



ENVIRONMENTAL QUALITY COUNCIL

PO BOX 201704
HELENA, MONTANA 59620-1704
(406) 444-3742

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THERESA MANZELLA
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GENE VUCKOVICH--Chair
JOHN BRENDEN
JIM KEANE
MIKE PHILLIPS
RICK RIPLEY
CARY SMITH

PUBLIC MEMBERS
SCOTT ASPENLIEDER
BROOKE ERB
BERT LINDLER
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

March 10, 2016
Room 172, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The 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 Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. GENE VUCKOVICH, Chair
REP. JERRY BENNETT, Vice Chair

SEN. JIM KEANE
SEN. MIKE PHILLIPS
SEN. RICK RIPLEY
SEN. CARY SMITH

REP. WILLIS CURDY
REP. JANET ELLIS
REP. ED LIESER
REP. THERESA MANZELLA
REP. KERRY WHITE

MS. BROOKE ERB
MR. BERT LINDLER
MR. TIM BAKER

COMMITTEE MEMBERS EXCUSED

SEN. JOHN BRENDEN
MR. ROY MORRIS
MR. SCOTT ASPENLIEDER

STAFF PRESENT

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

AGENDA ([Attachment 1](#))

VISITORS' LIST ([Attachment 2](#))

COMMITTEE ACTIONS

- The Environmental Quality Council (EQC) approved the minutes from January 13 and 14.

CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Vuckovich called the meeting to order at 8:01 a.m. The secretary called the roll. ([Attachment 3](#)) Mr. Aspenlieder was excused and left his proxy with Rep. White. Mr. Morris was excused and left his proxy with Sen. Keane. Sen. Brenden was excused and left his proxy with Sen. Ripley. ([Attachment 4](#))

COORDINATION OF PERMITS FOR ENVIRONMENTAL PROJECTS

00:01:11 Joe Kolman, legislative environmental analyst, Legislative Services Division, said the agenda topic will provide an overview of how state agencies deal with projects that require permits and how they coordinate with regulations from other agencies. Mr. Kolman said the *Montana Index of Environmental Permits* is prepared by the Legislative Environmental Policy Office and provides a list of permits needed in the state. ([Exhibit 1](#))

00:03:10 Rep. Bennett said he recently went through the permitting process and is interested in learning about the factors that inhibit agencies from working together in order to help other people go through the process.

00:03:42 Sen. Ripley entered the meeting.

- 00:05:06 Kristi Ponozzo, public policy director, Department of Environmental Quality (DEQ), said DEQ coordinates heavily with other state and federal agencies. She said they have several resources and services to assist in navigating the permitting process.
- 00:09:47 Shawn Thomas, administrator, Trust Land Management Division, Department of Natural Resources and Conservation (DNRC), discussed DNRC's processes and how it coordinates with other agencies on state trust lands.
- 00:12:44 Mr. Baker entered the meeting.
- 00:16:20 Jean Riley, transportation planning engineer, Rail, Transit, and Planning Division, Montana Department of Transportation (MDT), said when MDT receives a project it looks at what substantially and permanently impacts direct access to an MDT roadway or facility.
- 00:18:10 Ms. Riley provided a copy of *MDT's Guide to the System Impact Process*.
[\(Exhibit 2\)](#)

Sen. Vuckovich left the meeting and gave the duties of the chair to Rep. Bennett.

Public Comment: None

Committee Questions and Discussion:

- 00:20:48 Mr. Lindler commented on the sculpture park in Lincoln.
- 00:20:59 Rep. White asked about the permitting process and if there are any frustrations when following state law and any suggestions for speeding up the process.
- 00:21:32 Mr. Thomas said natural resource management is complex and that the DNRC routinely looks at the statutes and administrative rules to try and find efficiencies and ways to make things work more effectively.
- 00:22:48 Rep. Lieser asked about challenges with public interaction and the impact it has on the process. Ms. Ponozzo said all of the agencies encourage collaboration and comments from the public and want to know if there are any concerns.
- 00:24:43 Sen. Keane said part of the problem is with the people who are applying for permits.
- 00:26:25 Rep. Bennett asked Ms. Ponozzo about her recommendations for someone just starting out in business that needs help with the permitting process. Ms. Ponozzo said that John Podolinsky, small business ombudsman, DEQ, can help with coordinating permit actions with state and federal agencies.
- 00:28:29 Rep. Bennett asked Ms. Riley about an experience he had that required access to a state highway.
- 00:31:55 Rep. Bennett thanked the agencies for their participation.

Sen. Vuckovich resumed the role of chair.

SAGE-GROUSE CONSERVATION UPDATE

- 00:32:57 Carolyn Sime, program manager, Montana Sage Grouse Habitat Conservation Program, provided an update on the sage grouse conservation program. She said the goal of the governor's conservation strategy is to maintain viable grouse and viable habitats and to maintain flexibility to manage lands, economy, and wildlife.
- 00:34:18 Ms. Sime discussed the governor's executive order.
- 00:50:13 Ms. Sime discussed the stewardship grant fund.
- 00:54:38 Ms. Sime discussed the mitigation framework.

Public Comment: None

Committee Questions and Discussion:

- 00:56:31 Rep. Lieser asked Ms. Sime where the sage grouse review process fits in with the National Environmental Policy Act (NEPA) and the Montana Environmental Policy Act (MEPA). Ms. Sime said it is early in the process.
- 00:58:49 Sen. Keane said the Montana Sage Grouse Oversight Team (MSGOT) hasn't spent any of the grant money yet. He asked for an update at the next EQC meeting indicating the amount of money that has been spent and what projects were funded. He asked what the intent is for the \$5 million. Ms. Sime said the \$5 million is from the revolving fund and is intended to generate conservation credits. She said their goal is to fund as many projects as they can.
- 01:00:57 Sen. Keane asked Ms. Sime if the money is from SB 256 (2015). Ms. Sime said it is from SB 261 (2015), the Montana Sage Grouse Stewardship Act.
- 01:01:29 Rep. Curdy asked Ms. Sime if conservation easements are included in stewardship grants and conservation credits. Ms. Sime said they are.
- 01:02:02 Rep. Curdy asked Ms. Sime if they are aggressively pursuing conservation easements.
- 01:03:38 Rep. White asked Ms. Sime if they are tracking the success of the program based on habitat conservation or on the number of sage grouse. Ms. Sime said they are tracking both.
- 01:06:26 Rep. White asked Ms. Sime about the sage grouse that are being translocated to Canada. Ms. Sime redirected the question to the Department of Fish, Wildlife, and Parks (FWP).
- 01:07:16 Catherine Wightman, wildlife habitat coordinator, FWP, said the agency agreed to send 40 birds to Canada in mid-April.
- 01:08:20 Sen. Ripley asked Ms. Sime if the MSGOT can make suggestions if changes are needed to the executive order. Ms. Sime said the executive order directs the MSGOT to consider areas of uncertainty and to continue an adaptive approach through implementation.
- 01:10:01 Sen. Ripley asked Ms. Sime about changes to the decibel level. Ms. Sime said they will be looking at the issue.
- 01:10:58 Sen. Ripley asked Ms. Sime what the penalty is for violating the executive order. Ms. Sime said there is no enforcement mechanism in the executive order and the program's role is only to make recommendations.
- 01:12:57 Sen. Phillips asked Ms. Sime if other states are taking their conservation efforts seriously. Ms. Sime said they are.
- 01:14:06 Sen. Keane said the revolving fund money was in SB 261.

COMPLIANCE AND ENFORCEMENT REPORTS

01:14:50 Mr. Kolman said the compliance and enforcement reports are a result of a 1997 EQC study and are a way to look at how the Department of Agriculture, the DNRC, and the DEQ enforce some of the regulations they have.

Department of Natural Resources and Conservation

01:16:46 John Tubbs, director, DNRC, presented the agency's compliance and enforcement report. **(Exhibit 3)**

01:17:02 Mr. Tubbs discussed the Forestry Assistance Program.

01:20:03 Mr. Tubbs discussed the Board of Oil and Gas Conservation and the Oil and Gas Conservation Division.

01:21:56 Mr. Tubbs discussed the Trust Land Management Division.

01:28:15 Mr. Tubbs discussed the Water Resources Division.

Public comment: None

Committee Questions and Discussion:

01:35:09 Mr. Lindler asked Mr. Tubbs if the DNRC regulates dams at sewage treatment ponds. Mr. Tubbs said it does, but relies on the DEQ permit for safety and dam certification.

01:36:39 Rep. Curdy asked Tim Davis, administrator, Water Resources Division, DNRC, about the use of flow meters on agriculture projects. Mr. Davis said the use of gauges as a measuring device on a headgate diversion structure is very common.

Department of Environmental Quality

01:38:56 John Arrigo, administrator, Enforcement Division, DEQ, presented an overview of DEQ's compliance and enforcement report. **(Exhibit 4)**

01:39:57 Mr. Arrigo discussed the activities and efforts taking place to promote compliance assistance and education.

01:43:01 Mr. Arrigo discussed the size and description of the regulated community and the estimated proportion of that community that is in compliance.

01:45:00 Mr. Arrigo discussed the number, description, method of discovery, and significance of noncompliance, including those non-compliances that are pending.

01:46:38 Mr. Arrigo described how the department addresses the non-compliances identified in subsection (3) and a list of non-compliances left unresolved.

01:51:27 Mr. Arrigo discussed the reporting requirement quantitative trend information.

Public Comment: None

Committee Questions and Discussion:

01:53:16 Mr. Lindler asked Mr. Arrigo about the enforcement actions and what they include.

01:54:12 Rep. Curdy asked Mr. Arrigo about local water systems and what they are required to test for. Mr. Arrigo re-referred the question.

01:55:06 Jon Dilliard, bureau chief, Public Water Supply and Subdivisions Bureau, DEQ, said there are 85 different parameters that water systems test for and it varies by the type of system.

01:56:19 Rep. Curdy asked Mr. Dilliard about procedures in place to prevent an issue with drinking water contamination like what happened in Flint, Michigan.

01:57:49 Rep. Curdy said he is concerned about Montana's aging water system and that we need to be sure that the citizens of Montana will never be in a similar situation.

01:58:58 Rep. Ellis asked about the chart showing an the increase in the amount of hazardous waste generated. Ed Thamke, bureau chief, Waste and Underground Tank Management Bureau, DEQ, said the generation of hazardous waste is cyclic and depends on what the facilities that DEQ regulates might be doing in a particular year.

02:02:10 Rep. White asked Mr. Arrigo about the permit process for a project that has the potential to discharge a pollutant, what DEQ does to find out who is accountable if there is a failure, and if DEQ has any liability. Mr. Arrigo said DEQ has established construction standards for public wastewater and public drinking water systems.

02:07:09 Rep. Curdy said he would like to talk to the Air Quality Bureau chief at the break.

02:07:38 Rep. Lieser asked why the FWP was not included in the compliance reports. Mr. Kolman said the reports required by statute are for enforcement of environmental regulations.

Department of Agriculture

02:08:55 Ron de Yong, director, Department of Agriculture, presented the agency's compliance and enforcement report. **(Exhibit 5)**

02:09:20 Mr. de Yong discussed the pesticide program.

02:22:20 Mr. de Yong discussed the groundwater protection program.

Public Comment: None

Committee Questions and Discussion:

02:27:09 Mr. Lindler said he hopes the pesticide training program does not diminish.

02:28:32 Recess

02:43:50 Reconvene

DNRC PROGRAM EVALUATION: FOREST MANAGEMENT

02:44:13 Mr. Kolman provided a copy of a letter from the Wood Products Association and said the EQC was given a letter from Stolze Lumbar. **(Exhibit 6)**

02:45:29 Mr. Kolman presented an overview of the Forest Management Bureau. **(Exhibit 7)**

02:48:31 Mr. Kolman discussed the timber sale process.

02:50:17 Mr. Kolman discussed the timber conservation license.

02:51:40 Mr. Kolman discussed contract harvesting.

02:54:03 Mr. Kolman discussed the forest improvement fee.

02:56:00 Mr. Kolman discussed inspection and enforcement of timber sales.

Public Comment:

02:57:33 Aimee Grmoljez, attorney, Crowley Fleck, said that Arch Coal is suspending its permitting efforts for Otter Creek Reserves.

Committee Questions and Discussion:

03:00:40 Rep. White asked Mr. Kolman about trends in harvest revenue and expenses. Mr. Kolman deferred to Sonya Germann, bureau chief, Forest Management Bureau, DNRC.

03:04:26 Rep. White asked Ms. Germann about the Forests in Focus Initiative and the Farm Bill, and if DNRC engages in any cooperative timber contracts on both DNRC and federally managed land at the same time. Ms. Germann said Matt Arno, local county forest advisor, Forest Assistance Bureau, DNRC, will be working with county commissioners to look at opportunities to do cooperative management.

03:07:01 Rep. White asked Ms. Germann how a wild and scenic river designation affects a management project. Ms. Germann said it does not have a noticeable effect.

03:08:48 Rep. Curdy asked Ms. Germann if the sustainable yield calculation is adjusted after large episodic events that result in salvage logging operations. Ms. Germann said it is.

03:11:26 Rep. Bennett asked Ms. Germann about the violation that occurred of the Stream Management Zone (SMZ) law.

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

None

OTHER BUSINESS

Approval of Minutes

03:14:33 Mr. Kolman said the EQC can approve the minutes from January as is and he will talk to Sen. Brenden at the next meeting.

03:14:49 **Motion/Vote:** Sen. Ripley moved to approve the minutes from January 13 and 14. The motion carried unanimously by voice vote. Mr. Morris, Sen. Brenden and Mr. Aspenlieder voted aye by proxy.

03:15:10 Mr. Kolman said the next EQC meeting is scheduled for May 4 and 5. He said he will provide the EQC with more information about the findings and recommendations for the HJ 13 study.

03:15:37 Mr. Kolman said he will attend the Interagency Bison Management Plan meeting in West Yellowstone on April 6. He said the EQC may want to have an agenda item on bison at the May meeting.

03:16:09 Sen. Phillips said the Legislative Audit Division is doing an audit on brucellosis and it would be helpful to have a copy. Mr. Kolman said the report will not be finished in time for the meeting.

ADJOURN

03:17:03 Sen. Vuckovich adjourned the meeting at 11:18 a.m.
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