



ENVIRONMENTAL QUALITY COUNCIL

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| GOVERNOR STEVE BULLOCK DESIGNATED REPRESENTATIVE | HOUSE MEMBERS | SENATE MEMBERS | PUBLIC MEMBERS | COUNCIL STAFF |
|---|--|--|--|---|
| PATRICK HOLMES | BRADLEY MAXON HAMLETT--Vice WILLIS CURDY JANET ELLIS STEVE GUNDERSON THERESA MANZELLA KERRY WHITE | CHAS VINCENT--Chair MIKE LANG MIKE PHILLIPS JP POMNICHOWSKI CARY SMITH GENE VUCKOVICH | SCOTT ASPENLIEDER JOHN C. BRENDEN KYLIE PAUL MATT VINCENT | TREVOR GRAFF, Research Analyst JASON MOHR, Research Analyst HOPE STOCKWELL, Research Analyst NADINE SPENCER, Secretary ERIN BILLS, Legal Staff JOE KOLMAN, Legislative |

MINUTES LOG

July 26, 2018
Room 317, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation 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 record 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 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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Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. CHAS VINCENT, Chair
REP. BRADLEY MAXON HAMLETT, Vice Chair

SEN. MIKE LANG
SEN. MIKE PHILLIPS
SEN. JP POMNICHOWSKI
SEN. CARY SMITH
SEN. GENE VUCKOVICH

REP. WILLIS CURDY
REP. JANET ELLIS
REP. STEVE GUNDERSON
REP. THERESA MANZELLA
REP. KERRY WHITE

MR. JOHN BRENDEN
MS. KYLIE PAUL
MR. MATT VINCENT

COMMITTEE MEMBERS EXCUSED

MR. SCOTT ASPENLIEDER
MR. PATRICK HOLMES

STAFF PRESENT

HOPE STOCKWELL, Research Analyst
NADINE SPENCER, Secretary
JAMESON WALKER, Legal Staff
JOE KOLMAN, Legislative Environmental Analyst

VISITORS' LIST (Attachment 1)

AGENDA (Attachment 2)

COMMITTEE ACTIONS

The Environmental Quality Council (EQC):

- Voted to put LCFPA1 out for public comment;
- Voted to have staff draft a bill that proposes fire assessment fees based on acreage and one that would include some assessment of municipalities;
- Voted to amend LCdog3 and put it out for public comment.
- Voted to put the draft report on the study of bird dog regulations out for public comment;
- Voted to amend HB 96 (2017) and put it out for public comment as a draft bill;
- Voted to add to the findings and recommendations in the SJ 5 report;
- Voted to send a letter to the Governor's office to find existing resources to supplement funding to the State Library for the Natural Heritage Program;
- Voted to have Chairman Vincent and Vice Chairman Hamlett work with staff and the Department of Environmental Quality on a legislative draft to implement Option 8 for the Libby asbestos Superfund liaison position and put it out for public comment;
- Voted to put a funding proposal for the aquatic invasive species program out for public comment.

CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Vincent called the meeting to order at 8:03 a.m. The secretary noted the roll. **(Attachment 3)** Mr. Aspenlieder and Mr. Holmes were excused. Mr. Aspenlieder gave his proxy to Sen. Lang. **(Attachment 4)**

SAGE GROUSE CONSERVATION PROGRAM UPDATE

Habitat Quantification Tool and Mitigation Policy Progress

00:01:19 Carolyn Sime, program manager, Montana Sage Grouse Habitat Conservation Program, provided an update on the habitat quantification tool (HQT) and development of the mitigation policy.

Public comment

00:04:41 Gary Wiens, Montana Electric Cooperatives' Association
00:08:07 Alan Olson, executive director, Montana Petroleum Association
00:11:01 Ben Lamb, independent consultant

EQC questions and discussion

00:14:29 Mr. Brenden asked Mr. Wiens about the mitigation costs associated with building a cell phone tower.
00:14:53 Mr. Brenden asked Mr. Wiens if he has seen the site for the cell phone tower.
00:15:14 Mr. Brenden commented on the site and the mitigation costs.
00:16:20 Sen. Lang commented on the amount of money invested in the project and the purchase of the 44 Ranch conservation easement and asked Ms. Sime to explain the use of the HQT model and the functional credits for the 44 Ranch.

00:21:01 Sen. Vincent left the meeting and Rep. Hamlett assumed the duties of the chair.

00:26:37 Rep. White asked Sen. Lang about the 44 Ranch conservation easement and the number of functional acres.

00:30:00 Sen. Vincent returned to the meeting and resumed the duties of the chair.

00:34:07 Rep. Manzella complimented Ms. Sime on her presentation and commented on the mitigation costs associated with building the cell phone tower and the emphasis that has been put on protecting sage grouse.
00:35:48 Sen. Phillips said the EQC may want to consider adding an agenda item at the September meeting for a demonstration of the HQT model. Sen. Vincent agreed. He asked Sen. Phillips about working with Sen. Lang to draft a letter to the Montana Sage Grouse Oversight Team (MSGOT) regarding the concerns and requesting some flexibility so that the HQT is not too standardized and rigid. Sen. Phillips said he will.
00:38:32 Sen. Lang said they can have the letter to give to MSGOT when they meet on September 14.
00:39:15 Sen. Vincent asked staff about the dates for the September EQC meeting and if the Council was in agreement with adding the item to the agenda.
00:40:08 Mr. Vincent asked Ms. Sime if there is an on-the-ground component for the HQT or if it is all based on GIS. Ms. Sime clarified for Sen. Lang that the model produces a number for year one and said, in answer to Mr. Vincent's question, that a site visit is required.
00:44:11 Mr. Vincent asked Ms. Sime about a calibration process for the model.
00:46:44 Mr. Vincent commented on the need to run a field test of the functional acres calculated by the model.
00:49:01 Rep. Hamlett commented on using science and the need to continue to move forward to save the sage grouse and for the benefit of the state's economy.
00:50:17 Sen. Vincent said an agenda item on the HQT will be added for the September meeting and the Council can consider drafting a letter to the MSGOT at that time.

FIRE-RELATED STUDY TOPICS

Options for Landowner Assessment Fees

- 00:50:52 Sen. Vincent said he developed a concept for the Council to consider that takes one-third of the total fire-preparedness budget and spreads it out statewide.
(Exhibit 1)
- 00:52:39 Joe Kolman, environmental analyst, Legislative Services Division (LSD), discussed the bill draft.
- 00:56:06 Sen. Vincent said the draft is a starting point and commented on the section of the bill dealing with aviation.

EQC discussion

- 00:58:06 Rep. Curdy asked Sonya Germann, Forestry Division administrator, Department of Natural Resources and Conservation (DNRC), about the Forest Service Federal Excess Personal Property program and looking at additional aviation assets to replace current assets. Ms. Germann redirected the question to John Tubbs, director, DNRC.
- 01:02:54 Sen. Vincent commented on the DNRC fire equipment and their facilities. Mr. Tubbs invited Council members to tour the airport hangar.
- 01:03:25 Rep. Curdy asked Mr. Tubbs about the remaining functional life for the MT-205 helicopters.
- 01:05:14 Rep. Curdy asked Sen. Vincent about the exemptions for cities and said he is concerned about unincorporated communities.
- 01:08:33 Mr. Brenden said there will never be total equity in taxation and he is concerned about assessing parcels versus acres.
- 01:09:58 Sen. Vincent commented on equity in spreading taxes out statewide and said the way the acreage model has been used and applied hasn't been consistent. He said if there is a way to do acreage that is more equitable it can be put into the bill.
- 01:11:01 Mr. Brenden said he would be interested in seeing a comparison. Sen. Vincent said he can continue to work on it with the Department of Revenue (DOR) and look at comparing acreage and parcels for the September meeting.
- 01:12:07 Mr. Brenden said he recommends finding out if there is another way that is better.
- 01:12:41 Sen. Lang asked about tax statements and how parcels were determined. Sen. Vincent said it is determined by what is legally filed.
- 01:13:59 Rep. Hamlett said parcels are the history of land ownership in the state.
- 01:14:41 Rep. Hamlett said he recommends that the bill draft include urban areas.
- 01:17:36 Rep. Ellis asked Sen. Vincent about putting the draft bills out for public comment.
- 01:18:14 Sen. Vincent asked about moving forward and revisiting the draft.
- 01:18:48 Sen. Vincent asked Mr. Tubbs about working with the DOR between now and September on the best way to find equity.

Public comment

- 01:20:23 Paul MacKinzie, Land and Resource manager, F.H. Stoltze Land & Lumber Co.
- 01:22:13 Peter Kolb, Montana Forest Owners Association; Montana State University extension forestry specialist; associate professor, Forest & Management, University of Montana **(Exhibit 2)**
- 01:28:02 John Baucus, landowner

01:34:58 Julia Altemus, Montana Wood Products Association

Next Steps for Study

- 01:36:10 Rep. Ellis said she recommends getting comments from the Montana League of Cities and Towns and the Montana Association of Counties for their opinion on assessing all parcels versus wildland parcels.
- 01:36:59 Sen. Vincent said he recommends putting the current bill draft out for public comment and to have staff draft another bill that includes cities and towns for public comment.
- 01:37:46 Mr. Kolman said he can provide different options for public comment.
- 01:38:16 Mr. Brenden said it needs to be equitable. Sen. Vincent agreed and said that the DOR needs to have something in order to get as accurate an assessment as possible.
- 01:39:50 Sen. Lang asked Mr. Kolman about including the definition of forested land in the bill draft
- 01:40:42 Rep. Hamlett asked Mr. Kolman if the calculations in the bill draft look at parcels with buildings and parcels without buildings.
- 01:41:27 Rep. White asked staff about clarifying language in the bill draft.
- 01:43:07 Sen. Vincent commented on putting a cap on assessing a parcel and on doing another draft using acreage.
- 01:44:15 Sen. Pomnichowski commented on the bill draft and said she supports a per parcel assessment instead of a per acre assessment. She also commented on excluding municipalities.
- 01:46:52 Sen. Vincent commented on the language in the bill. He said his main goal is to have equity statewide and to try and address future costs for replacing the fire aviation fleet.

Motion/Vote

- 01:48:47 Rep. Hamlett moved to put LCFPA1 out for public comment. The motion carried 13-1 by voice vote. Rep. White voted no. Mr. Aspenlieder voted aye by proxy. Rep. Gunderson and Sen. Smith were absent from the room.
- 01:49:25 Rep. Ellis asked about alternative bill drafts. Sen. Vincent said the Council needs to make a motion to have staff draft alternative bills.

Motion/Vote

- 01:49:40 Rep. Ellis moved to have staff draft a bill that proposes assessing fees based on acreage and one that would include some assessment of municipalities. The motion carried 14-0 by voice vote. Mr. Aspenlieder voted aye by proxy. Rep. Gunderson and Sen. Smith were absent from the room.

Initial Attack Report

- 01:50:43 Ms. Germann said that after the last EQC meeting the DNRC and the U.S. Forest Service (USFS) were asked to review agreements in other states, including Oregon, used to authorize initial response to fires on federal lands and compare and analyze initial attack success rates between state and federal fire agencies. Ms. Germann said the DNRC worked with the USFS and put together the information in a joint document. **(Exhibit 3)**

- 01:52:00 John Monzie, deputy chief, Fire Protection Bureau, DNRC, discussed the joint document.
- 01:53:14 Jane Darnell, deputy regional forester, Northern Region, USFS, provided information on USFS initial attack in Montana. [\(Exhibit 4\)](#)

Public comment None

EQC questions and discussion

- 01:56:48 Rep. Curdy asked Mr. Monzie about the report and the definition of "any party."
- 01:58:54 Rep. Curdy asked Mr. Monzie about safety and which agency that has liability for firefighters that are injured or die.
- 02:00:24 Rep. Curdy asked Mr. Monzie about the standards that local volunteer firefighters must meet before they can work on state or federal land.
- 02:02:42 Rep. White said that SB 314 (2017) allows a person under 12 years of age, when accompanied by an adult, to ride on gravel roads in the state and asked Ms. Darnell about citations that are being issued by the USFS. Ms. Darnell said John Hagengruber, USFS liaison, can look into it and report back.
- 02:04:36 Rep. Hamlett asked Ms. Darnell about the number of smoke jumpers based in Missoula. Ms. Darnell redirected the question to Ralph Rau, regional director, Fire and Aviation, USFS.
- 02:07:26 Rep. Hamlett asked Mr. Rau about the number of jumps from planes and other ways that smoke jumpers are deployed.
- 02:09:38 Rep. Hamlett asked Mr. Rau about changes in the way smoke jumpers are deployed now compared to the past.
- 02:10:35 Rep. Hamlett asked Mr. Rau if smoke jumpers are deployed when smoke is detected.
- 02:12:10 Rep. Hamlett asked Mr. Rau about delays in initial attack.
- 02:13:34 Rep. Hamlett asked Mr. Rau about the size of a fire and the number of smoke jumpers deployed.
- 02:14:36 Rep. Hamlett asked Mr. Rau about the need for more smoke jumpers.
- 02:16:12 Sen. Vincent asked Ms. Darnell about how the statistics are counted for a fire when an initial decision is made to not deploy resources for initial attack, but then the fire turns into a Type 1 or Type 2 response.
- 02:18:21 Sen. Vincent asked Ms. Darnell about the fire season this year and the USFS approach during red flag warning conditions.
- 02:23:47 Sen. Vincent commented on working with the USFS to have aggressive initial attack during red flag conditions and said he would like to see a copy of the new Chief's letter of intent for wildland fire. Ms. Darnell said she can provide a copy. [\(Exhibit 5\)](#)
- 02:26:27 Rep. Curdy commented on the USFS initial attack response to the Lolo Peak fire in 2017 and how the agency uses its resources. Ms. Darnell said the agency learned a lot from the fire season last year and is working closely with the state to leverage its assets and resources for the best response strategy.

UPDATE ON USFS VOLUNTEER ISSUES

- 02:31:24 Joni Packard, Regional Volunteer Youth and Service program manager, Northern Region, USFS, provided an update on worker's compensation coverage options for USFS volunteers.

Public comment None

EQC questions and discussion

02:36:59 Rep. Manzella asked Ms. Packard to provide a copy of the information she presented.

02:37:31 Recess

02:53:12 Reconvene

DOG TRAINING IN UPLAND GAME BIRD AREAS

02:53:20 Sen. Vincent gave instructions for public comment.

02:54:41 Mr. Kolman provided an overview of the dog training statute and the rules proposed by the Department of Fish, Wildlife, and Parks (FWP) to address issues in the statute.

02:57:45 Mr. Kolman said the EQC received a copy of the public comments. **(Exhibit 6)**

02:59:25 Mr. Kolman discussed LCdog3. **(Exhibit 7)**

03:00:27 Sen. Vincent asked Mr. Kolman about the public comment.

Public comment

03:01:21 Al Gadoury, retriever director, Missouri Headwaters Gun Dog Club

03:02:35 Dominique Savoie, Three Forks

03:06:39 Shannon Taylor, board member, Missouri Headwaters Gun Dog Club

03:10:45 Scott Benowitz, board member, Missouri Headwaters Gun Dog Club

03:13:53 John Robinson

03:15:44 Kerri Payne

03:21:26 Jeff Herbert, president, Helena Valley Gun Dog Club

03:23:33 Kyle Barner, member, Pheasants Forever

03:25:31 Priscilla Robinson, Missouri Headwaters Gun Dog Club

03:26:19 Luann Pleasant, Red Rover Retrievers

03:26:58 Ron Adlington

03:27:25 Chad Harvey, regional representative, Pheasants Forever

03:27:36 Todd Breitenfeldt, Whitehall, president, Montana Brittany Club

03:27:55 Jim Hoschouer, Bozeman, Pheasants Forever

03:28:13 JoAnn Kish

03:28:36 Chad Frady, Helena

EQC questions and discussion

03:29:05 Mr. Brenden said he agrees with the public comment and removing the prohibition on field trials on public lands from April 1 to August 31 and said he recommends changing "public land" to "state land".

03:33:06 Sen. Lang commented on how the issue was handled by FWP.

03:35:04 Sen. Pomnichowski commented on the bill draft and said it does not address the original complaint. She moved to table LCdog 3. Sen. Vincent said such action wasn't needed.

03:36:30 Sen. Vincent said he would like to see the current statute and the rule repealed and agreed with Sen. Lang regarding a citizen's advisory council.

03:38:45 Sen. Vincent opened discussion on next steps and recommendations for FWP.

03:39:18 Rep. Curdy said he appreciated hearing the comments from the public.

03:40:01 Rep. Manzella asked anyone that has specific details for a solution to provide them to the Council.

03:40:18 Rep. Gunderson commented on the original intent to remove private property rights takings and recommended striking new section 3(2)(b).

03:40:54 Rep. White said he recommends making changes to the bill and putting it out for public comment.

03:41:13 Rep. Ellis said she recommends that the definition of field trial be amended to read "it is a nationally affiliated event" or similar language.

03:42:16 Sen. Phillips asked staff about the ability to dictate policy on federal public land.

03:42:39 Sen. Pomnichowski said that other statutes may apply. Sen. Vincent asked Jameson Walker, staff attorney, LSD, about federal statutes.

03:43:43 Mr. Brenden said he recommends including individuals in the definition given by Rep. Ellis. Mr. Kolman commented on adding the definition of national affiliate in the field trial part of the bill.

03:44:45 Mr. Brenden asked Mr. Kolman about adding both state and national.

03:45:16 Sen. Vincent said staff can make the changes and put it out for public comment.

03:45:24 Rep. Ellis said she made a recommendation to staff to add an amendment to protect the health of the game bird population.

Motion/Vote

03:46:34 Rep. White moved to delete the prohibition from April 1 - August 31 and to amend the definition of field trial and put LC dog3 out for public comment. The motion carried 16-0 by voice vote. Mr. Aspenlieder voted aye by proxy.

Motion

03:47:26 Rep. Ellis moved to amend LCdog3 to protect the health of birds. [\(Exhibit 8\)](#)

Discussion on the Motion

03:48:23 Sen. Vincent

03:48:51 Ken McDonald, administrator, Wildlife Division, FWP

03:49:18 Sen. Lang

03:49:46 Ms. Savoie

03:50:30 Sen. Lang

03:50:41 Ms. Savoie

03:51:08 Sen. Lang

03:51:19 Sen. Vincent

03:52:26 Mr. McDonald

03:53:31 Sen. Vincent

03:53:36 Rep. Ellis

03:54:06 Mr. McDonald

03:54:18 Rep. Ellis

03:54:50 Mr. Kolman

03:55:06 Rep. Ellis withdrew her motion.

03:55:22 Mr. Vincent asked Sen. Vincent about the bill draft and addressing the initial concern that was brought before the Council.

- 03:57:19 Ms. Paul said the initial concern was about dog training which isn't being addressed in the bill draft and said Ms. Payne had some specific ideas for addressing the training issues that the Council could consider.
- 03:58:35 Sen. Vincent asked Ms. Payne to provide her written suggestions to the Council. **(Exhibit 9)**

Motion/Vote

- 03:59:59 Mr. Brenden moved to put the draft report out for public comment. The motion carried unanimously by voice vote. Mr. Aspenlieder voted aye by proxy.
- 04:01:04 Recess for lunch at 12:04 p.m.
- 05:02:35 Reconvened at 1:05 p.m.

Mr. Brenden left the meeting and gave his proxy to Sen. Lang. **(Attachment 5)**

- 05:02:57 Rep. Hamlett said there was an article in the newspaper today on J. D. Lynch, a long-time legislator and lobbyist, who passed away.

PRIVATE LAND/PUBLIC WILDLIFE COUNCIL UPDATE

- 05:03:36 Hank Worsch, legislative liaison, FWP, provided an update from the Private Land/Public Wildlife Council.

Public comment

- 05:05:39 Rep. Denley Loge, HD 14 **(Exhibit 10)**

EQC questions and discussion

- 05:09:28 Sen. Phillips asked Rep. Loge if Rep. Zach Brown, HD 63, has been involved in the recent efforts and the request for the EQC to sponsor HB 96 (2017) for the 2019 Legislative session.
- 05:10:03 Sen. Phillips asked Rep. Loge about legislative support for the revisions made to HB 96.
- 05:10:45 Rep. White said there was concern last session about hunter ethics and asked Rep. Loge about allowing input from the landowner on the hunters selected by FWP.
- 05:12:38 Sen. Vincent asked Rep. Loge about the intent in the bill that the department may issue "up to one" free elk hunting license to the landowner for every four members of the public that are allowed access to hunt.
- 05:13:53 Sen. Lang asked Mr. Worsch about the meaning of the word "department" and if regional offices can enter into contractual agreements with landowners.
- 05:15:21 Sen. Lang asked Mr. Worsch about special draws.
- 05:16:05 Sen. Vincent asked Mr. Worsch about the request and if it is for an EQC committee bill.
- 05:16:48 Sen. Vincent asked Mr. Worsch about allowing staff to clarify the intent in Section 1(3) line 9.
- 05:17:34 Sen. Pomnichowski asked Mr. Worsch about the permit or license that is granted to the landowner.
- 05:20:07 Sen. Vincent said staff provided language to clarify the intent.

- 05:21:13 Rep. Curdy asked Mr. Worsech if the bill will apply to the general hunting season, shoulder season, or both.
- 05:21:39 Sen. Lang asked Mr. Worsech about special permits for landowners.
- 05:22:59 Sen. Lang asked Mr. Worsech about the terms of the contract with the landowner.
- 05:23:49 Rep. Hamlett asked Mr. Worsech about allowing multiple permits for increased hunter days.

Motion

- 05:25:27 Rep. Curdy moved to put HB 96 as a draft bill out for public comment.

Discussion on the Motion

- 05:25:33 Rep. Ellis moved to amend the bill to include the clarification made by staff in Section 1(3).

Vote

- 05:25:51 The motion carried unanimously by voice vote. Mr. Aspenlieder and Mr. Brenden voted aye by proxy.

LAND BANKING AND CABIN SITE SALE REPORT (77-2-366, MCA)

- 05:26:23 Shawn Thomas, Trust Lands Management Division administrator, DNRC, provided an introduction.
- 05:27:04 Mr. Thomas presented the land banking report. [\(Exhibit 11\)](#)
- 05:28:55 Mr. Thomas presented the cabin and home site sales report. [\(Exhibit 12\)](#)

Public comment None

EQC questions and discussion

- 05:32:16 Rep. Ellis asked Mr. Thomas about the land banking report and the amount of money generated from lands sold and lands acquired.
- 05:33:46 Rep. Ellis asked Mr. Thomas about the number of cabins and home sites that the department has in inventory.
- 05:35:20 Sen. Lang asked Mr. Thomas about the amount of money in the land banking account. Mr. Thomas said he will provide the information to staff.
- 05:36:17 Sen. Vincent asked Mr. Thomas about the number of property sites that have been applied for, but not processed.
- 05:37:05 Sen. Smith commented on the sale of public land to private individuals.
- 05:37:27 Rep. Hamlett asked Mr. Thomas about the plans for the parcel of land the state owns outside the city of Great Falls.
- 05:40:02 Rep. Hamlett asked Mr. Thomas about the possibility that a citizen's group could lease the property from the state for open space.
- 05:41:05 Rep. Hamlett asked Mr. Thomas about the full market value for the property.
- 05:41:38 Rep. Hamlett asked Mr. Thomas about the I-186 ballot initiative and if it could stop minerals from being extracted on state school trust land.
- 05:44:13 Rep. Hamlett asked Mr. Thomas to provide information on the amount of money the state receives from mining and oil and gas production. He asked if the DNRC was contacted by Trout Unlimited about the impact of I-186 on school trust lands.

NATURAL RESOURCE DAMAGE PROGRAM

05:45:26 Doug Martin, Restoration Program chief, Natural Resource Damage Program (NRDP), Department of Justice, gave a PowerPoint presentation on the program. **(Exhibit 13)**

Public comment None

EQC questions and discussion

06:03:03 Mr. Vincent asked Mr. Martin about public oversight for the program and about some of the projects.

06:06:34 Rep. Curdy asked Mr. Martin about the \$1 million that was set aside in the 2017 Legislative session and if any of the money has been used at the Smurfit Stone plant.

06:07:42 Rep. Curdy asked Mr. Martin about working with the local citizen's advisory group on the Smurfit Stone cleanup.

06:08:38 Mr. Vincent asked Mr. Martin about the \$29 million that Atlantic Richfield Co. (ARCO) was ordered to pay for the cleanup of arsenic in East Helena and if the money will go through the NRDP. Mr. Martin redirected the question to Harley Harris, program manager and chief legal counsel, NRDP.

06:10:10 Sen. Vuckovich asked Mr. Martin about the placement of sediments from the Milltown Dam cleanup in the Opportunity ponds and why the land is being taxed as farm land instead of as a waste repository.

06:13:49 Rep. Gunderson asked Mr. Martin for a copy of his presentation.

06:14:12 Sen. Vuckovich commented on the Opportunity ponds.

SJ 5 STUDY

06:15:07 Sonja Nowakowski, staff, LSD, said the EQC received a copy of the SJ 5 draft report and discussed the changes made to the report that were requested by the Council in May. **(Exhibit 14)**

06:19:33 Ms. Nowakowski provided an overview of public comments. **(Exhibit 15)**

Public comment

06:21:10 Todd O'Hair, senior government affairs manager, Cloud Peak Energy

06:27:10 Bridger Mahlum, Montana Chamber of Commerce **(Exhibit 16)**

06:32:08 Anne Hedges, Montana Environmental Information Center

EQC questions and discussion

06:41:57 Sen. Phillips thanked Ms. Nowakowski for her work and asked about the initiative in the state of Washington and how well they did on the petition process.

06:42:51 Sen. Phillips commented on support for the initiative by the voters in Washington.

06:43:18 Sen. Phillips said he would like the Council to consider adding a recommendation to the report that Montana should promote significant federal investment in the Colstrip facilities for direct air and other forms of capture and storage of CO₂.

06:46:10 Sen. Vincent asked Sen. Phillips about using CO₂ as a commodity and if there is a federally funded resource and development project already under way.

06:48:54 Rep. Hamlett said he is concerned about forest fires and smoke as one of the biggest sources of CO2.

06:49:36 Sen. Vincent asked Mr. O'Hair about carbon capture and utilization storage (CCUS) technologies as a solution for Montana.

06:52:23 Sen. Vincent asked Mr. O'Hair about CCUS technology.

06:53:32 Sen. Vincent asked Mr. O'Hair about the size of the work force needed for a CO2 capture facility.

06:55:27 Sen. Vincent asked Mr. O'Hair about support from the industry.

06:57:09 Sen. Vincent asked Sen. Phillips about working with staff on putting information together on the technologies being developed. Sen. Lang asked about including Mr. O'Hair.

06:58:17 Rep. Ellis asked Ms. Nowakowski if carbon capture was included in the study.

06:59:12 Rep. Ellis asked about adding a section on carbon capture technologies to the report. Sen. Vincent said one of the findings could be that future legislatures need to look into opportunities to take advantage of the technologies.

07:00:47 Rep. Ellis said she recommends including a statement that Montana can and should export energy with the lowest possible carbon output.

07:01:46 Sen. Phillips said he agrees and that he can work with staff on drafting language for the report on how to give coal more useful life.

07:03:11 Sen. Vincent asked Ms. Nowakowski about language for the report. Ms. Nowakowski said the 2007-2008 Energy and Telecommunications Interim Committee conducted a study of carbon sequestration and portions can be incorporated in the report.

Motion/Vote

07:04:15 Sen. Phillips moved to add to findings and recommendations that Montana should promote significant federal investment in the Colstrip facilities to promote carbon capture utilization and storage including direct air capture. The motion carried unanimously by voice vote. Mr. Aspenlieder and Mr. Brenden voted aye by proxy. Rep. Manzella was absent from the room.

07:05:30 Rep. Hamlett asked that Mr. Olson provide staff with data on how much oil can be recovered by pumping CO2 into oil fields.

07:06:06 Sen. Lang commented on looking to the future and asked about the status of the letter from the Attorney General's office regarding the Commerce Clause. Sen. Vincent said a joint letter was sent with the Wyoming Attorney General's office to the governor of Washington. Mr. Walker said he will find out the status.

07:07:50 Rep. Hamlett said he would like to get data from the Department of Environmental Quality (DEQ) on how much CO2 and mercury are emitted by forest fires and the impact to Montana. Sen. Vincent said the data was received for the fire related study.

07:08:56 Ms. Nowakowski said she will update the links in the study that weren't available at the time of the mailing.

STATUTORY ADMINISTRATIVE RULE REVIEW

07:09:25 Mr. Walker provided information on the administrative rule review. ([Exhibit 17](#))

- 07:10:34 Mr. Walker provided information on the Water Policy Interim Committee rule establishing the Lockwood solvent groundwater plume site controlled groundwater area.
- 07:11:26 Mr. Walker provided information on the emergency rule by FWP regarding the Kootenai River emergency closure related to fire suppression efforts.
- 07:12:28 Mr. Walker provided information on other emergency rules.

Public comment

07:12:50 Alan Olson

EQC questions and discussion None

REVIEW PROPOSED TOPICS FOR NEXT EQC MEETING

SJ 5 Study

- 07:14:55 Sen. Vincent asked Sen. Phillips about finding someone who can provide information on direct air capture and other technologies.
- 07:16:05 Sen. Vincent asked Mr. O'Hair if he can find someone to provide an industry and a market perspective on what Montana should be pursuing.

Natural Heritage Program Funding

- 07:17:39 Sen. Vincent
- 07:17:52 Mr. Kolman
- 07:18:21 Sen. Phillips said he recommends a bill draft to increase funding from the general fund by \$300,000.
- 07:18:49 Rep. Ellis
- 07:19:00 Rep. Hamlett
- 07:19:42 Sen. Vincent
- 07:19:50 Rep. Hamlett
- 07:20:34 Rep. Curdy
- 07:20:54 Mr. Kolman
- 07:21:45 Sen. Lang
- 07:22:11 Mr. Kolman
- 07:22:41 Jennie Stapp, state librarian
- 07:22:52 Sen. Lang
- 07:23:13 Ms. Stapp
- 07:23:23 Sen. Lang
- 07:23:58 Ms. Stapp
- 07:24:14 Sen. Vincent
- 07:24:23 Paul Sihler, chief of staff, FWP
- 07:25:08 Sen. Vincent

Motion

- 07:25:31 Sen. Phillips moved to have staff prepare a bill draft that would increase the general fund allocation to the State Library, for use by the Natural Heritage Program, by \$300,000.

Discussion on the Motion

07:25:56 Sen. Pomnichowski
07:26:19 Sen. Phillips amended his motion to \$600,000 for the biennium.
07:26:32 Mr. Kolman
07:26:45 Sen. Smith
07:27:15 Rep. Hamlett

Vote

07:27:55 The motion failed 8-8 by roll call with Sen. Smith, Rep. White, Rep. Gunderson, Rep. Manzella, Sen. Lang, Mr. Aspenlieder, Mr. Brenden, and Sen. Vincent voting no. Mr. Aspenlieder and Mr. Brenden voted no by proxy. **(Attachment 6)**

07:29:03 Sen. Vincent asked about another way to fund the program.

Motion

07:29:40 Rep. Ellis moved to send a letter to the Governor's office to find existing resources to supplement funding to the state library by \$600,000 for the NHP.

Discussion on the Motion

07:30:27 Sen. Vincent
07:30:54 Sen. Phillips
07:31:18 Ms. Stapp
07:31:23 Sen. Phillips
07:31:35 Rep. Hamlett

Vote

07:31:58 The motion carried unanimously by voice vote. Mr. Aspenlieder and Mr. Brenden voted aye by proxy.

07:32:22 Sen. Vincent

07:32:52 Rep. Curdy said he recommends that OPI and the Montana University System provide funding for the program.

07:34:29 Rep. White

State Parks

07:34:47 Sen. Vincent

Motion

07:36:28 Sen. Vincent moved to develop a bill draft that eliminates diversions from the gas tax.

Discussion on the Motion

07:36:58 Sen. Lang
07:37:59 Rep. Ellis
07:38:28 Sen. Vincent
07:39:15 Rep. Ellis
07:39:31 Ms. Paul
07:40:03 Sen. Vincent

07:40:40 Rep. White
 07:42:36 Sen. Vincent
 07:43:56 Rep. Ellis
 07:44:24 Rep. Curdy
 07:44:37 Sen. Vincent
 07:46:02 Sen. Phillips
 07:46:39 Sen. Vincent
 07:47:18 Sen. Phillips
 07:47:39 Rep. Hamlett
 07:48:29 Sen. Vincent
 07:49:01 Ms. Stockwell
 07:49:29 Sen. Vincent
 07:49:58 Ms. Stockwell
 07:50:43 Rep. White
 07:52:13 Sen. Vincent
 07:52:24 Ms. Paul
 07:53:14 Sen. Vincent
 07:53:30 Ms. Paul
 07:54:07 Sen. Vincent
 07:54:51 Sen. Vincent withdrew his motion.
 07:54:57 Mr. Vincent
 07:55:39 Sen. Vincent
 07:56:34 Rep. White
 07:57:12 Sen. Vincent
 07:58:38 Rep. White
 07:59:11 Sen. Vincent

Libby Asbestos Superfund Liaison Report

07:59:50 Sen. Vincent said he would like to move forward with the concept in Option 8 that was presented to the Council yesterday.
 08:01:26 Rep. Ellis.
 08:02:00 Sen. Vincent
 08:02:23 George Mathius, DEQ
 08:03:32 Sen. Vincent said he requests that the Council allow him to work with the DEQ and Lincoln County on Option 8 to try and meet legislative requirements.

Motion

08:04:35 Sen. Vincent moved that the EQC allow the chairman and vice chairman to work with staff and the DEQ on a legislative draft to implement option 8 and put it out for public comments.

Discussion on the Motion

08:05:01 Rep. Ellis
 08:05:15 Sen. Vincent
 08:05:37 Sen. Pomnichowski
 08:06:00 Sen. Vincent

Vote

08:06:48 The motion carried 14-2 by voice vote voice. Rep. Curdy and Sen. Pomnichowski voted no. Mr. Aspenlieder and Mr. Brenden voted aye by proxy.

Aquatic Invasive Species

The Council discussed different scenarios for funding AIS.

08:07:24 Sen. Vincent
08:07:36 Sen. Phillips
08:07:54 Ms. Stockwell
08:08:11 Sen Phillips
08:09:58 Sen. Lang
08:10:38 Sen. Vincent
08:10:49 Ms. Stockwell
08:11:05 Sen. Smith
08:11:57 Sen. Vincent
08:13:09 Sen. Smith
08:13:35 Rep. Ellis
08:14:23 Sen. Vincent
08:14:40 Mr. Vincent
08:15:18 Doug Hardy, Montana Electric Cooperatives' Association
08:16:03 Mr. Vincent (**Exhibit 18**)
08:20:03 Sen. Vincent
08:20:12 Ms. Stockwell
08:22:21 Mr. Vincent
08:22:59 Sen. Lang
08:23:49 Sen. Vincent
08:24:02 Ms. Stockwell
08:24:37 Sen. Lang
08:24:48 Ms. Stockwell
08:25:03 Rep. Hamlett
08:26:47 Sen. Smith
08:26:59 Sen. Vincent
08:27:52 Mr. Worsech
08:28:12 Sen. Vincent
08:28:18 Mr. Worsech
08:28:24 Sen. Vincent
08:28:59 Ms. Stockwell
08:29:41 Sen. Vincent
08:30:03 Mr. Worsech
08:30:34 Sen. Lang
08:32:31 Sen. Vincent
08:32:45 Sen. Lang
08:33:29 Sen. Vincent
08:33:37 Ms. Paul
08:35:25 Sen. Smith
08:36:34 Sen. Vincent
08:37:24 Sen. Smith
08:38:22 Sen. Vincent

08:40:12 Sen. Phillips
08:40:27 Ms. Paul
08:40:36 Sen. Vincent
08:41:24 Ms. Stockwell
08:41:35 Ms. Paul
08:41:58 Ms. Stockwell
08:42:39 Sen. Vincent
08:42:53 Sen. Lang
08:43:40 Sen. Vincent
08:45:14 Sen. Phillips
08:45:51 Ms. Stockwell
08:46:17 Sen. Vincent
08:46:33 Sen. Smith
08:47:15 Sen. Vincent
08:47:51 Rep. Manzella
08:48:21 Sen. Vincent
08:48:33 Mr. Sihler
08:49:56 Sen. Vincent

Motion/Vote

08:51:54 Rep. Hamlett moved to put the AIS funding proposal in Scenario 6 out for public comment. The motion carried unanimously by voice vote. Mr. Aspenlieder and Mr. Brenden voted aye by proxy.

08:52:18 Ms. Stockwell
08:53:00 Sen. Vincent
08:53:06 Mr. Vincent
08:53:15 Sen. Vincent

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

None

OTHER BUSINESS/INSTRUCTIONS TO STAFF

None

ADJOURN

08:54:18 Sen. Vincent adjourned the meeting at 4:58 p.m.

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