

MINUTES OF THE MEETING
LONG-RANGE PLANNING SUBCOMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 5, 1985

The meeting of the Long-Range Planning Subcommittee was called to order by Chairman Robert Thoft on March 5, 1985 at 9:35 a.m. in Room 420 of the State Capitol.

ROLL CALL: All members were present.

LONG-RANGE BUILDING APPROPRIATIONS BILL, PROPOSED LANGUAGE: Chairman Thoft (67:B:003) discussed the proposed language to be put in the Long-Range Building Appropriations Bill concerning major maintenance plans (EXHIBIT 1).

MONTANA ARTS COUNCIL, CULTURAL AND AESTHETIC PROJECTS

Powell County Museum and Arts Foundation, Renovate Old Prison Administration Building for Museum, Project 133

Proponents: Senator Kermit Daniels (67:B:023), District 24, said the Powell County Museum and Arts Foundation is asking the subcommittee for reconsideration of Cultural and Aesthetic Project 133. This project was not recommended for funding by the committee on February 1, 1985 and the group is requesting the committee reconsider its action.

Ernest Hartley (67:B:031), Museum Director, Powell County Museum and Arts Foundation gave committee members additional information on the project and the foundation's response to not receiving project funds (EXHIBIT 2).

Senator Kermit Daniels (67:A:093), District 24, said earlier in the session a bill was submitted for the creation and funding of a Law Enforcement Museum. He said the bill was withdrawn and the foundation decided to seek private funding for the museum. He said the establishment of a Law Enforcement Museum is a state-wide effort, with donations from peace officers from all over the state. He strongly urged the committee to reconsider its previous action.

Representative Bud Campbell (67:B:124), District 48, said this project will be a good investment for the state. He said the visitor attendance at the museum is increasing and this will bring many tourist dollars into Montana.

Don Valiton (67:B:129), from Ovando, said he is appearing as a private individual, but he is also a lifetime member of the Powell County Museum and Arts Foundation. He said he is a former legislator and recognizes the problems which exist with funding shortages. Mr. Valiton said this is a legitimate request because it is one of the few museums in Montana which has an increase in attendance every year. Mr. Valiton closed by saying history is one of Montana's greatest resources for bringing tourists to the state and providing recreation for Montanans.

Genevieve Hostetter (67:B:154), President, Deer Lodge Womens Club said the club is supportive of this project. She said the building needs a roof and asked the committee to reconsider its action.

Elaine Way (67:B:161), Bookkeeper, Powell County Museum and Arts Foundation said the old prison is a very special part of Montana history and she feels the administration building should be preserved.

Opponents: There were no opponents present.

Committee Discussion: Senator Van Valkenburg (67:B:173) asked how much revenue-sharing money the museum receives from Powell County. Mr. Hartley said the county gave the museum \$3,500 last year. The county commissioners have said there is a good possibility the museum will continue to get some revenue-sharing money this year. He said the museum board of directors is trying to get a museum mill levy passed as a demonstration of local support.

Senator Fuller (67:B:185) said the grant application indicated there will be matching funds of \$35,000. He asked how much of the \$35,000 has been accumulated. Mr. Hartley said it is difficult to answer this question because the museum is not certain if the match must be cash only or if in kind services can be considered as match. Mr. Hartley said the museum has just begun a fund raising effort and so far there are no donations.

Chairman Thoft (67:B:196) asked what is the estimated cost of fixing the roof and the heating system. Mr. Hartley said the original request was for \$70,000. He said the \$35,000 recommended by the advisory committee will repair the roof and a portion of the building now being used.

MONTANA ARTS COUNCIL, CULTURAL AND AESTHETICS APPROPRIATIONS BILL: Madalyn Quinlan (67:B:210), Staff

Analyst, Legislative Fiscal Analyst Office explained the draft of the Cultural and Aesthetics Appropriations Bill (EXHIBIT 3).

Representative Bardanoue (67:B:305) asked how the 25% for capital expenditures (Page 2, Section 2, Subsection 2) compares to the present allocation of funds for capital expenditures. Ms. Quinlan said there is nothing in the present bill that speaks about capital expenditures or a limit to be allocated to capital expenditure projects. Representative Bardanoue asked what percentage of funds currently goes to capital expenditure projects. Ms. Quinlan said 28% of the total funds are being allocated to capital expenditure projects. She said originally the requests were more than 28% of total funds, but because some projects received reduced amounts or no funding the capital expenditure portion is now only 28% of the total program.

Chairman Thoft (67:B:323) asked why a 3 to 1 match is stipulated for capital expenditures. Bill Pratt (67:B:326), Organizational Services Director, Montana Arts Council said the council hopes that, by specifying this match amount, local communities can leverage more money for their projects. He said a cultural and aesthetic grant will only be for 25% of a capital expenditure project. He said because of the number of applications from small communities the council wanted to be sure to include in kind contributions as match for capital expenditure projects. Chairman Thoft asked if in kind contributions can really be tracked. David Nelson (67:B:344), Director, Montana Arts Council said this has been a concern in the past, but audits have revealed there is no problem with tracking contributions of an in kind nature.

EXECUTIVE ACTION

Representative Bardanoue (67:B:356) made a motion to amend the draft of the Cultural and Aesthetic Appropriations Bill as follows:

1. Page 2, Section 2, Subsection 2
Following: "exceed"
Strike: "25%"
Insert: "20%"

Senator Van Valkenburg (67:B:382) said he does not share the same concerns of other members about capital expenditure projects. He said he thinks this kind of project motivates community interest in contributing to the arts. He said he thinks there is a spin-off effect

in spending money on capital expenditure projects which is very valuable to the arts. Senator Fuller agreed with Senator Van Valkenburg.

Chairman Thoft (67:B:421) asked for a roll call vote. The motion failed.

Chairman Thoft (67:B:430) asked if the intent is to have this bill go through the legislative process separately from other work of the committee. Madalyn Quinlan (67:B:439) said the bill has been acted upon separately in the past.

Senator Van Valkenburg (67:B:451) asked if the bill has been through the Legislative Council. Ms. Quinlan said it has. He said he feels there are areas of the bill which need to be clarified prior to introduction. These areas are:

1. Page 2, Section 2, Subsection 2, Capital Expenditure Projects, 3 to 1 matching requirement

There needs to be clarification as to which portion the Legislature is providing and which portion is the match.

2. Page 2, Section 2, Subsection 3, Challenge Grants, 3 to 1 matching requirement (67:B:468)

There needs to be clarification as to which portion the Legislature is providing and which is the match.

3. Page 2, Section 3, Conditions of the Grant (67:B:501 to 67:B:538)

Senator Van Valkenburg (67:B:539) said he would like Ms. Quinlan to draft a letter listing the conditions of individual grants. The letter should be from Chairman Thoft and to the Montana Arts Council. Senator Van Valkenburg said he would be more comfortable with the conditions outlined in the letter rather than leaving them to the Arts Council's interpretation. Other members agreed with him.

4. Pages 6, 7 and 8, Section 6, Subsection 2, Project listing

There may be some value, for floor discussion, in having the projects listed in their prioritized ranking.

Senator Van Valkenburg (67:B:632) moved the committee send the draft of the Cultural and Aesthetic Appropriations Bill back to the Legislative Council in order to have the language about matching funds (Page 2, Section 2, Subsections 2 and 3) changed, to attach a letter of intent on the conditions of specific grants and to list the projects in their order of priority. The motion passed unanimously.

Chairman Thoft (67:B:643) asked what the members feelings are on the reconsideration of the Powell County Museum and Arts Foundation's cultural and aesthetic project. General discussion of the proposal followed (67:B:650 to 67:B:713).

Senator Van Valkenburg (67:B:714) moved that the committee reconsider its action on funding the Powell County Museum and Arts Foundation project (Cultural and Aesthetic Project 133). Chairman Thoft called for a roll call vote. The motion failed.

DEPARTMENT OF FISH, WILDLIFE AND PARKS, COAL TAX PARK ACQUISITIONS

Anaconda Stack, Anaconda: Don Hyyppa (68:A:004), Administrator, Parks Division, Department of Fish, Wildlife and Parks (FW&P) gave members copies of the agreement between FW&P and the Anaconda Minerals Company (EXHIBIT 4). The agreement is for the donation of the Anaconda stack to the State of Montana. Mr. Hyyppa reviewed the conditions of the agreement with the committee. He said FW&P feels this agreement adequately protects the state's interests and the department recommends the committee accept the donation of the stack.

Representative Bardanoue (68:A:037) asked about security at the site. Mr. Hyyppa said as long as the company is at the site they are responsible for keeping the public off the site. He said once the stack passes Environmental Protection Agency (EPA) tests the state will have to erect a fence 100' from the stack. Representative Bardanoue asked how much the fence will cost. Mr. Hyyppa said the fence will cost about \$14,000 to \$15,000, but this will not be requested this session because the company will be at the site for two more years.

Representative Bardanouve (68:A:058) asked what the cost for lighting the stack will be. Mr. Hyyppa said the present cost of lighting the stack is about \$4,700 to \$4,800 per year. After FW&P assumes responsibility for the stack, the state will have to pay this bill. The Anacondans to Preserve the Stack estimate they can donate \$3,000 to FW&P for maintenance. The department will also ask to have its operations appropriation augmented by \$3,000 for authority to spend this money. Mr. Hyyppa said there may be about \$1,000 in additional costs which FW&P could absorb in its operational budget or ask for additional authority to spend this from the Coal Tax account. Mr. Hyyppa said FW&P estimates annual operational costs to be \$7,000 to \$10,000.

Representative Bardanouve (68:A:076) asked about the cost of the power line. Mr. Hyyppa said the power line will be donated by the Anaconda Company. Representative Bardanouve asked how much it will cost to maintain the lights. Mr. Hyyppa said FW&P will not run the lights 24 hours a day, but from dusk til dawn and this will cut the energy costs in half and should extend the life of the lights from 5 to 10 years. He said the lights cost \$150 per fixture. Sam Stephenson, Director of Environmental Affairs, Anaconda Minerals Company said there are 24 lights on the stack.

Representative Bardanouve (68:A:097) asked about the condition of the lightning rod system. Mr. Hyyppa said the rods are secure and presently functioning. He said the underground grid for the lightning rods may need some repair and FW&P estimates the repairs will cost about \$5,000.

Representative Bardanouve (68:A:110) asked if the citizens of Anaconda will continue to donate money for the annual maintenance costs. He said he would like to see this type of commitment from the local citizens. Margie Smith (68:A:124), Chairman, Anacondans to Preserve the Stack said the group has setup ongoing funding for maintenance through the sale of brick certificates, donations and grants. She said there is alot of community support for the preservation of the stack.

Chairman Thoft said he thinks it is unusual to ask a community to support the ongoing maintenance of a state park. Mr. Hyyppa said this approach would be unique. He said FW&P would welcome the support, but the Anaconda Company is concerned about proper maintenance of the stack. FW&P cautions the committee not to make local support a condition of the donation because this would create concern on the part of the company.

Representative Bardanoue (68:A:217) asked what the estimated cost is to demolish the stack, if it becomes necessary. Mr. Stephenson (68:A:228) said he did not think the cost of demolition is pertinent to the donation because the company is responsible for any cleanup or demolition required by EPA. Representative Bardanoue said the company could make a substantial cost savings if it is determined at a later date, when the state is responsible, that the stack must come down. Mr. Stephenson said demolition is estimated to be between \$20,000 and \$25,000. Margie Smith (68:A:240) said the Anacondans to Preserve the Stack had also received estimates, from Cleveland Wrecking and the Anaconda Company, of \$20,000 to \$25,000 to demolish the stack. She pointed out that there is some salvage value in the materials in the stack.

Chairman Thoft (68:A:258) said he feels the public should be able to view the stack and he wondered if the company is willing to clean up the site in order to provide for public access. Mr. Hyyppa said the company is reluctant to do this now, but if it is feasible in the future the company is willing to do the cleanup required for public access.

Mr. George Ochenski (68:A:279), past chairman, Anaconda/Deer Lodge County Environmental Advisory Council said the stack is in the middle of 2,000 acres of very polluted land. Nothing grows on the land because of the amount of pollution in the soil. He said the best outlook to date is to fence the area off. If the stack should be demolished a trench will be dug and the stack dropped into it.

Senator Tveit (68:A:290) asked Mr. Hyyppa to explain Item "2", on page 1 of the agreement. Mr. Hyyppa said this language acknowledges that the company is voluntarily donating the stack and gives either party the option of pulling out of the agreement at a later date, if factors which are not acceptable should arise.

Senator Fuller (68:A:313) said under this scenario the 1987 Legislature and the state will be bound forever into a commitment on the stack. Mr. Hyyppa said the state will be bound forever unless EPA determines that the stack should come down. The Anaconda Company wants a commitment from the state this Spring or it will have the stack demolished in the Summer.

Senator Van Valkenburg (68:A:327) asked if the agreement has been accepted by the Governor. James Flynn (68:A:331), Director, FW&P said this agreement has not specifically been reviewed by the Governor. He said

the Governor is aware of the proposal and is basically in support of it. Mr. Flynn said he does not believe the Governor will have any problems with this agreement. He said he has no hesitancy in signing the agreement and believes the Governor will approve of this. Senator Van Valkenburg said he has discussed the liability issue with Mona Jamison and Gene Huntington, of the Governor's Office, and wants to know if the Governor's legal counsel is of the opinion that the state is not getting into liability trouble. Mr. Flynn (68:A:351) said he is aware of these concerns and they stimulated the formulation of the donation procedure contained in the agreement.

EXECUTIVE ACTION

Senator Van Valkenburg (68:A:388) made a motion to recommend that the Legislature authorize the Department of Fish, Wildlife and Parks to negotiate with the Anaconda Minerals Company for the acceptance of the Anaconda Smelter Stack, subject to the conditions outlined in the agreement between the department and the Anaconda Minerals Company, dated March 5, 1985. Chairman Thoft (68:A:398) called for a roll call vote. The motion passed.

Kleffner/Child Ranch, Helena: Chairman Thoft (68:A:410) said the group proposing this acquisition has asked the committee to delay action on it until March 6, 1985. Senator Fuller said the group is working on additional information concerning the Kleffner Ranch and if the committee is agreeable it would like to postpone action until Wednesday.

Prickley Pear Wetland, Helena: Representative Bardanouve (68:A:422) made a motion to not purchase the Prickley Pear Wetland as a state park.

Senator Fuller (68:A:424) asked if Prickley Pear Wetland is for sale for any amount less than \$152,000. Ralph Olson (68:A:437), owner, said if the buildings are not included in the proposal the sale price will be \$93,000. This would eliminate four to five acres and the buildings from the proposal.

Chairman Thoft (68:A:457) called for a roll call vote. The motion passed.

White Sandy Beach, Helena: Senator Tveit (68:A:467) made a motion to not purchase White Sandy Beach as a state park. Chairman Thoft and Senator Tveit both said they feel the price on the property is too high. Chairman Thoft said he feels House Bill 2 is important

and present park sites need to be maintained. Chairman Thoft (68:A:505) asked for a roll call vote. The motion passed.

DEPARTMENT OF FISH, WILDLIFE AND PARKS, CAPITAL CONSTRUCTION PROGRAM

Relocation of Sign Shop from Whitehall to Helena: Don Hyyppa (68:A:547) said the department did meet with Warden Risley and showed him the scope and volume of work done in the sign shop. The warden concluded, after considering the prison's present capabilities, that the prison does not have adequate space and lacks the skills need to produce the signs. The prison is interested in doing the department's metal signs, but not in making others.

Chairman Thoft (68:A:572) said Dan Russell, Administrator, Corrections Division, Department of Institutions said the space and skills could be developed in two years. Mr. Hyyppa said the problem with doing this is that the supervisor in Whitehall will be retiring shortly and a new person will need to be hired. He said it would be easier to scale back the operation here in Helena once the prison does develop the capabilities to make all the signs. The shift from Helena will not occur overnight and due to the hiring problem FW&P needs to relocate the shop faster than the prison can development an alternative.

Senator Tveit (68:A:670) asked why the sign shop needs to be relocated. Mr. Hyyppa said the services need to be more centralized.

Representative Ernst (68:B:004) made a motion to approve the funds for the relocation of the FW&P sign shop to Helena. Chairman Thoft asked if the committee could delay action on this motion until Senator Fuller could be present. (Senator Fuller had to go to another committee meeting.) Representative Ernst withdrew his motion.

Gartside Dam Repair: Mr. Hyyppa (68:B:010) said the department sent an engineer from HKM Associates to the site to determine if the dam is causing damage to Mr. Wyman's property.

The engineer's report said there is a tremendous amount of water flowing through a coal seam in the area. The coal seam outcrops in the spillway of the dam. Mr. Hyyppa said it is conceivable that when the reservoir is full, groundwater flows through the coal seam at a slower rate and accumulates on the surface. Mr. Hyyppa

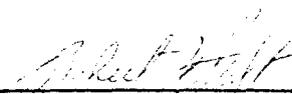
said Mr. Wyman has a prioritized series of requests, which are: 1) abandon the dam; 2) build the project, but lower the dam by 30'; and 3) install drain tiles in his field. Mr. Hyyppa said the department does not want to abandon the project and lowering the dam by 30' is not feasible. He said if the tiles are installed the water can be piped into the dam and it can be operated at a higher level during the recreational season. The cost estimate for the tiles is \$25,000 for 5,000 running feet of tile.

Mr. Hyyppa said the cost of installing ten monitoring wells and doing the study necessary to determine the actual cause of the Wyman's problem will cost \$10,000. If FW&P is to proceed with the project on this basis the project request will have to be increased by \$35,000.

Chairman Thoft (68:B:099) asked FW&P to put the Gartside request into a proposal form for the committee. The proposal should outline all aspects of the project. Mr. Hyyppa said he will do this.

Senator Tveit said the entire project hinges on the approval of the Legacy Program project. The water development funds will not complete the entire project. Chairman Thoft asked how much money is needed to repair the dam. Mr. Hyyppa said \$552,000. He said if the department were to breach the dam and reclaim the land it would cost \$265,000. He said FW&P cannot abandon it in its present condition because the outlet works need to be cleaned out prior to Spring.

There being no further business before the subcommittee the meeting was adjourned at 11:18 a.m.



ROBERT THOFT, Chairman

Proposed Language for
Long-Range Building Appropriations Bill

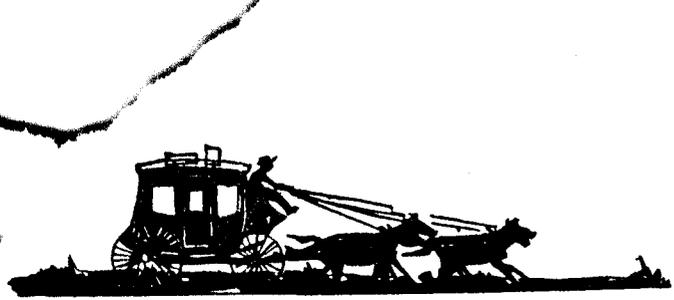
Section 1

- (5) "Major maintenance plan" means a 10-year schedule of anticipated major maintenance requirements and costs, developed for each state building, as defined in 17-7-201. The plan shall include a record of major maintenance performed in the five previous years.
- (6) "Major maintenance" means building maintenance, repair, replacement, alteration or remodeling projects, that are not needed on an annual or biennial basis or are not the function of the permanent maintenance staff of the agency.

Section 5

For all new construction proposals submitted to the legislature and for all existing state buildings, each agency, in consultation with the architecture and engineering division of the department of administration, shall provide a major maintenance plan. This plan shall be submitted by the agency to the department of administration by July 1 of each even numbered year along with the proposed long-range building program required under 17-7-202.

Exhibit 2
3-5-85
Hartley



Powell County Museum and Arts Foundation

1106 Main Street
Deer Lodge, Montana 59722
406.446.3111

Tuesday, March 5, 1985

To The House Appropriations Committee

Dear Chairman Bardanouve:

We request the House Appropriations Committee to re-examine the decision, made by the Joint Long Range Planning Sub-Committee, which deleted the Powell County Museum and Arts Foundation from any funding from the Coal Tax Trust Funds for Cultural and Aesthetic projects. The Sub-Committee's decision was made contrary to the proposal of the Montana Arts Council, who recommended that we receive \$35,000 for our project in the Old Montana Prison.

The Joint Long Range Planning Sub-Committee cited the following reasons why our project was rejected:

- 1) The Museum is not supported by a county mill levy.
- 2) The Committee does not wish to support special museums.
- 3) The "We're not sending any more money to Deer Lodge" Syndrome.
- 4) If the Old Prison was unusable as a prison then we should not give money to it for anything.

Our response to these charges are as follows:

1) Our Museum made a concerted effort to acquire mill levy funding during the last biennium, but the critical and depressed economic conditions within the County forced the Powell County Commissioners to reject our request. However, the Commissioners, in recognition of the importance of the museum to the county and to the region, voted to provide revenue sharing funds and will probably give more assistance in the future. Therefore, we are receiving county support for our museums to the fullest extent of our current resources.

2) We would argue that every grant applicant to whom the sub-committee recommended funding, in some way reflects state support for special exhibits, special projects, and special museums. In fact, the responsibility of any and all museums is to preserve, to interpret, and to exhibit the special characteristics, the special events, and the special personalities for which each museum was created.

3) The Sub-Committee argued that \$15 million had already been appropriated to the new prison in Deer Lodge, and therefore, for some unrelated and unexplainable reason our museums, which have absolutely no affiliation with the Montana State Prison, should be denied cultural funding.

4) The Old Montana Prison is no longer a prison -- it is a museum. In recognition of its historical values, the Old Prison has been placed on the National Register of Historic Places. We are not talking about funds to continue its use as a prison; the structure is now in an entirely different classification.

• Powell County Museum • Towe Ford Museum • Old Montana Prison

Give today to preserve for tomorrow the things of yesterday



House Appropriations Committee
March 5, 1985
Page 2

Powell County Museum and Arts Foundation

*1106 Main Street
Deer Lodge, Montana 59722
406.446.3111*

It is a museum and the public visits it for educational and cultural purposes. The coal tax funds we seek are designed for precisely this purpose.

If this proposal is denied by the Appropriations Committee then the Powell County Museum and Arts Foundation projects will have been denied funding for both of the last two Legislative Sessions, and we will have benefited from no coal tax trust funds that were established for the benefit of all Montanans.

We invite your further examination of this problem.

On behalf of the Foundation,

Ernest Hartley, Museum Director

Jon Axline, Grant Writer/Asst. Curator

Genevieve Hostetter, Board Member

Elaine D. Way, Bookkeeper

Legislature dashes Deer Lodge museum plans

DEER LODGE — Plans for a proposed Montana Law Enforcement Museum in the Territorial Prison in Deer Lodge were dealt a "severe blow" by the Legislature earlier this week, project director Steve Owens said Friday.

The Legislature's Long-Range Building Committee deleted \$35,000 recommended for the project from the list of cultural projects that will receive funding in the coming biennium.

The Coal Tax Cultural and

Aesthetics Projects Advisory Council — which has been studying various requests for the state's coal tax money for the past two years — recommended that the project be funded. The \$35,000 would be used for heating and roof repair in the administration building.

The Powell County Museum and Arts Foundation plans to develop a state law enforcement museum on one floor of the building. The museum would show the evolution of law enforcement in Montana, preserve and display artifacts related to all levels of law

enforcement in the state and educate the public about crime detection and prevention, Owens said.

A portion of the museum would house a memorial room for Montana peace officers killed in the line of duty.

Several state law enforcement organizations have helped plan the museum and pledged financial support.

The administration building will also house archives and will still be used for prison tours and

interpretative displays. The archives room is near completion and was funded with money provided locally, Owens said.

The Old Prison complex is on the National Register of Historic Places. The \$35,000 would be used for basic stabilization of the building — not a complete restoration.

Owens said the group's request was one of only a few projects cut from the advisory council's recommendation.

The museum group plans to work with local legislators in an attempt to restore funding for the project.

Area file

Montana Standard
February 9, 1985

MONTANA ARTS COUNCIL

TED SCHWINDEN, GOVERNOR

35 SOUTH LAST CHANCE GULCH

STATE OF MONTANA

(406) 444-6430

HELENA, MONTANA 59620



Oct. 4, 1984

Steve Owens
Powell County Museum & Arts Foundation
1106 Main
Deer Lodge, MT 59722

Dear Steve:

Per your recent communication, I am writing to advise you that under H.B. 928 passed by the 48th legislature the Montana Arts Council is the administering agency for the Cultural and Aesthetics Projects fund as of July 1, 1983. All prior unexpended funds were transferred to this agency by the Montana Historical Society and we have received unexpended funds from one other grant made in a prior period. We would be the appropriate agency to return the unexpended grant funds to.

In addition we will convey to the Cultural and Aesthetics Project Advisory Committee and thereby to the legislature the circumstances surrounding the return of these grant funds and do appreciate your chronology of all relevant facts pertaining to this grant.

I wish you the best of success in your future endeavors.

Sincerely,

Carleen
Carleen B. Lassise

cc: Cultural and Aesthetics Projects Advisory Committee, C&A 86-87 grant file #46: Adaptive Re-use of Old Montana State Prison Administration Building for Montana Law Enforcement Museum.



Powell County Museum and Arts Foundation

1106 Main, DEER LODGE, MONTANA
59722

Oct. 8, 1984

Mr. David Nelson, Director
Montana Arts Council
35 South Last Chance Gulch
Helena, Montana 59620

Dear Mr. Nelson:

Enclosed you will find a check for \$39,405.00. This is the amount not spent or encumbered during the 1981-1983 grant period for our coal tax Cultural and Aesthetics Projects Grant for restoration of the W.A. Clark Theatre in the Old Montana State Prison.

Although we are not enthusiastic about returning money to the state, it seems to be our only legal alternative. We have submitted a proposal for a 1985 grant to do the same type of work on the administration building that we wanted to do with the old grant, after the theatre restoration plans were determined to be no longer feasible due to delays and increases in projected construction and maintenance costs. We would hope that the fact that we have returned a substantial sum would be considered when recommendations are prepared for the next legislature. If any way appears of adding it on to our current request, that would of course be appreciated.

Sincerely,

Stephen C. Owens
President

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR ADMINISTRATION OF THE CULTURAL AND AESTHETIC GRANTS PROGRAM BY THE MONTANA ARTS COUNCIL; PROVIDING FOR GRANT CONDITIONS AND EXPENDITURES; AMENDING SECTIONS 22-2-303 AND 22-2-306, MCA; APPROPRIATING MONEY FOR CERTAIN PROJECTS; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Application procedure -- grant criteria. (1) As set forth in subsections (a) and (b), certain grants require local financial or in-kind support. The grant application shall request specific information about the level of local support for the project. In the following circumstances local support is required:

(a) To receive cultural and aesthetic grant funds, county or municipally-owned facilities must obtain financial and in-kind support from their respective local governments.

(b) To receive grant funding for all grants except the first grant from the cultural and aesthetic grant program, private museums, art centers, and cultural facilities must obtain county or municipal financial or in-kind support.

(2) An applicant for a historic preservation project must cooperate with the state historic preservation office. A letter from the state historic preservation office,

stating any agreements reached with the applicant, must be received by the arts council before the grant funds may be released.

NEW SECTION. Section 2. Grant categories. (1) The following categories are established for grant funds:

(a) special projects which are limited duration specific cultural and aesthetic activities, services, or events;

(b) operational support for cultural institutions that have been in existence for at least two years;

(c) capital expenditures for acquisition, construction or renovation of facilities; and

(d) challenge grants for a permanent endowment to benefit a cultural nonprofit grant recipient.

(2) Capital expenditures may not exceed 25% of the total grant funds appropriated. Capital expenditure grants require a minimum of a 3 to 1 match in cash or donated goods and services, which must so donated specifically for the capital expenditure project.

(3) Challenge grants require a 3 to 1 match in cash or irrevocable planned or deferred gifts. Challenge grants are available upon meeting the specified match.

Section 3. Section 22-2-306, MCA, is amended to read:

"22-2-306. Grant conditions -- additional funds -- accounts and reports. (1) No grant may be awarded unless the grantee accepts the Montana arts council's

conditions of the grant and signs a contract stipulating those conditions.

(2) A grantee must agree in writing that:

(a) the grantee is the official and sole agency for the administration of the project described in the grant agreement; and

(b) no person will, on the grounds of race, color, national origin, sex, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that results from the expenditure of grant funds.

(3) The grantee must agree that the funds granted will be expended solely for the purpose and activities described in the approved proposal. ~~If--the-grant-award proves-to-be-inadequate-for-the-administration-of-the project--as-originally-submitted, the-grantee-may-submit, prior-to-the-beginning-of-the--grant--period,--modifications to--the--proposal--and--an--operational--budget--supporting the-modifications.~~ All funds granted funds to be expended by the grantee must be spent or encumbered during the grant period.

(4) ~~No-project-may-receive-more-than-25%-of-the-total grant-award-during--any-6-month-period,--except-that-a grantee-may-accumulate-grant-payments.---The--second--and each--succeeding-payment-may-be-made-only-after-an examination-of--the-costs-incurred-and--expenditures--made to--date--by--the--grantee--and--a--determination-of-any~~

~~remaining-balance-from-prior-grant-periods-is-made-~~

Disbursements to the grantee will be as follows based upon the cash flow needs of the projects and the revenues available:

(a) projects that are to receive more than \$10,000 may, at the discretion of the arts council, receive an amount not exceeding 25% of the grant award in the first six months of the biennium, 50% in the first year of the biennium, 75% in the first 18 months of the biennium, and the balance in the remainder of the biennium. Each payment may be made only after an examination of the costs incurred in the project and the amount, if any, of the balance of prior grant payments for the project;

(b) projects that receive \$10,000 or less may receive the total grant in any fiscal quarter if the arts council determines that the cultural and aesthetic project account has funds available and that, after an examination of the costs incurred by the project, total payment is appropriate.

(5) The grantee must maintain accounts, records, and other pertinent material pertaining to the costs incurred and expenditures made under the grant. The system of accounting employed by the grantee must be in accordance with generally accepted accounting principles and be applied in a consistent manner so that project costs and expenditures can be clearly identified. Accounts, records, and other pertinent material must be maintained for 3 years from the official termination date of the

grant period or until an audit, approved by the council, has been completed and any questions arising from the audit have been resolved to the satisfaction of the council.

(6) Grantees must submit to the council semiannual reports of expenditures during the course of the project and such other financial and descriptive reports as the council may require. The grantee must submit, within 30 days after completion of the project, a final financial report and a narrative report stating what was accomplished with the grant. Five percent of the total grant award must be held pending receipt of final reports by the council.

(7) The council may, at the principal place of business of the grantee and during regular business hours, examine any directly pertinent records, accounts, and documents of the grantee involving transactions related to the grant."

Section 5. Section 22-2-303, MCA, is amended to read:

"22-2-303. Rulemaking authority. The Montana historical society and the Montana arts council shall adopt rules that:

(1) specify the criteria the advisory committee shall use when evaluating and making recommendations on cultural and aesthetic grant proposals submitted to the legislature; and

(2) implement the provisions of [sections 1, and 2] and 22-2-306, relating to local support, matching requirements, application procedures, and disbursements of grants."

NEW SECTION. Section 6. Appropriation of cultural and aesthetic grant funds. The Montana arts council shall allocate and disburse cultural and aesthetic project account funds as appropriated in this act, with priority given subsection (1) followed by subsections (2) through (4) respectfully:

(1) If the funds in the cultural and aesthetic projects account were insufficient in the biennium ending June 30, 1985 to fund projects in the amount for which they were appropriated, the funds appropriated for such projects are reappropriated until funds have been disbursed to fully cover such appropriations or until January 1, 1986, whichever occurs first.

(2) The following projects are approved and amounts appropriated to the Montana arts council for the biennium ending June 30, 1987, from the cultural and aesthetic projects account:

<u>Project</u>	<u>Amount</u>
Ad Hoc for MT Writer Anthology	\$33,920
Archie Bray Foundation	8,000
Beall Park Art Center	15,000
Bozeman Women's History Group	15,773
Broadway 215, Incorporated	42,000
Butte-Silver Bow Arts Chateau	10,000

Carbon County Arts Guild	6,000
Carbon County Historical Society	7,690
Center for Public Vision	40,000
Copper Village Museum/Art Center	42,000
Culbertson Library Board	3,747
Custer County Art Center	13,620
Eastern Montana College Barstow Collection	14,770
Fort Peck Tribal Archives	24,680
Fort Peck Tribes	5,000
Fox Theater Corporation	50,000
Garfield County Museum	5,000
Garnet Preservation Association	20,000
Growth Thru Art	10,800
H. Earl Clack Museum	30,000
Havre-Hill County Library	42,000
Helena Civic Center	25,000
Helena Film Society	25,000
Hockaday Center for the Arts	42,000
Huntley Project Museum	5,000
Huntley Project Schools	1,000
KGLT-FM Corps of Discovery	8,968
KUFM Montana Gallery	21,965
Laurie Hill Library	3,000
Mineral County Museum	3,900
Montana Art Gallery Directors Association	35,000
Montana Arts Council Folklife	49,222
Montana Association of Symphony Orchestras	7,000

Montana Historical Society Plan	
Agriculture Museum	35,000
Montana Historical Society Oral History	79,294
Montana Performing Arts Consortium	20,930
Montana School of Creative Arts	13,300
Montana State University Fine Arts Gallery	30,000
Montana State University Play Creation	10,000
Paris Gibson Square	17,000
Polson City Library	1,000
Rattlesnake Productions	33,960
Renne Library	10,000
Reservation-Wide Education Committee	10,000
Rocky Boy Tribal High School	20,000
Shakespeare In the Parks	40,000
St. Mary's Mission Preservation Trust	7,500
Stacey Historical, Cultural and Memorial Hall	15,000
University of Montana Magic Movers	7,500
University of Montana Permanent Art Collection	30,000
University of Montana Repertory Theatre	82,400
Upper Musselshell Historical Society	2,000
Very Special Arts Montana	10,000
Vigilante Players	25,600
Watershed Foundation	25,000
Western Heritage Center	8,172
Yellowstone Art Center	42,000
Yellowstone Chamber Players	3,500
Young Audiences of Western Montana	15,000

Operating expenses

33,300

(3) The arts council is appropriated an amount not to exceed \$10,000 for project evaluations from any funds that revert from the projects subject to the appropriation in subsection (2). The evaluations will be done after July 1, 1986 for the purpose of preparing a report on such projects for the 50th Legislature.

(4) There is appropriated \$16,643 to the oral history project of the Montana historical society and \$9,778 to the folklife project of the Montana arts council from any funds that revert to the cultural and aesthetic projects account after the appropriations in subsections (2) and (3) have been fully funded. Sixty-three percent of the reverted funds shall be disbursed to the oral history project and 37% shall be disbursed to the folklife project until both projects are fully funded.

NEW SECTION. Section 6. Reversion of granted funds.

(1) On January 1, 1986, all project funds reappropriated from the 1985 biennium, but not obligated, shall revert to the cultural and aesthetic projects account provided for in 15-35-108.

(2) On July 1, 1987, any unencumbered balance of the 1987 biennium grants shall revert to the cultural and aesthetic projects account provided for in 15-35-108.

NEW SECTION. Section 7. Codification. Sections 1 and 2 are intended to be codified as an integral part of Title 22,

Chapter 2, part 3, and provisions of Title 22, Chapter 2, part 3, apply to sections 1 and 2.

NEW SECTION. Section 8. Effective date. This act is effective July 1, 1985.

-END-

ARTS.46

PC5/LH

3-5-85

F.W. & P

AGREEMENT

This Agreement is made and entered into this 5TH day of MARCH, 1985, by and between the **Montana Department of Fish, Wildlife, and Parks**, hereinafter referred to as the Department, and the **Anaconda Minerals Company**, hereinafter referred to as the Company.

WHEREAS, the Department and Company desire to express in writing a tentative agreement containing the major conditions and terms under which the Company would convey to the Department and the Department, in turn, could be authorized to accept such conveyance of the Anaconda Smelter stack.

NOW, THEREFORE, the Department and Company agree that the purpose of this Agreement by setting forth the major conditions and terms of a proposed conveyance of the Company's Anaconda Smelter stack to the Department is to:

1. Provide a written documentation of such conditions and terms of the proposed conveyance so that the Montana Legislature can review and consider a conveyance under those conditions and terms. It is specifically agreed by the Department and Company that the Department, with the approval of the Fish and Game Commission, will have the authority to accept the conveyance of the Anaconda Smelter stack only if authorized by the Montana Legislature and only under the terms and conditions approved by the Montana Legislature. The Department agrees to present this Agreement to the 1985 Montana Legislative Session as a proposed basis for legislative approval of the conveyance of the Company's Anaconda Smelter stack; and

2. Provide a written documentation of such terms and conditions of the proposed conveyance that the Company in good faith believes will be acceptable to the Company should the conveyance be executed. The Department and the Company specifically agree that the Company is not irrevocably bound by the terms and conditions of this Agreement but that the Company does pledge its good faith belief that the terms and

conditions expressed in this Agreement will be acceptable to the Company when and if a conveyance of the Company's Anaconda Smelter stack is made to the Department. It is further understood that the terms and conditions expressed in this Agreement may provide the basis for a grant of authority to the Department by the Legislature to accept a conveyance of the Anaconda Smelter stack. Should the Legislature grant authority to the Department under any differing terms or conditions, the Company pledges only to give such differing terms and conditions a good faith consideration of their acceptability to the Company.

FURTHER, the Company and Department mutually agree that the following terms and conditions describe the proposed conveyance of the Company's Anaconda Smelter stack to the Department subject to the qualifications otherwise provided in this Agreement:

1. The conveyance must be completed or an executed, binding agreement for the conveyance must be entered into on or about May 24, 1985 which will be within thirty (30) days after recess of the 1985 Montana Legislative Session;

2. The Department must assume maintenance and legal and financial responsibility for the stack, except as provided in (3) below, on or about April 1, 1986, the date on which the Cleveland Wrecking Company will have completed their salvage contract with the Company;

3. The Company agrees to assume responsibility for any environmental mitigation required by the United States Environmental Protection Agency, hereinafter known as EPA, under their remedial investigation of the Anaconda Reduction Works area up to and including the cost and activities necessary to remove the stack. The Company may elect to mitigate health hazards that the EPA study might identify if the cost of mitigation does not exceed the cost of demolition and disposal of the stack. The EPA Superfund study of the Smelter Hill is scheduled to begin in 1987. EPA's remedial investigation of the area and possible remedial action may be required for the Anaconda

Reduction Works area. The EPA's studies will take until approximately 1990;

4. No public access will be allowed at the stack. All of the Company's property, including that immediately surrounding the Anaconda Smelter stack will be signed to prohibit trespass and some of it fenced. The Department will fence the perimeter of the base at a safe distance of approximately 100 feet from the outside wall of the stack using a secure chain link design upon completion of the EPA-sponsored Superfund study or at such time as mutually agreed;

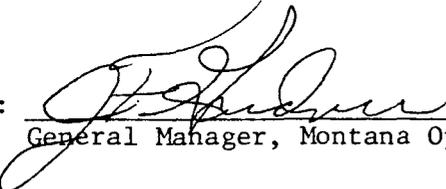
5. The Company shall convey by donation to the Department the Anaconda Smelter stack structure, power lines, lights and any other equipment and appurtenances necessary for the maintenance of the lighting system. The Company shall also convey by donation the necessary easements on the land of the Company for maintenance and administrative access and the construction of a perimeter fence and power lines and appurtenances; and

6. Any other terms and conditions are subject to good faith negotiation between the Department and the Company.

IN WITNESS WHEREOF, the undersigned parties entered into this Agreement on the date first above written.

Anaconda Minerals Company

Montana Department of Fish,
Wildlife and Parks

By: 
General Manager, Montana Operations

By: 
Director

VISITORS' REGISTER

LONG-RANGE PLANNING SUB COMMITTEE

BILL NO. Cultural and Aesthetics Bill DATE MARCH 5, 1985

Fish, Wildlife and Parks-Park Acquisition

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Bill Pratt	Mt. Arts Council		
Margie Smith	Awaronda	STACK	
James P. Smith	"	"	
Carleen Karsie	mt Arts Council		
Dave Nelson	" " "		
Ernest Hartley	Deer Lodge	PCMAF	
Ernie W. Hay	Deer Lodge	PCMAF	
Ernest Hartley	Deer Lodge	PCMAF	
DON HUYPPA	HELENA DFND		
Jon Axline	DEER LODGE	PCMAF	
DON VALTON	OUAN DO	"	
MK Daniels	Deer Lodge	"	
Bud Coughlin	Deer Lodge	"	
Sam Thompson	BUTTE	STACK	
Thomas Meagher	Helena 442-8141	Prickly Pear	
GEO. OCHENSKI	HELENA	STACK	
Bonnie Schae	Mont. Art, Advocacy		
Ralph C. Olson	3390 YORK Rd Prickly Pear Park Camp		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.