

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

JOINT SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN DEBRUYCKER**, on February 14, 1995, at 8:00 a.m. in Room 402 of the State Capitol.

ROLL CALL

Members Present:

Rep. Roger Debruycker, Chairman (R)
Sen. Thomas F. Keating, Vice Chairman (R)
Sen. Judy H. Jacobson (D)
Sen. Loren Jenkins (R)
Rep. John Johnson (D)
Rep. William R. Wiseman (R)

Members Excused: none

Members Absent: none

Staff Present: Mark Lee, Legislative Fiscal Analyst
Florine Smith, Office of Budget & Program
Planning
Debbie Rostocki, Committee Secretary

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

Committee Business Summary:

Hearing: Department of Natural Resources &
Conservation (DNRC)
- Water Resources Division, cont.
- Conservation & Resource Development
Division

Executive Action: Department of Natural Resources &
Conservation
- Water Resources Division

HEARING ON DNRC Water Resources Division, Continued

Mr. Lee distributed a revised version of Table 2 on p. C-97 of the budget book. **EXHIBIT 1.** A handout showing the flow of funds for the RIGWAT and RIT trust interest earnings was also passed out. **EXHIBIT 2.** The state-owned project revenue increased from \$459,290 to \$919,290 due to the increase in revenue expected under New Proposal No. 1 on p. C-112. In the appropriations section changes were made according to the final actions of the various Appropriations subcommittees to date, including the Department of State Lands (DSL) Reclamation

Division figures, which had gone to \$2,081,837. In addition, the Water Court got slightly more than they had requested, and the projected biennium ending balances had been further reduced by a total of almost \$48,000. The potential allocation of the metal mines tax had been reduced by nearly \$100,000 to a negative figure of (\$70,417) because MSU-Northern will receive an additional \$240,000 of statutory appropriation if **LC 1322** passes. **Mark Simonich**, DNRC director, said that the bill was expected to be introduced very soon, and the executive was attempting through **LC 1322** to fully implement the intent of **HB 608**. He explained that in 1993 when **HB 608** was passed, the metal mines tax was not tapped for diversion as it was to have been, and an additional error was made which caused the appropriation to be biennial instead of annual. As a result of receiving half of what it was intended to receive, the program has not been able to get off the ground like it was supposed to.

SEN. KEATING wanted to know where the 85% of the metal mines license tax which was not going into the trust was going. **Mr. Lee** said 58% went to the general fund, 1.5% went to the hard rock mining impact trust account and 25% to the commissioners of impacted counties. He explained that there was a bill before the legislature which would take part of the metal mines tax for the ground water assessment program, and **LC 1322** would put 10% of the 15.5% which went to the Resource Indemnity Trust (RIT) into the Renewable Resource account: 30% of the 15.5% would then go to the Reclamation and Development (R&D) account. **Mr. Simonich** said the intent was to mimic what had been previously done with the RIGWAT taxes out of the metal mines tax. **SEN. KEATING** summarized that between these two bills, about half of the metal mines tax would be diverted, and 7.25% would go into the coal trust. **CHAIRMAN DEBRUYCKER** submitted that to balance the figures on the revised table (**EXH. 1**) appropriations would have to be reduced. **Ms. Smith** stated that the Executive would be proposing a funding switch in Centralized Services to make up the deficits on the bottom line of **EXH. 1** with general fund. In addition they will be requesting contingency language in the Water Resources Division to provide that if **LC 1322** should not pass then general fund would be put in.

In response to **SEN. JENKINS**, **Mr. Lee** said the part of the RIT interest earnings left after the biennial allocations are made (\$9,741,743) was distributed on a statutorily set percentage basis to the Renewable Resource, R & D, Hazardous Waste/CERCLA and Environmental Quality Protection accounts.

SEN. KEATING asked what the source was for the \$120,000 in interest from the short term investment pool which went to the CERCLA and EQP accounts. **Mr. Lee** explained that it came from the balances in those accounts. He said that when the balances in the Renewable Resource account was calculated it was assumed that the cap on the Environmental Contingency Account would be reached and part of the funds that would have gone into the this account in FY 1995 would go into the Renewable Resource account. **Mr. John Tubbs**, Chief of the Resource Development Bureau,

Conservation and Resource Development Division, DNRC, said that the cap for the Environmental Contingency account is \$750,000 and the cap for the Oil and Gas Production Damage Mitigation account is \$200,000. The accounts are full at this point but it is presumed that some of the funds will be used yet this biennium. The Environmental Contingency account balance is approximately \$620,000. The Water Storage account is not limited but those funds are for tank removal, and at the end of the biennium there will be \$1,275,000 in this account.

Tape No. 1:B:000

Mr. Tubbs explained to **SEN. JENKINS** that the Hazardous Waste/CERCLA account was allocated 18% of the RIT interest earnings after the biennial allocations. For the first time, this committee was able to set the appropriations level, and the appropriations were reduced, so the ending fund balance will not be zero. **SEN. JENKINS** surmised that over the biennium this would translate to about a \$900,000 increase in the fund balance.

It was determined that the appropriations this committee had yet to set were as follows: DNRC Centralized Services Division, DNRC Conservation and Resource Development, DNRC Water Resources Division, and the DNRC Reserved Water Rights Compact Commission.

Mr. Lee said that although the Long Range Building Committee appropriated the amounts in the Renewable Resource Grant and Loan program and the Reclamation and Development Grants program, the amounts which they were allowed to appropriate up to (\$2 million and \$3 million, respectively) were set in statute. If the full amounts were not appropriated the balances in the Renewable and R & D accounts would increase. The Conservation and Resource Development Division, DNRC, administers the grants from the R & D and the Renewable Resource programs, which comprises most of the \$1.8 million appropriation.

Mr. Tubbs explained that the Conservation and Resource Development division was composed of two bureaus: the Resource Development Bureau and the Conservation Districts Bureau.

SEN. KEATING wanted to know what the DSL Reclamation Division did with the \$2 million it received. **Mr. Mark Simonich**, DNRC Director, said that was for administration on DSL's part. He added that DSL applied to the Grant and Loan program, which DNRC administers, for actual reclamation projects.

Ms. Smith referred the committee to New Proposal No. 4 and gave a correction on the figures: In 1996 it should be a reduction to (\$96,875) and in 1997 the reduction will be to (\$98,273). She added that this division had started receiving a statutory appropriation authority for federal funds in 1993 from the National Park Service for the Yellowstone Controlled Ground Water program.

Mr. Gary Fritz, administrator of the Water Resource Division, then went over the proposed Present Law (PL) adjustments and new

proposals. He requested that PL increase No. 4 be deleted. The at-large member of the Yellowstone Controlled Groundwater area technical oversight committee was to have half his costs paid for by DNRC but since he is already a state employee the division felt this would not be necessary for it to do.

Regarding New Proposal No. 5, in the coming biennium, the Water Court expects to significantly increase the number of basins it produces decrees for. However, since the budget was put together they have concluded that the Water Court will probably produce decrees for about half of the 13 basins that had been initially estimated. He submitted that they could get by with half of the amount of the request, with \$9,750 each year instead of \$19,500 each year.

PL No. 6 is tied to an inflationary increase in the federal government's charge for the Stream Gauging program, which the State matches funding on (50% state/50% federal).

Tape No. 2:A:000

Mr. Fritz explained that the program provided basic information on surface water for persons making water resource management decisions. **Mr. Lee** said the majority of the State's share of the funding for this program was Renewable Resource or R & D money.

Regarding PL No. 7, **Mr. Fritz** said that in 1994 they were heavily involved in arbitration and they no longer expect to be needing as much outside expert advice in the coming biennium.

PL No. 8: one of the reasons for the increase is that they run the Flood Plain program, which allows communities to get national flood insurance. In 1994 they didn't hold the contested case hearings necessary to put in place the floodplain designations. Thus far about \$2,300 has been spent in 1995 on hearings costs and they expect they will need to spend about \$5,000 for each contested case hearing. An increase has been requested for report preparation for the water measurement program because they plan to produce far more reports than they did in 1994; there is a different employee now responsible for this function.

In response to **SEN. KEATING**, **Mr. Fritz** said the 1994 actual expenditures were \$8,075 and they are asking for authorization in 1996 and 1997 to spend \$24,575. In response to **SEN. JENKINS**, **Mr. Fritz** said that the Board of Water Well drilling is completely paid for out of the fees paid by the drillers and the money which DNRC receives is all "pass-through" money. In response to **SEN. KEATING**, **Mr. Fritz** explained that the Water Operations Bureau was in charge of floodplain activities, the dam safety program and the water measuring program, as well as water well drilling matters. A breakdown of the funding is contained in Table 5, p. C-110.

Mr. Fritz said that PL No. 9 was an increase for printing state water plan sections. In 1994, because they conducted a review of

their administration of the state water plan, they conducted fewer water planning activities and their printing costs were below the typical level.

Under PL No. 10, due to vacancy savings-related requirements, their travel was significantly curtailed in 1994, and the requested increase will bring them closer to the actual average.

Regarding PL No. 11, **Mr. Fritz** said they had put together information on the current market in each of the cities in which they have a regional office. He submitted that the rent they paid was well below the market rate. In response to **SEN JENKINS**, he said that the Miles City office had been closed prior to 1994 and had already been removed from the budget.

PL No. 13 includes requests for \$1,600 per year for janitorial services in a few regional offices which did their own maintenance in 1994, \$3,000 for additional computer hookups between the regional offices and the Helena water rights data base, \$600 for vehicle repairs and \$500 in additional record storage expenses.

New Proposal No. 1, p. C-112, includes three projects: Middle Creek, North Fork of the Smith River and Petrolia. They need the spending authority to pass money from the water users to the federal government for debt service on federal loans. \$60,000 per biennium is requested for the North Fork and Petrolia projects and \$340,000 for the biennium is needed for the Middle Creek debt service cost.

Tape No. 2:B:000

In response to **SEN. KEATING**, **Mr. Fritz** gave a breakdown of the funding for the Petrolia project. He stated that he saw no compelling reason for the State to be involved in the project, but that the water users would probably not take the dam over voluntarily. The State is currently in the process of divesting itself of the ownership of these types of projects whenever possible. Twelve canal projects have been privatized but it took special legislation to do this. **SEN. KEATING** suggested that a committee bill could be drafted which would give the department direction to either privatize or abandon the dam. **Mr. Mark Simonich**, DNRC director, suggested that **HB 5**, which contained the funding for Petrolia, could possibly be amended to provide such direction. He said that in the case of the South Sandstone Dam, which had been owned by the State and needed rebuilding, the Legislature had approved funding for the repair work, on the condition that the users take the dam over after the work was completed, and this had been laid out through an amendment to **HB 5**. **Mr. Fritz** clarified that **HB 5** had encouraged the users to take over, but had not mandated it.

In response to **REP. JOHNSON**, **Mr. Fritz** explained that DNRC felt that the only time the users could legitimately be asked to take a dam over would be after the liability problems had been taken care of. He pointed out that in the case of the South Sandstone

Dam, the problems had been caused by the way the State had originally designed the dam. He submitted that rehabilitation would be less expensive than a lawsuit or breaching the project would be. **SEN. JENKINS** suggested that DNRC should consider giving the users the choice of paying a higher rate per acre if the State does the rehabilitation or taking the dam over themselves. **Mr. Simonich** suggested that **SB 147** could be amended in the House as another avenue for taking the kind of action the committee thought was appropriate regarding the Petrolia project.

Regarding New Proposal No. 2, **Mr. Fritz** said the costs were associated with the cost of an additional FTE, which was already on board, for the Dam Safety Program for the Department of Fish, Wildlife and Parks (FWP) projects. FWP owns over 20 dams and their biologists are not capable of handling the maintenance and repair of these projects and this creates a liability problem. The funding of the FTE would come from FWP. He distributed a progress report for the Dam Safety program. **EXHIBIT 3.** Recently the gate for Gartside Dam was opened too far by the tender and in the attempt to get it back on its track was destroyed. DNRC will have to fix this problem and he illustrated this as a good reason why the FTE was important as a permanent position.

New Proposal No. 3 would provide \$15,500 in funding for an additional vehicle for State water projects, a computer for the Tongue River Dam project, and two fax machines per year for the regional offices.

Questions: **CHAIRMAN DEBRUYCKER** wanted to know what the remaining costs were for the Broadwater Dam (PL No. 7). **Mr. Fritz** explained that Federal Energy Regulatory Commission (FERC) requirements will necessitate the hiring of an engineer and local construction personnel to take care of problems with the left retaining wall of the dam. In addition, annual maintenance costs relating to setting of the bulkhead gates run about \$12,000 per year.

REP. WISEMAN voiced the opinion that he was not comfortable with increasing general fund by 40% for the division and he wanted to know specifically where the general fund backfilling would be taking place. **Ms. Smith** said that wherever reclamation and development funding occurred would be looked at and \$250,000 per year would be switched to general fund on a random basis.

Tape No. 3:A:000

REP. WISEMAN calculated that general fund was being used to backfill at the rate of \$735,329 in 1996 and **Ms. Smith** said the remainder of the backfilling above the \$250,000 was contingency funding. She said that part of the increase in general fund was in the regional office budget. **REP. WISEMAN** said past legislatures had limited oil and gas drilling and he expected RIT revenue would continue to fall off and the basic issue of backfilling this shortfall with general fund would only become a bigger issue in future legislatures. **Ms. Smith** said in the water

rights budget, about \$500,000 in general fund was removed in 1996; in the regional offices budget about \$635,000 was added in 1996 and \$631,000 was added in 1997 from the general fund; and about \$320,000 in state water projects and \$376,000 in water management activities per year was added in brand new general fund, which had never before been used to fund those budgets.

Mr. Simonich expressed concern that the general fund/RIT issue would adversely affect DNRC funding since it was the last budget the committee would be able to act on. He explained that one of the actions the Executive had taken after it had been determined in November 1994 that RIT revenues would be about \$6 million short was to replace RIT with about \$3.6 million in general fund in various places in all the departments' budgets. Historically, depending on which area there is a shortfall in any given biennium, either RIT or general fund, the one with the most money is used as a balancing mechanism: in 1993 the shortfall was in general fund and the action had been to backfill with RIT. Another step the Executive took was to cut over \$1 million from the departments' budgets before the Statewide budget book went to print and \$950,000 of the \$1 million was taken from the Water Resources Division of DNRC, state water projects budget. The third part of the "fix" was to generate additional money and LC 1322 was designed to do this. He urged the committee to base its actions on the worthiness of the programs before it and to leave the discussion regarding backfilling with general fund until it could be resolved in the full Appropriations committee.

SEN. JENKINS felt FWP should be covering part of the costs of the projects they owned. **Mr. Lee** said the FWP budget could be reopened for consideration but he expressed reservations about whether or not general license fees could be used. **SEN. JENKINS** felt that funds connected with the Dingle-Johnson, Pitman-Robinson and Wallop-Roe federal legislation might be used for this purpose. **Mr. Lee** pointed out that the \$2.19 million in State Water projects (**EXH. 1**) was appropriated by the Long Range Building subcommittee.

In response to **REP. WISEMAN**, **Mr. Simonich** said he felt RIT revenue would continue to decline because production has been down and might not increase significantly and if **SEN. KEATING's** bill to eliminate the tax passed, less proceeds would be coming in. Eventually when the \$100 million cap is reached for the RIT trust, only the interest will be available for use in funding State government. He reiterated that the departments' input needed to be an important part of the process of determining how to deal with this issue. **SEN. KEATING** submitted that there was a shortfall in RIT because too many programs have tried to tap in to it, and some prioritization of these programs needed to take place, perhaps eliminating RIT funding for some of them. He added that he disagreed giving money away for infrastructure projects when water projects were a bigger liability.

SEN. JENKINS agreed that the RIT/general fund issue needed to be examined before the full Finance and Claims and Appropriations committees, but he disagreed with **SEN. KEATING** that the issue should be examined by the subcommittees.

EXECUTIVE ACTION ON DNRC Water Resources Division

Motion: **SEN. JENKINS** moved to accept Present Law Adjustments No. 5, 6, 7, 8, 9, 10, 11, 12 and 13 on p. C-111, with No. 5 amended to the level of \$9,750 per year; **REP. JOHNSON** seconded the motion.

Discussion: In response to **REP. WISEMAN**, **Mr. Lee** said that the figures could potentially be considered as either RIT or general fund. **SEN. JENKINS** said he could not understand why inflationary increases were doubled in the second year as in PL no. 6. **Mr. Lee** explained that the 1996 figure contained the inflationary increase and the 1997 figure added the inflationary increase onto the 1996 figure, which already included the inflationary increase. **Mr. Fritz** said he would be willing to amend PL No. 6 down to \$8,496 in 1997.

Tape No. 3:B:000

Vote: The question was called for and the motion carried unanimously.

Discussion: **SEN. KEATING** had a question regarding why PL No. 1 showed a decrease of four FTE and an increase in funding. **Mr. Fritz** said the adjustment would be fully funding personal services which had an artificially low 1994 base level due to vacancy savings. The rest of the increase is due to the 1.5% raise given State employees as well as some reclassifications. **Mr. Lee** said that although actual experienced vacancy savings contributed to part of the increase, the expenditures for three of the four FTE had been removed from the base because they were to be one-time-only expenditures, and the Office of Budget and Program Planning had not removed the actual FTE before the budget was put together.

Motion/vote: **SEN. KEATING** moved to accept New Proposal No. 1 on p. C-112; **REP. WISEMAN** seconded the motion. The motion carried unanimously.

Motion/vote: **SEN. JENKINS** moved to accept New Proposals No. 2, 3 and 4, with No. 4 amended to negative amounts of (\$96,875) in 1996 and (\$98,273) in 1997; **REP. JOHNSON** seconded the motion. Motion carried unanimously.

Discussion: **Ms. Smith** distributed some language the division had requested be included in HB 2, with dollar amounts included.
EXHIBIT 4.

SEN. KEATING wanted to know where the funds came from to pay for weather modification (Paragraph No. 6, **EXH. 4**). **Mr. Fritz** said that the only interest shown in this area recently had been from the State of North Dakota. In recent years the local people on the western side of the North Dakota line have objected to DNRC issuing weather modification permits and licenses for the State of North Dakota and the Board of Natural Resources has not issued those licenses since then. North Dakota has talked about DNRC doing an Environmental Assessment (EA) before it makes another application. The cost of the EA would be paid by North Dakota.

SEN. KEATING wanted to know the degree of Montana's involvement in the litigation and arbitration settlement regarding the Broadwater Hydropower facility (Paragraph No. 4, **EXH. 4**). **Mr. Wayne Wetzel**, DNRC deputy director, said DNRC had initiated the arbitration, and hopefully the repair work would be completed by the summer of 1995, at which time the arbitration could be concluded. The funds referred to in the exhibit provide spending authority for monies the contractor put into an escrow account and will only be used if the State has to do the repair work itself.

Mr. Fritz stated that determining dollar amounts for the language in **EXH. 4** was difficult to do because it was hard to speculate what the amounts would actually be, and the division is fairly uncomfortable with doing this. Regarding whether or not the proposed language is contingency funding, he stated that none of the funds were "in the bank" except the Broadwater Hydropower bond. **Mr. Wetzel** said that once the arbitration is concluded on the Broadwater project, the lawsuit against the engineer who accepted the defective work will seek compensation for anything not recovered from the contractor. The estimate of what DNRC might recover is a "pie in the sky" figure. **Mr. Lee** said similar language was used in the last legislative session, minus dollar amounts. Technically, an appropriation isn't legal unless it has a dollar amount attached. He added that these figures would not appear as part of the "bottom line" of what has been appropriated for DNRC and would not appear in the 1996 base.

Motion/vote: **SEN. KEATING** moved to accept the language amending **HB 2** as presented in **EXHIBIT 4**, including the dollar amounts, as follows: Paragraph 1: up to \$50,000 per year; Paragraph 2: up to \$20,000 per year; Paragraph 3: up to \$20,000 per year; Paragraph 4: up to \$550,000 for the biennium; Paragraph 5: up to \$20,000 for the biennium; Paragraph 6: up to \$150,000 per year; and Paragraph 7: up to \$418,000 for the biennium. **REP. WISEMAN** seconded the motion. The motion **carried** unanimously.

HEARING ON DNRC Conservation & Resource Development Division

Mr. Lee gave an overview of the division. He said that the majority of the funding contained in PL No. 5 (p. C-106) was from the State revolving fund. New Proposal No. 1, p. C-107, would

provide low-cost loans to communities to upgrade drinking water facilities. The Department of Health and Environmental Sciences (DHES) had a companion New Proposal to fund the engineering portion of the program and this committee had taken no action on it. He submitted that either both proposals or neither proposal should be accepted.

Ms. Smith said that the division had some requested language which she would present during executive session. In addition, the Executive was suggesting that a funding switch be made to decrease the level of RIT funding and increase the general fund in this division by approximately \$51,000 per year.

Mr. Ray Beck, Administrator of the Conservation and Resource Development Division, then gave an overview. This relatively small division is composed of two bureaus. The Conservation Districts Bureau is comprised of eight FTE and supervises and provides administrative, legal and financial assistance for the State's 58 conservation districts and also supervises the operation of the State's 30 grazing districts, which cover over 10 million acres.

Tape No. 4:A:000

In May of 1994 the conservation districts, DNRC, and others formed a "conservation partnership" to address current natural resources challenges and the tools and technology needed to meet them. The Rangeland Resource Program works with county range committees and conservation districts to administer the low-interest rangeland improvement loan program. The Streambed Land Preservation Act has caused a significant increase in workload for the conservation districts; last year there were close to 1,500 applications under the act. Currently 29 conservation districts hold water reservations and the division assists them in this area as well. The division works jointly with the conservation districts and the Natural Resource Conservation Service (formerly the SCS) in the area of watershed efforts and projects. The division also assists the districts in the coordinated resource management planning effort (CRM) regarding issues where there is joint land ownership. They also assist the districts in promoting resource conservation education activities. Riparian management, the Nonpoint Source Pollution Control program, and the Conservation District Project Grant program (which is funded from .19% of the coal severance tax) are other areas of involvement. \$105,000 is passed through to the conservation districts for administrative purposes. The bureau also administers the Agricultural Energy Conservation grant program and the Farm Improvement program. Currently 50 counties are organized into resource conservation development areas to address natural resource and rural development issues. They have also been involved with the Small Acreage Resource Management program. He pointed out that 7 out of 10 U.S. farms were now in the small-scale agriculture category. The bureau provides \$2,000 in pass-through funding to the Montana Salinity Control Association.

The other bureau within the division is the Resource Development Bureau, which has 10 FTE and administers the Renewable Resource Grant and Loan program, the Reclamation and Development Grants program, financial aspects of the State revolving fund and loans for the Treasure State Endowment program. It also provides technical and administrative assistance to the conservation districts in putting reserve water to use. The source of funding for these programs is the interest earnings from the RIT trust fund. Several sources provide funding for the loan program. Coal severance tax bonds are sold to provide funding for the Renewable Resource loans made to governmental entities. Taxable and general obligation (GO) bonds are sold to finance the private loan program, and a combination of tax-exempt and GO bonds and federal Environmental Protection Agency (EPA) grants are used to fund the State Revolving Fund program, which provides funding for wastewater projects. The Private Loan program has \$1.45 million remaining of a \$10 million GO bond authority. A \$250 million coal severance tax bond authority is provided in statute for the public loans. To date DNRC has issued \$126 million in coal severance tax bonds, a total of \$4.7 million in GO bonds and bonds have been issued for the State Revolving fund. Current authority is for \$10 million in bonding and DHES has also requested an additional \$5 million in bonding for the State Revolving fund. Regarding the Reclamation and Development Grants program, DNRC has shifted the emphasis to reclamation and **HB 7** is setting 80% as the percentage of the funding to be used for this purpose. Information on the FTE that administer these programs was distributed. **EXHIBIT 5.**

Mr. Mike Volesky, representing the Montana Association of Conservation Districts, testified that the division provided invaluable assistance to the conservation districts. Regarding local assistance, the total funding request including the 1994 base is for \$125,000 in each year of the coming biennium. He explained that the money was used for administrative grants for conservation districts and he requested that the committee increase the funding from \$125,000 to \$205,000 per year. He said this is what has been requested in the past by conservation districts, and since the passage of Initiative 105 they have been limited in the amount of funding they may receive from mill levy dollars. **EXHIBIT 6.** In addition he distributed a brochure about the conservation districts. **EXHIBIT 7.** A brochure containing tips on land and water management for small farms and ranches was also handed out. **EXHIBIT 8.**

Tape No. 4:B:000

Some of the projects the committee members' conservation districts are involved in include saline seep reclamation, rangeland seminars regarding conservation of resources and recycling with tree chippers. The Cascade Conservation District has a big project with Muddy Creek and several districts conduct educational projects involving schools. He stressed the importance of adequately funding the conservation districts and submitted that doing this would be a good example of giving control back to the local governments.

Mr. Jess Wilson, president of the Beartooth R C & D, then encouraged the committee to support maintaining the relationship between the RC & D's and DNRC.

Questions: **CHAIRMAN DEBRUYCKER** asked **Mr. Volesky** if any progress had been made on the Muddy Creek project beyond studying the problems. **Mr. Volesky** said that the Cascade Conservation District and other entities were currently getting some projects "on the ground." They have received RIT grants as well as "319" (Federal Nonpoint Source Pollution Act) money. **Mr. Volesky** outlined for **SEN. KEATING** what the mil. levy funding for conservation districts paid for as well as a rundown on the composition of the districts.

In response to **SEN. JENKINS**, **Mr. Barry Warren**, representing the Montana Salinity Control Association and the Choteau County Conservation District, explained that the "319" monies were presently being used for the Lake Creek Drainage project. The projects are generally fairly large ones and are aimed at finding the cause of water problems, such as saline seep, addressing the cause and trying to cure the problem.

Mr. Robert H. Land, Pondera County Conservation District chairman, stated that all of the "319" money went for "on-ground" work, and administrative costs were not even allowed to be deducted. He submitted that if the EPA gave money to the conservation districts they had to be very careful to avoid new regulations, and he much preferred working with the state. At present the two projects they are involved in are Fort Shaw and Lake Creek.

Tape No. 5:A:000

Jane Holzer, Director of the Montana Salinity Control Association, said there were a number of "319" projects which have been approved, including Muddy Creek, Fort Shaw and the Bullhead Water Quality project. The Red River Water Quality project as well as the Lake Creek project would be held up if the additional spending authority issue is not addressed.

CHAIRMAN DEBRUYCKER remarked that the Teton River never had a salinity problem until the State opened up Freezout Lake and ran its water through the creek. He submitted that two different departments of State government were fighting each other and this could cause the problem to go on and on. **Ms. Holzer** said that it was difficult to determine where the salt source is but she suspected that it came from irrigated land, and through some of these programs there are opportunities to improve individual land use and water management. **CHAIRMAN DEBRUYCKER** said he saw no need for a study because everyone knew where the source of the salinity was.

Paul Kornbush, supervisor of the Pondera County Conservation District, said that they have determined the safe level of water that Muddy Creek can handle. They are working on some dams which

could be used to contain about six or seven feet of water for a 48-hour period in the case of a "natural rainfall event," to help regulate erosion.

In response to **SEN. KEATING, Mr. Fritz**, Administrator of the Water Resources Division, said that under proposed legislation, the Grant and Loan program in the Resource Development Bureau of the Conservation and Resource Development division would go to the Department of Commerce but all the other programs administered by conservation districts would remain in DNRC.

Mr. Ed Erskine, Montana Salinity Control Association and Blaine County Conservation District, said that regarding administrative grant monies, there is an error on **EXH. 6**. He said that Blaine County was the one getting about \$3,200 administrative grant, not Bitterroot County. He has tried in his ten years on the Conservation District Board to hire a part-time administrative grant person. Without this position their committee is like a "transmission with a gear out." He urged the committee to support more monies for that program. He explained that the conservation districts were grassroots people trying to be the liaison between the producers and rural communities and those entities making the loans. He submitted that conservation districts were going to become more and more important as a source of technical support for landowners because the federal government has begun taking on more of a policing function than a supporting one.

ADJOURNMENT

Adjournment: 12:01 p.m.



ROGER DEBRUYCKER, Chairman



DEBBIE ROSTOCKI, Secretary

RD/dr

This meeting was recorded on five 60-minute audiocassette tapes.

TABLE 2
RIGWAT PROCEEDS, RIT TRUST INTEREST EARNINGS, AND EXPENDITURES

RIGWAT PROCEEDS PROJECTIONS	RIGWAT Proceeds	Metal Mine Tax Proceeds	Deposits To RIT Trust	Trust Balance
FY 95	\$2,979,674	\$797,469	2,463,107	\$91,776,719
FY 96	3,041,004	872,800	2,268,621	94,045,340
FY 97	3,030,203	823,029	2,213,892	96,259,232

RIT TRUST INTEREST EARNINGS PROJECTIONS	FY96	FY97	TOTAL
	7,703,657	7,763,086	15,466,743

TOTAL 1997 BIENNIUM ALLOCATION OF RIT INTEREST EARNINGS	\$15,466,743
Environmental Contingency Account	\$175,000
Oil & Gas Production Damage Mitigation Account	50,000
Renewable Resource Grant & Loan Program	2,000,000
Reclamation & Development Grants	3,000,000
Water Storage Account	500,000
TOTAL BIENNIAL APPROPRIATIONS	\$5,725,000
AMOUNT AVAILABLE FOR FURTHER DISTRIBUTION	\$9,741,743

Distribution of Remaining Interest Earnings

Account	Renewable Resource	Reclamation & Development	Hazardous Waste/ CERCLA	Environmental Quality Protection	TOTAL
Percent Distribution of RITT Interest	36%	40%	18%	6%	100%

Beginning Balance	\$673,742	\$0	\$968,414	\$841,669	\$2,483,825
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Revenues					
RIT Interest	\$3,507,027	\$3,896,697	\$1,753,514	\$584,505	\$9,741,743
RIGWAT Proceeds	607,121	1,821,362			\$2,428,483
Debt Service Sweep (04011 and 04008)	919,444				919,444
RRD Loan Repayments	238,900				238,900
Interest (STIP)			120,000	120,000	240,000
Cost Recoveries			514,000	1,237,000	1,751,000
Administrative Fees	10,000				10,000
State Owned Project Revenue	919,290				919,290

Total Funds Available	\$6,875,524	\$5,718,059	\$3,355,928	\$2,783,174	\$18,732,685
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Appropriation					
Montana State University, Havre	240,000				240,000
DNRC Centralized Services Division	875,245	154,001			1,029,247
DNRC Conservation and Resource Development	649,931	1,221,566			1,871,497
DNRC Water Resources Division	1,737,971	2,051,709			3,789,680
Reserved Water Rights Compact Commission	131,638	535,216			666,854
DNRC State Water Projects	2,190,000				2,190,000
DSL Reclamation Division		2,081,837			2,081,837
DSL Central Management		78,085			78,085
DHES Environmental Programs			1,499,091	1,976,174	3,475,265
DHES Radon Control		50,000			50,000
Governor's Office -- Flathead Basin Commission	80,082				80,082
Water Court	1,038,389				1,038,389
State Library	322,007	285,036			607,043
Environmental Quality Council		28,083			28,083
Pay Plan					0

Total Appropriations	\$7,265,263	\$6,485,533	\$1,499,091	\$1,976,174	\$17,226,062
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Projected Biennium Ending Balance	<u>(\$389,739)</u>	<u>(\$767,474)</u>	<u>\$1,856,837</u>	<u>\$807,000</u>	
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Potential Allocation of Metal Mines Tax	<u>(\$70,417)</u>	<u>\$508,749</u>			
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Projected Balance with Allocation of Metal Mines Tax	<u>(\$460,156)</u>	<u>(\$258,726)</u>	<u>\$1,856,837</u>	<u>\$807,000</u>	
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RIGWA TAX

RIT TRUST

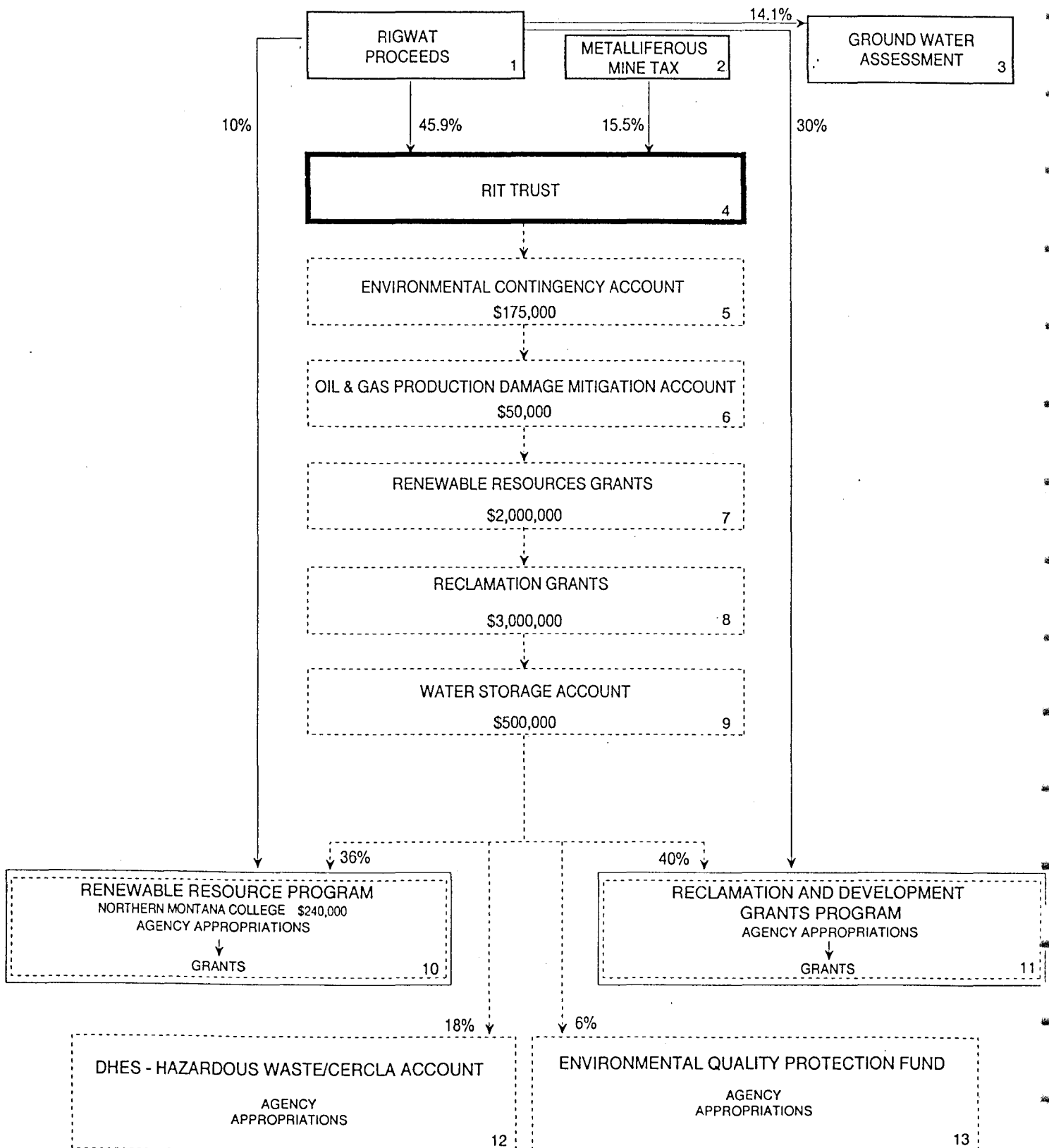
**Flow of Funds for the RIGWAT and RIT Trust Interest Earnings
FY 96-97**

Source: Department of Natural Resources and Conservation
Phone #444-6667

Ray Beck, Administrator
Anna Miller, Financial Advisor
John Tubbs, Bureau Chief

EXHIBIT 2
DATE 2/14-95
HB _____

ALLOCATION OF RIT PROCEEDS AND INTEREST 1997 Biennium



- 1 The Resource Indemnity Ground Water Assessment Tax (RIGWAT) is a 0.5 percent tax of the gross value of the product of all mineral mining. The tax was originally created in 1973. Mineral production including oil, natural gas, coal, metals (gold, silver, copper, lead), talc, vermiculite, limestone and other "nonrenewable merchantable products extracted from the surface or subsurface of the state of Montana (15-38-103) are taxed. The purpose of the tax is to "protect and restore the environment from damages resulting from mineral development; to support a variety of development programs that benefit the economy of the state and the lives of Montana Citizens; and to assess the state's ground water resources." (15-38-102, MCA)
- 2 The Metalliferous Mine Tax is a tax on "annual gross value of product" of all metal mine production or precious or semiprecious gem or stone production (15-37-101 et. seq.). The tax rate is 1.81 percent of the annual gross value over \$250,000 for concentrate shipped to a smelter, mill, or reduction work (15-37-103, MCA). For gold silver or any platinum-group metal that is dore, bullion, or matte and that is shipped to a refinery, the tax rate is 1.6 percent of the annual gross value over \$250,000 (15-37-103, MCA). A 15.5 percent portion of the metalliferous mine tax is deposited into the RIT trust. The remaining 84.5 percent is distributed to several areas including the general fund, a hard-rock mining impact trust, and impacted counties.
- 3 The Ground Water Assessment Account was created in 1991 (85-2-901 et. seq., MCA). The purpose of the account is to fund a statewide ground water assessment program that will monitor quantity and quality of the state's ground water. The statute allocates 14.1 percent or a maximum of \$666,000 per year of the RIGWAT proceeds to this account. The program is staffed by the Bureau of Mines and Geology in Butte. An oversight committee reviews all expenditures, approves monitoring sites, prioritizes areas, coordinates information, and evaluates reports.
- 4 The Resource Indemnity Tax trust was created in 1973. RIGWAT (45.9%) and Metalliferous Mine Tax (15.5%) proceeds are deposited into the trust. Prior to 1991, 100 percent of the RIGWAT proceeds were deposited into the trust. No funds that are deposited into the trust can be spent until the total deposits exceed \$100 million. This protection is provided in Article IX, Section 2 of the Montana constitution. Trust fund proceeds are invested and the interest earnings are distributed to several natural resource programs.
- 5 The Environmental Contingency Account was created in 1985 (75-1-1101 et. seq., MCA). The Governor has the authority to approve expenditures from this account to meet unanticipated public needs. Specifically, the statute limits projects to the following objectives: (a) to support renewable resource

development projects in communities that face an emergency or imminent need for the services or to prevent the failure of a project; (b) to preserve vegetation, water, soil, fish, wildlife, or other renewable resources from an imminent physical threat or during an emergency, not including natural disasters or fire; to respond to an emergency or imminent threat to persons, property, or the environment caused by mineral development; and to fund the environmental quality protection fund. Each biennium \$175,000 of the RIT trust interest earnings are allocated to this account. The balance in this account cannot exceed \$750,000.

- 6 The Oil and Gas Production Damage Mitigation Account was created in 1989 (85-2-161, MCA). The Board of Oil and Gas Conservation may authorize the payment for the cost of properly plugging a well and either reclaiming and/or restoring a drill site or other drilling or producing areas damaged by oil and gas operations. The site must be abandoned and the responsible person either cannot be identified or refuses to correct the problem. Each biennium \$50,000 of the RIT trust interest earnings are allocated to this account. The balance in this account cannot exceed \$200,000.
- 7 Renewable Resource Grants receive \$2 million in RIT trust interest earnings. The Renewable Resource Grant and Loan program was created in 1993 by combining the Renewable Resource Development program and the Water Development program. The Renewable Resource Development program was originally established in 1975. The Water Development program was originally established in 1981. The purpose of the grant program is to fund projects that conserve, develop, manage, and preserve water and other renewable resources. The program provides preference to projects that support the state water plan. Projects include construction and rehabilitation of existing water supply systems and waste water systems, educational efforts, feasibility studies, development of water storage, enhancement of renewable resources including recreation, reduction and advancement of agricultural chemical use, and improvement of water use efficiency (85-1-602, MCA).
- 8 The Reclamation Development Grants Program was originally established in 1987. The purposes of the program are to: (a) repair, reclaim, and mitigate environmental damage to public resources from nonrenewable resource extraction; and (b) to develop and ensure the quality of public resources for the benefit of all Montanans (90-2-1101, MCA). Projects have ranged from plugging abandoned oil and gas wells, reclaiming mine sites, non-point source pollution control projects, researching new technologies for mine waste clean-up, conducting ground water studies to determine the extent of contamination, and cleaning up pesticide contamination. A minimum of \$3 million of RIT trust interest earnings are allocated for these grants.

- 9 The Water Storage Account was established in 1991 (85-1-701 et. seq., MCA). The purpose of the account is to provide funding for projects that rehabilitate existing water storage facilities or develop new ones. Priority is given to high hazard, unsafe dams. Each biennium \$500,000 of RIT trust interest earnings are deposited into this account. Currently, the only project to receive water storage account funding is the rehabilitation of the state owned dam on the Tongue River in eastern Montana.
- 10 The Renewable Resource grant and loan Program state special revenue account receives 36 percent of the remaining interest earnings from the RIT trust and 10 percent of the RIGWAT proceeds. This special revenue account also receives revenue from state water projects, excess deposits in the renewable resource debt service account, and other administrative fees. The revenues are used to fund natural resource agency projects and administration including DNRC, Governor's Office, Water Court and the State Library.
- 11 The Reclamation and Development Grant Program state special revenue account receives 40 percent of the remaining RIT trust interest earnings and 30 percent of the RIGWAT proceeds. The revenues are used to fund natural resource agency projects and administration including DNRC, DSL, State Library, and EQC.
- 12 The Hazardous Waste CERCLA Account is administered by the Department of Health and Environmental Sciences. (CERCLA stands for the federal Comprehensive Environmental Response, Compensation, and Liability Act). This account receives 18 percent of the remaining RIT trust interest earnings. The account was established in 1983 and is to be used to make payments on CERCLA bonds, implementation of the Montana Hazardous Waste Act, and to provide assistance in remedial action under CERCLA.
- 13 The Environmental Quality Protection Fund was established in 1985 and is administered by the Department of Health and Environmental Sciences. This account receives 6 percent of the remaining RIT trust interest earnings. The purpose of this account is to provide funding for remedial actions taken by the department in response to a release of hazardous or deleterious substances.

RIGWAT PROCEEDS, RIT TRUST INTEREST EARNINGS, AND EXPENDITURES
1997 Biennium

RIGWAT PROCEEDS PROJECTIONS	RIGWAT Proceeds	Metal Mine Tax Proceeds	Deposits To RIT Trust	Trust Balance
FY 95	\$2,979,674	\$797,469	\$2,463,107	\$91,776,719
FY 96	3,041,004	872,800	2,268,621	94,045,340
FY 97	3,030,203	823,029	2,213,892	96,259,232

RIT TRUST INTEREST EARNINGS PROJECTIONS	FY96	FY97	TOTAL
	7,703,657	7,763,086	15,466,743

TOTAL 1995 BIENNIUM ALLOCATION OF RIT INTEREST EARNINGS	\$15,466,743
Environmental Contingency Account	\$175,000
Oil & Gas Production Damage Mitigation Account	50,000
Renewable Resource Grant & Loan Program	2,000,000
Reclamation & Development Grants	3,000,000
Water Storage Account	500,000
TOTAL BIENNIAL APPROPRIATIONS	5,725,000
AMOUNT AVAILABLE FOR FURTHER DISTRIBUTION	9,741,743

Distribution of Remaining Interest Earnings

Account	Renewable Resource	Reclamation & Development	Hazardous Waste/ CERCLA	Environmental Quality Protection	TOTAL
Percent Distribution of RITT Interest	36%	40%	18%	6%	100%

Beginning Balance	\$572,226	\$212,524	\$968,414	\$841,669	\$2,594,833
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Revenues					
RIT Interest	\$3,507,027	\$3,896,697	\$1,753,514	\$584,505	\$9,741,743
RIGWAT Proceeds	607,121	1,821,362			\$2,428,483
Debt Service Sweep (04011 and 04008)	919,444				919,444
RRD Loan Repayments	238,900				238,900
Interest (STIP)			120,000	120,000	240,000
Cost Recoveries			514,000	1,237,000	1,751,000
Administrative Fees	10,000				10,000
State Owned Project Revenue	459,290				459,290

Total Funds Available	\$6,314,008	\$5,930,583	\$3,355,928	\$2,783,174	\$18,383,693
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Appropriation					
Montana State University, Havre	240,000				240,000
DNRC Centralized Services Division	875,245	154,001			1,029,246
DNRC Conservation and Resource Development	649,931	1,185,566			1,835,497
DNRC Water Resources Division	1,737,971	2,051,709			3,789,680
Reserved Water Rights Compact Commission	131,638	534,516			666,154
DNRC State Water Projects	1,690,000				1,690,000
DSL Reclamation Division		2,082,177			2,082,177
DSL Central Management		78,085			78,085
DHES Environmental Division			3,415,016	2,802,350	6,217,366
DHES Radon		50,000			50,000
Governor's Office -- Flathead Basin Commission	80,082				80,082
Water Court	1,024,296				1,024,296
State Library	322,007	285,036			607,043
Environmental Quality Council		28,083			28,083
Pay Plan					0

Total Appropriations	\$6,751,170	\$6,449,174	\$3,415,016	\$2,802,350	\$19,417,710
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Projected Biennium Ending Balance	(\$437,162)	(\$518,590)	(\$59,088)	(\$19,176)	
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Potential Allocation of Metal Mines Tax	\$169,583	\$508,749			
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Projected Balance with Allocation of Metal Mine Tax	(\$267,579)	(\$9,842)	(\$59,088)	(\$19,176)	
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EXHIBIT

2

DATE

2/14/95

HB

**DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION**

**DEPARTMENT OF FISH, WILDLIFE
AND PARKS**

**DAM SAFETY PROGRAM
PROGRESS REPORT**

JANUARY, 1995

Purpose

The purpose of the Department of Fish, Wildlife and Parks (DFWP) dam safety program is to assess the condition of DFWP dams and to ensure they are well maintained so the risk of damage to downstream property and life is minimized. DFWP paid approximately \$250,000 in damages as a result of the failure of Brown's Lake dam in 1984. This comprehensive dam safety program will minimize the risk of future failures by identifying hazardous conditions, making necessary repairs, and ensuring that projects are well maintained.

DFWP Water Storage Projects

A list of 21 water storage projects identified by DFWP was incorporated in a Memorandum of Understanding (MOU) signed between DFWP and the Department of Natural Resources and Conservation (DNRC) in November, 1993. The MOU identifies specific responsibilities and mutual understanding between DNRC and DFWP regarding the rehabilitation of DFWP-owned projects. The purpose of the MOU "is to provide an efficient cost-effective means of bringing DFWP water projects into compliance with the Montana Dam Safety Act"

All of the projects on the following list either have been inspected by DNRC or determined to not require inspection. The list has been prioritized as follows.

1. Bearpaw Dam (high hazard¹)
2. Gartside Dam (high hazard¹)
3. South Sandstone Dam
4. Clearwater Fish Barrier (Lake Inez fish barrier)
5. Ringy Dingy Dam (Blackleaf Wildlife Management Area)
6. Whitetail Reservoir
7. Sleeping Buffalo Dikes (Area 7 and Area 8)
8. Fox Lake Dikes
9. Rainy Lake Fish Barrier
10. Ashley Lake
11. Rush Hall Pond
12. Kleindschmidt Dike
13. Pike Marsh Dike
14. Freezeout Lake Dikes
15. Hungry Horse Fish Trap
16. Young Creek Fish Barrier
17. Gilda Radner (Dodson South Canal)
18. Park Lake
19. Devon
20. Ninepipe

¹A dam that is classified as "high hazard" would endanger the lives of downstream people in the event of a failure. High hazard dams fall under the jurisdiction of the DNRC Dam Safety Section in the Water Operations Bureau. High hazard dams are subject to regulation under the Montana Dam Safety Act.

The first eleven projects on the list should be inspected annually. The remaining ten projects are either not owned by DFWP, pose no hazard, or as in the case of Freezeout Lake, are already intensively managed.

Activities during 1994 have centered on identifying and prioritizing projects, determining ownership and liability, and making repairs. DNRC will spend the remainder of this biennium and the next biennium directing repairs that are either currently scheduled or anticipated to be scheduled, and performing annual inspections on the six highest-priority projects.

DNRC also prepared a report that assessed design plans, and both short-term and long-term costs at Johnson Reservoir--a joint DFWP-Ducks Unlimited project that may be rebuilt in Dawson County. The dam failed in 1978 due to overtopping. DFWP and Ducks Unlimited are intending to fill-in the breached section and increase the spillway capacity.

Following is a summary of the status of each project.

Bearpaw Dam

Bearpaw Dam is a 59-foot earthfill embankment that impounds 535 acre-feet of water in the Bears Paw Mountains south of Havre. The dam is classified as a high hazard dam. Previous inspections determined that the dam required repair due to voids under the spillway and insufficient freeboard. Funding for repairs was appropriated by the 1993 legislature, based on the recommendations from a feasibility analysis and risk analysis completed in 1992. A consultant was hired to complete final design for rehabilitation. The project was bid for construction in the fall of 1994, but no contract was awarded due to poor bid response. Only one bid was received, and it far exceeded the project budget. The project is scheduled to be rebid during March 1995, with construction scheduled for July 1995. The project was also inspected during 1993 and 1994.

Gartside Dam

Gartside Dam is a 30-foot earthen embankment impounding 326 acre-feet of water in Richland County. It is classified as a high-hazard dam and was rehabilitated in 1990. This dam is currently in good condition, but requires minor maintenance. Erosion in the left groin of the dam was identified during the 1993 and 1994 inspections. The damaged area was surveyed by DNRC in 1994, and repairs are scheduled for the spring of 1995. Also, a reservoir bank profile was surveyed, to assist in monitoring reservoir pool levels.

Since 1991, DFWP has been responsible for maintaining a drain installed on private agricultural land nearby that is affected by Gartside Reservoir. The drain has not worked properly since it was installed. In 1994 DNRC repaired the system by adding 360 feet of 12-inch PVC pipe to drain an overflowing manhole. Additionally, the entire drain system was cleaned with a water jet in 1994 to temporarily remedy plugging caused by iron bacteria. It will be necessary to clean the drain every 2-3 years, to ensure the drain lines do not permanently plug. Monitoring wells in an adjacent field are measured monthly by DFWP personnel to assess the effectiveness of the drain.

South Sandstone Dam

South Sandstone Dam impounds 950-acre-feet behind a 38-foot embankment in Fallon County. The dam was inspected in 1993 and 1994 by DNRC staff. Funding is being requested during this legislative session for deficiencies identified during this and previous inspections. These deficiencies include inadequate spillway capacity, unmaintained joints in the principal spillway, settled outlet conduits that have become partially detached at the joints, a non-level crest due to embankment settlement, and insufficient riprap. In 1994 the dam was reclassified and is not considered a high hazard structure. Because the dam is no longer considered high hazard, rehabilitation costs have been significantly reduced from earlier estimates. The proposed rehabilitation will enlarge the emergency spillway and

lower the crest elevation, place a baffle on the principal spillway to prevent it from being overtopped, level the dam crest, and add additional riprap.

Clearwater Fish Barrier

The Clearwater Fish Barrier is a 10-foot-high timber fish barrier with an earthen embankment on the Clearwater River in Missoula County. A 1986 inspection by DNRC indicated that several of the timbers were deteriorating, a stopblock and several floorboards were missing, and the retaining walls were deflected. A consultant is conducting a feasibility study to assess different options for repairing, replacing, or removing the fish barrier. DNRC completed a sediment survey during January 1995 for use during the feasibility study. If there is sufficient budget, construction will commence in 1995.

Ringy-Dingy Dam

Ringy-Dingy is a 166-acre-foot impoundment behind a 12-foot earthen embankment in Teton County. The project is in poor condition, as noted in the 1993, 1994, and previous inspection reports. Deficiencies include an upstream face that has been severely eroded by wave action, insufficient spillway capacity, a poorly installed culvert spillway that is prone to failure, and an outlet pipe that may need replacement. Repairs are scheduled for the fall of 1995 or 1996. It is anticipated that all engineering services will be provided by DNRC.

Whitetail Reservoir

Whitetail Reservoir is a 200 acre-foot reservoir impounded by a 21-foot-high earthen embankment near the town of Whitetail in Daniels County. The 1993 and 1994 inspections identified serious problems with the spillway at this project. A 10-foot-high headcut that was advancing up the spillway was arrested several years ago by adding a training dike and a rock chute. The resulting spillway has insufficient capacity--the existing training dike may overtop with events that have a recurrence interval as small as 5 years. A feasibility level analysis was conducted, and the rehabilitation costs were estimated to be approximately \$314,000. A sediment survey was completed in early 1995 to determine the potential for downstream damage, as well as the value of the fishery.

Sleeping Buffalo Dikes, Fox Lake Dikes, Rainy Lake Fish Barrier, Ashley Lake, and Rush Hall Dam

These projects are annually inspected by DNRC. Necessary maintenance and repairs identified in DNRC inspections are generally conducted by DFWP. DNRC will be involved with repairs on an "as needed" basis.

Kleinschmidt Dike

This is a small duck pond just above Kleinschmidt Lake that poses no risk to downstream property or lives. It will be inspected at 5 year intervals.

Pike Marsh Dike

The Pike Marsh Dike is located near the upstream end of Tongue River Reservoir. It was inspected by DNRC in 1993. Due to its small size and proximity to the reservoir, it poses no risk to downstream property or lives. It will not be regularly inspected because it poses no risk, and is expected to be inundated following rehabilitation of Tongue River Reservoir.

Freezeout Lake Dikes

Freezeout Lake is intensively managed by on-site DFWP personnel. Due to DFWP's diligent maintenance of this site, it is not currently scheduled for annual inspections by DNRC. However, a DNRC engineer is available if necessary.

Hungry Horse Fish Trap, and Young Creek Fish Barrier

DNRC reviewed field notes, photographs, and reports provided by DFWP engineers on these sites and concluded the structures pose no threat to downstream lives or property. DFWP indicated the projects are not currently used, and therefore don't need to be maintained or inspected at this time.

Gilda Radner

This is a "wide spot" in the Dodson South Canal formed by a coulee that enters the canal. The Canal is owned by the U.S. Bureau of Reclamation. The only water-retaining structure at the site is the canal dike, which presumably is maintained by USBR.

Park Lake

There are apparently several earthfill dikes at Park Lake. This property is scheduled to transfer to the U.S. Forest Service during the summer of 1995. DFWP instructed DNRC not to inspect this site due to the upcoming transfer.

Devon

DNRC determined this site was transferred to the Montana Department of State Lands and did not inspect it. The current condition is not known.

Ninepipe

DNRC has not visited this site. According to DFWP, the main dam is owned and operated by the Bureau of Indian Affairs. DFWP does, however, own a series of low dikes that retain water in the reservoir periphery, and apparently pose no risk.

Jensen Dike

DFWP does not list this as a project in their land inventory, although it was included in the MOU between DNRC & DFWP. An investigation of the DNRC Dam Safety Database also failed to identify any DFWP owned projects under this name. It therefore, has been removed from the project list.

REQUESTED LANGUAGE - WATER RESOURCES DIVISION

up to \$50,000 per year
Funds received under the provisions of 85-1-514(4), MCA, are appropriated to the department for the purpose of performing duties required under 85-1-514, MCA.

up to \$20,000 per year
~~All~~ 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, MCA, are appropriated to the department to carry out the enforcement functions required under 85-2-114, MCA.

up to \$20,000 per year
Funds received from the bonds required by 37-43-306, MCA, 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.

up to \$550,000 for the biennium
~~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.

up to the amount of \$20,000 for the biennium
~~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.

up to \$150,000 per year
Funds received in accordance with 85-3-213, MCA, are appropriated to the department for the purpose of carrying out the review and administration of weather modification applications, permits and licenses.

Funds received by the department from arbitration, litigation awards, or settlements, including funds from the escrow account currently established in an escrow agreement between Voith Hydro, Inc., the department and Norwest Bank, Helena, pursuant to agreement 1189.1 Broadwater power project, *up to the level of \$418,000 for the biennium* are authorized to be spent to pay costs, including bond debt associated with the Broadwater power project.

I. Resource Development Bureau

A. Renewable Resource Grant and Loan Programs

1. Grants

a. Program:

Grants are provided for a variety of renewable resource projects. There are 53 active grants under contract and another 8 grant contracts are likely to be signed before the end of the biennium. In addition, there are 26 grants that have been approved for the 97 biennium. The department may also enter into emergency grant project as the need arises. Three emergency grants have been signed so for the biennium.

b. Staff:

• 1.0 grade 14 Project Evaluator;

This position is responsible for all aspects of program management including rules development, program promotion, application review and ranking, development of the legislative report, contracting, grant disbursements, and project monitoring.

• .3 grade 14 Civil Engineer Specialist;

The Civil Engineer Specialist provides on-site project monitoring and review of all construction project budgets, scope of work, plans and specifications, The Engineer also provides assistance in other areas of the program including project review and ranking.

• .2 grade 14 Project Evaluator;

This position is located in the Miles City office and assists in project review and ranking for all irrigation projects. This position is also responsible for grant administration for various eastern Montana projects

• .2 grade 12 Program Specialist I;

The Program Specialist I supports these activities by verifying all claim payments, keeping separate cash-flows to assure all claims are processed accurately, reconciling SBAS with the cash-flows, maintaining the grant data base system.

2. Public Loans

a. Program:

There are 66 loans to local governments across the state with an outstanding balance of \$56.6 million. We are working on Bond Purchase agreements for 2 additional loans and in House Bill No.8 the department is seeking authorization for 27 loans totaling just over \$20 million.

b. Staff:

- .3 grade 16 Financial Advisor

The Financial Advisor is responsible for the issuance of both Coal Severance Tax and General Obligation bonds. The bond proceeds are then used to loan to local governments for authorized projects. The Financial Advisor reviews all loans before closing to assure financial compliance with the bond resolution.

- .5 grade 17 Bureau Chief

The Bureau Chief assists the financial advisor with the issuance of bonds and works with the individual project sponsors in developing the bond purchase agreements. The Bureau Chief also coordinates all other public loan activities including program promotion, project review, and project monitoring.

- .6 grade 14 Civil Engineer Specialist

The Engineer provides on-site monitoring, works with the project sponsor and their engineer in defining the scope of work and budget, reviews all plans and specifications for projects, and develops the draft bond purchase agreement.

- .5 grade 12 Program Specialist I

The Program Specialist I provides critical supporting the loan program. This position is responsible for sending out payment due notices, monitoring all payments as they are received to assure accurate accounting, reviews all annual reports to assure compliance with the bond purchase agreement, generates amortization schedules for new loans, and provides cash-flow projection for

future loan repayments.

3. Private Loans

a. Program:

The Private Loan program provides funding for a wide variety of water projects including the purchase of new sprinkler systems to improve water use efficiency, rehabilitation of private water systems. There are 107 loans outstanding with a balance of \$3.7 million. Applications are reviewed as they are submitted and final approval is made by the department director.

b. Staff:

- .7 grade 15 Program Officer II (the other .3 of the fte is used to work on the rangeland loan program for Conservation District's Bureau)

The Program Officer is responsible for all aspects of the loan program. This includes program promotion, application review, working with project sponsors to identify terms, conditions and security for each loan, assist in the sale of bonds, prepares all loan agreements.

- .1 grade 12 Program Specialist I

The Program Specialist provides payment due and past due notices, confirms that payments are accurately credited, maintains cash-flow projections, and reconciles information with SBAS.

A loan committee has been formed to review loan recommendations made by the Program Officer. The loan committee meets on an as needed basis and is comprised of the Loan Offices, Bureau Chief, Division Administrator, and the Deputy Director.

B. Reclamation and Developments Grants

1. Grants

a. Program:

The Reclamation and Developments Grants program funds mineral reclamation projects and

projects that meet a crucial state need in serving the public interest. There are 26 active grants in this program. House Bill No. 7 has an additional 15 grants that are recommended for funding in the 97 biennium.

b. Staff:

- .1 grade 15 Program Officer II

The Program Officer has responsibility to develop program goals, objectives and priorities, review and ranking of grants, preparation of legislative report, grant contracting, and on-site monitoring.

- .5 grade 14 Project Evaluator

The Project Evaluator is responsible for program promotion, application review, grant contracting, and contract monitoring.

- .2 grade 12 Program Specialist I

The Program Specialist I supports these activities by verifying all claim payments, keeping separate cash-flows to assure all claims are processed accurately, reconciling SBAS with the cash-flows, maintaining the grant data base system.

C. State Wastewater Revolving Fund (SRF)

1. Loans

a. Programs:

The State Revolving Fund provides low interest loans for wastewater projects. The department works with the Department of Health and Environmental Sciences by providing financial assistance. There are currently 19 SRF loans for \$ 21.6 million that have been closed. Another 12 projects are scheduled for closing. This program is funded 5/6 EPA grant and 1/6 State GO Bond sales.

b. Staff:

- .3 grade 16 Financial Advisor

The financial advisor provides most of the bureau's support for this program and is responsible for the sale of state General

Obligation bonds, analyzing the financial status of the borrowers, approving disbursements, and assisting a the Trust company over funding issues.

D. Water Reservations

a. Program

The department assists conservation districts with implementing water reservations that have been granted by the Board of Natural Resources and Conservation. There are 14 conservation districts in the Yellowstone River basin that have water reservations. The department assists these districts in reviewing new applications for developing the water as well as providing assistance in developing policies on how best to protect and manage the reserved water. The Board has recently approved reservations in 15 districts in the upper Missouri basin and 11 conservation districts in the lower Missouri basin.

- .8 grade 14 project evaluator
- .5 grade 14 project evaluator

The project evaluators review all detailed development plans and works with the applicants to assure a current and complete application, assist the conservation district boards in evaluating detailed development plans and working with the department's water right staff. The project evaluators also assist the district in developing basin wide policies concerning administration and participating in department and legislative processes.

F. Treasure State Endowment Fund

1. Loans

a. Program

The treasure state endowment program was established by vote on June 2, 1992. The department is providing assistance to the Department of Commerce in the area of project review and finance. Any treasure state projects that are recommends for loan funding would be financed through the sale of coal severance tax bonds. The department would be responsible for this financing.

b. Staff

- .1 Grade 17 Bureau Chief

Assist in the development of the program, review revenue projections, work with the department of Commerce in implementing the program. If treasure state loans are authorized, work on closing these new loans.

- .1 Grand 14 Civil Engineer Specialist

The engineer will work with the department of Commerce in project review. If any projects are authorized for loans, the project engineer will work with the project sponsors to assure that the project scope of work and budget reflect legislation, and will prepare draft bond purchase agreements.

G. In addition to the FTE's allocated to these specific program, a Grade 9 Secretary III position provide staff support to all programs and the remaining time for the bureau chief position is divided among the various programs as well as a little bit left over for supervision. In the Miles City office the Resource Development Bureau and the Conservation Districts Bureau share a grade 8 Secretary II position to provide staff support.

EXHIBIT

DATE

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2/14/95

	Conserv. Dist.	Employee	Mill Levy	Levy Dollars	94 Admin Grant	Additional Need
1	Beaverhead	PT	1.50	10,150.00		
2	Big Horn	PT	1.45	17,000.00		6,400.00
3	Big Sandy	PT	1.35	7,600.00	3,500.00	7,000.00
4	Bitterroot	FT	1.50	47,000.00	3,250.00	11,000.00
5	Blaine	PT	1.50	11,000.00		9,000.00
6	Broadwater	PT	1.50	4,320.00	4,250.00	12,500.00
7	Carbon	PT	1.50	18,733.00		10,000.00
8	Carter	PT	1.50	3,783.00	5,614.00	10,000.00
9	Cascade	FT-2	1.50	76,823.00		40,000.00
10	Chouteau	FT	1.50	17,800.00		8,100.00
11	Custer	PT	1.50	12,500.00	3,100.00	5,000.00
12	Daniels	PT	1.50	8,000.00		5,000.00
13	Dawson	FT	1.93	13,406.00	3,000.00	5,300.00
14	Deer Lodge Valley	PT	1.41	17,767.00		
15	Eastern Sanders	PT	1.50	4,100.00	4,287.00	6,539.00
16	Fergus	FT	1.50	22,015.00	1,000.00	21,500.00
17	Flathead	FT	1.30	104,000.00		100,000.00
18	Gallatin	FT	1.18	44,000.00		
19	Garfield	PT	1.49	5,642.00	3,250.00	20,000.00
20	Glacier	PT	1.50	17,450.00	1,000.00	20,000.00
21	Granite	PT	1.50	8,042.00		
22	Green Mountain	PT	1.50	12,329.00	2,000.00	2,000.00
23	Hill	FT	1.39	29,631.00		10,000.00
24	Jefferson Valley	PT	1.50	10,591.00		10,000.00
25	Judith Basin	PT	1.50	7,150.00	4,250.00	20,000.00
26	Lake	FT	0.89	31,456.00		5,000.00
27	Lewis & Clark	FT	1.50	38,000.00		2,000.00
28	Liberty	FT	3.40	19,680.00	1,000.00	5,000.00
29	Lincoln	PT	1.50	17,000.00	1,000.00	60,000.00
30	Little Beaver	FT	1.50	5,280.00	3,750.00	40,000.00
31	Lower Musselshell	PT	1.50	6,000.00	2,500.00	8,000.00
32	Madison	PT	1.50	11,500.00		
33	McCone	FT	1.50	6,200.00	3,750.00	72,460.00
34	Meagher	PT	1.50	4,844.00	4,250.00	7,500.00
35	Mile High	PT	0.44	23,091.00		
36	Mineral	PT	0.17	1,190.00		
37	Missoula	PT-3	1.45	113,000.00		
38	North Powell	PT	1.00	1,223.00		
39	Park	FT	0.75	7,313.00	4,250.00	22,000.00
40	Petroleum	PT	1.50	1,800.00	5,558.00	7,800.00
41	Phillips	PT	1.50	10,055.00	3,100.00	18,000.00
42	Pondera	PT	1.50	12,443.00		10,000.00
43	Powder River	PT	1.50	4,641.00	3,250.00	
44	Prairie	PT	1.50	4,624.00	3,250.00	10,000.00
45	Richland	PT	1.50	13,612.00		11,480.00
46	Roosevelt	PT	1.54	11,600.00	3,100.00	7,167.00
47	Rosebud	FT-2	0.41	63,549.00		
48	Ruby Valley	PT	1.50	4,423.00	5,083.00	24,000.00
49	Sheridan	PT	1.50	9,854.00	3,100.00	10,000.00
50	Stillwater	PT	1.50	14,545.00		
51	Sweet Grass	PT	1.50	2,400.00	6,533.00	30,000.00
52	Teton	FT	1.50	11,039.00	3,100.00	14,000.00
53	Toole	PT	1.50	13,200.00	3,100.00	
54	Treasure	PT	1.50	5,500.00	3,075.00	21,000.00
55	Upper Musselshell	PT	1.50	9,256.00	3,750.00	
56	Valley	PT	1.44	13,920.00		86,000.00
57	Wibaux	PT	1.50	2,800.00		50,000.00
58	Yellowstone	FT	0.46	60,000.00		
59						
60	TOTAL			1,085,870.00	105,000.00	860,746.00

EXHIBIT

7

DATE

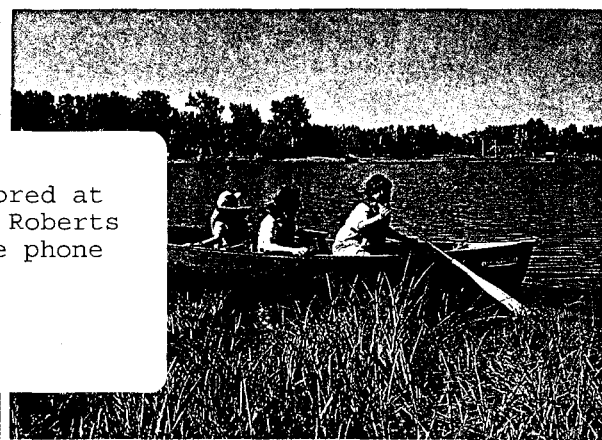
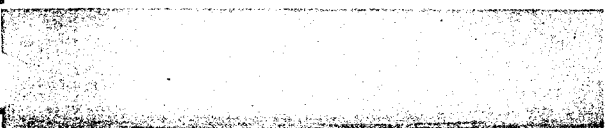
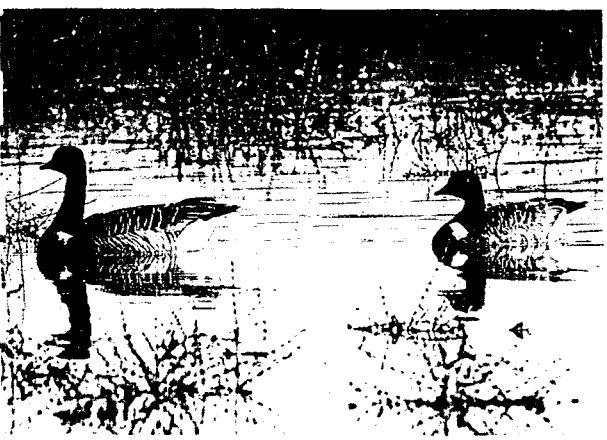
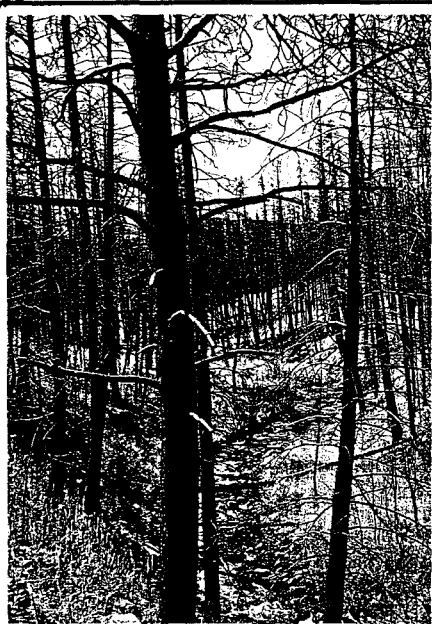
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on
**LAND &
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MANAGEMENT



**FOR
SMALL FARMS
& RANCHES
IN MONTANA**

EXHIBIT _____
DATE 2/14/95
HB _____

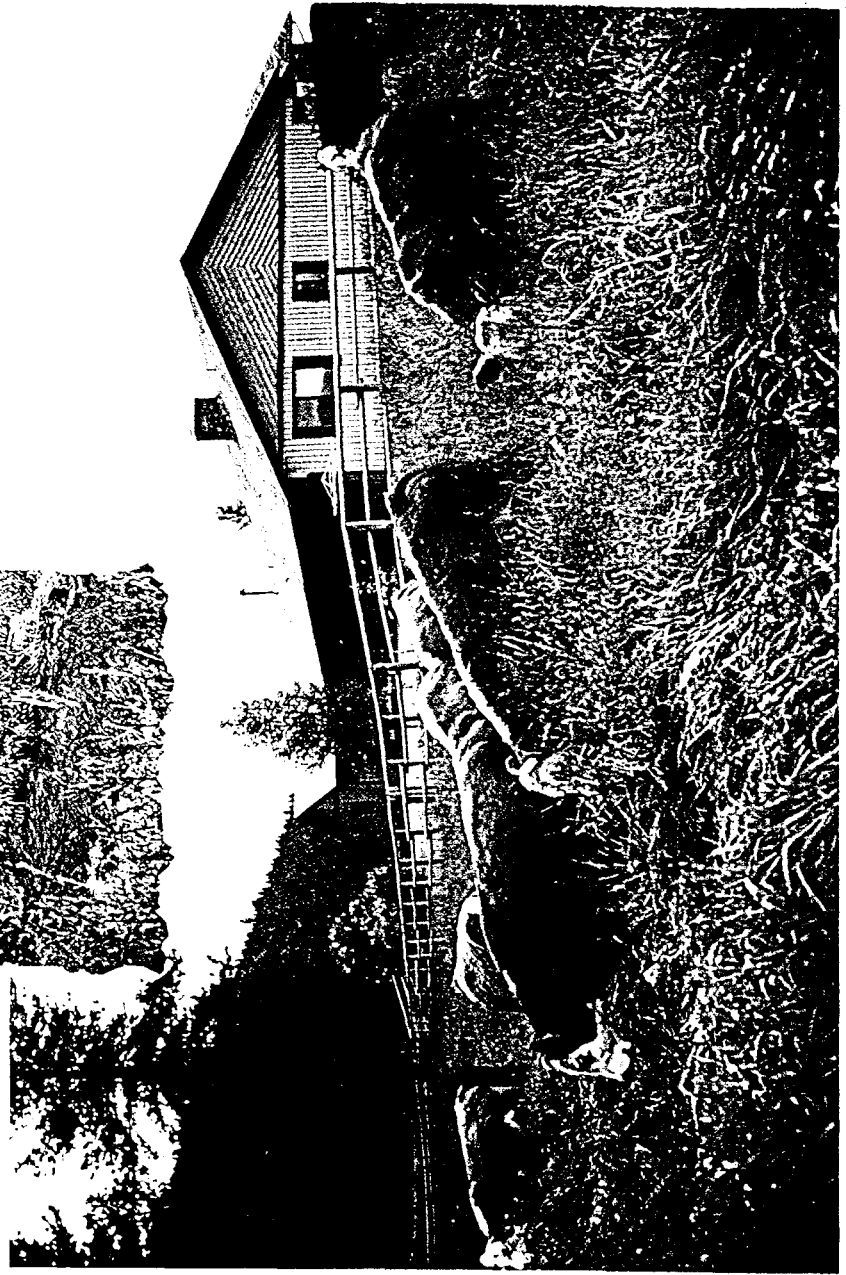


EXHIBIT 8
DATE 2/14/95
HB _____

MANAGEMENT

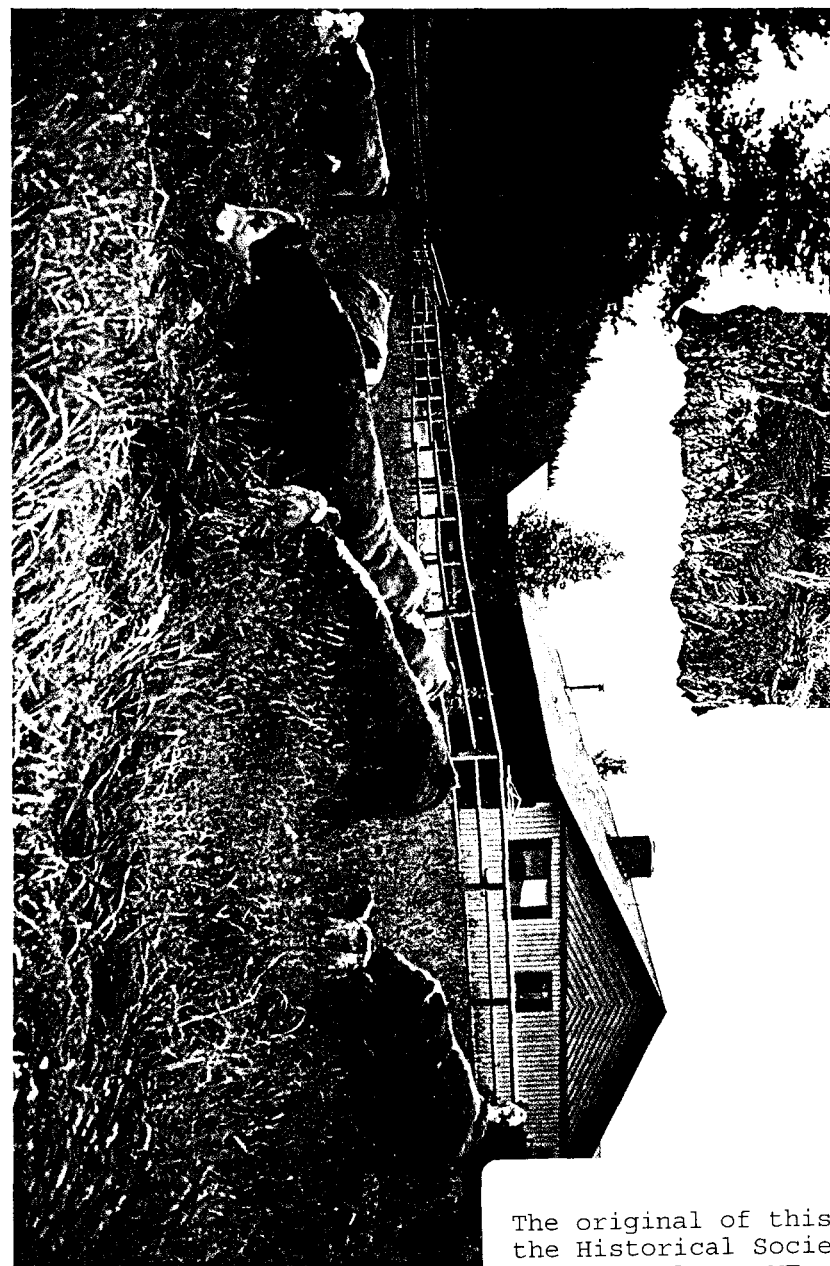


OF LAND & WATER



FOR

SMALL FARMS & RANCHES IN MONTANA



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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Natural Resources Sub-COMMITTEE

BILL NO. _____

DATE 2/14 SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Mr. [unclear]	MT. [unclear] Dist	✓	
Robert [unclear]	Valley Co. Commission [unclear]	✓	
Ed Erskine	Blaine Co. Council [unclear]	✓	
[unclear]	MT. [unclear] Central Ass.	✓	
[unclear]	[unclear] Ass.	✓	
[unclear]	[unclear]	✓	
Joe Wilson	Beartooth R&D	✓	
Ellis [unclear]	Y.T. [unclear] County	✓	
[unclear]	[unclear]	✓	
James [unclear]	Margalo [unclear] Dist	✓	

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