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

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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**

May 13, 2020  
Capitol Building, Remote Room 172  
Helena, Montana

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### **ROLL CALL**

**Members Present:**

Rep. Zach Brown, Chair (D)  
Sen. Bruce Gillespie (R)  
Rep. Bradley Hamlett (D)  
Rep. Shane Morigeau (D)  
Rep. Walt Sales (R)

**Public Members Present Remotely:**

James Ferch, Department of Natural Resources and Conservation (DNRC)  
Kathy Olsen, DNRC  
Bill Gowen, Jr., Montana Land Title Association  
Evan Hamner, Natural Resources Information Service  
Bryce Kaatz, Department of Revenue  
Hon. Russ McElyea, Montana Water Court  
Hon. Steve Brown, Montana Water Court  
Tara DePuy, Montana Association of Counties  
Krista Lee Evans, Association of Gallatin Agricultural Irrigators, Senior Water Rights Coalition

**Public Members Absent:**

Liane Taylor, Montana Association of Realtors  
Regina Plettenberg, Montana Association of Clerk and Recorders

**Staff Present in Helena:**

Jason Mohr, Research Analyst  
Nadine Spencer, Secretary

**Staff Present Remotely:**

Corina Hach, Attorney

**Committee Business Summary**

The Geocodes Working Group (GWG):

- Voted to submit the administrative recommendations for the water rights ownership update process, as amended, to the Water Policy Interim Committee (WPIC);
- Voted to submit the bill draft proposal from the GWG subgroup, as amended, to the WPIC;
- Voted to submit the bill draft proposal for “correct and complete” to the WPIC.

**AGENDA (Attachment 1)****Call to Order/Roll Call**

10:03:13 Rep. Z. Brown called the meeting to order at 10:03 a.m. The secretary called the roll. [\(Attachment 2\)](#)

**Discussion of Proposed Framework****Review of working group actions**

10:05:35 Jason Mohr, research analyst, Legislative Services Division, said this is the fifth meeting of the geocodes working group and provided instructions for the meeting. He said Bryce Kaatz is representing the Department of Revenue.

10:06:32 Mr. Mohr said for the meeting today the working group will consider advancing to the WPIC its recommendations for the water right ownership update process [\(Exhibit 1\)](#) and two bill drafts. [\(Exhibit 2\)](#) He said the working group received an email response from the Department of Natural Resources and Conservation (DNRC) regarding the proposals.

10:07:35 Rep. Z. Brown said he talked to Laura Rennick, deputy administrator, and Jan Langel, Water Resources Division administrator, DNRC, regarding the department's perspective on the proposals.

### **Administrative recommendations to WPIC**

10:08:48 Mr. Mohr discussed the seven administrative recommendations and said they do not need to be put into statute. (see exhibit 1)

10:12:15 Rep. Z. Brown said he spoke with Mr. Langel and he indicated that the DNRC would prefer to ask for an audit before making any legislative changes. He said today the working group needs to come to a consensus on the recommendations and make a formal motion to advance the recommendations to the WPIC at its meeting next week.

10:13:32 Krista Lee Evans, Association of Gallatin Agricultural Irrigators and Senior Water Rights Coalition, commented on the DNRC recommendations.

10:15:00 Ms. Evans discussed the recommendation from the Water Court.

10:16:00 Ms. Evans said she recommends that the DNRC incorporate the suggestions into its 1993 policy handbook on ownership updates and not the existing policy handbook.

10:16:33 Rep. Z. Brown asked Mr. Mohr if he needed clarification on the suggestions.

10:17:02 Rep. Z. Brown asked Ms. Evans to make a formal motion after the working group discussion.

10:17:28 Rep. Sales asked Mr. Mohr about the time frame for the audit.

10:19:17 Rep. Z. Brown said Mr. Langel felt that some of the legislative changes were premature and that a full audit would allow time to get objective information and take a broader look at the issue. He said he did not feel that the working group needed to stop its work and wait for an audit.

10:20:11 Ms. Rennick said she is available to answer any questions regarding the response from the department. She said the agency is supportive of the seven recommendations and agrees with the suggested changes from Ms. Evans.

### **Motion/Vote**

10:22:00 Ms. Evans moved to accept the recommendation from the DNRC: Keep all records, maps, and research used to determine ownership in each water right file and to take out the word "claim." The motion passed without objection.

### **Motion**

10:23:01 Ms. Evans moved to accept the DNRC recommendation: Rewrite language of ownership updates postcards (confirming an ownership update) and fee letters (seeking payment of update fee) to better describe circumstances and the process under existing law, and add "upon completion or passage of legislation, the letters be reevaluated and potentially rewritten".

### **Discussion on the motion**

10:23:49 Ms. Rennick  
10:24:23 Ms. Evans made a substitute motion to add "if legislation or policy changes the language, the postcards and letters will be reevaluated".  
  
10:24:59 Rep. Z. Brown  
10:25:16 Bill Gowen, Montana Land Title Association  
10:25:39 Ms. Evans

### **Vote**

10:26:23 The substitute motion carried without objection.

### **Motion**

10:26:40 Ms. Evans moved to add to the Water Court recommendation: Continue to attach all relevant information related to a water right to a court water master's report and final orders "if an ownership update is requested before an order or master's report is issued the court sends maps and information used to determine ownership to the department."

### **Discussion on the motion**

10:27:34 Hon. Steve Brown, associate judge, Montana Water Court  
10:28:36 Hon. Russ McElyea, chief water judge, Montana Water Court  
10:29:08 Ms. Evans  
10:30:32 Mr. McElyea  
10:31:34 Rep. Z. Brown  
10:32:37 Mr. Mohr  
10:33:15 Mr. McElyea  
10:34:47 Ms. Evans  
10:35:35 Mr. McElyea  
10:35:37 Ms. Evans  
10:36:09 Mr. Brown  
10:37:26 Mr. McElyea  
10:39:06 Ms. Evans  
10:40:05 Rep. Z. Brown  
10:40:44 Mr. Brown  
10:42:51 Jim Ferch, New Appropriations Program manager, Water Resources Division, DNRC  
10:44:42 Mr. McElyea  
10:44:54 Mr. Ferch  
10:44:57 Mr. McElyea  
10:45:09 Mr. Ferch  
10:46:13 Mr. McElyea

10:47:57 Ms. Evans  
10:49:50 Rep. Z. Brown  
10:50:09 Ms. Rennick  
10:51:00 Rep. Sales  
10:51:42 Mr. Brown  
10:54:07 Rep. Z. Brown  
10:54:12 Ms. Evans made a substitute motion to add “continue to attach relevant maps and other information related to a change in ownership or place of use to a red-marked abstract, a court water master's report, and final orders”.  
  
10:54:52 Mr. Brown

### **Vote**

10:55:05 The substitute motion carried without objection.  
10:55:21 Ms. Evans asked about needing a motion on the recommendation that the DNRC incorporate the suggestions into its 1993 policy and not its existing policy handbook on ownership updates.  
10:55:41 Rep. Z. Brown asked Ms. Rennick about DNRC's position on bringing back the 1993 policy handbook.  
10:55:55 Rep. Z. Brown said it can be an administrative fix.

### **Public comment**

10:56:51 Julie Merritt, WGM Group.

### **Bill draft 1: GWG subgroup proposal**

10:57:58 Rep. Z. Brown opened discussion on the subgroup proposal. ([Exhibit 3](#))  
10:58:14 Ms. Hach discussed the changes she made to the subgroup proposal that was presented at the last working group meeting. She said she has not been able to review the information sent by the DNRC.  
11:02:37 Rep. Z. Brown asked Ms. Hach about opening discussion on the bill draft.  
11:03:13 Rep. Z. Brown thanked Ms. Hach. He said the working group will need to make a motion at the end of the meeting in order to forward the administrative document to the WPIC and asked for a motion on the bill draft.

### **Motion**

11:04:06 Mr. McElyea moved to adopt the draft legislation.

### **Discussion on the motion**

11:04:31 Ms. Evans  
11:05:52 Mr. McElyea

11:06:05 Ms. Evans  
11:06:27 Ms. Hach  
11:07:26 Ms. Evans  
11:08:17 Mr. Gowen  
11:08:49 Mr. McElyea  
11:10:01 Ms. Evans said she recommends adding in subsection (2)(c): "learning of a clerical error resulting from an error on a water right ownership update."  
11:10:28 Ms. Hach  
11:10:32 Mr. McElyea

**Motion/Vote**

11:10:38 Ms. Evans moved to amend the bill draft. The motion carried without objection.

11:11:15 Ms. Rennick  
11:13:12 Ms. Evans  
11:14:41 Mr. McElyea  
11:14:51 Ms. Evans  
11:15:40 Ms. Hach  
11:16:07 Ms. Evans  
11:16:38 Ms. Hach  
11:17:30 Mr. McElyea  
11:19:25 Rep. Z. Brown  
11:19:47 Mr. Ferch  
11:22:03 Rep. Z. Brown  
11:22:47 Mr. Gowen  
11:23:45 Rep. Hamlett  
11:24:18 Rep. Z. Brown  
11:24:41 Ms. Hach  
11:24:53 Mr. Mohr  
11:25:26 Rep. Z. Brown  
11:26:12 Rep. Hamlett  
11:27:28 Rep. Z. Brown

**Vote**

11:27:50 The motion to accept the bill draft as amended carried by voice vote. Mr. Ferch voted no.

**Bill draft 2: "Correct and complete" proposal**

11:28:32 Rep. Z. Brown opened the discussion.  
11:28:40 Mr. Mohr discussed the bill draft proposal for "correct and complete." ([Exhibit 4](#))

11:30:03 Rep. Z. Brown asked Mr. Mohr about concerns regarding combining the bill drafts.

11:30:50 Rep. Z. Brown asked for a motion on the bill draft.

### **Motion**

11:31:10 Mr. Gowen moved to adopt the bill draft.

### **Discussion on the motion**

11:31:23 Ms. Evans

11:32:06 Rep. Z. Brown

11:32:31 Mr. McElyea

11:32:42 Mr. Gowen

11:32:46 Rep. Z. Brown

11:33:01 Mr. Ferch

### **Vote**

11:33:47 The motion carried unanimously by voice vote.

11:34:05 Rep. Z. Brown asked for a motion on the administrative recommendations.

### **Motion/Vote**

11:34:22 Ms. Evans moved to submit the recommendations, as amended, to the WPIC. The motion carried unanimously by voice vote.

11:35:15 Rep. Z. Brown thanked the working group.

### **Public comment**

11:35:47 Ms. Merritt

11:39:31 Rep. Z. Brown said the working group will forward the three recommendations to the WPIC for its meeting next week. He said the concerns from the DNRC about combining the bill drafts will be noted in the discussion, and he encouraged the department to bring a list of any other concerns.

### **Additional working group discussion, questions, and action**

11:40:47 Mr. Mohr said the discussion at the WPIC meeting on the recommendations from the GWG is scheduled for 10 a.m. on Tuesday.

11:41:09 Rep. Z. Brown thanked the members of the working group for their time and effort.

### **ADJOURNMENT**

11:42:21 Rep. Z. Brown adjourned the meeting at 11:42 a.m.