



# ENVIRONMENTAL QUALITY COUNCIL

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**GOVERNOR STEVE BULLOCK**  
**DESIGNATED REPRESENTATIVE**  
PATRICK HOLMES

**HOUSE MEMBERS**  
WILLIS CURDY  
STEVE GUNDERSON  
BRADLEY MAXON HAMLETT  
JIM KEANE  
THERESA MANZELLA  
KERRY WHITE

**SENATE MEMBERS**  
PAT FLOWERS  
STEVE HINEBAUCH  
MIKE LANG  
JP POMNICHOWSKI  
CARY SMITH  
GENE VUCKOVICH

**PUBLIC MEMBERS**  
SCOTT ASPENLIEDER  
JOHN C. BRENDEN  
REX ROGERS  
MATT VINCENT

**COUNCIL STAFF**  
HOPE STOCKWELL, Research Analyst  
JOSEPH CARROLL, Staff Attorney  
NADINE SPENCER, Secretary  
JOE KOLMAN, Legislative Environmental Analyst

## MINUTES LOG

June 27, 2019  
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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### **COMMITTEE MEMBERS PRESENT**

REP. JIM KEANE, Chairman  
SEN. MIKE LANG, Vice Chairman

SEN. PAT FLOWERS  
SEN. STEVE HINEBAUCH  
SEN. JP POMNICHOWSKI  
SEN. CARY SMITH  
SEN. GENE VUCKOVICH

REP. WILLIS CURDY  
REP. STEVE GUNDERSON  
REP. BRADLEY MAXON HAMLETT  
REP. THERESA MANZELLA  
REP. KERRY WHITE

MR. SCOTT ASPENLIEDER  
MR. REX ROGERS  
MR. MATT VINCENT

**COMMITTEE MEMBERS EXCUSED**

MR. JOHN BRENDEN

**STAFF PRESENT**

HOPE STOCKWELL, Research Analyst  
JOE KOLMAN, Legislative Environmental Analyst  
NADINE SPENCER, Secretary

**VISITORS' LIST (Attachment 1)**

**AGENDA (Attachment 2)**

**COMMITTEE ACTIONS**

The Environmental Quality Council (EQC):

- Voted to adopt the 2019-20 work plan;
- Voted to send a letter to Montana's Congressional delegation urging enactment of federal legislation that provides funding to states for research and response to chronic wasting disease, including capital projects;
- Voted to send a letter to the Board of Regents to confirm that land is available for construction of a state lab;
- Voted to adopt the 2019-20 interim calendar.

**CALL TO ORDER AND ROLL CALL**

08:02:13 Rep. Keane called the meeting to order at 8:02 a.m. The secretary noted the roll. **(Attachment 3)** Mr. Brenden was excused.

08:02:30 Rep. Keane provided information about the Montana Folk Festival.

**ORPHAN SHARE REMEDIAL ACTION UPDATE (SB 96, 2015)**

08:03:50 Jenny Chambers, Waste Management and Remediation Division administrator, Department of Environmental Quality (DEQ), presented the annual report on the use of the Orphan Share funds for remedial action. **(Exhibit 1)**

Public comment None

**EQC questions and discussions**

08:06:58 Rep. White asked Ms. Chambers about the appropriation for the Department of Justice Natural Resource Damage Program.

08:08:32 Rep. Keane provided information on other areas where Orphan Share funds are used.

08:09:44 Rep. Curdy asked Ms. Chambers about grant money.

08:11:45 Rep. Curdy asked Ms. Chambers about the S&W Sawmill Facility in Darby.  
08:13:01 Rep. Curdy asked Ms. Chambers to provide a timeline for the S&W Sawmill Facility. Ms. Chamber said she will.  
08:13:45 Sen. Lang asked Ms. Chambers about plans for the \$1 million that was transferred out of the budget to the petroleum tank clean up program.  
08:15:05 Rep. Keane thanked Ms. Chambers.

### **LIBBY ASBESTOS SUPERFUND OVERSIGHT COMMITTEE REPORT (HB 30, 2019)**

08:15:48 Jenny Chambers, Waste Management and Remediation Division administrator, DEQ, presented the annual report on behalf of the Libby Asbestos Superfund Oversight Committee. [\(Exhibit 2\)](#)

Public comment          None

### **EQC questions and discussion**

08:19:41 Rep. Gunderson asked Ms. Chambers about the amount of money spent so far.  
08:21:33 Rep. Keane discussed the need for long-term maintenance and monitoring.  
08:24:39 Rep. White asked Ms. Chambers about funds available for operation and maintenance and the appropriation received from an Orphan Share account and if the department has the legal authority to roll more than 20% of the unused funds into the trust fund.  
08:26:01 Rep. White asked Ms. Chambers about the funds used for administrative purposes.  
08:28:40 Rep. White asked Rep. Gunderson about the administrative costs used by counties.  
08:29:48 Rep. Curdy asked Ms. Chambers if there is a need for legislative action.  
08:33:02 Rep. Gunderson commented on the Libby Superfund site and HB 30.  
  
08:34:31 Recess  
08:47:17 Reconvene

### **CHRONIC WASTING DISEASE UPDATE (87-1-901, MCA)**

08:47:54 Paul Sihler, chief of staff, Department of Fish, Wildlife, and Parks (FWP), provided an introduction and said that FWP staff are present to answer questions about chronic wasting disease (CWD) and its detection in Libby.  
08:50:28 Rep. Keane commented on the importance of continuing the discussion on CWD.  
08:51:32 Dillon Tabish, Information and Education Program manager, FWP, Region 1, presented a PowerPoint presentation on the detection of CWD in Libby. [\(Exhibit 3\)](#)  
08:54:20 Mr. Tabish said that FWP sent a letter to landowners and residents within a 25-mile radius of Libby. [\(Exhibit 4\)](#)  
08:56:21 Mr. Tabish discussed FWP's management plan.

### **EQC questions and discussion**

09:07:26 Rep. Keane asked Mr. Tabish about the number of samples that tested positive for CWD.  
09:07:50 Rep. Keane asked Mr. Tabish when the samples were sent in for testing.

- 09:09:16 Rep. Keane asked Mr. Tabish about the part of the animal that is needed to detect CWD. Mr. Tabish redirected the question to Dr. Jennifer Ramsey, veterinarian, FWP.
- 09:11:11 Rep. Keane asked Ms. Ramsey if the head of the animal is needed to test for CWD.

Public comment      None

EQC questions and discussion continued

- 09:11:49 Rep. Gunderson commented on the PowerPoint and the picture showing a lymph node removed from a deer that tested positive for CWD.
- 09:12:27 Rep. Gunderson asked Mr. Tabish about using a Clover trap.
- 09:13:16 Rep. Gunderson asked Mr. Tabish about cooperation with Canada.
- 09:13:49 Rep. Gunderson asked Mr. Tabish about adding additional hunter check stations.
- 09:14:50 Rep. Curdy asked Mr. Sihler what caused the occurrence of CWD in Libby.
- 09:16:02 Rep. Curdy asked Mr. Sihler about other places that CWD could occur.
- 09:17:40 Rep. Curdy asked Mr. Sihler about making changes in the policy for transporting carcasses.
- 09:18:18 Rep. Curdy asked Mr. Sihler about disposing of carcasses in landfills. Mr. Sihler redirected the question to Ken McDonald, Wildlife Division administrator, FWP.
- 09:19:40 Rep. Curdy asked Mr. McDonald if the Department of Transportation is still composting roadkill deer.
- 09:21:11 Rep. Manzella asked Ms. Ramsey about the way CWD is spread.
- 09:22:06 Rep. Manzella asked Ms. Ramsey if a fawn is predisposed to CWD.
- 09:22:58 Rep. Manzella asked Ms. Ramsey about the period of time that the prions that transmit CDW can stay in the environment and about the life expectancy of an animal that contracts CDW.
- 09:23:46 Rep. Manzella asked Ms. Ramsey about ruling out Libby's asbestos issue as a contributing factor to the detection of CWD.
- 09:24:40 Mr. Aspenlieder asked Mr. Sihler about funding for CWD.
- 09:25:46 Mr. Aspenlieder asked Mr. Sihler to provide the statistical data on the number of deer that test positive for CWD in Libby for the next EQC meeting.
- 09:26:35 Sen. Pomnichowski asked Mr. Tabish about the range for testing around Libby.
- 09:28:29 Sen. Pomnichowski asked Mr. Tabish about the range and the number of positive tests in other areas. Mr. Tabish redirected the question to Mr. McDonald.
- 09:31:29 Sen. Pomnichowski asked Ms. Ramsey if incineration destroys the prions that transmit CDW.
- 09:33:30 Sen. Pomnichowski asked Ms. Ramsey about prions degrading over time and if it is possible to recover a CDW management zone.
- 09:34:25 Sen. Lang asked Ms. Ramsey if freezing temperatures can be effective against CWD.
- 09:35:25 Sen. Lang asked Ms. Ramsey about the effect of an uncontrolled outbreak of CDW.
- 09:37:11 Sen. Lang asked Ms. Ramsey about the practice in the 1970's to use gloves to field dress an animal and if it was because of CWD.
- 09:38:34 Sen. Lang asked Mr. Sihler about funding and the amount of money being spent in other areas of the state. Mr. Sihler redirected the question to Mr. McDonald.

09:41:06 Mr. Sihler said emergency funding is available from the governor's environmental contingency account.

09:41:49 Sen. Lang commented on funding.

09:43:21 Rep. Keane said that FWP is largely funded by federal money and license dollars and receives no general fund money.

09:43:29 Sen. Smith asked Ms. Ramsey about the history of CWD.

09:46:20 Sen. Smith asked Ms. Ramsey about stopping the spread of CWD.

09:48:19 Sen. Smith asked Ms. Ramsey about areas where there has been a large decline in population and if it has resulted in a more resilient herd.

09:50:07 Rep. White asked Mr. Tabish about containment in the Libby area.

09:50:38 Rep. White asked Mr. Sihler about changing the agency's management policy of promoting wildlife corridors to restricting animal movements to isolate populations.

09:53:20 Rep. Hamlett asked Mr. Sihler about the date that FWP decided to start testing for CWD and why. Mr. Sihler redirected the question to Mr. McDonald.

09:55:26 Rep. Hamlett asked Mr. Sihler about adding information on hunting licenses that consumption of wild game can be hazardous to your health.

09:56:23 Rep. Hamlett commented on the spread of the disease and finding a way to get it under control.

09:58:53 Rep. Keane said the Council can determine how much of its time it wants to spend on CWD during the work plan discussion.

#### **FWP AQUATIC INVASIVE SPECIES PROGRAM UPDATE**

09:59:30 Thomas Woolf, Aquatic Invasive Species (AIS) bureau chief, FWP, provided an update on the AIS program.

Public comment      None

#### **EQC questions and discussion**

10:05:28 Sen. Lang asked Mr. Woolf about AIS check stations in the area around Ft. Peck reservoir.

10:07:03 Rep. Keane asked Mr. Woolf about using conservation districts and staffing AIS check stations in eastern Montana.

10:09:54 Rep. Manzella asked Mr. Woolf about issues with addressing ballast boats under HB 608 (2019).

10:11:56 Mr. Aspenlieder commented on the permanent funding provided by hydropower producers and NorthWestern Energy. Rep. Keane said they have a significant stake in protection from AIS.

10:13:21 Recess

10:30:01 Reconvene

#### **FIRE SEASON & WATER SUPPLY UPDATE**

10:30:20 John Monzie, deputy chief, Fire Protection Bureau, Department of Natural Resources and Conservation (DNRC), presented an update on the fire season.

#### **EQC questions and discussion**

10:37:04 Rep. Curdy asked Mr. Monzie about call-when-needed contracts for aircraft.

- 10:38:09 Rep. White asked Mr. Monzie about the ability to use state helicopters to fight fires on federal land.
- 10:39:51 Rep. White asked Mr. Monzie to provide a breakdown of the funds owed to the state by federal management agencies. Mr. Monzie said he will get the information.
- 10:40:55 Rep. Keane commented on the program that will be distributing water tenders around the state.
- 10:42:39 Sara Meloy, water planner, DNRC, provided an update on current drought conditions in Montana. [\(Exhibit 5\)](#)

EQC questions and discussion

- 10:48:50 Rep. White asked Ms. Meloy about implementation of HB 58 (2019). Ms. Meloy redirected the question to Jan Langel, administrator, Water Resources Division, DNRC.
- 10:51:48 Rep. White asked Mr. Langel if the report will go to the Water Policy Interim Committee (WPIC).
- 10:52:31 Rep. White asked Ms. Meloy about current snow pack in the state.
- 10:54:45 Mr. Langel said his earlier report was on SB 32 and that HB 58 moves the report date for the Drought and Water Supply Advisory Committee from April to July.
- 10:55:37 Rep. Keane commented on the water supply in the Missouri basin.

Public comment      None

**CONTINUE REVIEW AND DISCUSSION OF WORK PLAN**

- 10:56:46 Rep. Keane asked Mr. Kolman about the potential for a field trip to Libby.
- 11:00:45 Rep. Keane opened discussion on the work plan.
- 11:00:59 Rep. White
- 11:02:03 Mr. Kolman
- 11:04:48 Rep. Keane
- 11:04:57 Rep. Gunderson
- 11:05:46 Rep. Keane
- 11:06:18 Sen. Flowers
- 11:07:08 Rep. White
- 11:07:53 Rep. Keane
- 11:09:27 Rep. White
- 11:09:36 Rep. Keane
- 11:10:07 Mr. Kolman
- 11:10:25 Sen. Flowers
- 11:10:31 Rep. Keane
- 11:11:25 Mr. Kolman
- 11:11:38 Rep. White
- 11:14:38 Rep. Hamlett
- 11:15:01 Rep. Keane
- 11:16:17 Rep. Hamlett
- 11:18:21 Rep. Manzella
- 11:19:42 Rep. Keane
- 11:20:03 Rep. Gunderson

11:20:47 Sen. Flowers  
11:23:09 Sen. Smith  
11:24:08 Sen. Flowers  
11:26:08 Mr. Kolman  
11:27:22 Rep. Keane  
11:28:43 Sen. Smith  
11:30:54 Mr. Kolman  
11:31:21 Sen. Flowers  
11:31:46 Mr. McDonald  
11:34:29 Rep. Hamlett  
11:34:50 Mr. McDonald  
11:34:57 Rep. Hamlett  
11:35:10 Mr. McDonald  
11:35:29 Rep. Hamlett  
11:35:43 Mr. McDonald  
11:35:59 Sen. Lang  
11:38:01 Sen. Pomnichowski  
11:39:27 Mr. Kolman  
11:40:22 Sen. Pomnichowski  
11:40:54 Mr. Aspenlieder  
11:42:42 Rep. Keane  
11:44:27 Rep. White

### **ADOPTION OF WORK PLAN**

#### **Motion**

11:44:34 Rep. White moved to put .05 FTE on HJ 38; .10 FTE on SJ 20; .10 FTE on SJ 30; 0.20 FTE on statutory duties; 0.10 FTE on agency oversight; 0.05 FTE on publications; 0.35 FTE on CWD; and 0.02 FTE on emerging issues.

#### **Discussion on the Motion**

11:46:20 Sen. Lang  
11:47:22 Rep. Keane  
11:48:32 Rep. Hamlett  
11:50:09 Sen. Flowers  
11:50:53 Mr. Kolman  
11:51:38 Sen. Smith

#### **Vote**

11:52:07 The motion carried 11-4 by voice vote with Rep. Curdy, Sen. Hinebauch, Sen. Lang, and Sen. Pomnichowski voting no. Mr. Brenden was excused.

11:52:20 Rep. Keane commented on the work plan and the interim schedule.

11:53:06 Rep. White asked about public comment on the work plan.

#### **Public comment**

11:53:41 Julia Altemus, Montana Wood Products Association

### **NEXT STEPS FOR EQC STUDIES**

- 11:54:40 Rep. Keane said he would like a report, at a future meeting, on the Good Neighbor Authority contracts.
- 11:55:12 Rep. Hamlett said he recommends adding an agenda item on grizzly bears at the meeting in Libby.

### **OTHER BUSINESS**

- 11:55:51 Rep. White said he recommends sending a letter to the Montana University System Board of Regents requesting their commitment to provide land for consolidation of the state lab on Montana State University (MSU) property.
- 11:57:36 Rep. Keane asked Mr. Kolman about where the letter should be sent.
- 11:58:17 Rep. Hamlett said he recommends sending the letter to President Cruzado and the Board of Regents.
- 11:59:29 Hope Stockwell, research analyst, LSD, said a letter was sent to President Cruzado and Rep. Nancy Ballance, HD 87, by the EQC in September 2018 regarding land and funding.
- 11:59:56 Rep. Keane asked if a response was ever received. He said while staff looks for the response from President Cruzado the Council needs to take action on the draft letter to Montana's Congressional delegation.

### **Motion**

- 12:00:32 Rep. White moved to send a letter to Montana's Congressional delegation urging enactment of federal legislation that provides funding to states for research and response to CWD, including capital projects.

### **Discussion on the motion**

- 12:00:52 Sen. Flowers
- 12:01:14 Mr. Kolman said the Council did receive a response from President Cruzado. **(Exhibit 6)**
- 12:01:31 Sen. Keane

### **Vote**

- 12:01:40 The motion carried unanimously by voice vote of those present and voting.

### **Discussion on the response received from President Cruzado**

- 12:01:52 Mr. Kolman
- 12:02:54 Rep. Keane
- 12:03:26 Rep. Hamlett
- 12:04:04 Mr. Kolman
- 12:04:32 Rep. Keane
- 12:04:40 Rep. White
- 12:06:29 Rep. Hamlett

### **Motion/Vote**

- 12:06:57 Rep. Hamlett moved to send a letter to the Board of Regents to confirm that land is available for construction of a state lab. The motion carried unanimously by voice vote of those present and voting.



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

12:07:28 Nick Gevock, conservation director, Montana Wildlife Federation

**ADOPTION OF INTERIM EQC CALENDAR**

12:10:26 Mr. Kolman provided information on the interim meeting dates.

12:11:23 Mr. Aspenlieder

12:11:38 Rep. Keane

12:11:53 Rep. Gunderson

12:12:44 Sen. Pomnichowski

12:13:30 Mr. Kolman

**Motion/Vote**

12:14:00 Rep. Keane moved to approve the EQC 2019-20 interim calendar. The motion carried unanimously by voice vote of those present and voting.

**ADJOURN**

12:14:48 Rep. Keane adjourned the meeting at 12:14 p.m.

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