



ENVIRONMENTAL QUALITY COUNCIL

PO BOX 201704
HELENA, MONTANA 59620-1704
(406) 444-3742

GOVERNOR BRIAN SCHWEITZER
DESIGNATED REPRESENTATIVE
MIKE VOLESKY

HOUSE MEMBERS
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NORMA BIXBY
SUE DICKENSON
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COUNCIL STAFF
KRISTA LEE EVANS, Research Analyst
JOE KOLMAN, Research Analyst
CYNTHIA PETERSON, Secretary
TODD EVERTS, Legislative Environmental Analyst

HB 790 SUBCOMMITTEE MINUTES

DATE: September 15, 2005

Room 102, State Capitol Building

Please Note: These are outlined minutes with audio recording. These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities.

COMMITTEE MEMBERS PRESENT

MR. BRIAN CEBULL
MR. DOUGLAS MCRAE
MS. CONNIE IVERSON
MR. JOE OWEN
MR. JIM ROGERS
MS. LILA TAYLOR
MR. DAVE WOODGERD
REP. RICK RIPLEY
SEN. GLENN ROUSH
REP. NORMA BIXBY
REP. JIM PETERSON

MEMBERS ABSENT

SEN. DANIEL MCGEE
SEN. MICHAEL WHEAT (Attended afternoon session)
MR. BRUCE WILLIAMS

STAFF PRESENT

KRISTA LEE EVANS, Research Analyst
JOE KOLMAN, Research Analyst
CYNTHIA PETERSON, Secretary

Visitors

Visitors' list, Attachment 1
Agenda, [Attachment 2](#)

COMMITTEE ACTION

- The HB 790 Subcommittee approved the August 1, 2005, Minutes.
- The HB 790 Subcommittee agreed unanimously to utilize a three-tier approach that would allow for proxies, strive for consensus and, if a consensus could not be reached, a super majority (two-thirds vote) would prevail. A non-super majority vote would still be reported to the EQC but would not be part of the package recommendation.

CALL TO ORDER AND ROLL CALL

AGENDA

Call to Order - Roll Call

00:08:18 The meeting was called to order by Rep. Peterson, acting Chairman. The secretary noted the roll ([Attachment 3](#)).

ADMINISTRATIVE MATTERS

Approval of Aug. 1 Meeting Minutes

00:11:20 Mr. Woodgerd moved the August 1, 2005, minutes be approved as presented. The motion carried unanimously.

00:12:54 Rep. Peterson referred the Subcommittee members to the spreadsheet compiled by Mr. Kolman which provided a summary of state and federal surface damage regulations in other states ([EXHIBIT 1](#)). Rep. Peterson also directed the Subcommittee members to Surface Use Issues which listed the issues each panelist would be addressing ([EXHIBIT 2](#)). Rep. Peterson encouraged the Subcommittee members to ask questions of the panelists.

SURFACE/MINERAL OWNER ISSUES

Surface Owner: Jeanie Alderson

00:15:17 Jeanie Alderson, a member of Northern Plains Resource Council, testified on surface/mineral owner issues and how her ranch is affected. Ms. Alderson explained how her family had diversified its cattle operations in hard times. Ms. Alderson identified how grass and water are being threatened by coal bed methane development. Ms. Alderson is only interested in developing minerals if it can be done without harm to her ranching business or the rights of her children and neighbors. Ms.

Alderson believed the 10-day notice requirement is too short and should be modified to one year. Ms. Alderson suggested landowners should be included in all leasing decisions before development occurs. Ms. Alderson also believed landowners should be notified when their minerals are leased. Ms. Alderson believed arbitration should be utilized in the event damages are incurred by the landowner. Ms. Alderson suggested a bond be implemented to protect surface owners in the event a company disappears and leaves the landowner with substantial damages. Ms. Alderson expressed concern about being held liable for damages caused to other local landowners by coal bed methane development activities on her land. Ms. Alderson cautioned against passing weak split estate laws and utilizing weak surface use agreements.

Mineral Interest: Wayne Ransbottom

00:34:24 Wayne Ransbottom, Land Manager for Fidelity Exploration and Production Company (Fidelity), Sheridan, Wyoming, commented on Fidelity's position regarding property rights. Mr. Ransbottom testified about Fidelity's efforts to begin negotiations at least eight months in advance of any proposed development to determine who, what, when, where, and why. Mr. Ransbottom explained the negotiation procedure used by Fidelity prior to development to identify and address landowners' special needs. Mr. Ransbottom explained the need for repeated access to land prior to submitting a development plan. Mr. Ransbottom testified that a plan of development is submitted to the Bureau of Land Management (BLM) by Fidelity prior to development, and that this procedure provides another opportunity for the surface owner to interject with objections or concerns.

(Tape 1; Side B)

Mr. Ransbottom identified issues that Fidelity believes are important, including the intricate permitting process, which currently includes extensive surface activity. Mr. Ransbottom testified how careful planning with the surface owner can minimize surface impacts.

Questions from the Subcommittee

00:57:52 Mr. Woodgerd asked Mr. Ransbottom about the possibility of new legislation and asked for Mr. Ransbottom's thoughts about SB 258. Mr. Ransbottom replied that most landowners are hesitant about the Legislature telling them what to do. Mr. Ransbottom depicted SB 258 as being harsh, punitive, and angry at first glance. Mr. Ransbottom suggested any proposed legislation should accommodate the personal property rights of both the surface and mineral owners.

01:02:13 Ms. Taylor asked Mr. Ransbottom how Fidelity interacts with other developers who are bad players and make it difficult for everyone. Mr. Ransbottom replied that Fidelity attempts to educate other developers

and will, on occasion, provide guidance to landowners on how best to deal with bad players. Mr. Ransbottom identified the Wyoming Spit Estate Initiative, a cooperative effort between the Wool Growers, the Cattlemen's Association, agriculture, and the producers, as having an exceptional program designed to address conflict.

- 01:05:35 Ms. Taylor asked if Fidelity goes to the bad players directly. Mr. Ransbottom explained they address the issues operator-to-operator, especially if there are joint operations involved.
- 01:06:32 Rep. Ripley asked about the 10-day notice time frame and noted both the landowners and developer seem to agree the period is too short. Rep. Ripley asked for guidance in setting a new notification period. Mr. Ransbottom identified a reasonable time frame as being a minimum of thirty days.
- 01:08:50 Mr. McRae asked if it would be in the best interest of Fidelity to have minimum requirements in the law. Mr. Ransbottom agreed and added the only way coal bed methane development would be successful is if both parties are accommodating. Mr. Ransbottom identified the who, what, when, and why as being critical in negotiations.
- 01:10:24 Mr. Rogers asked if specific elements of a surface use agreement could be written into statute and whether there are standard elements consistently used by Fidelity in its surface use agreements. Mr. Ransbottom explained the standard elements used by Fidelity in its surface use agreements. Mr. Ransbottom explained the use of addendums to surface use agreements.
- 01:14:43 Mr. Rogers asked if those elements were required by statute, whether it would take care of most of the problems experienced by landowners. Mr. Ransbottom agreed putting the requirements in statute would go along way to address the problems experienced by landowners.
- 01:15:42 Mr. Rogers asked how surface damage value is established. Mr. Ransbottom replied the value is established by the economics of the particular project, mutual agreement between the parties, and market value.
- 01:17:29 Ms. Iverson wanted to know how Fidelity ensures that the terms of the surface use agreement are carried out. Mr. Ransbottom replied the terms of the surface use agreement are often not the source of problems; rather, it is the unspoken agreements. Mr. Ransbottom spoke about the importance of common courtesy and communication.
- 01:20:14 Ms. Iverson asked Ms. Alderson for a suggested bonding amount. Ms. Alderson suggested that damage can be done to the whole operation and that fact should be considered in setting a bonding amount.

01:22:05 Mr. Owen asked Ms. Alderson whether she believed it would be reasonable for a landowner to be required to notify a mineral owner when the land is being subdivided. Ms. Alderson responded she may not readily know who holds the minerals, but agreed there should be away for landowners and mineral owners to communicate. Mr. Owen pointed out that federal leases are sold in an open public auction and asked Ms. Alderson if that provided her an opportunity to bid on the leases. Ms. Alderson explained the difficulty of staying informed. Ms. Alderson believed she should have the right of first refusal. Mr. Owen asked Ms. Alderson if she would be prepared to develop minerals as a lessee. Ms. Alderson agreed that these issues would need to be thought through prior to becoming a lessee.

01:25:01 Mr. Owen asked whether the surface lease agreement should be the same for oil and gas production and coal bed methane. Mr. Ransbottom believed both scenarios should contain a requirement to negotiate.

01:26:30 Mr. Cebull asked if a 30-day notice requirement would work for conventional oil and gas drilling. Mr. Ransbottom believed it would.

01:27:45 Mr. Cebull asked Ms. Alderson for specific examples of surface use agreements being violated. Ms. Alderson talked about misunderstandings, miscommunications, and the resulting hard feelings. Ms. Alderson stated the burden is on the landowner to prove loss of water as a result of development.

(Tape 2; Side A)

01:30:00 Mr. Cebull asked whether legislation could solve communication problems. Ms. Alderson believed it would since, currently, the playing field is unlevel and the landowners having little room for negotiation. Ms. Alderson thought setting minimum standards would be helpful.

01:30:41 Rep. Bixby asked about impacts to landowners located near developments and whether neighboring landowners should be included in the process. Ms. Alderson agreed it would be helpful to include those surface owners who may not have any development on their land, but could be impacted by nearby development.

01:32:06 Mr. Woodgerd asked Ms. Alderson for her opinion about SB 258. Ms. Alderson replied she thought SB 258 was a good bill. Mr. Woodgerd asked Ms. Alderson if she was familiar with the Wyoming Split Estate Initiative and whether she agreed with it. Ms. Alderson was leery of the Initiative and thought it could be a distraction.

01:34:21 Ms. Taylor wondered if Fidelity does any surface bonding with landowners. Mr. Ransbottom was unaware of any bonding being utilized. Mr. Ransbottom did not believe a bond to a landowner was a good idea because occasionally the bond is not used for the purpose it was

intended. Ms. Taylor requested a list of Fidelity's bonds and what those bonds cover. Mr. Ransbottom agreed to prepare an analysis of the Powder River Basin in both Montana and Wyoming.

01:37:39 Ms. Iverson asked Mr. Ransbottom what the current bond is, what the bonds cover, and whether Mr. Ransbottom thought current bonds were adequate. Mr. Ransbottom explained that bonds vary and there are numerous types of bonds. Mr. Ransbottom suggested a bond for each facility would be too much since it takes capital away from the company. Mr. Ransbottom favored a state-wide bond or a federal-operations bond.

01:39:46 Mr. Cebull asked about the Wyoming Split Estate Initiative. Mr. Ransbottom explained the structure in Wyoming. Mr. Ransbottom identified public education and information dissemination, support provided by a review committee in the event of a dispute, mediation of the issue, and arbitration. Mr. Ransbottom gave details of two experiences with the Wyoming Split Estate Initiative.

01:46:53 Mr. Woodgerd asked questions about the mediation and arbitration provided by the Wyoming Split Estate Initiative and wondered who paid the expenses. Mr. Ransbottom was uncertain who paid for mediation expenses. Mr. Ransbottom explained in arbitration expenses are shared between the parties and, in some instances, Fidelity has paid for the entire cost. Mr. Ransbottom emphasized there should be an agreement by the parties as to who will pay.

01:49:02 Rep. Peterson inquired about the structure of the arbitration committee. Mr. Ransbottom replied arbitration usually provides only one arbitrator rather than a committee.

Break

Surface/Mineral Owner Issues -- continued.

Surface and Mineral Owner: Sen. Keith Bales

02:15:14 Sen. Keith Bales, a legislator and rancher in southeast Montana, as well as a surface and mineral owner, explained his family's mineral interests. Sen. Bales believed any state law would only affect private mineral owners, many of which are elderly. Sen. Bales explained how surface use agreements have changed over the years; therefore, Sen. Bales admitted he is skeptical about putting into law what should be included in a surface use agreement. Sen. Bales stated he was not certain coal bed methane development in Montana would continue. Sen. Bales suggested that if a surface use agreement listed what damages landowners could be paid for, landowners would be severely limited. Sen. Bales requested the Subcommittee to not pass a law that would limit his potential as a landowner. Sen. Bales believed a 30-day notification period would be

ample, but he was uncertain about the need to enlarge the notification period.

(Tape 2; Side B)

Sen. Bales thought bonding should be used only as a last resort and identified other sources of funding that could be used regarding coal bed methane development. Sen. Bales spoke about laws passed in Montana in the 1970s that resulted in a coal boom for Wyoming. Sen. Bales believed Montana should be developing its own natural resources.

Surface and Mineral Owner: Raymond Muggli

02:43:49

Ray Muggli, a landowner and mineral owner in southwest Montana, spoke about his family's farming operation. Mr. Muggli identified water as key to his farming operation. Mr. Muggli believed Montana's resources could be developed responsibly. Mr. Muggli expressed concern about the magnitude of coal bed methane development and the resulting damage to the surface. Specifically, Mr. Muggli was concerned about containment ponds and the sodium content of those ponds. Mr. Muggli submitted and reviewed a collection of his aerial photographs (**EXHIBIT 3**). Mr. Muggli believed that Montana should find a better way to manage the water and soil in the Tongue River Valley. Mr. Muggli did not believe a 10-day notice requirement was adequate and summarily agreed with Ms. Alderson's earlier responses to the Subcommittee's written questions.

BLM and DNRC Representatives

03:09:33

Will Lambert, a Petroleum Engineer, Bureau of Land Management, provided background information on the BLM's duties related to oil and gas development in Montana. Mr. Lambert suggested in the majority of cases, agreements between landowners and oil and gas companies are reached, and his experience indicates there have been very few conflicts between landowners and oil and gas producers.

(Tape 3; Side A)

Mr. Lambert pointed out federal leases contain a drainage protection provision. Mr. Lambert stated the BLM's notification period is, at a minimum, thirty days due to the BLM's posting requirements. Mr. Lambert explained how the BLM includes the landowner in its decisions regarding the operation. In addition, BLM requires bonding to cover noncompliance, plugging of wells, nonpayment of royalties, and reclamation. The bonding has a minimum amount of \$1,000 and the amount is determined by the level of risk. Mr. Lambert referred to a United States Department of Interior memorandum which sets forth BLM's process (**EXHIBIT4**). Mr. Lambert could not recall anyone protesting a bond amount once it had been set by BLM.

03:22:20 Monte Mason, Minerals Management Bureau Chief, Montana Department of Natural Resources and Conservation (DNRC), provided an overview of DNRC's process. Mr. Mason explained how surface owners are able to bid on leases in the public process and successful landowners are obligated to diligently develop the minerals. DNRC does not hold separate bonding on its leases. Revenue generated from the lease goes to the School Trust Fund. Mr. Mason explained landowners are entitled to compensation for damages, and the lessee must repair, replace, or compensate for any damages. In addition, lessees must provide confirmation that they have met with the surface owner and have reached an agreement. If the lessee has made a good-faith effort to reach an agreement with the surface owner, the DNRC may authorized the lessee to proceed. Mr. Mason explained how arbitration is also an element of state land leases. Mr. Mason noted 20- and 30-day notices are used successfully by other states.

Committee Questions

03:33:52 Mr. Cebull asked if the 10-day notification was realistic. Mr. Lambert explained on federal leases, the notification time frame is ultimately much longer, and the 10-day notification period has no bearing since the BLM has a minimum 30-day posting requirement.

03:36:36 Mr. Mason explained a survey operation could be on the land in less than ten days, and it has not been a problem on state lands.

03:38:21 Ms. Taylor asked how much of the state land is split estate. Mr. Mason was not certain but estimated it was approximately one-sixth. Ms. Taylor asked if the state has ever allowed companies to have water impoundments on state land. Mr. Mason replied they are currently considering one proposal.

03:41:13 Mr. Woodgerd requested a copy of the EA on the proposal before DNRC. Mr. Mason agreed to supply a copy to Mr. Kolman for distribution to the Subcommittee.

03:41:40 Mr. Rogers asked if there was a surface lease agreement utilized by DNRC. Mr. Mason explained there is no specific form, but DNRC ensures coordination and agreement between the parties. In addition, a plan has to be submitted before construction begins. The requirement is that there has to be agreement between the parties, and that agreement is usually mediated by a field person.

03:45:12 Rep. Peterson asked whether a written agreement is required for water mitigation on coal bed methane development. Mr. Mason agreed and added the Board of Oil and Gas also has the same requirement.

03:45:44 Sen. Roush asked Mr. Lambert if the Legislature made changes in statute, whether the federal government would be amenable to the

legislation. Mr. Lambert could not answer Sen. Roush's question without having specific details on the legislation. Sen. Roush pointed out that the federal government would not be required to comply with state law.

03:48:09 Rep. Ripley asked for more information regarding Mr. Muggli's last photograph. Mr. Muggli explained there were no pivots in that area two or three years prior and provided a more-detailed explanation of the photograph. Rep. Ripley requested a copy of the same area prior to the pivots being put in.

03:51:01 Mr. Cebull asked Mr. Lambert to discuss the federal government's reaction to legislation passed by Wyoming. Mr. Lambert explained there were concerns expressed by the federal government to the Governor of Wyoming.

03:52:26 Mr. Rogers asked for an explanation of the BLM's consistency review process. Mr. Lambert could not elaborate. Mr. Rogers asked about the posting of the bonds used and how much of the bonds were posted in Montana and Wyoming last year. Mr. Lambert stated the majority of the surface use agreement bonds are still being held. In Montana, none of the gas operating bonds have been tapped into. Mr. Rogers requested information on the consistency review process.

(Tape 3; Side B)

03:54:25 Ms. Taylor asked Sen. Bales whether his federal and state minerals had been leased. Sen. Bales replied those minerals were leased.

03:55:17 Mr. Rogers asked how close the closest infrastructure is for coal bed methane or gas on Sen. Bale's split state line leases. Sen. Bales explained the distance is approximately six miles on the Montana side and approximately seven miles on the Wyoming portion.

03:56:11 Mr. McRae asked how the state would address liability issues caused by impoundments. Mr. Mason replied there are regulations in place and if there was an incident, they would look to the regulating agency and the bond. Mr. Mason spoke about the approval letter used rather than a surface use agreement.

(BREAK FOR LUNCH)

(Sen. Wheat arrives.)

00:00:02 Chairman Wheat reconvened the HB 790 Subcommittee

The Accommodation Doctrine and the Model Surface Use and Mineral Development Accommodation Act

Greg Petesch -- Chief Legislative Attorney

00:00:46 Greg Petesch, Chief Legislative Attorney, addressed the Accommodation Doctrine and Model Surface Use and Mineral Development Accommodation Act. Mr. Petesch provided a history of the drafting committee that wrote the Model Surface Use and Mineral Development and Accommodation Act, which codifies the Accommodation Doctrine which was developed through common law and case law. Mr. Petesch explained the right to develop the mineral estate overrides the surface estate, and carries with it implied easements of access and requires the mineral plan to accommodate surface uses. Whenever state land is sold, the state is required to reserve the mineral rights; therefore, a split estate is created whenever the state sells land. Mr. Petesch directed the Subcommittee to the comments contained in the Model Surface Use and Mineral Development Accommodation Act ([EXHIBIT 5](#)).

Questions from the Subcommittee

00:11:57 Mr. Woodgerd noted Montana's damage statutes require compensation for damages and asked how those statutes would work with the Accommodation Doctrine. Mr. Petesch suggested those statutes would probably need to be revisited.

Public comment: HB790 issues

00:15:04 Michael Reisner, Attorney, Northern Plains Resource Council, asked the fundamental question, "Does the Montana Surface Damage and Compensation Act, and any improvements made to the act or the improvements proposed in SB 258, apply to federal minerals on split estate lands?" Mr. Reisner provided an explanation on why the Act applies to federal minerals and suggested the HB 790 Subcommittee should make its intentions explicit in the law. Mr. Reisner stated the Wyoming Legislature, the Wyoming Governor, and the Wyoming Attorney General have made it clear the recently enacted split estate legislation in Wyoming applies to split estate lands involving federal minerals and that those requirements will be enforced. Mr. Reisner provided a legal analysis and explained alternatives to addressing drainage issues once a company has drilled.

00:24:19 Mark Fix, a rancher on the Tongue River and a member of the Northern Plains Resource Council, testified he has a substantial amount of split estate on his land. Mr. Fix supported the idea of notifying landowners when minerals are leased. Mr. Fix suggested implementing a six-month notification period. Mr. Fix expressed concern about the amount of water being used and the quality of the water he now has to use. Mr. Fix supported implementing a bonding requirement.

00:30:50 Terry Punt, Jeanne Alderson's husband, would like companies to provide to the HB 790 Subcommittee examples of the water well mitigation agreements being offered to ranchers. Mr. Punt stated he would also like Mr. Mason to respond to Fidelity's latest water marketing proposal that was submitted to the DNRC and is now awaiting public comment.

(Tape 4; Side A)

Mr. Punt expressed his concern about water being drained from the aquifers and losing his water rights. Mr. Punt requested the HB 790 Subcommittee to further study the issue of water rights.

00:34:44 Cole Chandler, Operations Manager, Klabzuba Oil and Gas, explained that as a company, Klabzuba strives for good relations with landowners and enjoys being a good neighbor. In addressing the 10-day notice requirement, Mr. Chandler believed plenty of notice exists for federal and state leases. Mr. Chandler explained the process on private lands for notice and stated the reality of the situation is that the process takes much longer than ten days. Mr. Chandler believed only a handful of problems actually exist between landowners and industry.

00:41:02 Patrick Montalban, Northern Montana Oil and Gas Association, believed the most important thing the HB 790 Subcommittee could do is promote Montana's oil and gas production. Mr. Montalban did not agree with extending the notice requirement to one year and gave an example why that would not work. Mr. Montalban stressed that industry cannot go onto someone's land and drill without a signed agreement from the landowner. Mr. Montalban suggested the HB 790 Subcommittee should separate the conventional oil and gas industry from coal bed methane issues

00:47:54 Jerome Anderson, representing Encore Acquisition Company, expressed concern about the direction the Subcommittee is moving. Mr. Anderson emphasized that Mr. Ransbottom's earlier testimony only applied to Fidelity and not to Encore Acquisition Company. Mr. Anderson recalled that coal bed methane development had been studied extensively, and he did not believe the Environmental Quality Council (EQC) should duplicate efforts which had already been undertaken. Mr. Anderson agreed with Mr. Montalban that the issues of oil and gas and coal bed methane should be treated separately.

00:54:12 Gail Abercrombie, Executive Director, Montana Petroleum Association, agreed there are not many problems being experienced out in the field. Ms. Abercrombie thought it was too early in the study for her association to take a position on the issue. Ms. Abercrombie referred to the damage mitigation account, as well as RIT grants, which are available to help pay for damages when an operator no longer has a presence. Ms. Abercrombie believed bonds should be held by an agency and not a landowner. Ms. Abercrombie pointed out that there are potential legal problems with the Wyoming Split Estate Initiative.

- 00:58:24 Tom Ebzery, representing Nance Petroleum and Devon Energy, spoke about past legislation. Mr. Ebzery urged the Subcommittee to keep the two issues of oil and gas development and coal bed methane development together because of the similarities between the two industries. Mr. Ebzery thought the back-end of the current notice requirements should be extended beyond ninety days. Mr. Ebzery encouraged the Subcommittee to continue gathering information.
- 01:04:23 Chairman Wheat reminded the Subcommittee members and the audience that the HB 790 Subcommittee is in a fact-finding mode and that is why the HB 790 Subcommittee is traveling to rural Montana communities that are directly impacted.
- 01:05:12 Willy Duffield, Montana Association of Oil and Gas Counties, agreed the HB 790 Subcommittee is in a fact-finding mode. Mr. Duffield invited the HB 790 Subcommittee to travel to Baker, Montana.
- 01:07:26 Julia Page, a small business owner in Gardiner and a member of the Northern Plains Resource Council, stated even if a good relationship exists, there are many issues that still arise that take hard work to resolve. Ms. Page disagreed that there are a small number of issues and that those issues are trivial. Ms. Page disagreed with the characterization of payments for damages as "rent." Ms. Page testified the concepts of SB 258 were important. Ms. Page urged the Subcommittee to visit Sheridan, Wyoming.

(Tape 4; Side B)

Questions from the Subcommittee

There were no questions from the Subcommittee.

Public Comment on any Other Matter Within the Jurisdiction of the Subcommittee

There was no further public comment.

Break

Committee Discussion

Surface Issues/Split Estates and Directions to Staff Regarding Surface/Split Estate Issues

- 01:35:58 Mr. Kolman was directed to mail out a summary of the surface/split estate issues. Mr. Kolman referred the HB Subcommittee to the issues contained on Exhibit 2 and offered suggestions on how the HB 790 Subcommittee could address the issues by drafting proposed findings.

- 01:37:42 Chairman Wheat explained how he would like to see the Subcommittee proceed. Chairman Wheat requested Mr. Kolman to outline different points and issues raised by people testifying and suggested the HB 790 Subcommittee would make its proposed findings from that point. Chairman Wheat suggested under the heading of "Notice" could be such items as notice of intent to lease, notice of surveying, notice of drilling, and notice before heavy equipment is brought onto the land. Other headings could be "Surface Use Agreements" and "Bonding."
- 01:40:01 Rep. Bixby requested a side-by-side listing of the different on-the-ground processes used by the various companies, the state, and the BLM.
- 01:42:11 Mr. Woodgerd requested more information on the Wyoming Split Estate Initiative.

Administrative Matters:

Remaining Meetings; Destinations and Dates

- 01:43:08 Chairman Wheat referred the Subcommittee to a handout in planning upcoming meetings (**EXHIBIT 6**) and explained his rationale for going to Havre, Sidney, Sheridan, and Billings.
- 01:45:40 Mr. Kolman suggested the next meeting be in late October in Sheridan to see coal bed methane in operation. Mr. Kolman reviewed Exhibit 6 with the Subcommittee.
- 01:47:41 Mr. Cebull offered to provide a tour of Nance Petroleum's operations in Wyoming.
- 01:48:51 Ms. Taylor agreed that Sheridan should be the October meeting and stated there are numerous operations being conducted in the Sheridan area.
- 01:49:25 Mr. Kolman suggested a meeting could be held in Billings to hear public comment and then the HB 790 Subcommittee could travel to Decker by bus. Mr. Kolman thought this method could be a cost saver, but also noted Wyoming officials would be more likely to travel to Sheridan to meet with the HB 790 Subcommittee.
- 01:51:13 Chairman Wheat commented traveling to Sheridan and would allow for hearing from Wyoming officials and provide a first-hand look at coal bed methane operations on both sides of the state line. Billings could be more of a working meeting to make decisions.
- 01:51:54 Sen. Roush commented about previous tours of coal bed methane fields in the Sheridan/Decker area. Sen. Roush suggested that the meeting would need to be at least two days.

- 01:53:46 Rep. Bixby commented that she would like to hear from people with experience. Rep. Bixby would like the meeting to focus on fact finding.
- 01:54:51 Mr. Cebull agreed that Sheridan is a logical place to conduct a meeting.
- 01:55:13 Rep. Peterson suggested talking with Bruce Williams to arrange participation from local residents and Wyoming officials.
- 01:56:45 Ms. Taylor would like the October meeting date(s) set as soon as possible. Mr. Kolman suggested the meeting be held October 27 and October 28. The HB 790 Subcommittee will meet in January the day before the scheduled EQC meeting.
- 01:58:11 The HB 790 Subcommittee discussed meeting in Sydney on the 23rd of February. Mr. Cebull stated Nance Petroleum has an office in Sidney and offered to conduct a tour. Mr. Kolman will send out a schedule of meetings.

Approval of Work Plan

- 02:03:07 Mr. Kolman explained the purpose of the work plan with the HB 790 Subcommittee (**EXHIBIT 7**). Mr. Kolman explained the Work Plan will assist the Subcommittee in focusing on the issues by identifying what the Subcommittee needs to know and what the Subcommittee wishes to accomplish. In addition, the work plan will force the Subcommittee to prioritize the issues.
- 02:06:01 Rep. Peterson suggested waiting until next month to approve the Work Plan. Chairman Wheat agreed and stated the Work Plan will be addressed at the onset of the next HB 790 Subcommittee meeting.
- 02:07:02 Mr. Kolman commented the Subcommittee has already begun working on the information contained in the proposed Work Plan.

Directions to Staff

- 02:07:27 Rep. Bixby asked about how the HB 790 Subcommittee will make its decisions.
- 02:07:51 Chairman Wheat suggested the HB 790 Subcommittee should make its decisions on a majority basis since it might not be able to reach a consensus on some issues. Therefore, whatever the majority of the HB 790 Subcommittee wants is what will be submitted to the full EQC.

(Tape 5; Side A)

- 02:08:45 Mr. Woodgerd stated he would prefer to make recommendations to the EQC on a consensus basis. Chairman Wheat explained the unlikelihood of reaching a consensus on all issues.

- 02:10:51 Mr. Owen asked if there was another alternative since he would not like to go to the Legislature with a recommendation that not everyone was in agreement with.
- 02:11:54 Mr. Cebull agreed with Mr. Owen and acknowledged many of the issues are contentious. Mr. Cebull was curious how the full EQC would react to a recommendation where there was substantial contention among the members of the HB 790 Subcommittee.
- 02:12:34 Chairman Wheat commented on his past experience with the EQC and stated normally, if there is not an agreement on the recommendation, the EQC will not support it.
- 02:13:55 Rep. Peterson commented about his experiences with having a consensus and recalled the work on water adjudication. Rep. Peterson stated had there not been consensus on HB 22, the legislation would have never made it through the Legislature. On the other hand, Rep. Peterson admitted consensus was never going to be reached on the tax reform issue. Rep. Peterson suggested utilizing a "super majority" would probably be the middle ground, and the full EQC could address the issue from that point.
- 02:15:48 Mr. Rogers commented he would like to utilize a simple majority approach in order to move forward. Mr. Rogers stated he did not want to waste his time, effort, and resources on an issue that does not have an end result.
- 02:16:53 Mr. McRae asked Chairman Wheat about EQC review. Chairman Wheat provided an explanation of reporting a total package to the EQC for recommendation for legislation. Chairman Wheat did not believe presenting ideas to the EQC on a piece-meal basis would go very far.
- 02:18:00 Ms. Iverson commented she does not want to see issues dropped because there is no consensus.
- 02:18:42 Rep. Peterson added he did not believe the Subcommittee could reach a consensus and suggested utilizing a super majority.
- 02:20:08 Mr. Rogers asked about tie votes, and Chairman Wheat responded tie votes fail. Chairman Wheat suggested that the Subcommittee strive for consensus. If a consensus is not reached, then a super majority will be used on issues submitted to EQC. Those issues that do not make a super majority, will still get reported to the EQC, along with the recommendation and the vote. If an issue only receives a simple majority, it will be reported to EQC without recommendation and the vote.
- 02:22:08 Mr. Owen agreed with Chairman Wheat's suggestion.

02:22:47 Mr. Woodgerd asked for clarification and Chairman Wheat responded the full EQC has a right to know all the issues discussed by the HB 790 Subcommittee.

02:23:27 Mr. Rogers requested a definition of super majority. Chairman Wheat responded a super majority would be 60/40. Discussion was held about the use of proxy votes. Chairman Wheat suggested proxy votes should be allowed. Mr. Kolman added the full EQC discourages proxy votes since the issues are intricate rather than full pieces of legislation. Chairman Wheat believed proxies should be allowed since people may be able to attend every meeting.

02:26:37 Mr. Peterson moved that a three-tier approach be utilized that would allow for proxies, strive for consensus and, if a consensus is not reached, a super majority would be two-thirds or consensus. If that cannot be reached, the vote would still be reported to the EQC as an issue addressed and voted on, but would not be part of the recommended package. The motion carried unanimously.

Adjourn

02:28:57 Chairman Wheat adjourned the meeting.