



## ENVIRONMENTAL QUALITY COUNCIL 68th Montana Legislature

### SENATE MEMBERS

Pat Flowers  
Steve Hinebauch  
Tom Jacobson  
Mike Lang  
Ryan Lynch  
Cary Smith

### 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

### PUBLIC MEMBERS

John Brenden  
Dave Galt  
Bradley Hamlett  
Monica Tranel  
Mike Freeman, Governor  
Designated Representative

# MINUTES LOG

July 19, 2022  
Room 317 and Zoom  
Helena, Montana

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)  
Bradley Hamlett, Vice Presiding Officer  
John Brenden, Public Member  
Rep. Willis Curdy (D)  
Rep. Paul Fielder (R)  
Sen. Pat Flowers (D)  
Dave Galt, Public Member  
Rep. Steve Gunderson (R)  
Sen. Steve Hinebauch (R)  
Rep. Jedediah Hinkle (R)  
Sen. Tom Jacobson (D)  
Rep. Jim Keane (D)  
Rep. Marilyn Marler (D)  
Sen. Cary Smith (R)  
Monica Tranel, Public Member  
Mike Freeman, Governor Designated Representative

### **MEMBERS EXCUSED:**

Sen. Ryan Lynch (D)

**STAFF PRESENT:**

Joe Carroll, Attorney  
Joe Kolman, Legislative Environmental Analyst  
Bethany McDowell James, Secretary

**AGENDA ([Attachment 1](#))**

**VISITORS' LIST ([Attachment 2](#))**

**COMMITTEE ACTION**

The Environmental Quality Council (EQC):

- Voted to approve the HJ27 draft legislation.

**CALL TO ORDER/ROLL CALL**

08:31:42 Sen. Mike Lang called the meeting to order at 8:31 AM. The committee secretary took roll. **(Attachment 3)** Sen. Lynch was excused and gave his proxy to Rep. Keane. Mr. Tranel joined the meeting at 9:20 a.m. and gave her proxy to Rep. Curdy. **(Attachment 4)**

08:33:21 Sen. Lang requested a moment of silence for Sen. Gene Vuckovich, SD 39.

08:33:30 Rep. Keane shared a memory of Sen. Vuckovich.

**ADMINISTRATIVE MATTERS – JOE KOLMAN, LSD ENVIRONMENTAL POLICY AND RESEARCH DIRECTOR**

08:35:11 Jerry Howe, executive director, Legislative Services Division (LSD)

08:36:12 Mr. Kolman gave an update on the Energy and Telecommunications Interim Committee (ETIC) and the Water Policy Interim Committee (WPIC).

**EQC questions/discussion**

08:41:05 Mr. Hamlett asked for a report on current-use percentages on electricity.

08:42:21 Rep. Curdy commented on boating activity on the lower Flathead River.

**HJ27 CONSERVATION DISTRICT FUNDING**

**Overview of Draft Legislation**

08:43:48 Mr. Kolman discussed HJ 27 draft legislation. **(Exhibit 1)**

**EQC questions/discussion**

08:46:00 Sen. Lang commented on potential challenges.

08:47:02 Sen. Jacobson asked Mr. Kolman about the source of funds.

**Public comment on HJ 27 Draft Legislation**

08:47:51 Rebecca Boslough-King, Montana Association of Conservation Districts.

**Motion**

08:48:37 Mr. Brendan moved to approve the HJ 27 draft legislation.

### **Discussion on the Motion**

- 08:48:56 Sen. Jacobson asked for clarification on the motion.
- 08:49:51 Rep. Keane commented on potential solutions that the draft legislation will implement.
- 08:50:41 Rep. Marler commented on moving forward with the bill draft.
- 08:51:04 Rep. Fielder commented on equal treatment for all conservation districts.
- 08:51:28 Rep. Curdy commented on the WPIC tour.
- 08:52:08 Mr. Brendan commented on conservation district names.
- 08:53:19 Rep. Hinkle commented on objections to using marijuana revenue for conservation issues.
- 08:53:55 Sen. Jacobson asked about how the bill used marijuana tax with the coal trust fund. He asked about options for counties to receive the marijuana tax revenue.
- 08:56:27 Rep. Keane commented on coal revenue shared across the state.
- 08:56:57 Rep. Marler supported districts sharing recreational marijuana funds.
- 08:57:53 Sen. Flowers asked Ms. Boslough-King about districts' ability to opt out of receiving revenue from recreational marijuana.
- 09:00:27 Mr. Hamlett commented on using dollars from the Montana general fund.
- 09:01:31 Rep. Hinkle asked about changing the language in the bill to outline district choices for recreational marijuana funds and coal tax funds.
- 09:02:46 Sen. Jacobson opposed changing the language in the draft legislation.
- 09:03:19 Rep. Fielder stated his opposition to the bill draft.

### **Vote:**

- 09:05:23 The motion carried 12 - 2 by roll call vote with Rep. Fielder and Rep. Hinkle voting no. Sen. Lynch and Ms. Tranel voted by proxy.

### **TRAPPING UPDATE (ONLINE TRAINING; INCIDENTAL TRAPPING) – KEN MCDONALD, FWP WILDLIFE DIVISION ADMINISTRATOR**

- 09:08:02 Mr. McDonald.

### **Public comment on Trapping Update**

- 09:13:12 Mark Cooke, Wolves of the Rockies.
- 09:16:38 Jon Haufler, Seeley Lake. **(Exhibit 2)**
- 09:19:59 KC York, Trap Free Montana. **(Exhibit 3)**
- 09:20:47 Ms. Tranel joined the meeting.

### **EQC questions/discussion**

- 09:25:01 Mr. Brendan asked Mr. McDonald about bobcat reduction. He commented on the bobcat population around Ashley Lake.
- 09:26:02 Rep. Marler asked Mr. McDonald about sharing incidental trapping data.
- 09:29:50 Rep. Fielder asked Mr. McDonald about wolf trapping in grizzly bear occupancy zones. He asked about the number of grizzly bears euthanized outside of recovery zones due to incidental trapping.
- 09:32:47 Rep. Fielder asked about bobcat season quotas and season closures.

- 09:35:26 Sen. Flowers asked Mr. McDonald about citizen advisory committees assigned to address conflicts between trappers and dog-owners.
- 09:38:19 Rep. Marler commented on the meeting mentioned by Sen. Flowers.
- 09:38:52 Mr. Hamlett asked Mr. McDonald about self-reporting consequences.
- 09:39:45 Mr. Hamlett followed by asking about incidental pet-trapping. He commented on potential challenges with self-reporting.

**HABITAT MONTANA UPDATE – KEN MCDONALD**

- 09:44:21 Mr. McDonald. **(Exhibit 4) (Exhibit 5)**

**Public comment**

- 09:57:23 Marcus Strange, Wildlife Federation

**EQC Questions/Discussion**

- 09:59:26 Rep. Gunderson asked about landowner mineral rights.
- 10:02:12 Mr. Brendan asked Mr. McDonald to clarify his response to Rep. Gunderson.
- 10:03:51 Sen. Lang commented on exemptions. He followed by asking Mr. McDonald to reference his document. (See exhibit 4)
- 10:05:10 Mr. Galt asked about the sage grouse program.
- 10:06:21 Mr. Galt asked about credit related to sage grouse.
- 10:07:15 Mr. Galt commented on mineral ownership.
- 10:07:32 Rep. Gunderson clarified his earlier question.
- 10:07:58 Mr. Hamlett commented on Montana land in split estate status. He asked about FWP leases that restrict mineral development.
- 10:11:37 Mr. Hamlett asked Mr. Galt about the agreement requirements for mineral development on shared land.
- 10:13:09 Sen. Hinebauch asked about horizontal drilling. He asked about shared ownership of minerals.
- 10:14:13 Mr. Galt responded to Sen. Hinebauch's question.
- 10:14:44 Sen. Jacobson asked about federal dollars related to the leases.
- 10:17:20 Sen. Jacobson asked for clarification.
- 10:18:03 Sen. Flowers asked about funding from Pittman-Robertson (PR) dollars and additional funding.
- 10:19:34 Sen. Flowers commented on funds directed toward a lease. He asked about citizen preference between perpetual easements and leases.
- 10:24:36 Sen. Flowers commented on the difference between perpetual easements and leases. He asked about policy decisions on directing funds.
- 10:28:08 Mr. Brendan commented on split estate land. He asked about term lease contracts including access restrictions.
- 10:30:59 Mr. Brendan asked about FWP easement monitoring. He asked about violation repercussions.
- 10:33:22 Mr. Hamlett asked about land board approval for different easements.
- 10:39:47 Rep. Fielder asked about land board involvement in easement approvals.
- 10:41:34 Rep. Fielder asked about property taxes on different types of land.
- 10:43:02 Rep. Curdy asked about PR funding for each year. He asked about draft legislation intended to eliminate PR funds.

10:44:17 Rep. Curdy asked Mr. McDonald about Plum Creek lands under lease.  
10:46:20 Rep. Curdy asked about Mr. Strange's earlier comments and how FWP will address those concerns.  
10:48:21 Mr. Galt commented on sage grouse habitat quality.  
10:49:40 Mr. Brendan asked about organizations that might qualify leasing land to FWP.  
10:50:15 Rep. Marler commented on Habitat Montana funds from specific entities and requested that Mr. Kolman get data regarding those funds.  
10:51:48 Mr. Kolman responded to Rep. Marler's comment.  
10:53:05 Mr. Hamlett asked Mr. Kolman about the value of leases.  
10:53:55 Rep. Marler commented on land board authorization.  
10:54:51 Sen. Hinebauch commented on work done by FWP.  
10:55:48 Sen. Jacobson asked Mr. McDonald about lease value estimations.  
10:58:31 Sen. Jacobson asked about termination clauses within the lease. He asked about leasehold improvements within the leases.  
10:59:56 Sen. Lang commented on perpetual easements for sage grouse. He commented on future developments provided by easements.

### **RECESS**

11:03:13 Reconvened at 11:23:14

### **FIRE SEASON & WATER SUPPLY UPDATE – MATTHEW HALL, FIRE BUREAU CHIEF; MICHAEL DOWNEY, DROUGHT PROGRAM COORDINATOR, DNRC**

11:23:55 Mr. Hall.  
11:28:51 Mr. Downey. **(Exhibit 6)**

### **Public comment**

11:40:30 None

### **EQC questions/discussion**

11:41:47 Ms. Tranel asked Mr. Downey about crop production statistics.  
11:44:17 Mr. Brendan commented on the crop outlook in Montana.  
11:45:08 Mr. Hamlett commented on weather trends across the state versus confined weather patterns.  
11:47:05 Sen. Lang commented on stock water.  
11:47:44 Rep. Curdy asked Mr. Hall about staffing.  
11:49:01 Rep. Curdy asked Mr. Hall about contracted aviation assets.

### **Lunch/Recess**

11:49:49 Reconvened at 13:01:07

### **OPENCUT MINING UPDATE**

### **History of Statutory Changes – Joe Kolman**

13:01:34 Mr. Kolman. **(Exhibit 7)**

**Current Program Update – Sonja Nowakowski, Air, Energy, and Mining Division Administrator, DEQ**

13:16:44 Ms. Nowakowski. **(Exhibit 8)**

**EQC questions/discussion**

13:33:51 Rep. Gunderson asked Ms. Nowakowski about SB343 (2019) and if an abbreviated form was designed.

13:34:39 Rep. Curdy asked Ms. Nowakowski about DEQ oversight on opencut operations. He followed by asking about public comments on those operations.

13:36:26 Rep. Curdy asked about DEQ management of water issues in mining areas. He followed by asking about public understanding of the management process.

13:39:30 Rep. Gunderson asked Ms. Nowakowski about statutes in the Opencut Mining Act.

13:41:00 Sen. Flowers asked Ms. Nowakowski about mine reclamation dates and mines that do not have closing dates.

13:43:47 Sen. Flowers commented on the Opencut Mining program, staffing, and maintaining environmental quality.

13:44:55 Ms. Tranel asked Ms. Nowakowski about the DEQ public comment process.

13:46:47 Ms. Tranel asked about the process of notifying landowners of applications.

13:48:09 Ms. Tranel asked about the process of notifying counties of expired permits.

13:49:22 Sen. Lang asked Ms. Nowakowski the age of the oldest permits. He followed by commenting on county objections to opening opencut mining sites.

13:51:08 Mr. Hamlett asked Ms. Nowakowski about legal challenges. He commented on public access to news.

13:52:07 Sen. Lang commented on newspaper accessibility.

13:52:35 Sen. Jacobson commented on a prior study legislation that outlined requirements for public notification from government agencies.

13:53:08 Mr. Kolman commented on the study bill being discussed in the Local Government Interim Committee.

13:53:30 Sen. Hinebauch commented on public challenges with roads and gravel.

13:54:09 Ms. Tranel commented on the public responses.

**Public comment on Opencut Mining Act**

13:55:53 David Smith, Montana Contractors Association. **(Exhibit 9)**

14:00:18 Jennifer Knoetgen, Arlee.

14:03:18 Jim Coefield, Arlee.

14:10:26 Doug Olson, Arlee.

14:14:03 Shelly Fyant, Arlee.

14:19:21 Anne Hedges, Montana Environmental Information Center.

14:24:34 Dixie Osbourne, Shepherd. **(Exhibit 10)**

**EQC questions/discussion**

14:33:48 Ms. Tranel commented on legislator responsibility.

14:35:01 Rep. Gunderson asked Ms. Nowakowski about documented fires in gravel pits. He also asked for information on acid drainage.

14:35:49 Sen. Lang asked Ms. Nowakowski about the contents of the Opencut permit.

- 14:36:36 Rep. Gunderson asked Ms. Nowakowski about Ms. Osbourne's comment. He followed by asking about the status of gravel pits permitted before HB 599 passed into law.
- 14:37:57 Rep. Marler commented on a written public received by the council. **(Exhibit 11)** She continued by asking Rep. Gunderson about recommendations within the comment.
- 14:39:50 Rep. Gunderson responded to Rep. Marler's question.
- 14:41:26 Rep. Curdy asked Ms. Nowakowski about operator application changes after HB 599 passed into law.
- 14:42:30 Mr. Galt asked Ms. Nowakowski about the parameters of the opencut permit. He followed by asking about water analysis that DEQ oversees.

**RULE REVIEW – JOE CARROLL, LSD STAFF ATTORNEY**

- 14:44:33 Mr. Carroll. **(Exhibit 12)**

**EQC questions/discussion**

- 14:48:15 Sen. Flowers asked Ms. Nowakowski for information on rule changes regarding hard rock mining.
- 14:49:36 Sen. Lang commented on MAR Notice No. 36-22-215.

**AGENCY UPDATES FROM DIRECTORS**

**Department of Environmental Quality – Chris Dorrington, Director, DEQ**

- 14:50:25 Director Dorrington.

**EQC questions/discussion**

- 14:58:58 Mr. Galt asked Mr. Dorrington about numeric standards versus narrative standards related to water quality.
- 15:00:04 Rep. Curdy stated his concerns regarding extra tasks for the DEQ.
- 15:01:48 Mr. Hamlett asked Mr. Dorrington about watershed approach analyzed with numeric standards.
- 15:03:34 Mr. Hamlett followed by asking for a specific example of the watershed approach.
- 15:04:58 Rep. Keane asked Mr. Dorrington about a bill relating to water quality.

**Department of Fish, Wildlife, and Parks – Hank Warsech, Director, FWP**

- 15:05:44 Director Warsech.

**EQC questions/discussion**

- 15:14:39 Mr. Hamlett asked Mr. Warsech about potential federal challenges to legislation.
- 15:17:34 Rep. Hinkle asked Mr. Warsech about data on decreased pressure on public land due to hunting restrictions. He followed by asking about a timeline for a proposal.
- 15:21:08 Rep. Fielder commented on the current year's reduced wolf harvest.
- 15:22:01 Mr. Hamlett commented on perceptions regarding FWP wolf management.
- 15:22:48 Rep. Marler asked Mr. Warsech for clarification on the different groups aimed at managing elk populations and conservation.

**Department of Natural Resources and Conservation – Amanda Kaster, Director, DNRC**

15:24:51 Director Kaster.

**EQC questions/discussion**

- 15:32:27 Ms. Tranell asked Ms. Kaster about meetings regarding land exchanges. She asked about public accessibility to the meetings and materials.
- 15:34:56 Rep. Curdy asked Ms. Kaster about standards for flood repair on irrigation systems. He asked for updates on high-hazard dams.
- 15:37:24 Rep. Keane asked Ms. Kaster about money allocated to flood efforts.
- 15:38:02 Sen. Lang asked Ms. Kaster about DNRC response to the draft legislation discussed earlier in the meeting. (See exhibit 3)
- 15:39:06 Rep. Keane commented on equal opportunities for county participation in conservation districts.
- 15:39:47 Mr. Hamlett commented on laws related to navigable rivers. He also commented on high-hazard dams.
- 15:41:59 Mr. Hamlett asked Ms. Kaster about the protocol for dispatching aircraft.
- 15:43:41 Mr. Hamlett commented on creating legislation that enables initial attack response time in a shorter period.
- 15:43:58 Rep. Curdy responded to Mr. Hamlett's question to Ms. Kaster.
- 15:45:04 Sen. Lang commented on Rep. Curdy's response.
- 15:45:44 Rep. Keane commented on the tours from the previous day.

**Agenda Items for September Meeting – Joe Kolman**

15:47:33 Mr. Kolman discussed the next EQC meeting in September.

**ADJOURNMENT**

15:48:54 Sen. Lang adjourned the meeting at 3:48 p.m.