



Water Policy Interim Committee

64th Montana Legislature

SENATE MEMBERS

BRADLEY MAXON HAMLETT--Chair
JENNIFER FIELDER
SHARON STEWART-PEREGOY
CHAS VINCENT

HOUSE MEMBERS

CARL GLIMM--Vice Chair
BOB BROWN
ZACH BROWN
KATHLEEN WILLIAMS

COMMITTEE STAFF

JASON MOHR, Lead Staff
HELEN THIGPEN, Staff Attorney
NADINE SPENCER, Secretary

MINUTES LOG

August 30, 2016
Room 152, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation 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 record 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 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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Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. BRADLEY MAXON HAMLETT, Chair
REP. CARL GLIMM, Vice Chair

SEN. JENNIFER FIELDER
SEN. SHARON STEWART-PEREGOY
SEN. CHAS VINCENT

REP. BOB BROWN
REP. ZACH BROWN
REP. KATHLEEN WILLIAMS

STAFF PRESENT

JASON MOHR, Lead Staff
HELEN THIGPEN, Staff Attorney
NADINE SPENCER, Secretary

AGENDA (Attachment 1)

VISITORS' LIST (Attachment 2)

COMMITTEE ACTIONS

The Water Policy Interim Committee (WPIC):

- Voted to draft the proposed legislation from the Department of Natural Resources and Conservation (DNRC);
- Voted to pre-introduce LCwp08 as a committee bill;
- Voted to combine LCwp09 and LCwp10, as amended, for consideration as a committee bill, including a motion by Sen. Fielder to include conservation districts;
- Voted to have committee members work with staff on changes to LCwp12;
- Voted to add a WPIC meeting on October 12;
- Voted to have Chairman Hamlett and Vice Chairman Glimm work with staff on an exempt well proposal;
- Voted to pre-introduce LCwp01 as a committee bill;
- Voted to pre-introduce LCwp02 as a committee bill;
- Voted to pre-introduce LCwp03, as amended, as a committee bill;
- Voted to have staff work on LCwp04 with the Attorney General's office, the Senior Water Rights Coalition, the DNRC, and the Water Court;
- Voted to have staff edit the title for LCwp06 as amended;
- Voted to pre-introduce LCwp11, as revised, as a committee bill;
- Voted on a recommendation on SJ2 as amended;
- Voted to have staff draft a committee bill directing the Department of Environmental Quality to assume the federal Section 404 program.

CALL TO ORDER AND ROLL CALL

00:00:00 Sen. Hamlett called the meeting to order at 8:13 a.m. The secretary noted the roll. **(Attachment 3)**

BLACK BUTTE MINING PROJECT

00:00:23 John Shanahan, president and chief executive officer, Tintina Resources, presented an introduction of the Black Butte Mining project and introduced employees of Tintina and its consultants that were present.

00:06:34 Jerry Zieg, vice president, Exploration, Tintina Resources, provided information on the water aspects of the project and gave a PowerPoint presentation on the proposed mine. **(Exhibit 1)**

00:17:52 Sen. Stewart Peregoy entered the meeting.

00:20:09 John Kenning, chief, Water Protection Bureau, Department of Environmental Quality (DEQ), gave a PowerPoint presentation on the monitoring program in the Sheep Creek watershed. [\(Exhibit 2\)](#)

Public Comment:

00:26:46 Derf Johnson, Montana Environmental Information Center, discussed its concerns with the project.

Committee Questions and Discussion:

00:29:43 Rep. Williams asked Mr. Kenning about the extent that Montana allows self bonding. Mr. Kenning said he did not know.

00:30:48 Rep. Williams asked Mr. Shanahan about Tintina's bonding plans for the mine.

00:35:01 Rep. Williams said she is interested in getting more information from the DEQ on bonding and whether they allow self-bonding.

00:35:42 Sen. Fielder asked Mr. Kenning about measurements taken on Sheep and Moose Creeks and why they are listed as impaired when the aluminum found is a naturally occurring condition. Mr. Kenning said it is because it exceeds standards.

00:36:50 Rep. Z. Brown said that the DEQ list attributes the aluminum present to grazing conditions in riparian zones and asked Mr. Kenning why it is characterized as naturally occurring. Mr. Kenning deferred the question to Darrin Kron, Monitoring and Assessment Section supervisor, Water Quality Planning Bureau, DEQ.

00:39:39 Sen. Hamlett asked Mr. Kron if there was a high precipitation event, and cattle were not present and grazing, if aluminum would still be found in the water.

00:40:39 Rep. Z. Brown asked Mr. Zieg about the paste backfill process and the treatment into perpetuity.

00:44:09 Rep. Z. Brown asked Mr. Zieg about water treatment and the need for a discharge permit. Mr. Zieg referred the question to Greg Bryce, Hydrometrics, Inc.

00:46:48 Rep. Z. Brown asked Mr. Zieg about obtaining water rights and water quality concerns on the Smith River.

00:49:09 Sen. Vincent said he wanted to disclose that he works for Environomics, Inc., a consulting firm that has Tintina Resources as a client.

00:49:30 Sen. Vincent asked Mr. Kenning about previous impairments on Sheep Creek. Mr. Kenning referred the question to Mr. Kron.

00:55:23 Sen. Hamlett asked Mr. Kron if the DEQ is satisfied with its baseline data.

00:56:05 Rep. Williams asked Mr. Kron if the differences between pre-2000 and current data is related to analysis methods.

00:57:12 Sen. Vincent asked Mr. Zieg about designs for capturing water run-off.

00:59:46 Sen. Vincent commented on the project and SB 409 (2015).

01:01:36 Rep. Z. Brown asked Mr. Zieg about management changes and how that could impact operation of the mine in the future.

01:04:33 Rep. Z. Brown asked Mr. Zieg how the current price for copper affects planning.

01:06:35 Sen. Hamlett asked Mr. Shanahan about the current price for copper. Mr. Shanahan said it is \$2.09 per pound.

01:09:21 Sen. Hamlett asked Mr. Shanahan about Tintina's options if copper prices fall.

01:12:09 Sen. Hamlett asked Mr. Shanahan if the leases Tintina has with mineral right holders and landowners allows for open-pit mines. Mr. Shanahan said they do not.

01:13:24 Sen. Hamlett asked Mr. Kenning if the mine is permitted as an underground mine if it can be changed to an open-pit mine. Mr. Kenning said he did not know.

01:14:20 Sen. Hamlett asked Mr. Kenning about redoing the permit if an underground mine was changed to an open-pit mine. Mr. Kenning said that the water permit would have to be adjusted to take into account the storm water captured by the mine.

01:15:00 Sen. Hamlett asked Mr. Johnson about his concerns that the mine is a sulfite ore body and if it is being treated differently than the Zortman-Landusky Gold Mine.

01:16:06 Mr. Johnson provided information on the permitting process when changing from an underground mine to an open-pit mine.

01:16:35 Sen. Hamlett asked Mr. Johnson about his concerns regarding expansion of the mining operation.

01:17:26 Rep. Williams asked Mr. Shanahan about the benefit of high quality cooper.

01:20:50 Sen. Hamlett commented on mining historically.

Discussion on adding a WPIC meeting:

01:22:00 The committee discussed adding a WPIC meeting in October.

CONSIDER/PROPOSE AREAS FOR STUDY DURING 2017-18 INTERIM

01:37:13 Mr. Mohr

01:37:45 Sen. Hamlett

01:38:00 Mr. Mohr

01:38:26 Sen. Vincent

01:39:06 Mr. Mohr

01:40:58 Sen. Vincent

01:42:52 Rep. Williams

01:45:40 Sen. Vincent

01:46:21 Sen. Hamlett

01:48:14 Rep. Williams

01:49:12 Sen. Hamlett

01:50:05 Rep. Williams

01:51:09 Sen. Hamlett

01:53:20 Recess

02:26:11 Reconvene

SAFETY OF PAINTED ROCKS AND LAKE COMO DAMS

02:26:25 Tim Davis, administrator, Water Resources Division, Department of Natural Resources and Conservation (DNRC), presented information on the dam safety program and dam safety permitting process. [\(Exhibit 3\)](#)

02:30:50 Chris Regilski, Pacific Northwest Region Safety of Dams coordinator, Bureau of Reclamation, via phone, presented information on Como Dam.

Public Comment: None

Committee Questions and Discussion:

- 02:33:33 Sen. Hamlett asked about the safety of Como Dam. Mr. Regilski said it is one of the safer dams in his region.
- 02:34:08 Sen. Hamlett asked if the irrigation company maintains the dam, and if the bureau looks at how much money is in the company's maintenance budget.
- 02:35:20 Rep. Williams asked about the reason for the discussion and if there was concern regarding safety. Mr. Mohr said that Sen. Connell had received a question from a constituent about the safety of the dams. Sen. Hamlett said the Painted Rocks Reservoir area was impacted by a forest fire and there were concerns about erosion.
- 02:36:29 Sen. Hamlett asked Mr. Davis about erosion from the fire. Mr. Davis said the department has not done a survey of change in erosion from before and after, but it has not noticed a change in operations.
- 02:36:59 Sen. Hamlett said there has been some erosion and asked Mr. Davis if the department has noticed that run-offs are coming quicker. Mr. Davis said he will need to look at the hydrographs.
- 02:37:43 Sen. Hamlett asked if there has been noticeable siltation into the reservoir since the fire. Mr. Davis said not to the point that it has affected operation.
- 02:38:03 Sen. Hamlett asked if it has affected the capacity of the reservoir. Mr. Davis said there has been no noticeable affect.

OVERVIEW OF PROPOSED AGENCY LEGISLATION

- 02:38:39 John Tubbs, director, DNRC, presented information on the proposed Water Resource Division bills. [\(Exhibit 4\)](#)
- 02:39:38 Mr. Tubbs discussed the proposed bill to revise the temporary water lease statute.
- 02:41:30 Mr. Tubbs discussed the proposed bill to revise salvage water and water conservation definitions.
- 02:42:33 Mr. Tubbs discussed the proposed bill to revise exempt claims filing process.
- 02:43:02 Mr. Tubbs discussed the proposed bill to revise water right abandonment statutes for drought plans.

Public Comment: None

Committee Questions and Discussion:

- 02:44:52 Sen. Vincent
- 02:45:22 Mr. Tubbs
- 02:45:34 Sen. Fielder
- 02:45:56 Mr. Tubbs
- 02:46:51 Sen. Fielder
- 02:47:25 Mr. Tubbs
- 02:47:26 Sen. Fielder
- 02:47:51 Mr. Tubbs
- 02:48:51 Sen. Fielder
- 02:49:03 Sen. Vincent
- 02:49:26 Mr. Tubbs
- 02:49:33 Sen. Vincent
- 02:50:33 Mr. Tubbs

02:51:21 Rep. Z. Brown
02:51:58 Mr. Tubbs
02:52:27 Rep. Z. Brown
02:53:15 Mr. Tubbs
02:54:32 Rep. Z. Brown
02:55:54 Mr. Tubbs
02:56:13 Rep. Z. Brown
02:56:56 Mr. Tubbs
02:57:12 Rep. Williams
02:57:39 Mr. Mohr
02:57:57 Rep. Williams
02:58:10 Mr. Mohr
02:58:16 Rep. Williams
02:58:52 Mr. Tubbs
02:59:34 Mr. Davis
03:00:55 Rep. Williams
03:01:42 Mr. Davis
03:02:23 Rep. Williams
03:02:43 Mr. Davis
03:03:45 Rep. Z. Brown
03:04:30 Sen. Hamlett
03:04:49 Mr. Tubbs
03:05:27 Sen. Hamlett
03:05:50 Mr. Tubbs
03:06:00 Sen. Hamlett
03:07:11 Rep. Z. Brown

03:07:49 **Motion/Vote:** Rep. Z. Brown moved to pre-draft the proposed DNRC legislation as committee bills. The motion carried unanimously by voice vote.

UPDATE ON TETON RIVER BASIN

03:08:05 Mr. Tubbs presented information on enforcement decrees on the Teton River Basin.
03:11:23 Mr. Davis said that Spring Creek already has an enforcement project on it.
03:11:42 Sen. Hamlett asked how the Spring Creek project is working. Mr. Davis said it is working well.
03:11:53 Rep. Williams asked Mr. Davis about the petition to develop a distribution plan.
03:13:40 Rep. Glimm asked Mr. Tubbs where the Eldorado diversion is located.
03:15:29 Sen. Vincent asked Mr. Tubbs if there is a role for the Montana Bureau of Mines and Geology on the Teton.
03:17:59 Sen. Hamlett asked Mr. Tubbs if there is a way to open up the steel barrier across the Eldorado. Mr. Tubbs said there is not.
03:20:08 Sen. Hamlett asked Mr. Tubbs if there have been any objections or complaints regarding activities of water commissioners on the Musselshell River.

AGENCY ADMINISTRATION RULE UPDATE

03:22:34 Helen Thigpen, staff attorney, Legislative Services Division, said she did not have any updates to report.

Public Comment: None

Committee Questions and Discussion:

03:23:21 Sen. Vincent asked Mr. Tubbs for his perspective regarding the role that the WPIC can have in the future.

03:25:30 Recess for lunch at 11:38 a.m.

04:51:55 Reconvene

OTHER COMMITTEE LEGISLATION

04:52:07 Mr. Mohr presented information on the four bills drafts that the WPIC requested at its last meeting that are unrelated to any of its studies.

04:52:20 Mr. Mohr discussed LCwp08 ([Exhibit 5](#)) and LCwp09. ([Exhibit 6](#))

04:52:58 Mr. Mohr discussed LCwp10. ([Exhibit 7](#))

04:53:51 Mr. Mohr discussed LCwp12. ([Exhibit 8](#))

LCwp08 — Statutory Appropriation for the Groundwater Investigation Program (GWIP)

04:57:28 John Metesh, director, Montana Bureau of Mines and Geology (MBMG), presented information on the GWIP.

Public Comment:

The following individuals spoke in support of LCwp08:

04:59:08 Krista Lee Evans, representing the Association of Gallatin Agricultural Irrigators (AGAI) and the Senior Water Rights Coalition (SrWRC)

05:00:13 Jeff Tiberi, Montana Association of Conservation Districts (MACD)

05:00:30 Brian Ohs, Southwest Montana coordinator, Trout Unlimited

05:01:19 Abigail St. Lawrence, Montana Association of Realtors

05:02:03 Walt Sales, agricultural representative, GWIP

Committee Questions and Discussion:

05:02:59 Sen. Vincent

05:03:31 Mr. Sales

05:05:27 **Motion:** Sen. Vincent moved to pre-introduce LCwp08 as a committee bill.

Discussion:

05:05:48 Rep. Williams

05:06:36 Sen. Vincent

05:08:04 Rep. Williams

05:08:44 Sen. Vincent

05:09:32 Rep. Williams

05:09:45 Sen. Hamlett

05:10:14 **Vote:** The motion carried unanimously by voice vote.

LCwp09 — Statutory Appropriation for the Surface Water Assessment and Monitoring Program (SWAMP)

- 05:10:45 Mr. Davis presented information on LCwp09 and said he is available to answer questions.
- 05:12:40 Mr. Metesh said the SWAMP allows the opportunity to build expertise and information on the surface water network.

Public Comment:

The following individuals spoke in support of LCwp09:

- 05:14:45 Ms. St. Lawrence
- 05:15:11 Ms. Evans spoke in support of the bill and requested that the SWAMP program be part of the MBMG.
- 05:16:31 Mr. Tiberi

Committee Questions and Discussion:

- 05:17:00 Sen. Fielder
- 05:17:47 Ms. Evans
- 05:18:25 Sen. Fielder
- 05:18:42 Ms. Evans
- 05:19:11 Rep. Williams
- 05:19:55 Ms. Evans
- 05:20:50 Rep. Williams
- 05:21:22 Ms. Evans
- 05:22:05 Rep. Williams
- 05:18:25 Sen. Fielder
- 05:22:24 Ms. Evans
- 05:22:54 Rep. Williams
- 05:23:04 Mr. Metesh
- 05:23:36 Rep. Williams
- 05:23:45 Mr. Metesh
- 05:24:37 Rep. Williams
- 05:25:02 Mr. Metesh
- 05:25:43 Rep. Williams
- 05:26:03 Mr. Davis
- 05:27:36 Rep. Williams
- 05:28:07 Mr. Davis
- 05:28:56 Sen. Vincent said the WPIC received copies of proposed changes to LCwp09. **(Exhibit 9)**
- 05:29:59 Sen. Fielder
- 05:30:51 Sen. Vincent
- 05:31:11 Mr. Mohr
- 05:31:44 Sen. Vincent
- 05:32:08 Sen. Hamlett
- 05:32:12 Sen. Fielder
- 05:32:33 Sen. Hamlett

LCwp10 — creating an advisory council for the SWAMP

- 05:33:33 Sen. Vincent presented information on LCwp10. **(Exhibit 10)**

Public Comment:

- 05:35:40 Mr. Tiberi said that the WPIC should consider adding conservation districts as members of the advisory council.
- 05:36:31 Ms. Evans said the committee structure works well for the GWIP and is a good approach to mirror for the SWAMP.

Committee Questions and Discussion:

- 05:37:10 Rep. Williams
- 05:37:21 Mr. Mohr
- 05:38:35 Sen. Hamlett
- 05:38:45 **Motion/Vote:** Sen. Fielder moved to include conservation districts as a member of the SWAMP steering committee. The motion carried unanimously by voice vote.

Discussion:

- 05:39:23 Rep. Williams
- 05:39:34 Sen. Hamlett
- 05:39:50 Ms. Thigpen
- 05:40:11 Mr. Mohr
- 05:40:51 Sen. Hamlett
- 05:41:00 Sen. Fielder
- 05:41:28 Sen. Hamlett
- 05:41:36 Mr. Tiberi
- 05:41:52 Sen. Hamlett
- 05:42:00 Mr. Mohr
- 05:42:45 Sen. Hamlett
- 05:42:47 Sen. Vincent
- 05:43:03 Mr. Mohr
- 05:43:12 Sen. Vincent
- 05:43:24 Mr. Mohr
- 05:43:50 **Motion:** Sen. Vincent moved to combine LCwp09 and LCwp10, as amended, and pre-introduce as a committee bill.

Discussion:

- 05:44:08 Sen. Fielder
- 05:44:21 Rep. Williams
- 05:45:15 **Substitute Motion/Vote:** Sen. Vincent made a substitute motion to combine LCwp09 and LCwp10, as amended, for consideration as a committee bill at the next WPIC meeting. The motion carried unanimously by voice vote.

Discussion:

- 05:45:59 Rep. Williams
- 05:46:49 Sen. Hamlett
- 05:47:09 Sen. Vincent

LCwp12 — combine Clark Fork watershed groups

05:47:39 Mr. Mohr discussed LCwp12.

Public Comment:

- 05:49:02 Erin Farris-Olsen, executive director, Montana Watershed Coordination Council (MWCC), discussed MWCC's activities regarding region wide coordination in the Clark Fork basin. ([Exhibit 11](#))
- 05:54:25 Mike McLane, water conservation specialist, Department of Fish, Wildlife and Parks (FWP), said that FWP supports the effort of the legislation and provided some suggestions.
- 05:59:21 Colin Cooney, Montana field coordinator, Sportsman Conservation Project, TU, said it supports the bill.

Committee Questions and Discussion:

- 06:00:13 Rep. Z. Brown
- 06:00:52 Ms. Farris-Olsen
- 06:02:19 Rep. Z. Brown
- 06:03:14 Ms. Farris-Olsen
- 06:03:59 Rep. Williams
- 06:05:24 Mr. Davis
- 06:08:45 Rep. Williams
- 06:09:18 Mr. Davis
- 06:09:32 Rep. Williams
- 06:09:38 Mr. Davis
- 06:09:56 Rep. Williams
- 06:10:41 Mr. Davis
- 06:10:48 Rep. Williams
- 06:11:08 Mr. Davis
- 06:11:40 Mr. Tubbs
- 06:13:22 Rep. Williams
- 06:14:06 Sen. Hamlett

Rep. Glimm left the meeting.

- 06:14:37 **Motion:** Rep. Williams moved that the WPIC work with staff on making the changes that were discussed and put LCwp12 out for public comment.

Discussion:

- 06:15:07 Sen. Vincent
- 06:17:25 Rep. Williams
- 06:18:10 Sen. Hamlett
- 06:18:25 Rep. Z. Brown
- 06:19:07 Sen. Fielder
- 06:19:55 Sen. Hamlett
- 06:20:09 Rep. Williams

- 06:20:29 **Vote:** The motion carried unanimously by voice vote. Rep. Glimm was excused.

06:20:40 Sen. Hamlett
06:21:16 Rep. Glimm returned to the meeting.
06:21:14 **Motion/Vote:** Sen. Vincent moved that the WPIC have a one-day meeting in October. The motion carried unanimously by voice vote.

OTHER BUSINESS

06:21:42 Sen. Hamlett opened discussion on legislation proposed at the WPIC meeting yesterday.

LCwp07 — Define combined appropriation as "physically connected"

06:23:32 Sen. Hamlett
06:24:01 Sen. Vincent
06:26:10 Rep. Glimm
06:26:54 Rep. Williams

06:28:11 **Motion/Vote:** Sen. Vincent moved that the chairman and vice chairman work with staff on a potential exempt well proposal for the October WPIC meeting. The motion carried unanimously by voice vote.

LCwp01 — clarify petition threshold for water commissioner petitions

06:28:50 Sen. Hamlett

06:29:46 **Motion/Vote:** Rep Glimm moved to pre-introduce LCwp01 as a committee bill. The motion carried unanimously by voice vote.

LCwp02 — require water commissioner training

06:30:12 Sen. Hamlett

06:30:24 **Motion/Vote:** Rep. Glimm moved to pre-introduce LCwp02 as a committee bill. The motion carried unanimously by voice vote.

LCwp03 — revise process for water right changes

06:30:56 Sen. Hamlett

06:31:00 **Motion:** Sen. Vincent moved to amend LCwp03 by striking section 2 (1) (c).

Discussion:

06:31:28 Rep. Glimm
06:31:44 Mr. Mohr

06:32:03 **Motion/Vote:** Sen. Vincent amended his motion to also strike section 3. The motion carried unanimously by voice vote.

06:32:25 **Motion/Vote:** Rep. Glimm moved to pre-introduce LCwp03, as amended, as a committee bill. The motion carried 6-1 by voice vote. Rep Z. Brown voted no.

LCwp04 - limit analysis of adverse effects for water right permit or change

LCwp44 - provide for approval of water right permit or change under certain conditions

06:33:04 Sen. Hamlett
06:33:44 Sen. Vincent
06:35:02 Russ McElyea, chief water judge, Montana Water Court
06:38:10 Sen. Vincent
06:39:15 Mr. Davis
06:40:57 Sen. Vincent
06:41:24 Mr. Davis
06:42:24 Sen. Vincent
06:43:15 Ms. Evans

06:44:21 **Motion:** Rep. Z. Brown moved to table LCwp04.

06:45:06 Rep. Z. Brown withdrew his motion.

06:45:08 **Motion:** Sen. Vincent moved to have staff work with the WPIC and stakeholders on LCwp04 to include a consent to approval concept.

Discussion:

06:45:35 Sen. Hamlett
06:45:45 Sen. Vincent
06:45:50 Sen. Hamlett
06:45:55 Sen. Vincent
06:46:06 Mr. Mohr
06:46:26 Sen. Vincent amended his motion to include review by the Attorney General's office, the Senior Water Rights Coalition, DNRC, and the Water Court.

06:47:04 Sen. Hamlett

Public Comment: None

06:47:54 **Vote:** The motion carried unanimously by voice vote.

LCwp06 — authorize Water Court review of DNRC permit, change decisions

06:48:28 Sen. Hamlett
06:48:40 Mr. Mohr

Public Comment:

06:49:33 Mr. Davis provided some suggested changes to the bill.
06:51:38 Mr. McElyea discussed some of the public comments that were made.
06:57:25 Jay Weiner, member, Water Adjudication Advisory Committee, said that he recommends that a change in venue should be agreed to by all of the litigants.

Committee Questions and Discussion:

06:59:27 Rep. Williams
06:59:59 Mr. McElyea
07:00:28 Sen. Vincent

07:00:54 Mr. McElyea
07:01:16 Sen. Vincent
07:02:20 Mr. Weiner
07:03:05 Sen. Vincent
07:03:44 Mr. Weiner
07:04:10 Sen. Vincent
07:04:37 Mr. McElyea
07:06:30 Sen. Vincent
07:07:27 Mr. Tubbs
07:11:34 Sen. Vincent
07:12:36 Mr. Tubbs
07:14:59 Sen. Vincent
07:15:55 Mr. Tubbs
07:17:00 Sen. Hamlett
07:17:09 Mr. Tubbs
07:17:43 Rep. Williams
07:18:06 Mr. Tubbs
07:19:19 Rep. Z. Brown
07:19:55 Mr. Tubbs

Sen Hamlett left the meeting and Rep Glimm assumed the role as chair.

07:21:04 Rep. Z. Brown
07:21:13 Mr. Tubbs

Sen. Hamlett returned to the meeting and resumed the role as chair.

07:22:55 Mr. Tubbs
07:23:19 Rep. Williams
07:23:59 Mr. Weiner
07:24:47 Rep. Z. Brown
07:25:02 Mr. Weiner
07:27:17 Sen. Hamlett
07:27:30 Mr. Weiner
07:29:10 Sen. Hamlett
07:29:31 Mr. Weiner
07:30:16 Sen. Hamlett
07:30:23 Mr. Weiner
07:31:30 Sen. Hamlett
07:31:49 Mr. Weiner
07:31:56 Rep. Z. Brown
07:32:26 Mr. Weiner
07:33:41 Rep. Z. Brown
07:33:49 Mr. Weiner
07:34:07 Sen. Hamlett
07:37:50 Rep. B. Brown
07:40:05 Sen. Hamlett

07:40:24 **Motion:** Rep. B. Brown moved to amend LCwp06 to include a four-year sunset clause.

Discussion:

07:40:43 Rep. Williams

07:41:13 **Vote:** The motion carried 7-1 by voice vote. Rep. Williams voted no.

07:41:36 **Motion:** Rep. Glimm moved to pre-introduce LCwp06, as amended, as a committee bill.

Discussion:

07:42:03 Rep. Williams

07:44:54 Sen. Vincent

07:45:19 Mr. Mohr

07:46:00 Sen. Vincent

07:46:36 Mr. Mohr

07:47:15 Sen. Vincent

07:47:33 Ms. Thigpen

07:48:13 Sen. Vincent

07:48:57 Ms. Thigpen

07:49:50 Sen. Vincent

07:50:25 **Substitute Motion/Vote:** Sen. Vincent made a substitute motion to have staff draft a broader title for LCwp06, as amended, for consideration by the WPIC at its next meeting. The substitute motion carried 7-1 by voice vote. Rep. Williams voted no.

LCwp11 — revising disclosure laws related to water rights

07:51:26 Mr. Mohr

07:52:32 Ms. Thigpen said she provided the committee with a revised copy of LCwp11. [\(Exhibit 12\)](#)

Public Comment:

07:53:26 Ms. Evans said that the revisions made to LCwp11 will help. She said that some new owners are following the law and filing ownership updates, but the information is not appearing in the DNRC database.

07:54:22 Mr. McElyea said that the revisions to LCwp11 satisfy his concerns with the bill.

Committee Questions and Discussion:

07:54:50 Sen. Fielder

07:55:17 Ms. Thigpen

Rep. Z. Brown was not present during executive action.

07:56:01 **Motion/Vote:** Rep. Glimm moved to pre-introduce LCwp11 as a committee bill. The motion carried unanimously by voice vote. Rep. Z. Brown was excused.

YELLOWSTONE RIVER FISH PARASITE

- 07:57:18 Paul Sihler, chief of staff, Department of Fish, Wildlife and Parks (FWP), said the Montana Fish and Wildlife Commission will hold a conference call on Thursday to consider the most recent information on the Yellowstone River and evaluate the closure due to the fish kill and consider other alternatives.
- 07:57:57 Eileen Ryce, FWP, presented an overview on the fish kill that was the result of Proliferative Kidney Disease caused by a microscopic parasite.

Public Comment: None

Committee Questions and Discussion:

- 08:01:00 Sen. Hamlett asked Ms. Ryce about the number of river miles the parasite has been found in. Ms. Ryce said the disease has been documented down to Big Timber and the parasite has been documented down to Laurel which is about 180 miles.
- 08:01:54 Sen. Hamlett asked Ms. Ryce what the number of fish per mile is on the Yellowstone River. Ms. Ryce said she will find out.
- 08:02:07 Sen. Hamlett asked Ms. Ryce if catch-and-release fishing causes the parasite to be passed on.
- 08:03:08 Sen. Vincent asked Ms. Ryce if the parasite could have been introduced into the Yellowstone River by anglers and recreationists that had been in other waters.
- 08:03:43 Sen. Fielder asked Ms. Ryce for more information about the parasite.
- 08:04:58 Sen. Fielder asked Ms. Ryce about the life span of the parasite and the prognosis.
- 08:07:06 Rep. Z. Brown asked Ms. Ryce about transmission of the parasite to other water bodies and what the FWP is doing in response.
- 08:08:41 Rep. Z. Brown asked Ms. Ryce if there is any baseline population data on white fish in the Yellowstone River.
- 08:09:57 Rep. Z. Brown asked Ms. Ryce about the number of dead trout that were found. Ms. Ryce said FWP has found 10 to 20 dead trout.
- 08:11:23 Rep. Z. Brown asked Ms. Ryce if any calls have been made on junior water rights related to irrigation as a result of the river closure. Ms. Ryce said there has not.
- 08:12:00 Rep. Z. Brown asked if there is a water commissioner on the Upper Yellowstone River that is enforcing water rights. Mr. Sihler said he will find out.
- 08:12:32 Rep. Z. Brown said he appreciates the action that was taken by FWP and commented on the importance of cleaning equipment after it has been in the water.
- 08:13:30 Sen. Hamlett asked Ms. Ryce about boat check stations between Gardiner and Big Timber.
- 08:14:36 Sen. Hamlett asked about the problem from contamination from equipment other than boats.
- 08:15:34 Sen. Hamlett asked if there are boat check stations on every entrance point from Yellowstone National Park into Montana. Ms. Ryce said there are not.
- 08:15:50 Rep. B. Brown asked when the river will reopen and if there will be closures next year.
- 08:17:22 Sen. Hamlett asked Ms. Ryce if fish that survive can be carriers and pass the parasite to other fish. Ms. Ryce said they cannot.

SUMMARY OF CITY OF MISSOULA V. MOUNTAIN WATER

08:20:34 Ms. Thigpen presented a summary of *City of Missoula v. Mountain Water*.
(Exhibit 13)

Public Comment: None

Committee Questions and Discussion:

08:29:20 Rep. Glimm asked Ms. Thigpen about the necessity that the city of Missoula own Mountain Water Company.
08:31:07 Sen. Hamlett asked Ms. Thigpen if Mountain Water was ever privately owned and then sold.
08:31:47 Sen. Hamlett asked Ms. Thigpen if the case will result in any changes to the eminent domain laws or beliefs.
08:33:31 Sen. Fielder commented on the decision made in the case.
08:34:30 Sen. Hamlett said the Missoula city council initiated the case and asked if it was a referendum or a vote by the people.

CONSIDER/PROPOSE AREAS FOR STUDY DURING 2017-18 INTERIM

08:36:32 Rep. Williams
08:37:22 Sen. Hamlett
08:37:50 Sen. Vincent
08:40:18 Rep. William
08:41:31 Sen. Hamlett

PROPOSED RECOMMENDATION ON SJ2

08:41:43 Sen. Hamlett
08:41:58 Mr. Mohr presented a proposed recommendation to include in the SJ2 report.
(Exhibit 14)

Discussion:

08:44:33 Rep. B. Brown
08:45:04 Sen. Hamlett
08:45:42 Rep. Z. Brown
08:47:28 Sen. Hamlett
08:48:33 Sen. Fielder
08:50:19 Rep. Williams
08:51:42 Sen. Hamlett
08:52:04 Rep. Williams
08:52:33 Rep. Glimm
08:54:28 Sen. Stewart Peregoy
08:57:43 Sen. Vincent
08:58:05 Sen. Stewart Peregoy

08:58:34 **Motion:** Sen. Stewart Peregoy made a motion to insert "is" before "eventually ruled" in the second paragraph.

Discussion:

08:58:42 Rep. Williams

08:58:55 Sen. Stewart Peregoy
08:59:10 Sen. Hamlett

08:59:14 **Motion:** Sen. Stewart Peregoy amended her motion to include inserting "appropriation" before "providing adequate authority" in the second bullet point.

08:59:41 Rep. B. Brown
09:00:16 Sen. Stewart Peregoy
09:00:38 Sen. Hamlett
09:00:57 Rep. Z. Brown
09:04:10 Sen. Hamlett
09:06:35 Sen. Vincent
09:11:33 Sen. Stewart Peregoy
09:12:05 Sen. Hamlett
09:12:11 Sen. Stewart Peregoy
09:13:07 Sen. Hamlett
09:13:17 Sen. Stewart Peregoy
09:13:31 Rep. B. Brown
09:14:03 Sen. Stewart Peregoy
09:14:42 Rep. Williams

09:15:22 **Motion:** Sen. Stewart Peregoy amended her motion to recommend the Department of Environmental Quality apply for a federal Wetland Program Development Grant in 2018 to further explore state assumption of federal Section 404 program.

Discussion:

09:15:52 Rep. Williams
09:16:31 Sen. Stewart Peregoy
09:16:44 Rep. Williams
09:16:50 Sen. Stewart Peregoy
09:17:04 Sen. Fielder
09:17:15 Mr. Mohr
09:17:40 Sen. Stewart Peregoy
09:18:03 Sen. Hamlett

09:18:16 **Vote:** The motion carried unanimously by voice vote.

09:18:31 Rep. Z. Brown

09:19:34 **Motion:** Rep. Glimm moved to accept the proposed recommendation on SJ2 as amended. The motion carried 5-2 by voice vote. Rep. Z. Brown and Rep. Williams voted no.

09:20:17 Rep. Williams asked for clarification on the motion on LCwp07.
09:21:09 Sen. Vincent

09:22:11 Rep. Glimm assumed the role as chair.

09:22:15 Mr. Mohr reviewed the legislative proposals that will be discussed at the October meeting.
09:23:27 Rep. Glimm
09:23:31 Rep. Williams
09:24:02 Mr. Mohr

09:24:30 Sen. Hamlett resumed the role as chair.

Discussion on the October WPIC meeting date:

09:24:45 The committee discussed the date for the October meeting.

09:31:28 **Motion/Vote:** Sen. Fielder moved that the WPIC convene on October 12 at 10:00 a.m. The motion carried unanimously by voice vote.

09:31:42 Mr. Mohr requested that the committee members return the staff evaluation forms by the next meeting.

09:32:10 **Motion:** Rep. Glimm moved to draft a committee bill directing the DEQ to explore state assumption of the federal Section 404 program contingent upon the enforceability of the Clean Water Rule.

Discussion:

09:33:02 Rep. Z. Brown
09:33:11 Rep. Glimm
09:33:47 Rep. Z. Brown
09:34:16 Rep. Glimm
09:34:23 Rep. Z. Brown
09:34:32 Sen. Hamlett
09:34:47 Rep. Glimm
09:35:36 Rep. Z. Brown
09:36:09 Rep. Glimm
09:36:26 Rep. Williams
09:37:06 Mr. Mohr
09:38:21 Sen. Vincent
09:39:16 Sen. Hamlett
09:40:06 Mr. Mohr restated the motion.

09:40:49 **Vote:** The motion carried unanimously by voice vote.

ADJOURN

09:41:32 Sen. Hamlett adjourned the meeting at 5:54 p.m.

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