



# ENVIRONMENTAL QUALITY COUNCIL

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JOE KOLMAN, Research Analyst  
SONJA NOWAKOWSKI, Research Analyst  
HOPE STOCKWELL, Research Analyst  
HELEN THIGPEN, Staff Attorney  
KEVIN MCCUE, Secretary

## MINUTES

Approved January 11, 2012

September 14, 2011

Rm. 172  
State Capitol Building

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. You must have Real Player to listen to the audio recording or to view the video.

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. MIKE VOLESKY  
MR. JOHN YOUNGBERG

### **STAFF PRESENT**

JOE KOLMAN, Research Analyst  
SONJA NOWAKOWSKI, Research Analyst  
HOPE STOCKWELL, Research Analyst  
HELEN THIGPEN, Staff Attorney  
KEVIN MCCUE, Secretary

### **AGENDA AND VISITORS' LIST**

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

### **COMMITTEE ACTION**

The EQC approved the minutes from May 24, 2011.

The EQC adopted its final rules and procedures, including a change in language related to proxy voting.

The EQC adopted the 2011-2012 EQC work plan.

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

00:01:32 Sen. Keane called the meeting to order and roll was noted ([Attachment 3](#)).

### **AGENDA**

00:01:53 Sen. Ripley moved to adopt the EQC minutes from May 24, 2011. Rep. Williams requested a change to the last line of the minutes' page 3, that "statewide" be substituted for "in Sidney." The amended minutes were adopted unanimously by voice vote.

00:03:05 The EQC reviewed its draft rules for final adoption. Sen. Keane proposed a revision to the proxy voting language ([EXHIBIT 1](#)).

00:03:55 Rep. Williams voiced opposition to the change.

00:04:49 Sen. Keane's motion carried with Ms. Fitzpatrick and Rep. Williams voting no.

00:05:32 Mr. Kolman stated the Council's budget for the interim is \$72,381.61.

00:06:24 Sen. Ripley moved to adopt the committee rules with the change in language regarding proxies. The motion carried with Rep. Williams voting no.

## **EQC ACTION ON SUBCOMMITTEE RECOMMENDATION FOR HIRING OF LEGISLATIVE ENVIRONMENTAL ANALYST**

- 00:06:59 Sen. Keane closed the meeting to the public.
- 00:08:32 Susan Byorth Fox, Executive Director, Legislative Services Division (LSD), explained the history and process for acquiring the statutory position of Legislative Environmental Analyst.
- 00:10:04 Sen. Keane reviewed the interview process.
- 00:11:42 Rep. Ankney voiced his support for the Council's decision to hire Mr. Kolman.
- 00:12:10 Sen. Ripley noted that it was very beneficial to hire from inside the division.
- 00:12:53 Rep. Williams voiced her admiration of Mr. Kolman's experience and temperament.
- 00:13:45 Sen. Keane asked for questions from the committee. Seeing no questions, Sen. Keane moved that the subcommittee recommendation be adopted by the EQC (**EXHIBIT 2**).
- 00:14:32 The council approved the motion unanimously by voice vote.
- 00:14:50 Mr. Kolman thanked the committee for its kind words and confidence.

## **PARTING THOUGHTS FROM THE OUTGOING LEGISLATIVE ENVIRONMENTAL ANALYST - TODD EVERTS**

- 00:17:57 Mr. Everts praised Mr. Kolman and the EQC staff. He acknowledged the EQC's service and looked back at the history of the EQC (**EXHIBIT 3**).
- 00:29:01 Sen. Keane expressed his appreciation for Mr. Everts' service and happiness for his new position.

## **ADOPTION OF WORK PLAN**

### **Staff explanation - Mr. Kolman**

- 00:29:49 Mr. Kolman detailed the EQC work plan.

### **EQC discussion**

- 00:31:33 None

### **Public comment**

- 00:31:42 None.

### **EQC action**

00:32:19 Rep. Ankney moved to approve the EQC work plan. The motion carried unanimously by voice vote.

### **HJ 32 -- STUDY OF STATE PARKS, OUTDOOR RECREATION, AND HERITAGE RESOURCE PROGRAMS**

#### **Summary of existing programs and past legislative reports and audits - Ms. Stockwell**

00:32:56 Ms. Stockwell detailed state assets in the form of existing state park, outdoor recreation and heritage programs managed by the divisions within the Department of Fish, Wildlife and Parks (FWP); Department of Commerce; and the Montana Historical Society (**EXHIBIT 4**). She discussed HJR 32 (2009) and the Education and Local Government committee's recommendations regarding historic preservation. Ms. Stockwell also mentioned the inventorying being done on the Bovey collection in Virginia City and Nevada City that began in 1997 and continues today.

#### **Public comment**

00:50:17 Chas Van Genderen, Administrator, Parks Division of FWP, distributed photos depicting the use of parks as well as a sample of the beef jerky product developed by the Montana State Parks in cooperation with the National Parks Service (**EXHIBIT 5**). Mr. Van Genderen reminded the Council that the Parks Division manages nationally significant landmarks and heritage properties. He said Montana's tourism industry associated with state parks generates 1,600 jobs and that tourism has increased 78% since 1972. He also outlined the new camp site reservation system.

00:58:24 Paul Hickman, Executive Director, Our Montana, Inc. talked about his organization's work with state parks to preserve its resources (**EXHIBIT 6**).

01:06:31 Bob Walker, volunteer for Our Montana, Inc. spoke about the relationship of the Parks Division within the agency and said that association was not always beneficial to the parks. He reminded the Council that parks are for people and are not wilderness areas. He said that wolves, grizzly bears, brucellosis, and large land purchases were often brought up when talking about parks, but that these issues were not relevant to parks. Mr. Walker suggested a parks commission that would be separate from the agency.

01:15:35 Rep. Pat Connell, sponsor of HJ 32, voiced support for nurturing parks.

01:17:31 Andy Poole, Deputy Director, Department of Commerce (DOC), said that he was here to learn and thought the aforementioned programs were well-placed within the DOC.

- 01:18:11 Marilyn Ross, Chair, Montana Heritage Commission, expressed support for Ms. Stockwell's suggestion to add "side boards" to Virginia City and Nevada City. She spoke to the breadth of Charlie and Sue Bovey's collection.
- 01:23:05 Denise King, Centralized Services Director, Montana Historical Society, said she was available to answer questions.

#### **EQC questions, discussion and directions to staff**

- 01:23:38 Sen. Brenden acknowledged FWP's difficulty in funding the parks and asked Mr. Van Genderen about FWP land sales. Mr. Van Genderen listed Fort Maginnis and Citadel Rock (DNRC parcels that FWP has easements on) as well as the East Gallatin (ponds outside of Bozeman) and Lake Josephine near Billings as examples of a potential land sale. Mr. Van Genderen said that the "Parks for the People" program in the 1970's brought in parks that did not meet the standards for a state park. Sen. Brenden asked if FWP had any current studies underway looking for additional lands to add to the parks system. Mr. Van Genderen said that FWP did not but the department was working on resolving some acquisitions, including Mill Town Dam near Missoula and Traveler's Rest near Lolo.
- 01:28:14 Sen. Brenden asked Ms. Stockwell whether the state owns part of the Bair Museum in Martinsdale. Ms. Stockwell said that she would investigate and provide him an answer.
- 01:29:58 Rep. Reinhart asked Ms. Ross if it made sense to manage Bannack, Virginia City and Nevada City under the same entity. Ms. Ross agreed that it would be beneficial, depending on the funding structure. Rep. Reinhart asked for the source of the Heritage Commission's funding. Ms. Ross listed the bed tax, license plate income, the lease of buildings to concessionaires and the gate toll to the Nevada City museum as sources of funding. Rep. Reinhart asked Ms. Ross to describe the potential benefits and disadvantages of these entities being managed by the Heritage Commission or moved to management by state parks. Ms. Ross said that she would investigate and bring her findings to the Council.
- 01:32:41 Rep. Reinhart asked Mr. Van Genderen if he foresaw any problems with managing Bannack, Virginia City and Nevada City under state parks as opposed to the Heritage Commission. Mr. Van Genderen said this idea had been proposed in the past and that FWP would continue to explore new ideas and needs to continue to disseminate information about state parks to the public. He mentioned that the aforementioned sites could lose some of their high profile status and that public issues such as those with wolves could confuse the public.
- 01:39:01 Sen. Ripley asked Ms. Stockwell whether or not the State Parks Futures Committee had been dissolved. Ms. Stockwell replied that the futures committees had been formed on a one-time, temporary basis. Sen. Ripley asked if the results of the futures committee would be demonstrated in the audit. Ms. Stockwell pointed to the summary of past legislative audits ([EXHIBIT 7](#)) and said that she would provide the Council with further documentation.

01:42:44 Rep. Ankney asked Mr. Van Genderen if there would be problems in maintaining deeds if the parks were to move to a different agency. Mr. Van Genderen said that this was indeed an important aspect to consider. Rep. Ankney asked if any specific sites had been considered for modification into "super campgrounds" whose revenue could be used to help fund the smaller parks. Mr. Van Genderen said that this was a good option as campgrounds were good generators of revenue.

01:47:44 Sen. Hamlett asked Ms. Ross in what year negotiations began on acquisition of the Bovey collection. Ms. Ross said they had begun in 1994. Sen. Hamlett asked how long the process took and whether or not some of the materials had been sold before the state's acquisition. Ms. Ross said that the acquisition had been approved by the Legislature in 1997 and that she was unable to speak with authority as to the sale of artifacts but that such sales had been reported in the press around that time.

01:52:00 Sen. Keane asked Mr. Van Genderen his feelings on reorganizing the parks department. Mr. Van Genderen responded that there were several options. One was to do nothing. Another option was to create a parks board. The parks could be moved to DNRC. A final option would be to create a new department, which he said was unfeasible. He recommended the creation of a parks board as the best option.

01:53:23 Sen. Brenden referenced grants given by the Parks Division and asked Mr. Van Genderen to make those available to the EQC.

01:54:23 Rep. Reinhart expressed interest in how the state promotes parks compared to other states and how to best maximize their use.

01:55:02 Rep. Williams said that she understood that the State Comprehensive Outdoor Recreation Plan (SCORP) was to undergo a new effort and said that these issues required a strategic plan in certain cases. Rep. Williams asked what the plan was for SCORP renewal. Mr. Van Genderen reviewed the need for the SCORP and said that his organization would wait to address this issue until the master plan for the state park system, written in 1998, had been reevaluated. Rep. Williams asked Mr. Van Genderen to give his sense of who is using state parks. Mr. Van Genderen said that 85% of campsite use was by Montanans.

01:58:04 Rep. Williams asked Ms. Ross if the Heritage Commission had a strategic plan. Ms. Ross said that they had had various strategic plans over the years, but that the Heritage Commission's recent restructuring had focused on development and sustainability. Rep. Williams asked Ms. Stockwell to investigate how agencies were being strategic in these difficult times.

02:00:37 Ms. Conradi asked Mr. Van Genderen if he was aware of Washington's "Legacy Trust for Recreation and Conservation" program (2002). He said he was not but that he would look into it.

(BREAK)

## **HB 142 -- REVIEW OF STATUTORILY-REQUIRED AGENCY REPORTS**

### **Introduction - Ms. Stockwell**

02:18:31 Ms. Stockwell introduced work related to HB 142. She discussed the DNRC water adjudication update that had been presented to the WPIC and distributed a paper copy to the EQC ([EXHIBIT 8](#)).

### **Clark Fork River Basin Task Force report (85-2-350, MCA)**

#### **Gerald Mueller, task force facilitator**

02:25:21 Mr. Mueller was not present. His presentation will be rescheduled for the January meeting.

### **Coal lease jobs report (HB 533, 2011)**

#### **Todd Younkin, Department of Labor**

02:25:30 Todd Younkin, Research and Analysis Bureau Chief, Department of Labor stated that there had been no coal leasing to report.

#### **Public comment**

02:26:22 None.

#### **EQC questions and discussion**

02:26:30 Sen. Keane asked if Mr. Younkin would return if there was coal leasing to report. Mr. Younkin said that HB 533 (2011) required his reports on a quarterly basis and that he would return.

02:27:21 Ms. Stockwell said that staff had scheduled written memos on coal leasing. She also informed the EQC that SJR 26 recommended the EQC receive updates on the KRY site. A status sheet on the clean up of the KRY site was included in the pre-meeting mailing. An oral presentation is scheduled for the March meeting.

#### **EQC action, if any, & directions to staff**

02:29:32 None.

### **UPDATE ON WATER POLICY INTERIM COMMITTEE - MR. KOLMAN**

02:29:59 Mr. Kolman reported on the Water Policy Interim Committee's (WPIC) meetings held September 13 and 14th, 2011, which focused on HB 602's (2011) examination of the exempt well issue and the Clark Fork River Basin Task Force. He said that the WPIC learned about the permitting process for exempt wells and discussed options available for dealing with exempt wells.

02:31:35 Sen. Hamlett, Chair of the WPIC, commented on modification of the WPIC's work plan and next year's meetings.

**UPDATE ON ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE AND RELATED STUDIES - MS. NOWAKOWSKI**

02:32:11 Sonja Nowakowski, Energy and Telecommunication Interim Committee (ETIC) staff, gave an update on ETIC activities. Ms. Nowakowski said that the effectiveness of the Underground Facility Damage Prevention Program (the "call before you dig" program) was the focus of the ETIC's upcoming meeting. She said that the Pipeline and Hazardous Materials Safety Administration (PHMSA) was developing new federal rules and asking states to strengthen their "one call laws," which was to be investigated by the ETIC. Ms. Nowakowski said the ETIC would receive an update on hydraulic fracturing laws as well as SB 206 (2011).

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

02:38:22 No public comment was given and the meeting was adjourned.

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