

2013 - 2014
Water Policy Interim Committee
Work Plan

September 2013

FINAL

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Introduction

This is the work plan for the Water Policy Interim Committee (WPIC) for the 2013-2014 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 are the number of issues that can be effectively addressed within the available time and the resources of the committee and staff.

The adopted work plan is a road map for the 2013-2014 interim. Staff develops detailed draft work plans and timetables for each task. A draft time line, which illustrates 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

Study Resolution

The 2013 Legislature passed House Joint Resolution No. 26 directing the WPIC to examine the intersecting interests of estate owners and ditch owners over the subject of ditch locations. The study comes out of a failed attempt to pass House Bill No. 149, which sought to accommodate estate and ditch owners when irrigated agricultural interests may conflict with new residential development in irrigated river valleys. A copy of this resolution is included in your packet.

Decision: The WPIC will dedicate 0.05 FTE toward the study. The WPIC and its staff will:

- review relevant policies and legal decisions in Montana
- summarize relevant actions, policies, or legal decisions in other states
- host a panel discussion on the topic.

Water-Related Policy 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 usually made to only the WPIC.

Rules will be developed for water-related legislation passed by the 2013 Legislature, including rules for temporary lease of water rights, a combined appropriation, and stream depletion zones. Rules related to water quality also may be proposed.

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)

- 85-1-501, MCA, requires the DNRC to assess dams owned or controlled by the agency for hydroelectric potential and report the results to the WPIC and the Energy and Telecommunications Interim Committee before Spet. 1 of even-numbered years.
- 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 FWP 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 two years.
- 85-2-436, MCA, requires the June 3, 2013 FWP 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.
- 85-20-1401, MCA, requires the DNRC to provide a periodic report to the EQC related to the U.S. Forest Service reserved water rights compact and state water reservation applications.
- House Bill 37 passed by the 2013 Legislature requires the DNRC to report annually on the temporary leases of appropriation rights.

Decision: The WPIC will dedicate 0.25 FTE toward water-related policy issues. The WPIC and its staff shall:

- **accommodate public involvement through WPIC meetings**
- **continue regular oversight of the water adjudication program**
- **participate in water-related meetings, such as rules hearings on temporary leases of appropriation rights or those related to the State Water Plan**
- **accept reports for committee review, analysis and comment**
- **prepare background summaries and legal analyses**
- **track and analyze base on a number of water-related issues, including numeric nutrient standards, state water plan, exempt well rules.**

Other Water Issues

The WPIC will dedicate time toward examination of these water issues:

- water transactions policy
- the future of agricultural water use
- the proposed Confederated Salish and Kootenai Tribes reserved water rights compact
- the role of the Water Court in permit and change decisions
- and a number of member agenda items.

More specific details about each issue follows.

Decision: The WPIC will dedicate 0.25 FTE toward issues related to the proposed reserved water rights compact with the Confederated Salish and Kootenai Tribes. The WPIC and its

staff shall conduct topic-specific background briefings, panel discussions, and legal analysis. **Decision:** The WPIC will dedicate 0.05 FTE toward an examination of water transactions policy. The WPIC and its staff shall consider a report from the Western States Water Council and hear a DNRC presentation on water transaction policy.

Decision: The WPIC will dedicate 0.25 FTE toward agenda items suggested by its members. The WPIC will also consider emerging issues, as those become apparent. Current member issues include:

- Federal fiscal effects on Montana floodplain program
- Water marketing
- Water volume determinations
- Hydrological impacts of 2011 wildfires
- DNRC, AG reports on effect of SB217 -- watershed good neighbor policy with federal government
- DNRC update on water rights exempt from filing (SB355)
- Non-degradation standards and diversions of water
- Pondera County and Reservoir Co., Water Court Report
- Definition of perennial stream in 310 permits

Decision: The WPIC will dedicate 0.05 FTE toward an examination of the future of agricultural water use. The WPIC and its staff will host a panel discussion on this topic, including a discussion of the effects of key stresses, future supply and demand, climate variability, research priorities, and the resiliency of the agricultural water use system.

Decision: The WPIC will dedicate 0.05 FTE toward examining the role of the Water Court in water right permit and change decisions. The WPIC and its staff will:

- summarize Water Court statutes and duties
- summarize the current appeals process
- conduct a panel discussion.

Resource Allocation

There is approximately **1 FTE** of staff time available to conduct the work identified by the WPIC. The WPIC allocated **0.95 FTE**, allowing time for emerging issues or further study on issues identified in the work plan.

Work Plan Time Line

Date	Tasks
June 17-18, 2013 -- Helena	<ul style="list-style-type: none"> ➤ Elect officers ➤ Review 2013 water legislation ➤ Agency/program overviews - DEQ, DNRC, FWP, GWIP ➤ Update on adjudication, water right ownership transfers, DNRC, WC ➤ Update on drought and water supply ➤ Nutrient Work Group - Standards update - (75-5-313, MCA) ➤ Overview of state water plan update ➤ Ground water studies update ➤ Water Information System update (85-2-105, MCA) ➤ Compact Commission update ➤ Public input on study issues ➤ Discuss possible study issues ➤ Adopt rules ➤ Review budget, meeting dates ➤ Public comment
Sept. 9-10, 2013-- Helena	<ul style="list-style-type: none"> ➤ Adjudication update (85-2-281, MCA) - DNRC, WC ➤ Groundwater studies - GWIP ➤ Temporary leasing report (HB37), rules adoption - DNRC ➤ Clark Fork River Basin Task Force update - (85-2-350, MCA) ➤ State Water Plan update, (85-1-203, MCA) - DNRC ➤ Water-related research by state entity (85-2-105, MCA) ➤ RWRCC report, presentation on questions related to CSKT reserved water rights compact - RWRCC ➤ Ditch/canal easement relocation study (HJ 26) ➤ Update on claims exempt from filing recognition process (SB355) - DNRC ➤ Water Court ruling on Curry v. Pondera County Canal ➤ Water volume determination: Comparison of methods - DNRC ➤ Role of the Water Court in permitting and change applications - Water Court, DNRC ➤ Water supply/fire update ➤ Identify areas where more information is needed - WPIC ➤ Revisions to work plan, if necessary - WPIC ➤ Adopt work plan - WPIC ➤ Public comment

<p>Jan. 6-7, 2014 -- Helena</p>	<ul style="list-style-type: none"> ➤ State Water Plan update, (85-1-203, MCA) - DNRC ➤ Adjudication update (85-2-281, MCA) - DNRC, WC ➤ Groundwater studies - GWIP ➤ Instream leasing report, (85-2-436, MCA) - FWP ➤ U.S. Forest Service water reservations (85-20-1401, MCA) - DNRC ➤ CSKT reserved water rights compact update - RWRCC ➤ Water transactions study - Western States Water Council ➤ Diversions and non-degradation standards - DEQ ➤ Definitions of Intermittent, perennial streams - Conservation districts, DNRC ➤ Hydrological impacts of 2011 wildfires - DNRC ➤ Future of agricultural water use study - panel ➤ Federal funding and Montana floodplain mapping program ➤ Agency rulemaking update - LSD ➤ 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 17-18, 2014 -- Helena</p>	<ul style="list-style-type: none"> ➤ State Water Plan update, (85-1-203, MCA) - DNRC ➤ Adjudication update (85-2-281, MCA) - DNRC, WC ➤ Renewable Resource Grant and Loan Program update, (85-1-621, MCA) ➤ Groundwater studies - GWIP ➤ CSKT reserved water rights compact update - RWRCC ➤ HJ 26: Next steps ➤ Agency rulemaking update ➤ 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 12- 13, 2014</p>	<ul style="list-style-type: none"> ➤ State Water Plan update, (85-1-203, MCA) - DNRC ➤ Adjudication update (85-2-281, MCA) - DNRC, WC ➤ Groundwater studies - GWIP ➤ CSKT reserved water rights compact update - RWRCC ➤ HJ 26: Consideration of draft legislation, if necessary ➤ Agency rulemaking update ➤ 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>July 7-8, 2014 -- Helena</p>	<ul style="list-style-type: none"> ➤ Nutrient Work Group - Standards update - (75-5-313, MCA) ➤ State Water Plan update, (85-1-203, MCA) - DNRC ➤ DNRC hydroelectric potential report (85-1-501, MCA) ➤ Adjudication update - DNRC, WC ➤ Groundwater studies - GWIP ➤ CSKT reserved water rights compact update - RWRCC ➤ HJ 26: Consideration of draft legislation, if necessary ➤ Agency rulemaking update ➤ 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 2014</p>	<ul style="list-style-type: none"> ➤ Public comment on draft report, proposed legislation
<p>Sept. 8-9, 2014 - Helena</p>	<ul style="list-style-type: none"> ➤ State Water Plan update, (85-1-203, MCA) - DNRC ➤ Nutrient Work Group - Standards update - (75-5-313, MCA) ➤ Adjudication update (85-2-281, MCA) - DNRC, WC ➤ Groundwater studies - GWIP ➤ Temporary leasing report, HB37 - DNRC ➤ Clark Fork River Basin Task Force update - (85-2-350, MCA) ➤ CSKT reserved water rights compact update - RWRCC ➤ Agency rulemaking update ➤ 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 ➤ Consider/propose areas of study for 2015-16 interim ➤ Public comment