

EXHIBIT 3
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HB 2



2005 Legislative Session

RIT-Related Funds Utilized by DEQ

*Department Plan to Address Projected
Negative Ending Fund Balances*

Montana Department of Environmental Quality RIT-Related Fund Balance Corrections

An examination of RIT related funds has revealed an issue regarding the ending fund balance of three of these funds. The legislature has appropriated spending authority to DEQ in all three of these funds. Because these ending fund balances are projected to be negative, we have been tasked to examine these funds and seek solutions to correct the negative ending fund balances.

To accomplish that goal we began by working with the Department of Natural Resources and Conservation (DNRC). As the two primary users of the reclamation and development account (02458), we thought it was important to work in a collaborative way to seek solutions. Ultimately, DNRC has developed a solution using funding switches, elimination of decision packages, and cancellation of old grants.

By utilizing this combination of adjustments, the ending fund balance in the reclamation and development account is projected to be positive at the end of the 2007 biennium. The Department of Environmental Quality is aware of and supports DNRC's proposed alternatives to achieve a positive ending fund balance in this account.

The department has also examined the hazardous waste/CERCLA account (02070) and the environmental quality protection fund (02162) (EQPF) to determine where changes could be made to develop a positive ending fund balance in each of those funds. In the course of our examination we have developed four alternatives for legislative consideration.

Alternative A

This alternative assumes that the proposal to correct the ending fund in the reclamation and development account submitted by DNRC is accepted. Under this approach, we would approach the negative ending fund balances in environmental quality protection fund hazardous waste/CERCLA accounts utilizing the following steps:

1. Utilize a \$600,000 fund balance transfer from the orphan share account.

SB 143 (passed out of Energy and Telecommunications 11- 0) authorizes a transfer of \$600,000 from the balance of the orphan share account to either the hazardous waste/CERCLA account or the environmental quality protection accounts. We would utilize \$209,595 of the \$600,000 to make the environmental quality protection fund whole. Then, we would utilize the remaining \$390,405 to increase the negative ending fund balance in the hazardous waste/CERCLA account leaving a negative ending fund balance of \$219,184.

2. Accelerate the use of Rhodia funds.

The department has already utilized some of the non-budgeted Rhodia funds to replace other state funds through a funding switch in a decision package approved by the

subcommittee. After utilizing the fund balance transfer available from SB 143, the department proposes using \$219,184 of Rhodia funds in lieu of hazardous waste/CERCLA funds. The legislature would accomplish this change by modifying NP 5026 (already approved by the subcommittee) to reflect the increased use of Rhodia funds and decreased use of hazardous waste/CERCLA funds.

The following table summarizes the changes under the preferred solution "A":

Department of Environmental Quality		
RIT Related Accounts -- Negative Ending Fund Balances		
Option "A" -- Preferred Solution		
	Hazardous Waste / CERCLA	Environmental Quality Protection Fund
Projected Ending Fund Balance	\$ (609,589)	\$ (209,595)
Transfer from Orphan Share	390,405	209,595
Rhodia Funding Switch	219,184	-
Projected Ending Fund Balance	<u>\$ -</u>	<u>\$ -</u>

Program/Policy Impacts:

The department anticipated using the Rhodia funding to begin a ramp down of a hazardous waste program that has grown beyond its capacity. Although the department would be using Rhodia funds sooner than anticipated, these funds would be used according to the guidelines established by the court order. Thus, this alternative would result in minimal programmatic and policy impacts.

Alternative B

This alternative assumes that the proposal to correct the ending fund in the reclamation and development account submitted by DNRC is accepted and the proposed fund transfer outlined in SB 143 fails. Under this approach, we would approach the negative ending fund balances in environmental quality protection fund hazardous waste/CERCLA accounts utilizing the following steps:

1. Accelerate the use of Rhodia funds.

The department has already utilized some of the non-budgeted Rhodia funds to replace other state funds through a funding switch in a decision package approved by the subcommittee. For this purpose, the department proposes using \$609,589 of Rhodia funds in lieu of hazardous waste/CERCLA funds. The legislature would accomplish this change by modifying NP 5026 (already approved by the subcommittee) to reflect the increased use of Rhodia funds and decreased use of hazardous waste/CERCLA funds.

2. Hold positions open in the Remediation Program

Rhodia funding could be used to substitute for hazardous waste/CERCLA funds used in the Hazardous Waste program in the Permitting and Compliance Division. Currently these funds are used to match federal funding for permitting activities in hazardous waste facilities and regulation of transporters, generators, and recyclers of hazardous waste. Although Rhodia funding could be used for some same activities as some of the hazardous waste/CERCLA funds, it cannot be used for the same activities as the EQPF funds.

Therefore, the department would address the \$209,245 shortfall in EQPF by holding positions open in the Remediation Division. The Remediation Division has approximately 2.0 FTE that are currently unfilled due to lack of funding. By holding these positions open throughout the biennium, EQPF funds would be preserved. Thus, the ending fund balance would no longer remain in a negative position.

The following table summarizes the changes under Alternative B:

Department of Environmental Quality			
RIT Related Accounts -- Negative Ending Fund Balances			
Option "B"			
	Hazardous Waste / CERCLA	Environmental Quality Protection Fund	
Projected Ending Fund Balance	\$ (609,589)	\$ (209,595)	
Transfer from Orphan Share	-	-	
Rhodia Funding Switch	609,589		
Programatic Cuts/Spending Reductions	-	209,595	
Projected Ending Fund Balance	\$ -	\$ -	

Program/Policy Impacts:

The department anticipated using the Rhodia funding to begin a ramp down of a hazardous waste program that has grown beyond its capacity. Although the department would be using Rhodia funds sooner than anticipated, these funds would be used according to the guidelines established by the court order.

Thus, this alternative would result in minimal programmatic and policy impacts on programs utilizing hazardous waste/CERCLA funding. However, the Remediation Division would be forced to hold vacant positions open throughout the biennium, likely putting the department further behind cleaning up contaminated sites. The EQPF portion represents a reduction of approximately 9.5 percent of total EQPF funds utilized by the Remediation Division.

Alternative C

This alternative assumes that the proposal to correct the ending fund in the reclamation and development account submitted by DNRC is accepted and the proposed fund transfer outlined in SB 143 fails. Under this approach, we would approach the negative ending fund balances in environmental quality protection fund hazardous waste/CERCLA accounts utilizing the following steps:

1. Programmatic Cuts and Spending Reductions – Haz. Waste/CERCLA

The department would address the negative ending fund balances in hazardous waste/CERCLA funds and EQPF by cutting services in all programs that utilize these funds. Every program in the department utilizes at least one of the RIT-related accounts projected to have a negative ending fund balance at the end of the 2007 biennium. Thus, the department would propose a proportional reduction of \$609, 589 across all programs that utilize that hazardous waste/CERCLA as a funding source.

2. Hold positions open in the Remediation Program - EQPF

The department would address the \$209,245 shortfall in EQPF by holding positions open in the Remediation Division. The Remediation Division has approximately 2.0 FTE that are currently unfilled due to lack of funding. By holding these positions open throughout the biennium, EQPF funds would be preserved. Thus, the ending fund balance would no longer remain in a negative position.

The following table summarizes the changes under Alternative C:

Department of Environmental Quality		
RIT Related Accounts -- Negative Ending Fund Balances		
Option "C"		
	Hazardous Waste / CERCLA	Environmental Quality Protection Fund
Projected Ending Fund Balance	\$ (609,589)	\$ (209,595)
Transfer from Orphan Share	-	-
Rhodia Funding Switch	-	-
Programatic Cuts/Spending Reductions	609,589	209,595
Projected Ending Fund Balance	\$ -	\$ -

Program/Policy Impacts:

Reductions proposed under alternative "C" would result in sever program and policy impacts. Based upon the total hazardous waste/CERCLA funding currently utilized by the department, a reduction of \$609, 589 to make the fund whole would result in a 44

percent reduction in this funding source. Similarly, the EQPF reduction would result in slower environmental clean up of contaminated sites.

Hazardous Waste/CERCLA Reductions

This alternative would result in extensive programmatic and policy impacts on programs utilizing hazardous waste/CERCLA funding. The following is a summary of impacts that the legislature might expect if programs eliminate hazardous waste/CERCLA funding:

Central Management Program -- \$12,652

The Central Management Program utilizes hazardous waste/CERCLA funding to provide maintenance of effort matching dollars for the EPA Performance Partnership Grant. If the department cannot match this grant, the department would be in jeopardy of losing a grant of approximately \$6.0 million per year.

Planning, Prevention, and Assistance Division -- \$116,303

Approximately \$28,000 of the reduction in this program would be contracts that, if eliminated, would result in reduced program effectiveness. The remaining \$88,303 would result in an elimination of currently filled FTE performing water quality and watershed management functions.

Remediation Division -- \$20,931

The Remediation Division utilizes hazardous waste/CERCLA funding to provide matching dollars for the federal Superfund Core Grant. Without this funding, the division would be severely hampered in its ability to administer the federal superfund program. An inability to administer this program could put the federal grant dollars in jeopardy.

Permitting and Compliance Division -- \$459,702

The Permitting and Compliance Division utilizes hazardous waste/CERCLA funding to provide matching dollars for federal grants, county contracts, and a myriad of permitting and over-site activities. This reduction would result in elimination of currently filled FTE, elimination of county grants, and a loss of federal grant dollars that totals in the millions.

EQPF Reductions

With this reduction, the Remediation Division would be forced to hold vacant positions open throughout the biennium, likely putting the department further behind cleaning up contaminated sites. The EQPF portion represents a reduction of approximately 9.5 percent of total EQPF funds utilized by the Remediation Division.

Alternative D

This alternative assumes that the proposal to correct the ending fund in the reclamation and development account submitted by DNRC is *NOT* accepted by the subcommittee. Under this approach, we would approach the negative ending fund balances in reclamation and development, environmental quality protection, and hazardous waste/CERCLA accounts utilizing the following steps:

1. Programmatic Cuts and Spending Reductions – Haz. Waste/CERCLA

The department would address the negative ending fund balances in hazardous waste/CERCLA funds and EQPF by cutting services in all programs that utilize these funds. Every program in the department utilizes at least one of the RIT-related accounts projected to have a negative ending fund balance at the end of the 2007 biennium. Thus, the department would propose a proportional reduction of \$609, 589 across all programs that utilize that hazardous waste/CERCLA as a funding source.

2. Hold positions open in the Remediation Program – EQPF

The department would address the \$209,245 shortfall in EQPF by holding positions open in the Remediation Division. The Remediation Division has approximately 2.0 FTE that are currently unfilled due to lack of funding. By holding these positions open throughout the biennium, EQPF funds would be preserved. Thus, the ending fund balance would no longer remain in a negative position.

3. Enact a series of programmatic cuts - Reclamation and Development

The department would address a proportional share of the projected negative ending fund balance totaling \$674,506. After removing grants for HB6 and HB7 along with a small appropriation for the Library Commission, the department's share of the negative ending fund balance is \$364,200. The department would enact a series of reductions from the Permitting and Compliance Division.

The following table summarizes the changes under Alternative D:

Department of Environmental Quality			
RIT Related Accounts -- Negative Ending Fund Balances			
Option "D"			
	Reclamation & Development	Hazardous Waste / CERCLA	Environmental Quality Protection Fund
Projected Ending Fund Balance DEQ Portion of Negative EFB *	\$ (364,200)	\$ (609,589)	\$ (209,595)
Transfer from Orphan Share	-	-	-
Rhodia Funding Switch	-	-	-
Programatic Cuts/Spending Reductions	<u>364,200</u>	<u>609,589</u>	<u>209,595</u>
Projected Ending Fund Balance	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
* Appropriation Adjusted for HB 6 & 7 and Library Commission/NRIS Appropriation			

Program/Policy Impacts:

Reductions proposed under alternative "D" would also result in severe program and policy impacts similar to the proposal under alternative "C" but would add reductions to the Permitting and Compliance Division which is the department's primary user of reclamation and development funds.

Based upon the total hazardous waste/CERCLA funding currently utilized by the department, a reduction of \$609, 589 to make the fund whole would result in a 44 percent reduction in this funding source. Similarly, the EQPF reduction would result in slower environmental clean up of contaminated sites. Finally, reductions in the reclamation and development account would result in an 11.2 percent reduction in those funds to Permitting and Compliance.

Hazardous Waste/CERCLA Reductions

This alternative would result in extensive programmatic and policy impacts on programs utilizing hazardous waste/CERCLA funding. The following is a summary of impacts that the legislature might expect if programs eliminate hazardous waste/CERCLA funding:

Central Management Program -- \$12,652

The Central Management Program utilizes hazardous waste/CERCLA funding to provide maintenance of effort matching dollars for the EPA Performance Partnership Grant. If the department cannot match this grant, the department would be in jeopardy of losing a grant of approximately \$6.0 million per year.

Planning, Prevention, and Assistance Division -- \$116,303

Approximately \$28,000 of the reduction in this program would be contracts that, if eliminated, would result in reduced program effectiveness. The remaining \$88,303 would result in an elimination of currently filled FTE performing water quality and watershed management functions.

Remediation Division -- \$20,931

The Remediation Division utilizes hazardous waste/CERCLA funding to provide matching dollars for the federal Superfund Core Grant. Without this funding, the division would be severely hampered in its ability to administer the federal superfund program. An inability to administer this program could put the federal grant dollars in jeopardy.

Permitting and Compliance Division -- \$459,702

The Permitting and Compliance Division utilizes hazardous waste/CERCLA funding to provide matching dollars for federal grants, county contracts, and a myriad of permitting and over-site activities. This reduction would result in elimination of currently filled FTE, elimination of county grants, and a loss of federal grant dollars that totals in the millions.

EOPF Reductions

With this reduction, the Remediation Division would be forced to hold vacant positions open throughout the biennium, likely putting the department further behind cleaning up contaminated sites. The EQPF portion represents a reduction of approximately 9.5 percent of total EQPF funds utilized by the Remediation Division.

Reclamation and Development Reductions

With this reduction, the department would eliminate currently filled FTE in the Permitting and Compliance Division that would result in the permits being issued at a slower pace. Further, the department would likely not be able to match federal funds used for coal and uranium mining.

Areas affected are: 1) coal and uranium mining permitting, inspection, and monitoring activities; 2) open cut mining permitting and compliance activities; and 3) the department's share of the funding that provides access to natural resource data maintained on the Natural Resource Information System (NRIS) maintained by the State Library.

