



## Water Policy Interim Committee

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### 65th Montana Legislature

#### SENATE MEMBERS

PAT CONNELL--Chair  
JILL COHENOUR  
JON SESSO  
JEFFREY WELBORN

#### HOUSE MEMBERS

ZACH BROWN--Vice Chair  
BOB BROWN  
JOHN FLEMING  
CARL GLIMM

#### COMMITTEE STAFF

JASON MOHR, Lead Staff  
NADINE SPENCER, Secretary  
ERIN BILLS, Legal Staff

# MINUTES LOG

February 9, 2018  
Room 172, 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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### **COMMITTEE MEMBERS PRESENT VIA TELEPHONE CONFERENCE**

SEN. PAT CONNELL, Chair  
REP. ZACH BROWN, Vice Chair

REP. JOHN FLEMING  
REP. CARL GLIMM

### **COMMITTEE MEMBERS PRESENT IN HELENA**

SEN. JILL COHENOUR

### **COMMITTEE MEMBERS EXCUSED**

SEN. JON SESSO  
SEN. JEFFREY WELBORN

REP. BOB BROWN

## **STAFF PRESENT IN HELENA**

JASON MOHR, Lead Staff  
ERIN BILLS, Legal Staff  
NADINE SPENCER, Secretary

## **VISITORS' LIST (Attachment 1)**

## **AGENDA (Attachment 2)**

### **COMMITTEE ACTIONS**

The Water Policy Interim Committee (WPIC):

- Requested that staff prepare draft legislation for a committee bill to address issues related to rulemaking in the Montana Administrative Procedure Act (MAPA).

### **CALL TO ORDER AND ROLL CALL**

00:00:02 Sen. Connell called the meeting to order at 10:02 a.m. The secretary called the roll. **(Attachment 3)** Sen. Sesso was excused and left his proxy with Sen. Cohenour. **(Attachment 4)** Sen. Welborn and Rep. Bob Brown were excused.

### **PROPOSED DNRC RULES (MAR NOTICE NO. 36-22-196)**

00:01:52 Jason Mohr, research analyst, Legislative Services Division (LSD), introduced the members of the public present in the audience.

00:02:15 Mr. Mohr said the WPIC is meeting to consider its options related to its informal objection to (MAR) Notice No. 36-22-196. He said because of the Department of Natural Resource and Conservation's (DNRC) interpretation of the timelines they are ready to publish the rule.

00:03:14 Erin Bills, legal staff, LSD, said the WPIC received a memo from staff regarding the issue of when the proposed rule can be adopted. **(Exhibit 1)**

Public Comment      None

00:06:07 Sen. Connell said that without objection by the WPIC, and regardless of the action taken by the committee today, he requested that staff prepare potential draft legislation for consideration as a committee bill to address the issues under MAPA related to rulemaking.

00:08:05 Sen. Connell asked staff if a draft can be available for the March meeting.

00:08:44 Sen. Connell said the committee can choose to take no action and allow the DNRC to adopt the proposed rules, submit a letter to the DNRC with its recommendation, or formally object to the rule based on the MAPA timeline. Ms. Bills agreed.

### Committee questions and discussion

00:11:08 Sen. Cohenour said she supports taking no action.

00:14:00 Rep. Glimm said he agrees with Sen. Cohenour on not sending a letter to the DNRC, but said the committee needs to take action.

**Motion**

00:16:15 Rep. Glimm moved to draft a formal objection to the implementation of the Department of Natural Resources and Conservation administrative rule (MAR Notice No. 36-22-196) pursuant to a violation of the MAPA rules.

**Discussion on the Motion**

00:17:30 Sen. Connell  
00:17:50 Rep. Z. Brown  
00:19:09 Sen. Connell  
00:19:17 Rep. Fleming  
00:19:46 Sen. Connell  
00:23:57 Sen. Cohenour  
00:26:57 Rep. Glimm  
00:30:04 Ms. Bills  
00:31:32 Sen. Connell  
00:31:40 Rep. Glimm  
00:32:47 Rep. Z. Brown  
00:33:06 Mr. Mohr  
00:33:37 Sen. Connell  
00:35:23 Rep. Z. Brown  
00:35:34 Sen. Connell

**Vote**

00:35:49 The motion failed 2-4 by roll call vote with Rep. Glimm and Sen. Connell voting yes. Sen. Sesso voted no by proxy. ([Attachment 5](#))

**PUBLIC COMMENT ON ANY ISSUE WITHIN THE JURISDICTION OF THE WPIC**

None

00:37:02 Sen. Connell thanked the committee and staff.

**ADJOURN**

00:37:27 Sen. Connell adjourned the meeting at 10:39 a.m.

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