MINUTES LOG
July 20, 2021
Zoom Video Conference

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MEMBERS PRESENT:
Sen. Mike Lang, Presiding Officer (R)
Mr. Bradley Hamlett, Public Member, Vice-Presiding Officer
Mr. John Brenden, Public Member
Rep. Willis Curdy (D)
Rep. Paul Fielder (R)
Sen. Pat Flowers (D)
Mr. Dave Galt, Public Member
Rep. Steve Gunderson (R)
Sen. Steve Hinebauch (R)
Sen. Tom Jacobson (D)
Rep. Jim Keane (D)
Sen. Cary Smith (R)
Sen. Mark Sweeney (D)
Ms. Monica Tranel, Public Member
Mr. Michael Freeman, Governor’s Representative

MEMBERS EXCUSED:
Rep. Jedediah Hinkle (R)
Rep. Marilyn Marler (D)
STAFF PRESENT:  
Joe Carroll, attorney  
Joe Kolman, legislative environmental analyst  
Nadine Spencer, secretary  
Hope Stockwell, research analyst

AGENDA (Attachment 1)

VISITORS' LIST None provided for Zoom meeting

COMMITTEE ACTION
The Environmental Quality Council (EQC):
- Voted to elect Sen. Mike Lang as presiding officer and Mr. Bradley Hamlett as vice-presiding officer of the EQC;
- Adopted the rules, procedures and guidelines for the 2021-22 interim.

CALL TO ORDER/ROLL CALL
08:04:05 Sen. Cary Smith called the meeting to order at 8:04 AM. The committee secretary took roll. (Attachment 2) Rep. Marler was excused and gave her proxy to Sen. Flowers. Rep. Hinkle was excused and gave his proxy to Rep. Gunderson. (Attachment 3)

Election of EQC Chair

Motion/Vote
08:06:07 Sen. Smith moved to nominate Sen. Lang as presiding officer of the EQC. The motion carried unanimously by voice vote of those present and voting.
08:06:40 Sen. Lang assumed the position as presiding officer.

ADMINISTRATIVE MATTERS

Staff Introductions
08:07:38 Joe Kolman, director, Office of Research and Policy Analysis; legislative environmental analyst, Legislative Services Division (LSD)
08:08:20 Hope Stockwell, research analyst, LSD
08:08:42 Nadine Spencer, committee secretary, LSD
08:09:10 Joe Carroll, staff attorney, LSD

Election of EQC Vice Chair
08:09:35 Sen. Lang opened nominations for vice chair.

Motion
08:09:50 Sen. Flowers moved to nominate Rep. Curdy as vice-presiding officer of the EQC.
**Substitute Motion/Vote**


**Committee Member Introductions**

08:13:39  Sen. Smith
08:14:44  Sen. Flowers
08:15:05  Rep. Curdy
08:15:21  Sen. Hinebauch
08:15:47  Rep. Keane
08:16:30  Mr. Galt
08:17:08  Ms. Tranel
08:17:32  Mr. Brenden
08:18:04  Sen. Sweeney
08:18:36  Sen. Jacobson
08:19:10  Rep. Fielder
08:19:45  Rep. Gunderson
08:20:49  Mr. Hamlett
08:21:32  Mr. Freeman
08:22:15  Sen. Lang
08:23:06  Sen. Lang said Taylor Eggebrecht is the remote meeting coordinator.

**EQC Budget Overview**

08:23:28  Mr. Kolman said the EQC budget for the interim is approximately $85,000.
08:24:05  Mr. Kolman said the EQC generally meets every other month. He said the next meeting is scheduled for September.
08:24:27  Mr. Kolman said the Council received a copy of the rules, procedures, and guidelines for interim committees approved by Legislative Council. *(Exhibit 1)*

**Adoption of EQC Rules**

08:25:08  Sen. Lang opened discussion on the rules and said the Council may want to consider allowing electronic proxies.
08:26:01  Mr. Brenden said he recommends allowing proxies the same way the EQC has done in past interims.
08:26:15  Rep. Fielder said he recommends that proxy votes not be allowed by absent members.
08:26:41  Rep. Keane said he recommends allowing proxy votes and that members should notify staff either electronically or in writing if they will be absent.

**Motion/Vote**

08:27:06  Rep. Keane moved to adopt the rules of procedure and to allow proxies the same way the EQC has done during past interims. The motion carried unanimously by voice vote of those present and voting.
COUNCIL AND STAFF RESPONSIBILITIES
08:28:15  Mr. Kolman said council members received a copy of A Council Member's Guide to the Environmental Quality Council. (Exhibit 2)

WATER POLICY INTERIM COMMITTEE UPDATE
08:31:57  Jason Mohr, research analyst, LSD, provided an update on the Water Policy Interim Committee (WPIC).
08:32:55  Mr. Mohr discussed HJ 37 – study of Lake Koocanusa selenium standard.
08:35:31  Mr. Mohr said the WPIC voted to form a special committee on HJ 37 with members of the EQC and the WPIC. He said the EQC received a letter asking the Council to appoint four members to the select committee. (Exhibit 3)
08:36:01  Mr. Mohr discussed SJ 28 – study of Flathead River erosion.
08:36:30  Mr. Mohr discussed additional committee topics.
08:38:00  Sen. Lang thanked Mr. Mohr. He said the Council will hear from the Department of Environmental Quality (DEQ) later in the agenda and can discuss the letter from the WPIC after the break.

ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE UPDATE
08:38:28  Trevor Graff, research analyst, LSD, said the Energy and Telecommunications Interim Committee (ETIC) is scheduled to meet on July 23.
08:39:00  Mr. Graff discussed SJ 3 – provide for a feasibility study of advanced nuclear reactors.
08:40:13  Mr. Graff discussed SJ 33 – interim study of Montana electric grid capacity.
08:41:38  Mr. Graff discussed the use of facial recognition technology.
08:42:22  Mr. Graff discussed proposed member topics.
08:43:04  Mr. Graff said the handbook Understanding Energy in Montana will be updated.
08:43:50  Mr. Graff said the ETIC will look at Montana energy policy and the Universal System Benefits Program (USB).

EQC questions and discussion
08:44:13  Rep. Keane asked Mr. Graff if there has been any proposal made to discuss lithium in relation to energy.
08:45:23  Mr. Brenden asked Mr. Graff if the 2021 Legislature moved to make hydro power green power.
08:48:07  Mr. Hamlett asked Mr. Graff if the committee will look at changes in how electricity is used.
08:50:30  Sen. Lang commented on the nuclear power study and requested that the ETIC keep the EQC updated.

STATUTORY ADMINISTRATIVE RULE REVIEW
08:51:07  Mr. Carroll said the committee has purview of rules proposed by the Department of Natural Resources and Conservation (DNRC), DEQ, and the Department of Fish, Wildlife, and Parks (FWP).
08:52:46  Mr. Carroll said there are currently four rules being proposed. (Exhibit 4)
EQC questions and discussion
08:54:01 Sen. Lang said the rule on black bear policy is in statute. He said he would like the EQC to continue to follow the rule creating a list of states and provinces with documented occurrences of chronic wasting disease and provide for the use of urine-based scents from states and provinces not on the list.

08:54:44 Sen. Lang asked Mr. Carroll about the rule to delay implementation of the Madison River commercial use cap.

08:55:05 Sen. Lang said he recommends that the EQC look at the amount of use on rivers in the state and the interaction between fish and game.

08:56:16 Rep. Fielder asked Mr. Carroll about using deer urine from Montana.

08:57:23 Sen. Lang requested a copy of the list of states and provinces when it becomes available.

08:57:41 Rep. Fielder asked Mr. Carroll if Montana is on the list.

AGENCY OVERVIEWS

Department of Natural Resources and Conservation
08:58:25 Amanda Kaster, director, DNRC, provided an overview of the agency. (Exhibit 5)

09:01:19 Ms. Kaster presented an update on the Trust Lands Management Division.

09:04:09 Ms. Kaster presented an update on the Conservation Resource and Development Division.

EQC questions and discussion
09:06:15 Rep. Hamlett asked Ms. Kaster about the court case regarding the DNRC and water usage and development on state lands.

09:07:37 Sen. Lang asked Ms. Kaster if the department has received a response from the U.S. Department of the Treasury regarding funds from the American Rescue Plan Act.

Department of Environmental Quality
09:09:02 Chris Dorrington, director, DEQ, provided an overview of the agency. (Exhibit 6)

09:09:57 Mr. Dorrington discussed the bills passed during the legislative session.

09:12:41 Mr. Dorrington introduced George Mathieus, deputy director; Jenny Chambers, Waste Management and Remediation Division administrator; and Amy Steinmetz, Water Quality Division administrator and said they are available for questions.

EQC questions and discussion
09:14:32 Sen. Lang asked Mr. Dorrington if he can be available later for the discussion on the letter from the WPIC on HJ 37.

09:14:59 Mr. Hamlett asked Mr. Dorrington about the wastewater spill from the Yellowstone Club, into the Gallatin River, in 2016 and if there have been any changes in monitoring and reporting requirements for public versus privately owned systems. Mr. Dorrington redirected the question to Mr. Mathieus.

09:18:57 Ms. Steinmetz provided information on reporting requirements for public and private water systems and said she will follow up with the Council on the reporting requirements for wastewater systems.
09:19:49 Mr. Hamlett said he would like to know if anything has changed to better monitor wastewater systems since the spill occurred.

09:20:51 Mr. Dorrington said the department will provide information on reporting and monitoring requirements for private systems and what the department is doing to protect watersheds from system operations including requirements to notify the agency if there is a leak.

09:21:31 Rep. Fielder asked Mr. Dorrington about tracking air quality standards due to wildfire.

09:26:45 Rep. Gunderson asked Mr. Dorrington about the recent mine waste spill into Ten Mile Creek.

09:29:24 Recess
09:39:39 Reconvene

Department of Fish, Wildlife, and Parks
09:39:56 Hank Worsech, director, FWP, provided an overview of the agency. *(Exhibit 7)*
09:40:54 Mr. Worsech introduced Ron Jendro, legislative liaison, FWP.
09:41:29 Mr. Worsech discussed the newly configured Parks and Outdoor Recreation Division.

EQC questions and discussion
09:42:51 Mr. Brenden asked Mr. Worsech for an update on feral pigs and if they have been seen in Montana.
09:44:54 Mr. Brenden asked Mr. Worsech about proposals from the Fish and Wildlife Commission on elk shoulder seasons.
09:45:34 Rep. Gunderson asked Mr. Worsech to provide an update on Hell Creek State Park.
09:47:30 Rep. Gunderson said he would like to continue to receive updates on the transfer of Hell Creek park operations to the Little Shell Tribe.
09:48:08 Sen. Lang asked Mr. Worsech about wildlife habitat priorities.
09:49:50 Mr. Galt asked Mr. Worsech if the transfer of Hell Creek State Park operations will remove its status as a Montana state park and its corresponding funding.
09:50:26 Rep. Curdy asked Mr. Worsech to send updates on the transfer to all EQC members and to provide information to the public on the process.
09:53:07 Sen. Lang asked Mr. Worsech about access for residents of private property after the transfer is complete.
09:54:09 Mr. Brenden asked Mr. Worsech about the contract with the Little Shell Tribe.
09:55:57 Sen. Jacobson asked Mr. Worsech about maintaining the resources the state has put into the park.
09:58:26 Sen. Lang asked Mr. Worsech about an appraisal and getting the economic value for the property.
09:59:46 Sen. Lang asked Mr. Worsech when a final decision will be made and about involvement by the EQC.
10:00:11 Rep. Gunderson asked Mr. Worsech about receiving an in-depth historical recollection of what has taken place.
10:05:11 Rep. Keane commended the department for pursuing the transfer and letting the U.S. Army Corps of Engineers take responsibility.
Sen. Jacobson commented on the transfer and said he hopes that the Little Shell Tribe has the capacity to do what the state has done.

Sen. Lang asked Mr. Worsech about the timeframe for the final process.

Sen. Lang said it is important that the administration work with the federal administration to address the thoughts and concerns of the state and its citizens.

Mr. Hamlett said he supports the Little Shell Tribe in its endeavor. He asked Mr. Worsech about the grizzly bear population in Montana and said he would like information on all the encounters with people occurring in the last several years.

Sen. Lang asked Mr. Worsech if there is anything that the EQC needs to be aware of with the FWP and the U.S. Fish and Wildlife Service since the 2021 legislative session ended.

Sen. Lang commented on better cooperation with the Charles M. Russell National Wildlife Refuge (CMR) on elk management.

Rep. Fielder said the Fish and Wildlife Commission is meeting, before the next EQC meeting, to make rules on wolf management based on the legislation passed during the 2021 session. He said he is concerned that the legislative intent of the bills will not be followed.

**ORPHAN SHARE REMEDIAL ACTION UPDATE (SB 96, 2015)**

Terri Mavencamp, Contamination Site Cleanup Bureau chief, Waste Management and Remediation Division, DEQ, discussed how orphan share funding in remedial action was used in the last fiscal year. (Exhibit 8)

**LIBBY ASBESTOS SUPERFUND OVERSIGHT COMMITTEE REPORT (HB 30, 2019)**

Jenny Chambers, Waste Management and Remediation Division administrator, DEQ, presented the annual report on behalf of the Libby Asbestos Oversight Committee. (Exhibit 9)

**EQC questions and discussion**

Rep. Gunderson discussed working with the DEQ.

Sen. Lang thanked Ms. Chambers.

**FIRE SEASON & WATER SUPPLY UPDATE**

Sonya Germann, Forestry Division administrator, DNRC, provided an update on the fire season.

Ann Schwend, water resources planner, DNRC, presented information on the drought in Montana. (Exhibit 10)

**EQC questions and discussion**

Sen. Jacobson asked Ms. Schwend about the outlook for fall and winter.

Sen. Lang commented on the drought in eastern Montana and grasshopper movement.

Rep. Curdy asked Ms. Germann about compensation from the state for volunteers fighting fires.

Mr. Brenden asked Ms. Germann about the financial arrangements the state has with federal agencies when fire starts on federal land.

Mr. Hamlett asked Ms. Germann about the status of the fire fund.
Mr. Hamlett asked Ms. Germann about the DNRC air resources that are available.

Ms. Schwend said the Governor's Drought and Water Supply Advisory Committee meets monthly and receives updates from the National Weather Service and other agencies. She said the next meeting is August 12.

Mr. Freeman said he is available to help coordinate and provide perspective from the various agencies and with the Governor's office.

Rep. Keane commented on conditions within the state.

Sen. Hinebauch said it is important to work together and communicate with local people when responding to fires.

Sen. Lang asked Ms. Germann about communicating with local governments during emergency response.

Mr. Hamlett asked Ms. Germann if there was a problem with miscommunications at the beginning of the Robertson Draw fire near Red Lodge.

Mr. Hamlett asked Ms. Germann about replacing the DNRC helicopter that was damaged.

Mr. Hamlett commented on putting more fire resources in eastern Montana.

Rep. Curdy asked Ms. Germann if the state has been able to staff all its fire engines.

Sen. Lang thanked Ms. Germann and Ms. Schwend and offered support from the EQC.

Sen. Lang opened discussion on the letter from the WPIC regarding forming a select committee on HJ 37.

Rep. Gunderson said he recommends waiting to act on the letter until the EQC completes its work plan. He said he has some alternative solutions to HJ 37 being assigned to the WPIC.

Sen. Lang said without objection the Council can discuss the letter at the September meeting.

Rep. Keane agreed and said he does not want the EQC to handle water policy.

Sen. Lang said he wanted to make the EQC aware of the letter and request from the WPIC. He asked Mr. Kolman to provide his input.

Mr. Kolman said the EQC can wait until it finalizes its work plan in September.

Sen. Lang asked Mr. Brenden about the Pacific NorthWest Economic Region (PNWER) and issues with the St. Mary's water project. He asked if the Canadian government is participating in the annual convention.

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Sen. Lang asked Mr. Kolman about the cost of the field trip to Great Falls and Havre.
Overview of Work Plan
11:23:17 Mr. Kolman provided information on the work plan and the decision matrix. *(Exhibit 11)*

Discussion and Adoption of Interim EQC Calendar
11:29:00 Mr. Brenden asked about the date for the September meeting.
11:30:17 Sen. Lang and Mr. Hamlett said they agreed with the meeting dates as presented. Mr. Kolman said he will keep the meeting dates as scheduled. *(Exhibit 12)*
11:30:56 Rep. Fielder asked Sen. Lang about commenting on the wolf proposals that the Fish and Wildlife Commission will be considering.
11:33:25 Rep. Fielder asked Mr. Kolman to provide a copy of FWP's proposals to the members of the EQC.
11:35:33 Sen. Lang said the Council received a copy of natural resource legislation passed during the 2021 session. *(Exhibit 13)* He said Council members need to review the information and give direction to staff for the work plan.
11:36:51 Rep. Fielder asked Mr. Kolman about the options the EQC has to review, approve, or reject department rules.
11:38:34 Mr. Carroll provided information on making informal and formal objections to a rule.
11:42:07 Mr. Brenden asked if FWP has decided on the two new district lines for the Fish and Wildlife Commission. Mr. Kolman said he can find out. Mr. Brenden said he would like a map of where the districts are and when it takes effect.
11:43:16 Mr. Brenden requested a copy of a map showing the division lines. Sen. Hinebauch said the lines are the same as the hunting districts.

PUBLIC COMMENT ON ANY MATTER NOT CONTAINED IN THIS AGENDA AND THAT IS WITHIN THE JURISDICTION OF THE EQC
11:44:01 Jim Simpson, Montana Association of Conservation Districts, commented on HJ 27 and provided information on conservation districts.

11:47:20 The EQC received additional public comment. *(Exhibit 14)*

11:47:25 Sen. Lang thanked the members of the EQC. He said Council members should be ready to discuss the work plan at the September meeting.

ADJOURNMENT
11:48:08 Sen. Lang adjourned the meeting at 11:48 a.m.