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BEFORE THE WATER POLLUTION CONTROL  
ADVISORY COUNCIL (WPCAC)

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TRANSCRIPT OF PROCEEDINGS

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Heard at Room 111, Metcalf Building  
1520 East Sixth Avenue  
Helena, Montana  
January 11, 2012  
10:00 a.m.

CHAIRMAN TREVOR SELCH; MEMBERS  
DUDE TYLER, EARL SALLEY, MITCHELL LEU,  
KEITH SMITH, KAREN BUCKLIN-SANCHEZ,  
COREY FISHER, and MICHAEL WENDLAND  
(All by telephone)

PREPARED BY: LAURIE CRUTCHER, RPR  
COURT REPORTER, NOTARY PUBLIC  
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HELENA, MT 59624  
(406) 442-8262

1           WHEREUPON, the following proceedings were  
2 had:

3                           \* \* \* \* \*

4                           (MR. TYLER AND MS. SANCHEZ  
5                           NOT PRESENT)

6           CHAIRMAN SELCH: It looks like we have a  
7 quorum. We still might have some folks calling  
8 in. We'll call the meeting to order.

9           THE OPERATOR: Now joining the meeting.

10          MR. TYLER: Dude Tyler.

11          CHAIRMAN SELCH: We booted you off,  
12 Dude.

13          MR. TYLER: Something did, and it wasn't  
14 my fault. Good morning, everybody. Have you  
15 started the meeting, Trevor?

16          CHAIRMAN SELCH: We just did actually,  
17 right as you called in, so perfect timing.

18                 So thanks for everyone calling in today.  
19 Before we get started, we actually have a  
20 replacement for Stephanie. Her name is Sarah  
21 Norman. And I guess we'll introduce her again the  
22 next time when people are here in person. But  
23 she's in on the meeting today to kind of learn the  
24 ropes here.

25                 The first item is the approval of the

1 agenda. Everyone I assume has had a chance to <sup>3</sup>  
2 look it over. It's fairly brief today.

3 MR. TYLER: This is Dude. I move we  
4 approve the agenda.

5 MR. SALLEY: Earl Salley. I'll second.

6 CHAIRMAN SELCH: So moved. I don't  
7 think we need a vote on that. Did everyone have  
8 to chance to look at the minutes from our November  
9 2nd meeting, and does anyone have any edits or  
10 comments for those minutes?

11 MR. WENDLAND: Trevor, I had trouble  
12 opening the minutes. I got them encrypted, so I  
13 really didn't have a chance to review them like I  
14 should, but I guess that's just --

15 CHAIRMAN SELCH: Was that the minutes or  
16 the transcript or both?

17 MR. WENDLAND: I don't know. I could  
18 print the agenda off, but I could not get the  
19 minutes or transcript or whatever, but that's all  
20 right. We'll move forward.

21 CHAIRMAN SELCH: Was that Mike?

22 MR. WENDLAND: Yes, Mike Wendland.

23 MS. GREELEY: What program are you  
24 trying to open them with? I'm wondering if it  
25 might be a case of 2007 to 2010 Word that is

1 having issues or the PDF that's having the issue.

2 MR. WENDLAND: I assumed it was  
3 something like that was the problem, but yes.

4 MS. GREELEY: We can always send it to  
5 you in Word if you have a hard time opening it in  
6 the PDF.

7 MR. WENDLAND: Okay.

8 CHAIRMAN SELCH: I know I accessed it  
9 this morning. It worked on my computer. It must  
10 be an issue kind of like that.

11 We have a motion to approve the minutes  
12 from November 2nd.

13 MR. SMITH: Keith Smith. I'll make that  
14 motion.

15 MR. TYLER: Dude, second.

16 CHAIRMAN SELCH: So it is approved.

17 We have our one briefing item for today,  
18 which is the legislative briefing from John North.  
19 Since we're a little early, maybe we'll just move  
20 on. Looking at our calendar, I'll get Amy to talk  
21 about that.

22 MS. STEINMETZ: Did everybody get a  
23 chance to look over the attachment? Michael, were  
24 you able to get that one? I believe that's a PDF  
25 as well. I sent you the three attachments, right?

1 MR. WENDLAND: I didn't get anything  
2 else, no.

3 MS. STEINMETZ: Well, they're the same  
4 dates that I had emailed everyone on December  
5 11th. They were today obviously; February 22nd,  
6 April 19th, June 14th, September 6th, and November  
7 1st.

8 CHAIRMAN SELCH: Those are all Fridays.

9 MS. STEINMETZ: They were. They were  
10 all Fridays, all 10:00. Did anybody have any  
11 problems with those? I know Keith, you had  
12 mentioned you might not be able to make the  
13 February meeting; and then Trevor will be out  
14 almost certainly for the April.

15 CHAIRMAN SELCH: Yes.

16 MS. STEINMETZ: Other than that?

17 MR. SMITH: I will be in Great Falls. I  
18 may drive down to Helena that morning. I'm at a  
19 conference.

20 THE OPERATOR: Now joining.

21 MS. SANCHEZ: Karen Sanchez.

22 MR. SMITH: The February 22nd I'll be in  
23 Great Falls. I might be able to slide down to  
24 Helena for the meeting or even call in. Keith  
25 Smith.

1                   MS. BUCKLIN-SANCHEZ: Hello. This is <sup>6</sup>  
2 Karen Sanchez.

3                   CHAIRMAN SELCH: Hi, Karen. Thanks for  
4 calling in. We're just approved the minutes, and  
5 we're just doing the 2013 calendar here waiting  
6 for John North, because we're a little bit of  
7 ahead of schedule.

8                   And so Amy had just mentioned the  
9 meeting dates for our 2013 calendar. Did you have  
10 a chance to review that, and do those dates work  
11 for you?

12                   MS. BUCKLIN-SANCHEZ: Thank you very  
13 much. And I apologize to everybody. I was  
14 discussing something with my supervisor here. And  
15 again, I apologize.

16                   Yes, I reviewed the minutes, and also I  
17 have reviewed the dates, and thank you for asking.

18                   CHAIRMAN SELCH: Do we have a motion to  
19 adopt the 2013 meeting calendar?

20                   MR. TYLER: So moved. This is Dude.

21                   MR. WENDLAND: I would second that.  
22 Mike Wendland.

23                   CHAIRMAN SELCH: I assume that's  
24 non-confrontational, so we'll pass the adoption of  
25 the meeting calendar for 2013.

1                   MR. WENDLAND:    So can you just read<sup>7</sup>  
2   those dates back to me one more time, and I'll  
3   write them in here.

4                   MS. STEINMETZ:    Sure.   We have February  
5   22, April 19th, June 14th, September 6th, and  
6   November 1st.

7                   MR. WENDLAND:    Okay.

8                   MS. STEINMETZ:    I'll go ahead and email  
9   those dates out again, and we'll post the calendar  
10  again.   So hopefully everybody will be able to do  
11  those.

12                  CHAIRMAN SELCH:   Well, we're still  
13  waiting for John since we're ahead of schedule  
14  here, and I guess we just might as well move on to  
15  our second action item, which was the selection of  
16  our 2013 Chair person.   I sent you guys out an  
17  email there earlier on, just letting you know that  
18  I'll be a little bit out of the office for the  
19  next year, especially come next fall, or spring  
20  and fall.   And so I'd be willing to entertain any  
21  nominations for our 2013 Chair person.

22                  MR. TYLER:    Repeat that, please, Trevor?  
23  We don't have a lot of sympathy out here.

24                  CHAIRMAN SELCH:   I said I'd be willing  
25  to entertain nominations for a 2013 Chair person.

1 (No response)

2 CHAIRMAN SELCH: Or I might have to make  
3 some nominations.

4 MR. TYLER: This is Dude. I nominate  
5 Trevor to serve another year.

6 MR. SALLEY: Earl Salley. I'll second  
7 that.

8 CHAIRMAN SELCH: Any discussion?

9 MR. TYLER: You thought this was going  
10 to be easy, didn't you?

11 CHAIRMAN SELCH: I guess I won't deny  
12 the nomination if we don't have anyone else, any  
13 nominations. I guess we could call it to a vote.  
14 All those in favor of me staying on for 2013.

15 (Response)

16 CHAIRMAN SELCH: Anyone opposed?

17 (No response)

18 CHAIRMAN SELCH: Okay. Motion carries.  
19 I guess I tried. Like I said, I'll be out of the  
20 office, and some of them I may have to actually  
21 call in potentially to chair them, if I can't  
22 sneak out, but we'll make it work. Otherwise I'll  
23 delegate down to Dude for nominating me.

24 MR. TYLER: We can manage, Trevor.

25 MR. WENDLAND: We'll work with you,

1 Trevor. I think you do a good job, so keep up the  
2 good work.

3 CHAIRMAN SELCH: Sounds good. Then we  
4 have John North here now, so we're just going to  
5 jump back to our briefing item, and he will  
6 provide us with a legislative briefing.

7 MR. NORTH: Thank you, Mr. Chairman,  
8 members of the committee. John North, Chief Legal  
9 Counsel for DEQ.

10 This is going to be a very short report  
11 because there is one bill to report on at this  
12 point. I don't follow bill draft requests simply  
13 because there are so many of them, and so many of  
14 them that don't ever become an introduced bill.

15 So the one bill that is out there is  
16 Senate Bill 76. It is introduced by Senator  
17 Vincent, and it is at the request of DEQ. And it  
18 is a bill to amend the Water Quality Act to allow  
19 the Board to adopt rules specifically relating to  
20 the location, design, construction, and capacity  
21 of cooling water intake structures.

22 Essentially 316 of the federal act says  
23 that EPA is to adopt rules to regulate intake  
24 structures to ensure that they have the best  
25 available technology for minimizing adverse

1 environmental impacts, which I think is mainly <sup>10</sup>  
2 fish entrainment, that sort of thing.

3 There is two phases of the federal  
4 rules. The first phase dealt with new intake  
5 structures, and the Department way back in the  
6 1970s, as I understand it, did adopt those rules  
7 to regulate new intake structures. Now EPA is  
8 about to come out with rules for existing  
9 structures, and so probably for the first time,  
10 these rules would have some sort of potential  
11 impact on industries in Montana.

12 And we felt that it was probably a good  
13 idea to go in to the Legislature and get specific  
14 authority for these because they're not  
15 technically discharges. And we think we probably  
16 had the authority anyway, but it would be better  
17 just to make sure that it is specifically in  
18 there, and so that's what this bill does.

19 We've been contacted. The bill is to be  
20 heard in the Senate for the first time, its first  
21 hearing in the Senate is on Monday. We've talked  
22 with some of the potentially regulated industries,  
23 and they've indicated that they'd like an  
24 amendment to provide that our rules would be no  
25 more stringent than federal. We've indicated that

1 that shouldn't be a problem. So I suspect this  
2 bill will probably go through, but in a somewhat  
3 modified fashion.

4 And that's it for water quality bills at  
5 the current time.

6 CHAIRMAN SELCH: John, so the current  
7 rule that's being proposed doesn't have anything  
8 different than the federal rule? They're wanting  
9 the amendment to make it no more stringent, but  
10 has DEQ proposed more specific --

11 MR. NORTH: No. We're waiting for the  
12 federal rules to be finalized, which I think is  
13 anticipated to occur in April of this year. And  
14 our intention was never to be more stringent than  
15 the federal anyway, so it is not an amendment that  
16 we would oppose. We would support it.

17 MR. SMITH: John, you said this was  
18 cooling towers, and it would be intake from our  
19 surface water?

20 MR. NORTH: Yes.

21 MR. SMITH: This is referencing intakes  
22 for cooling towers, not discharges, and is just  
23 for surface water, correct?

24 MR. NORTH: That is correct. Yes, it is  
25 just for surface water. It's just for intakes or

12  
1 cooling structures. It is not discharges. If  
2 those are point source discharges, they're already  
3 covered under our discharge permit requirements  
4 anyway.

5 MR. SMITH: Thank you.

6 CHAIRMAN SELCH: Anyone else on the  
7 phone have any questions for John?

8 MR. SALLEY: This is Earl Salley. I'm  
9 suspecting that in the February meeting we'll get  
10 a further review on bills that we may be concerned  
11 about. Is that possible?

12 MR. NORTH: Yes, sir. No problem at  
13 all. There will probably be more bills at that  
14 point.

15 MR. SALLEY: Okay. Thank you.

16 MR. FISHER: John, this is Corey Fisher.  
17 I had a question. At our June meeting there was  
18 an agenda item on rural development growth impacts  
19 primarily for Montana, and as part of that  
20 discussion, it was mentioned that there is likely  
21 to be some legislation this year that would  
22 address some of those impacts. I'm wondering if  
23 you've seen any of that, or if that's something  
24 that maybe we should keep our eye on as the  
25 Legislature moves forward.

1           MR. NORTH: I have not seen any of that  
2 yet, but again, this is the first week of the  
3 session, and there is not a whole lot of bills  
4 out. Certainly I can report on that in February  
5 as well. And also Steve Kilbreath who is with our  
6 Department has been assigned a temporary one year  
7 position to work on those kinds of impacts, and it  
8 could be that I should just bring him along, and  
9 in February he can give you even a more  
10 comprehensive report on that.

11           MR. FISHER: Thank you.

12           CHAIRMAN SELCH: Anyone else on the  
13 phone have any questions for John?

14           MS. SANCHEZ: Not from me. Thank you.  
15 This is Karen.

16           CHAIRMAN SELCH: Thanks, John. I  
17 appreciate it. Well, unless we count Eric, we  
18 don't have any member of the public here, so I'm  
19 assuming we don't have any public comment, which  
20 brings us to our last agenda item, which is  
21 finding agenda items for next meeting. And so  
22 Amy, did you have anything specific other than  
23 that we just talked about?

24           MS. STEINMETZ: The only thing that is a  
25 slight possibility that might come up in February

1 would be Silver Bow, and my gut feeling, and <sup>14</sup>  
2 actually my hope is that that would actually come  
3 through in April. It would give us more time for  
4 review, give a report. Do you have anything  
5 thoughts on that, Eric?

6 MR. URBAN: No. The project, the Silver  
7 Bow classification project -- this is Eric Urban,  
8 Montana DEQ. The Silver Bow Creek classification  
9 project, we're in the process of finalizing it  
10 now. We anticipate rulemaking in early 2013. So  
11 I guess that somewhere between now and this summer  
12 to initiate rulemaking. We'll come to WPCAC  
13 before that. It might be a little early to bring  
14 it to you in February, just so we can get it  
15 polished up for you.

16 MS. STEINMETZ: That's kind of my  
17 thoughts. I know Rod really wanted to be able to  
18 bring it in February, and I think probably more  
19 likely it will come in April, but we'll see. So  
20 that's one thing that's maybe a slight  
21 possibility.

22 I don't think Standards has anything  
23 else, right? And I haven't heard anything from  
24 any of the other water programs that would be  
25 coming in February. So it looks like a

1 legislative update.

2 And I guess a question for all of you.  
3 If we don't have any action items, and we would  
4 just have maybe a legislative briefing, should we  
5 cancel the February meeting, or just have another  
6 conference call? What's your thoughts? What are  
7 your thoughts on that?

8 CHAIRMAN SELCH: I guess I'd be  
9 interested, if there is a significant legislative  
10 update, it might be something we can even email  
11 out to all the folks, rather than having everyone  
12 call in or something, but it would be good to get  
13 that information on people's radar, just even a  
14 bullet point to look at the concerns. What are  
15 the thoughts on the phone?

16 UNKNOWN SPEAKER: Email idea sounds  
17 pretty good.

18 UNKNOWN SPEAKER: I think that's  
19 adequate.

20 MS. STEINMETZ: So if no action items  
21 come through or no significant briefing items,  
22 then we would go that route. For now, we'll keep  
23 the February meeting scheduled until we have a  
24 better idea of what will be coming forward for  
25 that meeting.

1           And the other thing that I wanted to get  
2 a feel from the group for is if you'd like John  
3 North or one of our other attorneys to talk about  
4 WPCAC's role in the rulemaking process. When Tom  
5 Reid was here in November, that question kind of  
6 came up, because he had mentioned that public  
7 comment was still open, that there still could be  
8 changes to their rule package; and the group  
9 wasn't exactly sure if he needed to come back to  
10 us, or what our role was in that capacity.

11           Is there interest from the group in  
12 hearing from John North or one of our attorneys on  
13 just a description of the group's role, and what  
14 the Department's responsibility is as far as  
15 coming to WPCAC?

16           MR. WENDLAND: This is Mike Wendland. I  
17 think that's a good idea. We've had a few new  
18 members in the last year or so, and I would think  
19 that it would be a good idea.

20           MR. SMITH: This is Keith Smith. As one  
21 of the new members, I would definitely be  
22 interested in that.

23           MS. STEINMETZ: So for our next meeting  
24 we do hold, whether it is February or April, we'll  
25 ask John to do a little briefing on that.

1           CHAIRMAN SELCH: It sounds like a good  
2 idea. Anyone on the phone have any other  
3 potential items, agenda items, for an upcoming  
4 meeting, whether it be February or beyond that?

5           MS. BUCKLIN-SANCHEZ: This is Karen.  
6 No, I don't. Thank you.

7           MR. SALLEY: This is Earl. I don't have  
8 any at this time.

9           MS. STEINMETZ: Well, we'll keep you  
10 posted on possible agenda items, and whether or  
11 not that February meeting will be held.

12           CHAIRMAN SELCH: Okay. If not, does  
13 anyone else on the phone have any other issues to  
14 discuss?

15           MR. WENDLAND: I just want to  
16 congratulate you, Trevor. It is exciting.

17           CHAIRMAN SELCH: I'll have to improve my  
18 lobbying in future years.

19           So hearing none, I guess I move to  
20 adjourn the meeting.

21           MR. LEU: So moved. This is Mitchell.

22           CHAIRMAN SELCH: Thanks for calling in,  
23 guys. Everyone stay safe on the roads.

24           (The proceedings were concluded at 10:23 a.m. )

25                           \* \* \* \* \*

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STATE OF MONTANA )

: SS.

COUNTY OF LEWIS & CLARK )

I, LAURIE CRUTCHER, RPR, Court Reporter,  
Notary Public in and for the County of Lewis &  
Clark, State of Montana, do hereby certify:

That the proceedings were taken before me at  
the time and place herein named; that the  
proceedings were reported by me in shorthand and  
transcribed using computer-aided transcription,  
and that the foregoing - 17 - pages contain a true  
record of the proceedings to the best of my  
ability.

IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed my notarial seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_

LAURIE CRUTCHER, RPR  
Court Reporter - Notary Public  
My commission expires  
March 12, 2016.

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