

## REPORT TO THE ENVIRONMENTAL QUALITY COUNCIL

# STATUS OF COMPLIANCE WITH, AND ENFORCEMENT OF, MONTANA'S NATURAL RESOURCE AND ENVIRONMENTAL LAWS

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
SEPTEMBER 1998

## **INTRODUCTION**

The new Department of Natural Resources and Conservation (DNRC) was established on July 1, 1995, as a result of SB 234, which reorganized three natural resource and environmental agencies and shifted certain natural resource management functions. The department retained the Water Resources Division, Conservation and Resource Development Division, Reserved Water Rights Compact Commission, and Oil and Gas Conservation Division. It received the Forestry and Trust Lands Management Divisions from the former Department of State Lands. It also consolidated services staff from both agencies into the Centralized Services Division.

### **Duties and Responsibilities**

The duties and responsibilities of the Department of Natural Resources and Conservation were significantly revised as the result of this reorganization.

The department is responsible for sustaining and improving the benefits derived from our water, soil, and rangeland; managing the State of Montana's trust land resources to produce revenues for the trust beneficiaries; protecting Montana's natural resources from wildland fires through regulation and partnerships with federal, state, and local agencies; promoting the conservation of oil and gas and preventing resource waste through regulation of exploration and production; and managing and assisting in the management of several grant and loan programs, including the renewable resource, reclamation and development, treasure state endowment, and wastewater revolving fund programs. The department is also responsible for promoting the stewardship of Montana's water, soil, forest, and rangeland resources and for regulating forest practices.

### **Department Organization**

The director of the Department of Natural Resources and Conservation is Arthur R. "Bud" Clinch.

Eight boards and commissions are attached to the department. Four of them -- the State Board of Land Commissioners, the Reserved Water Rights Compact Commission, the Board of Oil and Gas Conservation, and the Board of Water Well Contractors -- have decision-making authority. The other four -- the Resource Conservation Advisory Council, Rangeland Resources Committee, Grass Conservation Advisory Committee, State Water Plan Advisory Council, and Drought Advisory Committee -- act in an advisory capacity only.

The department has been organized into seven divisions:

- Centralized Services Division
- Conservation and Resource Development Division
- Forestry Division
- Oil and Gas Conservation Division
- Reserved Water Rights Compact Commission
- Trust Lands Management Division

- Water Resources Division

Two of the divisions -- the Oil and Gas Conservation Division and the Reserved Water Rights Compact Commission -- are attached to the department for administrative purposes only.

### **Philosophy of Compliance**

The department's philosophy of compliance is that information, education, and assistance are means by which most resource protection will be obtained. Aggressive enforcement actions are used for cases when the natural resource has been threatened and information and education did not bring the desired results. Three of the department's seven divisions have programs that report under HB 132. They are:

#### **Forestry Division**

Service Forestry

#### **Oil and Gas Conservation Division**

Oil and Gas Conservation Program

#### **Water Resources Division**

Water Operations Program - Dam Safety

Water Measurement Program

Water Rights Program

Board of Water Well Contractors



## **FORESTRY DIVISION SERVICE FORESTRY PROGRAM - HB 132 COMPLIANCE REPORT**

### **Promoting Compliance:**

The following are ongoing programs to assist regulated communities with Service Forestry Regulation Compliance.

### **Information/Education:**

BMP literature: Law requires the state to provide BMP information to people applying for a Hazard Reduction Agreement (HRA). The packet of information sent include the Montana BMP publication; a 33-page full color discussion of BMPs relating to roads, SMZ law and management, timber harvest, stream crossings and more. Two thousand to twenty-five hundred of these publications are distributed annually.

BMP audits: The 1998 audits collected information on 55 harvested sites throughout the state. The audit effort evaluates how well BMPs are being applied and how effective they are at protecting soil and water resources. The results are published and approximately fifteen hundred copies will be distributed. Besides the results providing education information, the process is educational too. Fifty to sixty audit team members from many backgrounds and interests become intimately familiar with how BMPs are applied on the ground. Moreover, landowners, agency professionals, loggers and others are encouraged to attend field audits to learn more about BMPs, when and how to properly apply them. The audits are a biennial effort.

Other workshops/training: Every year DNRC partners with the Montana Logging Association (MLA) to train logging professionals, forest landowners, and others about BMPs. In 1998, nine such works were provided. DNRC provides annual in-house training to achieve consistent legal interpretation and enforcement of regulations statewide.

NIPF landowners received broad natural resources education through the forest Stewardship program. Landowners learn about state law as part of this curriculum. This USFS program is administered by DNRC and taught through MSU Extension Service. Six workshops were provided this year.

The Department is assisting the Montana Forest Owner's Association to bring a new workshop series to landowners this fall. The four workshops, known as 'Loop of Knowledge' seminars will focus on landowners actively managing their forest resources. Information will include state regulations and where to secure help in managing forests and complying with state law.

### **Technical Assistance:**

Forester Assistance: Service foresters in 15 unit offices and the state headquarters in



Missoula are available to provide technical assistance. Assistance includes on-site visits, phone or office visits literature and consultant referrals. Literature distributed includes:

- BMP booklet (33-page color)
- SMZ regulation booklet (35-page color)
- Voluntary Wildlife Guidelines (4 page)
- HRA fact sheets (2-page)
- consultant directories (27 pages)
- other literature not directly related to regulatory programs.

Substantial on-site assists totaled 133 in FY98 and all technical assists equaled 1271.

Alternative Practices: Another form of assist is an SMZ Alternative Practices. These are formal requests to engage in activities that may technically violate the SMZ law. However, the action(s) would meet the intent of the law and not significantly diminish the functions of the Streamside Zone.

Requests for alternative practices ("alternative" to management standards stated in 77-5-3051 MCA) are given technical review and site visits. The merits of the request are evaluated along with the proposed mitigation measures. Environmental Assessments are completed and reviewed. If a request is granted, it is often with conditions that help protect the integrity of the SMZ. Fifty-two alternative practices were issued in FY98.

Enforcing violations: Enforcement actions take on many forms but almost always involve technical assistance to help mitigate a problem.

### **Inspections:**

When a Hazard Reduction Agreement (slash HRA) is applied for, it is evaluated for possible pre-and/or post-harvest inspections. Low hazard sites, with low fire hazard risk and low risk of SMZ damage, may not be inspected at all. Conversely, high hazard sites may receive multiple visits.

Sites inspected for HRA compliance must meet the "four-foot flame length" standard. SMZ inspections typically occur in conjunction with an HRA inspection or when a possible violation is reported to the Department.

### **Enforcement Actions:**

Hazard Reduction (Slash): HRA violations result when hazard reduction work does not meet state standard or fees are not paid. Inadequate hazard reduction work may result in bond forfeiture, billing to have work done and/or penalty assessment. These consequences result when the Department "takes over" HRAs that are in non-compliance.

The HRA law has a unique system where the landowner is watching the operator to ensure hazard reduction compliance and the operator is watching the mills to ensure fee

compliance. When the operator (logger) delivers logs to the mill, money is withheld on a per-unit basis for fees and a performance bond. When compliance is achieved, the bond is refunded to the operator. If the "slash" account has discrepancies, the operator generally notifies DNRC of a potential fee compliance problem at the mill. The Department's accounting system verifies the problem. If discrepancies or delinquent payments are taken care of promptly, the matter is settled. If not, a process ensues to recover fees which may result in a fine or even a mill audit.

SMZ law: SMZ enforcement actions include:

- warnings: letters documenting violations which may or may not include damage repair requirements.
- orders: letters requiring stoppage of prohibited activity and repair order. Orders may or may not be accompanied by fines.

Fines levied require substantial documentation and legal processes, which may include formal court cases. To date, no fines have been challenged in court proceedings. The details of current enforcement actions are detailed in the "Noncompliance Section." The various forms of violations and accompanying Department responses included:

#### Administrative Notices/Orders:

##### Verbal Warnings

Issued when the forester discovers a minor technical problem with little or no damage or mitigation required, and the forester is reasonably certain that corrective and/or preventive action will be taken in the future.

##### Formal (written) Warning

Issued to document violations and damage and instruct mitigation/work. Generally, they are given to *first-time* offenders, those unaware of the laws, and for minor damage or easily correctable conditions.

#### Administrative Penalties/Sanctions:

##### Notice of Violation

Issued upon serious offenses, or with significant damage, to repeat violators, or when warnings have expired and *repair* actions have not been completed in a reasonably timely manner. Typically includes an Order to Mitigate or an Order to Cease and Repair. There were three issued in FY98.

##### Order to Mitigate for Damage

When the Department determines that an owner or operator has violated the SMZ law and has caused damage to watershed or wildlife resources, the Department may serve an order requiring the person responsible for the conduct of

forest practices to undertake necessary site rehabilitation within a reasonable, stated time frame. The order must specify the nature of the violation and the damage or unsatisfactory condition resulting from the violation. There were three issued in FY98.

#### Cease Order

The Department may include in an order a provision that the owner or operator immediately ceases causing further damage and take immediate action to alleviate the damage or to prevent future damage.

#### Opportunity for Hearing

The order becomes final unless, within 30 days after the notice is mailed, the person named requests in writing a hearing before the Department. Upon receipt of such a request, the Department schedules a hearing.

#### Rescinding of Order

If the Department finds that a violation has not occurred, or that site rehabilitation is not warranted, it rescinds the Order.

#### Civil Penalties

Penalties may be assessed for any and all violations, and are generally sought when Orders are issued. The maximum penalty amount is \$1,000 per violation, with each day of violation considered a separate violation.

## II. The Regulated Community

Service Forestry typically deals with three regulated communities, each subject to different legislation, but with overlap between them. These regulated communities are:

The regulated community under the **Hazard Reduction Act** includes anyone (1) clearing rights of way (except temporary logging roads), (2) cutting forest products, building haul roads, and/or carrying out timber stand improvement activities on private lands. Purchasers of such forest products are also part of the regulated community in that they must insure the persons they are purchasing forest products from have complied with hazard reduction regulations.

Persons encouraged to use **Best Management Practices** are those involved in timber sale planning and harvest, associated road construction, and other related activities. The Department estimates there were approximately 6,000 persons engaged in such activities in 1995, mostly in western Montana.



Persons subject to the requirements related to **Streamside Management Zones** include those conducting timber sale activities in areas where such activities should be modified due to potential effects on aquatic resources. The Zone extends at least 50 feet (slope distance) from the ordinary high water mark of a water body, and further where there are wetlands or where steep or erosive soils require additional width.

### III. History of Compliance

Trends in compliance with Service Forestry program rules and requirements are described and illustrated below.

Compliance with **Hazard Reduction** requirements has shown improvement over the last 15 years, as the number of state takeovers of hazard reduction activities has stayed relatively constant or declined, while the number of active HRAs more than doubled in the same time period. Relevant data for calendar years are shown below.

	<u>CY1985</u>	<u>CY1990</u>	<u>CY1995</u>	<u>10-yr. Avg.</u>
Million Board Feet Harvested (private lands)	561.3	611.9	693.2	634.8
Active HRAs	1,790	2,681	4,555	2,779
State takeovers	69	66	54	68

As of July 1, 1998, there were 4083 active HRAs. Harvest volume and state takeovers are about the same as the 10-yr. Average.

Compliance with **Best Management Practices** requirements has improved over the last five years, as shown below.

	<u>1990</u>	<u>1992</u>	<u>1994</u>	<u>1996</u>
Number of sites evaluated	44	46	46	44
Application of practices that meet or exceed BMP requirements	78%	87%	91%	92%
Application of high-risk practices that meet or exceed BMP requirements	53%	72%	79%	81%
Number of sites with at least one major departure in BMP application	61%	43%	37%	27%

Average number of departures in BMP application per site	9	5.6	3.9	3.0
Number (proportion) of practices providing adequate protection	80%	90%	93%	94%
Number (proportion) of high-risk practices providing adequate protection	58%	77%	83%	86%
Number (proportion) of sites having at least one major/ temporary or minor/prolonged impact	64%	37%	28%	34%
Average number of impacts per site	8	4.6	3	2.3
Source: Montana DNRC				

**SMZ violations** over the four-year history of enforcement do not yet establish a clear trend. The most severe enforcement actions which include fines in the order are listed below:

Fines Collected:

Tony Pearson	9/21/94	\$ 1,075
Lee Rost	1/11/96	17,450
Ron Myrstol	2/16/96	237
John Wemble	7/25/96	9,512
Intermountain Res. Inc.	3/97	1,800
Richard Schmaus	4/98	4,000
<b>Total</b>		<b>\$ 37,074</b>

The balance of unspent funds as of 7/1/98 was \$24,634. Because these funds have been de-ear-marked, it will no longer be possible to compare collections versus expenditures in the statewide accounting system.

Fines Pending:

McCloud	\$12,075 billed but not collected
<b>Total</b>	<b>\$46,149</b>

## IV. Noncompliance

### HRA:

The two areas of non-compliance are hazard reduction and fee collections. The measure of hazard reduction non-compliance is the number of HRA agreements the Department must take over because the HRA holder hasn't completed the terms of their HRA. In FY97, there were 62 takeovers and 61 in FY98. There are approximately 50 wood producing manufacturers that are occasionally or habitually non-compliant with fee payments. The state took a variety of steps to encourage compliance. One formal mill audit was conducted in 1997.

### SMZ Law:

Violations result in some form of either a warning or a violation. The following table details the number and type of the warning and orders issued in FY97 and FY98:

	FY97	FY98		FY97	FY98
# WARNINGS ISSUED	28	34	# ORDERS ISSUED	4	3
RULE VIOLATED			RULE VIOLATED		
SMZ WIDTH	10	26	SMZ WIDTH	0	3
BURNING	0	0	BURNING	0	0
EQUIP OPER	21	26	EQUIP OPER	2	2
CLEAR CUT	6	12	CLEAR CUT	1	1
ROAD CONST	7	4	ROAD CONST	2	1
HAZ MAT	0	0	HAZ MAT	0	1
SIDE CAST	0	1	SIDE CAST	0	0
SLASH IN STREAM	9	9	SLASH IN STREAM	2	2
TOTAL PROHIBITED ACTS AFFECTED	53	78	TOTAL PROHIBITED ACTS AFFECTED	7	11

### BMPs:

Because the BMP program is non-regulatory, there are no official violations of BMPs. The BMP audits give us some idea of how well BMPs are applied over time. There has been steady improvement in the 10-year history of audits. The 1998 audit results have not yet been compiled.



## **WATER RESOURCES DIVISION**

### **WATER OPERATIONS PROGRAM - HB 132 COMPLIANCE REPORT**

#### **Promoting Compliance**

Over the past two years, the Dam Safety Program has undertaken the following to promote compliance with the statutory goals of the program:

1. **Enforcement Tools**

The existing database of dams was modified to keep track of deadlines and permit conditions. This database is referred to on a regular basis to assist the Program in sending out reminders of upcoming deadlines (see attachment).

2. **Enforcement Actions**

Enforcement actions are usually on a case by case basis, depending on the threat to life and property. Although the Dam Safety Act gives authority to levy a fine or place a lien on property, this has not been done to date. Generally, we have been able to work with dam owners in violation of a permit condition to resolve any conflicts. In most instances, a reservoir level restriction eliminates safety concerns until the violation has been resolved. All reservoir level restrictions currently in place have been agreed to voluntarily by the dam owners. Currently, we have voluntary restrictions on Bair Dam, in Meagher County and Nevada Creek Dam, in Powell County. Both restrictions are due to concrete deterioration in the spillways. We also have a complete reservoir drawdown with Northern Pacific Reservoir Dam in Jefferson County, due to stability problems.

3. **Technical Assistance/Outreach**

Currently, the Program's primary outreach effort is to get seepage monitoring plans implemented on all high hazard dams. This requires careful coordination with the owners and the owner's engineers. We have had great success in this area. When explained properly, dam owners understand the importance of monitoring seepage. Implementing a proper seepage monitoring plan can be expensive, if drilling is necessary. We are trying to use a phased approach to avoid economic hardship on the dam owners.

In April of 1998, a significant problem developed at Tin Cup Dam, in Ravalli County. The Dam Safety Program provided extensive technical assistance in dealing with this serious emergency.

4. **Information/Education/Training**

Public education and training is one of the primary emphasis of the dam safety Program. In 1997, we held a seminar in Helena regarding the installation of drains and filters in dams. In April, 1998, we held a conference on a wide variety of topics in Missoula. Specific training was also given to forest service engineers in March of 1998 and to a large dam owner in Missoula, in June, 1998.

The Dam Safety Program also updated an informational brochure the spells out in layman's terms the Dam Safety Act. In 1997 two issues of the "Dam Safety Outlet"

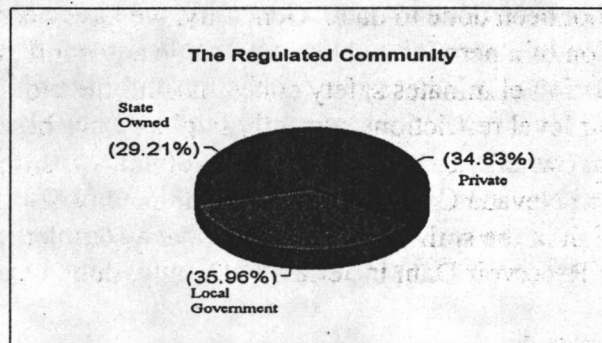
newsletter were issued.

The Dam Safety Program has been taking the lead in getting training for the Helena and Regional office engineers on dam safety engineering issues. In order to have effective enforcement in the many technical issues associated with dams, there needs to be adequate training. For example, the Program, with assistance of federal funds, sent all regional engineers to the last Association of State Dam Safety Officials (ASDSO) conference in Boise in May, 1998.

### The Regulated Community

Over the past few years, one newly constructed dam and 3 existing dams have been added to the Program's regulatory authority. Figure 1 shows a break down of types of dams that are regulated by the Program.

Figure 1.



Even though

regulated by the Program, we keep involved with the federal agencies that deal with dams. On April 29, 1998, the Dam Safety Program met with Bureau of Reclamation, the Bureau of Indian Affairs, the Natural Resource Conservation Service and the Bureau of Land Management. The purpose of the meeting was to discuss relevant dam safety issues such as sharing dam safety training and to maintain communications between State and Federal Agencies.

Federal dams are not

### History of Compliance

The Dam Safety Law required that operation permits be submitted for all high hazard dams by July 1, 1995. This was achieved. Several dams were permitted prior to this date and renewals are now necessary. No permits have been denied to this date, although as discussed above, some reservoir level restrictions are in place.

### Noncompliance

Currently, there is the possibility that some dams currently classified as not high hazard have become high hazard due to recent development below the dam. We do not have an adequate means of determining if this is happening, although it is something the Program intends to address in the near future. A good example is Little Sleeping Child Creek Dam, located in Ravalli County. The Program's initial involvement was through a complaint on the dam. Since there was a new subdivision in development below the dam, a hazard

classification was conducted. The dam was then reclassified as high hazard and is currently in the process of obtaining an operation permit.

An annual update of emergency action plans is required. This requires coordination with the dam owner, local Disaster and Emergency Services and the sheriff, and can be a considerable amount of bookkeeping. Although it is ultimately the responsibility of the dam owner, the Program has found that without Program involvement, updates do not occur on a regular basis.

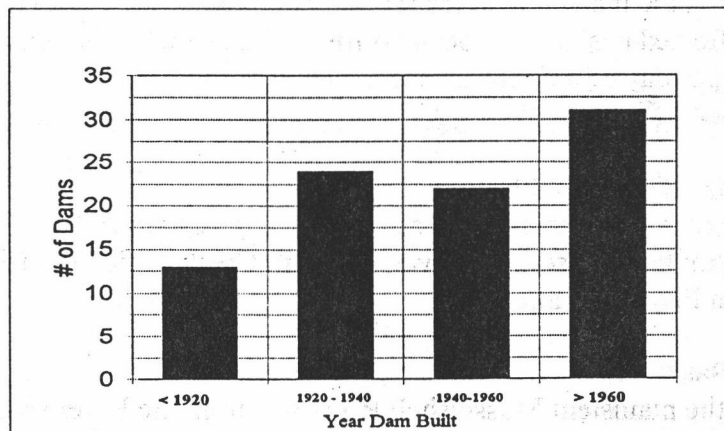
With many operation permits, specific conditions are attached to the permit with deadlines specified. Several of these conditions are past due. The Dam Safety Program generally has to work with dam owners to address these conditions. This will be the primary emphasis of the Program over the next year.

### Additional Comments

The Dam Safety Program believes that overall compliance is very good. It is the opinion of the Program that in order to achieve compliance with the Dam Safety Act, considerable outreach is necessary by the State. When a dam owner realizes the importance of properly maintaining monitoring and inspecting their dam, they go out of their way to stay in compliance.

One of the biggest problems the Program is faced with is the fact that most of the dams are old. For example, in the 1930's most dams were constructed with metal outlet pipes. In general, a metal conduit has a useful life of 40-50 years. An increasing number of deteriorated outlets are being identified, requiring immediate repair. Repairing a dam can be very expensive. This can place extreme economic hardship on dam owners. It is important to realize that although the primary purpose of a dam is to impound water for irrigation, more often than not, these reservoirs also play an important role in community recreation. However, the dam owner is typically responsible for the entire cost of the repair. Figure 2 presents the distribution of regulated dams in the state with respect to age.

Figure 2.  
Dams according to



Distribution of  
year built



## **WATER MEASUREMENT PROGRAM - HB 132 COMPLIANCE REPORT**

### **PROMOTING COMPLIANCE**

Over the last two years, the Water Measurement Program has undertaken the following measures to promote compliance with the statutory goals of the program.

#### **Information and Education**

In 1997 and 1998, informational meetings were held in towns within the Musselshell and Mill Creek basins. Water Measurement Program requirements were reviewed; measuring device vendors were present to display and discuss installation of measuring devices. Information regarding record-keeping, submittal of records, and possible grant sources was distributed.

Also in 1997 and 1998, all water users in the affected areas were mailed notification of the Water Measurement Program requirements.

#### **Technical Assistance**

Contacts for technical assistance were also distributed during the informational meetings. Contacts included State employees, NRCS and Bureau of Reclamation employees. Additionally, staff from the Water Measurement Program and Water Resources Regional offices have assisted water users in determining type and installation of measuring devices. This has taken place both through telephone conversations and site visits within the affected basins.

#### **Inspections**

Inspections by Water Measurement staff have occurred during the 1997 and 1998 field seasons. The Program approach has shifted from strictly a public-meeting format in 1997, to a public-meeting and individual inspection/assistance format in 1998. The individual inspections are a more effective approach to gaining compliance, however the general education and public meetings still provide vital background information.

#### **Fines**

Enforcement actions in the manner of fines for non-compliance have not yet been undertaken. Water users in the affected basins have been notified of the penalty for non-compliance, which may be up to \$1000 per day of non-compliance.

### **THE REGULATED COMMUNITY**

Currently there are two watercourses listed as "chronically dewatered" by the Water Measurement Program: the Musselshell River, and Mill Creek, which is a tributary of the Yellowstone River in Paradise Valley.

#### **Musselshell River Basin**

All diversions from the mainstem Musselshell River and from the lower reaches of the North and South forks of the Musselshell River are required to have measuring devices. This ruling was made in March, 1995, giving water users a deadline of April, 1997 to install and operate the measuring devices, and begin record-keeping.

State water projects exist within this basin. The primary purpose of the projects is to store water for irrigation use. Water contracts are bought by irrigators for water stored and delivered from the state water projects. The Lower Musselshell Water Users Association, with approximately 100 shareholders, is supplied water from Deadman's Basin Reservoir in the lower Musselshell basin. The Association requires shareholders to operate measuring devices on their diversions.

The Upper Musselshell Water Users Association, with approximately 54 shareholders, is supplied water from Bair Reservoir and Martinsdale Reservoir in the upper basin.

In addition to the water contracts, there are many decreed natural-flow rights, which are rights claimed for water that is not stored by reservoirs. There are approximately 350 owners of natural flow rights which divert from the Musselshell River mainstem. The requirement of measuring devices was necessary to facilitate a comprehensive water management system in the basin.

### **Mill Creek**

This is a relatively small stream, which is a tributary to the Yellowstone River near the town of Pray. All diversions from the mainstem of Mill Creek are required to have measuring devices. The ruling took place in April, 1994, giving water users a deadline of April, 1996 to install measuring devices and begin record-keeping.

A pipeline/canal diversion exists in the Mill Creek watershed. This project, designed and built by the NRCS (formerly SCS) in 1992, supplies water to the vast majority of acres irrigated by Mill Creek. Approximately 30 water users now use the pipeline water. In addition to the pipeline system, there are seven major diversions from Mill Creek. Montana Dept. Of Fish, Wildlife and Parks also has water leases in this watershed.

### **HISTORY OF COMPLIANCE**

The Water Measurement Program is relatively new, having been established in 1991. Since there are only two watercourses which have been designated "chronically dewatered", the history of compliance shall begin with the date of the Mill Creek designation, which is April, 1994.

### **Mill Creek**

On this watercourse there are eight major diversions on which measuring devices should be installed, maintained and monitored. During the period between the order and the installation deadline dates (April 1994 to April 1996), the only known measuring device on any of the Mill Creek diversions was a Parshall flume located on the pipeline delivery canal. The flume was installed during completion of the project in 1992. No records have yet been submitted from the pipeline water users.

By the summer of 1997, three of the eight diversions possessed measuring devices, and in the fall of 1997, one set of records was received by the Water Measurement Program.

In the spring and summer of 1998, measuring devices were installed on six of the eight diversions. Water users have until December 15, 1998 to submit records for the 1998 season.



### **Mill Creek Compliance Summary**

Although the Water Measurement Program has received records for only one of the eight diversions from Mill Creek, the trend is very positive. Two years ago, only one of the eight diversions possessed a measuring device. Now six of the eight diversions have measuring devices.

Overall compliance is still only 12.5 percent (one out of eight diversions). However, measuring devices have now been installed on 75 percent of diversions, owners of which are expected to submit records by the end of 1998. Program efforts in the manner of technical assistance and water measurement education have been effective.

### **Musselshell River Basin**

In the Musselshell Basin there are three general groups of water users for which compliance to Water Measurement Program statutes is sought. The groups are: Upper Musselshell Water Users Association; Lower Musselshell Water Users Association; natural-flow (decreed right) diverters.

Both the Associations require all shareholders to operate measuring devices on their diversions. The records from these diversions are maintained by the Associations, and are also submitted to the Water Resources Regional Office in Lewistown.

It is difficult to arrive at a robust compliance figure. Since the Associations require measuring devices on shareholder diversions, a substantial majority of shareholders are in compliance.

Natural flow, or decreed water right users so far have a very low rate of compliance, about five percent. The concentration of measuring devices is especially low in the upper part of the basin.

### **Musselshell Basin Compliance Summary**

A current basinwide compliance estimate of all mainstem water users would be approximately 50 percent. The Program plan is to field check 10 to 20 percent of the diversions per year over the next five years.

Again, the trend is positive. Due to site visits, direct assistance, field inspections and information dispersal regarding technical and financial assistance, more measuring devices are being installed in 1998, especially in the upper basin.

## **ENFORCEMENT POLICIES**

### **Use And Balance Of Enforcement Tools**

Thus far, the Water Measurement Program has not enforced violations in the traditional manner of issuing fines. One reason for this is that the Program is relatively new and, as in the case of the Musselshell Basin, has the potential to cover large areas. The enforcement activities involving technical assistance and education in both group and individual meetings have been effective so far in progressing toward Program goals.

In the last two years, the Program approach has been to educate water users concerning the



benefits of installing measuring devices and to offer technical assistance in device installation. Generally, funding has been adequate to utilize this approach of assistance and outreach.

### **Record-Keeping/Measuring Success/Legislative Oversight**

Records of compliance are maintained by keeping a database listing of water users who have submitted their diversion records. The database is updated according to new information. As of this time, there have not been annual summaries of compliance.

Success of the Water Measurement Program would likely best be measured in terms of the percentage of water users in the affected areas who install measuring devices and submit diversion records. Increases in the percentage of records received would be a measure of the success of actions taken to increase compliance.

### **Seriousness of Violation**

This program is not concerned with factors which threaten human health or safety. However, the emphasis in the last two years has been to concentrate on compliance within the Mill Creek watershed, for several reasons. First, because Mill Creek is an important Yellowstone Cutthroat trout spawning stream, environmental concerns of dewatering are a larger factor here than in the Musselshell basin. The fact that the Montana Dept. Of Fish, Wildlife and Parks has several leases to senior water rights is also a factor on Mill Creek. Also, although Mill Creek supplies water to many water users, it is a small enough system that program success may be attained relatively quickly.

### **Staffing/Resources/Contracting**

Funding seems to be adequate to carry out the statutory obligations of the Water Measurement Program. However, as more streams are added to the list, a larger travel budget must be developed.

The Program consists of one person to manage the budget and program, conduct field verifications, collect water flow data, assist water users in installation of measuring devices, research streams for potential listing to the program, and conduct public meetings. Some assistance is provided to the program by Water Resources Regional Office staff.

Retention of a Program Manager has been a concern throughout the short history of this program. This problem should be addressed by allowing for and providing funding for continued training and development in related technical areas, such as hydrology, hydraulics, agriculture, etc.

### **Further Recommendations**

The Water Measurement Program has begun using alternate approaches in addition to those established by statute in order to assist water users in installing measuring devices. This includes working with watershed groups, such as the Big Hole Watershed Committee, and local water user associations, as well as other state agencies.

The program needs to remain flexible in order to be effective. Previous efforts have proven that in some instances an "assistance" approach is far more effective than an enforcement approach.

## **Summary of Water Measurement Program Promotional Activities**

### **Musselshell River Basin**

**April 1, 1998:** Send notification to mainstem water users that measuring devices are required and that information meetings will be held at Roundup and Harlowton.

**April 29 & 30, 1998:** Informational meetings are held at Roundup and Harlowton to display and demonstrate measuring devices, disperse information regarding program requirements and general water rights information.

**June 9, 10 & 23, 1998:** Work with individual water users to help install or advise for the installation of measuring devices, and inspect installed devices.

### **Mill Creek Watershed (Tributary to the Yellowstone River)**

**January 20, 1998:** Send notification to Mill Creek water users that measuring devices are required and that an informational meeting will be held near Pray, Montana.

**February 5, 1998:** Informational meeting is held to discuss measuring devices, disperse information regarding program requirements and general water rights information. Representatives from Montana Dept. of Fish, Wildlife & Parks, and the Bozeman office of the Water Resources Division also attend.

**June 3, 4 & 24, 1998:** Meetings with individual ditch owners and operators on Mill Creek to discuss program purposes and requirements, advise location and type of measuring devices, and assist in device installation.

## **WATER RIGHTS PROGRAM - HB 132 COMPLIANCE REPORT**

### **Regulated Community**

Montana water law applies to a variety of interests. It encompasses the general public or anyone who might want to "throw a pump" into a river or lake. It also encompasses almost 200,000 water users who have water right permits, claims, certificates, or reserved rights and compliance means conforming to the limits of these water uses.

Over the past two years, the water right program has undertaken the following to promote compliance with the statutory goals of the program:

### **Information/Education**

Water right staff have spent hundreds of hours educating the public and sister agencies such as title companies, real estate professionals, attorneys, water right consultants, bankers on water rights and specifically the requirement to properly file ownership updates with the DNRC when property changes ownership. We are pursuing becoming a part of the real estate training program in Montana and feel that by educating real estate professionals about water rights we will have a better educated group of new water right holders.

Water rights staff has updated and published our informational booklet *Water Rights in Montana* which is made available to the public. Water right staff in the regional offices have a large amount of public contact. Statewide it is likely that they discuss water rights with at least 80 people each day.

### **Activities Promoting Compliance**

Compliance with Montana Water Law is encouraged in many ways.

#### **Water Right Ownership Updates**

85-2-424 requires that although water rights transfer with property, the DNRC ownership records must be updated. 6,476 Water Right Ownership Updates were received during the FY97-98 biennium. We have developed a system to remind those new owners where water rights have been disclosed to update our records if we have not received an update from them within 90 days.

#### **Groundwater Development -- 35 gpm and 10 af per year or less**

During the FY97-98 biennium 5,442 Notices of Completion of Groundwater Development were received by water right staff, in addition to thousands of well logs. When we receive a well log and the Notice of Completion does not follow, we send a reminder letter advising the well owner of the requirement to file this document with our office. Hundreds of these reminder letters are sent and we regularly see an increase in the filing of these documents.

#### **Permit and Change Notice of Completion -- Project Completion**

At the time a new permit or change is issued, the permittee is given a reasonable time period in which to complete the project. Within a few months of the completion deadline, we send a reminder that they must file their Notice of Completion of their project. If the project isn't complete, they must apply for an extension of the deadline. If we don't receive the notice or the



extension, we take action to terminate the permit or change. During the FY97-98 biennium, we terminated 64 permits and changes for this reason.

#### **Permit and Change Notice of Completion -- Report Due**

Many water use permits and changes are issued with measurement requirements. These requirements differ depending on the unique situation, but for those permits where the water user is required to submit reports annually, we send a letter at the beginning of the irrigation season, so they will remember to measure throughout the season, and then in the fall after the season has ended, we send a letter reminding them to submit the report of their water use. These reports are then analyzed and compared to permitted limits and follow-up contact is made with those water users who have not complied with the limits of their permits. If we don't receive a report we follow-up with the permittee and in those cases where they refuse to comply, we terminate their permits. Noncompliance in this area is rare.

#### **Water Use Complaints**

It is estimated the regional offices may annually receive 500 phone calls or letters alleging violations of the water use act. However the bulk of the complaints are resolved by telephone simply by educating the involved parties. A small number -- approximately 150 this past biennium have required additional follow-up, investigations, or correspondence. It is through this mechanism that we typically become aware of unauthorized water uses. Someone complains and we work with the involved parties to bring them into compliance by filing the appropriate applications.

#### **Noncompliance**

As mentioned above, most of our "regulated community" are faced with termination of their permits for noncompliance issues. Others who use water in violation of the water use act can face fines up to \$1,000 per day. During this biennium, we did not have occasion to levy such fines.

## BOARD OF WATER WELL CONTRACTORS - HB 132 COMPLIANCE REPORT

1. Activities and efforts to promote compliance
  - a. Review of oral and written complaints to determine potential standards violations
  - b. Communication with licensee and well owners to resolve complaint
  - c. Investigation of allegations
  - d. Board review of violation complaints
  - e. Continuing education program expanded to include designated METC courses. Teamed with METC to provide continuing education classes annually beginning January 1997.
  - f. Licensing and bonding continual review
  - g. Periodic unannounced inspection on drill sites
2. Size of regulated community as of July 2, 1997 (Date to July 1, 1998 will be available September 30, 1998)
  - 118 water well contractors (plus 6 MWC license)
  - 52 water well drillers (plus 68 MWC license)
  - 93 monitoring well constructors
  - 263 Licensed persons - 337 licenses issued
    - 11 licenses not renewed
    - 12 licenses - new water well drillers
    - 3 licenses - new water well contractors
    - 9 licenses - new water monitoring well constructors

Estimate of those out of compliance none.

3. License year June 30, 1997 to July 1, 1998
  - 64 complaints
  - 41 complaints investigated
  - 11 complaints reviewed for Board action
    - 1 license suspension
    - 1 license suspension reinstated
    - 2 probation
    - 2 faulty wells repaired
    - 0 non-compliance pending
4. Description of how complaints are addressed.

All complaints are immediately reviewed by the Program Manager for well construction violations. A majority of complaints are resolved by explaining the Board regulations and authority, to the complainant. Those complaints, that allege construction violations, are investigated to determine if Board disciplinary action or faulty well repair is required. Normally the complaint is resolved by getting the two parties together to resolve issues that are not related to financial considerations. The Board does not hesitate to order a licensee to repair a faulty well. Most unresolved complaints are a misunderstanding of the costs involved. There are no unresolved complaints outstanding that are within the Board's authority to resolve.



5. Trend information - after two years of steady reduction of complaints from 1994 - 1996, there were 94 in 1995 - 1996 and complaints rose to 122 in the 1996-1997 license year, 64 in 1997-1998. The complaints were mostly of a minor nature such as well log submittal, disputes over payment or inability to contact a licensee. Well construction complaints remained at a consistent number (30 to 40) and investigations led to repair of two faulty wells. The total number of wells drilled in the state remained at a high level (4500) although distribution of the wells changed from decreases in Flathead, Missoula and Ravalli counties to increases in Yellowstone and Gallatin counties. Well log data is available at the Montana Bureau of Mines and Geology database in Butte.



## **BOARD OF OIL AND GAS CONSERVATION**

### **Oil and Gas Conservation Division – HB 132 Compliance Report**

#### **Program Description:**

The Oil and Gas Conservation Division is the staff of the Board of Oil and Gas Conservation and is attached to the Department of Natural Resources and Conservation for administrative purposes.

The Board is the entity charged with enforcement of oil and gas conservation laws. The Division staff implements Board policy and perform enforcement and compliance activities using delegated authority from the Board. Significant non-compliance issues are brought to the Board for resolution; routine minor compliance actions and the initial attempts to resolve more serious compliance problems are generally handled by staff. The Board and staff are responsible for administration of the Underground Injection Control Program (UIC) under a delegation of primary enforcement authority from the U.S. Environmental Protection Agency effective November 19, 1996. This program requires enforcement and compliance activities, which are subject to periodic federal review and oversight.

#### **Promoting Compliance**

##### *Information/Education*

Because of the make-up of the Board of Oil and Gas Conservation, relationships with professional/technical organizations, land and mineral organizations, and oil and gas associations are somewhat built-in. One or more Board members participate in the currently active state land and mineral owners associations, the Montana Geological Society, the Society of Exploration Geophysicists, Association of Professional Landmen, and the state's oil and gas associations. In addition to the informal information/education relationships that arise from Board and staff participation in organizations, attempts are made to provide information about the Board's programs through direct contact with organizations, providing Internet accessible information at the Board's Website, and by soliciting public involvement at the Board's periodic meeting and hearings. In the past two years, the Board's administrator has made presentations or attended in an official capacity meetings of the Montana Petroleum Association, Northern Montana Oil and Gas Association, Northeast Montana Land and Mineral Owners Association, and the BLM National Fluid Minerals Conference (which the Board co-sponsored).

##### *Technical Assistance*

Most technical assistance is provided on a one-to-one basis with the operator. Although many field inspections are done without operating personnel present, inspectors are available to meet with operators to discuss compliance issues. Office staff frequently provides direction for operators in interpreting and complying with field orders and rules, preparing for Board hearings, and reviewing technical information for compliance with the Division's requirements. Guidance documents for the UIC program are posted on the Website as is the full text of the Board's administrative rules. A link is provided to the Legislative Branch Website for access to the appropriate statutes.

##### *Inspections*

One third of the Board's staff is dedicated to the field inspection program. Inspectors are assigned to geographical areas of the state and have responsibility for performing both regulatory and UIC inspections. The UIC program requires testing of injection wells for mechanical integrity at least every five years. A test must also be performed every time the injection packer is unseated. Other priority inspections include witnessing of well plugging, witnessing of surface casing cementing, and review of oil and gas properties for regulatory compliance before approval of an ownership change. The Board has five full time inspectors and one chief inspector. Field inspectors also supervise the plugging of wells by companies under contract to the Board, under the ongoing orphan well plugging program. Field inspectors performed approximately 4900 well inspections during FY98.

### *Enforcement Actions*

Enforcement actions are initiated by staff and if not resolved at the staff level are brought to the Board for enforcement action. Most enforcement actions take the form of a "show cause" hearing before the Board. The Board also has authority to bring actions in civil court, and for willful pollution, to recommend criminal prosecution. Other enforcement actions include forfeiture of reclamation bonds for failure to properly plug and restore abandoned wells, monetary penalty assessments for non-compliance, and "pipeline severance" - an order preventing the sale of oil produced in violation of the rules.

### *The Regulated Community*

Montana has about 350 active oil and gas operators. Some operators produce only oil and some only gas, but many produce both products. In addition, the Board has some regulatory authority over seismic exploration operations. Seismic exploration permits are issued at the county level, and the Board regulates shot hole plugging, setbacks from springs or water wells, cleanup of seismic lines, and similar requirements. There were nine seismic contractors active in 1997. About 38 separate projects were permitted that year.

The Board staff issue drilling permits for all oil and gas exploratory and development wells except wells on land held in trust for Indian Tribes or Indian Allottees. Staff issued 484 drilling permits in 1997, including permits for 91 new horizontal wells. Underground injection permits are issued for all wells except those within the exterior boundaries of Indian Reservations. During 1997 the Board issued 19 new injection well permits and 2 new area (multiple well) permits. Staff approved 15 new wells in previously approved area permits.

There are approximately 6500 wells in active status in the state; some wells are seasonally affected and do not produce all of the time. For example, some gas wells are only produced during the winter months where gas demand is high. Some remotely located oil wells are shut-in during winter months when operating costs are too high to justify production. Oil price also affects the number of wells that produce. Marginally economic wells are typically shut-in or produced for only a few days each month during times of low price.

### *History of Compliance*

Using the docketed show cause hearings as a yardstick, incidents of significant non-compliance are relatively rare. In 1996 ten cases were docketed for hearing; in 1997 seven cases were docketed. With two more hearing dates still scheduled in 1998, there have been four cases

docketed for hearing to date. The apparent decrease in cases over the three year period may have no statistical meaning as the numbers of cases reaching the Board are relatively small under any circumstance. For planning purposes, we estimate seven show cause hearings constitutes an average enforcement year.

## Noncompliance

Most violations are discovered by field inspection, some through review of (or failure to file) required reports and a few by public or landowner complaint. The following table lists noncompliance issues that were docketed during calendar year 1997 and to date in 1998.

### Calendar Year 1997

Docket Number	Operator	Violation	Penalty	Current Status
1-97	J.B. Appling	Failure to plug wells	Reclamation bond forfeiture	Closed - bond proceeds received
12-97	Nerdlihc Co. Inc.	Failure of cleanup fire site, excessive shut-in wells	Doubled reclamation bond	Closed - operator complied
93-97	Hawley Companies	Spill cleanup, no well identification numerous housekeeping violations	Monetary penalty, shut-in order	Pending - Penalty collected in court, shut-in order invalidated by District Judge, being appealed to Supreme Court
94-97	West Gas, Inc.	Failure to properly plug wells	Bond forfeiture	Closed- bond proceeds received
131-97	Samedan Oil Corp.	Improperly plugged well	Operator required to monitor and periodically report well status	Closed - Operator in compliance
176-97	Ballard & Associates	Unauthorized injection	Monetary penalty, operator ordered to plug or permit wells	Closed - operator in compliance
177-97	Jack Ihli, Neilco	Failure to file operator change	Set deadline for compliance	Closed-operator complied

### Calendar Year 1998

12-98	Yellowstone Oil Co.	Failure to reclaim location	Order to reclaim or Bond forfeiture	Closed- operator's heirs reclaimed site
71-98	Ronald Sannes	Required cleanup not performed, unused well not plugged	Monetary penalty	pending
72-98	Nor-Am Exploration	Failure to plug well	Bond forfeiture	Closed- bond proceeds received
73-98	Sherman Holt	Failure to plug wells	Bond forfeiture	Closed-bond proceeds received

The following information is provided as requested in a document entitled Compliance/Enforcement --General Follow-up Questions, Second Draft-- September 1997. The subject headers are as suggested in that document.



## Enforcement Policies

The enforcement/compliance policies for the UIC program are set by the Memorandum of Agreement between the Board and EPA, the Board's Civil Penalty Policy, and EPA guidance contained in a memorandum dated December 4, 1986 entitled "UIC Program Definition of Significant Noncompliance". All of these documents are part of the primacy application package submitted to and approved by the U.S. EPA. These documents explain the nature of significant violations, expected staff response and timelines, and guidance for recommendations by the staff for penalties to be assessed by the Board.

The enforcement policy under the regulatory program for non-UIC violations consists of a delegation of authority to the Board Administrator for assessment of monetary penalties within the range established by the Board, procedures for resolution and the timeframe for expected compliance action, and the procedure for referring unresolved issues to the Board. These policies have been in effect for a number of years and the regulated community is generally familiar with the process.

Field inspection staff have received formal training in key aspects of both UIC and regulatory program compliance procedures; two formal training sessions have been held for inspection personnel in the preceding four years. Management staff meets periodically with U.S. EPA staff to review aspects of the UIC program, including enforcement and compliance activities. These meetings occur at least annually.

Timelines set for correction of violations are set for the UIC program through the previously mentioned agreements with EPA and the program requirements applied nationwide. Generally, significant non-compliance (SNC) must be resolved within 90 days of a finding that an enforcement action is necessary. A quarterly exception report is provided to EPA officials if any SNC exceeds the 90-day period. The regulatory program uses a more flexible approach to violations. Typically, operators are allowed a period of time to correct deficiencies before a formal notice of violation is issued. The field inspector through either a written or oral notice to the operator undertakes this initial compliance effort. Inspection personnel, including the supervisory inspector have discretion to establish deadlines commensurate with the nature of the violation and the estimated time needed for correction. Formal notices are issued if the initial warning has not resulted in compliance. This notice indicates the staff's intention to review the incident(s) with the Board to determine if a show cause hearing will be scheduled if the operation is not brought into compliance before the next Board meeting. If the Board agrees that a violation requires the operator to appear to show cause at a hearing, the Board will issue a formal notice to appear. In some cases a subpoena may be issued, but in most cases a certified mail notice has proved adequate. This process allows a minimum of 30 days up to approximately 60 days after the formal notice. Violations that require emergency response, such as cleanup of spills or leaks, or situations involving safety or health will have a shortened response time. There are provisions in statute for emergency orders, including emergency shutdown notices.

Compliance tracking is formalized in the UIC program. The Division is using a Risk Based Data Management System (RBDMS) to track UIC permitting, monitoring, and compliance issues. This database, running under Microsoft Access™, was developed through a U.S. Department of Energy grant for the specific purpose of performing data management for the UIC program. RBDMS is capable of operating the entire oil and gas program and it is the Division's intent to migrate its data management needs to RBDMS within the next three years. One improvement that this effort will make is the more consistent tracking of the field inspector issued notices, which are not now tracked

by supervisory personnel unless the incident results in a formal violation resolution action by the Board.

The administrative chain of command for enforcement and compliance actions starts at the field inspector, progresses through the Chief Field Inspector, to the Administrator (and/or UIC director for UIC violations). The Board of Oil and Gas Conservation is the final authority for enforcement decisions. Decisions of the Board may be appealed to District Court.

## Use and Balance of Enforcement Tools

Both the Board and staff make efforts to promote cooperative approaches to compliance. Compliance assistance takes first priority but occasional enforcement actions are necessary. The Board is composed by statute of industry members, landowner representatives and public representatives; this composition establishes contacts within the regulated community, land and mineral owners associations, and the general public that might not otherwise exist under a different administrative structure. Written assistance or outreach goals have not been developed, nevertheless, both Board and Staff are available to interested parties and the public through participation in associations, professional societies, and attendance at meetings as invited guests.

The Board typically forms ad-hoc subcommittees to provide recommendations for significant rulemaking efforts. Public meetings are held to receive public input and to discuss issues and possible solutions. The Board's most recent effort in this regard was the recently enacted changes to bond requirements for reclamation of wells. The ad hoc bond committee met regularly over 14 month period in informal sessions prior to final rulemaking. This committee included Board members, landowner representatives, a county commissioner, representatives of both large and small oil companies, and both oil and gas associations.

## Record-Keeping/Measuring Success/ Legislative Oversight

Field inspectors prepare the initial record of inspection activities, including any regulatory or UIC violations found in the course of an inspection. Each inspector is responsible for tracking violations to the point that they are either resolved, or the issue is passed to supervisory personnel if resolution is unsatisfactory or violation is ongoing. Once a compliance action has been referred to the Board and a show cause hearing set, the case is given a docket number and a permanent file is established. Until the matter is finally resolved, the docket is kept open. Docket files are available for inspection and copying by the public. Evidence or written testimony is placed in the file. All hearings are taped and copies of the tape are available to the public. Board orders issued as a result of the hearing and any subsequent orders are also placed in the docket file. Quarterly summaries of UIC inspection and compliance/enforcement action are prepared (electronically) for submission to EPA on EPA Form 7520. An annual summary of enforcement actions in the regulatory program is not prepared. Copies of docket files are kept in both Helena and Billings offices.

The UIC program requires tracking program activities through reporting of statistics for inspections, enforcement actions, permits issued and modified, quarterly exceptions report and related statistical reporting. EPA sets tracking and reporting requirements. Similar tracking requirements have not been applied to the regulatory program because there has been little demand for such information. The Division does track a number of program indicators in depth,



including well activities, annual production, drilling permits issued, etc. These indicators are adequate to reflect the overall workload and program efforts.

### Seriousness (Risk) of Violation

Both the regulatory and the UIC program emphasis is on elements that are risk based. For example, field inspectors priority efforts include witnessing of well abandonment, the setting and cementing of casing to protect aquifers, and inspections to ensure proper cleanup of spills or leaks. The UIC efforts include a scheduled mechanical integrity test each five year period to demonstrate good well mechanical condition for ongoing injection activities. These tests are scheduled and witnessed by the inspector.

### Staffing/Resources/Contracting

The Division does not contract for inspection or enforcement services. All regulatory decision making is reserved to Board or staff. Staff retention has been relatively good in the program, all but two of the current personnel involved in enforcement or compliance work have more than five years experience with the division. One field inspector was hired following a vacancy caused by retirement of the predecessor inspector. The UIC program director is a new position created when primacy was delegated to the Board in 1996. Primary funding for the Division and Board is the Privilege and License Tax, a 0.3% tax on oil and gas production. Revenues vary with oil price. An annual injection well fee and an operating grant from EPA fund the UIC program. Funding is reliable and adequate in UIC, and somewhat less reliable in the regulatory program. Current revenues are approximately 25% less than needed to fully fund the approved regulatory budget.

### Further Recommendations

The Board of Oil and Gas Conservation's programs do not overlap local government authority and coordination of functions with local governments is generally not required. The Board and staff receive a number of complaints from land and/or mineral owners depending in large part on the level of industry activity. Some complaints involve activities covered under specific statutes that address damage payments and land use agreements that the Board has no jurisdiction to resolve. Field inspectors investigate complaints involving pollution or potential rule violations. Response time varies, but the Division attempts to have an inspector on the ground within 24 to 48 hours of the complaint.

Rulemaking for the Board and Division is ongoing in those areas impacted by changing technology (e.g.: horizontal drilling) and by changing circumstance (e.g.: reclamation bond increases). There are no statutorily mandated rules that have not been adopted.

The Board and Division have no formal program to recognize outstanding efforts to protect the environment. The Board is an active participant in the Interstate Oil and Gas Compact Commission, which recognizes outstanding environmental stewardship with an annual Chairman's award.

Respectfully Submitted



Thomas P. Richmond  
Administrator, Oil and Gas Division

August 31, 1998

## **DNRC Compliance and Enforcement Reporting under HB 132**

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September 1998

## **General Philosophy of Compliance**

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The department's philosophy of compliance is that information, education and assistance are the means by which most resource protection will be obtained. Aggressive enforcement actions are used for cases when the natural resource has been threatened and information and education did not bring the desired results.

## **Six Programs Reporting Under HB 132**

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- Service Forestry
- Dam Safety
- Water Measurement
- Water Rights
- Board of Water Well Contractors
- Board of Oil and Gas Conservation

## **Service Forestry Program**

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- Hazard Reduction Law
- Best Management Practices Notification Act
- Streamside Management Zone Law

## **Dam Safety Program**

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Ensures that dams that have the potential to cause loss of life downstream, if they fail, are properly constructed, maintained and operated.

- Determines the classification of dams by analyzing their downstream hazards,
- Regulates the operation and maintenance of high hazard dams.
- Regulates the repair and new construction of high hazard dams.
- Conducts dam safety workshops.

## **Water Measurement Program**

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Provides technical information and/or water measurement requirements regarding diversions from streams where chronic dewatering has caused water use disputes or severe dewatering impacts.

- Mussellshell River
- Mill Creek

## Water Rights Program

Assures the orderly appropriation and beneficial use of Montana's scarce waters. In one of the main programs, adjudication, DNRC assists the Water Court in identifying and evaluating pre-1973 water uses. The other main program, new appropriations, involves the administration and regulation of post-1973 water rights in Montana.

- Reminder letters
- Water use complaints

## Board of Water Well Contractors

Attached to DNRC for administrative purposes. Responsible for licensing water well drillers, water well contractors, and monitoring well constructors and enforcing well construction standards.

- Five member board.
- Issued 337 licenses.
- Investigated 41 complaints.
- 2 faulty wells repaired.

## Board of Oil and Gas Conservation

Attached to DNRC for administrative purposes. Charged with enforcement of oil and gas conservation laws.

- Seven member board.
- 350 operators; 6500 wells.
- Issued 484 drilling permits.
- Performed 4900 well inspections.
- Relatively few incidents of significant non-compliance.