



## Water Policy Interim Committee

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### 64th Montana Legislature

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HELEN THIGPEN, Staff Attorney  
NADINE SPENCER, Secretary

Sept. 28, 2016

To: Water Policy Interim Committee  
From: Jason Mohr, committee staff  
Re: Oct. 12 meeting

Committee members,

The Oct. 12 meeting begins at 10 a.m. in room 172 of the Capitol building. Enclosed are your meeting materials, which are also posted at [www.leg.mt.gov/water](http://www.leg.mt.gov/water). Your packet materials include:

- **Tab 1 – LCwp4b: Limit adverse effects analysis.** This bill draft refines concepts included in LCwp04 and LCwp44 from the August meeting. This bill is the result of work by Krista Evans, Senior Water Rights Coalition; Tim Davis, Water Resources Division administrator (DNRC); Judge Hon. Russ McElyea, Montana Water Court; and Jay Weiner, assistant attorney general (Montana Attorney General’s Office). The bill allows a water rights holder to file a “consent to approval,” which would allow an applicant for a new water right or a change in right to ignore the adverse effect on that water right and perhaps be awarded the permit or change.
- **Tab 2 – LCwp82: Establish SWAMP.** This bill establishes the Surface Water Assessment and Monitoring Program within the Montana Bureau of Mines and Geology and provides a \$250,000 annual statutory appropriation. The bill also establishes program duties and a steering committee. This bill is a combination of LCwp09 and LCwp10 from the August meeting.
- **Tab 3 – LCwp06: Allow Water Court review of certain DNRC decisions.** The committee considered this bill in August. This version of the bill includes a broader title and some minor edits.
- **Tab 4 – LCwp81: Authorize DEQ assumption of dredge and fill permitting.** As authorized by the WPIC, this draft directs the department to “take all actions necessary” to gain federal permission to assume the federal Section 404 permitting program, also known as “dredge and fill” permits.
- **Tab 5 – Copy of Montana Supreme Court ruling on *Clark Fork Coalition v. Montana Well Drillers*.** Committee attorney Helen Thigpen will summarize and discuss the court’s ruling, which affects the use of exempt wells.
- **Tab 6 – LCwp83 and LCwp93: Expand duties of river basin councils.** The WPIC discussed a bill combining two Clark Fork River watershed groups in August and subsequently requested a bill draft eliminating those groups while formalizing basin advisory councils across Montana. The two drafts differ in how the basin councils are appointed: The DNRC would appoint members in LCwp83, and conservation district supervisors would appoint members in LCwp93.

Please let me know if you have any questions, comments, or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "J Mohr". The signature is written in a cursive, slightly slanted style.

Jason Mohr  
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