

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

JOINT SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN ROGER DEBRUYCKER**, on January 19, 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
Connie Huckins, 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 Health and Environmental Sciences
-Department overview
-Air Quality Division overview
-Environmental Remediation Division overview

Executive Action: None

Mr. Mark Lee, Legislative Fiscal Analyst (LFA), distributed an updated calendar for the subcommittee's meetings; see **EXHIBIT 1**.

HEARING ON Department of Health & Environmental Sciences Department Overview

Mr. Bob Robinson, Director of the Department of Health and Environmental Sciences (DHES), gave an overview of the department's activities. DHES's primary mission is "to protect, promote and enhance public health and environmental quality for the citizens of Montana." He rose in support of the DHES staff. The Air Quality Division is responsible for enforcing, licensing, permitting and setting standards for air quality as mandated by state and federal legislation. The Air Quality Division, Water Quality Division, Waste Management Division and the Environmental Remediation Division have historically been a single division in

DHES called the Environmental Sciences Division. The issue of primacy and the relationship of state responsibilities to federal directives is a complicated subject which the committee will be dealing with. A handout was distributed which outlined the department's legal responsibilities, organizational structure and major issues. **EXHIBIT 2.** Mr. Robinson explained that the primary federal agency which the environmental side of DHES deals with is the Environmental Protection Agency (EPA). EPA provides considerable funding for DHES to carry out its regulatory responsibilities. In some cases the state is designated as being the primary responsible agent to carry out and regulate under the EPA statutes. This is called "primacy" and is allowed if the state laws are as stringent or more stringent than the federal laws. When the state is assigned primacy the federal government provides the funding to carry out these duties. The Legislature has opted in the past to maintain primacy in order to make use of the federal funds as well as because it was felt that the state would be able to deal with the regulated community more responsively than the EPA. He added it was the perspective of some of the regulated community that possibly DHES was not getting this job done as well as it could. The department has been overwhelmed with some of the regulatory permitting responsibilities and this has cut into its ability to be proactive and to provide assistance to the regulated entities.

DHES has a memorandum of understanding with the Department of State Lands (DSL) which strives to make a good interlocking relationship and to avoid duplication in the permitting process.

With the goal of providing consistency and the same kinds of standards for cleanup of all hazardous substances, the department has brought together all its personnel whose work involves cleanup and combined them in the Environmental Remediation Division. He explained that "CECRA" (Comprehensive Environmental Cleanup Responsibility Act) and "CERCLA" (Comprehensive Environmental Response, Compensation, and Liability Act) are the state and federal superfund laws and "LUST" is the leaking underground storage tank act. He added that the Petro Board staff also worked closely with this division.

Questions: In response to REP. WISEMAN, Mr. Robinson said the Water Quality, Air Quality, Environmental Remediation and Waste Management Divisions would all be included in the new Department of Environmental Quality which is being recommended by a task force appointed by the Governor. Also included in the new department would be DSL Reclamation and Mining permits and the Department of Natural Resources (DNRC) Energy Division and part of the DNRC Conservation Districts bureau. If all of the proposed reorganization occurs there will no longer be a DHES at all.

Mr. Robinson then reviewed some of the major issues confronting DHES. The department has recently conducted meetings with the League of Cities and Towns and the Montana Association of

Counties regarding DHES's regulating responsibility and what role the local governments play in this. A memorandum of understanding is being put together that would provide for a regular series of these meetings and the establishment of an advisory committee to review proposed enforcement actions by DHES.

Tape No. 1:B:000

Mr. Robinson explained that when various permit fees were initiated in the late 1980's local governments had been in support of this because they believed DHES would be assisting them with compliance. This is the end towards which the Department is trying to refashion itself.

Mr. Robinson told the committee the compliance/enforcement administrative process which DHES has been working on for the past year is aimed at establishing clear standards so that both DHES staff and the industry will understand the administrative processes the department goes through. This will help to ensure individuals are in compliance and enforcement actions are not being taken haphazardly.

Mr. Robinson stated DHES was "caught in the middle" quite often between the regulated entities and private citizens who are demanding quality environment and health conditions. The department has been trying to go "by the letter of the law." This means following the scientific standards and the public health information that drive regulations and the law.

Mr. Robinson pointed out that according to the preliminary results of a survey conducted by the Montana Ambassadors Program, DHES is considered very useful. In addition, almost all of those polled considered one of the best features of Montana to be the quality of the environment. He concluded DHES is not always considered onerous by those whom it regulates.

Regarding the expansion of environmental regulations, he stated the department did not have a very ambitious agenda. DHES has reviewed the existing statutes to find ambiguous areas where the laws can be made more workable and understandable. He said the Montana Environmental Policy Act (MEPA) requires DHES to ensure that an environmental assessment (EA), if not an environmental impact statement (EIS), is done. He submitted the department does not have adequate funds to do this and there will be legislation to try to define how those costs are to be covered. In addition, the policy issue of how regulatory programs should be financed needs to be addressed. The trend since the mid-1980's has been to "make the polluters pay" but he felt the question of whether a portion of the costs should be financed with general fund needed to be addressed. Regarding indirect costs, in 1993 some changes were made to the rate and now they need to over-recover to compensate for the under-recovery which took place.

Questions: Mr. Robinson said every action DHES takes requires that they do at least an EA. Based on the information provided by the EA and utilizing input from the parties involved, DHES makes a determination whether or not an EIS is necessary. SEN. JENKINS wanted to know how many EIS's the department did, compared to EA's. Mr. Robinson said about 1% of all projects would require an EIS.

In closing Mr. Robinson stressed that the department had tried to build a management team so the division administrators would be truly responsible for their divisions. He then introduced the staff: Mr. John Geach, Acting Administrator of the Environmental Remediation Division; Roger Thorvilson, Acting Administrator of the Waste Management Division; Jeff Chaffee, Administrator of the Air Quality Division; Neil Marsh, Superfund Section Supervisor; Curt Chisolm, Department Administrative Officer and coordinator in the Director's office for the environmental divisions; Bill Opitz, Deputy Department Director and Jean Riley, Executive Director for the Petroleum Release Compensation Board.

Tape No. 2:A:000

HEARING ON DHES Air Quality Division

Mr. Jeff Chaffee, Administrator of the Air Quality Division, then began his presentation by distributing a handout to accompany his slide presentation. EXHIBIT 3. He stated the growth in the division was driven in large part by amendments made to the federal Clean Air Act. Title III, dealing with toxics in the air, was a new program created in 1990 aimed at regulating 189 substances. Six coal-fired power plants in the state are impacted by Title IV - the acid rain program. Title V is a new permitting program which the states are required to carry out and under which all the major industrial sources in the state will have to come in for a new operating permit in the next three to four years. It has been the division's goal to fit the federal regulations to Montana.

In reviewing the organizational chart of the division, Mr. Chaffee said they planned to open a regional office for the western part of the state in Polson. The division includes four sections: the Permitting Section, the Compliance and Enforcement Section, the Planning and Technical Support Section and the Occupational and Radiological Health Bureau. In response to SEN. JENKINS, Mr. Chaffee said the Compliance and Enforcement Section was considering changing its policy regarding open burning in the eastern part of the state by simplifying the notice and permit system. The reason permits are required is to assure that an industry is designed properly and will fit into the airshed without causing problems. Unlike some states where the state and federally required permits are not issued together, DHES provides "one-stop shopping" for permits. The operating permitting program is a brand-new federally required program. New operating permits will be written for the 88 major industrial sources of pollution in the state. The first third have been contacted.

Also, due to the Title III toxics program in the federal act, there is a potential that smaller sources of pollution in the communities will be added. One example is dry cleaners. They are working on devising ways to make this simple for small businesses. They have a small-business person to work with the small business community to help with compliance.

REP. WISEMAN wanted to know if the federal government was funding these new programs. **Mr. Chaffee** said the operating permit program and the toxics programs dealing with industry and business sources are required to be funded through fees. The EPA has provided federal grant funds to help DHES develop the Title V Operating Permit program and to begin work on the toxics program.

SEN. KEATING said he had been told a dry cleaning business in his area was going to have to add \$.10 to the cleaning charge of every garment to pay for these new requirements. He submitted that in the end it was the consumer who would be paying. He added there were other regulations related to disposal and the Occupational Safety & Health Act (OSHA) which were "coming down awfully hard" on small businesses. **Mr. Chaffee** said that on the national level EPA was focusing its efforts on the larger polluters. He added probably only a fraction of the dry cleaners in the state would be affected by the new rules. He maintained the gains derived from regulating needed to be weighed against the costs of regulating. **SEN. JENKINS** wanted to know how many of the programs were actually in law and how many were more broad-based, with the state having rule-making authority. **Mr. Chaffee** replied Titles III, IV and V of the federal Clean Air Act were fairly prescriptive and quite specific.

Tape No. 2:B:000

Mr. Chaffee characterized the Air Toxics program as their "futuristic" program. His sense was there may be 500-1,000 more sources coming into the regulated community as a result of this program. The new standards were given ten years for implementation. He added that the acid rain requirements shouldn't be a major issue for Montana.

In response to **SEN. KEATING**, **Mr. Chaffee** said as long as federal requirements were being implemented the federal government had the power of oversight. In addition the EPA will have the ability to review operating permits and this would include veto authority.

SEN. KEATING wanted to know what the EPA would do if the state decided to no longer handle permitting or implementation of Titles III, IV and V the Clean Air act. **Mr. Chaffee** replied if the state didn't implement the federal law then EPA is statutorily directed to do so, and the industries would still be charged the fees. In addition the EPA has the option of imposing sanctions on the state including the withholding of highway funds. He said although most states wanted to be the ones doing the job, some states had recently begun to "push back" on the EPA

regarding transportation programs and inspection maintenance programs for cars. The EPA appears to be listening and looking for better ways to do what is required. DHES has tried to involve the regulated industry when it writes the rules to implement the federal law.

In response to **SEN. KEATING**, **Mr. Chaffee** said Missoula had to run an oxygenated fuels program but Billings and Great Falls did not have to. Although Billings and Great Falls are officially still non-attainment areas, they are ready to be redesignated as in attainment. **Mr. Chaffee** explained that federal grants paid for automobile and people-related pollution work. He also stated that since the division added staff they are now meeting their time frames for permit processing.

Mr. Chaffee explained that the State Implementation Plan (SIP) was made of many components submitted over the years. As plans are finalized for the nonattainment areas they are added to the SIP. If this is not done the EPA can implement sanctions and may write their own plan, which the state is then expected to implement. A map showing the nonattainment areas for carbon monoxide (CO), lead (Pb), sulphur dioxide (SO₂), and fine particles (PM₁₀) was reviewed **EXH. 3**. PM₁₀ is pollution which is ten microns or less in diameter and comes from various sources including wood stoves, vehicle traffic, street dust and some industry. DHES works with local governments and passes money through to the counties to help them reach attainment.

Tape No. 3:A:000

Regarding the Occupation and Radiological Health Bureau, **Mr. Chaffee** said the asbestos removal program had probably reached its peak and would be tailing off in the future. The federal government provides funds for both the asbestos control program and the radon control program. A combination of state and federal funding and fees funds the Occupational Health program.

SEN. KEATING questioned whether some of the programs were worth what they were costing the taxpayers. **Mr. Chaffee** said he felt dollars spent could directly be related to an improvement in air quality and services provided. Most of the growth in local program funding has been for carrying these local programs out. The seven counties that DHES contracts with are provided with a mix of general fund and federal grant monies. **Mr. Robinson** added that whenever possible the state contracts with local people to do their own work rather than DHES coming in and doing the work. Regarding funding levels for the department, he said the fee program was growing in order to meet the new federal Clean Air Act requirements. **SEN. KEATING** surmised that even though the tonnage of toxic air pollutants was going down, the fee assessment was increasing exponentially and staffing increases were being requested within DHES. **Mr. Chaffee** pointed out that a big concern of industry was that the department have adequate staff to operate these programs in a timely manner.

Tape No. 3:B:000

Mr. Robinson said the rates DHES is charging to cover Title V operating fees are about half of what the EPA would charge if they had to do the work. **SEN. KEATING** submitted that although the state charges a lower fee it requires the industry to retrofit in order to comply with the standards. The EPA fee is higher but EPA would not have the ability to enforce compliance. **Mr. Robinson** said the EPA would use the fee money to ensure that the same cleanup as the state would have required was done. **Mr. Chaffee** pointed out that the EPA would not be able to process permits in as timely a manner as the state could, either. Turning these programs back over to the federal government has proven to be "a mess" in other states, such as Idaho.

Mr. Chaffee said DHES had planned on using fees as part of the state's match on EPA funds, but the federal government does not allow Title V fees to be used. At this point DHES is not going along with this interpretation.

In response to **SEN. JENKINS**, **Mr. Chaffee** said the level of EPA funding had gone from 59.5% in 1992 to 36% in 1996 and was expected to continue decreasing.

HEARING ON DHES Environmental Remediation Division

Mr. John Geach, acting administrator for the division, gave an overview of this new division which had previously been part of the Solid and Hazardous Waste Bureau. **EXHIBIT 4.** The Leaking Underground Storage Tank (LUST) program was put in with the Superfund program because the two programs share many of the same concerns. The LUST trust is funded out of a federal gasoline tax and there is a 9:1 federal/state match on the funding for this program. The purpose of the program is to investigate sites where it is believed there is pollution from a leaking underground storage tank and the responsible party will not or cannot pay the cost of the investigation. They have submitted a state program approval for EPA primacy in this program.

The Petrofund is a portion of their program in the corrective action tank program and is funded from the state Petroleum Tank Release Compensation fund. A total of 14.3 FTE are employed in the Billings and Polson offices. The FTE in the Special Projects portion of the Superfund section are funded by Burlington Northern and Arco and some of the other responsible parties who have decided to fund positions within the department rather than have the department do the work and "cost recover" the money back from them. Federal Superfund personnel are concerned mainly with work in the eight federal superfund sites in the state. The state superfund program, which became fully operational in 1989, works on the 271 sites that don't qualify for federal cleanup dollars and includes many abandoned wood treating, petroleum refining, mining and industrial sites. The Burlington Northern

railyard in Livingston is a state superfund site which may soon become a national superfund site.

Tape No. 4:A:000

In response to **SEN. JENKINS**, **Mr. Geach** said DHES tried to recover its costs whenever a responsible party could be identified, and if this was not possible the cost was paid by the state. **Mr. Robinson** pointed out that the responsible party had the option of doing the cleanup themselves either voluntarily or through an administrative order from DHES. In response to **SEN. KEATING**, **Mr. Geach** said the state superfund money came from the Environmental Quality Protection (EQP) fund, which is derived from 6% of the Resource Indemnity Trust (RIT).

Mr. Geach then outlined the process involved in superfund projects, which involves site assessment, a remedial investigation feasibility study, a record of decision and remedial action. **Mr. Robinson** used a state superfund site located on Joslyn St., west of Helena, to illustrate how the process works.

Mr. Geach explained the difference between the federal and state superfund laws. The federal superfund is federally funded from monies from the chemical producers. DHES is the lead agency on two of the eight federal sites in Montana. On the remainder of the federal sites DHES assists the EPA regarding the interpretation of state laws, negotiations with the responsible parties, management of contracts with nonprofit agencies and technical expertise. On the state lead sites the EPA has an oversight role.

Mr. Neil Marsh, Superfund Section supervisor, was then introduced. He explained what actions had been taken regarding the chromium contamination site in Columbus. About halfway through the process the material had to start being shipped to a disposal facility in Utah.

Tape No. 4:B:000

Mr. Robinson said Fifty-five of the 271 state superfund sites have been prioritized as being the greatest risk for the environment and/or human health.

The Transisco site in Miles City was discussed. In the early stages of the cleanup several hundred gallons of diesel fuel per day were being removed and at present less than a gallon per day is being removed but there are still unresolved issues regarding the responsible party designation.

SEN. JENKINS asked that the issue of lengthy preliminary phases of projects be addressed. **Mr. Robinson** said complex sites required lengthy evaluation and assessment times, but with simpler sites he felt DHES was moving faster. He pointed out that the remedial investigation and feasibility study were the most lengthy part of the process. An alternative which is

beginning to catch on is to allow the responsible party (RP) to do a voluntary cleanup, with certain limitations. **Mr. Robinson** attested that this would result in the RP spending less money on litigation and more money on the actual cleanup.

REP. JOHNSON wanted to know the status of the cleanup at the Burlington Northern (BN) refueling site in Glendive. **Mr. Marsh** said BN was still operating a product recovery system there which has been in place for a number of years. DHES is in the process of negotiating an administrative order for BN to go to all 13 of its refueling sites and wrap up the cleanups. The order will probably provide enough funding for DHES to dedicate an FTE to handle the wrap-up work.

Mr. Geach said feasibility studies allowed for a process which often resulted in the discovery of better and less costly cleanup alternatives. Fifty-six percent of the funds spent from the EQP fund have been cost-recovered.

Regarding the LUST program, **Mr. Geach** said a total of 2,350 leaks have been reported and about 49% of them have been resolved. Thirty-five sites are impacting drinking water and an additional 170 have a potential of impacting drinking water wells. He mentioned there was a 1998 federal deadline for having all tanks up to standard. As a result the program is beginning to see a lot more tank replacements. **Mr. Robinson** said it was extremely expensive for small gas stations and similar businesses to bring their tanks up to code and this could eventually result in gas shortages in the smaller communities.

Mr. Geach said the department had calculated the average cost of cleaning up a LUST site with no responsible party to be \$45,760, although some sites were much more expensive than others. He said there were 38 LUST Trust sites in the state to date.

Tape No. 5:A:000

Mr. Neil Marsh then showed slides of some of the superfund sites and leaking underground storage tank sites in the state.

ADJOURNMENT

Adjournment: The meeting was adjourned at 12:15 p.m.



ROGER DEBRUYCKER, Chairman



DEBBIE ROSTOCKI, Secretary

RD/dr

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

54th LEGISLATIVE SESSION - 1995

NATURAL RESOURCES APPROPRIATIONS SUBCOMMITTEE

Tentative Schedule

Chairman: Roger DeBruycker

EXHIBIT 1

Meeting Room 402
8:00 AM - 12:00 Noon

Secretary: Debbie Rostocki (488)
LFA Staff: Roger Lloyd (5385)
Mark Lee (4581)

DATE 1/19/95
HB

♦ Agency Order - Executive Action Following Each Program ♦

- | | |
|------------------------------|---------------------------------------|
| 1. Public Service Regulation | 5. DHES (Environmental Sciences) |
| 2. Livestock | 6. Fish, Wildlife and Parks |
| 3. Agriculture | 7. Commerce |
| 4. State Lands | 8. Natural Resources and Conservation |

<u>Legislative Day</u>	<u>Weekday</u>	<u>Date</u>	<u>Topic/Agency</u>	<u>LFA Analyst</u>
3	Wednesday	1-4-95	Orientation	Roger Lloyd
			Supplementals	Roger Lloyd
4	Thursday	1-5-95	PSR	Roger Lloyd
5	Friday	1-6-95	Livestock	Roger Lloyd
7	Monday	1-9-95 (8:00)	Livestock	Roger Lloyd
		1-9-95 (9:00)	RIT Explanation	Ray Beck (DNRC)
8	Tuesday	1-10-95	FWP Capitol Gnds	Roger Lloyd
9	Wednesday	1-11-95	Agriculture	Roger Lloyd
10	Thursday	1-12-95	Agriculture	Roger Lloyd
11	Friday	1-13-95	State Lands	Roger Lloyd
13	Monday	1-16-95	State Lands	Roger Lloyd
14	Tuesday	1-17-95	State Lands	Roger Lloyd
			State Lands	Roger Lloyd
15	Wednesday	1-18-95	Exec. Action	Roger Lloyd
16	Thursday	1-19-95	Exec. Action	Roger Lloyd
17	Friday	1-20-95	DHES (Envir.)	Mark Lee
19	Monday	1-23-95	DHES (Envir.)	Mark Lee
20	Tuesday	1-24-95	DHES (Envir.)	Mark Lee
21	Wednesday	1-25-95	DHES (Envir.)	Mark Lee
22	Thursday	1-26-95	Exec. Action	Roger Lloyd
23	Friday	1-27-95	FWP	Roger Lloyd
25	Monday	1-30-95	FWP	Roger Lloyd
26	Tuesday	1-31-95	FWP	Roger Lloyd
27	Wednesday	2-1-95	FWP	Roger Lloyd
28	Thursday	2-2-95	FWP	Roger Lloyd
29	Friday	2-3-95	FWP	Roger Lloyd
31	Monday	2-6-95	Commerce *	Roger Lloyd
32	Tuesday	2-7-95	Commerce	Roger Lloyd
33	Wednesday	2-8-95	Commerce	Roger Lloyd
34	Thursday	2-9-95	Commerce	Roger Lloyd
35	Friday	2-10-95	Commerce	Roger Lloyd
37	Monday	2-13-95	Commerce	Roger Lloyd
38	Tuesday	2-14-95	Commerce	Roger Lloyd
39	Wednesday	2-15-95	DNRC	Mark Lee
40	Thursday	2-16-95	DNRC	Mark Lee
41	Friday	2-17-95	DNRC	Mark Lee
43	Monday	2-20-95	DNRC	Mark Lee
44	Tuesday	2-21-95	DNRC	Mark Lee
45	Wednesday	2-22-95	Wrap-up	Roger & Mark
			Wrap-up	Roger & Mark

* Montana Science and Technology Alliance first for a joint meeting with Education.
NOTES: Saturday left open for catch-up. Transmittal break traditionally occurs after the 45th day

Dept. of Health and Environmental Sciences

Legal Responsibilities

Environmental Public Health and Welfare Issues

- Montana Environmental Policy Act, Title 75, Ch 1
- Clean Air Act of Montana, Title 75, Ch 2, Part 1
- Asbestos Control Act, Title 75, Ch 2, Part 5
- Montana Radon Control Act, Title 75, Ch 3, Part 6
- Montana Water Quality Act (popular reference), Title 75, Ch 5
- Public Water Supply Act (popular reference), Title 75, Ch 6
- Sanitation in Subdivision Act (popular reference), Title 76, Ch 4
- Montana Agriculture, Chemical, and Groundwater Protection Act, Title 80, Ch 15, Part
- Wastewater Treatment Revolving Fund Act, Title 75, Ch 5, Part 11
- Montana Solid Waste Management Act, Title 75, Ch 10, Part 2
- Montana Hazardous Waste and UST Act, Title 75, Ch 10, Part 4
- CERCLA (Comprehensive Environmental Cleanup Responsibility Act) Title 75, Ch 10, Part 7
- Montana Integrated Waste Management Act, Title 75, Ch 10, Part 8
- Megalandfill Siting Act, Title 75, Ch 10, Part 9
- Infectious Waste Management Act, Title 75, Ch 10, Part 1001
- Montana Underground Storage Tank Installer Licensing and Permitting Act, Title 75, Ch 11, Part 2
- Montana Major Facility Siting Act, Title 75, Ch 20, Part 1
- Water/Wastewater Operators Certification Act, Title 37, Ch 42, Part 1
- Nuclear Regulation, Title 75, Ch 3
- Agricultural Chemical Groundwater Protection Act, Title 80, Ch 15
- Montana Clean Indoor Air Act, Title 50, Ch 40
- Act regulating Junk Vehicles, Title 75, Ch 10, Part 2
- School Sites and Plans Act, Title 20, Part 6
- Federal Clean Air Act, 42 USC 7401
- Federal Clean Water Act
- Federal Safe Drinking Water Act
- Nuclear Regulation, Title 75, Ch 3
- Public Swimming Pools, Title 50, Ch 53
- RCRA (Resource Conservation and Recovery Act), 42 USC 6901
- CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act) of 1980, PL 96-510
- Occupational Health Act, Title 50, Ch 70

Traditional and Core Public Health Functions

- Licensing and Certification of all health care facilities (including hospitals, nursing homes, personal care homes, home health agencies, hospices, mental health centers, residential treatment facilities), Title 50, Ch 5
- Certificate of Need for health care facilities, Title 50, Ch 5, Part 3
- Emergency Medical Services, Title 50, Ch 5
- Vital Statistics (adoptions, death certificates, birth certificates), Title 50, Ch 15
- Health Care Information Acts, Title 50, Ch 16
- Tuberculosis Control, Title 50, Ch 17
- Sexually Transmitted Diseases, Title 50, Ch 18
- Immunization Requirements, Title 20, Ch 5, Part 4
- Infants, (services, genetics, maternal and child health), Title 52, Ch 2, Title 50, Ch 19, Title 50, Ch 1
- Quarantine Authority, Title 50, Ch 1, Title 50, Ch 2
- Septic Tank, Cesspool and Privy Act, Title 37, Ch 41
- Montana Food Drug and Cosmetic Act, Title 50, Ch 31
- Food Establishment Licensing and Compliance, Title 50, Ch 50
- Hotels, Motels, Roominghouses, Title 50, Ch 51
- Tourist Campgrounds and Trailer Courts, Title 50, Ch 51
- Public Swimming Pools and Swimming Areas, Title 50, Ch 53
- Public Water Supply Act (popular reference), Title 75, Ch 6

NAT. RES. SUBCOMM.

EXHIBIT

2

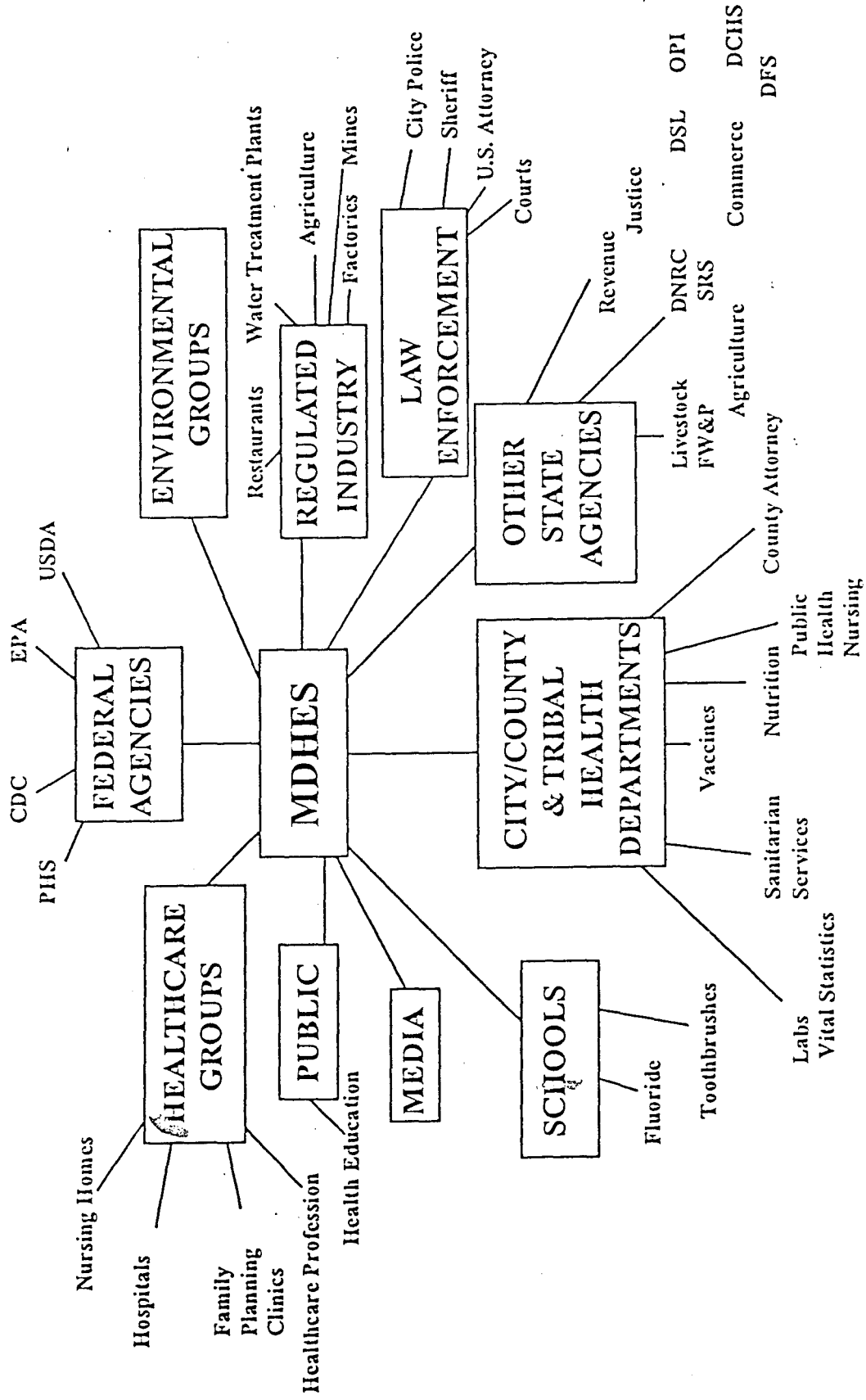
DATE

1/19/95

HB

Dept. of Health and Environmental Sciences

Scope of Responsibilities



Major Department Issues

Meeting expectations of:

Local government

-as permittees

-as co-regulators

Regulated industry

Citizens demanding quality environment and health conditions

Policy determinations

Montana Environmental Policy Act issues

How should regulatory programs be financed?

U.S. Environmental Protection Agency relations

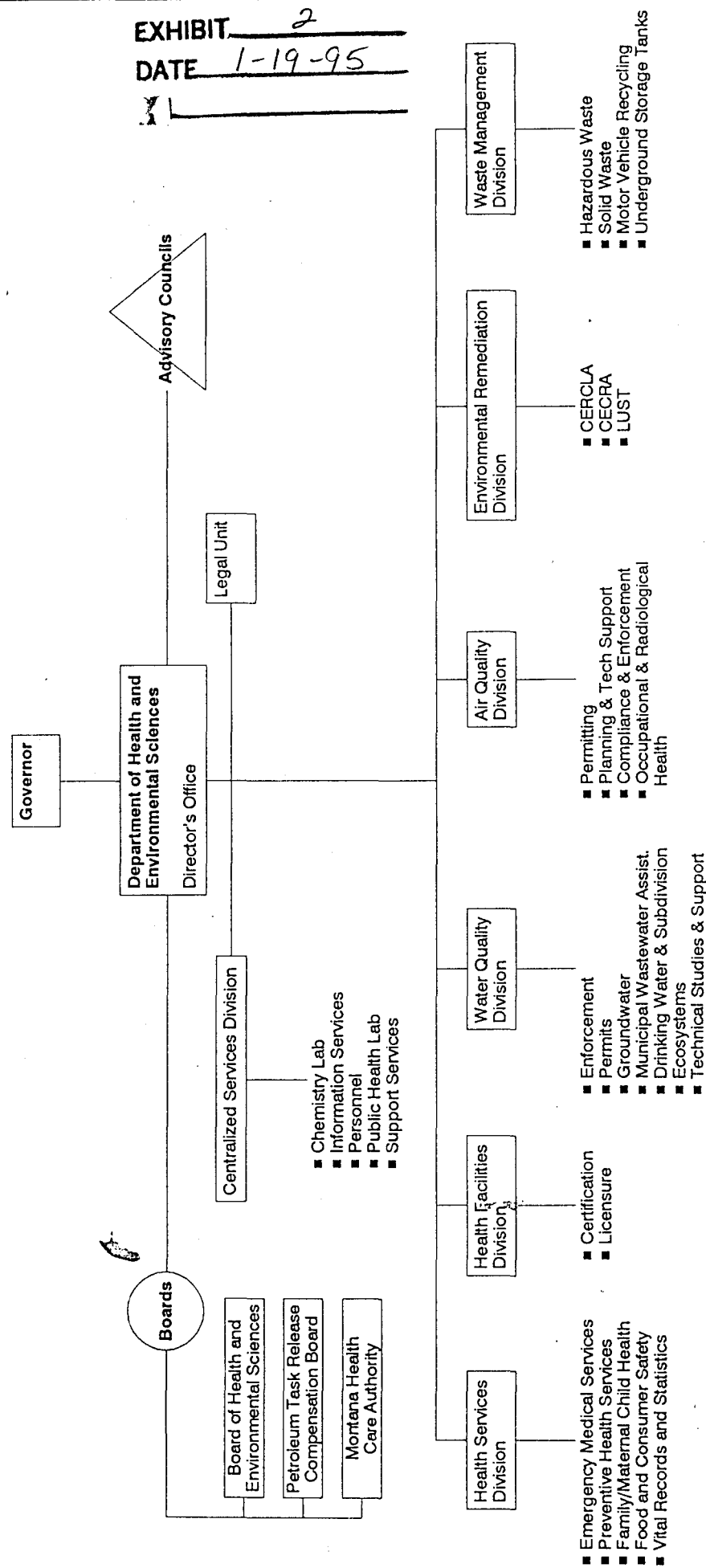
Indirect costs

Implementing reorganization

Dept. of Health and Environmental Sciences

Department Organization

EXHIBIT 2
DATE 1-19-95



EXHIBIT

3

DATE

1/19/95

HB

Department of Health and Environmental Sciences
Air Quality Division

Mission

The mission of the Air Quality Division is to protect public health and welfare, and the environment by maintaining and improving ambient and indoor air quality, and reducing exposure to ionizing radiation in Montana.

Statutory Authority

- Montana Clean Air Act, MCA 75-2-101 et seq.
- Federal Clean Air Act, 42 USC 7401 et seq.
- Asbestos Control Act, MCA 75-2-501 et seq.
- Nuclear Regulation Act, MCA 75-3-101 et seq.
- Occupational Health Act, MCA 50-70-101 et seq.
- Montana Radon Control Act, MCA 75-3-601 et seq.

EXHIBIT 3
DATE 1-19-95

○ Title I - Nonattainment Areas

○ Title III - Air Toxics

○ MACT Standards

○ Title IV - Acid Rain

○ Title V - Operating Permits

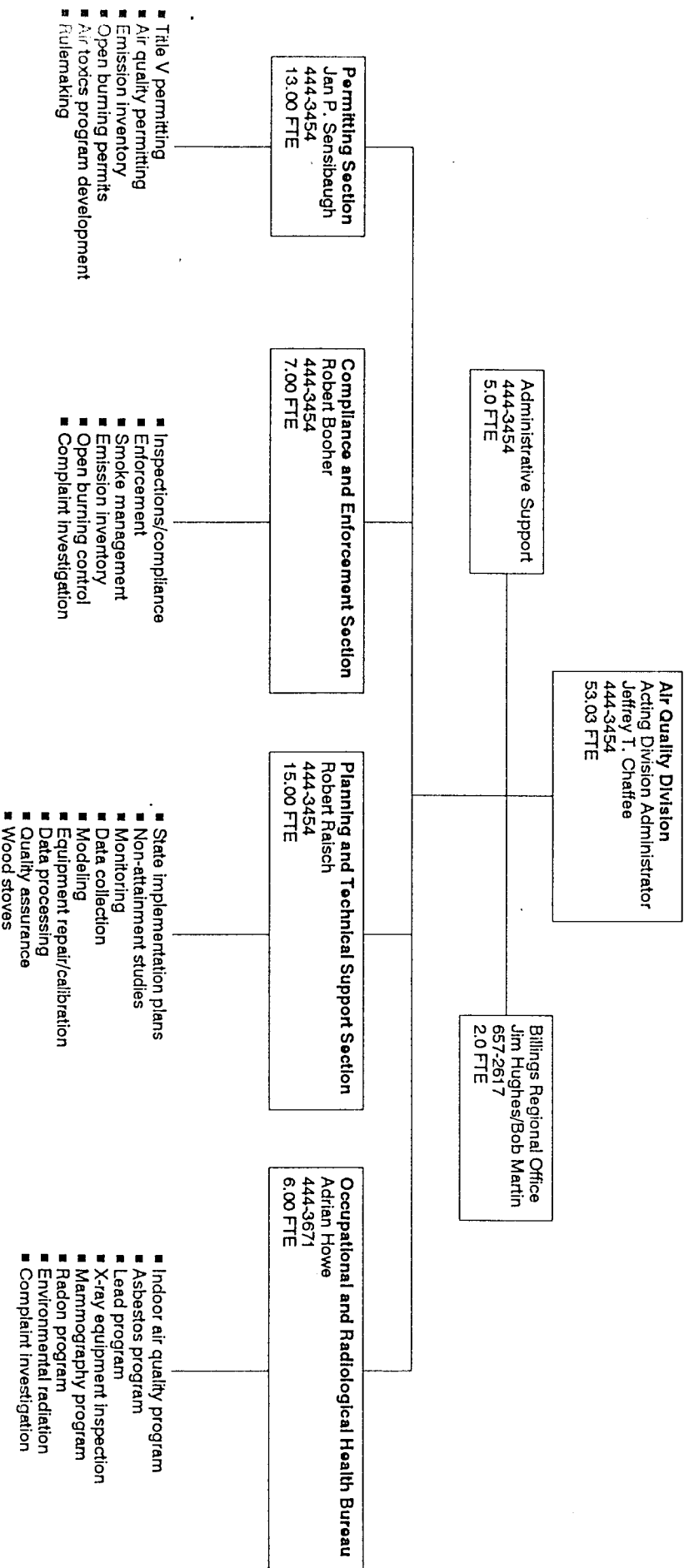


EXHIBIT 3
DATE 1-19-95
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- Compliance Inspections
- Open Burning Control
- Emission Inventory
- Complaint Investigation
- Enforcement

Compliance

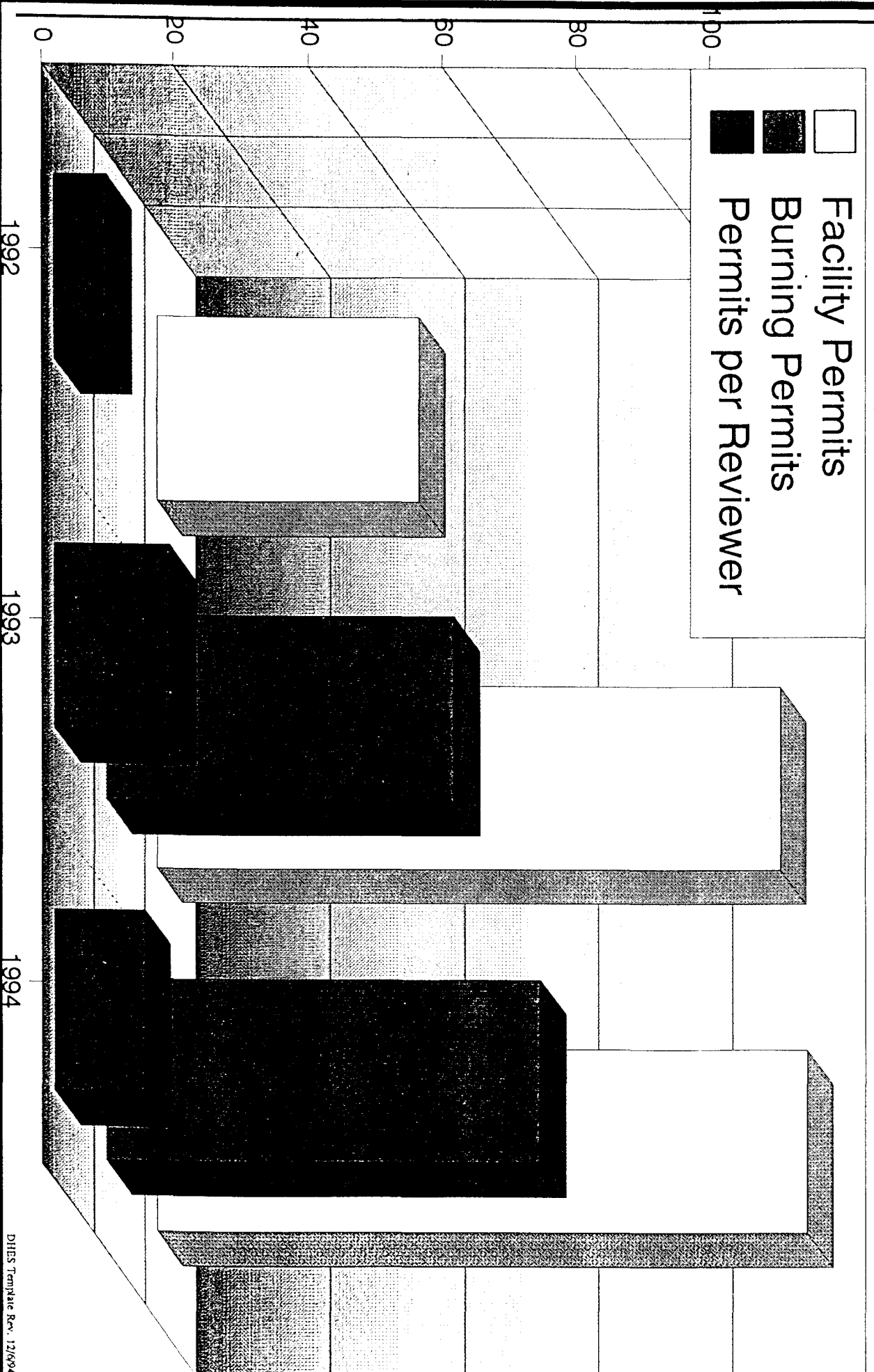


Permitting Section

EXHIBIT 3
DATE 1-19-95

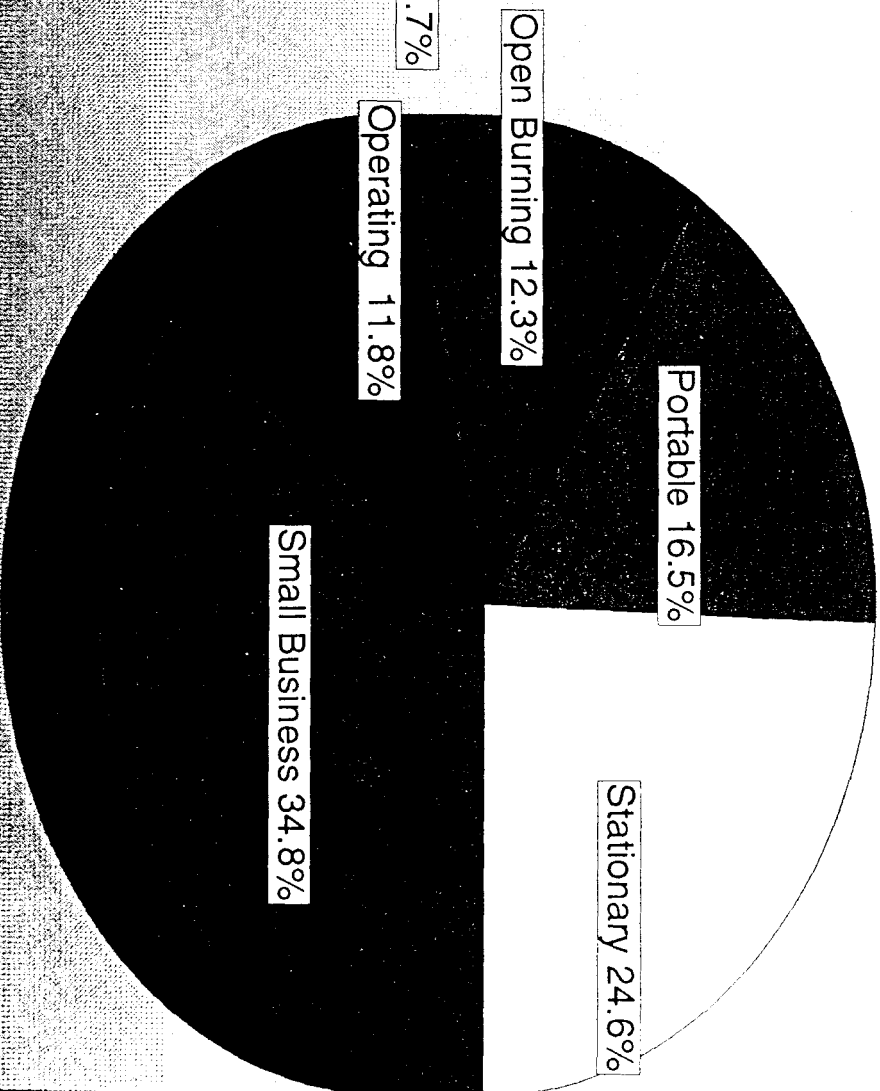
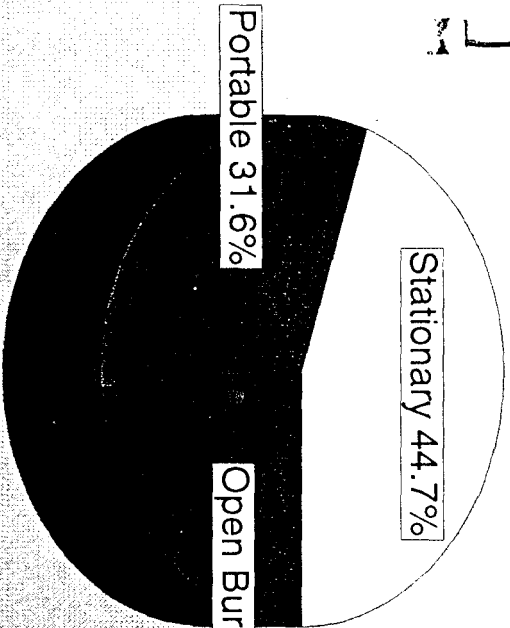
- **Air Quality Permits**
 - ▶ Pre-construction Permits
 - ▶ Open Burning Permits
 - ▶ Operating Permits
- **Clean Air Act Implementation**
 - ▶ Title V - Operating Permits
 - ▶ Title IV - Acid Rain Permits
 - ▶ Title III - Air Toxics
- **Rule Development**
 - ▶ Development of State-Mandated Programs
 - ▶ Implementation Of Delegated Federal Programs
 - ▶ Revisions and Changes to Existing Rules

Permit Processing



Permitted Sources

EXHIBIT 3
DATE 1-19-95



Current

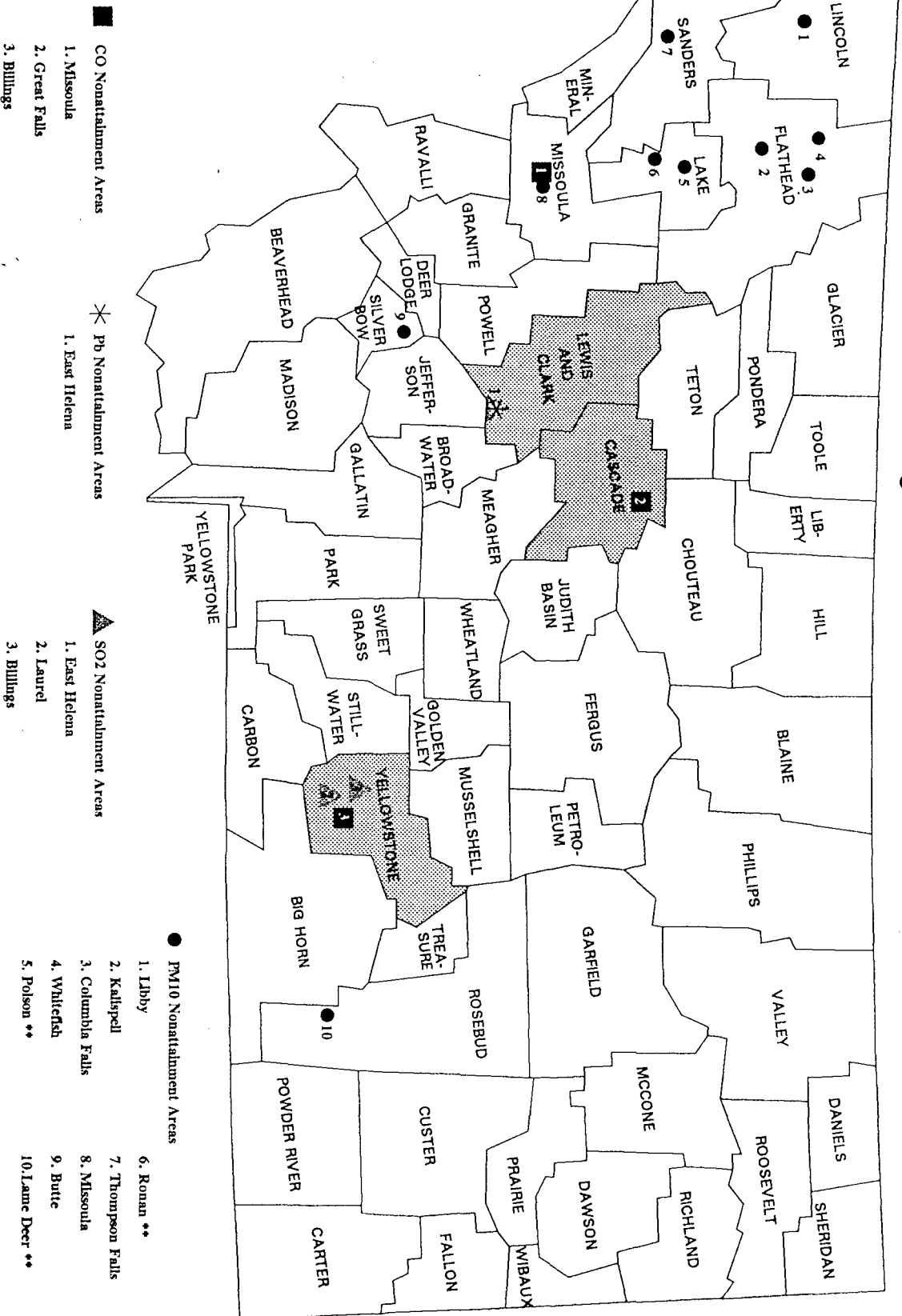
Proposed

- **State Implementation Plan (SIP)**
 - ▶ **General Statewide SIP**
 - ▶ **Nonattainment Areas**
- **Ambient Monitoring**
- **Data Management**
- **Modeling & Technical Support**

Air Quality Division

Air Quality Nonattainment Areas

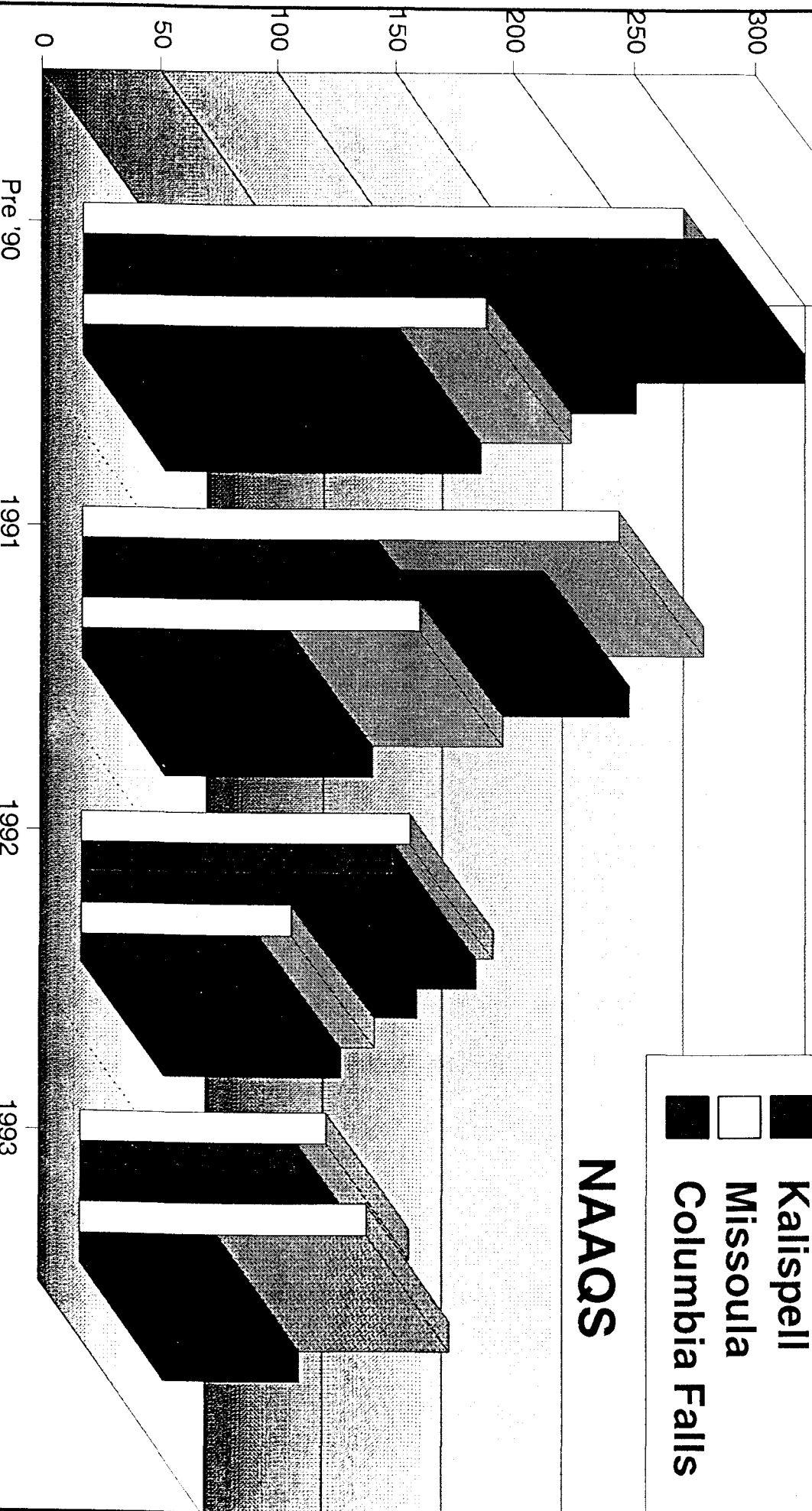
EXHIBIT 3
DATE 1-19-95



PM-10 Nonattainment Areas

- Libby
- Butte
- Kalispell
- Missoula
- Columbia Falls

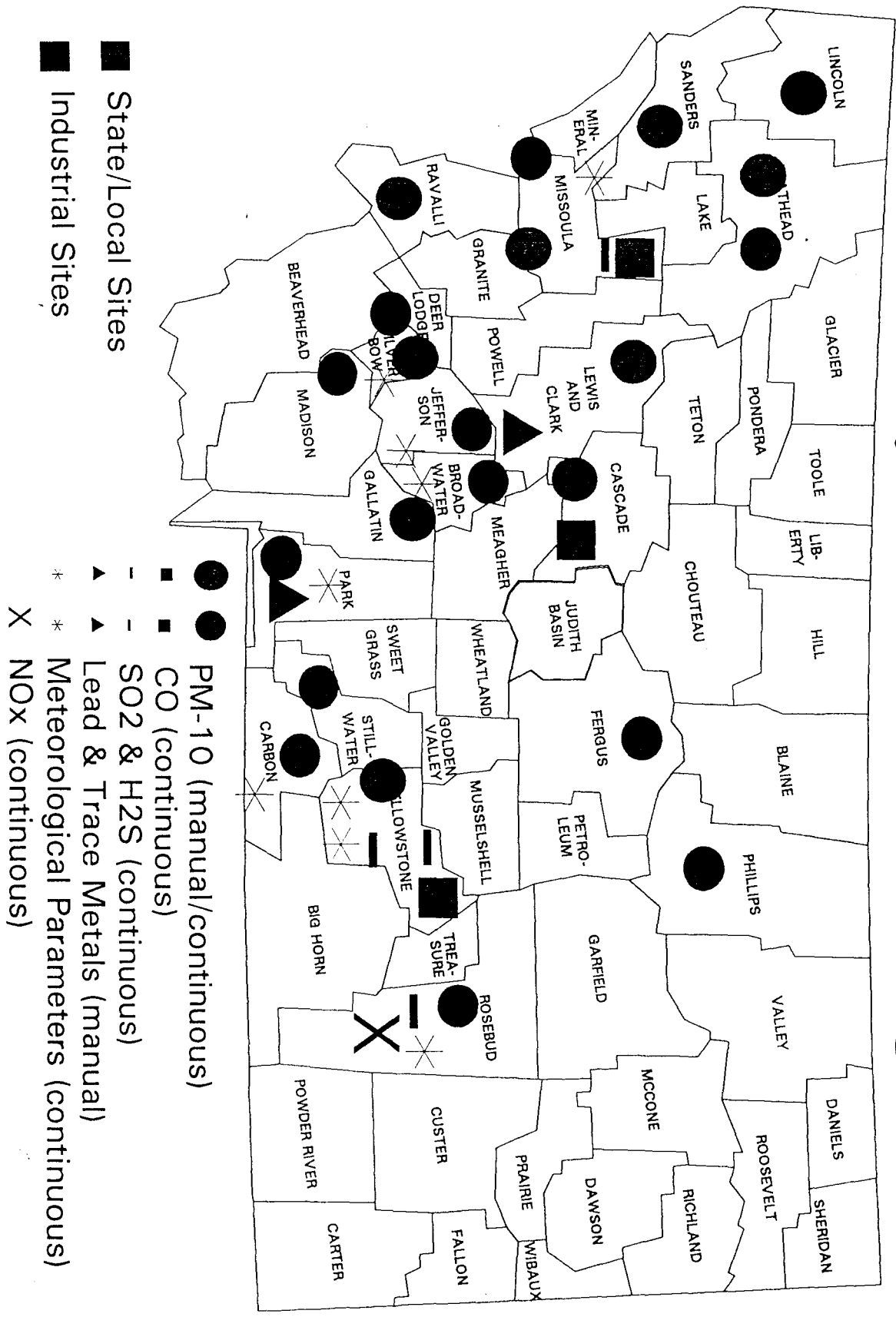
NAAQS



Air Quality Division

Air Quality Ambient Monitoring Sites

EXHIBIT 3
DATE 1-19-95



● Occupational Health/Indoor Air

- ▶ State & Local Government Workplaces
- ▶ Homes & Businesses

● Radiological Health

- ▶ X-ray Equipment Inspections
- ▶ Radon Control Public Information & Outreach
- ▶ Emergency Response for Radioactive Material Releases

● Asbestos Control

- ▶ Certification of Asbestos Contractors/Workers
- ▶ Permitting/Inspection of Asbestos Removal Projects

Department of Health and Environmental Sciences
Occupational & Radiological Health Bureau

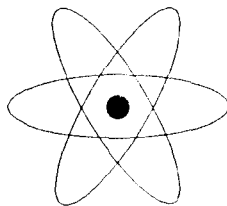
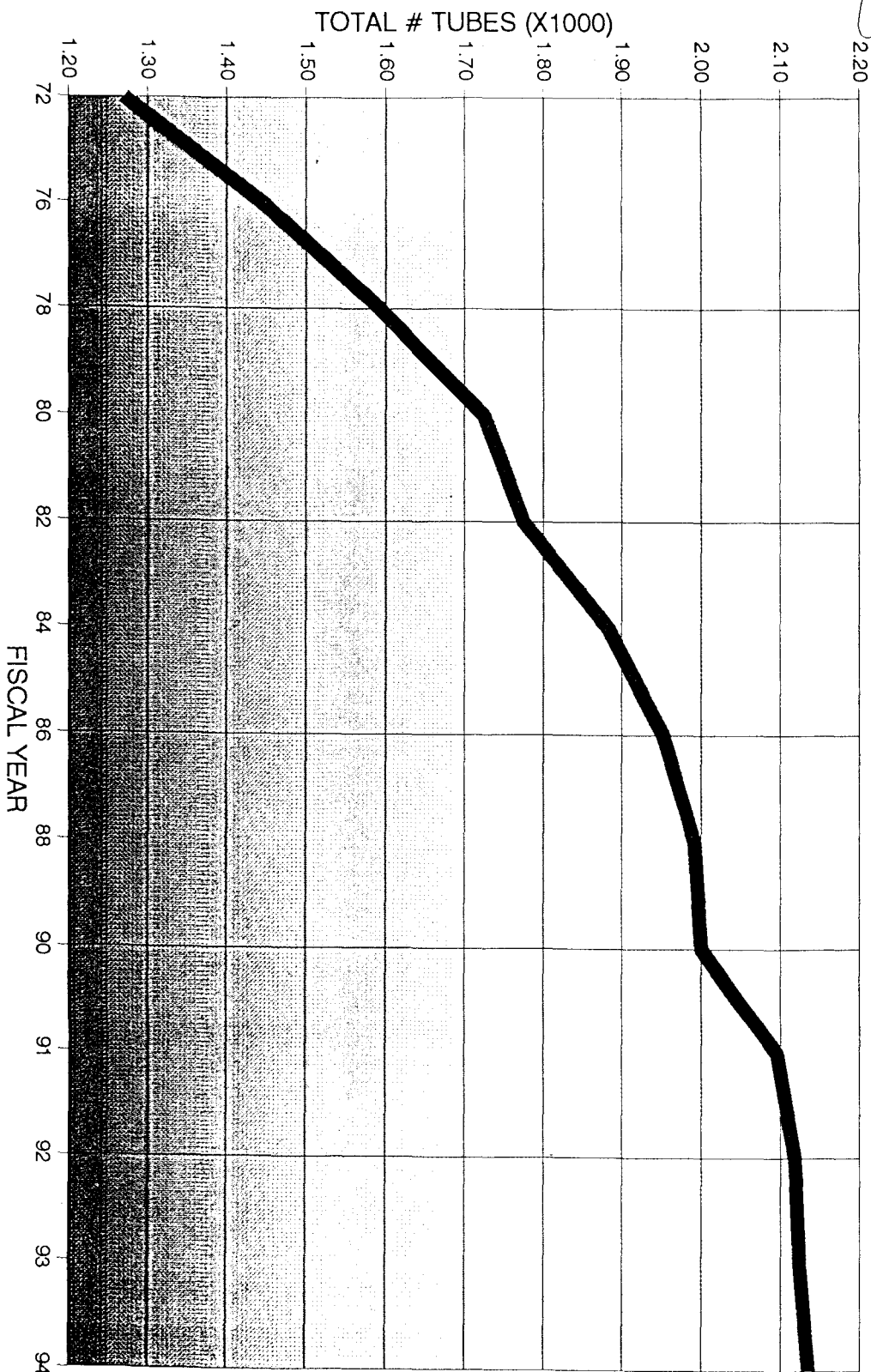
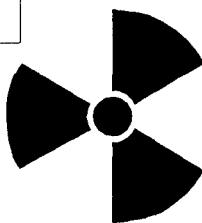


EXHIBIT 3

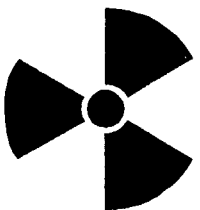
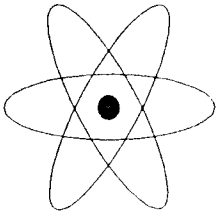
DATE 1-19-95



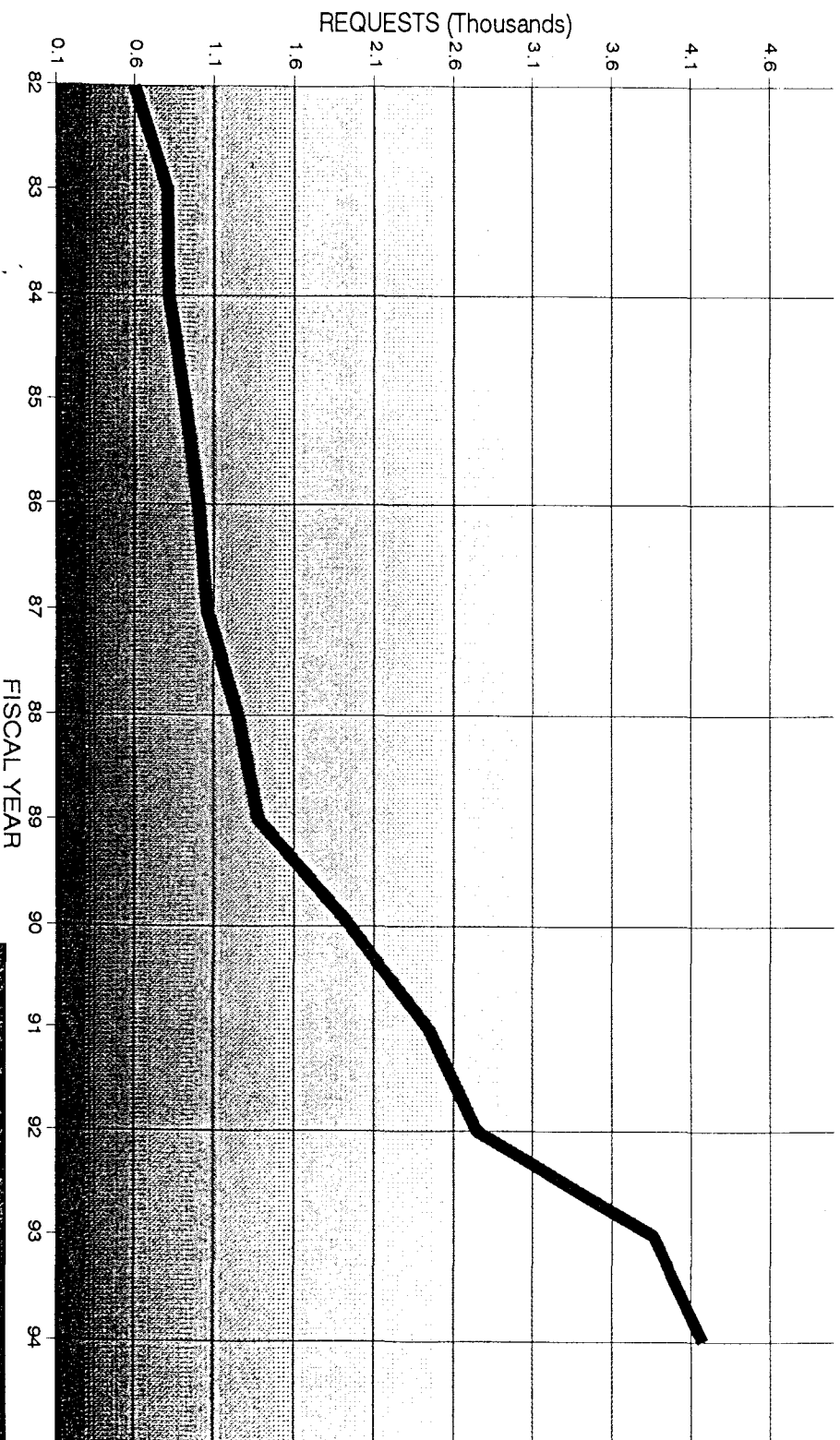
REGISTERED X-RAY UNITS
IN MONTANA



*Department of Health and Environmental Sciences
Occupational & Radiological Health Bureau*



REQUESTS FOR ASSISTANCE OR INFORMATION



BREAKDOWN BY YEAR
RADIATION CONTROL-1,726
ASBESTOS CONTROL-1,618
OCCUPATIONAL HEALTH/INDOOR AIR-830

Challenges

EXHIBIT 3

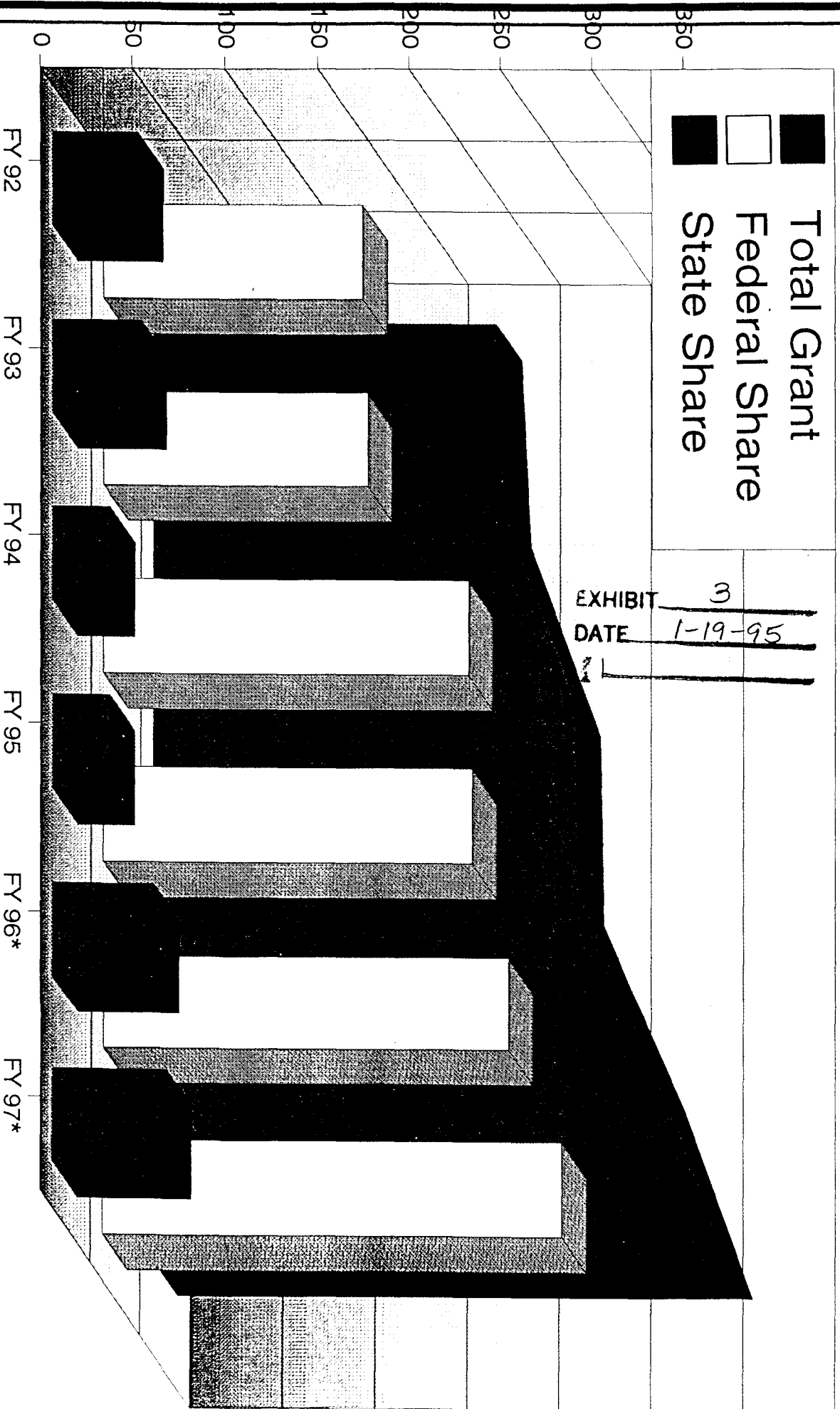
DATE 1-19-95

- **New Permitting Programs**
 - ▶ **Operating Permits**
 - ▶ **Air Toxics**
- **Development of State Implementation Plans**
- **Addressing Public Requests and Complaints**

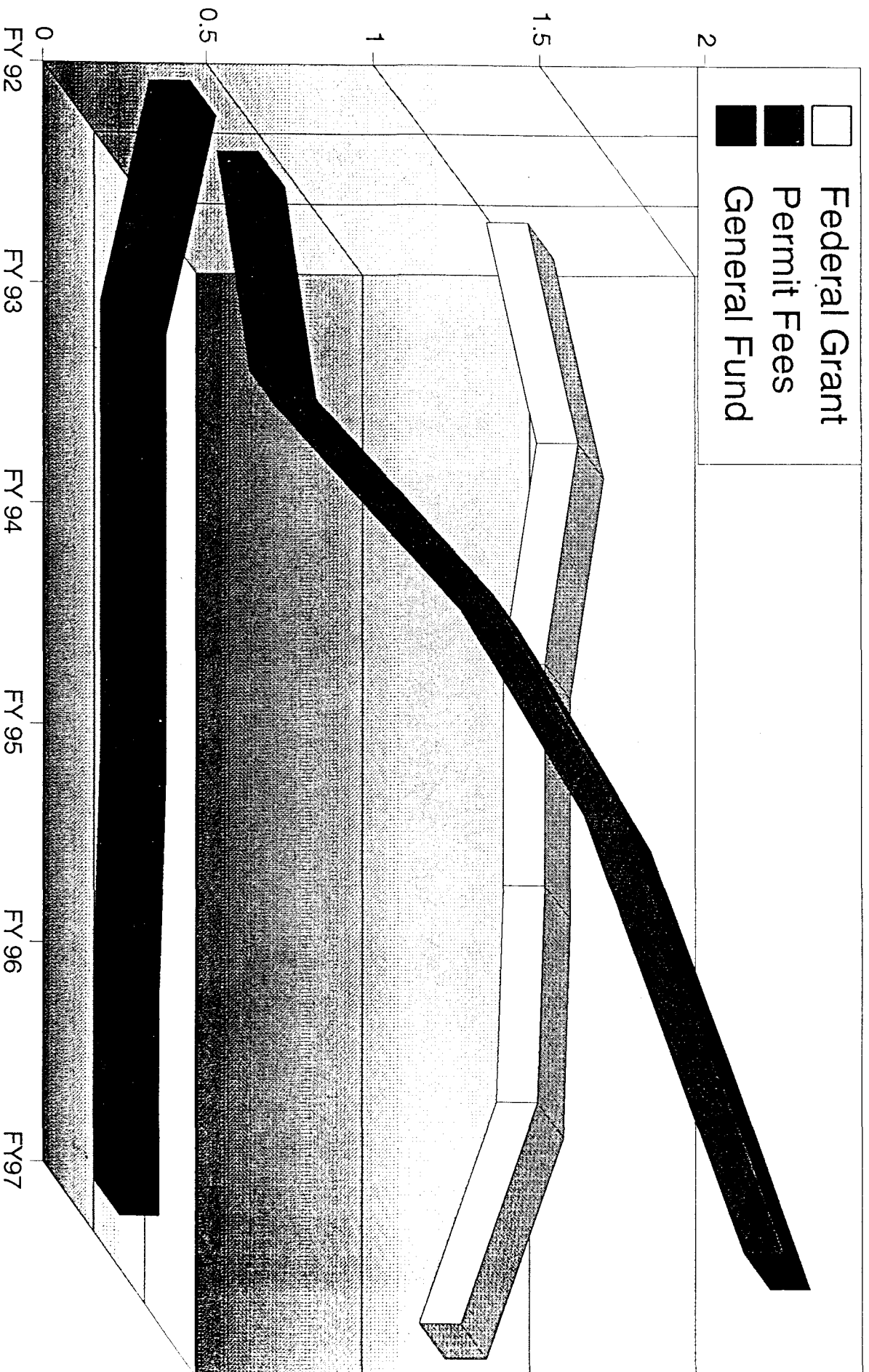
Local Programs

- Missoula County
- Yellowstone County
- Cascade County
- Lewis & Clark County
- Flathead County
- Lincoln County
- Butte-Silver Bow County

County Contracts

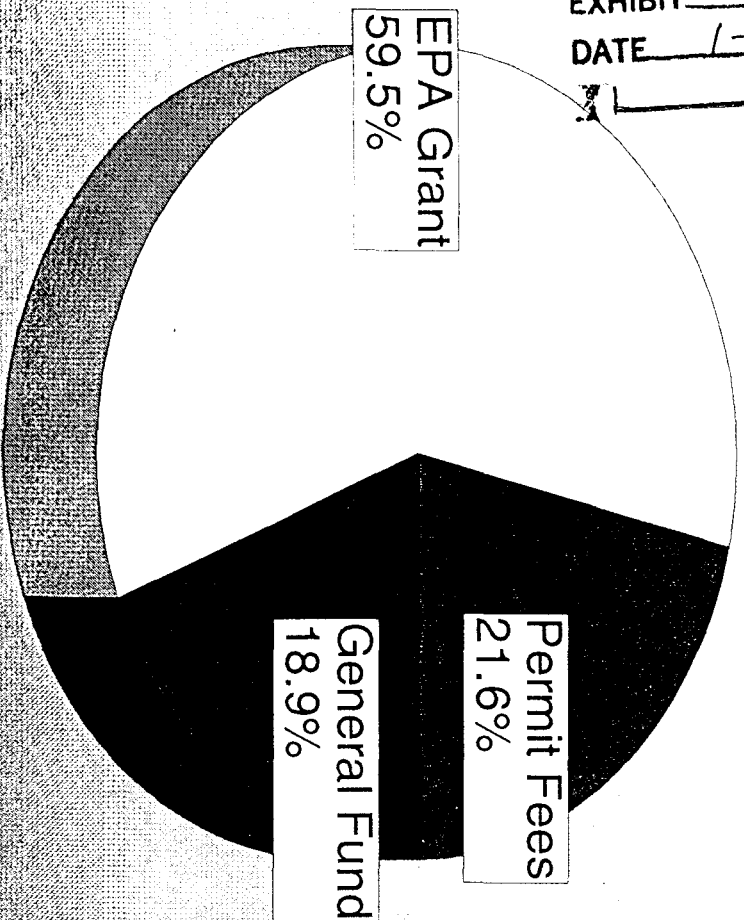


Funding Levels

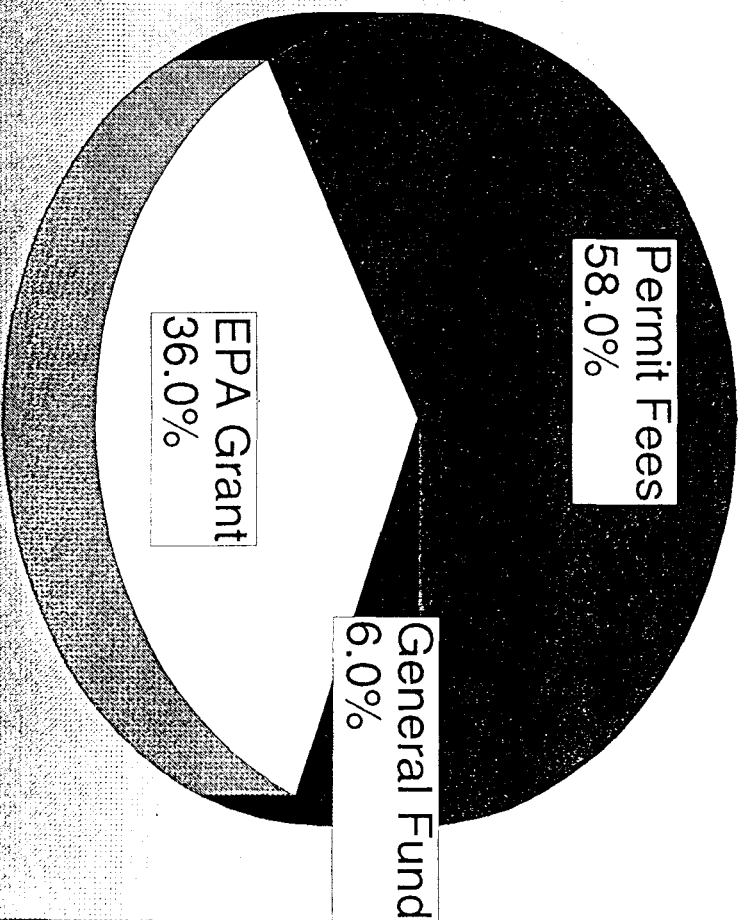


Funding Sources

EXHIBIT 3
DATE 1-19-95



FY 92



FY 96

Environmental Remediation Division

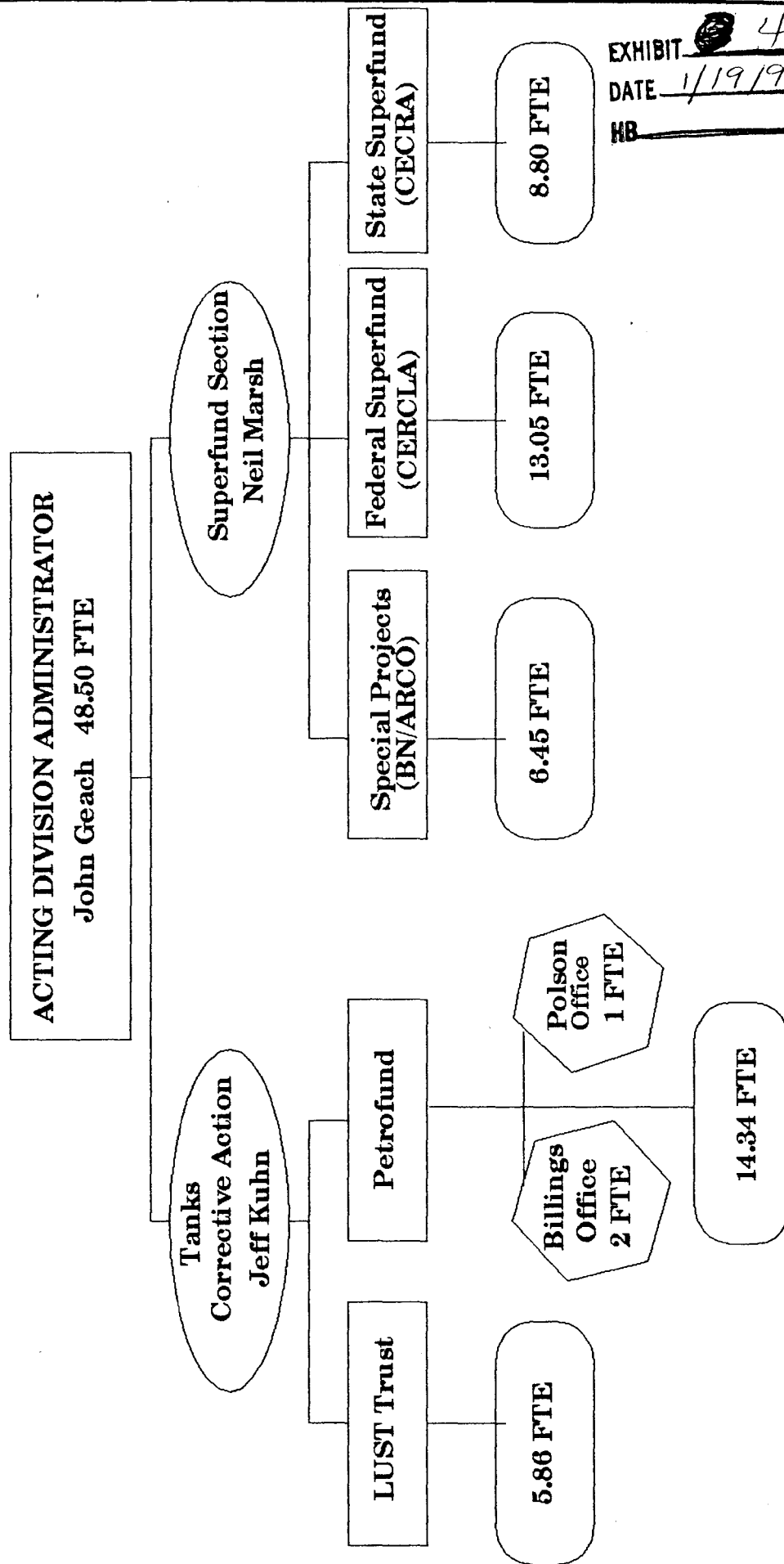


EXHIBIT **4**
DATE 1/19/95
HB _____

- ✓ **Hazardous Waste and Underground Storage Tank Act**
(Title 75, Chapter 10, Part 4)
- ✓ **Petroleum Storage Tank Cleanup Act**
(Title 75, Chapter 11, Part 3)
- ✓ **State Participation in CERCLA**
(Title 75, Chapter 10, Part 6)
- ✓ **Comprehensive Environmental Cleanup and Responsibility Act**
(Title 75, Chapter 10, Part 7)
- ✓ **Federal Comprehensive Environmental Response, Compensation and Liability Act**
(As amended by Superfund Reauthorization Act, 42 U.S.C. 9601, et seq.)
- ✓ **Federal Resource Conservation and Recovery Act**
(42 U.S.C. 6901, et seq.)

The Superfund Process

SITE ASSESSMENT

**REMEDIAL INVESTIGATION/
FEASIBILITY STUDY**

RECORD OF DECISION

**REMEDIAL DESIGN /
REMEDIAL ACTION**

EXHIBIT 4
DATE 1-19-95

SITE ASSESSMENT

- ✓ DHES determines if contamination problem exists
- ✓ DHES estimates risks to public health and environment
 - ✓ DHES prioritizes site

REMEDIAL INVESTIGATION/FEASIBILITY STUDY

- ✓ DHES or responsible party determines nature and extent of contamination
 - ✓ DHES quantifies risks to public health and environment
 - ✓ DHES or responsible party evaluates cleanup alternatives

RECORD OF DECISION

- ✓ Public comments on choice of cleanup alternative(s)
- ✓ DHES selects best cleanup alternative(s)

REMEDIAL DESIGN/REMEDIAL ACTION

- ✓ DHES or responsible party designs engineering plan for cleanup
 - ✓ DHES or responsible party conducts cleanup
- ✓ DHES or responsible party conducts necessary operation and maintenance

EXHIBIT 4
DATE 1-19-95
1

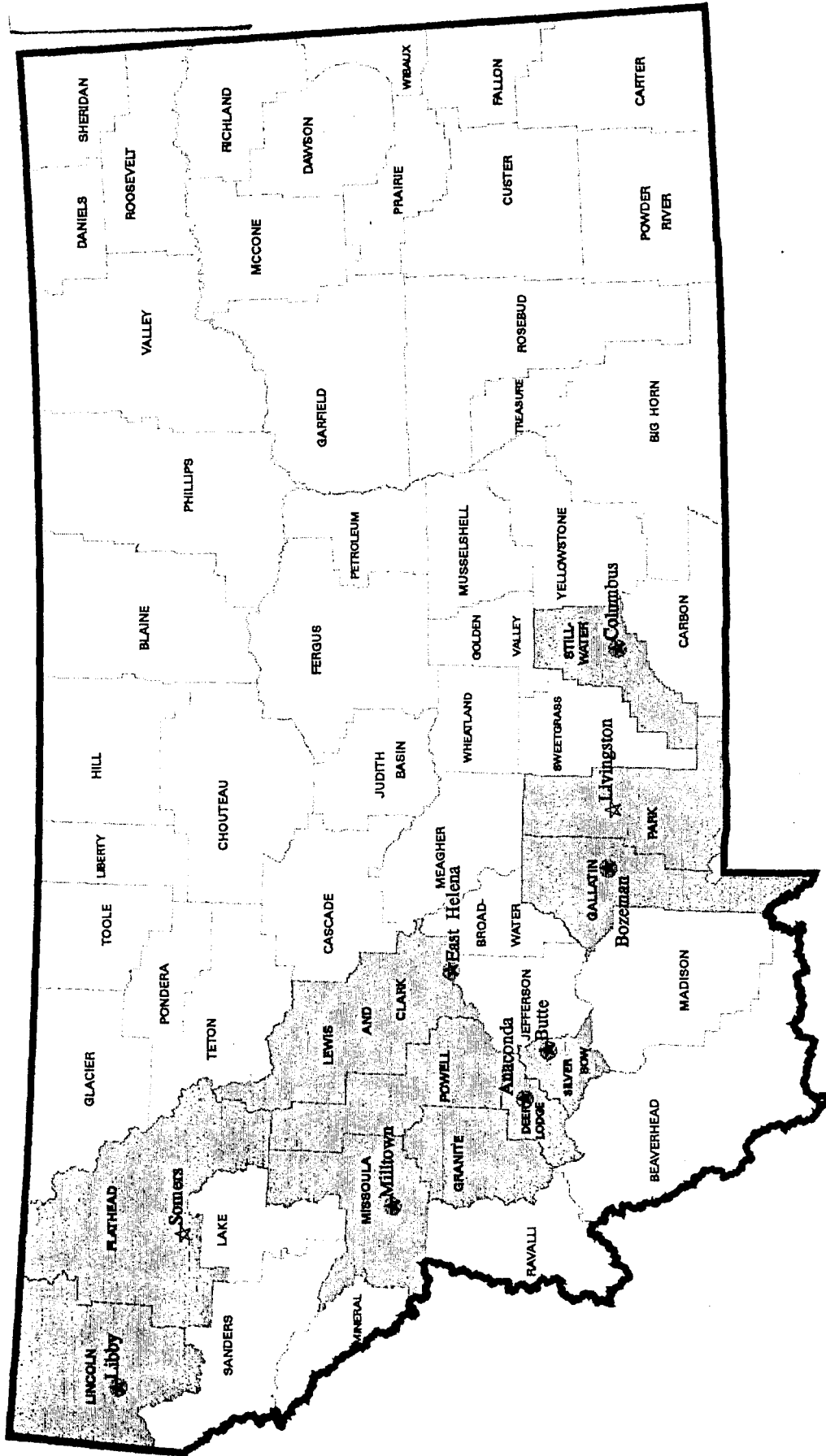
Federal Superfund (CERCLA) sites (Funded by Federal money)

✓ 8 Federal sites (consisting of 23 operable units):

Anaconda Smelter	Anaconda
East Helena Smelter	East Helena
Idaho Pole	Bozeman
Libby Groundwater	Libby
Milltown Reservoir	Warm Springs to Milltown
Montana Pole and Treating (Entire site: State lead)	Butte
Mouat Industries	Columbus
Silver Bow Creek/Butte Area (Streamside Tailings: State lead)	Butte to Warm Springs

- ✓ BN/Somers Tie Treating Plant
(Being dealt with under federal Superfund but not listed)

EXHIBIT 4
 DATE 1-19-95

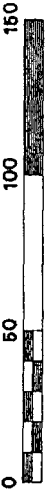


Counties with Federal Superfund Sites

- County with Federal Superfund Site(s)
- County which has no Federal Superfund Site(s) Currently
- The BN Livingston Shop Complex is proposed as a Federal Superfund Site
- The BN tie treatment plant in Somers is being dealt with as a Federal Superfund Site



Montana State Library
 NRIS Natural Resource Information System
 January 1995 - Map Request No: 95EPAA3B

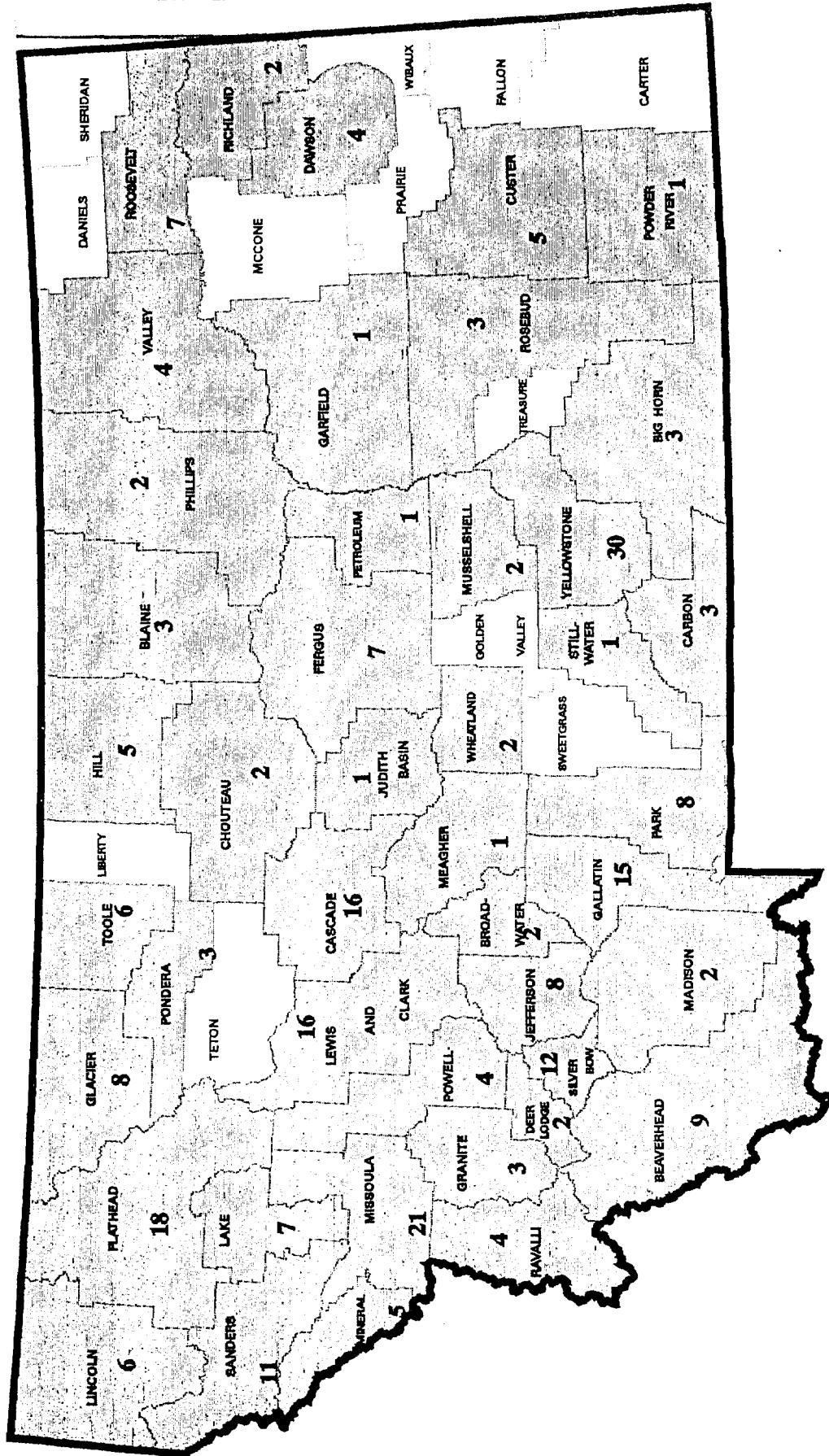


State Superfund (CECRA sites) (Funded by Resource Indemnity Trust Fund money or by responsible parties)

- ✓ 271 Total sites
(identified as of January 1995)
- ✓ 55* high priority sites
(identified as of January 1995)

* Ranking process is underway

EXHIBIT 4
DATE 1-19-95

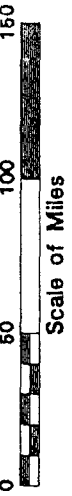


Counties with State Superfund Sites

- County with State Superfund Site(s)
- County which has no State Superfund Site(s) Currently
- 14** Number of State Superfund Sites in County



Montana State Library
NRS Natural Resource Information System
January 1995 - Map Request No: 95EPAA3A



Special Projects

(Funded by responsible parties)

- ✓ Burlington Northern Sites:
 - BN/Livingston Shop Complex

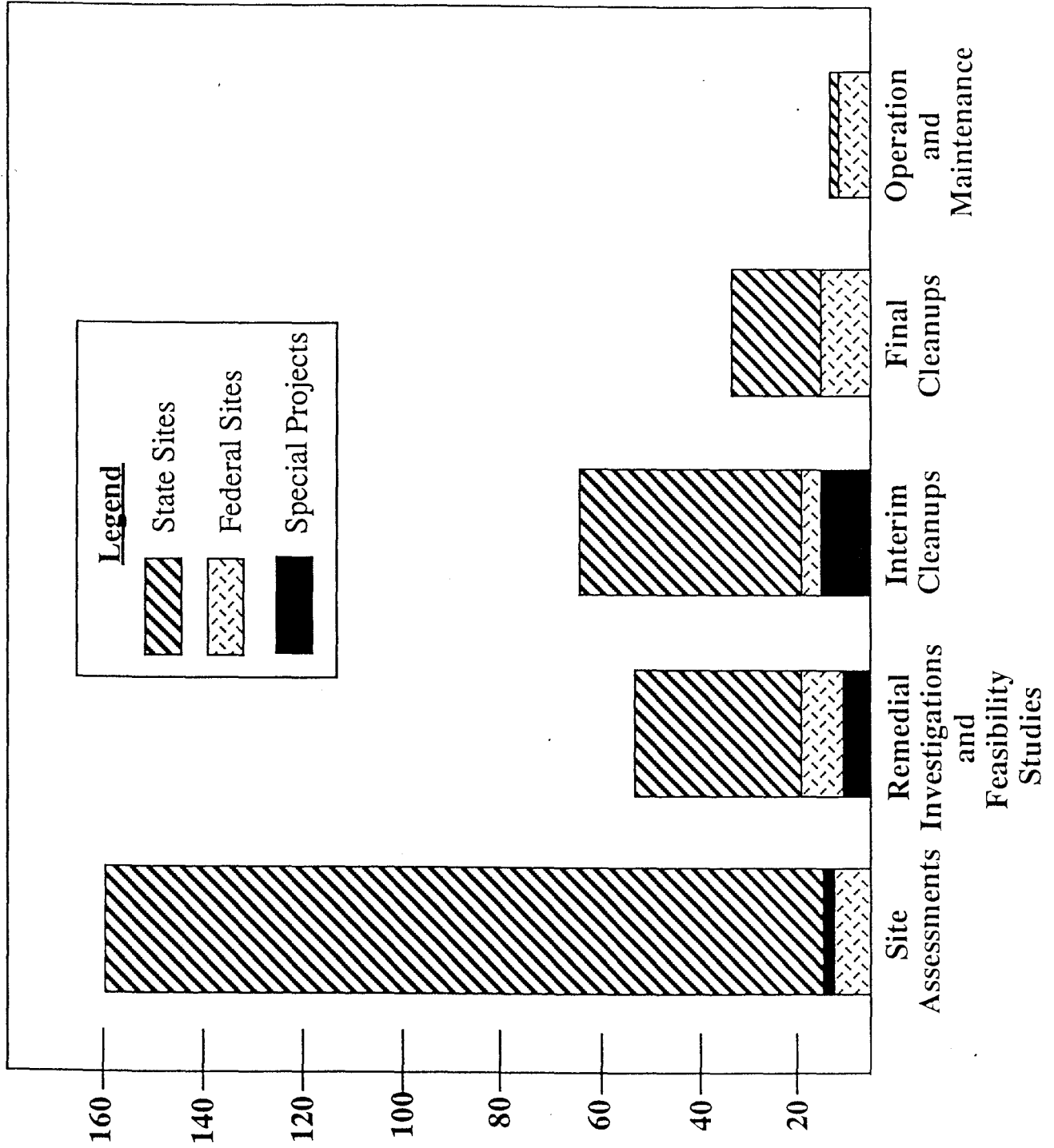
(Proposed for federal Superfund list)

 - BN/ Mission Wye
 - BN Fueling Facilities

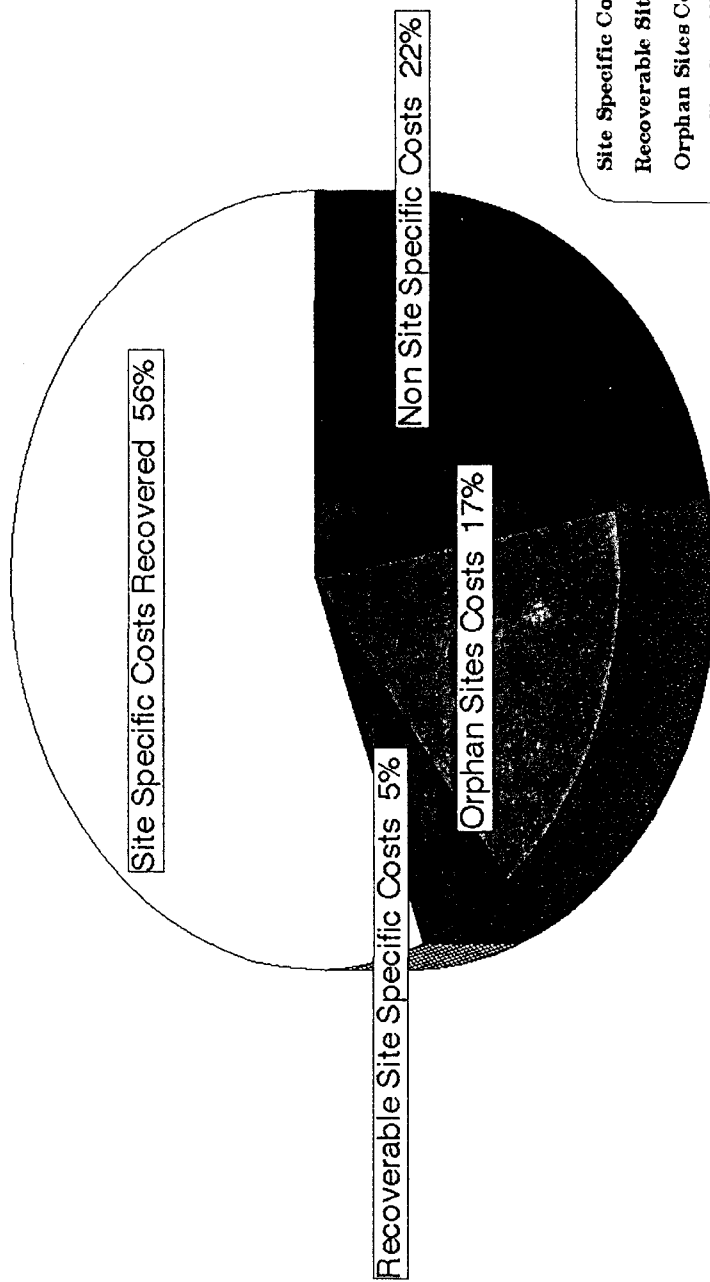
- ✓ ARCO Expedited Response Action
 - Anaconda and Butte areas

- ✓ Superfund Data System

EXHIBIT 4
DATE 1-19-95



**EQPF Summary of Expenditures
Fiscal Year 1990 through Fiscal Year 1994**



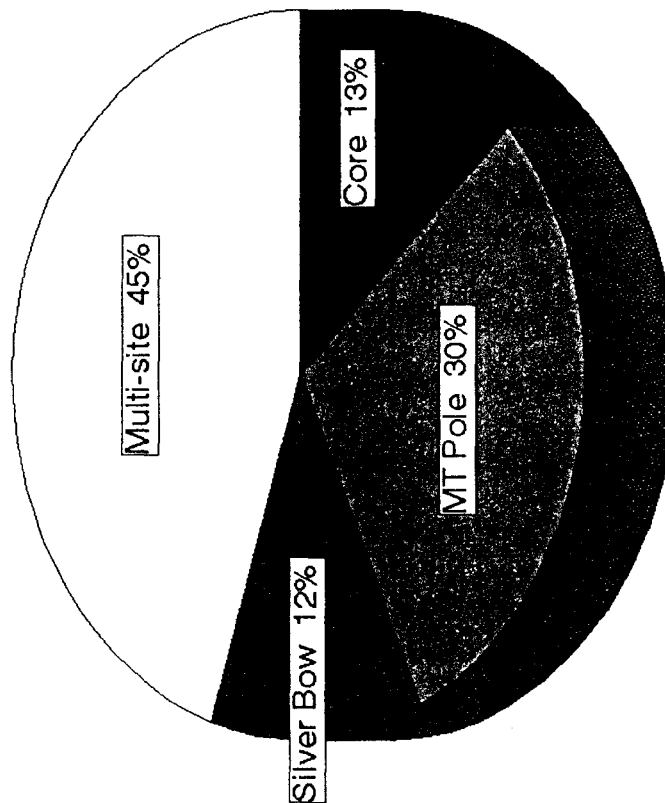
Site Specific Costs Recovered \$2,206,863.13
Recoverable Site Specific Costs \$215,293.46
Orphan Sites Costs \$686,162.50
Non Site Specific Costs \$887,912.45
TOTAL \$3,976,231.54

Federal Superfund Funding Sources

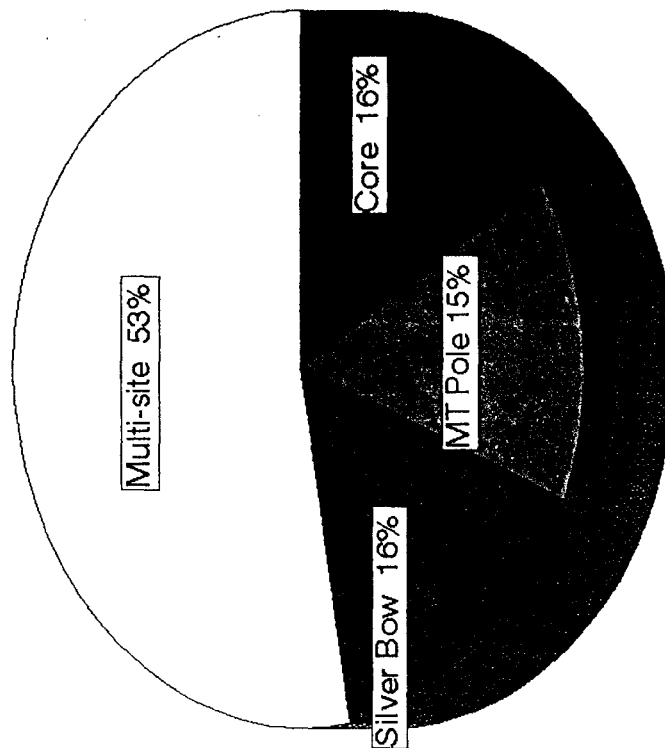
Federal Superfund Funding Sources

FY96

FY97



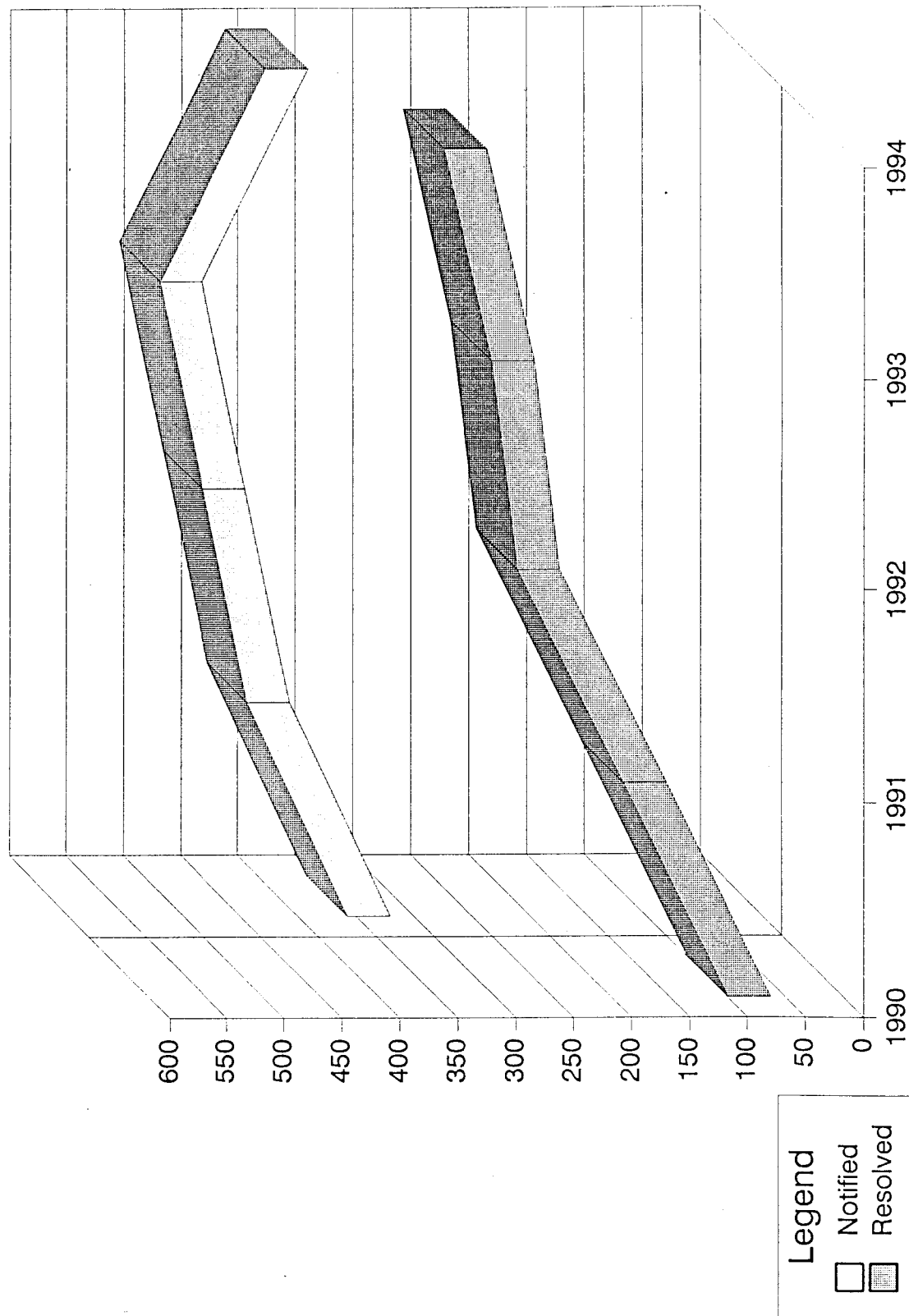
Multi-site \$762,210
Silver Bow \$200,000
MT Pole \$500,000
Core \$225,000



Multi-site \$750,000
Silver Bow \$220,000
MT Pole \$206,329
Core \$225,000

EXHIBIT 4
DATE 1-19-95

Leaks Reported & Resolved



ENVIRONMENTAL REMEDIATION DIVISION
UST CORRECTIVE ACTION SECTION

REMEDATION COSTS

FEDERAL LUST TRUST

- **AVERAGE COST PER SITE** **\$45,760**

MONTANA PETROLEUM TANK RELEASE CLEANUP FUND

- **AVERAGE CLAIM** **\$ 4,870**
- **AVERAGE REMEDIATION COST PER SITE** **\$22,395**

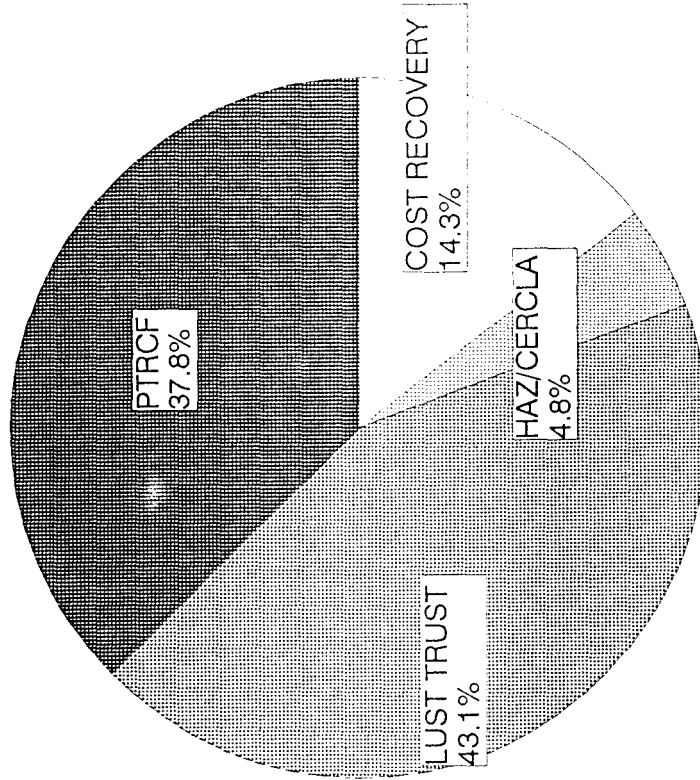
LUST TRUST SITES

Alzada
Augusta-LUST
Billings-First Ave S.
Broadus-Vapors
Busby-Trading Post
Canyon Creek-Lundberg Well
Cascade Public Well
Checkerboard-Checkerboard Inn
Chinook-LUST
Columbia Falls-LP Well
Columbus-Farmers Union Trading Company
Columbus-Jess Wilson Well
Columbus-Sports Hut
Cut Bank-LUST
CUT-LUST
Denton
Glasgow-Westland
Glendive-BN (CECRA)
Great Falls-US West
Havre-BN (CECRA)
Lincoln-Lewis and Clark Exxon (Sinclair)
Lincoln-Blackfoot Service
Lincoln-Groundwater Investigation
Livingston-Tracy's Chevron
Lockwood PTOW
Missoula-Matuska Dentist
Polson
Poplar-Sewer Line
Simms-Fireside Inn
Troy-Downey Residence
West Glacier-Murphy Residence
West Yellowstone-Strozzi
Whitefish-BN (CECRA)
Wibaux-Fas Gas

Dept. of Health and Environmental Sciences
Environmental Remediation Division
LUST Corrective Action Section

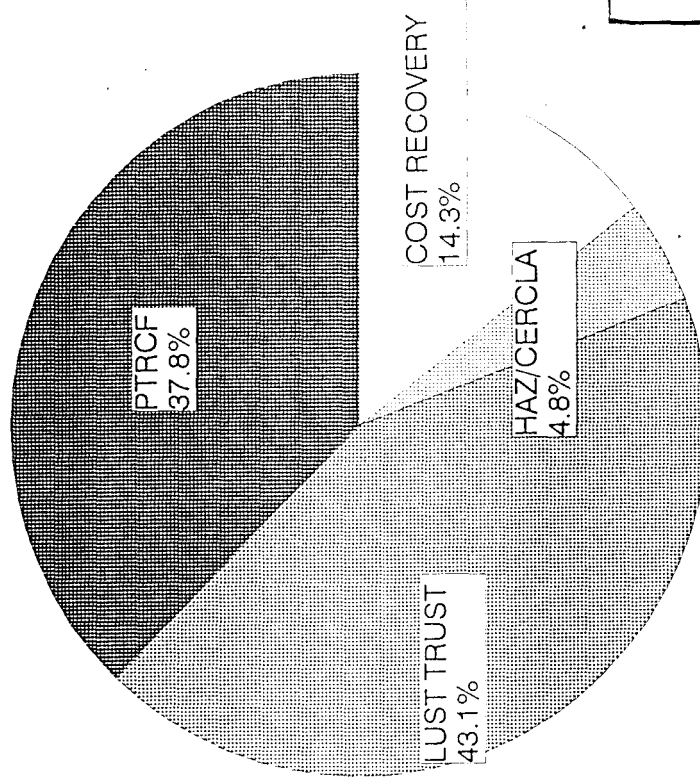
LUST Corrective Action Revenue

FY 96



PTRCF \$788,009
LUST Trust \$900,000
Haz Waste / CERCLA \$100,000
Cost Recovery \$299,169
TOTAL: \$2,087,178

FY 97



PTRCF \$790,957
LUST Trust \$900,000
Haz Waste / CERCLA \$100,000
Cost Recovery \$299,169
TOTAL: \$2,090,126

EXHIBIT 4
DATE 1-19-95

Natural Resources SUB-COMMITTEE

PLEASE PRINT

COMMENTS: _____

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Nat. Resources Sub COMMITTEE

BILL NO. _____

DATE 1/19/95 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Roger Thorvilson	MT DHE	Budget		
Neil Marsh	MT DHE	Budget		

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