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ENVIRONMENTAL QUALITY COUNCIL INTERIM COMMITTEE
67th Montana Legislature

SENATE MEMBERS	HOUSE MEMBERS	COMMITTEE STAFF	PUBLIC MEMBERS
Pat Flowers	Willis Curdy	Joe Carroll - Attorney	Scott Aspenlieder
Steve Hinebauch	Steve Gunderson	Joe Kolman - Legislative	John Brenden
Mike Lang	Bradley Hamlett	Environmental	Patrick Holmes, Gov. Rep
JP Pomnichowski	Jim Keane	Analyst	Rex Rogers
Cary Smith	Theresa Manzella	Nadine Spencer - Secretary	Matt Vincent
Gene Vuckovich	Kerry White	Hope Stockwell - Research Analyst	

MINUTES LOG

July 30, 2020
Remote Zoom Meeting

Please note: This document is a Minutes Log and provides annotation 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 recording 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 the 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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ROLL CALL

Members Present Remotely:

Rep. Jim Keane, Chair (D)
Sen. Mike Lang, Vice Chair (R)
John Brenden, Public Member
Rep. Willis Curdy (D)
Sen. Pat Flowers (D)
Rep. Steve Gunderson (R)
Rep. Bradley Hamlett (D)

Sen. Steve Hinebauch (R)
Rep. Theresa Manzella (R)
Sen. JP Pomnichowski (D)
Rex Rogers, Public Member
Sen. Cary Smith (R)
Matt Vincent, Public Member
Rep. Kerry White (R)

Members Excused:

Scott Aspenlieder, Public Member
Mr. Patrick Holmes, Governor Designated Representative
Sen. Gene Vuckovich (D)

Staff Present Remotely:

Joe Carroll, Attorney
Joe Kolman, Legislative Environmental Analyst
Nadine Spencer, Secretary
Hope Stockwell, Research Analyst

Committee Business Summary

The Environmental Quality Council (EQC):

- Voted to put the HJ38 draft report out for public comment;
- Voted to put the SJ30 draft report out for public comment;
- Voted to send a letter to Montana's Congressional delegation regarding passage of the St. Mary's River Reinvestment Act;
- Voted to put PD0013 forward as a committee bill.

AGENDA (Attachment 1)

Call to Order/Roll Call

08:00:43 Rep. Keane called the meeting to order at 8:00 a.m. The secretary called the roll. ([Attachment 2](#))

08:02:40 Rep. Keane discussed the field trip yesterday and thanked the Mannix family and the Department of Natural Resources and Conservation (DNRC).

Administrative Matters

08:05:00 Joe Kolman, legislative environmental analyst, Legislative Service Division (LSD), said there is \$67,000 left in the interim budget. He said Council members will meet for the field trip this afternoon after the meeting agenda.

Energy & Telecommunications Committee Update (ETIC)

08:06:00 Trevor Graff, research analyst, LSD, provided an update from the ETIC meeting on July 15-16. He said the committee is planning to schedule an additional meeting for mid-August.

EQC questions/discussion

- 08:08:46 Rep. White asked Mr. Graff about grid capacity and the condition of the grid in Montana. Mr. Graff said he will provide the information.
- 08:09:35 Rep. Keane asked Mr. Graff about requirements for wind farm siting near military installations. Rep. Keane asked Mr. Graff to keep the Council updated.

Water Policy Interim Committee Update (WPIC)

- 08:11:12 Jason Mohr, research analyst, LSD, provided an update from the July 13-14 WPIC meeting.
- 08:13:07 Mr. Mohr discussed the Department of Environmental Quality (DEQ) nutrient rule.
- 08:15:48 Mr. Mohr said Tim Davis, Water Quality Division administrator, DEQ, prepared a memo with information on nutrient standards.
- 08:16:03 Rep. Keane asked Mr. Mohr to provide a copy of Mr. Davis's memo. [\(Exhibit 1\)](#) He requested another update at the next EQC meeting.

EQC questions/discussion

- 08:16:39 Rep. Hamlett said the WPIC sent a letter to the U.S. Senate Committee on Indian Affairs regarding the Confederated Salish and Kootenai Tribes (CSKT) water compact urging passage of the Montana Water Rights Protection Act. [\(Exhibit 2\)](#)
- 08:19:00 Sen. Flowers asked Mr. Mohr to explain the judge's legal rationale for discarding the variances for numerical nutrient standards.
- 08:20:16 Mr. Davis provided additional information on Judge Morris' decision.

Orphan Share Report

- 08:22:56 Jenny Chambers, Waste Management and Remediation Division administrator, DEQ, presented the report on the use of Orphan Share funds for remedial action. [\(Exhibit 3\)](#)

Public comment

None

EQC questions/discussion

- 08:26:42 Rep. Keane asked Ms. Chambers about the use of Orphan Share funds.

DEQ Sanitation Review Procedures Report (76-4-116, MCA)

- 08:28:00 Mr. Davis presented the DEQ Sanitation Review Procedures report. [\(Exhibit 4\)](#)
- 08:30:12 Rep. Keane asked Mr. Davis about potential legislation.

Public comment

None

EQC questions/discussion

- 08:32:14 Rep. Curdy asked Mr. Davis about subdivision reviews and the role DEQ plays when subdivisions are placed near flood plains.
- 08:33:37 Sen. Flowers commended the DEQ for its reorganization and allowing the department to be more responsive in subdivision reviews.
- 08:35:03 Sen. Lang asked Mr. Davis how to work around instances when a subdivision is approved by the department, but then another agency files a legal proceeding.
- 08:36:58 Rep. Keane said he will contact Mr. Davis later regarding the difference between a private system and a permitted system.

HJ38 Bonding and Decommissioning Draft Report

- 08:37:47 Sonja Nowakowski, research director, LSD, research staff assigned to HJ38, discussed the draft report. ([Exhibit 5](#))

Public comment

None

Motion

- 08:41:09 Rep. Keane moved to put the HJ38 draft report out for public comment.

EQC questions/discussion

- 08:41:29 Rep. White asked Ms. Nowakowski about the bonding process on decommissioning and what would happen if the state became the responsible party. Ms. Nowakowski said she will provide additional information.
- 08:45:27 Rep. White said the legislature may need to look at it in the future.
- 08:45:58 Rep. Keane commented on the bonding process.
- 08:47:36 Sen. Lang asked Ms. Nowakowski for clarification regarding Montana's dams and navigable waters of the United States.
- 08:48:34 Rep. Curdy asked Ms. Nowakowski about the bond for decommissioning wind facilities.
- 08:50:48 Rep. Curdy asked Ms. Nowakowski about the number of wind farms in the U.S. that have reached their useful life. He asked about the experience other states have had with bonding and remediation.

Vote

- 08:53:10 The motion carried unanimously by voice vote of those present and voting.

SJ30 Wildlife Location Draft Report

- 08:54:00 Mr. Kolman discussed the draft report. He said the proposed draft legislation is included at the back of the report. ([Exhibit 6](#))

Public comment

None

EQC questions/discussion

08:56:05 Rep. Keane commented on the importance of the information and the need for legislation.

Motion/Vote

08:57:28 Rep. Curdy moved to put the SJ30 draft report out for public comment. The motion carried unanimously by voice vote of those present and voting.

Aquatic Invasive Species Updates

2020 Inspection Season

08:57:59 Thomas Woolf, Aquatic Invasive Species (AIS) Bureau chief, Department of Fish, Wildlife, and Parks (FWP), provided an update on the AIS program.

Statutory Authority Review by MISC and UC3

09:02:02 Mr. Woolf provided an update on the AIS statutory authority review by the Montana Invasive Species Council and the Upper Columbia Conservation Commission.

Public comment

09:02:56 The EQC received written public comment. ([Exhibit 7](#))

EQC questions/discussion

09:04:03 Sen. Lang thanked Mr. Woolf and said he appreciates the work being done to stop the spread of invasive mussels into the state.

09:05:10 Rep. Curdy asked Mr. Woolf about the provision in HB 411 (2019) to charge nonresidents a \$10 fee for rafts, canoes, stand-up boards, and similar watercraft.

09:06:43 Rep. Curdy asked Mr. Woolf about HB 608 (2019) and addressing some of the issues related to decontamination of ballast boats.

09:08:17 Rep. Curdy asked Rep. Keane about having FWP provide ideas on how to help alleviate some of the issues related to HB 608 at the September meeting.

09:11:00 Rep. Keane asked Mr. Woolf to provide information at the next EQC meeting on specific shortfalls he sees in the program.

Milk River Update

09:12:30 John Tubbs, director, DNRC, provided an update on the repairs of the concrete drop structures on the St. Mary's Canal. ([Exhibit 8](#))

Public comment

None

EQC questions/discussion

- 09:29:26 Sen. Lang thanked Mr. Tubbs for his involvement and leadership and discussed management of the project.
- 09:31:23 Rep. Keane asked Mr. Tubbs about the need to do other projects and securing additional bonding.
- 09:37:55 Rep. Keane asked Sen. Lang about sending a letter to Montana's Congressional delegation regarding passage of the St. Mary's River Reinvestment Act.

Motion

- 09:39:00 Sen. Lang moved to send a letter to Montana's Congressional delegation regarding passage of the St. Mary's River Reinvestment Act.

Discussion on the motion

- 09:42:00 Rep. Hamlett

Vote

- 09:42:19 The motion carried unanimously by vote voice of those present and voting.
- 09:42:45 Rep. Keane said he would like to include pictures with the letters. Mr. Tubbs said he will provide a draft letter to staff today.
- 09:43:21 Rep. White asked Mr. Tubbs about additional water from the project that could benefit the Blackfeet Tribe.
- 09:51:05 Rep. Keane commented on the need for extra bonding.
- 09:51:17 Rep. Hamlett commented on the in-holdings within the Blackfeet Reservation held by non-Indians.

Statutory Administrative Rule Review

- 09:52:46 Joe Carroll, staff attorney, LSD, presented the administrative rule review. ([Exhibit 9](#))

Public comment

- 09:54:38 Alan Olson, executive director, Montana Petroleum Association.

EQC questions/discussion

- 09:55:35 Sen. Lang asked about MAR Notice 36-22-203 and the DNRC rule change on endangered species. Mr. Kolman said the rule pertains to the habitat conservation plans under the Forestry Division.
- 09:57:25 Mr. Carroll said the proposed amendment updates the reference to the bull trout recovery plan of 2015 which replaced the restoration for bull trout in the Clark Fork and Kootenai River Basin.

- 09:57:50 Rep. Keane asked Mr. Carroll to clarify the rule change with the DNRC.
- 09:58:13 Rep. White commented on MAR Notice 36-22-203. Rep. Keane asked Mr. Carroll to contact Mr. Tubbs during the break for an update. ([Exhibit 10](#))

Break

- 10:00:37 Recess
- 10:18:16 Reconvene

Chronic Wasting Disease

- 10:18:41 Hope Stockwell, research analyst, LSD, provided an introduction.

RT-QulC testing

- 10:19:57 Dr. Edward Hoover, professor, Colorado State University, College of Veterinary Medicine and Biomedical Sciences, discussed the RT-QulC assay for detecting chronic wasting disease (CWD) prions in cervid populations.
- 10:25:51 Eric Nicholson, lead scientist, Prion Diseases Research project, National Animal Disease Center, U.S. Department of Agriculture (USDA), discussed research related to using the RT-QulC method as an approved and deployable test for CWD.

EQC questions/discussion

- 10:28:53 Rep. Keane asked Mr. Hoover if the RT-QulC assay is being used to test animals in Colorado.
- 10:29:53 Rep. Keane asked Mr. Nicholson who to contact at the USDA about a timeline for approving the RT-QulC assay.
- 10:31:17 Ms. Stockwell provided information on the USDA accreditation process.
- 10:33:13 Mr. Nicholson provided additional information on the approval timeline.
- 10:34:04 Rep. Keane asked Mr. Hoover about support for using the test in Colorado.
- 10:37:23 Rep. Keane asked Ms. Stockwell about information from Dr. Greg Juda, Veterinary Diagnostic Lab director.
- 10:37:44 Rep. Keane asked Mr. Hoover to stay in contact with Ms. Stockwell regarding anything Montana can do to get approval for the RT-QulC test.
- 10:38:45 Mr. Hoover said the RT-QulC assay was developed by Dr. Byron Caughey at the National Institutes of Health (NIH), Rocky Mountain Laboratory in Hamilton.
- 10:39:37 Mr. Nicholson said no one has taken their data forward into an approval process. Rep. Keane asked about the process.
- 10:41:12 Rep. Keane asked Mr. Hoover if Colorado has moved the process forward to the federal level.

Veterinary Diagnostic Lab CWD Testing Update

- 10:42:10 Mr. Juda provided an update on the process to get the diagnostic lab internal test methods for CWD finalized.
- 10:46:02 Rep. Keane asked Mr. Juda if the lab is involved with the RT-QuIC test.

CWD Management Update

- 10:47:07 Ken McDonald, Wildlife Division administrator, FWP, provided an update on the CWD management plan.
- 10:48:10 Mr. McDonald discussed surveillance and monitoring.
- 10:51:46 Mr. McDonald provided information on rules related to carcass disposal.
- 10:54:02 Mr. McDonald discussed donations of meat and carcasses to food banks.

Draft Report

- 10:57:13 Ms. Stockwell discussed the CWD draft report. She said she will be looking for guidance from the Council today on findings and recommendations. ([Exhibit 11](#))

Public comment

- 10:58:14 Marc Cooke, Wolves of the Rockies.

EQC questions/discussion

- 10:59:51 Rep. Manzella asked Mr. Hoover about Mr. Caughey.
- 11:01:13 Sen. Flowers asked Mr. Juda about the expected turnaround time for CWD testing.
- 11:02:17 Rep. Keane said the turnaround time will be important information for the legislature to know. Mr. Juda said they plan to make the tests a priority and process them as quickly as possible.
- 11:04:09 Rep. White asked Mr. Juda about any additional infrastructure requirements needed to contain the waste from testing CWD prions.
- 11:06:52 Rep. White asked Mr. McDonald about the movement of animals and the management plan for prevention of the spread of CWD.
- 11:11:58 Sen. Lang asked Mr. McDonald about data available on the number of animals infected with CWD that are left unchecked in the wild.
- 11:13:57 Sen. Lang said FWP needs to take charge of getting animals out of cities and towns and into the wild. He recommended not accepting wild game at food banks. Mr. McDonald commented on the amount of meat contributed to food banks for people in need and on working with the food bank networks and the Department of Public Health and Human Services to find a solution.
- 11:18:36 Rep. Curdy asked Mr. Hoover if Mr. Caughey is currently using the RT-QuIC assay for any type of study or diagnostic research.

- 11:20:24 Rep. Curdy asked Mr. Hoover if RT-QulC technology is accepted by facilities doing other types of disease research.
- 11:21:43 Mr. Brenden commented that there are higher priorities concerning CWD than the food bank issue and said he agreed with Sen. Lang.
- 11:23:34 Rep. Keane asked Ms. Stockwell about the findings and recommendations in the report and if there is anything about the RT-QulC test.
- 11:24:30 Rep. Keane asked Mr. Hoover about a cure for CWD.

Motion

- 11:25:31 Rep. Curdy moved to send a letter to the Secretary of Agriculture and to Montana's congressional delegation asking them to push the USDA forward on getting accreditation of the RT-QulC assay as an approved test for CWD in Montana.

Discussion on the motion

- 11:27:18 Sen. Flowers
- 11:28:50 Ms. Stockwell
- 11:29:11 Mr. Nicholson
- 11:30:47 Ms. Stockwell
- 11:30:57 Rep. Keane
- 11:31:27 Rep. Curdy withdrew his motion.
- 11:31:31 Rep. Keane asked staff to find out if anyone has moved forward on the accreditation process.
- 11:31:49 Mr. Brenden said he will ask his niece, who is a veterinarian in the Harlowton and Big Timber area, for her opinion.
- 11:32:57 Sen. Lang said that Pittman-Robertson money may be able to be used for funding research on CWD. He said the federal government should be pushing for accreditation of an approved testing procedure.
- 11:34:06 Rep. Hamlett said any future letter should address the time it takes for the approval process.
- 11:35:09 Sen. Flowers said he recommends adding in the report that the time it takes to process a testing sample should be reduced.
- 11:36:05 Rep. Keane said he recommends that the Council continue to focus on the progress for the RT-QulC test at the next meeting.

State Lab Advisory Committee Update

- 11:37:07 Rep. White provided an update and said they received an estimate on the cost to move forward with the request for proposal for additional engineering work, but it was more than the legislature appropriated. He said the labs are critical and need to be addressed during the next legislative session.
- 11:41:28 Rep. Hamlett commented on the need to update the labs and increase capability for research and testing.

Public comment

None

EQC questions/discussion

- 11:45:04 Sen. Pomnichowski asked Rep. White about the labs involved in the consolidation study. She also asked about the commitment from Montana State University to site a new lab facility.
- 11:48:18 Rep. Keane commented on building a new lab.

Trapper Education Bill Draft Proposal

- 11:49:43 Rep. White provided information on the trapper education bill draft.
- 11:50:29 Ms. Stockwell discussed the changes that were made in the bill draft. [\(Exhibit 12\)](#)
- 11:54:14 Rep. White said the instructions in the bill incorporate the trapper education manual from the Montana Trappers Association as resource material.

Public comment

- 11:55:34 Mr. Cooke.
- 11:56:07 The EQC also received written public comment. [\(Exhibit 13\)](#)

EQC questions/discussion

- 11:57:12 Sen. Lang asked Rep. White about needing to review how the course will be presented by FWP.
- 11:58:46 Sen. Lang asked if the course will need to be approved by the Fish and Wildlife Commission. Rep. Keane said it will not.
- 12:00:05 Rep. White commented on commission approval.
- 12:00:32 Sen. Hinebauch asked Rep. White about keeping control over changes in licensing and education over time.
- 12:03:27 Sen. Flowers provided information on the process that was used for updating the hunter education manual.
- 12:04:20 Sen. Hinebauch said he wants to make sure that the legislature maintains control over any changes that are made.

Motion/Vote

- 12:05:03 Rep. White moved to put PD0013 forward as a committee bill. The motion carried unanimously by voice vote of those present and voting. Sen. Flowers will carry the bill.

Lunch

- 12:06:45 Recess for lunch
- 13:00:22 Reconvene

Public Comment on any matter not contained in this agenda and that is within the jurisdiction of the EQC

None

Hell Creek Update

- 13:01:29 Martha Williams, director, FWP, provided an update of activities at Hell Creek State Park.
- 13:04:13 Rep. Keane asked Ms. Williams about the road improvements.

Public comment

None

EQC questions/discussion

- 13:06:03 Rep. Gunderson asked Ms. Williams if the infrastructure upgrades to replace the water storage cistern and the installation of the wastewater treatment system for the fish cleaning station are fully operational.
- 13:06:56 Rep. Gunderson asked Ms. Williams to let him know if the wastewater treatment system is functioning properly. Ms. Williams said she will.
- 13:07:38 Rep. Gunderson said he would like to receive notification for any meetings that are scheduled. He asked Ms. Williams about the status of the violation that was issued by the U.S. Army Corps of Engineers against the concessionaire. Rep. Gunderson asked Ms. Williams to continue to keep him updated on the status.
- 13:11:20 Mr. Vincent said he visited Hell Creek State Park in late June and the fish cleaning station was fully functional.
- 13:12:06 Rep. Keane commented on the increased visitation at the park.
- 13:12:47 Sen. Lang commented on the contracts for the concessionaire.
- 13:14:54 Ms. Williams said the concession agreement is an old contract and FWP is waiting to find out from the Corps what process will be used to renew the lease.

SJ20: Wilderness Study Areas

- 13:16:23 Rep. Keane said at the last meeting the EQC asked Montana's congressional delegation about solutions regarding SJ20. He said the Council received letters from Sen. Steve Daines and Rep. Greg Gianforte and that Erik Nyland from Sen. Jon Tester's office is present at the zoom meeting today.
- 13:19:27 Mr. Kolman read the response from Sen. Daines. [\(Exhibit 14\)](#)
- 13:20:44 Mr. Kolman read the response from Rep. Gianforte. [\(Exhibit 15\)](#)
- 13:22:48 Mr. Nyland provided an introduction and read the response from Sen. Tester. [\(Exhibit 16\)](#)

Public comment

13:28:51 Julia Altemus, Montana Wood Products Association.
13:29:26 Nancy Schultz, Bozeman.

EQC questions/discussion

13:32:15 Rep. Keane asked about next steps.
13:32:26 Sen. Flowers said all the congressional delegates recognize the importance of local community support and solutions and recommended that the EQC take the same approach.
13:34:11 Rep. Keane agreed.

Motion

13:35:27 Rep. Keane moved to draft a letter to Montana's congressional delegation regarding wilderness study areas.

Discussion on the motion

13:35:47 Sen. Lang
13:36:48 Sen. Flowers
13:38:32 Rep. Keane withdrew his motion.
13:39:04 Sen. Lang commented on the importance of including multiple use if a letter is sent regarding WSAs.
13:39:46 Rep. White commented on support for the Blackfoot Clearwater Stewardship Act and commented on SJ20.
13:42:30 Rep. White asked about reading a statement regarding his service in legislature. Mr. Kolman said he can read it at the EQC meeting on September 9.
13:43:19 Rep. Keane said the EQC will finalize the SJ20 report and send it to Montana's congressional delegation. **(Exhibit 17)**

Discussion of July 29 Tours

13:44:01 Mr. Kolman asked if the Council wanted to take action or put into the record anything regarding the field trip yesterday. **(Exhibit 18)**

EQC questions/discussion

13:44:40 Rep. Curdy said he talked to Randy and Logan Mannix about difficulties they have accessing processing facilities for their grass feed beef operation. He said Montana needs to work at putting together a processing facility that enhances operations in the state.
13:47:07 Mr. Rogers commented on the positive results that the Mannix' have had with flood irrigation.
13:48:39 Sen. Pomnichowski asked about sending a letter of thanks to the Mannix family. Rep. Keane said staff is working on it.

- 13:49:24 Rep. Hamlett thanked Rep. Keane and staff for putting together the field trip.
- 13:50:06 Sen. Lang asked about expanding meat processing facilities in Montana and about the agency that has purview. Ms. Stockwell said both the Economic Affairs and the State-Tribal Relations Committees have discussed the issue and have sent letters to Secretary of Agriculture Sonny Perdue.
- 13:52:48 Rep. Keane commented on issues related to federal inspections for meat processing and on the field trip.

Other Business

- 13:55:28 Mr. Kolman said the next EQC meeting is scheduled for September 9-10. He provided information for the afternoon field trip.
- 13:56:50 Mr. Rogers asked Mr. Kolman about directions.
- 13:57:20 Rep. Keane said staff will take pictures and provide information about the field trip.

ADJOURNMENT

- 13:58:05 Rep. Keane adjourned the meeting at 1:58 p.m. EQC members departed for the Good Neighbor Authority timber project. **(Exhibit 19)**