



# ENVIRONMENTAL QUALITY COUNCIL

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**GOVERNOR BRIAN SCHWEITZER**  
**DESIGNATED REPRESENTATIVE**  
MIKE VOLESKY

**HOUSE MEMBERS**  
CHAS VINCENT--Chair  
SUE DICKENSON  
JULIE FRENCH  
MIKE MILBURN  
CARY SMITH  
FRANKE WILMER

**SENATE MEMBERS**  
BRADLEY MAXON HAMLETT--Vice Chair  
JIM KEANE  
RICK RIPLEY  
JIM SHOCKLEY  
MITCH TROPILA  
BRUCE TUTVEDT

**PUBLIC MEMBERS**  
JEFF PATTISON  
BRIAN CEBULL  
DIANE CONRADI  
MARY FITZPATRICK

**COUNCIL STAFF**  
JOE KOLMAN, Research Analyst  
SONJA NOWAKOWSKI, Research Analyst  
HOPE STOCKWELL, Research Analyst  
CYNTHIA PETERSON, Secretary  
TODD EVERTS, Legislative Environmental Analyst

## MINUTES

Approved July 22, 2010

May 7, 2010

Room 172  
State Capitol Building

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division.

**Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

### COMMITTEE MEMBERS PRESENT

REP. CHAS VINCENT, Chair  
SEN. BRADLEY MAXON HAMLETT, Vice Chair  
SEN. JIM KEANE  
SEN. RICK RIPLEY  
SEN. JIM SHOCKLEY  
SEN. MITCH TROPILA  
SEN. BRUCE TUTVEDT  
REP. SUE DICKENSON  
REP. JULIE FRENCH  
REP. MIKE MILBURN  
REP. CARY SMITH  
MS. MARY FITZPATRICK  
MR. JEFF PATTISON

## **COMMITTEE MEMBERS EXCUSED**

REP. FRANKE WILMER  
MS. DIANE CONRADI  
MR. MIKE VOLESKY

## **STAFF PRESENT**

JOE KOLMAN, Research Analyst  
SONJA NOWAKOWSKI, Research Analyst  
HOPE STOCKWELL, Research Analyst  
BARB SMITH, Legislative Fiscal Analyst

## **VISITORS**

Visitors' list ([Attachment 1](#))

## **COMMITTEE ACTION**

- The council voted that the CECRA economic impact analysis was insufficient.
- The council voted to have staff review the 1995 mixing zone bill to determine why it was vetoed and what statutory changes were required, and to present the findings at the July meeting.
- The council voted to allow for the exemption of grinders and chippers in the air quality permitting process.
- The council voted to adopt portions of the draft findings from the biomass worksheet.
- The council voted to have a bill drafted giving the Public Service Commission authority when dealing with biomass energy to allow the purchaser to pay a floating fee based on the price of the feedstock.
- The council voted to establish in the draft findings that the council recommends that the state, through DNRC, develop an inventory of dead and dying timber. The motion passed unanimously by voice vote.

## **CALL TO ORDER AND ROLL CALL**

00:00:03 Chairman Vincent reconvened the meeting to order at 8:03 a.m. The secretary noted the roll ([Attachment 2](#)).

## **AGENDA**

### **Rule Review**

- 00:02:40 Helen Thigpen, Staff Attorney, Legislative Services Division (LSD), discussed the council's rulemaking oversight and provided an update on current administrative rules (**EXHIBIT 1**). Ms. Thigpen also discussed the Comprehensive Environmental Cleanup and Responsibility Act (CECRA) administrative rules and economic impact statement (**EXHIBIT 2**).
- 00:05:46 Richard Opper, Director, Department of Environmental Quality (DEQ), gave an overview of CECRA for the Superfund Program. Director Opper reported that the DEQ is taking a comprehensive look at the rulemaking process. Director Opper discussed how the department plans on implementing new rules and codifying rules that are currently in place.

### **Public Comment**

- 00:15:12 Leo Berry, representing Burlington Northern Santa Fe Railway Company, thanked the council for taking on this issue. Mr. Berry said that the participation of public entities and the involvement of the DEQ has been good and resulted in the offering of many good suggestions and opinions.

### **Questions and Discussion**

- 00:19:10 Mr. Pattison asked Director Opper if the DEQ had received many comments and feedback. Director Opper reported that they had received 13 comments and will publicize them on the website.
- 00:20:49 Rep. Milburn asked what needed to happen today concerning this issue. Chairman Vincent replied that the action that needs to occur is in relation to the economic impact statement. The council needs to decide whether the action is sufficient or insufficient.
- 00:21:02 Mr. Cebull commented that the rulemaking is still in progress and the impact of the rules is not known at this time, and he was uncertain how the council could vote on anything without knowing the final rules. Director Opper replied that the rules as amended will only clarify operations and will not change the outcome of the economic impact statement.
- 00:23:55 Sen. Tutvedt asked about codifying rules currently in place. Director Opper responded that the DEQ is operating the Superfund Program within guidelines.
- 00:25:40 Sen. Keane made the motion for the DEQ to continue working on the economic impact analysis because it is insufficient.
- 00:25:55 Rep. Milburn asked for explanation. Ms. Nowakowski said the motion is to find the process insufficient, which would allow the council to ask for some

amendments or corrections. The motion does not affect the rulemaking or extension that was filed.

00:27:22 Rep. French asked if the council can postpone any action on the rules until the September meeting. Ms. Nowakowski said there are no time lines to act on the impact statement, and the council can wait.

00:29:08 Rep. French asked Sen. Keane, if the council votes on the impact now, how will it change? Sen. Keane responded that it is insufficient and the vote will send the message for DEQ to continue looking at the impact analysis. Chairman Vincent said the council will have to request an impact analysis and the decision is a finding. Ms. Thigpen said the council can do an impact analysis also.

00:32:42 Mr. Cebull asked how a final economic impact statement could be prepared when the final details had not yet been decided.

### **Motion and Vote**

00:33:21 Sen. Keane repeated his motion, to send the message that the economic impact analysis is insufficient. This will allow the DEQ to continue working on the rules and the 6-month extension required for public comment on new rules. A roll call vote was taken. The motion passed 10 - 5 with Sen. Tropila, Reps. Dickenson, Wilmer, and French, and Ms. Fitzpatrick voting no with Rep. Wilmer voting by proxy ([EXHIBIT 3](#)).

### **Agency Oversight DEQ - SB 97 Petroleum Tank Release Fund**

00:36:02 Hope Stockwell, LSD, handed out an overview on the financial status of the Petroleum Tank Release Fund ([EXHIBIT 4](#))

00:39:49 Mike Trombetta, DEQ, gave a PowerPoint presentation of petroleum release Risk-Based Corrective Action (RBCA) ([EXHIBIT 5](#)).

01:10:39 Ronna Alexander, representing the Montana Petroleum Marketers and Convenience Store Association, addressed their concerns about the rules. Basically their organization is concerned with developing statewide standards and the frequency of testing.

### **Public Comment**

There was no public comment.

### **Questions and Discussion**

01:13:59 Rep. Dickenson asked about the narrative standards for beneficial use and expressed concern that the standards could vary. Mr. Trombetta said there are a lot of petroleum products that have widely-varying levels of toxicity. Rep.

Dickenson questioned the measurements of toxicity. Mr. Trombetta distributed a handout that explains exposure in a simple illustration (**EXHIBIT 6**).

- 01:20:42 Rep. Milburn asked about standards of perception regarding RBCA standards. He asked Mr. Trombetta to address Ms. Alexander's concerns.
- 01:24:15 Ms. Fitzpatrick asked if there was a record keeping process in place to monitor toxic sites throughout many years, even if the property is sold to new owners or the use changes. Mr. Trombetta replied that the department has struggled with this issue for some time and explained the risks of pathways that are broken. He stated that the DEQ is exploring more ways of leaving toxins in the ground.
- 01:27:11 Sen. Keane asked Ms. Alexander whether she had had any meetings with the DEQ as was promised in the last council meeting. She responded they have not had any meetings or discussions with the department.
- 01:27:53 Sen. Keane inquired of the DEQ about any meetings they had had with Ms. Alexander as discussed in the previous meeting. Ms. Olsen said the department had shared this presentation with Ms. Alexander and the board before today's meeting. Sen. Keane stated that since the DEQ is moving ahead with a rule that still needs some work, he was concerned about not having a meeting. Ms. Olsen responded that the department had specifically asked Ms. Alexander for a list of her concerns and never did receive a response.
- 01:29:27 Sen. Keane and Ms. Alexander discussed the board meeting that had taken place. Ms. Alexander stated that the Petro Board meeting was on Monday of this week, and that Mr. Trombetta had given part of today's presentation to the group then. Ms. Alexander reported she had a brief conversation with Mr. Trombetta at that meeting.
- 01:30:20 Sen. Keane asked whether the DEQ had a problem with communicating about the rulemaking process. Director Opper responded that the department could be doing a better job of communicating with those involved.
- 01:31:14 Sen. Keane asked what happens once the contamination was found in the ground. Mr. Trombetta said that the DEQ's primary charge is to protect the public health. Mr. Trombetta stated that once a release is confirmed then a report is immediately issued, an assessment is performed, a 30-day report is then requested of an owner/operator, and then continued procedures are based on site-specific parameters.
- 01:38:39 Sen. Tutvedt shared his experience of an older gas station located in his area that is frequently required to test their facility. He inquired how to expedite the removal of a site from the list. Mr. Trombetta responded that he did not know the particulars of the site Sen. Tutvedt was referencing, but that he would review the record. He felt the DEQ was going to great lengths to not over monitor sites.
- 01:40:35 Rep. French asked Ms. Alexander why she didn't follow up with scheduling a meeting with the DEQ. Ms. Alexander felt that their organization made comments

to the rules and felt the department would evaluate them and contact the organization to review. Rep. French requested that the record reflect that the DEQ assured the council about holding a future meeting, and she asked Ms. Alexander to make the same commitment. Ms. Alexander assured the council that she would make an effort to meet with the DEQ.

01:42:45 Ms. Olsen reiterated her apologies for the lack of effort extended to meet with Ms. Alexander and representatives from the industry.

01:43:32 Sen. Hamlett stated that many waste oil burners are operated in the state, and he wondered whether heavy metals in the motor oil were getting into the air when the product was burned. Director Opper replied that he did not know the statistics of how much waste oil was burned to generate heat, but will check with the department and report back.

### **Agency Oversight: DEQ -- Mixing zones and Risk Based Corrective Action**

01:46:47 Ms. Alexander discussed a handout regarding a public hearing held by the DEQ on the proposed amendments to the underground storage tank rules ([EXHIBIT 7](#)). She asked that the council ask the DEQ to form a stakeholders group and come back with recommendations on how to handle the new rules and proposed changes.

01:49:59 Roger Noble, Vice-Chairman, Petroleum Tank Release Compensation Board (PTRCB), Kalispell, gave a PowerPoint presentation on Mixing Zones and Risk Based Corrective Action ([EXHIBIT 8](#)).

02:05:35 Lee Bruner, attorney, Butte, works with petroleum contamination in ground water mixing zones. Mr. Bruner distributed and explained a handout that provides language from rule ([EXHIBIT 9](#)). He also gave a PowerPoint presentation on groundwater mixing zones and an overview of the standards ([EXHIBIT 10](#)).

02:13:08 Chairman Vincent asked if Director Opper would like to comment on the last two presentations. Director Opper said DEQ is not opposed to considering the mixing zones concept and is open for any dialogue on the subject.

### **Questions and Discussion**

02:15:00 Sen. Shockley shared a scenario of a ground water situation in the Bitterroot Valley he was involved with.

02:17:03 Rep. Dickenson wondered how drought affected mixing zones that had water in the ground that was mixed with the contamination. Mr. Trombetta responded that as the department reviews this policy, there are many changes that need to be considered, from climate change to property use changes, and all of these factors needs to be considered. Rep. Dickenson observed that mixing zones are not to conflict with personal wells and wondered how the contaminant hurts human beings if it doesn't affect well water. Mr. Trombetta stated that petroleum products generally degrade in the ground.

- 02:23:25 Mr. Noble addressed the mixing zone concept and stated the solution to pollution is dilution. The faster the ground water moves through an area, the easier it is to get a permit. The aquifer depends on the amount of recharge through the system, which is a measurable, finite level.
- 02:26:18 Rep. Milburn said he wants the progress to continue and felt that the DEQ should coordinate the efforts.
- 02:26:52 Chairman Vincent discussed creating a committee bill that will take coordination with all the stakeholders involved to identify parameters for public comment.
- 02:27:26 Sen. Keane asked Ms. Thigpen if the committee will have time to handle this and review the rules at the next meeting. Ms. Thigpen replied that there was sufficient time. Rep. Dickenson asked that this process of reviewing the mixing zone concept go forward. She would like to see a few of the stipulations changed to make it more efficient, and a new equitable funding source found.
- 02:30:17 Mr. Cebull asked if the mixing zone concept would require any change in the statutes. Chairman Vincent replied that he understood that statutory changes would be required. Ms. Stockwell felt the staff needs to carefully review the mixing zone proposals and would discuss this with Mr. Bruner before any proposal would be made. Ms. Stockwell shared she understood that there was a mixing zone bill that passed in the 1995 legislative session, but was vetoed by the Governor.
- 02:31:42 Sen. Tutvedt would like the committee to go forward and have the staff thoroughly study this issue and determine what is needed at the next meeting.
- 02:33:55 Sen. Hamlett said he is concerned that raising the gas tax would not be a desirable approach to increase funding. He asked about the total amount of gallons sold per year and the total amount of funds collected.
- 02:34:27 Terry Wadsworth, Executive Director, Petroleum Tank Release Cleanup Fund, provided an explanation regarding the total tax on the gallons of fuel sold in the state.

### **Public Comment**

- 02:36:10 Carl Hertel, rancher and farmer, and member of the Petroleum Board. Mr. Hertel shared his experience with removing an old oil tank from the ground. He questioned if common sense can be used and if there is no threat to human health then a site could be closed much quicker.

### **Motion and Vote**

- 02:41:51 Sen. Ripley made the motion to have staff look into why the bill in 1995 was vetoed, what statutory changes were required, and come back with information at the July meeting.

02:42:26 Motion passed unanimously by voice vote with Rep. Wilmer voting by proxy.

(BREAK)

### **Agency Oversight: DNRC -- Compliance & Enforcement report**

03:01:19 Ms. Stockwell introduced Mary Sexton, Director, Department of Natural Resources and Conservation (DNRC).

03:02:46 Director Sexton provided information on the DNRC's compliance and enforcement report, covering the Forestry Assistance Program, the Board of Oil and Gas Conservation, the Dam Safety Regulatory Program, and the Board of Water Well Contractors Program ([EXHIBIT 11](#)).

### **Public Comment**

There was no public comment.

### **Questions and Discussion**

03:05:36 Rep. Dickenson asked where the TMDL (total maximum daily load) level was located in this report. Director Sexton replied that the DEQ tracks those levels.

03:05:53 Sen. Keane asked to receive a report about how much in fines was levied and where the monies go. Director Sexton will get the total fines that have been levied and furnish the information to the council.

### **Update on Water Policy Interim Committee (WPIC) - Joe Kolman**

03:07:03 Joe Kolman, LSD, gave an update on the Water Policy Interim Committee. He discussed water marketing policy and aquifer recharge and mitigation. Mr. Kolman presented the Water Court Adjudication Progress Report ([EXHIBIT 12](#)).

### **Update on Energy and Telecommunications Interim Committee - Sonja Nowakowski**

03:12:23 Ms. Nowakowski, LSD, gave an update on the Energy and Telecommunications Interim Committee. Additionally, she circulated information requested by Sen. Keane at the March 2010 meeting, inquiring about the status of coal, hardrock and oil and gas permits in Montana ([EXHIBIT 13](#)).

03:15:45 Rep. French asked to receive a copy of the update on carbon sequestration in the Board of Oil and Gas Conservation presentation. Ms. Nowakowski replied that she would furnish the report to the council.

### **Questions and Discussion**

There were no questions from the council.



## **Open Discussion**

- 03:16:56 Sen. Tutvedt reported that the stakeholders on the cabinsite leasing issue have been meeting and trying to come up with an accurate method for valuating lease property that is equitable and fair.
- 03:17:51 Sen. Keane asked for information on the lawsuit on the gravel pit site in Bozeman. Sen. Tutvedt explained that before the DEQ would go forward with the application, the site must have a signed piece of paper from the county saying that it is located in a properly zoned site.
- 03:19:49 Rep. Smith shared that he felt there are situations where it takes a long time for government to come up with solutions to problems.
- 03:20:35 Sen. Tutvedt also discussed Rep. Smith's concerns and wants to exempt chip making machines and some farm equipment from air quality permitting and eliminate the permitting process.
- 03:21:33 Sen. Ripley commented and said that he agrees.
- 03:23:07 Rep. Dickenson said that the air pollution created by the engines isn't that critical except when there is an inversion. She questioned if there could be public notice to inform those in an affected area.
- 03:24:52 Sen. Shockley said this could be done by rule and asked for the staff to explore this.
- 03:26:31 Chairman Vincent talked about getting all stakeholders involved to solve the issue.
- 03:26:58 Sen. Hamlett also said the machines should be exempt, and felt that the only time a permit would be needed is if they were operating within the city limits.
- 03:27:45 Rep. Smith said the slash piles are a part of a logging operation and those permits should cover the chipping operation too, which is much less of a problem than burning the slash piles.
- 03:28:13 Mr. Cebull said what is perceived as chipping is actually part of the logging process. Mr. Cebull inquired whether a motion would be needed.
- 03:28:39 Chairman Vincent responded that a motion would be needed and should specifically identify the stakeholders and what needs to be accomplished.

## **Motion and Vote**

- 03:29:03 Sen. Ripley said the chairman has a lot of experience with business and should move a motion.

- 03:29:31 Chairman Vincent made a motion to have the staff look at refining and defining the rules and statutes of Montana's Clean Air Act in compliance with the federal Clean Air Act related to exempting equipment, and working with the DEQ, Montana Wood Products Association, Montana Logging Association, Kevin Jump, Steve Marks, the Farm Bureau Federation, or all interested parties.
- 03:30:40 Ms. Nowakowski reminded the council that there already exists a stakeholder group who meets regularly. She asked that the staff be given specific guidelines to go forward in regards to permitting, who needs it, and how it should be handled. The DEQ has reviewed this and noted that a self-propelled grinder needs to get a permit, whereas one that is on a tractor or trailer does not. The option this council needs to determine is whether this should be pursued through rulemaking, through legislation that exempts the equipment from regulation, or legislation that provides an exemption from permitting but not from regulation.
- 03:33:51 Chairman Vincent withdrew his previous motion. Chairman Vincent moved to allow for the exemption of grinders and chippers and to include the stakeholders directions to do so.
- 03:34:31 Sen. Ripley asked if the department was to define location such as county, would it provide immediate relief. Ms. Nowakowski replied that the DEQ needs to follow its own rules and they don't have anything in place to give immediate relief. The DEQ also stated that this is a rather low priority on their list due to the low number of operating chippers within the state, half of which are already permitted.
- 03:36:01 Rep. Smith expressed frustration that the council is unable to deal with this issue until rulemaking is complete, which is a huge roadblock. He asked if there wasn't some way to temporarily help this industry out.
- 03:37:25 Sen. Hamlett said they do need to go forward with legislation.
- 03:37:57 Dave Klemp, DEQ, explained the department has a high degree of discretion and flexibility with permit notices. The department will use the best judgment possible when a transfer is obtained.
- 03:40:40 The motion passed unanimously by voice vote with Sen. Tropila and Rep. Wilmer voting by proxy.
- 03:41:01 Ms. Nowakowski clarified that the bill draft will only offer exemptions for grinders and chippers. Chairman Vincent responded that was accurate.

(LUNCH)

### **Agency Oversight: Fish, Wildlife & Parks (FWP) - Wolf Management**

- 05:02:29 Ms. Stockwell made introductions and referenced a handout that had been sent out in the committee members' packet discussing *Echinococcus granulosus*

(tapeworm) (**EXHIBIT 14**). Ms. Stockwell also distributed a booklet showing the various common diseases that a person can get from infected wildlife (**EXHIBIT 15**).

- 05:04:35 Ms. Stockwell presented a letter from Mark R. Johnson, DVM, Global Wildlife Resources, Inc., who was not able to attend today's meeting. His letter addresses the presence of Echinococcus granulosus in the reintroduced wolf population (**EXHIBIT 16**).
- 05:06:10 Dr. Valerius Geist, (via telephone) University of Calgary, addressed how to prevent Echinococcus granulosus (tapeworm) from spreading to dogs and from dogs to humans. He talked about a variety of ways to keep from contracting the disease.
- 05:14:11 Dr. Helen Schwantje, (via telephone) Wildlife Veterinarian, British Columbia, discussed Echinococcus granulosus and its causes and stated that it does not frequently spread to humans.
- 05:24:12 Sen. Tutvedt asked how long a dog would be protected if it had been wormed two times. Dr. Schwantje responded that a person would need to worm a dog on a regular basis for complete protection.
- 05:26:27 Mr. Pattison asked about a drug called Droncit, a commonly used medicine for worming dogs. Dr. Schwantje replied that Droncit is the most common medication used and it's reasonably effective for tapeworms.
- 05:27:18 Chairman Vincent asked about the little girl in Canada that had been infected and wanted to know if the community had been tested. Dr. Schwantje said that out of a community of 1,300, 110 provided testing samples and 12 tested positive to exposure to the virus and showed antibodies in their bloodstream. She reported that the only way to discover if a person is truly infected is to wait for signs to appear, which can be minor or major in nature.
- 05:29:36 Sen. Tutvedt inquired if and how many of the 110 had been followed past their testing. Dr. Schwantje responded she was not aware of any follow up.
- 05:31:18 Ms. Stockwell informed the committee that she has read the report and said the results are still in progress but that imaging tests would monitor those testing positive.
- 05:32:00 Chairman Vincent asked about the individuals, mostly immigrants, who had tested positive over a 17 year time span. Dr. Schwantje said the assumption is that regional variations appear within the population, and that some people are unaware of this disease. Dr. Valerius Geist shared his knowledge and history of this disease, having an uncle who contracted it and died from it. He reported that the disease can take 10 to 15 years to develop and often occurs when a family dog encounters a diseased animal.

- 05:35:27 Sen. Ripley asked about the letter from Mark R. Johnson, Global Wildlife Resources, Inc. (See exhibit 16) wherein Mr. Johnson states that it is "extremely unlikely that any reintroduced wolf from Canada could have carried Echinococcus spp. Tapeworms into the U.S." Dr. Geist agrees that it is difficult to treat wolves in the wild and while it is difficult, even suppressing the rate of infection would be worth the effort.
- 05:38:24 Joe Maurier, Director, FWP, reported that Judge Molloy has decided to hold oral arguments on delisting the wolves. Director Maurier reported that the state would fight to hold a wolf hunting season. Director Maurier reported that there were a minimum of 425 wolves in 101 packs, 37 of which qualified as breeding pairs, about an 18% increase (**EXHIBIT 17**). Director Maurier presented the council with FWP's proposed wolf license numbers for the 2010 hunting season.

### **Public Comment**

- 05:47:49 Charles Kleffner, Big Fork, talked about closing the link between wolves and domestic dogs. Big Fork has a high rate of road kill and often neighborhood dogs visit the sites.
- 05:49:58 Norman A. Bishop, retired resources interpreter at Yellowstone National Park, distributed his comments (**EXHIBIT 18**) which discuss the positive impact wolves have on an ecosystem.
- 05:53:30 Sterling Miller, Ph.D., Senior Wildlife Biologist, National Wildlife Federation, Missoula, affiliate professor of wildlife at the University of Alaska, Fairbanks, and the University of Montana, felt that it is wise to take precautions against this disease but that it is far from a public health hazard (**EXHIBIT 19**).
- 05:56:15 George Edwards, representing the Montana Livestock Loss Reduction & Mitigation Board, asked the EQC to consider a bill draft to dedicate wolf license fees to reimbursing livestock producers for losses to wolves (**EXHIBIT 20**).
- 05:57:40 Stan Frasier, Helena, talked about working with previous Legislatures on chronic wasting disease.
- 05:58:55 Clay Dethlefsen, President and Executive Coordinator, Western Predator Control Association (WPCA), talked about the wolf population vs. the wildlife population. He said there are many people that could be used as volunteers such as hunters, farmers, ranchers, hunting guides, etc., to assist in the management of the wolf population.
- 06:13:41 Jerry Black, Missoula, shared his observation that he felt a witch hunt is going on to eliminate wolves.
- 06:16:29 Jennifer Nitz, Helena, stated that wolves are not a problem.

- 06:19:37 Ben Lamb, Conservation Director, State and National Issues, Montana Wildlife Federation Works, who works on wolf policy in Wyoming and Montana (**EXHIBIT 21**) felt it is his responsibility to manage the health of his own pet.
- 06:22:09 Mary Fay, Helena, stated she would like to have the wolf hunts stopped. Taxpayer dollars were used to restore the wolf population, and now to hunt them. If the alpha male wolf is killed, it will have a detrimental effect on the wolf pack.
- 06:25:44 Mark Cook, Stevensville, talked about the tapeworm virus, which he says poses a low risk to the human population.
- 06:29:13 Sam Connolly, rancher on the Madison River, Ennis, (runs cattle on deeded ground not Forest Service land), talked about losing 36 calves to wolves from February 1 to March 31, 2010. Additionally, his ranch has 22 calves that were tagged and are now gone. Their ranch has been forced to hire workers to drive around the cattle at night with a spotlight on to drive the wolves away. He says broken legs are now common due to stampeding cattle running from the wolves.
- 06:36:12 Becky Weed, Belgrade, stated reasonable negotiations will continue to fail if both sides continue to appeal to the most extreme side of this issue. She stated the real issue is not the tapeworm disease, but how the wolves are managed.
- 06:38:31 Derrick Goldman, Western Wolf Coalition and Endangered Species Coalition, distributed three handouts which he addressed: A letter to Mr. Josh Skorcz from Deputy Director Ashe, United States Department of the Interior (**EXHIBIT 22**), an article entitled "Actual wolf weights often skimpier than hunters estimate" (**EXHIBIT 23**), and an article "Wolf Recovery in Yellowstone" (**EXHIBIT 24**).

### Questions and Discussion

- 06:44:32 Sen. Shockley asked Director Maurier why FWP had not established a minimum number of wolves and a minimum number of breeding pairs. Director Maurier responded that FWP had not set a target population number other than a lower number established by the Endangered Species Act (ESA), but felt what was important was to strike a balance between the wolf population and man. Sen. Shockley asked about using part of the license fees from the sportsmens' tags to help offset the loss of livestock. Director Maurier replied he did not believe it would be fair to the sportsmen.
- 06:50:46 Sen. Tutvedt asked Mr. Goldman why the Western Wolf Coalition and Endangered Species Coalition didn't address the concerns of the ranching community that continue to have devastating livestock losses. Mr. Goldman said one of the coalition members has donated \$100,000 toward helping out ranchers when they have lost livestock from wolves. He feels his organization continues to make efforts to work with ranchers to help with depredation. Sen. Tutvedt thanked Director Maurier for expanding the wolf hunting numbers and appreciates the department's work in managing wolves.

- 06:54:14 Sen. Ripley also thanked the Director on working toward achieving that balance in management of wolves. Sen. Ripley asked if FWP had a plan in place in case Judge Molloy ruled against the state. Director Maurier said FWP is looking at alternatives but does not have a clear path for hunting in the short term if the wolves are re-listed.
- 06:58:04 Mr. Cebull asked if FWP has anything similar to the booklet published in Canada on the various diseases (See Exhibit 15). Director Maurier said they are open to any suggestions to get the information out there.
- 07:00:45 Rep. Dickenson asked if more wolves will be hunted in districts where a wolf problem exists. Director Maurier said yes, but doesn't know any numbers at this time. Rep. Dickenson asked if there was a way to determine which wolf in a pack was taken. Bob Lane, Legal Counsel, FWP, replied it is the department's goal to have a stable and viable wolf population, to deal with depredation, and to learn and improve. Mr. Lane felt the most effective way of determining numbers is to respond the following season to what situation exists in the present season.
- 07:06:05 Rep. French asked about splitting the hunting license fees and wanted to know what FWP does with the revenue. Director Maurier said those fees are put into the department general operating fund, and did not believe it was fair to the hunter to use a portion of the funds for livestock reimbursement.
- 07:09:01 Ms. Fitzpatrick asked Director Maurier whether the department evaluates the entire ecosystem, including the health of the non-game population, in considering the impact the wolf has other than its impact on livestock. Director Maurier replied that the department does take the entire ecosystem into consideration.
- 07:12:46 Sen. Tutvedt asked whether the FWP management plan was planning on a lower elk kill number. Director Maurier replied that the FWP would like to have more hunting districts to help manage wolves and game animals.
- 07:15:33 Sen. Hamlett asked Mr. Goldman about the claim of a \$35 million annual economic benefit to the states of Montana, Idaho, and Wyoming due to the wolf population. Sen. Hamlett asked if Mr. Goldman would prefer to have a wolf hunting season in the wilderness or on private lands. Mr. Goldman said that while he understands the argument for using hunting as a tool, he believes this is a question for the hunting community and FWP to answer.
- 07:17:46 Sen. Hamlett asked Mr. Bishop about the re-introduction of wolves in Yellowstone Park and if the elk and buffalo had overgrazed the park. Mr. Bishop said when he studied this issue that elk and moose were having an impact on the range but not so much the buffalo. Sen. Hamlett asked if man could be used to reduce the numbers of elk in Yellowstone National Park. Mr. Bishop replied that there were hunting teams that existed in the 1960's which kept the elk population down. Sen. Hamlett observed that the wolf is a full-time predator, whereas man is a part-time predator due to hunting seasons.

- 07:23:34 Sen. Hamlett asked Director Maurier about the effect on the department if wild game herds become depleted and license revenue falls. Director Maurier responded there needs to be a balance and the department will continue to monitor this situation. Director Maurier stated that the department continues to have a goal of keeping the wildlife population healthy.
- 07:25:28 Sen. Hamlett observed that it is the wolf's nature to be a predator, and there isn't a livestock animal that a wolf can't handle or kill.
- 07:25:41 Rep. Vincent asked Director Maurier to furnish the council with the total elk and deer tags purchased in the last five years and the accompanying harvest numbers.
- (BREAK)
- 07:47:51 N. Thompson Hobbs sent Ms. Stockwell information entitled "A Model Analysis of Effects of Wolf Predation on Prevalence of Chronic Wasting Disease in Elk Populations of Rocky Mountain National Park" that was distributed to the council ([EXHIBIT 25](#)).
- 07:48:18 Chairman Vincent addressed the biomass worksheet prepared by Ms. Nowakoski for the May 6, 2010, meeting ([EXHIBIT 26](#)). The council discussed issues relative to the worksheet.

#### **Motion and Vote**

- 08:36:19 Rep. French moved to adopt the additional draft findings in the worksheet, as follows: Section 1, adopt A, B, C & D; Section 2, C; Section 3, B; Section 4, D; Section 5, A; Section 6, C; and, Section 7, D.
- 08:37:48 The motion passed unanimously by voice vote with Rep. Wilmer voting by proxy.

#### **Discussion**

- 08:38:31 Chairman Vincent commented on policy recommendation changes. He expressed a desire for the state to develop an inventory on what it has for dead and dying timber. Chairman Vincent acknowledged that this would require timber cruising and probably some increased FTEs, and felt recommendations should appear in the draft findings because legislation would be difficult due to the possible size of the fiscal note.

#### **Motion and Vote**

- 08:43:22 Rep. French moved to establish in the draft findings that the council recommends that the state, through DNRC, develop an inventory of dead and dying timber. The motion passed unanimously by voice vote.

## **Discussion**

- 08:43:34 Sen. Ripley asked if the council was going ahead with legislation to make chippers and grinders exempt. Chairman Vincent stated that the motion was made and passed at yesterday's meeting.
- 08:44:01 Chairman Vincent talked about the concept of a West Virginia model on renewable portfolios. The concept rewards triple renewable energy credits (RECs) for new alternative energy projects that are built on reclaimed or old industrial sites. Chairman Vincent reported that Montana had 27 mills close within the last several years, and wondered if this might be a good option for this property.
- 08:50:07 Several committee members expressed interest and concern about the REC program and Chairman Vincent believed it would be important to have the Public Service Commission (PSC) and others appear before the committee to discuss this further.
- 08:50:56 Sen. Keane requested needing more information and wondered about having the staff study the West Virginia model to learn more about the program.
- 08:52:47 Ms. Nowakowski talked about reviewing the West Virginia model and thought that once a bill draft is issued, the council would hear a great deal of information from the public and interested agencies. Ms. Nowakowski questioned if this would apply to existing or abandoned mill sites.
- 08:54:01 Sen. Keane said while he was in favor of bringing people in to talk about the REC program, he will vote "no" on any bill with this in it.
- 08:54:35 Chairman Vincent replied that the draft legislation was to obtain public comment on the proposal.
- 08:55:21 Chairman Vincent asked if the council would prefer to invite people to the meeting to become better informed on the program, and the council members confirmed this approach.
- 08:56:20 Sen. Shockley informed the committee that this will not work unless the PSC has the authority to vary the price of power, and he believes the council should have a bill that addresses this issue.

## **Motion and Vote**

- 08:57:33 Sen. Shockley moved that the council have a bill drafted that gives the PSC the authority when dealing with biomass energy to allow the purchaser to pay a floating fee based upon the price of the feedstock.
- 08:59:45 Ms. Nowakowski reported that she is unsure if the PSC is prohibited from doing this right now, and knows that they are required to obtain the lowest and best



rate for customers. This vote may not result in a bill draft depending on whether this is legislatively possible.

09:01:09 The motion passed unanimously by voice vote with Rep. Wilmer and Mr. Cebull voting by proxy.

### **Discussion**

09:02:13 Chairman Vincent and Sen. Shockley discussed putting some of the state land timber up for oral bid.

09:03:10 Ms. Nowakowski offered to inquire of the Fire Suppression Committee why the bill was dropped and never was drafted.

09:04:08 Sen. Tropila asked for further explanation on why the Fire Suppression Committee didn't draft the bill. Sen. Ripley and Chairman Vincent replied that the DNRC didn't support the bill and no committee member felt strongly enough to want to carry it, so the idea was dropped.

09:05:18 Sen. Tropila inquired about the oral bidding process. Chairman Vincent replied that the oral bidding process is better for the bidders as they know what their competition is bidding, however, it doesn't necessarily favor the agency.

09:05:44 Sen. Keane further discussed oral bidding and why it doesn't work.

09:06:44 Sen. Tropila said based on the information he has heard he would not support a bill to orally bid on timber sales.

### **ADJOURNMENT**

09:10:46 Chairman Vincent adjourned the meeting at 5:10 p.m.

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