

ENVIRONMENTAL QUALITY COUNCIL

May 5, 2000

Original Minutes with Attachments

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Exhibits and tapes are on file at the Legislative Environmental Policy Office.

COUNCIL MEMBERS PRESENT

Sen. William Crismore, Chair
Rep. Kim Gillan, Vice Chair
Rep. Paul Clark
Sen. Mack Cole
Rep. Monica Lindeen
Sen. Bea McCarthy
Sen. Ken Mesaros
Rep. Doug Mood
Sen. Barry "Spook" Stang

Rep. Bill Tash
Sen. Jon Tester
Rep. Cindy Younkin
Mr. Tom Ebzery
Ms. Julie Lapeyre
Ms. Julia Page
Mr. Jerry Sorensen
Mr. Howard Strause

COUNCIL MEMBERS EXCUSED

None

STAFF MEMBERS PRESENT

Mr. Todd Everts
Ms. Krista Lee
Mr. Larry Mitchell
Ms. Mary Vandebosch
Ms. Judy Keintz, Secretary

VISITORS' LIST

Attachment #1

COUNCIL ACTION

- Approved minutes from EQC meeting of March 24, 2000.
- Reviewed and discussed coal bed methane issues, metal mine bonding, the Lockwood water quality issue, updates on the implementation of the alternative livestock program, and a drought update.

- Directed staff to work with the Chairman and the Legislative Finance Committee on the issue of metal mine bonding and provide an update to the EQC.
- Directed staff to send a letter to the EPA supporting the proposed listing of the Lockwood solvent site as a federal Superfund site and to work with the Montana Department of Environmental Quality to develop legislation to amend the state Superfund notification process.
- Set next meeting date for July 28, 2000 in Helena.

I CALL TO ORDER AND ROLL CALL

CHAIRMAN CRISMORE called the meeting to order at 8:00 a.m. Roll call was noted; all members were present. **(Attachment #2.)**

II ADOPTION OF MINUTES

Motion/Vote: SEN. MCCARTHY MOVED THAT THE MINUTES OF THE MARCH 24, 2000, EQC MEETING BE APPROVED AS WRITTEN. THE MOTION CARRIED UNANIMOUSLY.

III ADMINISTRATIVE MATTERS

MR. EVERTS explained that the Subcommittee Reports will be going out for a 30-day public comment period through July 5th. The Eminent Domain Subcommittee Report and MEPA Subcommittee Report are very large. A public notice letter will be sent to everyone on the EQC mailing list and all the Subcommittee mailing lists stating that the reports will be available on the EQC website. Upon request, a copy will be mailed out. The printing costs are very high for the draft reports.

IV SUBCOMMITTEE UPDATES

A. Eminent Domain Subcommittee

SEN. COLE reported that the Subcommittee met on May 4th. The draft final report was reviewed and edited. He commended MS. LEE for her hard work on the report. Draft legislation was also reviewed by the Subcommittee. Findings and draft recommendations were discussed at length. There was a public comment period following the business portion of the meeting with good input from those in attendance.

MR. STRAUSE questioned whether the draft report would be going out under the name of the EQC or the Eminent Domain Subcommittee. MR. EVERTS explained that both groups would be listed on the report. The EQC, as a Council, has yet to review the

findings and recommendations. The reason the draft report will be available to the public is to receive comment. He further commented that a disclaimer could be added to the front of the report acknowledging that the draft reports are Subcommittee reports and recommendations and that the full EQC has not had a chance to review the report. Part of the purpose of the 30-day public comment period is to receive comments from the rest of the EQC members as well as comments from the public.

B. MEPA Subcommittee

SEN. MCCARTHY reported that the MEPA Subcommittee also met on May 4th. They have completed most of their draft final report to include findings and recommendations. One issue remains to be completed. This issue involves the two bills that resulted in the study resolution. Certain definitions need to be clarified. The Subcommittee will meet again on May 10th to complete the report. There have been no votes taken in the Subcommittee and the report has been a unanimous document from the beginning. MR. EVERTS and MR. MITCHELL have done a remarkable job of preparing the document. At this point the Subcommittee is not proposing any draft legislation.

MR. EVERTS added that the Subcommittee has come up with over 40 recommendations, with most of these addressing the public involvement process of the MEPA. There are some recommendations in regard to litigation. Specific recommendations have also been made to the state agencies.

C. Land Use/Environmental Trends Subcommittee

MR. SORENSEN reported that the Subcommittee meeting included a summary of the recent Montana Growth Policy Forum, which was facilitated by the Montana Consensus Council. The Subcommittee reviewed information regarding residential development in riparian areas along rivers and streams. The Subcommittee believes that there is adequate authority to deal with this development. They will provide a guide that includes information about what is being done in different jurisdictions. The major item they are addressing this interim is funding for the development and implementation of growth policies. The Realtors Association, the Home Builders Association, the Planners Association and MACo all believe that growth policies are important and need to be funded. There is a broad base of support for this goal.

D. Water Policy Subcommittee

SEN. MCCARTHY stated that the Subcommittee discussed the impending drought. A report was provided on the Legislative Council on River Governance meeting which was held at Whitefish in April. The meeting primarily involved a discussion concerning the Bonneville Power Administration (BPA). Another issue discussed by the Subcommittee was the issue of concentrated animal feeding operations (CAFOs). The Subcommittee will be proposing legislation regarding restrictions and regulations for hog farms relative to protecting Montana's water.

SEN. TESTER remarked that they discussed notifying local governments that they do have the authority to deal with air quality at a local level.

REP. TASH added that the impending drought concerns mostly deal with fire suppression. Even though certain areas had good snow pack, it wasn't enough to help dampen the heavy fuel loads. The Drought Advisory Committee is providing current reports in regard to soil moisture conditions, reservoir storage capacities, anticipated precipitation, etc.

MS. VANDENBOSCH stated that the Montana Department of Environmental Quality (DEQ) is still working on the revised general permit for CAFOs. One of the specific issues was the requirement for a comprehensive nutrient management plan. This requirement is being changed in the general permit.

V METAL MINE BONDING REPORT

Roger Lloyd, Senior Fiscal Analyst, Legislative Fiscal Division, reported that there are deficiencies in the statute which the legislature may want to address. The legislature intended that no state money be spent for metal mine reclamation. The state currently will pay \$1.1 million this biennium for metal mine reclamation. The next legislature can expect a request from the DEQ for a \$600,000 General Fund supplemental appropriation to pay for metal mine and reclamation costs associated with the Zortman-Landusky Mine. The state has an estimated \$24.6 million liability in terms of current mine reclamation costs. He has reviewed the permitting files at the DEQ and found the most recent cost estimates for metal mine reclamation and compared this figure to the amount of bonds on file. The \$24.6 million figure is the amount that the estimated costs

exceeded the amount of bonds on file. This was as of last November and the figure has since changed. Ten million dollars of that amount is from mines owned by the former Pegasus Gold Mine.

He provided a report entitled, "Metal Mine Performance Bonds and State Liability", **Exhibit 1**. The report identifies 20 problems and offers 20 solutions, pages 6 through 14. The State of Idaho calculates reclamation costs and adds 10% as a contingency factor as an example of a potential solution to one of the identified problems.

REP. LINDEEN questioned whether the DEQ supplemental was considered in the revenue estimates for the Special Session. **Mr. Lloyd** stated that it was. There was a \$600,000 General Fund supplemental. The fund balance available during the Special Session will have this amount included as a potential cost.

REP. LINDEEN questioned whether the bonds at the Butte mines were adequate for reclamation. **Mr. Lloyd** did not have that information.

MR. STRAUSE stated that the Tribe in the Zortman-Landusky area has indicated that they believe the reclamation costs would be \$100 million. He questioned whether the files showed any explanation of why there was a bonding shortfall. **Mr. Lloyd** explained that he caught a point in time where the department had reviewed the file and determined that an increase in bond was necessary. The costs were recalculated and a letter was sent to the mining company. The most recent cost estimates were higher than the bond. The statutes require that a comprehensive bond review be performed every five years. This includes a recalculation of reclamation costs. Last session the laws were amended to require an annual review of each permit. A recalculation is not required.

SEN. TESTER questioned whether some of the solutions could not be handled by rule. **Mr. Lloyd** affirmed that a number of solutions could be handled administratively.

Mark Simonich, Director of the DEQ, remarked that the department is dealing with statutes and policies that have been in place for decades. For many years the policy for reclamation focused on the land itself with very little focus on water quality. Before

bankruptcy proceedings, the State started a water quality enforcement action against Pegasus at Zortman-Landusky. The U.S. Environmental Protection Agency (EPA) was encouraged to join the State and the action was moved to federal court. The settlement required construction of water treatments plants at Zortman & Landusky and bonding for the construction and long-term operation and maintenance of those plants.

The DEQ has worked with **Mr. Lloyd** on the study. A number of the recommendations included in the report came from the DEQ. Some of the recommendations will include amending the statute. The department has amended their bond form to deal with a number of the recommendations. In the past, a surety company has been able to cancel a bond. The rules indicate that when a surety company cancels a bond, the mining company would have a certain amount of time to obtain a replacement bond before the surety bond was canceled. If this did not occur, the mine would be closed. A surety company attempted to cancel the bond on the Diamond Hill Mine. The DEQ went to Federal District Court and prevented the company from canceling the bond. In the process, the company provided the State with a check in the full amount of the bond.

The amended bond form allows that in certain case-by-case instances, additional language would be included. This language states that if the principal refuses to fulfill its obligations pursuant to any section of the permit, the department would declare the surety bond to be forfeited. At that point in time, the surety company would have to pay, within 30 days, 10% of the face amount of the bond. If mining companies are required to place cash in advance, it will be financially impossible for mining companies to operate in this state.

The staff develops a line item checklist for the bond. The bonding company will only pay the amount on the checklist. The department is now including language that all of the line items were used for the general development of the bond amount and that the department will not be limited to the line item itself for any specific amount. There will be a total reclamation bond at the site and it will be used across individual line items of work and not be limited to any specific line item.

The statute should be amended in regard to receipt of the bonds. The proposed language change would state that once a bond review is completed, the department will have 30 days to notify the company of the new bond amount. This would be followed by

a 60-day time frame in which the company and the department would negotiate any differences. At the end of this period, the company would have 30 days to post the bond. Therefore, following the initial review of the bond, there would be a 120-day period in which the bond increase would have to be posted. The company could not appeal until the bond was posted.

Surety bonds are the most cost effective means of providing financial assurance for reclamation in the state. The bonding companies the department works with are approved through the Insurance Commissioner. There may be instances where it is appropriate for the department to consider taking personal property or real property as bond. The department has been very cautious in this regard.

SEN. MCCARTHY asked for a copy of the department's report on this matter. **Mr. Simonich** agreed to provide a copy of the comments provided to **Mr. Lloyd** and a copy of the bond form amendments.

REP. CLARK questioned the frequency of surety companies withdrawing from bonds. **Mr. Simonich** stated that the burden is on the mining company to ensure that another bond is in place or the mining company cannot continue to operate in the state. In the recent past, Safeco intended to cancel the bond at Diamond Hill. The DEQ went to the bankruptcy court to seek an increase in the bond and received the same.

REP. TASH inquired as to the benefits of relying on the federal agencies for bonding expertise. **Mr. Simonich** explained that when a mine is located on federal land, they work together on an Environmental Impact Statement (EIS). Usually there is a single record of decision and each agency then issues the relevant permits. Agreements have been in place that a federal agency can be named on the bond. In some cases, mines are not on federal lands and a federal agency would not want to be responsible to establish a bond amount on the same.

SEN. MESAROS questioned whether environmental reclamation bonding should be held separate or included in the overall bonding. **Mr. Simonich** remarked that in regard to water quality, there is the authority to require the protection needed under one bond. It is necessary that this be properly calculated into the bond. As they have been working

at the Kendall Mine, they have decided to review Section 82-4-337 of the Metal Mine Reclamation Act. This will be the functional equivalent of a MEPA document. The goal is to have a plan for normal reclamation and the associated water issues.

MR. STRAUSE noted that there appears to be a disagreement between DEQ and the Kendall mine owners as to the best way to reclaim, especially on water issues. He questioned whether the bond in place would be adequate to handle the water issues.

Mr. Simonich explained that the bond was developed many years ago and was developed for surface reclamation activity only. The DEQ is in disagreement with the company over what is necessary to take care of the water. The company has proposed the use of bio cells but has not been able to show that they will work on the level needed. Water protection for the long term needs to be insured.

MR. STRAUSE remarked that when a company's asset are gone, there isn't much the State can do to insure proper reclamation. **Mr. Simonich** remarked that the last legislature passed a statute requiring annual bond review. The bond should be kept in place at an incrementally proper amount.

REP. CLARK questioned whether or not financial stability should be a consideration for the State to review. If a company cannot put money up front, could they be considered financially unstable. **Mr. Simonich** was concerned about asking a company to put money up front. As the mine operates and generates income it will be in a better position to meet its obligations. Before a company is issued a permit, it needs to post a bond. The financial stability question is answered by the company posting the bond. Requiring cash up front will make it much more difficult for a mining company to begin operating.

CHAIRMAN CRISMORE directed staff to meet with him and the Legislative Finance Subcommittee addressing this issue. Updates will be provided to the EQC.

VI COAL BED METHANE ISSUE UPDATE

A. Federal Coordination Effort

Fred O'Ferall, Bureau of Land Management, remarked that in April a letter was sent to various federal, state, and tribal agencies, environmental entities, and the

stakeholders. The goal is to form a coal bed methane group to discuss conflicts and intricate issues regarding coal bed methane. The first meeting will be held in June. The federal environmental assessment (EA) process has been delayed. One of the main reasons for the delay is the surface water modeling information is out for review by the public and various agencies. The document should be ready for public comment by June 12th. The parties have met to attempt to settle the lawsuit filed by NPRC against the Montana Oil and Gas Board. Another meeting will be held in three weeks. One of the questions asked is whether an EIS would be prepared. Three scenarios would drive the preparation of an EIS. If there is a finding of no significant impact on the EA, production will commence. If a full field development occurs, this will formulate a programmatic EIS. If there is a finding of significant impact, the EIS will be commenced immediately. A finding of no significant impact may cause a suit to be filed.

B. Lawsuit Comments

Tom Richmond, Montana Board of Oil and Gas Conservation, explained that the parties to the lawsuit are the Montana Board of Oil and Gas Conservation, Northern Plains Resources Council (NPRC), and Redstone Gas Partners as an intervenor. A settlement conference was held in Helena a week ago and agreement was reached on many issues. Discussion included the point in time when an EIS would be necessary to accommodate other levels of activity. A good foundation has been set to address the issues at hand. The NPRC has requested that lawsuit deadlines be extended for an additional 30 days pending the outcome of settlement discussions.

Allen Rolsten, NPRC, stated that although there are issues of disagreement, negotiations are continuing.

C. State Coordination Effort

Mark Simonich, Director of the DEQ, remarked that the Montana Board of Oil and Gas Conservation is the agency responsible for the development of the resource of coal bed methane. The Montana Department of Natural Resources and Conservation (DNRC) may have a number of responsibilities depending on where the development takes place as it crosses state lands and navigable waters. The DNRC is also responsible for administering the Water Rights Act in Montana. The DEQ has responsibilities for a variety of environmental regulations. They are in the position of

needing to issue air quality permits for compressor stations. In the case of coal bed methane, there is an issue with the water that is pumped out of the ground to free up the methane and how and where that water is discharged. The DEQ is currently reviewing the water that is discharged to determine whether permits are necessary. Work continues on the two pending applications. Samples are being collected from the operating wells for relative data. There has been a notice of intent to sue against the DEQ, the EPA, and Redstone Gas Partners over the issue of whether permits are required under the federal Clean Water Act.

There is a small universe of wells currently operating and a potential for greater development of 250 producing wells. Following the BLM's EA process and the result of the settlement discussions under the lawsuit filed against the Montana Board of Oil and Gas, the State will be in a better position to plan ahead for a lead agency and coordination of state and federal activities. A programmatic EIS may be needed for additional development in the future. Efforts are being made to secure federal funding for an EIS, if one is necessary.

D. Northern Plains Resource Council Presentation

MS. PAGE provided a video showing the impacts of coal bed methane wells on a working ranch. This video was taken by a rancher from Gillette, Wyoming. Since the video was taken, the company has worked on relieving some of the obvious problems with erosion. Many times, action is not taken until someone shines a spotlight on the project and asks that the impacts be addressed. The NPRC, through its lawsuit with Montana Board of Oil and Gas has asked that these problems be addressed in a comprehensive manner in an EIS. The water from these wells is very high in sodium and is not suitable for irrigation. There is a significant increase in the volume of the Powder River from the input of the wells. The effect on fish habitat and wildlife also needs to be addressed. In Colorado, where coal bed methane has been developed for a longer period of time, there are problems with methane in the soils which results in killing plants. There have also been coal seam fires. Montana needs to evaluate whether it is possible for this activity to be completed in a manner that will not destroy the present conditions in the state. This is a short-term development. It is not a renewable resource. The NPRC has filed lawsuits to stop development until a comprehensive review has been completed.

E. Redstone Gas Partners

Mike Caskey, Redstone Gas Partners, remarked that the water meets all the clean drinking water standards for the EPA. It is usable household water and is great for stock. There is a resource value to the water. Under certain circumstances, the water can damage soils if it is used exclusively for irrigation. They are reviewing reinjection and a technology called high energy reverse osmosis. There is a potential to clean the water being produced.

The Redstone Gas Partners has recently been acquired by MDU Resources. Coal bed methane is the same natural gas that is burned in homes and businesses. It comes at a lessor cost to the environment. It is the cleanest burning fuel available today. In its natural form, it has a tendency to be a very dramatic greenhouse gas. About 127 wells have been drilled and they produce about 8 million cubic feet a day. The town of Sheridan, Wyoming used 5 million cubic feet of gas in an average day this winter. They supplied all the gas used by Sheridan this winter.

There are 21 permits pending issuance while negotiations are being worked out with the NPRC. Nine of the permits are proposed by Redstone.

Mr. Caskey provided a slide presentation of Redstone's operation.

REP. TASH questioned how mineral rights were held. **Mr. Caskey** explained that mineral rights are about 50% federal, 45% fee, and 5% state lands. Most of the activity has been on fee lands because the BLM is still working on the EA.

MR. EBZERY asked for more information regarding sodium levels. **Mr. Caskey** affirmed that sodium levels are high. The water is drinkable. If their operation is proximate to an existing water well, baseline data is gathered and the well is checked. If there is a problem with a well, they are obligated, under a water well mitigation agreement, to assume the responsibility for supplying water. This includes redrilling the well, fixing the well, or supplying water that is of like quality and quantity for which the well was originally intended.

SEN. TESTER stated that he lives in north central Montana and the ground is high in sodium. There is a problem when a pond evaporates and the salt content becomes higher. He questioned whether they were anticipating this problem for the holding ponds. **Mr. Caskey** stated that there are treatments for the salts. They do anticipate this problem.

SEN. MESAROS questioned the longevity of the project. **Mr. Caskey** stated that the longest coal bed methane productivity in the Powder River Basin has been around for 11 years. The economic life of this project is 20 to 25 years.

SEN. MESAROS questioned whether there was an extended plan to continue furnishing the water to the various stock operations. **Mr. Caskey** explained that they are required to offer the rancher the ability to take over the wells if they are strategically located for the rancher to continue watering the ranch. The pipelines are left in place. There is no charge to the rancher other than his pumping cost.

VII LOCKWOOD WATER QUALITY ISSUE REVIEW

MR. MITCHELL remarked that the investigation continues with state and federal efforts. The EPA is providing an emergency removal action under the National Contingency Plan. There are two issues of concern. The first is the difficulty the DEQ has had in notifying all potentially responsible parties. Also, there is an issue for the Lockwood Water Users Association in terms of their ability to discharge the groundwater into the Yellowstone River.

MR. MITCHELL reviewed the short term and long term options and the short-term and long-term alternatives provided in the memo of April 20, 2000, **Exhibit 2**. He also provided a copy of the letter of concurrence for immediate National Priorities List (NPL) listing which Governor Racicot sent to the EPA, **Exhibit 3**.

Mr. Simonich stated that the department brought the proposal to the EPA to list this area under the NPL. The Governor supported the listing. The department is drafting conceptual legislation to deal with the notification process.

MS. PAGE remarked that this is a case where government was not able to respond to a serious problem. Short-term solutions are necessary. Changes need to be made so that in the future there is an ability to move forward and allow remediation in a much more timely manner.

MR. STRAUSE remarked that the proposed language would provide for notices to be sent out to everyone who could be found and the agency could then start a clean up process. MR. MITCHELL added that the noticed party could start clean up. Any person who is noticed can petition for a CALA process. Within 60 days of being noticed, the CALA process could be requested.

Cindy Brooks, DEQ, added that the department would conduct a good faith investigation to identify every person who could be a potentially liable party. Notice letters would be issued. Each party would have 60 days to request the CALA process. If there is the possibility of an orphan's share, parties who might be responsible but are bankrupt or defunct, the department would defend that orphan's share. Ultimately, the parties that conduct the clean up can receive reimbursement from the orphan's share fund for the percentage allocated.

CHAIRMAN CRISMORE requested that staff work with the department on proposed legislation. The Council directed staff to issue a letter to the EPA supporting the NPL listing of the Lockwood solvent site.

VIII UPDATE OF THE IMPLEMENTATION OF THE ALTERNATIVE LIVESTOCK PROGRAM

Tim Feldner, Montana Fish, Wildlife and Parks (DFWP), explained that there are two ongoing projects in the Alternative Livestock Program between the Montana Department of Livestock (DOL) and the DFWP. One project involves an administrative review. This project will cost the DOL and the DFWP \$19,925. The objective of this project is to review the communication and administration between the DOL and the DFWP of the Alternative Livestock Program and to make suggestions for more efficient and effective administration. This project will be completed on June 30, 2000. The second project is a programmatic EIS. The Request for Proposals (RFP) went out on

March 30th. The range of costs for this project is between \$150,000 and \$200,000. This has been mandated by the Legislature to be completed by July 1, 2001.

SEN. MESAROS remarked that on May 28th the Governor issued a letter requesting the DFWP to issue an RFP to be completed January of 2000. This project is six months late at this time.

Beata Galda, DFWP, explained that there was a large turnover in personnel at the department. The Alternative Livestock Program involves one person in Helena. That person took a new position and there was a period of time when there was no one available to work on the project. She apologized for the delay but the personnel was not available to handle the project.

Mark Bridges, DOL, stated that they also had some staff turnover. Also, for 90 days they were involved in resolving a serious disease outbreak involving chronic wasting disease at a Philipsburg elk farm. The contractor handling the program review stated that he would have a draft report by the end of the month. The relationship between the two agencies has changed in a positive manner.

MR. STRAUSE remarked that a petition is being circulated to stop the permitting of new game farms. He has also heard that legislation may be introduced to this effect. If either attempt is successful, he asked if there would be a need for a programmatic EIS.

Mr. Feldner stated that the programmatic EIS will review environmental factors that occur upon licensing of an alternative livestock facility. If either attempt is successful, there will not be any additional licensing. He believed that EISs would still be necessary. All the EAs completed have addressed a maximum number of animals. Additional EAs may be necessary if the populations increase on these facilities.

Ms. Galda did raise a concern regarding a possible moratorium. She did note that a programmatic EIS would be helpful in the future if a moratorium was lifted. This is an issue of concern for the department. There would be a way to terminate the contract for the programmatic EIS if needed.

Additional handout - Timeline - Activities Related to Alternative Livestock Program Review and Programmatic EIS, **Exhibit 4**.

IX DROUGHT UPDATE

Jess Aber, Drought Advisory Committee, reported that this is the time of year that the snow pack is carefully tracked. The Committee provides quantitative data and predicts the potential for a drought. This year the potential for drought is significant for wild fire, stock water, grazing and forage, and for watersheds with snow pack below average and no storage facilities. The potential for drought is moderate for watersheds with near average snow packs that have storage capacities. Stock water will be a big problem this year due to a low snow pack at low elevations.

The area of Montana west of the divide has been receiving moisture from the storms coming in from the coast. A problem spot is the south central area, including Stillwater and Carbon Counties, where there are drought conditions dating back to three years.

The Natural Resources Conservation Service records the snow water content. Four out of the last five years, our snow waters continued to build into May. This year runoff started on April 10th. The lack of low elevation snow pack meant that the lower areas did not have enough snow and moisture to bring the ground moisture up so that runoff occurred. This has caused problems for stock water. The areas of concern include the Judith/Musselshell area.

The surface water supply index is used to trigger drought responses. There are two drought response levels: alert and severe. The alert response is never triggered before April 15th. Twenty-four counties east of the continental divide have been placed on a drought alert. In some places we are in a drought and in other places we have drought conditions. The Shields Valley area has an active watershed group. The drought response mechanism is working. West of the Divide, conditions are not too bad.

The Drought Advisory Committee works with the local drought committees. The Lieutenant Governor sends a letter to the county commissions announcing a drought alert. The Lieutenant Governor's report concludes that there is significant probability for impacts to dry land farming, stock water suppliers, wild fire potential, and irrigation water supplies in basins with lower than average snow pack and without the benefit of

storage. There is a moderate probability for impacts to surface water where the snow pack is normal.

Will Kissinger, Montana Department of Agriculture, provided a handout showing the crop-weather report and the temperature and precipitation for the week ending April 29, **Exhibit 5**. Topsoil moisture has declined and is now rated at short or very short for a majority of the state. Subsoil moisture concerns everyone because last winter was dry and this means that there is very little reserve this year. Timing is crucial for the crops this year. Winter wheat is starting to show stress in areas. Rangeland needs moisture. Stock watering ponds are very low and water is being hauled. This is only a stop gap measure. In a dry year insects can also be a problem. There is a large potential for grasshopper problems. He provided a map showing the 1999 Montana Fall Adult Grasshopper Survey, **Exhibit 6**. Cutworms will also be a problem this year. The department has set up a hotline. If hay or pasture is available, the department will act as an intermediary.

Paul May, Northern Rockies Fire Coordination Center, stated that in the short term, the west side of the Continental Divide should be in good shape. The east side of the Continental Divide has significantly less moisture. Some areas are not turning green. Wind events on the east side could cause large fires in May or June. One of the indicators for long term conditions is fuel moisture. Last year the fuel moisture was low. There will be a significant amount of fuel available, unless there is a lot of rain.

Dan McGowan, Disaster and Emergency Services, reported that in 1999 there were 13 jurisdictions that applied for Natural Drought Disaster Determination through the Secretary of Agriculture. The Governor is responsible for initiating this process. All were approved except for one in Sheridan County. Cascade County is the only jurisdiction that has applied this year. The determination is based on crop yield.

The State Farm Service Agency Office is trying to initiate a process using a 1998 notice of authority. The national office is working on a current notice. The Emergency Conservation Practices Program's drought initiatives involve wells and livestock water pipeline and spring development. On a long term basis, there is 50% cost share with the producer. On a temporary basis, there is a 64%/36% producer cost share.

SEN. MESAROS remarked that livestock water is very critical. He questioned what programs would be addressing this issue. **Mr. McGowan** explained that the Emergency Conservation Practices (ECP) Program is a permanent program of the State Farm Service Agency. The effort is ongoing to have the ECP's approved to release funds for the producers to cost share on well and spring development. The natural disaster determination is a financial assistance package for which the producers need to qualify in able to take out a loan with the program.

Kathleen Williams, DFWP, explained that they are in both mobilization and response mode at this time. The Upper Musselshell will very likely lose an age class of brown trout. The flows are extremely low. There is concern about the unregulated rivers in Montana. They are hoping to learn as much as possible about the relationship between flows and fish in these types of conditions. The coordination and communication response is to work very closely with the Drought Advisory Committee. They are developing an internet strategy for communication. Stream flow monitoring equipment is being overhauled. They are ensuring that people are trained in stream flow monitoring in every region. Their temperature probe network is being expanded. They are reactivating their standard fish kill reporting methods and refining the same for drought-related fish kills. They are reactivating their photo-point documentation procedures which involve standardized photo points and associated measurements in the stream. Additionally, they are in the process of evaluating the potential for making calls on junior water users where they have reservations and in stream flow leases.

Velda Welch, Natural Resources Information System, provided a copy of the web page for the Montana Drought Advisory Committee, **Exhibit 7**. She reviewed the web site and its links.

X CONFIRM LOCATION OF NEXT MEETING AND INSTRUCTIONS TO STAFF

The next meeting was set for July 28th in Helena.

XI ADJOURNMENT

There being no further business, the meeting was adjourned.

SEN. CRISMORE, Chair