

COLLECTIVE BARGAINING AGREEMENT
between
STATE OF MONTANA,
DEPARTMENT OF ENVIRONMENTAL QUALITY
and
MONTANA PUBLIC EMPLOYEES ASSOCIATION

2013-2015

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PREAMBLE

THIS AGREEMENT is made and entered into this 1st day of July, 2013, between the Department of Environmental Quality, State of Montana, hereinafter referred to as the "Employer", and the Montana Public Employees Association, hereinafter referred to as the "Association."

It is the intent and purpose of this Agreement to assure sound and mutually beneficial working relationships between the Employer, its employees, and the Association; to provide an orderly and peaceful means of resolving employee grievances; and to set forth an Agreement between the parties concerning the terms and conditions of employment for the employees covered hereunder.

ARTICLE 1 - RECOGNITION

Section 1. The Employer recognizes the Association as the sole and exclusive representative of all employees within the bargaining unit as defined and certified by the Board of Personnel Appeals as:

All eligible employees of the Department of Environmental Quality excluding those cited under 39-31-103(9)(b), MCA, and short-term employees, temporary employees, and part-time employees who work less than 20 hours per week.

ARTICLE 2 - ASSOCIATION RIGHTS

Section 1. In the event the Association designates a member employee to act in the capacity of an official spokesperson for the Association on any matter, such a designation shall be made in writing and shall specify the period covered by the designation.

Section 2. A written list of the accrued officers and representatives of the bargaining unit shall be furnished to the agency director immediately after their election and the agency director shall be notified of any change of said representative within seven calendar days.

Section 3. The internal business of the Association shall be conducted by the employees during their non-duty hours; provided, however, that selected and designated Association officers or appointees shall be allowed a reasonable amount of paid time to investigate and process grievances, including arbitration matters, but the Employer will not compensate the aforementioned individuals for time spent in such activities outside their

normal work schedule, nor may an individual create any overtime as a direct result of such activities.

Section 4. The Association's staff will be allowed to visit work areas during working hours provided that advance permission has been received from the Employer and that the visit shall not unduly disrupt work in progress.

Section 5. An Association representative shall have the right to inspect an employee's personnel file with a specific authorization in writing by the employee. An Association representative may obtain a copy of any document related to a formal grievance or the investigation of a probable grievance, provided that prior specific authorization is obtained in writing from the employee.

Section 6. The Association may utilize a reasonable amount of space on bulletin boards currently used for employee notices, as determined by local management. No derogatory information concerning the Employer shall be posted by the Association.

Section 7. The Association may be allowed to use the Employer's facilities for Association meetings contingent upon availability and management approval. The Association shall be liable for any damages as a result of such use.

Section 8. Meeting notices may be posted in visible areas throughout the facilities including, but not limited to regular access doors, bathrooms, meeting areas, and public facilities. All postings must be taken down upon expiration.

Section 9. The chapter representatives/officers shall be allowed to add membership notices to the electronic DEQ Intranet Site in accordance with the procedures. Should MPEA use electronic means to do voting, management shall provide an e-mail electronic distribution list.

ARTICLE 3 - ASSOCIATION SECURITY

Section 1. Employees covered by the terms of this Agreement shall not be required to become members of the Association but must, as a term and condition of employment, pay a representation fee to the Association.

Section 2. Upon receipt of a written authorization from an employee covered by this Agreement, the Employer shall deduct from the employee's pay the amount owed to the Association by such employee for dues or a representation fee. The Employer will remit to the Association such sums within thirty (30) calendar days. Changes in the Association membership dues rate will be certified to the Employer in writing over the signature of the authorized officer or officers of the Association and shall be done at least thirty (30) calendar days in advance of such change.

Section 3. All employees covered by the terms of this Agreement shall within 30 days of the signing of this Agreement, or within 30 days of employment, whichever is later, pay

dues or the representation fee to the Association. Employees who have been made aware of their obligation, and fail to comply with this requirement, shall be discharged by the Employer within 30 days after receipt of written notice of default by the Association. The Association may make written notice of default and demand for discharge after the 30-day period specified above expires. Thus, the employee may have up to sixty (60) days to pay dues or a representation fee to the Association. The Employer shall initiate appropriate discharge actions under this Section to ensure discharge of the affected employee(s) on the 30th day from receipt by the Employer of the Association's written notice of default and demand for discharge.

Section 4. The Employer, within thirty (30) days of the signing of the Agreement, shall present the Association with a list of the names and addresses of all current employees covered by this Agreement, and shall update such list each month for all new hires.

Section 5. The Association will indemnify, defend, and hold the Employer harmless against any claim made and against any suit instituted against the Employer, including attorney's fees and costs of defense thereof, on account of any provision of this Article.

ARTICLE 4 - MANAGEMENT RIGHTS **(In compliance with State Statute 39-31-303, M.C.A.)**

The Association shall recognize the prerogative of the agency to manage, direct, and control the business in all particulars, in such areas as but not limited to:

1. direct employees;
2. hire, promote, transfer, assign, and retain employees;
3. relieve employees from duties because of lack of work or funds or under conditions where continuation of such work would be inefficient and non-productive;
4. maintain the efficiency of government operations;
5. determine the methods, means, job classification, and personnel by which the agency operations are to be conducted;
6. take whatever actions may be necessary to carry out the missions of the agency in situations of emergency; and
7. establish the methods and processes by which work is performed.

Such rights are retained by the Employer unless such rights are specifically relinquished in this Agreement.

ARTICLE 5 - MANAGEMENT SECURITY

Section 1. The Association hereby accepts liability for any damage to or loss of state property that is the proximate cause of action by striking employees of this bargaining unit, provided however, that liability under this section shall be restricted to include any alleged loss of revenue or other incidental or punitive damage sought by the Employer.

ARTICLE 6 - NON-DISCRIMINATION

Section 1. No member of the Association shall be discharged or discriminated against for upholding Association's principles. The Employer and the Association affirm their joint opposition to any discriminatory practices in connection with employment, promotion, or training, remembering that the public interest requires the full utilization of the employee's skills and ability without regard to race, color, creed, national origin, age, or sex.

Section 2. In accordance with the provision of the Governmental Code of Fairness Practices, the Employer shall recruit, appoint, assign, train, evaluate and promote its employees on the basis of merit and qualifications, without regard to race, color, religious creed, political ideas, sex, sexual orientation, age, marital status, physical or mental handicap, national origin, and ancestry.

ARTICLE 7- PAY & HOURS

Section 1. The pay schedule attached (Addendum A) shows the entry and market salary rates for each occupation in the bargaining unit.

Section 2. Nothing in this Agreement shall be construed as a guarantee or limitation of the number of hours to be worked per day, days per week, or for any period of time, except as may be specifically provided for herein.

Section 3. A regular work day shall consist of eight (8) hours of continuous work, including two duty-free rest breaks. Employees shall also be granted a duty-free meal break, taken at a time mutually agreeable to the Employer and the employee.

Subsection 1. Employees working shifts greater than six (6) hours in a day are required to take a minimum of a thirty (30) minute meal break. Employees must notify their supervisor on days where they are/were unable to take their meal break.

Subsection 2. The duty-free rest breaks are 20 minutes each; one may be taken mid-morning and one mid-afternoon. Break times are up to the approval of supervisors. Breaks may not be combined or used to make up for being late, leaving the workplace early or extending lunch periods.

Section 4. A regular work week shall consist of five (5) consecutive work days, Saturday through Friday, totaling forty (40) hours.

Section 5. Employees placed on a regular work schedule shall not have their work schedule changed unless given 10 working days notice of the change except in an emergency situation.

Section 6. As per statute regarding state employee pay, this bargaining unit must ratify a completely integrated collective bargaining agreement prior to receiving a negotiated increase in pay. Any retroactivity will be negotiated.

Section 7. Whenever an employee receives a pay increase, such increase shall be granted from the first day of the pay period during which such increase becomes effective.

Section 8. The Parties have bargained provisions of the Department of Environmental Quality pay plan as authorized under 2-18-303(7) MCA. Matters of pay in the Department of Environmental Quality pay plan remain subject to collective bargaining under 39-31-305 MCA.

ARTICLE 8- OVERTIME AND COMPENSATORY TIME

Section 1. "Non-exempt" employee means an employee subject to the overtime provisions of the Federal Fair Labor Standards Act and its regulations. "Non-exempt" employees shall be paid at a rate of 1½ times their regular rate of pay for all authorized time they work over 40 hours per week.

Section 2. Non-exempt employees will be allowed to change their elections of compensatory time in lieu of cash overtime a maximum of two times per year.

Section 3. Upon mutual agreement between the employee and Management, a "non-exempt" employee may be allowed to accrue and use non-exempt compensatory time in lieu of cash overtime compensation.

Subsection 1. Compensatory time for "non-exempt" employees will accrue at the rate of 1½ hours for each hour of overtime worked.

Subsection 2. "Non-exempt" compensatory time may not be accrued beyond sixty (60) hours, which represents not more than 40 hours of actual overtime worked. Employees will receive paid overtime for any authorized overtime worked beyond the accrual limit.

Subsection 3. A "non-exempt" employee must have the appropriate supervisor's prior approval to accrue or use compensatory time.

Subsection 4. Upon termination, unused accumulated non-exempt compensatory time will be paid to the employee at their final rate of pay.

Section 4. "Exempt" employee means an employee in a position designated as executive, administrative, or professional, which is not subject to the overtime pay provisions of the

Federal Fair Labor Standards Act. "Exempt" employees shall be given compensatory time, under the following provisions.

Subsection 1. Compensatory time will be credited on an hour-for-hour basis for all authorized time worked in excess of 40 hours per week.

Subsection 2. Compensatory time will be earned, recorded and used in increments of no less than ½ hour.

Subsection 3. Compensatory time may be accumulated up to a maximum of 120 hours. Supervisors may schedule employees for compensatory time off in order to keep employees within their accrual limit.

Subsection 4. An employee must have the appropriate supervisor's prior approval to accrue or use compensatory time.

Section 5. The Employer will make a good faith effort to equalize the offer of scheduled overtime and compensatory time among employees in the same work unit and classification where training and ability are sufficient to perform the work.

Section 6. Authorized holiday leave, sick leave, annual leave, or compensatory time off shall constitute time worked when computing overtime or compensatory time credits under this Article.

Section 7. Overtime or compensatory time as provided in this Agreement shall not be pyramided under any circumstances.

Section 8. Annual Leave, Non-exempt Compensatory Time, Exempt Compensatory Time, and Sick Leave may not be used during a 40-hour work week to accrue any compensatory time or overtime unless approved by management. Management may adjust an employee's work schedule in a work week or require the employee to take time off so that the employee does not become eligible for the payment of overtime or accrual of nonexempt compensatory time while using Annual Leave, Non-exempt Compensatory Time, Exempt Compensatory Time, and Sick Leave in a work week.

Section 9. Flexible work schedules may be arranged by mutual agreement.

Section 10. If job related travel time is scheduled for other than the employee's regular work week, such travel time shall be compensated in accordance with the terms of this Article.

ARTICLE 9 - ON-CALL/CALL-OUT PAY

Section 1. On-Call Status. On-call is a situation where employees are not required to remain on the Employer's premises and are free to engage in their own pursuits and are subject only to the understanding that they either carry a cellular telephone, wear a pager,

or have some other means by which they may be reached 24 hours a day. If required to conduct employer business by telephone while in on-call status, the time actually spent in making the call is time worked.

Section 2. Exempt and non-exempt employees shall accrue compensatory time for each 24 hours of on-call status provided, on the week days Monday through Thursday, an employee in on-call status shall be credited with one (1) hour of compensatory time, regardless of whether or not any time was actually worked. For each 24 hours of on-call status provided on the days of Friday, Saturday, Sunday, and holidays, employees shall be credited with two (2) hours of compensatory time, regardless of whether or not any time was actually worked.

Section 3. Days of the week are defined as the 24-hour overnight period from day one to day two. For example, for the 24-hour period from 8.00 Monday morning until 8.00 Tuesday morning an employee will receive one (1) hour of compensatory time. For the 24-hour period from 8.00 Friday morning to 8.00 Saturday, morning the employee will receive two (2) hours of compensatory time.

Section 4. Call-Out Status. Call-out is an emergency situation where employees are called to work from leisure time outside of his/her regularly assigned work schedule, and where the employee is required to leave their residence to perform the work. Call-out does not include time that the employee is scheduled to work either preceding or following his/her regularly scheduled workday.

Section 5. If a non-exempt employee reports for work duty to a call-out, he/she shall be compensated at the overtime rate of pay (1½) times by cash or by compensatory time for all hours worked over 40 hours in the workweek. The minimum compensation for a call-out shall be two (2) hours.

ARTICLE 10 - HOLIDAYS

Section 1. For pay purposes the following shall be recognized holidays for bargaining unit employees.

New Year's Day	January 1
Martin Luther King Jr. Day	3rd Monday in January
Lincoln's & Washington's Birthday	3rd Monday in February
Memorial Day.....	Last Monday in May
Independence Day.....	July 4
Labor Day	1st Monday in September
Columbus Day	2nd Monday in October
Veteran's Day	November 11
Thanksgiving Day	4th Thursday in November
Christmas Day	December 25
General Election Day.....	In even-numbered years

Section 2. The holidays listed in Section 1 shall be granted at the regular rate of pay to all eligible full-time employees except as provided for in Section 3. Eligible part-time employees shall receive pay or accrual for the holiday on a pro rata basis. To be eligible for holiday pay an employee must be in pay status on the last scheduled working day immediately before the holiday and on the first regularly scheduled working day immediately after the holiday.

Section 3. When a non-exempt, full-time-employee is required by the Employer to work on a holiday listed above, he/she will be paid at the rate of 2½ times his/her regular rate of pay, or at the employee's option, 1½ times his/her regular rate of pay and an alternate day off, to be taken by the end of the fiscal year at a time agreeable to the employee and Employer. Full-time exempt employees and employees who request and are authorized to work on a holiday shall receive their regular rate of pay and an alternate day off, to be taken by the end of the fiscal year at a time agreeable to the employee and the Employer. Eligible, non-exempt, part-time employees shall receive benefits granted in this section on a pro rata basis.

Section 4. Any eligible full-time employee who is scheduled for a day off on a day which is observed as a legal holiday, except Sundays, shall be entitled to receive a day off with pay either on the day preceding the holiday or on another day following the holiday in the same pay period or as scheduled by the employee and his/her supervisor, whichever allows a day off in addition to the employee's regularly scheduled days off. Eligible non-exempt part-time employees shall receive benefits granted in this Section on a pro rata basis.

ARTICLE 11 - LEAVES

Section 1. Annual Leave. Each permanent full-time employee shall earn annual vacation leave credits from the first day of employment. Vacation leave credits earned shall be credited at the end of each pay period. However, employees are not entitled to any vacation leave with pay until they have been continuously employed for a period of six (6) calendar months.

Subsection 1. Permanent part-time employees are entitled to prorated annual vacation benefits if they have worked the qualifying period.

Subsection 2. An employee may not accrue annual vacation leave credits while in a leave without pay status.

Subsection 3. Temporary employees do not earn vacation leave credits, except that temporary employee who is subsequently hired into a permanent position within the same jurisdiction without a break in service, and temporary employees who are employed continuously longer than six (6) months may count as earned leave credits for the immediate term of temporary employment.

Subsection 4. Absence from employment by reason of illness shall not be chargeable against unused vacation leave credits unless approved by the employee.

Subsection 5. Vacation leave taken over a holiday may not be charged to an employee's vacation leave for that day.

Subsection 6. Vacation leave credits will not accrue for those hours exceeding 40 hours in a work week.

Section 2. Sick Leave. Each permanent full-time employee shall earn sick leave credits from the first day of employment. For calculating sick leave credits, 2080 hours (52 weeks x 40 hours) shall equal one year. Sick leave credits shall be credited at the end of each pay period.

Subsection 1. Sick leave credits shall be earned at the rate of twelve (12) working days for each year of service without restrictions as to the number of working days that may be accumulated. Employees are not entitled to be paid sick leave until they have been continuously employed ninety (90) days.

Subsection 2. An employee may not accrue sick leave credits while in a leave without pay status.

Subsection 3. Permanent part-time employees are entitled to prorated leave benefits if they have worked the qualifying period.

Subsection 4. Full-time temporary and seasonal employees are entitled to sick leave benefits provided they work the qualifying period.

Subsection 5. An employee who terminates employment with the Employer is entitled to a lump-sum payment equal to one-fourth ($\frac{1}{4}$) of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave shall be computed on the basis of the employee's salary or wage at the time the employee terminates employment with the State.

Subsection 6. An employee who receives a lump-sum payment pursuant to this Section and who is again employed by the state agency shall not be credited with any sick leave for which the employee has previously been compensated.

Subsection 7. Absence from employment for reason of illness shall not be chargeable against unused vacation leave credits unless approved by the employee.

Subsection 8. In the event that an employee on annual leave becomes ill, the employee shall be afforded the right to change their annual leave status to sick leave status.

Subsection 9. "Sick leave" means a leave of absence with pay for a sickness suffered by an employee or a member of the employee's immediate family. Sick leave may also be used for maternity related disability, dental, medical, and eye examination or

treatment, or the funeral of an immediate family member. "Immediate family" means the employee's spouse or any member of the employee's household, or any parent, child, grandparent, grandchild, corresponding in-law, or at the agency's discretion, another person.

Subsection 10. The Employer may not require a doctor's certificate to substantiate sick leave usage from an employee in the bargaining unit unless the employee has been away from work in excess of three (3) days on sick leave or unless the Employer has good reason to suspect sick leave abuse.

Subsection 11. In accordance with rules promulgated by the sick leave fund policy, employees who exhaust their accrued sick leave may apply for a direct sick leave grant or apply for additional leave credits from the state sick leave bank in accordance with rules promulgated by the bank.

Section 3. Jury and Witness Duty. Employees summoned to serve as jurors or witnesses, unrelated to job duties, shall be granted leave in accordance with 2-18-619, MCA.

Section 4. Military Leave. Military Leave shall be granted in accordance with 10-1-604, MCA.

Section 5. Leave Without Pay. A leave of absence without pay may be granted to employees, subject to Employer approval. An employee requesting leave without pay shall, in advance of the starting date, submit a leave request form stating the reason for the request, and the beginning and ending date of the absence. The Employer shall approve or disapprove the request. The Employer shall provide the leave without pay form from DEQ Policy 3.3.013.

ARTICLE 12 - GRIEVANCES AND ARBITRATION

Section 1. Having a desire to create and maintain harmonious labor relations, the parties hereto agree that they will promptly attempt to adjust all disputes arising between them involving questions or interpretation or application of the terms and provisions of this Agreement.

Section 2. Grievance Procedure. Informal/Formal discussions between the employee and the immediate supervisor are encouraged to resolve problems or issues.

Step 1. Any grievance shall be taken up with the employee's immediate supervisor within fifteen (15) working days of the grievable action by submitting a written grievance notifying the immediate supervisor of the nature of the grievance, the rights allegedly violated and the requested remedy. The immediate supervisor will have ten (10) working days from receipt of the grievance to schedule a meeting to discuss and attempt resolution of the grievance and provide a written response as to the outcome of the meeting.

Step 2. If the grievance is not resolved at Step 1, the grievance may be presented in writing within ten (10) working days from the receipt of the immediate supervisor's response to Step 1 to the Division Administrator or their designee. The Administrator or their designee shall have ten (10) working days from receipt of the grievance to respond in writing.

Step 3. If the grievance is not resolved at Step 2, it may be presented to the Department Director or his/her designee within ten (10) working days from receipt of the Step 2 response. The Director shall have fifteen (15) working days to respond to the grievance in writing.

Step 4. The parties may, by mutual agreement, request mediation prior to Step 5. Such agreement will be reduced to writing and a joint request submitted to the mediator within fifteen (15) working days of receipt of the Step 3 response. If mediation is unsuccessful, the grievance may be moved to arbitration in accordance with Section 5 of this Article within ten (10) days of the date of the mediation.

Step 5. Should the employee and the Association consider the decision of the Director to be unsatisfactory, the Association may, within fifteen (15) working days of the receipt of the Director's decision, notify the Director and the Chief of the State Office of Labor Relations of its decision to take the grievance to final and binding arbitration.

Section 3. Rules of Grievance Processing.

- A. Time limits of any stage of the grievance procedure may be extended by written mutual agreement of the parties of that Step.
- B. A grievance not filed or advanced by the grievant within the time limits provided shall be deemed permanently withdrawn as having been settled on the basis of the decision most recently received. Failure on the part of the Employer to answer within the time limit set forth in any Step will entitle the grievant to proceed to the next Step.
- C. The appointing authority may replace any titled position in the grievance procedure, provided that such appointee has full authority to act in the capacity of the person being replaced.
- D. When the grievance is presented in writing there shall be set forth all of the following.
 - 1. A complete statement of the grievance and facts upon which it is based.
 - 2. The rights of the individual claimed to have been violated and the remedy or correction requested.

- E. Those employees desiring to use alternative remedial procedures may not pursue the same complaint under the provisions of this contractual procedure. Similarly, an employee pursuing a grievance under the provisions of this contract may not pursue the same grievance under another procedure.
- F. In the event of a classification related grievance, the statutory classification appeal route shall be followed wherein the grievance may be submitted to the Board of Personnel Appeals for final resolution. Where a question arises as to whether the matter falls under the jurisdiction of the Board or could possibly be arbitrated, the matter may be referred to the Board for a decision.
- G. All documents relevant to the grievance requested by the Association staff will be provided in accordance with state policy. Concerns regarding an individual's right to privacy will be addressed on a case-by-case basis.

Section 4. Rules of Arbitration.

- A. Within fifteen (15) working days of receipt of the Association's notice of its intent to arbitrate a grievance, the parties shall call upon the Federal Mediation and Conciliation Service for a list of seven potential arbitrators.
- B. Each party shall be entitled to strike names from the list in alternate order and the name so remaining shall be the arbitrator. A coin toss shall determine which party will strike the first name.
- C. The arbitrator shall render a decision and that decision shall be final and binding. By mutual agreement, the parties may request a bench decision from the arbitrator.
- D. Each party shall share equally the cost of the arbitrator. In the event one of the parties wants transcripts from the proceedings of the arbitration, the party requesting the transcripts shall pay all costs. If each party requests a transcript, they shall equally share the costs.
- E. The arbitrator may not add to, subtract from, or modify the terms of this Agreement.
- F. In the event the arbitrator charges a fee(s) for canceling an arbitration hearing, the party requesting the cancellation is responsible for payment.

ARTICLE 13 - JOB SECURITY

Section 1. A probationary period shall be utilized for the most effective adjustment of a new employee and for the elimination of any employee whose performance does not, in the judgment of the employee's supervisor, meet the required standard of performance.

The probationary period shall last for six (6) months. If the Employer determines at any time during the probationary period that the services of the probationary employee are

unsatisfactory, the employee may be separated upon written notice from the Employer without recourse to the grievance procedure.

Extension of Probationary Period. The Association agrees that a probationary period may be extended for 90 days. A probationary period may be extended for the following circumstances:

1. additional training is required of the employee;
2. emergency situation has required the employee to be absent from the position;

The Employer will notify the Association of extensions as they occur.

Section 2. The Employer may discharge any employee with permanent status only for just cause. The Employer shall furnish an employee subject to discharge or suspension with a written statement of the grounds and specific reason(s) for such actions and in addition notify the Association of the removal of an employee for cause. An employee with permanent status may appeal his/her dismissal or suspension through the grievance procedure. This in no way limits management's prerogative to lay off employees.

ARTICLE 14 - SENIORITY

Section 1. Seniority means the length of continuous state service if hired by this agency prior to November 1, 1996. If hired after November 1, 1996 by this agency, seniority begins with the agency hire date.

Section 2. Seniority shall cease to accrue during a period of layoff or leave without pay that exceeds 60 working days or after a permanent transfer out of the bargaining unit. Previously credited service, however, will not be lost and an employee who is recalled or transfers back into the bargaining unit will retain all prior seniority.

Section 3. Qualifications, seniority and capabilities shall be the controlling factors in selection of employees for layoff among positions of the same grade and class by geographic location. The Employer shall give permanent employees subject to layoff a minimum of 21 calendar days advance notice and shall deliver a copy of such notice to the Association, which shall have an opportunity to comment.

Section 4. Recall from layoff shall be in reverse order of layoff. The Employer shall notify a laid off employee to return to work by sending a certified, return receipt letter to the last known address for the employee with a copy to the Association and shall therein notify the employee that failure of the employee to notify the Employer of his/her intent to return to work within ten (10) calendar days of the mailing of said letter shall constitute a forfeiture of his/her right to return to work. Recall rights shall be limited to a period of two (2) years following the date of layoff.

Section 5. No permanent employee shall be laid off while temporary, short-term, or probationary employees in the same skill are retained.

ARTICLE 15 - VACANCIES AND PROMOTIONS

Section 1. The following procedures will be followed in the posting and filling of vacant or newly created permanent positions within the bargaining unit. The purpose of this system is to inform employees of vacancies and newly created positions and to afford employees, who are interested and who feel that they qualify, an equal opportunity to apply for the vacant or newly created position. It is understood that probationary employees and employees on a leave of absence for any reason may not have the same period of notice as other employees concerning position vacancies.

Subsection 1. When a vacant or newly created permanent position is to be filled, the Employer shall prepare a job posting notice and send it to each respective bureau level area to be posted. The notice will be posted in a specific place designated for job opening notices, and shall state where interested employees are to make application, the cutoff date for application submittal, and the minimum qualifications.

Subsection 2. All positions in the bargaining unit shall be posted per the provisions of this Article for ten (10) working days.

Subsection 3. When filling a vacant or newly created position in the bargaining unit where qualifications are substantially equal, seniority will be used as a tiebreaker. "Qualifications" means knowledge, skills, and abilities required to perform a job and the education and experience leading to them.

Subsection 4. Where the Employer has an interest to transfer an employee into a newly vacated or created position, the Employer may do so, after consultation with the union.

In situations where the Employer considers issues such as an ADA or disciplinary transfer, the Employer shall consult with the union.

Under these specific conditions the Employer is not required to follow Section 1, Subsections 1-3 of this Article.

ARTICLE 16 - RATINGS & WARNINGS

Section 1. The statewide performance evaluation system or another system approved by the Personnel Division may be utilized by the Employer in the evaluation of employees covered by this Agreement.

Section 2. No information reflecting critically upon an employee shall be placed in the personnel file of the employee that does not bear either the signature or initials of the employee indicating that he/she has been shown the material or a statement by a

supervisor that the employee has been shown the material and refused to sign it. A copy of any such material shall be furnished to the employee upon request.

Section 3. Material placed in the personnel files of an employee without conformity with the provisions of this Section will not be used by the Employer in any subsequent evaluation or disciplinary proceeding involving the employee.

Section 4. Letters of caution, consultation, warning, admonishment and reprimand shall be considered temporary contents of the personnel file of an employee and shall be destroyed no later than 15 months after they have been placed in the file unless such items can be used in support of possible disciplinary action arising from more recent employee action or behavior patterns or is applicable to pending legal or quasi-legal proceedings.

Section 5. An employee desiring that material which he/she feels is incorrect and should be removed from the personnel file of the employee, shall have the right to appeal it through the grievance procedure.

ARTICLE 17 - PUBLIC EMPLOYEE'S RETIREMENT SYSTEM

Section 1. This existing program shall continue in full force and effect in accordance with 19-3-101 to 1404 MCA and 19-4-101 to 1002, MCA.

ARTICLE 18 - NOTIFICATIONS

Section 1. The Employer shall ensure reasonable access to the Association and each employee an up-to-date policy of its rules, regulations, and policies on employment related matters. The Association shall be notified of any proposed changes or additions to personnel rules, regulations, and policies issued by the Employer sufficiently in advance to allow discussion and comment by the Association.

Section 2. Each January the Employer shall provide a pay activity report for the previous calendar year.

ARTICLE 19 - OTHER

Section 1. If an employee is required to wear protective clothing, the Employer shall furnish a list of said items and replacement schedule for each of those items so that each employee may receive those materials.

Section 2. The Employer and Union are committed to a safe and clean work environment.

Section 3. The Employer will present to each new employee upon hire a copy of this Agreement.

Section 4. The Employer and Association agree to the establishment of a Labor-Management Relations Committee. The purpose of this Committee is to discuss any item of mutual concern as defined in the bylaws and to improve communications between the Employer and the members of the bargaining unit. The Committee will not take the place of the grievance procedure or the collective bargaining process.

ARTICLE 20 - SEVERABILITY

Section 1. In the event that any provision of this Agreement shall be declared invalid at any time or unenforceable by any court of competent jurisdiction or through regulations or decree, such decisions shall not invalidate the entire Agreement, it being the expressed intention of the parties hereto that all other provisions not declared invalid or unenforceable, shall remain in full force and effect.

ARTICLE 21 - ENTIRE AGREEMENT

Section 1. The parties acknowledge that during negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understanding and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

Therefore, the Employer and the Association for the duration of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter specifically referred to or covered by this Agreement. This Article shall not be construed to in any way restrict parties from commencing negotiations under Article 1, or under applicable law on any succeeding agreement to take effect upon termination of this Agreement.

Section 2. The parties recognize the right, obligations and duty of the Department of Administration and its duly designated officials to promulgate rules, regulations, directives, and orders from time-to-time as deemed necessary insofar as such rules, regulations, directives, and orders that effect the members of this bargaining unit covered by this Agreement are not inconsistent with the terms of this Agreement or the laws of the State of Montana and federal laws.

ARTICLE 22 - PAYROLL DEDUCTIONS

Section 1. In addition to the monthly dues deductions authorized in Article 3 of this Agreement, bargaining unit members shall be allowed to authorize Management to deduct from their pay checks such amounts that they desire in order to participate in programs that have the prior approval of Management, the Association, and the Auditor's Office.

ARTICLE 23 - TERM OF AGREEMENT

Section 1. This Agreement shall be effective as of the 1st day of July, 2013, and shall remain in full force and effect through the 30th day of June 2015. If one of the parties desires to modify this Agreement, it shall give the other written notice of its intent to do so. In such case, the parties agree to give written notice not sooner than one hundred twenty (120) days and not less than 90 days prior to the expiration date, and agree to meet not later than ninety (90) days prior to the expiration date in order to renegotiate this Agreement. It is also agreed that the Employer and the Association will meet to reopen negotiations in sufficient time to permit adequate negotiations on economic matters. The Association shall have the right to engage in concerted activity after December 31, 2014 for matters pertaining to wages and economic benefits in the 2016-2017 biennium.

ARTICLE 24 - NO STRIKE / NO LOCKOUT

Section 1. During the term of this Agreement, neither the Association nor its agents or representatives will cause, sanction, or take part in any strike or any other interference with the operation of the Employer's business, except as provided in Article 23.

Section 2. During the term of this Agreement, there shall be no lockouts by the Employer.

ARTICLE 25 – PROFESSIONAL DEVELOPMENT

Section 1. A well-informed and educated workforce is an important aspect of excellent public service.

Section 2. At the agency's discretion, employee requests for cost sharing, leave approval, flexible work hours, or use of state computers associated with professional development will be considered in relation to program needs and budget resources.

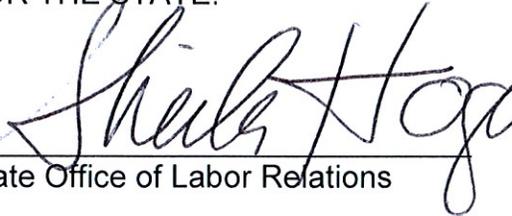
Section 3. An employee may request assistance by sending a memorandum to his or her supervisor providing the following information:

1. Name of school or professional organization.
2. Costs incurred.
3. Duration of membership or class schedule.
4. Advantage to the Employer.

Section 4. The parties agree that no complaints, disputes, or disagreements about the application or interpretation of this provision (Article 25) shall be subject to the collective bargaining Agreement's grievance and arbitration provision.

| **THIS AGREEMENT** is signed and dated this _____ day of _____ 2013.

FOR THE STATE:



State Office of Labor Relations

FOR THE MONTANA PUBLIC
EMPLOYEES ASSOCIATION:



Quinton E. Nyman Executive Director
MPEA



Tracy Stone-Manning, Director
Department of Environmental Quality



Raymond Berg, Field Representative
MPEA



Lisa Tucker, Chapter President

ADDENDUM A

BROADBAND PAY PROVISIONS

Montana Department of Environmental Quality – MPEA

The parties agree the provisions in this addendum will be implemented in accordance with the Department of Environmental Quality Pay Plan 20 Guidelines agreed to in July 2003.

Section 1. Occupational pay ranges. Schedule A (attached) contains the occupational pay ranges for all bargaining unit employees. These pay ranges will remain in effect for the life of this Agreement. No employee's pay shall be reduced due to the adoption of these market rates.

Section 2 Pay Raises. All employees covered by this collective bargaining agreement under the Broadband Pay Plan shall receive a 3% across-the-board increase on the base pay rate effective in the pay period that includes July 1, 2013 and a 5% across-the-board increase on the base pay rate effective in the pay period that includes November 15, 2014.

Section 3. Pay Matrix. The pay matrix below will serve as a guide for setting pay rates in accordance with DEQ Pay Plan rules. Application of this matrix will be negotiated every two years for the period covered by the respective agreement. For the period July 1, 2013 through June 30, 2015, this matrix will apply only to new hires and to reclassifications or position changes. Other factors in setting pay will include equity within the work unit. If funds and appropriation become available, an amendment will be considered to bring all employees in alignment with the pay matrix.

Years Relevant Work Experience	Months Relevant Work Experience	Minimum % of Market
0 to 2	0 to 23	80%
2 to 4	24 to 47	84%
4 to 6	48 to 71	87%
6 to 8	72 to 95	90%
8 to 10	96 to 119	94%
10 +	120 +	97%

Section 4. Health Insurance. The Employer's share of the health insurance contribution

for each employee shall increase by 10% (\$73/month) effective January 1, 2014 and an additional 10% increase (\$81/month) effective January 1, 2015. The employee's contribution for employee coverage shall not be subject to an increase until January 1, 2015.

Appendix A: DEQ Market Rates as of 4/1/2012

DEQ Market Rates (Union)			HOURLY WAGE		ANNUAL SALARY	
Job Code	Working Title	Band	Entry	Top of Market	Entry	Top of Market
433314	Accounting Technician	4	\$12.733462	\$15.916827	\$26,486	\$33,107
132115	Accountant	5	\$13.871538	\$17.339423	\$28,853	\$36,066
439612	Administrative Clerk	2	\$9.007308	\$11.259135	\$18,735	\$23,419
436113	Administrative Assistant	3	\$10.552308	\$13.190385	\$21,949	\$27,436
436114	Administrative Assistant	4	\$12.585769	\$15.732212	\$26,178	\$32,723
131915	Administrative Specialist	5	\$14.811538	\$18.514423	\$30,808	\$38,510
131916	Administrative Specialist	6	\$17.696923	\$22.121154	\$36,810	\$46,012
192216	Atmospheric Science Specialist	6	\$23.871923	\$29.839904	\$49,654	\$62,067
192217	Atmospheric Science Specialist	7	\$29.095385	\$36.369231	\$60,518	\$75,648
132136	Auditor	6	\$17.519615	\$21.899519	\$36,441	\$45,551
132316	Budget Analyst	6	\$19.917692	\$24.897115	\$41,429	\$51,786
433115	Collections Specialist	5	\$15.264615	\$19.080769	\$31,750	\$39,688
436154	Compliance Tech	4	\$12.771538	\$15.964423	\$26,565	\$33,206
151414	Computer Support Technician	4	\$14.165769	\$17.707212	\$29,465	\$36,831
151415	Computer Support Technician	5	\$16.921923	\$21.152404	\$35,198	\$43,997
151216	Computer Programmer	6	\$19.690769	\$24.613462	\$40,957	\$51,196
151336	Computer Application Engineer	6	\$22.710769	\$28.388462	\$47,238	\$59,048
151337	Computer Application Engineer	7	\$27.252692	\$34.065865	\$56,686	\$70,857
151516	Computer Systems Analyst	6	\$22.130000	\$27.662500	\$46,030	\$57,538
151517	Computer Systems Analyst	7	\$26.479231	\$33.099038	\$55,077	\$68,846
439233	Data Processor Technician	3	\$10.511923	\$13.139904	\$21,865	\$27,331
151914	Data Control Technician	4	\$14.340385	\$17.925481	\$29,828	\$37,285
151915	Data Control Specialist	5	\$17.131538	\$21.414423	\$35,634	\$44,542
151616	Database Analyst	6	\$22.300385	\$27.875481	\$46,385	\$57,981
193117	Economist	7	\$24.411538	\$30.514423	\$50,776	\$63,470
492955	Electronic Repair Tech	5	\$18.171923	\$22.714904	\$37,798	\$47,247
194914	Environmental Field Tech	4	\$12.846154	\$16.057692	\$26,720	\$33,400
194915	Environmental Field Tech	5	\$15.338462	\$19.173077	\$31,904	\$39,880
192415	Environmental Science Specialist	5	\$15.803846	\$19.754808	\$32,872	\$41,090
192416	Environmental Science Specialist	6	\$18.964615	\$23.705769	\$39,446	\$49,308
192417	Environmental Science Specialist	7	\$22.757692	\$28.447115	\$47,336	\$59,170
132915	Financial Specialist	5	\$14.755385	\$18.444231	\$30,691	\$38,364
132916	Financial Specialist	6	\$17.694231	\$22.117788	\$36,804	\$46,005
131895	Grant Contract Coordinator	5	\$14.373077	\$17.966346	\$29,896	\$37,370
131896	Grant Contract Coordinator	6	\$17.870000	\$22.337500	\$37,170	\$46,462
131897	Grants Contracts Coordinator	7	\$21.367308	\$26.709135	\$44,444	\$55,555
271255	Graphic Designer	5	\$13.371538	\$16.714423	\$27,813	\$34,766

DEQ Market Rates (Union)			HOURLY WAGE		ANNUAL SALARY	
Job Code	Working Title	Band	Entry	Top of Market	Entry	Top of Market
254216	Librarian	6	\$16.299231	\$20.374038	\$33,902	\$42,378
434314	License Clerk/Tech	4	\$12.512308	\$15.640385	\$26,026	\$32,532
131455	License Examiner	5	\$13.181154	\$16.476442	\$27,417	\$34,271
439512	Mail Clerk	2	\$8.961538	\$11.201923	\$18,640	\$23,300
131817	Management Analyst	7	\$22.112308	\$27.640385	\$45,994	\$57,492
172816	Mechanical Engineer (NON-CERT)	6	\$22.800385	\$28.500481	\$47,425	\$59,281
172816	Mechanical Engineer (EI)	6	\$25.080385	\$31.350481	\$52,167	\$65,209
172817	Mechanical Engineer (EI)	7	\$30.096538	\$37.620673	\$62,601	\$78,251
172836	Mechanical Engineer (PE)	6	\$27.588462	\$34.485577	\$57,384	\$71,730
172837	Mechanical Engineer (PE)	7	\$33.106154	\$41.382692	\$68,861	\$86,076
151716	Network Administrator	6	\$18.880769	\$23.600962	\$39,272	\$49,090
193516	Planner	6	\$19.342308	\$24.177885	\$40,232	\$50,290
131235	Program Specialist	5	\$15.438077	\$19.297596	\$32,111	\$40,139
131236	Program Specialist	6	\$18.449231	\$23.061538	\$38,374	\$47,968
131856	Project Facilitation Specialist	6	\$20.406538	\$25.508173	\$42,446	\$53,057
131857	Project Facilitation Specialist	7	\$24.189615	\$30.237019	\$50,314	\$62,893
273315	Public Relations	5	\$13.951154	\$17.438942	\$29,018	\$36,273
273316	Public Relations	6	\$16.664615	\$20.830769	\$34,662	\$43,328
433614	Purchasing Technician	4	\$13.754615	\$17.193269	\$28,610	\$35,762
151296	Web Developer	6	\$21.346154	\$26.682692	\$44,400	\$55,500

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