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WATER POLICY INTERIM COMMITTEE
67th Montana Legislature

SENATE MEMBERS

Jill Cohenour
Bruce Gillespie
Jon Sesso
Jeffrey Welborn

HOUSE MEMBERS

Bob Brown
Zach Brown
Carl Glimm
Bradley Hamlett
Shane Morigeau
Walt Sales

COMMITTEE STAFF

Corina Hach - Attorney
Jason Mohr - Research Analyst
Nadine Spencer - Secretary

MINUTES LOG

July 14, 2020
Capitol Building, Remote Room 172
Helena, Montana

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Please contact the Legislative Services Division at 406-444-3064 for more information.

ROLL CALL

Members Present Remotely:

Rep. Zach Brown, Chair (D)
Sen. Jeffrey Welborn, Vice Chair (R)
Sen. Jill Cohenour (D)
Sen. Bruce Gillespie (R)
Rep. Bradley Hamlett (D)
Rep. Walt Sales (R)
Sen. Jon Sesso (D)

Members Excused:

Rep. Bob Brown (R)
Rep. Carl Glimm (R)
Rep. Shane Morigeau (D)

Staff Present:

Corina Hach, Attorney
Jason Mohr, Research Analyst
Nadine Spencer, Secretary

Committee Business Summary

The Water Policy Interim Committee:

- Voted to amend PD 0004 and put it out for public comment;
- Voted to put PD 0009 out for public comment;
- Voted to have staff direct a letter to the Senate Indian Affairs Committee showing support for S.3019.

AGENDA (Attachment 1)**Reconvene**

09:02:51 Rep. Z. Brown reconvened the meeting at 9:02 a.m. The secretary noted the roll. [\(Attachment 2\)](#)

Update on Technical Upgrades to Water Rights Database

09:02:55 Jason Mohr, research analyst, Legislative Services Division (LSD), provided an introduction and said the Department of Natural Resources and Conservation (DNRC) maintains a database of individual water rights claims called the Water Right Information System. He said it is nearing its technological lifespan, and the committee received a graphic showing where the department is at in its planned upgrade. [\(Exhibit 1\)](#)

09:03:41 Millie Heffner, Water Rights Bureau chief, DNRC, provided an overview of the Water Rights Information System and gave an update on the technical upgrades for the new system.

Public comment

None

Committee discussion

09:10:01 Sen. Sesso asked Ms. Heffner about the transition phase and if current updates are being put into the old system or the new system.

09:11:45 Sen. Sesso asked Ms. Heffner about the target date for when the department will be fully functional under the new system.

09:13:14 Sen. Sesso asked Ms. Heffner if there have been any extensions on the original timeline and if the extensions have cost the department any money.

09:15:32 Rep. Z. Brown asked Ms. Heffner to clarify the expected full completion date.

- 09:16:38 Rep. Z. Brown asked Ms. Heffner if the resources the department currently has appropriated through HB10 (2015) fully fund the project through the completion date.
- 09:17:11 Rep. Sales asked Ms. Heffner about the amount of funding in HB10 for the project.
- 09:18:59 Rep. Sales asked Ms. Heffner about the vendor for the project.
- 09:19:28 Rep. Hamlett asked Ms. Heffner about the number of FTEs needed for the project. Ms. Heffner said she will get the information.
- 09:20:23 Rep. Z. Brown thanked Ms. Heffner and asked about providing an update at the September meeting.

Drought, Water Supply, Wildfire Update

- 09:21:27 Michael Downey, Water Planning Section supervisor, DNRC, provided an update on drought and water supply conditions in the state. ([Exhibit 2](#))
- 09:27:01 John Monzie, Fire Protection Bureau deputy chief, DNRC, presented information on the wildfire season potential. ([Exhibit 3](#))

Public comment

None

Committee discussion

- 09:33:04 Rep. Hamlett commented on the amount of moisture the state has received and the increased fuel for wildfires. He said he hopes Montana has a moderate fire season and can continue to enjoy good air quality.

Update from Stream Gauge Oversight Work Group (2-15-3308, MCA)

- 09:34:45 Paul Azevedo, Water Management Bureau chief, DNRC and co-chair stream gauge oversight work group, provided an update from the work group. ([Exhibit 4](#))
- 09:39:06 Mr. Azevedo said the work group developed a stream gauge user's survey.
- 09:44:24 Rep. Z. Brown asked Mr. Azevedo to provide the link for the survey. <https://www.surveymonkey.com/r/95JZPPC>.

Public comment

None

Committee discussion

- 09:44:59 Sen. Cohenour asked Mr. Azevedo about outreach and working with the U.S. Geological Survey (USGS).
- 09:46:39 Sen. Cohenour asked Mr. Azvedo if it would be helpful for the WPIC to send a letter to the USGS encouraging the agency to work with the work group.

09:47:20 Sen. Sesso asked Mr. Azevedo about timing and progress of the work group in achieving the goals of the legislation.

09:50:04 Sen. Sesso asked Mr. Azevedo if the stakeholders feel engaged moving forward on the work plan and if there is progress in the goals and objectives.

09:54:49 Rep. Sales asked Mr. Azevedo about costs and funding.

09:56:29 Rep. Sales asked Mr. Azevedo about the different levels of need and cost for gauges.

09:57:52 Rep. Sales asked Mr. Azevedo about working with the USGS on shutting down gauges.

10:00:39 Rep. Sales asked Mr. Azevedo if sending a letter to the USGS would be helpful.

10:01:21 Rep. Z. Brown asked Mr. Azevedo about Muddy Creek.

10:02:18 Rep. Hamlett asked Mr. Azevedo to provide clarification on shutting down gauges.

10:05:39 Rep. Hamlett asked Mr. Azevedo if numbers put on gauges can be clearly read by anyone.

Review of Benchmarks Bill Draft

10:07:49 Cori Hach, staff attorney, LSD, provided information on the current bill draft. ([Exhibit 5](#))

Public comment

10:10:45 Laura Rennick, Water Resources Division deputy administrator, DNRC.

Committee discussion

10:11:24 Rep. Z. Brown asked Ms. Rennick if she knew whether the Water Court supported the version of the bill draft.

10:11:58 Rep. Z. Brown asked Ms. Hach the same question.

10:13:06 Rep. Z. Brown asked Ms. Rennick about the impact to the benchmark numbers if the Confederated Salish and Kootenai Tribes (CSKT) compact is ratified by Congress by the end of the year.

10:14:42 Sen. Sesso asked Ms. Rennick if the department met the first benchmark of 10,000 claims by June 30, 2017.

10:16:40 Sen. Sesso asked Ms. Rennick about leaving the previous benchmarks that have been met in place and establish a new benchmark that includes the exam or reexam with new numbers and new dates.

10:19:28 Sen. Sesso asked Ms. Hach about making the change in the bill draft.

10:20:17 Sen. Sesso asked Rep. Z. Brown about making the change.

10:20:25 Rep. Z. Brown asked Sen. Welborn to provide his opinion about making the changes to the benchmarks.

10:20:47 Rep. Z. Brown said he agreed with making the change.
10:21:03 Sen. Cohenour also agreed.

Motion

10:21:30 Sen. Cohenour moved to amend PD0004 to keep the 2017 and 2019 benchmarks in code and add new benchmark language in section 2(b) and to put the amended draft out for public comment.

Discussion on the Motion

10:21:38 Rep. Z. Brown
10:21:55 Mr. Mohr
10:22:13 Sen. Cohenour

Vote

10:22:55 The motion carried unanimously by voice vote of those present and voting.
10:23:29 Rep. Z. Brown asked Sen. Gillespie if he had a question on the last agenda item.
10:23:48 Sen. Gillespie asked Mr. Azevedo about information needed from the irrigators in response to the stream gauge survey.
10:25:59 Rep. Z. Brown asked Sen. Gillespie to give the committee an update on the St. Mary Canal after the next agenda item.
10:26:57 Rep. Hamlett commented on the consequences if the CSKT compact is not ratified by Congress.

Review of Geocodes Administrative Recommendations, Bill Draft

10:28:08 Ms. Hach discussed PD 0008. **(Exhibit 6)**
10:32:10 Ms. Hach discussed PD 0009. **(Exhibit 7)**

Public comment

10:35:25 Hon. Russ McElyea, chief judge, Montana Water Court.
10:45:06 Krista Lee Evans, Association of Gallatin Agricultural Irrigators; Senior Water Rights Coalition.
10:50:14 William Gowen, Montana Land Title Association.
10:51:48 Ms. Rennick.

Committee discussion

10:52:45 Sen. Cohenour asked Ms. Rennick about the definition for “correct and complete.”
10:53:38 Sen. Cohenour said since the definition for “correct and complete” is already in statute, it may not be necessary to change the way the language is drafted in the bill.

- 10:54:14 Rep. Sales asked about PD 0009 and if the 90-day time in section (2)(b) is subject only to water users that the geocode option doesn't work for and who do not file an ownership update form.
- 10:55:08 Ms. Evans agreed.
- 10:55:32 Rep. Sales asked Mr. McElyea for his opinion.
- 10:56:55 Rep. Sales asked Ms. Hach for her opinion about the language in the bill draft.
- 10:57:51 Sen. Cohenour said she recommends allowing the stakeholders to make changes to the bill draft and put the new version out for public comment before the September meeting.
- 10:58:25 Rep. Z. Brown said he thought the bill draft would be put out for public comment and that would allow stakeholders to make suggestions. He asked Mr. Mohr about his preference.
- 10:59:10 Rep. Z. Brown said he recommends putting the current version of the bill draft out for public comment.

Motion/Vote

- 10:59:46 Rep. Z. Brown moved to put PD 0009 out for public comment. The motion carried unanimously by voice vote of those present and voting.

Review of Geocodes Administrative Recommendations, Bill Draft

- 11:01:16 Mr. Mohr said the committee received a copy of the administrative recommendations reflecting changes made by the WPIC in May. [\(Exhibit 8\)](#)
- 11:02:25 Rep. Z. Brown asked Ms. Rennick if the department had any updates or comments on the recommendation that the DNRC incorporate all the administrative recommendations into the 1993 policy handbook by the September meeting.
- 11:03:13 Rep. Z. Brown asked Mr. Mohr to include an agenda item for the September meeting to allow for an update from the DNRC.

Committee discussion

None

Other Business

- 11:03:48 Sen. Gillespie provided an update on the St. Mary Canal.
- 11:06:46 Rep. Z. Brown asked Sen. Gillespie if the Department of Interior attributed its decision to flip the funding match for repairs based on the letter sent by the WPIC. [\(Exhibit 9\)](#)

Committee discussion

None

Public Comment on any Issue Within the Jurisdiction of the WPIC

None

Directions to Staff

- 11:07:54 Rep. Z. Brown asked Mr. Mohr about the September meeting and if he needed any additional information from the committee regarding his reports.
- 11:09:32 Rep. Z. Brown said he recommends including soliciting feedback on liability during the insurance company perspective on weather modification.
- 11:10:06 Rep. Z. Brown asked Mr. Mohr about the budget and ability to schedule additional meetings.
- 11:10:37 Rep. Z. Brown asked Mr. Mohr to send the committee members options for two one-day meetings after the September meeting.
- 11:11:59 Rep. Hamlett asked Rep. Z. Brown if any of the meetings will be held in Helena.
- 11:13:10 Rep. Z. Brown said without objection from the committee staff can move forward on the plan.
- 11:13:28 Sen. Welborn commented on the importance for Congress to pass the Montana Water Rights Protection Act and recommended that the WPIC send a letter to the Senate Indian Affairs Committee urging the committee to pass S.3019.
- 11:14:46 Sen. Cohenour, Rep. Sales, and Sen. Gillespie agreed.

Motion/Vote

- 11:15:36 Sen. Welborn moved to have staff direct a letter, on behalf of the WPIC, showing support for S.3019. The motion carried 8-0 by roll call vote. [\(Attachment 3\)](#) Rep. Morigeau voted aye by proxy [\(Attachment 4\)](#). Rep. B. Brown and Rep. Glimm were excused.
- 11:18:05 Mr. Mohr asked Rep. Z. Brown about who the letter should be directed to.
- 11:18:31 Sen. Hamlett commented on the appointment of Neil Gorsuch to the U.S. Supreme Court.

ADJOURNMENT

- 11:20:03 Rep. Z. Brown adjourned the meeting at 11:20 a.m.