



Water Policy Interim Committee

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

September 10, 2018
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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COMMITTEE MEMBERS PRESENT

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

SEN. JILL COHENOUR
SEN. JON SESSO
SEN. JEFFREY WELBORN

REP. BOB BROWN
REP. JOHN FLEMING
REP. CARL GLIMM

STAFF PRESENT

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

VISITORS' LIST (Attachment 1)

AGENDA (Attachment 2)

COMMITTEE ACTIONS

The Water Policy Interim Committee (WPIC):

- Approved the minutes from July 16-17;
- Voted to pre-introduce legislation proposed by the Department of Environmental Quality as committee bills;
- Voted to pre-introduce legislation proposed by the Department of Natural Resources and Conservation as committee bills;
- Voted to accept the draft reports on the Study of the Process for Changing a Water Right and the Study of Groundwater Wells Exempt from Permitting, as amended, as final reports.
- Voted to pre-introduce LCw001 as a committee bill;
- Voted to pre-introduce LCw002, as amended, as a committee bill;
- Voted to pre-introduce LCw003 as a committee bill;
- Voted to pre-introduce LCw04a, as amended, as a committee bill;
- Voted to pre-introduce LCw005 as a committee bill;
- Voted to pre-introduce LCw008, as amended, as a committee bill;
- Voted to pre-introduce LCw009 as a committee bill;
- Voted to pre-introduce LCw010, as amended, as a committee bill.

CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Connell called the meeting to order at 8:04 a.m. The secretary called the roll. (Attachment 3) Sen. Connell invited Rep. Walt Sales to join the committee at the table as a visiting legislator.

Approval of July, 2018 Minutes

Motion/Vote

00:01:32 Sen. Cohenour moved to approve the minutes from July 16-17. The motion carried unanimously by voice vote of those present and voting.

UPDATE FROM ENVIRONMENTAL QUALITY COUNCIL

00:01:44 Joe Kolman, environmental analyst, Legislative Environmental Policy Office, Legislative Services Division (LSD), said the Environmental Quality Council (EQC) will meet on September 12-13 and provided information on the agenda.

Committee questions and discussion

00:06:40 Sen. Welborn asked Mr. Kolman about the Aquatic Invasive Species program and the reduction in fees for anglers.

00:07:25 Sen. Connell commented on the vegetative management project that the U.S. Forest Service proposed in his senate district and said he was invited to present a white paper to the national convention of the Society of American Foresters. [\(Exhibit 1\)](#)

00:08:19 Rep. Z. Brown entered the meeting at 8:12 a.m.

ADJUDICATION UPDATE (85-2-281, MCA)

DNRC

00:10:21 John Peterson, Water Adjudication Bureau chief, Department of Natural Resources and Conservation (DNRC), provided an update on the adjudication status. [\(Exhibit 2\)](#)

Public comment None

Committee questions and discussion

00:14:23 Rep. Z. Brown asked Mr. Peterson about the Bureau of Land Management (BLM) plans for the exempt from filing claims under HB 110 (2017).

00:15:34 Rep. Z. Brown asked Mr. Peterson about the 2019 deadline date and if the BLM plans to file for an extension.

00:17:40 Sen. Connell commented on the efforts by the WPIC and the progress made on the exempt from filing claims.

00:20:02 Jason Mohr, research analyst, LSD, said he is waiting to hear from the BLM regarding the compacts settled and the exempt rights filed and will provide the information to the committee.

Water Court

00:21:25 Hon. Russ McElyea, chief water judge, Montana Water Court, provided an update on decree issuance. [\(Exhibit 3\)](#)

00:22:34 Mr. McElyea provided information on claim closings by month. [\(Exhibit 4\)](#)

00:24:07 Mr. McElyea discussed the status of the Indian compacts. [\(Exhibit 5\)](#)

00:25:44 Mr. McElyea discussed the status report on final decree issuance for basins. [\(Exhibit 6\)](#)

Public comment None

Committee questions and discussion

00:31:17 Rep. Z. Brown asked Mr. McElyea about the amount of time it will take the Water Court to complete the exempt from filing claims after the June 30, 2019, deadline.

00:38:07 Rep. Z. Brown asked Mr. Peterson the same question.

00:41:10 Rep. Z. Brown asked Mr. Peterson about DNRC's fee structure for staffing and processing claims.

00:43:08 Sen. Connell commented on a concern regarding a large number of late claim filings and said it could be rectified with legislation that is effective upon passage.

- 00:43:39 Sen. Connell asked Mr. Peterson about the exempt from filing claims in the basins that are 100 percent complete, and if they are new filings added to the total amount of water.
- 00:47:36 Rep. Sales asked Mr. McElyea about the missed decree claims.
- 00:49:19 Rep. Sales asked Mr. McElyea about the missed decree claims in basins 42I and 42J.
- 00:51:26 Rep. Sales asked Mr. McElyea about open claims.

STAFF PROGRAM EVALUATION: WATER QUALITY DIVISION (DEQ)

- 00:53:23 Mr. Mohr provided an overview of the Water Quality Division, Department of Environmental Quality (DEQ). [\(Exhibit 7\)](#)

Public comment

- 01:04:39 Tim Davis, Water Quality Division administrator, DEQ

Committee questions and discussion

- 01:05:57 Sen. Connell asked Mr. Davis about samples from individual wells and the level of protection.
- 01:08:30 Sen. Connell asked Mr. Davis about the level of protection for a public water system versus individual water wells.
- 01:11:22 Sen. Connell asked Sen. Cohenour about protection for individual wells and septic systems.
- 01:16:37 Sen. Connell asked Mr. Davis about the subdivision review process and the format to determine the number of people per square foot per house.
- 01:19:48 Sen. Cohenour said the next topic will explain the regulation.

ENVIRONMENTAL PROTECTION AGENCY: OVERVIEW OF WATER ISSUES IN MONTANA

- 01:21:10 Darcy O'Connor, assistant regional administrator, Office of Water Protection, EPA, Region 8, gave a PowerPoint presentation on water issues in Montana. [\(Exhibit 8\)](#)
- 01:21:54 Ms. O'Connor provided information on the structure of the EPA and its regional offices.
- 01:22:42 Ms. O'Connor discussed the EPA's guiding principles and strategic plan.
- 01:24:00 Ms. O'Connor discussed the EPA's roles in implementing water programs.
- 01:25:50 Ms. O'Connor discussed the Clean Water Act.
- 01:30:38 Ms. O'Connor discussed the Safe Drinking Water Act.
- 01:32:22 Ms. O'Connor discussed roles and responsibilities of the EPA in the state drinking water program.
- 01:34:55 Ms. O'Connor discussed DNRC and EPA activities in the underground injection control program.
- 01:36:33 Ms. O'Connor discussed EPA Region 8 focus areas.
- 01:39:15 Ms. O'Connor discussed the keys to successful implementation of the Clean Water and Safe Drinking Water programs.

- Public comment None

Committee questions and discussion

- 01:40:55 Sen. Cohenour asked Ms. O'Connor about the EPA budget and the money available for Montana.
- 01:43:16 Sen. Cohenour asked Mr. Mohr if the information was included in the material provided to the committee.
- 01:43:39 Sen. Cohenour asked Ms. O'Connor about the different types of public water systems.
- 01:45:50 Ms. O'Connor answered Sen. Connell's earlier question about the transition from a private system to a public system.

THE FEDERAL BUDGET (H.R. 1625) AND STATE WATER PROGRAMS

- 01:47:04 Mr. Mohr said in its work plan the WPIC requested information about how the federal budget would affect water-related programs in Montana. Mr. Mohr said the committee will hear from the DNRC and the DEQ the primary recipients of federal funds.
- 01:48:11 Mr. Davis discussed federal funding for the DEQ's water-related programs.
- 01:50:27 Jan Langel, administrator, Water Resources Division, DNRC, discussed federal funding for DNRC's Water Resources Division.

Public comment None

Committee questions and discussion

- 01:52:32 Sen. Connell asked Mr. Langel about his availability in the afternoon for the committee discussion on draft legislation for stream gauge networks.
- 01:53:28 Recess
- 02:16:05 Reconvene

OVERVIEW OF PROPOSED AGENCY LEGISLATION

- 02:16:13 Mr. Mohr said the WPIC will hear from the Department of Fish, Wildlife, and Parks (FWP), the DEQ, and the DNRC on proposed water-related legislation. Mr. Mohr said the committee can decide whether it wants to pre-introduce any of the proposed legislation.
- 02:17:30 Sen. Connell commented on the benefit of pre-introducing legislation.

FWP

- 02:17:57 Don Skaar, Habitat and Access Bureau chief, Fisheries Division, FWP, presented the proposed legislation to revise 85-2-436, MCA, that gives FWP the authority to lease and convert water rights to instream flow, and to remove the sunset date. **(Exhibit 9)**

Public comment None

Committee questions and discussion

- 02:22:11 Sen. Sesso asked Erin Bills, legal staff, LSD, about the provisions in the statute for the sunset, and if it is specific to FWP.
- 02:24:20 Sen. Sesso asked Mr. Skaar why the sunset was put in for FWP and not for other people who seek instream flow rights to protect a fishery.

02:24:46 Sen. Sesso redirected his question to Ms. Bills. Ms. Bills said she will find out. Sen. Connell requested that staff email the information to the committee.

02:25:05 Sen. Cohenour asked Mr. Skaar about the success of the program for fisheries in the state and making it permanent.

02:28:40 Sen. Connell asked Mr. Skaar about the lease and if it is for a limited period of time or if it is into perpetuity.

02:30:11 Rep. Z. Brown asked Mr. Skaar about financial resources the department can use to enter into contractual agreements with water right holders.

02:32:30 Rep. B. Brown asked Mr. Skaar about making a determination that there is enough water in a stream and that the department doesn't need any more water rights.

02:34:31 Sen. Connell asked Mr. Langel about securing short-term water rights and the affect on the water right adjudication process.

02:36:08 Sen. Connell asked Mr. Langel about the end of a short-term lease and if it automatically reverts back to the original beneficial use.

DEQ

02:36:58 Mr. Davis said the DEQ has two legislative proposals under the purview of the WPIC and one under the purview of the EQC. **(Exhibit 10)**

02:37:20 Mr. Davis discussed proposed legislation to create a grant program to remove lead from water in schools.

02:38:48 Mr. Davis discussed proposed legislation to consolidate two water quality standards variances under a single statute.

02:40:45 Mr. Davis said the DEQ is proposing legislation to the EQC to revise the Sanitation In Subdivision Act.

Public comment

02:42:50 Tim Burton, executive director, Montana League of Cities and Towns

Committee questions and discussion

02:43:44 Sen. Sesso asked Mr. Davis about the grant program and the amount of money that will be generated by doubling the connection fee for public water supplies.

02:44:17 Sen. Sesso asked Mr. Davis about who pays the connection fee.

02:44:53 Sen. Sesso asked Mr. Davis if the connection fee is an annual fee or if it is a one-time fee.

02:45:15 Rep. Z. Brown asked Mr. Davis about the extent of the problem with lead in drinking water in schools.

02:46:52 Rep. B. Brown asked Mr. Davis about financial assistance to help schools remove lead.

02:48:33 Sen. Connell asked Mr. Davis about who pays the connection fee and how and what the money is used for.

02:49:49 Sen. Connell asked Mr. Davis if the money will be diverted away from other programs to focus on removing lead.

02:50:32 Sen. Cohenour asked Mr. Davis about federal matching funds available to remove lead.

02:52:07 Sen. Sesso asked Sen. Connell why the WPIC is not considering the legislation to revise the Sanitation in Subdivision Act.

02:52:47 Mr. Davis said the WPIC has oversight of water-related legislation and that he wanted to give the committee an opportunity to ask questions.

DNRC

02:53:19 Mr. Mohr provided an updated copy of the proposed legislation from the DNRC. **(Exhibit 11)**

02:53:37 Mr. Langel provided a summary of the legislation proposed by DNRC.

02:54:02 Mr. Langel discussed the legislation to amend 85-5-110, MCA, to better define when a water mediator can be appointed.

02:55:26 Mr. Langel discussed the legislation to amend 85-2-420, MCA, to allow flexibility for mitigated water measurement.

02:56:40 Mr. Langel discussed the legislation to amend 85-2-402, MCA, on where and what type of hearing is required for a change application.

02:57:38 Mr. Langel discussed the legislation to repeal 85-2-331, MCA, to consolidate certain water right reservation information.

02:58:00 Mr. Langel discussed the legislation to amend 85-2-102, MCA, and repeal 85-2-442, MCA, to move definitions to one place.

02:58:20 Mr. Langel discussed the legislation to amend the Governor's Drought and Water Supply Advisory Committee reporting requirements.

Public comment None

Committee questions and discussion

02:59:23 Rep. Z. Brown asked Mr. Langel about the reporting date for the Drought and Water Supply Advisory Committee.

03:01:17 Rep. Z. Brown asked Mr. Langel about waiting until July to report to the governor and if it will impact the state's ability to communicate with the federal government and respond to conditions on the ground and emergency response services.

03:02:24 Rep. Z. Brown asked Mr. Langel if the legislation will provide a more accurate final report without changing the communication stream and connected services.

03:02:58 Sen. Connell asked Mr. Langel about including the need for preliminary reports.

03:04:37 Sen. Connell asked Holly Franz, member, Water Court Adjudication Advisory Committee, about the benefits and risks to water right holders in the proposal to amend 85-5-110, MCA.

03:07:30 Sen. Connell asked Ms. Bills about 85-5-110, MCA, and if it limits the appointment of a water mediator by the Water Court or a district court.

COMMITTEE CONSIDERATION OF BILLS FOR PRE-INTRODUCTION

03:08:12 Sen. Connell opened discussion on committee action.

Motion

03:08:45 Sen. Cohenour moved to pre-introduce the proposed agency legislation as committee bills.

Discussion on the Motion

03:09:00 Sen. Connell

03:09:34 Sen. Sesso
03:10:10 Sen. Connell
03:10:27 Ms. Bills
03:10:35 Sen. Connell
03:11:24 Sen. Cohenour
03:11:59 Rep. Z. Brown
03:14:15 Sen. Connell

Substitute Motion

03:16:04 Sen. Welborn made a substitute motion to segregate the legislation proposed by FWP from the other agency legislation.

Discussion on the Motion

03:16:21 Sen. Connell
03:16:34 Sen. Wellborn amended his motion to segregate the proposed legislation by department.

Vote

03:16:57 The motion carried unanimously by voice vote.
03:17:05 Sen. Connell

Discussion on the Motion to Pre-Introduce FWP Legislation

03:17:56 Rep. Z. Brown
03:18:33 Rep. B. Brown
03:19:17 Sen. Welborn
03:20:05 Sen. Cohenour
03:23:50 Sen. Connell
03:24:30 Rep. Z. Brown

Vote

03:25:18 The motion failed 3-5 by roll call vote with Sen. Cohenour, Sen. Sesso, and Rep. Fleming voting aye. [\(Attachment 4\)](#)

Discussion on the Motion to Pre-Introduce DEQ Legislation

03:26:14 Sen. Connell
03:27:09 Rep. B. Brown
03:28:08 Sen. Cohenour
03:28:31 Rep. B. Brown
03:28:47 Sen. Connell
03:29:05 Rep. B. Brown
03:29:25 Sen. Cohenour

Substitute Motion/Vote

03:31:20 Sen. Cohenour made a substitute motion to segregate the proposed legislation from DEQ. The motion carried 7-1 by voice vote. Rep. B. Brown voted no.

Motion/Vote

03:32:29 Sen. Cohenour moved to pre-introduce the legislation from DEQ to create a grant program to remove lead from water in schools as a committee bill. The motion carried 5-3 by roll call vote. Sen. B. Brown, Rep. Glimm, and Sen. Connell voted no. ([Attachment 5](#))

Motion/Vote

03:33:27 Sen. Cohenour moved to pre-introduce the legislation from DEQ to consolidate the variance statutes as a committee bill. The motion carried unanimously by roll call vote. ([Attachment 6](#))

Discussion on the Motion to Pre-Introduce DNRC Legislation

03:34:19 Sen. Connell

Vote

03:34:49 The motion carried 6-2 by voice vote. Rep. Glimm and Rep. B. Brown voted no.

DATA USE AND MODELING IN DNRC STREAMFLOW ANALYSES

03:35:29 Jason Mohr, research analyst, LSD, said the topic was requested by Rep. Z. Brown following the WPIC meeting in May, and that the DNRC will provide information on how they analyze data related to change applications.

03:36:56 Attila Fohnagy, groundwater hydrogeologist, Water Management Bureau, DNRC, provided a list of models the DNRC uses to look at potential impacts to surface water rights from groundwater applications. ([Exhibit 12](#))

03:50:30 Mr. Fohnagy discussed how a mitigation change works.

Public comment None

Committee questions and discussion

03:54:25 Sen. Connell asked Mr. Fohnagy about the application of the models for someone seeking a new water use permit and if the DNRC has had an applicant successfully challenge the model results based on specific work they have done.

03:56:00 Sen. Connell asked Mr. Fohnagy how the change of approach is integrated into the models.

ANALYSIS OF MONTANA WATER LAW

03:57:37 Kristin Sleeper, doctoral student, W.A. Franke College of Forestry and Conservation, University of Montana, presented information on her research on managing water conflicts.

03:58:42 Ms. Sleeper discussed her research on tribal water compacts and associated settlement agreements and her preliminary findings.

04:06:30 Ms. Sleeper discussed the areas she feels the WPIC should continue to be engaged in.

Public comment None

Committee questions and discussion

- 04:09:01 Rep. Z. Brown asked Ms. Sleeper about her research and dissertation plans and the timeline.
- 04:10:06 Sen. Connell commented on the timing for completion of Ms. Sleeper's dissertation and the challenges with lack of continuity of the WPIC members. Sen. Connell encouraged Ms. Sleeper to keep in touch with the committee and present her findings.
- 04:12:07 Recess for lunch at 12:15 p.m.
- 05:27:33 Reconvene at 1:30 p.m.

SUMMARY OF PUBLIC COMMENTS ON REPORTS AND LEGISLATION

- 05:27:39 Mr. Mohr said at the July meeting the WPIC asked for public comment on two draft reports and five bills. Mr. Mohr said the committee is considering 11 bills today.
- 05:28:10 Mr. Mohr said public comment was due at the end of August and the committee received seven comments. [\(Exhibit 13\)](#)
- 05:28:19 Mr. Mohr said the committee received five additional comments. [\(Exhibit 14\)](#) Mr.
- 05:31:03 Mohr said he fixed the five errors that the DNRC pointed out in the draft reports and that he recommends examining the suggestions for the change report from the DNRC, WGM Group, and the Clark Fork Coalition regarding their concerns and edit the report as necessary.
- 05:31:40 Mr. Mohr said the committee received a copy of the reports, *A Right to Stream Conditions as they Existed* [\(Exhibit 15\)](#) and *The Exemption at 45* [\(Exhibit 16\)](#), and can make changes before approving the reports.
- 05:31:56 Sen. Connell opened committee action on the reports.

Motion/Vote

- 05:32:25 Sen. Cohenour moved to accept the reports and add changes based on committee discussion. The motion carried unanimously by voice vote.
- 05:33:14 Sen. Cohenour asked staff about a motion to accept the changes proposed by the DNRC.

Motion/Vote

- 05:34:08 Sen. Cohenour moved to amend the reports with the changes proposed by the DNRC. The motion carried unanimously by voice vote.

COMMITTEE CONSIDERATION OF DRAFT LEGISLATION

- 05:35:09 Sen. Connell said the committee will consider each bill individually.

LCw001 - Define a "supplemental notice" within the Montana Administrative Procedure Act (MAPA)

- 05:35:34 Mr. Mohr provided an overview of LCw001. [\(Exhibit 17\)](#)
- 05:37:35 Sen. Connell commented on the WPIC modifying and amending MAPA.

Committee questions and discussion None

Public comment None

Motion/Vote

05:38:30 Sen. Connell moved to pre-introduce LCw001 as a committee bill. The motion carried unanimously by voice vote. Sen. Sesso and Sen. Welborn will co-sponsor the bill.

05:39:25 Sen. Sesso asked Mr. Mohr about the bill.

05:41:12 Sen. Cohenour asked Sen. Connell about the bill.

LCw002 - Revise certain water right adjudication processes

05:42:27 Mr. Mohr provided an overview of LCw002. [\(Exhibit 18\)](#)

05:43:24 Mr. Mohr said WGM Group submitted comments on the bill. [\(Exhibit 19\)](#)

Public comment

05:43:49 Mr. McElyea

05:45:54 Krista Lee Evans, Senior Water Rights Coalition, Association of Gallatin Agricultural Irrigators, Montana Water Resources Association

05:46:35 Ms. Franz

Motion/Vote

05:47:36 Sen. Cohenour moved to pre-introduce LCw002, as amended, as a committee bill. The motion carried unanimously by voice vote.

05:48:17 Sen. Connell said the committee can determine sponsors for the bills later.

LCw003 - Extend the deadline to correct an application for a permit or a change of water right

05:48:38 Mr. Mohr provided an overview of LCw003. [\(Exhibit 20\)](#)

Public comment

05:49:57 Ms. Evans

05:50:39 Liv Stavick, Montana Farm Bureau Federation

Motion/Vote

05:51:12 Sen. Connell moved to pre-introduce LCw003 as a committee bill. The motion carried 7-1 by voice vote. Rep. Glimm voted no.

LCw004 - Clarify that legal availability analysis does not determine adverse effects as criteria in a water rights change application

05:51:46 Mr. Mohr discussed LCw004.

05:52:50 Mr. Mohr provided an overview of LCw04a. [\(Exhibit 21\)](#)

05:53:26 Mr. Mohr provided an overview of LCw04b. [\(Exhibit 22\)](#)

05:53:51 Mr. Mohr provided an overview of LCw04c. [\(Exhibit 23\)](#)

05:56:05 Mr. Mohr said the DNRC provided comment on the bills. [\(Exhibit 24\)](#)

Public comment

05:57:10 Ms. Franz representing NorthWestern Energy [\(Exhibit 25\)](#)

06:03:37 Ms. Evans
06:06:53 Millie Heffner, Water Rights Bureau chief, DNRC
06:10:06 Mr. Langel
06:14:25 Abigail St. Lawrence, Montana Building Industry Association
06:19:14 Mr. Burton
06:20:11 Patrick Byorth, Trout Unlimited
06:23:51 Andrew Gorder, Clark Fork Coalition
06:26:45 Ms. Stavick

Committee questions and discussion

06:27:24 Sen. Cohenour asked the DNRC about the amendment proposed for LCw04a.
06:27:45 Rep. Z. Brown asked Ms. Heffner to clarify DNRC's comments.
06:32:13 Rep. Z. Brown asked Ms. Heffner about DNRC's position on the amendment.
06:33:00 Sen. Connell asked Ms. Franz about DNRC's concern regarding the proposed amendment for LCw04a.
06:34:55 Sen. Connell asked Ms. Franz about her opinion regarding LCw04a.
06:35:40 Sen. Cohenour asked Ms. Franz about the amended language.

Sen. Welborn left the meeting.

Motion

06:36:52 Rep. Z. Brown moved to pre-introduce LCw04a, as amended, as a committee bill and to add the word "necessarily" between "will" and "occur" at the end of the new language.

Discussion on the Motion

06:37:39 Rep. Glimm
06:38:10 Ms. Bills
06:38:26 Sen. Cohenour
06:38:43 Ms. Bills
06:39:07 Rep. Z. Brown amended his motion to add "necessarily" between "not" and "mean" in the new language.

Vote

06:39:47 The motion carried unanimously by voice vote. Sen. Welborn voted aye by proxy. ([Attachment 7](#))

LCw005 - Clarify the criteria for a water right permit relying on a waiver of adverse effect

06:40:42 Mr. Mohr provided an overview of LCw005. ([Exhibit 26](#))
06:42:08 Mr. Mohr said WGM Group and Clark Fork Coalition provided comments on the bill. ([Exhibit 27](#))

Public comment

06:42:47 Ms. Evans
06:43:12 Mr. Langel

Motion/Vote

- 06:43:33 Sen. Connell moved to pre-introduce LCw005 as a committee bill. The motion carried unanimously by voice vote. Sen. Welborn voted aye by proxy.
- 06:44:59 Recess
- 06:55:30 Reconvene

LCw006 - Study Montana's stream gauge network

- 06:55:44 Mr. Mohr provided an overview of LCw006. [\(Exhibit 28\)](#)
- 06:56:15 Mr. Mohr said the committee received comments from the Clark Fork Coalition. [\(Exhibit 29\)](#)

Sen. Welborn returned to the meeting.

Public comment

- 06:56:36 Jennifer Downing, Big Hole Watershed Committee
- 06:57:40 Bill Milton, Musselshell Watershed Coalition
- 06:59:03 Laura Nowlin, coordinator, Musselshell Watershed Coalition, and also speaking on behalf of the Montana Watershed Coordination Council
- 07:00:11 Dave Shively, Clark Fork and Kootenai River Basins Council
- 07:00:49 Paul Azevedo, Water Management Bureau chief, DNRC

Committee questions and discussion

- 07:01:58 Rep. Glimm commented on the bill.
- 07:02:51 Sen. Cohenour said that LCw006 and LCw008 work together.
- 07:04:09 Rep. Z. Brown said he agreed and commented on LCw006.
- 07:05:30 Sen. Sesso asked Mr. Mohr about the objectives of the study and the work that was completed by the WPIC during the interim. Sen. Sesso said he recommends that the committee discuss LCw008 before taking action on LCw006.
- 07:09:27 Sen. Connell opened discussion on LCw008.

LCw008 - Maintain stream gauge network

- 07:10:12 Mr. Mohr provided an overview of LCw008. [\(Exhibit 30\)](#)

Public comment

- 07:11:44 Ms. Downing
- 07:15:41 Mr. Milton
- 07:17:05 Ms. Nowlin
- 07:18:16 Ms. Evans
- 07:19:14 Mr. Azevedo

Committee questions and discussion

- 07:22:36 Rep. Z. Brown asked Mr. Azevedo if the bill will require additional funding.
- 07:23:25 Sen. Cohenour asked Mr. Azevedo about the necessity of having two different bills.
- 07:25:20 Sen. Welborn said he supports both bills and asked about introducing LCw006 after LCw008 is passed.

07:27:18 Sen. Connell commented on proposed amendments to LCw008 and incorporating the study bill.
07:29:22 Sen. Welborn commented on incorporating the study bill as an amendment.
07:29:30 Sen. Connell commented on the need for funding from the DNRC. Sen. Connell said the third amendment will make the bill effective upon passage.
07:30:36 Sen. Cohenour said the bills could also go through the legislative process in tandem.
07:31:23 Sen. Connell commented on the bills.
07:33:06 Sen. Cohenour asked staff about the study resolution.
07:34:10 Sen. Connell said he recommends an amendment to include oversight by the legislature.

Motion

07:34:41 Sen. Sesso moved to pre-introduce LCw008 as a committee bill and to include irrigators as stakeholders, to have the working group report to the WPIC and the Drought and Water Supply Advisory Committee, and to have the bill effective upon passage.

Discussion on the Motion

07:35:46 Rep. B. Brown
07:36:34 Rep. Z. Brown
07:36:52 Sen. Sesso
07:37:30 Rep. Glimm
07:38:22 Sen. Connell
07:38:55 Sen. Cohenour said she recommends adding court appointed water commissioners as part of the working group.
07:40:02 Sen. Sesso amended his motion to include water commissioners in the working group.

Vote

07:40:15 The motion carried unanimously by voice vote.

LCw009 - Revise laws related to distribution lists

07:40:45 Mr. Mohr provided an overview of LCw009. ([Exhibit 31](#))

Public comment None

Motion/Vote

07:42:12 Sen. Cohenour moved to pre-introduce LCw009 as a committee bill. The motion carried 7-1 by voice vote. Rep. Glimm voted no.

LCw010 - Revise laws related to river basin councils

07:42:52 Mr. Mohr provided an overview of LCw010. ([Exhibit 32](#))
07:43:44 Mr. Mohr said the committee received public comment from the DNRC and the Clark Fork and Kootenai River Basins Council. ([Exhibit 33](#))

Public comment

07:44:09 Mr. Shively

07:51:37 Mr. Azevedo

Committee questions and discussion

07:53:07 Sen. Cohenour asked Mr. Azevedo about the DNRC's responsibility for staffing.

07:54:53 Sen. Cohenour asked Mr. Shively if the resources available from the DNRC are adequate to move forward.

07:56:59 John Tubbs, director, DNRC, said the department does not have a budget for the state water plan and there are currently no resources dedicated to the river basin councils.

07:57:51 Sen. Connell opened committee action on a motion to support LCw010 to include the changes from Mr. Shively that the Kootenai River Basin Council will be merged with the Clark Fork River Basin Council.

07:58:46 Sen. Cohenour said the language is included in the bill.

Motion/Vote

07:58:50 Sen. Connell moved to pre-introduce LCw010 as a committee bill. The motion carried 6-2 by voice vote. Rep. Fleming and Rep. B. Brown voted no.

07:59:37 Mr. Mohr said the committee needs to assign sponsors to carry the bills.

08:00:13 Sen. Connell said that Sen. Sesso and Sen. Welborn will co-sponsor LCw001 and Sen. Sesso carry LCw008.

08:00:53 Sen. Cohenour said she will carry LCw002.

08:01:32 Rep. Z. Brown said he will carry LCw005 and LCw04a.

08:02:27 Sen. Connell said Rep. Walt Sales can be a co-sponsor for LCw04a. Rep Sales agreed.

08:03:29 Mr. Mohr provided a summary of the bill sponsors and the back-up sponsors.

08:05:50 Rep. Z. Brown asked Rep. Glimm about being a bill sponsor.

ADMINISTRATIVE MATTERS

08:06:18 Ms. Bills said the committee received information on the proposed amendment from the Board of Environmental Review regarding state water quality certification under section 401 of the federal Clean Water Act. **(Exhibit 34)**

08:07:16 Ms. Bills said the DNRC noticed a public hearing on October 16 in Kalispell for adoption of a new rule regarding the Burlington Northern Santa Fe's Somer site controlled ground water area.

08:08:11 Mr. Mohr requested that the committee complete and return the staff evaluation forms.

PUBLIC COMMENT ON ANY ISSUE WITHIN THE JURISDICTION OF THE WPIC

08:08:51 Mr. Burton thanked the committee for its work and thanked Sen. Connell for his service.

08:09:18 Mr. Tubbs thanked the committee and thanked Sen. Connell and Rep. Fleming for their service to the legislature.

08:09:50 Sen. Connell gave his farewell remarks.

ADJOURN

08:14:59 Sen. Connell recessed the meeting at 4:19 p.m.

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