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ENVIRONMENTAL QUALITY COUNCIL INTERIM COMMITTEE
67th Montana Legislature

SENATE MEMBERS	HOUSE MEMBERS	COMMITTEE STAFF	PUBLIC MEMBERS
Pat Flowers	Willis Curdy	Joe Carroll - Attorney	Scott Aspenlieder
Steve Hinebauch	Steve Gunderson	Joe Kolman - Legislative	John Brenden
Mike Lang	Bradley Hamlett	Environmental	Patrick Holmes, Gov. Rep.
JP Pomnichowski	Jim Keane	Analyst	Rex Rogers
Cary Smith	Theresa Manzella	Nadine Spencer - Secretary	Matt Vincent
Gene Vuckovich	Kerry White	Hope Stockwell - Research Analyst	

MINUTES LOG

May 27, 2020
Remote Zoom Meeting

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ROLL CALL

Members Present Remotely:

Rep. Jim Keane, Chair (D)
Sen. Mike Lang, Vice Chair (R)
Scott Aspenlieder, Public Member
John Brenden, Public Member
Rep. Willis Curdy (D)
Sen. Pat Flowers (D)
Rep. Steve Gunderson (R)

Rep. Bradley Hamlett (D)
Sen. Steve Hinebauch (R)
Patrick Holmes, Public Member
Rep. Theresa Manzella (R)
Sen. JP Pomnichowski (D)
Rex Rogers, Public Member
Sen. Cary Smith (R)
Matt Vincent, Public Member
Rep. Kerry White (R)

Members Excused:

Sen. Gene Vuckovich (D)

Staff Present Remotely:

Joe Carroll, Attorney
Joe Kolman, Legislative Environmental Analyst
Nadine Spencer, Secretary
Hope Stockwell, Research Analyst

Committee Business Summary

The Environmental Quality Council (EQC):

- Voted to withdraw the informal objection to MAR Notice No. 17-406: Supplemental Notice of Proposed Adoption.

AGENDA (Attachment 1)

Call to Order/Roll Call

10:00:30 Rep. Keane call the meeting to order at 10:00 a.m. The secretary called the roll. [\(Attachment 2\)](#)

HJ38 Solar and Wind Bonding; Colstrip Update

10:02:55 Sonja Nowakowski, research director, Legislative Services Division (LSD), research staff assigned to HJ 38, provided an introduction and said the Council asked for some follow up information on Colstrip.

10:03:37 Ms. Nowakowski said today the committee will talk about legislation and laws that were enacted in 2017 and 2019 on solar and wind bonding.

10:03:57 Ms. Nowakowski said the Council received a Colstrip update including information on Montana's Coal-Fired Generating Unit Remediation Act. [\(Exhibit 1\)](#)

10:06:11 Ms. Nowakowski provided an update on the bond the Department of Environmental Quality (DEQ) received related to the Administrative Order on Consent (AOC).

10:07:37 Ms. Nowakowski said the Council received a background report and material that outlines wind and solar bonding requirements and remediation from around the United States. [\(Exhibit 2\)](#) Ms. Nowakowski said in 2017 the legislature enacted bonding and remediation requirements for wind facilities that were greater than 25 megawatts and in 2019 amended the law and incorporated solar greater than 2 megawatts.

10:11:45 Kyla Maki, DEQ, provided background information on wind and solar bonding and decommissioning rules, an update on the status of the current rule amendments, and an overview of the department's process for collecting decommissioning plans and bonds from the covered wind and solar facilities.

Public comment

None

EQC questions and discussion

10:18:37 Rep. Keane asked Ms. Maki about bonding and how a facility can have a zero bond.

10:19:39 Rep. Keane commented on salvage value.

Update on Libby Asbestos Superfund Oversight Committee

10:20:56 Jenny Chambers, Waste Management and Remediation Division administrator, DEQ, provided information on the annual report. [\(Exhibit 3\)](#)

10:30:02 Rep. Gunderson commented on the oversight committee.

10:30:51 Rep. Keane asked Ms. Chambers about funding for the operation and maintenance of the Superfund site.

Public comment

None

EQC questions and discussion

10:33:51 Rep. White asked Ms. Chambers about the funds available from the EPA.

10:37:47 Rep. Curdy asked Ms. Chambers about approval for the remediation off-load site for Operable Unit 1.

10:38:25 Rep. Curdy asked Ms. Chambers about remedy for the mine site.

10:40:08 Rep. Hamlett asked Ms. Chambers about the security of the funding that was set aside and if it is permanent.

Statutory Administrative Rule Review

10:41:36 Joe Carroll, staff attorney, LSD, said there are three rules for the Council to review. [\(Exhibit 4\)](#) He said the EQC's objection to the technically enhanced naturally occurring radioactive material (TENORM) rules will expire unless the Council renews its objection.

10:43:06 Rep. Keane asked Mr. Carroll about the rules.

10:43:31 Rep. Keane asked Sen. Lang about the objection to the TENORM rule.

10:43:42 Sen. Lang asked about the process regarding the EQC's objection to the TENORM rule.

10:45:24 Sen. Lang asked Mr. Carroll what will happen if the Council does not take any action on the rule.

- 10:45:41 Sen. Lang said he recommends allowing the rule to expire.
- 10:46:40 Rep. Keane said he recommends making a motion to allow the rule to expire.
- 10:46:58 Joe Kolman, legislative environmental analyst, LSD, said the correct motion is to withdraw the objection.

Motion

- 10:47:14 Sen. Lang moved to withdraw EQC's informal objection to MAR Notice No. 17-406: Supplemental Notice of Proposed Adoption.

Public comment

- 10:47:44 Patty Whitford, Sidney.
- 10:48:40 Travis Ross.
- 10:49:09 Alan Olson, executive director, Montana Petroleum Association.
- 10:51:17 Laurel Clawson, Sheridan County.
- 10:52:34 Dick Iversen, Sidney.
- 10:53:28 John Ahlquist, Glendive, certified health physicist. [\(Exhibit 5\)](#)
- 10:54:38 Seth Newton, Glendive. [\(Exhibit 6\)](#)
- 10:55:00 The EQC also received additional written public comments. [\(Exhibit 7\)](#)

EQC questions and discussion

- 10:55:34 Rep. Gunderson said he reached out to the state of North Dakota and that it assembled a four member panel to examine TENORM.
- 10:57:15 Rep. White said the DEQ indicated in its response that its intent in allowing individual loads with higher concentrations was to discourage illegal dumping. [\(Exhibit 8\)](#) Rep. White asked if that meant illegal dumping into a facility or into a field or an unpopulated area. Shawn McGrath, director, DEQ, commented on the concern with illegal dumping.
- 10:59:59 Rep. White asked Mr. McGrath about illegal dumping and to provide information on the number of reports of illegal dumping that have occurred in the past.
- 11:01:58 Rep. White asked Mr. Olson about the complexity of complying with the new regulation.
- 11:04:14 Rep. White asked the DEQ to keep the EQC and the legislature informed on how the regulatory mechanism is working.
- 11:04:33 Rep. Keane commented on the rule, the supplemental rule, and DEQ's efforts to continue working on the issues.
- 11:05:29 Sen. Lang commented on the process and said the EQC was able to do its due diligence and learn more about TENORM. He thanked Rep. Gunderson for engaging other states and also thanked Mr. McGrath.
- 11:06:31 Sen. Keane also thanked Rep. Gunderson.

Vote

11:06:50 The motion carried 12-2 by roll call vote with Rep. Gunderson and Rep. White voting no. Sen. Vuckovich was excused. Rep. Hamlett was absent but noted he would have voted for the proposal as noted at timestamp 11:23:48. ([Attachment 3](#))

WPIC Update

11:09:43 Jason Mohr, research analyst, LSD, and staff for the Water Policy Interim Committee (WPIC), provided information on the WPIC meeting last week.

EQC questions and discussion

11:15:27 Rep. Keane asked Mr. Mohr about the nutrient standards.

ETIC Update

11:17:28 Trevor Graff, research analyst, LSD, and staff for the Energy & Telecommunications Interim Committee (ETIC), provided an update from the ETIC meeting last week.

EQC questions and discussion

11:22:52 Rep. Keane asked Mr. Graff about support for creating an advocacy group within the Public Service Commission. He requested that Mr. Graff keep the Council updated on the bill draft.

11:23:48 Rep. Keane asked Rep. Hamlett about his vote on the motion to withdraw EQC's informal objection to the DEQ rule. Sen. Hamlett voted yes.

Lunch

11:24:54 Recess for lunch

13:00:17 Reconvene

Chronic Wasting Disease

13:00:38 Hope Stockwell, research analyst, LSD, provided an overview and introduction.

Latest research on transmissibility

13:02:01 Dr. Debbie McKenzie, University of Alberta associate professor, presented information on chronic wasting disease (CWD) and transmission to other species. ([Exhibit 9](#))

13:14:31 Dr. Brent Race, Rocky Mountain Laboratories, Hamilton, presented information on current research and the potential for CWD to infect humans. ([Exhibit 10](#))

EQC questions and discussion

13:26:48 Rep. Keane asked Mr. Race about the testing done on animals.

- 13:28:27 Sen. Lang asked Mr. Race if there are other species that become compromised and are more susceptible to CWD.
- 13:29:55 Rep. Curdy asked Ms. McKenzie how long they have been studying prions and the potential for human infection.
- 13:32:55 Sen. Lang asked about testing or development of vaccines to prevent transmission of CWD to humans. Ms. McKenzie said they are working on a vaccine to prevent the spread to cervids.
- 13:34:14 Mr. Race said there is no vaccine to prevent the spread to humans.
- 13:34:51 Ms. McKenzie said the vaccine being worked on at the University of Alberta could eventually be adapted to different species.
- 13:35:48 Sen. Flowers asked about testing for CWD in waterways. Ms. McKenzie said there is one report on detecting prions in the water supply.
- 13:37:03 Rep. Hamlett asked Ms. McKenzie about deterioration of prions in soil.
- 13:40:36 Rep. White asked Ms. McKenzie if wildlife corridors have a significant impact on the spread of CWD.
- 13:42:32 Rep. White asked Ms. McKenzie what Canada is doing to contain CWD and about restrictions for transporting animals.
- 13:44:04 Rep. Keane asked about managing the spread of CWD by reducing the size of a herd. Ms. McKenzie said herd reduction is one of the best approaches to slow the expansion of the disease.
- 13:46:05 Mr. Race commented on live animal tests that are being developed and managing the spread of CWD.
- 13:47:55 Rep. Keane asked Mr. Race about live animal testing.
- 13:50:34 Sen. Lang asked about CWD in bison. Ms. McKenzie said there has not been a transmission study done on bison, but data suggests the prion protein or susceptibility factor indicates bison are relatively resistant to CWD.
- 13:52:03 Mr. Race said the prion protein in bison is very similar to the prion protein in cattle and cattle are fairly resistant to CWD.
- 13:52:46 Rep. Keane thanked Ms. McKenzie and Mr. Race.

Game farms and CWD

- 13:53:45 Dr. Amy Horn-Delzer, program manager, Wisconsin Division of Animal Health, provided information on the program in Wisconsin for farm-raised deer and their experience with CWD. ([Exhibit 11](#))
- 14:05:33 Dr. Darlene Konkle, Wisconsin State Veterinarian, said they continually look at risk and try to develop more tools on how to evaluate risk in farm-raised deer.

EQC questions and discussion

- 14:07:26 Rep. Keane asked Ms. Horn about the voluntary herd status program.

14:09:33 Rep. White asked Ms. Horn about soil contamination and requirements to neutralize or sterilize soil on game farms.

14:13:18 Rep. White asked Ms. Horn about feed contamination.

History and present status in Montana

14:15:10 Dr. Martin Zaluski, state veterinarian, Department of Livestock, provided information on the herd certification program in Montana.

14:19:45 Rep. Keane asked Mr. Zaluski about a herd infected with CWD and about the fencing inspection program.

Looking ahead in Montana

14:21:21 Ken McDonald, Wildlife Division administrator, Department of Fish, Wildlife, and Parks (FWP), provided information on management of CWD in Montana.

14:33:07 Dr. Greg Juda, Veterinary Diagnostic Lab director, provided an update on internal testing capability and the plan to get the lab ready for CWD testing.

EQC questions and discussion

14:39:21 Mr. Brenden asked Mr. McDonald about having testing available for hunters, in northeastern Montana, on the weekends.

14:42:43 Sen. Flowers asked Mr. Juda if the lab will pursue certification for the CWD RT-QuIC test.

14:43:38 Rep. Keane asked Mr. McDonald about using the RT-QuIC test.

14:45:06 Mr. Race said Mr. Juda can contact him directly about the test or Colorado State University for information about getting accreditation for the test.

14:45:59 Rep. White asked Mr. McDonald about plans for public education following the detection of CWD in the Springhill area near Bozeman and about collaboration with the Department of Transportation for testing roadkill deer and ungulates. Mr. McDonald provided information on testing roadkill animals and redirected the question on the detection of CWD to Dr. Jennifer Ramsey, wildlife veterinarian, FWP.

14:48:38 Ms. Ramsey.

14:49:47 Rep. White asked Mr. McDonald if he will be available after the State Lab Advisory Committee update for a question.

14:50:20 Rep. Hamlett asked if glandular scent can be a vector for CWD. Ms. Ramsey said there is a potential that it could contain lymph node tissue and some glands that are likely to contain prions from an animal with CWD.

14:51:21 Rep. Hamlett commented on the disposal of an infected herd that was buried near Great Falls and said the soil may still be contaminated.

14:52:02 Mr. Vincent asked Mr. McDonald about expanding surveillance on roadkill animals and reaching out to county animal control districts.

- 14:54:22 Mr. Vincent commented on the area for collecting samples.
- 14:54:58 Mr. McDonald said the 2019 annual report has information on where the distribution of samples came from including samples collected and submitted by hunters.
- 14:55:28 Rep. Gunderson commented on help from FWP for urban planning. Mr. McDonald said FWP biologists are probably the best source to help at both the city and county level.

Urban deer statute review

- 14:57:30 Ms. Stockwell provided information on the statute dealing with managing urban game populations. **(Exhibit 12)**
- 15:00:43 Ms. Stockwell said information is available on the EQC website regarding regulations from other states and Canada related to the transport of harvested animals. **(Exhibit 13)**

EQC questions and discussion

None

Public comment

- 15:02:49 Nick Gevock, Montana Wildlife Federation.
- 15:04:01 Rep. Keane commented on receiving updates on the RT-QuIC test and the impact of being able to test live animals.

State Lab Advisory Committee Update

- 15:05:00 Rep. White said he sent a letter from the subcommittee to the U.S. Department of Agriculture asking for funding. He said he received a response from Secretary Sonny Perdue indicating there will be a discussion on appropriating funds at an upcoming summit. He said there are no additional subcommittee meetings scheduled and that he hopes funding for updating the lab facility can be brought during the 2021 legislative session.
- 15:09:12 Rep. Hamlett said the experience with COVID-19 shows the need for a high-quality lab that can handle testing in-state.
- 15:10:27 Rep. Keane said the state deserves a better lab facility and it needs to be a priority.

Public comment

None

EQC questions and discussion

- 15:12:30 Mr. Zaluski said Dr. Tahnee Szymanski attended the CWD summit last week and that it focused primarily on the science of CWD and the surveillance program rather than funding. He said she can provide a report to the EQC and Dr. Juda can provide updates on planning for a new veterinary diagnostic building.

- 15:13:44 Rep. Keane asked Mr. Zaluski about the amount of funding needed.
- 15:14:12 Rep. White said Secretary Purdue indicated that after the summit, funding would open for application of online grants. He asked Mr. Zaluski about possible funding through the grant program.
- 15:15:29 Rep. Keane said it is easier to get funding through the legislature if there is other money available as well.
- 15:15:57 Rep. White commented on trying to get funding to build the facility from a private investor for a cost recovery and a lease back. He said in order to do that they need more specific design criteria which costs \$150,000.
- 15:18:59 Rep. Keane asked Mr. Zaluski about money for the design. Mr. Zaluski said they have been working with designers and architects and have produced a draft floor plan for a facility.
- 15:20:20 Rep. Keane asked Rep. White if he has seen the design plan.
- 15:22:05 Rep. Keane asked Rep. White to look at the plan and discuss options going forward.

Other Business

- 15:23:23 Sen. Lang asked Mr. McDonald about funding FWP received from the U.S. Department of the Interior for grizzly bear controls.
- 15:25:17 Sen. Lang asked Mr. McDonald if the money was from Pittman-Robertson funding.
- 15:25:41 Sen. Lang asked that staff find out where the U.S. Fish and Wildlife Service got the money and how it will be spent in Montana.
- 15:25:55 Rep. Keane provided clarification on the information requested by Sen. Lang.
- 15:26:17 Rep. White asked Mr. McDonald about funding from the Department of Justice, Natural Resource Damage Program, for a proposal from FWP Region 2 for a restoration project along the Upper Spotted Dog Creek.
- 15:30:19 Rep. Keane said the money came from the Atlantic Richfield Company as part of the natural resource damage lawsuits.
- 15:31:20 Rep. White said he was concerned about the proper use of the funds.
- 15:31:52 Rep. White asked Mr. McDonald about the amount that is being appropriated out of the fund. Mr. McDonald said he will get the information. Rep. Keane said he would also like the information.

Public Comment on any Matter not Contained in this Agenda and that is within the jurisdiction of the EQC

None

ADJOURNMENT

- 15:32:55 Rep. Keane adjourned the meeting at 3:32 p.m.