

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By CHAIRMAN DON HARGROVE, on January 27, 1997, at
10:00 a.m., in Room 331

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Delwyn Gage (R)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: David Niss, Legislative Services Division
Mary Morris, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SR 5, 1/22/97; SR 6, 1/22/97
Executive Action: None

HEARING ON SR 5

Sponsor: CHAIRMAN DON HARGROVE

Proponents: Bob Gilbert, Secretary-Treasurer, Montana Wool
Growers Association
Les Graham, Montana Stockgrowers Association,
Montana Cattlemen, Montana Dairy Association,
Auction Markets Association
Gary Broyles, Vice President, Montana Grain
Growers Association
Lorna Frank-Karn, Montana Farm Bureau
Candace Torgerson, Women Involved in Farm
Economics
Chuck Merja, Sun River
Lanny Christman, Dutton

Opponents: None

Opening Statement by Sponsor:

CHAIRMAN DON HARGROVE, stated that SR 5 is a resolution to confirm the appointment of **Ralph Peck, Director, Department of Agriculture**. He welcomed **Mr. Peck** to the hearing, and stated that he thinks this is a very important process, that it is not just a formality, pointing out that **Mr. Peck** is serving in a dejour status. He added that he thinks this process validates the democratic process in allowing the people to participate in the appointment of individuals to positions of high responsibility within the State.

CHAIRMAN HARGROVE indicated that at least fifteen minutes will be allowed for public input, after the Committee has the opportunity to ask questions. He then invited **Mr. Peck** to make a statement.

Ralph Peck, Director, Department of Agriculture, stated that it is an honor to receive the nod of the Governor to step forward and serve the agricultural industry as Director of the Department of Agriculture.

He gave a brief overview of his background, reporting that he started out in the family agricultural business but, due to allergies, opted to pursue a degree in Business. He reported that, after working in the automobile industry for three years, he decided to return to college where he earned a Masters Degree in Agriculture, following which he worked for the State of Montana then, later, as Controller/Assistant Vice President for Econ, Inc., a natural resource consulting firm, where he was also their agriculture economist. He then indicated that he took advantage of an opportunity to return to work for the State of Montana as Deputy Director of the Department of Agriculture and, eighteen months ago, was appointed to serve an unfinished term as Director of the Department.

Mr. Peck stated "there is life after production agriculture", and reported that this is the message he has conveyed to the Young Couples Conference, that he has told them to hang on to the industry and experience as much as they can, to realize what they've got, and evaluate any other opportunities before they walk away from it, because it is a high capital industry and very difficult to get back into, once they leave it.

He maintained that, although he can not be on the production side of the industry, he is very pleased to have the opportunity to serve his State and the industry, and a Governor that he highly respects, and that it is a privilege to do so. He stated that he will do the best he can and show the utmost commitment to continue to work for the citizens of Montana, adding that it is a privilege to serve and work with the agricultural organizations, and the Legislators, as they try to deal with tough issues for the future of the industry and the State.

Questions From Committee Members and Responses:

SEN. DELWYN GAGE asked **Mr. Peck** what his policy is regarding Legislators talking with his employees.

Mr. Peck responded that the Department has a written policy which gives their employees direction, especially during the Legislative session. He indicated that they ask employees to respond concisely and to the level of their expertise in answering questions and providing information to the Legislature, but that policy questions be referred to the Director's office, which is where the policy and direction of the Department comes from, adding that they encourage staff to provide as accurate information as possible to all Legislators. He stated that employees are encouraged to participate in the process, but are asked to obtain authorization to attend hearings, and to properly sign out, in order to be sure they are following appropriate protocol regarding lobbying requirements and also, if they wish to testify on their own behalf, they are asked to do so on their own time. He added that they are also asked to identify themselves as employees of the Department of Agriculture.

SEN. GAGE asked **Mr. Peck** his opinion on the issue of putting all State leases on a cash basis.

Mr. Peck responded that it would be much easier to administrate those leases if they were on a cash basis, noting that the bill which has been presented to the Legislature provides some protection in the event of certain natural disasters. He stated that he has listened to the industry, and visited with individuals, and there are opinions on both sides of the issue, adding that, on a cash lease, there is the ability to capitalize on a high-production year. He then indicated that he is looking for direction from the Legislature on this issue, that he thinks there are advantages to cash leases, with an escape clause to insure that individuals who experience losses from natural disasters are able to continue to operate.

SEN. GAGE asked if the Department is in charge of the State Hail Program.

Mr. Peck replied that is correct.

SEN. GAGE asked how the program is doing.

Mr. Peck reported that 1995 was basically a break-even year in that they paid out for losses an amount approximately equal to the premiums received, but that, in 1996, only about 60% of the amount received in premiums was paid back to producers for losses, and 18% of the premiums were refunded, noting that the Program is actuarially sound. He stated that there are individuals who would like to see the amount of coverage increased, but that the private insurers met with the Department last year to express their desire that the State Hail Program

maintain the same level of coverage so those private insurers can provide the additional coverage needed by producers. He reported that, in 1996, some insurers wrote the maximum amount of risk coverage, that there were producers who were not able to get insurance other than State Hail insurance because the companies in their areas had as much risk as they could handle. He explained that private companies, charging on a township-range basis can be very competitive with the State, which, for administrative cost reasons, sets rates on a county-by-county basis, and that they encourage producers to shop around and make their own decision. He reported that the State Hail Board has voted to keep the coverage at the same level.

SEN. KEN MESAROS pointed out that the Department of Agriculture covers a very important aspect of the economy in the State, and asked **Mr. Peck** to identify what he perceives as the top five goals he would like to pursue in his role as Director.

Mr. Peck responded that his primary goal is to serve the agricultural industry and provide service through the Department of Agriculture that is appropriate. He reported that another goal is to continue to work and develop the industry, which will continue to be vibrant and have an important role in the future of the State. He added that he has asked the Department to remember they are there to serve the people of Montana and help them comply with the law regarding protection of the environment, and the protection of our economy. He pointed out that communication is critical, and the Department tries to work very closely with the farmer organizations in the State to understand what their needs are, and what activities they feel the Department should be performing.

Mr. Peck explained that a fourth goal and direction that he would like to see the Department continue to work towards is providing opportunities for the industry to step forward and meet the demands they will continue to face in marketing. He stated that it is a fast-paced, active world market, that is globally reactive. He cited the example of seed wheat brought into Montana from Arizona, where *karnal bunt* disease has been found, and reported that nine loads of Montana seed wheat are being held in Greece because they believe it has *karnal bunt* disease, although it was tested prior to being shipped, and found free of the disease. He stated that they have to be very conscious and supportive to maintain and develop markets, whether for raw materials or value-added agriculture, and the Department would like to be a catalyst to creating marketing opportunities, bringing people in private industry together and removing impediments from private enterprise, and to continuing to develop and work for markets in Montana.

He remarked that the Department would also like to continue to work to define the functions of the Department of Agriculture to be responsive to industry needs. He pointed out that ninety-six percent of their budget is funded through fees paid by the

industry they serve, and they report back to those industries as to revenues received, how those revenues are being used, and what their anticipated budget and direction is. He added that they make any necessary adjustments, and bring their proposals to the Legislature so that the Department can continue to be responsive to the industry's needs.

SEN. MESAROS asked if he sees any areas within the Department that could be streamlined.

Mr. Peck responded they have identified the Noxious Weed Control Program as one area where there are some valid concerns. He stated that there is too much paperwork and duplication of records, in that counties maintain records on noxious weed grants, and that information is also sent to the Department. He reported that he visited with **Scott Seacat, Legislative Auditor**, about the possibility of eliminating that recordkeeping process at the State level, and retain it solely at the county level. He added that the Department needs to take a look at this process in other programs.

SEN. VIVIAN BROOKE informed **Mr. Peck** that she sent him a copy of a bill draft, noting that he may not have received it yet, and explained that it has to do with an employee's right to express concerns without the fear of retribution. She asked him to please review that bill draft and respond to her with his reactions.

Mr. Peck stated that he would be delighted to do that.

SEN. BROOKE then asked if there have been other incidences involving agricultural chemicals, such as the one in Missoula, and also how that program is working, now that the review and oversight have been moved into the Department of Environmental Quality.

Mr. Peck stated that he does not think the agencies had worked well together, and it was a difficult issue. He added that he believes they are working very closely with the Department of Environmental Quality in this area, noting that DEQ has gone through some major challenges with reorganization this past year. He reported they are working on a bill to clarify the standards for the chemical ground water program, and they are also working with agricultural groups regarding what simplification and standardization means. He indicated that, when working with chemicals, it is important to have all the analytical data, and interview the impacted parties, making sure that everything is properly handled, and they have done their job as public servants in providing the appropriate information. He added that it frustrates him that it takes as long as it does, and they will see if that responsibility can be moved to the investigative officer, making sure they are properly trained, in an effort to shorten the bureaucratic process, and respond more quickly to the public. He indicated that they try to work very closely with the

DEQ so there is no confusion or debate over who is the primary agency, that they should be taking the lead, and the objective is to deal with those issues. He reported that there have been no other incidences, with the exception of a chemical spill caused by a truck accident that was handled by the Disaster and Emergency Services in partnership with the Department of Agriculture.

SEN. BROOKE asked how closely the Department of Agriculture works with the Department of Commerce in developing markets.

Mr. Peck responded that is handled through the Growth Through Agriculture Program, adding that the Director of the Department of Commerce sits on that board. He pointed out the agricultural market is different from what the staff at the Department of Commerce is accustomed to working with, that they do not understand the agricultural issues as well, so the Department of Agriculture works with the Regional Economic Development Officers, attending their meetings several times a month, and briefing them on what the Department is doing. He cited the example of the oil plant in Culbertson, reporting that they are attempting to find a new owner who will keep the plant in operation but, if that is not possible, they will consider putting together a cooperative of producers to operate the plant. He reported that the Department of Agriculture is working with the Department of Commerce, the local community, and the extension service on this project.

SEN. BROOKE asked if he sees any duplication of effort in developing markets.

Mr. Peck responded that they have developed close communications with the Department of Commerce, and he does not often see any duplication of their efforts. He reported that the Department of Commerce lets the Department of Agriculture take the lead on agricultural issues, and they are now becoming more involved in issues regarding use of science and technology resources. He added that, at times, the Growth Through Agriculture Program will do the initial development work, before the Department of Commerce takes over.

{Tape: 1; Side: A; Approx. Time: 10:33 a.m.; Comments: None.}

CHAIRMAN HARGROVE asked **Mr. Peck** to comment on the self-evaluation process the Department goes through in terms of budgeting, and what kind of process they go through in evaluating their programs.

Mr. Peck indicated that he thinks, in their case, that issue is a little easier to address because they are 94% self-funded through fees. He indicated that, as an example, he met with the Montana Seed Dealers Association last July, and asked them if the Montana Seed Law should be maintained, or if the Federal law will work for them, and at what level the Department should remain

involved. He reported that they voted to maintain the program, that they had a good discussion and, over the next several years, as more hybrid seed activities occur, they will be working with other sectors of the agricultural industry to enhance and strengthen seed laws. He added that they try to work with all facets of the agricultural industry, and report back to them on how the revenue generated is being used by the Department and what services they want added, continued, or changed. He reported that a subcommittee was formed to study the process of registering all seed in the state to see if there is an easier, less complicated way to do that, pointing out that other states are looking at other options. He indicated that the subcommittee passed a resolution to maintain the program, but to also take a look at other options that may be more effective. He then reported that the seed manufacturers came to the Department with their concerns regarding Canadian feed coming into Montana, and if the Department is getting the right number of samples, noting that the Department is now working with GVW to track when they come in. He stated that they are also trying to work with Customs to track when they come in, and the Department will report the results back to the seed manufacturers this spring. He pointed out that the industry is able to step forward, that they provide some very good information, and they also want to know how their money is being spent.

He continued by explaining that, when they go through the executive planning process, many times, they are in the position of having to prioritize, as well as when they go through the Legislative process. He pointed out that reporting to the various segments of their industry, letting them know how the dollars are spent, and if they want the Department to continue the programs, works best for the Department.

CHAIRMAN HARGROVE stated that Legislators, at least by rule, have the opportunity to intrude into executive business during the interim through oversight committee responsibilities, and that he had occasion to research an issue relative to the taxable value of irrigated land under certain conditions during the past interim. He reported that he worked with representatives of both the Department of Agriculture and the Department of Revenue, who were very responsive and produced a lengthy report. He asked **Mr. Peck** what his feelings are about that, and if he provides any guidance to his staff in this regard, or how he would like those sorts of things handled.

Mr. Peck responded that he is blessed with a very, very good staff at the Department of Agriculture, adding that a lot of emphasis has been placed on responding to people. He indicated that one of his concerns is that staff may be contacted by someone, and will go to work on the issue, but never report back to that person as to what has been achieved. He reported that, in the past two years, they have tried to follow up to make sure they respond to an individual and answer the question, but also that they do a follow-up call to be sure the individual has

gotten an answer. He reported that the Montana Wool Growers, along with representatives of the Department of Agriculture, went on a trade mission to Canada and, afterwards, he tried to follow up with some of the participants, and ask them how it went, if they would do it again, and if they think their tax dollars were well-spent. He stated that he wanted their feedback because, as the Director of the Department, he would like to know if that is a function for the Department, and whether or not they would spend time and resources to do that again, which gives the Department a direction for further development.

CHAIRMAN HARGROVE reported that **U.S. SEN. CONRAD BURNS** introduced a bill a couple of years ago to bring BLM lands back to the State, that he suggested that he did so merely to raise the issue for discussion, but that the bill did not go anywhere. He asked **Mr. Peck** to address that issue, if he thinks that is a good idea, and under what circumstances.

Mr. Peck reported that they worked with **SEN. BURNS'** staff on that issue. He indicated that he strongly supports state's rights, and believes the people of Montana understand the issues that affect them better than anyone else. He stated that he supports the concept of bringing decisions back to the taxpayers, wherever they are, that he thinks the better decisions are made here, at home. He then pointed out that he thinks they need to look very closely at the financial impact of managing those lands, and whether we can afford it, that maybe we can, but it needs to be dealt with and looked at very intentionally and very strongly. He added that he would be one to say we should look at bringing those responsibilities back to the State of Montana, to be responsive to the citizens, and to be sure they are administered appropriately, that he does not think the people in Washington, D.C. totally understand what is going on in Montana and he thinks we need to bring those decisions and the responsibility as close as possible to the State.

Proponents' Testimony:

Bob Gilbert, Secretary-Treasurer, Montana Wool Growers Association, reported that **Mr. Peck** has been involved as Assistant Director of the Department of Agriculture for quite some time. He indicated that, in the past, the Director of the Department of Agriculture has been involved in other duties for the Governor, and that **Mr. Peck** has hands-on experience running the Department through several administrators. He stated that the Wool Growers were among the first to write to **Governor Racicot** in support of this appointment, and indicated that he asked **Mr. Peck** what would happen if the Governor's term expired, and he was no longer Director of the Department of Agriculture. He reported that **Mr. Peck** was not concerned, that he said he could be more effective for agriculture by serving in this capacity.

Mr. Gilbert reported that the Association has worked with the Growth Through Agriculture Program. He indicated that he receives a lot of calls regarding value-added for wool and lamb, but there will not be a wool processing plant in Montana because of the State's water laws. He cited the example of the Pendleton Woolen Mills, which is moving their operation into Mexico because of the water quality laws in Pendleton, Oregon. He indicated that the Association has been working with the Department of Agriculture's Growth Through Agriculture Program on a plan to send lambs to a lamb processing plant in Canada. He then stated that the Department's Young Couples' Program is a very important program to bring young people into agriculture. He indicated that **Mr. Peck** is very responsive to the Association, and shares information regarding all of the Agricultural Directors in the United States, adding that he has confidence that **Mr. Peck** is going to speak for agriculture, which he thinks is important, noting that he speaks for the Wool Growers Association.

Les Graham, Montana Stockgrowers Association, Montana Cattlewomen, Montana Dairy Association, Auction Markets Association, stated he was very pleased with **Mr. Peck's** answers to the Committee's questions, and the organizations he represents have total confidence in him.

Gary Broyles, Vice President, Montana Grain Growers Association, reported the Association has had a wonderful working relationship with **Mr. Peck** throughout his tenure as Director of the Department of Agriculture, which they feel offers a lot of opportunity for strength in both the Department and the Association. He stated that **Mr. Peck's** handling of the *karnal bunt* issue, state grain issues, worker protection standards and grain grading are just a few issues they think he has handled very professionally, and they believe he has become an exemplary ambassador for the State's number one industry. He added that they think the level of integrity **Mr. Peck** brings to the Department of Agriculture is unsurpassed and, on behalf of the Montana Grain Growers Association, he gives their unqualified support to retain **Mr. Peck** as Director of the Department of Agriculture.

Lorna Frank-Karn, Montana Farm Bureau, stated that they support the confirmation of **Mr. Peck** as Director of the Department of Agriculture. She reported that, last year, the President of the Montana Farm Bureau requested information from **Mr. Peck** regarding Montana products which could be marketed in the Far East, in preparation for a trip there, and was provided with quite a bit of material, so that he was able to talk to people in hopes of allowing some of our products to be sold over there. She indicated that they have worked very, very well with **Mr. Peck**, and hope the Committee will confirm his appointment.

Candace Torgerson, Women Involved in Farm Economics, stated that they support confirmation of **Mr. Peck** as Director of the Department of Agriculture, indicating that service is a by-word with **Mr. Peck**, that he works with the industry, not against it,

and is truly an ally. She distributed a copy of a letter from the President of Women Involved in Farm Economics (**EXHIBIT 1**).

Chuck Merja, Sun River, stated that he supports **Mr. Peck's** appointment.

Lanny Christman, Dutton, stated that he supports **Mr. Peck's** appointment as Director of the Department of Agriculture.

Opponents' Testimony: None

{Tape: 1; Side: A; Approx. Time Count: 10:44 a.m.; Comments: End of Tape 1, Side A.}

Closing by Sponsor:

Mr. Peck thanked the Committee, and stated that he appreciates working very closely with everybody in Montana, and also with the Legislators, that they do a wonderful job for all.

HEARING ON SR 6

Sponsor: CHAIRMAN HARGROVE

Proponents: None

Opponents: None

Opening Statement by Sponsor:

CHAIRMAN HARGROVE opened the hearing on SR 6, the confirmation hearing for **Stan Grace** and **John Etchart**, Northwest Power Planning Council.

He informed **Mr. Grace** and **Mr. Etchart** that he does not consider these hearings just a formality, pointing out that they are serving in a dejour status, and require confirmation by the Senate. He indicated that he believes it is a process that validates democratic government in allowing the public to participate in the nomination of people with significant responsibilities through their elected representatives. He then offered **Mr. Etchart** the opportunity to make a statement.

John Etchart, Northwest Power Planning Council, noted that the last time he went through the confirmation process, there was some interesting testimony, stating that he is not altogether unhappy to see that the public is indifferent. He then indicated that **Mr. Grace** has a good deal more seniority on the Northwest Power Planning Council, having served eight years, and that he has been a very valuable, helpful advisor and counselor.

Mr. Etchart gave the Committee a brief overview of what the Council is, reporting that it is a four-state compact created by Congress in 1980, and that the principal responsibility of the

Northwest Power Planning Council is to plan for the affordable, economic, and efficient supply of electricity in the Northwest, and to write programs and plans for the mitigation, enhancement, and protection of the fish and wildlife affected by the construction of hydroelectric facilities on the Snake and Columbia Rivers. He indicated that they must do this in a very public process, that the Northwest Power Planning Council is a model of open government. He stated that the Council's business has changed very rapidly, particularly in the fish and wildlife area with the advent of listing of salmon stocks in the Snake River, noting that regional planning for fish and wildlife recovery used to be handled by the Council, but now the National Marine Fisheries Service has a stronger role. He added that one could argue this is to Montana's detriment, but added that the Council retains responsibility for the direct funding expenditures, that approximately \$130 million a year is expended from Bonneville Power revenues on fish and wildlife recovery, and the Council has direct budget authority over those expenditures. He pointed out that people are hearing about the deregulation of the electric energy business, and indicated that, before this session adjourns, the Legislature will have to deal with the very complicated transition from a regulated business to more of a market-oriented industry.

Mr. Etchart gave a brief overview of his background, reporting that he was born and raised in Glasgow, his family has been in the sheep and beef business since the early 1900's, and an uncle served in the State Legislature. He continued that he graduated from Carroll College, spent three years in the Marine Corps, serving in Viet Nam, then obtained a Masters Degree from Eastern Montana College in School Guidance Counseling and taught for three years. He reported that he later went to work for the Northern Tier Pipeline Company, then served as Special Assistant to the Commissioner of the Bureau of Reclamation, followed by ten years with Burlington-Northern. He added that, in 1992, Governor Racicot appointed him to the Northwest Power Planning Council and, in October of 1995, he was elected Chairman of the Council, a position to which he has just recently been re-elected.

He stated that he feels like he has broad experience in the formulation of public policy, and has enjoyed his time on the Council, from an advocacy perspective, noting that it is a very interesting set of problems. He indicated that the fish and wildlife recovery programs are the largest in the world, and the experience has been gratifying because the work of the Council is quite important to the State of Montana. He pointed out that low-cost, competitively priced energy has been very important, for instance, for Columbia Falls Aluminum, and the co-ops in western Montana, and the manipulation of the reservoirs at Libby and Hungry Horse are the subject of on-going concern relative to the recovery of salmon downstream, and the use of those impoundments to augment flows downstream. He noted that, as the region goes about recovering these salmon stocks, unhappily, Montana stands in harm's way, because we have around 40% of the

storage in the whole Northwest, that the demands being made on the system storage for salmon recovery come largely from Montana, and they spend a lot of time negotiating with Federal agencies about those reservoirs. He concluded by stating he would be happy to answer any questions.

CHAIRMAN HARGROVE indicated that, at this time, the Committee will hear comments from **Mr. Grace**.

Stan Grace, Northwest Power Planning Council, reported that the Council develops a twenty-year plan on power, and fish and wildlife recovery, and update that plan a minimum of every five years, although it usually occurs earlier, noting that it is dynamic, it changes, and that is why it is usually necessary to move forward. He indicated that the responsibilities of the Council "shall consist of measures to protect, mitigate and enhance fish and wildlife affected by the development, operation and management of any hydroelectric project on the Columbia River, and its tributaries, while assuring the Pacific Northwest an adequate, efficient, economical and reliable power supply", and pointed out that trying to balance one with the other is quite interesting. He stated that the dynamics, the change and the need for management of that change are the more interesting and challenging aspects of the work of the Council, indicating that the Council is grateful to **Mr. Etchart** for the work he has done, as Chairman, in enabling the four-state Council to act as one, that the four states had to put aside a lot of their problems, pointing out that they are not a legislative body and do not enact law, but rather they enact policy and need to have a consensus.

{Tape: 1; Side: B; Approx. Time: 11:19 a.m.; Comments: End of Tape 1, Side B.}

Mr. Grace related that he grew up in West Yellowstone, attended high school in Bozeman and graduated from high school in Ennis. He reported that he then spent four years in the U. S. Navy, after which he attended Montana State University working towards a degree in animal husbandry, although he never completed the program. He stated that he held various jobs in construction, ranching and logging, that he was logging manager for Stultz Lumber Company in Darby, as well as a trustee on the Valley Electric Cooperative, and this is where he first learned about, and became interested in, the work of the Northwest Power Planning Council. He indicated he would be glad to answer any questions the Committee may have.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses:

CHAIRMAN HARGROVE announced that the Committee could question either **Mr. Etchart** or **Mr. Grace** at this time.

SEN. MESAROS asked both **Mr. Etchart** and **Mr. Grace** to respond as to what they perceive as their major obstacles in fulfilling their individual roles within the Council.

Mr. Grace indicated that it is to be able to come to agreement with the other states on how to react, as a region, with Federal policy and with other changes they see coming. He stated that they have never been at the level they are now, that he thinks they are at the point where they can ask for accountability in the way the dollars are spent, pointing out that they help allocate \$130 million a year. He added that he thinks they are finally at a point where they can ask for the same accountability in the science, but those are still tenuous issues.

Mr. Etchart remarked that he is not sure he would answer the question much differently, but would emphasize that, from Montana's point of view, an argument could be made and supported that Montana is quite a bit better off with a strong regional body like the Northwest Power Planning Council insofar as fish and wildlife recovery goes. He explained that, currently, the Endangered Species Act (ESA), although it has its place and certain benefits, is a very, very potent piece of legislation, and the problem with it is that the two matters of concern for the ESA are whatever is being listed and protected by the ESA, and everything else. He described the Federal agencies pursuing recovery under ESA as very narrowly focused, noting that they should be, that they are single purpose, having one target, one goal, but pointed out that the Northwest Power Planning Council has its operating method; the balance between various species, the balance between hydropower and other uses, and the balance between upstream and downstream, and that, often, plans written by the Northwest Power Planning Council conflict with the ESA. He stated that he would make the argument that Montana, and the other western states, would be better off if the laws that establish the Northwest Power Planning Council and the ESA were more in equilibrium because, right now, the regional program developed by the four states, with balance as its principal feature, gets "swamped" by the ESA.

SEN. MESAROS asked what the Council's funding source is, and what type of budget they work with.

Mr. Grace reported that the Council's funding, approximately \$8 million per year, comes from a percentage of Bonneville Power's revenues, adding that approximately \$430 million a year also goes into Fish and Wildlife mitigation. He explained that a portion of that sum is not actual funds, but rather a result of savings in the way the river is operated, adding that over \$200 million

goes through the Council, or through the ESA for endangered species, and the National Marine Fisheries for mitigation.

Mr. Etchart explained that the Council's budget of just over \$8 million a year covers approximately sixty employees, most of which are at the central office in Portland, however, each state has two Council members, who have offices and staff. He remarked that they have a total of five people in their office, and he would assume it would be a like situation around the region.

SEN. BROOKE addressed **Mr. Etchart**, expressing her concern about the restructuring plan. She reported that she attended the Missoula hearing last November, and is concerned that low-income programs in place now will not be in place as a result of the plan they have recommended, and asked him to comment on that.

Mr. Etchart answered that the administration is participating with the co-ops and the power company and that, although someone on their staff is helping facilitate those discussions, he does not believe the Northwest Power Planning Council is directly involved in that legislation. He then asked **SEN. BROOKE** if she is referring to the meeting held last November in Missoula having to do with the comprehensive review.

SEN. BROOKE replied yes, that is right.

Mr. Etchart explained that meeting was held pursuant to a region-wide look at the energy restructuring phenomenon. He stated that the four governors, seeing the market place phenomenon coming to the energy business, mobilized about fifteen people who spent a year studying how to change from a regulated industry to a deregulated, market-oriented industry, adding that this was driven, principally, by Bonneville Power, and the question was how to keep the advantage of this Federal entity which, over time, has generated a lot of benefit for the Northwest, in a deregulated situation. He indicated that the region review recommended that three percent of gross revenues be applied to low-income conservation, renewable resources, and the like, as a target. He stated that three percentage points is going to be hard to hold to in Montana, that it is lot easier to generate these kinds of monies on the west side than here, because they have density, and the advantage of economies around their conservation programs that we don't have. He added that, for a practical matter, the region review really applies to the western part of the state, the Continental Divide and west, where the Bonneville Power service area is.

He then reported that it is his understanding a group has formed to try to figure out how to continue the low-income programs in a deregulated market situation. He explained that the current system assesses a kind of surcharge to users to help low-income people weatherize their homes or provide bill-paying assistance, that the Governor would like to see these programs maintained, but they are not sure how to go about that in a deregulated

environment, where Montana Power and the co-ops are not providing all of the services. He stated that he sat in on a meeting this morning in which the idea was to develop a Uniform Systems Benefit Charge, which would probably be paid at the meter and from which the low-income energy assistance would be derived.

SEN. BROOKE indicated it was her understanding the Northwest Power Planning Council was providing advice to the Governor in this regard, and that a task force recommendation for a type of surcharge was rejected.

Mr. Etchart responded that the Low-Income Task Force put together by the Governor made a recommendation about a surcharge, but that he doesn't really know much about this.

SEN. BROOKE stated that it was her understanding the Administration was using the Northwest Power Planning Council for resource and advice.

Mr. Etchart replied that, in addition to staff from the Department of Environmental Quality, it is true one of their staff, **John Hines**, is involved in helping to facilitate these discussions, but indicated that he does not know what the administration did regarding that surcharge. He offered to provide the information.

SEN. BROOKE stated that she would really appreciate it, and then asked if there are term limits in the Northwest Power Planning Council.

Mr. Grace responded there are no term limits, that they serve at the pleasure of the Governor. He indicated that it has been suggested that they be appointed for three-year terms, which is the policy in some states.

Mr. Etchart added that he does not think there are any term limits, other than Idaho, but Washington and Oregon have three-year terms.

SEN. BILL WILSON asked **Mr. Etchart** what their compensation is.

Mr. Etchart answered that Montana Council members are paid at the four-state average, which is about \$74,000 a year.

CHAIRMAN HARGROVE remarked that it is hard for him to visualize an organization, that they have "tentacles" among the four states, and he would assume they have some sort of relationship with the tribes in Montana. He asked if this is an evolutionary process that continues to adjust itself, and if they have an organization plan so that everyone knows what is going on. He further asked how they get along with the other states and if there are laws in Montana which conflict with those in other states.

Mr. Etchart said it is an evolutionary process, that they have one of two things going on most of the time; they either have an amendment in the rule-making process with regard to fish and wildlife, that they ask the region to take a look at these problems and submit their recommendations, and then they decide which recommendation makes the most sense and incorporate it into the fish and wildlife program, assigning priorities with regard to the expenditure of monies, or they are revising the power plan they are required to revise every five years. He reported that they meet several times a year in each of the four states, in both formal and work sessions, and have an active, on-going relationship with all of the constituency groups. He indicated that the tribes are an important one, but there are the fish and wildlife agencies, the industrial customers, the industry-owned utilities, the co-ops, and others, and it is a very difficult organization to keep track of. He noted that, even though he has chaired the organization for a while, there are activities the Council has been involved in that are new to him. He cited the example of being invited as keynote speaker for the Northwest Conference on Building Commissioning. He explained that building commissioning refers to the practice of engineers and other utilizers of a big building going in, in the design phase, and performing a "shake-down cruise", to make sure the buildings work the way they are supposed to, and stated that it turns out the Northwest Power Planning Council is a leader in this area, something he was unaware of until that time.

Mr. Grace added that he thinks one of the reasons **Mr. Etchart** was included in that conference is the Council's charge for conservation of power. He then indicated that the Council is constantly changing, the players are constantly changing, as are the states' priorities and the priorities of their members. He reported they meet every third week, and are constantly working through all of the material for the next meeting, noting that with the staff in Portland, they pretty well keep abreast of the issues, but that the dynamics of the Council itself change with appointments, adding that there are some strengths, and some problems.

Mr. Etchart indicated that, over time, he thinks the Council has been seen as an organization dominated by the down-river influence. He pointed out that, if there are ten million people in the region, eight million of them live on the west side of the Cascades, and that makes sense. He added that the election of a new governor in Oregon has changed the way Oregon has approached this, and they have appointed a farmer with a more conservative attitude and a more skeptical view regarding fish and wildlife, which has created more balance on the Council. He pointed out that Montana generally aligns with Idaho members for balance but that, even then, in the past, they have been much more prone to agree to salmon expenditures than Montana has, and this is one of the more obvious changes.

CHAIRMAN HARGROVE asked how the Governor involves himself in policy-making, if he primarily communicates with the Montana Council members, if he works directly with the other Governors, or if this is more like a "rubber stamp" process.

Mr. Etchart emphasized no, reporting that **Governor Racicot** has been very active. He added that he would say the prime mover has been the situation where the reservoirs have been used very severely, and he has received a lot of input from the people around Libby and Hungry Horse. He reiterated that **Governor Racicot** maintains a relationship with the co-op community, the fish and game community, Montana Power, and the various people who have a real interest in what goes on in the Council, that he has traveled to the Council's headquarters and took an interest in meeting the Council's staff, and he has attended meetings of the four Governors where he was an active participant in the comprehensive review. He indicated that, as in most things, **Governor Racicot** has involved himself in the Council's work and, if he were standing here, would probably tell the Committee that he sees the Council as a very interesting institutional model where states, by virtue of the constrictions of state boundaries, can not solve a problem, the Federal Government is too far away and too distant from the practical aspects of the problem, and a regional problem-solving, decision-making entity like the Council has a lot of appeal.

Mr. Grace related that he and **Mr. Etchart** have often talked about how fortunate they are that the Governor is so active, and that they can speak with one voice for Montana. He indicated that the Governor is more knowledgeable about the day-to-day activities of the Council than the other Governors are, and they probably have a closer relationship than other Council members do with their Governor's offices.

SEN. BROOKE asked **Mr. Grace** to expand on his earlier comments about conservation.

Mr. Grace explained that a lot of work has been done in the industrial area to build buildings that are more efficient, due largely to the conservation efforts of the Council over the years.

SEN. BROOKE asked if he sees that continuing on an analytical basis, and further asked him to comment on how they are doing.

Mr. Grace reported that they have staff members who are constantly abreast of that, and added that they do not have the great opportunities they once had to make great strides, although they still have the ability to track it, and they are constantly finding new areas to work in.

SEN. BROOKE asked him to explain.

Mr. Grace stated that they have done a lot of the conservation, they have weatherized homes and brought building codes up to standards, but they can not go beyond those areas in a cost-effective manner.

Mr. Etchart pointed out that the market has changed a lot, that there is a lot more conservation that is cost effective. He indicated that the market is very low right now and, in a market place where there is a plentiful low-cost supply, it is much more difficult to acquire conservation. He added that the Northwest would be a model for the rest of the country, that, in the time the Council has been in place, the Northwest has acquired something in the neighborhood of 1100 mega watts, which would be enough to power the City of Seattle, and this is due, in large part, to the Council's power planning program.

SEN. BROOKE asked how they see the restructuring affecting the conservation of electrical energy.

Mr. Etchart stated that he thinks conservation faces the same sorts of problems in a deregulated market place that all public purposes do, that it is going to be more difficult to maintain conservation efforts in a free-market economy than it has been in a regulated economy. He indicated that there are people who believe there will energy-service providers in the marketplace acquiring conservation for individual businesses, and this will probably be the most likely avenue for the acquisition of conservation because it can not be done in the classic way, as has been done in the past. He added that he thinks everyone recognizes that the high levels of conservation acquired in the past are not likely to be maintained in the future, that the low-hanging fruit, the easy conservation is gone now, and what is left is more expensive to acquire.

Closing by Sponsor:

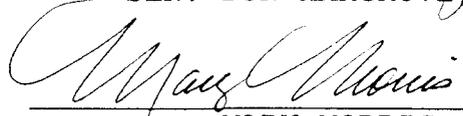
Mr. Etchart thanked the Committee for their time, and stated that he will get the information **SEN. BROOKE** requested.

ADJOURNMENT

Adjournment: 11:48 a.m.



SEN. DON HARGROVE, Chairman



MARY MORRIS, Secretary

DH/MM