



PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

**ENVIRONMENTAL QUALITY COUNCIL**  
**67th Montana Legislature**

**SENATE MEMBERS**

Pat Flowers  
Steve Hinebauch  
Mike Lang  
JP Pomnichowski  
Cary Smith  
Gene Vuckovich

**HOUSE MEMBERS**

Willis Curdy  
Steve Gunderson  
Bradley Hamlett  
Jim Keane  
Theresa Manzella  
Kerry White

**COMMITTEE STAFF**

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

**PUBLIC MEMBERS**

Scott Aspenlieder  
John Brenden  
Patrick Holmes, Gov. Rep.  
Rex Rogers  
Matt Vincent

## MINUTES LOG

September 10, 2020

7:59 AM

Zoom Videoconference

Please note: This document is a Minutes Log and provides annotation 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 recording 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 the 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://legmt.gov>. From the home page, 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 for the date of the meeting. 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 there, use the calendar to select the date of the meeting you wish to view/listen to. The written Minutes Log, along with links to 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.

### ROLL CALL

**Members Present Remotely:**

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

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

**Members Excused:**

Sen. Gene Vuckovich (D)  
John Brenden, Public Member  
Rex Rogers, Public Member

**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 accept six of the seven legislative proposals from the Department of Fish, Wildlife, and Parks for pre-introduction.

**AGENDA (Attachment 1)**

**CALL TO ORDER/ROLL CALL**

07:59:51 Rep. Keane called the meeting to order at 7:59 a.m. The secretary called the roll. [\(Attachment 2\)](#)

**STATUTORY ADMINISTRATIVE RULE REVIEW**

08:01:27 Joe Carroll, staff attorney, Legislative Services Division (LSD), discussed the three statutory administrative rule proposals. [\(Exhibit 1\)](#)

08:02:06 Rep. Curdy and Rep. Manzella joined the meeting.

**Public comment**

None

**EQC questions/discussion**

08:03:47 Sen. Pomnichowski asked Mr. Carroll about the proposed rule from the Department of Environmental Quality (DEQ) on open-cut mining operations.

08:04:56 Rep. White asked Mr. Carroll about the proposed rule from the Department of Natural Resources and Conservation (DNRC) on timber harvests.

08:06:16 Rep. White said he disagreed with the process in which the DNRC moved forward with the rule.

08:06:57 Rep. Keane asked Mr. Carroll to keep the EQC updated on any new rules that are proposed before the start of the legislative session.

### **WOLF MANAGEMENT REPORT**

08:08:42 Ken McDonald, Wildlife Division administrator, Department of Fish, Wildlife, and Parks (FWP), discussed the 2019 wolf management report. [\(Exhibit 2\)](#)

08:10:50 Rep. Hamlett joined the meeting.

### **Public comment**

None

### **EQC questions/discussion**

08:20:03 Rep. White asked Mr. McDonald about the Grizzly Bear Advisory Council agenda item and the person who will present the report later today.

08:20:30 Rep. White asked Mr. McDonald about the impact from depredation by wolves and grizzly bears and if FWP is tracking the number of ranchers that are relinquishing their grazing permits. Rep. White said it is an important economic issue and requested that Martha Williams, director, FWP, address the issue when she gives her presentation.

08:24:08 Rep. Curdy asked Mr. McDonald about efforts to institute a range rider program in the Gravelly and the Ruby mountain ranges to mitigate some of the depredation issues.

08:26:04 Rep. Hamlett asked Mr. McDonald if the department has an estimate on the number of depredations that are not reported. Rep. Hamlett said the number of livestock killed by wolves is more than what is officially reported.

### **MOUNTAIN SHEEP REPORT**

08:29:15 Mr. McDonald presented the mountain sheep report. [\(Exhibit 3\)](#)

### **Public comment**

None

### **EQC questions/discussion**

08:36:27 Sen. Flowers asked Mr. McDonald about plans for new reintroductions.

08:38:03 Sen. Flowers asked Mr. McDonald if there has been any progress made on research regarding immunity to pneumonia outbreaks.

08:40:27 Rep. Hamlett asked Mr. McDonald about plans to reestablish sheep along river corridors if a vaccine becomes available.

### **SAGE GROUSE POPULATION REPORT**

08:42:43 Mr. McDonald presented the sage grouse population report. [\(Exhibit 4\)](#)

### **Public comment**

None

### **EQC questions/discussion**

- 08:48:17 Rep. Hamlett asked Mr. McDonald about extrapolating information on lek counts from previous years.
- 08:51:31 Sen. Flowers asked Mr. McDonald about the sage grouse populations in southwestern Montana versus eastern Montana.
- 08:52:59 Rep. Keane asked Mr. McDonald about the amount of money available to continue work on increasing habitat and the number of leks.
- 08:55:01 Rep. Keane said he would like information on the amount of money being spent on creating habitat each year. Mr. McDonald said he will provide the information to staff.
- 08:55:53 Rep. Curdy commended the Bureau of Land Management for its efforts to protect sage grouse habitat before and after fire.
- 08:56:53 Rep. Keane also commended the state of Montana for its efforts attacking wildfires.

### **WILDLIFE HABITAT IMPROVEMENT ACT REPORT**

- 08:57:26 Mr. McDonald provided information on the Wildlife Habitat Improvement Act. ([Exhibit 5](#))

### **Public comment**

None

### **EQC questions/discussion**

- 09:08:26 Sen. Flowers asked Mr. McDonald about the potential for \$2 million to be allocated each year from Pittman-Robertson (P-R) funding and if the program is being undersubscribed.
- 09:11:01 Rep. Keane asked Mr. McDonald about overlap between programs.
- 09:16:39 Rep. White asked Mr. McDonald to provide the name of the person to contact who is responsible for coordinating the program with collaboratives. Mr. McDonald said he will.
- 09:20:00 Rep. Keane said there is a source of revenue for major projects and encouraged participation in the program. He thanked Mr. McDonald.
- 09:20:36 Mr. McDonald thanked the EQC. Rep. Keane thanked Mr. McDonald for the information provided by the department when the Council met last September in Libby.
- 09:21:38 Recess
- 09:35:03 Reconvene

## **LEGISLATIVE SERVICES UPDATE**

- 09:35:13 Rep. Keane said information will be presented on how the 2021 Legislative session will operate.
- 09:36:51 Mr. Kolman discussed the survey sent to legislators in the fall of 2020 about the interim. **(Exhibit 6)**
- 09:40:54 Mr. Kolman discussed the survey sent to legislators in July about the legislative session and COVID-19 restrictions. **(Exhibit 7)**
- 09:49:24 Mr. Kolman discussed how other western states' legislatures managed COVID-19 restrictions. **(Exhibit 8)**
- 09:51:03 Rep. Curdy asked Mr. Kolman to provide a copy of the information on COVID restrictions.
- 09:51:57 Mr. Kolman discussed tools that are available for legislators on the LSD website.
- 09:56:05 Rep. Hamlett asked Mr. Kolman how session will be held if an effective and reliable antibody test becomes available for COVID-19.

## **FWP Agency Legislative Proposals**

- 09:58:57 Becky Dockter, chief legal counsel, FWP, discussed the agency's legislative proposals. **(Exhibit 9)**
- 09:59:30 Ms. Dockter discussed the proposal to revise the unlawful possession statute to include hunting and leaving the animal in the field.
- 10:00:05 Ms. Dockter discussed the proposal to revise the Wildlife Habitat Improvement Act to allow for grant funds and expenditures for monitoring weed treatment.
- 10:01:08 Ms. Dockter discussed the proposal to establish Mother's Day free fishing.
- 10:01:31 Ms. Dockter discussed the proposal to revise the motorized trail program.
- 10:02:55 Ms. Dockter discussed the proposal to revise come home to hunt requirements.
- 10:04:21 Ms. Dockter discussed the proposal to broaden the family members who can accompany non-resident youth while hunting.
- 10:05:06 Ms. Dockter discussed the proposal to revise license application requirements.

## **Public comment**

None

## **EQC questions/discussion**

- 10:06:39 Rep. White asked Ms. Dockter about the proposal to revise the Wildlife Habitat Improvement Act and if P-R funding can be used for monitoring.
- 10:08:56 Rep. White asked Ms. Dockter about the come home to hunt requirements.

- 10:11:08 Rep. White asked Ms. Dockter about the motorized trail program and the Statewide Comprehensive Outdoor Recreation Plan (SCORP).
- 10:12:30 Rep. White asked Ms. Dockter about HB 355 (2019) and the summer motorized recreation grant program.
- 10:13:52 Rep. White asked Ms. Dockter about HB 355 and including dog sleds in the trail pass proposal.
- 10:15:32 Rep. Curdy asked Ms. Dockter about the proposal to revise the Wildlife Habitat Improvement Act and increased costs for monitoring.
- 10:16:58 Rep. Hamlett asked Ms. Dockter about the procedure when a hunter kills a diseased animal.
- 10:18:42 Rep. Keane asked Ms. Dockter about the proposal to revise the Wildlife Habitat Improvement Act. He said he is concerned about the increased costs for monitoring and is not in favor of the proposal.

### **Committee action**

#### **Motion**

- 10:21:30 Rep. Curdy moved to accept the legislative proposals from FWP for pre-introduction.

#### **Substitute Motion**

- 10:21:57 Rep. Keane made a substitute motion to exclude the proposal to revise the Wildlife Habitat Improvement Act.

#### **Discussion on the motion**

- 10:22:11 Rep. White
- 10:23:31 Sen. Keane

#### **Vote**

- 10:23:43 The substitute motion carried by majority voice vote of those present and voting. Rep. Curdy voted no.
- 10:24:15 Rep. White asked Ms. Dockter if current statute includes Father's Day free fishing.
- 10:24:56 Rep. Curdy asked Ms. Dockter if the Wildlife Habitat Improvement Program Advisory Council requested the monitoring portion of the program and why.
- 10:26:35 Rep. Keane said if the EQC does not move the proposal forward for pre-introduction it gives a better opportunity to make revisions.
- 10:27:12 Sen. Flowers said he agrees with the comment made by Ms. Dockter regarding monitoring being an essential part of management and that it should fall under the purview of Pittman-Robertson funding. He said allowing some level of monitoring is important early in the program.

- 10:28:26 Rep. Keane said monitoring is important and he is concerned about the level of monitoring.
- 10:29:19 Rep. Hamlett said he recommends changing the proposed legislation to make monitoring a percentage of the number of weeds sprayed.

### **GRIZZLY BEAR ADVISORY COUNCIL REPORT**

- 10:31:26 Martha Williams, director, FWP, provided an overview of the Grizzly Bear Advisory Council and the process that was used to develop the final report.
- 10:37:09 Ms. Williams discussed the final report. ([Exhibit 10](#))

### **Public comment**

- 10:43:10 Nick Gevock, conservation director, Montana Wildlife Federation.

### **EQC questions/discussion**

- 10:46:30 Rep. White asked Ms. Williams about FWP's management plan for grizzly delisting and if hunting is removed or continues to be a possible management tool.
- 10:48:43 Rep. White commented on conflicts in the Ruby and Gravelly mountain ranges and issues with removing or abandoning some of the grazing leases by ranchers in the area.
- 10:50:21 Rep. Curdy asked Ms. Williams if the report covers the expanded use of range riders for land management along the Rocky Mountain front and other areas.
- 10:52:40 Rep. Curdy asked Ms. Williams about the importance of connectivity and the role the Department of Transportation had in the discussion on transportation and wildlife movement.
- 10:54:31 Rep. Hamlett asked Ms. Williams about discussions regarding mortality of humans by bears because of the increase in the number of bears and their range.
- 10:56:38 Mr. Gevock commented on the discussions the advisory council had on human safety.
- 10:58:34 Rep. Hamlett asked Mr. Gevock if an unlimited hunting season will influence bear behavior to stay away from human habitation.
- 11:00:31 Rep. Hamlett said he is concerned about human safety and the increase in the number of bears and their range.
- 11:03:36 Ms. Williams said the vision statement for the report recognizes a fully recovered grizzly bear population while maintaining the safety and quality of life.
- 11:04:46 Rep. Keane commented on moving forward on the management plan.

### **Lunch**

- 11:06:54 Recess

13:00:14            Reconvene  
Sen. Lang and Mr. Holmes joined the meeting.

### **MADISON RIVER USE PETITIONS**

13:02:00            Ms. Dockter provided information on the petitions received regarding the high level of recreation use on the Madison River. [\(Exhibit 11\)](#)

### **Public comment**

13:12:20            Mike Bias, executive director, Fishing Outfitters Association of Montana (FOAM).

13:15:22            Steve Luebeck, Skyline Sportsmen Association; George Grant Chapter of Trout Unlimited (TU), Anaconda Sportsmen Association. [\(Exhibit 12\)](#)

### **EQC questions/discussion**

13:19:13            Sen. Pomnichowski asked Ms. Dockter about the date for the most recent environmental assessment (EA).

13:20:15            Sen. Pomnichowski asked Ms. Dockter if draft rules are submitted to the Secretary of State by September 15, and published, if there is a 30-day public comment period.

13:21:01            Sen. Pomnichowski asked Ms. Dockter about the environmental assessment.

13:23:26            Rep. White asked Mr. Bias about the health of the fishery.

13:26:12            Rep. White asked Ms. Dockter about conflicting language in the two petitions and analyzing the economic impact in the EA.

13:31:44            Mr. Vincent commended the commission and the two parties in the petition for the proposals and moving forward before it becomes a bigger issue.

13:33:19            Mr. Vincent asked Ms. Dockter about choosing between the two different proposals. Ms. Dockter also said she will provide copies of the reports regarding impacts on the fishery to staff. [\(Exhibit 13\)](#)

13:37:26            Mr. Vincent asked Ms. Dockter about addressing non-commercial use by residents and nonresidents.

13:41:16            Mr. Vincent asked Mr. Bias and Mr. Luebeck about addressing non-commercial use.

13:41:54            Mr. Bias.

13:44:22            Mr. Luebeck.

13:46:34            Mr. Vincent asked Mr. Luebeck about any adverse economic effects from the rest and rotation rules on the Beaverhead River for balancing nonresident use.

13:49:40            Sen. Flowers thanked FOAM for bringing the proposed rule forward and George Grant TU.



- 13:52:35 Rep. Curdy asked Ms. Dockter about the EA and the need for a more thorough analysis.
- 13:55:37 Rep. Curdy asked Ms. Dockter about using the West Fork of the Bitterroot River as a model to determine use on the Madison River.
- 13:57:22 Rep. Hamlett commented on controlling demand and finding a solution for popularity and success.
- 13:59:29 Rep. Keane commented on moving forward and the public process.

### **FIRE SEASON AND WATER SUPPLY UPDATES**

- 14:00:13 Sonya Germann, Forestry Division administrator, DNRC, provided an update on the fire season.
- 14:03:44 Michael Downey, Water Planning Section supervisor, Water Resources Division, DNRC, provided an update on the water supply.
- 14:07:27 Ms. Germann continued her presentation.

### **Public comment**

None

### **EQC questions/discussion**

- 14:19:03 Rep. Curdy asked Ms. Germann about the availability of call-when-needed resources in Montana because of demands in other areas of the country.
- 14:19:49 Rep. Curdy asked Ms. Germann to provide a copy of the critical situation analysis after it is completed for the fire shelter deployment on the Bridger Foothills fire incident.
- 14:20:56 Sen. Pomnichowski asked Ms. Germann about the first resources responding in the initial attack on the Bridger Foothills fire.
- 14:22:41 Sen. Pomnichowski commented on the initial efforts to put out the fire and thanked the DNRC.
- 14:24:06 Rep. Keane commented on the resources available through the County Cooperative Program.

### **ST. MARY CONSTRUCTION UPDATE**

- 14:25:19 John Tubbs, director, DNRC, provided an update on repairs to the St. Mary construction project. (**Exhibit 14**)  
<https://youtu.be/SdHkZfVj7s>

### **Public comment**

None

### **EQC questions/discussion**

- 14:32:29 Rep. Keane thanked Mr. Tubbs and said he appreciates the work being done by the department.
- 14:33:24 Sen. Lang also thanked Mr. Tubbs.

**PUBLIC COMMENT ON ANY MATTER NOT CONTAINED IN THIS AGENDA BUT WITHIN THE EQC JURISDICTION**

None

**OTHER BUSINESS**

14:35:24 Mr. Kolman said Council members will receive an email survey for the staff evaluations.

**CLOSING STATEMENTS BY CHAIR AND OTHER EQC MEMBERS**

14:36:06 Rep. White gave his closing statement.

14:42:19 Rep. Keane thanked Rep. White for his work on the EQC and service to the legislature.

14:42:58 Rep. Keane provided comments on behalf of Sen. Vuckovich and thanked him for his service to the legislature and work on the EQC.

14:45:22 Mr. Vincent commented on working with Rep. White.

14:46:03 Rep. Hamlett thanked Rep. White for his service to the legislature and for his work as a member of the EQC and the state lab advisory committee. He thanked Sen. Vuckovich for his work as previous chairman of the EQC and thanked the EQC staff, Sen. Lang, and Rep. Keane.

14:48:04 Sen. Pomnichowski thanked the EQC members and staff.

14:50:02 Sen. Flowers thanked Rep. White for his work in the legislature, the EQC, and on the state lab advisory committee.

14:51:10 Rep. Curdy thanked Rep. White for his service. He thanked Mr. Kolman and Ms. Stockwell for their work and thanked the members of the EQC.

14:52:29 Sen. Lang thanked staff. He thanked Rep. White for his service and thanked the members of the EQC for their work.

14:53:07 Rep. Gunderson thanked Rep. White, Rep. Keane, the members of the EQC, and staff.

14:55:02 Rep. Keane commented on his time serving as chairman of the EQC. He thanked the Council members and staff.

**ADJOURNMENT**

14:58:11 Rep. Keane adjourned the meeting at 2:58 p.m.