2005-2006 HB790
Coal Bed Methane/Split Estates
Work Plan

January 26, 2006

ENVIRONMENTAL QUALITY COUNCIL
January 27, 2006
Exhibit 1

Introduction

This is the work plan for the House Bill No. 790 - Split Estates/Coal Bed Methane subcommittee for the 2005-2006 interim. In this document you will find:

- An explanation of how the EQC plans its work.
- A description of work plan topics assigned to the subcommittee by the EQC or by legislation, the EQC's decision for addressing those topics, and work plan tasks.
- An interim time line.

How the EQC Plans its Work

During the legislative interim, the EQC typically focuses on two to four major study topics, while also maintaining oversight of programs and rule-making activities of the Montana Department of Natural Resources and Conservation (DNRC); the Montana Department of Environmental Quality (DEQ); and the Montana Department of Fish, Wildlife, and Parks (DFWP).

Pursuant to the authorizing legislation, the EQC appointed a subcommittee to address the issues identified in HB 790.

The work plan is a **decision-making tool** to help Subcommittee members work together efficiently to set priorities and decide how and where to spend the subcommittee's limited time and resources.

The work plan is the blueprint for the 2005-2006 interim.

HB 790 Work Plan Topics

Source/authority: House Bill No. 790 (2005)

Background: House Bill No. 790 required that the EQC appoint 6 members from the EQC membership to serve on a HB 790 subcommittee. In addition to the 6 EQC members, HB 790 also required that 6 at large members be appointed to the subcommittee as well. The EQC appointed members at the May, 2005 EQC meeting. The EQC also appointed two legislators to attend the subcommittee meetings and serve as ex-officio and non-voting delegates of the EQC at the subcommittee meetings.

The legislation specifically requested that the following issues be studied:

1. split estates with regard to ownership of minerals and the ownership of surface property related to oil and gas development;
2. reclamation of surface property affected by coal bed methane development; and
3. bonding requirements for coal bed methane production.

HB 790 also provided that the portion of the study addressing split estates **must** include:

1. procedures and time lines for giving notice to surface owners;
2. minimum provisions for surface use agreements. Elements that **should** be considered in surface use agreements are:
   a. road development,
   b. onsite water impoundments, and
   c. the quality and disposal of produced water.
3. provisions for addressing disagreement on estimated damages between the surface owner and the mineral owner; and
4. bonding requirements, if any, based on the type of activity.

HB 790 provided that the portion of the study addressing reclamation and bonding for coal bed methane operations **must** include:

1. assessing current requirements for reclamation and bonding for coal bed methane operations and determining if they are adequate;
2. evaluating laws related to surface damage, coal bed methane exploration, coal bed methane operations, and coal bed methane reclamation in other states;
3. exploring alternatives and approaches for balancing mineral rights with surface rights;
4. identifying the relationship between federal law and state law with regard to split estates and jurisdiction; and
5. evaluating the necessity and feasibility of post-operation reclamation requirements or alternatives, including water pits and impoundments.

Council Action:

The EQC allocated 1.0 FTE for this topic.

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HB 790 Work Plan Tasks

Required by HB790

1. procedures and time lines for giving notice to surface owners

   X Study index of related research. Staff. Ongoing.
   X Summary of recent case law regarding split estates. Staff. Aug. 2005
   X Flow chart of oil/gas permitting. Staff. Aug 2005
   X Comparison of state surface owner laws. Staff. Sept. 2005
   X Public testimony and agency panel discussion. Sept. 2005
   X Outline of surface owner options. Staff. Oct. 2005
   X Presentation of Wyoming's new split estate law. Oct. 2005
   X MBOGC presentation on current statute, rules. Dec. 2005
   __ Other tasks??? Who?? Deadline??

2. minimum provisions for surface use agreements (elements that should be considered include road development, onsite water impoundments, quality and disposal of produced water).

   X Study index of related research. Staff. Ongoing.
   X Comparison of state surface owner laws. Staff. Sept. 2005
   X Examples of surface use agreements. Staff. Oct. 2005
   X Outline of surface owner options. Staff. Oct. 2005
   X Presentation of Wyoming's new split estate law. Oct. 2005
   X MBOGC presentation on current statute, rules. Dec. 2005
   __ Other tasks??? Who?? Deadline??

3. address disagreement on estimated damages

   X Study index of related research. Staff. Ongoing.
   X Comparison of state surface owner laws. Staff. Sept. 2005
   X Public testimony and agency panel discussion. Sept. 2005
   X Outline of surface owner options. Staff. Oct. 2005
   X Presentation on Wyoming mediation. Oct. 2005
   X Presentation of Wyoming's new split estate law. Oct. 2005
   X MBOGC presentation on current statute, rules. Dec. 2005
   __ Other tasks??? Who?? Deadline??

4. bonding requirements based on the type of activity

   X Study index of related research. Staff. Ongoing.
   X Comparison of state surface owner laws. Staff. Sept. 2005
   X Public testimony and agency panel discussion. Sept. 2005
   X Outline of surface owner options. Staff. Oct. 2005
   X Presentation of Wyoming's new split estate law. Oct. 2005
   X MBOGC presentation on current statute, rules. Dec. 2005
   X BLM policy on bonding impoundment ponds. Jan. 2005
   __ Reclamation and bonding. DEQ; MBOGC. March 2006
   __ Other tasks??? Who?? Deadline??

5. assess current reclamation/bonding requirements for coal bed methane operations

   X Study index of related research. Staff. Ongoing.
   X Flow chart of oil/gas permitting. Staff. Aug 2005
   X Comparison of state surface owner laws. Staff. Sept. 2005
   X Public testimony and agency panel discussion. Sept. 2005
   X MBOGC presentation on current statute, rules. Dec. 2005

_X_ BLM policy on bonding impoundment ponds. Jan. 2005
__ Other tasks??? Who?? Deadline??

6. evaluate statutes for surface damage, coal bed methane exploration, coal bed methane operations, and coal bed methane reclamation

_X_ Study index of related research. Staff. Ongoing.
_X_ Comparison of state surface owner laws. Staff. Sept. 2005
_X_ Public testimony and agency panel discussion. Sept. 2005
_X_ MBOGC presentation on current statute, rules. Dec. 2005
_X_ BLM policy on bonding impoundment ponds. Jan. 2005
__ Other tasks??? Who?? Deadline??

7. explore approaches for balancing mineral rights and surface rights

_X_ Study index of related research. Staff. Ongoing.
_X_ Summary of recent case law regarding split estates. Staff. Aug. 2005
_X_ Flow chart of oil/gas permitting. Staff. Aug 2005
_X_ Comparison of state surface owner laws. Staff. Sept. 2005
_X_ Public testimony and agency panel discussion. Sept. 2005
_X_ Presentation on Wyoming mediation. Oct. 2005
_X_ Presentation of Wyoming's new split estate law. Oct. 2005
_X_ MBOGC presentation on current statute, rules. Dec. 2005
__ Other tasks??? Who?? Deadline??

8. identify relationship between federal law and state law related to split estates

_X_ Study index of related research. Staff. Ongoing.
_X_ Summary of recent case law regarding split estates. Staff. Aug. 2005
_X_ Flow chart of oil/gas permitting. Staff. Aug 2005
_X_ BLM policy on bonding impoundment ponds. Jan. 2005
__ History and current situation regarding new Wyoming law and BLM response. Staff. March, 2006
__ Other tasks??? Who?? Deadline??

9. evaluate necessity and feasibility of post-operation reclamation requirements or alternatives, including water pits and impoundments

_X_ Study index of related research. Staff. Ongoing.
_X_ Flow chart of oil/gas permitting. Staff. Aug 2005
_X_ Comparison of state surface owner laws. Staff. Sept. 2005
_X_ MBOGC presentation on current statute, rules. Dec. 2005
_X_ Public testimony
_X_ BLM policy on bonding impoundment ponds. Jan. 2005
__ Reclamation and bonding. DEQ, MBOGC. March 2006
__ Other tasks??? Who?? Deadline??

Requested by subcommittee

1.
2.
3.

Subcommittee Tasks and Time Line

May 23-24, 2005 EQC Meeting. (Helena) Appointment of subcommittee.

Aug. 1, 2005 Subcommittee Meeting. (Havre)

- Public input.
- Conventional gas development tour.

Sept. 15, 2005 Subcommittee Meeting in conjunction with EQC meeting (Helena).

- Panel discussion on surface owner/mineral owner issues.
- Public testimony.
- Agency overview of current oil and gas regulations.
- Subcommittee decision-making process.

Oct. 27-28 2005 Subcommittee Meeting (Sheridan, Wyo.)

- Public comment on various aspects of CBM development, split estates, other issues.
- Presentations on current Wyoming law.
- Presentation on Wyoming mediation process.
- Review of progress related to specific issues identified in the work plan.
- Review work plan. Make changes, if necessary. Identify where more information needed.
- Tour CBM sites.

Dec. 8-9, 2005 Subcommittee Meeting (Sidney)

- Tour area oil wells.
- Presentation on current statute, rules by MBOGC.
- Presentations by industry, landowner representatives.
- Review of progress related to specific issues identified in the work plan.
- Review work plan. Make changes, if necessary. Identify where more information needed.
- Public comment.

Jan. 26, 2006 Subcommittee Meeting in conjunction with EQC Meeting (Helena).

- Industry presentations
- Review/discuss findings for surface damage and agreement options
- Review of progress related to specific issues identified in the work plan.
- Review work plan. Make changes, if necessary. Identify where more information needed.
- **Approve final work plan for presentation to EQC on January 27.**
- Public comment.

March 16, 2006 Subcommittee Meeting in conjunction with EQC Meeting (Helena).

- Presentation by DEQ and MBOGC of bonding and reclamation.
- Review of progress related to specific issues identified in the work plan.
- Review work plan. Make changes, if necessary. Identify where more information needed.
- Public comment.

April 20, 2006 Subcommittee Meeting (Billings)

- **Contents of the draft report due in order to submit for public comment.**
- Review of progress related to specific issues identified in the work plan.
- Review work plan. Make changes if necessary.
- Preliminary discussion on findings, conclusions, and recommendations.

May 18, 2006 Subcommittee Meeting in conjunction with EQC Meeting (Helena).

- **Last date to suggest revisions to a *draft* document to meet deadline for 30-day public comment. Comments compiled by staff and distributed to the Subcommittee 1-2 weeks before the July 17, 2006 meeting.**
- Discuss/review draft findings, report and legislation.
- Vote on proposed findings and recommendations.
- Review of progress related to specific issues identified in the work plan.
- Review work plan. Make changes if necessary.

July 17, 2006 Subcommittee Meeting in conjunction with EQC Meeting (Helena).

- **Last subcommittee meeting. Final approval of recommendations, any proposed legislation, final report. Report to the full EQC.**

July 24 - August 22, 2006

- Distribute draft reports and concepts for proposed legislation for 30 day public review and comment, if desired

August 29, 2006

- compile and distribute comments on draft documents to subcommittee members

September 11-12, 2006 EQC Meeting. (Helena).

- EQC Final decision on content of proposed legislation, if any.
- Selection of bill sponsors. Development of strategy.
- Briefing on potential legislative proposals (if any) related to subcommittee topics.