2017-18 work plan

WATER POLICY INTERIM COMMITTEE

LEGISLATIVE ENVIRONMENTAL POLICY OFFICE

WATER POLICY INTERIM
COMMITTEE 2017-18

August 1, 2017

Exhibit 22

Introduction

This is the draft work plan for the Water Policy Interim Committee (WPIC) for the 2017-18 interim. This document is meant to be comprehensive, yet flexible. Invariably, topics of interest will rise and fall away during the next 14 months. The work plan approved by the committee is designed to provide broad direction to staff.

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How the WPIC Plans its Work

The WPIC was created in 2009 to study water policy. During the legislative interim, the WPIC may focus on the study topics assigned to it as well as any water policy issue. In 2015, the Montana Legislature expanded and focused WPIC duties to include oversight of issues "where the primary concern is the quality or quantity of water."

The WPIC establishes a work plan at the beginning of the interim. This is a draft of that work plan. The draft work plan and the accompanying matrix are decision-making tools to help the committee set priorities and decide how and where to spend the WPIC's time and resources.

The primary constraints limiting the agenda for the interim are the number of issues that can be effectively addressed within the available time and resources of the committee and staff. However, the work plan is constructed with enough flexibility to accommodate relevant topics as the committee sees fit.

The adopted work plan is a road map for the 2017-18 interim. Staff develops detailed draft work plans and timetables for each task. A draft timeline, which illustrates the overall schedule that these work plans will fit into once the meeting schedule and work plan are finalized, is presented at the end of this document.

Work Plan Topics

Assigned Study Resolution

The 2017 Legislature passed no study resolutions that were specific to water. As such, the Legislative Council assigned no study resolutions to the committee.

Statutory duties

The 2015 Legislature delegated certain new oversight duties to the WPIC. Following the passage of Senate Bill 82, the WPIC reviews administrative rules and draft legislation, conducts program evaluations (see following), and monitors the functions of these executive branch programs (5-5-231, MCA):

- Water Resources Division (Department of Natural Resources and Conservation)
- Water Quality Division (Department of Environmental Quality).

The committee's oversight duties do not stop there, however, as issues of "the quality or quantity of water" may arise in other agencies, such as the Department of Fish, Wildlife, and Parks or the Department of Agriculture.

Broad duties for the WPIC are cited in 85-2-105, MCA. These include:

- Advise the Legislature on the adequacy of Montana's water policy.
- Advise the Legislature on important state, regional, national, and international developments that affect Montana's water resources.
- Oversee policies and activities of executive branch agencies and other state institutions that affect Montana's water resources.
- Assist with interagency coordination related to water resources.
- Communicate with the public about water policy and water resources.
- Analyze the state water plan.
- Analyze and comment on water-related research by any state agency, institutions, college, or university.
- Analyze, verify, and comment on the water information system.
- Report to the 2019 Legislature.

Other, more-specific statutory duties of the WPIC include:

- 75-1-208, MCA, allows a project sponsor to appear before the WPIC to discuss an agency's environmental review of the project, if that environmental review is primarily concerned with the quality or quantity of water.
- 75-5-313, MCA, requires the DEQ to provide a summary of the status of the base numeric nutrient standards, the nutrient standards variances, and implementation of those standards and variances, including estimated economic impacts to the WPIC.
- 75-5-703, MCA, requires the DEQ to present a biennial report on progress toward developing TMDLs for impaired and threatened water bodies.
- 85-1-203, MCA, requires the DNRC to consult with the WPIC on developing, revising, or carrying out duties of the State Water Plan.
- 85-1-501, MCA, requires the DNRC to submit a biennial update to the Energy and Telecommunications Interim Committee and the WPIC on studies of economic and environmental feasibility of constructing and operating a small-scale hydroelectric power generating facility on a state water project.
- 85-1-621, MCA, requires the DNRC to submit a biennial report to the WPIC that describes the status of the Renewable Resource Grant and Loan Program.
- 85-2-281, MCA, requires the Water Court and the DNRC to quarterly report to the WPIC on the progress of the adjudication of claimed water rights.
- 85-2-316, MCA, requires the DNRC to summarize its reviews of state water reservations by Sept. 15, 2026.

- 85-2-338, MCA, requires the Upper Clark Fork River Basin Steering Committee to report periodically to the legislature.
- 85-2-350, MCA, requires Clark Fork River Task Force to report to the WPIC annually.
- 85-2-436, MCA, requires the FWP to submit a biennial progress report to the WPIC, including a summary of all appropriation rights changed to an instream flow purpose in the previous two years.
- 85-20-1401, MCA, requires the DNRC to provide a periodic report to the EQC or "other appropriate legislative committee" related to U.S. Forest Service state water reservation applications. (This report will be submitted to the WPIC.)
- 85-2-427, MCA, requires the DNRC to report annually on temporary leases of appropriation rights.

Program evaluation

State law (5-5-231, MCA) requires the evaluation of programs administered by the agencies for which the WPIC has oversight. These division (DNRC's Water Resources Division and the DEQ's Water Quality Division) each contain smaller programs, each of which is explained in the attached spreadsheet. Also attached is a flow chart for each agency that includes the breakdown of each agency.

What – if anything – the WPIC evaluates depends entirely upon the staff resources and time the committee devotes to each evaluation. Committee staff conducted broad evaluations of four bureaus during the last interim. The accompanying Work Plan Decision Matrix shows tasks that could be included in a minimum, medium, and full program review. The intent of this planning process is to not to limit the WPIC scope, but to give the committee a picture of the variety of programs available for statutory program evaluation and to allow for an in-depth and contextual review of a program, including applicable laws, rules, funding, and implementation. So the committee may be content with last interim's review or could elect to review a smaller, single section of that bureau.

Member Suggestions

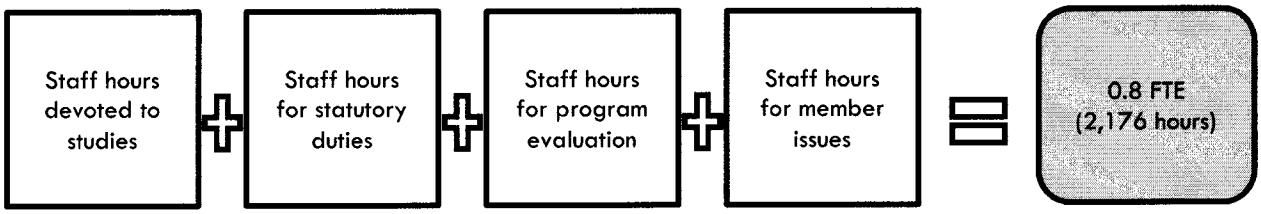
Committee member suggestions drive much of the WPIC's work. Water issues may come before the WPIC in a number of ways, including legislation, committee member suggestions, and the work of entities that deal with water issues. These issues may come up prior to or during the interim.

Committee member suggestions submitted to staff (as of June 20, 2017) include:

- AIS (aquatic invasive species) issues
- CSKT water rights settlement implementation, legislation in Congress
- Exempt groundwater wells
- Future federal funding of water-related programs in the DEQ, DNRC
- Montana State study of impacts of silvicultural activities on watersheds
- Processes of historical consumptive use analysis and change of water rights by DNRC
- Regular reports from BLM, NRCS, USFS on water issues

- Water right permitting process by DNRC

These committee member suggestions may be covered by as little as a meeting presentation. Or the committee may determine some topics warrant more attention and may elect to devote more time, as shown in the work plan decision matrix. The committee may also choose not to cover certain member issues.

Resource Allocation

There is approximately **0.8 FTE** of staff time available to conduct the work identified by the WPIC. These priorities - and the amount of staff hours devoted to a specific topic - are determined by the committee using the Work Plan Decision Matrix, which accompanies this document. Please bear in mind the basic equation: