



## ENVIRONMENTAL QUALITY COUNCIL 68th Montana Legislature

### SENATE MEMBERS

Dan Bartel  
Bob Brown  
Willis Curdy  
Pat Flowers  
Steve Hinebaugh  
Theresa Manzella

### HOUSE MEMBERS

Paul Fielder  
Steve Gunderson  
Jedediah Hinkle  
Jonathan Karlen  
Rhonda Knudsen  
Marilyn Marler

### COMMITTEE STAFF

Joe Carroll - Attorney  
Jason Mohr - Research Analyst  
Mike Freeman - Governor's  
Appointee  
Jolanda Songer - Secretary

### PUBLIC MEMBERS

Dave Galt  
Jim Keane  
Jon Metropoulos  
Dan Vermillion

# MINUTES LOG

September 27, 2023  
Room 317  
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:

Rep. Steve Gunderson, Chair (R)  
Sen. Willis Curdy, Vice Chair (D)  
Sen. Bob Brown (R)  
Rep. Paul Fielder (R)  
Sen. Pat Flowers (D)  
Dave Galt, Public Member  
Sen. Steve Hinebaugh (R)  
Rep. Jedediah Hinkle (R) – Via Zoom  
Rep. Jonathan Karlen (D)  
Jim Keane, Public Member  
Sen. Theresa Manzella (R) – Via Zoom  
Rep. Marilyn Marler (D)  
Dan Vermillion, Public Member  
Mike Freeman, Governor's Appointee

### MEMBERS EXCUSED:

Sen. Dan Bartel (R)  
Rep. Rhonda Knudsen (R)  
Jon Metropoulos, Public Member

## **MEMBERS ABSENT:**

## **STAFF PRESENT:**

Joe Carroll, Attorney

Jason Mohr, Research Analyst

Bethany McDowell James, Secretary

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

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

## **COMMITTEE ACTION**

## **CALL TO ORDER/ROLL CALL**

10:04:56 Chair Gunderson called the meeting to order at 10:04 a.m. The committee secretary took roll.

## **MEETING OVERVIEW**

10:06:23 Jason Mohr, Lead Staff

[EXHIBIT 1](#)

[EXHIBIT 2](#)

[EXHIBIT 3](#)

[EXHIBIT 4](#)

[EXHIBIT 5](#)

## **Council Discussion**

10:15:28 Councilmember Keane

10:16:31 Chair Gunderson

10:17:43 Sen. Flowers asked for clarification regarding staff hours.

[EXHIBIT 2](#)

## **WILDFIRE UPDATE**

10:21:41 Shawn Thomas, Forestry and Trust Land Division Administrator, Department of Natural Resources and Conservation (DNRC)

[EXHIBIT 6](#)

## **Council Discussion**

10:29:48 Councilmember Vermillion asked about staffing availability.

10:30:58 Councilmember Keane asked for the balance in the fire fund and the revenue level for next year compared to this year.

10:33:26 Rep. Hinkle asked about the Colt fire in Seeley Lake and how actively the Forest Service was involved in fighting the fire.

- 10:37:26 Sen. Manzella asked for clarification regarding the disproportionate number of human-caused fire and human-caused acres on page 1.  
[EXHIBIT 6](#)
- 10:42:04 Councilmember Galt asked for clarification regarding the National Park Service showing 12 fires only burning 3 acres in comparison to Fish & Wildlife Service showing 5 fires burning 261 acres in the chart on page 1.  
[EXHIBIT 6](#)
- 10:43:48 Rep. Karlen asked a question regarding the prescribed fire chart for Montana on page 4.  
[EXHIBIT 6](#)
- 10:46:02 Sen. Flowers asked how contractors were selected and if the selected contractors were from Montana.
- 10:49:05 Sen. Flowers asked if Montana state fire fighters not receiving hazard pay influences their ability to hire fire fighters and for a comparison report with the Forest Service.
- 10:50:10 Vice Chair Curdy asked if DNRC works with the state prison system and if so, how many convict crews are used.  
[EXHIBIT 6](#)
- 10:51:51 Vice Chair Curdy asked if DNRC has qualified burn bosses.
- 10:52:50 Vice Chair Curdy asked for the status on the new wildland firefighting helicopters.
- 10:53:36 Chair Gunderson asked about the human-caused fires and how arson is accounted for and separated.  
[EXHIBIT 6](#)
- 10:55:39 Sen. Brown asked for an update from the Department of Corrections regarding the effectiveness of convict crews.

#### **UPDATE ON CLEANUP OF STILLWATER CO. TRAIN DERAILMENT/YELLOWSTONE RIVER SPILL**

- 10:57:21 James Fehr, Deputy Director, Department of Environmental Quality (DEQ)  
[EXHIBIT 7](#)

#### **Council Discussion**

- 11:06:04 Councilmember Vermillion asked who sets up the cleanup plan.
- 11:06:33 Councilmember Vermillion asked about the amount of asphalt collected and remaining in the river.

- 11:07:16 Councilmember Vermillion asked about the cleanup approach rectifying the fish advisory.  
[EXHIBIT 8](#)
- 11:10:01 Rep. Fielder asked if it has been determined if the bridge failure caused the derailment or if the derailment caused the bridge failure.
- 11:11:33 Chair Gunderson asked Mike Ruggles, Manager of Region 5, Montana Fish, Wildlife, and Parks (FWP), for the status of the fish consumption advisory.
- 11:12:14 Councilmember Vermillion asked Mike Ruggles about extension of the fish advisory for the Boulder and Stillwater Rivers.
- 11:13:06 Sen. Flowers asked Mike Ruggles if there is a historical baseline for the PAH levels in trout population in the Yellowstone river and asked for a report comparing current and historical PAH levels.
- 11:14:27 Mike Ruggles mentioned that his department (FWP) and Montana Disaster and Emergency Services were responsible for river closures and he addressed the impact of those river closures.
- 11:15:48 Chair Gunderson commented on Mike Ruggles' statement that they didn't have an apples-to-apples comparison and asked if there is a need for change in protocols.
- 11:17:17 Rep. Hinkle asked Mike Ruggles if there are other states with a similar issue who are further along than Montana.

#### **Public Comment on Cleanup of Stillwater Co. Train Derailment/Yellowstone River Spill**

11:18:28 None

#### **Public Comment on Wildfire Update**

11:18:49 None

#### **UPDATE ON INVASIVE SPECIES IN THE COLUMBIA RIVER SYSTEM**

11:19:48 Thomas Woolf, Aquatic Invasive Species Bureau Chief, FWP

#### **Council Discussion**

- 11:22:19 Councilmember Vermillion about the type of boats in which the inspectors found invasive mussels.
- 11:23:47 Vice Chair Curdy asked about Idaho Fish and Games' effort to contain mussels and the chemical that is being used and its ramifications.
- 11:27:23 Councilmember Vermillion asked about larvae found in Canyon Ferry Reservoir and Bean Lake 6 or 7 years ago, and if the subsequent discoveries are parallel or much more concerning.

11:28:40 Chair Gunderson asked how far away from the dams are mussels detected.

11:30:17 Rep. Fielder asked about the effects the chemical has on fish and if a fish advisory is expected for the lower Snake and Columbia rivers.

**Public Comment on Update on Invasive Species in Columbia River System**

11:31:40 None

**REPORT OF INVASIVE SPECIES COUNCIL (80-7-1203, MCA)**

11:32:17 Liz Lodman, Administrator, Montana Invasive Species Council (MISC)

[EXHIBIT 9](#)

[EXHIBIT 10](#)

**Council Discussion**

11:43:02 Councilmember Vermillion asked about outreach to new pig farmers regarding feral swine.

11:44:38 Sen. Brown asked Liz Lodman to put on the record why people should not shoot feral swine.

11:45:57 Sen. Flowers asked about the current distribution of Ventenata grass in the Montana and any information on mitigation and treatment.  
[EXHIBIT 9](#) (page 7)

11:47:03 Chair Gunderson suggested Jason Mohr to follow up with the Department of Agriculture (MDA)

11:47:10 Sen. Flowers agreed that follow up is needed by Jason Mohr or Liz Lodman regarding where Ventenata is, how it's treated, are there effective mitigations, and are farmers and ranchers and small lot owner being educated.

11:47:58 Chair Gunderson tasked Jason Mohr with following up with the Department of Agriculture.

11:48:16 Councilmember Vermillion asked about spotted knapweed not being listed.  
[EXHIBIT 9](#) (Pages 7 & 8)

**Public Comment on Invasive Species Update**

11:49:30 None

**RECESS**

11:50:25 Reconvened at 13:11:30

**UPDATE ON COMPREHENSIVE WATER REVIEW**

13:11:47 Anna Pakenham Stevenson, Water Division Administrator, DNRC  
[EXHIBIT 11](#)

### **Public Comment**

13:23:40      None

### **UPDATE ON LAND TRANSFERS WITH CONFEDERATE SALISH AND KOOTENAI TRIBES (CSKT)**

13:24:04      Kristen Juras, Lieutenant Governor  
[EXHIBIT 12](#)

13:28:46      Ryan Weiss, Deputy Trust Lands Administrator (DNRC)  
[EXHIBIT 13](#)  
[EXHIBIT 14](#)

### **Council Discussion**

13:43:29      Rep. Fielder asked Ryan Weiss if the Department intends to find land to exchange for the Salish Kootenai tribal land in Lake and Sanders counties.

13:44:54      Chair Gunderson asked Ryan Weiss to identify the four counties impacted.

13:45:01      Councilmember Vermillion asked Ryan Weiss if the Department has the capacity to make a trade for a parcel near a small urban center to lease the land for affordable housing for employees.

13:46:58      Sen. Brown expressed his concern regarding land exchanges potentially impacting rancher's grazing leases.

13:49:14      Sen. Brown asked about the state land exchange process on slide 8.  
[EXHIBIT 13](#)

13:52:09      Rep. Hinkle asked Ryan Weiss if the land exchange was in the original bill (SB 262, 2015) that the state of Montana voted on, or if it was added on the federal level.

13:53:53      Rep. Hinkle asked Ryan Weiss to clarify if they have an agreement for affordable housing on the 400 acres in the Bozeman/Belgrade area or if that was an example.

13:54:58      Rep. Hinkle asked the Lieutenant Governor if the land exchange was in the original bill that the state of Montana voted on, or if it was added on the federal level.

13:58:01      Councilmember Keane spoke about the original bill (SB 262, 2015).

13:58:48      Sen. Flowers asked Ryan Weiss if the process will be piecemeal rather than one comprehensive land exchange.

- 14:03:05 Sen. Brown asked Ryan Weiss about the cabin site lease program lots in Blue Bay.
- 14:04:31 Councilmember Vermillion asked Ryan Weiss about the timeline for the land exchanges.

#### **Public Comment on Update on Land Transfers with CSKT**

- 14:05:30 None

#### **UPDATE ON PHEASANT RELEASE PROGRAM**

- 14:06:21 Dustin Temple, Director, Fish, Wildlife, and Parks (FWP)

#### **Council Discussion**

- 14:10:04 Councilmember Vermillion asked if it is the objective to create a pheasant hunt in the fall or to create a seed population that allows the pheasants to proliferate and become part of the landscape again.
- 14:11:43 Director Temple deferred Councilmember Vermillion's question to Quentin Kujala, Chief of Staff, FWP
- 14:13:37 Rep. Marler asked Quentin Kujala if the annual budget is expected to decrease.
- 14:14:47 Rep. Marler asked Quentin Kujala if the department is getting information about the kids and families at the youth shooting events. Are they reaching the people they need to reach?
- 14:15:45 Vice Chair Curdy asked Quentin Kujala for an update on the status of the avian flu.
- 14:17:35 Sen. Brown suggested that the DOC should comment on the pheasant program when they come in comment about the prison fire crew.
- 14:18:00 Sen. Brown asked the Director if he anticipates the cost per bird going down over time and asked for an explanation about domestic birds that are raised with minimal human contact.

#### **RECESS**

- 14:21:02 Reconvened at 14:33:39.

#### **Council Discussion**

- 14:33:43 Councilmember Keane commented about the pheasant program.
- 14:34:08 Chair Gunderson asked the Director about the program's performance, considering the program was built in the Covid environment.
- 14:38:12 Rep. Marler commented that she feels strongly that it is a misdirection of the mission of FWP to do a make-work program for the prisons and wants to see

more data about who is coming to the youth pheasant hunt days to determine if it is successful.

14:41:29 Chair Gunderson commended the Director for what he has accomplished with the program.

14:42:07 Rep. Fielder commented about liking the program. He doesn't see a lot of differences between the pheasant program and the hatchery release program.

14:43:11 Sen. Flowers commented about the concerns of some sportsmen related to the supplemental pheasant program.

#### **Public Comment on Update on Pheasant Release Program**

14:44:08 None

#### **DEVELOPMENT OF STATE SHOOTING RANGES**

14:44:20 Director Temple, FWP

#### **Council Discussion**

14:50:46 Vice Chair Curdy shared concerns from the Deep Creek shooting range in Missoula regarding the property tax rate and asked if the department can do anything to ameliorate their property tax issues or if there is anything the club can do.

14:53:29 Rep. Hinkle commented that no limitations should be put on access and use of the Logan site in Gallatin County, since it is a safe location.

14:55:30 Rep. Marler shared her memory of passing legislation in the House in 2019 to not tax shooting ranges (HB 226).

#### **Public Comment on Development of State Shooting Ranges**

14:56:45 Kerry White, Bozeman

#### **FISH CREEK WATERSHED RECREATION PLANNING**

14:58:14 Director Temple, FWP

14:58:41 Randy Arnold, Supervisor for Region 2, FWP  
[EXHIBIT 15](#)

#### **Public Comment on Fish Creek Watershed Recreation Planning**

15:06:41 Kerry White, Bozeman  
[EXHIBIT 1](#)

15:10:12 [EXHIBIT 5](#) (Oversized exhibit from EQC meeting on 7/26/23, available at LSD)  
Clayton Elliott, Montana Trout Unlimited and Member Region 2 Citizen Advisory Council



### **Council Discussion with Randy Arnold**

- 15:12:56 Sen. Brown asked Randy Arnold to speak to the development of the trails.
- 15:16:23 Chair Gunderson asked Randy Arnold about the scoping/comment period that is going on right now.
- 15:16:39 Randy Arnold shared that the public comment period is until October 20.

### **UPDATE ON PETROLEUM TANK RELEASE COMPENSATION BOARD**

- 15:18:08 John Monahan, Presiding Officer, Petroleum Tank Release Compensation Board (PTRCB)  
[EXHIBIT 16](#)
- 15:19:40 Terry Wadsworth, Executive Director, PTRCB  
[EXHIBIT 16](#)
- 15:29:14 Amy Steinmetz, Waste Management and Remediation Division Administrator, DEQ

### **Public Comment on Update on Petroleum Tank Release Compensation Program**

- 15:32:26 Brad Longcake, Montana Petroleum Marketers and Convenience Store Association

### **Council Discussion**

- 15:35:42 Councilmember Keane asked Terry Wadsworth what the total expenses are for his department and the board.
- 15:36:54 Councilmember Keane asked Terry Wadsworth about site cleanups.
- 15:41:59 Terry Wadsworth replied that recommendation #2 was made to the Legislature (SB 334).  
[EXHIBIT 16](#)
- 15:47:21 Sen. Manzella asked Amy Steinmetz why there was no corrective action on 200 sites, what the department is doing to get them cleaned up and closed, and what is the expected time frame.
- 15:54:16 Sen. Hinebauch asked Brad Longcake what the tank owners think of the situation since SB 334 has passed.
- 15:58:29 Councilmember Keane asked Terry Wadsworth how much money is in the Petroleum fund.
- 16:01:28 Councilmember Keane asked Amy Steinmetz how the department can get the work plans over to the PTRCB so they can fund cleanup the sites.

**Public Comment on Update on Petroleum Tank Release Compensation Programs**

16:04:28      None

**INTERIM COMMITTEE UPDATES**

16:04:49      Trevor Graff, Lead Staff for Energy and Telecommunications Interim Committee and Special Select Committee on Energy Resource Planning and Acquisition

16:11:51      Jason Mohr, Lead Staff for the Water Policy Interim Committee (WPIC)

**Council Discussion**

16:16:54      Councilmember Keane

16:17:11      Sen. Flowers asked Jason Mohr about the comprehensive water review stakeholder working group and how their efforts between exempt wells and the ponds are going to be integrated.

16:22:25      Vice Chair Curdy asked Jason Mohr if the Environmental Protection Agency signed off on the rules.

**RECESS**

16:23:03      Chair Gunderson recessed for the day at 4:03 PM.