



Water Policy Interim Committee

64th Montana Legislature

SENATE MEMBERS

JENNIFER FIELDER
BRADLEY MAXON HAMLETT
SHARON STEWART-PEREGOY
CHAS VINCENT

HOUSE MEMBERS

BOB BROWN
ZACH BROWN
CARL GLIMM
KATHLEEN WILLIAMS

COMMITTEE STAFF

JASON MOHR, Lead Staff
HELEN THIGPEN, Staff Attorney
NADINE SPENCER, Secretary

MINUTES LOG

June 1, 2015
Room 172, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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COMMITTEE MEMBERS PRESENT

SEN. JENNIFER FIELDER
SEN. BRADLEY MAXON HAMLETT
SEN. SHARON STEWART-PEREGOY (arrived after roll call)
SEN. CHAS VINCENT

REP. BOB BROWN
REP. ZACH BROWN
REP. CARL GLIMM
REP. KATHLEEN WILLIAMS

STAFF PRESENT

JASON MOHR, Lead Staff
HELEN THIGPEN, Staff Attorney
NADINE SPENCER, Secretary

AGENDA & VISITORS' LIST

Agenda, [Attachment 1](#).
Visitor's list, [Attachment 2](#).

COMMITTEE ACTION

- The WPIC approved the minutes from October 29-30, 2014.
- The WPIC approved the rules of procedure.
- The WPIC elected Sen. Bradley Hamlett as chairman and Rep. Carl Glimm as vice chairman.

CALL TO ORDER AND ROLL CALL

00:00:05 Sen. Vincent called the meeting to order at 1 p.m. The secretary called the roll, [Attachment 3](#). The WPIC members introduced themselves.

STAFF INTRODUCTIONS, WPIC OVERVIEW

00:09:38 Jason Mohr, research analyst, Legislative Services Division, gave a history of the WPIC and discussed SB 82 (2015), which gives oversight duties to the WPIC.
00:12:15 Nadine Spencer, committee secretary
00:12:40 Helen Thigpen, staff attorney
00:13:42 Sen. Vincent thanked staff for putting together the committee binders.

Approval of WPIC Minutes from October 2014

00:14:39 Sen. Vincent asked the committee if they had reviewed the minutes from October 2014.
00:14:48 Sen. Fielder asked the committee if the minutes include the motion that was made to write a letter to the Reserved Water Rights Compact Commission with the WPIC recommendations regarding the CSKT water compact. Sen. Vincent said the motion was made on the second day of the meeting.
00:16:13 **Motion/Vote:** Rep. Williams moved to accept the October 29-30, 2014 WPIC minutes. The motion carried unanimously by voice vote.

ADOPTION OF RULES

00:16:43 Mr. Mohr, discussed the rules, procedures, and guidelines for interim committees as amended by the Water Policy Interim Committee on June 17, 2013, [Exhibit 1](#).

Committee questions and discussion:

00:17:42 Sen. Vincent said he supported the rules as amended. Rep. Williams agreed.

00:18:55 **Motion/Vote:** Sen. Fielder moved to adopt the rules. The motion carried unanimously by voice vote.

Public Comment: None

REVIEW OF 2015 WATER LEGISLATION

00:19:43 Mr. Mohr gave an update on 2015 natural resource legislation regarding water policy, [Exhibit 2](#).

Committee questions and discussion:

00:21:53 Rep. Williams said that SR 27 (2015) confirms the Water Court judge until 2016 and asked what will happen in the interim before the legislature meets in 2017. Sen. Hamlett said he thought the judge will still serve, but will have to be reappointed in 2017. Sen. Vincent said it will be looked into.

00:23:44 Sen. Fielder commented on SB 37 (2015) and subsequent veto by the governor. Sen. Hamlett said that the Department of Natural Resources and Conservation plans to sponsor a committee bill. Rep. Williams agreed.

Public Comment: None

AGENCY OVERVIEWS

Department of Natural Resources and Conservation: John Tubbs, director

00:27:23 Mr. Tubbs presented an overview of the Water Resources Division.

00:28:13 Mr. Tubbs discussed water related bills that passed during the 2015 legislative session.

00:28:49 Mr. Tubbs discussed agency priorities.

Department of Environmental Quality: Tom Livers, director

00:30:50 Mr. Livers discussed regulation of ambient water quality.

00:34:28 Mr. Livers discussed integration of functions within the agency.

00:35:18 Mr. Livers discussed SB 325 (2015), which revised the process for adopting water quality standards.

Department of Fish, Wildlife and Parks: Jeff Hagener, director

00:36:37 Mr. Hagener presented an overview of the agency and its management, use, and protection of water resources.

00:39:54 Mr. Hagener discussed stream flow and how that may impact changes to fishing regulations.

Public Comment:

00:40:53 Jeff Tiberi, policy director, Montana Association of Conservation Districts

Committee questions and discussion:

- 00:43:14 Sen. Fielder asked Mr. Tubbs about SB 37 and if DNRC will provide notice to people for filing exempt water rights claims.
- 00:46:32 Sen. Hamlett asked Mr. Hagener if the change in rule defining "Waters of the U.S." will affect permitting. Mr. Hagener referred the question to Mike McLane, water conservation specialist, Department of Fish, Wildlife and Parks. Mr. McLane said he did not know.
- 00:55:34 Sen. Hamlett asked Mr. Tubbs how the change in the rule will affect Montana and its water uses and water rights.
- 00:50:46 Sen. Hamlett asked Mr. Tubbs if he anticipates an increase in 404 permits over 310 permits.
- 00:52:56 Rep. Williams asked Mr. Livers about the change in the rule and how it will impact the agency.
- 00:55:31 Sen. Hamlett asked Mr. Tiberi if under the new rule there will be a potential for more 404 permits over 310 permits.
- 00:58:06 Sen. Vincent asked that Mr. Tiberi continue to be available at future meetings to update the WPIC on the rule.
- 00:58:56 Sen. Vincent asked Mr. McLane about drought management plans in the state.
- 01:00:12 Sen. Vincent asked Mr. Tubbs about funding for SB 37.
- 01:02:40 Recess
- 01:46:43 Reconvene

ELECTION OF WPIC CHAIR AND VICE CHAIR

- 01:47:01 **Motion:** Sen. Fielder nominated Sen. Hamlett as chairman of the WPIC.

Discussion:

- 01:47:16 Sen. Hamlett
- 01:47:52 Rep. Zach Brown
- 01:48:37 Sen. Vincent
- 01:49:46 **Vote:** The motion carried 6-2 by roll call vote with Rep. Zach Brown and Rep. Williams voting no, [Attachment 4](#).
- 01:50:27 **Motion:** Sen. Fielder nominated Rep. Glimm as vice chair of the WPIC.

Discussion:

- 01:50:40 Rep. Glimm
- 01:51:17 **Vote:** The motion carried unanimously by roll call vote, [Attachment 5](#).
- 01:51:40 Rep. Williams

DISCUSSION OF INTERIM PRIORITIES

Overview of Draft Work Plan

- 01:53:12 Mr. Mohr presented an overview of the draft work plan, [Exhibit 3](#).
01:53:44 Mr. Mohr discussed the decision matrix, [Exhibit 4](#).
01:54:43 Mr. Mohr discussed SJ 2 (2015), [Exhibit 5](#).
01:57:04 Mr. Mohr discussed statutory duties of the WPIC.
01:57:52 Mr. Mohr discussed program evaluations, [Exhibit 6](#).
01:59:32 Mr. Mohr discussed member issues.

Overview of Administrative Rulemaking

- 02:02:17 Ms. Thigpen presented an overview of the administrative rulemaking process, [Exhibit 7](#).
02:04:09 Ms. Thigpen discussed the Montana Administrative Procedures Act.
02:06:48 Ms. Thigpen discussed WPIC administrative rule review authority.

Public comment:

- 02:10:44 Cary Hegreberg, Montana Contractors Association
02:13:07 Pete Skibsrud, Kalispell

Committee questions and discussion:

- 02:14:10 Sen. Vincent said he recommends the WPIC look at the future role of the Water Court.
02:15:15 Rep. Bob Brown said he recommends the WPIC look at defining streams.
02:16:16 Rep. Williams said the WPIC needs to look at the topics the committee submitted to staff and also at pipeline water crossing jurisdictional issues.
02:17:41 Rep. Zach Brown asked Sen. Vincent for clarification about the work plan and recommendations made to staff.
02:19:23 Sen. Hamlett said the WPIC needs to look at water marketing, the Water Court, and pipeline crossings.
02:21:18 Mr. Mohr said he will make a list of the recommendations made by the committee and include topics discussed today.

PUBLIC COMMENT

- 02:22:29 Jeff Wivholm, president, Montana Association of Conservation Districts, said they are available to help the committee with any issues related to 404 or 310 permitting.
02:23:31 Laurie Zeller, bureau chief, Conservation Districts Bureau, Department of Natural Resources and Conservation, said she is available to help with any issues related to SJ 2.
02:24:19 Sen. Vincent instructed the WPIC to review the work plan in preparation for committee discussion tomorrow.
02:25:53 Sen. Vincent adjourned the meeting at 3:27 p.m.
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