



ENVIRONMENTAL QUALITY COUNCIL

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GOVERNOR BRIAN SCHWEITZER
DESIGNATED REPRESENTATIVE
MIKE VOLESKY

HOUSE MEMBERS
CHAS VINCENT--Chair
SUE DICKENSON
JULIE FRENCH
MIKE MILBURN
CARY SMITH
FRANKE WILMER

SENATE MEMBERS
BRADLEY MAXON HAMLETT--Vice Chair
JIM KEANE
RICK RIPLEY
JIM SHOCKLEY
MITCH TROPILA
BRUCE TUTVEDT

PUBLIC MEMBERS
JEFF PATTISON
BRIAN CEBULL
DIANE CONRADI
MARY FITZPATRICK

COUNCIL STAFF
JOE KOLMAN, Research Analyst
SONJA NOWAKOWSKI, Research Analyst
HOPE STOCKWELL, Research Analyst
CYNTHIA PETERSON, Secretary
TODD EVERTS, Legislative Environmental Analyst

MINUTES

Approved September 10, 2009

Date: May 29, 2009

Room 172, State Capitol Building
Helena, Montana

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. Committee records are available for inspection and copying upon request by any person during regular office hours of the Legislative Services Division.

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

REP. CHAS VINCENT, Chairman
SEN. BRADLEY MAXON HAMLETT, Vice Chairman
SEN. JIM KEANE
SEN. RICK RIPLEY
SEN. JIM SHOCKLEY
SEN. MITCH TROPILA
REP. SUE DICKENSON
REP. JULIE FRENCH
REP. MIKE MILBURN
REP. CARY SMITH
REP. FRANKE WILMER
MR. BRIAN CEBULL
MS. DIANE CONRADI
MR. MIKE VOLESKY

COMMITTEE MEMBERS EXCUSED:

SEN. BRUCE TUTVEDT
MS. MARY FITZPATRICK
MR. JEFF PATTISON

STAFF PRESENT

TODD EVERTS, Legislative Environmental Analyst
JOE KOLMAN, Research Analyst
SONJA NOWAKOWSKI, Research Analyst
HOPE STOCKWELL, Research Analyst
BARBARA SMITH, Fiscal Analyst
CYNTHIA PETERSON, Secretary

Visitors

Agenda ([Attachment 1](#))
Visitor List ([Attachment 2](#))

COMMITTEE ACTION

- The EQC adopted the Work Plan, including: .3 FTE to study biomass; studying fire suppression issues at .15 FTE; studying the recreation tourism enhancement program at .03 FTE; .1 FTE for water policy; .40 FTE for agency oversight; .4 FTE for statutory duties; and .2 FTE for recycling and solid waste; 02 FTE for petroleum release; and .2 FTE for publications.
- The EQC approved the proposed EQC meeting dates.
- The EQC will write a letter to the Department of Commerce (DOC) expressing a desire not to fund a study of biomass, but to fund pilot projects.

CALL TO ORDER AND ROLL CALL

AGENDA

00:00:01 Rep. Vincent, Chairman of the Environmental Quality Council (EQC), called the meeting to order at 8:30 a.m. The secretary noted the roll ([Attachment 3](#)).

QUESTIONS FROM THE EQC MEMBERS TO THE AGENCIES

00:00:45 Rep. French recalled a large amount of federal stimulus money was given to the U.S. Department of Agriculture for development of fuels. Chad Lee, Business Development office, Department of Agriculture, commented.

00:03:46 Upon request from Sen. Keane, Tom Kaiserski, DOC, explained DOC's biomass energy study.

- 00:06:44 Rep. Dickenson addressed the installation of biomass energy boilers and asked Mr. Kaiserski whether he envisioned working with Fuels to Schools or moving to another pilot project. Mr. Kaiserski responded. Rep. Dickenson asked Mr. Kaiserski whether he agreed a feasibility study would not be as valuable as a project on the ground. Mr. Kaiserski could not specifically respond.
- 00:08:54 Rep. French wanted to know how much of the \$475,000 would be used for administrative expenses. Mr. Kaiserski responded.
- 00:09:58 Barbara Smith, Legislative Fiscal Division, clarified the \$475,000 in HB 645 is not federal funds but consists of freed up general fund dollars.

CONTINUE REVIEW AND DISCUSSION OF WORK PLAN (INCLUDING PUBLIC COMMENT)

- 00:11:29 Chairman Vincent submitted and reviewed his outline for the Work Plan (**EXHIBIT 1**).
- 00:23:29 Ms. Nowakowski provided an explanation of the environmental permitting process and provided an overview of guidelines for a visual guide to Montana's permitting process.
- 00:26:54 Chairman Vincent continued reviewing the Work Plan Matrix.
- 00:28:23 Rep. Dickenson reviewed her outline for the Work Plan Matrix (**EXHIBIT 2**).
- 00:36:20 Ms. Conradi stated she believed the state Superfund laws could be an area addressed under agency oversight. Ms. Conradi believed new issues were emerging at the Whitefish/Kalispell Superfund sites.
- 00:40:38 Ms. Smith clarified FTE numbers do not include her time.
- 00:41:11 Rep. French addressed HJR 1 and stated she places a lot of importance on biomass. Rep. French suggested .35 or .40 be allocated to biomass.
- 00:42:29 Mr. Cebull suggested time allocations could be adjusted.
- 00:43:17 Chairman Vincent emphasized the connectivity between biomass and fire suppression.
- 00:44:00 Mr. Cebull asked whether the studies could be considered as a group.
- 00:44:34 Sen. Shockley agreed fire suppression and biomass fit together; however, Sen. Shockley suggested the other two studies should stand alone. Mr. Cebull provided clarification.
- 00:45:26 Rep. Wilmer commented on the allocation of staff time.

- 00:46:51 Sen. Shockley identified two aspects for recycling: the desire to recycle and the money to do it. Sen. Shockley commented that, currently, commodity prices do not encourage recycling.
- 00:47:41 Sen. Keane thought there may be a better use for the FTE, and efforts would need to be implemented on the local government level.
- 00:48:28 Rep. Dickenson disagreed and emphasized the amount of money saved in landfill costs. Rep. Dickenson believed the state had a role in recycling and that there are currently opportunities to move forward.
- 00:51:22 Chairman Vincent addressed rural recycling.
- 00:51:35 Rep. Wilmer agreed the current market is volatile and thought the current economic conditions should not be taken as indicative of long-term trends. Rep. Wilmer favored doing the study.
- 00:52:59 Sen. Shockley wondered if the work on recycling could be postponed until the end of the interim. Mr. Everts responded and Rep. Wilmer provided clarification.

HJR 15

- 00:55:07 Chairman Vincent asked Mr. Volesky if there was a time line for the Public Land Public Wildlife group. Mr. Volesky responded.
- 00:56:22 Rep. Dickenson wondered whether .03 was adequate to review the pros and cons of block management. Ms. Stockwell responded. Chairman Vincent suggested looking at ways to enhance access on private lands after 2012. Ms. Stockwell recalled Rep. McChesney's bill for the community hunting enhancement program and suggested, if time allowed, looking at tourism and recreational access as well.
- 01:00:12 Mr. Cebull moved to adopt the work plan and include studying biomass at .3 FTE; studying fire suppression issues at .15 FTE; and studying the recreation tourism enhancement program at .03 FTE as presented by Chairman Vincent. The motion carried unanimously by voice vote.
- 01:01:43 Rep. Dickenson moved to allocate .20 FTE for recycling and solid waste. Rep. Wilmer asked whether the allocation of hours could be adjusted. Mr. Everts agreed.
- 01:02:50 Sen. Hamlett commented studies could help find better ways to handle trash. Rep. Dickenson's motion carried by roll call vote.

Water Policy

- 01:05:32 Mr. Cebull identified nitrates as a quality issue and a large issue and asked whether Chairman Vincent intended for the issue to be addressed by the EQC. Chairman Vincent agreed.

01:06:33 Mr. Cebull moved to allocate .1 FTE to water policy. The motion carried unanimously by voice vote.

Statutory Duties

01:07:13 Rep. French moved to allocate .5 FTE to general statutory duties.

01:07:34 Mr. Cebull asked whether the EQC was required to stay with 1.84 FTEs.

01:08:09 Rep. French commented that agency oversight could be reduced.

01:08:45 Sen. Keane stated he did not want to reduce agency oversight since he viewed agency oversight as one of the EQC's major roles. Rep. French withdrew her motion. Sen. Keane moved to adopt .4 FTE for statutory duties.

01:09:56 Rep. Dickenson asked about the possibility of eliminating participation in environmental meetings and the requirement that permit applicants present Montana Environmental Policy Act (MEPA) concerns to the EQC.

01:10:24 Mr. Everts reiterated that staff receives agendas for every meeting and attendance could be flexible.

01:11:45 Chairman Vincent suggested looking at the EQC's statutory obligations.

01:12:22 Rep. Wilmer requested clarification that the motion included the two items "at the discretion of the staff" and "the use of their time within the framework of a target of .4." Chairman Vincent agreed those two items were part of the motion. The motion carried unanimously by voice vote.

Agency Oversight

01:13:10 Mr. Cebull moved to allocate .4 FTE to oversight this interim.

01:13:44 Mr. Everts responded to Rep. French and explained how a subcommittee takes extra staff resources. Mr. Everts also stated administrative rules may have to be reviewed by the entire EQC. Mr. Everts stated this could increase the length of the EQC meeting.

01:15:30 Sen. Shockley commented on subcommittees.

01:16:32 Rep. French urged inclusion of Ms. Conradi's issue in agency oversight.

01:16:50 Rep. Dickenson noted there would be a slight increase in costs if there is a full two-day meeting. Mr. Everts suggested there may or may not be an increase in costs.

01:17:53 Mr. Cebull's motion carried unanimously by voice vote.

Petroleum Tank Release Fund Solvency/EQC Publications

- 01:18:13 Mr. Cebull moved to allocate .02 FTE for petroleum release and .2 FTE for publications. Motion carried unanimously by voice vote.
- 01:19:10 Rep. French asked about an allocation for environmental public health.
- 01:19:38 Rep. Dickenson moved to allocate .02 FTE to public health.
- 01:20:30 Rep. French commented on why she supported the motion.
- 01:21:28 Rep. Dickenson commented on a past graduating class from Fairfield where 12 out of 16 graduates now have Multiple Sclerosis (MS). Rep. Dickenson reported various pockets of MS have been reported throughout Montana.
- 01:22:33 Rep. Milburn stated he was skeptical since there has never been a finding as to the cause for the MS.
- 01:23:24 Sen. Shockley thought the EQC had the resources to identify problem areas and make the public aware.
- 01:23:52 Rep. French stated there are studies going on in Montana and around the nation to address the rise of respiratory problems. Rep. French saw a need for the EQC to be educated on public health issues.
- 01:25:03 The motion carried by roll call vote.

ADOPTION OF EQC CALENDAR

- 01:27:44 Mr. Everts submitted proposed EQC meeting dates (**EXHIBIT 3**) and a calendar containing all meeting dates for legislative interim committees (**EXHIBIT 4**).
- 01:28:28 Mr. Cebull moved to accept the EQC meeting dates as proposed by Mr. Everts. The motion carried unanimously by voice vote.

RECESS

EQC STATUTORY OVERSIGHT - WOLF DELISTING UPDATE - Department of Fish, Wildlife, and Parks' Staff

- 01:41:53 Ms. Stockwell introduced members of the Department of Fish, Wildlife, and Parks (FWP), who addressed wolf delisting.
- 01:43:10 Joe Maurier, Director, FWP, introduced FWP staff and the issues surrounding wolf delisting and wolf management.
- 01:45:02 Ken McDonald, Chief of Wildlife, FWP, provided background information on the Montana Gray Wolf Program (**EXHIBIT 5**); Gray Wolf Delisted, Frequently Asked Questions (**EXHIBIT 6**); Fact Sheet: Montana Wolf Delisted, May 4, 2009

(EXHIBIT 7); Montana State Law and Administrative Rules for Gray Wolves as a Species in Need of Management (EXHIBIT 8).

01:54:25 Martha Williams, Attorney, FWP, represented FWP in the litigation regarding reclassification and delisting of the wolf, and updated the EQC about future litigation.

Questions from the EQC

02:00:32 Sen. Shockley asked for an explanation on the quota. Ms. Williams explained.

02:01:37 Mr. Cebull asked Ms. Williams to identify the plaintiffs and who met with FWP. Mr. Cebull also wanted to know what would satisfy the plaintiffs. Ms. Williams responded.

02:03:55 Sen. Ripley requested a breakdown of where the \$1 million used to manage the wolf population would come from. Mr. McDonald responded. Rep. Ripley asked whether it was true the program would cost \$1 million. Mr. McDonald responded. Rep. Ripley was curious about the population objective and how the total population would be controlled in order to meet the objective. Mr. McDonald responded.

02:10:36 Rep. Smith asked if there were any estimates for the total cost of wolf reintroduction in Montana. Mr. McDonald did not have an estimate.

02:12:05 Rep. Dickenson believed most packs had a radio-collared member and asked whether the taking of an alpha male or alpha female would affect the overall health of the pack. Mr. McDonald responded.

02:13:27 Mr. Volesky commented the Governor is also concerned about the cost of wolves in Montana and believes funding should be a federal responsibility.

02:14:34 Sen. Shockley asked about the physical evidence requirement regarding domestic dog attacks. Mr. McDonald responded.

02:17:23 Carolyn Sime, Wolf Program Coordinator, provided clarification regarding domestic dog attacks by wolves.

02:18:46 Chairman Vincent asked whether there is precedent because the grizzly bear is still allowed to be hunted, even though grizzly bears are endangered. Ms. Williams responded.

02:20:30 Chairman Vincent had questions regarding the map that depicts viable packs of wolves and was curious about the number of wolves FWP claims are in Lincoln County. Ms. Sime provided clarification.

02:22:10 Sen. Shockley addressed wolves killing domestic dogs and the distinction between threatening to kill and attacking. Sen. Shockley believed the statute should be cleaned up.

02:23:33 Director Maurier invited EQC members to participate in a wolf collaring or trapping operation.

02:24:02 Sen. Hamlett wanted to know if Great Falls was in the endangered area or the experimental area. Ms. Sime responded.

PUBLIC COMMENT ON ANY MATTER NOT CONTAINED IN THE AGENDA THAT IS WITHIN THE JURISDICTION OF THE EQC.

There was no public comment offered.

OTHER BUSINESS

02:27:22 Sen. Shockley suggested there should be a rule regarding rotation of EQC chairmen.

02:29:24 Mr. Everts offered to provide the EQC with various options.

02:30:17 Rep. Wilmer commented the State Administration and Veterans Affairs Interim Committee utilizes an alternating house and party rotation.

02:30:47 Mr. Cebull commented on the unique nature of the EQC and the inclusion of public members in the rotation.

02:31:44 Sen. Ripley agreed the EQC is unique since it has term limits.

02:32:36 Mr. Cebull requested clarification that the audio recording would be the official minutes. Chairman Vincent agreed.

02:33:18 Rep. Wilmer thought the rules should reflect that in the event a citizen member is elected Chairman, the Vice Chairman would be of the party and house under the normal rotation.

02:34:19 Mr. Everts addressed the minutes and agreed the audio recording would be considered the official minutes.

02:36:04 Sen. Keane moved that EQC staff write, and the EQC chairman sign, a letter to the DOC requesting the DOC use the \$475,000 in HB 645 to fund biomass projects in the state of Montana and work with the EQC to promote development of biomass projects. Chairman Vincent disclosed to the EQC that he works for a firm that does consulting for natural resource development, including biomass development.

02:38:12 Sen. Tropila requested clarification whether the letter would state "one project" or "some projects." Sen. Keane thought the letter should express a desire not to fund a study, but to put money to the ground. Rep. Dickenson requested to see an electronic draft of the letter.

- 02:39:18 Chairman Vincent identified supply of fiber as the biggest hurdle and thought flexibility should be given to the DOC. Sen. Keane agreed. The motion carried unanimously by voice vote.
- 02:40:52 Mr. Everts asked whether a policy regarding forwarding of e-mail could be part of the proposed operating rules of the EQC. The EQC agreed.
- 02:41:51 Ms. Stockwell requested feedback on the audio visual guide and how EQC members would prefer to receive their packets.
- 02:42:30 The meeting adjourned at 11:17 a.m.

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