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**WATER POLICY INTERIM COMMITTEE**  
**67th Montana Legislature**

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**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

**GEOCODES WORKING GROUP**  
**MINUTES LOG**

March 02, 2020  
Capitol Building, Room 102  
Helena, Montana

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**ROLL CALL**

**Members Present in Helena:**

Sen. Jeffrey Welborn, Vice Chair (R)

**Members Present via Telephone Conference:**

Rep. Zach Brown, Chair (D)  
Sen. Jill Cohenour (D)  
Sen. Bruce Gillespie (R)  
Rep. Walt Sales (R)  
Sen. Jon Sesso (D)

**Public Members Present in Helena:**

Kathy Olsen, Department of Natural Resources and Conservation  
Bill Gowen, Jr., Montana Land Title Association  
Evan Hammer, Natural Resources Information Service  
Kory Hofland, Department of Revenue  
Hon. Steve Brown, Montana Water Court  
Liane Taylor, Montana Association of Realtors

**Public Members Present via Telephone Conference:**

Regina Plettenberg, Montana Association of Clerk and Recorders  
Shantil Siaperas, Montana Association of Counties

**Staff Present in Helena:**

Jason Mohr, Research Analyst  
Nadine Spencer, Secretary

**Staff Present via Telephone Conference:**

Corina Hach, Attorney

**AGENDA ([Attachment 1](#))****VISITORS' LIST ([Attachment 2](#))****Call to Order/Roll Call**

13:31:11 Sen. Welborn called the meeting to order at 1:31 p.m. The secretary called the roll. ([Attachment 3](#))

**Review of Issues**

13:33:50 Jason Mohr, research analyst, Legislative Services Division, provided information on the working group, its members, and rules of procedure.

13:35:05 Mr. Mohr said the working group is tasked with how to improve the quality of data in the water rights database, focusing on inconsistencies that may have arisen due to the use of geocodes. He said the working group will provide its recommendations to the Water Policy Interim Committee (WPIC) at its May meeting and today will determine the scope of process.

13:36:45 Mr. Mohr provided information on how geocodes are used.

13:38:41 Mr. Mohr discussed and reviewed the issues.

13:40:48 Mr. Mohr provided information on the suggestions for solutions that were previously discussed by the committee.

**Public comment**

13:42:49 Jean Bergeson, attorney, Dillon.

13:46:51 Krista Lee Evans, Senior Water Rights Coalition, Association of Gallatin Agricultural Irrigators.

### **Working group discussion and questions**

- 13:50:45 Kory Hofland, Department of Revenue (DOR), said the department is bound to the Realty Transfer Act.
- 13:52:39 Sen. Gillespie asked to have a summary of today's working group meeting for the WPIC meeting next week. Sen. Welborn said staff will have it available.
- 13:53:29 Bill Gowen, Jr., Montana Land Title Association, commented on the need to consider timing issues and on tying geocodes to the place of use. He said the focus should be on getting the information that the Water Court needs in order to speed up the data transfer.
- 13:55:03 Steve Brown, associate water judge, Montana Water Court, said the Water Court updates water right transfer information as it is received from the Department of Natural Resources and Conservation (DNRC), but there is a delay in the time when the property is sold and the information gets to the Water Court.
- 13:58:24 Kathy Olsen, DNRC, said the DNRC cannot transfer ownership until the fee is paid.
- 13:58:58 Mr. Gowen said that there is a method in statute that allows unpaid city and county water bills to be transferred to the tax bill and could be a way to legislatively make the change before the fee is paid.

### **Discussion of Working Group Scope and Process**

- 14:00:35 Mr. Mohr asked about the scope for the working group and the direction for staff.
- 14:01:08 Sen. Welborn opened the discussion.
- 14:01:24 Rep. Z. Brown asked Mr. Mohr about the timeline for making recommendations on legislation to the WPIC.
- 14:02:51 Rep. Z. Brown suggested that the working group give its recommendations to the WPIC by the May meeting.
- 14:03:31 Sen. Sesso commented on the scope of the working group and the issues regarding processing water right changes and transfers and said not all of the issues are related to or involve geocodes. He asked Evan Hammer, Natural Resources Information Service, about an improvement or variation on geocodes that can contribute to solving some of the issues.
- 14:09:00 Sen. Welborn asked Mr. Hammer to respond.
- 14:09:26 Mr. Hammer said the issue is not with using geocodes to identify parcels, but when it is appropriate to use geocodes for water right transfers.
- 14:11:13 Liane Taylor, Montana Association of Realtors, said her concern is the fee and if the transfer is not being done because the fee hasn't been paid.
- 14:12:47 Mr. Gowen said most of the transactions are done at title companies and there are different procedures in different parts of the state. He said the issue is getting information to the DNRC in a timely manner and finding a way to get past the fee as the trigger.

- 14:14:52 Mr. Brown said the four issues related to the scope for the working group are adding parties to water rights without a deed or written consent, delay because of non-payment of a fee, shortening the time between the transaction and when the database is updated, and being able to use the orders written at the Water Court as a way to update the ownership in the database rather than sending it to the DNRC.
- 14:17:54 Ms. Olsen said using the geocode process and working with the DOR has helped the process and made the database more accurate. She said a water right cannot be transferred without information either in the form of a recorded document or data from the DOR and the fee.
- 14:20:15 Mr. Hofland said there needs to be a process that would require documentation to the DNRC from the clerk and recorder's office when deeds are filed and water rights have transferred.
- 14:21:42 Regina Plettenberg, Montana Association of Clerk and Recorders, commented on problems associated with requiring a second document for water right transfers.
- 14:23:54 Mr. Gowen commented on finding a solution to get the data to the DNRC as quickly as possible and with the right information.
- 14:25:45 Shantil Siaperas left the meeting.
- 14:26:13 Rep. Sales asked Ms. Olsen about DNRC's policy for water right transfer certificates.
- 14:27:13 Sen. Welborn asked Rep. Sales for clarification regarding his question.
- 14:27:51 Ms. Olsen said the DNRC's policy is in accordance with HB 39 (2007) and can be done with a recorded document, the proper correct and completed form, and the appropriate fee or once the information is received from data provided by the DOR.
- 14:28:38 Rep. Sales asked Ms. Olsen about double checking geocodes on a water right transfer certificates.
- 14:31:17 Rep. Sales asked Ms. Olsen about validation by the department.
- 14:32:14 Rep. Z. Brown asked about issues with timing and delays in processing updates when an application is submitted without a fee and about communication between the DNRC and the Water Court.
- 14:33:32 Sen. Gillespie commented on finding an easier way for the DNRC to collect the fee and speed up the process.
- 14:34:42 Sen. Sesso said he does not see a way to eliminate the fee and commented on the solutions that were offered by the Water Court and whether there is anything that can be done legislatively to improve the process.
- 14:39:44 Sen. Sesso asked Mr. Mohr about the process for gathering information from stakeholders on their suggestions for changes and if the information has been collated and put into one document.

14:42:29 Sen. Sesso said the next step should be to call for proposals from stakeholders.

14:43:41 Ms. Plettenberg left the meeting.

14:44:01 Mr. Gowen said he recommends putting forth legislation to give the DNRC the power to remand the transfer fee to the next year's tax bill in order to speed up the process.

14:45:46 Sen. Sesso asked Mr. Gowen about his recommendation.

14:48:48 Sen. Sesso said he agrees with the solution to remand the fee and to de-emphasize geocodes and emphasize some of the solutions for increasing accuracy and timeliness.

14:51:37 Sen. Welborn asked Ms. Evans to provide her suggestions.

14:55:07 Mr. Brown said justification is needed to add a person to a water right other than paying a fee.

14:56:51 Ms. Olsen said the DNRC does require a deed or information from the DOR before adding someone to a water right.

14:58:04 Mr. Gowen said HB 39 makes the buyer responsible for transferring a water right.

14:58:49 Sen. Welborn clarified the wording in statute.

14:59:38 Mr. Gowen commented on the statute and the intent of the legislation.

15:00:30 Ms. Evans said she agrees with the wording in statute that the cost for transferring a water right is the responsibility of the buyer and adding the unpaid fee to the tax bill is a solution. She also said that the buyer needs to have the deed to prove the water right was transferred.

15:01:22 Rep. Sales said he supports Sen. Sesso's recommendation to ask for proposals for solutions from stakeholders and agreed with Mr. Brown's comments on the original idea of the geocodes. He recommended that Ms. Evans be added as a member of the working group as a senior water right representative.

15:02:46 Rep. Z. Brown said he agrees with adding Ms. Evans to the working group. Sen. Welborn said the decision is at the discretion of the chairman.

15:03:28 Sen. Welborn said a call will be put out to stakeholders for their suggestions to improve the process and asked about next steps.

### **Discussion of Next Working Group Meeting Date**

15:04:53 Rep. Z. Brown said he recommends that the working group put together a draft proposal to review and get feedback before the next meeting and send it to the WPIC in May.

15:05:35 Sen. Welborn asked about having a list of solutions by the middle of April and schedule the next working group meeting before the May WPIC meeting.

15:06:22 Rep. Z. Brown said he recommends that the working group meet earlier.

15:07:12 Mr. Mohr said he recommends giving the stakeholders the month of March to put together their list of solutions and to schedule another working group meeting for early April.

15:08:23 Sen. Welborn asked the members of the working group for their consensus.

15:08:57 Mr. Brown asked about scheduling the meeting for the second week of April.

15:09:00 Sen. Welborn agreed.

15:09:49 Sen. Welborn thanked the working group and the committee members for their participation.

**ADJOURNMENT**

15:10:30 Sen. Welborn adjourned the meeting at 3:10 p.m.