

**Environmental Quality Council  
Coal Bed Methane/Water Policy Subcommittee**

**2001-2002  
Work Plan**

**Adopted September 10, 2001**

# **1. Introduction**

The Environmental Quality Council (EQC) is a seventeen member bipartisan interim committee of the Montana Legislature. The EQC has adopted a work plan for the 2001-2002 interim between legislative sessions and has appointed a Coal Bed Methane/Water Policy Subcommittee to address coal bed methane issues and the EQC's statutory and other water policy responsibilities. This work plan sets forth the Subcommittee's strategy for fulfilling its responsibilities during the 2001-2002 interim.

The work plan includes the following sections:

1. Introduction
2. Work Plan Process Steps
3. Coal Bed Methane
4. Water Policy
5. Timeline

Basic background information, goals, and tasks are outlined for each policy topic. Although there are many water policy issues associated with coal bed methane production, coal bed methane is addressed separately because the Subcommittee's consideration of this topic is not limited to water policy issues.

The work plan is a flexible document. The Subcommittee will refine goals and tasks as information is gathered and evaluated. Key decisionmaking points are highlighted in the timeline and under each topic. The Subcommittee will make recommendations to the full EQC for any actions that it feels need to be taken such as proposed legislation, recommendations for agency action, and/or development of educational materials.

## **Subcommittee members include:**

Sen. Mack Cole, Chairman  
Sen. Bea McCarthy  
Mr. Tom Ebzery

Sen. Jon Tester, Vice Chairman  
Sen. Pete Ekegren  
Ms. Julia Page

## **Subcommittee staff include:**

*Water Policy Issues in General*  
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## **2. Work Plan Process Steps**

The EQC and its subcommittees generally follow five common steps to ensure a successful interim:

1. *Subcommittee/EQC Training and Information Gathering*
2. *Information/Issue Analysis*
3. *Subcommittee Findings and Conclusions (if any)*
4. *Subcommittee Recommendations (if any)*
5. *Full EQC Adoption or Modification of any Subcommittee Recommendations*

At the heart of any successful EQC interim activity is a constant and active solicitation by the EQC of public, regulated community, and agency comment and involvement.

## **3. Coal Bed Methane**

### **Background information**

Interest in production of coal bed methane in the Powder River Basin of Montana and Wyoming has increased dramatically as a result of improved technology and the increase in demand for natural gas. The Powder River Basin is one of the major coal bed methane producing regions in the United States. Interest has also been expressed in coal bed methane development in Gallatin, Park, and Blaine counties.

The Montana Board of Oil and Gas Conservation (Board or BOGC) has issued current permits for 314 coal bed methane wells. This figure includes dry holes and plugged test wells. Of these, 239 wells are producing or shut-in.

In June 2000, the Board signed a stipulation and settlement agreement with the Northern Plains Resource Council, Inc. The two parties agreed to a moratorium on the issuance of new permits pending completion of a statewide programmatic supplemental environmental impact statement (EIS). The settlement agreement allows the Board to permit up to 200 new test wells statewide, subject to certain conditions. The Board only has authority over drilling for coal bed methane on private and state lands.

The federal Bureau of Land Management (BLM), the Montana Department of Environmental Quality (DEQ), and the BOGC are jointly preparing an EIS to analyze the

impacts of proposed oil and gas development, including coal bed methane development. Production of coal bed methane on federal lands is on hold pending completion of the EIS and amendment of the resource management plans for the affected areas. Limited exploration is allowed.

House Joint Resolution No. 27 (HJR 27) requests that the EQC provide oversight for the state's preparation of or involvement in the EIS. Specifically, the resolution requests:

1. Quarterly status reports on the progress and preparation of the EIS from the staff of the DEQ and the BOGC.
2. A forum for concerns. Specifically, that the EQC serve as a forum for members of the public to present concerns regarding the timing and cost-effectiveness of the EIS.
3. A brief report from the EQC of its findings and conclusions regarding the EIS process. The report is to be presented to the 58th Legislature and the Governor.

The EQC allocated .60 full-time equivalent (FTE) staff to this effort during the 2001-2002 interim.

### **Goals**

- ? Become informed about water policy issues related to coal bed methane development in Montana and Wyoming.
- ? Analyze selected water policy issues related to coal bed methane development in Montana and Wyoming.
- ? Promote the preparation of a timely, cost-effective, and adequate EIS for coal bed methane development in Montana.
- ? Foster economic development that is environmentally and socially sound.
- ? Encourage public participation in coal bed methane policy development in a way that fosters productive harmony among various interests.
- ? In partial fulfillment of the purpose of the Montana Environmental Policy Act, pursuant to 75-1-102, MCA, facilitate state water policies that "will encourage productive and enjoyable harmony between humans and their environment, to protect the right to use and enjoy private property free of undue government regulation, to promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of humans, to

enrich the understanding of the ecological systems and natural resources important to the state."

### Coal bed methane tasks

- \_\_\_ 1. Evaluate the management of water produced in association with coal bed methane wells in Montana.
  - a. Become informed about the positive and negative impacts of water produced in association with coal bed methane wells, including long-term effects on irrigated and non-irrigated land through review of EIS documents and through presentations.
  - b. Become informed about the water quality monitoring system.
  - c. Become informed about options for management of produced water through review of EIS documents and through presentations.
  - d. Review the current regulatory framework for management of water discharged from coal bed methane wells in Montana.
  - e. Evaluate adequacy of current law. Identify alternatives, if desired.
  - f. If warranted, develop proposed legislation for the 2003 Legislature or other recommendations.

Who: Subcommittee. Briefing on impacts from knowledgeable parties, such as federal and state agency staff, university experts, industry representatives, organizations, and landowners.

Timeline: Dec. 10, 2001 Briefing on impacts caused by water discharge and options for managing discharged water. Review of current regulatory framework.

Feb. 7, 2002 Decision on whether or not to circulate options or proposals.

May 8, 2002 Decision on draft options or proposals, if any.

- \_\_\_ 2. Review process for acquisition of leases and permits for drilling for and production of coal bed methane in Montana and Wyoming.

Who: BOGC, BLM, DEQ, the Montana Board of Land Commissioners, industry representatives, and appropriate Wyoming agencies.

Timeline: December 10, 2001 Subcommittee meeting.

- \_\_\_ 3. Become informed about water quantity issues associated with coal bed methane production.
  - a. Review EIS documents to learn about the effect of ground water withdrawal in association with coal bed methane production on water quantity.
  - b. Briefing on Wyoming's approach and experience, including mechanisms under current law to protect existing water uses and information on effects of coal bed methane development.
  - c. Become informed about water rights issues.
  - d. Become informed about the water quantity monitoring system.

Who: Task 3a: Subcommittee members. Task 3b: EQC staff. Tasks 3c and 3d: Department of Natural Resources and Conservation (DNRC) staff and others (to be determined).

Timeline: Feb. 7, 2002 Subcommittee meeting.

- \_\_\_ 4. Monitor progress of preparation of the coal bed methane EIS.
  - a. Hear oral reports on the status of the EIS.
  - b. Request any available written information related to impacts of water discharge and impacts of water withdrawal on water quantity, as well as alternatives under consideration, prior to September 10 meeting. Additional oral or written reports to be determined.

Who: DEQ, BOGC, and BLM staff report. Subcommittee reviews or hears reports, requests additional information or actions, if desired.

Timeline: Oral or written reports prior to or during each Subcommittee meeting.

- \_\_\_ 5. Briefing on water quality agreement between Montana and Wyoming.

Who: DEQ staff.

Timeline: September 10, 2001 Subcommittee meeting.

- \_\_\_ 6. Review legislation considered by the 2001 Montana Legislature.

Who: EQC staff prepare summary of coal bed methane legislation. Subcommittee members review summary.

Timeline: Completed in June 2001.

\_\_\_ 7. Briefing on recent litigation.

Who: EQC staff.

Timeline: Written summary before December 10, 2001 Subcommittee meeting.  
New information as available.

\_\_\_ 8. Learn about coal bed methane operations and impacts through an on-site tour.

Who: EQC. EQC Staff.

Timeline: September 10-11, 2001 EQC tour

\_\_\_ 9. Serve as a clearinghouse for studies being conducted related to coal bed methane development in Montana.

Who: EQC staff.

Timeline: Ongoing throughout interim.

\_\_\_ 10. Report to Legislature.

Who: Subcommittee. EQC staff.

Timeline: Completed by September 15, 2002. If public comment desired, a draft report will be circulated by June 17, 2001.

## 4. Water Policy

### Background information and statutory responsibilities

The EQC has water policy duties that are specifically set forth in statute. The EQC's statutory water policy duties are paraphrased below.

#### ? **85-2-105, MCA**

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.
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.

#### ? **2-15-1523, MCA**

A representative from Legislative Services Division shall serve as an ex officio member on the **Ground Water Assessment Steering Committee**.

#### ? **77-5-301, MCA**

The 1991 statement of intent associated with this statute states: "the Department of Natural Resources and Conservation, with the assistance of the technical committee, evaluate the implementation of this bill [**streamside management zone law**], develop recommendations to address problems, if any, that arise, and report its findings and recommendations to the Environmental Quality Council.

#### ? **85-2-436, MCA**

The Department of Fish, Wildlife and Parks is directed to conduct and coordinate a **water leasing study in consultation with** the Environmental Quality Council.

The EQC chooses how to allocate its time among its responsibilities. They may choose tasks which are specifically identified in statute and/or other issues that the EQC feels are critical regarding Montana's water policy. The EQC allocated .40 full-time equivalent (FTE)



staff to water policy issues during the 2001-2002 interim. The goal and tasks reflect this time allocation.

## Goal

- Become informed and gain a better understanding of critical water policy issues occurring in Montana.

## Water policy tasks

- \_\_\_ 1. TMDL's
  - a. Update on State Technical Advisory Group (STAG) activities.
  - b. Review federal actions and their potential impact on Montana's program.
  - c. Implementation progress.

Who: EQC Staff. DEQ Staff.

Timeline: February 7, 2002 Subcommittee meeting.

- \_\_\_ 2. Columbia River Basin and Missouri River Basin Issues
  - a. Update from Senator McCarthy on activities of the Legislative Council on River Governance regarding Columbia River Basin.
  - b. Update from Senator Cole on activities of the Missouri River Basin Association.

Who: EQC Staff. Agency Staff.

Timeline: May 8, 2002 Subcommittee meeting and as needed throughout the interim.

- \_\_\_ 3. DNRC v. Missouri River Citizens, Inc. and Friends of the Wild Marias
  - a. Update on lawsuit issues.

Who: DNRC and involved parties.

Timeline: December 10, 2001 Subcommittee Meeting.

- \_\_\_ 4. Update on recently decided Supreme Court decisions regarding Montana water law.
  - a. Brief update of Supreme Court decisions and laws affected.

Who: EQC Staff. Attorneys for the specific case.

Timeline: Each Subcommittee meeting where appropriate.

- 5. Update Water Quality Handbook.
  - a. Update handbook with current information.

Who: EQC Staff

Timeline: July 25, 2002 Subcommittee meeting.

- 6. Agency oversight on rules regarding water policy.
  - a. Review rules relating to specific issues as requested by Subcommittee members.
  - b. Presentation by responsible agency if requested by Subcommittee.

Who: EQC Staff. Subcommittee. Agency Staff.

Timeline: Each Subcommittee meeting where appropriate.

- 7. Montana Reserved Water Rights Compact Commission.
  - a. Overview of existing compacts.
  - b. Review of progress and timeline for completion of additional compacts.

Who: Reserved Water Rights Compact Commission Staff.

Timeline: May 8, 2002 Subcommittee meeting.

## **5. Timeline**

### **2001**

- Sept. 10 Subcommittee meeting, Colstrip** (165 min. = ~ 3 hours)
- ? New agency rules related to water policy, if requested. (15 min.)
  - ? Review Supreme Court decisions related to water policy issues, if applicable. (20 min.)
  - ? Public comment on draft work plan. (25 min.)
  - ? Subcommittee discussion and approval of work plan. (30 min.)
  - ? Coal bed methane EIS status report. (30 min.)
  - ? Briefing on Montana-Wyoming water quality agreement. (15 min.)
  - ? Briefing on coal bed methane litigation. (15 min.)
  - ? Discuss agenda for next meeting. (15 min.)
- Sept. 10-11 EQC meeting and tour, Colstrip.**
- ? EQC tour of coal bed methane and energy facilities.
  - ? EQC approval of Subcommittee work plan.
- November** Draft coal bed methane EIS expected to be available.
- Dec. 10 Subcommittee meeting** (235 min. = ~ 4 hours)
- ? Coal bed methane EIS status report. (40 min.)
  - ? Briefing on impacts from water discharged from coal bed methane wells and options for managing discharged water. Review of current regulatory framework. (60 min.)
  - ? Briefing on process for acquisition of leases and permits for drilling for and production of coal bed methane. (45 min.)
  - ? New agency rules related to water policy, if requested. (15 min.)
  - ? Review Supreme Court decisions related to water policy issues, if applicable. (15 min.)
  - ? Update on DNRC v. Missouri River Citizens, Inc. and Friends of the Wild Marias lawsuit issues. (45 min.)
  - ? Discuss agenda for next meeting. (15 min.)
- Dec. 11 EQC meeting**
- ? Subcommittee report to EQC.

## 2002

- Feb. 7 Subcommittee meeting** (285 min. = ~ 5 hours)
- ? Decision on whether or not to circulate draft reports or proposals. (60 min.)
  - ? Presentation on TMDLs. (60 min.)
  - ? Coal bed methane EIS status report. (30 min.)
  - ? Briefing on water quantity issues associated with coal bed methane production. (60 min.)
  - ? Briefing on water rights issues associated with coal bed methane development (60 min.)
  - ? Discuss agenda for next meeting. (15 min.)
- Feb. 8 EQC meeting**
- ? Subcommittee report to EQC.
- May 8 Subcommittee meeting** (255 min. = ~ 4 hours)
- ? Subcommittee decision on draft options or proposals, if needed. (60 min.)
  - ? Final decision to circulate draft reports or legislative proposals, if desired. (60 min.)
  - ? Coal bed methane EIS status report. (30 min.)
  - ? New agency rules related to water policy, if requested. (15 min.)
  - ? Review Supreme Court decisions related to water policy issues, if applicable. (15 min.)
  - ? Columbia River Basin and/or Missouri River Basin issues. (20 min.)
  - ? Montana Reserved Water Rights Compact Commission update. (40 min.)
  - ? Discuss agenda for next meeting. (15 min.)
- May 9 EQC meeting**
- ? Subcommittee report to EQC.
- May 13-  
June 14** Last dates to revise draft reports and concepts for proposed legislation (if any) for public review and comment, if desired.
- June 17** Draft documents (if any) distributed to public for review and comment.
- July 10** Deadline for public comment on draft documents (if any).
- July 12** Compile and distribute comments on draft documents (if any) to Subcommittee members.

- July 25 Subcommittee meeting** (165 min. = ~ 3 hours)
- ? Final Subcommittee decision on any recommendations to EQC for proposed legislation or other recommendations on or before this date. (120 min.)
  - ? New agency rules related to water policy, if requested. (15 min.)
  - ? Review Supreme Court decisions related to water policy issues, if applicable. (15 min.)
  - ? Review of revised water quality handbook. (15 min.)
- July 26 EQC meeting**
- ? Subcommittee briefs EQC on any potential EQC legislative proposals.
  - ? Subcommittee presents recommendations to EQC.
- Sept. 12-13 EQC meeting**
- ? Final decision by EQC on content of proposed legislation, if any.
  - ? Selection of bill sponsors.
- Sept. 15 Deadline for completion of interim committee work.**