



ENVIRONMENTAL QUALITY COUNCIL

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GOVERNOR STEVE BULLOCK
DESIGNATED REPRESENTATIVE
PATRICK HOLMES

HOUSE MEMBERS
WILLIS CURDY
STEVE GUNDERSON
BRADLEY MAXON HAMLETT
JIM KEANE
THERESA MANZELLA
KERRY WHITE

SENATE MEMBERS
PAT FLOWERS
STEVE HINEBAUCH
MIKE LANG
JP POMNICHOWSKI
CARY SMITH
GENE VUCKOVICH

PUBLIC MEMBERS
SCOTT ASPENLIEDER
JOHN C. BRENDEN
REX ROGERS
MATT VINCENT

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

MINUTES LOG

September 26, 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.

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>. From the homepage, select the "Committees" drop down menu at the top, then select Administrative or Interim, and the appropriate committee. The written minutes log can be located by expanding the accordion menu, Meeting Minutes. Links to the audio/video files can be located by selecting the Video/Audio button on the same page, then the "past/current recordings" button. From here, use the calendar to select the date of the meeting you wish to view/listen to.

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. STEVE HINEBAUCH
SEN. MIKE LANG, Vice Chair
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)

COMMITTEE ACTIONS

The Environmental Quality Council (EQC):

- Voted to object to the proposed rule to amend the Department of Environmental Quality's subdivision fee schedules set forth in ARM 17.36.802 and 17.38.106, and to adopt New Rule I regarding certifying authorities under 76-4-127, MCA;
- Voted to adopt the 2019-20 final interim work plan.

CALL TO ORDER AND ROLL CALL

07:59:47 Rep. Keane called the meeting to order at 7:59 a.m. The secretary noted the roll. Sen. Hinebauch, Sen. Lang, Mr. Aspenlieder, Mr. Brenden, Mr. Rodgers, and Mr. Holmes were excused. **(Attachment 3)** Sen. Hinebauch, Sen. Lang, and Mr. Brenden gave their proxies to Sen. Smith. Mr. Aspenlieder gave his proxy to Rep. Gunderson. Mr. Rogers gave his proxy to Rep. Keane. **(Attachment 4)**

STATUTORY ADMINISTRATIVE RULE REVIEW

08:00:05 Joe Carroll, staff attorney, Legislative Services Division (LSD), provided information on the administrative rule review. **(Exhibit 1)**

EQC questions/discussion:

08:02:47 Rep. Curdy asked Mr. Carroll about the proposed rule from the Department of Environmental Quality (DEQ) concerning water and sewer districts and if it includes neighborhood districts.

08:05:55 Rep. Keane asked Rep. Curdy about his concern regarding the rule.

08:06:19 Rep. Keane asked Mr. Carroll to provide further information regarding the scope of authority provided by the rule.

Public comment: None

AGENCY QUARTERLY FINANCIAL REPORTS & HB 715 STUDY UPDATE

- 08:07:06 Quinn Holzer, Legislative Fiscal Division (LFD), said SB 310 (2019) requires a study by the Legislative Council and the Legislative Finance Committee to look at how to address issues regarding the authority of power of the legislature and strengthen the fiscal and policy side.
- 08:08:24 Mr. Holzer said the Council received copies of the quarterly financial reports for the agencies it has purview over. **(Exhibit 2)**
- 08:12:01 Sen. Flowers asked Mr. Holzer to include the period of time on future reports.
- 08:12:40 Mr. Holzer continued his presentation and discussed HB 715 (2019). **(Exhibit 3)**

EQC questions/discussion:

- 08:21:45 Sen. Smith asked Mr. Holzer about the inflation numbers for population growth.
- 08:23:20 Sen. Pomnichowski commented on the study and asked Mr. Holzer to add more detail from the agencies.
- 08:25:20 Rep. Keane asked Mr. Holzer about the graph showing a summary of historical expenditures and if the historic line represents the entire state budget.
- 08:26:31 Rep. Keane asked Mr. Holzer about how to address agencies that receive federal funding and other funding not tied to the general fund.
- 08:32:05 Rep. Keane asked Mr. Holzer about looking at a state sales tax.
- 08:33:05 Rep. Keane asked Mr. Holzer about the assumptions.
- 08:39:23 Rep. Hamlett asked Mr. Holzer about the spikes in the graphs.
- 08:40:48 Rep. Manzella asked Mr. Holzer about pension solvency in the future.
- 08:41:50 Sen. Flowers asked Mr. Holzer about the annual growth rate in the general fund for all agencies. Mr. Holzer said he will get the information.

Public comment: None

GOOD NEIGHBOR AUTHORITY FORESTRY CONTRACTS

- 08:43:17 Doug Turman, Forestry Program manager, Department of Natural Resources and Conservation (DNRC), provided an overview and an update on the Good Neighbor Authority (GNA) forestry projects and the appropriation from HB 34 (2019). **(Exhibit 4)**
- 08:50:04 Jodi Turk, GNA forester, DNRC, provided an update on projects in the Kootenai National Forest and the Elk Gem project.

EQC questions/discussion:

- 08:58:06 Rep. White asked Ms. Turk about worker compensation rates and if Montana contractors can be competitive when bidding on forestry projects.
- 08:59:52 Rep. Keane asked for anyone in the audience to respond to Rep. White's question.
- 09:00:08 Julia Altemus, Montana Wood Products Association, provided information on the bidding process.
- 09:00:59 Rep. Curdy asked Ms. Altemus about the percentage of wood processed in Montana for the GNA program.
- 09:02:13 Sen. Flowers asked Mr. Turman about the GNA program and if it is subject to the Montana Environmental Policy Act (MEPA) or the National Environmental

Policy Act (NEPA).
09:03:43 Rep. Keane asked Mr. Turman to provide the Council with information at each EQC meeting on the number of board feet of timber for each completed project.

Public comment:

09:04:33 Ms. Altemus
09:06:56 Clayton Elliott, Montana Trout Unlimited
09:07:58 Chad Benson, forest supervisor, Kootenai National Forest, U.S. Forest Service (USFS)

FIRE SEASON & WATER SUPPLY UPDATE

09:09:00 Mr. Turman provided an overview of the fire season.

09:13:23 Melissa Brickl, hydrologist, Kalispell Water Resources Division, DNRC, provided information on precipitation patterns, stream flow reservoir storage, and drought conditions in Montana. ([Exhibit 5](#))

Public comment: None

EQC questions/discussion:

09:20:15 Rep. White asked Ms. Brickl about the chart showing current stream flows compared to the historic average.
09:21:10 Rep. Hamlett asked Mr. Benson about the number of acres in the Kootenai National Forest.
09:21:59 Rep. Hamlett asked Mr. Benson about the number of acres that burned this fire season.
09:22:14 Rep. Hamlett asked Mr. Benson about the number of acres that are currently being harvested and under contract for timber. Mr. Benson said he will provide the information.
09:22:57 Rep. Hamlett asked Mr. Benson about the number of acres that are currently in litigation. Mr. Benson said he will provide the information.
09:23:09 Rep. Hamlett commented on the fire season.
09:23:44 Rep. Curdy asked Mr. Turman if they are a Type 1 Incident Command Team and if they responded to any fires this season.
09:24:54 Rep. Curdy asked Mr. Turman for the number of fire assignments his team was assigned to in the last two years.
09:25:15 Rep. Curdy asked Mr. Turman about anticipated changes in training for work or equipment and about changes to the county fire co-op programs.
09:26:28 Rep. Curdy asked Mr. Turman about the reason for the review for the county co-op program. Mr. Turman redirected the question to Jesse Best, assistant fire management officer, Northwestern Land Office, DNRC.
09:27:57 Rep. Keane asked Mr. Best about funding for equipment for the county co-op program.
09:29:15 Rep. Hamlett asked Ms. Bickl about stream gages.
09:31:35 Rep. Hamlett asked Ms. Bickl about the adequacy of SNOTEL sites.
09:32:33 Rep. Keane commented on the information available on the SNOTEL website.

09:33:32 Brief recess

09:44:36 Reconvene

AQUATIC INVASIVE SPECIES AGENCY ANNUAL REPORTS

- 09:45:37 Paul Sihler, chief of staff, Department of Fish, Wildlife, and Parks (FWP), provided an update on aquatic invasive species (AIS) and the 2019 inspection season. **(Exhibit 6)**
- 09:51:48 Stephanie Hester, Invasive Species Program manager, DNRC, provided information on the program.
- 09:56:02 Ms. Hester discussed the DNRC's AIS Grant program and provided copies of the report for 2017 biennium grants. **(Exhibit 7)**
- Public comment:
- 09:56:14 Clayton Elliott, Trout Unlimited
- 09:57:28 Bryce Christiaens, Weed District manager, Missoula County Weed District; chair, Montana Invasive Species Council, provided an update on council activities since the last EQC meeting. **(Exhibit 8)**
- 10:07:05 Lori Curtis, chair, Upper Columbia Conservation Commission (UC3); vice chair Flathead County Conservation District, provided an update on the UC3.

Additional public comment: None

EQC questions/discussions:

- 10:10:50 Rep. White asked Mr. Christiaens about efforts on fighting noxious weeds.
- 10:12:34 Rep. White asked Ms. Hester about pathogens and if there has been any discussion within the AIS program on chronic wasting disease (CWD) and partnering with FWP.
- 10:14:27 Rep. White asked Ms. Hester about the AIS grant program project locations for boat inspection stations and using them through the hunting season for game check and carcass transport.
- 10:16:22 Mr. Vincent asked Ms. Hester about providing an update at the next EQC meeting on the Feral Swine Summit scheduled for November.
- 10:17:50 Mr. Vincent asked Ms. Hester about the issues with feral swine. **(Exhibit 9)**
- 10:18:54 Rep. Keane asked Ms. Hester about the agency that will be in charge of dealing with the feral swine issue.
- 10:21:07 Rep. Keane asked Ms. Hester about feral swine and funding for a response plan.
- 10:21:49 Mr. Vincent asked Ms. Hester about feral swine and funding for preventative measures.
- 10:22:44 Rep. Gunderson asked Ms. Hester about the date for the Feral Swine Summit and said that he would like to take part in the summit.
- 10:23:51 Rep. Curdy asked Mr. Sihler about New Zealand mudsnails.
- 10:25:37 Rep. Curdy asked Mr. Sihler about the potential impact from mudsnails. Mr. Sihler redirected the question to Kate Wilson, DNRC, UC3.
- 10:27:04 Rep. Hamlett provided information on AIS from two conferences he attended.
- 10:30:15 Rep. Manzella asked Mr. Christiaens about feral swine and allowing livestock producers to crossbreed feral swine with domestic swine.

- 10:31:59 Sen. Flowers asked Ms. Wilson about the discovery of New Zealand mudsnails, in the early 2000's, in Darlington Ditch off the Madison River.
- 10:33:19 Mr. Sihler provided information on mudsnails.
- 10:34:33 Rep. Keane asked Ms. Hester about DNRC projects on the Jefferson Slough and if they are still moving forward. Rep. Keane asked Ms. Hester to let staff know about the contracts.
- 10:35:42 Rep. Keane asked Ms. Hester to find out if the money that was approved for the Whitehall bug program was transferred to the program.

STATE LAB ADVISORY COMMITTEE UPDATE

- 10:36:40 Rep. White discussed the public comment period on SJ 20 (2019) at the meeting yesterday.
- 10:37:25 Rep. White provided an update and discussed the State Laboratory Advisory subcommittee and the progress on getting a letter approved to send to the Montana University System Board of Regents regarding their commitment to provide land for the labs at Montana State University. Rep White provided a copy of the draft letter. **(Exhibit 10)**
- 10:44:22 Rep. White said he asked Department of Administration staff to draft a letter to the Board of Regents about a tour of the Marsh labs during their meeting in Bozeman on November 21-22.
- 10:45:34 Rep. Hamlett said HB 586 (2019) was a unique way to get funding for the labs and commented on the need for the labs.

EQC questions/discussions:

- 10:47:43 Rep. Keane thanked the advisory committee for its efforts and commented on the need for a commitment from the Board of Regents for the land.
- 10:49:49 Rep White said Sen. Flowers is also on the advisory committee and asked for his comments.
- 10:49:57 Sen Flowers said he supports sending the letter and that a tour of the labs in November may lead to a better outcome.
- 10:50:30 Rep. White said he hopes the Board of Regents will agree to the tour and said Marsh lab has geared up to do the initial testing for CWD. He said the lab is critical and he appreciates the support from the EQC.
- 10:53:11 Sen. Pomnichowski thanked the advisory committee members for their work and asked Rep. White about the location of the milk lab.
- 10:54:30 Rep. Hamlett commented on the location for the different labs.

Public comment: None

Mr. Vincent left the meeting and gave his proxy to Rep. Keane.

SUBDIVISION SANITATION REPORT

- 10:56:03 Kevin Smith, Engineering Bureau chief, Water Quality Division, DEQ, discussed the information provided on the subdivision annual report. **(Exhibit 11)**

10:59:47 Mr. Smith provided information on the combined rule changes between the Board of Environmental Review and the DEQ pertaining to subdivision and public water and wastewater review fees and the proposed new rule addressing county water and sewer districts and municipal exemption criteria. **(Exhibit 12)**

Public comment: None

EQC questions/discussions:

11:05:12 Rep. Gunderson asked Mr. Smith about the proposed rule and fee increase and the impact to small business.

11:15:32 Rep. White asked Mr. Smith about review timelines and exceeding statutory deadlines.

11:16:42 Rep. White asked Mr. Smith to provide the Council with the number of denial letters the department sends out, the reason for the denial, and the area where the denial occurred.

11:19:42 Rep. Keane asked Mr. Smith about timelines and the process for submitting additional information after a denial letter is sent.

11:21:34 Sen. Flowers said he is also concerned about the fee increase and the impacts to small business and asked Mr. Smith about the additional fund balance.

11:23:00 Sen. Flowers asked Mr. Smith if the department traditionally sets fees by front loading the inflationary increase by 8-10 years or if it is a new approach.

11:25:29 Sen. Flowers said he recommends that the department provide information at a future meeting on fee setting now and in the future.

11:26:22 Rep. Keane commented on the concern by the Council regarding the fees and asked Mr. Kolman about the process for objecting to the rule.

11:27:34 Rep. Gunderson said he recommends objecting to the rule.

11:28:10 Rep. Keane commented on the fee increase and objecting to the rule.

11:28:59 Mr. Kolman said the Council can also have the department provide more information and the EQC can convene a conference call to discuss the information.

11:29:34 Rep. Keane said he recommends sending an objection letter now.

11:29:46 Rep. Hamlett said he recommends that legal staff provide information on the legal basis for front loading inflationary increases.

11:30:20 Rep. White said he supports objecting to the rule and having staff look at the fee increases.

Motion

11:32:05 Rep. Gunderson moved to object to the rule.

Discussion on the Motion

11:32:15 Sen. Flowers

11:32:48 Mr. Smith

11:34:11 Sen. Flowers

11:34:33 Mr. Smith

11:35:04 Rep. Keane

11:35:25 Mr. Kolman

11:35:45 Rep. Keane

11:36:00 Sen. Pomnichowski

11:37:20 Rep. Keane
11:38:08 Rep. White
11:39:44 Mr. Smith
11:41:35 Rep. Hamlett

Vote

11:42:25 The motion carried 15-1 by voice vote. Sen. Pomnichowski voted no. Sen. Hinebauch, Sen. Lang, Mr. Brenden, Mr. Aspenlieder, Mr. Vincent, and Mr. Rogers voted "aye" by proxy.

REVIEW EQC WORK PLAN

11:43:19 Mr. Kolman said the Council received a copy of the revised work plan reflecting the changes that were voted on at the last meeting. **(Exhibit 13)**

EQC questions/discussion:

11:44:46 Sen. Pomnichowski said she recommends including wildlife and fisheries under habitat for the SJ 20 study and said she would also like to know how watersheds are contributing factors in Wilderness Study Areas.

11:45:18 Rep. White said SJ 30 (2019) is a study of issues related to the dissemination of fish and wildlife data and there is concern regarding a request to FWP for the names of people successful in harvesting wolves. He said he recommends including a discussion at a future meeting.

11:47:23 Mr. Kolman said 87-1-214, MCA, prohibits the dissemination of names of hunters for large predators including wolves.

11:47:54 Rep. White said he discussed the interpretation of the statute with FWP. He asked that legal staff provide a report, at the next meeting, regarding the removal of "hunting season" from the statute.

11:49:01 Rep. Keane agreed.

11:49:32 Rep. Keane asked about committee action on the work plan. The Council voted 13-0 by voice vote to approve the work plan. Sen. Hinebauch, Sen. Lang, Mr. Brenden, Mr. Rogers, and Mr. Vincent voted aye by proxy. Rep. Gunderson, Sen. Flowers, and Mr. Aspenlieder were excused.

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

11:50:08 Nick Gevock, conservation director, Montana Wildlife Federation

OTHER BUSINESS

11:53:20 Rep. Manzella thanked staff and Rep. Gunderson for organizing the meeting in Libby and discussed the public comment period on SJ 20.

11:55:39 Rep. Gunderson thanked the Council for meeting in Libby and discussed public comment.

11:57:03 Rep. Keane thanked Rep. Gunderson and commented on the work being done in Libby and on SJ 20.

ADJOURN

11:59:32 Rep. Keane adjourned the meeting at 11:59 a.m. CI0099 9290nsxb