

## Appendix B

### **Water Policy Committee Historic Overview (1985 - 1995)**

#### **When was the WPC created?**

1985

House Bill No. 680 (HB 680) implemented the recommendations of the EQC's 1983-1984 Select Committee on Water Marketing and established a Water Policy Committee.

#### **Why was the WPC created?**

Recommended by the EQC Select Committee on Water Marketing and the 1985 Legislature to protect for present and future use Montanan's fair share of the water in interstate rivers and streams—particularly the Missouri.<sup>1</sup> (See also testimony from legislative hearings.)

#### **Number and make-up of the membership**

The committee consisted of 8 members, 4 from each house and each party.

"Section 20. Water policy committee. (1) There is a permanent water policy committee of the legislature. The committee consists of eight members. The senate committee on committees and the speaker of the house of representatives shall each appoint four members on a bipartisan basis. The committee shall elect its chairman and vice-chairman. The committee shall meet as often as necessary, including during the interim between the sessions, to perform the duties specified in this section [85-2-105, MCA].

#### **Statutory duties**

The statutory duties of the Water Policy Committee were set forth in section 20 of HB 680 [85-2-105, MCA]. The section read as follows:

"Section 20. Water policy committee. (2) On a continuing basis, the committee shall:

- (a) advise the legislature on the adequacy of the state's water policy and of important state, regional, national, and international developments which affect Montana's water resources;
- (b) oversee the policies and activities of the department of natural resources and conservation, other state executive agencies, and other state institutions, as they 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 committee shall:

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

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<sup>1</sup>Final Report of the Select Committee on Water Marketing to the 40th Legislature, January 1985, p 7.

(b) analyze and comment on the report of the status of the state's water development 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, not less than once every biennium.

Between 1985 and 1995, section 85-2-105, MCA, was amended as follows:

HB 231 (1991) changed reporting requirements

HB 608 (1993) changed "water development program" to "renewable resource grant and loan program"

SB 234 (1995) style changes, including changing "chair" to "presiding officer"

SB 398 (1995) reorganized legislative committees, abolishing the Water Policy Committee and organizing its duties under the Environmental Quality Council

### **Other statutory duties**

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

### **How long was it in existence?**

10 years

In 1995, SB 398 integrated the Water Policy Committee into the EQC (number of EQC members increased from 13 to 17)

### **Reports produced**

*Report of the Water Policy Committee to the 50th Legislature of the State of Montana.* 1986

*Report of the Water Policy Committee to the 51st Legislature of the State of Montana.* 1988

*Evaluation of Montana's Water Rights Adjudication Process.* 1988

*Study of Water Resources Research Centers and Graduate Programs in Water Resources in the United States.* 1989

*Water Policy Committee. Final Report to the 52nd Legislature of the State of Montana.* 1990

*Water Policy Committee. Final Report to the 53rd Legislature of the State of Montana.* 1992

*Water Policy Committee. Final Report to the 54th Legislature of the State of Montana.* 1994

### **Staff support**

The Environmental Quality Council staff provided support to the Water Policy Committee, as described in section 20 of HB 680 [85-2-105, MCA].

(4) The environmental quality council shall provide staff assistance to the committee. The committee may contract with experts and consultants, in addition to receiving assistance from the environmental quality council, in carrying out its duties under this section.

### **Major issues analyzed over the years**

#### 1985-86

- Drought management: participated in and made recommendations to the Drought Task Force.
- Water adjudication: reviewed court cases including 1) DFWP v. Water Court—where the department asserted there were substantive errors in decreed water rights, procedural law errors in the Water Court adjudication process and in the accuracy and validity of decrees; and 2) Montana v. United States challenging the legal sufficiency of the adjudication process to consider Indian water rights. Presentations of general adjudication information were made by the Water Court, DNRC, RWCC and others.
- Interstate water issues: worked with NCSL and other states to discuss apportionment of Missouri River Basin water.
- Monitored the development of new rules to implement the reservation process in the Missouri River Basin.
- Reviewed State Water Plan and planning process.
- Reviewed state water data availability and needs.
- Studied water use efficiency in the state.

#### 1987-1988

- Water adjudication; HB 2 appropriated \$75,000 to the committee to conduct a thorough study of Montana's water adjudication process.
- Reviewed Montana's public trust doctrine and its application for agricultural water users
- Reviewed water development grant program.
- Promoted water research in Montana and water data management, recommended the creation of the Water Research Policy Advisory Board.
- Reviewed the State Water Plan.
- Discussed water transfers.
- Discussed hydropower development.

#### 1989-1990

- Reviewed the BNRC and the DFWP recommendations regarding water leasing and proposed changes to the water leasing pilot program.
- Reviewed instream management strategies in Montana and implementation of the instream flow protection section of the State Water Plan.
- Supported securing stable funding sources for the Montana Water Information System
- Recommended continued funding for the Water Research Center.
- Commissioned study of water research centers and graduate programs in water research.
- Reviewed federal-state water issues, including federal concerns with the state water adjudication process, increasing state benefits from the Pick Sloan program and the federal impact on state hydropower licensing.
- Reviewed water development issues, including the rehabilitation of the Tongue River Dam and the St. Mary's canal and the protection of Missouri River water levels

1991-1992

- Dam safety study.
- Water reservation study.
- Geothermal resources study.
- Water user/recreational user fees study.
- Water leasing study.
- Oversight of State Water Plan, water development program, water research and water data management, state drought response, wilderness dam maintenance and federally reserved water rights.

1993-1994

- Late claims study.
- Weather modification study.
- Oversight of water data management, water development program, State Water Plan, water research and water leasing, state drought response, wilderness dam maintenance and water user/recreational user fees study.
- Review of instream flow issues.
- Cooperation with EQC on water quality nondegradation study.