



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

July 15, 2021
State Capitol Building, Room 172
Helena, Montana

Please note: This document is a Minutes Log and provides annotation 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 recording 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 the 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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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. Rhonda Knudsen (R)
Rep. Marty Malone (R)
Sen. Shane Morigeau (D)
Rep. Bob Phalen (R)
Sen. Walt Sales (R)

MEMBERS EXCUSED:

Rep. Tom France (D)

STAFF PRESENT:

Corina Hach, attorney
Jason Mohr, research analyst
Nadine Spencer, secretary

AGENDA ([Attachment 1](#))

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

COMMITTEE ACTION

The Water Policy Interim Committee (WPIC):

- Voted to have staff draft a letter to the Environmental Quality Council requesting they form a special committee on HJ 37;
- Voted to accept SJ 28 as part of WPIC's work plan;
- Voted to adopt the 2021-22 WPIC work plan.

CALL TO ORDER/ROLL CALL

09:04:44 Sen. Jeffrey Welborn called the meeting to order at 9:04 AM. The committee secretary took roll. ([Attachment 3](#))

WATER RIGHTS ADJUDICATION UPDATE (85-2-281, MCA)

Department of Natural Resources and Conservation

09:06:08 Matt Murphy, Adjudication Bureau chief, Department of Natural Resources and Conservation (DNRC), provided an update. ([Exhibit 1](#))

Montana Water Court

09:13:51 Hon. Russ McElyea, chief water judge, Montana Water Court, provided information on the adjudication process. ([Exhibit 2](#))

09:15:17 Mr. McElyea said the committee received a copy of Montana Water Court vocabulary. ([Exhibit 3](#))

09:15:42 Mr. McElyea provided a review of the adjudication report. ([Exhibit 4](#))

Public Comment

09:26:06 Richard Roth, IX Ranch, Big Sandy, commented on the cost of the adjudication process.

Committee Discussion

09:27:58 Rep. Malone said he agreed with Mr. Roth that the adjudication is complicated and expensive, and it is important to have an attorney.

DROUGHT, WATER SUPPLY, AND WILDFIRE OUTLOOK

09:29:11 Michael Downey, Water Planning Section supervisor, DNRC, provided information on the drought ([Exhibit 5](#))

09:46:28 Sen. Welborn commented on the drought and current conditions in the state.

09:47:04 Sonya Germann, state forester, DNRC, provided information on the fire season.

09:47:17 Sen. Cohenour left the meeting and gave her proxy to Rep. Curdy. ([Attachment 4](#))

Public Comment

09:56:16 Mr. Roth commented on the ranchers and operators that are first responders to a fire and working together with state and federal agencies. He also commented on the drought and concern regarding the ability to collect and store water.

Committee Discussion

10:04:33 Rep. Knudsen asked Ms. Germann for a breakdown of the different types of human caused fires. Ms. Germann said she will provide the information to staff.

10:05:20 Rep. Curdy asked Ms. Germann if the state provides handheld communication devices to large operations like IX Ranch so they can communicate with local fire departments and state and federal agencies.

10:06:34 Rep. Curdy asked Ms. Germann about fire training for private ranchers and other operators.

10:09:14 Rep. Curdy asked Ms. Germann about travel restrictions for off-road vehicles in forested areas because of the dry conditions and the high probability for ignitions.

10:11:52 Rep. Curdy asked Ms. Germann what the DNRC has done to make up for the loss of a state helicopter.

10:14:01 Rep. Curdy asked Mr. Downey about better instrumentation for predicting stream flow and soil moisture.

10:17:11 Rep. Curdy asked Mr. Downey about funding for stream gauges and if the gauges that were put offline have been recovered.

10:20:07 Sen. Morigeau thanked the DNRC for the information.

10:20:52 Rep. Malone said local volunteer firefighters are well organized. He recommended that DNRC fund local departments to provide training for ranchers and operators.

10:21:50 Sen. Sales asked Mr. Downey about the period of record and why the DNRC uses a 30-year cycle.

10:26:57 Sen. Sales commented on the need to plan and thanked Mr. Roth for providing his perspective.

10:28:00 Sen. Welborn commented on the importance of strategically placed fire resources and public and private partnerships with local fire managers and landowners. He said programs like Forests in Focus and the Good Neighbor Authority make a difference by providing an ability to log and remove fuel loads.

UPDATE FROM NUTRIENT WORK GROUP (SB 358 (REPEAL NUMERIC NUTRIENT STANDARDS FOR WATER QUALITY (2021)

10:30:49 George Mathieus, deputy director, Department of Environmental Quality (DEQ), provided an update on the nutrient work group established under SB 358.
(Exhibit 6)

10:35:00 Sen. Welborn asked Mr. Mathieus about the membership of the working group.

Public Comment

None

Committee Discussion

10:36:15 Rep. Curdy asked Mr. Mathieus about reducing non-point source pollution.

10:38:29 Rep. Knudsen recommended that a member of WPIC attend the work group meetings.

10:39:27 Rep. Phalen asked Mr. Mathieus if there is a legislator on the working group.

10:40:18 Sen. Welborn said it would be a good idea to have one or two members from the committee attend the working group meetings.

10:41:59 Recess

11:01:32 Reconvene

WATER RESEARCH (85-2-105, MCA)

Montana Water Court

- 11:02:02 Whitney Lonsdale, assistant director, Montana Water Center, Montana State University, provided information on the Montana Water Center. [\(Exhibit 7\)](#)
- 11:05:46 Ms. Lonsdale provided an update on the technical working group project evaluating irrigation efficiencies and how changes in water irrigation efficiencies in Montana might affect the water supply. [\(Exhibit 8\)](#)

Montana Bureau of Mines and Geology

- 11:12:47 John Metesh, state geologist and director, Montana Bureau of Mines and Geology, provided a review of the Groundwater Assessment Program and the Groundwater Investigation Program. [\(Exhibit 9\)](#)
- 11:16:40 Mr. Metesh discussed emerging issues.

Public Comment

None

Committee Discussion

- 11:30:46 Rep. Phalen asked Mr. Metesh if the water in the Fox Hills in Dawson County is good for irrigating.
- 11:32:37 Rep. Malone said irrigation efficiency is important, and he believes the report from the Montana Water Center is encouraging agencies not to fund irrigation efficiency projects. Ms. Lonsdale said that was not the intention.
- 11:39:01 Rep. Malone asked Ms. Lonsdale about the information on page 11 of the report regarding increased water efficiency and perceived water savings.
- 11:42:06 Rep. Knudsen asked Ms. Lonsdale if her PowerPoint presentation is available online.
- 11:42:41 Rep. Knudsen asked Mr. Metesh if the groundwater reports are available online.
- 11:43:23 Sen. Sales asked Mr. Metesh about the process for applying for groundwater projects and who the applicants are.

AQUATIC INVASIVE SPECIES UPDATE

- 11:47:14 Eileen Ryce, Fisheries Division administrator, Department of Fish, Wildlife, and Parks (FWP), introduced herself and said she is available to answer questions related to restrictions and closures for fishing.
- 11:48:18 Thomas Woolf, Aquatic Invasive Species (AIS) Bureau chief, FWP, provided an update.

Public Comment

- 11:55:21 Clayton Elliott, Montana Trout Unlimited, thanked the legislature for providing funding for the AIS program and thanked the staff working at watercraft inspections stations.

Committee Discussion

- 11:57:24 Rep. Curdy asked Mr. Woolf to provide an update on ballast boat inspections.

11:58:16 Rep. Curdy asked Mr. Woolf about working with other states and maintaining interstate agreements.

12:00:49 Rep. Curdy asked Mr. Woolf if FWP is planning an AIS summit this year.

12:01:19 Rep. Phalen asked Mr. Woolf about the location of inspection stations in eastern Montana.

ADMINISTRATIVE MATTERS

Adoption of Work Plan

12:02:25 Jason Mohr, research analyst, Legislative Services Division (LSD), provided information on adopting the work plan.

12:04:10 Sen. Welborn opened discussion on member topics.

12:04:26 Mr. Mohr discussed the suggestions from committee members at the meeting yesterday.

12:05:28 Rep. Curdy said he recommends finding a way to identify stockwater ponds in need of repair and making them functional again.

12:07:26 Sen. Sales agreed and commented about the regulations.

12:08:05 Rep. Malone said he supports the recommendation with some modifications.

12:09:13 Sen. Welborn asked Amanda Kaster, director, DNRC, if the department has information available to help identify some of the stockwater ponds.

12:10:19 Rep. Malone said he recommends discussing mechanical irrigation and restrictions on a water right to the original decree.

12:11:41 Sen. Sales asked about receiving updates from the American Rescue Plan Act Infrastructure Advisory Commission.

12:12:44 Rep. Malone asked if any of the member topics have already been completed. Mr. Mohr said they are ongoing issues, but the committee can decide if there are some they do not want to do.

12:13:37 Rep. Malone asked Sen. Sales if any of the items on the list have been completed.

12:14:06 Sen. Welborn said the committee can use its discretion on the amount of time spent on each topic.

12:14:53 Sen. Welborn asked Mr. Mohr if the committee needs to vote on member topics.

12:15:31 Sen. Welborn opened discussion on HJ 37.

Motion

12:15:55 Rep. Phalen moved to assign the HJ 37 study back to the EQC.

Discussion on the Motion

12:16:51 Rep. Knudsen

12:17:56 Rep. Curdy

12:18:33 Sen. Sales

12:19:54 Sen. Welborn

Vote

12:22:47 The motion failed 3-6 by roll call vote with Rep. Phalen, Rep. Malone, and Rep. Knudsen voting aye. Sen. Cohenour voted no by proxy. Rep. France was excused. ([Attachment 5](#))

12:24:01 Sen. Welborn asked about forming a select committee.
12:24:34 Rep. Knudsen said she recommends forming a joint select committee with members from both WPIC and EQC.
12:24:55 Sen. Sales agreed and asked Rep. Gunderson about his perception moving forward.

Motion

12:26:59 Rep. Malone moved to form a joint select committee with two members from EQC and two members from WPIC including one member from each party.

Discussion on the Motion

12:27:16 Sen. Welborn
12:27:44 Rep. Malone
12:28:18 Sen. Morigeau
12:28:57 Sen. Welborn
12:29:43 Cori Hach, staff attorney, LSD
12:30:22 Sen. Welborn

12:30:25 Rep. Malone withdrew his motion.

12:31:05 Rep. Phalen said the bill states the EQC would invite two members of the WPIC to participate in the study.
12:31:22 Sen. Welborn said regardless of what is written in the bill Legislative Council has left it up to the WPIC on how to move forward and what the membership of the select committee looks like. He said he recommends that the WPIC provide the chair for the select committee.
12:32:55 Sen. Morigeau said he recommends selecting two members from each party from WPIC and two members from each party from EQC for a total of four members from each committee.
12:33:32 Sen. Welborn said normally there would be a House and Senate member from each party, from each interim committee, for a total of eight members.
12:34:20 Rep. Curdy said he recommends four members from each interim committee and two members from each party. He said it has worked well in the past.
12:35:31 Sen. Welborn asked if the EQC has met and elected leadership. Rep. Curdy said they have not.
12:36:24 Sen. Welborn said whoever is elected chair, and the EQC can decide how they want to select members.
12:36:46 Mr. Mohr discussed the process for creating a special committee. He said since the study resolution is in the possession of the WPIC, the committee would need to send a letter to the EQC, before they meet on Tuesday, asking them to take part.
12:37:35 Sen. Sales said to include that leadership from both interim committees meet to work out the details.
12:38:14 Sen. Welborn asked about action by the committee. Mr. Mohr said in order to move forward the committee needs to make a motion and give direction for staff to draft an invitation to EQC.

Motion/Vote

- 12:38:52 Rep. Malone moved to have staff draft a letter to the EQC requesting they form a special committee with four members from the council: one person from each house and each political party and a WPIC member will preside as chair. The motion carried unanimously by roll call vote. Sen. Cohenour voted yes by proxy. Rep. France was excused. [\(Attachment 6\)](#)
- 12:40:31 Sen. Welborn said he will work with EQC leadership on forming the special committee.
- 12:41:19 Sen. Welborn opened discussion on SJ 28.

Motion

- 12:41:48 Rep. Malone moved to accept SJ 28 as part of WPIC's work plan.

Discussion on the Motion

- 12:42:09 Rep. Knudsen
- 12:42:22 Rep. Phalen

Vote

- 12:42:52 The motion carried unanimously by voice vote. Sen. Cohenour voted aye by proxy. Rep. France was excused.
- 12:43:35 Mr. Mohr said he will divide his time between the three areas.
- 12:43:58 Sen. Sales said staff can work on new issues as needed. Sen. Welborn agreed.

Motion/Vote

- 12:45:25 Rep. Knudsen moved to accept the work plan. The motion carried unanimously by voice vote. Sen. Cohenour voted aye by proxy. Rep. France was excused.

Budget Overview

- 12:46:00 Mr. Mohr said the WPIC is funded for seven full meetings including a field trip.
- 12:46:52 Mr. Mohr said the committee received a copy of the draft meeting dates. [\(Exhibit 10\)](#)
- 12:47:30 Mr. Mohr asked committee members to check their contact information and make any corrections.

PUBLIC COMMENT ON ANY ISSUE WITHIN THE JURISDICTION OF THE WPIC

- 12:48:44 Hailey Graf, resource conservationist, Flathead Conservation District, thanked the committee for its time and consideration. She said if the WPIC decides to visit the Flathead the conservation district would be happy to host the committee.
- 12:49:32 Rep. Knudsen asked Ms. Graf if the Montana Association of Conservation Districts will be hosting a state convention anytime soon.
- 12:50:05 Rebecca Boslough said the annual convention will be held at the Heritage Inn in Great Falls on November 16-19.
- 12:50:19 Rep. Knudsen said if the committee decides to take a field trip to the Flathead she recommends scheduling it during the annual meeting.

12:50:37 Rep. Malone commented on the dress code for the committee and the meeting start times.
12:51:35 Sen. Sales said he recommends starting at 8:00 a.m. on the second day of a two-day meeting.
12:52:08 Sen. Welborn

ADJOURNMENT

12:52:50 Sen. Welborn adjourned the meeting at 12:52 p.m.