



## ENVIRONMENTAL QUALITY COUNCIL 67th Montana Legislature

### SENATE MEMBERS

Pat Flowers  
Steve Hinebaugh  
Tom Jacobson  
Mike Lang  
Cary Smith  
Mark Sweeney

### HOUSE MEMBERS

Willis Curdy  
Paul Fielder  
Steve Gunderson  
Jedediah Hinkle  
Jim Keane  
Marilyn Marler

### COMMITTEE STAFF

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

### PUBLIC MEMBERS

John Brenden  
Dave Galt  
Bradley Hamlett  
Monica Tranel  
Michael Freeman, Governor Greg  
Gianforte Designated Representative

# MINUTES LOG

July 20, 2021  
Zoom Video Conference

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.

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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 Hinebaugh (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**

08:10:08 Mr. Brenden made a substitute motion to nominate Mr. Hamlett as vice-presiding officer. The motion carried 10-6 by roll call vote. Rep. Curdy, Rep. Keane, Rep. Marler, Sen. Flowers, Sen. Sweeney and Ms. Tranel voted no. Rep. Hinkle voted yes by proxy. Rep. Marler voted no by proxy. ([Attachment 4](#))

### **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 Worsch, director, FWP, provided an overview of the agency.  
(Exhibit 7)

09:40:54 Mr. Worsch introduced Ron Jendro, legislative liaison, FWP.

09:41:29 Mr. Worsch discussed the newly configured Parks and Outdoor Recreation Division.

### **EQC questions and discussion**

09:42:51 Mr. Brenden asked Mr. Worsch for an update on feral pigs and if they have been seen in Montana.

09:44:54 Mr. Brenden asked Mr. Worsch about proposals from the Fish and Wildlife Commission on elk shoulder seasons.

09:45:34 Rep. Gunderson asked Mr. Worsch 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. Worsch about wildlife habitat priorities.

09:49:50 Mr. Galt asked Mr. Worsch 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. Worsch 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. Worsch about access for residents of private property after the transfer is complete.

09:54:09 Mr. Brenden asked Mr. Worsch about the contract with the Little Shell Tribe.

09:55:57 Sen. Jacobson asked Mr. Worsch about maintaining the resources the state has put into the park.

09:58:26 Sen. Lang asked Mr. Worsch about an appraisal and getting the economic value for the property.

09:59:46 Sen. Lang asked Mr. Worsch when a final decision will be made and about involvement by the EQC.

10:00:11 Rep. Gunderson asked Mr. Worsch 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.

10:07:02 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.

10:07:50 Sen. Lang asked Mr. Worsech about the timeframe for the final process.

10:09:30 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.

10:09:59 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.

10:15:33 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.

10:16:27 Sen. Lang commented on better cooperation with the Charles M. Russell National Wildlife Refuge (CMR) on elk management.

10:17:07 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)**

10:20:31 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)**

10:25:26 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**

10:30:12 Rep. Gunderson discussed working with the DEQ.

10:32:17 Sen. Lang thanked Ms. Chambers.

#### **FIRE SEASON & WATER SUPPLY UPDATE**

10:32:44 Sonya Germann, Forestry Division administrator, DNRC, provided an update on the fire season.

10:44:57 Ann Schwend, water resources planner, DNRC, presented information on the drought in Montana. [\(Exhibit 10\)](#)

#### **EQC questions and discussion**

10:53:25 Sen. Jacobson asked Ms. Schwend about the outlook for fall and winter.

10:54:01 Sen. Lang commented on the drought in eastern Montana and grasshopper movement.

10:54:22 Rep. Curdy asked Ms. Germann about compensation from the state for volunteers fighting fires.

10:55:39 Mr. Brenden asked Ms. Germann about the financial arrangements the state has with federal agencies when fire starts on federal land.

10:57:01 Mr. Hamlett asked Ms. Germann about the status of the fire fund.

10:57:26 Mr. Hamlett asked Ms. Germann about the DNRC air resources that are available.

10:59:09 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.

10:59:40 Mr. Freeman said he is available to help coordinate and provide perspective from the various agencies and with the Governor's office.

11:00:32 Rep. Keane commented on conditions within the state.

11:01:41 Sen. Hinebauch said it is important to work together and communicate with local people when responding to fires.

11:03:00 Sen. Lang asked Ms. Germann about communicating with local governments during emergency response.

11:05:18 Mr. Hamlett asked Ms. Germann if there was a problem with miscommunications at the beginning of the Robertson Draw fire near Red Lodge.

11:06:55 Mr. Hamlett asked Ms. Germann about replacing the DNRC helicopter that was damaged.

11:07:38 Mr. Hamlett commented on putting more fire resources in eastern Montana.

11:08:48 Rep. Curdy asked Ms. Germann if the state has been able to staff all its fire engines.

11:11:20 Sen. Lang thanked Ms. Germann and Ms. Schwend and offered support from the EQC.

#### **INTERIM ITEMS**

11:12:09 Sen. Lang opened discussion on the letter from the WPIC regarding forming a select committee on HJ 37.

11:12:41 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.

11:13:42 Sen. Lang said without objection the Council can discuss the letter at the September meeting.

11:14:34 Rep. Keane agreed and said he does not want the EQC to handle water policy.

11:15:02 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.

11:15:20 Mr. Kolman said the EQC can wait until it finalizes its work plan in September.

11:15:37 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.

11:19:22 Sen. Lang asked Mr. Freeman if the state is doing anything to solicit participation from Alberta and Saskatchewan.

11:21:00 Mr. Hamlett said there are joint issues with Canada that PNWER addresses and it is important that they are invited to follow the meeting. He said it is important to know what both sides are doing.

11:21:57 Mr. Brenden said Sen. Mike Cuffe, SD 1, is president of PNWER. He said the Columbia River treaty is up for negotiation. He said they are trying to renegotiate the treaty and be cognizant of issues on both sides of the border.

11:22:43 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.

11:34:17 Sen. Hinebauch asked Rep. Fielder about his concern.

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.

11:42:53 Sen. Lang asked Rep. Fielder about the new districts.

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.