



ENVIRONMENTAL QUALITY COUNCIL

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MARY FITZPATRICK
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SONJA NOWAKOWSKI, Research Analyst
HOPE STOCKWELL, Research Analyst
HELEN THIGPEN, Staff Attorney
NADINE SPENCER, Secretary
JOE KOLMAN, Legislative Environmental Analyst

MINUTES LOG

January 8, 2014

Room 317, State Capitol Building
Helena, Montana

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. JOHN BRENDEN, Chair
REP. BILL MCCHESENEY, Vice Chair

SEN. JENNIFER FIELDER
SEN. BRADLEY MAXON HAMLETT
SEN. JIM KEANE
SEN. RICK RIPLEY
SEN. GENE VUCKOVICH

REP. JERRY BENNETT
REP. VIRGINIA COURT
REP. ED LIESER
REP. JEFFREY WELBORN
REP. KERRY WHITE

MR. SCOTT ASPENLIEDER
MR. DEXTER BUSBY
MS. MARY FITZPATRICK
MR. ROY MORRIS

STAFF PRESENT

JOE KOLMAN, Legislative Environmental Analyst
HOPE STOCKWELL, Research Analyst
HELEN THIGPEN, Staff Attorney
NADINE SPENCER, Secretary

AGENDA & VISITORS' LIST

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

COMMITTEE ACTION

- The Environmental Quality Council (EQC) approved the minutes from September 11-12, 2013.

CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Brenden called the meeting to order at 9:01 a.m. The Secretary called the roll, [Attachment 3](#).

AGENDA

ADMINISTRATIVE MATTERS

EQC Budget Overview

00:02:13 Joe Kolman, Legislative Environmental Analyst, Legislative Services Division (LSD) gave an update of the EQC budget.

Approval of Minutes

00:03:44 **Motion/Vote**: Sen. Keane moved to accept the September 11-12, 2013 EQC minutes. The motion carried unanimously by voice vote of those present and voting.

Staff Update

00:04:03 Mr. Kolman introduced Dawn Field, the new Research Assistant in the Legislative Environmental Policy Office (LEPO).

WATER POLICY INTERIM COMMITTEE UPDATE

00:05:44 Jason Mohr, Research Analyst, LSD, gave an update on the January 6-7, 2014 Water Policy Interim Committee (WPIC) meeting.

00:10:29 Sen. Fielder entered the meeting.

Committee questions and discussion

00:12:03 Rep. Bennett asked, in reference to the forest service water compact, when the 30 year deadline for the forest service to file for Reservations begins. Mr. Mohr said the 30 year time frame begins after the final decree.

00:12:25 Sen. Hamlett commented on the WPIC meeting.

ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE UPDATE

00:13:37 Sonja Nowakowski, Research Analyst, LSD, gave an update on the Energy and Telecommunications Interim Committee (ETIC).

Committee questions and discussion

00:18:00 Sen. Brenden asked about eagles killed by wind turbines. Ms. Nowakowski said there are proposed rules being made at the federal level dealing with certificates when eagles are killed by a wind turbine.

STATE WATER PLAN UPDATE

00:18:54 Tim Davis, Administrator, Water Resources Division, Department of Natural Resources and Conservation (DNRC) gave an update on the State Water Plan. He passed out a calendar of the state water planning process , [Exhibit 1](#), and a summary of the scoping reports for each of the four river basins, [Exhibit 2](#).

Committee questions and discussion

00:24:18 Rep. White asked how much has been spent on public meetings in 2013. Mr. Davis said he has the information and will forward it to the Council.

00:24:50 Sen. Keane asked if the DNRC is looking for approval for the State Water Plan during the next legislative session. Mr. Davis said that by law they need to bring the State Water Plan for approval to the 2015 Legislature.

00:25:28 Sen. Keane asked if the EQC will be able to review the State Water Plan before it is brought before the 2015 Legislature. Mr. Davis said a draft of the State Water Plan will be brought to both the WPIC and the EQC for review before it is finalized.

Public comment None

HB 609 - STUDY OF FWP HUNTING AND FISHING LICENSES

00:27:50 Hope Stockwell, Research Analyst, LSD, introduced the study of the state hunting and fishing license update.

The Wyoming Experience

00:30:39 Scott Talbott, Director, Wyoming Game and Fish Department (WGFD), via phone, gave an overview of the funding model for the WGFD.

Committee questions and discussion

00:43:27 Sen. Brenden asked Mr. Talbott to provide a copy of the WGFD budget cuts.

00:43:51 Sen. Fielder asked how much the WGFD spends on sage grouse and wolf management. Mr. Talbott said they spend \$1.86 million a year on the sage grouse program and \$1.47 million a year on the wolf program.

00:45:40 Sen. Hamlett asked how specialized licenses affects the WGFD budget. Mr. Talbott said that the money is compensated back to the agency through the general fund.

00:47:40 Sen. Keane asked about budget cuts and how that will affect the WGFD. Mr. Talbott explained where funding has been cut from the budget.

00:50:26 Sen. Ripley asked how many employees work for the WGFD and, of the employees that were cut from the budget, how many were retirees or personnel that were easily absorbed through attrition. Mr. Talbott said they have 387 filled positions in the agency and because he was able to extend the process over 18 months he did not have to terminate any employees.

00:52:09 Rep. Bennett asked about positive benefits from the restructuring. Mr. Talbott said the changes to the management structure have made the department more efficient.

00:55:14 Mr. Aspenlieder asked how the WGFD approaches public land access. Mr. Talbott said they have not been acquiring private land for public land since the early to mid 1990's and said they have a series of programs that allow hunting access to private property.

00:58:23 Mr. Aspenlieder asked how successful the WGFD has been working with private landowners for hunter access versus purchasing land. Mr. Talbott said that working with private landowners has been very successful.

01:02:11 Rep. White asked about trends for license sales in Wyoming and how an increase in fees affects sales. Mr. Talbott said that demand for elk, deer and antelope licenses remains very high. He said that historically they do see a one-year dip in license sales after a fee increase.

- 01:06:47 Rep. McChesney asked Mr. Talbott several questions about the WGFD sage grouse management plan.
- 01:12:48 Sen. Hamlett asked Mr. Talbott about monitoring and census count of sage grouse.
- 01:16:14 Sen. Hamlett asked if Wyoming has a hunting season on sage grouse. Mr. Talbott said they do have a limited hunting season on sage grouse.
- 01:17:22 Rep. Bennett asked if there has been an increase in the success rate for filling special licenses and if that success can be attributed to expanded access to public land. Mr. Talbott said special licenses are only available to out of state residents and explained why the success rate is high.
- 01:18:50 Sen. Keane asked how Wyoming deals with issues related to the bison population. Mr. Talbott said they do not have many problems related to bison.
- 01:21:22 Sen. Brenden asked if the WGFD controls the bison herd through hunting and if so, the cost for a license. Mr. Talbott said they do issue hunting licenses for bison and a resident license is \$400.
- 01:23:43 Sen. Brenden asked if they base the number of licenses issued for bison on the size of the herd. Mr. Talbott said they do a count of the herd every year to determine the number of licenses that can be issued.
- 01:24:21 Sen. Brenden asked what the annual budget is for the WGFD every year. Mr. Talbott said that the budget was \$76.5 million dollars when he took over as director and the budget for 2014 is just over \$68 million dollars.
- 01:25:14 Sen. Hamlett asked if the WGFD hazes buffalo back into Yellowstone National Park. Mr. Talbott said that they do not haze buffalo back into the park with the exception of the north fork on the east side of Sylvan Pass west of Cody, Wyoming.
- 01:27:18 Recess
- 01:42:36 Reconvene

FWP Budget Overview

- 01:42:41 Ms. Stockwell introduced the topic of Montana's hunting and fishing license system and fees.
- 01:43:10 Sue Daly, Chief of Finance, Department of Fish, Wildlife and Parks, (FWP) gave an overview of FWP's budget information that the Fish and Wildlife Licensing and Funding Advisory Council received, [Exhibit 3](#).

Update on Fish and Wildlife Licensing and Funding Advisory council

- 01:55:45 Ms. Stockwell gave an update of the preliminary recommendations from the advisory council and discussed the evaluation criteria used to measure the preliminary recommendations, [Exhibit 4](#).
- 02:09:58 Ms. Daly, discussed the charts developed for the advisory council that estimate the impacts of the preliminary recommendations on the finances of FWP, [Exhibit 5](#).
- 02:19:54 Mr. Busby asked about the projected annual rate of increase for expenditures. Ms. Daly listed the expenditures and said the increase is approximately 5% per year.
- 02:21:10 Ms. Stockwell provided a copy of the brochure developed by FWP to provide information to the public explaining FWP's fiscal situation, the advisory council's work and where they are now, [Exhibit 6](#). She also discussed other funding options for the EQC to consider related to nonconsumptive users of fish and wildlife.
- 02:28:18 Rep. Welborn said that the advisory council is looking at recommendations that, if approved by the EQC, would require approval of the Legislature.

Committee questions and discussion

- 02:29:35 Sen. Brenden gave instructions to the EQC to give thoughts and ideas to the advisory council and said he was against giving the Fish and Wildlife Commission more authority to set license fees.
- 02:31:12 Sen. Keane asked if any part of the licensing fees goes toward funding for parks. Ms. Daly said that by state and federal statute, hunter and angler license fees can only be used for the management of fish and wildlife. Sen. Keane requested that FWP make the public aware of that fact.
- 02:32:32 Sen. Keane said that he would like the advisory council to look at a funding model that spreads fee increases over several years.
- 02:33:35 Ms. Fitzpatrick asked what assumptions the advisory council is making about the effect of higher license fees on the number of licenses sold, and especially on recruitment. Ms. Daly said they have not yet factored in the effect.
- 02:34:28 Rep. Lieser asked if there has been any analysis of increased funding from a 1-day fishing license. Ms. Daly said the information will be presented and discussed at the January 16 advisory council meeting.
- 02:35:24 Sen. Hamlett asked if nonresident hunting and fishing licenses are nonrefundable. Hank Worsech, License Bureau Chief, FWP, said that all licenses are refundable for nonresidents and gave the refund options.

- 02:36:35 Sen. Ripley asked what the \$1.25 million in reductions made by FWP were and if they are permanent. Ms. Daly said that they are permanent reductions and said they are listed in the FWP brochure (see exhibit 6).
- 02:37:34 Sen. Ripley asked if there is any effort being made to contact nonresidents for comments. Ms. Daly said there has not been any specific effort to contact nonresidents, but that nonresidents are represented by the outfitters who are members of the advisory council.
- 02:38:32 Sen. Brenden asked how much money has been spent from the general license account for land purchases over the past 5-10 years. Ms. Daly said that over the last decade no general license money has been used for land acquisition.
- 02:39:47 Sen. Hamlett said that the advisory council should consider eliminating refunds for out of state nonresident licenses except in the case of death or emergency.
- 02:40:45 Rep. White asked about confusion over licensing in the state. Rep. Welborn said that has been a large part of the advisory council's discussion and said members will be working to standardize and make licensing more uniform.
- 02:43:26 Sen. Brenden commented on the need to simplify the rules and regulations.

Public comment

- 02:44:43 Fred Weisbecker, President, Montana Audubon
- 02:51:02 Recess
- 04:04:10 Reconvene
- 04:05:08 Mr. Baker entered the meeting.

SJ 15 - STUDY OF FEDERAL LAND MANAGEMENT

- 04:06:12 Sen. Fielder introduced the SJ 15 federal land management study and discussed the survey that was sent to county commissions and gave a summary of their responses, [Exhibit 7](#). She said that the SJ 15 work group is working to complete the study matrix, [Exhibit 8](#). She introduced the panelists, [Exhibit 9](#), and topics.
- 04:22:48 Sen. Hamlett commented on the panel members.

Panel Topic 1: Distinctions Between State & Federal Land Management

- 04:24:02 Tom France, Attorney, National Wildlife Federation
- 04:29:58 Peter Kolb, Forestry Specialist, Montana State University Extension
- 04:39:33 Doyel Shamley, CEO, Veritas Research Consulting, [Exhibit 10](#)
- 04:47:24 John Tubbs, Director, DNRC
- 04:54:58 Ken Ivory, Utah State Representative, [Exhibit 11](#)

Panel Topic 2: Laws Affecting Ownership

05:06:28 Martha Williams, Professor, University of Montana School of Law, [Exhibit 12](#)
05:16:18 Mr. France
05:23:38 Mr. Kolb, [Exhibit 13](#)
05:30:58 Mr. Shamley
05:33:59 Rep. Ivory

06:07:09 Recess
06:21:49 Reconvene

Panel Topic 3: Solutions to Remedy Problems with Federal Land Management

06:22:02 Sen. Fielder
06:22:56 Ms. Williams
06:24:14 Mr. France
06:33:24 Mr. Kolb
06:41:31 Mr. Shamley
06:53:04 Mr. Tubbs
06:58:08 Rep. Ivory shared a recording from the western governor's conference, [Exhibit 14](#).

07:19:14 Sen. Brenden

Public comment

07:22:50 Gerald Cuvillier, Trout Creek, Montana, [Exhibit 15](#)
07:24:28 Robert Pierson, Trout Creek, Montana, [Exhibit 16](#)
07:26:32 Judy Woolly, Plains, Montana
07:30:44 Suzy Foss, Ravalli County Commissioner, representing herself, [Exhibit 17](#)
07:39:16 John Driscoll, Helena, Montana
07:44:59 Bruce Hunn, Sanders County
07:48:04 Nancy MeHaffie, former Forest Service Employee
07:49:45 Leonard Wortman, Jefferson County Commissioner, representing himself
07:53:05 Dan Happel, Madison County Commissioner, representing himself
07:55:14 Lee Foss, Ravalli County
07:59:15 John Hagenruber, U. S. Forest Service (USFS), Region 1
07:59:31 Rep. Mike Cuffe
08:00:54 Rep. Nancy Ballance
08:04:19 Nick Gevock, Montana Wildlife Federation
08:11:01 Jerry Davis

Committee questions and discussion

08:17:08 Sen. Brenden made a comment on grazing leases.

08:17:51 Sen. Vuckovich asked what will happen if the federal government does not recognize HB 148 (Utah) which was passed and signed into law. Rep. Ivory explained what they are doing to move forward with federal land management.

- 08:22:07 Sen. Vuckovich asked if any of the states that are taking part in federal land management studies have passed bills to implement management or are in litigation to get it implemented. Rep. Ivory said there are a number of ways to implement management.
- 08:25:22 Sen. Ripley asked about the statement that was made indicating there are more sage grouse on federal land than public land. Mr. France said that maps identifying core areas of sage grouse habitat in Montana and the rest of the West are on Bureau of Land Management (BLM) land.
- 08:26:34 Sen. Ripley said he thought there is more sage grouse habitat on private land. Mr. France said that a lot of the larger areas of intact habitat and a lot of the biodiversity in the West is on federal land because it hasn't had the same level of disturbance compared to private land.
- 08:27:48 Rep. McChesney said that most of the core areas of sage grouse habitat are on federal land.
- 08:28:31 Sen. Ripley asked if it is undisputable that the Enabling Act allows the state of Montana to own federal land. Rep. Ivory said that the language of the Enabling Act is undisputable, but that there is no undisputable condition requirement that the lands could never be transferred.
- 08:30:45 Sen. Ripley asked Ms. Williams if she agreed with Rep. Ivory's statement regarding the Enabling Act. Ms. Williams said that case law has consistently held that the states disclaimed the right to those lands.
- 08:31:21 Sen. Ripley asked if there was a fiscal note attached to HB 148 and if so, how much. Rep. Ivory said there are fiscal notes attached and that about \$3 million is appropriated to the Constitutional Defense Council. He said that part of its duty includes studying and working on the issue of the transfer of public land, but that the bulk of the money went to other areas.
- 08:33:13 Sen. Ripley asked if there is any section in the bill that addresses management of federal lands on the state level. Rep. Ivory said that the bill does address the issue in general principle.
- 08:35:17 Sen. Keane asked Rep. Ivory about federal funding and asked why Montana would put funding into federal land management.
- 08:43:10 Sen. Hamlett asked, in reference to the Clean Water Act, if an agency of the executive branch of the federal government can make a rule to change the law and put it into effect. Ms. Williams said a federal agency does not have the authority to promulgate a rule that changes a law.
- 08:45:10 Sen. Brenden thanked the panel members for their participation.
- 08:46:08 Sen. Brenden adjourned the meeting at 5:48 p.m.

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