



# ENVIRONMENTAL QUALITY COUNCIL

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**GOVERNOR BRIAN SCHWEITZER**  
**DESIGNATED REPRESENTATIVE**  
MIKE VOLESKY

**HOUSE MEMBERS**  
CAROL LAMBERT--Vice Chair  
NORMA BIXBY  
SUE DICKENSON  
JULIE FRENCH  
CHAS VINCENT  
CRAIG WITTE

**SENATE MEMBERS**  
DAVID WANZENRIED--Chair  
BOB HAWKS  
CHRISTINE KAUFMANN  
DANIEL MCGEE  
JIM SHOCKLEY  
ROBERT STORY JR

**PUBLIC MEMBERS**  
JOHN BRENDEN  
BRIAN CEBULL  
DIANE CONRADI  
DOUG MCRAE

**COUNCIL STAFF**  
TODD EVERTS, Lead Staff

## MINUTES

Approved September 13, 2007

Date: June 29, 2007

Room 102, State Capitol Building  
Helena, Montana

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division.

**Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

### COMMITTEE MEMBERS PRESENT

SEN. DAVID WANZENRIED (Chairman)  
REP. CAROL LAMBERT (Vice Chair)  
SEN. CHRISTINE KAUFMANN  
SEN. DANIEL MCGEE  
SEN. JIM SHOCKLEY  
SEN. ROBERT STORY JR  
REP. NORMA BIXBY  
REP. SUE DICKENSON  
REP. JULIE FRENCH  
REP. CHAS VINCENT  
REP. CRAIG WITTE  
MR. BRIAN CEBULL  
MS. DIANE CONRADI  
MR. DOUG McRAE

## **COMMITTEE MEMBERS ABSENT**

SEN. BOB HAWKS  
MR. JOHN BRENDEN  
MR. MIKE VOLESKY

## **STAFF PRESENT**

TODD EVERTS, Lead Staff  
JOE KOLMAN, Environmental Research Analyst  
SONJA NOWAKOWSKI, Research Analyst  
CYNTHIA A. PETERSON, Committee Secretary

## **Visitors**

Visitors' list ([Attachment 1](#))  
Agenda ([Attachment 2](#))

## **COMMITTEE ACTION**

- The EQC reviewed and revised the Draft Work Plan.
- Chairman Wanzenried appointed the following members to the Agency Oversight Subcommittee: Sen. Shockley (Chairman), Rep. Bixby (Vice Chair), Mr. Cebull, Rep. Vincent, Rep. Dickenson, and Rep. Witte.
- The EQC voted to have the audio recording be the official record of its meetings, and that EQC members will also receive a written summary of the minutes.

### 00:00:01 **CALL TO ORDER AND ROLL CALL**

Chairman Wanzenried called the EQC meeting to order at 8:30 a.m. The secretary noted the roll ([Attachment 3](#)).

## **AGENDA**

### 00:01:52 **CONTINUE REVIEW AND DISCUSSION OF WORK PLAN (INCLUDING PUBLIC COMMENT**

Chairman Wanzenried continued reviewing the Draft Environmental Quality Council Work Plan Decision Matrix ([EXHIBIT 1](#)).

Sen. McGee moved to allocate the following time factors: Conservation easements 0.15; Water Policy 0.15; EQC statutory duties 0.64; agency oversight 0.3; EQC recommendations on improving Superfund process 0.05; EQC publications 0.04; and study climate change 0.5. The total of the suggested allocations total 1.83 FTE.

## **Discussion by the EQC**

Sen. Hawks asked Sen. McGee whether he had included any provisions for an allocation of time for the "other" category. Sen. McGee directed Hawks to EQC statutory duties and stated his suggestion is to allocate 0.64 and suggested there could be .14 leftover for the "other" category.

Sen. Story agreed with Sen. McGee's suggestion, although suggested agency oversight be reduced to .2 and stated he was uncertain how much staff time would be required for agency oversight. Mr. Everts commented a substantial amount of his time last interim was expended on the Superfund Report, and that rule review and individual issues brought before the subcommittee would also require staff time.

Mr. Cebull suggested voting on the time allocation to each topic individually, and then allocating the remaining time to EQC statutory duties.

Sen. McGee agreed with Mr. Cebull and withdrew his motion.

Mr. Cebull moved to allocate 0.15 FTE for conservation easements. Ms. Conradi asked Sen. McGee whether his concern was that 0.15 FTE was too high or too low. Sen. McGee responded he believed the proposed 0.15 FTE was too low.

Mr. Cebull's motion to allocate 0.15 FTE for conservation easements carried unanimously by voice vote.

Mr. Cebull moved to allocate 0.15 FTE for water policy.

Rep. Dickenson suggested 0.10 FTE may be adequate since the Water Policy Interim Committee (WPIC) may take over some of EQCs responsibilities. Rep. Dickenson then suggested 0.15 FTE would be a reasonable allocation, and that the EQC could provide oversight to the WPIC and remain involved in Montana's water issues.

Sen. McGee pointed out the legislation did not abrogate EQC's responsibilities in Montana's water issues.

Sen. Story suggested the EQC would be monitoring water issues, and that there were no specific water issues to be addressed. Sen. Story thought updating the Water Rights Handbook was the main difference between Options B and C. Sen. Story suggested the EQC could not neglect its publication duties, and that there is a need to keep existing publications updated.

Sen. Shockley identified conservation easements as the EQC's first priority and publications as second since publications serve the public. Sen. Shockley suggested having an EQC member attend the WPIC meetings and report back to the EQC. Chairman Wanzenried clarified that Krista Evans would be reporting back to the full EQC.

Rep. Lambert suggested leaving the allocation at 0.15 FTE since coal bed methane (CBM) issues would likely arise during the interim.

Sen. Kaufmann agreed publications should not be short changed. Sen. Kaufmann stated she would like to like to keep water policy at 0.15 and reduce agency oversight.

Sen. McGee stated he was not aware of any new publications being contemplated for the EQC. Sen. McGee believed the existing publications just need to be updated. Sen. McGee agreed with Sen. Kaufmann that time could be skimmed from Agency Oversight if necessary.

Mr. Everts identified the permitting index as being comprehensive and time consuming to update. Mr. Everts stated the publication needs to be updated every interim.

Sen. Shockley commented conservation easements were assigned by the Legislature and that updating publications should be a second priority. Sen. Shockley previously served on the Agency Oversight Subcommittee and stated he would like the maximum amount of time allocated for agency oversight.

Mr. Cebull's motion to allocate 0.15 FTE for water policy carried by voice vote with Sen. Story voting no.

Sen. Shockley moved to allocate 0.3 FTE for agency oversight.

Rep. French asked about the duties of the Agency Oversight Subcommittee. Sen. Shockley identified one issue before Agency Oversight Subcommittee as when the Board of Environmental Review adopted a rule that would have changed the statute. Sen. Shockley believed it was important to let the public vent and provide an opportunity for the public to say what the agencies are or are not doing. Rep. French agreed the public needs an opportunity to come in, but thought it is also important for the agencies to say why they feel rules or changes are important. Rep. French thought 0.3 FTE would be appropriate. Rep. Shockley recalled Mr. Everts would be reviewing proposed rules regardless of whether the time is allocated.

Mr. Everts identified other past issues as the hay grinders, permitting, Darby lumber, Holcim cement plant, mercury, and wolves. Mr. Everts stated there were numerous issues coming in from other legislators, as well as constituents.

Sen. Kaufmann noted it does not take any additional staff time for the public to appear before the subcommittee. Sen. Kaufmann proposed 0.25 would be appropriate.

Rep. Dickenson agreed with Sen. Kaufmann and noted that Options A and B have almost the same provisions. Rep. Dickenson stated she was leaning toward 0.15 FTE.

Sen. Shockley made a substitute motion to allocate 0.25 FTE for agency oversight.

Sen. Shockley's motion carried by voice vote with Rep. Dickenson voting no.

The EQC next addressed the allocation for publications.

Rep. Lambert moved to allocate 0.08 FTE for EQC publications. Sen. McGee made a substitute motion to allocate 0.12 FTE for publications. Sen. McGee's motion carried unanimously by voice vote.

The EQC next addressed the time allotted to carry forward EQC's recommendations on the Superfund process (HJR 34).

Sen. Kaufmann stated she did not understand EQC's obligations and duties regarding HJR 34.

Mr. Everts explained if a prior EQC has recommendations for the next EQC, those recommendations are put in the work plan. Mr. Everts explained the major difference between the two options is the time element to create a citizens' guide to the superfund process.

Sen. Shockley suggested the Agency Oversight Subcommittee could deal with the superfund issue.

Ms. Conradi recalled there was a performance audit, and Mr. Everts explained the performance audit had not yet been performed but was requested by the EQC last interim. Mr. Everts identified the question as whether to do the citizens' guide.

Sen. McGee moved 0.01 FTE be allocated for the superfund issue.

Rep. Dickenson asked whether 0.01 would be adequate to prepare the citizens' guide. Mr. Everts responded 0.08 FTE would be more realistic. Mr. Everts further estimated that to only address creating the citizens' guide would require approximately 0.05 - 0.07 FTE. Mr. Everts reminded the EQC that the estimates in the matrix were simply approximations.

Sen. Shockley believed the average citizen would not get much benefit out a guide to the superfund process and that the publication would benefit industry more. Mr. Everts stated there were a number of public groups involved, and that the Legislative Environmental Policy Office attempts to make publications user friendly for a broad spectrum of individuals.

Sen. McGee's motion that 0.01 FTE be allocated for the superfund issue carried by voice vote with Rep. Dickenson voting no.

Rep. Dickenson moved to allocate 0.5 FTE for climate change.

Sen. McGee stated he supported the motion but wanted to make it clear that EQC will receive scientific arguments from both sides of the issue. Rep. Dickenson responded if EQC looks at the recommendations from the Montana Climate Change Advisory Committee (MCCAC), EQC can decide what it likes or does not like, and what the EQC wants to support. Rep. Dickenson suggested the EQC use its prerogative as a legislative body to weigh in on the issue. Rep. Dickenson liked the idea of an interim report that would contain legislation, and believed the report should be substantial and useable by the Legislature.

Sen. McGee stated he would like to learn more about the issue and be educated to make good decisions regarding the MCCAC. Sen. McGee would like the option to include specific language regarding panel discussions and information for the EQC.

Mr. Cebull noted all the options contain panel discussions. Mr. Cebull thought reviewing the recommendations from MCCAC would be appropriate, but cautioned he did not want to reinvent the wheel and redo the work of the MCCAC. Mr. Cebull agreed it is important to be educated. Mr. Cebull stated he would support Option B and 0.25 FTE.

Rep. Vincent agreed with Mr. Cebull and stated he would also support Option B. Rep. Vincent recalled that the House Natural Resources Committee was presented with a substantial amount of information regarding climate change. Rep. Vincent noted all energy bills on the federal level are now dead and are no longer pending.

Rep. Vincent made a substitute motion to allocate 0.25 FTE for climate change.

***(Tape 1; Side B)***

Sen. Story wondered how much time the MCCAC had spent on the topic. Rep. Dickenson explained the MCCAC had eight meetings of the entire group and there were many technical work group meetings by conference call. Rep. Dickenson estimated she spent 50 hours, not including homework and research. Rep. Dickenson clarified she did not anticipate EQC duplicating the efforts of the MCCAC.

Sen. Story stated it was his understanding the MCCAC did not debate whether there was global warming or climate change, but rather just addressed solutions. Rep. Dickenson agreed. Sen. Story inquired what the MCCAC's end product would be. Rep. Dickenson responded there would be recommendations within each template. The templates include cost, efficiency, feasibility, and barriers to consensus. Rep. Dickenson stated there would not be proposed legislation coming from the MCCAC, and that there would be recommendations that could be implemented from the executive through agencies. Sen. Story supported 0.25 FTE for climate change and was concerned about the ability to reach a consensus to create an interim report. Sen. Story agreed the 0.25 FTE should be for an education process for the EQC.

Rep. Lambert supported 0.25 FTE and reminded the EQC members that the estimate would be for staff time and not committee time.

Sen. McGee acknowledged some believe climate change is happening and some believe it is not; some believe climate change is man caused; others believe it is not. Sen. McGee stated he is unclear and uninformed on the issue. Sen. McGee identified the issue as significant and thought it would be an appropriate issue for the EQC to give adequate time in order to flush out the facts. Sen. McGee pointed out any report from the EQC would contain findings. Sen. McGee believed it is easier to digest information in the interim than it is during the session, and that the EQC would be the appropriate tool to do the work.

Ms. Conradi suggested staff time could be primarily allocated to literature searches, putting together panels, and information synthesis. Ms. Conradi made a substitute motion of 0.5 FTE. Ms. Conradi's motion was deemed out of order and was withdrawn.

Rep. Witte noted 0.5 FTE would represent one-third of EQC's resources. Rep. Witte thought 0.25 FTE would be adequate.

Chairman Wanzenried commented the Senate did not have any bills on climate change, so he did not know much about the issue. Chairman Wanzenried also pointed out the process is open, so it is not inappropriate to add a new item.

Rep. Vincent's motion to allocate 0.25 FTE for climate change failed by roll call vote with Sen. Hawks voting no by proxy.

The EQC addressed Rep. Dickenson's original motion to allocate 0.5 FTE for climate change.

Sen. McGee asked whether it would be adequate to allocate 0.4 FTE and save the 0.1 FTE as a contingency fund. Rep. Dickenson deferred Sen. McGee's question to Mr. Everts. Mr. Everts replied 0.4 FTE would be adequate to do the interim report, and explained EQC has a contingency fund to address unforeseen issues. Sen. McGee clarified the 0.1 FTE contingency fund could ultimately be allocated to climate control.

Sen. McGee made a substitute motion to allocate 0.4 FTE for climate change. Sen. McGee's motion carried with Rep. Vincent, Sen. Story, and Rep. Witte voting no by voice vote and Sen. Hawks voting yes by proxy.

The EQC next addressed updating the Environmental Public Health Project.

Rep. Bixby stated she would like to have a report on the topic. Rep. Bixby identified problems in the areas she represents especially in the Birney area along the Tongue River. Mr. Everts commented an informational presentation would not take much time to set up.

Sen. Story commented any presentation should be informational and balanced.

Mr. Everts clarified the EQC received an update last interim, and that the Department of Public Health and Human Services (DPHHS) is working in conjunction with the Department of Environmental Quality (DEQ).

Sen. Story requested a panel discussion on Leaky Underground Storage Tanks.

Sen. McGee moved to allocate 0.65 FTE for EQC statutory duties.

Rep. French asked if she or other EQC members had questions about different agencies or their activities, whether that would come under EQC statutory duties. Mr. Everts explained the category is a catch all since the statutory duties are very broad.

Sen. Story suggested consideration might be given to different ways to look at statutory duties and rule review. Sen. Story stated there are a lot of rules in the rule-making process that no one objects to. Sen. Story believed if there is a controversy in the rule-making process, EQC should be more attentive, but staff should not look at every MEPA document.

Sen. Shockley stated he would like to look at the Clark Fork litigation and would like to hear the pros and cons.

Rep. Dickenson recalled access to land and development issues raised by Ms. Conradi and wondered if those concerns could be addressed in another area of the Work Plan.

Mr. Everts suggested the issue should be further defined, but that it could fall under statutory duties.

Ms. Conradi clarified she would be comfortable having a panel discussion or putting together a less-intensive manner of looking at the issue such as an educational presentation or panel discussion.

Sen. Shockley recalled past legislation that was vetoed by the Governor and thought education about the issue would be good. Ms. Conradi clarified her concerns were not limited to state lands.

Sen. McGee suggested allocating 0.2 FTE to the contingency fund and allocating 0.55 FTE for statutory duties, which would leave flexibility to handle unforeseen issues. Sen. McGee stated he would prefer having an undefined contingency fund rather than having everything defined. Sen. McGee viewed statutory duties and agency oversight as one.

Sen. McGee made a substitute motion to allocate 0.55 FTE to statutory duties.

Ms. Conradi asked Mr. Everts to allocate the 0.2 FTE in the contingency fund to the issues identified by EQC members to ensure the issues do not get lost. Mr. Everts assured Ms. Conradi that he had maintained a list of requests from the EQC. Mr. Everts explained the Work Plan Matrix is designed for general allocations and that the time allotments are rough.

Chairman Wanzenried asked whether having a contingency fund is unusual for the EQC, and Mr. Everts replied it was not unusual.

Sen. McGee's motion to allocate 0.55 FTE for statutory duties carried unanimously by voice vote.

Sen. McGee moved the remaining 0.2 FTE be allocated to a multiple-use contingency fund. Sen. McGee's motion carried unanimously by voice vote.

Mr. Everts stated he would revise the Draft Work Plan and that the Final Work Plan would be adopted at the EQC's meeting in September.

Sen. Shockley stated he would like to serve on the Agency Oversight Subcommittee and would also like Mr. Cebull to serve.

Rep. Dickenson asked whether there would be a subcommittee appointed to address conservation easements. Mr. Everts clarified the EQC could have a maximum of two subcommittees due to staffing issues.

Sen. Kaufmann believed there would be value in the whole committee addressing conservation easement issues.

Sen. Story agreed Agency Oversight would need a subcommittee. Sen. Story explained if EQC schedules two-day meetings, the first part of the first day could be used by the Agency Oversight Subcommittee, and the expenses would be the same.

***(Tape 2; Side B)***

**(BREAK)**



Christian MacKay, Executive Director, Department of Livestock, provided an update on brucellosis. Mr. MacKay provided a history on brucellosis and the efforts to eradicate brucellosis from cattle herds. Mr. MacKay explained that on May 18, 2007, one cow from Montana tested positive during routine tests performed by the purchaser in Iowa. The cow was traced back to a herd in the Bridger area and the birth place of the cow was in Immigrant. USDA has required that all cows from those two herds and every cow with fence line contact, as well as trace outs from those herds, be tested for brucellosis within 60 days. Currently, 2,500 head of cattle have been tested and have had negative tests. Mr. MacKay submitted the pertinent sections of Mont. Code Ann. regarding brucellosis (**EXHIBIT 2**). Mr. MacKay stated Montana is still classified as brucellosis-free and must not experience any positive tests for 24 months. Mr. MacKay explained 50 percent of the bison in Yellowstone National Park are positive for brucellosis, and that elk in the Madison Valley have also tested positive and are being monitored by Fish, Wildlife & Parks (FWP). Idaho and Wyoming both lost their brucellosis-free status, and it was suspected the cattle became infected from intermingling with elk herds. Wyoming has regained its status and Idaho has reapplied to regain its status. Mr. MacKay stated 19 head of cattle remain to be tested and was optimistic that Montana would retain its status. Currently, USDA is negotiating with the owners of the cattle in Bridger to reach an indemnification amount for depopulating the herd.

- **Public Comment**

There was no public comment offered.

- **Questions from the EQC**

Sen. McGee asked Mr. MacKay whether there was any indication of how the Bridger herd was infected. Mr. MacKay responded the initial cow that tested positive was found in Iowa. The state laboratory in Iowa was able to pull out DNA from the bacteria and will try to match the DNA with other brucellosis DNA in the database. Mr. MacKay stated the epidemiology investigation is pointing toward possible interaction with elk, but that the source will likely never be determined. Sen. McGee commented the number of elk coming out of the mountains in the Bridger area has increased. Sen. McGee suggested the reason the elk are moving out of the mountains is because of the reintroduction of wolves. Sen. McGee inquired whether that analysis had been made. Mr. MacKay did not know of any definitive study but agreed the movement of the elk has been one of the unintended consequences of wolf reintroduction. Mr. MacKay stated that it was his understanding that none of the elk in the Beartooth herd have tested positive for brucellosis. The Paradise Valley has an infection rate of one to two percent. Sen. McGee spoke about the transmission of the disease from wildlife to cattle, and Mr. MacKay explained transmission occurs from the embryonic fluid.

Rep. Lambert wanted to know if any of the agencies have started addressing the issue. Mr. MacKay responded the Department of Livestock has no jurisdiction over elk herds. Mr. MacKay did not know what FWP was doing to address the issue.

Rep. Dickenson asked what Mr. MacKay meant when he referred to "depopulating the herd." Mr. MacKay explained the herd will be destroyed, and the owner is indemnified by USDA. Rep. Dickenson asked whether the USDA indemnifies the cattle owner because of the importance of

controlling brucellosis. Mr. MacKay agreed and noted brucellosis can lay dormant in a cow for up to five years. Mr. MacKay identified protecting the public from undulant fever as important and stated there were several individuals who had contracted undulant fever who came to public meetings.

Sen. Story thought the sooner depopulation could be accomplished the better. Sen. Story explained that USDA has a fairly strict statutory procedure for appraising and valuating a herd, and that there is a difference in what is offered by USDA and what the owners believe the herd is worth. The owners have the option of sending their herd to slaughter or testing the herd over time. Sen. Story wondered if there was any state money available to help compensate the cattle owners and speed up depopulation. Mr. MacKay responded the USDA can only pay for the value of the cattle. If Montana were to contribute money, the USDA would deduct that amount from what they pay. Mr. MacKay stated the owners of the cattle and the USDA did not come to an agreement. If the cattle owners decide to test out, Montana will lose its brucellosis-free status immediately. Mr. MacKay stated Dr. Knight, the state veterinarian, was cautiously optimistic that the cattle owners and the USDA would come to an agreement. Mr. MacKay believed his hands were tied as far as assisting with any indemnification.

Mr. Cebull noted the cattle industry has a lot to lose if Montana loses its status and wondered if there were any funds available from the cattle associations. Mr. MacKay did not know the position of the cattle associations, and that he should know the results of the most recent appraisal and where every one stands shortly.

Sen. Story asked whether the Environmental Contingency Fund could be used if necessary. Sen. Story referred to the state's use of the Environmental Contingency Fund to alleviate chronic wasting disease.

Hal Harper, Chief Policy Advisor for Governor Schweitzer, did not agree that Environmental Contingency Fund money was used to dispose of chronic wasting disease infected animals. Mr. Harper cited the uses for Environmental Contingency Fund such as avoiding an eminent emergency. Mr. Harper explained Governor Schweitzer's concern and stated he is leaning on federal agencies to provide adequate compensation for depopulation of cattle.

Rep. French asked whether brucellosis could be passed on to humans through consumption of elk and buffalo meat. Mr. MacKay responded it was his understanding brucellosis is in the lymph system and reproductive fluid, and that the meat is safe for consumption. Rep. French asked what happens to the cattle industry when a state loses its brucellosis-free status. Mr. MacKay explained the different classes. Under a class-free status, there are no restrictions on movement from state-to-state or owner-to-owner. Mr. MacKay explained that other states have placed restrictions on cattle coming into their state from Montana. Mr. MacKay believed the producers in the other states have to pay for the testing on Montana cattle.

Mr. McRae wondered how the suspect cattle were located. Mr. MacKay explained the cattle were located through transfer of ownership papers in the Department of Livestock's brand office.

In response to Sen. Story, Mr. MacKay stated a herd south of Bridger, which has a fence line contact, still remains to be tested later this fall. Sen. Story asked whether there were any other

indications of cattle with problems. Mr. MacKay was unaware of any other indicators of problem cattle.

Sen. Witte recalled there was a Baines vaccination for cattle. Mr. MacKay agreed and stated a high percentage of the females have been vaccinated. Director MacKay explained cattle used to be vaccinated at branding. The new Baines vaccination is given routinely at about six months of age, and a high percentage of cattle are being vaccinated.

Rep. Lambert asked whether the new Baines vaccine is a live virus. Mr. MacKay agreed it is a live virus vaccine.

Mr. McRae recalled reading the new vaccine is only 60 percent effective. Mr. MacKay replied he has seen ranges for effectiveness, but that while no vaccine is 100 percent effective, vaccination is still the best line of defense.

Sen. Story commented that if the Bridger herd is not gone in two weeks, Montana's brucellosis-free status is gone.

Chairman Wanzenried inquired about the database and wondered who is responsible for maintaining the database. Mr. MacKay believed the database was maintained by USDA at the National Veterinary Lab, and that the database is still being constructed. Chairman Wanzenried wondered whether Montana should be submitting samples in an effort to create a record. Mr. MacKay was not certain and could not say whether it would be advantageous. Mr. MacKay identified Yellowstone National Park as the largest last repository for brucellosis in the country.

Sen. Story added all hunters are supposed to go through FWP check points and wondered if FWP is sampling every elk coming through their checkpoints. Sen. Story believed several of the human cases of undulant fever resulted from people dressing out buffalo and elk. Mr. MacKay agreed, but recalled both of the people who attended the public hearings that had undulant fever were veterinarians.

02:11:30      **PUBLIC COMMENT - On any matter not contained in this agenda and that is within the jurisdiction of the EQC**

Dave Galt, Executive Director, Montana Petroleum Association (MPA), works with a variety of groups and stakeholders to ensure the split estates brochure is available. Mr. Galt appreciated the effort over the last session regarding the split-estate issue. In addition, Mr. Galt noted the teachers workshop at Montana Tech being sponsored by MPA.

***(Tape 2; Side B)***

Mr. Galt suggested a member of the EQC should attend the training on petroleum education. Mr. Galt stated another study, the Tongue River Information Program (TRIP) has been completed and was part of the presentation, and that it was a very interesting study and contained a lot of information. Mr. Galt encourage the EQC to include a presentation on the TRIP study in its agenda as it progresses through the interim. Mr. Galt commented on statements made by DEQ Director Opper. Mr. Galt addressed the intern program with Montana Tech to get interns interested in the permitting process, and stated MPA supports that program and is working with DEQ and Montana Tech to see that the program becomes a reality.

Tom Richmond, Administrator and Petroleum Engineer, Board of Oil and Gas, just released the results of the 2006-07 TRIP study. Mr. Richmond stated that four years' worth of data is now available, and that the report is available on the Board of Oil and Gas website. Mr. Richmond suggested the Tongue River Hydrology Report would be worth reading.

Don Allen, Western Environmental Trade Association (WETA), offered WETA's assistance to the EQC and stated he looked forward to working with the EQC.

Mr. Cebull requested Mr. Everts to include a presentation on the TRIP study on a future EQC agenda. Mr. Richmond offered to provide the report on CD to the EQC members.

### **ADOPTION OF INTERIM EQC CALENDAR**

Chairman Wanzenried directed the EQC members to the proposed meeting dates and the critical dates on the time line that must be adhered to. Mr. Everts explained the proposed dates are geared around the time line.

Chairman Wanzenried appointed the following members to the Agency Oversight Subcommittee: Sen. Shockley (Chairman), Rep. Bixby (Vice Chairman), Mr. Cebull, Rep. Dickenson, Rep. Vincent and Rep. Witte.

Sen. McGee noted Memorial Day 2008 is missing from the calendar.

### **OTHER BUSINESS**

Chairman Wanzenried requested comments on the proposed EQC Rules ([EXHIBIT 3](#)).

Chairman Wanzenried discussed the procedures utilized by the HB 790 Subcommittee when that subcommittee adopted the super majority rule. Mr. Everts explained that interim committees are advisory committees. Mr. Everts reported he discussed the issue with Greg Petesch, Code Commissioner, Legislative Services Division, who had confirmed that interim committees can adopt their own decision-making process. Subcommittees, as well as work groups, have also agreed not to make recommendations to the full EQC unless there is a full consensus. In addition, a super majority vote has been required by a subcommittee or work group before it can make a recommendation to the full EQC. Mr. Everts emphasized that subcommittees and work groups simply make recommendations to the full EQC, and that the EQC can accept, veto, or change those recommendations.

No proposed changes to the proposed EQC Rules were offered. The EQC will adopt the proposed EQC Rules at its meeting in September.

### **MINUTES**

Chairman Wanzenried stated unless the EQC decides otherwise, the written summary of the minutes will be the official record and that there will be an audio backup. Mr. Everts presented the options regarding minutes to the EQC. The official record could be the summary minutes or the audio recording. Mr. Everts clarified the official record will be the record that would hold up in court.

Sen. McGee wondered how secure the audio is. Mr. Everts replied the audio is fairly secure since it is backed up. Sen. McGee moved the audio be the official record, but that EQC members also receive a summary of the minutes so the EQC members can review and approve the summary minutes at its next meeting.

Sen. Shockley commented that he once needed a recording from the House Judiciary Committee, but the recording was garbled. Sen. McGee agreed with Sen. Shockley, but noted the advancement in technology had improved the sound quality and that the recording is a better official record.

Mr. Cebull asked for clarification that the EQC will vote to approve the audio recording. Chairman Wanzon agreed that would be the case.

Sen. Story agreed and stated it is pointless to have the summary minutes be the official record when there is a better record available.

Sen. McGee's motion to have the audio recording be the official record, and that EQC members also receive a written summary of the minutes carried unanimously by voice vote.

#### **OTHER BUSINESS**

Mr. Everts referred the EQC members to DEQ's quarterly report on the Kalispell Pole Site ([EXHIBIT 4](#)). Rep. Witte added that in July there will be some on-the-ground action on the Kalispell Pole site. Rep. Dickenson recalled additional funding was placed into the site in 2005, so it could move forward and believed the site is progressing.

Sen. Shockley announced the Agency Oversight Subcommittee will meet upon adjournment of EQC.

#### **INSTRUCTIONS TO STAFF**

There were no further instructions to staff.

#### **ADJOURNMENT**

There being no further business to come before the EQC, the meeting adjourned at 11:07 a.m.