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Water Policy Interim Committee

60th Montana Legislature

SENATE MEMBERS

JIM ELLIOTT--Chair
GARY PERRY--Vice Chair
LARRY JENT
TERRY MURPHY

HOUSE MEMBERS

SCOTT BOGGIO
JILL COHENOUR
BILL MCCHESENEY
WALTER MCNUTT

COMMITTEE STAFF

JOE KOLMAN, Lead Staff
GREG PETESCH, Staff Attorney

ENVIRONMENTAL QUALITY COUNCIL/ WATER POLICY JOINT SUBCOMMITTEE MINUTES

Date Approved:¹

June 10, 2008

Room 152
State Capitol Building

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

COMMITTEE MEMBERS PRESENT

SEN. JIM ELLIOTT, Chair
SEN. GARY PERRY, Vice Chair
SEN. ROBERT STORY
SEN. DAVID WANZENRIED (via telephone)
REP. CAROL LAMBERT (via telephone)
REP. WALTER McNUTT

¹ These minutes were completed after the interim recessed and were not approved by the subcommittee.

STAFF PRESENT

JOE KOLMAN, Legislative Research Analyst
TODD EVERTS, Staff Attorney
CYNTHIA A. PETERSON, Committee Secretary

Visitors

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

COMMITTEE ACTION

There was no committee action taken.

CALL TO ORDER AND ROLL CALL

00:01:49 Sen. Jim Elliott, Chairman of the Water Policy and Environmental Quality Joint Subcommittee (Joint Subcommittee) called the meeting to order at 5:17 p.m. The secretary called the roll. Rep. Lambert and Rep. Wanzenried participated by telephone ([Attachment 3](#)).

AGENDA

INTRODUCTIONS AND PURPOSE OF THIS MEETING - Senator Elliott

00:02:30 Chairman Elliott stated the purpose of the meeting was to discuss the role of a permanent Water Policy Interim Committee.

HISTORICAL OVERVIEW OF THE LEGISLATIVE WATER POLICY DEVELOPMENT - Mr. Everts

00:03:14 Todd Everts, Staff Attorney, Environmental Quality Council (EQC), summarized the question as how does the Legislature want to address water issues administratively. Mr. Everts discussed "Environmental Quality Council, Water Policy Issues 1995-2006" ([EXHIBIT 1](#)).

00:08:29 Joe Kolman, Research Analyst, Water Policy Interim Committee (WPIC), provided "Water Policy Committee, Historic Overview (1985-1995)" ([EXHIBIT 2](#)). Mr. Kolman also submitted "Water Policy Interim Committee 2007-2009," which established the current WPIC ([EXHIBIT 3](#)).

00:12:40 Mr. Everts addressed the EQC's statutory oversight over the Department of Natural Resources (DNRC), Fish, Wildlife and Parks (FWP), and the Department of Environmental Quality (DEQ). Chairman Elliott clarified the additional \$15,000 the WPIC received from Legislative Council was because Legislative Council assigned HB 831 to the WPIC.

CONSIDERATION OF LEGISLATIVE ADMINISTRATIVE OPTIONS FOR FUTURE WATER POLICY DEVELOPMENT

Overview of Options - Mr. Everts/Mr. Kolman

00:13:55 Mr. Everts emphasized that Legislative Services Division staff do not have any opinion or position on any options before the Joint Subcommittee. Mr. Everts outlined administrative criteria, such as staff resources, legislator resources, and time. Mr. Everts cautioned that the Joint Subcommittee should clearly delineate jurisdictional boundaries and not duplicate those boundaries between interim committees. Mr. Everts also suggested considering legislative subject matter expertise and public involvement. Mr. Everts identified the options as: (1) maintaining the status quo; (2) taking no action; and (3) eliminating the WPIC termination date. Mr. Everts explained that the EQC membership was elevated to address water policy, so if the current WPIC is maintained, consideration may want to be given to reducing the EQC membership. A fourth option identified by Mr. Everts was to establish a water policy subcommittee of the EQC, which could include members of the public. Another option could be to assign water policy issues to another interim committee. Mr. Everts stated the Joint Subcommittee could also design other options.

Joint Subcommittee Questions

00:19:02 Rep. Lambert asked how many members were on the current WPIC. Chairman Elliott responded the WPIC consists of eight members, split evenly between parties and houses.

00:19:42 Chairman Elliott stated the WPIC would be proposing legislation to make the WPIC permanent. Chairman Elliott solicited comments from the EQC members regarding having a separate interim committee to address water policy issues.

00:20:52 Sen. Story thought it was desirable to involve more legislators in the interim committee process. Sen. Story noted that Democrats were in the minority in the Senate, so it was difficult to fill the slots on the interim committees. However, in the House, some Representatives never had an opportunity to serve on an interim committee. Sen. Story expressed concern about splitting interim committees' duties, and acknowledged WPIC issues tie back into EQC issues and will need to be coordinated. Sen. Story was undecided which avenue to take and emphasized if the WPIC is made permanent, the two committees will need to work in tandem.

00:25:27 Mr. Kolman submitted a list of legislators and the number of interim committees they currently serve on ([EXHIBIT 4](#)).

00:26:10 Rep. Lambert agreed the more legislators on interim committees the better. Rep. Lambert expressed concern about creating another permanent interim committee and enlarging state government. Rep. Lambert also wondered how the WPIC would be funded.

- 00:27:07 Sen. Wanzenried asked what the current WPIC was contemplating. Specifically, Sen. Wanzenried asked whether the WPIC had voted on creating a permanent, stand-alone interim committee.
- 00:27:33 Chairman Elliott clarified the WPIC members had agreed the WPIC should be made permanent. Chairman Elliott depicted water issues in Montana as extremely important and complex. Chairman Elliott stated if the issues could be handled by the EQC, then there would be no need to continue the WPIC, but that he assumed the EQC's workload was already heavy.
- 00:29:31 Chairman Wanzenried stated in past sessions, the study would have been conducted during the interim without a specific mechanism, and the EQC would have undertaken the responsibility. Sen. Wanzenried thought the EQC had adequate resources to staff an interim study. Sen. Wanzenried recalled that in the 1990s, the EQC was expanded and charged with studying all environmental issues, including water policy. Sen. Wanzenried suggested there may be a need to review the current membership of the EQC. Sen. Wanzenried stated he would not have had enough time to serve on three interim committees and emphasized Senate members are more thinly spread. Sen. Wanzenried suggested consideration be given to creating a standing subcommittee within the EQC.
- 00:32:13 Rep. McNutt emphasized the current WPIC's workload. Rep. McNutt previously chaired the water policy subcommittee of the EQC, and thought it was difficult to go through the process and address the issues and get a buy in from the full EQC. Rep. McNutt was adamant that water issues will become paramount in Montana and saw a need for more legislative expertise on water issues. Rep. McNutt pointed out that term limits have caused the expertise to be reduced. Rep. McNutt suggested a need for a concentrated effort to address water issues and did not believe the full EQC could address all the water issues. Rep. McNutt also expressed his concern about duplicating efforts. Rep. McNutt suggested consideration should be given to eliminating term limits for EQC members. Rep. McNutt envisioned there was room for both the EQC and a permanent WPIC, but suggested a need for sideboards.
- 00:36:48 Sen. Perry stated that, initially, he was concerned about budget constraints. Sen. Perry stated that although the EQC has oversight over the DNRC, the DNRC is a policy agency and the DEQ is a quality agency. Sen. Perry could envision the EQC having oversight over the DEQ, and the WPIC having oversight over the DNRC. Sen. Perry suggested separating policy (i.e. quantity and water rights) from water quality. Sen. Perry believed water policy issues would grow in the future.
- 00:40:02 Rep. McNutt commented on the outreach efforts undertaken by the WPIC and did not believe the EQC could structure the same level of outreach.
- 00:41:18 Sen. Story thought all interim committees could benefit from traveling. Sen. Story recalled the EQC members traveled to address split estates and eminent domain. Sen. Story recalled the WPIC was required to travel to closed basins by the enabling legislation. Sen. Story believed that having a subcommittee focus on

specific issues would enable the subcommittee members to travel and report to the full EQC. Sen. Story also thought the Reserved Water Rights Compact Commission could be utilized and noted the Commission is up for renewal. Sen. Story was uncertain about splitting the DNRC's oversight from the EQC, and believed water quality and water quantity could not be divided. Sen. Story identified FWP as being the odd agency and the agency that receives the least amount of attention from the EQC. Sen. Story addressed term limits and stated if a legislator is in his/her last term, that legislator would not get on the EQC. Sen. Story believed the issue would take more thought and study and hoped to find consensus between the WPIC and the EQC before the session. Sen. Story asked about the status of current FTE staff for the EQC and the WPIC.

00:47:51 Mr. Everts identified five individuals on staff, but noted one individual also has administrative responsibilities. Sen. Story asked how many FTE are currently staffing the EQC and the WPIC. Mr. Everts identified 2.5 FTEs for the EQC, and 1 FTE for the WPIC. Sen. Story suggested another staff might be needed if the WPIC were made a permanent interim committee.

00:49:32 Chairman Elliott addressed the purpose of legislators and their responsibilities to the public to serve in the best possible way, which includes gaining knowledge and expertise to address issues and serve their constituency. Chairman Elliott believed there would have to be an overlapping of issues. Chairman Elliott commented that if he were to remain on the WPIC, he would not want to have oversight of an agency. Chairman Elliott cautioned against starting a legislative battle.

00:52:52 Sen. Perry stated he did not want to hear about turf wars or turf battles and was concerned about determining the proper policies for Montana. Sen. Perry believed the Joint Subcommittee should consider restructuring to achieve more efficient and productive work by the Legislature.

PUBLIC COMMENT

00:55:25 John Metesh, Montana Bureau of Mines and Geology (MBMG), on behalf of himself, urged the continuation of the WPIC.

00:56:08 Bonnie Lovelace, DEQ, expressed her full support of continuing the WPIC. Ms. Lovelace could foresee the WPIC having to address pharmaceuticals, carbon sequestration and associated water quality issues, growth issues, treatment for nitrates, and climate change. Ms. Lovelace believed the WPIC had caused increased coordination between the DEQ and the DNRC.

01:00:11 Tony Kolnick, a private citizen, would like to see the WPIC continue and agreed the DEQ and the DNRC are working together better.

01:00:54 Chairman Elliott asked whether the Joint Subcommittee should have another meeting.

- 01:01:06 Sen. Story summarized there may be a problem in the structure of the EQC and suggested a determination should be made on how to structure the workload between the EQC and the WPIC. Sen. Story identified a need to keep focused on the assigned duties.
- 01:03:59 Rep. McNutt addressed Option B and saw a need for coordination and suggestions on how to accomplish coordination between the EQC and the WPIC.
- 01:05:02 Sen. Perry stated he did not intend to imply that water quality and water quantity could be separated. Sen. Perry believed the duties of the EQC and the WPIC could be separated similarly to the way bills are separated during the regular Legislative Session.
- 01:06:44 Rep. Lambert agreed the WPIC should continue, but suggested holding another Joint Subcommittee meeting.
- 01:07:26 Sen. Wanzon agreed more discussion was warranted to address administrative questions and agreed to having one more Joint Subcommittee meeting.
- 01:07:59 Chairman Elliott stated the Joint Subcommittee should meet again to address jurisdictional issues.
- 01:09:02 Sen. Story suggested the full EQC should receive a report and have time to discuss the issue.
- 01:09:40 Chairman Elliott stated the Joint Subcommittee would meet again after the next EQC meeting.

ADJOURN

There being no further business to come before the Joint Subcommittee, the meeting adjourned at 6:27 p.m.