



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

Councilmember Galt
Councilmember Keane
Councilmember Metropoulos
Councilmember Vermillion

MINUTES LOG

September 28, 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
Rep. Rhonda Knudsen (R)
Sen. Theresa Manzella (R) – Via Zoom
Rep. Marilyn Marler (D)
Jon Metropoulos, Public Member
Dan Vermillion, Public Member – Via Zoom
Mike Freeman, Governor's Appointee

MEMBERS EXCUSED:

Sen. Dan Bartel (R)

MEMBERS ABSENT:

STAFF PRESENT:

Joe Carroll, Attorney
Jason Mohr, Research Analyst
Daniel Rosenberg, Secretary

AGENDA ([Attachment 1](#))

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

COMMITTEE ACTION

CALL TO ORDER/ROLL CALL

09:02:20 Chair Gunderson called the meeting to order at 9:02 AM.

09:02:51 Councilmember Keane asked Joe Kolman about his new position.

CRITICAL COMMODITIES (RARE EARTH ELEMENTS)

09:04:34 John Metesh, Director, Montana Bureau of Mines and Geology (MBMG)
[EXHIBIT 1](#)

Council Discussion

09:35:59 Councilmember Vermillion asked for an explanation about the difference between rare earth elements and rare earth minerals.

09:37:01 Sen. Brown asked if rare earth elements can be refined in the United States and are efforts being made to make the United States more independent.

09:40:08 Councilmember Keane asked if MBMG is working with other companies to explore other explorations regarding extracting and processing rare earth elements.

09:40:57 Rep. Hinkle joined the meeting via Zoom

09:42:49 Councilmember Keane directed a question regarding permits to Sonja Nowakowski, Division Administrator, Department of Environmental Quality (DEQ)

09:44:28 Rep. Hinkle asked Jason Mohr to provide the website.
[EXHIBIT 1](#)

09:44:55 Mike Freeman asked John Metesh where Montana is compared to other states in terms of reserves of critical commodities.

09:47:59 Rep. Fielder asked about the feasibility of accessing rare earth minerals on federal forest service lands.

- 09:50:00 Councilmember Vermillion asked if the current extraction will be accessing the minerals needed or if new rock needs to be accessed process (e.g., Stillwater mine).
- 09:52:07 Rep. Hinkle asked if the reformation of the mining law will help or hinder accessibility in the future.
- 09:55:07 Mike Freeman offered to forward a report by the Department of Interior on proposed changes to the 1872 mining law and other mining regulation proposals.
- 09:55:33 Councilmember Keane asked Joe Kolman if there is any discussion between the Forest Service and other agencies in the federal government, to help companies avail themselves of the Forest Service land for rare earth mineral mining.
- 09:57:47 Vice Chair Curdy asked if there is significant research taking place to look at fly ash in terms of a source of critical minerals, as well as the mine tailings along Highway 1 between Butte and Anaconda.

Department of Environmental Quality (DEQ)

- 09:59:53 Christopher Dorrington, Director, DEQ

Council Discussion

- 10:13:05 Councilmember Galt asked to explain his last comment about the interstate mining compact.
- 10:15:17 Vice Chair Curdy asked if the Montana Environmental Policy Act process would restart under current MEPA regulations when there is new mining activity at an existing location, or if there is an alternative process.
- 10:17:57 Rep. Gunderson suggested that the department follow and learn from the Stibnite Gold project in Idaho.
- 10:23:52 Councilmember Keane asked about the press release the agency released on September 27.
- 10:31:26 Rep. Fielder commented regarding government regulations and the need to speed up the process.

Department of Commerce (DOC)

- 10:32:44 Jason Mohr informed the committee about the Department of Commerce's absence and spoke about the report they submitted for the committee.
[EXHIBIT 2](#)

Public Comment

- 10:33:57 Matt Vincent, Executive Director, Montana Mining Association

RECESS
10:40:00

Reconvened at 11:01:22

SAGE GROUSE REPORTS

Annual report of current sage grouse population number (87-1-201, MCA)

11:01:34 Rick Northrup, Habitat Bureau Chief, Fish Wildlife and Parks
[EXHIBIT 3](#)

11:08:47 Mike Freeman gave an update as the chair of the Montana Sage Grouse Oversight Team.

Annual report of the Sage Grouse Habitat Conservation Program (87-5-918, MCA)

11:12:25 Theresa Hartman, Program Manager, Montana Sage Grouse Habitat Conservation Program
[EXHIBIT 4](#)

Council Discussion

11:18:40 Rep. Fielder asked Theresa Hartman why wind turbines were not included in the sage grouse report.

11:19:58 Rep. Knudsen asked Theresa Hartman if adjustments for large, burned areas were part of the updates to the map.

11:20:42 Vice Chair Curdy asked for an update about the program's funding.

11:23:01 Councilmember Galt asked Rick Northrup to explain the consequences of increasing or decreasing bird population trends.

11:28:01 Vice Chair Curdy reminded everyone about wildland fires being the number one threat to the sage grouse population and the importance to prevent major losses.

11:29:23 Rep. Fielder asked Rick Northrup about their assumption of a consistent sex ratio from year to year.

11:31:25 Rep. Gunderson asked Rick Northrup about the dates used in the tables.
[EXHIBIT 3](#)

11:32:51 Councilmember Galt asked Mike Freeman for an explanation about a rule change submitted by the oversight team regarding core habitat.

11:33:45 Therese Hartman spoke about the rule change.

11:35:04 Councilmember Galt

AUTOMATED LICENSING SYSTEM: SPECIAL DRAWINGS, BONUS POINTS

Legislative Audit Division (LAD)

11:36:41 Sarah Carlson, Management and Program Analyst, LAD
[EXHIBIT 5](#)

Fish, Wildlife, and Parks (FWP)

11:47:11 Dustin Temple, Director, FWP

Public Comment

11:55:04 None

Council Discussion

11:55:21 Councilmember Vermillion asked the director where the department is on the updates to the Automated Licensing System.

11:59:52 Rep. Marler asked if both the old system and the new system are called XMT.

12:02:53 Jason Mohr introduced rule updates regarding grizzly bears
[EXHIBIT 6](#)

12:04:26 Alexis Sandru, Attorney, Legislative Services Division (LSD)
[EXHIBIT 6](#)

12:08:28 Chair Gunderson asked to have the Zoom link for the grizzly bear rulemaking emailed to the committee.

Council Discussion

12:08:47 Rep. Fielder asked to define “population” mentioned in several of the proposed rules in the summary.
[EXHIBIT 6](#)

12:11:47 Sen. Flowers asked Dustin Temple if he received feedback about the language in SB 95 meeting their standards for adequate regulatory language.

RECESS

12:14:06 Reconvened at 1:17 p.m.

WARM WATER AND ALGAL BLOOMS IN MONTANA'S WATERBODIES

13:18:10 Eric Sivers, Water Quality Division Policy Analyst, DEQ

13:23:31 Quentin Kujala, Chief of Conservation Policy, FWP

Public Comment

13:24:36 None

Council Discussion

- 13:24:51 Sen. Flowers asked Eric Sivers for the temperature and flow data to help inform the nature of future algal blooms in the Gallatin River, and asked about reports of algal blooms in the upper Ruby River.
- 13:26:33 Rep. Fielder asked Eric Sivers if algal blooms are not being treated but instead monitored with the public being notified.
- 13:26:56 Dave Galt asked Eric Sivers if any of the algal blooms are downstream from a point source discharge.

DEPARTMENT DIRECTOR UPDATES

Department of Environmental Quality (DEQ)

- 13:28:00 Christopher Dorrington, Director, DEQ
[EXHIBIT 7](#)

Council Discussion

- 13:35:57 Vice Chair Curdy asked if there are other communities in the state besides Darby that have the fiscal inability of meeting their water quality standards regarding their sewage systems.
[EXHIBIT 8](#)

Department of Natural Resources and Conservation (DNRC)

- 13:40:19 Amanda Kaster, Director, DNRC

Public Comment

- 13:44:47 None

Council Discussion

- 13:44:51 Sen. Flowers asked if the language is expected to remain in the new Farm Bill once it gets passed.
- 13:47:05 Sen. Flowers asked Joe Kolman if he has any information on the Farm Bill.

Fish, Wildlife, and Parks (FWP)

- 13:47:27 Dustin Temple, Director, FWP
[EXHIBIT 9](#)

Council Discussion

- 13:51:24 Rep. Karlen asked if there is a consideration for a resident only window to book campsites (HB 440).
- 13:52:35 Sen. Flowers asked about the implementation of SB 280.
- 13:54:15 Rep. Knudsen asked if there is a limit of dog licenses a person can purchase.

- 13:55:42 Councilmember Vermillion asked for an update on the department's plan regarding research of the Big Hole River as the fishing season winds to a close.
- 13:58:30 Rep. Hinkle asked if an individual would need an archery stamp to use a crossbow during general rifle season.
- 14:00:05 Rep. Fielder asked for information about the discussion in the newspaper regarding an audit of the enforcement section of the department.

ADOPTION OF FINAL WORK PLAN

Review of Draft Work Plan

- 14:01:19 Jason Mohr
[EXHIBIT 10](#)
[EXHIBIT 11](#)
[EXHIBIT 12](#)
[EXHIBIT 13](#)
- 14:03:31 Rep. Gunderson
- 14:06:35 Rep. Marler
- 14:07:09 Rep. Knudsen
- 14:07:36 Sen. Brown
- 14:07:51 Rep. Marler
- 14:08:55 Chair Gunderson scheduled Aug. 14-16 for the roundtable and fieldtrip to Libby.
- 14:09:24 Rep. Fielder
- 14:10:06 Rep. Knudsen
- 14:11:07 Rep. Karlen
- 14:11:42 Chair Gunderson
- 14:12:07 Rep. Fielder
- 14:12:20 Rep. Knudsen

14:12:31 Chair Gunderson

14:12:35 Rep. Knudsen

14:12:44 Jason Mohr

14:13:06 Chair Gunderson

14:13:10 Rep. Karlen

14:13:58 Rep. Marler

14:14:32 Chair Gunderson

14:14:39 Rep. Karlen

14:15:18 Sen. Hinebauch

Motion

14:16:11 Rep. Knudsen moved to schedule an EQC meeting on Nov. 13.

Vote

14:16:28 The motion passed unanimously by voice vote, with Councilmember Keane voting, yes, by proxy.

Motion

14:17:59 Rep. Knudsen moved to schedule a meeting for Aug. 14-16 for a field trip to Libby.

Vote

14:18:23 The motion passed unanimously by voice vote, with Councilmember Keane voting, yes, by proxy.

14:19:02 Jason Mohr

Motion

14:20:35 Rep. Knudsen moved to accept the workplan as outlined including the timeline dates with the caveat that they can be changed if needed.

Vote

14:20:55 The motion passed unanimously by voice vote, with Councilmembers Keane and Metropoulos voting, yes, by proxy.

14:21:20 Jason Mohr

14:22:29 Sen. Flowers discussed dog training permitting.

GENERAL PUBLIC COMMENT ON ANY ISSUE NOT DISCUSSED

14:23:04 None

ADJOURNMENT

Adjournment: 14:23:16