UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
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EXHIBIT 1
DATE 1/26/09
HB

JAN 2 3 2009

Ref: 8-PW-DW

Mr. Richard Opper, Director
Department of Environmental Quality
PO Box 200901
Helena, MT 59620-0901

Dear Mr. Opper:

I want to take this opportunity to thank you for Montana's timely and incisive response to our 2007 Primacy Review that we shared with you on August 15, 2008. We at the U.S. Environmental Protection Agency (EPA) appreciate that Governor Schweitzer originally authorized the Montana Public Water System Supervision program to hire an additional 12 staff members. I now understand, however, that Governor Schweitzer's revised budget will fund only 6 of the 12 on a permanent basis. While 6 additional staff members are a substantial investment in safe drinking water for Montana's citizens, especially in these very tight budgetary times, I am concerned that they may not be enough to fully implement the Public Water System Supervision program. We strongly encourage Montana to fill the full complement of positions as soon as economic conditions allow.

As documented by the previously referenced oversight review, Montana DEQ's performance had reached unacceptable levels as a result of severe understaffing of the Montana Public Water System Supervision program. Our review identified a staffing shortfall of approximately 21 staff positions.

Based on workload estimates from the Association of State Drinking Water Administrators and EPA, states with comparable numbers of public water systems should have about 29 staff members implementing the regulations. As of November 2007, Montana had a little over 8 work years available. To adequately implement the Safe Drinking Water Act, the State of Montana must substantially boost its permanent staffing. An additional 12 staff members as originally proposed by the Governor is a long overdue <u>first</u> step toward adequate staffing.

Finally, you may recall in our oversight report that we highlighted elevated threats to public health. The Montana Public Water Supervision program did not adequately address public water systems that use unfiltered surface water sources, or ground water under the influence of surface water as sources, or systems that had inadequate filtration. We attributed the primary reason for this deficiency to inadequate staffing that could not contend with the volume and complexity of the work. We are skeptical about whether 6 additional staff can fully compensate even for these critical shortcomings in Montana DEQ's performance.

We remain committed, and look forward to assisting with the training of your new staff members. At this time we are working with your staff in the Public Water Supply and Subdivisions Bureau to plan the curriculum and dates for training at your office. Also, we will closely monitor the situation to see how many of the issues identified by our review are effectively addressed. If you have questions about our oversight report or any implications pertaining to EPA's concerns, please call me or your staff may call Jack A. Rychecky of my staff at 303-312-6812.

Sincerely,

Stephen S. Tuber
Acting Deputy Regional Administrator

cc: Judy Hanson, Permitting and Compliance Division
Jon Dilliard, Public Water Supply and Subdivisions Bureau

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5301 Department Of Environmental Quality
Legislative Budget Comparison Table

All Programs
All SubPrograms

L01 Budget Version Budget Item	Base FY 2008	Approp FY 2009	Budgeted FY 2010	Budgeted FY 2011	Biennium FY 2008-09	Biennium FY 2010-11	Biennial Change	Biennial Percent
Personal Services	21,024,452	23,309,232	25,058,413	25,138,959	44,333,684	50,197,372	5,863,688	13.2%
Operating Expenses	19,642,858	30,235,268	19,702,241	19,709,582	49,878,126	39,411,823	(10,466,303)	-21.0%
Equipment & Intangible Assets	107,827	237,754	107,827	107,827	345,581	215,654	(129,927)	-37.6%
Capital Outlay	441,304	-	441,304	441,304	441,304	882,608	441,304	100.0%
Grants	1,870,416	2,216,541	1,870,416	1,870,416	4,086,957	3,740,832	(346,125)	-8.5%
Benefits & Claims	-	-	-	-	-	-	-	0.0%
Transfers	-	-	-	-	-	-	-	0.0%
Debt Service	-	1,807	-	-	1,807	-	(1,807)	-100.0%
Total Costs	**43,086,857**	**56,000,602**	**47,180,201**	**47,268,088**	**99,087,459**	**94,448,289**	**(4,639,170)**	**-4.7%**
General Fund	4,785,174	5,088,372	5,138,493	5,147,198	9,873,546	10,285,691	412,145	4.2%
State/other Special Rev. Funds	18,943,357	24,069,733	21,367,486	21,434,441	43,013,090	42,801,927	(211,163)	-0.5%
Federal Spec. Rev. Funds	19,358,326	26,842,497	20,674,222	20,686,449	46,200,823	41,360,671	(4,840,152)	-10.5%
Proprietary Funds	-	-	-	-	-	-	-	0.0%
Total Funds	**43,086,857**	**56,000,602**	**47,180,201**	**47,268,088**	**99,087,459**	**94,448,289**	**(4,639,170)**	**-4.7%**

5301 Department Of Environmental Quality
Legislative Budget Reconciliation

All Programs
All SubPrograms

	General Fund FY 2010	General Fund FY 2011	General Fund FY 2010-11	Total Funds FY 2010	Total Funds FY 2011	Total Funds FY 2010-11
Calculation of Legislative Budget						
FY 2008 Base	4,785,174	4,785,174	9,570,348	43,086,857	43,086,857	86,173,714
Statewide Present Law Adjustments	445,784	454,892	900,676	4,906,165	4,997,321	9,903,486
Other Present Law Adjustments	(657)	(751)	(1,408)	(4,482)	(5,143)	(9,625)
New Proposals	(91,808)	(92,117)	(183,925)	(808,339)	(810,947)	(1,619,286)
Current Legislative Budget	**5,138,493**	**5,147,198**	**10,285,691**	**47,180,201**	**47,268,088**	**94,448,289**
Revised Budget Assuming Remaining DP's	**5,915,015**	**5,940,515**	**11,855,530**	**65,319,744**	**64,303,998**	**129,623,742**
Decision Packages Without Action as of 1/25/2009						
PL01001 Non Proprietary Operations Adjustments	17,047	18,566	35,613	399,787	408,182	807,969
PL02005 Planning Division Operations Adjustments	(37,119)	(35,801)	(72,920)	1,492,896	1,511,683	3,004,579
PL03002 Enforcement Operations Adjustments	41,425	45,469	86,894	96,385	105,795	202,180
PL04002 Remediation Operations Adjustments	-	-	-	446,803	483,714	930,517
PL04005 Basin Creek Mine Closure Plan BIEN - OTO	-	-	-	750,000	-	750,000
PL04006 Beal Mountain Mine Closure BIEN-OTO	-	-	-	260,000	-	260,000
PL04009 KRY Remediation Oversight - BIEN - RST - OTO	-	-	-	1,200,000	1,200,000	2,400,000
PL04011 Accelerated Remediation CECRA Sites BIEN/RST/OTO	-	-	-	364,000	364,000	728,000
PL04012 CECRA Accelerated Remediation Base Adjustment	-	-	-	3,000,000	3,000,000	6,000,000
PL05002 Air Online Permit & Compliance Reporting BIEN/OTO	-	-	-	75,000	75,000	150,000
PL05003 Air Regulatory Assistance BIEN	-	-	-	250,000	250,000	500,000
PL05004 Area Source MACT Registration	-	-	-	130,820	129,895	260,715
PL05006 ARMB Student Intern Funding	-	-	-	94,946	94,946	189,892
PL05018 Permitting & Compliance Operations Adjustments	110,169	110,083	220,252	1,583,073	1,594,512	3,177,585
PL05019 Hard Rock-Major Facility Siting Act Projs-BIEN-RST	-	-	-	1,750,000	1,750,000	3,500,000
PL05021 Public Water Supply Staff	570,000	580,000	1,150,000	570,000	580,000	1,150,000
PL09001 Petroleum Board Subrogation Operation Adjustments	-	-	-	178,280	181,677	359,957
Present Law Total	**701,522**	**718,317**	**1,419,839**	**12,641,990**	**11,729,404**	**24,371,394**
NP02004 Technical Assistance for Waste Water Treatment Sys	-	-	-	98,897	101,250	200,147
NP02051 State Buildings Energy Conservation Program - BIEN	-	-	-	808,842	612,749	1,421,591
NP04015 Joint DEQ-DNRC Reliance Refinery - BIEN-OTO-RST	-	-	-	4,500,000	4,500,000	9,000,000
NP04016 Remediation New Leased Vehicles	-	-	-	14,814	17,507	32,321
NP05010 Swift Gulch Treatment System Operating Expenses	50,000	50,000	100,000	50,000	50,000	100,000
NP05011 Whitefish Lake Monitoring - Bien/OTO	25,000	25,000	50,000	25,000	25,000	50,000
[redacted]	-	-	-	[redacted]	[redacted]	[redacted]
[redacted]	-	-	-	[redacted]	[redacted]	[redacted]
New Proposal Total	**75,000**	**75,000**	**150,000**	**5,497,553**	**5,306,506**	**10,804,059**
Total All Decision Packages	**776,522**	**793,317**	**1,569,839**	**18,139,543**	**17,035,910**	**35,175,453**

technical issue

5301 Department Of Environmental Quality — **All Programs** / **All SubPrograms**

Legislative Budget Actions as of 1/25/2009 Decision Package	General Fund FY 2010	General Fund FY 2011	General Fund FY 2010-11	Total Funds FY 2010	Total Funds FY 2011	Total Funds FY 2010-11
PL07101 Fuel Inflation Reduction	(657)	(751)	(1,408)	(4,482)	(5,143)	(9,625)
Present Law Total	**(657)**	**(751)**	**(1,408)**	**(4,482)**	**(5,143)**	**(9,625)**
NP08101 Increase Vacancy Savings to 7%	(91,808)	(92,117)	(183,925)	(808,339)	(810,947)	(1,619,286)
New Proposal Total	**(91,808)**	**(92,117)**	**(183,925)**	**(808,339)**	**(810,947)**	**(1,619,286)**
Total All Decision Packages	**(92,465)**	**(92,868)**	**(185,333)**	**(812,821)**	**(816,090)**	**(1,628,911)**

DEQ-FY2008-HB2

Program	Bureau	# Vacant Positions	Budget Hrs	Actual Hrs	Hour Vacancy Rate	Budget $	Actual $	Vacancy $	$ Vacancy Rate
Total 10	**Admin-HB2**	**10**	**20880**	**18957**	**9.21%**	**$ 793,599**	**$ 734,768**	**$ 58,831**	**7.41%**
20	Admin.- Management	5	10440	8723	16.45%	$ 305,804	$ 271,806	$ 33,998	11.12%
20	Water Quality Planning	42	87696	76590	12.66%	$ 2,495,105	$ 2,215,253	$ 279,852	11.22%
20	Energy Polution Prevention	19	38628	34691	10.19%	$ 1,197,932	$ 1,088,880	$ 109,052	9.10%
20	Technical & Financial Assist	18	37584	36733	2.26%	$ 1,332,959	$ 1,300,906	$ 32,053	2.40%
Total Progam 20		**84**	**174348**	**156737**	**10.10%**	**$ 5,331,800**	**$ 4,876,845**	**$ 454,955**	**8.53%**
Total 30	**Enforcement**	**15**	**31320**	**29496**	**5.82%**	**$ 928,514**	**$ 877,453**	**$ 51,061**	**5.50%**
40	Fiscal & Admin.	19	39150	33914	13.37%	$ 1,144,815	$ 1,012,749	$ 132,066	11.54%
40	Mine Waste Cleanup	15	31320	30139	3.77%	$ 889,994	$ 858,405	$ 31,589	3.55%
40	Hazardous Waste Cleanup	30	60552	52209	13.78%	$ 1,734,415	$ 1,505,673	$ 228,742	13.19%
Total Program 40		**64**	**131022**	**116262**	**11.27%**	**$ 3,769,224**	**$ 3,376,827**	**$ 392,397**	**10.41%**
50	Admin.- Management	4	6682	5356	19.84%	$ 272,616	$ 231,675	$ 40,941	15.02%
50	Air Resource Management	52	103001	89957	12.66%	$ 3,256,920	$ 2,799,235	$ 457,685	14.05%
50	Industrial & Energy Minerals	21	43326	38408	11.35%	$ 1,346,801	$ 1,212,023	$ 134,778	10.01%
50	Environmental Management	16	32364	29406	9.14%	$ 978,552	$ 895,322	$ 83,230	8.51%
50	Public Water Supply & Subdiv.	53	104400	93883	10.07%	$ 3,029,664	$ 2,922,250	$ 234,077	7.73%
50	Water Protection Bureau	27	55854	44541	20.25%	$ 1,563,883	$ 1,305,872	$ 298,712	19.10%
50	Waste & Underground Tank	40	82476	73681	10.66%	$ 2,182,093	$ 2,015,182	$ 200,828	9.20%
Total Program 50		**213**	**428103**	**375232**	**12.35%**	**$ 12,630,529**	**$ 11,381,559**	**$ 1,450,251**	**11.48%**
DEQ Total-HB2		**386**	**785673**	**696684**	**11.33%**	**$ 23,453,666**	**$ 21,247,452**	**$ 2,407,495**	**10.26%**

Environmental Science Speialists-FY2008-HB2

Program	Bureau	# Vacant Positions	Budget Hrs	Actual Hrs	Hour Vacancy Rate	Budget $	Actual $	Vacancy $	$ Vacancy Rate
Total 10	**Admin-HB2**	**2**	**4176**	**3818**	**8.57%**	**$ 128,836**	**$ 119,129**	**$ 9,707**	**7.53%**
20	Water Quality Planning	29	60552	50660	16.34%	$ 1,673,752	$ 1,416,752	$ 257,000	15.35%
20	Energy Polution Prevention	5	9396	7546	19.69%	$ 273,537	$ 221,529	$ 52,008	19.01%
20	Technical & Financial Assist	5	10440	10445	-0.05%	$ 301,843	$ 301,982	$ (139)	-0.05%
Total Progam 20		**39**	**80388**	**68651**	**14.60%**	**$ 2,249,132**	**$ 1,940,263**	**$ 308,869**	**13.73%**
Total 30	Enforcement	9	18792	17750	5.54%	$ 510,321	$ 482,050	$ 28,271	5.54%
40	Fiscal & Admin.	1	2088	1121	46.31%	$ 61,201	$ 32,858	$ 28,343	46.31%
40	Mine Waste Cleanup	12	25056	19350	22.77%	$ 700,850	$ 632,624	$ 68,226	9.73%
40	Hazardous Waste Cleanup	26	52200	45610	12.62%	$ 1,414,644	$ 1,251,399	$ 163,245	11.54%
Total Program 40		**39**	**79344**	**66081**	**16.72%**	**$ 2,176,695**	**$ 1,916,881**	**$ 259,814**	**11.94%**
50	Air Resource Management	16	32364	31260	3.41%	$ 945,419	$ 911,156	$ 34,263	3.62%
50	Industrial & Energy Minerals	11	22968	20154	12.25%	$ 722,775	$ 639,940	$ 82,835	11.46%
50	Environmental Management	10	19836	17767	10.43%	$ 607,413	$ 543,288	$ 64,125	10.56%
50	Public Water Supply & Subdiv.	19	38628	32800	15.09%	$ 975,564	$ 931,884	$ 118,298	12.13%
50	Water Protection Bureau	18	37584	26425	29.69%	$ 1,033,057	$ 778,865	$ 294,893	28.55%
50	Waste & Underground Tank	17	35496	30593	13.81%	$ 940,614	$ 70,867	$ 104,784	11.14%
Total Program 50		**91**	**186876**	**158999**	**14.92%**	**$ 5,224,842**	**$ 3,876,000**	**$ 699,198**	**13.38%**
DEQ Total Environmental Science Speciali		**180**	**369576**	**315299**	**14.69%**	**$ 10,289,826**	**$ 8,334,323**	**$ 1,305,859**	**12.69%**

DEQ-FY2008-Non-ESS - HB2

Program	Bureau	# Position	Budget Hrs	Actual Hrs	Hour Vacancy Rate	Budget $	Actual $	Vacancy $	$ Vacancy Rate
Total 10	**Admin-HB2**	**8**	**16704**	**15139**	**9.37%**	**$ 664,763**	**$ 615,639**	**$ 49,124**	**7.39%**
20	Admin.- Management	5	10440	8723	**16.45%**	$ 305,804	$ 271,806	$ 33,998	11.12%
20	Water Quality Planning	13	27144	25930	**4.47%**	$ 821,353	$ 798,501	$ 22,852	2.78%
20	Energy Polution Prevention	15	31320	28846	**7.90%**	$ 996,717	$ 926,269	$ 70,448	7.07%
20	Technical & Financial Assist	13	27144	26288	**3.15%**	$ 1,031,116	$ 998,924	$ 32,192	3.12%
Total Progam 20		**46**	**96048**	**89787**	**6.52%**	**$ 3,154,990**	**$ 2,995,500**	**$ 159,490**	**5.06%**
Total 30	**Enforcement**	**6**	**12528**	**11746**	**6.24%**	**$ 418,193**	**$ 395,403**	**$ 22,790**	**5.45%**
40	Fiscal & Admin.	18	37062	32793	**11.52%**	$ 1,083,614	$ 979,891	$ 103,723	9.57%
40	Mine Waste Cleanup	3	6264	7662	**-22.32%**	$ 189,144	$ 225,781	$ (36,637)	-19.37%
40	Hazardous Waste Cleanup	4	8352	6599	**20.99%**	$ 319,771	$ 254,274	$ 65,497	20.48%
Total Program 40		**25**	**51678**	**47054**	**8.95%**	**$ 1,592,529**	**$ 1,459,946**	**$ 132,583**	**8.33%**
50	Admin.- Management	4	6682	5356	**19.84%**	$ 272,616	$ 231,675	$ 40,941	15.02%
50	Air Resource Management	36	70637	58697	**16.90%**	$ 2,311,501	$ 1,888,079	$ 423,422	18.32%
50	Industrial & Energy Minerals	10	20358	18254	**10.34%**	$ 624,026	$ 572,083	$ 51,943	8.32%
50	Environmental Management	7	14616	13727	**6.08%**	$ 437,619	$ 418,514	$ 19,105	4.37%
50	Public Water Supply & Subdiv.	34	65772	61083	**7.13%**	$ 2,054,100	$ 1,990,366	$ 115,779	5.64%
50	Water Protection Bureau	9	18270	18116	**0.84%**	$ 530,826	$ 527,007	$ 3,819	0.72%
50	Waste & Underground Tank	23	46980	43088	**8.28%**	$ 1,241,479	$ 1,145,435	$ 96,044	7.74%
Total Program 50		**123**	**243315**	**218321**	**10.27%**	**$ 7,472,167**	**$ 6,773,159**	**$ 751,053**	**10.05%**
DEQ Non-ESS Vacancies -HB2		**208**	**420273**	**382047**	**9.10%**	**$ 13,302,642**	**$ 12,239,647**	**$ 1,115,040**	**8.38%**