



ENVIRONMENTAL QUALITY COUNCIL

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**GOVERNOR BRIAN SCHWEITZER
DESIGNATED REPRESENTATIVE**

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JERRY BENNETT
BILL MCCHESENEY
MICHELE REINHART
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JOHN BRENDEN
BRADLEY MAXON HAMLETT
RICK RIPLEY
CHAS VINCENT
GENE VUCKOVICH

PUBLIC MEMBERS
DEXTER BUSBY
DIANE CONRADI
MARY FITZPATRICK
JOHN YOUNGBERG

COUNCIL STAFF
JASON MOHR, Research Analyst
SONJA NOWAKOWSKI, Research Analyst
HOPE STOCKWELL, Research Analyst
HELEN THIGPEN, Staff Attorney
KEVIN MCCUE, Secretary
JOE KOLMAN, Legislative Environmental Analyst

MINUTES

Approved September 12, 2012

July 19, 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. 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
JASON MOHR, Research 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 voted to move LC 9022 forward.
- The EQC voted to approve the drafting of items 1, 2, and 5 of the DEQ's proposed legislation.
- The EQC voted to approve the drafting of items 1, 2, 3, 4, 6, 7, 8, and 10 of the DNRC's proposed legislation.
- The EQC voted to retain the TMDL report.
- The EQC approved the drafting of a letter to Montana's Congressional representatives requesting funding for air support for fire suppression.

CALL TO ORDER AND ROLL CALL

00:00:04 Sen. Keane called the meeting to order and roll was noted ([Attachment 3](#)).

AGENDA

AGENCY OVERSIGHT - FIRE SEASON UPDATE

Suppression Costs, Ms. Allen

00:00:51 Christina Allen, Legislative Fiscal Division, updated the EQC on fire suppression costs ([EXHIBIT 1](#)).

00:03:35 Sen. Keane asked how much funding remained in the fire suppression fund. Ms. Allen said the fund would retain \$4.1 million dollars after all 2012 fiscal year costs are paid.

00:04:15 Sen. Ripley asked if all reimbursible costs had been collected from the Federal Emergency Management Agency (FEMA). Ms. Allen said they had not. Sen. Ripley asked if they had been collected prior to this year. Ms. Allen said they had not and that reimbursement can take years to finalize. Sen. Ripley requested an accounting of how much had been collected from past years.

Director Mary Sexton & Bob Harrington, DNRC

00:05:24 Mr. Harrington, Forestry Division Administrator, provided information on fire activity. Mr. Harrington said all the large fires are contained or approaching containment. ([EXHIBIT 2](#))

EQC questions, discussion, and action, if any

00:17:21 Sen. Vuckovich asked Mr. Harrington if the "coal seam" fire he had referenced is burning an actual coal seam. Mr. Harrington did not know but presumed it is.

00:18:40 Rep. Ankney asked Mr. Harrington if he had a breakdown of federal, state, and private property burned in the Ash Creek fire. Mr. Harrington said he would provide those figures and thought the fire burned approximately equal amounts of each.

00:23:40 Sen. Vincent asked Mr. Harrington how fire teams had managed cost shared negotiations and applied the lessons they had learned in previous seasons. Mr. Harrington explained the role of incident business advisors.

00:27:53 Rep. McChesney asked Mr. Harrington if there were plans to release Conservation Reserve Program (CRP) land for livestock grazing around the Ash Creek fire. Mr. Harrington said \$2 million in equipment funds had been made available and that if the CRP land adjacent to the fires is not adequate they would be open to discussing further relief.

00:33:59 Sen. Hamlett asked Mr. Harrington if the Governor's emergency funds are available for livestock producers who have been burned out to buy hay and pasture or are they just for fighting fire. Mr. Harrington said he is not certain but thought that the Governor's emergency contingency fund could be used in that manner. Sen. Hamlett asked about the concern over the grounding of air tankers and asked if there would be any way to mitigate that issue going into the fire season. Mr. Harrington said the DNRC brought in two Canadian air tankers due to the national air tanker fleet being down significantly and said there are not enough available air tankers. Sen. Hamlett asked how much of the Northern Cheyenne reservation had burned. Mr. Harrington said there had been significant loss. Sen. Hamlett asked Mr. Harrington if the U.S. Forest Service is taking a more active approach in regard to initial attack. Mr. Harrington said he has been very pleased with the actions taken by all the federal agencies.

00:42:02 Rep. Smith asked what percentage of the national air tanker fleet is down. Mr. Harrington said the fleet usually consists of 18-20 large air tankers but is down this year to 13. Rep. Smith asked if other states are using Canadian air tankers.

Mr. Harrington said there are numerous Canadian air resources operating in the central Rocky Mountains. Rep. Smith expressed concern that the state is outsourcing fire suppression and asked how it could get back to fighting its own fires. Mr. Harrington said Congress has been discussing the issue for many years and that the decisions regarding funding and commitment are made federally. Mr. Harrington said Neptune Aviation and other contractors are awaiting contracts for fire suppression.

00:46:28 Sen. Keane expressed the Fire Suppression Interim Committee's bipartisan appreciation for the unprecedented resources brought to bear on fires and said the state needs to work to help volunteer firefighters. Sen. Keane suggested a letter be sent to federal parties addressing the air tanker issue. Mr. Harrington said he will keep Sen. Keane's comments in mind and reminded the Council of the significant assistance of the Montana National Guard.

00:51:20 Sen. Hamlett said the public needs to be informed regarding the maintenance of defensible space.

(Break)

HB 142 - FOLLOWUP FROM PREVIOUS MEETINGS

LC 9022, Proposal to Eliminate Alternative Livestock Advisory Council

Mr. Mohr

01:02:43 Mr. Mohr introduced LC 9022. Mr. Mohr explained that Initiative 143 had limited the game farm industry and so limited the meetings of the Alternative Livestock Advisory Council (ALAC). ([EXHIBIT 3](#))

EQC questions, discussion, and action, if any

01:05:19 Sen. Hamlett commented that he would like to leave the ALAC in place.

01:06:04 Sen. Keane said the ALAC would be a good organization if it did anything.

01:06:35 Rep. Ankney moved to move forward with LC 9022.

01:06:57 Sen. Ripley asked staff to provide figures regarding the cost of leaving the ALAC in place.

01:07:39 Mr. Kolman reminded the EQC that Jim Kropp, FWP Chief of Law Enforcement, had advised disbandment at the EQC's last meeting.

01:08:14 Ms. Stockwell said the information sheet distributed by FWP regarding the ALAC could be made available again.

01:08:32 Sen. Ripley asked if bison are classified as alternative livestock and said the ALAC could be useful in the future. Mr. Mohr said bison are not classified as

alternative livestock under statute. Ms. Stockwell read from the aforementioned FWP document ([EXHIBIT 4](#)), which said there are no alternative livestock licenses to review. Mr. Kolman said the draft bill only takes away the advisory council, not the entire statute regarding alternative livestock.

01:12:31 Rep. Ankney's motion passed 12-3 with Sen. Hamlett, Sen. Vincent, and Sen. Vuckovich voting no. Rep. Reinhart voted yes by proxy.

Draft Templates for Agency Compliance and Enforcement Reports

Mr. Mohr

01:12:55 Mr. Mohr reviewed the draft templates for agency compliance and enforcement reports. ([EXHIBIT 5](#))

EQC questions, discussion, and action, if any

01:16:38 Sen. Keane asked why the agency sent back the EQC's own information. Mr. Kolman said staff would work with agencies and get information according to statute.

01:17:26 Rep. Williams expressed support for the EQC's interest in being more systematic in implementing this statute. Rep. Williams said the 1995-1996 technical report would be a beneficial resource. ([EXHIBIT 6](#))

01:19:34 Mr. Busby asked Richard Opper, DEQ Director, if he thought this template would be helpful. Dir. Opper said the template is based on DEQ's own template, so there would be no change.

AGENCY OVERSIGHT - REVIEW OF AGENCY LEGISLATIVE PROPOSALS

Introduction - Mr. Kolman

01:21:22 Mr. Kolman introduced the agency legislative proposals and explained the EQC's role. Mr. Kolman reminded the EQC that it would not be endorsing draft legislation at this time, but rather passing it along for drafting purposes and that it can segregate individual bill draft proposals.

DEQ - Director Richard Opper

01:23:44 Dir. Opper provided the EQC with an update on proposed DEQ legislation including a sixth proposal related to opencut mining program compliance. ([EXHIBIT 7](#))

EQC questions, discussion, and action, if any

01:39:37 Sen. Vuckovich asked Dir. Opper what happens when a property owner does not clean up a former methamphetamine laboratory on their property. Dir. Opper said the DEQ is not responsible for listing those properties, rather that is the role of

the Montana Department of Justice (DOJ). Dir. Opper said the DEQ trains and certifies personnel to clean up contaminated properties but is not responsible beyond cleanup.

- 01:41:14 Regarding DEQ's first legislative proposal, Ms. Fitzpatrick asked if there is one place where curious parties can find out about the status of their applications. Dir. Opper said the purpose of the draft legislation is to increase the public's access to information and to allow the public to file in more than one location. Dir. Opper deferred to Chris Yde, Section Supervisor for DEQ's Coal and Uranium Program, who explained that currently one copy of an application goes to the county clerk and recorder. He added, it does not go there if permits are filed electronically. Mr. Yde said the location of the copy for public review is incorporated in the public notice and is on the department website.
- 01:43:25 Sen. Brenden asked Dir. Opper about the cost to implement Items 4 and 5. Dir. Opper said he would provide that information.
- 01:46:00 Rep. Bennett asked Dir. Opper who pays for meth lab cleanup. Dir. Opper said the property owner pays for cleanup. Rep. Bennett asked for the average cost of cleanup. Dir. Opper said he would provide those figures. Rep. Bennett asked if there exists a timeframe required for cleanup. Dir. Opper said there is no timeframe under law at this time. Rep. Bennett referred to the open cut program's three cent per yard fee increase with up to four additional FTE and asked for the program's status. Dir. Opper said the fee is self-reporting based on volume per year and that revenues have fallen short of projected estimates. Dir. Opper said additional staff had been hired and the program redesigned for consistency.
- 01:48:58 Sen. Hamlett asked Dir. Opper if it is acceptable to torch a property that had contained a meth lab rather than clean it up. Dir. Opper said to do so would be a violation of the Montana Air Quality Act and is not encouraged.
- 01:49:40 Rep. Ankney spoke about the open pit program and recalled that a previous bill had been passed due to complaints from permit applicants. Rep. Ankney said he is reluctant to pass along that item of the agency's proposal. Dir. Opper said that enforcement is a tool of last resort for the DEQ. Dir. Opper said the agency does receive pressure from permit holders in the open cut program to take action against those who are not in the program. Dir. Opper said the additional staff must meet permitting guidelines and once the program is largely caught up they can focus on things like bond release and compliance.
- 01:53:01 Rep. McChesney asked Dir. Opper if DEQ's website had concise examples on how to fill out applications. Dir. Opper said the procedure for filling out the application is used consistently now.
- 01:56:01 Sen. Brenden asked Dir. Opper what the agency would do with complaints made by anonymous parties. Dir. Opper said there is a section in the office that receives complaints and that complainants can now request confidentiality and that it is the goal of the agency to determine the legitimacy of any complaints.

01:59:47 Sen. Keane described the process for early drafting of the bills at hand.

02:01:13 Rep. Ankney moved to approve the drafting of the DEQ housekeeping bill's Item 1. The motion passed 13-2 by voice vote. Sen. Ripley and Sen. Brenden voted no. Rep. Reinhart voted yes by proxy.

02:01:54 Rep. Ankney moved to approve the drafting of Item 2. The motion passed unanimously by voice vote. Rep. Reinhart voted yes by proxy.

02:02:25 Sen. Keane moved not to approve the drafting of item 3.

02:02:49 Rep. McChesney expressed concern with the item's unfunded mandate.

02:03:13 Rep. Williams said more information should be gathered and asked for an informational item on the topic at an upcoming meeting. Sen. Keane denied the request.

02:04:27 Sen. Keane's motion passed 11-4 by voice vote. Rep. Reinhart, Rep. Williams, Ms. Conradi, and Ms. Fitzpatrick voted no. Rep. Reinhart voted no by proxy.

02:05:02 Sen. Keane expressed support for item 4.

02:05:18 Sen. Hamlett moved to approve the drafting of item 4. The motion failed in an 8-8 tie roll call vote. Rep. Reinhart voted yes by proxy.

02:06:51 Sen. Brenden moved not to approve the drafting of item 5.

02:08:01 Sen. Vincent asked Dir. Opper if the draft bill would prevent or delay discharge permits. Dir. Opper deferred to Jenny Chambers, Water Protection Bureau Chief, who said the state agencies are aware of U.S. Environmental Protection Agency (EPA) requirements and that the bill draft aims to provide consistency and to avoid EPA challenges when issuing new permits.

02:11:13 Sen. Brenden said the bill draft constitutes blackmail.

02:11:37 Rep. Ankney said the bill draft does not call for the adoption of the requirement for intake structures and asked Ms. Chambers if the draft is part of the discharge requirements. Ms. Chambers said it is.

02:13:57 Sen. Brenden's motion failed 6-10 by roll call vote.

02:16:03 Dir. Opper explained item 6 related to the opencut mining program.

02:17:20 Rep. Bennett asked the director to define "significant or serious." Dir. Opper said the phrase cannot be quantified.

02:18:35 Sen. Keane asked Dir. Opper to bring the topic back before the EQC in September as it had not been included in the meeting packet and said recommendations from the Montana Contractors' Association would be helpful.

- 02:19:25 Rep. Williams asked Dir. Opper to include in his response what is forcing them to be so detailed.
- 02:20:10 Sen. Keane moved to vote again regarding item 5.
- 02:20:40 Sen. Vincent expressed frustration with the EPA's over-reaching as well as with people finding ways to procedurally hamstring operations. Sen. Vincent proposed the draft move forward for the purpose of discussion.
- 02:22:40 Sen. Brenden said the Board of Environmental Review (BER) has the authority to adopt rules but that he does not have faith in the BER.
- 02:23:14 Sen. Keane moved the EQC approve the drafting of item 5.
- 02:23:45 Sen. Keane's motion passed 10-6 by roll call vote. Rep. Reinhart voted yes by proxy.

(Break)

DNRC - Director Mary Sexton

- 02:37:37 Dir. Sexton summarized DNRC's bill draft and provided an overview of work related to the Reserved Water Rights Compact Commission (RWRCC). Dir. Sexton said Bill Schultz, RWRCC Administrator, is here to answer questions. **(EXHIBIT 8)**

EQC questions, discussion, and action, if any

- 02:51:19 Sen. Keane explained the process for segregating individual bill drafts on the DNRC's list.
- 02:51:39 Ms. Conradi proposed that proposal 3 be segregated.
- 02:51:46 Sen Hamlett proposed that proposal be segregated.
- 02:51:54 Sen. Brenden proposed that proposal 1, 3, 4, 5, 6, 7, 8, 9, and 10 be segregated.
- 02:52:25 Mr. Youngberg noted that it is hard to justify sending bills involving the RWRCC forward as that situation is still in a state of flux.
- 02:53:05 Sen. Ripley reminded the EQC that the purpose of the passage of these drafts is to give staff lead time. Sen. Keane asked Mr. Kolman if there is any benefit to passing these drafts now. Mr. Kolman said staff works on bills only after they are requested. Sen. Ripley asked if there was anything that could be worked on before the resolution of the RWRCC. Mr. Kolman said some may or may not be able to be worked on at the present time.
- 02:55:41 Sen. Vincent said there is nothing to draft for proposal 5 and that he could not support approval of most of the items in question.

02:57:18 Rep. Ankney moved the proposal's item 1.

02:57:34 Sen. Brenden said he opposes going forward with any bill he does not have a hand in. Sen. Keane said the rules require the EQC to examine the drafts.

02:58:14 The motion passed by voice vote. Sen. Brenden and Rep. Smith voted no. Rep. Reinhart voted yes by proxy.

02:58:41 Rep. Ankney moved that item 2 proceed. The motion passed unanimously by voice vote. Rep. Reinhart voted yes by proxy.

02:59:10 Rep. Ankney moved item 3 proceed.

02:59:20 Sen. Brenden said the draft represented the taking of private property rights.

02:59:54 Ms. Fitzpatrick asked Dir. Sexton if it is DNRC's intention to lease only for oil production or to lease for any use. Dir. Sexton said the leases would be irrigation rights for industrial use. Ms. Fitzpatrick asked if the department would be issuing permits to the leasing parties in question. Dir. Sexton said permits would be issued for one year and could be made permanent through the change process. Ms. Fitzpatrick asked if the bill will provide for final disposition of the water. Dir. Sexton said that determination is under the jurisdiction of the Board of Oil and Gas.

03:02:09 Sen. Ripley asked Dir. Sexton what the thinking was behind the draft's "one in ten" stipulation. Dir. Sexton said the main concern is adverse effect.

03:05:00 Sen. Vincent asked Mr. Youngberg if the Montana Farm Bureau Federation (MFBF) had stated its position on the matter. Mr. Youngberg said the language regarding "1 in 10" probably came from the MFBF.

03:06:31 Sen. Keane said the issue had come up at the Energy and Telecommunications Interim Committee.

03:07:36 Mr. Youngberg noted that there is already a temporary leasing statute on the books and asked Dir. Sexton if the legislation would allow construction companies to use either one. Dir. Sexton deferred to Tim Davis, DNRC Water Resource Division Administrator, who said the concept is modeled off dust abatement but that the temporary change process is the preferred method. Mr. Youngberg asked if dust abatement would be considered an industrial use. Mr. Davis said dust abatement would be considered its own beneficial use.

03:09:37 Sen. Vuckovich asked Dir. Sexton if the bill is tied directly to the oil boom. Dir. Sexton said the one year lease is not as useful otherwise and would be most applicable to oil and gas ventures.

03:10:46 Ms. Conradi addressed concerns associated with the lease and asked Dir. Sexton if it entailed a one year non-renewable lease. Dir. Sexton said the temporary leases would exist for one in 10 years and that water right holders

could come back each year. Ms. Conradi asked if an adverse effects analysis looks at water quality and availability. Dir. Sexton said the DNRC does not look at water quality, and that those aspects could be considered during the permit process. Ms. Conradi asked if there would be potential exposure to contamination for senior water right holders as a result of the lease or change in use. Dir. Sexton said she is not aware of any such potential exposure.

- 03:14:14 Rep. McChesney said it was unnecessary to discuss the bill draft at length at this time as it would be vetted in the legislative process.
- 03:14:59 Sen. Hamlett asked Dir. Sexton if the bill draft would in any way adversely affect oil and natural gas interests in Montana. Dir. Sexton said the bill would be welcomed by operators and water depots.
- 03:15:56 Rep. Ankney's motion passed 11-5 by roll call vote. Rep. Reinhart voted no by proxy.
- 03:16:55 Sen. Brenden asked for the position of regional water systems affected by item 4. Dir. Sexton said item 4 sets rates and has been vetted. Sen. Brenden asked Steve Wade, North Central and Dry Prairie Regional Water Authority, for his position. Mr. Wade said the systems would be interested in the opportunity.
- 03:19:40 Rep. Ankney moved item 4 proceed to drafting. The motion passed unanimously by voice vote. Rep. Reinhart voted yes by proxy.
- 03:20:30 Sen. Hamlett expressed reservations regarding the Charles M. Russell National Wildlife Refuge Water Compact but said he understands that the only way to address these sorts of issues is to move these drafts forward.
- 03:21:34 Sen. Vincent asked the EQC to respect his request not to move forward with drafts associated with the CSKT because there is nothing to draft at this point in time. Sen. Vincent also discouraged moving forward with item 9.
- 03:23:07 Rep. Ankney moved that items 6, 7, and 8 proceed to drafting.
- 03:23:19 Sen. Brenden said he would be unable to vote for the aforementioned items due to the current negotiations regarding the Charles M. Russell National Wildlife Refuge Water Compact.
- 03:23:54 Ms. Conradi said the discussion now concerns process, not substance.
- 03:24:49 Rep. Ankney's motion passed 9-7 by voice vote. Rep. Reinhart voted yes by proxy.
- 03:25:58 Ms. Conradi moved that items 5 and 9 proceed to drafting.
- 03:26:24 Sen. Vincent commented on his opposition to the motion.
- 03:27:57 Sen. Hamlett said he would oppose the motion because of its sunset clause.

- 03:28:34 The motion failed 1-14 by voice vote. Ms. Conradi voted yes. Rep. Reinhart voted no by proxy.
- 03:29:09 Rep. Ankney moved that item 10 proceed to drafting. The motion passed 13-2 by voice vote. Sen. Brenden and Mr. Busby voted no. Rep. Reinhart voted yes by proxy.

(Lunch)

- 04:38:57 Mr. Kolman delivered documents from the DFWP regarding future fisheries and the Mount Haggin WMA Habitat Restoration Project. ([EXHIBIT 9](#)) ([EXHIBIT 10](#))
- 04:39:44 Ms. Stockwell reported on the Ash Creek fire.

**AGENCY OVERSIGHT - SJ 26 & HB 613: PETROLEUM RELEASE SITE CLOSURE
PROGRESS REPORT**

Sandi Olsen and Rebecca Ridenour, DEQ

- 04:41:27 Ms. Olsen, Remediation Division Administrator, DEQ, introduced Ms. Ridenour.
- 04:41:52 Ms. Ridenour, Petroleum Technical Section Supervisor, detailed progress on petroleum release site closures. ([EXHIBIT 11](#))

Public Comment

- 04:47:27 Ronna Alexander, Montana Petroleum Marketers and Convenience Store Association, said the Association has been a strong supporter of mixing zones and would like to see a variance application added.
- 04:50:17 Terry Wadsworth, Petroleum Tank Release Compensation Board Executive Director, said he is here to answer any questions.

EQC questions, discussion, and action, if any

- 04:50:48 Sen. Ripley asked Ms. Ridenour how many mixing zone applications had been received by the department. Ms. Ridenour said the department was actively working on four applications.
- 04:51:58 Sen. Keane asked Ms. Alexander if she would return with the exact number of participants and any anticipated problems so money can start being saved.
- 04:53:06 Sen. Ripley asked for Ms. Ridenour to bring the approximate cost per mixing zone site closure to the EQC's September meeting.

AGENCY OVERSIGHT - OIL PIPELINE SAFETY REVIEW COUNCIL UPDATE

Richard Opper, DEQ Director

- 04:54:05 Dir. Opper introduced Nat Carter and told the EQC of the Pipeline and Hazardous Materials Safety Administration's recent investigation which identified at-risk areas. ([EXHIBIT 12](#))
- 04:59:51 Nat Carter, DEQ Geographic Information Systems coordinator, gave a demonstration of the new mapping capabilities. Mr. Carter presented the Pipeline Information Management Mapping Application and Pipeline Safety Council Map.
- 05:05:33 Sen. Keane asked Dir. Opper if these new features had been available at the time of the spill on the Yellowstone River. Dir. Opper said they had not been available to Montana at that time.

EQC questions, discussion, and action, if any

- 05:06:17 Ms. Conradi asked why the technologies had not been available during the spill if they are meant to aid in emergency response. Dir. Opper said it had not been needed until now and that the DEQ had been required to sign a memorandum of understanding before using the new technologies.
- 05:07:19 Sen. Brenden asked Dir. Opper what caused the pipeline break near Laurel. Dir. Opper said the final metalurgical work on the pipe in question indicates the break occurred on a weld and the rupture was likely the result of a bad weld. Sen. Brenden asked if flooding had had anything to do with the break. Dir. Opper said the flood indeed played a role as it had exposed the pipe.
- 05:10:13 Rep. Bennett asked Dir. Opper how detailed the information provided to the public is going to be. Dir. Opper said the state will have slightly more access to information than the public.
- 05:11:36 Sen. Keane said the state has to be concerned about newly constructed pipelines.
- 05:12:09 Sen. Hamlett asked Dir. Opper how many pipeline river crossings there are in Montana. Dir. Opper said that the answer to Sen. Hamlett's question depends on how one defines a "river" but deferred to Mr. Carter, who referred to the website's crossing map, which indicated the number of river crossings to be around 9,000.
- 05:14:48 Sen. Hamlett asked Dir. Opper about the circumstances surrounding the rupture event on the Yellowstone River and asked how deep the pipe would now be buried under the river. Dir. Opper said it would be buried at least 45 feet below the river and 70-75 feet below at its lowest point.
- 05:15:56 Sen. Vuckovich asked if there had been any attempt to place the remaining pipelines below bedrock. Dir. Opper said public feedback demonstrated support

for a long term program to ensure pipeline crossings use horizontal directional drilling, which is very expensive.

05:19:01 Mr. Busby said he would like to see the Oil Pipeline Safety Review Council's final report in September.

HB 142 - REVIEW OF STATUTORILY-REQUIRED AGENCY REPORTS, CONTINUED.

Integrated Waste Management Plan (75-10-807, MCA)

05:20:18 Mr. Kolman introduced the further review of statutorily-required agency reports.

Bonnie Rouse, DEQ

05:20:36 Ms. Rouse, Local Government and Recycling section supervisor, presented the EQC with the department's Integrated Waste Management Plan. ([EXHIBIT 13](#))

EQC questions, discussion, and action, if any

05:32:45 Sen. Keane said the EQC would not approve the plan at this meeting but that the topic would be on its agenda in September. Sen. Keane requested that Ms. Rouse return to the council with a condensed version of the plan.

TMDL Development Progress Report (75-5-703, MCA)

Mark Bostrom, DEQ

05:33:50 Mr. Bostrom, Water Quality Planning Bureau Chief, reviewed the total maximum daily load (TMDL) development progress and schedule. ([EXHIBIT 14](#))

EQC questions, discussion, and action, if any

05:39:15 Rep. Ankney moved to retain the TMDL report. The motion passed unanimously by voice vote. Rep. Bennett, Rep. Reinhart, and Ms. Fitzpatrick voted yes by proxy.

Numeric Nutrient Standards Report (75-5-313, MCA)

George Mathieus, DEQ

05:40:04 Mr. Mathieus, Planning, Prevention and Assistance Division Administrator, gave a report on progress toward developing numeric nutrient standards. ([EXHIBIT 15](#))

EQC questions, discussion, and action, if any

05:47:32 Mr. Busby asked Mr. Mathieus for the cost to municipalities to implement these standards. Mr. Mathieus said the costs are generally quite high and that those figures would be provided.

MONTANA ENVIRONMENTAL POLICY ACT EXECUTIVE STUDY REPORT

Richard Opper, DEQ Director

05:49:47 Dir. Opper presented the Montana Environmental Policy Act executive study report. Dir. Opper pointed the EQC to the report's suggestions from the Center for Natural Resources and Environmental Policy. ([EXHIBIT 16](#))

EQC questions, discussion, and action, if any

06:00:47 Rep. Williams commended the directors.

06:01:10 Sen. Keane asked Dir. Opper why the agencies needed legislation to coordinate better. Dir. Opper said cooperation did not necessarily require legislation.

PUBLICATIONS UPDATE: MONTANA INDEX ON ENVIRONMENTAL PERMITS

Overview - Ms. Nowakowski

06:02:52 Ms. Nowakowski gave an overview of the Montana Index on Environmental Permits. ([EXHIBIT 17](#)) ([EXHIBIT 18](#))

EQC questions, discussion, and action, if any

06:08:56 Mr. Busby commended the staff for its excellent work on the index.

06:09:49 Ms. Conradi agreed that the index is comprehensive and said the permitting brochures are a great resource for regular people.

06:10:11 Sen. Hamlett asked Ms. Nowakowski how the index is distributed. Ms. Nowakowski said an announcement goes out to local news outlets and made available at libraries, some county planning agencies, and through the EQC's LISTSERV.

WATER POLICY INTERIM COMMITTEE UPDATE - MR. KOLMAN

06:11:44 Mr. Kolman recounted developments from the Water Policy Interim Committee's (WPIC) June public meetings and meeting in Helena the previous week. Mr. Kolman said some draft bills had been advanced for public comment and would be further examined at the WPIC's September meeting.

06:16:09 Sen. Hamlett added his hope that interested parties show up and send in their ideas regarding the bill drafts.

06:16:41 Sen. Brenden asked if the counties not mentioned would continue to be subject to the old rules. Mr. Kolman said they would.

ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE UPDATE - MS. NOWAKOWSKI

06:17:08 Ms. Nowakowski said the Energy and Telecommunications Interim Committee (ETIC) met in Billings earlier that week and addressed legislation related to rural electric cooperatives. Ms. Nowakowski said the ETIC discussed the potential for increased coal train traffic and proposed two letters be drafted. One letter will be drafted from the ETIC to the Army Corps of Engineers supporting coal development and the building of ports, while another will go to Montana Rail Link and Burlington Northern urging they look at an alternative route through Butte.

Other Business

06:20:51 Rep. Smith moved that a letter from the EQC be sent to Montana's Congressional representatives requesting funding for air support for fire suppression.

06:21:25 Mr. Kolman clarified that a letter would be drafted and brought to the EQC's September meeting.

06:21:42 Sen. Vincent said he would like to add to the letter regarding fire suppression.

06:22:47 The motion passed unanimously by voice vote. Rep. Reinhart, Rep. Williams, Ms. Fitzpatrick, and Rep. Bennett voted yes by proxy.

06:23:18 Sen. Brenden said North Dakota has released Conservation Reserve Program (CRP) land for emergency haying and grazing due to fire and drought. Sen. Brenden urged Council members to pressure DFWP, the Governor and federal officials to request the same.

06:24:47 Mr. Kolman said the EQC's next meeting would take place September 12 and 13, 2012.

06:25:04 The EQC was adjourned.

ADJOURN

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