



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 September 10, 2012

July 12, 2012

Rm. 172
State Capitol

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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Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

COMMITTEE MEMBERS PRESENT

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

SEN. DEBBY BARRETT
SEN. SHARON STEWART-PEREGOY
SEN. CHAS VINCENT

REP. PAT CONNELL
REP. BILL MCCHESENEY

COMMITTEE MEMBERS EXCUSED

REP. BETSY HANDS

STAFF PRESENT

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

Visitors

Agenda, [Attachment 1](#).
Visitors' list, [Attachment 2](#).

CALL TO ORDER AND ROLL CALL

00:00:00 Sen. Hamlett called the meeting to order and roll was noted ([Attachment 3](#)).

AGENDA

NUMERIC NUTRIENT STANDARDS REPORT

George Mathieus, DEQ

00:00:37 Mr. Mathieus, DEQ, Planning, Prevention and Assistance Division Administrator, reported on the nutrient work group's activity in regard to SB 95 (2011) and SB 367 (2011), related to numeric water quality standards for nitrogen and phosphorous. Mr. Mathieus said the Department of Environmental Quality (DEQ) sent a letter to the U.S. Environmental Protection Agency (EPA) requesting assurance that the new standards would comply with the federal Clean Water Act (1972), which was met with an affirmative response. Mr. Mathieus said the DEQ would propose initiation of rule-making specifically for numeric nitrogen and phosphorous standards before the Board of Environmental Review at its September 28, 2012 meeting. Mr. Mathieus addressed the DEQ's current non-degree provisions and their relation to the "Kentucky Waterways" court case. ([EXHIBIT 1](#))

Committee questions, discussion, and action, if any

00:06:26 Sen. Vincent asked for the name of the court case referred to by Mr. Mathieus in his remarks. Mr. Mathieus said the case is Kentucky Waterways Alliance v. Johnson (2000).

TMDL UPDATE FOR THREATENED OR IMPAIRED WATER BODIES (75-5-703, MCA)

George Mathieus, DEQ

00:06:50 Mr. Mathieus deferred to Mark Bostrom, Chief of DEQ's Water Planning Bureau. Mr. Bostrom reviewed the total maximum daily load (TMDL) development progress and schedule. ([EXHIBIT 2](#))

Public Comment

00:13:52 John Youngberg, Statewide TMDL Advisory Group Chair, said the department is moving at a more rapid pace and keeping up with set benchmarks.

Committee questions, discussion, and action, if any

00:14:57 Sen. Barrett asked Mr. Bostrom which three areas the DEQ is monitoring. Mr. Bostrom said monitoring is taking place in the areas of the Powder, Madison, and Tongue Rivers. Sen. Barrett asked Mr. Bostrom how the group is focusing on oil and gas. Mr. Bostrom said monitoring resources have primarily gone to TMDL development but that the monitoring group must collect other information in advance to inform the TMDL. Mr. Bostrom said the next area to be studied is in northeastern Montana near the oil fields.

STREAM FLOWS AND DROUGHT UPDATE

Wayne Berkas, USGS

00:18:41 Mr. Berkas, U.S. Geological Service, gave a PowerPoint presentation about stream flow. ([EXHIBIT 3](#))

Tim Davis, DNRC

00:32:48 Mr. Davis, Department of Natural Resources and Conservation (DNRC), Water Resource Administrator, spoke on changes and trends related to water supply and moisture status. ([EXHIBIT 4](#))

Committee questions, discussion, and action, if any

00:35:06 Sen. Hamlett said eastern Montana appears to be having a good year while western Montana is having a bad year and asked Mr. Davis if the provided averages were provided by weather stations across the various counties. Mr. Davis said although there are many factors involved in the calculations, the figures do average across the counties. Sen. Hamlett asked if stream flows were one of the most highly rated criteria. Mr. Davis said he could not say how criteria are weighed. Sen. Hamlett asked that the DNRC send Mr. Kolman information on how the figures are calculated.

00:36:35 Sen. Hamlett asked WPIC members to describe drought conditions in their respective counties. Sen. Barrett said her county is seeing its worst moisture conditions in 40 years. Rep. McChesney said it had been the driest spring he had ever seen in Miles City. Rep. Connell said the field moisture in the high country of his county is as dry as he has ever seen it. Rep. McNutt said the last 10 days have been dry in Sidney. Sen. Vincent said his county had seen record rain.

00:39:15 Sen. Hamlett said half of Cascade County is doing fairly well, while the western portion faces drought. Sen. Hamlett said the conditions had been a result of excessive heat early in the spring, June rains which never materialized, and high temperatures.

00:40:16 Sen. Hamlett asked Rep. Connell, a certified forester, for his opinion on the potential for fires. Rep. Connell said the west side of the state faced historically risky fire conditions.

00:42:53 Sen. Hamlett asked Mr. Berkas to compare conditions at the Dearborn River to those at the Sun River. Mr. Berkas said the Dearborn River is low and the Sun River is low as well, but not as drastically low as the Dearborn. Sen. Hamlett asked Mr. Berkas to describe the snow pack the previous spring. Mr. Berkas said it had been below average in southwest Montana and above average in the northwest. Mr. Berkas said mid-elevation snow melted early in all locations, leaving only high mountain snow to help sustain flow. Sen. Hamlett asked to what Mr. Berkas attributed the early flow. Mr. Berkas said climate variability is responsible.

WATER RIGHT AND WATER ACCESS VALUATION REPORTS

Jeanne Holmgren, DNRC

00:45:58 Ms. Holmgren, Real Estate Management Bureau Chief, summarized the Water Access Valuation Reports. [\(EXHIBIT 5\)](#) [\(EXHIBIT 6\)](#) [\(EXHIBIT 7\)](#)

Committee questions, discussion, and action, if any

00:52:18 Rep. Connell asked Ms. Holmgren if the DNRC is engaged in the sale of any water rights that are attributed to DNRC trust lands. Ms. Holmgren said although there is currently no interest, there had been a request from the town of Bynum. Rep. Connell asked if it is the normal practice, when state lands are leased to a private party, for any available water rights to go to that party or if only the surface is leased with no water rights. Ms. Holmgren said the water right accompanies the lease if the water right is on state trust lands.

00:56:27 Sen. Vincent asked Ms. Holmgren if she was aware of any potentially useful tools the department might be able to use to achieve full market value for some of its water rights. Ms. Holmgren said the department has not yet examined the issue. Sen. Vincent asked for the department's view on the fee based on income from authorized use. Ms. Holmgren said the department had not examined that issue but that it would be based on whatever particular request came before the department. Sen. Vincent asked if the department was looking at tiering a fee structure based on the profitability of water use or if it would consider using this approach. Ms. Holmgren said it would be appropriate to look at all identified approaches to find which is the most effective methodology to be applied. Sen. Vincent recommended WPIC members take a close look at the issue as a final decision on tools may need to be made by the Legislature.

01:00:25 Rep. Connell concurred with Sen. Vincent and said he would be more apprehensive of the sale of state water rights than the lease of state water rights.

01:01:31 Sen. Barrett asked Ms. Holmgren for the cost of the two reports and which DNRC program paid for them. Ms. Holmgren did not have exact figures for the reports' budget but said she would provide them and that they came from the Trust Land Management Division. Sen. Barrett asked if, due to ongoing law suits involving State Trust funds, permission to use Trust funds had been obtained by the department. Ms. Holmgren said the operation of State Trust land is associated

with the value of the Trust and so funding is allowed. Sen. Barrett asked for an accounting of what has been spent on this issue by the DNRC. Sen. Barrett asked who initiated the studies. Ms. Holmgren said the studies were a result of a department decision. Sen. Barrett asked for Ms. Thigpen to examine legislative authority to administer water rights.

01:04:57 Sen. Hamlett asked Ms. Holmgren if the department is looking at actively leasing water rights in the future for mitigation water or other industrial purposes. Ms. Holmgren said it is not proactively selling water rights. Sen. Hamlett said the phrase "highest and best use" is subjective and asked if the DNRC could rescind a lease on a water right leased for grazing if so requested by a private entity. Ms. Holmgren said such a scenario is possible. Sen. Hamlett asked if Ms. Holmgren could provide a figure representing how much volume the state has in water rights. Ms. Holmgren said such a figure would be an approximation.

01:09:28 Sen. Barrett asked Ms. Holmgren about the procedure for unused water rights and if the rights referred to on page 10 of the valuation would be considered abandoned. Ms. Holmgren deferred to Mr. Davis. Mr. Davis said as users go through the decree process, many of the decrees would contain issue remarks for statements of claim.

01:12:52 Rep. Connell pointed to the DNRC's sale of temporary rights, such as in the case of timber sales and asked Mr. Davis if the department sells volume of water off of lands for temporary purposes. Mr. Davis deferred to Ms. Holmgren, who said any such sale would have to go through water right permitting. Rep. Connell said there are temporary needs on the eastern side of the state for water for fracking and asked if the DNRC would be a reasonable source of water for future development. Ms. Holmgren said the use of a particular right would have to go through a change.

01:16:41 Sen. Hamlett asked Ms. Holmgren if it is true that the DNRC first assesses water rights which then go to the Water Court. Ms. Holmgren deferred to Mr. Davis, who said Sen. Hamlett's statement is correct. Sen. Hamlett asked if the DNRC performs a self-examination on rights belonging to the state. Mr. Davis said the DNRC serves as an arm of the court in the adjudication process.

(Break)

01:35:16 Sen. Stewart-Peregoy made a statement concurring with Sen. Vincent and Rep. Connell regarding water rights valuation, saying that the last water rights compact between the state and the tribes had not been accompanied by a valuation of water rights.

01:37:43 Bill Schultz, Program Manager of the Reserved Water Rights Compact Commission (RWRCC), deferred to Jay Weiner, RWRCC staff attorney, for a response to Sen. Stewart-Peregoy. Mr. Weiner said the valuation of water after it has been quantified is not part of the RWRCC's statutory duties.

- 01:48:26 Rep. McNutt commented that he did not think it wise to allow the state to set tribal water values.
- 01:49:14 Sen. Stewart-Peregoy said sovereign tribes should not be required to enter into a compact with the state.
- 01:52:35 Sen. Hamlett asked Mr. Davis if the state retains mineral rights on property it sells or trades. Mr. Davis deferred to Ms. Holmgren, who said yes, the state does retain mineral rights. Sen. Hamlett asked if land sales or trades include water rights. Ms. Holmgren said state land exchanges involve value for value transactions.

2013 AGENCY LEGISLATION

Introduction, Joe Kolman, staff

- 01:54:48 Mr. Kolman explained how the Environmental Quality Council (EQC) reviews agency legislation for pre-drafting purposes and that the WPIC had assumed many of the EQC's water-related duties.

Tim Davis, DNRC

- 01:56:36 Mr. Davis presented legislation proposed by the DNRC. ([EXHIBIT 8](#))

Bill Schultz, DNRC

- 02:02:28 Mr. Schultz detailed the proposed legislation. ([EXHIBIT 9](#))

Richard Opper, DEQ

- 02:21:02 Mr. Opper, DEQ director, explained DEQ's "house-keeping" bills. ([EXHIBIT 10](#))

Committee questions, discussion, and action, if any

- 02:25:08 Rep. Connell asked Mr. Schultz to describe the co-ownership proposal between the state and the Confederated Salish and Kootenai Tribes (CSKT) of the Bitterroot River. Mr. Schultz said the proposal includes co-ownership of the Department of Fish, Wildlife and Parks (DFWP) contracts from Como Reservoir to Painted Rocks Reservoir. Rep. Connell said he understands the current contracts are in place to ensure downstream senior irrigation rights and asked if the proposal poses any jeopardy for the senior water rights. Mr. Schultz said they see no modification to the current operations regarding release of water from the agreement.
- 02:28:17 Rep. Connell asked Krista Lee Evans, Senior Water Rights Coalition (SWRC), for her members' thoughts on the proposal. Ms. Evans said the SWRC had not examined the legislation in question. Ms. Evans was asked to return with SWRC's opinion.

- 02:29:19 Sen. Vincent asked Mr. Weiner if there had been any legal developments regarding the CSKT proposal on the Flathead. Mr. Weiner said he had talked to the Tribe's legal representation who is waiting on documents to be provided by the county commissioners.
- 02:31:44 Sen. Hamlett asked Mr. Weiner if the tribes can sell the off-reservation water rights for use or out of state. Mr. Weiner said the legal basis of the off-reservation claims involves enhancement of fisheries habitats and that they are not transferrable.
- 02:32:56 Rep. Connell commented the recent fires could result in changes to watershed structure and complexion.
- 02:35:17 Sen. Hamlett commented that the value of water has essentially been set by state and federal contributions to water compact settlements. Sen. Hamlett said the state faced challenges to its water rights by federal interests.

WATER ISSUES RELATED TO OIL AND GAS DEVELOPMENT

Tim Davis, DNRC

- 02:37:27 Mr. Davis said there had been a dramatic increase in the use of water for hydraulic fracturing in the eastern portion of the state. ([EXHIBIT 11](#))

Richard Opper, DEQ

- 02:43:01 Tom Livers, DEQ Deputy Director, gave an overview of DEQ's regulatory authority in the "oil patch" and spoke about new approaches to associated issues. ([EXHIBIT 12](#))

Public Comment

- 02:54:43 Gayla Wortman, Cascade Conservation District (CCD) Chair, expressed her group's fear that land owners will enter into leases that will benefit only the oil companies. Ms. Wortman said the CCD is not opposed to oil extraction but that, given the potential for exploitation, the CCD requests legislation to aid and protect the people of the Golden Triangle. ([EXHIBIT 13](#))

Committee questions, discussion, and action, if any

- 02:58:31 Sen. Vincent asked Mr. Davis for the change process' projected time frame. Mr. Davis said the process would be completed in six months.
- 02:59:52 Sen. Hamlett asked if fines are being levied. Mr. Davis said they were not at this time.
- 03:00:12 Sen. Vincent asked Mr. Livers about the perceived sluggishness of gravel pit application processing. Mr. Livers said they have been overwhelmed by applications and have a backlog of permits to process but were catching up. Sen.

Vincent asked when the sewage system failed in Sidney. Mr. Livers said he thought it failed in late April. Sen. Vincent and Mr. Livers discussed solutions to the problem.

03:09:48 Rep. McNutt said Sidney faced a huge problem and said the state needs to have an allocation for impact funds for these communities to upgrade sewer systems.

(Lunch)

04:20:23 Rep. Connell asked Mr. Davis if there have been any new appropriations to store flood waters for beneficial use in the "oil patch." Mr. Davis said the DNRC has not received any high spring flow applications specifically for oil and gas development but cited an example on the Musselshell River from a year and a half ago that has been approved. Rep. Connell asked if there is a problem if such an applicant utilizes existing pond storage capacity that might also have a separate appropriation, such as an ephemeral flow pond. Mr. Davis said someone could add that additional capacity but would be required to get a new permit to add that additional capacity.

04:25:02 Rep. McChesney said county commissioners in eastern Montana have expressed frustration with their inability to develop gravel pits to meet their needs and asked Mr. Livers for his response. Mr. Livers said he is aware of the frustration regarding gravel pit permits but noted progress with the permit backlog. Rep. McChesney asked for Mr. Livers' suggestions regarding legislative fixes to the commissioners' concerns, chiefly those associated with permit turnaround time. Mr. Livers recommended technology fixes, including investment in better workflow software and databases.

04:34:20 Rep. McNutt said the DEQ is far behind in regard to reclamation bonds and asked if there are any current efforts to help those who wish to see their bond released by the department. Mr. Livers said the criticism is fair and said bond inspections and releases have suffered due to permit demand but the department is making progress.

04:38:12 Rep. McNutt asked Mr. Davis if the department has a document explaining the process for appropriation to a constituent. Mr. Davis said they have guides for new appropriations and will soon have more tools online.

04:40:11 Rep. McChesney asked Mr. Livers if the department had considered outsourcing permit review or bonding reclamation release reviews. Mr. Livers said the matter had not been given a good, fair hearing but that he will report back with the department's response.

04:44:02 Mr. Livers gave the EQC information on bond releases.

04:45:27 Sen. Hamlett asked for the DEQ definition of "fugitive dust." Mr. Livers said it is his understanding that fugitive dust is stuff that is kicked up from roads or dust producing facilities.

- 04:46:29 Sen. Hamlett asked Mr. Davis if a permitted pumping station could sell its water to multiple states. Mr. Davis said the process for selling water out of state is covered by a separate statute.
- 04:48:14 Sen. Hamlett said the state needs to have an impact fund for areas of oil and gas development.

UPDATE ON REVISIONS TO BENEFICIAL USE PERMIT AND CHANGE FORMS

Tim Davis, DNRC

- 04:50:37 Mr. Davis said the DNRC had gathered public comment and briefed the WPIC on where the DNRC is headed before it initiates rulemaking. Mr. Davis explained the department's goals to simplify and hasten the application process, produce smaller, more targeted applications, and provide economic incentives for applicants who attend a pre-application meeting.

Committee questions, discussion, and action, if any

- 04:57:26 Rep. McNutt said Mr. Davis' report was good news.
- 04:57:34 Sen. Hamlett asked Mr. Davis by how many fewer days the permit process had been reduced. Mr. Davis said the process is faster in all cases.

HYDROGEOLOGY RELATED TO EXEMPT WELLS

John Metesh and John Wheaton, MBMG

- 05:01:02 Mr. Metesh, Montana Bureau of Mines and Geology (MBMG) presented a slide show on hydrogeology related to exempt wells and addressed public comments from the WPIC's out of town meetings. ([EXHIBIT 14](#))
- 05:11:12 Mr. Wheaton, MBMG, presented more information on hydrogeology related to exempt wells and the Ground Water Investigation Program (GWIP). ([EXHIBIT 15](#))

Committee questions, discussion, and action, if any

- 05:29:53 Rep. Connell asked Mr. Wheaton how to legally address situations in which the functioning of exempt wells has been altered by canals. Mr. Wheaton said scientists do not have baseline data and that the changes affect river flow but not the annual water budget.
- 05:35:36 Rep. Connell asked Mr. Davis for his opinion on the aforementioned situation. Mr. Davis said a decision would be based on reasonable access to water.
- 05:36:45 Sen. Hamlett asked Mr. Wheaton if he sees a connection between ground and surface water in the Gallatin Valley. Mr. Wheaton said a direct connection exists between the two. Sen. Hamlett asked about the depletion of the Ogallala aquifer.

Mr. Wheaton said in this example draw rates exceed recharge and result in prolonged recovery time.

05:41:35 Rep. Connell said it appeared that the problems exist in sub-basins and recommended focused legislative fixes in order to avoid over-correcting. Mr. Metesh said the WPIC is on the right track.

05:48:20 Sen. Hamlett asked Mr. Davis if the DNRC would identify an adverse effect in the case of a property owner who encountered drawdown as a result of a proliferation of nearby wells. Mr. Davis said the DNRC does not look at adverse effect under the exempt well statute.

(Break)

EXEMPT WELL STUDY

Study update, Joe Kolman

06:10:56 Mr. Kolman gave an overview of the WPIC's obligations and timeline in regard to its study of exempt wells. Mr. Kolman reminded the WPIC that HB 602 (2011) had required the WPIC to study exempt wells. Mr. Kolman reminded the WPIC that HB 602 had forbid the DNRC from making rules regarding exempt wells. Mr. Kolman said the department was waiting for the WPIC's action on the issue and the DNRC would proceed with rulemaking if the WPIC does not pass draft legislation. Mr. Kolman said the next step involved the formulation of a final report.

Findings and Recommendations

06:17:01 Sen. Hamlett asked the committee what it would like to do.

06:17:27 Rep. Connell moved that any draft legislation regarding exempt wells put forward by the WPIC be water basin-based rather than state-based.

06:18:48 Rep. McNutt reminded the WPIC of the comments it had received from places where a problem is not present. Rep. McNutt suggested LC 8004 proceed on with amendments.

06:23:08 Sen. Barrett agreed the legislation should involve only closed basins and proposed the addition that a hydrological study must be conducted to support the limitation of development.

06:23:57 Rep. McNutt said the GWIP might not have data for all closed basins.

06:25:10 Sen. Barrett said she fears more restrictive legislation and said the use of good science should be included in the legislation.

06:25:55 Sen. Stewart-Peregoy concurred with Sen. Barrett that baseline data must be gathered before legislation is passed.

06:27:17 Sen. Hamlett asked Mr. Wheaton if the GWIP has baseline data on all closed basins. Mr. Wheaton said that data could be provided by long term monitoring wells.

06:29:26 Rep. Connell reminded the WPIC of the difference between consumed water and returned water and asked Rep. McNutt if he would consider an amendment that the 10 acre feet per year specified in the bill be consumed water rather than just pumped. Rep. McNutt expressed reluctance to pursue such an amendment.

06:32:55 Rep. McChesney said he is concerned with consumptive use as well and said consumptive use should be examined for the same reasons closed basins have been looked at.

06:33:56 Sen. Hamlett said such an amendment would alter subdivision law and that the 10 acre feet per year stipulation would allow 30 houses to use one well based on consumptive use.

06:35:32 Rep. McNutt said he is not convinced the legislation would allow the example to take place.

06:37:09 Sen. Hamlett reminded the WPIC of the testimony of the Ravalli County commissioner, who said a lot of subdivisions are one acre and could see no need to use 10 acre feet per year on such a subdivision.

06:37:55 Sen. Barrett spoke in favor of local control and said county government should be involved in these decisions.

06:38:58 Rep. McNutt reminded the WPIC of the county commissioners' desire not to be made water cops.

06:39:59 Sen. Hamlett said some closed basins could lie in two different counties.

06:40:12 Sen. Barrett said the WPIC could write a statute based on these criteria with the last one criteria requiring the involvement of local government.

06:40:48 Rep. McNutt said local planning committees are now looking at these issues and asked Mr. Youngberg for the counties' position on the topic. Mr. Youngberg said he had always thought the counties would have some control of exempt wells.

06:42:09 Rep. Connell spoke in favor of a modified LC 8002.

06:46:42 Rep. McChesney asked Mr. Kolman what the litigation in New Mexico had been about. Mr. Kolman said it had been about exempt wells affecting water rights.

06:48:01 Rep. McNutt asked for clarification regarding LC 8004's "limit [of the] total amount of water appropriated for the subdivision using one or more wells..." and whether this meant one could install 10 wells. Mr. Kolman said under this language a developer can install 10 wells or more and that the bill draft would give developers the flexibility to have multiple wells or a community system.

- 06:50:44 Sen. Hamlett said community systems face problems with regulation.
- 06:53:58 Sen. Hamlett asked for a representative of the Montana Water Well Drillers Association (MWWDA) to comment. Ronda Wiggers, MWWDA, said in terms of subdivision law.
- 06:57:54 Sen. Hamlett asked Krista Lee Evans, SWRC and the Association of Gallatin Agricultural Irrigators (AGAI), for her opinion on how 400 acre subdivisions would be approached under LC 8004. Ms. Evans said she did not think developers could build that large a subdivision under LC 8004 without obtaining a water right. Sen. Hamlett said the bill would limit developers' options with regard to exempt wells.
- 07:00:08 Rep. McChesney noted the committee's intent is to protect senior water rights above all else.
- 07:00:47 Sen. Stewart-Peregoy referred to page 19 of the draft report's summary of proposals and said the WPIC's proposed solutions are not far off.
- 07:02:28 Rep. McChesney suggested further defining which closed basins apply.
- 07:02:52 Sen. Barrett asked Ms. Evans about page 18 of LC 8004 and DNRC rulemaking. Ms. Evans said the item was included to address certain mathematical aspects of development.

Public Comment

- 07:05:47 John Youngberg, Montana Farm Bureau (MFB), expressed support for LC 8004.
- 07:06:49 Mike Murphy, Montana Water Resources Association (MWRA), expressed support LC 8004. Mr. Murphy said science illustrates that when "straws" are put in the ground they affect the water rights of others. Mr. Murphy said he does not think the legislation would stop the development of a 400-lot subdivision but would force its developers to be much more cognizant of water use.
- 07:09:58 Ms. Evans expressed support for LC 8004. Ms. Evans cited examples of water being shut off on certain parcels while land next door is watered by exempt wells. Ms. Evans said LC 8004 represented a fair approach and the application of equality of permitting.
- 07:11:56 Barbara Hall, Clark Fork Coalition (CFC), expressed support for LC 8004.
- 07:12:48 Jay Bodner, Montana Stock Growers' Association (MSGGA), expressed support for LC 8004's simplified approach.
- 07:13:59 Mr. Davis addressed the statewide standard for preapproval and offered the department's help in drafting rules for preapproval.

Instructions to staff

- 07:15:25 Sen. Hamlett issued instructions to staff.
- 07:16:20 Mr. Kolman reminded the WPIC of Rep. Connell's motion on the floor.
- 07:20:23 Rep. Connell said the local control issue can be examined at future meetings of the WPIC.
- 07:23:56 Sen. Barrett recommended the bill be written to the stipulations made by the counties.
- 07:26:14 Sen. Hamlett asked Rep. Connell if development of several hundred lots is going forward in the Bitterroot. Rep. Connell said the development is still in the permitting phase.
- 07:30:33 Rep. Connell withdrew his motion.
- 07:31:35 Sen. Barrett said she looks forward to tomorrow morning's report from the Montana Bureau of Mines and Geology.
- 07:33:33 Rep. McChesney asked if there needs to be a new definition of "combined appropriation."
- 07:35:40 Sen. Hamlett thanked the EQC and attendees for their contributions.
- 07:37:56 Sen. Hamlett called a recess until 9:00 A.M. on July 13, 2012.

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