two accounts. If the excess in this account exceeds \$400,000 in a year, the excess goes into the state hydro rehabilitation account; that has not exceeded the \$400,000 as yet.

The Broadwater Association felt it was their dam and they wanted something out of the project. The department agreed to set up a trust account to use for operations and maintenance for their irrigation projects. If there is an excess of \$400,000, 75% of the excess would go into the water rehabilitation account and 25% for the Water Association's operations and maintenance account. The department agreed to put \$1 million into that account and they could spend the interest from that. There are no funds in that account yet.

He said the department has a 35-year contract with Montana Power Company.

SEN. WEEDING asked what the arbitration account was they were talking about.

Mr. Wetzel said they sold \$26 million in bonds to finance the project. They have been using the balance for negotiations to try to resolve the arbitration with the contractors that supplied the turbo-generator. The department believes they could win the arbitration because of the defective construction and that money would go back into the bond repayment account.

REP. WISEMAN asked who the contractor was. Mr. Wetzel said the contractor is Voith Hydro Construction Company from Pennsylvania.

SEN. DEVLIN what the bond account balance was and what the term of the bonds were. Mr. Wetzel said the actual balance is about \$2 million per year for 20 years.

SEN. DEVLIN asked if the rehabilitation on the Tongue River was part of this \$517,000 request. Mr. Wetzel said no, that is for arbitration until they are finished with construction.

CHAIRMAN DEBRUYCKER asked if they held back 10% of a project until it was satisfactory. He inquired as to why that was only \$500,000. Mr. Wetzel said they had to finish the project by the 1988 deadline. They had four prime contractors on this project and that \$500,000 does represent the 10%.

CHAIRMAN DEBRUYCKER asked what the emergency was that it had to be pushed through so quick.

Mr. Wetzel said primarily, it was because of the 1986 tax law. Financing was such that if they didn't finance it with tax exempt bonds, it would be more expensive to the state.

Motion: SEN. JERGESON moved to approve the Executive for \$517,882 each year of the biennium for the Broadwater Dam Current Level Expansion.

Discussion:

Mr. Wetzel said they need a new gear box and if it isn't replaced soon, the plant will have to shut down. The contractors said they would take it out and work on it, but the only solution the department can see is a new gear box that meets the specifications and has been tested before it arrives.

CHAIRMAN DEBRUYCKER said he thought they had \$600,000 for replacement. He asked if that would replace the gear box.

Mr. Wetzel said that is about what the gear box cost, but under the contract, defective work is the contractor's cost, not the department's cost.

CHAIRMAN DEBRUYCKER asked why they were arguing about a million dollars in consulting fee if the box is only worth \$600,000.

Mr. Wetzel said the claim against the contractor is about \$2.5 million for failure to close out the contract. The gear box is only one aspect. There are a lot of other things that need to be done. Part of the claim cost is for the consultants that uncovered the defective work.

CHAIRMAN DEBRUYCKER asked who the "watch dog" was that was paid to see that the work was done right. Mr. Wetzel said they were hoping to clear up the issue as to who was at fault with the arbitration and who should have been the "watch dog."

SEN. DEVLIN asked if they were contracting with the same engineering consultant. Mr. Wetzel said no, he was fired over a

year ago. There was a little bit of collusion between the contractor and the engineer.

**Vote:** Motion CARRIED 5 to 1 with CHAIRMAN DEBRUYCKER voting no.

2. Board of Water Well Contractors Legal Fees - Mr. Fritz said this is for administrative purposes only. They used to provide legal help to the Board of Water Well Contractors. The legislature has given them additional responsibilities, and they are now responsible for enforcing water well construction standards. One of the major jobs they are involved with is taking complaints from people as to how their well was drilled. They have asked the department for legal help in pursuing those complaints. Because of the increased requests, the Deputy Director wrote a letter to the Board of Water Well Contractors telling them the department could no longer provide them with legal services. Therefore, the Board requested \$10,000 from the Department for legal services for their complaints. The fees from the drillers would pay for the \$10,000. They contract primarily with the Attorney General's Office for this legal assistance and they charge them \$53 per hour. The \$10,000 is just an estimate of what they may spend.

REP. WISEMAN asked if a person has a defective well, why he or she didn't they sue the water well contractors themselves. Mr. Fritz said the driller puts up a bond and sometimes it covers the cost and sometimes it doesn't. It usually amounts to about \$4,000. That bond is collected when their license is revoked and sometimes that is sufficient.

SEN. WEEDING asked if the state special revenue was derived from increased fees. Mr. Fritz said their fees have not increased. They generate about \$40,000 each year. Over the years they have developed a surplus in the account of about \$90,000.

**Motion/Vote:** SEN. WEEDING moved to approve the Executive for \$10,000 each year of the biennium, spending authority for Water Well Contractors' Legal Fees. Motion CARRIED 4 to 2 with REP. WISEMAN and CHAIRMAN DEBRUYCKER voting no.

Mr. Fritz said he would be submitting a list identifying where the department can reduce the budget to reach their target.

Tape 1, B.

3. Water Measurement Program - Mr. Fritz said federal money for the Flood Plain Management Program is to print brochures to get information to the local level. Most of that is because this program was not up and running in 1992.

SEN. WEEDING asked what the funding was. Mr. Fritz said the source of the Flood Plain money is federal funds and the Water Measurement Program is special revenue funds.

SEN. WEEDING said it was his understanding that REP. ZOOK meant that any general fund added to the current level will add to the target.

CHAIRMAN DEBRUYCKER said his interpretation was that any funds over the LFA would be added to the reduction of general fund.

SEN. WEEDING said in that case they have added a lot of money in this committee contingent upon LC1404. The other problem is the special revenue which is a source other than general fund.

Mr. Fritz said they worked on a list last night and they are meeting this afternoon with Director Simonich to discuss that. He said they are looking at significant budget reductions to help reach their target.

SEN. DEVLIN said he could not vote for any of the requests. He asked why the department didn't come up with their cuts before.

Mr. Fritz said he agreed that the timing was not perfect, but they will submit suggestions to the committee where people and programs can be cut.

SEN. DEVLIN asked if it would take a committee bill to relieve the responsibility of these items. Mr. Fritz said in some instances that is probably true.

Director Simonich said the department received a letter from CHAIRMAN ROGER DEBRUYCKER asking them to make these cuts. He directed the department to come up with cuts that would be their lowest priorities and not nickel and dime cuts. He said they certainly will try to deliver that target.

SEN. JERGESON said this department is getting a lecture about its responsibility to reach a target and he hoped the same lecture will be delivered to every agency including the Department of Livestock who has been treated with kid gloves. He said the legislators have an equal responsibility for helping to find ways to cut the budget.

Motion/Vote: SEN. JERGESON moved to approve the Executive for \$6,478 in FY94 and \$5,678 in FY95 for the Water Measurement Program. Motion CARRIED 4 to 2 with SEN. DEVLIN and REP. WISEMAN voting no.

Mr. Fritz said he would set up a field trip for the committee to go through the Broadwater Project if they so desire. SEN. WEEDING said he was wondering if the committee's schedule would permit field trips. It is the most money making endeavor in the state and would be very impressive for the members who have not seen it.

SEN. DEVLIN suggested that perhaps after the budgets are completed, they would have more time.

4. Regional Office Rent - Mr. Fritz said the 1992 expenditure for rent was \$73,980 and in 1993 expenditures will be \$77,639. The LFA budget allows no increases in the rent over the 1992 expenditures. He said the department would like to get back to the Executive level on the rent.

SEN. JERGESON asked if it was impossible to get those escalator clauses negotiated out of this contract.

Mr. Fritz said they would look into that, but wasn't sure it was possible. Regardless, their 1993 expenditures are greater than the LFA level.

SEN. WEEDING asked if they anticipated that costs would be higher than the Executive, and how they proposed to come up to the Executive.

Mr. Fritz requested \$2,866 the first year and \$5,319 in the second year for increased rent cost. That still will not cover the increased rent cost in those regional offices, and they will have to borrow from their operating budget.

Motion: SEN. JERGESON moved to approve the Executive for \$2,866 in FY94 and \$5,319 in FY94 for Regional Office Rent, with language directing the agency to negotiate for reduction in the rent escalator clause.

Discussion:

SEN. DEVLIN said maybe they should look at a cheaper place to rent as well as the escalator clause.

Vote: Motion CARRIED 5 to 1 with REP. WISEMAN voting no.

5. Regional Offices Mainframe Charges - Mr. Fritz said they need this additional budget to hook up the regional office to the mainframe in Helena for quicker access to information on water rights.

Motion/Vote: SEN. WEEDING moved to approve the Executive for \$1,819 each year of the biennium for Regional Offices Mainframe Charges. Motion CARRIED 4 to 2 with REP. WISEMAN and SEN. DEVLIN voting no.

6. General Differences - Mr. Fritz said this item is not an increase. Their actual FY92 expenditures were \$4,722. They made an error and did not include the entire \$4,722 in expenses. They were only requesting what they spent in FY92.

Motion/Vote: SEN. WEEDING moved to approve the Executive for \$2,478 in each year of the biennium for General Differences. Motion CARRIED 5 to 1 with REP. WISEMAN voting no.

7. Water Rights Advertising - Mr Fritz said the statutes require that notices are placed in the paper when they receive water

right applications. The newspaper costs has increased by 35%. The actual expenditures in 1992 were \$6,300 and the Executive allowed \$9,300. The LFA did not allow \$1,000 of that.

**Tape 2, A.**

**7. Water Rights Advertising -**

**Motion/Vote:** REP. JOHNSON moved to approve the Executive for \$1,000 each year of the biennium for Water Rights Advertising. Motion CARRIED 4 to 2 with SEN. DEVLIN and REP. WISEMAN voting no.

**Equipment -**

**Motion/Vote:** SEN. DEVLIN moved to approve the executive budget for Equipment. Motion CARRIED unanimously.

Debt Service - Mr. Fritz said their actual expenditures in 1992 were \$1,098 and they were requesting less than that now.

**Motion/Vote:** SEN. JERGESON moved to approve the Executive for \$1,029 each year of the biennium for Debt Service. Motion CARRIED 4 to 2 with SEN. DEVLIN and REP. WISEMAN voting no.

**Minor Differences -**

SEN. JERGESON asked if the department paid any dues to lobbying organizations.

Mr. Fritz said no.

**Budget Modifications:**

See Pages C-79 and C-80 of the LFA Budget Analysis for explanation of the Budget Modifications EXHIBIT 2

**Discussion:**

Mr. Fritz reviewed some of the dams that need repairs.

Slides were show on the Tongue River Dam problems and also some photographs. He said it will cost \$52.2 million to completely repair the Tongue River Dam; \$31.5 million are federal funds.

There was extensive discussion on the Tongue River Dam project, North Fork of the Smith Dam and the Middle Creek Dam.

REP. WISEMAN asked what the irrigators pay for water on the Tongue River.

Mr. McDonald said they pay about \$2.50 per acre. Mr. Fritz said the water users will have to pay some of the costs for the bonds.

SEN. WEEDING asked what the total amount of state dollars was that would go into the project.

Mr. Fritz said it is \$17.7 million. It is an \$11.5 million a year loan, \$5 million in cash, plus an environmental enhancement contribution. The cash component comes out of the Water

Development special revenue account. The repayment of the loan comes from the Broadwater revenue funds and the water users.

SEN. DEVLIN asked what the cost was of the water users' share. Mr. McDonald said they would repay \$5 million.

SEN. DEVLIN asked how much per acre it would cost. Mr. McDonald said about \$4 per acre foot.

**Tape 2, B.**

CHAIRMAN DEBRUYCKER asked if that was on reservation land. Mr. McDonald said the reservoir itself is south of the reservation.

Mr. Fritz said on the Middle Creek there is a federal loan of \$3.4 million. The repayment of that loan is split 50% each between the city of Bozeman and the agriculture water users. The principal on the loan is about \$60,000 and the interest is about \$310,000 for the biennium. They are asking for spending authority for the money from the city of Bozeman and the water users.

SEN. JERGESON asked whether, if they remove the \$150,000 the department will receive from the FWP, they could reduce the budget by that amount. Mr. Fritz said yes.

**1. Rehab. of State Owned Water Projects:**

**Motion/Vote:** SEN. WEEDING moved to approve Budget Modification No. 1, for dam repairs for \$13,651,000. Motion CARRIED unanimously.

**2. Transfer of Water Projects:**

Mr. Fritz said legislation passed last legislature said that water users could take over the project and the cash payment to the water users would be \$52,488. There would be a credit to those associations of \$298,292. In addition, there are some legal costs, surveying costs, etc.

**Motion/Vote:** SEN. JERGESON moved to approve the Executive for \$88,288 in FY94 and \$36,800 in FY94 for Transfer of Water Projects. Motion CARRIED unanimously.

**3. Missouri River Reservation:**

Mr. Fritz reviewed a chart showing what the activities will be in the next biennium on the Missouri River Reservation project. By the spring of 1995 the state of Montana should be done with that project.

**Motion:** SEN. JERGESON moved to approve the Executive for \$250,369 in FY94 and \$70,072 in FY95 for the Missouri River Reservation.

**Discussion:**

SEN. DEVLIN asked if there was a \$50,000 savings in the FTE.



Ms. Perrigo said yes, there was, and that is reflected in this budget item.

Mr. Fritz said there is \$46,250 in the modification they expect to receive from FWP.

Vote: Motion CARRIED unanimously.

USGS Co-op Stream Gauging:

Mr. Fritz said the Department pays half the cost for stream gauging and the federal government pays the other half. He said their budget is about \$149,000. Every year the USGS raises its costs for maintaining the stream flow gauges. Since the department doesn't receive an increase in its budget, they have to cut their budget back. The USGS says they can no longer use in-kind service funds to help make up the matching funds.

The funds requested in this modification help pay for the USGS increase and also provide cash for indirect services. He suggesting that the funding source come from the groundwater assessment account, because the groundwater is linked with surface water. The groundwater budget is \$1.3 million of RIT money. A steering committee oversees the groundwater account and they objected to that.

Jim Stimson, Chairman, Groundwater Assessment Steering Committee, read a letter to Dave Lewis, Director, Office of Budget Program and Planning stating the reason the committee does not want to participate in the Stream Gauging Program. EXHIBIT 3

The committee realizes that the Stream Gauging Program is a valuable program but cannot see where this program would benefit the groundwater program.

SEN. DEVLIN asked if RIT funds can't be used from the groundwater assessment, what funds could be used. Mr. Fritz said he didn't think general fund would fund the program.

SEN. DEVLIN asked Mr. Stimson if the Groundwater Assessment Program used the information from the Stream Gauge Measuring program. Mr. Stimson said the information could be useful for the Groundwater Assessment Program, but because this is a relatively new program, there still has to be an assessment made. He said one of those stations may be useful to the Groundwater Assessment Program, but at this time, he wasn't sure.

**Tape 3. A.**

REP. WISEMAN asked how many gauging stations the Department and the USGS were spending \$300,000 on.

Mr. Fritz said there are about 50 gauging stations plus some monitoring stations. Those stations cost between \$5,000 and \$7,000 each per year.

REP. WISEMAN asked if USGS would continue to monitor the streams if the department refused to participate. Mr. Fritz said USGS will not participate without the department.

He said the legislature made the decision as to how the groundwater money can be spent; that was not a decision the Groundwater Steering Committee made. He didn't believe the Groundwater Steering Committee was looking to the future, because the gauging information will be used for surface water.

**Motion/Vote:** SEN. JERGESON moved to approve the Executive for the USGS Coop Stream Gauging with the proposed funding. Motion FAILED 3 - 3.

5. Broadwater Fisheries Mitigation:

Mr. Fritz said this modification is associated with the Broadwater Hydro-power plant. When the project was first started the requirements were that all impacts would be mitigated. About \$300,000 was set aside to be used for fisheries' enhancement projects. The division spent \$52,000 of mitigation money that was set aside to assist FWP in the egg-taking effort.

SEN. DEVLIN asked if FWP should be responsible instead of the Department. Mr. Fritz said the project is a Federal Energy Regulatory Commission (FERC) requirement.

**Motion:** REP. JOHNSON moved to approve the Executive for \$42,100 in FY94 for the Broadwater Fisheries Mitigation.

Discussion:

REP. WISEMAN asked what would happen if FERC was told to go fly a kite.

Mr. Wetzel said the license would be revoked and the project shut down. After four years there will be an evaluation of the egg-taking program. \$10,000 to \$14,000 per year is paid to FWP for that activity.

**Vote:** Motion CARRIED 5 to 1 with REP. WISEMAN voting no.

6. Dam Rehabilitation Engineer:

Mr. Fritz said the department does not have the people or the time to do work on FWP dams. The Dam Safety Engineer was eliminated in the 5% FTE vacancy reduction. There is language that goes with the modification that says, "The department (FWP) shall present to the 54th Legislature the results of this project in preparing the 1997 biennial budget for consideration. The Office of Budget and Program Planning and the Legislative Fiscal Analyst may not include this expenditure from this item in the current level base."

**Motion/Vote:** SEN. JERGESON moved to approve the Executive for \$46,340 in FY94 and \$42,373 in FY95 for the Dam Rehabilitation Engineer including language as stated above. Motion CARRIED

4 to 2 with SEN. DEVLIN and REP. WISEMAN voting no.

8. New Modification request for State Water Plan position:

Mr. Fritz said the reason this is not included in the modification list is that it is part of the State Water Plan process. The Water Planning process is to integrate quantity with quality. Legislation is pending that would mandate the impacts of water rights applications.

The division is not in the water quality business and it doesn't have the expertise or the personnel to handle the additional work that would be required to analyze the water. The division also has to coordinate with the Department of Health with some of their permitting procedures.

SEN. JERGESON asked if the dollar amounts would be reflected in the fiscal note of the bill. Mr. Fritz said yes, the bill number is SB 280.

Vacant Positions:

Mr. Fritz said the division was not requesting reinstatement of that FTE.

Funding Issues:

1. General Fund -

Motion/Vote: SEN. JERGESON moved to approve Item A. RIT Tax Proceeds contingent upon passage of proposed legislation. Motion CARRIED 5 to 1 with CHAIRMAN DEBRUYCKER voting no.

Motion/Vote: SEN. JERGESON moved to approve Item B, RIT Interest Special Session Action contingent upon passage of proposed legislation. Motion CARRIED 5 to 1 with CHAIRMAN DEBRUYCKER voting no.

Language:

1. Mr. Fritz said the statutory language requires the division to look at the feasibility of another party putting hydropower on one of their projects.

Motion: SEN. DEVLIN moved to approve Item 1, Language stating: "Funds received under the provisions of 85-1-14(4) are appropriated to the department for the purpose of performing duties required under 85-1-514."

Discussion:

Mr. Fritz said the division could charge reasonable costs for doing that investigation.

Vote: Motion CARRIED unanimously.

2. Mr. Fritz said this language item is for enforcement of water rights violations and the fines can be used for that purpose.

Motion/Vote: SEN. JERGESON moved to approve Item 2, language

stating: "Any fines collected under the provisions of Title 85, Chapter 2, and deposited in the water right appropriation account in accordance with 85-2-318, are appropriated to the department to carry out the enforcement functions under 85-2-114." Motion CARRIED unanimously.

Motion/Vote: SEN. DEVLIN moved to approve Item 3, language stating: "Funds received from bonds required by 37-43-306 are appropriated to the department for the purpose of performing remedial action on water wells providing compensation for damages caused by water well violations, or paying administration costs incurred by the Board of Water Well Contractors." Motion CARRIED unanimously.

Motion/Vote: REP. WISEMAN moved to approve Item 4, language stating: "All interest earned on the Montana Power Company Beaverhead grant is appropriated to the department for use on the Beaverhead Groundwater Study." Motion CARRIED 5 to 1 with SEN. JERGESON voting no.

Motion/Vote: REP. WISEMAN moved to approve Item 5, language stating: "All funds currently in or to be deposited in the Broadwater Replacement and Renewal Account are appropriated to the department for repairing or replacing equipment at the Broadwater hydropower facility or to service the Broadwater hydropower bond debt if revenue deposited in the debt service account is insufficient for this purpose." Motion CARRIED unanimously.

Motion/Vote: SEN. DEVLIN moved to approve Item 6, language stating: "All interest earned on the Broadwater Users account is appropriated to the department for the purpose of repair, improvement, or rehabilitation of the Broadwater-Missouri Diversion Project." Motion CARRIED unanimously.

Ms. Perrigo reviewed some language items the subcommittee had approved through last Friday. EXHIBIT 4.

She said there are two more language items that are not on the list: 1) "The regional offices and the department renegotiate their current rent downward and eliminate the escalator clauses in their rent contracts." and 2) "The dam rehabilitation engineer with FWP."

CHAIRMAN DEBRUYCKER announced that tomorrow the committee will meet at the Fish, Wildlife and Parks building at 8:00 A.M. and SEN. WEEDING will preside.

HOUSE NATURAL RESOURCES SUBCOMMITTEE

February 2, 1993

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ADJOURNMENT

Adjournment: 11:55 A.M.

*Roger DeBruycker*  
ROGER DEBRUYCKER, Chairman

*Theda Rossberg*  
THEDA ROSSBERG, Secretary  
*by Theda Rossberg*

RD/tr

**HOUSE OF REPRESENTATIVES**  
**NATURAL RESOURCES SUB-COMMITTEE**

**ROLL CALL**

**DATE**

2-2-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ROGER DEBRUYCKER, CHAIRMAN	✓		
SEN. CECIL WEEDING, VICE CHAIRMAN	✓		
SEN. GERRY DEVLIN	✓		
REP. WILLIAM WISEMAN	✓		
REP. JOHN JOHNSON	✓		
SEN. GREG JERGESON	✓		

DEPT NAT RESOURCE/CONSERVATION  
Program Summary

Water Resources Division

EXHIBIT 1  
DATE 2-02-93  
SB

Budget Item	Current Level Fiscal 1992	Current Level Fiscal 1993	Executive Fiscal 1994	LFA Fiscal 1994	Difference Fiscal 1994	Executive Fiscal 1995	LFA Fiscal 1995	Difference Fiscal 1995
FTE	121.20	121.20	115.00	121.20	(6.20)	115.00	121.20	(6.20)
Personal Services	3,782,576	3,740,631	4,013,136	4,208,671	(195,535)	4,022,802	4,220,842	(198,040)
Operating Expenses	1,044,718	1,118,879	1,568,259	1,026,942	541,317	1,574,458	1,030,887	543,571
Equipment	77,616	79,107	97,257	101,569	(4,312)	71,770	75,521	(3,751)
Grants	18,000	18,000	0	0	0	0	0	0
Debt Service	8,927	12,926	8,744	7,715	1,029	8,744	7,715	1,029
Total Costs	\$4,931,838	\$4,969,543	\$5,687,396	\$5,344,897	\$342,499	\$5,677,774	\$5,334,965	\$342,809
<b>Fund Sources</b>								
General Fund	2,344,892	2,475,045	2,368,594	2,833,111	(464,517)	2,375,032	2,836,670	(461,638)
State Revenue Fund	2,543,500	2,439,656	3,266,302	2,459,286	807,016	3,250,242	2,445,795	804,447
Federal Revenue Fund	43,445	54,842	52,500	52,500	0	52,500	52,500	0
Total Funds	\$4,931,838	\$4,969,543	\$5,687,396	\$5,344,897	\$342,499	\$5,677,774	\$5,334,965	\$342,809

Page References

LFA Current Level (Vol II), pp C-90 to C-92  
 Stephens Executive Budget, pp C-34 to C-35  
 Racicot Executive Budget, p 24

Current Level Differences

5% Personal Services Reduction—The joint House Appropriations and Senate Finance Claims committees removed 6.20 FTE for an approximate savings of \$394,000 over the biennium

Overtime—The Executive Budget contains a NET \$3,000 more than LFA current level over the biennium for overtime and overtime benefits. LFA budgets overtime at the division-wide average annual overtime expenditure level, with an additional 15 percent for overtime benefits. The executive budgets overtime at the agency request with no benefits.

Operating Expenses

1. Broadwater Dam Current Level Expansion—The Executive Budget includes over \$1 million more than LFA current level for consultant services for the Broadwater Dam. These costs have previously been paid with Broadwater construction funds, which are almost depleted. Funding for the expansion is from hydropower sales to Montana Power Company, which brings in between \$75,000 and \$250,000 per month.

2. Board of Water Well Contractors Legal Fees—The Executive includes a new contingency appropriation for legal fees for the Board of Water Well Contractors. Previously, DNRC staff attorney's have provided legal assistance to the Board.

3. Water Measurement Program—The Executive Budget includes more than LFA for printing and contracted services for this new program which began in mid-fiscal 1992. LFA budgets printing at fiscal 1992 levels and does not include funds for a new contract with USGS for water quantity information.

4. Regional Offices Rent—The Executive Budget includes anticipated rent increases for regional offices. LFA current level continues fiscal 1992 non D of A rent expenditure levels.

5. Regional Offices Mainframe Charges—The Executive includes more than the LFA current level for regional office computer processing charges. LFA current level maintains fiscal 1992 expenditure levels.

6. General Difference—The Executive continues a fiscal 1992 expenditure in the "general" category in state water projects which was not justified in the agency request. LFA current level does not include these funds

7. Water Rights Advertising—The Executive Budget includes a larger increase to reflect increased advertising costs in Water Rights and Planning.

Exec. Over(Under) LFA  
Fiscal 1994 Fiscal 1995

(197,136) (197,136)

2,108 795

517,882 517,882

10,000 10,000

6,478 5,678

5,312 5,319  
2,866 2,866

1,819 1,819

2,478 2,478

1,000 1,000

Equipment - The LFA current level budget represents the agency request, which over the biennium is less than the division's average annual expenditure level for equipment.

(4,312)

(3,751)

Debt Service - The Executive Budget includes more for debt service than LFA current level.

1,029

1,029

Minor Differences

EXHIBIT

DATE

(1,713)

149

TOTAL CURRENT LEVEL DIFFERENCES

342,499

342,809

Budget Modifications

SB

1. Rehabilitation of State Owned Water Projects - The Executive Budget includes this modification to add a \$13,801,000 biennial appropriation for: 1) rehabilitation of Tongue River and North Fork Smith River dams; and 2) payment of service on the federal loan for rehabilitation of the Middle Creek Dam. Funding includes federal funds; water development, water storage, Broadwater hydropower, and FWP state special revenue funds; and user fees from Middle Creek Dam users. For further information on this and other budget modifications please see pages C-79 and C-80 of the LFA Budget Analysis.

13,801,000

2. Transfer of Water Projects - The Executive Budget includes this modification to add \$125,088 for the biennium to pay: 1) department administrative costs associated with the transfer of state water projects to water user associations; and 2) severance payments to water user associations assuming ownership of the projects. Funding is from the RIT water development state special revenue account.

88,288

36,800

3. Missouri River Reservation - This modification, included in the Executive Budget, would add 2.0 FTE and related operating expenses necessary to continue the Missouri River reservation process begun by the legislature in 1985. The original Executive Budget modification added 3.0 FTE, but one was eliminated by being vacant as of 12-29-92 snapshot for a savings of approximately \$50,000 over the biennium. Funding is RIT and Fish Wildlife and Parks funds.

250,369

70,072

4. USGS Coop Stream Gauging - The Executive Budget includes this modification to add \$55,864 for the biennium to fund the agency's 50 percent share of the cost of the existing stream gauging program which Montana cooperates with the United States Geological Survey. Funding is from the groundwater assessment account, which receive 14.1 percent of RIT tax proceeds.

24,007

31,857

5. Broadwater Fisheries Mitigation - The Executive Budget includes this modification to add \$52,100 for the biennium to complete the fisheries mitigation plan for mediation of damages caused by the Broadwater Dam. Funding is from interest earnings on the Broadwater Fisheries Mitigation account.

52,100

6. Dam Rehabilitation Engineer - This modification would add 1.0 FTE and operating expenses to provide an engineer to work on FWP dams. Funding is from FWP state special revenue.

46,340

42,373

7. Weather Modification Environmental Review - The Executive Budget includes a modification to add a \$20,000 biennial appropriation from the water development account to contract for an environmental review of impacts associated with North Dakota's proposed cloud seeding program. The agency has indicated the executive may wish to withdraw this modified request.

20,000

8. New modification request for a State Water Plan position - The agency will explain.

35,467

34,767

Language and Other Issues

Vacant Positions - The joint House Appropriations and Senate Finance and Claims committees removed 1.0 FTE that was vacant as of the 12-29-92 snapshot, resulting in savings of approximately \$44,000 over the biennium.

Funding Issues

1. General Fund - The LFA current level includes \$926,155 more general fund than the Executive Budget for two reasons:

a. RIT Tax Proceeds - The executive replaces general fund with diverted RIT tax proceeds. The availability of these funds is contingent upon passage of proposed legislation.

(250,000)

(250,000)

b. RIT Interest Special Session Action - The executive continues using RIT interest funds instead of general fund in the division budget, as was done during the January 1992 special session. LFA considered those one-time-only actions and reinstated general fund in the 1993 biennium.

(214,517)

(211,638)

2. State Special Revenue - Most of the difference in state special revenue is due to the executive's inclusion of approximately \$600,000 more than the LFA each year for Broadwater Dam operations and maintenance costs. Remaining differences are due to use of different funding formulas (LFA continued funding percentages used to calculate the 1993 biennium funding, after adjustments for special session action), and the additional Board of Water Well Contractor funds for a legal contingency included in the Executive Budget.



Language—The department is requesting the following language:

- Decker*
1. "Funds received under the provisions of 85-1-514(4) are appropriated to the department for the purpose of performing duties required under 85-1-514."

This language allows the department to expend funds it receives from private parties that contract with the department to do hydropower feasibility studies on state owned water projects.

- Jerusalem*
2. "Any fines collected under the provisions of Title 85, Chapter 2, and deposited in the water right appropriation account in accordance with 85-2-318, are appropriated to the department to carry out the enforcement functions re under 85-1-114."

This language allows the agency to expend fines collected from violators of water right agreements on enforcement activities.

- Decker*
3. "Funds received from bonds required by 37-43-306 are appropriated to the department for the purpose of performing remedial action on water wells providing compensation for damages caused by water well violations, or paying administration costs incurred by the Board of Water Well Contractors."

- Wise*
4. "All interest earned on the Montana Power Company Beaverhead grant is appropriated to the department for use on the Beaverhead Groundwater Study."

The Beaverhead Groundwater Study was authorized by budget amendment in the 1993 biennium.

- Wise*
5. All funds currently in or to be deposited in the Broadwater Replacement and Renewal Account are appropriated to the department for repairing or replacing equipment at the Broadwater hydropower facility or to service the Broadwater hydropower bond debt if revenue deposited in the debt service account is insufficient for this purpose."

The Broadwater Replacement and Renewal account is the second account that Broadwater hydropower revenue flows into. This language would allow the department to use that account for necessary repairs and replacements, and also use funds from this account to pay debt service on Broadwater Dam bonds if revenue deposited in the debt service account is insufficient.

- Decker*
6. All interest earned on the Broadwater Users account is appropriated to the department for the purpose of repair, improvement, or rehabilitation of the Broadwater-Missouri Diversion Project"

This language would allow the Broadwater Irrigators Association to spend any interest earned on the Broadwater Users Account.

EXHIBIT 1  
DATE 2-2-93

SB

Water Resources Division

Positions Removed by Joint Committee Action  
House Appropriations & Senate Finance and Claims  
January 6, 1993

EXHIBIT 1  
DATE 2-2-93  
SB                     

		Total Personal Services		FTE Removed By		Total FTE Removed	Non-Approp. FTE
Position #	Position Description	Fiscal 1994	Fiscal 1995	5% Reduction	Being Vacant		
All or Partial General Fund Positions							
50810	Water Resource Regional Manager	39,496	39,496	1.00		1.00	
57055	Microfilm Clerk II	4,151	4,151	0.20		0.20	
90076	Water Resource Specialist I	25,112	25,112	1.00		1.00	
90077	Water Resource Specialist II	56,697	56,697	2.00		2.00	
53008	Administrative Clerk III	22,178	22,339		1.00	1.00	
Sub-Total		147,634	147,795	4.20	1.00	5.20	0.00
Non- General Fund Positions							
20090	Civil Engineer Specialist IV	35,840	35,840	1.00		1.00	
50040	Civil Engineer Specialist IV	35,840	35,840	1.00		1.00	
Sub-Total		71,680	71,680	2.00	0.00	2.00	0.00
TOTAL		219,314	219,475	6.20	1.00	7.20	0.00

5706 00 00000

## Executive Budget Modifications

Dept Nat Resource/Conservation Budget Modification	P G	Fiscal 1994		Fiscal 1995	
		FTE	General Fund	Total Funds	Total Funds
1 Missouri River Lawsuit	21		\$19,590	\$19,590	
2 Treasure State Endowment	23			36,146	60,128
3 Clean Coal	23			12,048	20,043
4 Rehab State Water Storage Projects	24			13,801,000	
5 Transfer of Water Projects	24			88,288	36,800
6 Missouri River Reservation	24	3.00		283,398	86,601
7 USGS Coop Stream Gauging	24			24,007	31,857
8 Broadwater Fisheries Mitigation	24			52,100	
9 Dam Rehab Engineer	24	1.00		46,340	42,373
10 Weather Mod Environ. Review	24			20,000	
11 School Energy Retrofit	26			600,000	
Totals		4.00	\$19,590	\$14,982,917	\$277,802

3) Clean Coal - This budget modification would add \$32,091 for the biennium to continue implementation of the Clean Coal program and monitoring of program loans, which began after passage of House Bills 643 and 701 in the 1991 session. The department expended \$3,419 from its \$20,000 biennial appropriation for this program in fiscal 1992, which is continued in current level. The modification represents an addition to current level support of the program and is funded with local impact account funds.

4) Rehabilitation of State Water Storage Projects - The Executive Budget includes this modification to add a \$13,801,000 biennial appropriation for: 1) rehabilitation of the Tongue River and North Fork Smith River dams; and 2) payment of debt service on the federal loan for rehabilitation of the Middle Creek dam. For Tongue River dam, the modification would add \$13,131,000: a) \$11,256,000 federal funds; b) \$1,415,000 water development state special revenue funds; and c) \$460,000 water storage state special revenue funds. For North Fork Smith River dam, the modification would add \$300,000, including \$150,000 each from the Broadwater hydropower state special revenue account and the Department of Fish, Wildlife and Parks (FWP). Debt service on the federal loan is \$370,000 for the biennium, paid with water user fees deposited in a state special revenue account.

5) Transfer of Water Projects - This budget modification would add \$125,088 for the biennium to pay: 1) department administrative costs associated with the transfer of state water projects to water user associations; and 2) severance payments to water user associations assuming ownership of the projects. House Bill 814, enacted by the 1991 Legislature, directed the department to dispose of eleven canals and ditches by June 30, 1995. No funds were appropriated to implement this legislation.

6) Missouri River Reservation - This modification would continue the Missouri River reservation process begun by the legislature in 1985, by adding 3.0 FTE and \$369,999 for the biennium. The department expects to complete the lower Missouri basin environmental impact statement and contested case hearings in the 1995 biennium, along with printing final orders of the Board of Natural Resources and Conservation. Fiscal 1994, all but \$108,898 of personal services costs is a biennial appropriation. Fiscal 1995 contains personal services costs only. Most of the modification is supported with RIT water development funds,

Table A shows the LFA current level RIT funding of the department.

EXHIBIT

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DATE

2-2-93

SB

As mentioned above, the Executive Budget contains \$190,000 more federal indirect funds in Centralized Services Division than the LFA current level. Federal indirect cost recovery funds are currently deposited in the general fund as revenue, which then supports non-assessment funded costs of Centralized Services. This practice is continued in the LFA current level. However, the Executive Budget uses federal indirect revenue to fund agency budgets, reducing general fund appropriations but also reducing deposits into the general fund by an equal amount. The net effect is zero to the general fund.

The Executive Budget includes \$11,824 more grazing district fees than the LFA current level because the agency intends to increase grazing district fees in the 1995 biennium. This anticipated increase has not been included in the LFA current level.

## Executive Budget Modifications

1) Missouri River Lawsuit - This modification would add a \$19,590 general fund biennial contingency appropriation for the lawsuit jointly filed against the Army Corps of Engineers by Montana, North Dakota, and South Dakota. The department received a biennial general fund appropriation of \$25,000 in the last session, and expended \$1,626 in fiscal 1992 which, was removed from the LFA current level.

2) Treasure State Endowment - The Executive Budget includes this modification, which would add \$96,274 for the biennium to provide planning and technical assistance services for the Treasure State Endowment Program (TSEP). The modification is funded with interest earned on the \$10 million transferred from the permanent coal trust fund to the TSEP fund on July 1, 1993.

Table A RIT Funding in Current Level Department of Natural Resources and Conservation				
Program	Water Development	Renewable Resource Development	Reclamation and Development	Total
-----Fiscal 1994-----				
Centralized Services	\$142,898	\$13,450	\$128,450	\$284,798
<u>Conservation &amp; Resource Development</u>				0
Conservation Districts	0	67,209	412,774	479,983
Resource Development Division	259,118	156,956	48,294	464,368
<u>Water Resources</u>				0
Administration	95,669	0	0	95,669
Water Rights	60,184	0	0	60,184
Regional Offices	74,193			74,193
State Water Projects	735,725	0	0	735,725
Water Management	108,111		648,668	756,779
Water Operations	61,745	0	158,774	220,519
Reserved Water Rights Compact Commission	337,115			337,115
Total Current Level	\$1,874,758	\$237,615	\$1,396,960	\$3,509,333
-----Fiscal 1995-----				
Centralized Services	\$142,203	\$13,404	\$128,204	\$283,811
<u>Conservation &amp; Resource Development</u>				0
Conservation Districts	0	68,369	419,895	488,264
Resource Development Division	255,927	155,024	47,700	458,651
<u>Water Resources</u>				0
Administration	96,086	0	0	96,086
Water Rights	59,835	0	0	59,835
Regional Offices	74,955			74,955
State Water Projects	733,726	0	0	733,726
Water Management	106,367	0	638,204	744,571
Water Operations	61,949	0	159,296	221,245
Reserved Water Rights Compact Commission	337,449			337,449
Total Current Level	\$1,868,497	\$236,797	\$1,393,299	\$3,498,593

2-2-93

**MONTANA**  
**GROUND WATER ASSESSMENT STEERING COMMITTEE**

STATE OF MONTANA

January 5, 1993

Mr. David Lewis  
Director  
Office of Budget and Program Planning  
Room 237 State Capitol Building  
Helena, MT 59620-0802

EXHIBIT 3  
DATE 2-2-93

Dear Mr. Lewis,

During the 1991 regular session, the Legislature created the Ground Water Assessment Act (2-85-901 et seq MCA). The Act established ground water monitoring and aquifer characterization programs at the Montana Bureau of Mines and Geology (MBMG), a Ground Water Assessment Account within the State Special Revenue Fund, and the Ground Water Assessment Steering Committee. The Steering Committee oversees expenditures from the Ground Water Assessment Account and the long-term operation of the new programs.

The Department of Natural Resources and Conservation (DNRC) has requested funds from the Ground Water Assessment Account as part of their Budget Planning Process for FY 94 and 95. Mr. Gary Fritz (DNRC) reported that the funds would be used to support the DNRC surface water gaging program. This program is a cooperative effort with the U. S. Geological Survey (USGS).

The Steering Committee opposes the DNRC request. In the opinion of the Steering Committee, the DNRC request will not benefit the new ground water assessment effort and would be an inappropriate use of Ground Water Assessment Account funds. The Steering Committee and the MBMG are required by the Assessment Act to develop cooperative efforts that directly benefit the new ground water programs. This could include the operation of strategically located surface water gaging stations. However, each proposed cooperative effort must directly benefit the Ground Water Assessment programs.

The effort to monitor and assess Montana's ground water resources is an enormous undertaking. To achieve the objectives outlined in the Assessment Act will require twenty years, or longer. Over the last 12 months, the Steering Committee and the MBMG have worked hard to design detailed implementation plans for the new programs. Considering the broad scope of the Ground Water Assessment Act, the budget is limited. Furthermore, the work of the Steering Committee is seriously compromised if other agencies can request funds from the Ground Water Assessment Account without the Steering Committee first determining if the request will benefit the new ground water programs.

I would welcome the opportunity to meet with you to discuss this issue. Thank you for your time and consideration of this matter.

Sincerely,

  
James R. Stimson - Chairman

2293

DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

LANGUAGE  
Approved by Subcommittee  
Through 1-29-93

EXHIBIT 4  
DATE 2-2-93  
SB \_\_\_\_\_

Oil & Gas Division

1. The Board of Oil and Gas Conservation is appropriated \$110,000 per year federal revenue, contingent upon receiving federal funds from the Environmental Protection Agency for the Underground Protection Control program.

Conservation & Resource Development Division

1. The department is appropriated up to \$700,000 from the account established in 76-14-112, MCA, for rangeland loans during the 1995 biennium.

2. All funds deposited into the state special revenue account established in 76-15-530, MCA, are appropriated to the department for distribution as grants to conservation districts.

3. All funds held in the state special revenue account per 76-16-106(2), MCA, are appropriated to the department for administration of grazing districts.

4. The department is appropriated up to \$1 million over the biennium from the account established in 85-1-604, MCA, for purchase of prior liens on property held as loan security as required by 85-1-618, MCA.

5. The department is appropriated \$100,000 per year federal funds contingent upon receiving federal funds from the Environmental Protection Agency for water quality related grants.

6. Item [Saline Seep modification] is funded with RIT reclamation and development funds. Contingent upon approval of item [XXXX], the Montana Salinity Control Association shall not apply for reclamation and development grant funds in the 1995 biennium.

7. Contingent upon passage of [LC 1404], general fund in item [XXXXXX] is replaced with \$27,526 of RIT tax proceeds state special revenue each year of the biennium.

Centralized Services Division

1. Included in Centralized Services Division funding is \$35,000 of indirect funds from Major Facility Siting Act/Montana Environmental Policy Act fees. If MFSA/MEPA activities generate more than \$35,000 of indirect funds over the biennium, the additional indirect funds must be deposited in the general fund.

EXHIBIT

4

DATE

2-2-93

SB

2. Contingent upon approval of [LC 1404], general fund in Item [XXX] is replaced by \$422,474 of RIT tax proceeds state special revenue in fiscal 1994 and \$422,474 of RIT tax proceeds state special revenue in fiscal 1995.

3. (Not language) The subcommittee also directed OBPP/LFA to work together to fund centralized services division after all other agency budgets are completed.

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

NATURAL RESOURCES SUBCOMMITTEE

~~FILE NOT~~

DATE

2-2-93

~~SECRETARY~~

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
GARY FETZ	DNRC		
ROBIN HARPER	DNRC		
GLEN McDONALD	DNRC		
WALTER WATZ	DNRC		
Jim Thomas	GWAA		
MARK SIMON	DNRC		

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