Summary of Natural Resource Legislation
2013 Legislative Session

The 2013 Legislature acted on a number of bills involving environmental policy, water quantity and quality, fish and wildlife, parks, and state lands. This summary provides an overview of major legislation, excluding the budget provisions of House Bill 2 in the following areas:

- EQC Bills and Responsibilities
- Agency Bills
- Water Bills
- Fire and Forestry Bills
- Fish, Wildlife, Parks & State Land Bills
- Mining, Remediation, and Permitting Bills
- Land Use Bills
- Oil and Gas Bills
- Agriculture Bills
- Vetoed Bills

This summary focuses on legislation approved by the Legislature that has become law. Another section includes bills that were vetoed.

EQC Bills and Responsibilities

During the 2011-12 Interim, the Environmental Quality Council approved the drafting of five pieces of council legislation, of which five were subsequently approved by the 2013 Legislature. Four* (check the status of SB 250) bills also were approved that alter the EQC's statutory responsibilities. The bills, and the topics they address, include:

EQC Committee Bills Approved

HB 24 creates a State Parks and Recreation Board, which also reshapes the duties of the newly renamed Fish and Wildlife Commission. The five-member State Parks and Recreation Board will set policies for management of state parks, primitive parks, state recreational areas, public camping groups, state historic sties, state monuments, and other heritage and recreational resources.

SB 39 eliminates a Department of Natural Resources and Conservation report to the council on the designation of wildland-urban interface parcels.

SB 44 eliminates the little-used Air Pollution Advisory Council and its functions.

SB 60 eliminates the little-used Alternative Livestock Advisory Council and its duties.

SJ 4 requests an interim study of ways to improve the marketing, management, operation, maintenance, and funding of state-owned sites at Virginia City, Nevada City, and Reeder's Alley in Helena.

EQC Responsibilities

HB 609 requires a study of the Department of Fish, Wildlife, and Parks' hunting and licensing system by the Environmental Quality Council.

SB 200 contains the same components of HB 73, but also allows the Fish and Wildlife Commission to adopt rules to allow a landowner or the landowner's agent to take a wolf on the landowner's property at any time without the purchase of a wolf hunting license when the wolf is a potential threat to human safety, livestock, or dogs. SB 200 requires the Department of Fish, Wildlife, and Parks to report annually to the Environmental Quality Council regarding implementation of 87-1-901, 87-5-131, and 87-5-132.

SB 369 adds a report from the Department of Natural Resources and Conservation providing a summary of sales of lands that were leased cabin or home sites.

Agency Bills

Under 75-1-324, MCA, the EQC has broad statutory oversight authority. That oversight authority includes draft legislation review, administrative rule review, program evaluation, and monitoring the functions of the DEQ, DNRC, and the DFWP.

Department of Environmental Quality

SB 70 eliminates dual regulation of underground piping at a petroleum refinery that is subject to a hazardous waste correction action order.

SB 76 amends the Montana Water Quality Act to ensure primacy of DEQ to regulate cooling water intake structures subject to federal law.

SB 92 generally revises the Montana Strip and Underground Mine Reclamation Act, including revisions to permit application requirements, prospecting permits, challenges to a listing in the applicant violator system and annual reporting requirements.

Department of Natural Resources and Conservation

HB 37 allows temporary lease of a water right with criteria regarding prior use and point of diversion as well as limits on length of lease, consumptive volume, and storage. Provides for public notice and objections to proposed lease.

HB 59 changes title and duties of the drought advisory committee to include analysis of water supplies and flooding. The panel is now called the drought and water supply advisory committee.

HB 106 generally revises water laws, eliminates redundant language, clarifies process for a permit or change in water right, and streamlines permit process in closed basins.

SB 48 provides a process for regional authorities to establish and change rates, fees, and charges for providing water and wastewater services.

SB 88 ratifies a water rights compact to settle claims to federal reserved water rights for the Upper Missouri River Breaks National Monument administered by the U.S. Bureau of Land Management within the state.

SB 278 ratifies a water rights compact to settle claims to federal reserved water rights for the Charles M. Russell National Wildlife Refuge administered by the U.S. Fish and Wildlife Service within the state.

Department of Fish, Wildlife, and Parks

HB 73 revises laws related to wolf hunting, including allowing the issuance of multiple licenses, allowing a wolf license to be used 24 hours after purchase, decreasing the fee for a nonresident wolf hunting license to $50, allowing the use of recorded or electronically amplified calls, and providing an exception to the requirement that hunters wear orange. HB 73 also prohibits the closure of a season immediately adjacent to a national park unless a wolf harvest quota established for that area has been met.

HB 136 revises the application process for a nonresident youth big game combination license and the licensing requirements for an accompanying adult.

HB 142 restores language assenting to the Dingell-Johnson Act for management and restoration of fish.

Water Bills

In 2009, the Legislature created a permanent WPIC to study water policy issues. The water policy committee coordinates with the EQC to avoid duplication of work. Agency oversight duties remain with the EQC.

WPIC bills

SB 18 provides for the ownership of a channel and former channel of a navigable river or stream following an avulsion and creates a process to clarify ownership after an avulsion of abandoned beds of rivers and streams not adjudicated for title.

General Water Policy

HB 291 clarifies canal and ditch easement laws, allowing a person with a canal or ditch easement to operate the appropriation works.

HB 389 increases the contract amount necessary to require bids for drainage district projects from $10,000 to $15,000.

HJ 26 requests an interim study on water ditch/canal easement restatement process options.

SB 335 creates a legal process to allow water right holder whose use is impaired by a natural obstruction on another person's property an opportunity to remove the obstruction.

SB 336 defines a "developed spring" as any point where ground water emerges naturally, that has subsequently been physically altered, and from which ground water flows under natural pressures or is artificially withdrawn.

SB 346 allows the DNRC to create stream depletion zones, defined as areas where it is determined a well will deplete a stream by a certain amount during a certain time frame. Within a zone, an exempt well is limited to a flow of 20 gpm and a volume of 2 acre-feet a year. Clarifies enforcement between surface and ground water rights and states that establishment of a stream depletion zone provides a conclusive, scientific basis that ground water rights are affecting senior surface water rights.

SB 355 creates a petition process to judicially determine claims for existing water rights that were exempt from filing for the adjudication of water rights. States that without a determination water rights exempt from filing are subordinate to all other water rights.

Fire and Forestry Bills

HB354 requires certain general fund transfers to the fire suppression account.

HB 451 allows appointment of a county firewarden to coordinate training and wildland fire prevention, detection, suppression, investigation, and mitigation.

SB201 requires the Department of Natural Resources to advocate for federal legislation that would allow the state forester to engage in forest management and education activities to reduce wildland fire risk and intensity on federal land designated in the wildland-urban interface.

SB217 revises state policy to include restoration of watersheds affected by insects and tree diseases. The bill requires a list of areas where infestations of forest pests or tree dieseases makes a watershed at risk for wildfire or other hazards. As in SB201, also requires the Department of Natural Resources to advocate for federal legislation, allowing state forester to reduce wildland fire risk on federal lands within the wildland-urban interface.

Fish, Wildlife, Parks, and State Land Bills

Licensing and Hunting

HB 73 revises laws related to wolf hunting, including the allowing the issuance of multiple licenses, allowing a wolf license to be used 24 hours after purchase, decreasing the fee for a nonresident wolf hunting license to $50, allowing the use of recorded or electronically amplified calls, and providing an exception to the requirement that hunters wear orange. HB 73 also prohibits the closure of a season immediately adjacent to a national park unless a wolf harvest quota established for that area has been met.

HB 136 revises the application process for a nonresident youth big game combination license and the licensing requirements for an accompanying adult.

HB 147 revises penalties for failure to obtain a landowner's permission to hunt.

HB 163 eliminates the mountain lion trophy fee.

HB 170 creates a 3-day nonresident upland game bird license.

HB 179 allows disabled members of the armed forces to qualify to purchase deer A and B tags and special antelope licenses at a reduced cost.

HB 247 creates a permit for the salvage of game killed by vehicles.

HB 273 removes the sunset on the "Come Home to Hunt" program.

HB 278 reduces the waiting period for use of a bear hunting license from 5 days to 24 hours after purchase.

HB 328 allows the Department of Fish, Wildlife, and Parks to notify hunters of the location of wild buffalo and bison.

HB 401 revises special hunting license application fees and the collection of preference system fees.

HB 588 prohibits the use of an aircraft to locate a game animal on the same day it will be hunted and prohibits a person who has been airborne from communicating the location of a game animal to another person on the same day it will be hunted.

HB 609 requires a study of the Department of Fish, Wildlife, and Parks' hunting and licensing system by the Environmental Quality Council.

SB 75 allows the donation of unused hunting licenses for use by disabled veterans and disabled members of the armed forces.

SB 101 revises the qualifications to obtain a permit to hunt from a vehicle.

SB 178 allows the Department of Fish, Wildlife, and Parks to retain 10% of the Class B-10 nonresident big game combination license fee if an applicant choose to buy only a portion of the license after the license has been issued.

Fish and Wildlife Management

HB 323 adds livestock losses due to grizzly bear predation to the livestock loss program.

HB 360 allows the use of temporary holding pens on shooting preserves.

HB 533 expands the scope of the bull trout and cutthroat trout species enhancement program to include native Montana fish species.

HB 580 would provide funding for the governor's sage-grouse advisory council.

SB 200 contains the same components of HB 73, but also allows the Fish and Wildlife Commission to adopt rules to allow a landowner or the landowner's agent to take a wolf on the landowner's property at any time without the purchase of a wolf hunting license when the wolf is a potential threat to human safety, livestock, or dogs. SB 200 requires the Department of Fish, Wildlife, and Parks to report annually to the Environmental Quality Council regarding implementation of 87-1-901, 87-5-131, and 87-5-132.

SB 249 defines the term "consultation", as it's used in 87-1-217, regarding state and federal policy decisions involving large predators and large game species. SB 249 also requires the Fish and Wildlife Commission to comply with, adopt policies that comply with, and ensure that the Department of Fish, Wildlife, and Parks implements in each region the provisions of state wildlife management plans that are adopted following an environmental review.

State Parks
HB 24 creates the state parks and recreation board, provides powers and duties, and renames the existing commission to the Fish and Wildlife Commission.

Agency Administration
HB 142 restores language assenting to the Dingell-Johnson Act for management and restoration of fish.

HB 586 provides funding and revises laws related to the aquatic invasive species act, establishes a statewide invasive species management area, authorizes the use of quarantine measures and check stations at key entry points to the state to inspect vessels and equipment for aquatic invasive species.

SB 123 establishes the Hunters Against Hunger program and provides for an optional donation on certain hunting licenses to an account from which funds will be given to nonprofit organizations for the processing of donated or seized game animals.

Outfitting
HB 187 provides for and defines "outfitter's assistants".

HB 274 revises laws related to the licensing of outfitters and guides, eliminates the "professional guide" license, revises the powers and duties of the Board of Outfitters, revises reporting requirements and penalties, and clarifies the limit on one license per individual.

Mining, Remediation, and Permitting Bills

Mining
SB 332 Revises laws related to gravel mining. Allows a county to sell gravel to a landowner for personal use in area within 5 miles of the site where gravel is mined. Allows for a limited opencut mining permit to reduce delays in permitting.

Permitting
HB 146 Prohibits the Department of Environmental Quality from collecting annual license fees for a solid waste facility until the facility receives solid waste.

HB 256 Requires the Department of Environmental Quality to provide a written notice of the availability of a draft environmental review to each property owner within the 1-mile-wide facility siting corridor identified as the department's preferred alternative for certain facilities (transmission lines and pipelines) under the Major Facility Siting Act.

HB 513 Exempts "megaloads" from Montana Environmental Policy Act review when existing roads through existing rights-of-way are used.

SB 364 Authorizes the Department of Environmental Quality to adopt rules to regulate the disposal and management of coal ash generated by the combustion of coal at electrical generating facilities in order to implement potential federal legislation or potential federal Environmental Protection Agency regulations.

Remediation

SB 137 Provides a local government entity with a defense against liability in a tort action for damages suffered as a result of an act or omission that constitutes a violation of the Clean Water Act, Petroleum Storage Tank Cleanup Requirements, the Solid Waste Management Act, the Hazardous Waste Act or the Underground Storage Tank Act on property acquired by the local government by virtue of the government's sovereign authority, such as lien foreclosure.

HB 359 Provides that an administrative or judicial order may be admissible in a civil action regarding remedial actions related to hazardous waste facilities.

Land Use Bills

HB 417 Requires that a final written offer be rejected before a condemnation complain is filed. Allows for a condemnor and property owner to negotiate additional offers. Requires that the claim required in the contents of a condemnation complaint be equal to the final written offer made by a condemnor.

HB 45 Requires that a condemnation complaint include a copy of the Environmental Quality Council's *Eminent Domain in Montana* handbook.

SB 293 requires subdivider to submit information of whether its water supply and wastewater treatment systems are subject or exempt from the jurisdiction of the Public Service Commission.

SB 301 revises county noxious weed control laws, including new processes for notices, inspections, and compliance.

Oil and Gas Bills

HB 431 Revises negotiation requirements for surface owner damage and disruption compensation from oil and gas developers or operators by defining "lost land value" and "reasonable available use" of the property for which a landowner is to be compensated.

Agriculture Bills

HB 291 clarifies canal and ditch easement laws, allowing a person with a canal or ditch easement to operate the appropriation works.

SB 301 revises county noxious weed control laws, including new processes for notices, inspections, and compliance.

SB 144 revises use of the noxious weed management trust fund, including use of reverted funds and a prohibition on the Department of Agriculture from applying for or receiving grant wards.

Vetoed Bills

HB 218 Authorizes the Department of Commerce to provide grants using $15 million in federal mineral leasing royalties in fiscal year 2013 and up to $10 million in fiscal years 2014 through 2020 to assist local governments with infrastructure and other local government needs as a result of oil and gas development impacts.

HB 392 allows excavation and sale of fossils at Makoshika State Park to benefit the park.

HB 396 requires county commission approval prior to release or relocation of wild bufalo or bison.

HB 408 reduces the tax rate for certain air and water pollution control equipment for property tax purposes.

HB 499 clarifies conveyance exemptions from subdivision regulations.

HB 535 generally revises laws related to state land cabin and home sites, by requiring that valuation of improvements must be determined through an independent third-party appraisal, clarifying that the proceeds from any sale of improvements must go to the owner of record and that ownership of the improvements remains with the owner of record until the improvements are sold to another person, and defining improvements.

HB 556 delays the reversion to the general fund of the unreserved fund balance in the state special revenue fund for provision of basic library services and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth through Agriculture Act.

SB 19 define the term "combined appropriation" for exempt wells.

SB 105 prohibits the establishment of an interim zoning district or interim regulation to prevent agricultural activities or a proposed use under certain circumstances.

SB 240 exempts certain air and water pollution control equipment from property taxes.

SB 250 creates requirements for the good neighbor policy and for land acquisitions by the Department of Fish, Wildlife, and Parks, prioritizes maintenance on acquired lands, eliminates a required report to the EQC, removes a statutory appropriation, and repeals the sunset on the good neighbor laws.

SB265 extends the deadline for Reserved Water Rights Compact Commission negotiations with Indian tribes and requires a study of issues related to a proposed water rights settlement with the Confederated Salish and Kootenai tribes.

SB 305 revises the definition of wild buffalo and wild bison.

SB 337 clarifies standing provisions in Water Court Proceedings.

SB 344 requires a public scoping process for any DFWP land acquisition over 640 acres.

SB 347 Provides that a diversion or withdrawal of water is not degradation under the Water Quality Act if the withdrawal is for a beneficial use and does not significantly impact fish populations.

SB 366 eliminates EQC term limits.

SB 401 Increases the portion of metalliferous mines license taxes distributed to counties to 35 percent and decreases the portion distributed to the general fund by 10 percent.