



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

September 11, 2019

Commissioners' Room, Beaverhead County Courthouse
Dillon, 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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Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

REP. ZACH BROWN, Chair
SEN. JEFF WELBORN, Vice Chair

SEN. JILL COHENOUR
SEN. BRUCE (BUTCH) GILLESPIE

REP. BOB BROWN
REP. CARL GLIMM
REP. BRADLEY MAXON HAMLETT
REP. WALT SALES

COMMITTEE MEMBERS EXCUSED

SEN. JON SESSO
REP. SHANE MORIGEAU

STAFF PRESENT

JASON MOHR, Research Analyst
NADINE SPENCER, Secretary

VISITORS' LIST (Attachment 1)

AGENDA (Attachment 2)

RECONVENE

- 08:03:15 Rep. Z. Brown reconvened the meeting at 8:03 a.m. The secretary noted the roll. **(Attachment 3)** Sen. Sesso was excused with Sen. Cohenour holding his proxy. Rep. Morigeau was excused with Rep. Z. Brown holding his proxy. **(Attachment 4)**
- 08:04:23 Rep. Z. Brown requested a brief moment of silence for the victims of 9/11.

BACKGROUND DISCUSSION FOR CLIMATE STUDY

Overview of Montana Climate Assessment - Wyatt Cross, director, Montana Water Center, Montana State University

- 08:04:49 Rep. Z. Brown provided an introduction.
- 08:05:29 Wyatt Cross, director, Montana Water Center, Montana State University, provided information on the Montana Climate Assessment. **(Exhibit 1)**
- 08:23:13 Mr. Cross discussed how climate will intersect with agriculture and water rights.

Public comment: None

Committee discussion:

- 08:32:10 Sen. Gillespie asked Mr. Cross about challenges in the future and pathways that can minimize the negative and accentuate the positive.
- 08:33:07 Rep. Hamlett commented on how climate change has affected seasons and said a possible committee bill could provide some mechanism to universally allow earlier use of water.
- 08:35:59 Rep. Z. Brown asked Rep. Sales about his experience with water rights and earlier period of use.
- 08:39:44 Sen. Welborn commented on the study and asked Steve Cottom, East Bench Irrigation District, about recharge and canal water.
- 08:43:31 Rep. Z. Brown asked Mr. Cottom about the shoulder season concept used to address earlier runoff.
- 08:45:39 Sen. Gillespie asked Mr. Cross about projections and working with soil and crop scientists on their research.
- 08:46:50 Rep. Sales commented on the information and data and the need to work on funding for the Surface Water Assessment and Monitoring Program (SWAMP) of the Montana Bureau of Mines and Geology (MBMG).
- 08:47:23 Rep. Sales asked Mr. Cross about period of use and the possibility of a pilot project.
- 08:49:37 Rep. Hamlett asked Mr. Cross about efficiencies and the affect on groundwater.

08:51:24 Rep. Z. Brown asked Krista Lee Evans, Association of Gallatin Agricultural Irrigators, about early season flood control, period of use, and enforcement in the Gallatin Valley.

08:57:19 Rep. Sales commented on period of use and canals in the Gallatin Valley.

08:58:39 Rep. Hamlett said he recommends that staff explore the legalities of leaking ditches and canals on new developments.

Next steps:

09:00:24 Rep. Z. Brown opened discussion on next steps.

09:00:40 Sen. Cohenour said she recommends hearing from the agricultural and irrigation community on period of use. Jason Mohr, research analyst, Legislative Services Division, asked about inviting the Department of Natural Resources and Conservation (DNRC) to present their view.

09:02:38 Rep. Z. Brown said he recommends exploring storage barriers or opportunities allowed in code for creative storage solutions and asking the DNRC if there are opportunities to build more reservoirs or increase storage at existing reservoirs.

09:03:36 Rep. Sales said he recommends looking at the management of canals and structure. Mr. Mohr asked Rep. Sales if he wanted to look at state projects.

09:04:56 Rep. Z. Brown said he recommends getting an update from the MBMG.

09:05:24 Rep. Hamlett said he recommends looking at the days of use on a water right, winter recharge, and how much water is needed to make an irrigation system functional, so that when people market their water rights off, if the water that is being diverted needs to stay the same.

09:08:31 Rep. Sales said he wanted to include state management of canals.

09:08:42 Rep. Z. Brown said to also find out if other states in the West have contemplated period of use flexibility, and if they have a policy framework in place.

ADMINISTRATIVE MATTERS

Administrative Rule Update

09:09:46 Mr. Mohr said the committee received the administrative rule update and a notice from the DNRC proposing to amend three rules and repeal two. ([Exhibit 2](#))

Committee discussion: None

Discussion of future meeting dates

09:11:47 Mr. Mohr said the next WPIC meeting is scheduled for January 6-7 and the committee may want to change its meeting to the next week to coincide with legislative week.

09:14:26 Rep. Z. Brown said he will not be available to meet that week.

09:14:48 Sen. Cohenour said she recommends that everyone participate in legislative week.

Motion

09:15:32 Sen. Cohenour moved to change the January meeting date to legislative week.

Discussion on the Motion

09:15:39 Mr. Mohr

09:15:42 Sen. Cohenour
09:16:22 Sen. Welborn
09:17:04 Mr. Mohr
09:17:42 Rep. Z. Brown
09:18:43 Rep. Hamlett
09:20:32 Sen. Welborn
09:20:47 Sen. Cohenour
09:20:53 Mr. Mohr
09:21:43 Rep. Z. Brown
09:22:06 Rep. Hamlett
09:22:22 Sen. Gillespie
09:22:43 Rep. Z. Brown
09:22:56 Rep. B. Brown
09:24:12 Sen. Cohenour
09:24:34 Sen. Welborn
09:25:07 Rep. B. Brown

Substitute Motion/Vote

09:25:41 Rep. Hamlett made a substitute motion to leave the meeting schedule as is. The motion carried 8-2 by voice vote with Sen. Cohenour and Sen. Sesso voting no. Sen. Sesso vote "no" by proxy. Rep. Morigeau voted "aye" by proxy.

Instructions to Staff

09:26:23 Rep. Z. Brown requested that staff help organize a conference call meeting sometime this fall on the geocoding issue.
09:27:12 Rep. Hamlett said he recommends that staff contact Jean Bergeson, who testified yesterday, to obtain the information she had on geocoding.

PUBLIC COMMENT ON ANY ISSUE WITHIN THE JURISDICTION OF THE WPIC

09:29:04 Bob Sims, Jefferson County ([Exhibit 3](#))

Committee questions for Mr. Sims:

09:37:08 Sen. Gillespie
09:38:28 Mr. Sims
09:38:54 Rep. B. Brown
09:39:54 Mr. Sims
09:40:23 Rep. Hamlett
09:40:39 Mr. Sims
09:41:28 Rep. Hamlett
09:42:34 Mr. Sims
09:43:13 Rep. Z. Brown
09:43:34 Mr. Sims

09:44:30 Mr. Mohr provided information about the field trip.
09:45:33 Sen. Welborn
09:45:54 Mr. Mohr
09:47:25 Rep. Hamlett
09:47:50 Rep. Z. Brown

09:47:59 Mr. Mohr
09:48:11 Rep. Z. Brown

ADJOURN AND LEAVE FOR FIELD TRIP

09:48:31 Rep. Z. Brown adjourned the meeting at 9:48 a.m.

Committee members joined the Montana Watershed Coordinating Council field trip. Stops included projects at French Creek, Oregon Creek and Poindexter Slough.

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