



ENVIRONMENTAL QUALITY COUNCIL

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MATT VINCENT

COUNCIL STAFF
HOPE STOCKWELL, Research Analyst
JOSEPH CARROLL, Staff Attorney
NADINE SPENCER, Secretary
JOE KOLMAN, Legislative Environmental Analyst

MINUTES LOG

September 25, 2019
City Hall, Ponderosa Room
Libby, 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.

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

COMMITTEE MEMBERS PRESENT

REP. JIM KEANE, Chair

SEN. PAT FLOWERS
SEN. JP POMNICHOWSKI
SEN. CARY SMITH
SEN. GENE VUCKOVICH

REP. WILLIS CURDY
REP. STEVE GUNDERSON
REP. BRADLEY MAXON HAMLETT
REP. THERESA MANZELLA
REP. KERRY WHITE

COMMITTEE MEMBERS EXCUSED

SEN. MIKE LANG, Vice Chair
SEN. STEVE HINEBAUCH
MR. SCOTT ASPENLIEDER
MR. JOHN BRENDEN
MR. REX ROGERS
MR. PATRICK HOLMES

STAFF PRESENT

HOPE STOCKWELL, Research Analyst
JOSEPH CARROLL, Staff Attorney
NADINE SPENCER, Secretary
JOE KOLMAN, Legislative Environmental Analyst

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

CALL TO ORDER AND ROLL CALL

- 12:58:35 Sen. Keane called the meeting to order at 12:58 p.m. The secretary noted the roll. Sen. Hinebauch, Sen. Lang, Mr. Aspenlieder, Mr. Brenden, Mr. Rodgers, and Mr. Holmes were excused. ([Attachment 3](#))
- 12:59:29 Sen. Keane discussed the morning tours that included chronic wasting disease (CWD) sampling and monitoring and Libby asbestos remediation.
- 13:02:08 Rep. Gunderson commented on the tours and the opportunity and education it provided for the members of the Council.
- 13:03:11 Sen. Mike Cuffe, SD 1, thanked the Council for coming to the area.

CHRONIC WASTING DISEASE

Review of CSU Contract and Test Turnaround Time

- 13:04:05 Hope Stockwell, research analyst, Legislative Services Division (LSD), said the Council received a copy of the original contract, and an addendum to the contract, between the Department of Fish, Wildlife, and Parks (FWP) and the Colorado State University (CSU) Veterinary Diagnostic Lab for CWD testing. ([Exhibit 1](#))
- 13:06:03 Ms. Stockwell provided information on the cost for testing and the timeline for receiving test results. ([Exhibit 2](#))
- 13:11:42 Ms. Stockwell said she talked to Dr. Greg Juda, lab director, Montana Veterinary Diagnostic Laboratory (VDL), about the VDL's capability to test for CWD.

Review of State Plan/Upcoming Hunting Season

- 13:14:09 Ken McDonald, Wildlife Division administrator, FWP, provided information on the statewide CWD management plan adopted in 2017.
- 13:20:33 Mr. McDonald provided an update on CWD in the state.

- 13:23:08 Mr. McDonald discussed the 2019 hunting season and the CWD management zones.
- 13:24:02 Mr. McDonald discussed surveillance and monitoring.
- 13:31:04 Mr. McDonald discussed hunting season changes adopted by the Montana Fish and Wildlife Commission.
- 13:32:32 Mr. McDonald discussed funding.

Libby Incident Response

- 13:34:42 Neil Anderson, Region 1, Wildlife manager, FWP, discussed the department's CWD efforts in Libby and said the Council received an information packet. [\(Exhibit 3\)](#)

Education/Outreach

- 13:40:10 Dillon Tabish, Region 1, Information and Education Program manager, FWP, discussed communication efforts in the region for increasing awareness of CWD.
- 13:43:41 The secretary called the roll. (see Attachment 3)

EQC Questions/discussion:

- 13:44:45 Sen. Flowers asked Ms. Stockwell if Dr. Juda provided an estimate on the cost per sample and response time for the lab.
- 13:46:06 Sen. Flowers said he was impressed by FWP's response to the detection of CWD in Libby and asked Mr. McDonald about what to expect on the spread of the disease statewide and about FWP's efforts to keep the public informed.
- 13:51:54 Rep. Manzella asked Mr. McDonald about surveillance efforts and the detection of new cases in other areas of the state. Mr. McDonald redirected the question to Mr. Anderson.
- 13:53:57 Rep. Curdy asked Mr. McDonald about education regarding carcass travel restrictions on the Northern Cheyenne and Crow Reservations.
- 13:55:25 Rep. Curdy asked Mr. McDonald about testing for the prevalence of CWD on the Northern Cheyenne and Crow Reservations.
- 13:55:57 Mr. Vincent asked Mr. McDonald about what is being done to ensure that carcasses aren't transported outside of the area.
- 13:57:48 Rep. Gunderson asked Mr. Anderson about a breakdown for the animals that have tested positive by sex and age and how it compares to other areas of the state. [\(Exhibit 4\)](#)
- 13:59:47 Rep. White asked Ms. Stockwell about what will be the trigger for using another lab for testing rather than the lab at CSU.
- 14:02:07 Rep. White said that SJ 9 (2017) recommends measures to prevent CWD and asked Mr. McDonald about FWP's current policy to promote wildlife corridors rather than isolating and protecting herds that are disease free. Mr. McDonald redirected the question to Paul Sihler, chief of staff, FWP.
- 14:07:14 Mr. Vincent asked Mr. Sihler about preventative measures and reaching out to communities with urban deer to proactively manage populations in order to decrease the likelihood of a CWD outbreak.
- 14:09:56 Rep. Hamlett asked Mr. Anderson about surveillance and how FWP's surveillance efforts have evolved.
- 14:13:30 Rep. Hamlett asked Mr. Anderson about the accuracy of testing costs.

- 14:15:05 Rep. Keane asked Mr. Sihler about using department game wardens, who come into contact with hunters, and having them find out if a sample was sent in for testing. Rep. Keane said it can also be an educational opportunity.
- 14:16:01 Rep. Keane requested that Mr. Sihler continue to work with the EQC and provide information on CWD.

Public comment:

- 14:18:47 Nick Gevock, conservation director, Montana Wildlife Federation
- 14:21:28 Jennifer Nelson, member, Libby City Planning Board

WOLF MANAGEMENT PLAN

- 14:26:12 Mr. McDonald provided information on the annual wolf management report. [\(Exhibit 5\)](#)

EQC questions/discussion:

- 14:39:14 Sen. Flowers asked Mr. McDonald to include, in next year's report, the revenue impacts of the reduction in prices for wolf licenses and an estimate on the response to the lower prices in terms of wolf harvest.
- 14:40:08 Rep. Keane commented on the models used to report the number of wolves.

Public comment: None

- 14:40:55 Brief recess
- 15:01:05 Reconvene

SAGE GROUSE POPULATION REPORT

- 15:01:24 Mr. McDonald provided the annual sage grouse population report. [\(Exhibit 6\)](#)

Public comment:

- 15:08:42 Scott Mattheis, Eureka
- 15:09:44 Mr. McDonald

EQC questions/discussion:

- 15:10:33 Rep. Hamlett asked Mr. McDonald if there has been an outbreak of West Nile virus in sage grouse.
- 15:11:36 Rep. Hamlett asked Mr. McDonald about the number of leks.
- 15:12:02 Rep. White asked Mr. McDonald about using recruitment data to provide additional modeling for population estimates.
- 15:14:39 Rep. White asked Mr. McDonald about trends in population data in relationship to predator population.
- 15:16:17 Rep. Curdy asked Mr. McDonald about threats to habitat and how much prime sage grouse habitat has been lost to wildfire this year.
- 15:17:37 Sen. Keane asked Mr. McDonald about new habitat projects.
- 15:18:26 Sen. Keane asked Mr. McDonald to provide a list of new projects that are not currently in the lek count.

GRIZZLY BEAR MANAGEMENT UPDATE

- 15:19:18 Wayne Kasworm, biologist, U.S. Fish and Wildlife Service, provided a PowerPoint and discussed grizzly bear recovery efforts in the Cabinet Mountains in the Cabinet-Yaak recovery area. **(Exhibit 7)**
- 15:38:17 Mr. Kasworm provided a copy of his testimony. **(Exhibit 8)**

Public comment: None

EQC questions/discussion:

- 15:38:49 Rep. Gunderson asked Mr. Kasworm about the recovery efforts in the Yaak.
- 15:40:03 Rep. Gunderson asked Mr. Kasworm about the recovery number in the plan and if it is possible to achieve the goal of 100 bears.
- 15:42:05 Rep. Gunderson asked Mr. Kasworm if the proximity of the Pacific Northwest Trail has any impact on the grizzly bears or their habitat.
- 15:44:11 Rep. Gunderson said the recovery number may need to change as new knowledge is gained.
- 15:45:07 Rep. White asked Mr. Kasworm if the goal of 100 bears was established prior to, or after, the reintroduction of wolves.
- 15:46:21 Rep. White said the goal of 100 bears may need to be revised depending on the number of wolves and asked Mr. Kasworm about the black bear population in the Cabinet-Yaak Ecosystem.
- 15:48:11 Mr. Anderson provided additional information regarding the black bear population.
- 15:48:41 Rep. White asked Mr. Anderson about the impact that 100 grizzly bears will have on the food source for wolves and black bears.
- 15:50:23 Mr. Vincent asked Mr. Kasworm about information from the U.S. Department of Agriculture regarding documented damage from grizzly bears or human and bear interactions.
- 15:52:02 Rep. Hamlett asked Mr. Kasworm if the creation of Lake Koocanusa adversely affect movement of the grizzly bear population from interacting with the Northern Continental population.
- 15:54:12 Rep. Manzella asked Mr. Kasworm about information regarding the age and sex of the radio-collared bear whose activities were shown in red on his map.
- 15:56:24 Rep. Curdy asked Mr. Kasworm about the citizens advisory committee.
- 16:00:02 Rep. Keane thanked Mr. Kasworm.

LAKE KOOCANUSA SELENIUM UPDATE

- 16:00:30 Myla Kelly, Water Quality Standards Section Supervisor, Department of Environmental Quality (DEQ), provided information on selenium and discussed selenium in Lake Koocanusa, aquatic life, and the development of a protective water quality standard for the lake. **(Exhibit 9)**
- 16:01:21 Ms. Kelly provided information on a recent data release and research study by the U.S. Geological Survey and the EPA on selenium in fish in the Kootenai River and said she can answer any questions. **(Exhibit 10)**
- 16:02:06 Ms. Kelly discussed selenium in Lake Koocanusa.

Public comment:

- 16:13:15 Clayton Elliott, Trout Unlimited

16:15:24 Sen. Cuffe (**Exhibit 11**)

EQC questions/discussion:

16:18:53 Rep. Gunderson asked Ms. Kelly about the recommended threshold criteria for toxic levels for fish and humans.

16:19:57 Rep. Gunderson asked Ms. Kelly about the test samples.

16:20:42 Rep. Gunderson asked Ms. Kelly about the accuracy of the test samples.

16:21:39 Rep. Curdy asked Ms. Kelly if the selenium levels that British Columbia and the DEQ have agreed to will be included in the Columbia River Treaty.

16:23:07 Rep. Curdy asked Ms. Kelly about the effectiveness of a memorandum of understanding after there is a change in administration in Montana or British Columbia.

16:23:54 Rep. Curdy asked Sen. Cuffe if the selenium levels will be included in the treaty.

16:25:49 Rep. Manzella asked Ms. Kelly about selenium levels and selenium's therapeutic use.

16:27:49 Rep. Hamlett asked Sen. Cuffe about the treaty negotiations.

16:29:43 Rep. Gunderson asked Ms. Kelly about Canada's efforts to reduce the amount of selenium it produces.

16:31:24 Rep. Gunderson asked Mr. Elliott about the impact of current selenium levels in the Kootenai River on the fishing industry. Rep. Gunderson asked Mr. Elliott to provide more information to staff.

16:33:46 Mr. Vincent asked Ms. Kelly about the source and scale of selenium.

16:35:34 Mr. Vincent asked Ms. Kelly about the data collected on fish tissue samples.

16:38:33 Rep. Keane asked Ms. Kelly about the reason for the decrease in selenium levels in the samples taken after 2013.

PACIFIC TRAIL

16:39:46 Joe Kolman, legislative environmental analyst, LSD, provided an introduction and said the Council received a briefing paper from the U.S. Forest Service (USFS) and a copy of a lawsuit filed by the Yaak Valley Forest Council. (**Exhibit 12**)

16:41:13 Chad Benson, forest supervisor, Kootenai National Forest, USFS, introduced himself and said that John Hagengruber, state liaison, USFS, is also present and available for questions.

16:41:32 Rep. Keane asked Mr. Benson how the USFS got involved and about its proposal for the trail.

16:42:52 Rep. Keane asked Mr. Benson if a governing body was ever set up to bring together a plan and if a plan was ever implemented.

16:43:57 Rep. Keane asked Mr. Benson whether the USFS is currently in a standby mode or if it is moving forward on the trail.

Public comment:

16:47:08 Jane Jacoby, Yaak Valley Forest Council (**Exhibit 13**)

16:50:11 Scott Mattheis, Eureka

16:51:18 Matt Holloway

16:52:05 Gwen Allen, owner, Yaak River Mercantile and Tavern

16:54:27 Robyn King, executive director, Yaak Valley Forest Council

16:57:23 Rick Bass, Board of Directors, Yaak Valley Forest Council

17:00:06 Mark Peck, county commissioner, Lincoln County District 1

The EQC also received written public comment. [\(Exhibit 14\)](#)

EQC questions/discussion:

- 17:03:42 Rep. White asked Mr. Hagengruber if the USFS has decided that the Kootenai Forest plan revision was specific enough to address the management of the trail. Mr. Hagengruber redirected the question to Mary Laws, Kootenai National Forest Recreation Program manager.
- 17:06:43 Rep. White asked Ms. Laws about conducting a survey and contacting people after they hike the trail.
- 17:10:02 Rep. White asked Ms. Laws about the impact on resources from trail use.
- 17:11:57 Rep. Manzella asked Ms. Laws if a study has been done to address the impact to grizzly bears from increasing the number of hikers.
- 17:14:58 Rep. Gunderson asked Mr. Kasworm about current impacts to the Cabinet-Yaak grizzly population from trail use.
- 17:21:30 Rep. Gunderson said he recommends proposing a study bill.
- 17:22:39 Rep. Keane said a study bill can be considered, but he believes it is a local issue and that local groups need to address the issue with the federal government.
- 17:23:41 Recess for dinner
- 18:59:59 Reconvene

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

- 19:00:36 Mark Peck, Libby County commissioner [\(Exhibit 15\)](#)

SJ20: WILDERNESS STUDY AREAS

- 19:06:10 Rep. Keane commented on the reason why the agenda item was scheduled for the evening.
- 19:06:41 Mr. Kolman provided information on SJ 20 (2019) [\(Exhibit 16\)](#)
- 19:09:32 Rep. Keane discussed the study and provided guidelines for public comment.
- 19:11:33 Mr. Hagengruber said that USFS staff are present and available for questions and provided information on Wilderness Study Areas (WSA) located on national forest lands in Montana. [\(Exhibit 17\)](#)

EQC questions/discussion:

- 19:12:33 Rep. White commented on the importance of the study.
- 19:13:23 Rep. White asked Mr. Hagengruber about an update on the Hyalite Porcupine Buffalo Horn WSA.
- 19:14:44 Rep. White said he sponsored SJ 20, along with Sen. Jeffrey Welborn, SD 36, and that the intent of the bill was to provide a public forum for stakeholders to formulate options for Congress.
- 19:16:18 Rep. Keane commented on stakeholder involvement.

19:16:56 Rep. Curdy asked Mr. Hagengruber about the difference in the USFS policy on fire management inside WSA and outside WSA. Mr. Hagengruber provided copies of the updated WSA area information and winter and summer forest orders. **(Exhibit 18)** Mr. Hagengruber redirected the fire management question to Mr. Benson.

19:20:41 Rep. Manzella asked Mr. Benson about the Blue Joint WSA and the Bitterroot Forest management plan and how mine owners, livestock owners, and utilities make use of the land.

19:24:27 Rep. Manzella asked Rep. Keane about the public comment today on forest management plans.

19:27:46 Sen. Flowers asked Mr. Benson about the Montana Wilderness Study Act of 1977.

19:30:24 Rep. Keane asked Mr. Benson about forest management. Mr. Benson redirected the question to Ms. Laws.

19:31:54 Rep. Keane asked Ms. Laws about managing WSA under different USFS forest management plans.

19:33:36 Rep. Hamlett asked Mr. Hagengruber if WSA are considered living documents.

19:34:37 Rep. Hamlett asked Mr. Hagengruber about how the number of WSA are determined in a state.

19:35:21 Rep. Hamlett asked Mr. Hagengruber about adding or removing WSA.

19:37:17 Rep. Keane asked Mr. Hagengruber about Congressional approval if a forest plan recommends designating a new area as a WSA and if it needs to go through a public comment process.

19:38:42 Rep. Keane asked Mr. Hagengruber if there is an example of a WSA that was collaboratively discussed and changed by Congress.

19:40:11 Mr. Benson provided an example from the Ten Lakes WSA.

19:41:07 Rep. Keane asked Mr. Benson about the Ten Lakes WSA.

19:42:29 Rep. Keane asked Mr. Benson about working with collaborative groups.

19:43:31 Rep. Hamlett asked Mr. Benson how WSA affect fire management in the national forest.

19:45:33 Rep. Keane asked Mr. Benson if there have been any attempts by groups to manage the WSA similar to the Good Neighbor Authority.

Public comment:

19:47:25 Scott Mattheis, Eureka
19:49:02 Sen. Cuffe
19:52:26 Rep. Keane
19:52:56 Doug Ferrell, Trout Creek
19:54:34 Rep. Keane
19:55:27 Jessie Grossman, Troy
19:56:43 Ed Lavair, Libby

RECESS

19:59:10 Rep. Keane recessed the meeting at 7:59 p.m.

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