



# ENVIRONMENTAL QUALITY COUNCIL

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**GOVERNOR STEVE BULLOCK**  
**DESIGNATED REPRESENTATIVE**  
TIM BAKER

**HOUSE MEMBERS**  
BILL MCCHESENEY--Vice  
JERRY BENNETT  
VIRGINIA COURT  
ED LIESER  
JEFFREY WELBORN  
KERRY WHITE

**SENATE MEMBERS**  
JOHN BRENDEN--Chair  
JENNIFER FIELDER  
BRADLEY MAXON HAMLETT  
JIM KEANE  
RICK RIPLEY  
GENE VUCKOVICH

**PUBLIC MEMBERS**  
SCOTT ASPENLIEDER  
DEXTER BUSBY  
MARY FITZPATRICK  
ROY MORRIS

**COUNCIL STAFF**  
JASON MOHR, Research Analyst  
SONJA NOWAKOWSKI, Research Analyst  
HOPE STOCKWELL, Research Analyst  
HELEN THIGPEN, Staff Attorney  
NADINE SPENCER, Secretary  
JOE KOLMAN, Legislative Environmental Analyst

## MINUTES LOG

July 9, 2014

Room 137, State Capitol Building  
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select *Committees*, then *Interim*. Once on the page for *Interim Committees*, scroll down to the appropriate committee. The written minutes summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page.

Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

### **COMMITTEE MEMBERS PRESENT**

SEN. JOHN BRENDEN, Chair  
REP. BILL MCCHESENEY, Vice Chair

SEN. JENNIFER FIELDER  
SEN. BRADLEY MAXON HAMLETT  
SEN. JIM KEANE  
SEN. GENE VUCKOVICH

REP. JERRY BENNETT  
REP. VIRGINIA COURT  
REP. KERRY WHITE

MR. SCOTT ASPENLIEDER  
MR. DEXTER BUSBY  
MS. MARY FITZPATRICK  
MR. ROY MORRIS  
MR. TIM BAKER

### **COMMITTEE MEMBERS EXCUSED**

SEN. RICK RIPLEY  
REP. ED LIESER  
REP. JEFFREY WELBORN (arrived late)

### **STAFF PRESENT**

HOPE STOCKWELL, Research Analyst  
HELEN THIGPEN, Staff Attorney  
NADINE SPENCER, Secretary  
JOE KOLMAN, Legislative Environmental Analyst

### **AGENDA & VISITORS' LIST**

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

### **COMMITTEE ACTION**

- The Environmental Quality Council (EQC) approved the minutes from May 14-15, 2014.

### **CALL TO ORDER AND ROLL CALL**

00:00:01 Sen. Brenden called the meeting to order at 8:30 a.m. The secretary called the roll, [Attachment 3](#).

### **AGENDA**

#### **ADMINISTRATIVE MATTERS**

- 00:02:00 Joe Kolman, legislative environmental analyst, Legislative Services Division (LSD), discussed the EQC budget, the meeting agenda, and the process to approve the draft reports on HB 609, SJ 15, and SJ 4.
- 00:05:21 Sen. Keane asked what happens if all of the members of the EQC do not agree on the draft reports. Mr. Kolman said the reports need to pass by a majority vote of the EQC in order to be put out for public comment.
- 00:05:52 Sen. Brenden asked if questions that were asked to staff or state agencies have been answered. Sen. Keane said he is still working with the Department of Fish, Wildlife, and Parks (FWP) on getting a letter from the federal government regarding the purchase of assault rifles.
- 00:06:27 Sen. Brenden asked about his question regarding the number of members on various commissions. Mr. Kolman said staff is still working on getting the information.
- 00:07:17 Sen. Hamlett asked if the draft study reports need to pass by a majority vote of the EQC. Mr. Kolman said they do.

00:07:52 **Motion/Vote:** Sen. Keane moved to accept the May 14-15, 2014 EQC minutes. The motion carried unanimously by voice vote of those present and voting.

### **SAGE GROUSE MANAGEMENT PLAN UPDATE**

00:08:10 Tim Baker, natural resource policy advisor, Governor's Office, gave an update on the Greater Sage-grouse management plan.

00:10:42 Sen. Brenden provided a copy of an article from the Great Falls Tribune on wolverines, [Exhibit 1](#).

00:11:55 Jeff Hagener, director, FWP, said the Fish and Wildlife Commission is proposing to close the hunting season on sage grouse in certain areas of the state and shorten the hunting season in other areas. He commented on wolverines.

### **Committee questions and discussion**

00:14:42 Rep. White asked about the concern over the affects of hunting on sage grouse. Mr. Hagener said hunting is low on the list of concerns from the U.S. Fish and Wildlife Service (USFWS). He said on a site specific area hunting can have an impact, but on a broader basis it has a low impact on mortality.

00:16:17 Mr. Baker said the USFWS views the state's plan on hunting sage grouse as a demonstration of its responsibility to protect the bird. He commented on the Governor's meeting with the Secretary of the Interior regarding the arctic grayling and its listing as an endangered species.

00:18:53 Sen. Brenden said he requested a bill draft to stop hunting of sage grouse to demonstrate the state's commitment to protect the bird.

00:19:06 Mr. Aspenlieder asked if the Greater Sage-grouse Habitat Conservation Advisory Council used the report completed by FWP on the sage grouse habitat core area in southwest Montana. Sen. Hamlett said the advisory council looked at everything that came in, addressed every threat, and what Montana should do.

00:21:16 Mr. Aspenlieder asked about the FWP report compared to the findings by the USFWS. Mr. Hagener said he did not see that the report differed from the advisory council's proposal.

00:24:21 Mr. Aspenlieder asked about cooperation and coordination with ranchers and landowners to deter some of the predation issues. Mr. Hagener said the Sage Grouse Initiative and agreements FWP has with landowners manage grazing so predation is lessened.

00:26:22 Sen. Hamlett said grazing is not a threat, but over-grazing is.

- 00:28:13 Rep. McChesney said the list of critical issues was based on an 11 state average and predation is a bigger issue in Montana than loss of habitat which is more of an issue in other states. He said the sage grouse plan is a good plan for Montana.
- 00:31:25 Sen. Brenden thanked the advisory council for its work and said there could be significant impacts on private land if the Greater Sage-grouse is listed as an endangered species.
- 00:33:06 Rep. White asked about the timeline for the plan, if the deadline will be met, and if there is an estimate on the cost for the state to put the plan in place. Mr. Baker said it is estimated that five full-time employees will be needed and the total program is estimated to cost \$500,000. He said the Governor is aware of the effects on private landowners.
- 00:36:20 Sen. Hamlett said the goal of the advisory council was to come up with a plan for Montana that can be defended in court.
- 00:37:12 Sen. Brenden asked if the plan will be completed by the September EQC meeting. Mr. Baker said he anticipates it will be.
- 00:38:20 Rep. White asked if there is a 30 day public comment period once the report is released. Mr. Baker said the advisory council went through an extensive public process and the next step will be for the Governor to issue an executive order creating the program.
- 00:39:35 Sen. Brenden said public comment made by people in Montana should outweigh public comment made by people from out of state.

#### **Public comment**

- 00:40:19 Robert Jeffrey, Big Sky Upland Bird Association
- 00:42:42 Sen. Brenden explained why, when he was on the Fish and Game Commission, he did not vote to decrease the number of sage grouse that were hunted.
- 00:43:33 Elena Evans, executive director, Montana Association of Conservation Districts, [Exhibit 2](#).
- 00:46:11 Nick Gevock, Montana Wildlife Federation (MWF)
- 00:48:24 Sen. Hamlett said there is a lot of suitable habitat in Montana for sage grouse that has no birds, but a strong policy on predation will change that. Sen. Brenden said it is important to reiterate that to the federal government.

## **BISON MANAGEMENT UPDATE**

00:49:32 Christian MacKay, executive director, Montana Board of Livestock, gave an update on bison management.

### **Committee questions and discussion**

00:51:48 Rep. White asked about the results of the meeting that looked at the damage to the range south of Gardiner, Montana, where bison came out of Yellowstone National Park (YNP). Mr. MacKay said he will find out if there is a report.

00:53:04 Rep. White asked about concern from other states that the bison could be carrying tuberculosis. Mr. MacKay said he has not heard any concerns.

00:54:05 Rep. White asked if the bison that came out of YNP that were quarantined were tested for tuberculosis. Mr. MacKay said he thought the quarantine was strictly for brucellosis.

00:54:53 Mr. Hagener said he has not seen the report from the meeting in Gardiner. He gave an update on the proposal for the bison currently on the Green Ranch and on the statewide bison management plan.

### **Committee questions and discussion**

00:59:40 Sen. Brenden commented on local opposition to bison relocation.

01:00:27 Rep. White asked if the bison being held on the Turner Ranch were moved to the Fort Peck Reservation and then escaped from the reservation, would they be considered livestock or wildlife and who would be responsible for property damage. Mr. Hagener said the bison received from the quarantine facility will still be considered wildlife.

01:02:09 Rep. White asked if the state owns the wild bison and has the authority to sell them and receive compensation. Mr. Hagener said the bison are held in trust for the people and the state does not have the authority to sell them.

### **Public comment**

01:05:36 Chuck Denowh, policy director, United Property Owners of Montana

01:06:43 Nick Gevock, MWF

## **STATUTORY ADMINISTRATIVE RULE REVIEW**

01:08:30 Helen Thigpen, staff attorney, LSD, gave an update on the administrative rule review, [Exhibit 3](#).

### Committee questions and discussion

- 01:14:16 Sen. Fielder asked if the rule on fish importation is geared at retroactive retribution. Ms. Thigpen said she thought the rule will only apply going forward.
- 01:14:47 Sen. Fielder said there are concerns in her area that the walleye fishery is going to be eradicated.
- 01:15:05 Sen. Brenden commented on Northern Pike that were put into a lake in Northwestern Montana.
- 01:15:50 Mr. Busby commented on the air quality rule.
- 01:16:31 Mr. Aspenlieder asked if the two rules on numeric nutrient standards are tied together with respect to the variance, what is the risk if the variance is struck down by the courts that the numeric standard rule would also be struck. Ms. Thigpen said the Department of Environmental Quality (DEQ) has been reporting on its plans and the issue of the non-severability clause and said the DEQ is discussing legislation to clarify some aspects of the rules.
- 01:18:14 Mr. Aspenlieder asked if there is still a non-severability clause in the rules and if they are tied together. Ms. Thigpen said she will find out.
- 01:18:44 Mr. Aspenlieder said he is concerned about having a variance as a separate rule.
- 01:19:36 Sen. Brenden commented on an article in the Billings Gazette comparing Billings to Circle, Montana, and the impact the rule will have on their economies.

### Public comment None

- 01:20:18 Recess  
01:39:08 Reconvene

### SJ 15 - STUDY OF FEDERAL LAND MANAGEMENT

- 01:39:39 Sen. Fielder gave an overview of the SJ 15 study, the draft report completed by the working group, and the two bill drafts, [Exhibit 4](#).
- 02:00:46 **Motion:** Sen. Fielder moved to release the draft report for the 30 day public comment period.

### Public comment

- 02:01:11 Tim Ravndal
- 02:02:44 Harold Blattie, executive director, Montana Association of Counties (MACo), [Exhibit 5](#).

02:17:30 Terry Caldwell, Paradise, Montana, [Exhibit 6](#).

### **Committee questions and discussion**

- 02:25:40 Sen. Keane said he does not support sending the draft report out for public comment and does not support the draft legislation.
- 02:29:42 Rep. White asked if MACo will have time to take a position on the two bill drafts before the September EQC meeting. Mr. Blattie said MACo leadership will have time to review the bill drafts.
- 02:32:04 Rep. White said he appreciates the efforts of the working group and thanked the EQC for allowing the work group to proceed. He said he would like to see the draft report move forward.
- 02:33:29 Sen. Vuckovich asked if there had been any discussion at MACo's last annual meeting about the federal land management study. Mr. Blattie said he did not remember that it was discussed and there has been no formal action taken by MACo regarding the study.
- 02:35:22 Sen. Vuckovich asked who put the draft report together. Sen. Fielder said the four members of the working group put together the study matrix which was imported into the report. She said the report does not recommend transferring federal lands to the state.
- 02:38:09 Sen. Vuckovich asked Sen. Hamlett about his involvement in putting the report together. Sen. Hamlett explained his involvement in the work group, but said he did not edit or write the report.
- 02:41:04 Sen. Vuckovich asked Sen. Fielder about her involvement in drafting the report. Sen. Fielder said that Mr. Kolman put the report together and sent it to the work group for editing.
- 02:42:03 Sen. Vuckovich asked if a majority of the four working group members worked on and submitted the report. Sen. Brenden said the four members voted unanimously to send the report out.
- 02:42:55 Rep. Bennett thanked the work group for the draft report and said he is optimistic that the study will move forward and provide help to counties and to the state.
- 02:44:35 Sen. Brenden asked how long they have been working to permit a mine in Lincoln County. Rep. Bennett said they have been trying to permit the mine for 29 years.
- 02:45:05 Mr. Aspenlieder thanked the work group for its efforts and said the recommendations in the draft report should be put out for public comment.

- 02:49:31 Mr. Baker said the Governor does not support the transfer of public lands to the state. He said funds from HB 354 (2013) are being used by the Department of Natural Resources and Conservation (DNRC) for active forest management work.
- 02:54:44 Rep. Court thanked the working group for its effort, but said she can not support the report as written.
- 03:03:07 Sen. Keane asked who wrote and edited the report. Mr. Kolman explained the process.
- 03:07:16 Sen. Brenden commented on the role of legislative staff.
- 03:07:53 Rep. McChesney said, in general, the report is a good report, but said he feels it includes opinions and hidden agendas and he will not support it. He said he agrees there needs to be better collaborative effort between the state, the counties, and the federal government in resolving federal land management issues.
- 03:13:34 Sen. Keane said there are items in the report that need to be removed and suggested staff put the report into a form of staff recommendations in order to make the language non-partisan, then have the EQC review the report and make changes.
- 03:14:49 Rep. McChesney asked if it will be possible to address some of the issues between now and the next EQC meeting. Mr. Kolman said the draft report needs to go out for public comment by July 17. He said if the EQC can give direction today then a draft report can be ready for the EQC to look at tomorrow.
- 03:17:26 Sen. Brenden said he recommends the EQC give changes to staff so the draft report can be voted on at the meeting tomorrow. He asked Sen. Fielder to withdraw her motion.
- 03:22:47 Sen. Fielder withdrew her motion.
- 03:22:56 Sen. Fielder made a suggestion, on page 17, under risks and concerns.
- 03:25:08 Sen. Hamlett said SJ 15 is a step in the right direction, but the report goes too far. He said the full EQC needs to edit and make suggestions to the report. He said he encourages collaboration with the federal government. Rep. McChesney agreed.
- 03:30:05 Rep. White said he accepts accountability for doing a lot of work on the report and he took the study matrix and made it readable. He thanked the representatives from the Bureau of Land Management (BLM) and the U. S. Forest Service (USFS) for their participation in the work group. He said he supports redoing the draft report and bringing it back before the EQC tomorrow.
- 03:36:59 Sen. Brenden asked the EQC members to review the draft report and give any changes and input to staff.



03:37:22 Sen. Hamlett commented on the Chessman Reservoir project. He also commented on projects that cannot move forward because of issues with federal land.

03:38:23 Recess

04:56:30 Reconvene

Rep. Welborn entered the meeting.

**PUBLIC COMMENT ON ANY MATTER NOT CONTAINED IN THIS AGENDA AND THAT IS WITHIN THE JURISDICTION OF THE EQC**

04:56:56 Nick Gevock, MWF

**PROPOSED CLEAN WATER ACT RULE**

04:59:13 Karen Hamilton, chief, Aquatic Resource Protection and Accountability Unit, Environmental Protection Agency, gave an introduction to the proposed rule changing the definition of "Waters of the U.S." under the Clean Water Act (CWA).

05:03:35 Mr. Kolman said the PowerPoint presentation is included in the EQC folders, [Exhibit 7](#).

05:03:54 Sen. Brenden said he provided copies of two articles he found on the proposed rule, [Exhibit 8](#).

05:04:39 Julia McCarthy, environmental/life scientist, EPA, via phone, gave a PowerPoint presentation on changes to the definition of "Waters of the U.S." and proposed changes under the CWA.

05:13:29 Sen. Brenden asked about exemptions and what the meaning of normal is. Ms. McCarthy said normal refers to ongoing cropping and farming practices.

05:14:10 Sen. Brenden said technology changes all the time and what is considered normal today may not be considered normal tomorrow. Ms. McCarthy said if it is within the industry norm it will be considered normal even if technology changes.

05:14:47 Ms. Hamilton said that within the rule, clarification is very important. Sen. Brenden said there have been many changes in farming practices and what is being done today is totally different than how things were done 20 years ago.

05:15:48 Rep. White asked for clarification about exemptions. Ms. McCarthy said there is an error on the slide and clarified the exemption.

05:18:23 Rep. White asked about the procedure to find out if an action is exempt or not exempt. Ms. McCarthy said an inquiry will need to be made to the U.S. Army Corp of Engineers.

05:19:25 Ms. McCarthy continued her presentation.

- 05:32:17 Sen. Brenden said if the CWA does not further define "Waters of the U.S.", but allows the Corp and the EPA to add detail through rulemaking it will be based on subjectivity. Ms. McCarthy said the EPA and the Corp did define "Waters of the U.S." further through rulemaking in the 1970's and it is the definition they have been operating under since then. She said the proposal intends to bring the definition into a narrower view that the U.S. Supreme Court provided what should be regulated as a "Waters of the U.S."
- 05:34:12 Ms. McCarthy continued her presentation.
- 05:45:19 Rep. White asked if "neighboring" is being separated out and given its own definition. Ms. McCarthy said the rule elaborates and provides additional clarity on what neighboring is and provided the definition.
- 05:48:02 Rep. White said the proposed rule is "one size fits all" and does not take into account differences in areas of the country. Ms. McCarthy recommended submitting the comment to the docket before the rule is finalized.
- 05:49:46 Ms. McCarthy continued her presentation.
- 05:55:42 John Tubbs, director, DNRC, commented on the proposed rule.
- 06:02:48 Sen. Brenden said there is a YouTube video about a dry ditch that shows what landowners are fearing about the proposed rule. Mr. Tubbs said a lot of delays in getting 404 permits are because of the Corp and the rule may help since it won't have to go to the jurisdictional determination on every adjacent wetland.
- 06:04:33 Tracy Stone-Manning, director, DEQ, said the rule will not affect the state's discharge water program.
- 06:05:41 Jon Bennion, Attorney General's Office, said a legal review is being done by the Attorney General's office and will present comments on behalf of the state.

### **Public comment**

- 06:07:02 Mike Murphy, Montana Water Resources Association

### **Committee questions and discussion**

- 06:09:56 Sen. Brenden asked who is responsible for the new rules. Ms. Hamilton said the U. S. Supreme Court needed to find a significant nexus for defining "Waters of the U.S.", that led to confusion in the permitting program, leading to inefficiencies that affected people seeking permits. She said she provided a list of the organizations requesting clarification of the definition, [Exhibit 9](#).

- 06:11:25 Sen. Hamlett asked if conservation districts can issue 404 permits without going through the Corp. Ms. McCarthy said she did not think so, but said the statute does allow for state delegation of the 404 program and there are two states that have 404 authority rather than the Corp.
- 06:12:16 Sen. Hamlet asked if Montana can have control through statewide conservation districts. Ms. McCarthy said she thought so, but did not know the details. Ms. Hamilton said control will be available to DEQ, but not to conservation districts.
- 06:13:09 Sen. Hamlett asked if the state can order DEQ to allow conservation districts to have control. Ms. Hamilton did not know.
- 06:13:45 Sen. Hamlett said if two states have 404 authority then more could.
- 06:14:11 Sen. Brenden thanked the EPA for participating and commented on the changes and impact of the proposed rule.

### **PROPOSED CLEAN AIR ACT RULES**

- 06:15:55 Ms. Stone-Manning gave an overview of the proposed clean air act rule, [Exhibit 10](#), and what the DEQ is doing to meet the rule.
- 06:21:41 Rep. White asked if there has been an economic impact analysis of the cost to taxpayers. Ms. Stone-Manning said DEQ is waiting to see if the 21% carbon reduction target for Montana is correct.
- 06:22:28 Sen Vuckovich asked how the target for Montana was calculated. Ms. Stone-Manning said the EPA used four building blocks in order to determine what it believes is the best system of emission reduction (BSER).
- 06:23:32 Sen. Vuckovich asked how the 6% reduction in power plant emissions was calculated. David Klemp, bureau chief, Air Resources Management Bureau, DEQ, said 6% is a target national expectation or average.
- 06:26:41 Mr. Aspenlider asked where the bulk of the 21% reduction will come from. Ms. Stone-Manning said that determination will be the made after the mathematical assumptions are confirmed.
- 06:27:32 Mr. Busby asked what the base of the 21% reduction is. Ms. Stone-Manning said it is calculated on a reduction of CO2 emitted per pound of megawatt hour.
- 06:28:29 Mr. Busby asked if the calculation is based on today's carbon emissions. Ms. Stone-Manning said the baseline used was from 2012.
- 06:29:44 Ms. Fitzpatrick asked if the reduction has to come from power generation and use. Ms. Stone-Manning said it has to be from power.

- 06:30:45 Sen. Hamlett asked if the DEQ has CO2 emission information from forest fires in Montana and neighboring states. Mr. Klemp said they have information for Montana and can hopefully get information for neighboring states.
- 06:32:30 Sen. Brenden said he saw on the news that this would cut CO2 emissions by 1-1.5%.
- 06:33:04 Sen. Vuckovich asked about CO2 emissions from other states. Ms. Stone-Manning said the rule is focused on the nation's power generating facilities.
- 06:33:55 Mr. Aspenlieder asked if the new rule will apply to the renewable portfolio standards and how it ties together with the Public Service Commission (PSC). Ms. Stone-Manning said DEQ will be looking at the legal implications of the rule and what authority it will need to implement the rule.
- 06:36:15 Rep. McChesney said if wind energy is used to meet the 21% goal, it will not be available if the sage grouse is listed as an endangered species because a significant number of the wind generating areas identified in Montana lie immediately adjacent to or are in core habitat of the sage grouse. Ms. Stone-Manning said DEQ knows it is an issue.
- 06:37:15 Rep. White asked if there is a regulation or rule requiring additional analysis if the federal rule has a certain amount of predicted economic impact. Mr. Bennion said there are some requirements depending on how it will affect the economy.
- 06:38:14 Mr. Bennion commented, on behalf of the Attorney General's office, about the impacts to Montana if the proposed rule is passed and the legal authority to enact the rule.

**Public comment** None

## **DISPOSAL STANDARDS FOR OIL FIELD WASTE**

- 06:41:27 Ed Thamke, bureau chief, Waste and Underground Tank Management Bureau, Permitting and Compliance Division, DEQ, gave a presentation on disposal standards for oil field waste and why Montana allows disposal for oil field waste and North Dakota does not. He provided a fact sheet on naturally occurring radioactive material (NORM), [Exhibit 11](#).
- 06:49:20 Sen. Brenden asked about the size of the facility in Glendive, Montana that is permitted for oil field waste. Mr. Thamke said the permit boundary is a couple hundred acres.
- 06:49:55 Ms. Fitzpatrick asked after North Dakota completes its study reevaluating its standard for oil field waste if other entities will try to implement equivalent regulations. Mr. Thamke said Montana will take the North Dakota analysis into recommendation.

- 06:50:55 Ms. Fitzpatrick asked if there will be a public hearing in Glendive when the proposed regulation is released. Mr. Thamke said he did not know if there will be a hearing in Glendive, but DEQ will announce when the decisions will be deliberated and the dates for any public hearings.
- 06:51:38 Ms. Fitzpatrick asked when the draft rules will be ready. Mr. Thamke said he did not know.
- 06:51:50 Ms. Fitzpatrick asked about the statute that allows DEQ to make a rule regarding radioactive waste. Mr. Thamke said the authority is under the Montana Solid Waste Management Act.
- 06:52:24 Mr. Busby asked if there are two sites in Montana that are being considered for oil field waste permits. Mr. Thamke said there are.
- 06:52:49 Mr. Busby asked about the cost and time for the permitting process. Mr. Thamke said it depends on the size, but the fixed cost for a large facility is \$12,500 for an application review fee and \$4,800 for an annual license.
- 06:53:45 Mr. Thamke said John Arrigo, administrator, Enforcement Division, DEQ, is present to address a recent enforcement action.
- 06:54:00 Rep. Court asked if Montana's standards are higher or lower than other surrounding states. She also asked about the company that is operating without a permit. Mr. Thamke provided the regional standards for other states.
- 06:56:13 Mr. Arrigo said at the present time there is no formal enforcement action occurring and DEQ is not in litigation with the trucking company. Sen. Brenden said the enforcement action is not part of the agenda.

### **Public Comment**

- 06:58:27 Clayton Elliott, Northern Plains Resource Council, [Exhibit 12](#).
- 06:59:00 Dave Galt, executive director, Montana Petroleum Association
- 06:59:38 Mr. Aspenlieder commended the DEQ for working to come up with solutions for industry.
- 07:00:48 Recess
- 07:17:48 Reconvene

## HB 609 - STUDY OF FWP HUNTING AND FISHING LICENSES

- 07:19:14 Hope Stockwell, research analyst, LSD, said the public comment period for the Fish and Wildlife Licensing and Funding Advisory Council ended at the end of June. She said the advisory council met on June 24 and did not change any of its recommendations based on public comment. She said legislative staff has drafted statutory language for a bill draft based on the advisory council's recommendations.
- 07:22:23 Rep. Welborn said staff captured the intent of the advisory council recommendations in the bill draft, addressing its issues and concerns. He said the advisory council felt it necessary to keep the contingency money in the bill draft.
- 7:23:55 Charlie Sperry, responsive management supervisor, FWP, gave a summary of the 88 public comments received on-line and at the nine public meetings, [Exhibit 13](#). He said about 78% of the comments are in support of the advisory council's recommendations.
- 07:31:01 Ms. Stockwell discussed the bill draft, LC444, [Exhibit 14](#). She said the bill draft consists of four sections; switching to the 4-year funding cycle, creating a base hunting license, increasing some fees, and standardizing free and discounted licenses for youth, senior, and disabled licenses and changing some of the age requirements.
- 07:35:17 Sen. Brenden asked how much money will be generated from the base hunting license fee. Ms. Stockwell said the fee will generate \$1.47 million from residents and \$191,00 from nonresidents.
- 07:36:35 Ms. Stockwell continued review of the bill draft.
- 07:39:03 Sen. Brenden asked what the cumulative fee increase will be for increasing the resident and nonresident fishing license fees. Ms. Stockwell said the resident seasonal increase and the 2-day increase amounts to \$839,000 and the nonresident proposed increase will amount to \$2.3 million.
- 07:39:56 Ms. Stockwell continued review of the bill draft.
- 07:43:08 Sen. Brenden asked how much money will be generated if all the Class B-10 licenses are sold at the cap rate compared to the variable price licenses that were sold last year. Hank Worsech, License Bureau Chief, FWP, said he did not know, but will do the calculations.
- 07:44:38 Ms. Stockwell continued review of the bill draft.
- 07:48:39 Ms. Stockwell said the proposed fee increase from nonresident moose, sheep, mountain goat, and bison licenses will generate an estimated \$44,500.
- 07:48:50 Ms. Stockwell continued review of the bill draft.

- 07:50:46 Sen. Keane asked how 67 was determined to be the age for a senior license. Ms. Stockwell said the rationale is based on when people are eligible for full social security benefits. She said 67 is more in line with the age in other states.
- 07:51:48 Sen. Keane asked how many states have the senior age at 65 compared to 70. Ms. Stockwell gave the age requirement for the 11 states the study looked at.
- 07:53:20 Sen. Keane asked for information on the difference in revenue if the age were changed to 65.
- 07:53:57 Sen. Fielder asked if there is a grandfather clause for people who have been getting the senior discount since age 62 and who will no longer be eligible for the discount. Ms. Stockwell said there is not.
- 07:54:31 Rep. Welborn said the original Council recommendation was to put the age at 70, but, based on public comment and comments from the EQC, the age was lowered to 67.
- 07:55:08 Ms. Stockwell continued review of the bill draft.

#### **Committee questions and discussion**

- 08:04:28 Sen. Fielder asked if in section 2(1) "it is unlawful" can be changed to read "in order to be eligible for a person to apply for a hunting license". Ms. Stockwell said it can be changed. Sen. Brenden agreed.
- 08:05:43 Sen. Keane asked if the contingency money is still in the bill draft. Mr. Stockwell said it is.
- 08:06:30 Rep. White asked if there was discussion about an increase for search and rescue. Ms. Stockwell said she did not recall a discussion on that earmark. Rep. Welborn said he also did not remember a discussion on the search and rescue fee.
- 08:07:41 Sen. Fielder commented on funding for search and rescue.
- 08:08:37 Mr. Aspenlieder asked about the amount of money raised for search and rescue from the annual fees. Sue Daly, chief of Administration, FWP, said the .25 cent search and rescue earmark generates about \$100,000 a year which is put into an account dedicated for use for search and rescue clubs or hunting, fishing, or trapping missions.
- 08:09:51 Sen. Fielder asked about funding for a sheriff department involved in search and rescue. Ms. Daly said the earmark funds search and rescue, counties, and local clubs that are associated with a county.
- 08:10:27 Ms. Stockwell discussed the draft study report, [Exhibit 15](#).

08:12:55 Ms. Daly discussed options for reducing FWP expenditures if the revenue proposal from the advisory council does not move forward.

#### **Committee questions and discussion**

08:15:24 Sen. Keane asked if the bill can be presented even if the proposal does not move forward. Ms. Daly said if the bill does not pass the legislature FWP will have to reduce expenditures.

08:16:45 Sen. Brenden commented on the legislative process from when a bill is drafted until it is signed by the governor.

08:17:05 Ms. Daly said there is detailed information on the bar graphs on expenditures in the EQC binders, [Exhibit 16](#).

#### **Public comment**

08:18:15 Dave Chadwick, executive director, Montana Wildlife Federation

08:23:08 Sen. Brenden said the vote on the HB 609 bill draft and report will be done during the meeting tomorrow.

08:24:37 Mr. Kolman discussed the revisions to the SJ 15 report, [Exhibit 17](#).

08:31:06 Sen. Brenden thanked the EQC for its work on SJ 15.

08:32:57 Sen. Brenden adjourned the meeting at 5:03 p.m.

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