

2007-2008
Water Policy Interim Committee
Work Plan
FINAL

September 14,2007

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Information about the Water Policy Committee 2007-2008 Draft Work Plan

Introduction

This is the work plan for the Water Policy Committee (WPIC) for the 2007-2008 interim. In this document you will find:

- An explanation of how the **WPIC** plans its work.
- A description of work plan topics assigned to the **WPIC** by legislation, the **WPIC's** decision for addressing those topics, and work plan tasks.
- An interim time line.

How the WPIC Plans its Work

During the legislative interim, the WPIC was directed, through **HB 304** and other legislation, to conduct a detailed analysis and study of issues related to water quantity, water quality, and water use in Montana including surface water and ground water in closed basins and mitigation, augmentation, or aquifer recharge, consideration of methods for the management of water, particularly in closed basins, to ensure compliance with the closed basin law as well as determining an appropriate, accurate, and time-efficient process for coordinating water quality requirements with the water appropriation process, and an analysis of wells that are exempt from the permitting process. The WPIC must also gather information related to the ground water resource in Montana to enable the Legislature to make well-reasoned policy decisions to guide the use and management of the ground water resource into the future.

This 2007-2008 WPIC Work Plan is a **decision-making tool** to help Committee members work together efficiently to set priorities and decide how and where to spend the Committee's limited time and resources. The work plan becomes the blueprint for the 2007-2008 interim. A time line illustrates the overall schedule that the work plan will fit into once the meeting schedule and work plan are finalized. You will find the time line at the end of this document.

Water Policy Committee Work Plan Topics

Source authority:

House Bill No. 304 (2007)

Background: House Bill No. 304 required that the House and the Senate each appoint 4 members to serve on an interim Water Policy Committee (WPIC). The WPIC is statutorily authorized for two years before it is terminated. The legislation was very detailed regarding the issues to be covered by the interim committee.

The legislation specifically directed the WPIC to:

1. Conduct a detailed analysis and study of issues related to water quantity, water quality, and water use in Montana. The study must include the following issues at a minimum:
 - (a) surface water and ground water in closed basins and mitigation, augmentation, or aquifer recharge, including:
 - (i) review and summary of current Montana law related to mitigation, augmentation, or aquifer recharge;
 - (ii) analysis of other states' laws and rules related to mitigation, augmentation, or aquifer recharge and the other states' experiences with applying and using mitigation, augmentation, and aquifer recharge;
 - (iii) comparison of mitigation, augmentation, and aquifer recharge options and alternatives for applying the concepts in Montana water law;
 - (iv) analysis and determination of water quality testing requirements to ensure that the use of mitigation, augmentation, or aquifer recharge does not adversely affect ground water quality;
 - (v) analysis of data developed to determine the type and amount of research, data, and analysis necessary to develop a scientifically defensible hydrogeologic assessment to be used in making informed decisions with regard to mitigation, augmentation, or aquifer recharge activity in Montana;
 - (vi) appropriate monitoring requirements to **determine** the effectiveness of mitigation, augmentation, or aquifer recharge plans; and
 - (vii) other issues related to mitigation, augmentation, or aquifer recharge in Montana to facilitate continued economic development and growth while providing reasonable protections to senior appropriators and water quality of surface and ground water resources;
 - (b) methods for the management of water, particularly in closed basins, to ensure compliance with closed basin law, including:
 - (i) artificial recharge of ground water, including but not limited to alternatives such as aquifer storage and recovery;
 - (ii) identifying research necessary, if any, to determine alternatives and options for conducting water management through artificial recharge of ground water; and

- (iii) conducting a water quality analysis associated with storage or introduction of surface water to ground water resources;
- (c) determining an appropriate, accurate, and time-efficient process for coordinating water quality requirements with the water appropriations process by:
 - (i) determining how the department of environmental quality and the department of natural resources and conservation are issuing permits that affect ground water or surface water quality and whether or not the water appropriation process and the water quality process are coordinated;
 - (ii) ensuring that a detailed process is outlined that provides potential applicants with a clear process that must be followed to ensure that prior appropriators and water quality in both surface water and ground water are protected while allowing development in Montana; and
 - (iii) identifying the extent to which cumulative impacts are analyzed from a water quantity and a water quality perspective and whether or not the two findings are assessed jointly and determining the appropriate level of coordination;
- (d) wells that are exempt from the permitting process pursuant to 85-2-306, including:
 - (i) a detailed reporting of the number of exempt wells currently in Montana and an estimate of the number of exempt wells expected to be developed by 2020;
 - (ii) a determination and summary of the types of beneficial uses to which water from exempt wells is applied;
 - (iii) a determination of the hydrogeologic analysis necessary to determine consumptive use on a per-acre or fraction of an acre basis and on a per-use basis;
 - (iv) an analysis of the amount of water reasonably necessary for the various beneficial uses and a comparison of this reasonable use standard with current statutory limits, including volume, flow rate, and other criteria that the committee determines are necessary to provide for accurate and adequate measurement of water use through exempt wells;
 - (v) options and alternatives for enforcing statutory limitations regarding exempt well usage; and
 - (vi) a determination of the necessity and reasons for providing a process that is exempt from the permitting process;
- (e) an analysis of water marketing and water reallocation options available in Montana, including:
 - (i) leasing water rights, water banking, water trading, and water sales;
 - (ii) the lease-to-sale ratio of water rights in Montana;
 - (iii) the number of market purchases that have been completed in Montana;
 - (iv) the purposes for which water trades or sales have taken place;
 - (v) the feasibility of creating and operating a water bank in Montana; and

(vi) the administrative procedures and costs that would be necessary to establish and operate a water bank in Montana.

2. The committee shall gather appropriate information that the committee determines is necessary to make **sound** and well-reasoned policy decisions to guide the management and use of Montana's ground water resource into the future, including but not limited to:
 - (a) identifying gaps in data necessary to **determine** appropriate locations to conduct artificial recharge of ground water; and
 - (b) presenting long-term goals and policy proposals for water management related to ground water resources.
3. The committee shall prepare a report to submit to the 61st legislature that provides clear policy direction and necessary legislation to guide Montana's water policy and that ensures fair and reasonable use of Montana's water resource as demands on water increase while supplies remain the same or decrease.

Resource Allocation

There is approximately 1 FTE of staff time available to conduct the study outlined in this work plan.

WPIC Staff are:

Researcher: Krista Lee Evans, 444-1640, kevans@mt.gov

Attorney:

HB 304 Work Plan Tasks

- 1. Summary and review of Montana water law.
Who: **WPIC staff**
Time line: July 2007 meeting
- 2. Summary of recent case law regarding water rights and water use in Montana.
Who: **WPIC staff**
Time line: July 2007 meeting
- 3. Summary and review of Montana law related to surface water and ground water in closed basins and mitigation, augmentation or aquifer recharge.
Who: **WPIC Staff**
Time line: July 2007 meeting
- 4. Analysis of other state's laws related to mitigation, augmentation, and aquifer recharge.
Who: **WPIC Staff**
Time line: July 2007 meeting
- 5. Other states experiences related to the use of mitigation, augmentation, and aquifer recharge.

Who: **WPIC** staff
Time line: July 2007 meeting

- 6. Alternatives for applying the use of mitigation, augmentation, and aquifer recharge in Montana.

Who: Panel Discussion
Time line: July 2007 meeting

- 7. **HB 831** Implementation Update

Who: **WPIC** staff, DNRC
Time line: Ongoing

- 8. **HB 831** Closed Basin Case Study progress, updates, dissemination of information and research gathered to **WPIC** members

Who: **WPIC** staff, Montana Bureau of Mines and Geology
Time line: Ongoing

- 9. **HB 831** closed basin case study -- review, assessment, compilation, and summary of existing ground water studies

Who: **WPIC** Staff, Montana Bureau of Mines and Geology
Time line: July 2007 meeting

- 10. Methods for management of water including artificial recharge of ground water

Who: Panel Discussion
Time line: July 2007

- 11. Alternatives and options for conducting water management through artificial recharge of ground water

Who: Panel Discussion
Time line: July 2007

- 12. Analysis of water quality testing requirements with regard to mitigation, augmentation, and aquifer recharge.

Who: **WPIC** staff
Time line: August 2007 meeting

- 13. Balancing economic development and growth with the protection of senior appropriators rights and water quality

Who: Panel Discussion
Time line: August 2007 meeting

- 14. Appropriate level of water quality analysis associated with storage or introduction of surface water to ground water resources

Who: Panel Discussion
Time line: August 2007 meeting

— 15. Coordinating surface and ground water quantity and water quality permitting

Who: DEQ, DNRC
Time line: August 2007 meeting

16. Discussion and review related to the level of analysis that is conducted regarding any cumulative impacts related to water quality permitting

Who: WPIC staff, DNRC
Time line: August 2007 meeting

17. Discussion and review of the level of analysis that is conducted regarding any cumulative impacts related to water quantity permitting

Who: WPIC staff, DEQ
Time line: September 2007 meeting

18. Monitoring requirements to determine effectiveness of mitigation, augmentation, or aquifer recharge plans

Who: Panel Discussion
Time line: September 2007 meeting

— 19. Wells exempt from permitting process

Who: WPIC staff, DNRC, Consultants, Water Users
Panel Discussion
Time line: October 2007 meeting

— 20. Water marketing and water reallocation options and alternatives

Who: WPIC staff (background), DNRC, marketing experts, others
Panel Discussion
Time line: December 2007 meeting

— XX. _____

Who:
Time line:

Source authority: House Bill No. 831 (2007)

Background: House Bill No. 831 required that the appropriate interim legislative committee review drinking water standards and effluent treatment standards in other jurisdictions and recommend appropriate treatment standards for the purposes of aquifer recharge and mitigation.

— 1. Review and analysis of state and federal drinking water standards.

Who: WPIC Staff, DEQ
Time line: August 2007 meeting

— 2. Review and analysis of state and federal effluent treatment standards

Who: WPIC Staff, DEQ
Time line: August 2007 meeting

— 3. Alternatives related to appropriate water quality standards related to aquifer recharge or mitigation.

Who: Panel Discussion
Time line: August 2007 meeting

Draft 2007-2008 Work Plan Time Line

General 2007-2008 Interim Time Line:

[Note: This general time line is provided to give you an idea of the time line that the study will need *to* fit into in order to complete the work on time. The time line shows the last date for completion of certain items. Additional **WPIC** meetings may be scheduled if time and budget allow.]

July 10-11, 2007	<u>WPIC Meeting</u> , Interim work plan prioritization and WPIC organizational meeting. (Madison/Jefferson -- Dillon)
August 16-17, 2007	<u>WPIC Meeting</u> . (Upper Missouri) Adoption of detailed work plan.
September 12-13, 2007	<u>WPIC Meeting</u> . (Clark Fork)
October 16-17, 2007	<u>WPIC Meeting</u> . (Teton)
November 15-16, 2007	<u>WPIC Meeting</u> . (Bitterroot)
December 12-13, 2007	<u>WPIC Meeting</u> .
February 19-20, 2008	<u>WPIC Meeting</u> .
April 15-16, 2008	<u>WPIC Meeting</u> . If public comment is desired on a WPIC report, the contents of the <i>draft</i> report should be determined by this date.
June 10-11, 2008	<u>WPIC Meeting</u> . Last date to suggest revisions to a draft document if a 30 day public comment period is desired. Comments received from the public will be compiled by staff and distributed to the Subcommittee 1-2 weeks before the August 12-13, 2008 meeting.
June 15, 2008	Draft reports, findings, recommendations, and any legislation submitted for 30 day public comment period
August 12-13, 2008	<u>WPIC Meeting</u> . Review of public comment
September 11-12, 2008	<u>WPIC Meeting</u> . Final approval of recommendations, any reports, proposed legislation. Selection of bill sponsors. Development of strategy. Review agency bill draft requests.
	WPIC interim work must be completed prior to September 15, 2008.

Specific 2007-2008 Interim Time Line:

2007

July 10-11, 2007 (Jefferson/Madison -- Dillon)

- Basin overview
- Review/discuss current Montana water law
- Review/discuss current case law regarding water rights and water use in Montana
- Review/discuss surface water/ground water law in closed basins (mitigation, augmentation, aquifer recharge)
- Outline of other states' laws related to mitigation, augmentation, and aquifer recharge
- Review/discuss other states' experiences with mitigation, augmentation, and aquifer recharge
- Panel discussion regarding alternatives for applying the use of mitigation, augmentation, and aquifer recharge in Montana
- Update on HB 831 implementation -- DNRC
- HB 831 case study progress, update, dissemination of information and research -- MBMG
- Panel discussion regarding methods for management of water
- Panel discussion regarding alternatives and options for conducting water management through artificial recharge of ground water
- Identify areas where further information or more specific information is needed
- Discuss public input needs and methods for obtaining public input
- Discuss when and where public input would be obtained
- Public input

August 16-17, 2007 (Upper Missouri River Basin)

- Basin overview
- Review/discuss water quality testing requirements with regard to mitigation, augmentation, and aquifer recharge
- Panel discussion regarding the appropriate level of water quality analysis associated with storage or introduction of surface water to ground water resources
- Discussion related to coordinating surface and ground water quantity and quality permitting activities
- Panel discussion regarding economic development and growth with protection of senior appropriators and water quality
- Discussion and review related to the level of analysis that is conducted related to cumulative impacts for water quality
- Review and analysis of federal drinking water standards
- Review and analysis of state and federal effluent treatment standards
- Discuss alternatives related to appropriate water quality standards related to aquifer recharge or mitigation
- Update on HB 831 implementation -- DNRC
- HB 831 case study progress, update, dissemination of information and research -- MBMG
- Review of progress related to specific issues identified in the work plan
- Review work plan. Make changes if necessary.
- Identify areas where more information is needed
- Public input

September 12 - 13, 2007 (Clark Fork River Basin)

- Basin overview
- Panel discussion regarding monitoring requirements, if any, to determine effectiveness of mitigation, augmentation, or aquifer recharge plans
- Discussion and review related to the level of analysis that is conducted related to cumulative impacts for water quantity
- Follow up on July and August meeting topics

- Update on HB 831 implementation -- DNRC
- HB 831 case study progress, update, dissemination of information and research -- MBMG
- Review of progress related to specific issues identified in the work plan
- Review work plan. Make changes if necessary.
- Identify areas where more information is needed
- Public input

October 16-17, 2007 (Teton River Basin)

- Basin overview
- Discuss wells that are exempt from permitting process (35 gpm/10 ac ft)
 - review report of the number of exempt wells currently in MT
 - number of exempt wells, at current growth rates, expected by 2020
- Review and discuss the types of beneficial uses to which water from exempt wells is applied
- Panel discussion related to the hydrogeologic analysis necessary to determine consumptive use on a per-acre or fraction of an acre basis and on a per-use basis
- Panel discussion related to the amount of water reasonably necessary for the various beneficial uses
- Discussion of reasonable use of water in comparison with the current statutory limits including **volume**, **flow** rate, and any other criteria the **WPIC** determines is necessary
- Alternatives for measurement of water use through exempt wells
- Panel discussion on options and alternatives for enforcing statutory limitations regarding exempt well usage
- Panel discussion regarding the necessity of providing an exemption to the permitting process
- Any necessary follow up or discussion related to previously covered topics
- Update on HB 831 implementation -- DNRC
- HB 831 case study progress, update, dissemination of information and research -- MBMG
- Review of progress related to specific issues identified in the work plan
- Review work plan. Make changes if necessary.
- **Identify** areas where more information is needed
- Public input

November 15-16, 2007 (Bitterroot River Basin)

- Follow up on previously covered topics
- Update on HB 831 implementation -- DNRC
- HB 831 case study progress, update, dissemination of information and research -- MBMG
- Review of progress related to specific issues identified in the work plan
- Review work plan. Make changes if necessary.
- **Identify** areas where more information is needed
- Public input

December 12-13, 2007

- Review and discussion related to the lease-to-sale ratio of water rights in Montana
- Review and discussion related to the number of market purchases that have been completed in Montana -- what, when, where, how
- Review and discuss outline related to the purposes for which water trades or sales have taken place in Montana
- Panel discussion regarding the need **and/or feasibility** of creating and operating a water bank in Montana
- Review and discuss procedures and potential costs associated with establishing and operating a water bank or banks in Montana
- Any necessary follow up or discussion related to previously covered topics
- Update on HB 831 implementation -- DNRC
- HB 831 case study progress, update, dissemination of information and research -- MBMG
- Review of progress related to specific issues identified in the work plan

- Review work plan. Make changes if necessary.
- Identify areas where more information is needed
- Public input

2008

February 19-20, 2008

- Any necessary follow up or discussion related to previously covered topics
- Update on HB 831 implementation -- DNRC
- HB 831 case study progress, update, dissemination of information and research -- MBMG
- Review of progress related to specific issues identified in the work plan
- Review work plan. Make changes if necessary.
- Identify areas where more information is needed
- Public input

April 15-16, 2008

- Preliminary discussion on findings, conclusions, and recommendations
- Determine outline contents of draft reports
- Any necessary follow up or discussion related to previously covered topics
- Update on HB 831 implementation -- DNRC
- **HB** 831 case study progress, update, dissemination of information and research -- MBMG
- Review of progress related to specific issues identified in the work plan
- Review work plan. Make changes if necessary.
- Identify areas where more information is needed
- Public input

June 10-11, 2008

- Any necessary follow up or discussion related to previously covered topics
- Update on **HB** 831 implementation -- DNRC
- **HB** 831 case study progress, update, dissemination of information and research -- MBMG
- Make any revisions to draft documents prior to public comment period
- Last date to revise *draft* reports and concepts for proposed legislation
- Review of progress related to specific issues identified in the work plan
- Identify areas where more information is needed
- Public input

June 15 - July 15, 2008

- Distribute draft reports and concepts for proposed legislation for 30 day public review and comment, if desired:

July 28, 2008

- Compile and distribute comments on draft documents to committee members

August 12-13, 2008

- **Review/discussion** of public comment received
- **Review/discussion** of draft findings, conclusions, and recommendations
- Review of progress related to specific issues identified in the work plan
- Identify areas where more information is needed
- Public input

September 11-12, 2008

- Final decision on content of proposed legislation, if any
- Final decision on final **WPIC** report.
- Selection of bill sponsors. Development of strategy.

- Briefing on potential legislative proposals (if **any**) related to WPIC topics