

## Appendix A

# Environmental Quality Council Water Policy Issues 1995-2006

### When was the EQC created?

1971

House Bill No. 66 established a state policy for the environment and established the Environmental Quality Council.

### Why was the EQC created?

The EQC was created to develop and create environmental and natural resource policy, generate environmental and natural resource information, and oversee the state's environmental and natural resource programs.

### Number and make-up of the membership

The EQC has 17 members: 6 state senators; 6 state representatives; 4 members of the public; and, 1 nonvoting member who represents the Governor.

### Statutory duties

The EQC assumed these statutory duties from the Water Policy Committee in 1995.

#### **85-2-105. Environmental quality council — water policy duties.**

(1) The environmental quality council shall meet as often as necessary, including during the interim between sessions, to perform the duties specified within this section.

(2) On a continuing basis, the environmental quality council shall:

(a) advise the legislature on the adequacy of the state's water policy and on important state, regional, national, and international developments that affect Montana's water resources;

(b) oversee the policies and activities of the department [DNRC], other state executive agencies, and other state institutions as those policies and activities affect the water resources of the state; and

(c) communicate with the public on matters of water policy as well as the water resources of the state.

(3) On a regular basis, the environmental quality council shall:

(a) analyze and comment on the state water plan required by 85-1-203, when filed by the department;

(b) analyze and comment on the report of the status of the state's renewable resource grant and loan program required by 85-1-621, when filed by the department;

(c) analyze and comment on water-related research undertaken by any state agency, institution, college, or university;

(d) analyze, verify, and comment on the adequacy of and information contained in the water resources data management system maintained by the department under 85-2-112; and

(e) report to the legislature as provided in 5-11-210.

(4) the legislative services division shall provide staff assistance to the environmental quality council to carry out its water policy duties.

Between 1995 and 2005, section 85-2-105, MCA, was amended as follows:

SB 72 (1997) changed water resources data management system to water information system and changed department to natural resource information system

HB 548 (1999) added "assist with interagency coordination related to Montana's water resources" to the statutory duties.

#### **Other statutory duties related to water policy**

Section 2-15-1514, MCA, (enacted 1985) requires participation of a Legislative Services Division (changed from EQC to LSD in 1997) staff person on the natural resource data system advisory committee.

Section 2-15-1523, MCA, (enacted 1995) requires participation of a representative of the Legislative Services Division (changed from EQC to LSD in 1997) on the ground water assessment steering committee.

Section 77-5-301, *et seq.*, MCA. (enacted 1991) The legislative statement of intent requires the DNRC, along with the technical committee charged with advising the department on implementation of the streamside management zone laws, to evaluate and report on the implementation of the act to the EQC.

Section 85-2-281, MCA, (enacted 2005) requires the Water Court and the DNRC to report to the EQC on the progress of the adjudication process until 2020.

Section 85-2-350, MCA, (enacted 2005) requires the Clark Fork River Basin Task Force to report annually to the EQC.

Section 85-2-436, MCA, (enacted 1989) requires the DFWP, in conjunction with the EQC, to conduct and coordinate a study of water leasing.

#### **Reports produced**

*Report on Water Policy to the 55th Legislature.* 1996

*A Guide to Montana Water Quality Regulation.* 1997. Updated in 2002.

*Wading into Montana Water Rights.* 1997. Updated in 2000.

*Montana Department of Fish, Wildlife and Parks' Water Leasing Study. Environmental Quality Council Final Report to the 56th Legislature.* 1998

*Montana's Water Policy—1997-1998. An EQC Communique to the Montana Legislature.* 1998

*Montana's Revised Water Quality Monitoring, Assessment, and Improvement Program (HB 546 and TMDLs in Practice) : an EQC Oversight Report to the Montana Legislature.* 1999

*Water Policy 2000. Report to the 57<sup>th</sup> Legislature of the State of Montana.* 2000

*Coal Bed Methane and Water Policy in Montana 2002.* 2002

*Water Rights In Montana.* update and integration of DNRC and EQC reports. 2004. Updated in 2006.

*Zortman and Landusky Mines: Water Quality Impacts.* 2004

*Montana's Water—Where is it? Who can use it? Who decides?* 2004

*Water Policy in Montana.* 2006

### **Major issues analyzed and who addressed**

1995-1996

No water policy subcommittee appointed: the EQC addressed these issues.

- Received updates on the State Water Plan; Renewable Resource Grant and Loan Program; activities of the Water Research Center, the Montana Water Information System, and the DFWP water leasing program.
- Held public hearings in the Big Hole River Basin to educate the Council and discuss instream flow issues.

1997-1998

Appointed a 6-member Water Policy Subcommittee that addressed these issues.

- Total maximum daily load (TMDL) study.
- Update on wetlands portions of the State Water Plan, dam-related issues, return flows, fish eradication policy, septic regulations.
- Reviewed Gallatin Valley water right/subdivision issues.
- Received the DFWP water leasing report.

1999-2000

Appointed a 3-member Water Policy Subcommittee that addressed these issues.

- Discussed proposed federal TMDL legislation.
- Received updates from the Governor's Drought Advisory Committee on the Crow Tribe-Montana water rights compact and from the Renewable Resource Grant and Loan Program and the State Library Water Information System.
- Heard presentations on coal bed methane development, Columbia River Basin issues, and Lockwood water quality issues.
- Received comments on the DEQ's proposed general permit for confined animal feeding operations. Studied water quality issues related to hog farms.
- Reviewed significant court cases related to water quality.
- Received the DFWP water leasing report.

2001-2002

Appointed a 6-member Coal Bed Methane/Water Policy Subcommittee that addressed these issues.

- Updated a *Guide to Montana Water Quality Regulation*.
- Monitored the preparation of the coal bed methane development EIS for the Powder River Basin.
- Received updates from the Governor's Drought Advisory Committee, the Natural

Resource Information System, the DEQ on TMDLs, the RWRCC, and the Renewable Resource Grant and Loan Program.

- Reviewed court decisions that affected water quality issues.
- Received the DFWP water leasing report.

#### 2003-2004

No water policy subcommittee appointed. The EQC spent a significant amount of time and resources addressing the water adjudication process in Montana. The EQC made significant recommendations to the Legislature, which the Legislature adopted. The EQC addressed these issues during the interim.

- HJR 4 water management/adjudication study.
- HJR 43 study of water quality impacts at the Zortman and Landusky Mine.
- HJR 35 study regarding Montana's share of water from the interstate tributaries pursuant to the Yellowstone River Compact.
- HJR 40 study of issues associated with water rights for private ponds for fish, wildlife, recreational, wetland, aesthetic, and gravel mining uses.

#### 2005-2006

No water policy subcommittee appointed. The EQC Study Subcommittee addressed many of the water policy issues during the interim. The full EQC had an agenda item for water adjudication and HB 22 implementation issues for each EQC meeting during the interim.

- *Water Rights in Montana* update.
- Review of surface water/ground water interaction issues, domestic well exemption for the filing of a water right and repair of the St. Mary's Canal.
- Update of the water adjudication chronology.