



ENVIRONMENTAL QUALITY COUNCIL

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

GOVERNOR STEVE BULLOCK	HOUSE MEMBERS	SENATE MEMBERS	PUBLIC MEMBERS	COUNCIL STAFF
DESIGNATED REPRESENTATIVE PATRICK HOLMES	BRADLEY MAXON HAMLETT--Vice WILLIS CURDY JANET ELLIS STEVE GUNDERSON THERESA MANZELLA KERRY WHITE	CHAS VINCENT--Chair MIKE LANG MIKE PHILLIPS JP POMNICHOWSKI CARY SMITH GENE VUCKOVICH	SCOTT ASPENLIEDER JOHN C. BRENDEN KYLIE PAUL MATT VINCENT	TREVOR GRAFF, Research Analyst JASON MOHR, Research Analyst HOPE STOCKWELL, Research Analyst NADINE SPENCER, Secretary ERIN BILLS, Legal Staff JOE KOLMAN, Legislative

MINUTES LOG

January 18, 2018
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. CHAS VINCENT, Chair
REP. BRADLEY MAXON HAMLETT, Vice Chair

SEN. MIKE LANG
SEN. JP POMNICHOWSKI
SEN. CARY SMITH
SEN. GENE VUCKOVICH

REP. WILLIS CURDY
REP. JANET ELLIS
REP. STEVE GUNDERSON
REP. THERESA MANZELLA
REP. KERRY WHITE

MR. SCOTT ASPENLIEDER
MR. JOHN BRENDEN
MS. KYLIE PAUL
MR. MATT VINCENT
MR. PATRICK HOLMES

COMMITTEE MEMBERS EXCUSED

SEN. MIKE PHILLIPS

STAFF PRESENT

JOE KOLMAN, Legislative Environmental Analyst
ERIN BILLS, Legal Staff
NADINE SPENCER, Secretary

VISITORS' LIST (Attachment 1)

AGENDA (Attachment 2)

COMMITTEE ACTIONS

The Environmental Quality Council (EQC):

- Voted to request that Speaker Knudsen or President Sales ask for an interpretation from Montana Attorney General Tim Fox pursuant to section 2-15-501(7) MCA, analyzing a legislative proposal in the state of Washington that proposes to tax carbon emissions generated in Montana and whether it conflicts with the Commerce Clause of the U.S. Constitution by discriminating against or imposing an excessive burden on out-of-state energy generation.

CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Vincent called the meeting to order at 8:01 a.m. The secretary noted the roll. **(Attachment 3)** Sen. Phillips was excused.

FISH AND WILDLIFE LICENSING & FUNDING REVIEW (87-1-629, MCA)

00:01:51 Dustin Temple, chief of administration, Department of Fish, Wildlife, and Parks (FWP), presented information on FWP's funding model and changes to the hunting and fishing license structure as a result of HB 140 (2015). **(Exhibit 1)** He also provided a copy of his presentation notes from yesterday and today. **(Exhibit 2)**

00:06:59 Mr. Temple said the Council received information on FWP's Financial Review Advisory Council. **(Exhibit 3)**

Public comment

00:14:16 Nick Gevock, conservation director, Montana Wildlife Federation, provided information on legislation regarding chronic wasting disease. **(Exhibit 4)**

Committee questions and discussion

- 00:15:03 Rep. White asked Mr. Gevock about a statement he made in the *Billings Gazette* supporting cow only elk hunting in districts significantly over objective.
- 00:16:03 Rep. White asked Mr. Holmes about the governor's response to a statement made by Dan Vermillion, chair, Fish and Wildlife Commission, about cow only elk hunting.
- 00:19:26 Rep. White said that FWP would lose significant funding from nonresident elk licenses if it allowed cow only elk hunting.
- 00:20:45 Sen. Lang asked Mr. Temple about resource implications related to budget reductions to the fisheries program and said the hatchery at Fort Peck could take on some of the resource management.
- 00:22:24 Sen. Lang asked Mr. Temple about infrastructure needs for administrative facilities.
- 00:23:16 Sen. Lang asked Mr. Temple about federal funding for law enforcement.
- 00:24:25 Mr. Aspenlieder asked Mr. Temple if the FWP and the Department of Natural Resources and Conservation (DNRC) have considered sharing resources in order to keep stream gauges active.
- 00:25:14 Rep. Hamlett asked Mr. Temple what the department is doing to educate and promote youth hunting and fishing.
- 00:26:43 Rep. Hamlett asked Mr. Temple about taking game wardens away from their traditional duties during hunting season to take biological samples at check stations and its relationship to federal funding.

AQUATIC INVASIVE SPECIES PROGRAM EVALUATION

Lessons Learned/Plans for the 2018 Inspection Season

- 00:28:11 Thomas Woolf, FWP, discussed the Aquatic Invasive Species (AIS) Program and the 2017 season.
- 00:31:01 Mr. Woolf discussed plans for an educational campaign and rapid response guidelines when mussels are detected.
- 00:32:28 Mr. Woolf discussed the lessons learned in 2017 and plans to make the program more efficient and effective.

Invasive Species Council Update

- 00:37:37 Bryce Christiaens, Weed District coordinator, Missoula County and chair, Montana Invasive Species Council, gave an update on projects the council is working on. **(Exhibit 5)**
- 00:41:18 Mr. Christiaens discussed council subcommittees.
- 00:43:10 Mr. Christiaens discussed other invasive species that could become an issue in the future.

Funding Mechanisms and What Other States are Doing

- 00:44:29 Joe Kolman, environmental analyst, Legislative Services Division (LSD), discussed AIS funding. **(Exhibit 6)**
- 00:46:56 Mr. Kolman said Council members received a map of watercraft inspection and decontamination stations. **(Exhibit 7)**
- 00:48:13 Mr. Kolman discussed a comparison of funding for state AIS programs. **(Exhibit 8)**

00:49:33 Mr. Kolman discussed other funding mechanisms considered, but that did not pass during the 2017 Legislative Session. **(Exhibit 9)**

Public comment

00:51:31 David Hoffman, NorthWestern Energy
00:54:07 Doug Hardy, Montana Electric Cooperatives' Association
00:59:33 Mike Bias, executive director, Fishing Outfitters Association of Montana
01:02:45 Nate Hall, Clark Fork License manager, Avista **(Exhibit 10)**

The EQC also received written public comment. **(Exhibit 11)**

Committee questions and discussion

01:10:18 Mr. Aspenlieder asked Mr. Woolf about the introduction of AIS and if it came mainly from recreational use on the waterways.
01:11:04 Mr. Aspenlieder asked Mr. Woolf if there have been any cases involving the introduction of AIS from industrial or agricultural use.
01:11:44 Mr. Aspenlieder asked Mr. Woolf about the introduction of AIS from stationary infrastructure like hydropower facilities.
01:12:33 Mr. Aspenlieder said the AIS issue was created by recreationists and the recreational community should pay for the cost of funding and money should not be taken from the general fund.
01:15:30 Mr. Brenden asked Mr. Woolf about checking for AIS on float planes coming into Montana from out-of-state.
01:16:38 Mr. Brenden asked Mr. Woolf about having AIS information available at the lakes where gas can be purchased for float planes.
01:17:30 Mr. Brenden asked Mr. Woolf about the detection of mussels in Tiber and Canyon Ferry Reservoirs.
01:19:58 Mr. Brenden said AIS will affect everyone in Montana and it will need a combination of funding sources.
01:21:42 Rep. Ellis asked Mr. Woolf about statistics on how often people drive by watercraft inspection stations. Mr. Woolf said he will provide information on the number of citations that were issued.
01:22:31 Rep. Ellis asked Mr. Woolf about the budget and whether it is adequate.
01:23:47 Rep. Ellis asked Sen. Vincent about the legislation that put the funding in place.
01:25:24 Rep. Ellis asked staff about providing a matrix of different fees and the amount of money it would bring in and what other states have done. Sen. Vincent said information was put together on cost analysis when the legislation was being considered and can be provided to the Council.
01:26:55 Rep. Ellis asked Sen. Vincent if it could include an analysis on how to implement the program and what other states have done.
01:27:55 Sen. Lang asked staff about the correct version of the watercraft inspection station map.
01:28:30 Sen. Lang asked Mr. Woolf about the department's highest priority.
01:29:01 Sen. Lang asked Mr. Woolf about the location of inspection stations in eastern Montana.
01:32:26 Sen. Lang asked Mr. Woolf about the cost and the type of advertising that is being considered.

01:34:05 Sen. Lang asked Mr. Woolf about fighting fires and problems with aircraft using water and moving it to another location.

01:35:05 Rep. Curdy asked Mr. Woolf about working with the Federal Aviation Administration and the aeronautics divisions in other states regarding amphibian aircraft. He said there will be a fly-in during June in Missoula and asked if the department has any plans to provide information on why aircraft coming into Montana should be cleaned, dried, and drained.

01:37:39 Rep. Curdy said the department can also provide information at the fly-in in Oshkosh, Wisconsin.

01:38:03 Rep. Curdy said all natural resource agencies have had a protocol for aircraft buckets used to transport water for fires since the early 2000's.

01:38:37 Mr. Holmes asked staff if the U.S. Bureau of Reclamation made any contributions to support funding for AIS programs in other states. Mr. Kolman said he will find out. Mr. Holmes commented on obtaining support for funding from the bureau.

01:40:44 Rep. Manzella asked Mr. Woolf about firefighting equipment brought into the state by the federal government and if he feels their best practices are adequate to keep AIS out of the state.

01:42:11 Sen. Smith asked Mr. Woolf about the threat of AIS from barges. Mr. Woolf said he is not aware of any barge traffic coming into Montana on the Missouri River. Mr. Brenden said they would not be able to move through the dams.

01:44:30 Rep. Hamlett asked Mr. Woolf how mussels were established in the U.S.

01:45:27 Rep. Hamlett asked Mr. Woolf how long mussel larvae can live outside a body of water.

01:45:53 Rep. Hamlett asked Mr. Woolf about wet gear from a contaminated water body and if it could be a vector for transporting mussel larvae.

01:46:31 Rep. Hamlett asked Mr. Woolf about the penalties for not stopping at a watercraft inspection station.

01:47:38 Rep. Hamlett asked Mr. Woolf if Montana could pass legislation that would allow contaminated property to be confiscated if someone intentionally evaded a check station.

01:48:10 Rep. Hamlett commented on the effect of mussels and increasing the penalties for people who bring contaminated property into the state.

01:50:00 Rep. White asked Mr. Bias about inspecting fishing gear that clients bring in from out-of-state.

01:52:10 Rep. Ellis asked Mr. Woolf if fishing gear on a boat is checked at the inspection stations.

01:52:59 Sen. Vincent asked Mr. Woolf about working with other agencies and finding efficiencies to help reduce costs.

01:55:33 Sen. Vincent asked Mr. Woolf about the fine and the number of citations that were issued in 2017 for failure to stop at inspection stations.

01:56:06 Sen. Vincent asked Mr. Woolf about permanent traffic signs for inspection stations.

Next Steps for Study

01:56:43 Sen. Vincent commented on SB 363 (2017) and the need for legislation to create permanent funding.

- 02:00:27 Rep. Curdy asked staff to provide information on whether the state can implement a hydroelectric fee on federally owned dams. Sen. Vincent said the state cannot tax another federal entity.
- 02:01:11 Sen. Lang asked staff about tracking the number of motorized and non-motorized watercraft in the state and about the cost for implementing a tax on users.
- 02:02:26 Rep. Ellis commented on implementing a fee for watercraft and getting information on how much money it would bring in.
- 02:03:12 Sen. Vincent commented on revenue sources to fund the program.
- 02:05:05 Sen. Lang commented on the hydroelectric facility fees and on getting stakeholder input.
- 02:06:29 Sen. Vincent asked the Council about requests for additional information for next steps.
- 02:07:17 Rep. White asked Sen. Vincent about appointing a subcommittee to engage stakeholders.
- 02:08:26 Sen. Vincent said he will work with staff on compiling information for the next meeting.
- 02:09:29 Recess
- 02:29:31 Reconvene

FIRE-RELATED STUDY TOPICS

Comparison of Fire Funding in Other States

- 02:29:59 Mr. Kolman discussed funding for wildfire suppression and protection. He provided information on the DNRC, Forestry Division, Fire and Aviation Management Program ([Exhibit 12](#)) and provided a map showing the administrative boundaries of the DNRC Forestry and Trust Lands Management Divisions. ([Exhibit 13](#))
- 02:32:27 Mr. Kolman said fire protection is largely funded by landowner fees for land that is classified as forest. ([Exhibit 14](#))
- 02:33:43 Mr. Kolman said the Council received a map showing land that is currently assessed ([Exhibit 15](#)) and said land must also be in a wildland protection district.
- 02:35:13 Mr. Kolman discussed the summary of the University of Idaho report *State Funding for Wildfire Suppression in the Western U.S.* ([Exhibit 16](#))

Public comment

- 02:39:41 Julia Altemus, Montana Wood Products Association

The EQC also received written public comment. ([Exhibit 17](#))

Committee questions and discussion

- 02:40:46 Rep. White asked Sue Clark, acting division administrator, Forestry Division, DNRC, about landowner fees related to federal land.

02:43:26 Rep. Ellis said landowners in the western part of the state are assessed a fire protection fee, but landowners in the eastern part of the state are not. She asked if any studies have been done regarding the areas in the state that burn. Sen. Vincent commented on doing a study.

02:46:03 Sen. Vincent asked John Tubbs, director, DNRC, to give an overview of some of the years where most of the fire preparedness money assessed in the west was spent in the east.

02:51:07 Mr. Brenden asked Mr. Tubbs about liability for a fire that starts on federal land and moves onto private land or state trust lands. Mr. Tubbs commented on the liability for fire suppression costs. Mr. Tubbs redirected the question to Mike DeGrosky, chief, Fire and Aviation Management Bureau, Forestry Division, DNRC, regarding the loss of assets.

02:53:27 Sen. Vincent asked Mr. DeGrosky to address the different ways to assess who is responsible after a fire.

02:55:09 Mr. Brenden said he is concerned about liability.

02:55:54 Mr. Brenden commented on fires put out by farmers and ranchers at no charge.

02:56:31 Sen. Vincent asked Mr. DeGrosky about cost sharing for fire suppression. Mr. DeGrosky redirected the question to Ms. Clark.

03:00:38 Sen. Vincent asked Ms. Clark about cost savings and effectiveness of initial attack if there was a fire protection fee for the entire state.

03:02:15 Sen. Vincent asked Mr. Tubbs about cost savings of a state-wide assessment fee and the ability for the state to respond to a fire through initial attack.

03:05:43 Mr. Tubbs commented on cost sharing.

03:08:22 Sen. Vincent asked Mr. Tubbs about cost share agreements with the federal government.

03:11:48 Sen. Vincent asked Mr. Tubbs about fire suppression and fire assessment fees.

03:13:32 Rep. Curdy asked Mr. DeGrosky about the current number for volunteer firefighters in eastern Montana and the DNRC's pre-suppression model for the next 10 years and what the DNRC will need to meet its needs.

03:18:30 Rep. Curdy asked Mr. DeGrosky about help from the state for counties to fund and staff fire protection programs in the future.

03:20:42 Rep. Manzella asked Mr. Tubbs about the federal statute that prohibits the state from using its helicopters to fight fires on federal land and if the DNRC has done a cost assessment associated with having state helicopters grounded.

03:28:29 Rep. Manzella asked Mr. Tubbs about case law regarding liability for backfires that are set on federal land that destroy private property.

03:31:30 Rep. Ellis asked about the district fire protection assessments. Sen. Vincent said he recommends asking the DNRC to provide information on available options. Mr. Tubbs said he will work with staff on information for the next meeting and recommended that the EQC members log onto the cadastral system for information about land parcels.

03:34:18 Rep. Ellis asked about including information on where fire assessments and fire districts are currently in the state. Sen. Vincent said he recommends including information on a history of the assessments.

03:35:37 Mr. Tubbs said the legislation proposed during the special session was for a statewide assessment.

03:36:02 Mr. Brenden commented on fighting fires in different areas of the state. Sen. Vincent said it needs to be considered.

03:38:22 Rep. Hamlett commented on liability and on fire assessment fees.
03:41:39 Sen. Lang said he agreed with the comments made by Rep. Hamlett and Mr. Brenden.
03:42:04 Sen. Lang asked Mr. Tubbs about statistics regarding population density and man-made fires.
03:44:28 Sen. Lang asked Mr. Tubbs to provide statistics on human caused fires and natural caused fires.
03:45:03 Sen. Lang commented on the different federal and state agencies in eastern Montana that are in charge of fighting fires.
03:45:41 Sen. Vincent asked the Council about other information to consider for the next meeting.
03:46:04 Rep. Hamlett said he recommends obtaining statistics on the number of houses outside of city limits compared to 10 years ago.

03:46:43 Recess for lunch at 11:48 a.m.
04:45:57 Reconvene at 12:47 p.m.

NATURAL HERITAGE PROGRAM FUNDING

04:46:14 Sen. Vincent said the Council received information on the Montana Natural Heritage Program (NHP) funding. **(Exhibit 18)**

04:46:37 Jennie Stapp, state librarian, gave a PowerPoint presentation and provided information on funding. **(Exhibit 19)**

05:00:40 Bryce Maxell, program coordinator, NHP, discussed supplemental core funding and staffing.

05:06:45 Ms. Stapp discussed future funding.

Public comment

05:09:06 Ms. Altemus said the Montana Wood Products Association supports the program.

Committee questions and discussion

05:10:03 Sen. Vincent asked Ms. Stapp about pass through contracts and requested information on current use of the service by private entities.
05:13:06 Rep. White said the request is for a list of the agencies that use the service and how much they use it, and also information on the private entities that benefit from the service, in order to expand the pass through funding source.
05:13:32 Rep. Hamlett commented on the amount of information available through the NHP compared to the amount of funding being requested.
05:14:57 Sen. Pomnichowski asked Ms. Stapp about differentiating between users of the database. Sen. Vincent said it may be helpful to determine if it is a state agency or someone else.
05:16:53 Sen. Lang asked about tracking user information and requiring an account for access to the information. Ms. Stapp said a login is required for sensitive information, but they are prevented by law from disclosing information about users.

UPDATE ON WILLOW CREEK DAM TRANSFER

The following board members presented information on behalf of the Willow Creek Water Users Association (WCWUA):

- 05:19:29 Mark Cooper, president, provided information on the transfer of the Willow Creek Dam from the DNRC to the WCWUA and said the WCWUA filed a petition in District Court to appoint a mediator that the DNRC has appealed to the Montana Supreme Court.
- 05:21:26 Bill Buttelman, director, discussed concerns about public access.
- 05:23:05 Brian Dyk provided information on the articles of incorporation and the first water marketing agreement.
- 05:26:18 Mike Elmore, director, discussed future development.
- 05:27:19 Robert Sitz discussed reacquisition of the dam by the DNRC.
- 05:29:27 Colleen Coyle, attorney, provided information on the transfer of the dam and the request made by the WCWUA for the appointment of a water mediator to assist in negotiations with the DNRC.
- 05:35:24 Sarah Bond discussed the need for a mediator.
- 05:36:55 John Tubbs, director, DNRC, provided background information on the Willow Creek water project. He discussed the partnership between the DNRC and the WCWUA and interest by the WCWUA to acquire the dam and break the public/private partnership and the legislation that was passed to attempt to transfer the Willow Creek water project.

Public comment

- 05:51:09 Debby Barrett, rancher, former state legislator, and sponsor of SB 221 (2015)
- 05:57:06 Katie Cooper, WCWUA

Committee questions and discussion

- 05:59:57 Sen. Vincent asked Ms. Coyle about SB 221 and what "without regard to other laws" means in Section 85-1-211(5)(a) and the need for an environmental assessment.
- 06:04:22 Sen. Vincent asked Mr. Tubbs about the statute and the environmental assessment that was done to dispose of state property.
- 06:06:09 Mr. Aspenlieder asked Mr. Tubbs about language in the agreement stating it was never intended for the project to be transferred to the users.
- 06:10:20 Mr. Aspenlieder asked Mr. Tubbs about funding for the project.
- 06:11:51 Mr. Aspenlieder asked Mr. Tubbs about the transfer of other water projects in the state.
- 06:17:00 Mr. Aspenlieder asked Mr. Tubbs about the reacquisition clause for non compliance with dam safety rules.
- 06:20:36 Mr. Aspenlieder commented on the benefit of private irrigation companies owning and operating dams.
- 06:25:07 Rep. Hamlett asked Mr. Sitz if the WCWUA did an assessment of the cost to repair the spillway.
- 06:27:12 Rep. Hamlett asked Bill Schenk, attorney, FWP, if the department would be satisfied if an agreement maintained access for boats.
- 06:31:50 Rep. Hamlett asked Ms. Barrett if she feels that the legislative intent of SB 221 is being followed.

06:32:30 Mr. Brenden said at the time the dams and projects were built it was for irrigation and safety, not for recreation. He commented on working out an agreement for the transfer.

06:36:36 Mr. Brenden asked about the number of people that use Willow Creek Dam for recreation. Mr. Schenk said he will find out.

06:39:33 Sen. Lang asked Mr. Sitz about the private land where the dam was built. Mr. Sitz redirected the question to Mr. Buttelman.

06:42:24 Sen. Lang asked Mr. Buttelman about the number of surface acres under the reservoir.

06:42:53 Rep. White disclosed that he owns water on one of the dams.

06:43:17 Rep. White asked Mr. Tubbs about the supreme court appeal and the value of a bringing a third party in to resolve the issue.

06:46:36 Sen. Vincent asked Mr. Tubbs if the water users participated in the environmental assessment and if they provided information on the engineering analysis.

06:50:21 Sen. Vincent asked Mr. Tubbs about the cost of the survey.

06:51:18 Sen. Vuckovich commented on the legal process.

06:52:06 Recess

07:02:26 Reconvene

COMPLIANCE AND ENFORCEMENT REPORTS

07:02:37 Sen. Vincent said the Council received copies of the compliance and performance reports and said agency representatives are available for questions. ([Exhibit 20](#))

07:02:58 Mr. Kolman provided a history on why the EQC is receiving the reports.

Committee questions and discussion

07:04:09 Rep. Curdy asked Chad Anderson, Enforcement Program manager, Department of Environmental Quality (DEQ), about a pattern of noncompliance with companies.

07:07:13 Rep. Curdy asked Mr. Anderson about involvement by the Board of Oil and Gas Conservation on noncompliance.

07:07:57 Rep. Ellis asked Mr. Anderson about DEQ's reporting format.

07:11:12 Rep. Gunderson asked Mr. Tubbs about the number of non-compliance issues in 2015 and 2016 that are still outstanding with the Board of Oil and Gas Conservation. Mr. Tubbs said he will find out.

Public comment None

ELIMINATION OF ELK AS BRUCELLOSIS VECTOR

07:12:36 Quentin Kujala, Wildlife Management Section chief, FWP, presented information on the steps necessary to eliminate the role of elk in brucellosis transmission to livestock.

Public comment

07:14:38 Mr. Gevock

07:16:21 Jay Bodner, Montana Stockgrowers Association

Committee questions and discussion None

GRIZZLY BEARS

- 07:18:44 Mr. Kolman said at the last EQC meeting Sen. Phillips requested that FWP provide information on the options for managing the state's increasing grizzly bear population and on how Section 4(d) of the Endangered Species Act could be amended to allow the state more management options.
- 07:19:35 Mr. Schenk, FWP, provided an update on the delisting of grizzly bears in Montana. He said FWP is helping to complete the process of writing the conservation strategy for the northern continental divide so it can get a delisting rule in place and focus on a statewide management plan.

Public comment None

Committee questions and discussion

- 07:25:54 Rep. White asked Mr. Schenk how FWP's grizzly bear conservation strategy relates to the federal plan.
- 07:27:30 Rep. White asked Mr. Schenk if FWP is basing its plan on the U.S. Fish and Wildlife Service (USFWS) plan that is in need of revision or if it is putting things into its plan that would update the USFWS plan. Mr. Schenk redirected the question to Ken McDonald, Wildlife Division administrator, FWP.
- 07:33:37 Rep. White asked Mr. McDonald about the state and federal plans.
- 07:35:42 Rep. White asked Mr. McDonald about FWP's conservation strategy.
- 07:36:32 Sen. Lang asked Mr. McDonald how the statewide management plan relates to grizzly bears in eastern Montana.
- 07:39:23 Sen. Lang asked Mr. McDonald about rules regarding human conflict with grizzly bears if they are delisted.
- 07:41:30 Sen. Vincent asked Mr. McDonald about the Cabinet-Yaak ecosystem.
- 07:43:10 Sen. Vincent asked Mr. McDonald about designating the state as a political boundary and using the political boundary as a distinct population segment (DPS).
- 07:44:36 Sen. Vincent redirected his question to Mr. Schenk.
- 07:46:31 Rep. Gunderson asked Mr. Schenk about the number of DPS in the conservation plan.
- 07:48:29 Rep. Gunderson asked Mr. Schenk about the state-based conservation plan after delisting and when the state can have one statewide DPS.
- 07:51:23 Rep. Gunderson asked Mr. Schenk about the number of DPS in the lynx delisting. Mr. Schenk redirected the question to Mr. McDonald.
- 07:52:25 Mr. Aspenlieder left the meeting and gave his proxy to Sen. Lang.
(Attachment 4)
- 07:53:22 Rep. Gunderson asked Mr. McDonald about the statewide management program after delisting lynx.
- 07:54:58 Rep. Gunderson asked Mr. McDonald about one statewide DPS after federal delisting.
- 07:56:39 Sen. Vincent commented on state management of grizzly bears.

07:57:50 Rep. White asked Sen. Vincent about working with other states.
07:59:46 Rep. Hamlett asked Mr. McDonald about relocating captured bears and if FWP is under the criteria of the USFWS.
08:00:58 Rep. Hamlett asked Mr. McDonald if bears can be relocated to areas in Montana where they don't currently exist.

REVIEW PROPOSED TOPICS FOR NEXT EQC MEETING

Discussion on Next Steps for State Parks Program Evaluation

08:02:47 Sen. Vincent opened discussion on next steps for state parks and off-road tax percentages.
08:03:23 Rep. Curdy
08:03:40 Sen. Vincent
08:04:22 Rep. Ellis
08:04:51 Rep. White
08:05:35 Sen. Vincent

Discussion on Public Lands Access and Conservation Easements

08:06:22 Mr. Brenden said he recommends an agenda item on public land access issues and discussed the article by Terry Anderson that was published in the *Billings Gazette*. ([Exhibit 21](#))
08:09:08 Sen. Vincent
08:09:32 Mr. McDonald
08:09:50 Mr. Brenden
08:09:57 Sen. Vincent
08:10:18 Mr. Brenden
08:11:39 Sen. Vincent
08:12:05 Rep. Curdy

08:12:40 Rep. Ellis asked Sen. Vincent to review his list of topics.

Discussion on Next Steps for SJ 5 Study of Coal

08:12:54 Sen. Vincent said a letter was drafted asking for an opinion from Montana Attorney General Tim Fox regarding the constitutionality of the carbon tax legislation proposed in the state of Washington. ([Exhibit 22](#)) He asked staff to keep the Council updated.

Discussion on Next Steps for MSU Lab Study and Chronic Wasting Disease

08:14:20 Sen. Vincent
08:14:54 Rep. White
08:15:52 Sen. Vincent
08:16:16 Rep. White
08:16:42 Sen. Vincent
08:16:47 Mr. McDoanld
08:16:59 Sen. Vincent
08:17:03 Mr. McDonald
08:17:10 Rep. White
08:17:23 Sen. Vincent

08:17:27 Rep. White
08:18:29 Rep. Hamlett
08:19:16 Sen. Vincent
08:19:33 Rep. White
08:19:44 Sen. Vincent discussed writing a letter to the U.S. Department of Agriculture and sending a copy to Montana's congressional delegation asking for help in addressing capacity issues with state labs in the context of the new trade agreement with China on cattle, chronic wasting disease, and brucellosis.
08:20:23 Mr. Kolman
08:20:37 Rep. White
08:20:45 Mr. Brenden
08:21:20 Sen. Vincent
08:21:36 Rep. Ellis
08:22:06 Sen. Vincent
08:22:14 Sen. Lang
08:22:44 Sen. Vincent

Discussion on Next Steps for Dog Training in Upland Game Bird Nesting Areas

08:23:01 Sen. Vincent

Discussion on Next Steps for Sage Grouse

08:23:17 Sen. Vincent
08:23:32 Sen. Lang
08:24:04 Mr. Kolman
08:24:22 Mr. McDonald
08:25:04 Sen. Lang
08:25:11 Mr. McDonald
08:25:43 Sen. Lang
08:25:50 Mr. McDonald
08:26:09 Sen. Lang
08:26:46 Mr. McDonald
08:27:43 Sen. Lang
08:27:49 Mr. Kolman

08:27:58 Mr. Brenden left the meeting.

Discussion on Next Steps for Fire Related Topics

08:28:22 Sen. Vincent

Discussion on Next Steps for Natural Heritage funding

08:28:39 Sen. Vincent

Discussion on Letter to Attorney General Fox Regarding the Commerce Clause

08:28:49 Sen. Vincent
08:29:03 Sen. Pomnichowski
08:29:18 Mr. Kolman
08:29:25 Sen. Pomnichowski
08:30:02 Mr. Kolman

08:30:41 Sen. Pomnichowski
08:33:08 Sen. Vincent

08:33:39 Sen. Pomnichowski asked Sen. Vincent about the agenda item proposed by Mr. Brenden on public land access and conservation easements.

08:34:18 Rep. Ellis continued the discussion on the letter to Attorney General Fox.
08:35:05 Sen. Vincent
08:35:21 Rep. Ellis
08:35:36 Sen. Vincent

Discussion on Next Steps on Public Land Access and Conservation Easements

08:36:05 Ms. Paul
08:36:46 Sen. Vincent
08:37:03 Sen. Lang
08:38:11 Sen. Vincent
08:38:49 Sen. Lang
08:38:54 Sen. Vincent
08:39:08 Sen. Pomnichowski
08:39:54 Mr. Kolman said he will provide an overview on conservation easements.
08:40:10 Rep. White
08:40:49 Sen. Vincent said staff can provide information on mineral rights and surface rights before the meeting.
08:41:12 Sen. Lang asked about data for AIS.
08:41:34 Sen. Vincent
08:41:41 Rep. Gunderson asked about receiving information on the new rules for oil field waste.
08:42:08 Mr. Kolman

08:43:03 Sen. Vincent asked for a motion on the letter to Attorney General Fox including the additions made by Sen. Pomnichowski.
08:43:16 Mr. Kolman restated the motion.

Motion

08:44:10 Sen. Lang moved to make a request to Speaker Knudsen and President Sales to ask for the opinion from the attorney general on questions related to carbon tax legislation proposed in the state of Washington regarding interstate commerce and discrimination against or the imposition of an excessive burden on out-of-state energy generation. If the request is made and fulfilled, the EQC would reserve options for further actions.

Discussion on the Motion

08:44:14 Sen. Pomnichowski
08:44:54 Erin Bills, legal staff, LSD
08:45:11 Sen. Vincent

Vote

- 08:45:37 The motion carried unanimously by voice vote. Mr. Aspenlieder voted aye by proxy. Mr. Brenden and Sen. Phillips were excused.
- 08:46:09 Rep. White said he gave staff his options for changes to the statute on dog training in upland game bird areas for a committee bill.
- 08:46:44 Rep. Curdy asked staff about an update on bison in Yellowstone National Park from Superintendent Wenk.
- 08:47:44 Sen. Pomnichowski asked about reviewing the letters drafted on the MSU labs.
- 08:48:00 Mr. Kolman
- 08:48:33 Sen. Vincent
- 08:48:38 Mr. Kolman
- 08:48:44 Sen. Vincent
- 08:48:47 Rep. White
- 08:49:23 Sen. Vincent

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

- 08:49:40 Bethany Cotton, Wildlife Program director, WildEarth Guardians, and environmental attorney, commented on distinct population segments for grizzly bears, the recovery plan process, and Section 4(d) of the Endangered Species Act.
- 08:56:04 Mr. Kolman said the Council received public comment from Lloyd Cooper on metals in the atmosphere. [\(Exhibit 23\)](#)

OTHER BUSINESS

None

ADJOURN

- 08:56:50 With no further business before the Council, Sen. Vincent adjourned the meeting at 4:58 p.m.

CI0099 8045nsxa.