



ENVIRONMENTAL QUALITY COUNCIL

PO BOX 201704
HELENA, MONTANA 59620-1704
(406) 444-3742

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JIM KEANE
MIKE PHILLIPS
RICK RIPLEY
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SCOTT ASPENLIEDER
BROOKE ERB
BERT LINDLER
ROY MORRIS

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SONJA NOWAKOWSKI, Research Analyst
HOPE STOCKWELL, Research Analyst
HELEN THIGPEN, Staff Attorney
NADINE SPENCER, Secretary
JOE KOLMAN, Legislative Environmental Analyst

MINUTES LOG

January 13, 2016
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. GENE VUCKOVICH, chair
REP. JERRY BENNETT, vice chair

SEN. JOHN BRENDEN
SEN. JIM KEANE
SEN. RICK RIPLEY
SEN. CARY SMITH

REP. WILLIS CURDY
REP. JANET ELLIS
REP. ED LIESER
REP. KERRY WHITE

MS. BROOKE ERB
MR. BERT LINDLER
MR. ROY MORRIS
MR. TIM BAKER

COMMITTEE MEMBERS EXCUSED

REP. THERESA MANZELLA
SEN. MIKE PHILLIPS
MR. SCOTT ASPENLIEDER

STAFF PRESENT

HOPE STOCKWELL, research analyst
HELEN THIGPEN, staff attorney
JOE KOLMAN, legislative environmental analyst
NADINE SPENCER, secretary

AGENDA ([Attachment 1](#))

VISITORS' LIST ([Attachment 2](#))

COMMITTEE ACTIONS

- The Environmental Quality Council (EQC) approved the minutes log as amended from September 9-10, 2015.
- The EQC voted 13-2 to provide funding for Sen. Keane and Sen. Ripley to travel to the state of Washington to testify on legislation regarding closing Colstrip Units 1 and 2.
- The EQC voted 10-5 to send a letter asking the Montana Fish and Wildlife Commission to enact a 3-year moratorium on proposals to translocate sage grouse from Montana to locations outside its borders.

CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Vuckovich called the meeting to order at 8:00 a.m. The secretary called the roll. ([Attachment 3](#)) Rep. Manzella and Mr. Aspenlieder were excused and left their proxies with Rep. White. ([Attachment 4](#)) Sen. Phillips was excused.

ADMINISTRATIVE MATTERS

Adoption of EQC minutes

00:01:11 Sen. Brenden requested that breathing be added as an example of 10 decibels in the September 9, 2015 minutes at timestamp 03:22:51.

00:01:57 **Motion/Vote:** Sen. Keane moved to approve the minutes log from September 9-10, 2015 as amended. The motion carried unanimously by voice vote of those present and voting.

Budget Review

- 00:02:20 Joe Kolman, legislative environmental analyst, Legislative Services Division, said there is \$73,000 left in the EQC budget.
- 00:03:52 Mr. Kolman gave an update on activities related to the statutory requirements under the Montana Environmental Policy Act (MEPA).

WATER POLICY INTERIM COMMITTEE UPDATE

- 00:04:22 Jason Mohr, research analyst, Legislative Services Division, presented an update from the Water Policy Interim Committee (WPIC) meeting on January 11 and 12.
- 00:04:38 Mr. Mohr discussed the study of water availability and supply.
- 00:06:00 Mr. Mohr discussed the study of the assumption of federal Section 404 permits on dredge and fill.
- 00:08:51 Mr. Mohr discussed the study on the future of the Montana Water Court.

Committee Questions and Discussion:

- 00:10:25 Rep. Curdy asked if the study on water availability and supply is only on municipal water infrastructure or if it includes agriculture irrigation infrastructure. Mr. Mohr said the focus is on municipal water, but it includes exempt wells and efficiency of irrigation.
- 00:11:21 Sen. Ripley asked if there are any outstanding lawsuits regarding the Confederated Salish and Kootenai Tribe (CSKT) Water Compact. Mr. Mohr said there is still a lawsuit in district court challenging how the legislature approved the compact.
- 00:12:01 Helen Thigpen, staff attorney, Legislative Services Division, said a hearing is scheduled on the lawsuit in March.
- 00:12:27 Sen. Keane asked if there has been any discussion on how the state would pay for the cost of assuming the 404 permit program. Mr. Mohr said there has been minimal discussion.
- 00:13:44 Mr. Baker entered the meeting.
- 00:13:50 Sen. Keane requested that the EQC be updated on the status of the 404 permit study.
- 00:14:22 Sen. Keane asked if the WPIC objected to any rules during its meeting. Mr. Mohr said it did not.
- 00:14:35 Rep. White asked Mr. Mohr about the WOTUS litigation involving "Waters of the U.S." and what the effect would be if the Clean Water Rule is upheld.
- 00:15:48 Rep. White asked if the Clean Water Rule is upheld will it affect the ability of Montana to assume jurisdiction over 404 permits. Mr. Mohr said it will not.
- 00:17:01 Sen. Brenden asked if the Clean Water Rule is upheld on "Waters of the U.S." it will only increase federal jurisdiction by 3-4%. Mr. Mohr said that was his understanding.

ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE UPDATE

- 00:18:36 Sonja Nowakowski, research analyst, Legislative Services Division, said the Energy and Telecommunications Interim Committee (ETIC) meeting is scheduled for January 15 and will be focusing on the net metering study.

- 00:21:47 Ms. Nowakowski gave an update on the HJ 7 (2105) study on next generation 9-1-1.
- 00:22:35 Ms. Nowakowski said the ETIC will review Colstrip-related legislation that has been introduced in the state of Washington and is expected to be introduced in Oregon.

Committee Questions and Discussion:

- 00:23:07 Rep. White asked why the renewable energy industry and utility companies disagree on the calculations for net benefits and costs between net metered customers and non-net metered customers.
- 00:25:04 Rep. White said part of the cost to the utility company is the tax it pays on its transmission line and absorbs through the net metering reimbursement to its customers. Ms. Nowakowski said the Public Service Commission (PSC) had a hearing yesterday on how costs are passed on to the ratepayer and fair compensation.

111(d) EPA RULEMAKING SUBCOMMITTEE UPDATE

- 00:26:39 Sen. Keane said the 111(d) subcommittee will meet tomorrow. He discussed the Clean Power Plan and impacts to Montana.
- 00:29:43 Sen. Ripley discussed the meeting they attended in Spokane and working with the state of Washington on legislation regarding closing Colstrip Power Plants 1 & 2.
- 00:31:31 Sen. Brenden said the EQC should be proactive in drafting a committee bill in case a special session is necessary if the plan submitted by the state of Washington hurts Montana's economy. Sen. Keane said a special session is being discussed.

STATUTORY ADMINISTRATIVE RULE REVIEW

- 00:33:50 Ms. Thigpen presented the rule review report. [\(EXHIBIT 1\)](#)

Public Comment: None

Committee Questions and Discussion:

- 00:40:56 Rep. White asked if the settlement agreement reached in "*Friends of the Wild Swan v U.S. Fish and Wildlife Service*" on grizzly bear management has resulted in any projects moving forward on timber management or fuel reduction. Rep. Lieser said it has.
- 00:41:51 Rep. White asked what the results were to existing projects in the settlement agreement. Shawn Thomas, administrator, Trust Land Management Division, Department of Natural Resources and Conservation, said the agreement allowed all of the projects to proceed.
- 00:44:04 Sen. Brenden asked if money was given to any environmental groups in the settlement and if so how much. Mr. Thomas said the settlement was with the federal government and he did not know.
- 00:44:38 Sen. Brenden asked if the information can be obtained through the Freedom of Information Act. Mr. Thomas said he will find out.

SAGE GROUSE CONSERVATION UPDATE

Introduction

- 00:45:31 Hope Stockwell, research analyst, Legislative Services Division, said the focus of the discussion will be on implementation and compliance with the state's sage grouse conservation program by state agencies. She said two key components of the program are the Governor's executive order that places stipulations on development in sage grouse habitat and SB 261 (2015) which established the Montana Sage Grouse Oversight Team (MSGOT) and a grant program for funding voluntary conservation projects.
- 00:47:05 Ms. Stockwell said the EQC was provided with a summary of funding spent on sage grouse conservation across the country. **(EXHIBIT 2)**
- 00:51:17 Ms. Stockwell said the EQC was given a list of acronyms. **(EXHIBIT 3)**
- 00:51:31 Ms. Stockwell gave an update on the noise study.

Conservation Program Update

- 00:53:55 Carolyn Sime, program manager, Montana Sage Grouse Habitat Conservation Program, presented the sage grouse conservation program update. **(EXHIBIT 4)**
- 00:56:02 Ms. Sime discussed the goals of Montana's program and said the three parts to the conservation strategy are the executive order, the stewardship fund grant program, and mitigation framework.
- 00:56:50 Ms. Sime discussed the executive order that was signed on September 18, 2015.
- 01:10:56 Ms. Sime discussed the sage grouse stewardship fund grant program.
- 01:13:22 Ms. Sime discussed mitigation framework.
- 01:14:30 Ms. Sime said executive order 21-2015 provides an updated map of sage grouse conservation areas in Montana.

Implementation in permitting

- 01:17:06 Tom Livers, director, Department of Environmental Quality (DEQ), discussed what the DEQ is doing to integrate with the Montana Sage Grouse Habitat Conservation Program.
- 01:28:31 John Tubbs, director, Department of Natural Resources and Conservation (DNRC), said the Montana Sage Grouse Habitat Conservation Program is part of the Conservation and Resource Development Division within the DNRC.
- 01:35:44 Jim Halvorson, administrator, Board of Oil and Gas Conservation, provided information on wells located in general and core habitat areas for sage grouse. **(EXHIBIT 5)**

Public Comment:

- 01:44:35 Jeff Tiberi, Montana Association of Conservation Districts
- 01:45:40 Sen. Bradley Hamlett, SD 15

Committee Questions and Discussion:

- 01:59:18 Sen. Brenden thanked staff for providing the information on acronyms.
- 02:00:09 Sen. Brenden asked Ms. Sime about the status of a program that is transferring 120-140 sage grouse from Phillips County into Canada. Ms. Sime said it is a Department of Fish, Wildlife, and Parks program. She said the MSGOT did discuss it at its last meeting.

02:00:52 Sen. Brenden asked Ms. Sime if the MSGOT was in favor of the translocation. Ms. Simes said members discussed the pros and cons of the program.

02:01:34 Sen. Brenden asked Mr. Baker the status of the translocation program. Mr. Baker said they are currently taking public comment. He said support for the program was based on science and that it would provide some understanding about the behavior of sage grouse.

02:04:01 Sen. Brenden said the people of Phillips County are overwhelmingly opposed to the program.

02:04:20 Sen. Brenden asked if DEQ gave \$35,000 to the Montana Environmental Information Center (MEIC) for settlement of the Bull Mountain Mine lawsuit. Mr. Livers said it gave \$30,000 for attorney fees.

02:05:11 Sen. Brenden asked Mr. Livers to provide the EQC with the amount of litigation fees the DEQ has paid in the last 10 years. He also asked the DNRC to provide the same information.

02:06:12 Rep. Curdy asked Bob Abrams, director, Bureau of Land Management (BLM), if he has information on the amount of money that is available for fire protection in sage grouse areas. Mr. Abrams deferred to Richard Hotaling, district manager, Western Montana, BLM. Mr. Hotaling said he will find out.

02:08:05 Rep. Curdy asked Mr. Tubbs about the DNRC's commitment to fire suppression in core sage grouse habitat. Mr. Tubbs said most of the core habitat is in eastern Montana under the protection of the County Cooperative Fire Program and that DNRC provides equipment, training, and information about sage grouse.

02:11:01 Rep. Curdy said he is concerned about the threat of fire in sage grouse habitat and encouraged the BLM and the DNRC to take an aggressive role in their fire operations.

02:12:08 Rep. Lieser asked Ms. Sime about the role of the U.S. Fish and Wildlife Service in project review. Ms. Sime said it has no role in project review, but does provide technical assistance on mitigation framework.

02:14:23 Sen. Keane asked Ms. Sime about the Denbury Pipeline project.

02:14:47 Sen. Keane asked Ms. Sime about a project for a Cenex pipeline. Ms. Sime said they have not received any information on the project.

02:15:09 Sen. Keane asked Ms. Sime who pays for damages caused by pipelines that are built in sage grouse habitat. Ms. Sime said pipeline projects require a permit from the state and would be overseen by the agency that issued the permit.

02:16:50 Sen. Keane asked Ms. Sime if a wind project built in eastern Montana would come under the jurisdiction of the sage grouse habitat program. Ms. Sime said it could.

02:18:14 Sen. Keane asked Ms. Sime if a wind project, outside a core habitat area, would require review for noise. Ms. Sime said it would not.

02:19:04 Ms. Erb asked Sen. Hamlett how conservation tax incentives will impact conservation for landscape design in Montana. Sen. Hamlett said conservation easements will be an important part of Montana's justification that the sage grouse plan is working.

02:22:22 Rep. White thanked staff for the information provided on funding spent on sage grouse conservation in the country.

02:23:06 Rep. White asked Ms. Sime if there will be a request for funding, during the next legislative session, in order to keep the program operating. Ms. Sime said it has not been discussed.

02:25:38 Sen. Ripley thanked staff for the funding report. He said he hopes that environmental groups will also provide funding for conservation.

02:26:52 Mr. Baker said the Fish and Wildlife Commission will discuss the translocation program at its meeting tomorrow.

02:27:22 Sen. Brenden said he will propose that the EQC send a letter for a moratorium on translocation of sage grouse for 3 years.

02:29:03 Rep. Lieser requested to hear from the Department of Fish, Wildlife and Parks before the EQC takes any action.

02:29:47 Sen. Vuckovich said no action would be taken for now.

02:30:10 Recess

02:39:37 Reconvene

WASHINGTON AND OREGON STATE LEGISLATION ON COAL POWER

02:39:49 Ms. Nowakowski introduced the legislators participating in the conference call from Washington and Oregon. She presented background information on legislation being introduced in Washington and Oregon and how that legislation relates to Montana.

02:41:20 Ms. Nowakowski said the EQC received a copy of draft legislation proposed by Puget Sound Energy that was introduced in the Washington legislature yesterday. **(EXHIBIT 6)**

02:42:07 Ms. Nowakowski provided a copy of an ownership breakdown of the four units at Colstrip. **(EXHIBIT 7)**

02:43:14 Ms. Nowakowski said a legislative proposal that will transition Oregon away from coal will be introduced during that state's 2016 legislative session that begins on February 1. **(EXHIBIT 8)**

Washington Legislation

02:45:46 Sen. Doug Erickson, chair, Senate Energy, Environment, and Telecommunications Committee, via phone, presented an update on the legislation proposed in Washington. He said he hopes to work together with Montana for a solution that benefits the entire region.

02:48:01 Sen. Tim Sheldon, vice chair, Senate Energy, Environment, and Telecommunications Committee, via phone, said when putting together the bill to close the TransAlta coal power plant the legislature worked with the community of Centralia to put together economic incentives to help transition away from reliance on the plant. He said he looks forward to working together with Montana in a proactive process.

02:49:50 Sen. Sheldon asked if the hearing has been scheduled for the bill.

02:49:54 Sen. Erickson said it will be sometime next week.

02:50:06 Sen. Jim Honeyford, member, Senate Energy, Environment, and Telecommunications Committee, said he is concerned about the impacts to Montana and the community of Colstrip if the plants are closed.

Oregon Legislation

02:50:41 Rep. Jessica Vega Pederson, chair, Oregon House Energy and Environment Committee, via phone, discussed the legislation in Oregon.

Committee Questions and Discussion:

02:53:19 Sen. Keane commented on the impact to Montana if the Colstrip power plants are closed.

Public Comment:

- 02:55:09 Sen. Ankney asked if an economic package for those negatively impacted by closure of the Colstrip power plant would be an amendment to the bill by the Washington legislature or if it would require a special session by the Montana legislature.
- 02:56:09 Sen. Sheldon said in the case of TransAlta the incentives were included in one bill.
- 02:56:38 Sen. Ankney asked if the Washington legislature can amend the bill in their committee. Sen. Sheldon said the title of the bill may be too narrow to add economic assistance for the community.
- 02:57:16 Sen. Erickson said he will look at the bill to see if an amendment can be added. He said his long-term goal is to be able to have Puget Sound Energy (PSE) operate the facility longer.
- 02:57:52 Sen. Ankney said he is concerned about the major industrial customers that will be directly and negatively affected by closure of the plants. He said he would like the Washington and Montana irrigators associations to calculate how closure of the plants will affect their electric bills.
- 02:58:40 Anne Hedges, Montana Environmental Information Center, discussed the differences in how coal plants were closed in Washington and Oregon.

Committee Questions and Discussion continued:

- 03:04:24 Sen. Ripley asked Sen. Erickson what the major differences are between the legislation proposed this year and last year.
- 03:07:22 Sen. Ripley said coal is still the most affordable and reliable form of electricity.
- 03:08:13 Sen. Sheldon said because this is a shorter legislative session he is not optimistic that a bill will move forward.
- 03:09:10 Rep. Norma Smith, Technology and Economic Development Committee, Washington, said she wants to make sure that PSE is providing Montana with copies of proposed legislation.
- 03:10:16 Sen. Brenden said there is diversity in how people view climate change and he will provide remarks from U.S. Secretary of State John Kerry.
- 03:12:13 Sen. Erickson said he looks forward to continuing to work with Montana. He left the meeting.
- 03:12:34 Rep. White asked if there is a copy of the legislation being proposed in Oregon. Mr. Kolman said a bill draft is expected today or tomorrow. Rep. Vega Pederson said the final changes for the bill draft are being worked on and will be available for their committee meeting tomorrow. She will provide copies for the Council.
- 03:13:50 Rep. White asked if Washington or Oregon Legislatures would consider amendments to its bills by Montana.
- 03:14:30 Rep. Vega Pederson said they would like to continue to have discussions and review comments from the EQC after it has had a chance to review the bill draft.
- 03:15:23 Sen. Sheldon said he looks forward to working with Montana. He left the meeting.

- 03:16:30 Rep. Norma Smith said she looks forward to continuing to work with Montana. She left the meeting.
- 03:17:24 Rep. White commented on working with Washington and Oregon and on the closure of coal power plants. He asked Ms. Hedges if MEIC would support or oppose a bill, to bond or buy, using the coal severance fund, the remaining interest in Colstrip to keep it open. Ms. Hedges said it would oppose the bill.
- 03:19:37 Rep. Vega Pederson said she would like to continue to work with the EQC after it has had a chance to review the bill from Oregon. She left the meeting.
- 03:20:12 Sen. Keane said the EQC has built a relationship with Washington and he is concerned about the bill in Oregon. He said Montana needs to build a relationship with Oregon since it takes its power from Colstrip Units 3 & 4.
- 03:21:45 Rep. Ellis said she would like to participate in the phone calls with Washington and Oregon. Mr. Kolman said the calls are being scheduled between individual legislators.
- 03:22:44 Sen. Ripley said Sen. Erickson is willing to have legislators testify by conference call during the hearings.
- 03:23:19 Rep. White asked Mr. Kolman if Washington or Oregon Legislatures live stream committee meetings. Mr. Kolman said both states broadcast their meetings over the internet and have the ability to take testimony over the phone.
- 03:24:44 **Motion:** Sen. Keane moved to have the EQC provide funding for he and Sen. Ripley to travel to the state of Washington to testify on legislation regarding closing Colstrip Units 1 and 2.

Discussion:

- 03:25:51 Rep. Ellis
- 03:26:34 Sen. Keane
- 03:27:32 Rep. Ellis
- 03:30:10 Sen. Ripley
- 03:31:11 Rep. Ellis
- 03:32:51 Sen. Keane
- 03:34:37 Sen. Brenden
- 03:36:07 Rep. Lieser
- 03:37:48 Sen. Vuckovich
- 03:38:52 Mr. Kolman clarified the motion.
- 03:39:08 Sen. Ripley
- 03:39:39 **Vote:** The motion carried 13-2 by voice vote. Rep. Lieser and Mr. Lindler voted no. Rep. Manzella and Mr. Aspenlieder voted aye by proxy. Sen. Phillips was excused.

SAGE GROUSE CONSERVATION UPDATE

- 03:40:22 Mr. Kolman said, without objection, Jeff Hagener, director, FWP, will provide information on sage grouse translocation. He said that Ms. Stockwell prepared a draft letter regarding translocating sage grouse as requested by Sen. Brenden. **(Exhibit 9)**

03:41:49 Mr. Hagener presented information on the translocation of sage grouse to Canada. ([Exhibit 10](#))

Committee Questions and Discussion:

03:46:38 Sen. Brenden asked Mr. Hagener if the sage grouse can be relocated on the Montana side of the Canadian border.

03:47:46 **Motion:** Sen. Brenden moved to send a letter to the Montana Fish and Wildlife Commission to enact a 3-year moratorium on proposals to translocate sage grouse to locations outside the borders of Montana.

Discussion:

03:48:26 Rep. White asked Mr. Hagener if there has been any discussion regarding compensation for the sage grouse. Mr. Hagener said in the past, exchanges have been done on a quid-quo-pro basis. He said Canada is paying all expenses for the translocation.

03:50:07 Rep. Ellis said translocation could benefit sage grouse populations in Montana in the long-term. She does not support sending the letter.

03:50:55 Sen. Keane said Montana needs to look at its own program. He supports sending the letter.

03:52:18 Sen. Vuckovich asked Mr. Hagener what the difference would be if the sage grouse are located within 10 yards of the Canadian border.

03:54:58 Mr. Lindler asked if the sage grouse are released in Montana will they find the lek that is being supplemented. Mr. Hagener said they may not.

03:55:33 **Vote:** The motion carried 10-5 by roll call vote with Rep. Curdy, Rep. Ellis, Rep. Lieser, Mr. Lindler, and Mr. Morris voting no. Rep. Manzella and Mr. Aspenlieder voted aye by proxy. Sen. Phillips was excused. ([Attachment 5](#))

03:57:00 Rep. Ellis asked that the vote count be included in the letter.

ORPHAN SHARE REMEDIAL ACTION AND PETROLEUM TANK RELEASE SITE CLOSURE UPDATES

03:58:12 Jenny Chambers, administrator, Remediation Division, Department of Environmental Quality (DEQ), gave an update on the progress of addressing hazardous substance and petroleum contaminated sites.

03:58:48 Ms. Chambers provided information on the progress of the work, as of December 16, 2015, authorized by SB 96 (2015) and the beneficial use of the \$3.5 million Orphan Share funds for this fiscal year. ([Exhibit 11](#))

04:01:00 Ms. Chambers provided a petroleum tank release site closure update. ([Exhibit 12](#))

Public Comment:

04:04:56 Terry Wadsworth, executive director, Montana Petroleum Tank Release Compensation Board, thanked the EQC for its interest in the closure of the petroleum tank release sites and said he is available for questions.

Committee Questions and Discussion:

- 04:05:27 Sen. Brenden asked if work is done during the winter. Ms. Chambers said, other than major excavations, work is moving forward.
- 04:06:43 Rep. Curdy asked Ms. Chambers to provide a list of acronyms.
- 04:07:47 Rep. Curdy asked Ms. Chambers if the DEQ has looked at the old Milwaukee generating stations across the state and if there is concern about contamination from those sites.
- 04:09:22 Rep. Ellis asked about the definition of "resolve." Ms. Chambers said it means the site is closed.
- 04:10:43 Sen. Keane asked Ms. Chambers to provide, at the next EQC meeting, the amount of money committed for projects next year and a graph showing the amount of sites closed per year.
- 04:13:09 Rep. White asked Ms. Chambers about the Diamond P Ranch in West Yellowstone and what "N/A" means under leveraged funds. Ms. Chambers said it means the DEQ has not started clean-up or done any investigations so no additional money has been leveraged for the site.
- 04:14:01 Rep. White asked Ms. Chambers if there is a time-line for when the Developmental Technology project in Bozeman will be delisted.
- 04:15:53 Rep. White asked Ms. Chambers about leveraged funds.
- 04:19:01 Recess for lunch
- 05:15:53 Reconvene

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

None

FWP PROGRAM EVALUATION: HUNTING ACCESS

- 05:16:44 Ms. Stockwell presented an overview of the FWP program evaluation on hunting access. **(Exhibit 13)** She provided a chart showing funding sources and operating expenditures for FY 2015. **(Exhibit 14)**
- 05:21:15 Ms. Stockwell discussed the Block Management Program.
- 05:28:30 Ms. Stockwell discussed the Special Access Projects Program.
- 05:28:55 Ms. Stockwell discussed the Access Public Lands Program.
- 05:29:19 Ms. Stockwell discussed the Unlocking Public Lands Program.
- 05:29:48 Ms. Stockwell discussed the Upland Game Bird Enhancement Program.
- 05:30:40 Ms. Stockwell discussed the Hunter-Landowner Stewardship Project.

Public Comment:

- 05:31:19 Nick Gevock, conservation director, Montana Wildlife Federation (MWF), said they introduced a bill during the last legislative session to increase fees on hunting licenses in order to put more money into the block management program.
- 05:32:23 Mr. Hagener said FWP staff are available to answer questions.

Committee Questions and Discussion:

- 05:32:56 Rep. Ellis asked Alan Charles, Sportsmen Landowner Relations Bureau Chief, Wildlife Division, FWP, about decline in participation and limiting factors for landowners enrolling in the Block Management Program.
- 05:39:12 Rep. Ellis asked Mr. Charles if FWP has done any surveys with landowners participating in the program. Mr. Charles said it has.
- 05:40:32 Rep. Ellis asked Mr. Gevock about the bill the MWF introduced during the last legislative session.
- 05:41:43 Rep. Curdy said he is concerned about the merger between Plum Creek Timber Company and Weyerhaeuser Company and asked Mr. Charles if FWP is working on a potential problem with public access.
- 05:44:49 Rep. Curdy asked Mr. Charles if FWP's Block Management Program with Plum Creek is a year-round agreement or if public access is allowed only during the hunting season. Mr. Charles said the agreement with Plum Creek is unique because it provides access year-round. He said the Block Management Program is, by statute, only a hunting access program.
- 05:46:25 Rep. White asked if the Legislative Audit Committee is still expected to present its followup to the 2013 performance audit of the Block Management Program in February. Ms. Stockwell said it is.
- 05:47:58 Rep. Ellis asked if Plum Creek only receives \$12,000 for access to its land. Mr. Charles said Plum Creek receives no direct payment and has instead opted to receive the services FWP provides to help enforce the rules and regulations for Plum Creek.

FWP GAME DAMAGE RULE IMPLEMENTATION UPDATE

- 05:49:22 Mr. Charles presented an update on the game damage rules adopted on December 11, 2015.
- 05:51:09 Mr. Charles gave an example of hunter selection for a supplemental game damage license hunt.
- 05:53:58 Mr. Charles gave an example of hunter selection for a game damage hunt.
- 05:56:25 Mr. Charles gave an example of hunter selection for a management season hunt.
- 05:59:25 Mr. Charles provided answers to additional questions asked by Council members at the last EQC meeting.

Public Comment: None

Committee Questions and Discussion:

- 06:01:52 Rep. White asked Mr. Charles about public interest in late season hunts and if the FWP will increase the number of districts involved next year. Mr. Charles said the question applies to shoulder season hunts, but that there is interest by hunters wanting to be considered for game damage hunts.
- 06:04:29 Rep. White asked Mr. Charles if FWP is allowing game damage hunts in the five districts participating in shoulder season hunts. Mr. Charles said it is not.
- 06:05:35 Rep. Curdy asked Mr. Charles for an update, at the next EQC meeting, on the number of hunters who were chosen by the department, but did not show up for a hunt. Mr. Charles said he will provide the information.

FWP SHOULDER SEASON UPDATE

- 06:07:58 Quentin Kujala, Wildlife Bureau coordinator, FWP, gave an update on elk shoulder seasons.
- 06:09:27 Mr. Kujala provided historical background information on shoulder seasons.
- 06:11:51 Mr. Kujala discussed the shoulder season pilot project.

Public Comment:

- 06:22:22 Mr. Gevock said there is concern in the sportsmen's community about shoulder seasons and expanding the program without more data on how it is working. He provided a copy of a story from the *Montana Quarterly* illustrating issues with elk management. ([Exhibit 15](#))

Committee Questions and Discussion:

- 06:25:17 Mr. Lindler asked how the FWP is planning to handle the additional workload for game wardens. Mr. Hagener said they are looking at the issue.
- 06:27:49 Rep. White said there were no game damage hunts in the five hunting districts that participated in the shoulder seasons. Mr. Kujala agreed.
- 06:28:19 Rep. White requested that the FWP provide the EQC with the completed report on shoulder seasons when it is available.
- 06:29:24 Rep. White asked if the FWP will do away with shoulder seasons if the pilot program proves to be unsuccessful. Mr. Kujala said it will.
- 06:32:51 Rep. Ellis asked Mr. Kujala if a landowner participating in a shoulder season is also eligible to participate in the Block Management Program.
- 06:36:35 Sen. Ripley asked about the public comment period for shoulder seasons. Mr. Kujala said the current public comment period expires on January 22 and is open for any element of deer, elk, antelope, moose, sheep, and goat seasons in Montana.
- 06:37:30 Sen. Ripley asked Mr. Kujala if there will be a separate comment period for the season setting.
- 06:38:35 Rep. Curdy asked about concerns of chasing cow elk within 3 months of calving and if there have been any major problems with hunters damage to landowner property. Mr. Kujala said it has not been a problem.

COUNTY ROAD JURISDICTION

- 06:40:50 Helen Thigpen, staff attorney, Legislative Services Division, provided answers to Council member questions about county roads, the number of county road disputes in Montana, and the authority county commissioners have with respect to roads.
- 06:41:53 Ms. Thigpen gave background information on county roads.
- 06:44:31 Ms. Thigpen discussed the authority of county commissioners.
- 06:46:28 Ms. Thigpen said counties are not required to maintain county roads, but do have to remove obstructions.
- 06:47:40 Ms. Thigpen discussed lawsuits involving county roads.
- 06:49:38 Ms. Thigpen discussed HB 290 (2011) which shifted the burden to show a road is a private road easement and not a public road to the person who wants to close the road.

Committee Questions and Discussion:

- 06:50:57 Sen. Vuckovich asked about the supreme court ruling regarding *Letica Land Company, LLC v. Anaconda-Deer Lodge County* and closing access to public land.
- 06:54:40 Rep. White asked Ms. Thigpen about prescriptive easements and adverse possession and how long a gate has to be in place before a road is considered to be abandoned.
- 06:56:10 Rep. White asked Ms. Thigpen if a county can show jurisdiction over a road if it has been receiving tax income on it. Ms. Thigpen said she will find out.
- 06:57:28 Rep. White asked Ms. Thigpen about restrictions on the abandonment of a county road that provides access to public lands.
- 06:59:38 Recess
- 07:17:18 Reconvene

HJ13 STUDY - ROADS, LAND, & WILDLIFE

- 07:17:49 Mr. Kolman said at its last meeting the EQC looked at U.S. Forest Service (USFS) and Bureau of Land Management (BLM) roads and at the results of an FWP analysis from 2013 that looked at identifying parcels of public land that did not have legal road or water access. He presented an interactive map building on some of that analysis ([Exhibit 16](#)) in the HJ13 study report. ([Exhibit 17](#))
- 07:37:04 Mr. Kujala said it is FWP's intent to identify the level of road access that provides harvest consistent with management prescriptions without displacing elk such that harvest is reduced.
- 07:43:51 Eric Johnston, assistant director, Renewable Resources Management, Region 1, USFS, highlighted the distinction between access to National Forest System (NFS) lands and open roads that provide opportunities for motorized travel.
- 07:47:48 Mr. Johnston discussed coordination between the USFS and the FWP on issues regarding elk habitat management on NFS lands.
- 07:52:10 Rick Hotaling, district manager, BLM, Western Montana District, provided information on BLM's management policy on access and roads.
- 07:57:28 Mark Lambrecht, director, Government Affairs, Rocky Mountain Elk Foundation, discussed issues affecting hunting opportunities in Montana. ([Exhibit 18](#))
- 08:05:26 Marshall Johnson, regional director, Mule Deer Foundation (MDF), provided its perspective for hunting on public lands, block management, and private land.

Public Comment:

- 08:16:13 Brian McCullough, Helena
- 08:33:00 Mr. Gevock

Committee Questions and Discussion:

- 08:36:25 Ms. Erb asked Mr. Johnson when the Mule Deer Foundation acquires a piece of agricultural property if cattle are removed or allowed to continue to graze on it. Mr. Johnson said the MDF does not own property, but helps to purchase property.
- 08:37:34 Rep. White asked Mr. Kujala if closing roads on NFS land or pressure from predators has resulted in wildlife moving from private land back to public land.
- 08:42:32 Rep. White thanked staff for putting together the interactive map and commented on a University of Montana study that found 58% of off-highway vehicle (OHV) owners said the most important issue facing OHV recreation is access to trails.

Next Steps for HJ 13 Study

- 08:44:42 Sen. Vuckovich opened discussion on next steps for the HJ 13 study.
- 08:45:01 Rep. White said the only way to determine if landowners permit access across their property is by doing a survey. He asked what question FWP has agreed to put on its survey.
- 08:47:33 Mr. Kolman said FWP has delayed its elk harvest survey until it receives information on shoulder season and game damage hunts. He said the FWP survey will include the type of property the elk was harvested on and how the hunter obtained access to the property. Rep. White said the information may provide enough information for the HJ 13 study.
- 08:48:54 Sen. Keane asked about the survey. Mr. Kolman said FWP will conduct the survey and can provide the data to the EQC.
- 08:49:19 Sen. Keane said the interactive map is a valuable resource and should be made available for others to use.
- 08:50:41 Rep. White asked if the data in the interactive map can be updated. Mr. Kolman said it could be updated if the EQC allocated staff time to do so in future Interims.
- 08:52:02 Rep. White said he will work with staff to complete a summarized report of the study before the next EQC meeting.
- 08:53:52 Mr. Kolman said a lot of what was in the work plan has been completed. He said the survey results will not be available by the March meeting and requested that Council members provide their finding and recommendations to staff before the mailing deadline for the meeting.
- 08:56:10 Mr. McCullough said he was called as part of the FWP survey, but was not asked about elk harvest or where the animals were harvested from. Mr. Kolman said the phone survey is followed by a mail survey which includes the question on where the animal was harvested.
- 08:57:31 Mr. Kujala said the department is suspending questions on elk harvest until the end of shoulder season. He said if hunters answer yes to the phone survey they will receive a mailing about where the animal was harvested.

ADJOURN

- 08:58:29 Sen. Vuckovich adjourned the meeting at 4:59 p.m.

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