



# ENVIRONMENTAL QUALITY COUNCIL

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**GOVERNOR BRIAN SCHWEITZER**  
**DESIGNATED REPRESENTATIVE**  
MIKE VOLESKY

**HOUSE MEMBERS**  
CHAS VINCENT--Chair  
SUE DICKENSON  
JULIE FRENCH  
MIKE MILBURN  
CARY SMITH  
FRANKE WILMER

**SENATE MEMBERS**  
BRADLEY MAXON HAMLETT--Vice Chair  
JIM KEANE  
RICK RIPLEY  
JIM SHOCKLEY  
MITCH TROPILA  
BRUCE TUTVEDT

**PUBLIC MEMBERS**  
JEFF PATTISON  
BRIAN CEBULL  
DIANE CONRADI  
MARY FITZPATRICK

**COUNCIL STAFF**  
JOE KOLMAN, Research Analyst  
SONJA NOWAKOWSKI, Research Analyst  
HOPE STOCKWELL, Research Analyst  
CYNTHIA PETERSON, Secretary  
TODD EVERTS, Legislative Environmental Analyst

## MINUTES

Approved January 7, 2010

Date: September 11, 2009

Room 172  
State Capitol Building

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

### **COMMITTEE MEMBERS PRESENT**

REP. CHAS VINCENT, Chair  
SEN. BRADLEY MAXON HAMLETT, Vice Chair  
SEN. JIM KEANE  
SEN. RICK RIPLEY  
SEN. MITCH TROPILA  
SEN. BRUCE TUTVEDT  
REP. SUE DICKENSON  
REP. JULIE FRENCH  
REP. MIKE MILBURN  
REP. CARY SMITH  
REP. FRANKE WILMER  
MS. DIANE CONRADI  
MS. MARY FITZPATRICK  
MR. MIKE VOLESKY

## **COMMITTEE MEMBERS EXCUSED**

SEN. JIM SHOCKLEY  
MR. BRIAN CEBULL  
MR. JEFF PATTISON

## **STAFF PRESENT**

TODD EVERTS, Legislative Environmental Analyst  
JOE KOLMAN, Research Analyst  
SONJA NOWAKOWSKI, Research Analyst  
BARBARA SMITH, Fiscal Analyst  
HOPE STOCKWELL, Research Analyst  
CYNTHIA PETERSON, Secretary

## **Visitors**

Agenda ([Attachment 1](#))  
Visitor List ([Attachment 2](#))

## **COMMITTEE ACTION**

There was no committee action taken.

## **CALL TO ORDER AND ROLL CALL**

00:00:00 Representative Vincent, Chairman of the Environmental Quality Council (EQC), called the meeting to order at 8:00 a.m. The secretary called roll ([Attachment 3](#)).

## **AGENDA**

### **HJ 30--STUDY OF FIRE SUPPRESSION**

#### **Update SB 51 (2007)--WUI guidelines, rules hearings--Ms. Heisel**

00:00:05 Leanne Heisel, Research Analyst, Legislative Services Division.

#### **Federal Policy Changes--USFS & Bob Harrington, DNRC**

00:17:46 Bob Harrington, Forestry Division Administrator, Department of Natural Resources and Conservation (DNRC).

00:22:13 Kevin Reardon, Forest Supervisor, Helena National Forest, U. S. Forest Service.

### **Update of 2009 Fire Season**

00:26:53 Bob Harrington, Forestry Division Administrator, DNRC, submitted a Map of the Eagle Mount Fire ([Exhibit 1](#)), and a written report entitled "EQC Briefing Materials" ([Exhibit 2](#)).

### **AGENCY OVERSIGHT--STATUS OF SB 131: DESIGNATION OF PARCELS IN THE WILDLAND URBAN INTERFACE (WUI)**

#### **Bob Harrington, DNRC**

00:34:58 Bob Harrington, Forestry Division Administrator, DNRC.

#### **Questions & Discussion--EQC**

00:43:01 Chairman Vincent asked about the importance of the Wildland Urban Interface (WUI) to the Flame Act. Mr. Harrington responded.

00:45:13 Representative French wondered about the lack of a presence of boundaries in the WUI in eastern Montana. Mr. Harrington responded. Representative French wondered if it were detrimental to not have predetermined WUI boundaries. Mr. Harrington responded.

00:50:22 Representative Dickenson requested more information about the Indian Trails fire. Mr. Harrington provided an update on the Indian Trails fire.

00:54:51 Senator Ripley recalled SB 131 provided for two FTEs rather than one FTE. Mr. Harrington responded.

00:55:48 Senator Keane suggested the EQC would like to revisit the issues of engines and the clearing of land after the final cost of the 2009 fire season is calculated. Mr. Harrington responded and circulated photos of new engines for the DNRC Southern Land Office for distribution to Volunteer Fire Departments ([Exhibit 3](#)). Senator Keane requested that the EQC's input be included in the development of any proposed plan.

00:59:34 Senator Hamlett commented he had requested Scott Blackman, a landowner in the Indian Trails fire area, to testify before the EQC at its next meeting.

#### **Public Comment**

### **HJR 30--STUDY OF FIRE SUPPRESSION (Cont'd)**

#### **2007 Fire Suppression Interim Committee Report, "The Price of Flame"**

01:00:45 Representative Milburn complimented Legislative Services Division staff on "The Price of Flame."

### **Paul McKenzie, Montana Tree Farm System**

01:01:28 Paul McKenzie, Chair, Montana Tree Farm System.

### **Peter Kolb, MSU Extension Forestry Specialist**

01:13:29 Peter Kolb submitted written commentary on the Headwaters Study ([Exhibit 4](#)).

### **Patty Gude, Headwaters Economics**

01:42:00 Patty Gude, Researcher, Headwaters Economics, provided written information entitled "Montana Wildfire Cost Study: Explanation of Methods and Data Sources, September 11, 2009" ([Exhibit 5](#)).

### **Public Comment**

There was no public comment offered.

### **Questions & Discussion**

01:52:59 Ms. Conradi asked about the significance of the number in the report for fire fighting costs. Ms. Gude responded.

01:53:56 Senator Keane asked Mr. Kolb to comment on whether the beetle kill mapping would continue in Montana. Mr. Kolb responded. Senator Keane asked whether Mr. Kolb saw a correlation between the beetle kill and wildfire. Mr. Kolb responded.

01:56:56 Mr. Volesky thought Mr. Kolb made an accurate defense of Montana forest owners, who manage their timber well, and there is a distinction to be made between those landowners and developments in the WUI. Mr. Kolb responded.

02:01:03 Representative Wilmer noticed there was a discrepancy on page 2 of Mr. Kolb's letter and asked Ms. Gude and Mr. Kolb to respond. Ms. Gude responded.

02:04:42 Mr. Kolb responded to Representative Wilmer's question.

02:07:47 Representative Wilmer thought Ms. Gude's conclusions would be accurate based on the focus of her group. Ms. Gude commented.

02:08:34 Senator Ripley thanked Ms. Gude for her work and asked her why they chose the model that they did. Ms. Gude responded.

02:11:50 Senator Hamlett addressed Mr. Reardon and asked if there was less access into the national forests than there was 20 to 40 years ago. Mr. Reardon summarized some areas have increased access and some areas have decreased access. Senator Hamlett asked what the U.S. Forest Service had done with its smoke jumping program. Mr. Reardon responded the numbers of smoke jumpers are about the same. Senator Hamlett noted fuels have drastically increased, and

asked whether consideration had been given to increasing the number of smoke jumpers. Mr. Reardon responded current resources are adequate. Senator Hamlett asked whether the 97 percent success rate included only the fires on which the U.S. Forest Service shows up. Mr. Reardon explained. Senator Hamlett asked if there would be a possibility that the DNRC could have a joint smoke jumper training program with the U.S. Forest Service. Mr. Reardon responded. Senator Hamlett noticed the report indicated the U.S. Forest Service no longer has the number of lookouts it had in the past. Mr. Reardon responded forest lookouts were critical in the 1920s, but other resources are now available. Senator Hamlett recalled lookouts were strategically located, and Mr. Reardon agreed.

02:19:33 Chairman Vincent offered to make available a U.S. Forest Service map of Lincoln County depicting current accessibility in Lincoln County.

02:20:06 Mr. Kolb commented on the results of the Headwaters' Study.

02:24:01 Ms. Heisel summarized her directions for the next meeting.

#### **AGENCY OVERSIGHT--WOLF DELISTING**

##### **Update on Litigation and Hunting Season--FWP Staff**

02:26:30 Bob Lane, Chief Legal Counsel, Department of Fish, Wildlife & Parks (FWP).

##### **Questions & Discussion--EQC**

02:47:23 Senator Tutvedt asked about possible negotiations with the plaintiffs in the lawsuit. Mr. Lane explained potential settlement negotiations.

02:49:13 Representative Dickenson noted the hunt will open first in wilderness areas rather than in those areas that have experienced problem wolves. Mr. Lane responded.

02:51:37 Senator Ripley wanted to know how a state agency could hold a negotiation meeting that would be closed to the public. Mr. Lane responded. Senator Ripley wondered why the state is still using an incremental approach to wolf management. Specifically, Senator Ripley wanted to know how many wolves were taken from the pack that killed 120 sheep. Quentin Kujala, FWP, responded.

02:57:38 Senator Ripley wondered whether the Footloose Montana Initiative would be only on public lands. Mr. Lane responded.

02:58:48 Representative Wilmer suggested Idaho may be the problem since its wolf numbers are too high. Mr. Lane explained.

03:00:52 Chairman Vincent commented the quality of data would be important to the success or failure in the litigation. Chairman Vincent took exception to the

number of packs of wolves reported to him in Lincoln County in the past. Chairman Vincent wondered whether FWP would continue to use due diligence in collecting data. Mr. Lane responded. Representative Vincent urged FWP to continue due diligence in collecting data.

### **Public Comment**

- 03:06:00 Senator Debby Barrett, SD 36, commented on SB 228 and the need to address wolves that are killing livestock.
- 03:10:05 John Youngberg, Montana Farm Bureau.
- 03:11:42 Mr. Lane responded to Senator Barrett's concerns.
- 03:12:56 Chairman Vincent commented.
- 03:13:39 Senator Ripley requested a follow-up report.

### **AGENCY OVERSIGHT - HB 190 UPDATE: STREAM ACCESS**

#### **FWP Staff**

- 03:14:02 Mr. Lane addressed bridge access and submitted "HB 190 Bridge Access" ([Exhibit 6](#)).

#### **Public Comment**

- 03:29:15 Senator Barrett thanked the EQC for putting the topic on its agenda and explained her concerns.
- 03:33:07 Mark Aagenes, Montana Trout Unlimited.

#### **Questions & Discussion--EQC**

- 03:35:16 Representative Milburn commented that the success of the legislation would be dependent upon the involvement of all parties.
- 03:36:54 Mr. Volesky stated he was unaware of any pressure from the Governor's Office and that he would want to know about any pressure from FWP.

### **SJR 28 - STUDY OF RECYCLING**

#### **Introductions/Overview - Ms. Nowakowski**

- 03:39:37 Ms. Nowakowski encouraged the EQC to read her report on recycling ([Exhibit 7](#)).
- 03:41:44 Dusti Johnson, Department of Environmental Quality (DEQ), gave a PowerPoint presentation on recycling ([Exhibit 8](#)).

### **Merle Shortman, M&M Recycling**

03:51:31 Merle Shortman, M&M Recycling (via telephone), Cut Bank, spoke about his recycling business.

### **Scott Berens, Earth First Aid**

03:54:43 Scott Berens spoke about his recycling business in Billings ([Exhibit 9](#)) and submitted a photograph of the truck and trailer his business uses to pick up recycling ([Exhibit 10](#)).

### **Questions and Discussion--EQC**

04:05:58 Representative Wilmer noted the Livingston site only accepts glass from Park County residents. Mr. Berens responded. Representative Wilmer was curious how much a glass pulverizer would cost. Ms. Johnson responded.

04:08:45 Ms. Fitzpatrick asked whether there was anything that could be done on the state level that would help recycling. Mr. Berens responded.

04:11:00 Representative Dickenson was curious about the cost of a baler and whether Mr. Berens received any financial assistance from the state to purchase a baler. Mr. Berens responded.

04:12:21 Representative Dickenson wondered whether non-customers could bring their recycling to Mr. Berens' warehouse. Mr. Berens responded. Representative Dickenson believed there were ways the state could assist Mr. Berens in the future.

04:14:58 Mr. Volesky wondered how much space three millions pounds of recycled material would save in a landfill. Mr. Berens responded.

04:15:33 Representative French wondered if it would be possible for her to drop off her recycling in Billings and wondered how Mr. Berens would profit. Mr. Berens explained.

04:17:13 Senator Hamlett asked Senator Keane to comment on how recycled cans are used in Butte. Senator Keane explained.

04:18:53 Chairman Vincent wanted to know Mr. Berens' work radius. Mr. Berens responded the radius is mostly limited to Billings and several outlying areas.

### **Public Comment**

- 04:20:18 Marianne Roose, Lincoln County Commissioner, testified about the success of the DEQ's Rural Recycling Program in Eureka.
- 04:24:50 Ms. Nowakowski pointed out Eureka's recycling program was used as a case study.

(LUNCH)

### **AGENCY OVERSIGHT - SB 97 PETROLEUM TANK RELEASE FUND**

#### **Overview of Fund's Financial Status--Ms. Stockwell**

- 05:30:28 Ms. Stockwell reviewed a PowerPoint presentation entitled "Petroleum Tank Release Fund" ([Exhibit 11](#)).

#### **Update on use of ARRA funds--DEQ**

- 05:36:15 Sandi Olsen, DEQ, provided a list of sites that are receiving funds from the Petroleum Tank Release Fund (PTRF). Ms. Olsen submitted "Board Staff Report" ([Exhibit 12](#)).

### **Public Comment**

There was no public comment.

### **Questions Discussion--EQC**

- 05:41:15 Representative Milburn asked if a list is available of all the petroleum sites that will be cleaned up. Ms. Stockwell responded.
- 05:42:43 Terry Wadsworth, Executive Director, Petroleum Release Compensation Board, responded to Representative Milburn's request.
- 05:44:14 Senator Tutvedt observed cost-control efforts were not utilized when sites were being cleaned up and sought to know about current efforts to control costs. Mr. Wadsworth responded.
- 05:46:39 Ms. Olsen added sites have been prioritized and explained other efforts to contain costs and save money.
- 05:48:21 Chairman Vincent commented.
- 05:48:40 Representative Milburn discussed a particular site in Great Falls where the Great Falls Development Authority would like to receive Brownfields program money to pay for cleanup until money is available from the PTRF.

- 05:51:45 Senator Ripley noted the chart had less revenue than expenses. Mr. Wadsworth explained.
- 05:53:36 Representative Wilmer requested clarification on the number of open releases. Ms. Olsen provided statistics.
- 05:54:35 Ms. Conradi noted claims on the shelves are decreasing while the pending non-obligated work is increasing. Mr. Wadsworth explained. Ms. Conradi requested further clarification regarding claims on the shelves, and Mr. Wadsworth responded.
- 05:58:31 Senator Hamlett posed a hypothetical question and asked Mr. Wadsworth to respond. Mr. Wadsworth addressed Certificates of Completion.
- 06:00:19 Senator Hamlett clarified he was referring to Elmer's Restaurant in Great Falls and asked Mr. Wadsworth to specifically address the issue.
- 06:01:43 Mike Trombetta, Chief, Hazardous Waste Site Cleanup Bureau, explained cleanup efforts at the Elmer's Restaurant site.
- 06:04:06 Senator Hamlett wondered where the liability would lie with the Elmer's Restaurant site. Mr. Trombetta responded.
- 06:05:38 Mr. Wadsworth provided further clarification about who assumes liability when a site is sold.
- 06:08:02 Senator Hamlett asked whether long-term monitoring was currently in place. Mr. Wadsworth responded. Senator Hamlett asked whether well holes had been drilled. Mr. Wadsworth offered to obtain that information.
- 06:08:59 Chairman Vincent asked if there were any resources available to get work plans in place for individual sites. Mr. Wadsworth responded revenue is not available for low-priority sites. Chairman Vincent spoke about the difficulties in obtaining and implementing work plans.
- 06:12:28 Representative Milburn explained difficulties with Brownfield sites.

## **AGENCY OVERSIGHT--State Superfund Program--DEQ /Staff**

### **Overview of program status**

- 06:14:42 Sandi Olsen explained the Superfund Program. Ms. Olsen submitted and reviewed "Fiscal Year 2009, Remediation Division Annual Report" ([Exhibit 13](#)).

### **Question & Discussion--EQC**

- 06:32:47 Representative Dickenson noted non-high priority sites could sit for quite awhile unless they are added to the National Priority List (NPL). Representative Dickenson wondered how being on the NPL would be helpful and how to get a

site on the NPL. Ms. Olsen responded. Representative Dickenson believed the Governor had to write a letter to the U.S. Environmental Protection Agency (EPA) and request a site be placed on the NPL and once that happens, additional testing can be done. Representative Dickenson wanted to know whether the testing was part of the final ranking score and whether the EPA was required to pay for the testing. Ms. Olsen responded. Representative Dickenson wanted to know what a hazard ranking score is if it is not based on testing. Ms. Olsen responded.

06:37:48 Ms. Conradi asked if she could receive a copy of the report. Ms. Olsen agreed. Ms. Conradi addressed the Whitefish site and the impact from not having a project manager. Ms. Olsen explained. Ms. Conradi asked if the restructuring would pick up some of the slack if a project manager is lost. Ms. Olsen responded.

#### **Kalispell Pole and Timber, Reliance Refinery, and Yale Oil Corporation site.**

06:44:07 Ms. Olsen provided an update on the Kalispell Pole and Timber, Reliance Refining Company, and Yale Oil Corporation (KRY) site. Ms. Olsen provided a written site update dated December 2008 ([Exhibit 14](#)).

#### **Questions and Discussion--EQC**

06:45:48 Senator Tutvedt expressed his disappointment in the progress at the KRY site and suggested the DEQ has chosen litigation as opposed to negotiating with the parties. Ms. Olsen responded. Senator Tutvedt spoke about the cost to a person who was considered a PRP and depicted the expense involved as egregious. Ms. Olsen explained.

06:52:01 Representative Dickenson commented the EQC had been listening to the parties involved in the KRY site for six years and believed the DEQ had worked hard. Representative Dickenson believed the DEQ had a constitutional responsibility to do a thorough and conscientious job.

06:54:05 Director Opper emphasized the contamination in Kalispell could not be addressed by capping.

06:56:03 Representative French asked about the six parties who had settled and wondered whether the clean up would proceed without the seventh party settling. Ms. Olsen agreed clean up would proceed unless an injunction were filed to stop the work.

06:58:08 Ms. Conradi asked whether the case was in state or federal court. Ms. Olsen responded the case is in state court. Ms. Conradi asked about the past court decisions regarding liability. Ms. Olsen explained.

07:00:32 Denise Martin, Site Response Section Manager, Remediation Division, stated the DEQ received a ruling from Judge Sherlock stating the Burlington Northern and

Santa Fe Railway Company (BNSF) is responsible at the KRY site. The second lawsuit was a challenge to the Record of Decision (ROD).

- 07:01:54 Chairman Vincent asked for a dollar amount for BNSF's responsibility. Ms. Olsen provided a breakdown of the allocation of responsibility.
- 07:02:50 Senator Hamlett understood there was no money available in the federal Superfund. Ms. Olsen responded. Senator Hamlett asked about Black Eagle and noted the community could be taking a gamble by going to the federal Superfund program. Ms. Olsen did not believe the site in Black Eagle would qualify; therefore, there would be no risk.
- 07:06:26 Senator Tropila recalled \$9 million was appropriated to help with cleanup of the KRY site, and wanted to know whether the funds helped move the process forward and bring BNSF back to the table. Director Opper responded. Senator Tropila stated that he thought the DEQ had worked harder toward cleanup than the BNSF. Director Opper agreed.
- 07:09:09 Chairman Vincent asked what funds were available from the Orphan Share Account. Director Opper responded.
- 07:09:45 Barbara Smith clarified the Orphan Share is coming off oil and gas taxes.

#### **Burlington Northern Fueling Facility in Whitefish**

- 07:10:28 Ms. Olsen submitted and reviewed "Fact Sheet for BN Whitefish Fueling Facility" ([Exhibit 15](#)).

#### **Questions & Discussion--EQC**

- 07:13:18 Ms. Conradi asked if the map contained modifications to the boundaries. Director Opper responded. Ms. Conradi asked for a status of the monitoring wells. Mr. Opper deferred the question to Ms. Martin.
- 07:15:22 Ms. Martin explained a planning meeting would take place on September 20 and specific locations for monitoring wells will be disclosed.

#### **Public Comment**

- 07:16:07 Leo Berry, an attorney representing the BNSF, responded to previous comments.
- 07:19:38 Senator Tutvedt provided an overview of the KRY site and summarized the feelings of the City of Kalispell.

## **SB 465/SB 507 UPDATE: IMPLEMENTATION OF NAVIGABLE STREAMBED LEGISLATION**

### **Jeanne Holmgren, DNRC**

- 07:20:00 Senator Hamlett provided copies of SB 465 ([Exhibit 16](#)) and SB 507 ([Exhibit 17](#)).
- 07:23:57 Ms. Holmgren submitted and reviewed "SB 465/SB507 Update: Implementation of navigable streambed legislation" ([Exhibit 18](#)).
- 07:24:27 Derek Bell, Department of Revenue (DOR), submitted and reviewed the DOR's report on the implementation of SB 465 ([Exhibit 19](#)).

### **Public comment**

There was no public comment.

### **Questions and Discussion--EQC**

- 07:30:22 Senator Tutvedt asked whether the pre-statehood intent of navigable was used. Mr. Bell could not specifically answer and referred the question to the DNRC.
- 07:31:41 Senator Tutvedt stated the intent of the legislation was that the surveys used be from the time of statehood and it appears that maybe later federal surveys were used. Ms. Holmgren responded. Senator Tutvedt clarified a later federal survey was used. Ms. Holmgren noted not all the state was surveyed at the time of statehood.
- 07:33:29 Senator Hamlett noticed the handout did not list the dates of the surveys and requested Ms. Holmgren to provide the dates. Ms. Holmgren agreed. Senator Hamlett stated that he sat on the Senate Taxation Committee, which heard SB 507, and it was the legislators' intent that the original federal government surveys conducted at the time of statehood determine what is navigable. In addressing SB 465, navigable river is determined by what was admitted on the equal footing doctrine when Montana became a state on November 8, 1889, and rivers that had gone through a court of competent jurisdiction for a determination.
- 07:35:29 Ms. Holmgren clarified she could provide dates on the original government survey. Ms. Holmgren explained further that the DNRC erred on the conservative side.
- 07:36:33 Chairman Vincent wondered how the public was being informed of the changes on the list. Ms. Holmgren responded. Chairman Vincent asked about the method for objection. Ms. Holmgren responded.

## **UPDATE ON WATER POLICY INTERIM COMMITTEE--Mr. Kolman**

07:39:42 Mr. Kolman provided a written update on the WPIC activities ([Exhibit 20](#)) and Senator Hamlett distributed the WPIC draft agenda ([Exhibit 21](#)).

### **Questions & Discussion--EQC**

There were no questions from the EQC.

07:42:36 Mr. Everts added he would be providing the EQC members with an analysis of the various definitions of navigable rivers.

## **UPDATE ON ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE--Ms. Nowakowski**

07:43:04 Sonja Nowakowski reviewed the current activities of the Energy and Telecommunications Interim Committee (ETIC).

## **PUBLIC COMMENT ON ANY MATTER NOT CONTAINED IN THIS AGENDA AND THAT IS WITHIN THE JURISDICTION OF THE EQC.**

There was no further public comment.

## **HJ 15 - TOURISM/RECREATIONAL ACCESS STUDY UPDATE--Ms. Stockwell**

07:47:50 Ms. Stockwell reported on her research to date.

## **RULE REVIEW & AGENCY LITIGATION STATUS REPORT--Mr. Everts**

07:48:36 Mr. Everts directed the EQC members to the information contained in their mailing which included litigation updates for the DNRC, the DEQ, and FWP, as well as the EQC's Administrative Rule Review Process ([Exhibit 22](#)).

### **Questions and Discussion--EQC**

07:50:26 Representative French wondered how she would know when the rules hearings would be for the Department of Public Health and Human Services rules. Mr. Everts offered to obtain the information. Representative French presumed the goals and objectives were set providing that Representative Kottel's bill would have passed. Mr. Everts offered to conduct research.

## **ENVIRONMENTAL PUBLIC HEALTH TRACKING**

07:52:46 Representative Dickenson suggested the Children, Families, Health, and Human Services Interim Committee should hear the same presentation heard by the EQC. Representative Dickenson also suggested EQC members could speak with constituents and colleagues to determine whether there is an interest throughout Montana in becoming more involved in public health. Representative Dickenson

offered to ask Ms. Smilie's department to resubmit its grant application to the CDC. Representative Dickenson sought direction from the EQC members.

- 07:57:15 Senator Hamlett explained he is also interested in public health tracking because of a 1960s incident in Cascade.
- 07:58:32 Representative Smith recalled previous legislation did not provide for the ability to collect data from VA Hospitals, state hospitals, small hospitals, or Indian Health Services. Representative Smith cautioned against collecting spotty data and envisioned a need to collect data and solve or prevent problems.
- 08:00:34 Representative French suggested Ms. Smilie report at the next EQC meeting, along with a representative of the Montana Hospital Association, on what information is currently available.
- 08:02:07 Representative Dickenson clarified the \$150,000 appropriated each year of this biennium is to work on hospital discharge data and how it would tie into environmental public health.
- 08:02:36 Representative French stated the \$150,000 was to hire an epidemiologist and work with hospital discharge records.
- 08:03:02 Ms. Fitzpatrick suggested exploring doing cooperative work with the Veterans Administration. Ms. Fitzpatrick was puzzled why the state hospital would not be required to provide information.
- 08:04:03 Chairman Vincent summarized the EQC's desire to continue to explore environmental public health.
- 08:04:24 Representative Dickenson asked for permission to contact Director Smilie and encourage her to reapply for grants. Chairman Vincent responded.
- 08:06:19 Chairman Vincent recalled the suggestion that the EQC hold a panel discussion on noxious weeds. The EQC members agreed.

## **CABIN LEASING**

- 08:08:20 Senator Tutvedt agreed with encouraging the DNRC to work with the leaseholders and also thought the DNRC should explore the possibility of selling the leases. Senator Tutvedt also suggested using a different methodology.
- 08:10:41 Representative Wilmer requested clarification and cautioned that the leases are a Land Board issue.
- 08:12:02 Chairman Vincent believed the Land Board would be reluctant to address the issue, and that the EQC could make a recommendation. Chairman Vincent believed all the parties should arrive at a decision that will keep the parties out of court.

- 08:13:58 Representative Wilmer stated she was hesitant to endorse any option, but would favor Option 5 and encourage a solution that involves all the parties.
- 08:14:34 Ms. Conradi stated the Land Board would hear the issue as an informational item at the end of September. Ms. Conradi believed it would be premature for the EQC to make any recommendation other than encourage the parties to work together to avoid litigation.
- 08:15:44 Representative Smith believed it was difficult to protect private property rights, and the Legislature is responsible for protecting private property rights.
- 08:16:25 Representative French quoted page 4, Exhibit 34, Minutes of the EQC Meeting, September 10, 2009. Representative French believed the EQC should be well versed in what the statute and Constitution require.
- 08:18:24 Ms. Conradi noted the Constitution also created the State Trust Land and gave the Land Board the duty to manage the land.
- 08:18:49 Senator Tutvedt stated the cabin owners are looking to the Legislature for assistance and maybe the Legislature could change the way appraisals are done.
- 08:20:37 Chairman Vincent stated the Code Commissioner had compiled information regarding state land leasing that should be reviewed.
- 08:21:34 Senator Keane commented he had been through the cabinsite leasing issue before and that the issue is a concern of many people. Senator Keane believed the issue falls within the purview of the EQC.
- 08:23:34 Mr. Volesky commented that the Land Board is also interested in giving everyone a fair shake. Mr. Volesky depicted the issue as complicated and stated no one is rushing to a decision. Mr. Volesky thought negotiated rulemaking may be the only way to reach a decision.
- 08:25:26 Chairman Vincent suggested waiting until January and reviewing information from the Code Commissioner.
- 08:26:22 Representative Dickenson requested a current calendar of EQC meeting dates. Mr. Everts directed Representative Dickenson to the Work Plan adopted by the EQC.
- 08:27:51 Mr. Everts commented on past legal analyses done on state trust lands.
- 08:28:35 ADJOURN

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