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Law and Justice Interim Committee

62nd Montana Legislature

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February 29, 2012

Chairman Keane and Environmental Quality Council members,

On behalf of the 2011-2012 Law and Justice Interim Committee (LJIC), I would like to update the Environmental Quality Council (EQC) on the LJIC's review of eminent domain procedures and potential draft legislation that the LJIC intends to review in April.

During the LJIC's February 24 meeting, committee members began their examination and discussion of eminent domain. The LJIC's discussion is focused on the legal procedures for condemnation; including the process for condemnations, how negotiations and mediation are conducted, just compensation, and appeals. The LJIC heard from staff about condemnation procedures in Montana and also accepted public testimony on the subject.

The LJIC discussed opportunities for amending condemnation procedures in Montana to address concerns raised during the 2011 Legislative session and during the February 24 LJIC meeting. At the conclusion of the meeting, the LJIC agreed to explore options ensuring that a landowner involved in a condemnation proceeding is aware of his or her rights in an eminent domain action. To that end, the LJIC has requested draft legislation that would require a condemnor in an eminent domain action provide the condemnee with a statement of the condemnee's rights in an eminent domain action. The draft is to be modeled after legislation brought before the 2001 Legislature and requirements in the North Dakota Century Code. Staff will prepare the draft legislation in advance of the LJIC's April 19-20 meeting. The LJIC will accept public comment on the draft and decide whether to proceed.

Because the EQC is also examining eminent domain, with a focus on public uses, the LJIC wanted to make sure the council is aware of the LJIC's proposal. We look forward to hearing EQC members' thoughts on the draft legislation.

Chairman Jim Shockley

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