



# ENVIRONMENTAL QUALITY COUNCIL

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<b>GOVERNOR STEVE BULLOCK</b>	<b>HOUSE MEMBERS</b>	<b>SENATE MEMBERS</b>	<b>PUBLIC MEMBERS</b>	<b>COUNCIL STAFF</b>
<b>DESIGNATED REPRESENTATIVE</b> 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

March 21, 2018  
Room 172, 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. THERESA MANZELLA  
REP. KERRY WHITE

MR. SCOTT ASPENLIEDER  
MR. JOHN BRENDEN MS.  
KYLIE PAUL  
MR. MATT VINCENT  
MR. PATRICK HOLMES

**COMMITTEE MEMBERS EXCUSED**

REP. STEVE GUNDERSON

**STAFF PRESENT**

JOE KOLMAN, Legislative Environmental Analyst  
HOPE STOCKWELL, Research Analyst  
ERIN BILLS, Legal Staff  
NADINE SPENCER, Secretary

**VISITORS' LIST (Attachment 1)**

**AGENDA (Attachment 2)**

**COMMITTEE ACTIONS**

The Environmental Quality Council (EQC):

- Adopted the minutes log from January 17-18, 2018;
- Voted to change the May meeting date.

**CALL TO ORDER AND ROLL CALL**

00:00:01 Sen. Vincent called the meeting to order at 10:02 a.m. The secretary called the roll. (Attachment 3) Rep. Gunderson was excused and left his proxy with Rep. Manzella. (Attachment 4)

00:01:18 Sen. Vincent said John North, chief legal counsel, Department of Environmental Quality (DEQ), passed away on March 1. The Council observed a moment of silence.

**ADMINISTRATIVE MATTERS**

**Budget Review**

00:03:26 Joe Kolman, environmental analyst, Legislative Services Division (LSD), said there is \$61,000 left in the budget to cover the four remaining meetings and the first meeting of the next interim.

**Adoption of EQC minutes from January**

**Motion/Vote**

00:03:58 Mr. Brenden moved to adopt the minutes from January 17-18. The motion carried unanimously by voice vote. Rep. Gunderson voted aye by proxy. Mr. Vincent was excused.

### **Proposed Change to May 30-31 Meeting**

- 00:04:27 Sen. Vincent said the May meeting dates conflict with an energy conference that some of the Council members will be attending.
- 00:04:56 Mr. Kolman said the conflict is on May 31.
- 00:05:10 Sen. Vincent said he recommends moving the meeting to May 29-30.
- 00:05:32 Mr. Brenden asked if the dates are on Tuesday and Wednesday.

### **Motion/Vote**

- 00:06:08 Rep. White moved to change the meeting date to May 29-30. The motion carried unanimously by voice vote. Rep. Gunderson voted aye by proxy. Mr. Vincent was excused.

### **WATER POLICY INTERIM COMMITTEE UPDATE**

- 00:06:42 Jason Mohr, research analyst, LSD, said the Water Policy Interim Committee (WPIC) met on March 5 and continued its study of exempt groundwater wells and the process for changing a water right, discussed forest management, and draft legislation.
- 00:07:11 Mr. Mohr discussed exempt groundwater wells.
- 00:07:53 Mr. Mohr said the committee discussed how the Department of Natural Resources and Conservation (DNRC) processes a change to a water right.
- 00:08:37 Mr. Mohr said the committee discussed climate and forest.
- 00:09:12 Mr. Mohr said the committee is working on legislation on how agencies adopt administrative rules.
- 00:10:28 Mr. Mohr said that the WPIC will be meeting at the Bozeman City Hall in May.

### **EQC questions and discussion**

- 00:10:54 Rep. White asked about the date for the May meeting. Mr. Mohr said it is May 21-22.
- 00:11:05 Rep. White asked Mr. Mohr about the rule on exempt groundwater wells and if the committee has discussed any possible solutions.
- 00:11:47 Rep. White asked Mr. Mohr about the U.S. Forest Service management plans and how the committee is engaging in the process.
- 00:12:45 Rep. White asked if the EQC will review draft legislation on the exempt groundwater rule. Sen. Vincent said that WPIC has oversight and that the EQC can provide comments on draft legislation depending on timing.
- 00:13:42 Rep. Curdy asked Mr. Mohr if the WPIC discussed the Skalkaho water swap.
- 00:14:45 Rep. Hamlett asked Mr. Mohr if the committee has discussed water marketing and if someone can market water from an exempt well.

### **ENERGY & TELECOMMUNICATIONS INTERIM COMMITTEE UPDATE**

- 00:16:20 Trevor Graff, research analyst, LSD, said the Energy and Telecommunications Committee (ETIC) met last week and began the process of drafting committee bills.
- 00:16:54 Mr. Graff discussed draft legislation for natural gas customer choice.
- 00:19:15 Mr. Graff discussed draft legislation for qualifying facilities and contract term length.
- 00:20:04 Mr. Graff discussed integrated resource planning and decoupling policy in Montana.

00:21:00 Mr. Graff discussed the study of the regulation of small water and sewer utilities.  
00:22:21 Mr. Graff discussed the agenda items for the meeting on May 17-18.

EQC questions and discussion None

### **NATURAL HERITAGE PROGRAM FUNDING**

00:22:53 Sen. Vincent said the Council will continue its discussion on the Natural Heritage Program (NHP) funding. **(Exhibit 1)**  
00:23:13 Mr. Kolman provided an overview and said the Council will receive additional information on how the NHP is used and how it is currently funded.  
00:25:36 Jenni Stapp, state librarian, gave a PowerPoint presentation and provided information on funding for the Natural Heritage Program. **(Exhibit 2)**  
00:33:28 Ms. Stapp discussed user information.  
00:40:11 Ms. Stapp provided information on data for the Montana Environmental Policy Act (MEPA) filings and the number of filings by state agencies.  
00:41:10 Ms. Stapp discussed funding sources for the program.

Public comment None

### **EQC questions and discussion**

00:42:43 Mr. Brenden asked Ms. Stapp about mapping and consulting with the Department of Fish, Wildlife, and Parks (FWP) on the Open Fields program for game bird hunters.  
00:45:58 Rep. Manzella asked Ms. Stapp about mapping and data on timber sales and grazing allotment.  
00:46:56 Rep. Curdy asked Ms. Stapp about budget cuts and the impact on the ability for the NHP to gather and collect information needed for its program.  
00:48:25 Rep. Curdy asked Ms. Stapp about funding and the ability for the program to remain relevant.  
00:49:15 Rep. White asked Bryce Maxell, program coordinator, NHP, about the possibility of a fee for out-of-state private users as an additional funding source.  
00:53:10 Sen. Vincent asked Ms. Stapp about a one-time filing fee for MEPA requests.  
00:55:33 Sen. Vincent asked Ms. Stapp about collecting revenue from out-of state users from part of the bed tax.  
00:57:32 Sen. Vincent asked Ms. Stapp about mediated requests.  
01:00:21 Mr. Maxell provided additional information about mediated requests.  
01:01:39 Sen. Vincent asked Mr. Maxell about the ability to administratively attach a fee.  
01:01:55 Rep. Ellis asked Ms. Stapp about charging a one-time fee for different levels of access.  
01:04:16 Rep. Ellis commented on the use of the field guides by school students when searching for information and that it may not be something they will use if they have to pay for it. She said she agreed with the idea of collecting part of the bed tax as part of the use by tourism.  
01:05:21 Mr. Holmes commented on the correlation between people from out-of-state who use the information for tourism and other private out-of-state users.  
01:06:22 Rep. White asked about the ability to track data. Ms. Stapp said it is out of the purview that the state has access to.  
01:07:43 Mr. Brenden commented on creating an account in order to charge a fee.

- 01:08:37 Rep. Hamlett asked Ms. Stapp about decisions on the amount of information that is shared. Ms. Stapp redirected the question to Mr. Maxell.
- 01:10:24 Rep. Hamlett asked Mr. Maxell about the information available on the location of sage grouse leks on private, state, and federal property.

Next steps for study

- 01:11:03 Sen. Vincent said he recommends that staff work on bill drafts and obtaining public comment.
- 01:12:45 Sen. Pomnichowski asked Sen. Vincent about payment from an applicant for the environmental impact statement for a project.
- 01:15:46 Sen. Pomnichowski asked about charging a fee to a federal agency that is out-of-state for accessing the information. Sen. Vincent redirected the question to Ms. Stapp.
- 01:16:48 Sen. Pomnichowski said she would like information on what the going rate is for a labor intensive mediated request that requires a certain amount of expertise as opposed to data base access.
- 01:17:34 Rep. Ellis said she recommends looking at state agencies that are not part of the core funding and who regularly use the service.
- 01:18:21 Sen. Lang said he recommends that NHP staff work with Mr. Kolman on what agencies use the program. Sen. Vincent agreed.
- 01:20:13 Rep. Hamlett commented on the importance of the program and the need for a direct appropriation from the general fund.

**STATE PARKS PROGRAM EVALUATION**

- 01:21:10 Sen. Vincent said the Council received information on the state parks program evaluation. ([Exhibit 3](#))

**Parks In Focus Update**

- 01:21:44 Martha Williams, director, FWP, provided an update on the Parks In Focus Commission.
- 01:25:06 Ms. Williams said that Deb Love and Ben Alexander, staff for the Parks in Focus Commission, are present.
- 01:25:20 Sen. Vincent commented on the importance of acknowledging and resolving internal problems in the Parks Division.

EQC questions and discussion

- 01:28:45 Rep. Curdy requested a copy of the meeting schedule for the EQC. Sen. Vincent said staff can provide it and also the link to the website. [www.chartinganewtomorrow.com](http://www.chartinganewtomorrow.com)
- 01:29:29 Rep. Curdy asked Ms. Williams about federal funding and using game wardens for law enforcement in state parks. Sen. Vincent said the information will also be detailed later in the agenda.
- 01:31:46 Rep. Hamlett asked Ms. Williams about internal problems within the Parks Division versus other divisions and how they interact.
- 01:32:57 Rep. Hamlett asked Ms. Williams about land ownership.
- 01:34:15 Rep. Hamlett asked Ms. Williams about West Shore State Park and his request for a memorandum of understanding that it remain intact.

- 01:36:04 Rep. Hamlett said he recommends that the department contact the news media regarding FWP's plan that the park will remain intact. Ms. Williams agreed.
- 01:36:37 Sen. Vincent said that the commission is looking at available resources for land ownership and management.
- 01:37:38 Rep. White said he attended the commission meeting and commended the efforts and said he would like to see a focus on recreation and engagement with the U.S. Forest Service on its management and travel plans.
- 01:39:50 Ms. Williams said FWP did provide comments on the Custer National Forest travel management plan process and that they are paying more attention to the planning process from a recreation and parks perspective.

### **Capital Projects Update**

- 01:40:49 Ms. Williams introduced Paul Valle, bureau chief, Design and Construction, FWP.
- 01:41:13 Mr. Valle provided an update on the three major projects the bureau is currently working on.

### **EQC questions and discussion**

- 01:42:50 Sen. Vincent asked Mr. Valle about the Bannack State Park fire alarm and fire detection system.
- 01:43:37 Sen. Vuckovich said the siding at the buildings at the fish hatchery in Anaconda was replaced two years ago and is peeling. He asked Mr. Valle about checking with the contractor to replace it.
- 01:46:04 Rep. Curdy asked Mr. Valle about working with the Department of Transportation to maintain access to Frenchtown State Park while work is done on the frontage road.

### **Enforcement in Parks and Gas Tax Follow Ups**

- 01:47:30 Hope Stockwell, research analyst, LSD, said she will follow up with the Parks Division regarding access at Frenchtown State Park.
- 01:47:48 Ms. Stockwell said the Council received an addendum on enforcement as part of the program evaluation. **(see exhibit 3)**
- 01:52:56 Ms. Stockwell provided a summary of the gas tax data that the EQC received at its meeting in January. **(Exhibit 4)**
- 01:56:29 Ms. Stockwell said that the BBER survey did not look at the purchase of gas for off-highway use by non-residents.
- 01:56:47 Ms. Stockwell provided information that was requested at the last meeting on whether funds can be used in areas that charge an admission fee.

### **EQC questions and discussion**

- 01:58:22 Rep. Hamlett asked Ms. Stockwell about tasks that are currently being done by game wardens and are allowed under Pittman-Robertson (PR) funding.
- 01:59:39 Rep. Hamlett asked Ms. Williams about the number of game wardens working in the state and if she can provide information showing the trend over the last ten years. Ms. Williams said she will and redirected the question to Dave Loewen, chief, Law Enforcement Division, FWP.
- 02:00:26 Mr. Loewen said he will provide information on the number of game wardens.

- 02:00:49 Rep. Hamlett asked Mr. Loewen about the ability for a game warden to stop a driver and issue a citation for intoxicated driving in a county where there is no memorandum of understanding.
- 02:01:59 Rep. Ellis asked Ms. Stockwell to provide copies of the latest studies on off-highway vehicles (OHV) and snowmobile gas tax.

Public comment None

### **Next Steps for Program Evaluation**

- 02:02:33 Sen. Vincent said next steps will be discussed at the end of the meeting tomorrow.
- 02:03:03 Recess for lunch at 12:05 p.m.
- 03:02:04 Reconvene at 1:04 p.m.

Mr. Vincent joined the meeting.

### **FWP FINANCIALS FOLLOW UP: OVERVIEW OF DEFERRED MAINTENANCE, USE OF PITTMAN-ROBERTSON AND DINGEL-JOHNSON FUNDS, TRACKING FUNDS, AND ADMINISTRATIVE COSTS**

- 03:02:38 Ms. Williams said Mr. Valle will give an overview of deferred maintenance and Dustin Temple, chief of Administration, FWP, will discuss the use of Pittman-Robertson (PR) and Dingle-Johnson (DJ) funds, tracking funds, and administrative costs.

### **Fwp Financials Follow Up: Overview of Deferred Maintenance**

- 03:03:32 Mr. Valle provided a brief history and an overview of deferred maintenance and what the department has done.

### **Use of Pittman-Robertson and Dingle-Johnson Funds, Tracking Funds, and Administrative Costs**

- 03:06:15 Mr. Temple provided a follow-up to questions asked at the last EQC meeting regarding PR funding and how the department ensures that the funding goes to eligible activities and is not diverted to other places.
- 03:07:30 Mr. Temple said the Council received information on hunting and fishing license dollars, some of the restrictions on those dollars, and some examples of what the funds are used for. **(Exhibit 5)**
- 03:08:49 Mr. Temple discussed PR and DJ grant tracking. **(Exhibit 6)**
- 03:11:28 Mr. Temple said the Council received a report illustrating the subclass concept for the fish hatcheries grant. **(Exhibit 7)**
- 03:12:31 Mr. Temple discussed administrative costs and overhead.

Public comment None

### **EQC questions and discussion**

- 03:16:01 Mr. Brenden asked Ms. Williams about administrative fees.
- 03:18:06 Mr. Brenden commented on overhead rates.

03:19:27 Rep. White asked Mr. Temple about using PR funds for testing wildlife for disease at the veterinary diagnostic lab.

03:21:26 Rep. White asked Mr. Temple about using PR funds as a loan to recover costs.

03:22:36 Rep. White asked Mr. Temple about DJ funds and if they can be used for testing for disease in the fisheries program.

03:24:12 Rep. Ellis asked Mr. Temple about overhead rates and how they are spent. Mr. Temple said it depends on the fund and what it is being used for. He said he will provide the Council with the information.

03:25:30 Rep. Ellis asked Mr. Temple what the department considers to be overhead.

03:27:41 Sen. Lang asked Mr. Temple about using DJ funding for the Yellowstone River fish kill and aquatic invasive species.

03:28:44 Sen. Lang asked Mr. Temple about the annual amount of money received from DJ funding.

03:29:03 Sen. Lang asked Mr. Temple about the priorities for using DJ funding.

03:30:19 Sen. Lang asked Mr. Temple about the \$335,000 payment for 5.67 FTE and about the game wardens in Region 6 and what percentage of their time is on public relations.

03:31:38 Sen. Lang asked Mr. Temple about the amount of time that game wardens spend on public relations in different regions.

03:32:56 Sen. Lang asked Mr. Temple about the amount of money each region receives from PR funding.

03:33:21 Sen. Lang asked Mr. Temple if the amount of money received from PR funding is based on the number of game wardens in a region.

03:33:49 Rep. Curdy asked Mr. Valle about the amount of money needed for deferred maintenance for fish hatcheries.

03:36:06 Rep. Hamlett asked Mr. Temple about property recently acquired by FWP in eastern Montana. Mr. Temple referred the question to Ms. Williams.

03:37:14 Rep. Hamlett asked Ms. Williams if the department has liability for deferred maintenance on a conservation easement.

03:38:37 Rep. Hamlett asked Ms. Williams about the cost of the Horse Creek conservation easement.

03:39:17 Rep. Hamlett asked Ms. Williams about the benefit of having more game wardens in an area to interact with hunters and landowners rather than having an enhanced headquarters.

03:40:41 Rep. Hamlett asked Mr. Temple how deferred maintenance is calculated for fencing. Mr. Temple referred the question to Mr. Valle.

03:42:49 Rep. Hamlett commented on how the department defines deferred maintenance.

03:44:11 Sen. Vincent asked Mr. Temple about PR funding requirements and how the department codes activities for game wardens.

03:46:53 Sen. Vincent asked Ms. Williams about the joint federal task force on federal funding that she is serving on and if any of the issues are relevant to this discussion.

03:50:02 Sen. Vincent asked Ms. Williams about the process if a determination is made to change the federal funding policy.

03:51:28 Sen. Vincent asked Ms. Williams to keep the Council updated on the task force.

03:52:01 Rep. White asked Mr. Temple about the current amount of money that Montana receives from PR and DJ funding.

03:53:32 Rep. White asked Mr. Temple about the downward trend for DJ funding.



- 03:54:35 Rep. White said staff provided a history of the funding. **(Exhibit 8)**
- 03:54:56 Rep. Curdy asked Sen. Vincent about writing a letter to support Director Williams' efforts on federal funding and her work on the task force.
- 03:56:49 Rep. Hamlett asked Mr. Temple about deferred maintenance needed when property is acquired by FWP.
- 03:57:52 Rep. Hamlett asked Mr. Temple about calculating deferred maintenance for noxious weeds on property acquired by FWP. Mr. Temple said he will provide the information.
- 03:59:16 Rep. Ellis asked Mr. Temple about a maintenance fund available when FWP buys land. Sen. Vincent said the legislature passed a good neighbor policy in the past, but it had a sunset date.
- 04:00:24 Rep. Ellis said Habitat Montana has a separate provision. Sen. Vincent said it can be looked at in next steps.

### **FISH AND WILDLIFE LICENSING AND FUNDING REVIEW**

- 04:01:17 Ms. Williams said the Council received information on the charter and members of the Financial Review Advisory Committee (FRAC) at its last meeting.
- 04:02:44 Ms. Williams provided an update from the FRAC meeting in February.
- 04:05:23 Ms. Williams discussed next steps.
- 04:05:53 Rep. Curdy said the committee discussed the decline in fishing license revenue as a result of the \$15 fee increase to pay for the aquatic invasive species program.

Public comment      None

### **EQC questions and discussion**

- 04:09:13 Sen. Vincent asked Ms. Williams about the balance in the general license account. Ms. Williams referred the question to Mr. Temple. Mr. Temple said it is \$42 million.
- 04:09:59 Sen. Vincent asked Rep. Curdy about the drop in licenses sold.
- 04:10:58 Recess
- 04:30:28 Reconvene

### **DOG TRAINING IN UPLAND GAME BIRD AREAS**

- 04:30:49 Sen. Vincent said the Council received an overview of current regulations. **(Exhibit 9)**
- 04:31:10 Mr. Kolman discussed the proposed rules by FWP to implement the statute on dog training in upland game bird areas.
- 04:32:28 Mr. Kolman discussed the different laws and rules in other states and in Saskatchewan.

### **Public comment**

- 04:35:20 Chris Smith, Helena, member, Helena Valley Gun Dog Club and past deputy director, FWP, discussed problems in the statute and potential solutions.
- 04:41:22 Kerri Payne

04:48:53 Todd Breitenfeldt, Whitehall, president, Montana Brittany Club **(Exhibit 10)**  
04:51:47 Nick Gevock, conservation director, Montana Wildlife Federation

The EQC also received written public comment. **(Exhibit 11)**

#### EQC questions and discussion

04:52:33 Mr. Brenden asked Mr. Gevock about support for private property rights.  
04:55:01 Sen. Phillips asked Mr. Smith about a restriction or seasonal prohibition.  
04:56:07 Sen. Phillips asked Mr. Smith about firearm restrictions and using only blank shells for training in field trials.  
04:57:00 Sen. Phillips commented on being careful that training does not become another hunting season and on the challenges of managing a public resource on private property.  
04:57:45 Rep. Manzella asked Mr. Smith about providing a copy of the legislation he wrote. Mr. Smith said he will. **(Exhibit 12)**  
04:58:14 Rep. Hamlett asked Mr. Smith about an increase in field trials and the number of people participating and the number of dogs being trained.  
04:59:32 Mr. Vincent asked Ms. Williams about next steps.  
05:00:22 Mr. Vincent said he recommends redrafting the legislation based upon the comments received. Sen. Vincent agreed.  
05:01:04 Mr. Aspenlieder said Mr. Smith provided good recommendations for field trial permits, but that it does not justify regulating dog training on public or private land and the reason for the statute. He provided his recommendation for draft legislation.  
05:04:13 Rep. Ellis said she recommends regulating both field trials and dog training.  
05:05:57 Rep. Ellis asked Mr. Smith about putting together a working group to discuss differences before drafting legislation.  
05:07:00 Rep. Ellis asked Ms. Payne the same question  
05:09:46 Rep. Ellis asked Mr. Breitenfeldt for his opinion.  
05:10:04 Mr. Aspenlieder commented on private landowners and public access and said he does not support a working group.  
05:12:23 Rep. White commented on the proposed changes from Mr. Smith and gave his recommendation for draft legislation.  
05:14:37 Sen. Vincent thanked Mr. Smith and said he recommends that staff draft one bill that takes into consideration Mr. Smith's comments and draft language and another one that includes the same recommendations, but eliminates Section 5. He asked about other recommendations.  
05:16:07 Rep. White asked Mr. Kolman about the correct section of code for dog training and field trails. Mr. Kolman said the Council could do another bill draft with the suggested changes to field trials and suggested changes to dog training and putting it in another place in code.  
05:17:19 Sen. Vincent asked the Council for its opinion on a third bill draft.  
05:17:34 Sen. Phillips said he recommends including all of the ideas from Mr. Smith and include amending the section on training. Sen. Vincent said it will require a third bill draft for public comment.  
05:18:00 Rep. Ellis commented on a section in code that is related to game birds.  
05:18:59 Mr. Brenden commented on legislation and said animals, birds of prey, and harsh weather kill more birds than dog training.

05:19:47 Rep. Hamlett asked FWP to provide information on current and past history for ten years on the number of bird licenses sold in-state and out-of state and estimates on the take of bird by species.

05:20:29 Mr. Aspenlieder said he would also like the department to include when license fees were increased.

05:20:57 Sen. Vincent commented on the process and the importance of addressing public concern.

05:21:31 Mr. Kolman said the next speaker is participating by telephone conference and staff will need time to make the call. Sen. Vincent said the Council will take a brief recess.

05:21:49 Recess

05:28:59 Reconvene

### **OVERVIEW OF FEDERAL GOVERNMENT AGENCY ACTIVITY**

05:29:16 Mr. Kolman provided an introduction and said the director of the Bureau of Land Management and Superintendent Wenk, Yellowstone National Park, are on the agenda for May.

05:29:50 Douglas Benevento, administrator, U.S, Environmental Protection Agency, (EPA), Region 8, provided an update on agency activity via telephone.

05:32:12 Mr. Benevento discussed the superfund site in Butte.

05:35:05 Mr. Benevento discussed the superfund site in Anaconda.

05:37:30 Mr. Benevento discussed the superfund site in Libby.

05:38:28 Mr. Benevento provided information on the status of the agency's review of the definition of "waters of the United States".

### **EQC questions and discussion**

05:41:07 Sen. Pomnichowski asked Mr. Benevento about the meaning of "release" and "delist" in relationship to superfund sites.

05:42:51 Sen. Pomnichowski asked Mr. Benevento if an area that is delisted from the superfund priority list is eligible for funding from a different source. She also asked if clean soil will be put in place once the contaminated soil is removed and about water treatment into perpetuity.

05:46:17 Rep. Curdy asked about the clean up at Smurfit-Stone. Sandy Stavnes, deputy assistant regional administrator, Office of Ecosystems and Remediation, EPA, via telephone, commented on next steps for the site. Mr. Benevento said that staff from the Montana office can provide an update for the Council.

05:48:35 Sen. Vuckovich asked Mr. Benevento about hazardous soil that was transported from Milltown Dam to Opportunity Ponds and designating it as a waste repository.

05:54:45 Sen. Vincent requested that Mr. Benevento follow up with Sen. Vuckovich later on his other questions.

05:54:52 Rep. Hamlett asked Mr. Benevento if the EPA is concerned about the increase in the release of carbon dioxide and mercury from forest fires in Montana.

05:56:48 Rep. Hamlet asked Mr. Benevento if the EPA is monitoring air quality during the expanded fire season and monitoring for health problems related to forest fire emissions.

05:58:00 Rep. Hamlett asked Mr. Benevento about what the EPA proposes to do about air impaired by forest fire emissions.

06:00:04 Rep. Hamlett asked Mr. Benevento about contacting the agencies that are responsible for land management and requesting that they look at health problems as a component of management.

06:01:03 Mr. Brenden commented on his concern regarding private property rights and the definition of "water of the United States". He asked Mr. Benevento to pass along his concerns about federal rules and regulations.

06:03:22 Mr. Vincent thanked the agency for the work done on the Butte superfund site and asked Mr. Benevento about the status of the petition to strike down the order that made settlement talks on cleaning up the site confidential and when more information will be released to the public.

06:05:17 Martin Hestmark, EPA, via telephone, said they have shared documents with the other parties involved and are meeting next week to resolve the differences.

06:05:55 Mr. Benevento said he hopes that it will resolve quickly after the meeting.

06:07:08 Sen. Vincent commented on concerns about air quality during fire season and said that the EPA can help by lifting restrictions and allow wider burning windows.

06:08:55 Sen. Vincent asked Mr. Benevento about the Libby superfund site operable unit (OU) 3 and if anything will be done this year in the low risk area of vegetation to reduce the fuel load and risk of fire.

06:10:57 Mr. Benevento said he did not think that Montana is out of compliance with any of the national ambient air quality standards and said he will look at the restrictions on burning. He referred the question about OU3 to Ms. Stavnes. Ms. Stavnes said she will provide more information to the Council.

06:12:39 Sen. Vincent said the remedy and costs for the other operable units will be ongoing and asked Mr. Benevento if they have discussed the disposition of the money that will be left over once the Libby superfund site is settled and the potential to put the funds into a state special revenue account for the ongoing costs.

06:16:59 Sen. Vincent said that during the EPA's regional discussions on the "waters of the United States" they need to take into consideration how they apply the definition of adjacency to a headwater state like Montana.

06:18:03 Sen. Vincent said that early cooperation from the EPA on National Environmental Policy Act (NEPA) projects will help in earning interagency support.

06:19:03 Sen. Vincent asked Mr. Benevento about the federal standards for nutrients.

06:20:56 Sen. Vincent thanked Mr. Benevento.

### **CHRONIC WASTING DISEASE**

06:21:38 Ms. Williams provided an update on chronic wasting disease (CWD) surveillance and the management plan in Montana.

06:22:20 Ms. Williams said the CWD action team drafted a surveillance and management plan and that it is out for public comment.

06:22:46 Ms. Williams said FWP convened a CWD citizen advisory panel.

06:23:05 Ms. Williams discussed surveillance.

06:28:50 Ms. Williams discussed next steps.

Public comment          None

EQC questions and discussion

- 06:30:06      Rep. White asked Ms. Williams about the contract with the lab in Colorado where samples are sent, the turnaround time, and where animals are kept until the results are received. Ms. Williams referred the question to Dr. Jennifer Ramsey, wildlife veterinarian, FWP.
- 06:34:23      Rep. White asked Ms. Williams about the importance of being able to do lab testing in Montana.
- 06:35:41      Sen. Phillips asked Ms. Ramsey about the quality of the test.
- 06:36:36      Sen. Phillips asked Ms. Ramsey about safety and consuming meat from an animal with CWD.
- 06:37:34      Sen. Phillips asked Ms. Ramsey about the risk and advice for hunters.
- 06:39:09      Sen. Phillips asked about the cost of testing.
- 06:39:30      Rep. Hamlett asked Ms. Ramsey about notifying hunters if an animal tests positive for CWD.
- 06:40:25      Rep. Hamlett asked Ms. Ramsey about notifying hunters to test wild game before consumption.
- 06:41:33      Rep. Hamlett asked Ms. Ramsey about the possibility of cross contamination from processing equipment.
- 06:43:18      Rep. Hamlett asked Ms. Williams about her concern regarding CWD and hunting in the state.
- 06:44:41      Rep. Manzella asked Ms. Ramsey about the risk of CWD transmission from handling meat.
- 06:45:52      Rep. White asked Ms. Ramsey about disposal requirements for animals that test positive.
- 06:47:27      Sen. Pomnichowski asked Ms. Ramsey about the speed for getting results if testing was done in Montana.
- 06:48:28      Sen. Pomnichowski asked Ms. Williams about the department's liability in issuing licenses for CWD hunts.
- 06:51:01      Rep. Hamlett asked Ms. Ramsey about the ability to kill the prion protein that transmits the disease.
- 06:52:30      Rep. Hamlett asked Ms. Ramsey about putting parts of contaminated animals in a landfill.
- 06:53:41      Sen. Lang asked Ms. Ramsey about the potential risk of CWD infecting antelope and elk.

**STATUTORY ADMINISTRATIVE RULE REVIEW**

- 06:55:12      Erin Bills, legal staff, LSD, said the Council received a rule review related to the pilot program on aquatic invasive species in the Flathead basin. She said that the rule was adopted and published last Friday. **(Exhibit 13)**
- 06:56:07      Ms. Bills discussed the rule from the DEQ regarding subdivision planning and storm drainage. **(Exhibit 14)**
- 06:56:50      Ms. Bills discussed the rule notice from FWP and its proposal to repeal two rules pertaining to classification of license agents. **(Exhibit 15)**

Public comment          None

EQC questions and discussion

06:57:44 Sen. Lang asked Ms. Bills about the notice from FWP and the ability for a sporting goods store to issue a license.

06:58:17 Sen. Vincent said staff can follow up with Director Williams on the question.

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

06:58:34 Mac Minard, executive director, Montana Outfitters and Guides Association  
**(Exhibit 16)**

**RECESS**

07:01:43 With no further business before the Council, Sen. Vincent recessed the meeting at 5:03 p.m.

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