



Water Policy Interim Committee

66th Montana Legislature

SENATE MEMBERS

JILL COHENOUR
BRUCE (BUTCH) GILLESPIE
JON SESSO
JEFF WELBORN

HOUSE MEMBERS

BOB BROWN
ZACH BROWN
CARL GLIMM
BRADLEY MAXON HAMLETT
SHANE MORIGEAU
WALT SALES

COMMITTEE STAFF

JASON MOHR, Research Analyst
CORINA HACH, Staff Attorney
NADINE SPENCER, Secretary

MINUTES LOG

November 21, 2019
Room 172, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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COMMITTEE MEMBERS PRESENT IN HELENA

SEN. JILL COHENOUR

COMMITTEE MEMBERS PRESENT VIA TELEPHONE CONFERENCE

REP. ZACH BROWN, chair
SEN. JEFF WELBORN, vice chair

SEN. BRUCE (BUTCH) GILLESPIE

REP. BRADLEY MAXON HAMLETT
REP. WALT SALES

COMMITTEE MEMBERS EXCUSED

SEN. JON SESSO
REP. BOB BROWN
REP. CARL GLIMM
REP. SHANE MORIGEAU

STAFF PRESENT IN HELENA

JASON MOHR, Research Analyst
CORINA HACH, Staff Attorney
NADINE SPENCER, Secretary

VISITORS' LIST (Attachment 1)

AGENDA (Attachment 2)

CALL TO ORDER AND ROLL CALL

10:03:55 Sen. Cohenour called the meeting to order at 10:03 a.m.
10:04:17 Rep. Zach Brown asked Jason Mohr, research analyst, Legislative Services Division, about the meeting.
10:05:00 The secretary called the roll. **(Attachment 3)** Sen. Sesso, Rep. B. Brown, Rep. Gimm, and Rep. Morigeau were excused.

GEOCODING AND THE WATER RIGHTS DATABASE

Staff preview

10:05:53 Mr. Mohr welcomed everyone to the meeting.
10:06:24 Mr. Mohr said the committee received a copy of public comments. **(Exhibit 1)**
10:06:52 Mr. Mohr said the agencies presenting today were asked to provide information on their view regarding problems with geocoding, as used in the water rights database, and solutions to the problem.
10:07:14 Mr. Mohr provided a review of the committee's discussion related to geocoding so far.
10:11:13 Mr. Mohr said the Department of Natural Resources and Conservation (DNRC), the Montana Water Court, and the Department of Revenue (DOR) will explain how they view geocoding and the water rights database, provide a description of the process for assigning a geocode, and how HB 110 (2017) claims will be worked into the database.
10:12:21 Rep. Z. Brown provided information for the meeting.

Department of Natural Resources and Conservation

10:13:42 Mr. Mohr introduced Jan Langel, Water Resources Division administrator, DNRC.
10:13:54 Mr. Langel discussed HB 110 claims. **(Exhibit 2)**
10:20:35 Sen. Gillespie asked about the procedure for committee questions. Rep. Z. Brown said questions will be taken after each agency presentation.
10:21:46 Mr. Mohr introduced Jim Ferch, New Appropriations Program manager, Water Rights Bureau, DNRC.
10:21:57 Mr. Ferch discussed the DNRC geocoding process. **(Exhibit 3)**
10:27:28 Mr. Ferch discussed geocoding complications and solutions. **(Exhibit 4)**
10:36:42 Mr. Ferch discussed suggestions for improvement.

Committee questions and discussion:

- 10:40:08 Sen. Gillespie asked Mr. Langel about the Bureau of Land Management (BLM) and the fee cap for HB 110 claims.
- 10:42:00 Rep. Z. Brown asked Mr. Ferch to clarify the suggestion for improvement on rural county staffing.
- 10:43:27 Rep. Hamlett said he was the sponsor for HB 110 and asked Mr. Langel about contract for deed issues on property transfers and subsequent water rights. Mr. Langel redirected the question to Millie Heffner, Water Rights Bureau chief, DNRC.
- 10:46:43 Ms. Heffner
- 10:48:02 Sen. Welborn joined the meeting.

Montana Water Court

- 10:48:10 Hon. Russ McElyea, Montana Water Court, via telephone conference, discussed HB 110 exempt from filing claim issues.
- 10:51:16 Mr. McElyea discussed Water Court geocode and ownership updates. **(Exhibit 5)**
- 10:57:33 Mr. McElyea discussed goals for legislative action to address the problem.

Committee questions and discussion:

- 11:01:46 Rep. Hamlett asked Mr. McElyea if the subdivision of property and increased property ownership is part of the problem.
- 11:02:24 Rep. Hamlett asked Mr. McElyea about adding an additional fee to record property transfers to help handle water issues.
- 11:03:52 Sen. Gillespie requested a copy of Mr. McElyea's suggestions. Rep. Z. Brown asked Mr. McElyea to provide a copy of the information he presented that was not included in his memo.
- 11:04:52 Rep. Z. Brown asked Mr. Ferch to provide a copy of the additional information he presented.

Department of Revenue

- 11:05:28 Kory Hofland, Property Assessment Division deputy administrator, DOR, provided information on the process for updating ownership data and their involvement with the DNRC for maintaining water right information. **(Exhibit 6)**

Committee questions and discussion:

- 11:10:17 Rep. Z. Brown asked Mr. Hofland about any unintended consequences of removing the DOR from the process.
- 11:11:49 Sen. Welborn asked about forming a working group or subcommittee to work on a potential solution.
- 11:12:32 Sen. Cohenour agreed.
- 11:13:05 Rep. Hamlett said he recommends keeping the full committee engaged.
- 11:13:33 Rep. Z. Brown said he agrees with the need to keep as many committee members engaged as possible and establishing a deeper dive to come up with solutions.
- 11:14:14 Rep. Hamlett asked Mr. Hoflund if the DOR relies on Goggle maps to determine property use.

11:16:08 Rep. Z. Brown said that staffing and resource challenges are contributing to some of the issues. He acknowledged and thanked the public employees for their work.

Public comment:

11:17:26 Krista Lee Evans, Blake Creek Project Management ([Exhibit 7](#))

11:23:27 Shantil Siaperas, Montana Association of Counties, Montana Association of Clerk and Recorders

11:24:41 Jean Bergeson, Suenram & Bergeson ([Exhibit 8](#))

11:31:10 Sen. Cohenour left the meeting.

11:40:52 Holly Franz, representing NorthWestern Energy ([Exhibit 9](#))

11:42:45 Ms. Franz said the committee received a copy of SB 250 (2019). ([Exhibit 10](#))

Committee questions and discussion:

11:45:55 Sen. Welborn said he agrees the topic should be a focus for the entire committee and asked about the time available.

11:47:11 Sen. Gillespie requested a copy of all of the suggestions given at the meeting today and agreed that all committee members who want to be engaged should be included in the process.

11:48:08 Rep. Z. Brown said he recommends that the subcommittee include all interested committee members as well as members of the public and the agency representatives. He said it can be discussed at the January meeting.

11:48:53 Rep. Hamlett said he recommends putting together a working group of stakeholders and committee members.

11:49:31 Rep. Hamlett asked Ms. Bergeson about the ownership update forms that are being sent out by the DNRC.

11:52:05 Rep. Sales asked Mr. Langel about the department's procedure and looking at the deed and chain of title.

11:54:32 Rep. Sales asked Mr. Langel about the value of putting together a working group and the ability for the DNRC to work with legislative staff before the January meeting.

11:56:02 Rep. Sales said he supports putting together a working group to look at the issues with geocoding and HB 110 claims.

11:56:46 Rep. Z. Brown asked Mr. McElyea about his solution to educate water attorneys on the process and if there is an informal way for the committee to work with the water section of the state bar.

11:58:55 Rep. Hamlett asked Mr. McElyea about potential issues with the use of modern technology and the global positioning system to locate property lines and the effect on neighboring water rights.

Next steps and direction for staff:

12:01:48 Rep. Z. Brown asked about putting together a working group or subcommittee before the end of the year.

12:02:36 Sen. Gillespie said he recommends starting the process in December.

12:03:09 Rep. Sales asked staff about the agenda for the January meeting.

12:04:30 Rep. Z. Brown asked about setting up a working group or subcommittee during

12:04:53 the first two weeks of December that can report to the full committee in January.
Rep. Hamlett commented on the need for more information and said he would like to participate in the working group.

12:05:44 Rep. Sales asked about stakeholder participation.

12:06:12 Mr. Mohr said he recommends setting up a conference call with the full committee.

12:07:19 Rep. Z. Brown said he prefers scheduling the meeting for the first two weeks of December and keeping it available to the full committee. He said any stakeholders that would like to be involved can submit their interest to Mr. Mohr and he will work with staff on an agenda.

12:08:55 Sen. Welborn said he agreed that extra time and effort are needed to look into the issue without taking time away from the committee's other work.

12:10:13 Rep. Sales asked about coming to the meeting in person rather than participating by phone. Rep. Z. Brown said he recommends keeping the same format for the conference call in early December as today's meeting and making a determination in January about a formal subcommittee and expending committee resources.

12:12:35 Rep. Hamlett commented on participation at the December meeting.

12:13:09 Rep. Z. Brown said the primary focus of the conference call in December will be on geocodes and the focus for the January meeting will be HB 110 claims.

12:13:57 Rep. Hamlett commented on funding and taking a look at putting an additional fee on property transactions. Rep. Z. Brown agreed and said that funding will continue to be part of the discussion moving forward.

INSTRUCTIONS TO STAFF

12:15:46 Rep. Z. Brown asked Mr. Mohr about clarification for next steps.

12:16:21 Rep. Z. Brown said committee members and interested stakeholders can provide their suggestions for the December meeting to him or staff.

ADJOURN

12:17:19 Rep. Z. Brown adjourned the meeting at 12:17 p.m.

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