



WATER POLICY INTERIM COMMITTEE

67th Montana Legislature

SENATE MEMBERS

Jill Cohenour
Shane Morigeau
Walt Sales
Jeffrey Welborn

HOUSE MEMBERS

Willis Curdy
Robert Farris-Olsen
Tom France
Rhonda Knudsen
Marty Malone
Bob Phalen

COMMITTEE STAFF

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

MINUTES LOG

January 19, 2022
State Capitol Building, Room 137 and Zoom
Helena, Montana

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MEMBERS PRESENT:

Sen. Jeffrey Welborn, Presiding Officer (R)
Rep. Willis Curdy, Vice Presiding Officer (D)
Sen. Jill Cohenour (D)
Rep. Robert Farris-Olsen (D)
Rep. Tom France (D)
Rep. Rhonda Knudsen (R)
Rep. Marty Malone (R)
Sen. Shane Morigeau (D)
Rep. Bob Phalen (R)
Sen. Walt Sales (R)

STAFF PRESENT:

Joe Carroll, Attorney
Jason Mohr, Research Analyst
Nadine Spencer, Secretary

AGENDA [\(Attachment 1\)](#)

VISITORS' LIST [\(Attachment 2\)](#)

COMMITTEE ACTION

The Water Policy Interim Committee:

- Voted to amend WPIC rules regarding meetings for review of ballot issues.

CALL TO ORDER/ROLL CALL

08:32:24 Sen. Jeffrey Welborn called the meeting to order at 8:32 AM. The committee secretary took roll.

GROUND WATER INVESTIGATION PROGRAM (85-2-525, MCA): PRIORITIZATION OF FUTURE PROJECTS

08:33:22 Jason Mohr, research analyst, Legislative Services Division (LSD), provided an introduction.

08:33:35 Ginette Abdo, manager, Ground Water Investigation Program, Montana Bureau of Mines and Geology, discussed the program and provided an update on the nomination process for projects. [\(Exhibit 1\)](#)

08:51:44 Ms. Abdo said the committee received a summary of active projects. [\(Exhibit 2\)](#)

Public comment

None

Committee discussion

08:53:11 Rep. Knudson asked Ms. Abdo about the process and if projects submitted for nomination stay on the list or must apply to be reconsidered in the future.

08:54:17 Rep. Malone asked Ms. Abdo about monitoring and measuring groundwater levels in landowner wells.

08:56:24 Sen. Welborn asked Ms. Abdo about the irrigation recharge project in the Edgar area and if the National Resources Conservation Service (NRCS) has a cost-share program for the pivots.

08:57:24 Sen. Sales asked Ms. Abdo about support for the Edgar project.

STUDY OF FLATHEAD RIVER EROSION (SJ28): BOAT USE ESTIMATES, 10/404 PERMITS, BANK STABILIZATION, AND HISTORICAL MAPS AND PHOTOS

08:59:40 Mr. Mohr provided an introduction.

09:11:06 Samantha Tappenbeck, interim resource conservationist, Flathead Conservation District, provided information about erosion on the lower Flathead River and methods of stabilization used to address streambank erosion. [\(Exhibit 3\)](#)

Public comment

09:43:10 Hailey Graf, citizen

09:44:08 Rebecca Boslough, Montana Association of Conservation Districts

Committee discussion

09:45:08 Rep. Malone asked Ms. Tappenbeck about similar issues on rivers or dams in other areas of the country.

09:46:12 Rep. Malone commented on altering the level of Flathead Lake and the effect on local boat dock owners. Ms. Tappenbeck said timing the level of the lake is an important issue.

09:47:41 Rep. Malone asked Ms. Tappenbeck about the old photos and if there is a consistent amount of bare bank.

09:49:03 Rep. Curdy commented on the relationship between streambank erosion and vegetation in riparian areas. He asked Ms. Tappenbeck about the new boat launch area near Somers that was acquired by the Department of Fish, Wildlife, and Parks (FWP) and if there was a study on the potential impact of the increase in boat traffic on the Flathead River.

09:52:18 Sen. Cohenour asked Ms. Tappenbeck about other ways to minimize impacts from wave-driven erosion other than raising and lowering the level of the river.

09:54:36 Rep. France asked Ms. Tappenbeck about putting together an options document listing the cost and the pros and cons for each option.

09:56:04 Sen. Welborn agreed with the idea.

09:56:16 Ms. Tappenbeck said the Flathead Conservation District recently applied for and received a watershed management grant to help with collecting data and doing the scientific work necessary to make a connection between wake boats and shoreline erosion. She said she can provide a draft of notes and ideas now, or a more substantial report in the next year after the feasibility study is complete.

09:57:24 Rep. France asked about waiting until the report is finished and delaying making any recommendations until the 2025 legislative session versus making decisions now based on the current information available. Ms. Tappenbeck said she will discuss the goal and timeline with the conservation board.

09:59:16 Sen. Cohenour said she recommends working with committee staff to put together options that can be a part of the committee's report.

10:01:25 Ms. Tappenbeck said she can work with the board supervisors and the stakeholders and provide information at the next WPIC meeting. Sen. Welborn agreed and said the WPIC can serve as a conduit, but there needs to be more of a local stakeholder driven process to come up with solutions.

10:04:07 Ms. Tappenbeck thanked Sen. Welborn for his input. She said they can put together a list of alternatives and options to address local issues and have the potential for a statewide scale.

10:05:08 Rep. France said no wake zones can be a temporary fix until more data is developed.

10:06:04 Sen. Welborn thanked Ms. Tappenbeck for her presentation.

10:06:44 Recess

10:17:44 Reconvene

AMERICAN RESCUE PLAN ACT: IRRIGATION GRANTS

10:18:12 Autumn Coleman, Conservation and Resource Development Bureau chief, Department of Natural Resources and Conservation (DNRC). ([Exhibit 4](#))

Public comment

10:36:38 Krista Lee Evans, Association of Gallatin Agricultural Irrigators

10:39:15 Mike Murphy, Montana Water Resources Association

10:41:01 Clayton Elliott, Trout Unlimited

10:42:47 Tim Burton, executive director, Montana League of Cities and Towns

Committee discussion

10:44:46 Rep. Curdy thanked the department for the work it has done and said it is a once-in-a-generation opportunity for local governments.

10:46:07 Sen. Sales disclosed that he is part of an application from the Gallatin and said he appreciates the work being done by the various agencies. He asked Ms. Coleman if the cap for the program is per project or per applicant.

10:47:39 Sen. Sales asked Ms. Coleman about the number of dual applicants for multiple community projects.

10:49:39 Rep. Curdy said he is disappointed that some irrigation districts were told their application would not be approved because they did not provide a water quality benefit. He asked Ms. Coleman about working around the requirement.

10:51:28 Rep. Phalen entered the meeting.

10:55:07 Sen. Sales commented on the process and irrigation use in the future.

10:56:23 Rep. France asked Ms. Coleman if there will be additional funding for irrigation and other infrastructure projects from the bipartisan infrastructure bill.

10:57:45 Rep. France said if there is another round of federal funding that could benefit Montana irrigators it may be able to be used to address some of the concerns of small irrigators who are just outside of the criteria needed to apply.

10:58:08 Sen. Welborn provided information regarding a photo that was shared by staff. [\(Exhibit 5\)](#)

STUDY OF SELENIUM STANDARDS FOR LAKE KOOCANUSA (HJ37): UPDATE FROM SPECIAL COMMITTEE

10:59:37 Sen. Sales said a draft agenda was sent to the special committee members and the stakeholders and is available on the committee website. [\(Exhibit 6\)](#) He said a work plan has been submitted by a couple different entities and may be available before the committee meeting on January 27.

11:00:30 Mr. Mohr said the meeting is scheduled to start at 8:30 a.m.

11:00:51 Sen. Cohenour said she hopes the committee will work together on its own work plan.

11:01:11 Sen. Welborn thanked Sen. Sales for the update.

Public comment

None

Committee discussion

None

AGENCY RULEMAKING UPDATE: NARRATIVE NUTRIENT STANDARDS (SB358)

11:02:19 Joe Carroll, attorney, LSD, said the committee received a memo regarding rule notice 17-420, created by the Department of Environmental Quality (DEQ), related to the transition to narrative nutrient standards. He provided information on the Montana Administrative Procedures Act (MAPA) process. [\(Exhibit 7\)](#)

11:07:53 Amy Steinmetz, Water Quality Division administrator, DEQ, provided an update.

Public comment

11:17:13 Alan Olson, executive director, Montana Petroleum Association, and a member of the nutrient work group

11:18:48 Vicki Watson, professor emeritus, University of Montana [\(Exhibit 8\)](#)

- 11:23:57 Peggy Trenk, Treasure State Resources Association, also speaking on behalf of Kelly Lynch, Montana League of Cities and Towns
- 11:25:41 Tammy Johnson, executive director, Montana Mining Association, and a member of the nutrient work group

Committee discussion

- 11:27:20 Sen. Cohenour said she is concerned that the state could be put in a position that the EPA is dictating what it will be doing. She asked Ms. Steinmetz about the timeframe and their interactions with the EPA and the ability to get the comprehensive rules out in a timely manner.
- 11:30:25 Sen. Cohenour said it is important that whatever solution comes forward from the nutrient work group it can be approved by the EPA.

INTERIM COMMITTEE REVIEW OF PROPOSED BALLOT ISSUE: DESIGNATION OF OUTSTANDING RESOURCE WATERS

- 11:32:29 Mr. Carroll discussed the new procedure for reviewing ballot issues. He said a ballot issue declaring portions of the Gallatin and the Madison rivers as outstanding resource waters is currently being reviewed by the Attorney General's office, and that if it continues through the process it will likely come before the WPIC. [\(Exhibit 9\)](#)
- 11:35:06 Mr. Carroll provided a copy of a proposed amendment to committee rules. [\(Exhibit 10\)](#)

Public comment

- 11:36:53 Ms. Evans commented on the proposed ballot initiative.
- 11:40:33 Rep. France said the committee should have prior notice before discussing the ballot initiative. He said the focus for public comment should be on the proposed amendment to the rule.
- 11:41:16 Mr. Mohr said that is the intention of the agenda item. He discussed the process after the Attorney General's office decides on the ballot initiative.
- 11:42:21 Mark Taylor, Hospitality and Development Association of Montana

Motion

- 11:43:08 Sen. Cohenour moved to amend WPIC rules regarding meetings for review of ballot issues and adopt New Rule(G).

Discussion on the motion

- 11:43:45 Sen. Sales
- 11:44:07 Mr. Mohr

Vote

- 11:45:21 The motion carried 8-2 by voice vote. Rep. Malone and Rep. Phalen voted no.

ADMINISTRATIVE MATTERS

Future meeting locations, dates

- 11:46:41 Mr. Mohr provided a preview of the topics for the March meeting.

11:49:21 Mr. Mohr said he will work with Sen. Welborn on the best time to schedule a trip to the Flathead.

11:49:41 Sen. Sales said the committee may want to wait until the weather is warmer and there is boating activity. He said it may be hard to get a good look at the streambank if there is ice.

11:50:02 Sen. Cohenour asked about involving other conservation districts in the SJ 28 study in order to get a more comprehensive look at erosion issues throughout the state.

11:51:16 Sen. Welborn agreed.

11:51:39 Rep. France said the committee may also want to include FWP.

11:52:34 Rep. Phalen said he recommends including the field trip during the July 12-13 meeting.

11:53:07 Sen. Welborn said the committee can make a decision on the date.

11:53:36 Sen. Cohenour said she recommends getting a comprehensive informational package from the nutrient work group.

11:54:15 Sen. Welborn agreed. He said he hopes when the committee takes its field trip to the Flathead that local leaders will participate and there is an exchange of thoughts and ideas.

11:55:00 Rep. Malone said he recommends also including motorized recreational users and dock owners.

11:55:42 Sen. Welborn agreed.

11:55:56 Mr. Mohr said the next WPIC meeting is scheduled for March 15-16.

ADJOURNMENT

11:56:10 Sen. Welborn adjourned the meeting at 11:56 a.m.