

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN TOM ZOOK**, on February 8, 1995, at
3:30 p.m.

ROLL CALL

Members Present:

Rep. Tom Zook, Chairman (R)
Rep. Edward J. "Ed" Grady, Vice Chairman (Majority) (R)
Rep. Joe Quilici, Vice Chairman (Minority) (D)
Rep. Beverly Barnhart (D)
Rep. Ernest Bergsagel (R)
Rep. John Cobb (R)
Rep. Roger Debruycker (R)
Rep. Gary Feland (R)
Rep. Marjorie I. Fisher (R)
Rep. Don Holland (R)
Rep. Royal C. Johnson (R)
Rep. John Johnson (D)
Rep. Mike Kadas (D)
Rep. Betty Lou Kasten (R)
Rep. Matt McCann (D)
Rep. William T. "Red" Menahan (D)
Rep. Steve Vick (R)
Rep. William R. Wiseman (R)

Members Excused: None.

Members Absent: None.

Staff Present: Clayton Schenck, Legislative Fiscal Analyst
Marjorie Peterson, Committee Secretary

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

Committee Business Summary:

Hearing: HB 305, HB 330, HB 354
Executive Action: None.

HEARING ON HB 354Opening Statement by Sponsor:

REP. NORM MILLS, HD 19, Billings, opened the hearing on HB 354 which is the microbusiness bill. This bill would revise the laws governing microbusiness development and increase the allowable amount of a loan. The money would be appropriated to the Department of Commerce from the coal severance tax fund. REP. MILLS also said he had been on the microbusiness advisory board for the last two years and has a good knowledge of the MBDC (microbusiness development corporation). He said the loans made by the board would not only benefit the small business people of Montana, but would benefit the communities as well. He said the program started in 1991. He went on the list some of the changes in the bill: page 2, line 22, increasing a single loan from \$20,000 to \$35,000; page 4 line 15, increasing the term a member shall serve from two years to four years; and two members of the board must be MBDC representatives. The initial request was to fund MBDC to give \$500,000 to each community to make loans; however, each community received less than that. This bill is an added opportunity to help local people stay in their communities, to increase their businesses or start a business and to enhance the local economy. The appropriation in this bill is \$3.25 million. REP. MILLS specified that the failure rate is less than 3% and the outstanding unpaid loans are only about \$50,000 at the present time.

Proponents' Testimony:

Duane Kurokawa, Chairman, Citizens Advisory Council, Wolf Point, said he has been on the council since it was formed in 1991. The council has 13 citizen members and four legislators, two from the House and two from the Senate. The council members are representatives of business banking, low income, Chamber of Commerce, large and small cities, and minority groups. He said he was a banker from Wolf Point. In addition to the diversity of backgrounds, the council is geographically-balanced, half from each senate district. The importance of the council is to be a vehicle to meet with MBDC and to develop the administrative rules that govern the program. They also review quarterly reports to see how the MBDC is progressing. The council also writes portfolio guidelines and examines third-party evaluations.
EXHIBIT 1.

Dolph Harris, Advisory Council, Sidney, said 15 years ago he started his business with zero financing. He said the microbusiness program is a community-based program and has been a great success story for small businesses. Because of the success, he said there is a need for additional money to loan to people in communities. He then showed a video.

David Bond, Polar Bear Productions, stated he was a graduate from University of Montana and still lives in the state today because of this program. He runs a video production company. He and his partner had \$200 when they started and they searched for financing. They were turned down by three banks because of lack of experience, collateral and credit. They applied for a microbusiness loan and received \$10,000. Their first year they grossed \$27,000 in sales and this year over \$300,000. They have three employees and \$100,000 of equipment. He said his employees are graduates of UM and have stayed in the state to find jobs. He said he got a chance with this program and would like others to have the same opportunity.

Jim Campbell, Billings, also supports the bill.

Terry Richter, Kalispell, said she is a single mother that was on welfare and food stamps before receiving a loan from MBDC. She graduated from a business college as a bookkeeper and has now been in business since 1993.

Jim Tutwiler, Montana Chamber of Commerce, Helena, said the chamber was involved in the original Department of Commerce task force who drafted the initial bill a few years ago. They supported it then and they support it now.

{Tape: 1; Side: A; Approx. Counter: 26.0.}

Steve Mehring, Great Falls, said he is a board member and assists in providing loans. He said the people who receive these loans are from all walks of life -- small business people, farmers, ranchers, CPAs, attorneys -- who take their work and business very seriously.

Robert White, Bozeman Area Chamber of Commerce, said he teaches classes on how to start a small business and strongly supports the bill.

Bill Leary, Montana Bankers Association, said there were 82 banks with 30 branches across the state in his association. They are in full support of this bill and the program.

Billie Krenzler, Billings, said it is a good program and she would appreciate the support of the committee.

Jim Davison, Butte, said he is a regional sponsor of the program. He further stated that other agencies in communities have shown support of the program and local banks have also shown support.

Bob Bachini, Former Advisory Council Member, is in full support of the bill. He sat on the council for two years and was very impressed how the program is being run. The communities are positively involved. This program is a job-creator, helps to take people off public assistance and helps keep kids in Montana.

Dick King, MBDC Director, Havre, wanted to emphasize the participation in the banking communities who have helped to make this program successful. The proposal for this additional funding allows MBDC to be self-sufficient. In 1994, there were 186 loans granted with over \$2 million and created 388 jobs. The interest being paid on the loans pays for the state's administrative costs. He submitted a letter from Ronald Van Voast, President, First Bank Havre, who also supported the bill.
EXHIBIT 2.

Linda Reed, Governor's Office, Helena, said she was the senior economic development advisor and is in support of this bill. The first priority of the administration was to expand diversification of businesses in Montana that would provide jobs to Montanans. Part of the challenge was to encourage the creation of jobs in the business sector. The microbusiness program is one of several programs that assists the state in creating jobs for Montanans. They now have more experience with this program and are able to improve it so that it will provide economic benefits to all who call Montana home.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

REP. MILLS closed by saying it was delightful to have so many appear in support of the bill. This program will promote Montana and help Montanans to stay here. He told the committee that statistics on the program results have shown that Montana has received \$16 million just in income taxes, equipment taxes, and other ways that have benefitted the state. Some people were able to go off welfare, and now they pay taxes. He also said that they would not be requesting any money from the general fund when the program becomes self-sufficient. He appreciated the good hearing.

{Tape: 1; Side: A; Approx. Counter: 38.8.}

HEARING ON HB 305Opening Statement by Sponsor:

REP. MIKE KADAS, HD 66, Missoula, stated this was the third time this bill had been brought before the legislature. HB 305 was requested this time by the Department of Justice and authorizes issuance of a loan to the Department of Justice from the general fund for technical, legal and administrative activities for the natural resource damage litigation case in the Clark Fork Basin. The bill continues funding for the state's lawsuit against ARCO. The ARCO suit was brought under the Superfund law in 1983. There was a stay in 1984 which lasted until 1989, when ARCO pushed to get the suit settled. The state did not want to settle. In 1991, REP. QUILICI and REP. KADAS helped write legislation to fund the state's participation in the suit. Under Superfund, the state is a trustee for the damaged public resources in the basin -- groundwater, water, fisheries, wildlife, habitat -- and for the state, the Governor is the trustee. The first step, which was a phenomenal amount of work, was to assess all the damages. In 1991, the legislature appropriated \$4.9 million for that assessment, with some of that to fund the litigation process. Of that total, \$4.7 million was spent. At that time, Governor Stephens set up an advisory council that included representatives from the Governor's Office, Director of Fish, Wildlife and Parks, Director of Health, Director of State Lands and Department of Justice. At that time, assessment work was being done and was headquartered in the Department of Health. Since the preliminary work has been done, the case has been shifted to the Department of Justice, since it is now in the litigation process. In 1993, after much of the assessment work was completed, they provided a loan of \$2.6 million to continue funding the program, of which \$2.3 million will be spent by the end of this biennium. The original \$4.7 million was moved as a loan from the coal tax trust fund and \$2.6 million from coal tax trust fund. Some stiff guarantees were written to include statements that the principle, as well as the interest, would be paid back. The Budget Office said it was acceptable to use general fund money, so this bill includes a general fund loan for \$2.3 million to continue the litigation process for fiscal years 1996 and 1997. Ironically, ARCO just recently tried to slow the case down again. The state resisted because the initial work has been done and the state is ready to go to court. The judge sided with the state and the case is now scheduled for Spring 1997. Another potential complicating factor involves the Confederated Salish Kootenai Tribe -- they are filing to intervene -- and that would slow up the process considerably. The case has been going on for 11 years now and the Tribe has had many other chances to intervene. Under Superfund laws, interest is based on specific federal funds, so, in this bill, they are changing the interest to match the federal guidelines. Under the federal Superfund law, if Montana sues, the state can collect assessment costs plus interest, but it is not clear if litigation costs can be

collected. Under the state Superfund law, Montana can only collect litigation and assessment costs, but not interest. The state is demanding over \$635 million from ARCO for damages done to the Upper Clark Fork Basin. Currently, only 18% of the fish are left. **REP. KADAS** said it was extremely important that Montana continue its efforts in this litigation process and arrive at a successful solution in the trial. **EXHIBIT 3.**

{Tape: 1; Side: A; Approx. Counter: 50.1.}

Proponents' Testimony:

Joe Mazurek, Attorney General, Helena, stated that **REP. KADAS** did a very comprehensive job of reviewing and summarizing the case. He said last June, Governor Racicot transferred the natural resource damage litigation program to the Department of Justice since most of the assessment work had been completed. They are now concentrating on the litigation process, which this bill proposes to fund. In 1989, Governor Stephens decided it would be necessary to obtain expertise not available at that time in Montana, so an outside counsel was hired. Kevin Ward, an attorney in Denver, has written books on Superfund laws and was hired to help with this case. There is now expertise in Montana to work with Mr. Ward. **REP. KADAS** indicated under federal law, the state is authorized to recover interest costs as well as other costs of litigation. The attorneys' fees are provided by Montana statutes and that is expected to be an issue in litigation -- they expect ARCO to resist. **ATTORNEY GENERAL MAZUREK** emphasized that although Montana is entitled to the recovery of those costs, it is not certain it will be successful in receiving those monies. They have invested an incredible amount of expertise, time and money in preparation of this case and are moving towards trial to try to recover the valuable resources of the state of Montana. They have formulated a budget and it is included in the Report to the Legislature - February 1995. **EXHIBIT 4.**

{Tape: 1; Side: A; Approx. Counter: 55.9.}

Judy Browning, Governor's Office, said she was testifying on behalf of the Governor. The Governor acts as a client in this particular case and is being advised by his policy committee. The investment of time and money is overwhelming, but an investment that is in our interest to pursue. It would be unwise to drop the case at this point. Hopefully, the state will receive the money to repay the general fund appropriations.

{Tape: 1; Side: B; Approx. Counter: 2.3.}

Pat Graham, Director, Department of Fish, Wildlife and Parks, Helena, said over the last four years, Montana has worked very hard to develop an assessment of damages to our natural resources in the Upper Clark Fork River Basin. His department has worked

closely to assess the damages to fish, wildlife and habitat.

EXHIBIT 5.

Bob Robinson, Director, Department of Health, Helena, said he was also on the policy committee. Now that the litigation part of the process is beginning, he introduced an amendment to transfer the program from his department to the Department of Justice.

Robert Collins, Attorney for Natural Resource Damage Program, Department of Justice, Helena, referred to Exhibit 4 which details the program. He also referred to 20 volumes of publications that were prepared by highly-respected experts in Superfund law all around the country. The groundwater reports show 600,000 acre-feet of contaminated groundwater in the Upper Clark Fork River Basin; 200,000 acre-feet alone is in the city of Butte. The aquatic reports indicate substantial increases to surface water, fish, sediments and macro-invertebrates. There has been substantial reduction in wildlife and wildlife habitats along the basin. There are nearly 20 square miles of upland area near the city of Anaconda which have been denuded of vegetation. The damage reports indicate there are lost use damages and lost non-use damages which range from \$200 million upwards. The reports also estimate the present value of future compensable damages to the state at about \$100 million. The recreational fishing report indicates the public loses \$2.5 million a year in lost use of the river alone. The restoration plan indicates in order to restore and improve the resources, an additional \$327 million in damages should be collected from ARCO. This is actually much less than it would take to restore all the resources. They did not include projects that would be viewed as unreasonably high in costs. The total payment due to Montana is \$635 million. He offered to leave the 20 volumes of reports for the committee to peruse. In conclusion, he wanted the legislature to be aware of one factor -- ARCO, as well as other industry opponents of federal and state Superfund laws, are lobbying to repeal many of the key provisions in those laws. If that happens, it would be a devastating factor in the lawsuit. The state has expended \$7 million to prosecute this litigation and they are finally seeing the light at the end of the tunnel. They have a strong claim for \$635 million from ARCO.

{Tape: 1; Side: B; Approx. Counter: 13.6.}

Jack Lynch, Chief Executive, Butte-Silver Bow, supports the litigation, but thinks there is a better way to address the problem. He doesn't like the fact that much of the money would be spent for attorneys' fees and would rather have it spent on cleanup and results. He thinks the citizens of the area should seek a balance in cleanup, compromise and mediation.

George Oschenski, Trout Unlimited, said he had worked on a cleanup site in 1983. He has snorkeled in the Clark Fork and Big Hole rivers and has seen definite differences. The Clark Fork River was full of mud, rocks cemented together and there were no

fish. The Big Hole River was clear and beautiful, with vegetation and fish. He was amazed, that 10 years later, he was here to testify on the same lawsuit.

Geoff Smith, Clark Fork Pend Oreille Coalition, said he is here today voicing his support for HB 305 and urging the committee to continue to support funding. He stated that the legal mechanism to restore our damaged resources is the only way Montana will be compensated for losses. He submitted his testimony. **EXHIBIT 6.**

{Tape: 1; Side: B; Approx. Counter: 23.5.}

Opponents' Testimony:

Sandy Stash, Manager, ARCO, Montana, said that ARCO is the oil and chemical company that purchased the Anaconda Minerals Company in 1976 and has lived with the results ever since. She wanted to make a few points as an opponent to this bill. As a precautionary note, she wasn't sure that all the testimony heard today was giving the complete picture. She said it was a slam dunk at times and they have a long way to go. She was troubled that they had not mentioned the massive cleanup already started by ARCO. Since the mid-1980s and mostly into the 1990s, ARCO has spent \$200 million cleaning up the basin; part of that money has been used to fix the Warm Springs Ponds. Clearly, ARCO probably won't buy another slightly-used mining company ever again. They are doing the cleanup in conjunction with EPA and the state of Montana. She thinks there are better ways than litigation. They would like to partner with local communities to go beyond the cleanup, beyond restoration, to things like actually reusing and redeveloping these properties. Anaconda and Butte were severely hurt with the closure of the mines and smelter. ARCO is planning a \$10 million golf course development in Anaconda to help them turn the corner from their industrial past to their future. She stated they were not forced to do that by Superfund laws, but felt it was the best way to do business. ARCO is paying for cleanup, paying for restoration of the resources and doing it the best way -- out of the courtroom.

Ms. Stash continued by saying the Superfund law is very clear as it relates to natural resource damages. She said it was limited to \$50 million and that ARCO also believes the law is very clear. There is a very solid cap of \$50 million which is certainly not the \$635 million being thrown around today. She encouraged the committee to read the Superfund law which was passed in 1980. She said that all of the environmental damages occurred well before then, mostly in the 1880s and 1890s. She said people all over the country were watching this lawsuit. She also stated that ARCO wanted to work with the local communities, and also was interested in taking the punitive process out of the picture.

Questions From Committee Members and Responses:

REP. JOE QUILICI, HD 36, Butte, said he lived in the neighborhood of some of the damages and agreed with some of the previous statements that ARCO is doing some cleanup. But, he stated, he knew ARCO and how some of those companies worked. Referring to HB 305, he said funding \$2.3 million for natural resource damage litigation is critical. He asked Mr. Mazurek if the state backed out of the litigation process, if they would be able to sit down with ARCO and negotiate. Mr. Mazurek replied no. In fact, he said, he found it ironic that they've been going through this effort for some time now, funding the litigation and preparing for trial and this is the first time ARCO has sent someone to suggest to the state of Montana not to fund this litigation. Now that they are on the eve of trial and have spent time and money preparing for trial, he questioned whether ARCO would have been here doing what they're doing now, buying all the ads on TV about what a great job they're doing, if it weren't for this litigation. If the litigation isn't funded, they are still not going to settle. Frankly, he replied, at ARCO's request, the case was stayed. The damages were assessed and an offer of settlement was made. He further stated they were not even given the courtesy of a counter offer by ARCO. Mr. Mazurek said he would love nothing more than to sit down and try to resolve this case. They already stayed everything for 18 months and tried to make that effort. He also said it makes him wonder why, on the eve of trial, basically ARCO is saying, "don't fund this case anymore." And, ARCO is using arguments that they're dancing in court to persuade the state not to go forward and give the counter arguments in court where this issue should be decided. He would love to resolve this case and it probably should be resolved. But they have been unable to get there and now on the eve of trial, if they stop now, they would simply lose the 18 months of work over the last biennium. The state needs this case, since they are this far into the process. He also said he was concerned as well about what Mr. Collins alluded to, that efforts from ARCO were going to cut the legs out from under this claim. Everybody acknowledges the damages, but there are efforts being made to cut the legs out from under this. This claim will appear before this legislature and in Washington, DC. Time is on ARCO's side, not Montana's. And, we've done everything in our power to keep this matter moving towards trial to get this resolved. One of the big frustrations he said was spending time on transaction costs, such as studies, reports, preparation for litigation, but it is the only way we can get this to the table. If we don't do that, nothing happens. The state of Montana has pushed this trial hard and all of a sudden, ARCO is here opposing the funding. Mr. Mazurek said he would offer in good faith, that the state of Montana will make every effort to resolve this litigation starting at any time, but we cannot abandon our work as we go forward.

REP. QUILICI thanked Mr. Mazurek for his honest comments. He asked Ms. Stash if she thought ARCO would be willing to sit down

now and negotiate rather than litigate this natural resource damage lawsuit. **Ms. Stash** said she probably hadn't been clear. She thinks the litigation shouldn't even be happening. She believes what ARCO is doing is cleanup, but questioning the very need for this lawsuit given the amount of cleanup that is going on.

{Tape: 1; Side: B; Approx. Counter: 38.0.}

REP. QUILICI said he realized the amount of work ARCO is doing from Butte down to Warm Springs. This litigation involves all the way down to Missoula. So, there's a lot more involved than just his area. He looks at his area a lot more than he does downstream, but still downstream is very important to this state. And, he wanted to know what has been done from Deer Lodge all the way down. **Ms. Stash** said ARCO has spent \$200 million today, primarily on Butte and Anaconda, because logical people start upstream and work their way downstream. EPA and the state of Montana have yet to make their decisions on how the Clark Fork River or the Milltown Reservoir will be cleaned up. Those sites are in the process of being studied now. They expect that decision in 1997 and ARCO will be cleaning up in those areas. She added that ARCO struck a pretty important partnership with the community of Deer Lodge and expects to score about a mile of the river. Their entryway this summer was a cooperative effort with the community and ARCO and EPA working together. It's very difficult to talk about what downstream residual problems when you haven't done the cleanup yet. What ARCO is suggesting by asking for the stay, which was denied, was to finish the cleanup and see how good they could get it working together before the lawsuit was continued. In 1985, none of the cleanup was started. **Ms. Stash** said ARCO has done a tremendous amount of worthwhile cleanup.

REP. WILLIAM WISEMAN, HD 41, Great Falls, asked if the state of Montana and ARCO litigation leads all the litigation in the U.S. If so, he was wondering if there were other lawsuits and what stages they were in. **Mr. Collins** said there been a number of natural resource damage lawsuits, but this lawsuit is one of the biggest in the U.S. There's a case in southern California called Montrose that ARCO's attorneys are also working on, where they've actually spent \$35 million of their assessments. It is now in the range of \$7 million and their claim there was about \$500 million. Also, the Exxon Valdez case, where natural resource damages were over \$1 billion. There's also a case in Idaho which is comparable to this case. There's been a number of cases back east, as well as Colorado and Utah. He offered to give the committee a more complete list, but stated this was one of the biggest cases. **REP. WISEMAN** asked if any of them had reached a conclusion. **Mr. Collins** said the Exxon case collected about \$1 billion. There have been a number of other settlements. The Montrose case in Santa Monica Bay was settled for about \$60 million and is still going on.

REP. WISEMAN then asked Ms. Stash if she had clearly said there was a \$50 million cap for these situations. She agreed. REP. WISEMAN then asked why they would have spent \$200 million so far with many plans to do more cleanup if there was a cap of \$50 million. Ms. Stash answered that there were two halves to the Superfund law, the remediation side, which is the cleanup side. The portion of the law that trustees can recover damages for on resources which cannot be restored is the provisional side. The \$50 million cap resides in that half of the bill not in the cleanup half of the bill.

REP. ROYAL JOHNSON, HD 10, Billings, asked Ms. Stash if she felt ARCO accepted the liability on the same stretch of river being referred to from Butte to Missoula. Ms. Stash said she was afraid to say they would accept liability, but ARCO has accepted responsibility.

REP. STEVE VICK, HD 31, Belgrade, asked REP. KADAS if the money borrowed so far was from the coal trust fund. REP. KADAS said the original \$4.7 million in 1993 was general fund and was transferred to the trust fund where they added \$2.7 million. Currently, all money obligated was from the coal trust fund, but this bill appropriates money from the general fund.

Closing by Sponsor:

REP. KADAS said it was ironic that someone from ARCO showed up today for this hearing. The suit was initially filed in 1983 and ARCO wanted to stay the suit at that time. At the request of ARCO, and at the objection of the state in 1989, they wanted to go to trial. The state objected because they wanted the cleanup done first. Now, in 1995, ARCO turns around and changes their stance. The effect is going to be that the money the state has put into assessment litigation would go down the tube. He was astonished that ARCO turned 180 degrees. Clearly, it is the threat of litigation that has brought ARCO back to the Clark Fork to participate in the cleanup. He didn't think there was any doubt that they would be here if there was no Superfund law and the state had not pressed for results. Referring to the \$50 million cap Ms. Stash alluded to, he feels that certainly ARCO has its own interpretation of the Superfund law and what it contains. The fact is that in a similar suit, the Valdez case, Exxon has been forced to pay \$1 billion in damages. There are no punitive damages allowed under this suit. The state is asking for natural resource damages, not punitive. It is an extremely important bill to the state of Montana -- everyone is interested in this process and it needs to be finalized.

{Tape: 2; Side: A; Approx. Counter: 0.1.}

HEARING ON HB 330Opening Statement by Sponsor:

REP. JOHN COBB, HD 50, Augusta, opened the hearing on HB 330, which removes the requirement that general fund encumbrances be treated as expenditures for accounting purposes. He said that agencies who have money left at the end of a fiscal year, usually try to use it rather than lose it. These accruals have cost the state a lot of money. He gave the committee a table which showed that, in fiscal year 1993-94, all state agencies combined accrued \$5.5 million and in fiscal year 1988-89, they accrued \$2.9 million. He thinks any extra money at the end of a fiscal year should revert to the general fund. This bill would make state agencies correct their accounting principles. **EXHIBIT 7.**

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. BEVERLY BARNHART, HD 29, Bozeman, asked if this is just for state agencies or for others, such as displaced homemakers, who get general fund money. **Jim Jones, Legislative Auditor's office,** said this bill would not affect anyone who receives money under a contract.

REP. ROYAL JOHNSON, HD 10, Billings, asked if those agencies can move money from one year to the next. REP. COBB said he has another bill which does that, but it hadn't passed through the process completely. Mr. Jones also mentioned that some of the money is for contracted services, where the contract is started in one year, but the services aren't completed until the next. REP. COBB said that one year when the legislature told the agencies they could not accrue money into the next year, the state saved over \$10 million that would have otherwise been spent in that way. REP. COBB also said that the funds were used for goods and services, not leases.

Scott Seacat, Legislative Auditor, said the accrual allows agencies to avoid recording transactions in the proper fiscal year when the expenditure was actually made. He said a contract signed in the month of May for May, June, July and August would be paid in the next fiscal year.

REP. MIKE KADAS, HD 66, Missoula, wanted to clarify how the money is used. Mr. Jones said a purchase order would be outstanding if the goods had not been received. REP. KADAS said there certainly were legal uses that should offer them an opportunity to accrue money. REP. COBB said if extra money is left over, it should be reverted to the general fund.

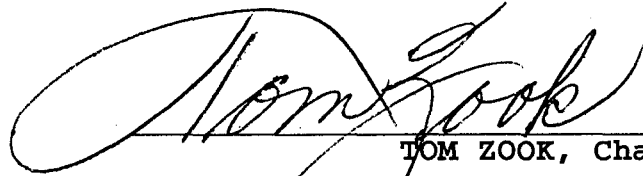
Dave Lewis, Budget Office, said there were very valid occurrences where an agency would accrue money. He stated he was neither a proponent nor an opponent to this bill, just wanted to be there to clarify any issues.

Closing by Sponsor:

REP. COBB said it would be more appropriate for agencies to decide how to spend money before the end of the year so they don't spend it on unnecessary things. He also said it would save the state money.

ADJOURNMENT

Adjournment: 6:15 p.m.



TOM ZOOK, Chairman



MARJORIE PETERSON, Secretary

TZ/mp

HOUSE OF REPRESENTATIVES

Appropriations

ROLL CALL

DATE 2-8-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Tom Zook, Chairman	✓		
Rep. Ed Grady, Vice Chairman, Majority	✓		
Rep. Joe Quilici, Vice Chairman, Minority	✓		
Rep. Beverly Barnhart	✓		
Rep. Ernest Bergsagel	✓		
Rep. John Cobb	✓		
Rep. Roger DeBruycker	✓		
Rep. Gary Feland	✓		
Rep. Marj Fisher	✓		
Rep. Don Holland	✓		
Rep. John Johnson	✓		
Rep. Royal Johnson	✓		
Rep. Mike Kadas	✓		
Rep. Betty Lou Kasten	✓		
Rep. Matt McCann	✓		
Rep. Red Menahan	✓		
Rep. Steve Vick	✓		
Rep. Bill Wiseman	✓		

HB 354
MICROBUSINESS FINANCE BILL

1995 Legislation; House Appropriations Committee Hearing
Wednesday, February 8, 1995, Room 312-2, 3:00 p.m.
Requestor Representative Norm Mills

Hearing scenario as devised with the MBDC (Microbusiness Development Corporation) Association. House Appropriations Chair, Representative Zook has allowed 30:00 minutes for proponents.

- :03 Representative Mills-Introduction
 - a) 4 parts of the Bill and supporting reasons
 - b) history of the Legislation
 - c) introduction of proponents (including non presenting resources for questions)

- :03 Duane Kurokawa-Wolf Point (Banker), State Microbusiness Advisory Council Chair
 - a) composition of the council
 - b) overview of work of the council
 - formation of program
 - continued evaluation/development
 - most important issues
 - loan loss reserve
 - portfolio quality guidelines
 - 3rd Party Evaluation
 - SBA Grant
 - JTPA Grant

- :02 Dolph Harris-Sidney (Businessman), State Microbusiness Advisory Council
 - a) need for additional investment
 - b) local fiscal burden
 - c) success of the program
 - d) videotape

- :06 Videotape

- :02 David Bond-Kalispell (Borrower) College Graduate Kept in the State, Video Business, State Microbusiness Advisory Council Member)
 - a) MBDC Loan effect
 - b) business

- :02 Terry Richter-Kalsipell (Borrower) AFDC Recipient, Bookkeeping Business
 - a) MBDC Loan effect
 - b) business

c) AFDC Issues

- :02 Steve Mehring-Great Falls (Business Owner) MBDC
Loan Review Board Member
 - a) Bank support
 - b) LRB method

- :02 Jim Davison-Butte (Economic Development) MBDC Board
of Directors
 - a) Business Support/community-rural
relationships and need
 - b) LRB method

- :03 Dick King-Havre, MBDC Executive Director (State
Microbusiness Advisory Council Member)
 - a) MBDC Self-Sufficiency
 - b) Lending Momentum
 - c) Success/Needs of the program

:25 minutes

Representative Mills will close after questions from
the committee.

Present for Question Response:

Linda Reed, Senior Economic Advisor to the Governor
Jon Noel, Director of the Department of Commerce
Lynn Robson, Microbusiness Finance Officer
Billy Krenzler, Billings MBDC (Deputy Director HRDC)
Kelly Flaherty, Helena MBDC, Executive Director
Doug Cutting, Helena MBDC, Chief Credit Officer
Terry Kendrick, Missoula MBDC
Charles Hill, Bozeman MBDC
Linda McNeill, Great Falls MBDC
Melissa Drogge, Havre MBDC, MBDC Association Chair

Jim Boyer, Microbusiness Evaluator
Larry Nordell, Microbusiness Evaluator



First Bank Havre

235 First Street
P.O. Box 351
Havre, Montana 59501
406 265-1211

EXHIBIT 2
DATE 2-8-95
HB 354

February 7, 1995

**Montana House of Representatives
Appropriations Committee
Helena, MT**

RE: Support of House Bill No. 354

Honorable Chairman Zook:

I am writing to voice my support of the Montana Microbusiness Finance Program and to encourage your committees' passage of House Bill 354. As the president of First Bank Montana, N.A. - Havre Branch, I have supported the Microbusiness Finance Program from its inception and have provided financial support for administration, technical support of our staff on the Loan Review Committee and vocal support through our local legislators.

I believe that the program in Hill County enjoys quality administration through Bear Paw Development Corporation. They have provided an effective balance of risk management of the loan funds and an appropriate level of economic opportunity for start-up businesses. I view the Microbusiness Finance Program as a cooperative effort with local lenders to create economic growth along the Hi-Line. I do not view the program as being in direct competition with our bank.

The Microbusiness Finance Program provides the necessary start up financing for the higher risk, new businesses, which do not meet our credit criteria. At some future time when financial progress can be demonstrated, the Microbusiness customer can be suitably graduated to private lenders.

The proposals offered by HB 354 seem to be a reasonable approach to maintaining the viability of the Microbusiness Finance Program and future accomplishment of the intent of the legislators.

Therefore I encourage your support and passage of the bill. Thank you.

Sincerely,

**Ronald L. Van Voast
President**

DEPARTMENT OF JUSTICE
Natural Resource Damage Litigation Program

**HB 305 - 1997 Biennium Funding Request for the Lawsuit:
State of Montana v. Atlantic Richfield Company**

History and Status of Litigation:

In 1983 the State of Montana filed a natural resource damage lawsuit in U.S. District Court against the Atlantic Richfield Company (ARCO) under the federal "Superfund" law. The State seeks to recover damages for injuries to natural resources in the Upper Clark Fork River Basin resulting from the mining and smelting operations of ARCO and its predecessor, the Anaconda Company. The geographic scope of the damage includes nearly 127 miles of the Clark Fork River corridor from Butte to Missoula and associated upland areas, particularly near the City of Anaconda. Hazardous substances are continuing to be released and cause damage to this day due to large quantities of toxic metals and acids left in the soils, sediments and waters of the river basin.

The case has been delayed twice, the second time in early 1993. As part of an agreed upon settlement process, the parties exchanged extensive reports and held numerous meetings. However, no settlement was reached and litigation has resumed. Assuming that there are no additional stays of litigation, the case is expected to go to trial in Spring 1997.

To prepare the case for trial, the State has prepared a natural resource damage assessment (NRDA) and report in accordance with U.S. Department of Interior Regulations. By the end of this fiscal year, the State of Montana will have expended nearly \$7 million on the NRDA and litigation. These funds have been loaned from the State's Coal Tax Fund.

Natural Resource Damage Assessment and Report:

The Upper Clark Fork River Basin NRDA was completed and the State's Report of Assessment released to ARCO and the public on January 13, 1995. Montana's NRDA is documented in its Report of Assessment -- a series of more than 20 reports including the following:

- Five groundwater injury assessment reports: More than 600,000 acre-feet of ground water, including more than 200,000 acre-feet in the City of Butte, has been contaminated.
- An aquatics resources injury assessment report: There are substantial injuries to the surface waters, fish, sediments, and the benthic macroinvertebrates in Silver Bow Creek and the Clark Fork River. Because of hazardous substances, the Clark Fork fishery alone contains less than 18 percent of the fish it should otherwise support.

PROPOSED NATURAL RESOURCES DAMAGE PROGRAM PUDGET

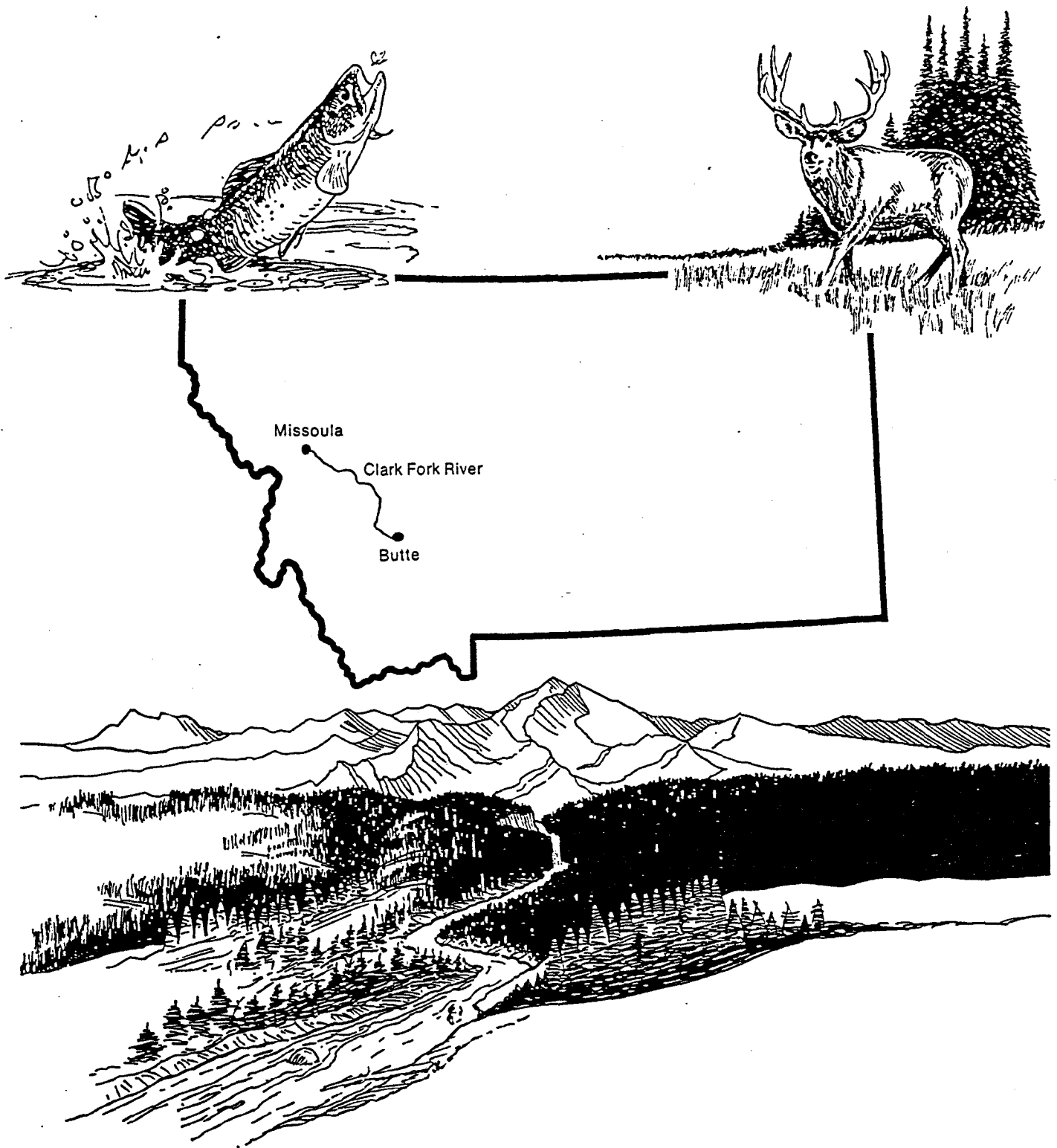
1.	Program		
	a) Salaries, benefits, indirect		\$712,200
	b) Supplies, equipment, copying		43,538
	c) Communications (mail & telephone)		22,573
	d) Travel		
	In-State		21,494
	Out-of-State		40,500
	Non-Employee		10,000
	e) Rent/Maintenance		22,000
	f) Other		9,052
	SUBTOTAL		\$881,357
2.	Contract Services		
	a) Outside legal		
	1 ¼ equivalent attorneys (4500 hrs)		\$652,500
	Travel costs		48,000
	b) Expert witnesses		
	30 experts		286,000
	Travel costs		52,000
	c) Expert support staff		
	30 support x 5 days x \$500/day		75,000
	Travel costs: 30 x \$1000		30,000
	d) Exhibit preparation		50,000
	e) Temporary services		20,000
	f) Document management		20,000
	SUBTOTAL		\$1,223,500
3.	Deposition, Transcript, and Court Costs		
	a) Depo Transcripts		
	ARCO 218 days x 150 p/d x \$2/p		\$65,000
	Exhibits		5,000
	b) Depo Transcripts		
	State 95 days x 150 p/d x \$3/p		42,750
	Exhibits		2,250
	c) Court hearing transcripts		5,000
	d) Special Master		10,000
	e) Deposition fee for ARCO witnesses		
	25 Experts x 4 days x 1000/day		100,000
	Travel costs: 25 x 1000		25,000
	SUBTOTAL		\$255,000
	<u>TOTAL</u>		<u>\$2,359,857</u>

EXHIBIT 4
DATE 2-8-95
HB 305

STATE OF MONTANA
DEPARTMENT OF JUSTICE
NATURAL RESOURCE DAMAGE LITIGATION PROGRAM

REPORT TO THE LEGISLATURE

FEBRUARY 1995



NATURAL RESOURCE DAMAGE LITIGATION PROGRAM

REPORT TO LEGISLATURE - FEBRUARY 1995

The State's Natural Resource Damage Litigation (NRDL) Program was created for the purpose of pursuing Montana's lawsuit against the Atlantic Richfield Company (ARCO) for natural resource damages brought under the "Superfund" law. The purpose of this report is to describe to the legislature the activities of the NRDL Program and the progress of the litigation over the last two years. This report is also submitted in support of House Bill 305 which has been introduced in the 1995 session by Representative Kadas and other supporters at the request of the Department of Justice. This bill provides for a general fund loan, in the amount of \$2,359,857, for the purpose of continuing the natural resource damage litigation against ARCO through trial during the 1996-1997 biennium.

History and Status of Litigation

In December of 1983, the State of Montana filed a natural resource damage lawsuit in U.S. District Court against the Atlantic Richfield Company. By this lawsuit, the State seeks recovery of damages for injuries to natural resources pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675, and the Montana Comprehensive Environmental Cleanup and Responsibility

prepare its case for trial. In order to do so, it was necessary for the State to perform a natural resource damage assessment (NRDA) under the regulations promulgated by the U.S. Department of Interior, 43 C.F.R. Part 11. In 1991, the legislature authorized a \$4.9 million general fund loan to fund the NRDA and continue the litigation against ARCO.

During the 1992-1993 biennium, the State began preparation of its NRDA while at the same time engaging in full litigation, including extensive discovery, with ARCO. In November of 1992, ARCO suggested that the parties attempt to settle the case rather than litigate. In March of 1993 the State and ARCO entered into a settlement process agreement which called for a stay of litigation while settlement discussions proceeded. This agreement was approved by the Court and for approximately 18 months (i.e., through August of 1994) the parties engaged in the settlement process. This process called for each party to release, over time, a series of technical reports supporting its case. These reports were divided into five categories: Groundwater injuries, aquatic resources injuries, terrestrial resources injuries, compensable damages, and restoration damages. After each category of reports was released, the parties and their expert consultants met to discuss the reports and debate the merits of each side's position.

In June of 1994 the parties entered into the final phase of

Confederated Salish and Kootenai Tribes to intervene in the case. The Tribes claim their treaty-based, off-reservation hunting and fishing rights give them an interest in the case. On November 10, 1994 the State filed a brief opposing the Tribes' intervention. The State argues that the Tribes' motion is extremely untimely, having been filed some 11 years after the State's original complaint and more than 5 years after the court lifted the original stay. The State also argues that any interest the Tribes may have in the case, as a practical matter, will not be impaired by the disposition of the case in their absence. It is further argued that any interests of the Tribes in restoring the injured resources are being adequately represented by the State. The court has not yet ruled on this motion. A ruling in favor of the Tribes could cause further delay and a number of other complications affecting the State's prosecution the case.

History, Funding and Structure of NRDL Program

The Natural Resource Damage Litigation (NRDL) Program was established in the spring of 1991 in accordance with the legislation, House Bill 2, providing the initial \$4.9 million loan. The Program was charged with supervising the preparation of the NRDA and pursuing the lawsuit. As provided in the original legislation, the Program is to operate under the direction and guidance of the Governor's Policy Committee

specialists, soil scientists, geochemists, engineers, quality assurance specialists and economists. Many of those consultants are among the most highly regarded experts in the United States. In addition, funds were spent on outside legal counsel retained to help manage and guide the NRDA as well as the litigation. In 1991, the Program's Policy Committee appointed Kevin Ward, of the Denver law firm Harding & Ogborn, as the lead counsel representing the State of Montana in the lawsuit. Mr. Ward has highly specialized expertise and experience in "Superfund" and natural resource damage litigation. Given that this lawsuit is unique in its magnitude and complexity, Mr. Ward's expertise provides the State with an advantageous position in the litigation, despite the numerous law firms and attorneys which ARCO has hired to defend its position.

While the budget for the Program has always included a substantial line item for outside counsel costs, the Program has economized on these costs in each fiscal year. The Program staff includes three attorney positions, with a fourth attorney position currently being classified for hiring. As these attorneys have become more experienced and proficient in natural resource damage litigation, the Program has made less use of outside counsel. While Mr. Ward will remain the State's lead counsel, a substantial portion of the pretrial preparation and trial work will be done by State legal staff, saving Montana substantial amounts of money over the costs which would be

of assessment. The State issued its Preassessment Screen in October of 1991. In January and April of 1992 the State issued its Assessment Plan, Parts I and II. Due to the imposition of the settlement process during phases 3, 4 and 5 of the NRDA, these phases were actually repeated twice. Between May of 1993 and March of 1994, the State issued its preliminary injury and damage determination and reports for purposes of the settlement process. When the settlement process failed, the State determined that further assessment work was appropriate and, thereafter, most of the reports were revised. Prior to completion of those revisions, a supplemental Assessment Plan, i.e., Part III, was issued.

Groundwater Injury Reports

Five separate groundwater injury reports were issued as part of the Report of Assessment. Those reports identify and quantify the injuries caused by the release of hazardous substances to groundwater at a number of locations throughout the Upper Clark Fork River Basin. These include the injuries to groundwater in the bedrock aquifer in uptown Butte, the alluvial aquifer in downtown Butte, the alluvial aquifer under the Montana Pole Treatment Plant, the alluvial aquifer at Rocker, the alluvial aquifer extending from Smelter Hill through Opportunity to Warm Springs Ponds, the bedrock aquifer under Smelter Hill, and the alluvial aquifer at Milltown. The reports determine that more

physiological impairment studies to relate histopathological changes in fish tissues to metals. The results of these studies clearly support the conclusion that the injuries to the fishery were a result of the release of hazardous substances from ARCO and the Anaconda Company's mining and smelting operations.

In order to quantify the injury to fish, extensive fish population surveys were conducted on Silver Bow Creek, the Clark Fork River and reference streams. These studies reveal that Silver Bow Creek has no fishery, whatsoever, and the Clark Fork River contains less than 18% of the fish which should otherwise be present but for the presence of hazardous substances. The initial fish population survey was performed in 1991. In 1994 the State's consultants re-surveyed the rivers and reference streams and confirmed that essentially the same injury continues to exist.

Terrestrial Resource Injury Report

In this report soils, vegetation, wildlife and wildlife habitat were also determined to be injured within the Upper Clark Fork River Basin. Significant injuries have occurred in the riparian zone along Silver Bow Creek and Clark Fork River between Butte and Deer Lodge. In addition, nearly 20 square miles of upland areas near Anaconda (specifically in mountainous areas near Smelter Hill, Stucky Ridge and Mt. Haggin) have been

travel to alternative fishing sites. In this study the travel cost model and related analyses were also used as a basis for valuing lost non-fishing recreation. This study determined that the public loses some \$2.5 million per year as a result of injuries to the Clark Fork River and Silver Bow Creek fishery. The State's claim for past lost recreational use damages, going back to 1981 and discounted for present value, is about \$53 million. It's claim for future lost recreational damages is between \$17-\$38 million, depending upon the degree and timing of cleanup.

The State also valued its lost uses of the injured resources, including groundwater, surface water, and terrestrial resources, using the contingent valuation (CV) methodology. This methodology also measures lost "non-use" values such as lost existence, option and bequest values. This study surveyed Montana residents asking how much they would be willing to pay to cleanup the various injured resources. According to the results of the CV study, the damages for past lost use and non-use of the injured resources, going back to 1981, varies between \$190-\$232 million, depending upon the degree of future cleanup. The damages for future lost use and non-use of these resources, according to this study, is between \$49-\$164 million, again depending upon the degree of cleanup.

In another study, the State's consultants evaluated the

will be accepted through February 21, 1995. Thereafter, the State (i.e., the Program and the Program's Policy Committee) will determine whether, based upon public comment, changes should be made to the plan. Attachment B, hereto, lists the various costs of the restoration alternatives and includes a description of the restoration alternatives selected. The total cost of the restoration alternatives selected is \$327 million.

Assessment and Enforcement Costs

As part of its Report of Assessment, the State issued a report which calculates the total assessment and enforcement costs, including interest, which the State has spent on the litigation and the NRDA through November of 1994. This report was prepared by The Barrington Consulting Group, from San Francisco, and was signed by one of the group's principals, James Turner, a certified public accountant. This report concludes: "As a result of our work described herein, it is our opinion that, unless otherwise noted, the direct and indirect costs incurred for the Clark Fork River Basin natural resource damage assessment, as set forth in the detailed cost summary appended to this report as Schedule A . . . are accurately stated and accurately documented as of November 30, 1994." Schedule A of that report, and certain related schedules, are included in Attachment C, hereof. These indicate that the total assessment and enforcement costs as of November 30, 1994 were \$6,703,334.

Montana, June 1994.

5. *Butte Groundwater Injury Assessment Report, Clark Fork River Basin NPL Sites*, by Dr. Ann Maest, John J. Metesh and Dr. Richard Brand, January 1995.
6. *Anaconda Groundwater Injury Assessment Report, Deer Lodge Valley, Montana*, by Dr. William W. Woessner, January 1995.
7. *Milltown Groundwater Injury Assessment Report*, by Dr. William W. Woessner, January 1995.
8. *Montana Pole Treatment Plant Groundwater Injury Assessment, Butte, Montana*, by John J. Metesh, April 1993.
9. *Rocker Groundwater Injury Assessment Report, Rocker, Montana*, by Dr. William W. Woessner, January 1995.
10. *Aquatics Resources Injury Assessment Report, Upper Clark Fork River Basin*, January 1995, by Dr. Joshua Lipton, et al, including the following appendices:

Appendix A: "Surface Water Sampling Conducted by Montana Natural Resource Damage Program," by Mark Kerr.

Appendix B: "Acute Toxicity in Pulse Events, Relative Sensitivity of Brown and Rainbow Trout to Pulses of Metals Typical of the Clark Fork River," by Dr. Harold Bergman, University of Wyoming.

Appendix C: "Influence of Acclimation/Adaptation on Toxicity Differential Tolerance and Resistance of Brown and Rainbow Trout to Water-borne Metal Concentrations Typical of the Clark Fork River," by Dr. Harold Bergman, University of Wyoming.

Appendix D: "Determine the Extent to Which Rainbow Trout and Brown Trout Avoid or Prefer Water Quality Characteristics of the Clark Fork River," by Dan Woodward, National Biological Survey and Dr. Harold Bergman, University of Wyoming.

Appendix E: "Chronic Toxicity of Cadmium, Copper, Lead and Zinc to Rainbow Trout and Brown Trout at Concentrations and Forms Present in Water and Aquatic Invertebrate Food Chains in the Upper Clark Fork River," by Dan Woodward and Charles Smith, National Biological Survey and Dr. Harold Bergman, University of Wyoming.

Appendix F: "The Physiological Impairment of Fish

17. *Literature Review and Estimation of Municipal and Agricultural Values of Groundwater Use in the Upper Clark Fork River Drainage*, by Dr. John Duffield and Bioeconomics, Inc., January 1995.
18. *Restoration Determination Plan, Upper Clark Fork River Basin*, by Montana Natural Resource Damage Program and Rocky Mountain Consultants, January 1995.
19. *Quality Assurance/Quality Control Report, Natural Resource Damage Assessment of Upper Clark Fork River Sites*, by Mark Kerr and Diane Short, January 1995.
20. *Responses to Comments on Assessment Plan, Clark Fork Basin NPL Sites, Montana*, January 1995.
21. *Modifications to Assessment Plan, Clark Fork Basin NPL Sites, Montana*, January 1995.
22. *State of Montana v. Atlantic Richfield Company, Natural Resource Damage Assessment and Enforcement Costs*, by The Barrington Consulting Group, January 1995.
23. *A Brief Historical Overview of Anaconda Copper Mining Company's Principal Mining and Smelting Facilities, Along Silver Bow and Warm Springs Creeks, Montana*, by Alan S. Newell, Historical Research Associates, Inc., January 12, 1995.

The State's Report of Assessment reached the following conclusion:

"In summary, ARCO is liable to the State of Montana for \$635,410,000 in damages and costs for injuries to natural resources in the Upper Clark Fork River Basin. This liability consists of the following: \$300,780,000 in past and future compensable value damages (including \$19,680,000 in interest between January 1, 1994 and January 1, 1995); \$326,840,000 in damages based upon restoration costs; and \$7,790,000 for assessment and enforcement costs (through November 30, 1994).

Montana citizens if the resources are not restored to at least the degree set forth in the State's *Restoration Determination Plan*. Furthermore, these restoration costs do not even approach the true costs of restoring all of the resources (such as those under Opportunity Ponds and Milltown Reservoir). The State, in fact, is foregoing a much greater restoration claim which it may have asserted.

"In conclusion, the State of Montana's \$635,410,000 damage claim may be viewed as very reasonable when compared to the great detriment that Montana has suffered for so long, and will continue to suffer, as a result of the injuries caused by the release of hazardous substances. This claim may even be viewed as minimal when considering the tremendous wealth that was created by exploiting Montana's natural resources in the course of causing those injuries."

Demand Letter to ARCO

On January 13, 1995, based upon its Report of Assessment, and as provided for in the DOI regulations, the State sent a letter reciting its demand for payment of damages and costs. (See Attachment D, hereof.) That letter demands from ARCO \$635,410,000 in payment of costs and damages for injuries to natural resources in the Upper Clark Fork River Basin. That amount includes \$300,780,000 in past and future compensable value

that we have budgeted for about 100 days of deposition fees for ARCO's expert witnesses.

As previously noted, this budget should take the State through trial of this case, assuming that trial concludes by June 30, 1997. The legislature should be cautioned, however; there is a possibility that the case may be delayed past this date. ARCO has recently made efforts delay the case, and delay may occur if the Confederated Salish and Kootenai Tribes are successful in their motion to intervene. If a significant delay occurs, further funding will be needed in the following biennium; and even if trial is concluded during this biennium, further funding may be needed for any appeal.

In addition, the legislature should be warned that ARCO and other industry opponents of CERCLA and CECRA are lobbying both the U.S. Congress and the Montana legislature at this time to repeal certain key provisions of these laws upon which this litigation is dependent. If such efforts are successful in both the U.S. Congress and the Montana legislature, then it is possible that the State of Montana could lose some or all of its investment in the litigation.

ATTACHMENT A

RECEIVED

OCT 06 1994

NATURAL R.
DAMAGE P.

FILED

OCT 4 1994

LOU ALKSIOW J.R., CLERK
By *[Signature]*
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

STATE OF MONTANA,)

Plaintiff and counter-)
defendant,

NO. CV-83-317-H

vs.)

ATLANTIC RICHFIELD COMPANY,)

O R D E R

Defendant and counter-)
claimant,

Having considered the motion requesting the court to amend its order of March 22, 1993, and temporarily stay these proceedings, the court deems it appropriate to DENY the same. In accordance with the previous directive of the court, the deadlines for the accomplishment of discovery and submission of a proposed final pretrial order are reimposed, but effectively tolled as provided by the court's order of March 22, 1993. Therefore,

Fed.R.Civ.P. 26(a)(2)(B). The parties are advised that failure to comply with the disclosure requirements of Fed.R.Civ.P. 26(a)(2)(B) may result in the exclusion of an expert witness at trial.

(b) As soon as practicable, but in no event later than June 12, 1995, the defendant shall identify each person the party expects to call as an expert witness at trial, and shall provide all other parties with disclosures pertaining to expert testimony sufficient to satisfy the prescriptions of Fed.R.Civ.P. 26(a)(2)(B). The parties are advised that failure to comply with the disclosure requirements of Fed.R.Civ.P. 26(a)(2)(B) may result in the exclusion of an expert witness at trial.

(c) Each party shall identify every person whom the party expects to use as a rebuttal expert at trial and serve all other parties with a disclosure statement sufficient to satisfy the prescriptions of Fed.R.Civ.P. 26(A)(2)(B), on or before September 11, 1995.

D. File all motions to compel discovery prior to the close of the discovery schedule set forth herein. File all other motions, including motions in limine and motions for summary judgment, on or before July 8, 1996. If the court determines that a hearing on said motion is necessary, the court will schedule a hearing and notify the parties accordingly.

ATTACHMENT B

Summary of Restoration Cost Estimates

<u>Report Chapter</u>	<u>Resource Area</u>	<u>Restoration Alternative¹</u>				
		<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>NR²</u>
2	Butte Hill Groundwater	61*	32	-	-	1.24
3	Area One Groundwater (Downtown Butte)	60*	35	-	-	.87
4	Silver Bow Creek	87*	50	42	-	1.93
5	Montana Pole Groundwater	25	8*	2	-	.54
6	Rocker Groundwater	8	2*	-	-	.41
7	Smelter Hill-Mt. Haggin Uplands	25*	21	15	9	.54
8	Anaconda (Opportunity) Groundwater	287	145	122	44	.94*
9	Clark Fork River	82*	52	37	-	5.59
10	Milltown Groundwater	109	110	86	-	.33*
Totals:		744	455	304	44	12.4

* Recommended restoration alternatives: Total = \$327 million

¹ All estimates in millions of dollars.

² NR = Natural Recovery (i.e., no action) alternative; only costs are for monitoring.

BUTTE HILL
ALTERNATIVE 2A

DESCRIPTION	QUANTITY PER YR UNIT	UNIT COST	COST/YR 1993 DOLLARS	COST YEARS	PRESENT WORTH @ 7%	TOTAL COST OF ALTERNATIVE
WORK ITEM DESCRIPTION						
CONSTRUCT RESERVOIR	25.560 AF	\$1.500 AF	\$38,340.000	0	\$38,340.000	
LEASE WATER TO OPERATE RESERVOIR	11.276 AF	\$42.00 AF	\$473.590	1-29	\$5,915.000	
SUBTOTAL					\$44,155.000	
STATE OVERSIGHT OF MONITORING DATA	1 YR	\$90,000 YR	\$90,000	1-50	\$1,242.000	
					\$1,242.000	
					\$45,397.000	
CONTINGENCY @ 20%		20%			\$9,079.000	
ENGINEERING AND ADMINISTRATION @ 15%		15%			\$6,810.000	
TOTAL COST: ALTERNATIVE 2A						\$61,286.000

YEAR ZERO IS 1994

TIME AND DATE OF PRINTOUT: 04:21 PM

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AREA ONE
ALTERNATIVE 3A

DESCRIPTION	QUANTITY PER YR UNIT	UNIT COST	COST/YR 1994 DOLLARS	COST YEARS	PRESENT WORTH @ 7%*	TOTAL COST OF ALTERNATIVE
WORK ITEM DESCRIPTION						
1) EXCAVATE BRW TAILINGS	240,000 CY	\$6.00 CY	\$1,440,000	6-10	\$4,210,000	
2) EXCAVATE PARROT TAILINGS						
EXCAVATE AND STOCKPILE OVERBURDEN	280,000 CY	\$6.00 CY	\$1,680,000	6-8	\$3,143,000	
EXCAVATE TAILINGS	95,000 CY	\$6.00 CY	\$570,000	6-8	\$1,067,000	
REMOVE CITY/COUNTY SHOP COMPLEX	1 LS	\$250,000 LS	\$250,000	8	\$146,000	
3) EXCAVATE MSD TALINGS						
EXCAVATE AND STOCKPILE OVERBURDEN	112,000 CY	\$6.00 CY	\$672,000	6	\$448,000	
EXCAVATE TAILINGS	115,500 CY	\$6.00 CY	\$693,000	6	\$462,000	
4) HAULING AND DISPOSAL @ PONDS						
BRW TAILINGS	240,000 CY	\$7.50 CY	\$1,800,000	6-10	\$5,262,000	
PARROT TAILINGS	95,000 CY	\$7.50 CY	\$712,500	6-8	\$1,333,000	
MSD TAILINGS	115,500 CY	\$7.50 CY	\$866,250	6	\$577,000	
5) BACKFILL EXCAVATED AREAS						
BACKFILL BRW AREA	240,000 CY	\$12.00 CY	\$2,880,000	6-10	\$8,419,000	
BACKFILL MSD AREA	115,500 CY	\$12.00 CY	\$1,386,000	6	\$924,000	
6) RECONSTRUCT CITY/COUNTY SHOP COMPLEX	1 LS	\$750,000 LS	\$750,000	9	\$408,000	
7) INSTALL INTERCEPTION TRENCH - MSD AND SILVER BOW CREEK	9,885 LF	\$200 LF	\$1,977,000	10	\$1,005,000	
8) EXPAND LIME PRECIPITATION TREATMENT						
EXPAND TREATMENT FACILITY (1.45 MGD)	1 LS	\$5,800,000 LS	\$5,800,000	10	\$2,948,000	
INSTALL DISCHARGE LINE	6,770 LF	\$12.00 LF	\$81,240	10	\$41,000	
TREATMENT PLANT O & M	1 YR	\$701,800 YR	\$701,800	11-50	\$4,756,000	
TREATMENT PLANT SLUDGE DISPOSAL	1 YR	\$1,213,215 YR	\$1,213,215	11-50	\$8,222,000	
SUBTOTAL					\$43,371,000	
MONITORING	1 YR	\$90,000 YR	\$90,000	6-50	\$873,000	
SUBTOTAL					\$873,000	
SUBTOTAL					\$44,244,000	
CONTINGENCY @ 20%		20%			\$8,849,000	
ENGINEERING AND ADMINISTRATION @ 15%		15%			\$6,637,000	
TOTAL COST:ALTERNATIVE 3A						\$59,730,000

* YEAR ZERO IS 1994

TIME AND DATE OF PRINTOUT:

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11-Jan-95

SILVER BOW CREEK REGION
ALTERNATIVE 4A

DESCRIPTION	QUANTITY PER YR UNIT	UNIT COST	COST/YR 1994 DOLLARS	COST YEARS	PRESENT WORTH @ 7%*	TOTAL COST OF ALTERNATIVE
WORK ITEM DESCRIPTION						
1) EXCAVATE FLOODPLAIN TAILINGS	655,770 CY	\$6.00 CY	\$3,934,620	2-6	\$15,077,000	
2a) EXCAVATE STREAMBED	75,638 CY	\$6.00 CY	\$453,825	11-14	\$781,000	
2b) CONSTRUCT BYPASS CHANNEL	29,832 FT	\$22.50 FT	\$671,220	11-14	\$1,156,000	
3) HAULING AND DISPOSAL @ PONDS TAILINGS	849,600 CY	\$7.50 CY	\$6,372,000	2-6	\$24,417,000	
SEDIMENTS	75,638 CY	\$7.50 CY	\$567,281	11-14	\$977,000	
4) BACKFILL EXCAVATED FLOODPLAIN	163,943 CY	\$12.00 CY	\$1,967,310	2-6	\$7,539,000	
5) TOPSOIL/GROWTH MEDIA COVER	180,855 CY	\$10.00 CY	\$1,808,546	2-6	\$6,930,000	
6) REVEGETATE FLOODPLAIN						
SEED AND MULCH GRASSES/FORBS	112 AC	\$825 AC	\$92,565	2-6	\$355,000	
HAND PLANT SHRUBS/TREES	37 AC	\$4,620 AC	\$172,788	2-6	\$662,000	
7) RECONSTRUCT STREAM CHANNEL						
BACKFILL EXCAVATED STREAMBED	37,819 CY	\$12.00 CY	\$453,825	11-14	\$781,000	
CONSTRUCT CHANNEL BEDFORMS	29,832 LF	\$4.00 LF	\$119,328	11-14	\$205,000	
CONSTRUCT TYPE 2 STREAMBANKS	23,866 FT	\$8.00 FT	\$190,925	11-14	\$329,000	
CONSTRUCT TYPE 3 STREAMBANKS	23,866 FT	\$51.00 FT	\$1,217,146	11-14	\$2,096,000	
CONSTRUCT TYPE 4 STREAMBANKS	11,933 FT	\$64.00 FT	\$763,699	11-14	\$1,315,000	
SUBTOTAL					\$62,620,000	
MONITORING	1 YR	\$150,000 YR	\$150,000	2-50	\$1,930,000	
SUBTOTAL					\$1,930,000	
SUBTOTAL					\$64,550,000	
CONTINGENCY @ 20%		20%			\$12,910,000	
ENGINEERING AND ADMINISTRATION @ 15%		15%			\$9,683,000	
TOTAL COST:ALTERNATIVE 4A						\$87,140,000

* YEAR ZERO IS 1994

TIME AND DATE OF PRINTOUT:

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11-Jan-95

MONTANA POLE
ALTERNATIVE 5B

DESCRIPTION	QUANTITY PER YR UNIT	UNIT COST	COST/YR 1994 DOLLARS	COST YEARS	PRESENT WORTH @ 7%*	TOTAL COST OF ALTERNATIVE
WORK ITEM DESCRIPTION						
1) HIGHWAY & BERM REMOVAL AND REPLACE	1 LS	\$2,106,325 LS	\$2,106,000	3	\$1,719,000	
2) EXCAVATE CONTAMINATED SOIL	41,000 CY	\$6.00 CY	\$246,000	3	\$201,000	
3) PLACE CLEAN SOIL	41,000 CY	\$12.00 CY	\$492,000	3	\$402,000	
4) LANDFARM CONTAMINATED SOIL	20,500 CY	\$30.00 CY	\$615,000	3-4	\$971,000	
5) WELL O & M	1 YR	\$30,700 YR	\$31,000	21-50	\$99,000	
6) PROCESS O & M (0.15 MGD)	1 YR	\$579,000 YR	\$579,000	21-50	\$1,857,000	
7) SLUDGE DISPOSAL	1 YR	\$56,700 YR	\$57,000	21-50	\$183,000	
SUBTOTAL					\$5,432,000	
MONITORING	1 YR	\$45,000 YR	\$45,000	3-50	\$540,000	
SUBTOTAL					\$540,000	
SUBTOTAL					\$5,972,000	
CONTINGENCY @ 20%		20%			\$1,194,000	
ENGINEERING AND ADMINISTRATION @ 15%		15%			\$896,000	
TOTAL COST:ALTERNATIVE 5B						\$8,060,000

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11-Jan-95

ROCKER TIMBER PLANT
ALTERNATIVE 6B

DESCRIPTION	QUANTITY PER YR UNIT	UNIT COST	COST/YR 1994 DOLLARS	COST YEARS	PRESENT WORTH @ 7%*	TOTAL COST OF ALTERNATIVE
WORK ITEM DESCRIPTION						
1) EXCAVATE SOIL	37,500 CY	\$6.00 CY	\$225,000	2	\$197,000	
2) HAUL TO IMPOUNDMENT	22,500 CY	\$6.00 CY	\$135,000	2	\$118,000	
3) DISPOSAL	22,500 CY	\$15.00 CY	\$338,000	2	\$295,000	
4) BACKFILL EXCAVATION	22,500 CY	\$12.00 CY	\$270,000	2	\$236,000	
SUBTOTAL					\$846,000	
MONITORING	1 YR	\$45,000 YR	\$45,000	2-50	\$579,000	
SUBTOTAL					\$579,000	
SUBTOTAL					\$1,425,000	
CONTINGENCY @ 20%		20%			\$285,000	
ENGINEERING AND ADMINISTRATION @ 15%		15%			\$214,000	
TOTAL COST:ALTERNATIVE 6B						\$1,920,000

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SMELTER HILL AREA
ALTERNATIVE 7A

DESCRIPTION	QUANTITY PER YR UNIT	UNIT COST	COST/YR 1994 DOLLARS	COST YEARS	PRESENT WORTH @ 7%*	TOTAL COST OF ALTERNATIVE
WORK ITEM DESCRIPTION						
1) TREE/SHRUB AREA REVEGETATION	4,408 AC	367 AC	\$3,005 AC	\$1,104,000	3-14	\$7,659,000
2) GRASSLAND AREA REVEGETATION	2,702 AC	225 AC	\$2,025 AC	\$456,000	3-14	\$3,163,000
3) O & M FOR TREE/SHRUB AREAS	4,408 AC	367 AC	\$1,002 AC	\$368,000	4-15	\$2,386,000
4) O & M FOR GRASSLAND AREAS	2,702 AC	225 AC	\$675 AC	\$152,000	4-15	\$986,000
5) STEEP SLOPED >40% AREAS	2,242 AC	187 AC	\$2,080 AC	\$389,000	3-14	\$2,699,000
6) O & M FOR STEEP SLOPED AREAS	2,242 AC	187 AC	\$693 AC	\$130,000	4-15	\$843,000
7) SHRUBLAND AREAS	1,614 AC	135 AC	\$300 AC	\$40,000	3-14	\$277,000
SUBTOTAL						\$18,013,000
MONITORING	1 YR	\$45,000 YR	\$45,000	3-50		\$540,000
SUBTOTAL						\$540,000
SUBTOTAL						\$18,553,000
CONTINGENCY @ 20%			20%			\$3,711,000
ENGINEERING AND ADMINISTRATION @ 15%			15%			\$2,783,000
TOTAL COST:ALTERNATIVE 7A						\$25,050,000

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ANACONDA AREA
ALTERNATIVE 8E

DESCRIPTION	QUANTITY PER YR UNIT	UNIT COST	COST/YR 1994 DOLLARS	COST YEARS	PRESENT WORTH @ 7%*	TOTAL COST OF ALTERNATIVE
WORK ITEM DESCRIPTION MONITORING	1 YR	\$90,000 YR	\$90,000	5-50	\$937,000	
TOTAL COST:ALTERNATIVE 8E						\$937,000

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CLARK FORK RIVER
ALTERNATIVE 9A

DESCRIPTION	QUANTITY PER YR UNIT	UNIT COST	COST/YR 1994 DOLLARS	COST YEARS	PRESENT WORTH @ 7%*	TOTAL COST OF ALTERNATIVE
WORK ITEM DESCRIPTION						
1) EXCAVATE FLOODPLAIN TAILINGS	650,230 CY	\$6.00 CY	\$3,901,000	4-9	\$15,178,000	
2) REMOVE RIVERBANKS	26,136 CY	\$6.00 CY	\$157,000	4-8	\$525,000	
3) HAULING AND DISPOSAL @ PONDS FLOODPLAIN TAILINGS	650,230 CY	\$9.50 CY	\$6,177,000	4-9	\$24,034,000	
RIVERBANK MATERIALS	49,896 CY	\$9.50 CY	\$474,000	4-8	\$1,586,000	
4) BACKFILL EXCAVATED FLOODPLAIN	162,558 CY	\$12.00 CY	\$1,951,000	4-9	\$7,591,000	
5) REVEGETATE FLOODPLAIN						
SEED AND MULCH GRASSES/FORBS	734 AC	\$825 AC	\$605,000	4-9	\$2,354,000	
HAND PLANT SHRUBS/TREES	6 AC	\$4,620 AC	\$30,000	4-9	\$117,000	
6) RECONSTRUCT RIVERBANKS						
CONSTRUCT TYPE 1 STREAMBANKS (50%)	12,830 FT	\$0.00 FT	\$0	4-8	\$0	
CONSTRUCT TYPE 2 STREAMBANKS (20%)	5,132 FT	\$8.00 FT	\$41,000	4-8	\$137,000	
CONSTRUCT TYPE 3 STREAMBANKS (20%)	5,132 FT	\$51.00 FT	\$262,000	4-8	\$877,000	
CONSTRUCT TYPE 4 STREAMBANKS (10%)	2,566 FT	\$84.00 FT	\$216,000	4-8	\$723,000	
7) STABILIZE RIVERBANKS	25,661 FT	\$5.00 FT	\$128,000	4-8	\$428,000	
8) FLOW AUGMENTATION	6,150 AF	\$42.00 AF	\$258,000	10-50	\$1,880,000	
SUBTOTAL					\$55,430,000	
MONITORING	1 YR	\$500,000 YR	\$500,000	4-50	\$5,588,000	
SUBTOTAL					\$5,588,000	
SUBTOTAL					\$61,018,000	
CONTINGENCY @ 20%		20%			\$12,204,000	
ENGINEERING AND ADMINISTRATION @ 15%		15%			\$9,153,000	
=====						
TOTAL COST:ALTERNATIVE 9A						\$82,380,000

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11-Jan-95

MILLTOWN RESERVOIR
ALTERNATIVE 10D

DESCRIPTION	QUANTITY PER YR UNIT	UNIT COST	COST/YR 1994 DOLLARS	COST YEARS	PRESENT WORTH @ 7%*	TOTAL COST OF ALTERNATIVE
WORK ITEM DESCRIPTION MONITORING	1 YR	\$45,000 YR	\$45,000	10-50	\$328,000	
TOTAL COST : ALTERNATIVE 10D					=====	\$328,000

ATTACHMENT C

State of Montana v. Atlantic Richfield Co.
 Natural Resource Damage Assessment Program
 Cost Summary (Through 11/30/94)

Schedule A

X-Ref	Description	Costs Incurred	Adjustments		Note	Adjusted Costs
			Increase	Decrease		
<i>Natural Resource Damage Assessment Program:</i>						
Sch. A1	Contractors & Professionals	5,392,800		21,765	C	
				187,642	D	
				69,494	B	5,113,899
Sch. A2	Salaries & Benefits	914,050		26,303	D	887,747
Sch. A3	Supplies	54,971				54,971
Sch. A4	Communications	34,491		993	D	33,498
Sch. A5	Travel	54,671		1,573	D	53,098
Sch. A6	Rentals	38,252				38,252
Sch. A7	Repairs and Maintenance	3,878				3,878
Sch. A8	Other Costs	170,642		13,639	A	157,003
Sch. A8	Indirect Cost Allocation	132,643		3,817	D	128,826
	<i>Subtotal</i>	<u>6,796,398</u>	<u>0</u>	<u>325,226</u>		<u>6,471,172</u>
<i>Department of Fish, Wildlife & Parks:</i>						
Sch. A9	Salaries & Benefits	147,552				147,552
Sch. A9	Consultants & Professionals	12,369				12,369
Sch. A9	Lab Tests & Other Services	4,211				4,211
Sch. A9	Supplies & Materials	6,389				6,389
Sch. A9	Communications	2,228				2,228
Sch. A9	Travel	25,714				25,714
Sch. A9	Utilities	1,434				1,434
Sch. A9	Repairs & Maintenance	293				293
Sch. A9	Other Expenses	5,413				5,413
Sch. A9	Indirect Cost Allocation	36,901		10,342	E	26,559
	<i>Subtotal</i>	<u>242,504</u>	<u>0</u>	<u>10,342</u>		<u>232,162</u>
	<i>Total Assessment Costs</i>	<u>7,038,902</u>	<u>0</u>	<u>335,568</u>		<u>6,703,334</u>
Sch. A10	Interest Expense	1,118,135		34,999	D	1,083,135
	<i>Total Costs</i>	<u>8,157,036</u>	<u>0</u>	<u>370,567</u>		<u>7,786,469</u>

See Note F regarding computation of Interest Expense. F

Due to the limitation of displaying computations to only two decimal places, this schedule and the appended schedules contain rounding errors, the sum of which does not exceed \$100.

State of Montana v. Atlantic Richfield Co.

Schedule A1

Contractors & Professionals	Fiscal Years Ended June 30							5 Mo. to	Total
	1988	1989	1990	1991	1992	1993	1994	11/30/94	
Bergman, Harold							12,420		12,420
Bioeconomics, Inc.			18,119	14,592	141,915	57,044	22,306		253,976
Brand, Richard						2,400	4,051		6,451
Bureau of Mines & Geology				9,981	30,432	40,319	5,323	89	86,144
Chapman Consultants							30,427	63,603	94,030
Cogswell & Eggleston	19,051	126,681	84,165	30,710					260,607
Ecological Planning & Toxi.						3,055	14,494	863	18,412
Harding & Ogborn				42,750	460,931	507,979	231,720	84,377	1,327,757
Historical Research Assoc.							5,020		5,020
Inter-Fluve, Inc.							7,515		7,515
Maest, Ann					4,401	1,349			5,750
Montana State Library					753	2,504	1,911		5,168
Montana State University						3,630			3,630
RCG/Hagler, Bailly, Inc.				299,010	1,290,494	1,228,436	155,087	33,714	3,006,741
Rocky Mountain Consultants							17,695		17,695
Short & Associates						34,135	3,053		37,188
U.S. Geological Survey						2,390			2,390
University of Montana					113,965	61,284	4,539		179,788
West, Inc.							6,053		6,053
Witherspoon, Inc.					9,525	2,625	6,585		18,735
Woester, William						4,500	11,065		15,565
Journal Vouchers					10,915	10,829	21		21,765
Total Contr. & Professionals	19,051	126,681	102,284	397,043	2,063,331	1,962,479	539,285	182,646	5,392,800

ATTACHMENT D

DEPARTMENT OF JUSTICE
NATURAL RESOURCE DAMAGE LITIGATION PROGRAM

JOSEPH P. MAZUREK
ATTORNEY GENERAL

OLD LIVESTOCK BUILDING
1310 EAST LOCKEY AVENUE

STATE OF MONTANA

(406) 444-0205 (OFFICE)
(406) 444-0236 (FAX)

PO BOX 201425
HELENA, MONTANA 59620-1425

January 13, 1995

ATLANTIC RICHFIELD COMPANY
555 - 17th St
Denver, CO 80202

ATTN: Richard O. Curley, Jr.

Re: Demand for Payment of Damages and Costs,
Natural Resource Damage Assessment,
Upper Clark Fork River Basin

Dear Mr. Curley:

I present this demand for payment of damages to the Atlantic Richfield Company (ARCO) on behalf of the State of Montana. The State hereby demands \$635,410,000 in payment of costs and damages for injuries to natural resources in the Upper Clark Fork River Basin. These damages result from releases of hazardous substances beginning prior to 1900 and continuing today for which the Atlantic Richfield Company, including the Anaconda Company, and their predecessors are liable.

As you are aware, these damages arise under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601-9675, and the Montana Comprehensive Environmental Cleanup and Responsibility Act, M.C.A. §§ 75-10-71 to 75-10-724. The grounds for this demand, including injury determination and quantification, and damage evaluation, are set forth in the enclosed *Report of Natural Resource Damage Assessment, Clark Fork Basin NPL Sites, Montana, January 1995*. This demand for damages and costs consists of the following elements: \$300,780,000 in past and future compensable value damages (including \$19,680,000 in interest between January 1, 1994 and January 1, 1995); plus \$326,840,000 in damages based upon restoration costs; plus \$7,790,000 in assessment and enforcement costs. The compensable value damage determination is summarized in the enclosed report entitled, *Compensable Natural Resource Damage Determination, Upper Clark Fork River NPL Sites*, by Dr. Robert Rowe et. al., January 1995. Damages based upon restoration costs are determined and summarized in the enclosed report entitled, *Restoration Determination Plan, Upper Clark Fork River Basin*, by the

ATTACHMENT E

PROPOSED NRDP BUDGET

1. Program

a)	Salaries, benefits, indirect	\$712,200
b)	Supplies, equipment, copying	43,538
c)	Communications (mail & telephone)	22,573
d)	Travel	
	In-State	21,494
	Out-of-State	40,500
	Non-Employee	10,000
e)	Rent/Maintenance	22,000
f)	Other	9,052
	SUBTOTAL	\$881,357

2. Contract Services

a)	Outside legal	
	1½ equivalent attorneys (4500 hrs)	\$652,500
	Travel costs	48,000
b)	Expert witnesses	
	30 experts	286,000
	Travel costs	52,000
c)	Expert support staff	
	30 support x 5 days x \$500/day	75,000
	Travel costs: 30 x \$1000	30,000
d)	Exhibit preparation	50,000
e)	Temporary services	20,000
f)	Document management	20,000
	SUBTOTAL	\$1,223,500

3. Deposition, Transcript, and Court Costs

a)	Depo Transcripts	
	ARCO 218 days x 150 p/d x \$2/p	\$65,000
	Exhibits	5,000
b)	Depo Transcripts	
	State 95 days x 150 p/d x \$3/p	42,750
	Exhibits	2,250
c)	Court hearing transcripts	5,000
d)	Special Master	10,000
e)	Deposition fee for ARCO witnesses	
	25 Experts x 4 days x 1000/day	100,000
	Travel costs: 25 x 1000	25,000
	SUBTOTAL	\$255,000

TOTAL **\$2,359,857**

EXHIBIT 5
DATE 2-8-95
TBB305.HP
HB 305

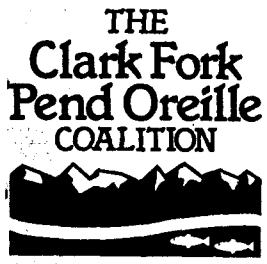
Bill No. HB 305
February 8, 1995
Testimony presented by Pat Graham
Montana Fish, Wildlife & Parks
before the House Appropriations Committee

Over the last four years, the State of Montana, through its Natural Resource Damages Program, has worked very hard to develop an assessment of damages to natural resources in the upper Clark Fork River Basin. Montana Fish, Wildlife & Parks has worked closely with the program staff to complete this important effort because most of the damages associated with this lawsuit are to fish, wildlife and their habitats.

I am a member of the Policy Committee that oversees this effort along with other natural resource agency directors and representatives of the offices of the Attorney General and the Governor. I believe that the state has a very strong position in this lawsuit. The consultants that we have hired to help us prepare our assessment reports are among the leading professionals in their fields in the country. However, in order for us to bring this lawsuit to a successful conclusion, it is essential that we continue to fund the program.

If we were to eliminate or substantially reduce funding at this late date we are certain to fail. Most importantly, the citizens of Montana will not be adequately compensated for damages that have occurred to our natural resources in the Clark Fork River Basin. We, therefore, urge you to continue to authorize funding for this important program and to see this effort through to conclusion.

EXHIBIT 6
DATE 2-8-95
HB 305



**Testimony of the Clark Fork-Pend Oreille Coalition
before the
House Appropriations Committee
February 8, 1995**

Mr. Chairman, members of the Committee, for the record my name is Geoffrey Smith and I am here today on behalf of the Clark Fork-Pend Oreille Coalition, a membership-based, water quality advocacy group dedicated to protecting and restoring water quality throughout the Clark Fork River basin. I am here to voice the Coalition's support for House Bill 305 and to ask this committee to continue the loan and appropriation authority for the Natural Resource Damage Litigation Program.

The upper Clark Fork River basin has been severely damaged by mining, smelting, and wood processing activities. The land, air, water, vegetation, and fisheries of the river have been degraded to the point where fisheries are barely sustainable, much of the groundwater is undrinkable, wildlife populations are sparse, and people can no longer enjoy some sections of the river without risking their health. The Natural Resource Damage Claim lawsuit is the best tool we have to restore the Clark Fork River.

Under federal and state Superfund laws, ARCO—which is the potentially responsible party—is cleaning up this mess. But clean-up is not restoration. Superfund laws only require the potentially responsible party to clean-up toxic wastes to the degree that human health is protected. The Natural Resource Damage Claim, however, is the legal mechanism to restore damaged resources to “baseline” conditions, to finish cleaning up the contaminants if necessary, to acquire alternative resources, and to compensate Montanans for the lost use of these resources.

The Legislature has allocated over \$7 million to complete a comprehensive assessment of damages to aquatic, terrestrial, and groundwater resources since it established the Natural Resource Damage Program. At this point, Natural Resource Damage Claim program staff have completed the assessment of damages and are ready to proceed with the suit. But they can't proceed without your support or the support from the Legislature.

The Coalition strongly urges this committee to continue funding the Natural Resource Damage Claim Program. And we urge you to think of this funding as an investment in the future of Montana. The money spent to date and the money requested now is but a fraction of the \$600 million the State of Montana stands to recover. Plus it's a small price to pay to revive a river system which is central to our way of life and to the agricultural and tourist industries which are the backbone of Montana's economy. Please support HB 305.

Thank you for the opportunity to testify.

P.O. Box 7593
Missoula, MT 59807
406/542-0539

P.O. Box 4718
Butte, MT 59702
406/723-4061

P.O. Box 1096
Sandpoint, ID 83864
208/263-0347

EXHIBIT 7
DATE 2-8-95
HB 330

General Fund Encumbrances ("A" accruals)

Fiscal Year 1993-94	\$5,517,000
Fiscal Year 1992-93	\$ 549,000
Fiscal Year 1991-92	\$1,999,000
Fiscal Year 1990-91	\$2,219,000
Fiscal Year 1989-90	\$2,257,000
Fiscal Year 1988-89	\$2,967,000

Source: State of Montana General Purpose Financial Statements
for the years indicated.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

HB 305
 HB 330
 HB 354

Appropriations

COMMITTEE

BILL NO.

DATE 2-8-95 SPONSOR(S) _____

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Kathy Willis	A & E			
Bob Becken	Self	HB 354		✓
Linda Reed	Gai's office	HB 354		✓
DICK KING	Bear Paw Development	354		✓
VANDRA WASH	ARCG	305	✓	
Pat Graham	FWP	305		✓
Robert White	Bozeman Chamber	354		✓
Jim Tutwiler	Mt. Chamber	354		✓
Jack Lynch	Bank - Subm. Bank	305		✓
Eric Peary	Mt. Bankers Assn	354		✓
W James Kambel	City of Billings	H354		✓
Randy Hanson	Bear Paw Dev/SBDC	354		✓

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

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

HB 305
HB 330
HB 354

Appropriations COMMITTEE BILL NO. _____
DATE 2-8-95 SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Jon Abel	Commerce	354		✓
Doug Cutting	mt Woman's Cgo Fund	354		✓
Larry Nordell	Self	354		✓
Lynn Robson	Doc	354		✓
Jim Boyer	consultant	354		✓
Judy Browning	Gov Off	305		✓
Kate Cholewa	MT WOMANS Lobby	354		✓
Bob Robinson	DHES	305		✓
Janet Ellis	MT Audubon	305		✓
GEORGE OCHENSKI	TROUT UNLIMITED	305		X
Jim Richards	MT Wildlife Fed	305		X

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

APPROPRIATIONS COMMITTEE BILL NO. HB 305
 DATE 2-8-95 SPONSOR(S) _____ HB 330
HB 354

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<i>Templewood</i>	<i>WEDCO</i>	<i>354</i>		<i>X</i>
<i>Belle Krenzel</i>	<i>HRDC</i>	<i>354</i>		<i>X</i>
<i>Melissa P. Ruggie</i>	<i>Bear Paw Development</i>	<i>354</i>		<i>X</i>
<i>Dalys Haur</i>	<i>Advisory Council</i>	<i>354</i>		<i>X</i>
<i>Rob Collins</i>	<i>Dept of Justice</i>	<i>305</i>		<i>✓</i>
<i>Kathy Coleman</i>	<i>Dept of Justice</i>	<i>305</i>		<i>✓</i>
<i>Dwight Ben</i>	<i>Polar Bear Productions</i>	<i>354</i>		<i>✓</i>
<i>Constance West</i>	<i>DOJ</i>	<i>305</i>		<i>✓</i>
<i>Greg Mullen</i>	<i>DOJ</i>	<i>305</i>		<i>✓</i>
<i>Alfred</i>	<i>Kalispell</i>	<i>354</i>		
<i>Duane Kurokawa</i>	<i>Micro-Advisory Council</i>	<i>354</i>		<i>✓</i>
<i>Jim Davis</i>	<i>Hesdwater</i>	<i>354</i>		<i>✓</i>

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

(over)