



## ENVIRONMENTAL QUALITY COUNCIL 67th Montana Legislature

### SENATE MEMBERS

Pat Flowers  
Steve Hinebaugh  
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

May 24, 2022

State Capitol Building 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 Hinebaugh (R)  
Rep. Jedediah Hinkle (R)  
Sen. Tom Jacobson (D)  
Rep. Jim Keane (D)  
Sen. Ryan Lynch (D)  
Rep. Marilyn Marler (D)  
Mike Freeman, Governor Designated Representative

### **MEMBERS EXCUSED:**

Sen. Cary Smith (R)  
Monica Tranel, Public Member

**STAFF PRESENT:**

Joe Carroll, Attorney

Joe Kolman, Legislative Environmental Analyst

Nadine Spencer, Secretary

**AGENDA** ([Attachment 1](#))**VISITORS' LIST** ([Attachment 2](#))**COMMITTEE ACTION**

The Environmental Quality Council (EQC):

- Voted to approve PD15, as amended, as a committee bill for conservation district funding.

**CALL TO ORDER/ROLL CALL**

13:01:25 Sen. Mike Lang called the meeting to order at 1:01 PM.

13:01:34 Sen. Lang requested a moment of silence to recognize the passing of Sen. Mark Sweeney.

13:02:04 Sen. Lang welcomed Sen. Ryan Lynch as the replacement for Sen. Sweeney on the EQC.

13:02:21 The committee secretary took roll. ([Attachment 3](#)) Sen. Smith was excused and gave his proxy to Sen. Hinebauch. Ms. Tranel was excused and gave her proxy to Rep. Curdy. ([Attachment 4](#))

**ADMINISTRATIVE MATTERS**

13:03:47 Joe Kolman, legislative environmental analyst, Legislative Services Division (LSD), provided information about the meeting agenda.

**ENERGY AND TELECOMMUNICATIONS UPDATE**

13:04:33 Trevor Graff, research analyst, LSD.

**EQC questions and discussion**

None

**HELL CREEK UPDATE****Chairman Gerald Gray, Little Shell Tribe**

13:13:05 Mr. Gray.

**Director Hank Worsch, FWP**

13:15:37 Director Worsch, Department of Fish, Wildlife, and Parks (FWP).

13:16:58 Sen. Lang asked Mr. Worsch if the materials needed for the road are being donated by Garfield County.

13:17:19 Mr. Brenden said he has been critical of the way Hell Creek State Park has been managed in the past and wished everyone the best of luck to make it better.

**Rich Jost, DEQ Enforcement Program Case Coordinator**

13:18:23 Mr. Jost.

**EQC questions and discussion**

13:20:12 Rep. Keane asked Mr. Worsech about the elevation level at Fork Peck Reservoir and how that affects the operation at Hell Creek. He also asked about the projections for the summer.

13:20:53 Mr. Gray provided additional information.

13:21:49 Rep. Keane asked Mr. Gray about the current elevation and projections.

13:22:38 Mr. Hamlett asked Mr. Gray about the long-range plans for Hell Creek State Park.

13:25:02 Rep. Curdy asked Mr. Worsech if the department talked to the Army Corps of Engineers (Corps) about the proposed flush of water for pallid sturgeon enhancement and the potential impact on water levels at Fort Peck Reservoir and access for anglers into the lake.

13:26:46 Rep. Curdy redirected the question to Mr. Gray.

13:27:24 Sen. Lang said the Corps have been moving docks out as the water level has gone down and everything is accessible by boat right now.

13:27:53 Sen. Hinebauch asked Mr. Worsech about the entity responsible for weed control.

13:29:23 Sen. Hinebauch asked Mr. Gray the same question.

13:29:49 Sen. Jacobson entered the meeting.

13:30:17 Rep. Gunderson asked about sending a list of questions for the Corps to Mr. Kolman.

13:30:54 Mr. Kolman said staff is working on getting staff from the Corps into the meeting via Zoom.

**Darin McMurry, Army Corps of Engineers**

13:31:46 Mr. McMurry, Operations Project manager, Fort Peck project. ([Exhibit 1](#))

**EQC questions and discussion**

13:37:00 Sen. Lang asked Mr. McMurry about the parameters for the test flows from Fort Peck Dam.

13:38:05 Rep. Keane asked Mr. McMurry about projections for the lake elevation and outflows and how the Corps will help the tribe. He also asked about available funding from the Corps for maintenance and roads.

13:43:55 Sen. Lang said he hopes Mr. McMurry will continue to work with the federal government to help the citizens of Montana.

13:44:14 Rep. Gunderson said he will submit his questions to staff and asked Mr. Kolman to draft a questions letter to the Corps.

13:44:47 Rep. Gunderson asked Mr. Jost about the operation of the fish cleaning station.

13:45:31 Rep. Gunderson asked Mr. Jost about the operation of the public sanitation field.

13:46:44 Rep. Gunderson asked Mr. Worsech about the \$400,000 funding package that was made available to fix the seawall problem and the road going to the lower ramp.

13:48:19 Sen. Lang asked Mr. Worsech about the money that was allocated for the seawall.

13:48:56 Mr. Brenden asked Mr. McMurry about the number of feet below pool Fort Peck Lake is at.

13:49:49 Mr. Brenden asked Mr. Worsech about the status of the concessionaire operators.

13:51:17 Rep. Hinkle asked Mr. McMurry if he has data on how the level of the reservoir this spring compares to 2020.

13:52:05 Sen. Lang asked Mr. McMurry to include information when the lake was at its lowest level in early 1990.

13:54:00 Mr. Hamlett asked Mr. McMurry if the Corps can provide a plant survey to the tribe.

13:56:46 Sen. Lang asked Mr. McMurry about participation by the U.S. Fish and Wildlife Service.

14:00:34 Sen. Lang asked Mr. McMurry about the eastern boundary of the Charles M. Russell Wildlife Refuge (CMR).

14:03:06 Mr. Brenden said it would be helpful to have a map showing boundaries and jurisdiction.

#### **Public comment**

None

14:04:19 Recess

14:19:41 Reconvene

#### **HJ 27 CONSERVATION DISTRICT FUNDING**

14:19:55 Sam Schaefer, Legislative Fiscal Division, provided a memo on conservation district funding. [\(Exhibit 2\)](#)

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

14:26:12 Rep. Keane asked Mr. Schaffer if the Spring Creek mine is included and if projections have been done on the mine.

14:27:00 Rep. Keane said he would like to see the forecasts for Spring Creek mine and the mine at Roundup. Sen. Lang asked Mr. Schaffer to provide information for all mines.

14:27:43 Mr. Kolman said the Council received information on projected cannabis revenues. [\(Exhibit 3\)](#)

#### **Montana Association of Conservation Districts proposal -- Rebecca Boslough, executive director**

14:31:50 Ms. Boslough.

14:32:56 Ms. Boslough discussed the MACD funding proposal. [\(Exhibit 4\)](#)

14:37:53 Ms. Boslough said the Council received an invitation to an event during the Board meeting on June 14. [\(Exhibit 5\)](#)

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

14:38:43 Sen. Flowers asked Ms. Boslough about the reason for the current employee vacancy rate.

14:40:01 Sen. Flowers asked Ms. Boslough if the \$80,000 base proposal will allow conservation districts to adequately raise wages to retain employees.

14:41:34 Sen. Flowers said state pay rates are tied to a given job classification and asked Ms. Boslough about reclassifying the positions.

14:42:50 Rep. Keane asked Ms. Boslough about the amount of funding the conservation districts would like for their base operating budget.

14:44:15 Rep. Keane asked Ms. Boslough about a base operating budget of \$60,000.

14:44:51 Rep. Curdy asked Ms. Boslough if larger conservation districts will need additional funding.

14:46:32 Rep. Curdy asked Ms. Boslough about erosion on the Flathead River shoreline and what the Flathead County Conservation District anticipates it will cost to fix the problem.

14:48:29 Sen. Lynch asked Ms. Boslough about equities in funding and if any consideration was given to counties that did not approve the sale of marijuana.

14:50:14 Mr. Brenden asked about Butte Silver-Bow County. Sen. Lynch said it is listed as the Mile High Conservation District.

14:50:52 Sen. Lang asked Ms. Boslough if it would be more cost-effective to hire employees through local conservation districts versus state employees.

14:52:41 Sen. Flowers asked Mr. Kolman about future projections for cannabis related sales tax revenue.

14:54:22 Rep. Keane said both the coal tax and the marijuana tax will be variable and will only take a small percentage off the tax and create its own stability.

14:55:05 Rep. Hinkle asked Ms. Boslough about funding for the aquatic invasive species check stations.

14:56:02 Mr. Kolman discussed the bill draft. [\(Exhibit 6\)](#)

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

14:58:55 Rep. Keane said he recommends including a small 2% increase in the amount of money every fiscal year.

15:00:16 Sen. Flowers asked Mr. Kolman what the question marks represent in the bill draft.

15:01:21 Rep. Curdy asked Mr. Kolman about the amount for the conservations district trust fund.

#### **Public comment**

15:02:28 Jim Simpson, Lake County Conservation District, and member, Board of Directors, MACD.

15:03:48 Dean Rogge, Garfield Conservation District, and president, MACD.

15:05:03 Jeff Ryan, chairman, Lewis and Clark Conservation District.

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

15:07:07 Mr. Brenden said he recommends requesting the full 100 percent funding.

15:08:04 Sen. Lang asked Mr. Kolman about establishing a conservation district trust fund.

15:09:00 Rep. Keane said the trust fund will make the bill more difficult to pass and recommended leaving it out. He said he believes that \$6 million is a fair amount with an increase each year based on the inflation factor or the consumer price index (CPI).

15:10:51 Sen. Lang agreed and commented on the CPI.

15:11:36 Rep. Curdy said he recommends keeping the trust fund in the bill.

15:12:56 Rep. Fielder commented on the coal severance tax fund.

15:14:42 Rep. Keane said coal will be in Montana's future for a long time.

15:16:16 Mr. Hamlett commented on coal.

**Motion**

15:16:49 Rep. Keane moved to have staff revise the existing bill draft to start at \$6 million and provide options to reflect inflation.

15:17:45 Mr. Kolman repeated the motion.

15:18:17 Rep. Keane amended the motion to take out section 2.

**Vote**

15:18:26 The motion on the amendment to remove section 2 carried 14-1 by voice vote with Rep. Hinkle voting no. Ms. Tranel voted aye by proxy. Sen. Smith was excused.

**Vote**

15:19:08 The motion as amended carried 14-2 by voice vote with Rep. Hinkle and Rep. Fielder voting no. Ms. Tranel and Sen. Smith voted aye by proxy.

15:20:05 Sen. Hinebauch asked about giving staff guidelines on the rise in inflation every year.

15:20:42 Sen. Lang recommended looking at the CPI over the last ten years.

15:21:16 Mr. Kolman asked about the amount.

15:21:58 Rep. Keane said the motion was for \$6 million.

15:22:41 Mr. Hamlett said he recommends that staff look at the present law adjustment for every budget year as a comparison.

15:22:58 Sen. Lang said to look at present law adjustment and CPI.

**FUTURE FISHERIES REPORT (87-1-272, MCA)**

15:23:26 Eileen Ryce, Fisheries Division administrator, FWP.

15:26:39 Sen. Lang asked Ms. Ryce about the area east of the continental divide.

**Public comment**

15:27:37 Clayton Elliott, Trout Unlimited (TU).

15:29:35 Abigail St. Lawrence, Fishing Outfitters Association of Montana (FOAM).

**EQC questions and discussion**

15:30:48 Sen. Lang asked Ms. Ryce about the fish hatchery at Fort Peck.

15:32:15 Rep. Fielder asked Ms. Ryce about matching funds.

15:33:34 Rep. Curdy said the future fisheries program depends upon water and said he hopes that the program will work with other entities to help enhance storage facilities. Ms. Ryce provided additional information.

15:35:56 Sen. Lang asked Ms. Ryce about funding for the St. Mary's diversion on the Milk River.

**BROWN TROUT REGULATIONS UPDATE**

15:36:46 Ms. Ryce. [\(Exhibit 7\)](#)

**EQC questions and discussion**

- 15:41:20 Sen. Flowers asked Mr. Ryce if the department is considering any other mitigation efforts to deal with low flow.
- 15:43:54 Sen. Flowers asked Ms. Ryce if the department has identified target flow minimums to reduce the problem or eliminate the decline. Ms. Ryce redirected the question to David Schmetterling, research coordinator, FWP.
- 15:45:39 Sen. Flowers asked Mr. Schmetterling about a comprehensive strategy to address declining brown trout populations. Mr. Schmetterling redirected the question to Ms. Ryce.
- 15:49:02 Mr. Hamlett asked Ms. Ryce about the mortality rate from catch and release.

**Public comment**

- 15:50:36 Clayton Elliott, TU
- 15:54:30 Abigail St. Lawrence, FOAM.

**EQC questions and discussion**

- 15:56:43 Rep. Hinkle asked Ms. Ryce about the decline in the crappie population in the Tongue River Reservoir and if the regulations have changed to mitigate the issue.
- 15:59:35 Eric Roberts, Fisheries Management Bureau chief, FWP, provided additional information.

**PUBLIC COMMENT ON ANY MATTER NOT ON AGENDA BUT WITHIN THE JURISDICTION OF THE EQC**

None

**ADJOURNMENT**

- 16:00:54 Sen. Lang adjourned the meeting at 4:00 p.m.