



ENVIRONMENTAL QUALITY COUNCIL

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GOVERNOR STEVE BULLOCK DESIGNATED REPRESENTATIVE	HOUSE MEMBERS	SENATE MEMBERS	PUBLIC MEMBERS	COUNCIL STAFF
PATRICK HOLMES	BRADLEY MAXON HAMLETT--Vice WILLIS CURDY JANET ELLIS STEVE GUNDERSON THERESA MANZELLA KERRY WHITE	CHAS VINCENT--Chair MIKE LANG MIKE PHILLIPS JP POMNICHOWSKI CARY SMITH GENE VUCKOVICH	SCOTT ASPENLIEDER JOHN C. BRENDEN KYLIE PAUL MATT VINCENT	TREVOR GRAFF, Research Analyst JASON MOHR, Research Analyst HOPE STOCKWELL, Research Analyst NADINE SPENCER, Secretary ERIN BILLS, Legal Staff JOE KOLMAN, Legislative

MINUTES LOG

July 25, 2018
Room 317, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The 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 Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. CHAS VINCENT, Chair
REP. BRADLEY MAXON HAMLETT, Vice Chair

SEN. MIKE LANG
SEN. MIKE PHILLIPS
SEN. JP POMNICHOWSKI
SEN. CARY SMITH
SEN. GENE VUCKOVICH

REP. WILLIS CURDY
REP. JANET ELLIS
REP. STEVE GUNDERSON
REP. THERESA MANZELLA
REP. KERRY WHITE

MR. JOHN BRENDEN
MS. KYLIE PAUL
MR. MATT VINCENT

COMMITTEE MEMBERS EXCUSED

MR. SCOTT ASPENLIEDER
MR. PATRICK HOLMES

STAFF PRESENT

HOPE STOCKWELL, Research Analyst
NADINE SPENCER, Secretary
JAMESON WALKER, Staff Attorney
JOE KOLMAN, Legislative Environmental Analyst

VISITORS' LIST (Attachment 1)

AGENDA (Attachment 2)

COMMITTEE ACTIONS

The Environmental Quality Council (EQC):

- Approved the minutes from May 29-30, 2018;
- Voted to adopt the chronic wasting disease report.

CALL TO ORDER AND ROLL CALL

00:00:02 Rep. Hamlett called the meeting to order at 10:01 a.m. The secretary called the roll. (Attachment 3) Mr. Aspenlieder and Mr. Holmes were excused. Mr. Aspenlieder gave his proxy to Sen. Lang. (Attachment 4)

ADMINISTRATIVE MATTERS

Adoption of EQC Minutes from May 29-30

00:01:15 Rep. Hamlett asked if there were any additions or corrections to the minutes.

01:22:00 Sen. Lang asked Joe Kolman, legislative environmental analyst, Legislative Services Division (LSD), about the proxy for Mr. Aspenlieder.

01:01:36 Rep. Hamlett said that without any additions or corrections to the May meeting minutes they are approved.

Budget Review

00:01:46 Mr. Kolman provided an update on the budget and said there is approximately \$58,000 remaining for this interim and the first meeting of the next interim.

WATER POLICY INTERIM COMMITTEE UPDATE

00:02:08 Mr. Kolman provided an update from the Water Policy Interim Committee (WPIC) meeting last week.

EQC questions and discussion

- 00:05:14 Rep. Curdy asked Mr. Kolman about the involvement by the U.S. Geological Survey (USGS) with the state's stream gauges.
- 00:06:03 Sen. Phillips asked Mr. Kolman about the letter sent to the Department of the Interior and Montana's Congressional delegation regarding the Confederated Salish and Kootenai Tribes' (CSKT) water compact.
- 00:06:52 Rep. Hamlett asked Mr. Kolman about the timeframe for Congress to ratify and pass the water compacts.
- 00:07:43 Mr. Brenden asked Mr. Kolman to have staff provide information on the tribal water compacts and how much they were approved for.

ENERGY & TELECOMMUNICATIONS UPDATE

- 00:08:30 Trevor Graff, research analyst, LSD, provided an update from the Energy and Telecommunications Interim Committee (ETIC) meeting last week.

EQC questions and discussion

- 00:12:41 Sen. Lang asked Mr. Graff if the ETIC has discussed the hydroelectric fees charged for the aquatic invasive species program and whether the sage grouse habitat program is negatively or positively impacting energy production in the state.

NATURAL HERITAGE PROGRAM FUNDING

- 00:13:44 Rep. Hamlett said the Council received information on the Natural Heritage Program (NHP) funding. ([Exhibit 1](#))

Study Recap

- 00:13:55 Mr. Kolman provided a summary of the work that has been done and said the Council requested more information about possible funding sources from other agencies. Mr. Kolman said the Council will also hear from the agencies that are the major users of the NHP.
- 00:16:19 Mr. Kolman said the Council can approve the draft report, make changes and put it out for public comment, or request additional bill drafts for public comment.

Main Agency Users

- 00:16:57 John Tubbs, director, Department of Natural Resources and Conservation (DNRC).
- 00:22:29 Paul Sihler, chief of staff, Department of Fish, Wildlife, and Parks (FWP).
- 00:25:10 Tom Livers, director, Department of Environmental Quality (DEQ).
- 00:26:44 Lynn Zanto, Planning Division administrator, Department of Transportation (MDT).
- 00:28:40 Ken Bailey, chief financial officer, Office of Public Instruction (OPI).
- 00:30:53 Anna Marie Moe, Budget and Operations Bureau chief, Office of Tourism and Business Development, Department of Commerce.

Public comment

- 00:32:53 Jennie Stapp, state librarian

EQC questions and discussion

- 00:33:21 Sen. Lang asked Ms. Stapp about the ability to compile data on out-of-state use and determine the amount of revenue that can be generated.
- 00:35:09 Sen. Lang asked Ms. Stapp about requiring a password and charging a fee to access the program.
- 00:36:59 Rep. Curdy asked Ms. Stapp about the use by elementary and high schools.
- 00:38:21 Rep. Curdy asked Mr. Livers about the amount of DEQ's contribution to the NHP. Mr. Livers said he will provide the information.
- 00:39:19 Rep. Curdy asked Mr. Livers if the DEQ contracts work with the NHP in addition to the core funding amount. Mr. Livers said he will provide the information.
- 00:40:02 Rep. Curdy asked Ms. Zanto about the amount that MDT pays for contracted services with the NHP.
- 00:41:03 Sen. Pomnichowski asked Ms. Stapp about the total amount of funding needed for the program.
- 00:41:48 Sen. Pomnichowski commented on the cost efficiency of the program.
- 00:42:33 Sen. Pomnichowski asked Mr. Bailey about the amount of use by students and requested that OPI identify a source for helping to fund the program.
- 00:44:35 Sen. Pomnichowski asked if a representative from the Montana University System (MUS) was present and said NHP data is probably also being used by MUS students and faculty. Mr. Kolman said representatives from the MUS were not included on the agenda and they contribute 13% to the core funding and DEQ contributes 9%.
- 00:46:09 Sen. Phillips asked Ms. Stapp if the request to dedicate \$650,000 to fund the program is from the general fund.
- 00:46:46 Sen. Phillips asked Ms. Stapp about the \$300,000 identified in the report needed to fund the program.
- 00:47:08 Sen. Phillips asked Ms. Stapp about the current general fund allocation for the program.
- 00:48:08 Rep. Ellis asked Ms. Stapp about any cost-of-living or inflationary adjustments to the core fund contracted amount.
- 00:49:16 Rep. White asked Ms. Zanto about the \$85,000 in funding that is provided for the biennium and if it comes from the gas tax to MDT or if it is a federal match.
- 00:52:38 Mr. Livers said, in answer to Rep. Curdy's previous question, DEQ pays \$89,000 annually for core funding and does not contract work in addition to that amount.
- 00:53:15 Rep. Hamlett asked Ms. Stapp about use by the Department of Revenue (DOR).
- 00:54:02 Rep. Hamlett asked Ms. Stapp how often the DOR updates ownership information.
- 00:54:38 Sen. Brenden said some of the information is useful, but he is concerned about the right to privacy.
- 00:56:11 Rep. Curdy asked Mr. Bailey about sending a survey to school districts in the state in order to find out how much they use the program. Mr. Bailey said he will take the request back to OPI.
- 00:58:09 Rep. Ellis asked Rep. Hamlett about next steps.

Next steps for study

- 00:58:53 Rep. Ellis requested that the charts be enlarged in the final report and asked about writing a letter to the governor about a way to provide \$300,000 to fund the program.

- 01:00:21 Sen. Lang asked Ms. Zanto about increasing the 8-1 federal matching funds to generate more money for the NHP.
- 01:01:31 Sen. Vincent entered the meeting at 11:03 a.m.
- 01:02:44 Sen. Lang said he is not in favor of taking money from schools to fund the program.
- 01:03:50 Rep. Hamlett commented on the importance of the program and said it should be fully funded in the general budget.
- 01:06:18 Rep. Ellis asked about taking action now or later in regards to writing a letter to the governor. Sen. Vincent said it can be considered tomorrow as a recommendation for the study.
- 01:07:17 Sen. Phillips said he would like the EQC to consider drafting a committee bill seeking a \$300,000 general fund appropriation.
- 01:07:54 Rep. Hamlett asked Mr. Tubbs and Mr. Livers about their attendance at the meeting this afternoon and tomorrow.
- 01:08:42 Rep. Hamlett asked Mr. Livers to provide information on how many tons or yards of heavy metal sediment washed down the Clark Fork River once the Milltown Dam was breached and if there has been more sediment going down because of flooding this year. Mr. Livers said he will provide the information.
- 01:09:31 Rep. Hamlett asked Mr. Tubbs about flooding on the Blackfoot River this year.
- 01:10:31 Rep. Hamlett asked Mr. Tubbs if the Milltown Dam was still in place if there would have been flooding in west Missoula.
- 01:11:42 Sen. Vincent took over the duties of the chair.

LIBBY ASBESTOS SUPERFUND LIAISON REPORT (75-10-1602, MCA)

- 01:12:31 Jenny Chambers, Waste Management and Remediation Division administrator, DEQ, provided the report from the Libby Asbestos Superfund Advisory team.

Public comment None

EQC questions and discussion

- 01:18:35 Sen. Vincent thanked the department and discussed options for the Council to consider at the meeting tomorrow.
- 01:19:38 Sen. Vincent asked Ms. Chambers about Option 8. **(Exhibit 2)**
- 01:23:21 Rep. White asked Sen. Vincent about the liaison position.
- 01:25:56 Sen. Vincent provided an opportunity for Mr. Livers to comment.

REPORT ON USE OF ORPHAN SHARE FUNDS FOR REMEDIAL ACTION (75-10-743(14), MCA)

- 01:28:04 Ms. Chambers provided the annual report on the use of Orphan Share funds for remedial action. **(Exhibit 3)**

Public comment None

EQC questions and discussion

- 01:30:49 Mr. Brenden thanked the DEQ and commented on the program.

01:31:24 Rep. Ellis asked Ms. Chambers about the number of sites.
01:33:39 Rep. Curdy asked Ms. Chambers about money that was leveraged from other sources.
01:35:01 Rep. Curdy asked Ms. Chambers about the opportunity and availability to use money from the other funding sources.
01:36:28 Sen. Vincent congratulated Ms. Chambers on the success of the program and asked about the 94 water quality sites and the 176 projects under state Superfund status.
01:37:48 Sen. Vincent asked Ms. Chambers about a legislative request for resources.
01:38:40 Rep. White asked Mr. Livers about Gallatin County and final approval by the state for water and sewer permits that have been reviewed by the local sanitation department.
01:41:17 Rep. White asked Mr. Livers if the county has authority to not acknowledge the state's approval and deny a permit. Mr. Livers said he will consult with the department's legal counsel and provide the information.
01:42:20 Mr. Brenden said he thought the state can overrule a local decision and that he would like a legal opinion for all state agencies.
01:43:57 Recess for lunch at 11:45 a.m.
03:03:56 Reconvened at 1:05 p.m.

STATE PARKS PROGRAM EVALUATION

Parks In Focus Update

03:04:29 Sen. Vincent provided an introduction.
03:04:59 Ben Alexander, staff, Parks In Focus Commission, discussed the importance of state parks in Montana.
03:06:51 Mr. Alexander provided information on revising the classification system for state parks and resource allocation.
03:22:13 Sen. Vincent thanked Mr. Alexander and commented on the new vision.

OHV and Snowmobile Gas Tax Allocation Proposal, Comments Received

03:22:54 Hope Stockwell, research analyst, LSD, said the EQC received copies of OHV1 ([Exhibit 4](#)) and Snowmobile1 ([Exhibit 5](#)) previously discussed by the Council. She said the draft bills increase the allocation of gas tax revenue to each program and strike the no admission cost.
03:23:56 Ms. Stockwell said the Council received a copy of the public comments. ([Exhibit 6](#))

Public comment

03:24:31 Bob Walker, Montana Trails and Recreation Parks Association
03:30:14 Jason Howell, president, Montana Snowmobile Association
03:34:04 Russ Ehnes, vice-president, Montana Trail Vehicle Riders Association
03:36:48 Larry Flynn, chief financial officer, MDT ([Exhibit 7](#))
03:48:08 Roger Hagan, representing himself
03:54:06 Darryl James, executive director, Montana Infrastructure Coalition

04:00:21 Doug Abelin (**Exhibit 8**)
04:02:46 Bridger Mahlum, Montana Chamber of Commerce
04:06:58 Tim Burton, executive director, Montana League of Cities and Towns

04:07:25 Rep. Gunderson entered the meeting at 2:09 p.m.

04:11:31 Eric Bryson, Montana Association of Counties
04:14:16 Mike Sedlock, representing himself
04:15:35 Frank LaLiberty
04:17:56 Cary Hegreberg, executive director, Montana Contractors' Association

EQC questions and discussion

04:25:25 Mr. Brenden commented on future prioritizing the allocation of gas tax revenue.
04:30:47 Rep. White asked Mr. Flynn about the graph he provided that shows a dramatic decrease in the highway trust fund balance and what MDT believes is the reason for the downtrend.
04:32:37 Rep. White said increased fuel economy and other hybrid vehicles have affected the gas tax revenue stream for MDT.
04:33:12 Rep. White commented on gas tax exemptions for agricultural producers and off-road equipment used only in the field and asked Mr. Flynn if MDT would support legislation that would exempt OHV and snowmobiles from paying gas tax.
04:36:27 Rep. Hamlett asked Mr. Flynn about the average cost per mile of newly constructed two-lane highway in Montana. Mr. Flynn said he will provide the information.
04:37:18 Rep. Curdy asked Mr. Hegreberg about the number of additional jobs created for bridges and roads in Montana as a result of the increase in the gas tax.
04:39:18 Rep. Curdy asked Mr. Flynn about the number of new projects that MDT has been able to fund and move forward since the gas tax was increased.
04:40:33 Rep. Hamlett asked Mr. Flynn to provide the average number of two-lane miles constructed each year for the last ten years. Mr. Flynn said he will.
04:40:56 Sen. Lang commented on HB 473 (2017) and the gas tax increase.
04:42:54 Sen. Vincent asked Mr. Flynn about the \$8 million that was in the highways non-restricted account at the beginning of the special session.
04:45:05 Sen. Vincent asked Mr. Flynn about the jobs that were eliminated when the special revenue money was taken away during the special session.
04:46:18 Sen. Vincent asked Mr. Flynn about the use of non-restrictive money.
04:47:31 Sen. Vincent asked Mr. Flynn about the chart he provided on motor fuels tax flow and the highways state special revenue account (HSSRA).

PITTMAN-ROBERTSON/DINGELL-JOHNSON TASK FORCE UPDATE

04:52:45 Martha Williams, director, Department of Fish, Wildlife, and Parks (FWP), gave a PowerPoint presentation on federal funding for fish and wildlife conservation.
(**Exhibit 9**)

Public comment None

EQC questions and discussion

- 05:08:22 Sen. Pomnichowski asked Ms. Williams about any proposals to change the federal legislation.
- 05:09:39 Rep. Hamlett asked Ms. Williams about the emphasis during different administrations for spending money on land acquisition and access versus wildlife recovery.
- 05:11:18 Rep. Hamlett asked Ms. Williams if the acquisition of more recreational lands and the controlled use of those lands can take pressure off of other land used by wildlife.
- 05:12:45 Sen. Vuckovich asked Ms. Williams about changing the way Pittman-Robertson (P-R) and Dingell-Johnson (D-J) were modeled in order to fit into the current need and provide benefit for everyone.
- 05:14:53 Sen. Vincent asked Ms. Williams about the decline in P-R funding and when the state may need to request additional money from the general fund.
- 05:16:05 Sen. Vincent asked Ms. Williams about applying for and using P-R funding grants.
- 05:17:09 Sen. Lang asked Ms. Williams to provide information on the amount of federal funds dispersed every year to each state since the program started.
- 05:18:24 Recess
- 05:37:52 Reconvene

FWP FINANCIAL REVIEW ADVISORY COUNCIL UPDATE

- 05:38:18 Hank Worsech, legislative liaison, FWP, provided an update from the Financial Review Advisory Council.

Public comment None

EQC questions and discussion None

AQUATIC INVASIVE SPECIES PROGRAM EVALUATION

FWP Update

- 05:40:33 Ms. Williams provided an introduction.
- 05:41:02 Thomas Woolf, Aquatic Invasive Species (AIS) Bureau chief, FWP, provided an update of the state's watercraft inspection program and invasive species program.

Montana Invasive Species Commission Update

- 05:48:38 Bryce Christiaens, chair, Montana Invasive Species Council; coordinator, Missoula County Weed District, provided an update on the final recommendations from the e-DNA science advisory panel.
- 05:51:16 Mr. Christiaens provided an update on the law review of invasive species statutes.
- 05:54:51 Mr. Christiaens said the next meeting is scheduled for August 21 at Crow Agency.

Upper Columbia Conservation Commission Update

- 05:55:26 Lori Curtis, Science and Education director, Whitefish Lake Institute; acting chair, Upper Columbia Conservation Commission, provided an update on commission activities.
- 05:59:37 Ms. Curtis commented on funding Montana's AIS program.

Program Funding Proposal (LCaisp) and Comments Received

- 06:01:19 Ms. Stockwell said the Council received information on the AIS grant awards that the DNRC has made through the 2019 biennium Reclamation and Development Grants program. **(Exhibit 10)**
- 06:02:19 Ms. Stockwell discussed the draft report for the AIS program evaluation. **(Exhibit 11)**
- 06:07:00 Ms. Stockwell said the Council received information on the AIS funding proposals. **(Exhibit 12)**
- 06:07:28 Ms. Stockwell said the Council received a copy of a bill draft that would implement the funding proposals. **(Exhibit 13)**
- 06:09:10 Ms. Stockwell provided a summary of public comments received. **(Exhibit 14)**

Public comment

- 06:11:34 Mark Bostrom, administrator, Conservation Resource Development Division, DNRC
- 06:16:00 Mike Bias, executive director, Fishing Outfitter's Association of Montana
- 06:20:03 Jessie Luther, Montana Outfitters and Guides Association **(Exhibit 15)**
- 06:22:11 Darryl James, executive director, Montana Infrastructure Coalition
- 06:24:47 Tim Burton, executive director, Montana League of Cities and Towns
- 06:26:26 Krista Lee Evans, Senior Water Rights Coalition
- 06:29:41 Liv Stavik, Montana Farm Bureau Federation
- 06:30:13 Mike Murphy, Montana Water Resources Association
- 06:32:36 Doug Hardy, Montana Electric Cooperatives' Association
- 06:32:59 Larry Flynn, MDT

EQC questions and discussion

- 06:34:33 Rep. White asked Ms. Stockwell about the bill draft and the amount transferred from the general fund to the invasive species account.
- 06:35:38 Rep. White asked Ms. Stockwell about the bill draft and the allocation of gas tax to the invasive species account.
- 06:36:57 Mr. Brenden asked Ms. Williams about pursuing funding grants from environmental trust organizations.
- 06:39:17 Mr. Brenden commented on requesting private funds.
- 06:40:52 Sen. Lang asked Mr. Woolf about the citations issued.
- 06:41:47 Sen. Lang asked Mr. Woolf about the future possibility of locating inspection stations only at the state's borders.
- 06:44:26 Sen. Lang asked Mr. Woolf about a way for out-of-state boaters to call ahead for an inspection time.
- 06:45:53 Rep. Manzella asked Mr. Woolf about using D-J funding for the AIS educational program. Mr. Woolf redirected the question to Ms. Williams.

06:47:31 Mr. Vincent commented on the need for a proposal to fund AIS and finding sources other than the gas tax. He said he would like more information on the data to support the public comment that the increase in the 2-day and 10-day nonresident licenses lead to a decline in the number of licenses sold. Mr. Sihler, chief of staff, FWP, commented on the feedback they received.

06:55:36 Rep. Ellis asked about federal funding. Mr. Tubbs said the department is actively seeking federal funding.

06:58:31 Rep. Ellis asked Mr. Tubbs about the timeline for finding out if there will be federal funding available for the next biennium for AIS in Montana.

06:59:49 Sen. Vincent asked Ms. Williams about FWP paying for AIS expenses with AIS prevention pass fees first before other resources.

07:01:12 Sen. Vincent asked Mr. Bostrom about DNRC's request to free up money from reclamation funds.

07:02:20 Sen. Vincent asked Mr. Woolf about notifying the public on the mandatory quarantine for boats coming into Montana from Lake Powell.

07:03:23 Sen. Vincent asked Mr. Woolf about the responsibility for the cost for cleaning boats.

07:03:54 Sen. Vincent asked Mr. Woolf about the citation amount for driving by an inspection station.

07:04:23 Rep. Hamlett asked Mr. Woolf about impoundment fees.

07:05:02 Ms. Paul said the cost for funding AIS should be spread out since it is a problem for everyone. She asked about next steps. Sen. Vincent said it will be discussed during the meeting tomorrow.

WOLF MANAGEMENT REPORT

07:07:22 Ken McDonald, Wildlife Division administrator, FWP, provided an overview of the wolf conservation and management annual report. [\(Exhibit 16\)](#)

Public comment None

EQC questions and discussion

07:13:47 Sen. Phillips asked Mr. McDonald for the department to prepare a statement on the current understanding of wolf impacts on big game hunting in Montana.

07:14:45 Sen. Vincent asked Mr. McDonald about the patch occupancy modeling and if it will impact hunting quotas.

CHRONIC WASTING DISEASE

Update

07:16:48 Ms. Williams said there was a meeting in June with other states on chronic wasting disease (CWD) surveillance, management, and communication efforts and as a result of the meeting FWP committed to developing a CWD communications working group. She provided an update on chronic wasting disease in Montana. [\(Exhibit 17\)](#)

Public comment None

EQC questions and discussion

- 07:19:38 Sen. Phillips asked Ms. Williams about the CWD hunts and the number of deer that tested positive for CWD.
- 07:20:57 Rep. White asked Ms. Williams about control measures moving forward for the prevention and spread of CWD. Ms. Williams redirected the question to Mr. McDonald.

Overview of Public Comment

- 07:23:11 Mr. Kolman said no public comments were received on the CWD report.

Next Steps for Study

- 07:23:25 Sen. Phillips said he recommends adding a sentence in the final report that meat should not be consumed from an infected animal. Mr. Kolman said the report does state that where CWD is known to be present hunters should test the animal before eating it.

Motion/Vote

- 07:25:43 Rep. Hamlett moved to adopt the chronic wasting disease report. The motion carried 15-1 by voice vote. Sen. Vuckovich voted no. Mr. Aspenlieder voted aye by proxy.

ROLE OF LAND BOARD IN CONSERVATION EASEMENTS

- 07:26:16 Ms. Williams provided information on FWP's purchase of the Horse Creek conservation easement.

Public comment

- 07:31:02 Mary Adele Stenson, Wibaux
- 07:36:48 Dave Skinner, Kalispell
- 07:39:39 Dave Chadwick, executive director, Montana Wildlife Federation (**Exhibit 18**)
- 07:43:15 Jeff Herbert, Helena, Montana Sportsmens Alliance
- 07:44:13 Scott Laird, Montana field representative, Theodore Roosevelt Conservation Partnership
- 07:45:31 Jerry Davis, Montana Bowhunters Association

EQC questions and discussion

- 07:46:19 Sen. Smith asked Ms. Williams if the Horse Creek complex is the first conservation easement where FWP did not obtain Land Board approval. Sen. Smith asked Ms. Williams to provide the information.
- 07:47:35 Sen. Smith asked Ms. Williams about the January 2017 draft Environmental Assessment (EA) that indicates that the Fish and Wildlife Commission and the State Board of Land Commissioners would make the final decision.
- 07:48:11 Mr. Brenden said Montana code states that the attorney general is the legal advisor of FWP and asked Ms. Williams if FWP or the Governor's office consulted with the Attorney General's office in the legal analysis of 87-1-209, MCA, prior to the Horse Creek transaction and if so what the Attorney General's office determined regarding Land Board approval.
- 07:50:04 Mr. Brenden asked Ms. Williams about land title issues that could put public access at risk.

07:50:34 Mr. Brenden asked Ms. Williams about setting precedent and if FWP intends to request Land Board approval for conservation easements of 100 acres and \$100,000 going forward.

07:52:09 Mr. Brenden commented on FWP's purchase of the Horse Creek conservation easement.

07:54:25 Rep. White asked Ms. Williams about the draft EA and if it was wrong and misinformed the public on how the decision would be made.

07:57:03 Rep. White said he disagrees with the action that was taken by FWP.

07:58:14 Sen. Lang commented on the EA and the indication that the Land Board would make the final decision.

07:59:28 Ms. Paul commented on requiring Land Board review, but not requiring Land Board approval.

08:01:06 Rep. Curdy commented on private property rights and allowing private landowners a choice regarding conservation easements.

08:02:35 Rep. Hamlett asked Ms. Stenson about the process and decision to place the conservation easement on their property.

08:04:14 Rep. Hamlett asked Ms. Stenson if they were dealing with a split estate for the mineral rights.

08:05:41 Rep. Hamlett asked Ms. Stenson if they put extraordinary restrictions on the surface rights.

08:07:19 Rep. Hamlett said state law allows mineral rights owners to always have the right to access their minerals and asked Ms. Williams if FWP put any restrictions on the easement that would have changed that for the mineral right holders.

08:08:42 Rep. Hamlett said mineral rights in Montana have always trumped any other rights and an owner of those rights cannot be prohibited access. He said he would like an opinion on whether the legislative intent of the statute, where these issues come before the Land Board, was followed. Sen. Vincent said staff will find out.

08:11:03 Mr. Vincent thanked the participants for providing information on the process and said it is unfortunate that members of the Land Board were not present to offer their side of the story.

08:12:23 Sen. Pomnichowski asked Ms. Williams about easements that were granted for sage grouse habitat that were not approved by the Land Board.

08:13:35 Sen. Pomnichowski asked Ms. Williams about the public involvement in the process.

08:16:06 Rep. Hamlett provided information regarding the primacy of mineral rights over surface rights.

08:16:55 Sen. Vincent asked Ms. Williams about the legal standing for not fulfilling the condition in the EA that indicated to the public that there would be approval from another cooperating agency and said he would like to get a legal opinion from the attorney general.

MONTANA STATE UNIVERSITY LAB STUDY

08:21:11 Shauna Albrecht, Legislative Fiscal Division (LFD), provided an update on the lab study.

08:24:26 Rep. Hamlett said he recommends that when building the labs' internal structure the ability to upgrade the lab to handle more sensitive material is taken into consideration.

EQC questions and discussion

08:25:13 Rep. Hamlett asked about Rep. Kelly McCarthy, HD 49, and if he has resigned his house seat and is being replaced on the subcommittee. Ms. Albrecht said his position has not been replaced.

08:25:38 Rep. White asked about moving forward on the study. Mr. Kolman said the EQC can draft a bill based on the subcommittee study, but the EQC does not approve the subcommittee study.

08:27:06 Rep. White asked Ms. Albrecht about the remaining subcommittee meetings.

08:28:22 Sen. Pomnichowski asked Ms. Albrecht about the number of labs.

08:28:56 Sen. Pomnichowski asked Ms. Albrecht if labs that are similar can share space.

08:29:41 Sen. Pomnichowski asked Ms. Albrecht about Marsh Lab and if part of the lab would be an MSU function.

08:30:45 Sen. Pomnichowski asked Rep. White about getting a recommendation from the subcommittee regarding the lab facilities.

08:33:00 Rep. White asked Ms. Albrecht about providing a copy of the preliminary report from the consultants. **(Exhibit 19)**

08:33:21 Sen. Pomnichowski said she would like a recommendation for next Legislative session and asked if they are still trying to have the ability to do testing in the state. Rep. White commented on the ability to do testing for CWD in state.

08:35:27 Rep. Hamlett commented on health risks associated with the labs.

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

None

RECESS

08:37:15 Sen. Vincent recessed the meeting at 6:38 p.m.

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