



# ENVIRONMENTAL QUALITY COUNCIL

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**GOVERNOR STEVE BULLOCK**  
**DESIGNATED REPRESENTATIVE**  
TIM BAKER

**HOUSE MEMBERS**  
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JERRY BENNETT  
VIRGINIA COURT  
ED LIESER  
JEFFREY WELBORN  
KERRY WHITE

**SENATE MEMBERS**  
JOHN BRENDEN--Chair  
JENNIFER FIELDER  
BRADLEY MAXON HAMLETT  
JIM KEANE  
RICK RIPLEY  
GENE VUCKOVICH

**PUBLIC MEMBERS**  
SCOTT ASPENLIEDER  
DEXTER BUSBY  
MARY FITZPATRICK  
ROY MORRIS

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

## MINUTES LOG

September 12, 2013

Room 172, 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.

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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  
LEANNE KURTZ, Research Analyst  
KRIS WILKINSON, Fiscal Analyst  
NADINE SPENCER, Secretary

### **AGENDA & VISITORS' LIST**

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

### **COMMITTEE ACTION**

- The EQC voted to object to ARM 36.12.101, definition of combined appropriation for water wells exempt from permitting.

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

00:00:58 Sen. Brenden called the meeting to order at 8:05 a.m. The secretary took the roll, [Attachment 3](#).

### **AGENDA**

#### **SJ 14 STUDY OF VIRGINIA CITY/NEVADA CITIES AND REEDER'S ALLEY**

00:01:23 Leanne Kurtz, Research Analyst, Legislative Services Division (LSD), discussed the background brief and study plan for Virginia City, Nevada City and Reeder's Alley, and discussed the statutes governing the Montana Heritage Preservation and Development Commission (MHC), [Exhibit 1](#).

00:06:23 Kris Wilkinson, Senior Fiscal Analyst, Legislative Fiscal Division (LFD), discussed the revenues and expenditures covering the last four years for Virginia City, Nevada City and Reeder's Alley, [Exhibit 2](#).

#### **Committee Questions and Discussion**

00:08:58 Sen. Keane asked about the changes in revenue from 2013-14. Ms. Wilkinson said there was a decrease in revenue because the railroad was not operating for a period of time and, when the railroad was operating, the price for riding the railroad was included in the family pass.

- 00:10:29 Sen. Keane asked about the drop in revenue in 2014. Ms. Wilkinson said that the number does not include revenue earned this summer since July 1.
- 00:11:03 Sen. Ripley asked if the loss in revenue since 2010 was due to an increase in operating expenses. Ms. Wilkinson said the majority of increases have been in other services.
- 00:12:11 Sen. Ripley asked what is included in other services. Ms. Wilkinson said that professional and consulting fees would be an example of other services.
- 00:12:54 Elijah Allen, Director of Operations for the MHC, gave a presentation on the MHC, Virginia City, Nevada City and Reeder's Alley, including a maintenance report, season review, financial review and the inventory project at Virginia City, [Exhibit 3](#).

### **Committee questions and discussion**

- 00:35:42 Sen. Brenden asked if all the proceeds from the sale of artifacts at Virginia City goes into an interest bearing account. Mr. Allen said that they are directed by statute to put the proceeds into an interest bearing account.
- 00:37:04 Sen. Keane said that the original intent of the statute was to have the money go into a trust account.
- 00:38:36 Sen. Brenden said he is concerned about low interest rates and that they may be able to increase funding through grants and donations.
- 00:40:51 Sen. Keane asked Mr. Allen to find out more information about the bed tax.
- 00:42:11 Rep. Lieser said that the bed tax money is used by the Office of Tourism to advertise all of the attractions in Montana and asked if any special consideration is given to Virginia City/Nevada City. Mr. Allen said that advertising is not specifically targeted to Virginia City/Nevada City.
- 00:43:19 Mr. Allen continued his presentation.

### **Committee questions and discussion**

- 00:51:48 Rep. White asked Mr. Allen what his vision for the future is in working with the new State Parks and Recreation Board. Mr. Allen said that he thought there would be opportunities to combine advertising and marketing efforts.
- 00:52:59 Rep. White asked if the MHC is communicating with the board. Mr. Allen said that their commissioners are working with the Department of Fish, Wildlife and Parks (FWP).
- 00:53:29 Mr. Aspenlieder asked about the importance of funding and preserving Reeder's Alley. Mr. Allen said that Reeder's Alley is an important part of Montana's history.

- 00:57:32 Mr. Aspenleider asked if it would be better to put more money into fewer projects rather than spreading funds over several projects. Mr. Allen agreed that it would be better to spend more and have projects done right.
- 00:59:31 Rep. Bennett asked how many buildings MHC wants to preserve in Virginia City. Mr. Allen said that there are about 150 historical buildings.
- 01:01:22 Rep. Bennett asked about the MHC's long range plans. Mr. Allen said they want to meet safety standards by repairing and maintaining the buildings.
- 01:03:27 Rep. Bennett said that they need to use available funds to focus on preserving and maintaining the structures.
- 01:04:28 Rep. Court asked if the MHC gets any money from the resort tax in Virginia City. Mr. Allen said that they do not.
- 01:05:05 Sen. Keane said that they should consider raising the rent for the buildings in Reeder's Alley.
- 01:06:41 Sen. Fielder asked if an analysis has been done on cost per visitor at Virginia City/Nevada City. Mr. Allen said this was the first year that they have been tracking visitors.
- 01:08:53 Sen. Fielder asked if areas with a higher number of visitors receive more money. Mr. Allen said that the Office of Tourism decides where the money is spent.
- 01:09:20 Sen. Fielder asked if they were receiving any money from state parks, education or tourism funding. Mr. Allen said they do get a percentage of the funding.
- 01:11:33 Rep. Welborn asked if there is a plan to sell artifacts to help fund projects in Virginia City/Nevada City. Mr. Allen said that the artifacts are worth more as a tourist attraction than what they could be sold for on the market.

### **Public comment**

- 01:15:55 David Schulz, Madison County Commissioner, said that Madison County remains involved and interested in the current protection of the buildings and history of the Virginia City/Nevada City area and encouraged the Council to continue to give the MHC its support.
- 01:18:56 Bill Koch, owner and operator of the Virginia City Opera House, said that he supports the business plan of the MHC and encouraged the Council to continue to provide its support.
- 01:20:25 Rep. Ray Shaw said that the buildings in Virginia City/Nevada City need to be fixed and shared pictures showing the current condition of the properties, [Exhibit 4](#).
- 01:25:16 Patty Dean, Community Preservation Director, the Montana Preservation Alliance, talked about their relationship with the MHC and said that they are currently trying to obtain accreditation for Reeder's Alley through the American Alliance of Museums, [Exhibit 5](#).

- 01:30:30 Kurt Belding, concessionaire in Virginia City, said that without the collections and preservation by the MHC he would not have three successful businesses in Virginia City.
- 01:34:45 Rebecca Ramsey, Executive Director, Virginia City Area Chamber of Commerce, said that without the preservation of Virginia City the businesses would not be there.
- 01:39:32 Jim Hart, Madison County Commissioner, said that in order for Virginia City to grow they need continued cooperation from the legislature, the MHC, and the town.

### **Committee questions and discussion**

- 01:41:21 Rep. McChesney asked about the market value for the properties in Virginia City and if it would be profitable to put them up for sale. Ms. Ramsey said that there is a market for the non historical properties.
- 01:44:02 Rep. McChesney asked if there are zoning laws in place that would maintain the integrity of Virginia City once properties are sold. Ms. Ramsey said that there is a Historic Preservation Review Board and the city council makes a final decision on any changes in the historic district.
- 01:45:59 Rep. McChesney asked if the legislature and the MHC can work together to revise the statutes on selling properties. Mr. Allen said that the MHC can make recommendations to the legislature.
- 01:48:02 Rep. McChesney said that he is not in support of selling the artifacts, but was in favor of selling some of the non historic properties and investing the money into preserving Virginia City.
- 01:48:50 Sen. Hamlett asked about property "D" on the map of proposed properties for sale, [Exhibit 6](#). Mr. Allen said the Virginia City Preservation Alliance has made a request to purchase the property.
- 01:49:48 Sen. Hamlett asked if there are covenants and building codes in place to preserve the historic character of Virginia City. Mr. Allen said that there are stringent policies in place to protect the historical character of the town.
- 01:52:36 Sen. Keane asked Bob Lawson, former state representative and member of the MHC, if he felt that the MHC has improved since he has been on the commission. Mr. Lawson said he felt that it was going in the right direction and has good working partnerships.
- 01:56:44 Sen. Fielder asked who has been appointed to the SJ 4 working group. Sen. Brenden said that Sen. Keane has been appointed to chair the working group.

- 01:57:07 Mr. Kolman said that Sen. Keane was picked as a point of contact, but the group has not been finalized.
- 01:57:26 Sen. Fielder said they need to make sure they get value from the sale of the properties and that the local community is able to have some input.
- 01:58:48 Sen. Brenden said that they need to formalize the working group and any EQC members interested in being on the working group should let him know.
- 02:01:33 Sen. Hamlett said that they need to consider the value of the artifacts at Virginia City and work on preserving the properties. Sen Brenden said that he agreed.
- 02:05:38 Break
- 02:20:21 Sen. Brenden called the meeting back to order at 10:25 a.m. He said that Sen. Keane will chair the subcommittee on Virginia City/Nevada City and the other members of the subcommittee are Rep. Court, Sen. Ripley, and Rep. Wellborn.

## **SJ 15 - STUDY OF FEDERAL LAND MANAGEMENT**

- 02:21:12 Mr. Kolman said the Council needs to determine what it wants to consider in the SJ 15 study.

### **Committee questions and discussion**

- 02:22:34 Sen. Keane said that this is an opportunity to build better relationships with their federal partners.
- 02:23:49 Sen. Ripley said that the work plan is laid out well and he did not feel that the Council needed to take on any additional work.
- 02:24:20 Rep. Bennett said that the study is valuable and that he is looking forward to working with their federal partners.
- 02:24:52 Sen. Brenden said that it is important to have good communication with their federal partners.
- 02:25:48 Sen. Fielder said that the current system is not working and wants to pursue solutions to help prevent natural resources on federal lands from continuing to decline.
- 02:28:16 Sen. Hamlett said that he is concerned about the decline in the U.S. Forest Service (USFS) budget.
- 02:29:12 Rep. Lieser said the working group should include a liaison from the USFS and the Department of Natural Resources and Conservation (DNRC).
- 02:30:29 Sen. Brenden said the subcommittee should contact the USFS and the DNRC for input.

02:31:35 Rep. White said that it is important to draw on knowledge from other western states and their collaborative projects.

02:34:59 Mr. Aspenlieder urged the Council to focus on the economic issues and the cost to maintain infrastructure.

#### **Public comment**

02:36:39 John Hagengruber, USFS, Northern Region, said that he looks forward to working with the Council.

#### **HB 609 - STUDY OF DFWP HUNTING AND FISHING LICENSES**

02:38:03 Hope Stockwell, Research Analyst, LSD, gave an overview of the information from the Governor's Fish and Wildlife Licensing and Funding Advisory Council and asked for feedback from the EQC.

02:40:41 Sue Daly, Administrator, Management and Finance Division, FWP, gave an overview of how the department is funded and its current fiscal status, [Exhibit 7](#).

02:58:48 Hank Worsech, License Bureau Chief, FWP, explained the license sales trends, [Exhibit 8](#).

03:10:22 Ms. Stockwell reviewed a 12 state comparison of hunting license fees and types, [Exhibit 9](#), and discussed the advisory council's recommendations on free and reduced cost licenses, [Exhibit 10](#).

03:32:16 Sen. Brenden asked when the next advisory council meeting was scheduled. Ms. Stockwell said that the meeting is scheduled for October 18.

03:33:16 Ms. Stockwell said that Rep. Welborn is a member of the advisory council.

03:33:37 Sen. Brenden said that the EQC should look through the information and submit any ideas they have to Ms. Stockwell before the next advisory council meeting.

03:34:06 Rep. Welborn said that the members of the EQC can also contact him with any questions or suggestions for the advisory council.

03:35:45 Sen. Brenden said that discounted licenses can be a problem.

03:37:40 Sen. Fielder asked what the loss of revenue would be if trapping is banned in Montana. Ms. Daly said that a partial ban would result in a revenue loss of \$50,000 a year.

03:38:51 Sen. Fielder asked how much revenue went up due to the increase in wolf trapping regulation. Ms. Daly said that revenue went up about \$10,000 a year based on the trapping initiative language.

- 03:39:26 Sen. Fielder asked if the budget chart assumes that the expenditures remain constant. Ms. Daly said that the only assumption in the chart for expenditures is an increase for HB 13 (2013), pay plan adjustments.
- 03:40:01 Sen. Fielder asked about the condition of the wildlife populations on the Flathead Reservation in comparison to management goals. Mr. Worsech said that he did not know about the wildlife conditions.
- 03:41:15 Sen. Vuckovich asked if the forecasted budget includes projected land purchases. Ms. Daly said that land purchases are made from an earmarked account and not from the general license account.
- 03:42:08 Sen. Brenden asked if any of the license funds have been used for land purchases. Ms. Daly said that they have been used for land purchases.
- 03:42:23 Sen. Brenden asked Ms. Daly to provide the EQC with information on land purchases for the last several years.
- 03:42:31 Sen. Hamlett said they need to consider people who are selling special licenses and not make it too complicated.
- 03:43:40 Sen. Keane said he recommends raising the age for a senior citizen license to 70 years old. Rep. McChesney and Sen. Brenden both agreed that the age should be raised.
- 03:45:05 Rep. Court said that she is in favor of free and reduced cost licenses for military members, but it should not include family members.

### **Public Comment**

- 03:45:42 Vito Quatraro, Montana Sportsmen Alliance (MSA), said that he agreed that the senior age needs to be increased or the senior license eliminated.
- 03:46:31 Joe Perry, MSA, said the results from a small informal survey they did indicated that senior citizens did not think they needed a discount.
- 03:47:39 Nick Gevock, Montana Wildlife Federation, said that Montana licenses are less expensive compared to other states and that there should be an across the board increase in license fees. He said it is important to keep sportsmen groups engaged and look at ways to fund FWP beyond hunters and anglers.
- 03:50:56 Break
- 05:10:04 Sen. Brenden called the meeting back to order.

### **FIRE SEASON UPDATE**

- 05:10:35 Roger Lloyd, Senior Fiscal Analyst, LFD, gave a financial overview of fiscal year 2013 fire suppression costs and funding, [Exhibit 11](#).

- 05:15:12 Sen. Brenden asked Mr. Lloyd to find out when funds were transferred into the fire suppression account.
- 05:15:26 Mr. Lloyd continued his report on the fire suppression fund.
- 05:16:38 Bob Harrington, Forestry Division Administrator, DNRC, gave a summary of the 2013 fire season and provided information on fire expenses for fiscal year 2013, [Exhibit 12](#), and projections for 2014, [Exhibit 13](#). He also provided a map showing the fire perimeters for the last 13-14 years and the mountain pine beetle infestation, [Exhibit 14](#).

### **Public comment**

- 05:28:09 Duane Turk, private contractor, Helena, Montana, talked about the advantage of using private contractors for fighting fires.
- 05:31:02 Sen. Brenden asked how many resources are available. Mr. Turk said they have approximately 250 water tenders and other engines available.
- 05:31:33 Sen. Brenden asked if there is a full time staff. Mr. Turk said that his staff is called upon as needed.
- 05:32:19 Sen. Brenden asked when Mr. Turk last worked a fire in Montana. Mr. Turk said he worked the Eureka fire near Ennis about two weeks ago.

### **Committee questions and discussion**

- 05:32:47 Sen. Keane confirmed with Mr. Harrington that there is approximately \$40 million in the fire suppression fund.
- 05:33:22 Sen. Keane asked if the DNRC is proposing any fuel treatments. Mr. Harrington said they will wait until after the fire season is over before determining if funds are available for projects.
- 05:34:28 Sen. Keane asked how soon they can begin work once they determine if funds are available. Mr. Harrington said they can begin work 60 days after a determination is made.
- 05:35:02 Sen. Keane asked if the process could be expedited so that they can begin projects before the end of the year. Mr. Harrington said they are already meeting about the projects on a regular basis.
- 05:35:53 Rep. Lieser asked if any of the money in the fire fund will be used as an incentive for private landowners to reduce fuel loads. Mr. Harrington said that if they use money from the fire suppression account the majority will be used on private land.
- 05:37:48 Sen. Fielder asked about the average number of acres burned on federal lands. Mr. Harrington said that it was higher than the 10% burned on private land.

- 05:39:21 Rep. White asked for clarification, referring to the matrix chart, on state fire origin. Mr. Harrington said that it referred to an accounting code.
- 05:40:11 Rep. White asked how the DNRC determines the state's responsibility for fires. Mr. Harrington said that they use several methods to determine cost-share agreements.
- 05:43:16 Rep. White asked if the DNRC tracks the additional cost the state spends on fires that burn off of federally managed land because of fuel load build-up. Mr. Harrington said that they track the cost for all fires.
- 05:45:21 Sen. Brenden asked about the liability of a landowner when fire starts on their property. Mr. Harrington said that there is only liability if the landowner sets fire to something.
- 05:47:01 Sen. Brenden asked about restrictions for fireworks before a Stage 2 restriction is imposed. Mr. Harrington said that the DNRC does not have legislative authority to restrict fireworks, but that municipalities, county commissioners, or the Governor may be able to impose restrictions.
- 05:48:19 Sen. Brenden asked Mr. Harrington to provide further information on imposing firework restrictions.

#### **EQC STATUTORY REPORTING REQUIREMENT PETROLEUM TANK RELEASE SITE CLOSURE UPDATE**

- 05:50:23 Rebecca Ridenour, Section Supervisor, Petroleum Technical Section, Department of Environmental Quality (DEQ), gave a report on meeting DEQ petroleum release closure benchmarks, [Exhibit 15](#).

#### **Public comment**

- 05:52:36 Terry Wadsworth, Executive Director, Petroleum Tank Release Compensation Board, said that he was available for questions.

#### **Committee questions and discussion**

- 05:53:06 Mr. Kolman said that the financial information on the petroleum fund is located in Tab 7, [Exhibit 16](#).
- 05:53:19 Sen. Brenden said that he wanted to be updated on the status of the fund.
- 05:53:42 Sen. Keane said that some of the funds could be used to clean up sites in rural areas.

#### **Public comment on grizzly bears**

- 05:56:23 Maggie Nutter, rancher, Sweet Grass, Montana, discussed the impact of the destruction of private property caused by grizzly bears in their area.

- 06:03:53 David Waldner, Vice President, Pondera Colony, discussed the court case of Pondera Colony versus FWP regarding the deaths of two grizzly bears.
- 06:15:23 William Waldner, Pondera Colony, said that they need more help dealing with grizzly bears.
- 06:17:32 Jake Hofu, Miller Colony, Choteau, Montana, discussed the issues they are having with grizzly bears.
- 06:21:12 Sen. Brenden said that he understands the problems with grizzly bears and thanked the public for bringing the issue before the EQC.
- 06:22:27 Sen. Ripley said that he would like FWP to respond to the issues raised about grizzly bears. Sen. Brenden said that time will be given for comments from FWP later during the meeting.

#### **AGENCY OVERSIGHT: STATE PARKS AND RECREATION BOARD UPDATE & UPDATE ON BANNACK STATE PARK**

- 06:24:11 Jeff Hagener, Director, FWP, gave an update on the State Parks and Recreation Board, [Exhibit 17](#).
- 06:27:44 Chas Van Genderen, Administrator, Parks Division, FWP, gave an update on the damage from the flash flood that happened this year at Bannack State Park.

#### **Public comment**

- 06:29:25 Bob Walker, Our Montana and the Montana Recreation and Parks Association, thanked the Council members who voted for HB 24 (2013) to establish the board and said it will benefit parks and recreation in Montana.

#### **Committee questions and discussion**

- 06:30:22 Mr. Morris asked if the state was insured for the flood damage at Bannack State Park. Mr. Van Genderen said that there was insurance coverage.

#### **EQC STATUTORY REPORTING REQUIREMENT FWP MAINTENANCE ACCOUNT REPORT**

- 06:32:31 Sue Daly, Administrator, Management and Finance Division, FWP, gave a final report on the operation and maintenance account created by SB 164 (2009).
- 06:34:43 Sen. Brenden left the meeting and Rep. McChesney took over as chair.

#### **Public comment** None

### **Committee questions and discussion**

- 06:34:58 Sen. Fielder asked if legislation had been passed creating requirements for the continuance of the good neighbor policy and for land acquisitions by FWP. Ms. Daly said that SB 250 (2013) was passed by the legislature, but vetoed by the Governor.
- 06:35:34 Rep. Bennett asked what the designation change from fishing access to parks means for the Thompson Chain-of-Lakes. Mr. Van Genderen said that they are in the process of changing the management plan and are talking to local officials to see how they want the site managed.
- 06:37:49 Break
- 06:50:34 The meeting was called back to order by Vice Chair McChesney at 2:55 p.m.

### **SAGE GROUSE ADVISORY COUNCIL UPDATE**

- 06:51:55 Jeff Hagener, Director, FWP, gave an update on the Governor's Sage Grouse Advisory Council, [Exhibit 18](#).
- 07:02:51 Sen. Brenden returned to the meeting and said that he put in a bill for next session to outlaw the hunting of sage grouse in Montana.
- 07:03:47 Sen Hamlett, member of the Sage Grouse Advisory Council, said the Council is working on a plan to manage sage grouse.
- 07:05:26 Rep. McChesney, member of the Sage Grouse Advisory Council, said that the state of Montana will have a financial responsibility to protect existing sage grouse habitat, enhancing the habitat, and restoring the habitat.
- 07:08:10 Sen. Hamlett said that if the sage grouse is listed as an endangered species it will negatively impact the Indian tribes.

**Public comment** None

### **Committee questions and discussion**

- 07:09:39 Sen. Ripley asked if FWP will need additional full time employees (FTEs) to implement a sage grouse plan. Mr. Hagener said that they will need additional FTEs as well as additional funding.
- 07:10:15 Sen. Ripley said that before adding FTEs the department should look at adding more people for bear management.
- 07:10:44 Rep. White asked if the advisory council is looking at ways to reduce disease or predation problems. Mr. Hagener said that disease and predation are considered insignificant threats by the U.S. Fish and Wildlife Service (FWS) and they must address the primary threats in order for their plan to be considered.

- 07:13:30 Rep. White asked for a copy of the threats listed by the FWS.
- 07:13:59 Rep. Lieser asked if FWP is getting cooperation from Canada. Mr. Hagener said that Canada does not have good sage grouse habitat so there is only minor cooperation.
- 07:15:22 Sen. Brenden commented on the U.S. Endangered Species Act.

#### **BISON MANAGEMENT UPDATE**

- 07:18:14 Jeff Hagener, Director, FWP, gave an update on bison management.
- 07:26:24 Sen. Brenden voiced his concern about free roaming bison.
- 07:27:34 Sen. Vuckovich asked why Montana, and not the federal government, is taking responsibility for bison that come out of Yellowstone National Park. Mr. Hagener said that the federal government considers that their management of the park ends at the park boundary.
- 07:29:22 Sen. Vuckovich asked if there was a possibility that Montana could sue the federal government for mismanagement of the bison. Mr. Hagener said that he did not know.
- 07:29:58 Sen. Vuckovich asked how the federal government can let the bison roam out of the park without consent from the state of Montana. Mr. Hagener said that he did not know.
- 07:31:55 Rep. White said that free roaming bison in the Buck Creek area will affect recreational use and cause a safety issue. He asked if FWP is looking at the Yellowstone ecosystem and the number of animals it can sustain. Mr. Hagener said that they are trying to look at the broader aspect.
- 07:36:09 Sen. Ripley said that the federal government should take the responsibility for the expansion of bison.
- 07:37:21 Sen. Fielder asked if the federal government can manage all wildlife on federal land or if they are limited to management of endangered species. Mr. Hagener said that normally species are under state trust management, but when the federal government lists a species or restricts a species it comes under federal management.
- 07:39:31 Sen. Keane said that the federal government should pay for transferring bison.
- 07:40:57 Sen. Vuckovich said control by the federal government does not allow the state the authority to manage bison.
- 07:42:44 Sen. Hamlett asked if the state has to contact the federal government before taking action with a grizzly bear. Mr. Hagener said that they need to contact the federal grizzly bear manager in Missoula before any action is taken.

- 07:43:33 Sen. Brenden said a solution is needed for bison and asked if FWP was declaring the bison on the Fort Peck and Fort Belknap Reservations "wild bison" under the Supreme Court decision. Mr. Hagener said that he did not know.
- 07:49:04 Sen. Brenden said that the bison are not wild because they were held in captivity and should be treated as livestock. Mr. Hagener said that within the Memorandum of Understanding (MOU) the tribes are liable for the bison. Sen. Brenden asked for a copy of the MOU.
- 07:50:59 Sen. Hamlett said that they should look into who had title to the animals.

### **AQUATIC INVASIVE SPECIES PROGRAM UPDATE**

- 07:52:38 Jeff Hagener, Director, FWP, gave an introduction to the Aquatic Invasive Species program (AIS).
- 07:53:11 Jim Darling, Fisheries Habitat Bureau Chief, FWP, gave an overview of the AIS program, [Exhibit 19](#).
- 07:58:22 Rep. Lieser asked about the watercraft inspection station on Highway 2. Mr. Darling said that the station is a voluntary station that is worked in cooperation with the Flathead Basin Commission.
- 08:00:29 Rep. Lieser asked about the watercraft inspection station in Glacier National Park. Linnaea Schroeer, Aquatic Invasive Species Specialist, FWP, said that the FWP inspection numbers do not include the boats that Glacier National Park checks.
- 08:02:02 Rep. Welborn asked if the watercraft inspection station south of Dillon, on Interstate 15, could be moved closer to Clark Canyon Dam and if it could be open on weekends. Mr. Darling said that placement is based on traffic safety and hours are based on when crews are available to work. He said they will evaluate locations and hours after this season ends.
- 08:05:15 Sen. Brenden asked if watercraft inspection stations communicate with law enforcement when people fail to stop. Mr. Darling said that it is something that they are working on.
- 08:08:31 Ray Beck, Administrator, Conservation Resource Development Division, DNRC, discussed control of aquatic vegetation on the noxious weed list and provided a report of their current projects, [Exhibit 20](#). He also shared a copy of the Aquatic Invasive Plant Survey of the Missouri River Headwaters Area, Montana, [Exhibit 21](#).

### **Committee questions and discussion**

- 08:19:48 Sen. Fielder asked what factors make the invasive species infestation in Sanders County the worst infestation in the state. Mr. Beck said that the vegetation had an opportunity to increase over a number of years and now it is difficult to control.

- 08:20:32 Sen. Vuckovich asked how they determine priority for controlling different invasive species. Mr. Beck said that it depends on the situation.
- 08:21:39 Sen. Vuckovich asked about the most effective use of funds. Mr. Beck said that it depended on the situation and the location.
- 08:22:54 Sen. Brenden asked if using a combine is an effective method in controlling invasive species. Mr. Beck said that he felt it is better to control infestations using chemicals.

**Public comment** None

- 08:26:08 Sen. Brenden asked the directors of DNRC and FWP to contact the officials in Virginia City/Nevada City to discuss their water problems. He also appointed Sen. Fielder to chair the SJ 15 subcommittee and appointed Rep. Lieser, Sen. Hamlett, and Rep. White to be on the subcommittee.

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

**OTHER BUSINESS**

- 08:28:10 Sen. Brenden opened discussion on the rules proposed by DNRC regarding exempt wells and the definition of combined appropriation; [Exhibit 22](#).
- 08:29:13 Mr. Kolman
- 08:29:45 Sen. Brenden
- 08:30:00 Ms. Thigpen discussed the timeline for the rulemaking process based on the Montana Administrative Procedure Act (MAPA) and went over options available to the EQC if they object to the rule.

**Committee discussion**

- 08:36:41 Sen. Brenden
- 08:36:55 Ms. Thigpen
- 08:37:51 Sen. Ripley
- 08:38:04 Sen. Brenden
- 08:38:10 Mr. Davis
- 08:38:16 Sen. Ripley
- 08:43:34 Mr. Davis
- 08:44:47 Sen. Brenden
- 08:46:11 Mr. Davis
- 08:46:24 Sen. Brenden
- 08:47:03 Mr. Aspenleider
- 08:49:09 Sen. Keane
- 08:49:56 Ms. Thigpen
- 08:50:13 Sen. Keane
- 08:50:55 Sen. Hamlett

08:51:37 Abigail St. Lawrence, representing the Montana Association of Relators, reviewed the amended agreement between the Clark Fork Coalition and the DNRC.

### **Committee discussion**

08:56:09 Sen. Brenden  
08:56:41 Sen. Vuckovich  
08:57:08 Sen. Brenden  
08:57:28 Mr. Kolman  
08:58:43 Sen. Brenden  
08:59:07 Sen. Fielder  
08:59:54 Sen. Brenden  
09:00:15 Rep. Bennett  
09:01:19 Sen. Ripley  
09:01:47 Mr. Davis  
09:03:25 Sen. Ripley  
09:04:24 Sen. Keane  
09:04:55 Mr. Kolman  
09:05:03 Sen. Keane  
09:05:28 Mr. Kolman

09:06:45 **Motion/Vote:** Sen. Hamlett moved to object to the rule on combined appropriations (ARM 36.12.101). The motion carried 14-2 by role call vote, [Exhibit 23](#), with Rep. Court and Ms. Fitzpatrick voting no.

09:10:08 Sen. Brenden added final comments.

### **INSTRUCTIONS TO STAFF**

09:11:01 Mr. Kolman said the next EQC meeting will be January 8 and 9, 2014.

09:12:14 Sen. Brenden adjourned the meeting at 5:15 p.m.

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