

Water Committee rejects agency rule on exempt wells

Committee: Water Policy Interim Committee

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The Water Policy Interim Committee recently delayed a proposed administrative rule and asked the federal government for help fighting aquatic invasive species. The committee took these actions at its Oct. 9-10 meeting.

The proposed rule from the Department of Natural Resources and Conservation would have reinstated a 1987 rule to conform with a recent Montana Supreme Court ruling. That ruling limits the use of exempt groundwater wells. Exempt wells have long facilitated subdivision development in Montana but can negatively affect some existing water users. (The legal exemption from water rights permitting allows someone to develop a groundwater well or developed spring as long as it does not pump more than 35 gallons a minute and does not use more than 10 acre-feet of water a year.) Under the court ruling, instead of assuming one exempt groundwater well per lot, new subdivisions must now share one exemption between all lots. As a result, developers may need to obtain a water rights permit or create fewer, bigger lots.

In its letter to the DNRC, the committee objected to the rule “in order to address the proposed rule at the WPIC’s next committee meeting.” Presiding officer of the committee Sen. Pat Connell (R-Hamilton) requested that committee staff review the rule’s effects on controlled groundwater areas and stream depletion zones. These two designations place varying limits on groundwater development.

The committee also voted to send letters to the Bonneville Power Administration and the Northwest Power and Conservation Council asking for help and increased focus on aquatic invasive species. Staff from the Department of Fish, Wildlife, and Parks told the committee they had detected no mussel-infected water bodies this summer. The FWP’s Aquatic Invasive Species Bureau conducted 73,000 boat inspections, decontaminated 17 boats, and issued 80 citations this year.

At the October meeting, panelists listed reasons for opposing House Bill 339, which was the major exempt groundwater well bill of the 2017 legislative session and is the starting point for WPIC’s deliberations on the topic. Panelists said their concerns included increased costs to cities, additional sprawl, unregulated septic systems, and threats to existing water rights. The committee may hear possible solutions for the bill at its January meeting.

State and tribal officials also updated WPIC on the Confederated Salish and Kootenai Tribes’ water rights settlement. The settlement — or compact — is stalled

in Congress, but a technical team is doing preliminary work on the Flathead Indian Reservation to prepare for future water management.

Next Meeting

The committee meets again Jan. 8-9, 2018. For more information on the committee's activities and upcoming meeting, including a full agenda, please visit the committee's website or contact Jason Mohr, committee staff.

WPIC is led by Sen. Pat Connell (R-Hamilton), presiding officer, and Rep. Zach Brown (D-Bozeman), vice presiding officer. Other members are Sens. Jill Cohenour (D-East Helena), Jon Sesso (D-Butte), and Jeffrey Welborn (R-Dillon); and Reps. Bob Brown (R-Thompson Falls), John Fleming (D-St. Ignatius), and Carl Glimm (R-Kila).

Committee Website: www.leg.mt.gov/water

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