



ENVIRONMENTAL QUALITY COUNCIL

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GOVERNOR STEVE BULLOCK	HOUSE MEMBERS	SENATE MEMBERS	PUBLIC MEMBERS	COUNCIL STAFF
DESIGNATED REPRESENTATIVE 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

May 30, 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.

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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. GENE VUCKOVICH

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

MR. SCOTT ASPENLIEDER MR.
JOHN BRENDEN
MS. KYLIE PAUL
MR. MATT VINCENT
MR. PATRICK HOLMES

COMMITTEE MEMBERS EXCUSED

SEN. CARY SMITH

STAFF PRESENT

HOPE STOCKWELL, Research Analyst
NADINE SPENCER, Secretary
ERIN BILLS, Legal Staff
JOE KOLMAN, Legislative Environmental Analyst

VISITORS' LIST (Attachment 1)

AGENDA (Attachment 2)

COMMITTEE ACTIONS

The Environmental Quality Council (EQC):

- Voted to put OHV1 and Snowmobile1 out for public comment;
- Voted to put the AIS funding proposal out for public comment;
- Voted to put LCDOG2 as amended out for public comment.

CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Vincent called the meeting to order at 8:01 a.m. The secretary noted the roll. (Attachment 3) Sen. Smith was excused and left his proxy with Mr. Brenden. (Attachment 4)

SUBDIVISION SANITATION REVIEWS (HB 507)

00:01:28 Tim Davis, Water Quality Division administrator, Department of Environmental Quality (DEQ), discussed HB 507 (2017) that revised the sanitation and subdivisions act.

00:03:21 Mr. Davis provided information on the backlog of applications. (Exhibit 1)

Public comment None

00:06:44 Recess

00:09:39 Reconvene

EQC questions and discussion

00:09:39 Mr. Aspenlieder thanked the DEQ for its efforts in reorganizing and becoming more efficient in addressing industry concerns regarding the subdivision process. He asked Mr. Davis about expanding the municipal facilities exclusion.

- 00:12:40 Mr. Aspenlieder commented on working to empower local sanitarians to conduct reviews on well and septic in county subdivisions. Mr. Davis said the department did provide, in its last rulemaking, more funding to contracted counties that do reviews.
- 00:15:26 Rep. Curdy asked Mr. Davis about Sen. Dave Wanzenried's bill that created independent sewer and water districts and how many were enabled by the legislation. Mr. Davis said he will find out.
- 00:16:03 Rep. Curdy asked Mr. Davis about issues related to HB 507 and the independent water and sewer districts.
- 00:17:00 Sen. Pomnichowski asked Mr. Davis about the criteria for an independent system or stand alone package system that is annexing to a municipality.
- 00:18:36 Sen. Pomnichowski said that in Gallatin County there are a number of small package systems that have failed and are too far away from municipalities to be annexed and connected. She asked Mr. Davis why similar systems are continuing to be approved.
- 00:20:35 Sen. Pomnichowski asked Mr. Davis if DEQ is tracking the water rights and the change process.
- 00:22:27 Sen. Pomnichowski asked Mr. Davis about the process and the number of applications that are denied.
- 00:23:12 Sen. Vincent asked Mr. Davis about what it means when a system fails and if it is out of compliance.
- 00:25:02 Sen. Pomnichowski commented on problems and failures with some of the systems in Gallatin County.

FIRE-RELATED INDICATORS

Update and Demonstration

- 00:26:39 Joe Kolman, environmental analyst, Legislative Services Division (LSD), provided an update and demonstration on fire related indicators.
- 00:43:44 Sen. Vincent asked Mr. Kolman about showing overall mortality or rate of growth.
- 00:44:25 Mr. Kolman continued his presentation.
- 00:46:50 Mr. Brenden asked Mr. Kolman about comparing mortality on state land versus federal land.
- 00:48:21 Mr. Kolman continued his presentation.
- 00:53:13 Sen. Vincent asked Mr. Kolman if the maps in the library database are more up-to-date.
- 00:53:19 Mr. Kolman continued his presentation.

EQC questions and discussion

- 00:55:06 Sen. Vincent thanked staff for their efforts and thanked Sen. Phillips for raising the issue and getting it into the work plan. He asked Mr. Kolman about the amount of time spent by staff to date, what was allotted in the work plan, and what is available to use for the remainder of the interim.
- 00:56:20 Sen. Phillips said assembly of the data does not satisfy the statutory responsibility of the EQC and that it needs to analyze and use the data.

FIRE-RELATED STUDY TOPICS

2018 Fire Season Preview

- 00:57:58 Sen. Vincent provided an introduction.
- 00:58:28 Sonya Germann, Forestry Division administrator, Department of Natural Resources and Conservation (DNRC), presented an update and provided a preview of the 2018 fire season.

Public comment None

EQC questions and discussion

- 01:06:04 Mr. Brenden asked John Tubbs, director, DNRC, about working with the U.S. Forest Service (USFS) and using state helicopters to fight fire on federal land. He said the state needs to put pressure on the U.S. Department of Agriculture and the U.S. Department of the Interior regarding the issue.
- 01:08:24 Rep. Curdy asked Mr. Tubbs about state contracts for call-when-needed aircraft.
- 01:09:57 Mr. Tubbs redirected the question to Mike DeGrosky, chief, Fire and Aviation Management Bureau, Division of Forestry, DNRC, for information on specific contracts.
- 01:11:26 Rep. Curdy said because of budget reasons the USFS has decided to use fewer exclusive use contracts for its large air tankers and Type 1 helicopters and put its other aircraft on a call-when-needed basis. He asked Mr. DeGrosky if the state uses the USFS call-when-needed contract or does its own.
- 01:13:33 Rep. Curdy asked Mr. DeGrosky about the difference in cost for an exclusive use contract versus a call-when-needed contract.
- 01:14:06 Rep. Curdy asked Mr. DeGrosky if the state has approached Montana's congressional delegation because it is forced to pay a premium on aircraft since the USFS and interagency fire program chose not to extend more exclusive use contracts to large air tankers and Type1 helicopters.
- 01:15:06 Sen. Lang thank the DNRC for its work fighting fires and asked Mr. Tubbs about requests for federal reimbursement for its costs.
- 01:17:20 Sen. Vincent asked Mr. Tubbs about agreements with federal partners on resources.
- 01:26:24 Sen. Vincent asked Mr. Tubbs about the value of sending a letter to the USFS from the EQC.
- 01:27:24 Rep. Hamlett asked Mr. Tubbs about the difference in lag time for initial attack between the USFS and the DNRC.

01:29:33 Rep. Curdy asked Mr. DeGrosky about HB 587 (2017), that was introduced by Rep. Ray Shaw, HD 71, to get the state more involved in prescribed fire programs especially on private land and the status of getting burn boss qualifications for DNRC employees.

01:30:51 Rep. Curdy asked Mr. DeGrosky if he has talked to Rep. Shaw about the bill.

Options for Landowner Assessment Fees

01:31:24 Mr. Kolman provided an introduction and said the Department of Revenue (DOR) will provide information on what a parcel of land is.

01:32:05 Sen. Vincent said the Council received updated maps from the DNRC.
(Exhibit 2)

01:32:20 Shauna Helfert, administrator, Property Assessment Division, DOR, provided an overview of property assessment in Montana.

01:35:30 Mr. Tubbs said the DOR system is based on parcels and that the DNRC calculates acreage based on GIS analytics. He said moving to a parcel approach will match the data instead of using a computed number.

01:40:02 Mr. Tubbs said he has asked DNRC staff to prepare a plan to engage eastern Montana landowners and other county cooperatives in order to have full public participation.

Public comment

01:41:30 Bruce Rolland, Stimson Lumber Co.

01:41:55 Paul MacKinzie, F.H. Stoltze Land & Lumber Co.

01:45:48 Julia Altemus, Montana Wood Products Association

01:47:00 Jay Bodner, Montana Stockgrowers Association

EQC questions and discussion

01:48:48 Mr. Brenden asked Ms. Helfert to provide information on the size of the largest parcel in the state. Ms. Helfert said she will.

01:50:39 Mr. Brenden asked Mr. MacKinzie to provide information on the size of the company's largest and smallest parcel. Mr. MacKinzie said he will.

01:51:37 Mr. Brenden commented on insurance rates and fighting fires in different parts of the state.

01:53:56 Sen. Pomnichowski asked Ms. Helfert about a property parcel. Ms. Helfert redirected the question to Bryce Kaatz, management analyst, Property Assessment Division, DOR.

01:55:30 Sen. Pomnichowski asked Mr. Kaatz about the different types of parcels.

01:56:11 Sen. Pomnichowski asked Mr. Kaatz if the use of the parcel designates its type and to describe the different land types.

01:58:04 Sen. Pomnichowski asked Mr. Kaatz why an assessment based on parcels rather than acreage would be more equitable.

01:59:09 Sen. Pomnichowski asked about fire assessment and whether it matters what type of parcel it is and if a parcel assessment is more broadly based than an acreage assessment. Mr. Tubbs said that currently taxes are based on parcel assessment.

02:01:36 Sen. Vincent asked Mr. Tubbs about discrepancies between the DOR's description of a forested parcel compared to the DNRC.

02:03:33 Sen. Pomnichowski said because of the two-year reappraisal cycle maps are updated more frequently and could help inform policy with another agency.

02:04:08 Mr. Tubbs said the department currently recommends excluding cities and towns.

02:05:22 Sen. Vincent asked Ms. Helfert about the process for taking a parcel that was subdivided and making it unsubdivided. Ms. Helfert redirected the question to Mr. Kaatz.

02:06:26 Sen. Vincent asked Mr. Kaatz about the cost.

02:06:44 Mr. Tubbs said he sent Sen. Vincent and staff a link to a DOR website that lists the name of a landowner and all the parcels they own in the state.

02:08:04 Mr. Aspenlieder commented on the costs associated with aggregating lots.

02:09:17 Rep. Manzella asked Mr. Aspenlieder about resistance from county governments to unsubdivide a large parcel.

02:10:29 Rep. White asked Mr. Tubbs about land classification and assessing different rates for irrigated versus non-irrigated parcels.

02:13:41 Sen. Vincent asked Mr. Tubbs about fire protection assessments for preparedness and how it affects large landowners. **(Exhibit 3)**

02:17:54 Sen. Lang asked Mr. Tubbs about the parcels.

02:19:03 Rep. Hamlett commented on parcels of land and making policy decisions and asked Mr. Tubbs about community assessments for wildland parcels in unincorporated towns and cities.

02:20:16 Rep. Hamlett said he wants more money invested into preparedness and not the same money coming from a different source. He said everyone benefits and should contribute.

02:23:29 Sen. Vincent asked Mr. MacKinzie about Stoltze Lumber Co. position on moving forward with the discussion on using parcels with sideboards.

02:26:07 Ms. Paul asked Mr. Tubbs about concerns regarding changing the amount of the assessment fee each year.

02:27:45 Rep. Hamlett commented on taxes paid by citizens in the state and the effort by the DNRC in fighting fires.

02:28:59 Recess

02:46:08 Reconvene

SJ 5 STUDY

02:46:27 Sonja Nowakowski, staff, LSD, provided an overview of the SJ 5 draft report. **(Exhibit 4)** She said the Council may want to discuss the draft findings and recommendations to include before it goes out for public comment.

Public comment None

EQC questions and discussion

02:50:50 Rep. Ellis asked about the public comment period. Mr. Kolman said it is usually one month.

02:51:23 Rep. White asked Ms. Nowakowski about changing the conclusion to indicate that coal production in Montana fluctuates, but is steady over a long period of time, and to include the importance of coal to the revenue stream of the state.

02:53:30 Sen. Vincent asked Ms. Nowakowski about adding the information to the report.

02:54:24 Sen. Vincent asked Rep. White about what to include in the conclusion.
02:55:18 Sen. Lang commented on exporting Montana coal to other countries and that it is lower in sulphur and can help to reduce world wide pollution.
02:58:51 Sen. Vincent asked Sen. Lang about including the information in the conclusion.
03:00:10 Ms. Nowakowski said she can add a subsection on overseas markets for Montana coal. Sen. Vincent said it can be included in the findings and recommendations portion of the report. Sen. Lang agreed.
03:01:21 Mr. Brenden said he recommends adding information on the commerce clause because of efforts in Washington and Oregon to stop the shipment of Montana coal from the west coast and concerns regarding the coal trust fund that provides money for infrastructure. Sen. Vincent said continuing to monitor export opportunities can be added to findings and recommendations.
03:04:53 Mr. Brenden said it is important to add what will happen to infrastructure if coal exports go down. Sen. Vincent said Rep. White included it in his comments on revenue.
03:05:43 Sen. Vuckovich said he agreed with Mr. Brenden on the need to get coal to the markets and asked if anyone has looked at shipping the coal from Canada. Sen. Vincent said there is some coal being shipped from Canada now.
03:07:07 Sen. Lang said he would rather see Montana coal shipped by an American company than a Canadian company.
03:07:22 Sen. Vincent said Sen. Vuckovich supports Mr. Brenden's comments on shipping coal from Washington and Oregon.
03:07:38 Rep. White commented on the chart that indicates an increase in brokers, but that exports are down and asked Ms. Nowakowski what a broker does.
03:08:41 Sen. Phillips said he recommends including the graphic that shows the distribution of the coal tax trust fund money in the report and asked Ms. Nowakowski about monitoring activities in Washington and Oregon and any citizen initiative. He asked staff to get a copy of the language they intend to put out to the voters and to monitor for any legislative or citizen based activities in Minnesota and Michigan because they use substantial amounts of Montana coal.
03:10:06 Rep. Ellis asked staff if the draft that is put out for public comment includes findings and recommendations. Ms. Nowakowski said it does and provided a summary of what will be included.

CHRONIC WASTING DISEASE

03:11:51 Martha Williams, director, Department of Fish, Wildlife, and Parks (FWP), said FWP has a chronic wasting disease (CWD) surveillance and management plan in place and that the Fish and Wildlife Commission adopted the plan in April. She said that the CWD advisory panel reviewed the plan and provided comments and feedback.
03:14:41 Mr. Kolman provided an overview of the draft report and said the Council can add additional information in the findings and recommendations. [\(Exhibit 5\)](#)

Public comment None

EQC questions and discussion

- 03:16:08 Sen. Phillips asked Ms. Williams about the report and the role predators play in managing CWD.
- 03:17:01 Sen. Phillips said he recommends that staff include information on the status of research and the potential of transferring CWD to humans.
- 03:17:48 Rep. White asked Ms. Williams about the current status of SB 2252. Ms. Williams said she will get the information.
- 03:18:29 Rep. White commented on including the ability for testing to be done in the state. Sen. Vincent asked about including it in the first finding. Mr. Kolman asked about the proper wording.
- 03:19:45 Sen. Vincent asked Rep. Hamlett if he agreed.
- 03:20:06 Rep. Curdy asked Ms. Williams about testing done on road kill and predator kills in the hunting zones in the targeted areas.
- 03:20:36 Rep. Curdy asked Ms. Williams about working with other states and provinces.
- 03:22:27 Dr. Jennifer Ramsey, wildlife veterinarian, FWP, commented on a working group focusing on management of CWD.
- 03:23:14 Rep. Hamlett asked Ms. Ramsey about people contracting CWD from eating or handling tissue from infected animals.
- 03:24:30 Rep. Hamlett asked Ms. Ramsey about predators contracting CWD from eating infected animals.
- 03:25:32 Rep. Hamlett asked Ms. Ramsey if a wolf can contract CWD by eating an infected deer.

OVERVIEW OF FEDERAL GOVERNMENT AGENCY ACTIVITY

- 03:26:50 Dan Wenk, superintendent, Yellowstone National Park (YNP), introduced the staff present and provided information on visitor use management in the park.
- 03:29:40 Mr. Wenk discussed native fish restoration
- 03:31:19 Mr. Wenk discussed the wolf population.
- 03:32:15 Mr. Wenk discussed the elk population.
- 03:32:46 Mr. Wenk discussed wolf hunts.
- 03:33:16 Mr. Wenk discussed grizzly bear delisting.
- 03:34:45 Mr. Wenk discussed the bison population.
- 03:37:18 Jon Raby, state director, Bureau of Land Management (BLM), Montana/Dakotas, discussed management of BLM land in Montana.
- 03:38:18 Mr. Raby discussed the Keystone XL pipeline.
- 03:39:53 Mr. Raby discussed a request from the American Prairie Reserve (APR) to change from cattle to bison on 16 grazing allotments.
- 03:41:23 Mr. Raby discussed wilderness study areas.
- 03:42:09 Mr. Raby discussed the fire suppression response program for 2018 and management efforts following the 2017 fire season.
- 03:44:00 Mr. Raby discussed the greater sage grouse planning effort.

Public comment None

EQC questions and discussion

- 03:45:03 Mr. Brenden commented on bison in northeastern Montana and said he is against the request from the APR to change the allotments and commented on sage grouse and the ramifications of government actions.
- 03:47:35 Rep. Curdy asked Mr. Wenk when the Interagency Bison Management Plan (IBMP) was put into effect.
- 03:47:57 Sen. Brenden left the meeting and gave his proxy to Sen. Lang. ([Attachment 5](#))
- 03:48:07 Rep. Curdy asked Mr. Wenk about the need to update the IBMP.
- 03:50:40 Rep. Manzella asked Mr. Raby about protecting cattle from the spread of brucellosis.
- 03:52:25 Rep. Manzella redirected her question to Mr. Wenk and asked about quarantine.
- 03:54:43 Sen. Vincent said Dr. Marty Zaluski, state veterinarian, is in the audience if the Council needs additional information.
- 03:55:03 Rep. Manzella said she is interested in information on free roaming bison and asked Sen. Vincent if all bison are quarantined and tested.
- 03:56:02 Rep. Manzella said she is interested in information on the bison being considered for the APR application.
- 03:56:39 Sen. Phillips said all of the APR animals are livestock and not wild bison. Sen. Vincent asked Rep. Manzella if her question was answered.
- 03:57:26 Sen. Phillips asked Mr. Raby about the APR proposal and how the BLM decided where to hold its public meetings.
- 03:58:27 Sen. Phillips asked Mr. Raby about what recourse the APR has if its request is denied and they are unable to validate their allotments by grazing bison.
- 03:59:35 Sen. Phillips asked Mr. Wenk about the number of wolves in YNP.
- 04:00:00 Sen. Phillips asked Mr. Wenk about the number of elk in the Greater Yellowstone ecosystem.
- 04:00:51 Sen. Phillips asked Mr. Wenk about the National Park Service's preferred position on a prohibition of recreational killing of grey wolves and grizzly bears within a certain distance of the park.
- 04:03:54 Sen. Phillips said he intends to use his senate authority and convene a meeting in Bozeman this fall to fully explore the wisdom of recreational killing programs for grey wolves and grizzly bears near YNP. He invited Mr. Wenk to attend.
- 04:04:22 Rep. Hamlett asked Mr. Wenk and Mr. Raby if they have read the book *Playing God in Yellowstone* by Alston Chase. He commented on YNP.
- 04:06:18 Mr. Aspenlieder asked Mr. Wenk about the National Park Services' relationship with the gateway communities into the park.
- 04:08:39 Mr. Aspenlieder commented on improvements being done in Cooke City to update its public facilities. He asked Mr. Wenk to look for ways to help communities that have higher costs for improvements because of trying to meet the environmental standards as a result of their location to YNP.
- 04:11:03 Rep. White asked Mr. Wenk about changes to make the bison containment facility more secure.
- 04:12:24 Rep. White asked Mr. Wenk about the definition of enhanced migration in the IBMP. Mr. Wenk redirected the question to Dr. P.J. White, veterinarian, YNP.
- 04:14:41 Sen. Lang asked Mr. Raby to provide the literature on the new science for managing free roaming livestock.

04:16:06 Sen. Lang commented on the the request from APR.
04:16:25 Sen. Lang asked Mr. Raby about the decision authority for the environmental impact statement (EIS).
04:17:09 Sen. Lang commented on companies that are able to hire a third party consulting firm and move through the process quicker.
04:19:04 Sen. Lang asked Mr. Raby about developing a memorandum of understanding to help with the time it takes for the sage grouse process.
04:20:55 Sen. Lang asked Mr. Wenk about the cost to the state for bison that migrate out of YNP.
04:23:12 Sen. Lang asked Mr. Wenk about YNP's deferred maintenance budget.
04:24:25 Sen. Lang asked Mr. Wenk about Interior Secretary Zinke's idea to use part of the proceeds from the Land and Water Conservation Fund to fund maintenance in national parks. Sen. Lang said he supports Secretary Zinke.
04:26:24 Sen. Vincent thanked Mr. Wenk and Mr. Raby for their participation and said he appreciates Mr. Raby's position to allow state helicopters to fly where needed during fire season.

04:27:37 Recess for lunch a 12:29 p.m.
05:30:46 Reconvened at 1:32 p.m.

METAL MINING INITIATIVE

05:31:06 Sen. Vincent said some of the clients of the firm that he works for are part of the association involved in the initiative process.

05:31:23 Mr. Vincent said he has a consulting client through Montana Resources who is involved in the initiative. He provided information on why he wanted to put the topic on the agenda.

Initiative Supporters

05:34:22 David Brooks, Montana Trout Unlimited (TU), provided information on the purpose and need for I-186.

Opponents

05:43:42 Dave Galt, executive director, Committee to Stop I-186 to Protect Miners and Jobs, said they believe that if I-186 is passed the statutory language will effectively prohibit new mines in Montana.

DEQ

05:47:49 Tom Livers, director, DEQ, provided the department's analysis of the initiative.

Public comment

05:51:53 Peggy Trenk, Treasure State Resources Association
05:53:51 Rep. Jim Keane, HD 73
05:57:00 Terry Grotbo

EQC questions and discussion

05:58:34 Mr. Aspenlieder asked Mr. Brooks about the intent of the initiative and if it is to take a zero risk approach to permitting new mines.

06:01:24 Mr. Aspenlieder asked Mr. Brooks if he feels that the current laws and procedures are not sufficient.

06:02:09 Mr. Aspenlieder asked Mr. Brooks about the mines he indicated were permitted with a non-treatment option.

06:03:55 Mr. Aspenlieder asked Mr. Brooks about how to replace the money lost from the mining industry to the state.

06:06:03 Mr. Aspenlieder asked Mr. Brooks if TU is paying the people who are gathering signatures for the initiative.

06:06:33 Mr. Aspenlieder said the initiative has wide ranging impacts on funding in the state and that it should go through the legislative process. He commented on the initiative.

06:09:11 Sen. Pomnichowski requested that Council members not use language to characterize someone's intent and instead talk about the initiative. Sen. Vincent agreed and said intent is the purpose of the discussion.

06:09:34 Mr. Aspenlieder commented on TU and the initiative process.

06:10:39 Mr. Vincent clarified comments that were made by Mr. Brooks.

06:15:19 Rep. Ellis asked Mr. Livers if DEQ currently has the authority to deny a mining permit that could cause perpetual pollution and result in perpetual treatment of water.

06:15:59 Rep. Ellis said that ballot initiatives by citizens are protected under the Montana Constitution. She commented on the legislative process and the ballot process.

06:16:46 Rep. Gunderson said he has been an employee of Mines Management since 2004.

06:17:02 Rep. Gunderson asked Mr. Livers about the amount of money from the general fund that is used for cleanup.

06:19:03 Rep. Gunderson asked Mr. Livers about the difference between preponderance of evidence and clear and convincing evidence.

06:20:42 Rep. Gunderson asked Mr. Livers about mining law and if clear and convincing evidence would have a much wider possibility of being litigated to define it compared to preponderance of evidence.

06:21:53 Rep. Gunderson redirected his question to Erin Bills, legal staff, LSD.

06:22:58 Rep. Gunderson asked Mr. Brooks about the levels of selenium in the Kootenai River below the dam around Libby and about the standards for selenium.

06:27:36 Sen. Lang asked Rep. Keane to provide examples of some of the bills that he has helped pass in the legislature to keep the natural resource industry safe.

06:30:48 Sen. Lang commented on the taxes paid to the state by the extractive industry and DEQ's efforts to provide good water.

06:32:54 Rep. Gunderson commented on initiatives and bypassing the legislative process.

06:34:54 Rep. Manzella asked Mr. Galt about SB 409 (2015) that was sponsored by the mining industry and what the mining industry did to proactively set standards.

06:37:48 Rep. Hamlett commented on the tourism industry and on the impact of the initiative on mineral rights.

06:41:30 Sen. Pomnichowski said mining has a known effect on soils, strata, and water and the onus should be on the applicant. She commented on the importance of clean water and said the discussion on the initiative is premature since it is not yet on the ballot and that a voter approved measure can be further refined by legislation.

- 06:44:35 Rep. Curdy asked Mr. Livers about the \$1 million that was appropriated during the last legislative session for resource recovery in Libby, Columbia Falls, and the Smurfit Stone Plant.
- 06:48:30 Sen. Vuckovich commented on taking action. Sen. Vincent said it has not been discussed.
- 06:49:55 Sen. Vincent said medical marijuana is an example of how public policy through the initiative process can be a train wreck and commented on treating everyone by the same standards.
- 06:51:05 Sen. Vincent asked Mr. Brooks about the definition of perpetual treatment, perpetual leaching, and contaminants in the initiative.
- 06:51:50 Sen. Vincent asked Mr. Brooks if it is expected that the legislature would define the terms.
- 06:52:55 Sen. Vincent asked Mr. Brooks about point source pollution standards and the purpose of the treatment.
- 06:54:19 Sen. Vincent asked Mr. Brooks about the use of lead sinkers.
- 06:55:01 Sen. Vincent discussed SB 409 and asked Mr. Brooks if he was familiar with the bill.
- 06:58:48 Sen. Vincent asked Mr. Brooks about getting a commitment from TU to participate with the legislature to work on the definitions in the initiative after the Supreme Court ruling.
- 07:00:46 Mr. Livers said he was unable to provide answers to the Council's questions from yesterday and will continue to work on getting the information to staff.

PRIVATE LAND/PUBLIC WILDLIFE UPDATE

- 07:01:36 Hank Worsch, legislative liaison, FWP; facilitator, Private Land/Public Wildlife Council (PL/PW), provided an update on the PL/PW and its members and introduced Rep. Denley Loge, HD 14.
- 07:03:30 Rep. Loge discussed the PL/PW, its activities, and potential legislation.

Public comment None

EQC questions and discussion None

MONTANA STATE UNIVERSITY LAB STUDY

- 07:07:01 Hope Stockwell, research analyst, LSD, said she is providing the information on behalf of Shauna Albrecht, Legislative Fiscal Division (LFD) and that the HB 661 (2017) subcommittee selected LPW Architecture of Great Falls as its consultant and they are using Clark Enersen Partners of Lincoln, Neb. for the planning work specific to the lab functions. She said they hope to have a preliminary report ready in June and a final report ready in September.
- 07:08:52 Rep. White provided an update and said they expect to receive the preliminary report on June 1 and will have a conference call on June 7 to make directions to staff on how to move forward. He said a meeting is scheduled with Dr. Waded Cruzado, president, Montana State University, on June 6 regarding the lab location.

07:11:13 Rep. Hamlett said approval will be needed by the Montana Board of Regents in order to put the lab on university property and said they will need to determine funding.

EQC questions and discussion

07:12:26 Sen. Pomnichowski asked Sen. Hamlett and Rep. White about Marsh Lab and why it will need approval from the Board of Regents since it is located on university land.

07:15:20 Rep. Curdy said any project located on college or university land that is administered by the Office of the Commissioner of Higher Education has to have approval from the Board of Regents.

STATUTORY ADMINISTRATIVE RULE REVIEW

07:16:37 Ms. Bills said the Council received a supplemental report in addition to the administrative rule review.

07:16:58 Ms. Bills provided information on the administrative rule review dated May 10 on the emergency rule issued by FWP closing the Smith River from Camp Baker to Eden Bridge. **(Exhibit 6)**

07:17:26 Ms. Bills provided information on the administrative rule review supplemental report dated May 29. **(Exhibit 7)**

EQC questions and discussion None

REVIEW PROPOSED TOPICS FOR NEXT EQC MEETING

07:19:08 Sen. Vincent opened the discussion.

Natural Heritage Program Funding

07:19:25 Mr. Kolman said the Council was given four bill draft options for funding the Natural Heritage Program (NHP).

07:19:45 Sen. Vincent said the Council decided not to act on the bill drafts and to look at the Department of Commerce (DOC) revenue streams to see if there is a place to divert \$350,000 in order to make the NHP whole.

07:20:25 Mr. Kolman provided information on DOC funding.

07:21:55 Sen. Vincent

07:22:06 Mr. Kolman

07:22:20 Sen. Vincent

07:23:20 Sen. Pomnichowski asked about sources of funding for Environment Assessment and Environmental Impact Statement reviews and from the Office of Public Instruction (OPI).

07:24:05 Mr. Kolman

07:24:38 Sen. Vincent

07:25:09 Rep. Curdy

07:25:49 Sen. Vincent

07:26:08 Mr. Kolman

07:26:39 Rep. Curdy

07:27:02 Sen. Vincent

07:27:49 Mr. Aspenlieder

07:28:25 Mr. Kolman

07:29:04 Mr. Aspenlieder
07:29:15 Sen. Vincent
07:29:48 Mr. Kolman
07:30:33 Sen. Vincent
07:31:01 Katie Gunther, LFD
07:31:48 Sen. Vincent
07:32:00 Sen. Pomnichowski
07:32:32 Rep. Ellis said she recommends looking at agency usage and the amount of money that each of the agencies gives to the NHP for core funding.
07:33:23 Mr. Kolman
07:33:53 Rep. Ellis
07:34:29 Sen. Vincent
07:35:08 Rep. Ellis
07:35:58 Rep. Hamlett
07:37:29 Mr. Kolman
07:38:29 Sen. Vincent
07:38:54 Rep. Ellis
07:39:36 Mr. Kolman
07:39:40 Sen. Vincent
07:39:46 Mr. Kolman said he will request that representatives from OPI and the core agencies that use the NHP attend the meeting in July.
07:40:27 Rep. White
07:40:47 Sen. Vincent
07:40:55 Mr. Kolman

State Parks

07:41:10 Sen. Vincent opened discussion on the bill drafts.
07:41:30 Rep. White
07:43:18 Sen. Vincent
07:44:15 Ms. Stockwell
07:44:41 Rep. Ellis
07:46:00 Sen. Vincent
07:47:18 Rep. Hamlett
07:47:35 Sen. Vincent
07:48:22 Rep. Hamlett
07:48:44 Sen. Vincent
07:48:57 Sen. Lang
07:49:26 Ms. Stockwell
07:50:12 Sen. Lang
07:51:25 Ms. Stockwell
07:51:44 Sen. Vincent
07:52:28 Ms. Stockwell
07:52:40 Sen. Vincent
07:53:20 Ms. Williams
07:53:55 Mr. Kolman
07:54:16 Ms. Paul
07:54:40 Sen. Vincent
07:55:40 Rep. White

07:55:44 Ms. Stockwell
07:56:19 Sen. Pomnichowski
07:56:37 Sen. Vincent
07:57:28 Sen. Lang
07:57:57 Rep. White
08:00:16 Sen. Lang
08:00:30 Rep. White
08:00:36 Rep. Curdy
08:00:48 Ms. Stockwell
08:01:05 Rep. Curdy
08:02:05 Sen. Vincent
08:03:17 Sen. Pomnichowski

Motion

08:03:43 Sen. Pomnichowski moved to not approve OHV1 and Snowmobile1 for public comment.

Substitute Motion/Vote

08:03:53 Rep. White made a substitute motion to approve OHV1 and Snowmobile1 to put out for public comment. The motion carried 10-6 by roll call vote with Rep. Curdy, Rep. Ellis, Sen. Pomnichowski, Sen. Vuckovich, Ms. Paul, and Mr. Vincent voting no. Sen. Smith and Mr. Brenden voted aye by proxy.

[\(Attachment 6\)](#)

08:05:41 Sen. Vincent

Aquatic Invasive Species

08:05:56 Sen. Vincent thanked Ms. Stockwell for her work on the interactive spreadsheet and opened discussion on the AIS program funding scenarios.
08:06:21 Sen. Lang
08:07:23 Sen. Vincent
08:07:32 Sen. Lang
08:08:11 Sen. Vincent
08:08:17 Mr. Aspenlieder
08:09:58 Sen. Vincent
08:10:10 Mr. Aspenlieder
08:10:34 Sen. Pomnichowski
08:11:21 Sen. Vincent
08:11:29 Sen. Pomnichowski
08:11:46 Ms. Stockwell
08:12:30 Sen. Lang
08:12:39 Ms. Stockwell
08:13:00 Ms. Paul
08:14:15 Sen. Vincent
08:14:22 Ms. Paul
08:15:07 Sen. Vincent
08:15:19 Ms. Paul
08:15:26 Sen. Lang
08:15:44 Ms. Stockwell

08:16:26	Sen. Lang
08:16:51	Sen. Vincent
08:18:29	Ms. Stockwell
08:18:32	Sen. Vincent
08:18:49	Rep. Ellis
08:19:09	Ms. Stockwell
08:19:15	Sen. Vincent
08:20:13	Sen. Pomnichowski
08:21:26	Sen. Vincent
08:21:38	Sen. Pomnichowski
08:21:51	Sen. Vincent
08:22:14	Ms. Stockwell
08:22:25	Sen. Lang
08:23:04	Sen. Vincent
08:23:21	Sen. Lang
08:23:36	Sen. Vincent
08:23:54	Sen. Lang
08:24:07	Rep. Hamlett
08:24:21	Sen. Vincent
08:24:24	Ms. Stockwell
08:25:20	Sen. Vincent
08:26:11	Mr. Worsch
08:26:51	Sen. Vincent
08:27:29	Mr. Worsch
08:28:14	Rep. Gunderson
08:28:28	Mr. Worsch
08:28:39	Rep. Gunderson
08:28:50	Ms. Stockwell
08:29:02	Rep. Gunderson
08:29:10	Ms. Stockwell
08:29:28	Rep. Gunderson
08:29:44	Ms. Stockwell
08:30:14	Rep. Gunderson
08:30:22	Ms. Stockwell
08:30:26	Sen. Pomnichowski
08:31:24	Sen. Vincent
08:32:25	Sen. Pomnichowski
08:32:48	Mr. Worsch
08:32:55	Sen. Vincent
08:33:03	Mr. Worsch
08:33:23	Sen. Vincent
08:33:40	Mr. Worsch
08:33:59	Sen. Vincent
08:34:09	Rep. Ellis
08:34:25	Ms. Stockwell
08:34:56	Sen. Vincent
08:35:38	Ms. Williams
08:36:36	Sen. Pomnichowski

08:37:24 Sen. Vincent
08:38:08 Ms. Stockwell
08:38:39 Mr. Aspenlieder
08:40:02 Sen. Vincent
08:40:39 Mr. Aspenlieder
08:41:18 Sen. Vincent
08:41:31 Rep. Hamlett
08:42:11 Sen. Vincent
08:42:59 Rep. Curdy
08:44:06 Sen. Vincent
08:44:33 Mr. Worsch
08:45:06 Sen. Vincent
08:45:20 Rep. Curdy
08:46:38 Sen. Vincent
08:47:41 Ms. Stockwell
08:47:56 Rep. Hamlett
08:48:07 Sen. Vincent
08:48:25 Ms. Paul
08:50:13 Sen. Vincent
08:50:42 Sen. Phillips
08:52:17 Mr. Aspenlieder
08:52:59 Ms. Paul
08:53:47 Rep. White
08:54:31 Rep. Gunderson
08:54:58 Sen. Vincent
08:55:57 Sen. Phillips
08:57:06 Sen. Vincent
08:57:10 Ms. Stockwell
08:57:19 Rep. Ellis
08:57:37 Sen. Vincent

Motion/Vote

08:57:52 Mr. Aspenlieder moved to put the AIS funding proposal with a total estimated annual revenue of \$6.5 million out for public comment. The motion carried unanimously by voice vote. Sen. Smith and Mr. Brenden voted aye by proxy.

Bird Dog Regulation

Motion

08:59:08 Rep. White moved to reconsider the action on LCDOG2.

Discussion on the Motion

09:00:08 Sen. Pomnichowski
09:00:34 Mr. Kolman
09:01:35 Sen. Pomnichowski
09:02:08 Rep. Curdy

Vote

09:02:29 The motion carried 9-7 by roll call vote with Rep. Curdy, Rep. Ellis, Sen. Phillips, Sen. Pomnichowski, Sen. Vuckovich, Ms. Paul, and Mr. Vincent voting no. Sen. Smith and Mr. Brenden voted aye by proxy. ([Attachment 7](#))

Motion

09:03:32 Rep. White moved to amend LCDOG2 so that a field trial permit is only required on public land.

Discussion on the Motion

09:04:25 Rep. Curdy

09:05:35 Sen. Phillips

09:05:45 Mr. Kolman

Vote

09:06:24 The motion carried 9-7 by roll call vote with Rep. Hamlett, Rep. Curdy, Rep. Ellis, Sen. Phillips, Sen. Pomnichowski, Sen. Vuckovich, and Ms. Paul voting no. Sen. Smith and Mr. Brenden voted aye by proxy. ([Attachment 8](#))

Motion

09:07:28 Rep. Curdy moved to amend LCDOG2 so that field trials on public land would be prohibited during the designated nesting season.

Discussion on the Motion

09:07:58 Mr. Kolman

09:08:03 Rep. Curdy

09:08:46 Mr. Kolman

Vote

09:09:34 The motion carried 10-6 by roll call vote with Rep. White, Rep. Gunderson, Rep. Manzella, Sen. Lang, Mr. Aspenlieder, and Mr. Brenden voting no. Sen. Smith voted aye by proxy. Mr. Brenden voted no by proxy. ([Attachment 9](#))

Motion/Vote

09:10:32 Rep. White moved to put LCDOG2 as amended out for public comment. The motion carried 15-1 by voice vote with Sen. Pomnichowski voting no. Sen. Smith and Mr. Brenden voted aye by proxy.

Fire Indicators

09:11:08 Sen. Vincent asked about direction for staff on fire indicators.

Fire Assessment Fees

09:11:52 Sen. Vincent asked about Council member requests for additional information and said he will work with staff.

09:12:48 Sen. Pomnichowski said she recommends not to include cities and municipalities that pay for structural protection or have a fire department.

- 09:13:20 Mr. Kolman said the next meeting is scheduled for July 25-26 and asked what federal agency the Council would like to hear from.
- 09:14:14 Mr. Vincent said he recommends an informational presentation from Doug Martin on the Department of Justice, Natural Resource Damage Program.

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

None

INSTRUCTIONS TO STAFF

- 09:15:20 Rep. Hamlett said he would like to get more information on an issue involving land along the Missouri River that the DNRC is proposing a lease on. Sen. Vincent said he will work with staff on it.
- 09:16:04 Sen. Pomnichowski said she would like information on flood damage that occurred this spring.
- 09:16:23 Rep. Gunderson said he would like to get an update on the bad actor mining law and I-186.
- 09:16:55 Rep. White asked about information on the Special Select Committee on State Settlement Accountability that was set up by President Sales and Speaker Knudsen. Mr. Kolman said they are looking for a way to fund the committee. Sen. Vincent asked staff to keep the Council updated.

ADJOURN

- 09:18:42 Sen. Vincent adjourned the meeting at 5:20 p.m.

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