



## **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**

October 12, 2021

State Capitol Building, Room 317 and Video Conference  
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. 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:**

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

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

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

### **CALL TO ORDER/ROLL CALL**

13:01:02 Sen. Jeffrey Welborn called the meeting to order at 1:01 PM.  
The committee secretary took roll.

### **Meeting Overview**

13:02:36 Jason Mohr, research analyst, Legislative Services Division (LSD), said today's Water Policy Interim Committee (WPIC) meeting will focus on the drought and related topics. He said tomorrow the committee will receive updated reports and begin work on the WPIC's two studies.

### **ADOPTION OF FINAL WORK PLAN**

13:03:26 Mr. Mohr said the committee received a copy of the final work plan. [\(Exhibit 1\)](#)

### **Committee Topics**

13:03:46 Mr. Mohr said the list of "member topics and emerging issues" came from the committee members and include items from the last interim.

### **Committee Discussion**

13:04:35 Rep. Knudsen asked Mr. Mohr about the topics from previous interims.  
13:06:52 Sen. Sales asked Mr. Mohr about the number of field trips allowed in the work plan.  
13:07:49 Rep. Curdy asked Mr. Mohr about adding stockwater ponds on school trust lands to "repair and regulation of BLM stockwater ponds."  
13:08:26 Rep. Phalen asked about costs associated with claiming water rights across state lands. Mr. Mohr said he will find out.  
13:10:05 Rep. Malone commented on the costs that Park County had to pay to the Department of Natural Resources and Conservation (DNRC) to put a bridge over the Yellowstone River.

### **Program Review**

13:10:45 Mr. Mohr discussed the WPIC's statutory duty of program review. [\(Exhibit 2\)](#)

### **Public Comment**

None

### **Committee Discussion**

13:13:00 Sen. Cohenour asked if the WPIC finalized the work plan at the last meeting and if the committee needs to take action today. Mr. Mohr said the committee does not need to take action.  
13:13:40 Sen. Welborn asked Mr. Mohr about the ability to add topics to the work plan.

### **DROUGHT AND WATER SUPPLY UPDATE**

13:15:32 Michael Downey, Water Planning Section supervisor, Water Resources Division, DNRC, provided an update on the drought and water supply. [\(Exhibit 3\)](#)

### **Committee Discussion**

- 13:26:58 Rep. Malone asked Mr. Downey how the drought monitor numbers are derived.
- 13:28:43 Rep. Malone asked Mr. Downey about a move toward using more scientific data rather than hearsay.
- 13:31:03 Sen. Cohenour asked Mr. Downey to provide a copy of his PowerPoint presentation. (see exhibit 3)
- 13:32:12 Rep. France asked Mr. Downey about stream flow monitoring and integrating the U.S. Geological Survey (USGS) stream flow measurements.
- 13:33:57 Sen. Sales asked Mr. Downey about taking stream gauge flows and adding it with the drought index.
- 13:35:22 Sen. Welborn asked Mr. Downey about additional modeling that might help look at the effects of drought.

### **UPDATE TO 1995 DROUGHT PLAN**

- 13:38:28 Mr. Downing provided information on the Montana drought management plan update. ([Exhibit 4](#))

### **Committee Discussion**

- 13:45:59 Sen. Cohenour asked Mr. Downing about implementing the recommendations and if conservation districts can use the information to apply for grants.
- 13:47:27 Rep. Curdy asked Mr. Downey about looking back to see what was done from 2005 to the present in order to determine where to go in the future.
- 13:49:35 Sen. Sales asked Mr. Downey how Montana compares to what other states are doing.
- 13:51:11 Sen. Sales asked Mr. Downing about using funds from the American Rescue Plan Act (ARPA).
- 13:53:02 Rep. Knudsen asked Mr. Downey if the 1995 drought management plan is available. Mr. Downey said it is available online.
- 13:53:41 Rep. France asked Mr. Downey about including data on climate change and the impacts on drought management.
- 13:56:55 Rep. Phalen commented on global warming and temperature change.

### **Public Comment**

- Written public comment received October 1. ([Exhibit 5](#))

### **WATER STORAGE IN MONTANA (85-1-704, MCA)**

- 13:58:44 Brian Holling, Water Projects Bureau chief, Water Resources Division, DNRC, presented the water storage report. ([Exhibit 6](#))

### **Committee Discussion**

- 14:21:04 Sen. Cohenour asked Mr. Holling about the availability of ARPA funding.
- 14:23:04 Rep. Curdy asked Mr. Holling about the feasibility study on Painted Rocks Dam.
- 14:25:28 Rep. Knudsen asked Mr. Holling about Emergency Action Plan (EAP) mapping and loss of life (LOL) analysis.
- 14:26:15 Sen. Sales asked Mr. Holling about replacement for gauging sites
- 14:27:12 Sen. Sales asked Mr. Holling about the unplanned workload and trends in maintenance.
- 14:28:02 Sen. Sales asked Mr. Holling if there is a correlation between the three different gates that need to be replaced.

14:28:55 Rep. Malone asked Mr. Hollings about building future dams.  
 14:29:41 Rep. Malone asked about a list of private dams.  
 14:30:05 Rep. Curdy asked Mr. Holling about funding for future repairs.  
 14:31:59 Sen. Welborn asked Mr. Holling about grants for water user projects.  
 14:33:34 Sen. Welborn asked Mr. Holling about using revenue from hydro power at Tosten Dam to offset canal repairs.  
 14:34:18 Sen. Sales asked Mr. Holling about developing future water storage projects.  
 14:36:23 Rep. Knudsen asked Mr. Holling about feasibility studies and adding additional hydro power.  
 14:37:31 Rep. Knudsen asked Mr. Holling about a backlog of deferred maintenance.

### **Public Comment**

14:38:46 Krista Lee Evans, Association of Gallatin Agricultural Irrigators (AGAI) commented on looking at ways to identify opportunities and locations for new storage projects in the Gallatin valley.  
 14:40:30 Recess  
 14:54:08 Reconvene

### **MISSOURI HEADWATERS BASIN STUDY**

14:54:22 Marketa McGuire, hydrologic civil engineer, U. S. Bureau of Reclamation Technical Service Center, introduced the staff present. She presented information on basin studies. ([Exhibit 7](#))  
 14:58:23 Ms. McGuire discussed the Missouri River basin study area.  
 15:01:54 Ms. McGuire discussed the study objectives.  
 15:02:23 Ms. McGuire discussed study structure and partners.  
 15:07:06 Ms. McGuire discussed the study approach  
 15:14:20 Ms. McGuire discussed potential adaptation strategies and key findings.  
 15:24:25 Ms. McGuire discussed next steps.  
 15:25:42 Ms. McGuire discussed the report materials.

### **Public Comment**

None

### **Committee Discussion**

15:27:28 Rep. Malone asked Ms. McGuire about off-stream storage.  
 15:29:39 Sen. Cohenour asked Ms. McGuire about the timeline for other modeling work.  
 15:30:52 Sen. Cohenour said she is interested in future modeling and looking at drought resiliency. She asked that the WPIC receive the information as soon as it is available. Ms. McGuire said she will provide links to the studies.  
 15:31:45 Rep. Phalen asked Ms. McGuire if any farmers in Gallatin County irrigate using groundwater.  
 15:32:57 Rep. Phalen asked Ms. McGuire about the users who will pay for the proposed pipeline from Canyon Ferry to the Gallatin Valley.  
 15:34:29 Sen. Sales asked Ms. McGuire about the conceptual pipeline and why non-agricultural use in Gallatin Valley is segregated out.

- 15:36:42 Rep. France asked Ms. McGuire if water conservation was evaluated as an alternative to pipelines or other kinds of strategies.
- 15:38:30 Rep. France asked Ms. McGuire if an evaluation was done on converting to less water intensive crops.
- 15:39:22 Rep. France asked Ms. McGuire if any part of the plan will address the lack of flooding and new cottonwood growth along rivers.

#### **WATER PROJECTS AND THE AMERICAN RESCUE PLAN ACT**

- 15:41:15 Amanda Kaster, DNRC director, provided an update on executing funding from the American Rescue Plan Act for water and sewer projects. ([Exhibit 8](#))
- 15:56:16 Autumn Coleman, Resource Development Bureau chief, Conservation Resource Development Division, DNRC, continued the presentation.

#### **Public Comment**

None

#### **Committee Discussion**

- 16:14:19 Sen. Sales thanked the DNRC. He asked Ms. Coleman about the anti-discrimination policy and how canal water users without a policy can be eligible for funding.
- 16:16:51 Sen. Cohenour asked Ms. Coleman about the difference between the DNRC criteria and Treasure State Endowment Program (TSEP) criteria.
- 16:19:20 Sen. Cohenour asked Ms. Coleman where people can find information about receiving funds.
- 16:21:49 Sen. Cohenour said these are critical needs for communities and it should be a priority for the state to get money out as quickly as possible.
- 16:22:19 Rep. Curdy asked Ms. Coleman about eligibility for irrigation canal projects.
- 16:23:43 Rep. Curdy asked Ms. Coleman about the number of applications that have been received from irrigation districts.
- 16:24:04 Rep. Curdy said he is disappointed there is only one irrigation project on the list and that there needs to be a better job done of helping agriculture in the state.
- 16:25:15 Rep. France asked Ms. Colman about the \$2 million cap and how much that covers for a project. He asked if it would be better to raise the cap to fund fewer projects and do more work.
- 16:30:00 Rep. Phalen said the state will get a second round of funding and asked Ms. Colman if communities also get a second round.
- 16:32:05 Sen. Sales asked Ms. Coleman if small water user associations can apply only for the engineering cost of a project.
- 16:33:37 Sen. Sales asked Ms. Coleman if water user associations must be designated as non-profit.
- 16:34:17 Sen. Cohenour asked Ms. Coleman about changes to the criteria moving forward.
- 16:36:35 Sen. Welborn commented about the engineering costs for a project.

#### **COMPREHENSIVE REVIEW OF WATER ADMINISTRATION AND MANAGEMENT: MEETING MONTANA'S WATER NEEDS IN THE 21ST CENTURY**

- 16:38:06 Lt. Gov., Kristen Juras, provided information on the authorization for the DNRC to undertake a comprehensive long-range review of Montana water policies and processes.

16:38:30 Sen. Welborn left the meeting and Rep. Curdy took over the duties as presiding officer.  
16:43:37 Ms. Kaster provided information on the DNRC vision.  
16:46:00 Anna Pakenham Stevenson, Water Resources Division administrator, DNRC, discussed the guiding principles leading the effort.  
16:48:17 Sen. Welborn returned to the meeting and resumed the duties as presiding officer.  
16:50:16 Ms. Pakenham Stevenson discussed the different phases of the process.

#### **Public Comment**

16:56:35 Krista Lee Evans, AGAI and Senior Water Rights Coalition, thanked the DNRC for its active involvement in stakeholder groups in the process.

#### **Committee Discussion**

16:58:20 Sen. Cohenour asked Lt. Gov. Juras about hiring outside consultants.  
17:00:12 Sen. Cohenour commented on the expertise within the DNRC and the Department of Environmental Quality (DEQ).  
17:01:17 Rep. Malone asked Ms. Pakenham Stevenson about using new and improved irrigation practices.  
17:03:37 Rep. Malone thanked the Governor's office for undertaking the review.  
17:04:35 Sen. Welborn asked Ms. Pakenham Stevenson about stakeholder outreach.  
17:07:20 Sen. Welborn asked Ms. Pakenham Stevenson about reaching out to the Water Adjudication Advisory Committee.  
17:08:31 Sen. Welborn thanked the lieutenant governor and the DNRC for the presentation.

#### **ADJOURNMENT**

17:08:52 Sen. Welborn adjourned the meeting at 5:08 p.m.