



ENVIRONMENTAL QUALITY COUNCIL

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HOPE STOCKWELL, Research Analyst
HELEN THIGPEN, Staff Attorney
KEVIN MCCUE, Secretary
JOE KOLMAN, Legislative Environmental Analyst

MINUTES

Approved September 12, 2012

July 18, 2012

Rm. 172
State Capitol

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select *Committees*, then *Interim*. Once on the page for *Interim Committees*, scroll down to the appropriate committee. The written minutes summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page.

Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

COMMITTEE MEMBERS PRESENT

SEN. JIM KEANE, Chair
REP. DUANE ANKNEY, Vice Chair

SEN. JOHN BRENDEN
SEN. BRADLEY MAXON HAMLETT
SEN. RICK RIPLEY
SEN. CHAS VINCENT
SEN. GENE VUCKOVICH

REP. JERRY BENNETT
REP. BILL MCCHESENEY
REP. MICHELE REINHART
REP. CARY SMITH
REP. KATHLEEN WILLIAMS

MR. DEXTER BUSBY

MS. DIANE CONRADI
MS. MARY FITZPATRICK
MR. JOHN YOUNGBERG

COMMITTEE MEMBERS EXCUSED

REP. MICHELE REINHART
GOVERNOR'S DESIGNEE

STAFF PRESENT

CHRISTINA ALLEN, Fiscal Analyst
SONJA NOWAKOWSKI, Research Analyst
HOPE STOCKWELL, Research Analyst
HELEN THIGPEN, Staff Attorney
KEVIN MCCUE, Secretary
JOE KOLMAN, Legislative Environmental Analyst

Visitors

Agenda, [Attachment 1](#).
Visitors' list, [Attachment 2](#).

COMMITTEE ACTION

- The EQC approved the corrected minutes of its May 1, 2012 meeting.
- The EQC voted to move LC 9000 forward.
- The EQC voted to move an amended LC 9010 forward.
- The EQC voted to move the HJR 32 draft report forward.
- The EQC voted to retain the land banking program report.
- The EQC voted to retain the water adjudication progress report.

CALL TO ORDER AND ROLL CALL

00:00:00 Sen. Keane called the meeting to order and roll was noted ([Attachment 3](#)).

AGENDA

ADMINISTRATIVE MATTERS

Approval of minutes from May meeting

- 00:02:47 Mr. Kolman proposed a correction to page 5 of the EQC's May 1, 2012 minutes. It was agreed that a question regarding the Boating Advisory Council (BAC) would be changed to correctly pertain to the FWP Commission.
- 00:03:31 Sen. Brenden asked if the EQC had responded to the questions from the last meeting. Mr. Kolman said all the noted requests had been filled.

00:05:20 Mr. Youngberg moved to approve the minutes as corrected. The motion passed unanimously by voice vote.

Budget Review

00:05:45 Mr. Kolman said the EQC's current budget of \$32,623.52 was on target.

HJ 32 - STUDY OF STATE PARKS, OUTDOOR RECREATION, AND HERITAGE RESOURCES

Impacts of HB 370 (2011), light motor vehicle registration fee - Ms. Allen

00:06:29 Christina Allen, Legislative Fiscal Division, updated the EQC on HB 370 (2011). ([EXHIBIT 1](#))

Review of LC 9000 (state parks and recreation board) and proposed amendments

Ms. Stockwell

00:08:37 Ms. Stockwell reviewed a portion of the draft bill and amendments proposed since the EQC's last meeting. ([EXHIBIT 2](#))

Public Comment

00:20:51 Chas Van Genderen, Director of State Parks for the Department of Fish, Wildlife and Parks (DFWP), told the EQC which proposed amendments were preferred by the DFWP.

00:26:14 Russ Enos, Montana Trail Vehicle Riders Association (MTVRA), stated the MTVRA's opposition to amendment G2 and stated their preference that the program be moved out of Fish and Wildlife and into Parks. Mr. Enos said he is not sure the Montana Game Wardens Association (MGWA) has the best interests of the MTVRA in mind.

00:28:27 Bob Walker, Montana Recreation and Parks Association (MRPA), expressed opposition to the amendments proposed by the MGWA.

00:31:20 Fred Bailey, Helena Snowdrifters, added that his experience with DFWP has been good and urged that the snowmobiling program advisory committee stay with parks and recreation.

00:32:03 Anna Glueckert, Helena Snowdrifters, said the snowmobile advisory committee provides a great benefit to her club, works well with DFWP, and should remain where it is.

00:33:02 George Golie, MGWA, expressed support for Sen. Keane's amendment and amendments 1B, 2A, 2B, 2C, 2E, 2F, 3A and 3B and opposed 2D, 4, 5A, 5B, and G2.

EQC questions, discussion, and action, if any

- 00:37:22 Sen. Brenden asked how voting on the amendments would proceed.
- 00:38:08 Sen. Vincent asked Ms. Stockwell if there was a description of the purpose behind item 2B. Ms. Stockwell deferred to Rep. McChesney. Rep. McChesney read from an e-mail from Rep. Williams. (**EXHIBIT 3**)
- 00:41:26 Rep. Ankney moved that none of the amendments be approved and that the draft be sent forward as it is for a formal public comment period.
- 00:42:33 Sen. Brenden agreed with Rep. Ankney.
- 00:43:01 Sen. Ripley concurred with Rep. Ankney and Sen. Brenden.
- 00:43:58 Sen. Vincent said he would support the motion.
- 00:45:00 The motion passed unanimously by voice vote. Rep. Reinhart voted yes by proxy.
- 00:48:42 Sen. Hamlett asked Mr. Van Genderen for clarification regarding jurisdiction, asking where Parks' authority would end and FWP would take over, using Flathead Lake as an example. Mr. Van Genderen said he was not sure at this time. Sen. Keane asked him to find out for the next meeting.
- 00:50:54 Rep. McChesney asked if there exists a clear definition of "immediately adjacent."
- 00:51:51 Sen. Hamlett said these issues would need to be solved legislatively.
- 00:52:19 Sen. Brenden echoed Rep. McChesney's concerns.
- 00:54:07 Rep. Ankney said the agencies must figure out how to work together.
- 00:55:17 Mr. Youngberg said the issue of enforcement is not covered by the bill draft.
- 00:55:45 Ms. Conradi commented on jurisdictional authority, saying she recently dealt with those issues in Flathead County.

Review of LC 9010 (continued study of Virginia/Nevada Cities management)

Ms. Stockwell

- 00:57:31 Ms. Stockwell introduced LC 9010. (**EXHIBIT 4**)

Public Comment

- 00:58:36 Marilyn Ross, Montana Heritage Preservation and Development Commission (MHC) Chair, requested the EQC include language regarding the MHC's Reeder's Alley holdings in Helena.
- 01:00:29 Elijah Allen, MHC Business Manager, spoke on new developments involving MHC marketing and revenue streams. (**EXHIBIT 5**)
- 01:01:17 Kate McCourt, MHC Cultural Resource Manager, thanked the EQC and said MHC representatives were available to discuss heritage projects.
- 01:01:41 Sen. Keane asked Mr. Allen to guide the EQC through the provided materials. Sen. Keane said he had been happy to see MHC television advertisements.
- 01:04:37 Sen. Brenden asked Mr. Allen what the MHC is doing to work with foundations and corporations. Mr. Allen said the MHC was headed that way and knew sponsorship would be essential to its operation. Sen. Brenden recommended the MHC look to out-of-state foundations.
- 01:06:32 Sen. Keane thanked the MHC representatives and said he has been impressed by their progress. Sen. Keane asked the MHC for a report on differences in revenue and visits between last year and this year, as well as which revenue was different from last year.

EQC questions, discussion, and action, if any

- 01:09:39 Sen. Ripley moved that the EQC move forward with bill draft LC 9010 by sending it out for formal public comment.
- 01:09:56 Mr. Youngberg proposed that LC 9010 be amended to include the MHC's Reeder's Alley holdings.
- 01:10:24 Sen. Ripley amended his motion.
- 01:10:36 The motion passed as amended by unanimous voice vote. Rep. Reinhart and Rep. Williams voted aye by proxy.

Review of draft HJR 32 report - Ms. Stockwell

- 01:10:59 Ms. Stockwell asked for a review of the draft HJR 32 report and for the EQC to move the draft report forward.

EQC questions, discussion, and action, if any

- 01:13:11 Rep. Ankney moved that the draft report go forward. The motion passed unanimously by voice vote. Rep. Reinhart and Rep. Williams voted aye by proxy.

(Break)

AGENCY OVERSIGHT - DFWP SUSTAINABLE YIELD STUDY UPDATE (87-1-622, MCA)

Ken McDonald, Wildlife Bureau Chief, DFWP

01:34:45 Mr. McDonald, DFWP Wildlife Bureau Chief, reviewed DFWP's timeline for addressing HB 619 (2011). ([EXHIBIT 6](#))

EQC questions, discussion, and action, if any

- 01:40:34 Sen. Keane asked for an accounting of how much of the project is complete, how much money DFWP received, and its acreage listed by project. Mr. McDonald said he would supply those figures.
- 01:41:42 Sen. Brenden asked that Mr. McDonald add to that list who executed the projects as well as who decided what was sustainable and what was not. Mr. McDonald said the request for proposal (RFP) is on the state's website.
- 01:43:18 Rep. Ankney asked if any DFWP land had burned in the Ash Creek fire. Mr. McDonald said none had.
- 01:43:33 Sen. Vincent asked Mr. McDonald to also supply figures regarding how much of the project's seed money remained and complimented the work done by the project.

AGENCY OVERSIGHT - SJ 26: UPDATE ON BRUCELLOSIS IN ELK STUDY

Neil Anderson, Wildlife Laboratory Supervisor, DFWP

01:45:17 Mr. Anderson, DFWP, Wildlife Laboratory Supervisor, presented DFWP's report on brucellosis in elk. ([EXHIBIT 7](#))

EQC questions, discussion, and action, if any

- 01:57:50 Mr. Youngberg asked if elk testing positive for brucellosis that had been tracked had shown evidence of passing on the disease. Mr. Anderson said birthing material had been collected which tested negative and explained the intricacies of a negative culture result.
- 01:59:53 Sen. Ripley asked if the calves whose birth material indicated a negative diagnosis had been blood tested as well. Mr. Anderson said they have not yet but were considering different options.
- 02:01:02 Sen. Keane asked if the study would determine which hunting area has the highest prevalence of brucellosis in elk. Mr. Anderson said it would.

HB 142 - REVIEW OF STATUTORILY-REQUIRED REPORTS

Introduction -- Mr. Kolman

02:03:59 Mr. Kolman introduced the statutorily required reports.

Land Banking Program Report (77-2-366, MCA)

Shawn Thomas, Trust Land Management Division Administrator, DNRC

02:04:42 Mr. Thomas, DNRC, Trust Land Management Division Administrator, presented the Trust Land Banking report. ([EXHIBIT 8](#))

EQC questions, discussion, and action, if any

02:09:35 Rep. Ankney moved that the EQC retain the Land Banking program report.

02:09:46 Rep. Bennett noted that the report lists four properties bought for less than appraised value on page 3.

02:10:34 The motion passed unanimously by voice vote. Rep. Reinhart voted aye by proxy.

Boating Advisory Council Update

Chas Van Genderen, DFWP

02:11:57 Mr. Van Genderen summarized the work done by the Boating Advisory Council (BAC). ([EXHIBIT 9](#))

EQC questions, discussion, and action, if any

02:15:03 Sen. Keane asked if the BAC is back in operation and functioning well. Mr. Van Genderen said it is running, engaged and looking for expanded responsibility.

(Break)

ADMINISTRATIVE RULE REVIEW

General overview & SB 35 rule update - Ms. Thigpen

02:39:49 Ms. Thigpen spoke regarding new administrative rules. ([EXHIBIT 10](#))

EQC questions, discussion, and action, if any

02:46:34 Sen. Keane asked Jeanne Holmgren, DNRC Trust Land Management Division Real Estate Management Bureau Chief, for the projected deadline for rulemaking. Ms. Holmgren said the department has extended the comment period until August 31, 2012.

02:47:36 Sen. Hamlett asked Ms. Holmgren when a notice will go out to landowners stating that they need to apply. Ms. Holmgren said the notice would go out after the completion of rulemaking, sometime after December 2012.

Water Adjudication Progress Report (85-2-281, MCA)

Tim Davis, Water Resources Division Administrator, DNRC

02:51:24 Mr. Davis presented the DNRC Water Adjudication Progress Report. ([EXHIBIT 11](#))

Bruce Loble, Water Court

02:53:41 Judge Loble, Chief Justice, Montana Water Court, said Chief Justice McGrath appointed Russell McElyea as Associate Water Judge and that the Water Court's caseload continues to increase. Judge Loble reported on the adjudication progress and the status of the Court's decrees. Judge Loble spoke on compacts between the state and tribes. Judge Loble relayed developments regarding six possible options proposed by the Water Adjudication Advisory Committee's examination of exempt from filing claims. Judge Loble explained the Court is leaning toward Option 2, which would allow people who did not file exempt from filing claims to do so voluntarily for a time.

EQC questions, discussion, and action, if any

03:06:03 Sen. Brenden commended Judge Loble and said he does not favor reopening the water rights adjudication process. Sen. Brenden asked Judge Loble how the Court is affected by the proposed land swap in the Blaine Valley in Phillips County. Judge Loble said he is not up to date on that matter.

03:09:44 Sen. Ripley asked Mr. Davis to account for the difference between generated and received revenue in the DNRC report. Mr. Davis said the discrepancy relates to requirements related to the water tax.

03:11:29 Rep. Ankney moved that the EQC continue to receive the Water Adjudication Progress Report. The motion passed unanimously by voice vote.

Public Comment on any matter not contained in the agenda and that is within the jurisdiction of the EQC

03:12:23 Dave Schulz, Virginia City Commissioner, thanked the EQC for its recent visit. Mr. Schulz relayed his frustration with the DFWP's incremental approach to containment of damage sustained by livestock producers due to wolf predation. ([EXHIBIT 12](#)) ([EXHIBIT 13](#)) ([EXHIBIT 14](#))

03:22:07 Sen. Debby Barrett, SD 36, seconded Mr. Schulz's complaints and recalled legislative efforts to codify the state gray wolf management plan. Sen. Barrett said DFWP's announcement in March 2010 of its adaptive management plan was a positive step. Sen. Barrett said DFWP should not be allowed flexibility

when it comes to compliance with the law and asked why the Montana wolf protocol to address wolf livestock conflicts is not being implemented in each region. (EXHIBIT 15)

- 03:29:03 Dave Risley, DFWP Fish and Wildlife Administrator, said the department believes it is complying with the law and has draft guidelines regarding the consultation required by law. Mr. Risley said the department recognizes the collaring problem and offered to allow those concerned to participate in a wolf collaring ride along to see the difficulty of the process firsthand.
- 03:32:10 Sen. Keane asked Mr. Risley to speak with Mr. Schulz and Sen. Barrett regarding the wolf issue. Mr. Risley said he would do so.
- 03:32:55 Sen. Ripley recommended Mr. Risley work out some answers immediately as some people are losing confidence in DFWP.
- 03:34:03 Sen. Hamlett asked Sen. Barrett to describe the tipping point in the DFWP's decision to go from an incremental hunt to taking out a whole pack. Sen. Barrett said it differed from case to case. Sen. Barrett said wolves have returned each time the incremental approach has been used. Sen. Hamlett asked if she thinks livestock producers view the DFWP's policy to be adversarial or helpful. Sen. Barrett said livestock producers can live with DFWP's protocol but that it is not being followed.
- 03:39:18 Sen. Keane called a recess until 8:30 a.m. on July 19, 2012.

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