# Water Policy Interim Committee

## 61st Montana Legislature

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May 12, 2010

Draft

The Honorable Brian Schweitzer
Governor of the State of Montana
Montana State Capitol Building
P.O. Box 200801
Helena, MT 59620-0801

Dear Governor Schweitzer:

The Water Policy Interim Committee (WPIC), in accordance with 5-5-231, MCA, is responsible for examining water policy issues and reporting its activities, findings, recommendations, and any proposed legislation to the Legislature. As part of its review function, WPIC received testimony yesterday indicating that the ground water investigation program, which is part of the Montana Bureau of Mines and Geology, is budgeted on the statewide budgeting and accounting system as "one-time-only" and will not be included in the base budget for the 2011 legislative session.

As you are aware, House Bill No. 52 (HB 52) from the 2009 legislative session directs the Montana Bureau of Mines and Geology to develop and implement a ground water investigation program for the purpose of collecting and compiling ground water and aquifer data. The program is required to gather data, compile existing information, conduct field studies, and prepare a detailed hydrogeologic assessment report for each water subbasin. The program is also required to develop a monitoring plan and a hydrogeologic model for each subbasin for which a report is prepared. These requirements are of an ongoing nature and are codified as section 85-2-525, MCA.

The minutes of the 2007-2008 Water Policy Committee indicate that the committee intended the ground water investigation program be an ongoing program and that the program be included in the base budget of the Bureau of Mines and Geology.

Unlike a variety of other statutes that are tied to "available funding" or to the "extent funding is appropriated", there is nothing in HB 52 that gives the Bureau of Mines and Geology the ability to cancel the groundwater investigation program. *See, e.g.*, section 53-21-1203(2), MCA (grants based on available funding); section 53-21-1204 (services based on extent funding is appropriated). Moreover, there is no language in HB 52 indicating the appropriation item is designated "One Time Only" or "OTO".

Treating the funding as "one-time-only" is not consistent with state budgeting and appropriation law.

Based on the relevant language in HB 52, WPIC respectfully requests that you direct your staff to include the ground water investigation program in the base budget and present law base.

The base budget is defined as the resources for the operation of state government that are of an ongoing and nonextraordinary nature, and present law base generally means the level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature. (Section 17-7-102(4)(a), 10(a), MCA).

Additionally, it would be helpful if the program is not listed as "one-time-only" on the statewide budgeting and accounting system.

WPIC is mindful of the fiscal challenges that we will all face in the next session. However, the inclusion of the ground water investigation program in the base budget and present law base will at least give the Executive Branch and the Legislative Branch a starting point for discussion.

If the Executive Branch desires to propose a different level of funding or if the Legislature chooses to adopt a different level of funding, they are free to do so.

The committee would like to express its appreciation to you for reviewing this issue.

Sincerely,

Representative Walter L. Mcnutt

Senator Terry Murphy

Senator David E. Wanzenried

Representative Russell S. Bean

Senator Debby Barrett

Representative Bill McChesney

Senator Bradley Maxon Hamlett

Representative JP Pomnichowski

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