

**2011 - 2012
Water Policy Interim Committee
Work Plan**

June 2011

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Introduction

This is the work plan for the Water Policy Interim Committee (WPIC) for the 2011-2012 interim. This document contains:

- Staff for the WPIC.
- An explanation of how the WPIC plans its work.
- A description of possible study topics and work plan tasks.
- An interim time line.

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How the WPIC Plans its Work

The WPIC was created in 2009 to study water policy. During the legislative interim, the WPIC may focus on the study topics assigned to it as well as any water policy issue.

The WPIC establishes a work plan at the beginning of the interim. This is a draft of the work plan. The draft work plan and the accompanying matrix are decision-making tools to help the committee set priorities and decide how and where to spend the WPIC's limited time and resources.

The primary constraints limiting the study agenda for the interim is the number of issues that can be effectively addressed within the available time and resources of the committee and staff.

The adopted work plan is a road map for the 2011-2012 interim. Staff will develop detailed draft work plans and timetables for each task. A draft time line illustrating the overall schedule that these work plans will fit into once the meeting schedule and work plan are finalized is presented at the end of this document.

Work Plan Topics

Statutory Study

The 2011 Legislature passed House Bill. No. 602 directing the WPIC to study water wells that are exempt from permitting. In brief, the study would include the effect of such wells on existing water rights, including the amount of water consumed, the relationship to land use planning, and the ability of senior water right holders to protect rights against junior exempt well rights through the Prior Appropriation Doctrine.

With an appropriation of \$15,000 specifically for the exempt well study, it is anticipated that there would be up to four meetings around the state to gather public comment and possibly conduct field tours.

The regular WPIC meetings in Helena would include exempt well policy discussions and other WPIC business.

DECISION POINT: The WPIC will hold at least two public meetings outside Helena in 2012 to gather public comment on exempt well options.

Allocation of FTE: .6

Study Resolutions

The Legislative Council did not assign the committee any studies in the form of joint study resolutions ranked by legislators following the close of the 2011 Legislature.

Water-Related Statutory Issues

While the Environmental Quality Council retains oversight of agencies that deal with water as well as being cited in several water-related statutes, the EQC and the WPIC have worked collaboratively in the past to eliminate duplication. In practice, this means that statutorily-required reports are provided to both committees, but presentations are made to only the WPIC.

The EQC duties cited in 85-2-105, MCA, which may be shared with the WPIC, include:

- Advise the Legislature on the adequacy of Montana's water policy.
- Advise the Legislature on important state, regional, national, and international developments that affect Montana's water resources.
 - Oversee policies and activities of executive branch agencies and other state institutions that affect Montana's water resources.
 - Assist with interagency coordination related to water resources.
 - Communicate with the public about water policy and water resources.

Water-related statutory duties of the EQC include:

- 75-5-313, MCA, requires the DEQ to provide a summary of the status of the base numeric nutrient standards, the nutrient standards variances, and implementation of those

standards and variances, including estimated economic impacts to the EQC. (revised 2011, SB 367)

- 85-1-203, MCA, requires the DNRC to submit a copy of the State Water Plan or any plan changes to the EQC. (SB 303, 2009, accelerated requirements)

- 85-1-621, MCA, requires the DNRC to submit a biennial report to the EQC that describes the status of the Renewable Resource Grant and Loan Program financed with funds from the Resource Indemnity Trust.

- 85-2-281, MCA, requires the Water Court and the DNRC to report to the EQC on the progress of the adjudication process until 2020.

- 85-2-350, MCA, requires Clark Fork River Task Force to report to the EQC annually.

- 85-2-436, MCA, requires the DFWP to submit a summary report to the EQC by December 1 of odd-numbered years of all appropriation rights changed to an instream flow purpose in the previous 2 years.

DECISION POINT: The WPIC will work in conjunction with the EQC on the statutory requirements for water policy. Where possible, the WPIC examine other water policy issues within the WPIC authority to study any issue related to water, including issues identified by prior WPIC.

Allocation of FTE: .1

Issues Identified by Prior WPIC

As part of its work in 2009-10, the WPIC identified several ongoing issues that should continue to be studied. How these topics may be prioritized will be decided by the current WPIC and may be limited by time and resources. These recommendations included:

- Applicants and the DNRC should work together to identify specific issues that may unnecessarily impede the permit and change process and report those findings, along with suggestions to improve the process, to the 2011-12 WPIC.

- The Departments of Revenue and Natural Resources and Conservation should make successful implementation of the water right ownership update system a priority and ensure that the WPIC is kept fully informed of progress, or lack thereof.

- In consultation with the WPIC, the Water Court should establish defined performance expectations for the remainder of the water right adjudication process. Regular progress reports to the Legislature should continue after 2020.

- To protect the investment the people of Montana made in the adjudication of water rights, the WPIC should continue to be involved in planning for the transition to the post adjudication era.

- The WPIC should study the scope and limitations of adjudication and how the adjudication result relates to the enforceable accuracy of water right claims. The study should examine the role and power of the DNRC to evaluate changes in water rights. The study should analyze how adjudication and change authorizations work together and suggest improvements to those systems.

- The WPIC should evaluate the current water plan, determine what parts are still relevant and what sections need updating, and, if possible, suggest ways that the water plan can be updated to meet the future water needs of Montana.

DECISION POINT: The WPIC will address some of these issues as part of its work on exempt wells or within the statutory examinations. Permitting will be discussed in part in the exempt well study. The recommendations related to adjudication will be examined in part through the adjudication updates.

Allocation of FTE: .1

Other Issues

During the interim, the WPIC may identify other issues to explore. Depending on the issue and the amount of time the WPIC wants to dedicate, the work plan may need to be adjusted.

Issues of this nature examined during the last interim included a discussion on the Flood Map Modernization Program, debate on the Clean Water Restoration Act, and a panel discussion on cottonwood regeneration along the Missouri River.

Resource Allocation

There is approximately **.80 FTE** of staff time available to conduct the work identified by the WPIC. The WPIC allocated **.7 FTE**, allowing time for emerging issues or further study on issues identified in the work plan.

Work Plan Time Line

NOTE: This does not include meetings outside Helena for the exempt well study.

Date	Tasks
June 21, 2011 -- Helena	<ul style="list-style-type: none"> ➤ Elect officers ➤ Review 2011 water legislation ➤ Overview of exempt well study ➤ Agency/program overviews - DEQ, DNRC, FWP, GWIP ➤ Update on adjudication, water right ownership transfers, DNRC, WC ➤ Update on drought and water storage projects ➤ Public input on study issues ➤ Discuss possible study issues ➤ Adopt rules ➤ Review budget, meeting dates ➤ Public comment

<p>Sept. 13, 2011-- Helena</p>	<ul style="list-style-type: none"> ➤ Nutrient Work Group - Standards update - (75-5-313, MCA) ➤ Exempt wells <ul style="list-style-type: none"> ➤ Permitting system overview and examples ➤ Prior Appropriation Doctrine, making calls ➤ Other state laws and legal challenges ➤ Overview of past options ➤ Measurement/Water necessary for beneficial uses DNRC ➤ Adjudication update - DNRC, WC ➤ Groundwater studies - GWIP ➤ Clark Fork River Basin Task Force update - (85-2-350, MCA) ➤ Water-related research by state entity (85-2-105, MCA) ➤ Water Information System update (85-2-105, MCA) ➤ Identify areas where more information is needed - WPIC ➤ Revisions to work plan, if necessary - WPIC ➤ Adopt work plan - WPIC ➤ Public comment
<p>Jan. 10, 2012 -- Helena</p>	<ul style="list-style-type: none"> ➤ Water and subdivisions <ul style="list-style-type: none"> ➤ Subdivision process and water - DEQ, DNRC, local government ➤ Local government options - incentives, required public water/sewer ➤ One well versus many - costs ➤ Community water system incentives - in lieu of fee programs ➤ Septics - wellhead protection - DEQ ➤ Role of well driller ➤ Mitigation banks and other options. ➤ Reserved Water Right Compact Commission update ➤ Adjudication update - DNRC, WC ➤ Groundwater studies - GWIP ➤ Overview of water rights exempt from filing - Advisory Group ➤ Renewable Resource Grant and Loan Program update, (85-1-621, MCA) ➤ Instream leasing report, (85-2-436, MCA) - FWP ➤ Identify areas where more information is needed - WPIC ➤ Revisions to work plan, if necessary - WPIC ➤ Discussion of draft report, legislation, if necessary - WPIC ➤ Discuss exempt well options - WPIC ➤ Identify areas and issues for exempt well meetings - WPIC ➤ Public comment

<p>March 6, 2012 -- Helena</p>	<ul style="list-style-type: none"> ➤ Discuss exempt well options - WPIC ➤ State Water Plan update, (85-1-203, MCA) - DNRC ➤ Adjudication update - DNRC, WC ➤ Groundwater studies - GWIP ➤ Identify areas where more information is needed - WPIC ➤ Revisions to work plan, if necessary - WPIC ➤ Discussion of draft report, legislation, if necessary - WPIC ➤ Public comment
<p>May 1, 2012 -- Helena</p>	<ul style="list-style-type: none"> ➤ Discuss exempt well options - WPIC ➤ Adjudication update - DNRC, WC ➤ Groundwater studies - GWIP ➤ Identify areas where more information is needed - WPIC ➤ Revisions to work plan, if necessary - WPIC ➤ Discussion and approval of draft report, legislation for public comment period - WPIC ➤ Public comment
<p>July 16-17, 2012 -- Helena</p>	<ul style="list-style-type: none"> ➤ Adjudication update - DNRC, WC ➤ Groundwater studies - GWIP ➤ Identify areas where more information is needed - WPIC ➤ Revisions to work plan, if necessary - WPIC ➤ Discuss and revise draft report, legislation - WPIC ➤ Public comment
<p>August 2012</p>	<ul style="list-style-type: none"> ➤ Public comment on draft report, proposed legislation
<p>Sept. 10-11, 2012 -- Helena</p>	<ul style="list-style-type: none"> ➤ Nutrient Work Group - Standards update - (75-5-313, MCA) ➤ Adjudication update - DNRC, WC ➤ Groundwater studies - GWIP ➤ Clark Fork River Basin Task Force update - (85-2-350, MCA) ➤ Review public comment on draft report, legislation ➤ Revise draft report, legislation ➤ Approve proposed legislation - WPIC ➤ Selection of bill sponsors - WPIC ➤ Approve WPIC report - WPIC ➤ Overview of proposed agency legislation - DNRC, DEQ, FWP ➤ Public comment