



Water Policy Interim Committee

62nd Montana Legislature

SENATE MEMBERS

BRADLEY MAXON HAMLETT--Chair
DEBBY BARRETT
SHARON STEWART-PEREGOY
CHAS VINCENT

HOUSE MEMBERS

WALTER MCNUTT--Vice Chair
PAT CONNELL
BETSY HANDS
BILL MCCHESENEY

COMMITTEE STAFF

JOE KOLMAN, Lead Staff
HELEN THIGPEN, Staff Attorney
KEVIN MCCUE, Secretary

MINUTES

Approved March 6, 2012

January 11, 2012

Room 172
State Capitol Building

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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COMMITTEE MEMBERS PRESENT

SEN. BRADLEY MAXON HAMLETT, Chair
REP. WALTER MCNUTT, Vice Chair

SEN. DEBBY BARRETT
SEN. SHARON STEWART-PEREGOY

REP. PAT CONNELL
REP. BILL MCCHESENEY

COMMITTEE MEMBERS EXCUSED

SEN. CHAS VINCENT
REP. BETSY HANDS

STAFF PRESENT

JOE KOLMAN, Lead Staff
HELEN THIGPEN, Staff Attorney
KEVIN MCCUE, Secretary

Agenda and Visitors' List

Agenda, [5 HJW a Ybh%](#)
Visitors' list, [5 HJW a Ybh&](#)

COMMITTEE ACTION

- None.

CALL TO ORDER AND ROLL CALL

00:00:00 Sen. Hamlett called the meeting to order and roll was noted ([5 HJW a Ybh'](#)).

AGENDA

INSTREAM LEASING REPORT

Mike McLane, Department of Fish, Wildlife and Parks (FWP)

00:01:17 Mr. McLane was unable to attend and was replaced by Bill Schenk, Legal Counsel, FWP, who spoke on FWP's Biennial Water Leasing Study. Mr. Schenk explained that FWP's instream flow authority originated with the 1989 Legislature and that it is fairly limited. Mr. Schenk said that authority had been renewed twice and that with each renewal FWP's authority has been expanded. Mr. Schenk said that FWP had perfected one new instream flow lease this biennium on Lazy Man Creek, a tributary to the Upper Ruby River, and that only 18 instream flow leases had been perfected since the inception of the program, some of which have expired. Mr. Schenk said that 10 instream flow leases are current. Mr. Schenk said that the instream flow program works very well if one is careful about where one looks for a lease. Mr. Schenk said that the measure of success is not how many acre feet of water FWP keeps instream but rather what is done to benefit fishery resources. Thus, Mr. Schenk said that a good instream flow lease is one that involves a tributary that has been dewatered, usually through irrigation, and where irrigations are engaged in order to increase efficiency, some water is left in the stream, connectivity is restored between the upper parts of the stream and the receiving water, and that water is kept in the stream during critical spawning periods. Mr. Schenk cited Lazy Man Creek as a good example of a good instream flow lease. Mr. Schenk noted the surgical nature of FWP's practices regarding instream flows and that they do not intend to lease or purchase water rights to leave in large rivers, as this was not an effective way of rewatering those rivers ([9L<6 #H'](#)).

Public Comment

00:08:44 None.

Committee questions, discussion and action, if any

- 00:09:05 Sen. Hamlett asked Mr. Schenk to clarify what he had said regarding instream flows on large rivers. Mr. Schenk said that instream flow leasing is a less effective tool on a larger water body. Sen. Hamlett asked if it was fair to say that FWP was focusing on the smaller tributaries of the larger streams. Mr. Schenk said that this would be accurate.
- 00:11:15 Sen. Barrett asked Mr. Schenk to further define the conclusion on page 7 of his report regarding permanent changes to instream flow, what changes those would be, as well as examples of where and why. Mr. Schenk said that FWP had been granted authority to permanently dedicate water to instream flow on a limited basis and that discussions had taken place in regard to doing so. Mr. Schenk cited a landowner in the Blackfoot who had been eager to lease water to FWP and donated a lease to the department in order that they restore the fishery there. Mr. Schenk said that he thought that the individual would be willing to simply donate the lease but had been worried about the tax treatment of that donation from the IRS. Mr. Schenk said that there are also water rights involved in the Upper Clark Fork Natural Resource Damage (NRD) Program and that interest exists in getting some leases and some permanent instream flow protection in that area. Sen. Barrett cited Mr. Schenk's report and asked where FWP had explored opportunities for purchase of stored water. Mr. Schenk said that FWP does hold some stored water rights in the Bitterroot drainage and Lake Como. Mr. Schenk said that he did not have specifics regarding proposed purchases of stored water, but that water at Silver Lake had been used for instream flow on a temporary basis and that this could become a permanent arrangement.
- 00:16:30 Rep. Connell asked Mr. Schenk to clarify his statement that the acre footage he had referred to on the Bitterroot is off of the West Fork at Painted Rocks Reservoir, not the East Fork, which is free flowing. Mr. Schenk said that Rep. Connell was correct.
- 00:17:07 Sen. Hamlett asked that Mr. Schenk submit in writing FWP's views regarding the potential impact to bull trout on the Painted Rocks watershed. Mr. Schenk said that he would do so.
- 00:18:02 Sen. Hamlett introduced an advertisement for Tenmile Creek water rights found in the Helena Independent Record (9L<6-H&).
- 00:19:39 Sen. Barrett reminded the committee that water banking was not to be used for speculation and asked that someone notify the company who placed the advertisement of current law.

00:20:20 Ms. Thigpen said she would investigate the issue before proceeding with notification.

00:20:28 Mr. Kolman said he would provide the WPIC with information about the water right.

RESERVED WATER RIGHT COMPACT COMMISSION UPDATE

Chris Tweeten, chairman

00:21:15 Mr. Tweeten, Chairman, Montana Reserved Water Rights Compact Commission (MRWRCC), reported on the recent activity of MRWRCC, joined by Bill Schultz, Program Director, and Melissa Hornbein, legal counsel. Mr. Tweeten explained that the MRWRCC had been established as a result of the 1979 Water Use Act. Mr. Tweeten said that negotiations between state, tribal and federal agencies had taken place over the past 20-25 years, and although the process has taken a long time, it has been less expensive than it would have been to take federal reserved water rights through the compact court and has thus been a tremendous success. Mr. Tweeten described the current makeup of the MRWRCC and explained that the MRWRCC had a sunset of July 1, 2013, which was the result of an extension granted by the legislature four years ago. Mr. Tweeten said that the MRWRCC's objective is to process the water rights currently before it by 2013 and have compacts for proposal to the 2013 Legislature. Mr. Tweeten detailed the Crow Compact that recently passed through Congress and outlined the steps needed for its passage, which consisted of approval by the legislature for tribal compacts, approval by Congress and the integration of federal reserved water rights into the Water Court decrees that are the subject of those negotiations. Mr. Tweeten noted that the state's contributions were expected to be proportional to the benefits that the state will accrue from the compact. Mr. Tweeten explained the status of the Blackfeet Compact, which had been ratified by the legislature in 2009 and said that the state's contribution to that compact was \$35 million, much of which is dedicated to the restoration of the Four Horns Reservoir. Mr. Tweeten said that the Fort Belknap Compact had been ratified in 2001 and that significant funding had been authorized by the legislature, including a \$9.5 million bonding authorization. Mr. Tweeten said legislation regarding the remaining funding for the Fort Belknap Compact was being drafted. Mr. Tweeten said that the Chippewa Cree Compact at Rocky Boy, which included allocation of water from Tiber Reservoir, had been approved and implemented. Mr. Tweeten said that the Northern Cheyenne Compact had been approved, which involved water rights on the Tongue River and its tributaries and also on Rosebud Creek. Mr. Tweeten said that the centerpiece of the Northern Cheyenne Compact had been the repair and enlargement of the Tongue River Reservoir. Mr. Tweeten also noted a compact reached with the Fort Peck tribes in 1995 which did not require any cost share from the state and included a storage right and would serve as a model for water rights negotiations with tribes. Mr. Tweeten explained the ongoing compact negotiations with the Confederated Salish and Kootenai Tribes (CSKT). Mr. Tweeten said that the protection of existing water rights was being addressed by both sides. Mr. Tweeten said that the MRWRCC has suggested an agreement not

to call on nonirrigation uses within the boundaries of the reservation. Mr. Tweeten spoke in regard to quantification of the tribal reservation rights, saying that irrigation rights were largely consumptive rights and that the tribe had a recognition of extensive tribal instream flow rights to protect fisheries as a major centerpiece of their negotiation. Mr. Tweeten said that negotiations by the tribes involving wetlands were proceeding, including a storage right in the Hungry Horse system. Mr. Tweeten said that the administration of the compact was unique in the West in that there was a joint management system on the reservation in which the on-reservation water rights would be managed by a joint board appointed by members of the tribe and the Governor that would provide services that DNRC provides outside the reservation in respect to permitting rights and resolution of disputes. Mr. Tweeten said that part of the tribe's claim with the Water Court would consist of off-reservation rights as part of a Stevens Treaty and are unique in that they include off-reservation hunting and fishing rights. Mr. Tweeten said that the proposal would provide for joint management by the tribe and FWP for instream rights on the Bitterroot River, the Swan drainage and the Kootenai River. Mr. Tweeten said that the particulars of joint management had yet to be articulated. Mr. Tweeten said that the MRWCC was working with the CSKT to have a bill ready for the 2013 legislative session. Mr. Tweeten said that two federal agency water rights claims remained unsettled. The first was created by Congress in the legislation that created the Upper Missouri Breaks National Monument and had included a compact with the Bureau of Land Management (BLM). Mr. Tweeten said that the two basins specifically mentioned in the legislation for the recognition of water rights were the Judith River and Arrow Creek. Mr. Tweeten said that another unsettled water right claim existed on the Charles M. Russell National Wildlife Refuge on the south banks of the Ft. Peck Reservoir, which he said the MRWCC hoped to produce a compact for to review by the 2013 Legislature. Mr. Tweeten finally noted the idiosyncratic federal water rights claim filed on behalf of the Turtle Mountain Chippewa Tribe of North Dakota. Mr. Tweeten said that the MRWCC believed that most efficient way to process claims on these parcels would be through the Water Court.

Public Comment

01:02:45 None.

Committee questions, discussion, and action, if any

01:02:55 Rep. McNutt asked if an extension of the Compact Commission would be necessary. Mr. Tweeten said that they intended to conclude their work under the current deadline and that he did not advocate an extension.

01:03:36 Sen. Hamlett asked how the Fort Peck Compact had come about. Mr. Tweeten said that there had been significant bases for claims on federal reserved water rights on the tributaries. Mr. Tweeten said that the tribe had opted not to pursue claims for allocations on the main stream of the Missouri and completely excluded the Milk River from its compact. Mr. Tweeten said that an allocation of water was recognized for the existing irrigation uses on those tributaries, that the

rest of the rights on those tributaries were allocated to the tribe and that the tribe agreed to accept an allocation of water out of Ft. Peck. Sen. Hamlett asked how much of Flathead Lake lies within the boundary of the Confederated Salish and Kootenai Tribes (CSKT). Mr. Tweeten said roughly half. Sen. Hamlett asked, hypothetically, if the state turned a hydro right at Milltown Dam into an instream use right, could a hydroelectric facility blow up a dam and begin irrigating with that water. Mr. Tweeten said that regulatory requirements would have to be met outside of the reservation.

01:09:43 Sen. Stewart-Peregoy noted that the Little Shell Tribe (LST) had also been a part of the Turtle Mountain Chippewa tribal group which had filed a federal claim and asked if the LST had been brought to the table regarding water claims. Mr. Tweeten said that they had not as the LST has no reservation on which to file a claim for a federal reserved water right and that the MRWRCC had not been contacted by the LST. Sen. Stewart-Peregoy observed that if identification of ownership was not complete that the MRWRCC seemed to be making assumptions regarding ownership. Sen. Stewart-Peregoy said she would like to be informed of progress in regard to the LST case. Mr. Tweeten said he would have staff be in contact regarding ownership of parcels at Turtle Mountain. Sen. Stewart-Peregoy asked where the claim had originated. Mr. Tweeten said it was done by the Bureau of Indian Affairs (BIA) at Aberdeen.

01:15:26 Sen. Hamlett asked for clarification regarding Kerr Dam, asking if it was being taken over by the tribes and if those water rights were part of the compact. Mr. Tweeten said that the water right for Kerr Dam was a state law based water right and that conversion to a tribal right had not been discussed. Mr. Tweeten said that conversion to a tribal right would pose complications for the federal management of the dam, which is under the jurisdiction of the Federal Energy Regulatory Commission (FERC).

WATER RIGHT ADJUDICATION UPDATE

DNRC - Director Sexton

01:17:08 Dir. Sexton said that there had not been many changes in regard to water right adjudication since her last report. Dir. Sexton noted that there had been 56,000 claims to examine at the outset and that 49,334 had been examined through December 1, 2011, with 7,666 remaining. Dir. Sexton said that there had been no new summary reports to the Water Court but that another decree had been issued at the end of September regarding the National Bison Range Compact. Dir. Sexton said that Water Court enforcement actions had been completed for 38 streams. Dir. Sexton also said that post-decree assistance that was used to resolve issue remarks represented a substantial workload. Dir. Sexton also touched on the appeals process and said that DNRC was working with the Department of Revenue to process invoices. Dir. Sexton said, in regard to HB 39 (2009), that ownerships of 15,765 water rights had been updated in 2011 (9L<6 H').

Montana Water Court - Judge Bruce Loble

01:19:40 Judge Loble said that the legislature had authorized the hiring of a new Water Master and that the process for choosing an Associate Water Judge was underway and would be filled in February. Judge Loble followed up on his previous report on the Crow Tribe objections on Prior Creek and the Little Big Horn River, one of which had been on Section 2 of the Crow Allotment Act (1920). Judge Loble said that a deadline for settlement of the objections had been set for February 21, 2012. Judge Loble said that an evidentiary hearing had been held on the U.S. Department of Agriculture (USDA), Forest Service and Montana Compact and that a decision on the compact could be issued after the briefing schedule expires. Judge Loble said that the Water Court was working to implement performance expectations and other Legislative Audit Committee recommendations by July 1, 2011. Judge Loble recognized 2011 Judicial Branch Employee of the Year, Court Administrator Sandra Palakovich.

Public Comment

01:23:37 None.

Committee questions, discussion, and action, if any

01:23:52 None.

(Break)

WATER RIGHTS EXEMPT FROM FILING

Overview - Judge Loble

01:37:27 Judge Loble presented the WPIC with an outline of the Water Adjudication Advisory Committee's current options. Judge Loble said that when Montana state water adjudication began in 1979, the legislature required all water users to file a statement of all their claims or face forfeiture of those claims. Judge Loble said there had been limited exceptions, called "exempt claims," which were exempt from filing. Judge Loble said that many ground water instream domestic and stockwater rights had not been filed in the adjudication process and that the DNRC had reduced the amount of claims by introducing the exemption. Judge Loble said that these exempt claims could be voluntarily filed and were in the adjudication process and that it was those claims that had not been filed which were causing problems. Judge Loble said that, as per Sen. Brenden's request, the Water Adjudication Advisory Committee had been discussing options to address exempt claims. Judge Loble said that two committee members, Anne Yates and Holly Franz, were available to answer questions. Judge Loble reviewed the current status quo and the Water Court's list of current proposals. Judge Loble said that there was not a consensus for mandatory refiling. Judge Loble said that there may not be a consensus for a mandatory refiling but that there was a possibility for consensus on a voluntary petition process (9L<6 H'()).

Public Comment

- 01:51:40 Holly Franz, Water Court Advisory Committee (WCAC), asked the WPIC for input as far as what is on or off the table. Ms. Franz said that the difference between Option 1 (take no action) and Option 2 (voluntary petition filing) is that under Option 2 applicants would become part of a decree which could be enforced by a Water Commissioner. Ms. Franz said that currently a water distribution controversy is needed to appear before the District Court and then the Water Court. Under Option 2 applicants would be able to go directly before the Water Court. Ms. Franz said that the difference between Options 2 and 3 was the allocation of cost and that Option 3 involves an actual claim filing process where applicants would receive the benefit of a prima facie statement of claim. Ms. Franz said the primary difference between Options 3 and 4 was the consequence for not filing.
- 01:56:20 Sen. John Brenden, Senate District 18, said that the intent of bringing this issue before the committee was not to start over with adjudication. Sen. Brenden said that some folks had missed the boat, were told they did not have to file and as a result they did not receive rights. Sen. Brenden proposed that minor changes be implemented to help out people in these situations.
- 01:57:59 Mike Murphy, Montana Water Resources Association (MWRA), said that this issue was important to the MWRA's membership. Mr. Murphy said that the opportunity for a voluntary filing of these rights could be very import to the MWRA's membership.

Committee questions, discussion, and action, if any

- 01:59:25 Rep. McNutt asked Judge Loble for an idea of how many unfiled claim disputes have gone from District Court to the Water Court and back to the District Court. Judge Loble said that there had been few, perhaps three.
- 02:00:10 Rep. McNutt asked Ms. Yates, attorney with the DNRC, if there had been much outcry from those with unfiled rights to reopen this issue. Ms. Yates said that the requests had come from a small group who wanted an opportunity to have water rights recorded as valid in the database, particularly those transferring property.
- 02:01:35 Rep. Connell asked for the date of perfection of potential voluntary filings on exempt claims. Rep. McNutt said that he expected that a petitioner would have to demonstrate the date of a water right. Judge Loble said that under the voluntary petition a stockwater user would have to demonstrate when they first made use of the water.
- 02:04:01 Rep. McNutt commented that although filing had been recommended, these people elected not to file claims for whatever reason. Rep. McNutt said that reopening the adjudication process would never pass through the legislature and that he did not advocate that the state absorb any of the cost at this late date. Rep. McNutt recommended Option 2, saying that the Water Court could resolve

rights more quickly and at less expense. Rep. McNutt said that solutions must be voluntary and should not come at an expense to the state.

- 02:08:12 Sen. Hamlett asked Judge Loble if allowing people to petition for water rights would put Montana in a better position against downstream states making claims on water in the future. Judge Loble said that although he advocated good accounting of water rights, most of these water rights were very small.
- 02:10:06 Sen. Barrett asked Ms. Franz if rights registered before 1973 could be found in a courthouse somewhere. Ms. Franz said those records generally could not be found.
- 02:11:06 Rep. McNutt asked Judge Loble what the addition of a voluntary filing process would do to the decree process. Judge Loble said it would lengthen the adjudication somewhat but that if petitions came in at the same time cost could be decreased.
- 02:13:04 Sen. Barrett asked Ms. Franz whether other states had allowed exemptions. Ms. Franz said that the issue had been raised in Idaho where the federal government had challenged the state's adjudication because they had small exempt rights. Ms. Franz said that in Colorado a system had been implemented in which similar exempt rights could not make a call on someone else but are still valid.
- 02:14:11 Sen. Barrett asked the same question of Judge Loble. Judge Loble said that Arizona has an exemption in its statute, which is available online. Judge Loble said that Idaho has used its judiciary to allow for the filing of an exemption.
- 02:15:26 Sen. Hamlett said that this had started as a problem of perception 30 years ago when people thought they had been exempt so they did not file. Sen. Hamlett asked the WPIC if it wanted to take action on this issue now.
- 02:17:41 Rep. McNutt commented that in Ms. Korman's case water rights on Bureau of Land Management (BLM) lands had not been filed and that she now wants to back up and get a seniority date on federal land. Rep. McNutt said he thought the WPIC should think seriously and digest the information that had been presented before deciding.
- 02:19:03 Rep. Connell asked Rep. McNutt in regard to his preference for Option 2 if it would lead to an open-ended situation. Rep. McNutt said sideboards would be necessary and recommended a six month deadline.
- 02:21:25 Sen. Barrett said that funding was not the only objection people had to HB 22 (2005) and that there were some who also did not want others, including the state, to know details regarding their water rights.
- 02:22:24 Sen. Hamlett said that he had observed situations in which people had ignored their own interests and that perception was different person to person. Sen. Hamlett said that he did not want to open Pandora's Box and that the WPIC should discuss the issue further and send a recommendation to the committee.

WATER RIGHT ENFORCEMENT

Review of Complaints - Tim Davis, DNRC

02:23:50 Mr. Davis reviewed complaints received by the DNRC regarding water right enforcement. Mr. Davis noted that the DNRC had been taking a more active role in enforcement (9L<6#I).

Appointing of Water Commissioners - Judge Loble

02:26:31 Judge Bruce Loble said that the majority of water rights were distributed without direct government supervision and that most water users understand this principle. Judge Loble said that friction can occur when shortages occur quickly and that the product of adjudication was enforceable decrees. Judge Loble explained the role of Water Commissioners and said that they enforce water rights by being visible. Judge Loble explained that Water Masters help District Judges.

Public Comment

02:35:37 None.

Committee questions, discussion, and action, if any

02:35:46 Sen. Barrett said that the preceding presentation was not what the WPIC had asked for at its September meeting and that it had requested information regarding the locations of calls made on water that could aid in location of shortages. Sen. Barrett noted that in her area citizens are notified of calls on water by letter from the District Court.

02:37:37 Judge Loble responded that Water Commissioners only deal with irrigation and stock rights, not domestic rights, including the exempt wells involved with HB 602 (2011). Sen. Barrett clarified that the WPIC had wanted to look at the number of calls on exempt wells in order to find out where shortages were occurring. Judge Loble said that the document does show areas where Water Commissioners are and that these were the areas where water had historically been in dispute. Judge Loble said that Water Commissioners do not necessarily keep track of calls but that he could poll water commissioners for a better response. Sen. Barrett said that she did not want for more work to be done with regard to this issue.

02:41:46 Mr. Davis said that the fact that many of the complaints originate in closed basins might help inform the WPIC.

02:42:17 Sen. Hamlett asked Mr. Davis if the DNRC monitored District Courts to see if action is taken. Mr. Davis said that regional managers work with District Courts but many of the actions taken are informal.

- 02:43:44 Sen. Hamlett asked Dir. Sexton to comment on any DNRC concerns involving the Saddle Creek fire complex. Dir. Sexton detailed the work of Burned Area Emergency Rehabilitation (BAER) teams. Dir. Sexton said that the Forest Service receives some funds that are directed at watersheds and cited the Bear Canyon timber sale on Mount Ellis as an example of a project meant to protect watersheds.
- 02:47:36 Rep. Connell explained to Dir. Sexton that the Saddle Creek fire that had been examined the previous day by the WPIC had been enclosed within Forest Service ground and that the DNRC had not been involved in the BAER analysis. Rep. Connell said that his concern was to maintain the quality of the Painted Rocks Reservoir downstream.
- 02:48:59 Sen. Hamlett requested that Dir. Sexton provide a list of critical watersheds in the state and asked what state involvement could be on critical watersheds. Dir. Sexton said that she would provide a list of priority watersheds. Sen. Hamlett requested an enhanced list of the watersheds which the DNRC considers critical. Dir. Sexton said such an account would have to be in collaboration with the Department of Environmental Quality (DEQ) as these are water quality issues as well as water quantity issues. Dir. Sexton said that she could provide the Forest Service list but that assertion of priority watersheds would entail other responsibilities in regard to protection. Sen. Hamlett said that the Forestry Division of DNRC was probably aware of watersheds that are at risk. Dir. Sexton said she would pursue the matter.

RULE REVIEW

Helen Thigpen, staff attorney

- 02:52:25 Ms. Thigpen provided an overview of administrative rulemaking regarding water and reminded the WPIC of the rules section of the EQC website. Ms. Thigpen noted that the rule regarding the Horse Creek Controlled Groundwater Area would take effect January 13, 2012. Ms. Thigpen said that the Board of Environmental Review had extended its comment period for the designation of the Gallatin River as an outstanding resource water (9L<-6H*).

Public Comment

- 02:56:02 None.

Committee questions, discussion, and action, if any

- 02:56:06 None.

EXEMPT WELL DISCUSSION

- 02:56:23 Rep. McNutt said that he and Sen. Hamlett had discussed proposals and thought that staff should put those proposals into bill draft form so that the WPIC could make additional suggestions.

- 02:58:20 Sen. Barrett requested that drafts be limited to proposals already before the committee.
- 02:59:22 Rep. McNutt retracted his statement regarding the submission of additional proposals to Mr. Kolman and acknowledged that the WPIC had already seen proposals and that there was a mechanism for public suggestions already in place.
- 03:00:14 Rep. Connell seconded the observation that the proposals represented good work and noted that they could be tweaked based on yesterday's discussion.
- 03:01:32 Mr. Kolman said that staff would work with those who had submitted proposals just as they would with other bill drafts.
- 03:02:04 Sen. Barrett said she would like to see proposals return to the WPIC in bill draft form and then go from there.
- 03:02:58 Mr. Kolman said that staff would consider the WPIC's request for discussion drafts just as they would other bill draft requests.

Meeting locations

- 03:03:53 Mr. Kolman reminded the WPIC of its scheduled meeting March 6, 2012, in Helena. Mr. Kolman then asked for suggestions from the committee as to which areas of the state that it believed would be helpful to visit so that budgeting for those meetings could take place.
- 03:04:45 Rep. McNutt said that he believed a meeting in Gallatin County would benefit the committee.
- 03:05:30 Rep. McChesney said that a meeting in Hamilton would be very productive.
- 03:06:07 Rep. McNutt agreed with Rep. McChesney's suggestion.
- 03:06:18 Sen. Hamlett asked for additional suggestions.
- 03:06:35 Rep. McNutt suggested Sidney but said he could not guarantee accommodations.
- 03:06:53 Sen. Hamlett asked if a visit to Billings would be a good use of the WPIC's time.
- 03:07:04 Rep. McChesney said he did not think that there was much going on in Billings regarding the WPIC's areas of focus and recommended that the panel focus on closed basins in western Montana.
- 03:07:38 Sen. Hamlett submitted Kalispell for discussion.
- 03:07:51 Rep. Connell said he thought that issues arising in Kalispell would be similar to those in Gallatin and Ravalli Counties.

- 03:08:28 Sen. Hamlett said that he did not want to hold less than three meetings.
- 03:08:35 Rep. McNutt said that the WPIC was meant to meet either four times or however often its budget would allow. Mr. Kolman noted that the WPIC had a budget of \$14,000.00 and said that he would check the budget and propose options at the next meeting. Sen. Hamlett voiced his preference for holding three meetings.

OTHER BUSINESS

- 03:09:36 Sen. Hamlett asked if the WPIC had anything to discuss regarding yesterday's examination of the hydrogeology of exempt wells. Rep. McNutt said that good information had been presented.
- 03:10:04 Sen. Hamlett asked for comment on the Saddle Creek fire and asked the WPIC if it wanted to take any action or make any requests of agencies.
- 03:10:23 Rep. Connell said that concern had been expressed in regards to the watershed in these areas and advocated monitoring the WPIC's interests there.
- 03:11:11 Sen. Hamlett asked Rep. McNutt if any letters needed to be sent in regard to Saddle Creek. Rep. McNutt said he did not think so.
- 03:12:21 Rep. McNutt said that last session two bills were passed by the legislature but were vetoed by the Governor and asked if the WPIC wanted to reexamine those bills.
- 03:13:10 Mr. Kolman said that the two bills in question involved avulsion and the issue of standing in Water Court, and that those bills, as well a Supreme Court decision on ditch maintenance, would be addressed at the WPIC's March meeting.

ADMINISTRATIVE MATTERS

- 03:14:47 None.

INSTRUCTIONS TO STAFF

- 03:14:49 None.

PUBLIC COMMENT ON ANY MATTER NOT CONTAINED IN AGENDA AND WITHIN THE JURISDICTION OF THE WPIC

- 03:14:57 None.
- 03:15:12 Sen. Hamlett adjourned the meeting of the WPIC.

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