EQC STUDY SUBCOMMITTEE
SEPTEMBER 15, 2005
EXHIBIT 1

2005-2006
EQC Study Subcommittee
DRAFT Work Plan

August 16, 2005

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Introduction

This is the work plan for the Environmental Quality Council Study 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).

This *2005-2006 Study Subcommittee Work Plan* is really 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 becomes the blueprint for the 2005-2006 interim. A time line illustrates the overall schedule that the work plan will fit into once the meeting schedule and work plan are finalized. You will find the time line at the end of this document.

Study Subcommittee Work Plan Topics

HJR 33 Study contract timber harvesting

Source/authority: House Joint Resolution No. 33 (2005)

Background: The issue of this study is whether the Department of Natural Resources and Conservation should be statutorily authorized to sell logs directly from state lands. The Department estimates that by selling logs directly from state lands, state funding for school trust beneficiaries could possibly increase by as much as 30% over the current method of timber sales. The Department has agreed to facilitate a meeting of interested parties that includes beneficiaries of school trust lands, the Montana Logging Association, the Montana Wood Products Association, the conservation community, and other interested parties. At this meeting, the interested parties could examine issues surrounding the possible implementation of a contract harvesting program for state lands in Montana, including but not limited to an examination of similar programs in other states, standards for log quality, accounting practices, standards for hiring loggers, stewardship contracting, revenue and expenses, and economic impacts to the logging industry. DNRC and the interested parties will work with EQC staff in drafting a white paper to be presented to the EQC for EQC approval, modification, or disapproval.

Council Action:

The EQC requested that staff work with interested parties and draft a white paper to be presented to the EQC during the interim. The EQC allocated .02 FTE for this topic.

For further information on this topic, contact the following staff people:

Todd Everts: (406) 444-3747; teverts@mt.gov

HJ 33 Work Plan Tasks

__ 1. Convene a meeting of interested parties to articulate the issues and discuss possible policy solutions.

Who: DNRC and EQC Staff
Time line: August 17, 2005

__ 2. Report on the meeting of interested parties at the September 15, 2005 EQC Study Committee meeting.

Who: EQC Staff
Time line: September 15, 2005

__ 3. Convene additional meetings of interested parties.

Who: DNRC and EQC Staff
Time line: October 2005 through January 2006

__ 4. Report on the meetings of interested parties at the January 26, 2006 EQC Study

Committee meeting.

Who: EQC Staff
Time line: January 26, 2006

__ 5. Present the draft staff white paper at the March 16, 2006 EQC Study Committee meeting for Committee revisions.

Who: EQC Staff

Time line: March 16, 2006

__ 6. Present revised draft staff white paper at the May 18, 2006 EQC Study Committee meeting.

Who: EQC Staff
Time line: May 18, 2006

__ 7. Send out draft staff white paper for public comment during June 2006.

Who: EQC Staff
Time line: June 2006

__ 8. Review public comment on the staff white paper at the July 17, 2006 EQC Study Committee meeting.

Who: EQC Staff and EQC Study Subcommittee
Time line: July 17, 2006

__ 9. Full EQC review, rejection, or approval of staff white paper and legislation, if any.

Who: EQC Staff and Full EQC
Time line: September 11 or 12, 2006

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Time line:

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Who:
Time line:

HJR 10 Study fire related statutes for suppression and mitigation

Source/authority: House Joint Resolution No. 10 (2005)

Background: In December 2004, the Legislative Audit Division released the results of

a performance audit on wildland fire administration, a portion of which concluded that Montana's statutes are outdated or silent with regard to wildfire suppression and mitigation, fuel accumulation, and the wildland/urban interface.

A work group, consisting of representatives of the timber industry, forest landowners, the Department of Natural Resources and Conservation, fire wardens, local governments, and other interests, has formed to systematically review each section of code that addresses wildland fire and determine whether changes and updates should be made. The group's goals, beyond simply updating and consolidating the statutes, include:

>clarifying roles and responsibilities between state and local governments;

>determining whether a state fire policy should be articulated and what that fire policy should dictate; and

>reviewing model guidelines for development in the wildland/urban interface, as well as the International Urban/Wildland Interface Code and other development guidelines and determining how those should be implemented.

The work group will meet approximately once per month and will report to the subcommittee and make any recommendations to the subcommittee at the subcommittee's scheduled meetings.

Council Action:
The EQC requested that staff conduct the study with the assistance of a work group to review and update statutes, providing regular reports to the subcommittee. The expected outcome will be legislation for the EQC to review and potentially request to update, consolidate and clarify wildland fire suppression and mitigation statutes.

For further information on this study, contact the following staff people:

Leanne Kurtz: (406) 444-3593; lekurtz@mt.gov

HJ 10 Work Plan Tasks

__ 1. Identify potential work group members, organize first meeting to discuss expectations and priorities

Who: Staff and work group
Time line: July, 2005

__ 2. Collect and distribute all wildland fire-related statutes and model guidelines for development

Who: Staff and DNRC
Time line: July, 2005

__ 3. Research state fire policies in other western states

Who: Staff
Time line: July-August, 2005

___ 4. Report research findings, discuss state fire policy, and begin systematic review of statutes with work group, report to subcommittee

Who: Staff, work group, subcommittee
Time line: August-September, 2005

___ 5. Continue review of statutes, identify gaps in the statutes and draft new language

Who: Staff and work group
Time line: September 2005 - May 2006

___ 6. Review wildland/urban interface development guidelines

Who: Staff and work group
Time line: February-May 2006

___ 7. Recommend legislation to subcommittee

Who: Staff, work group, subcommittee
Time line: May 2006

____ 8. Send out any findings, recommendations, and legislation approved by the subcommittee for public review

Who: Staff
Time line: June 2006

___ 9. Review public comment on findings, recommendations and any legislation by the Subcommittee.

Who: Staff and subcommittee
Time line: July 2006

___ 10. Full EQC review, rejection, or approval of any findings, recommendations, and legislation.

Who: Staff
Time line: September 2006

Water Policy and Member Defined Issues

Source/authority: 85-2-105, MCA.
Recommendations of 1997-98 EQC.

Background: The water policy duties of the EQC that are set forth in 85-2-105, MCA are paraphrased below.

1. Advise the Legislature on the **adequacy of Montana's water policy**.
2. Advise the Legislature on **important state, regional, national, and international developments** that affect Montana's water resources.

3. Oversee **policies and activities of executive branch agencies** and other state institutions that affect Montana's water resources.
4. Assist with **interagency coordination** related to Montana's water resources.
5. **Communicate with the public** about water policy and water resources.
6. Analyze and comment on the **State Water Plan**, when prepared by the Montana Department of Natural Resources and Conservation (DNRC).
7. Analyze and comment on the **Renewable Resource Grant and Loan Program** report.
8. Analyze and comment on **water related research** undertaken by state entities.
9. Analyze, verify and comment on the information in the **Water Information System of the Natural Resource Information System.**
10. Report to the Legislature.

Background:

Water quality monitoring, assessment and improvement (TMDL'S). The 1997-98 EQC recommended that the next EQC continue to provide oversight of the Montana Department of Environmental Quality's (DEQ) implementation of House Bill 546, a bill passed in 1997 that addressed water quality monitoring, assessment and improvement, including total maximum daily loads, or TMDL's. U.S. District Court Judge Molloy has issued an order that requires the U.S. Environmental Protection Agency (EPA) to approve or establish TMDLs for each pollutant that impairs or threatens a water quality limited segment on the state's 1996 list of impaired and threatened water bodies by May 5, 2007. The DEQ is prohibited from issuing new permits or increasing permitted discharge for permittees to a water quality limited segment under the Montana Pollutant Discharge Elimination System (MPDES) permitting program until all necessary TMDLs are developed. The timelines affecting DEQ and the completion of TMDLs was extended to 2012 by House Bill 89 in the 2003 Legislature and subsequently extended by the court to 2012.

***Wading into Montana Water Rights* revision.** *Wading into Montana's Water Rights* is a primer for citizens that addresses frequently asked questions regarding water rights. This primer was revised last interim. Montana's water laws have been amended during the four legislative sessions since 1997 -- fairly significantly during the 2005 session. Because the guide is general and amendments to Montana law have been fairly narrow, the guide continues to be a generally accurate and useful document. However, new questions have arisen and the laws have been amended. The EQC could request staff to update this primer. Last interim the Council coordinated with the DNRC to publish one booklet rather than two separate booklets as has been done in the past.

Surface water/ ground water interaction. This was a member defined issue regarding the interaction between surface water and ground water. There have been numerous lawsuits recently regarding ground water use in closed basins and the impacts that this ground water use may be having on surface water rights. A bill in the 2005 session attempted to address this issue but eventually failed. The Department of Natural Resources and Conservation has committed to working with the interested and affected parties to review Montana's statutes and suggest any changes.

Domestic well exemption for the filing of a water right. This is also a member defined issue regarding current law that states that a domestic well that produces less than 35 gallons per minute and uses less than 10 acre feet in a year is not required to file for a water right. This type of well must instead file a certificate of completion so that the well is on record with the Department of Natural Resources. There is some concern that with development in Montana these types of wells may be having an adverse impact on existing water rights which goes against the prior appropriation doctrine. If wells of this capacity were required to file for a water right then the process for objecting to the water right that currently exists in statute would apply.

Some have also discussed lowering the gallons per minute or the acre feet numbers for domestic well exemptions.

Water adjudication chronology. During the 2003-2004 interim the EQC developed a detailed chronology of the water adjudication in Montana. Since the study was completed there has been significant actions taken in Montana's water adjudication and the Subcommittee felt it would be appropriate to update this chronology with recent actions by the legislature, DNRC, and the Water Court.

St. Mary's Canal Project. The St. Mary's Canal in Northen Montana is in dire need of repair. Significant funds were directed towards this project during the 2005 session. The subcommittee recognizes that federal funds will be necessary to complete the renovation of the project. Because of the significance of the St. Mary's Canal to the Hi-Line of Montana the subcommittee would like to receive updates and briefings on the condition of the various aspects of the project and planned actions.

Council Action:

The EQC requested that staff work with interested parties to establish working groups to provide updates and information to the subcommittee and possibly a white paper to be presented to the EQC during the interim.

For further information on this topic, contact the following staff people:

Krista Lee Evans: (406) 444-1640; kevans@mt.gov

Water Policy Work Plan Tasks

__ 1. Update on progress of TMDLs in Montana

Who: EQC staff and DEQ
Time line: September, 2005 and July 2006

__ 2. Revise "Wading into Montan Water Rights" handbook

Who: EQC Staff
Time line: January 2006

__ 3. Coordinate the organization of a work group to address surface water/ground water statutes.

Who: EQC Staff
Time line: Before January 2006

__ 4. Report on to the subcommittee on work group progress regarding surface water/ground water.
Who: EQC Staff and work group
Time line: January 2006

__ 5. Provide background information to the subcommittee regarding case law, statutes, and recent legislation with regard to surface water/ground water interaction.
Who: EQC Staff
Time line: January 2006

__ 6. Report on findings, recommendations, and any proposed legislation to the

subcommitee regarding surface water/ground water issues.

Who: EQC Staff and work group
Time line: March 2006

___ 7. Domestic Well Exemption background including statutes and past practice, implications if statutes were changed, if not the existing volume and flow rate then what numbers are more appropriate

Who: Panel discussion
Time line: March 2006

___ 8. Update water adjudication chronology

Who: EQC Staff
Time line: Before March 2006

___ 9. Updates on St. Mary's Canal Project

Who: EQC Staff, DNRC
Time line: Throughout interim

___ 10. Present draft findings, recommendations and any legislation to the Subcommittee for review and revision.

Who: EQC Staff
Time line: March 2006

___ 11. Present revised findings, recommendations and any legislation to the Subcommittee for final approval before public comment.

Who: EQC Staff
Time line: May 2006

___ 12. Send out revised "Wading into Montana Water Rights", updated "Adjudication Chronology", any findings, recommendations, and legislation for public review

Who: EQC Staff
Time line: June 2006

___ 13. Review public comment on "Wading into Montana Water Rights", "Adjudication Chronology", and findings, recommendations and any legislation by the Subcommittee.

Who: EQC Staff and subcommittee
Time line: July 2006

___ 14. Full EQC review, rejection, or approval of "Wading into Montana Water Rights", updated "Adjudication Chronology", any findings, recommendations, and legislation.

Who: EQC Staff
Time line: September 2006

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DNRC Funding to Administer State Trust Lands

Source/authority: Section 75-1-324, MCA - General Oversight Authority

Background:

The Montana University System campuses are the beneficiaries of five separate land grants given by Congress at the time of statehood. The common schools are recipients of similar grants. The Legislature has allowed DNRC to assess fees from the earnings realized from these trust lands to cover the expenses of administering these lands. Over the past decade, the legality of these assessments has come increasingly into question. This issue was discussed in detail prior to the 2005 session and a bill draft was written. However the draft was never introduced. This was a member defined issue that the EQC agreed to look into and assigned to the study subcommittee.

Council Action:

The EQC allocated .02 FTE for this topic. The Department of Natural Resources and Conservation has committed to being part of a working group that includes the interested parties to identify options and alternatives to present to the subcommittee for their review and discussion.

For further information on this topic, contact the following staff people:

Greg Petesch (406) 444-4023; gpetesch@mt.gov
Krista Lee Evans: (406) 444-1640; kevans@mt.gov

DNRC Funding to Administer State Trust Lands Work Plan Tasks

__ 1. Facilitate the convening of a meeting of interested parties to articulate the issues and discuss possible policy changes that may need to be made.

Who: DNRC Staff and EQC Staff
Time line: July 28, 2005

__ 2. Provide historical and background information related to the administration fees deducted from proceeds from state lands.

Who: EQC Staff
Time line: Prior to September 2005 meeting

__ 3. Report on progress of work group at the September 2005 meeting

Who: EQC Staff and Work Group
Time line: September 15, 2005

__ 4. Work group meetings to determine findings and recommendations.

Who: EQC Staff and Work Group
Time line: Throughout interim

__ 5. Presentation of work group progress

Who: EQC Staff and Work Group
Time line: January, 2006

__ 6. Final decision of findings, recommendations, and any legislation by the work group presented to the subcommittee

Who: EQC Staff and Work Group
Time line: March 2006

__ 7. Send out draft findings, recommendations, and any legislation for public comment.

Who: EQC staff
Time line: June 2006

__ 8. Review public comment on findings, recommendations, and any legislation.

Who: EQC staff and Subcommittee members
Time line: July 17, 2006

__ 9. Full EQC review, rejection, or approval of findings, recommendations, and any legislation.

Who: EQC staff and full EQC
Time line: September 11 or 12, 2006

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Who:
Time line:

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Who:
Time line:

Draft 2005-2006 Work Plan Time line

General 2005-2006 Interim Time Line:
[*Note: This general time line is provided to give you an idea of the time line that the study will need to fit into in order to complete the work on time. The time line shows the last date for completion of certain items.* Additional EQC and or subcommittee meetings may be scheduled if time and budget allow.]

May 23-24, 2005	EQC Meeting. Interim work plan prioritization and EQC organizational meeting.
September 15, 2005	Subcommittee Meeting in conjunction with EQC meeting. Adoption of detailed work plan.
January 26, 2006	Subcommittee Meeting in conjunction with EQC Meeting.
March 16, 2006	Subcommittee Meeting in conjunction with EQC Meeting. If public comment is desired on an EQC report, the contents of the *draft* report should be determined by this date.
May 18, 2006	Subcommittee Meeting in conjunction with EQC Meeting. Last date to suggest revisions to a *draft* document if a 30 day public comment period is desired. Comments received from the public will be compiled by staff and distributed to the Subcommittee 1-2 weeks before the July 17, 2006 meeting.
July 17, 2006	Subcommittee Meeting in conjunction with EQC Meeting. Last subcommittee meeting. Final approval of recommendations, any proposed legislation, final report. Report to the full EQC.
September 11-12, 2006	EQC Meeting. Final approval of recommendations, any reports, proposed legislation. Selection of bill sponsors. Development of strategy. Review agency bill draft requests. Council interim work must be completed prior to September 15, 2006.

Specific 2005-2006 Interim Time Line:

2005

September 15, 2005
- Report on Contract Timber Harvesting work group
- Update on TMDLs in Montana
- Presentation and update regarding DNRC administration of school trust lands
- Presentation on Fire Audit and update on working group
- Approval of work plan

2006

January 26, 2006
- Report on Contract Timber Harvesting Work Group progress
- Review "Wading into Montana Water Rights" revision
- Surface water/ground water work group report
- Review staff paper related to surface water/ground water case law and statutes
- Update on St. Mary's Canal project
- Presentation and update regarding DNRC administration of school trust lands
- Update on Fire Work Group progress
- Review of progress related to specific issues identified in the work plan.
- Review work plan. Make changes if necessary.
- Identify areas where more information is needed.
- Public Input

March 16, 2006
- Review staff white paper regarding contract timber harvest study
- Surface water/ground water work group report
- Domestic well exemption panel discussion
- Review updated water adjudication chronology
- Update on Fire Work Group progress
- Review and discussion of any findings, recommendations, or proposed legislation
- Review of progress related to specific issues identified in the work plan.
- Review work plan. Make changes if necessary.

May 18, 2006
- Review revised staff white paper regarding contract timber harvest
- Update on St. Mary's Canal Project
- Review and discussion of revised findings, recommendations, or proposed legislation
- Review of progress related to specific issues identified in the work plan.
- Review work plan. Make changes if necessary.

June 1, 2006
- Send out white paper on contract timber harvest for public comment
- Send out "Wading into Montana Water Rights" revision for public comment
- Send out "Adjudication Chronology" for public comment
- Send out any findings, recommendations or legislation regarding surface water/ground water interaction for public comment
- Send out any findings, recommendations, or legislation regarding domestic well exemptions for public comment
- Send out any findings, recommendations, or legislation regarding DNRC administration of school trust lands for public comment
- Send out any findings, recommendations, or legislation regarding the fire study for public

comment
- Send out any other findings, recommendations, or legislation for public comment.

July 17, 2006
- Review public comment regarding white paper on contract timber harvest
- Review public comment regarding water policy activities
- Review public comment regarding DNRC administration of school trust lands
- Review public comment regarding the fire study
- Update on TMDLs in Montana
- Last dates to revise draft reports and concepts for proposed legislation

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)
- EQC Final decision on staff white paper regarding contract timber harvest
- EQC Final decision regarding water policy findings, recommendations, and any legislation
- EQC Final decision on DNRC administration of school trust lands findings, recommendations, and any legislation
- EQC Final decision on findings, recommendations, and any legislation related to the fire study
- 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.