



ENVIRONMENTAL QUALITY COUNCIL

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HOUSE MEMBERS
Debby Barrett
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Doug Mood

SENATE MEMBERS
Mack Cole
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Bea McCarthy
Walter L. McNutt
Jon Tester
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Tom Ebzery
Julia Page
Ellen Porter
Howard F. Strause

LEGISLATIVE
ENVIRONMENTAL
ANALYST
Todd Everts

ENVIRONMENTAL QUALITY COUNCIL

September 10, 2001

FINAL MINUTES

Approved December 11, 2001

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. BEA McCARTHY, Chair
REP. DOUG MOOD, Vice Chair
SEN. MACK COLE
REP. DEBBY BARRETT
SEN. PETE EKEGREN
REP. CHRISTOPHER HARRIS
MR. HOWARD STRAUSE
MS. JULIA PAGE

SEN. WALTER McNUTT
REP. DON HEDGES
SEN. JON TESTER
SEN. KEN TOOLE
REP. MONICA LINDEEN
REP. PAUL CLARK
MS. ELLEN PORTER
MR. TOM EBZERY

COUNCIL MEMBERS EXCUSED

MR. TODD O'HAIR

STAFF MEMBERS PRESENT

Mr. Todd Everts
Ms. Mary Vandebosch
Ms. Krista Lee Evans

Mr. Larry Mitchell
Ms. Robyn Lund, Secretary

AGENDA

Attachment 1

VISITORS' LIST

Attachment 2

COUNCIL ACTION

- Approve Minutes from EQC meeting of May 23 and 24, 2001.
- Adoption of Rules and Procedures.
- Adopt EQC Work Plan.
- Approve Subcommittee work plans.

I CALL TO ORDER

Roll Call was taken, see **Attachment 3**.

The Mayor of Colstrip welcomed the Council to his town. He gave some background information on the SHAC, which is the building where this meeting was being held. It once was a school house, but is now serving as the cultural center of Colstrip. Colstrip was incorporated as a city in 1998. The activities that the EQC is involved in today have a direct effect on his community and he is glad that the EQC has come to learn about these activities.

SEN. McCARTHY said that she appreciated the effort that many members of the audience made in order to attend the meeting.

Council members and staff briefly introduced themselves saying who they are and where they are from.

II ADOPTION OF MINUTES

MOTION/VOTE: SEN. COLE moved for adoption of the minutes of the May 23 and 24, 2001 EQC meeting. Motion passed unanimously.

III ADMINISTRATIVE MATTERS

• *EQC Operating Rules and Procedures Adoption*

MR. MITCHELL said that at the last EQC meeting the Council had gone through a presentation on what the EQC Rules, Procedures and Operations are. There were a few things that were out of date or needed some clarification. In addition to that, there was some discussion about how the EQC would address public notice for conference calls. He referred to **Attachment 4**. This document lists all of the council rules and shows, in legislative style, the changes, strikeouts and additions that have been proposed.

MR. MITCHELL said that there were no comments about the rules, so he invented some of his own. These are just operational rules, not administrative rules, so they don't go through a formal adoption process. The rules are simply for this Council to administrate itself by. The first major change is on page 2 of Attachment 4, which provides that, if a conference call involves decisions by the Council on a topic that would normally have public comment, the conference call will be noticed as per the rest of the EQC notices. If the conference call doesn't involve a decision making process, there will be a shorter notification period, but the conference call will be noticed on the web site.

Page 3 of Attachment 4 has some discussion about the election of officers. This Council can elect any officers that it needs. However, in keeping with state law, the Chair and Vice Chair must be from separate parties. The other issue that is addressed is proxy voting. The current rule is that a member of EQC may only vote a proxy for one other member. That is different from the legislative rules, which say that the chair and vice chair may hold proxies for multiple people. The remainder of the changes are technical changes that are in keeping with the current statutory law on expenses and reimbursement for council members.

Another substantive change deals with the time that staff can spend on legislative requests for information. It has been clarified in Attachment 4 that if it takes more than

two working days, it has to be approved by legislative council. That goes along with the current Legislative Council Manual requirements.

REP. MOOD asked if the change dealing with the telephones was considered a technical change, or if there was some substantive reason for that. MR. MITCHELL said that he didn't see it as a substantive change.

SEN. TESTER asked if SEN. COLE could explain what Legislative Council's rule is on proxy votes. SEN. COLE replied that, as far as he knew, it was okay for a member to hold more than one proxy. He didn't know why the proxy rule for EQC would be different than the rest of the committees.

MOTION: SEN. COLE moved to delete the proxy rule.

Discussion:

SEN. McNUTT asked if anyone involved with the EQC could explain why that rule was put into place. MR. EVERTS didn't know why it was originally put in place.

VOTE: Motion passed unanimously.

MOTION/VOTE: REP. MOOD moved to adopt the Rules and Procedures. Motion carried unanimously.

• Confirmation of EQC Work Plan and Interim Work Plan Schedule

MR. EVERTS referred to the final work plan, see **Attachment 5**. The overall work plan time line can be found on page 10. That is the time line that the Council will have to adhere to throughout the interim. This work plan reflects what the Council members decided to do in May in terms of the topic areas and the resource allocations that are to be made.

SEN. McCARTHY said that it is also a confirmation of the meeting dates for this interim.

MR. EBZERY said that he would like to move the May 9 and 10, 2002 meeting to the week before May 2 and 3 for the Subcommittee. MR. EBZERY checked with the Legislative Services Division to see if there is a conflict with any other committees. There is a Children and Families meeting on May 3, so as an alternative he also suggested May 8 and 9, instead of May 9 and 10.

SEN. McCARTHY asked that the members have the flexibility to not finalize the dates at this point because she doesn't feel that there is enough time to check calendars now.

MR. EVERTS said that he would continue to check dates of other committees and that the EQC can finalize the date for the May meeting in December.

SEN. TESTER asked if it would be possible to look at the week after May 9 and 10 because if it rains in April he may be planting in early May.

SEN. McCARTHY said that was true and that another consideration is that there are graduations at that time of year. She suggested that the Council leave the date as is until the December meeting and in December the members can make a decision. There were no objections.

MR. EBZERY confirmed that the meetings were held on Thursday, Friday dates.

MOTION/VOTE: SEN. COLE moved to adopt the work plan and meeting schedule. Motion passed unanimously.

IV **SUBCOMMITTEE REPORTS**

- ***Coal Bed Methane/Water Policy Subcommittee***

SEN. COLE said that the Subcommittee had gone through the Coal Bed Methane (CBM) work plan and goals in detail and there were some amendments.

MS. VANDENBOSCH referred to the CBM/ Water Policy Subcommittee work plan, see **Attachment 6**. There were no changes to the Water Quality portion of the work plan.

On page 2 of the draft there will be some additional background information reflecting that there is no development of CBM on federal land until the resource management plans are completed or amended. On page 4, Task 1, the Subcommittee voted to change that to read, "Evaluate the management of water produced from CBM wells in Montana. (A) Become informed about the positive and negative impacts of water produced in association with CBM wells, including long-term effects on irrigated and non-irrigated lands through review of EIS documents, and through presentations." None of the other letters changed. MS. VANDENBOSCH will be breaking the water monitoring into quality and quantity. The Subcommittee will add an item about becoming informed about the system for monitoring water quality. Also on Task 1 the Subcommittee voted to add to the list of people who will inform them "industry representatives." At the bottom of page 4, two additional sub-tasks will be added to Task 3: (C) "Become informed about water rights issues; (D) Become informed about the water quantity monitoring system." There will be a new task added, which is "To serve as a clearinghouse of studies being conducted that are related to CBM production." There are a number of studies going on.

MOTION/VOTE: SEN. COLE moved for approval of the CBM/Water policy work plan as amended. Motion passed unanimously.

• ***Energy Policy Subcommittee***

REP. LINDEEN said that the EQC and the work done by its subcommittees have a tradition of being done by consensus. Historically the EQC and its subcommittees have done a lot of work on issues that are extremely important to the future of Montana. The energy issue affects every single citizen of Montana. The Energy Subcommittee has agreed to leave their political party labels at the door and will work together, keep their minds open and look at every idea that is put in front of them.

REP. LINDEEN referred to the draft work plan, see **Attachment 7**. The Subcommittee has gone over their goals and for the most part they remain the same. The only change is that the first line deals with the a "complete understanding" of energy issues. REP. CLARK thought that a "complete understanding" was asking for a little too much, so that line has been amended to say that the Subcommittee will "develop an understanding."

There was a lot of discussion about the third goal, which is development of the State of the State report on the energy picture in Montana and making sure that the report can present to the next Legislature, for their review and understanding on the big picture.

Obviously, as the Subcommittee moves along they will look at whether or not the energy policy of the state is adequate. They did add a few tasks. They wanted to make sure that, as the members are going through this process and trying to reach their goals, they include how the electric cooperatives fit into the big picture and what other public power providers are doing.

MOTION/VOTE: REP. LINDEEN moved for approval of the energy work plan as amended. Motion passed unanimously.

• Agency Oversight Subcommittee

REP. HARRIS said that the Subcommittee is tackling a number of items. (The Subcommittee's work plan can be seen as **Attachment 8**.) One is keeping track of how MEPA is being implemented, especially in light of the legislation that was passed during the 2001 Session. The Subcommittee will be asking the agencies for their responses to the last EQC's recommendations, which are primarily procedural in nature and primarily involve public input. The Subcommittee will also ask the agencies for any recommendations they have, whether legislative or rule making changes, that concern the implementation of the MEPA bills passed during the 2001 Session.

On CECRA, which is the State of Montana's Comprehensive and Environmental Cleanup and Responsibility Act, the Subcommittee will be looking, in general, at the performance of CECRA particularly -- the voluntary program that has been underway for several years. There is a subset of the CECRA program, which is the Allocation of Liability program. So far this program has only had two sites that have applied to the program for an allocation of liability. One was very lengthy and the other has been very expeditious. In general, it is REP. HARRIS's impression that this process is not as user friendly as it could be, nor is it geared toward smaller cleanup sites. Part of the oversight responsibility will be to look at this program and solicit input from DEQ and the effected parties to see if this allocation program, known as the Orphan Share program, can be

better implemented. The Subcommittee will also look at the funding of this program. The Subcommittee will be looking at a staffing review from the DEQ with respect to the CECRA program. It is his concern that some of the lower level sites do not receive any staffing attention, therefore there is very little cleanup that is going on at those sites. MR. MITCHELL has asked for a Fiscal Division analysis of the expenditures and revenue for this program.

The EQC has statutory authority to receive reports from the agencies on enforcement and compliance. There have been two reports thus far, and they are expecting a third report in July of 2002. The Subcommittee will look at those. They will be making a specific request in advance of those reports for the agencies to identify trends or significant occurrences, rather than just presenting a set of statistics. FWP is not part of that statutory program, but the Subcommittee is going to ask that agency to provide the report anyway.

On the Big Hole/Beaverhead FWP rules, the Subcommittee followed up the hearing in May with a specific set of questions to FWP. The Subcommittee received a lengthy answer from FWP, but it is an answer that didn't address all of the concerns. The Subcommittee made no decision about that response, except to ask staff to identify the agency's response in light of the Subcommittee's request and see what issues have not been addressed. The Subcommittee will look at this issue further at the next meeting.

The Subcommittee is also monitoring the sage grouse population across the state. The Subcommittee does request reimbursement for REP. BARRETT for her attendance at two upcoming sage grouse meetings. SEN. McCARTHY approved that reimbursement.

MOTION/VOTE: REP. HARRIS moved for approval of the oversight work plan. Motion passed unanimously.

V OTHER BUSINESS

MR. EVERTS said that at 12:30 there will be two buses for the tour. He referred to the EQC Colstrip/Coal Bed Methane Tour Itinerary, see **Attachment 9**.

MR. EBZERY said that people will be leaving cars at the Holiday Inn in Sheridan to get on the buses for the tour.

SEN. McCARTHY said that some people will be joining the group at Decker also.

VI CONFIRM LOCATION OF NEXT MEETING AND INSTRUCTIONS TO STAFF

SEN. McCARTHY said that the next meeting is in December and is going to be held in Helena.

MR. EBZERY said that he had checked with Legislative Services and there are no conflicts other than the Children and Families on May 3, 2002.

SEN. McCARTHY asked for the pleasure of the Council as far as the date of the May meeting.

MOTION/VOTE: SEN. TESTER moved for the meeting to be held on May 8 and 9, 2002. Motion carried unanimously.

VII ADJOURN

There being no further business, the meeting was adjourned.