



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

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

MINUTES LOG

July 11, 2022
Room 137 and Zoom
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. Tom France (D)
Rep. Rhonda Knudsen (R)
Rep. Marty Malone (R)
Sen. Shane Morigeau (D)
Rep. Bob Phalen (R)
Sen. Walt Sales (R)

MEMBERS EXCUSED:

Rep. Robert Farris-Olsen (D)

STAFF PRESENT:

Joe Carroll, Attorney
Jason Mohr, Research Analyst
Fong Hom, Secretary

AGENDA (Attachment 1)

NO VISITORS' LIST

COMMITTEE ACTION

The Water Policy Interim Committee (WPIC):

- Voted to request a bill draft to give responsibility for a stream gauge notification plan and an annual report on funding to the Governor's Drought and Water Supply Advisory Committee.

CALL TO ORDER/ROLL CALL

13:02:46 Sen. Jeffrey Welborn called the meeting to order at 1:02 PM. The committee secretary took roll. **(Attachment 3)** Rep. Farris-Olsen was excused and gave his proxy to Sen. Cohenour. **(Attachment 4)**

Meeting Overview

13:04:08 Jason Mohr, research analyst, Legislative Services Division (LSD).

DROUGHT, WATER SUPPLY, AND WILDFIRE UPDATE

13:06:05 Kelsey Jencso, Montana state climatologist, Montana Climate Office, University of Montana, provided information on the 2021 summer drought and water supply forecast. **(Exhibit 1) (Exhibit 2)**

13:29:51 Matthew Hall, Fire Protection Bureau chief, Division of Forestry, Department of Natural Resources and Conservation (DNRC), provided an update on the 2022 wildfire season.

Public comment

None

Committee discussion

13:37:25 Rep. Knudsen asked Mr. Hall about the number of acres burned to date and how it compares to last year.

13:38:40 Rep. Phalen asked Mr. Hall about the cause for one of the current wildfires burning in the state.

13:38:58 Rep. Malone asked Mr. Jencso about the source of information for soil moisture testing.

13:40:50 Rep. Malone thanked Mr. Jencso and the DNRC for its work on fire management.

13:41:39 Rep. France asked Mr. Jencso about capturing data on climate change and the possibility for more extreme weather events in Montana.

13:44:11 Rep. Curdy asked Mr. Hall about hiring employees for the summer and if the department is fully staffed.

13:44:50 Rep. Curdy asked Mr. Hall about the type of call-when-needed contracts the DNRC has put out for aircraft and ground crews.

13:46:52 Sen. Welborn commented on the amount of rain the state received this year.

UPDATE FROM FLOODPLAIN MANAGEMENT PROGRAM

13:47:35 Delia Bruno, Montana Disaster and Emergency Services Division administrator.

13:53:26 Traci Sears, NFIP/CAP coordinator, Water Operations Bureau, DNRC, gave a presentation on the State Floodplain Program and 2022 Recovery Efforts. **(Exhibit 3) (Exhibit 4)**

Public comment

None

Committee discussion

14:07:53 Sen. Cohenour asked Ms. Sears about federal funding to replace stream gauges.

14:09:48 Rep. Malone asked Ms. Bruno about financial impacts to business owners in Park County from the recent flooding.

14:11:26 Rep. Malone commented on the impact to businesses that supply services to Yellowstone National Park and asked Ms. Bruno about assistance for business owners and the agriculture industry.

14:12:58 Rep. Malone asked Ms. Sears about resetting the floodplain.

14:14:33 Rep. Malone asked Ms. Sears about the people who have lost the value of their property.

14:16:45 Rep. Malone commented on stream gauges.

14:17:51 Sen. Sales asked Ms. Sears to clarify the process for landowners on streambank restoration and what the state is doing to get an inventory of the properties that have been impacted.

14:20:12 Ms. Bruno provided additional information.

14:21:33 Rep. Curdy asked Ms. Sears about the properties damaged by flooding and the number of severely damaged residences that were not covered by FEMA insurance.

14:22:44 Rep. Curdy asked Ms. Sears about the costs not covered by FEMA or other assistance and if the department is able to put together a dollar figure of the assets that were uncovered or partially covered.

14:25:10 Ms. Bruno provided additional information.

14:25:44 Rep. Curdy asked Ms. Sears about the process for redrawing floodplain maps as a result of the migration of the river.

FINAL WORK PLAN FROM STREAM GAUGE OVERSIGHT WORK GROUP (2-15-3308, MCA)

14:29:18 Paul Azevedo, chief, Water Management Bureau, DNRC and co-chair, Stream Gauge Oversight Work Group. **(Exhibit 5)**

Public comment

14:47:34 Clayton Elliott, Montana Trout Unlimited.

Committee discussion

14:54:00 Rep. Malone asked Mr. Azevedo about the ability for the public to access information for all stream gauges on one website.

14:56:05 Rep. Malone asked Mr. Azevedo about funding requests for stream gauges.

14:57:19 Rep. Phalen asked Mr. Azevedo about the amount of money provided for funding stream gauges.

14:59:07 Rep. Phalen asked Mr. Azevedo about the number of stream gauges lost on the Yellowstone River and above in Park County.

14:59:26 Sen. Morigeau entered the meeting.

Motion

14:59:55 Sen. Cohenour moved to request a bill draft to put the responsibility for a stream gauge notification plan and an annual report on funding to the Governor's Drought and Water Supply Advisory Committee.

Discussion on the Motion

15:01:18 Rep. Malone
15:01:54 Rep. Knudsen
15:02:00 Mr. Azevedo
15:02:27 Rep. Knudsen
15:02:53 Sen Welborn

Vote

15:03:27 The motion carried unanimously by voice vote. Rep. Farris-Olsen voted aye by proxy.

15:04:18 Rep. Curdy asked Mr. Azevedo about the state's relationship with Wyoming for getting stream gauge information.
15:06:38 Sen. Welborn asked Mr. Azevedo about the stream gauges that have been shut down because of a lack of funding from federal partners and where that piece of funding comes from. Mr. Azevedo redirected the question to Mr. Elliott.

15:12:39 Recess
15:27:10 Reconvene

UPDATE ON COMPREHENSIVE REVIEW OF WATER ADMINISTRATION AND MANAGEMENT

15:27:27 Anna Pakenham Stevenson, Water Resources Division administrator, DNRC.
(Exhibit 6)

Public comment

None

Committee discussion

15:40:14 Rep. Malone asked Ms. Pakenham Stevenson about the appointment of water commissioners.
15:42:30 Sen. Sales commented on finding the right fit for water commissioners.
15:43:20 Rep. Malone commented on water commissioner appointments.
15:43:54 Sen. Sales commented on finding a local solution.
15:44:51 Rep. Malone asked Ms. Pakenham Stevenson about partial ownership of a water right and percentages required to have a water commissioner.
15:46:43 Rep. France asked Ms. Pakenham Stevenson about legislation that provided for narrative nutrient standards and if they are coordinating with the Department of Environmental Quality (DEQ) on unintended consequence of exacerbating water pollution.

15:48:44 Rep. France asked Ms. Pakenham Stevenson about the need for legislation to direct the two agencies to work together on the interrelation between water quality and quantity.

STUDY OF SELENIUM STANDARDS FOR LAKE KOOCANUSA (HJ37)

Recommendations from HJ37 Special Committee

15:50:19 Sen. Sales.
15:52:54 Rep. Knudsen.
15:53:51 Sen. Welborn commented on continuing to move forward.
15:54:04 Sen. Sales

Public comment

None

Committee discussion

None

Presentation of Draft Report

15:55:44 Mr. Mohr. (Exhibit 7)

Public comment

15:58:43 Clayton Elliott, Montana Trout Unlimited.
16:02:09 Genny Hoyle, Kootenai Tribe of Idaho.

Committee discussion

16:07:41 Sen. Cohenour said the special committee listened to the concerns from stakeholders and is committed to adding stakeholder information at the next meeting and in the report.
16:09:37 Sen. Sales commented on including the stakeholders.
16:10:38 Rep. France asked if the DEQ is standing by its science and the standard that was set. Sen. Sales responded.
16:13:51 Rep. Phalen asked Sen. Sales about the standard.
16:14:38 Rep. Phalen asked about the effect of selenium on fish. Sen. Cohenour provided information.
16:17:11 Rep. Curdy provided additional information.

STUDY OF FLATHEAD RIVER EROSION (SJ28)

Presentation of Draft Report

16:19:19 Mr. Mohr (Exhibit 8)

Public comment

16:22:04 Rebecca Boslough-King, Montana Conservation Districts Association.
16:25:09 Samantha Tappenbeck, resource conservationist, Flathead Conservation District.

Committee discussion

- 16:27:01 Rep. Malone asked Ms. Boslough-King about a statewide effort to standardize streambank erosion.
- 16:28:49 Rep. France said it is important to find out who has decision-making authority for setting wake restrictions and how to do it.
- 16:30:41 Rep. Phalen commented on creating a barrier to stop boat traffic.
- 16:31:21 Rep. France commented on finding out who has the authority to make the recommendations.
- 16:31:37 Rep. Curdy commented on the current high-water level and asked Ms. Boslough-King about requesting that the Fish and Wildlife Commission to do a study on the number of boats and the type of boats being used on the lower portion of the Flathead River.
- 16:35:13 Ms. Tappenbeck provided additional information.
- 16:37:09 Rep. Curdy said he recommends that the WPIC send a letter to the Fish and Game Commission asking the Department of Fish, Wildlife, and Parks (FWP) to study boat use on the lower 22 miles of the Flathead River.
- 16:37:59 Sen. Welborn asked Ms. Tappenbeck if the Flathead Conservation District or any of the stakeholders have reached out to the Fish and Wildlife Commission on a boater use survey. He encouraged engaging the Fish and Wildlife Commission.
- 16:40:20 Sen. Cohenour agreed and said the legislature does not have authority over local issues.
- 16:42:01 Rep. Malone commented on having local input and encouraged the commission to present the study report to the Fish and Wildlife Commission.

AGENCY RULE MAKING UPDATE

- 16:43:16 Joe Carroll, legal staff, LSD. **(Exhibit 9)**

Public comment

None

Committee discussion

- 16:45:48 Rep. Curdy asked Amy Steinmetz, former Water Quality Division administrator, DEQ, about Mar Notice No. 17-427.
- 16:48:21 Sen. Sales asked Ms. Steinmetz why "cash flow" was re-inserted in MAR Notice No. 17-422.

ADMINISTRATIVE MATTERS

Future Meeting Dates

- 16:49:55 Mr. Mohr provided information on the field trip tomorrow. He said the next WPIC meeting is scheduled for September 20-21.
- 16:52:07 Rep. Malone commented on streambank stabilization on the Yellowstone River. Sen. Welborn asked Rep. Malone about the project.
- 16:53:31 Sen. Welborn thanked the committee.

ADJOURNMENT

- 16:53:42 Sen. Welborn adjourned the meeting at 4:53 p.m.