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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 June 17, 2013

September 11, 2012

Room 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. BETSY HANDS
REP. BILL MCCHESENEY

STAFF PRESENT

JOE KOLMAN, Lead Staff
HELEN THIGPEN, Staff Attorney

KEVIN MCCUE, Secretary

Visitors

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

COMMITTEE ACTION

- The WPIC approved LC 8015 for pre-drafting as a committee bill.
- The WPIC approved Sen. Hamlett's bill draft defining combined appropriation for pre-drafting.
- The WPIC approved LC 8010 for pre-drafting as a committee bill.
- The WPIC approved its final report for publication.

CALL TO ORDER AND ROLL CALL

00:00:04 Sen. Hamlett called the meeting to order and roll was noted. ([Attachment 3](#))

AGENDA

COLUMBIA RIVER TREATY - UPDATE

Lauren Casey, staff, Northwest Power and Conservation Council

00:00:43 Ms. Casey presented a PowerPoint on the Columbia River Treaty. ([EXHIBIT 1](#))

Committee questions, discussion, and action, if any

00:17:44 Rep. Connell asked Ms. Casey about the management of pool levels on Lake Kooocanusa. Ms. Casey said modeling efforts are underway at each reservoir and they are trying to decide what the impacts will be on each reservoir. Ms. Casey said it is important to understand the impacts of treaties.

00:20:27 Sen. Hamlett reminded the WPIC of the importance of hydroelectric capacity installed before World War II. Sen. Hamlett asked if downstream states and tribes can demand that certain quantities of water be released to maintain their fisheries under the present treaty. Ms. Casey said Montana can ask Canada for about one million acre feet. Sen. Hamlett asked what Canada can do under the present treaty for irrigation. Ms. Casey said irrigation water cannot come from the nine million acre feet earmarked for flood control. Sen. Hamlett confirmed from Ms. Casey that if the treaty ends Canada could expand irrigation. Ms. Casey distributed a handout containing the general background and current conditions of the treaty. ([EXHIBIT 2](#))

00:23:45 Rep. Connell asked Ms. Casey if the treaty is with British Columbia or the Federal Canadian government. Ms. Casey said it is with the Federal Canadian government.

ST. MARY REHABILITATION PROJECT - UPDATE

Tim Davis, DNRC

- 00:24:21 Mr. Davis, Department of Natural Resources and Conservation (DNRC) gave an update on the St. Mary's work group's work on the rehabilitation of the St. Mary's River canal.
- 00:30:27 Sen. Hamlett asked where the St. Mary's River flows to. Mr. Davis said it flows into Alberta, Canada. Mr. Davis explained that part of the apportionment of the St. Mary's River goes to Canada and part to Montana and the only way for Montana to take advantage of its portion is with the canal.

Committee questions, discussion, and action, if any

- 00:31:37 Sen. Hamlett noted that if Lewis and Clark had gone farther north on the Marias River, landownership in North America would have been significantly altered. Sen. Hamlett asked Mr. Davis to explain the tribal concerns on the St. Mary's River. Mr. Davis said the tribe says any rehabilitation has to include benefits for the tribe.

CLARK FORK TASK FORCE REPORT - UPDATE

Sen. Verdell Jackson, chairman

- 00:33:57 Sen. Jackson presented a report on the Clark Fork Task Force (CFTF).
([EXHIBIT 3](#))

Committee questions, discussion, and action, if any

- 00:50:37 Rep. McNutt asked Sen. Jackson if the CFTF is trying to acquire an appropriation in the upcoming budget for the next biennium. Sen. Jackson said they are not yet seeking an appropriation and are still trying to procure the grant already approved. Sen. Jackson said the scope of the task force's work is complicated and that it is hoping to catch up at its September 17, 2012, meeting. Sen. Jackson said the CFTF needs to be part of the Governor's budget.
- 00:52:38 Sen. Barrett said negotiations regarding the compact have been going on for numerous years and that the figures involved are still not yet available to the public.
- 00:53:47 Sen. Hamlett asked Sen. Jackson what would happen if the Reserved Water Rights Compact Commission (RWRCC) does not come to an agreement. Sen. Jackson said he would be in favor of extending the commission as one legislature cannot bind the next legislature. Sen. Jackson said the compact could be developed so that it is fair to everyone.
- 00:57:23 Sen. Barrett told Sen. Jackson that Sen. Petersen has already requested a bill that would extend the RWRCC.

00:58:07 Sen. Hamlett asked Mr. Kolman and Ms. Thigpen to examine what the state of Washington has done in regard to prior appropriation and asked if they are ahead of Montana. Sen. Hamlett asked how much money the CFTF needs to complete its work. Sen. Jackson said the CFTF now operates with \$60,000 per biennium. Sen. Hamlett also requested staff examine the issue's constitutional aspect and how it effects Washington's Bureau of Reclamation.

(Break)

RESERVED WATER RIGHT COMPACT COMMISSION - UPDATE

Bill Schultz, commission administrator

01:29:15 Mr. Schultz gave an update on the three ongoing compacts currently in active negotiation. (**EXHIBIT 4**) Mr. Schultz introduced Jay Weiner, staff attorney for the Confederated Salish Kootenai Tribes (CSKT) compact, and Melissa Hornbein, staff attorney for the CMR and Upper Missouri River Breaks compact.

Committee questions, discussion, and action, if any

01:47:49 Rep. Connell asked Mr. Schultz to speak to the proposed beneficial use and co-ownership on the Bitterroot River. Mr. Schultz said the commission has proposed that beneficial interest be given to CSKT for existing contracts that FWP holds for storage water for fishery flows. Rep. Connell asked if the proposal subordinates any irrigation rights on the Painted Rocks Reservoir. Mr. Schultz said the proposal does not affect the Painted Rocks Reservoir contract in any way.

01:50:27 Sen. Hamlett asked Mr. Schultz for the current flow on the Clark Fork River at Milltown Dam. Mr. Schultz said last week it had been 1230 cfs (cubic feet per second).

01:51:42 Rep. Connell noted the proposed appropriation limits on bull trout tributaries and questioned the wisdom of taking such action in relation to a species that would likely not be listed for the long duration of the treaty. Mr. Schultz said he is aware appropriation limits have been the subject of concern and is working with interested parties.

01:54:00 Sen. Barrett complimented the dedication of the Reserved Water Rights Compact Commission and recommended that concerned parties call Melissa Hornbein at 406-444-9735 and Jay Weiner at 406-444-6844.

01:55:42 Sen. Hamlett asked Mr. Schultz how many years the CSKT compact had been studied. Mr. Schultz said negotiations started in early 1980s and, after a long hiatus, have been ongoing since 2007.

(Break)

EXEMPT WELL STUDY

Committee questions and discussion

- 02:21:57 Rep. McNutt introduced changes made to the bill drafts introduced the previous day and presented Sen. Vincent's proposal, LC 8015. (EXHIBIT 5)
- 02:22:48 Sen. Vincent explained the revisions made to the bill draft following yesterday's discussion. Sen. Vincent said changes include clarification regarding the definition of "depletion zone" and changes to figures based on model simulations by the Montana Bureau of Mines and Geology (MBMG).
- 02:25:14 John Wheaton, MBMG, explained the models he generated the previous evening, which he noted had not been peer reviewed. (EXHIBIT 6)
- 02:35:17 Sen. Vincent thanked Mr. Wheaton for his work.

Public comment

- 02:36:18 John Youngberg, Montana Farm Bureau Federation (MFBF), thanked Sen. Vincent and said his proposal represents a good framework for going forward.
- 02:37:51 Krista Lee Evans, Senior Water Rights Coalition (SWRC), said Sen. Vincent's bill draft represents an interesting new approach. Ms. Evans expressed concern with some of the figures contained in the bill draft and said her members would like to see the science taken to the next level, allowing for the establishment of limitations on wells in depletion zones based on how the ground and surface water interact.
- 02:39:11 Ronda Wiggers, Montana Water Well Drillers' Association (MWWDA), spoke in support of the bill draft. Ms. Wiggers cited comments from well drillers who said the permitting process should not be as lengthy as the controlled groundwater process.
- 02:40:57 Dustin Stewart, Montana Building Industry Association (MBIA), said that, although some details are not yet clear, the MBIA is excited to participate in the process within the new framework.
- 02:42:00 Barbara Hall, Clark Fork Coalition (CFC), said that the bill draft provides a good starting point but that the CFC is not ready to endorse it due to concerns about some of its current contents. Ms. Hall expressed concern about the logistics of establishing stream depletion zones and said the CFC cannot see how the petition process would provide an outlet for water right holders.
- 02:47:27 Bill Schenck, Department of Fish, Wildlife and Parks (DFWP), said the DFWP Director and Deputy Director have not yet taken a position on the proposal. Mr. Schenck said he thinks the concept has merit but cited the burden of gathering data as one potential problem.

- 02:49:46 Mr. Davis, DNRC, said the DNRC takes no position on the bill but that the enforcement piece will be worked on.
- 02:50:20 Laura Ziemer, Trout Unlimited (TU), thanked Sen. Vincent for attempting to address the various parties' disparate concerns, but said the bill draft's language reflects only 20% of exempt wells in the most vulnerable areas. Ms. Ziemer said the bill draft's structure still puts the burden on senior water right holders to protect their rights from new withdrawals.
- 02:53:31 Sen. Barrett asked Ms. Ziemer where she obtained the figure saying the bill draft would only affect 20% of exempt well users. Ms. Ziemer said she was referring to the data presented by Mr. Wheaton, which showed that less than 20% of users draw from less than 4,000 feet from a highly productive alluvial aquifer.
- 02:55:08 Rep. Hands asked Mr. Davis how water users would make a call on groundwater wells in the stream depletion zones as described in LC 8015. Mr. Davis said the bill draft would not change how such calls are made. Rep. Hands asked if the DNRC can make its own enforcement. Mr. Davis said they could not under this draft. Rep. Hands asked if there are any differences between this bill draft and the current controlled groundwater statutes. Mr. Davis said he had not yet compared the two but thinks they are similar. Rep. Hands asked if the burden for establishing a stream depletion zone falls on senior water rights holders under the bill draft. Mr. Davis said the department would have to initiate the process to enact these protections or be petitioned to do so.
- 02:58:38 Sen. Stewart-Peregoy asked Sen. Vincent if changing the bill's language from "may" to "shall" would provide the desired trigger. Sen. Vincent suggested those impacted be given priority by GWIP for the next round of study.
- 03:01:12 Sen. Stewart-Peregoy asked Mr. Davis if the aforementioned change would be enough to provide a trigger for the DNRC to examine the concerns of senior water rights users. Mr. Davis said he would be concerned about the cost of such wording.
- 03:02:58 Sen. Hamlett asked Mr. Wheaton if a provision requiring that exempt wells have electronic pump monitoring would be beneficial to the GWIP. Mr. Wheaton said that missing data would be interesting to examine but he is not sure the GWIP would use that much data.
- 03:04:44 Rep. McNutt asked Mr. Wheaton for the cost of a flow monitor. Mr. Wheaton said he does not have a price offhand.
- 03:06:56 Rep. Connell asked Mr. Wheaton if the GWIP is capable of projecting data that has been collected to apply to areas where such data has not yet been collected. Mr. Wheaton said the program could make such projections.
- 03:08:12 Rep. McChesney said Miles City has shifted to inexpensive electronic monitoring.

- 03:08:43 Sen. Hamlett asked Sen. Vincent if he is open to include electronic monitoring as part of the bill draft. Sen. Vincent said he was open to discussing such an addition but he is not sure the DNRC would be able to process that information. Sen. Hamlett said electronic monitoring could provide more data sooner for the GWIP. Sen. Vincent said monitoring has been a contentious proposition in the past.
- 03:12:26 Rep. McNutt said LC 8015 provides a framework that helps solve a problem that has not yet been scientifically proven. Rep. McNutt said he would like to see the bill draft go forward and that it would be subject to revision as part of the legislative process.
- 03:15:52 Rep. Hands said today's developments are unexpected and said the bill draft does not reflect the interim committees' usual attention to detail. Rep. Hands said the concerns discussed yesterday have not yet been addressed and expressed dismay at the assumption that the bill draft's quantities are subject to change. Rep. Hands said the bill draft does not represent consensus. Rep. Hands said it seems special interest pressure has shaken things up on the final meeting of the WPIC. Rep. Hands said she would not support the bill draft as it would preserve the status quo.
- 03:19:38 Sen. Vincent said special interests did not propose the bill draft's concept.
- 03:20:10 Rep. McChesney said this is a tough decision but he will base his no vote on a matter of principle. Rep. McChesney said this is not the way the committee process is supposed to work following two years of examination. Rep. McChesney said he would like to see the bill draft go forward in some capacity but that it does not pass the litmus test of being a committee bill. Rep. McChesney said his biggest concern is the protection of senior water rights holders and that this bill draft places the financial burden on senior water rights holders.
- 03:24:02 Rep. Connell said the law has created the conundrum involving senior water rights and domestic wells. Rep. Connell said theoretically every exempt well may impact senior water rights. Rep. Connell said the state would never be able to guarantee senior water rights as long as there is an exempt well provision. Rep. Connell said he will vote in favor of the bill draft and wants to see work continue with the strong support of the DNRC and the MBMG.
- 03:26:03 Sen. Vincent said he understands members' frustration. Sen. Vincent said he wanted to see something positive come out of the WPIC, knowing that LC 8011 and LC 8012 face slim chances. Sen. Vincent said the WPIC may scuttle the concept and he will bring the bill on his own.
- 03:27:42 Sen. Barrett said the bill draft is very responsive to the public's requests and that she will support it.
- 03:28:36 Rep. McChesney said he meant no disparagement but that he cannot support the bill draft as a matter of principle.

03:29:27 Sen. Hamlett recounted his experience with SB 35 (2011) and SB 36 (2011), which were thoroughly vetted by an interim committee process but were later voted down during Session. Sen. Hamlett said expressing differences of opinion is helpful in achieving the committee's goals.

Committee action on bill drafts

03:31:55 Rep. Connell moved that LC 8015 proceed to pre-drafting. The motion passed 6-2 by roll call vote.

03:33:04 Rep. Connell moved to table LC 8011. The motion passed unanimously by roll call vote.

03:34:12 Sen. Barrett moved to table LC 8012. The motion failed 5-3 by roll call vote.

(Break)

04:31:10 Sen. Hamlett proposed discussion on the bill draft that would define "combined appropriation." ([EXHIBIT 7](#))

Public comment

04:33:01 Dustin Stewart, MBIA, said his members support the bill draft and see it as a way of stabilizing the definition of "combined appropriation" without rulemaking.

04:33:45 Ronda Wiggers, Montana Water Well Drillers Association (MWWDA), spoke in support of the bill draft and said the definition needs to be made by the Legislature and put in code to prevent litigation or rulemaking.

04:34:28 Ms. Ziemer said TU does not support the bill draft because it would cast the shadow of litigation over the issue again as property owners will have to go back to court to protect their property rights.

04:35:15 Bill Schenk, DFWP, said the DFWP opposes the bill draft and believes the old definition of "combined appropriation" under rule represents a more appropriate middle ground. Mr. Schenk said the new definition takes a one sided approach and does not preclude the types of uses that are most problematic.

04:36:59 Sen. Hamlett asked Mr. Schenk to speak with the DFWP Director or Deputy Director as he has not heard back from them on this issue.

04:37:27 Rep. Kathleen Williams, HD 65, said the concept looks like what the House had replaced the study bill with. Rep. Williams recommended the WPIC recall that testimony, which concluded that codifying the loophole is problematic.

04:38:43 Mr. Davis said the DNRC is concerned that the bill draft would limit the DNRC's ability to look at potential impacts on prior appropriation and would like to see the bill draft broadened if it goes forward.

- 04:39:10 Barbara Hall, CFC, said the CFC does not support the bill draft. Ms. Hall read from the declaratory ruling issued by the DNRC in November, 2010, which said the primary concern in amending the exempt well statute was to limit larger appropriations of water especially for irrigation, however the proliferation of exempt wells for individual domestic purposes developed in a way unanticipated at the time legislation was adopted. Ms. Hall said the legislation would result in more litigation over language if codified and requested the WPIC look to the previous definition in rule if it wishes to change the definition.
- 04:41:27 Sen. Hamlett distributed the definition that mirrors the 1987 rule and asked for public comment. ([EXHIBIT 8](#))
- 04:42:41 Ms. Ziemer said the language mirroring the 1987 rule had a track record as a sound, workable approach.
- 04:43:30 Rep. Williams said the WPIC should consider the charge of the Montana Water Use Act (1973) to promote the orderly development of Montana's water resources. Rep. Williams said the language of the 1987 rule might be more consistent with the intent of the Water Use Act.
- 04:44:46 Ms. Hall said the 1987 definition addresses the CFC's greatest concern regarding individual wells not being considered collectively.
- 04:45:20 Mr. Schenk echoed Ms. Hall and said the DFWP supports the alternative language.
- 04:45:50 Sen. Vincent asked Mr. Davis why the rule had been changed in 1987. Mr. Davis said the primary reason for changing to the "physically manifold" language was to capture potential abuses, specifically different wells which were connected together.
- 04:47:13 Sen. Stewart-Peregoy asked Mr. Davis if the alternative language (pre-1987) would suffice to close the loopholes he had referred to. Mr. Davis said the alternative language would address combined appropriations involving multiple wells but that "single project or development" would require definition.
- 04:48:34 Rep. McNutt asked Mr. Stewart if the proposal would preclude multiple development with multiple exempt wells. Rep. McNutt said the WPIC should be aware that the proposal would affect subdivision development with this definition.
- 04:49:35 Rep. Connell asked Sen. Hamlett if putting in more than one exempt well for irrigation would meet this definition. Sen. Hamlett said he thought this would be a grey area and could be viewed as breaching the law.
- 04:52:40 Rep. Hands asked Mr. Davis if concerns will go away if the first definition (similar to the current rule) is put in statute or if new concerns would arise. Mr. Davis said people will probably be dissatisfied with both definitions and each would yield equal but different concerns.

04:54:58 Rep. McNutt said the narrow pre-1987 concept is a statewide solution and he will not support it because it is too broad. Rep. McNutt said it would affect his area, where exempt wells are not impacting senior water rights.

04:56:43 Sen. Hamlett said the reason the draft legislation was brought forward is the court case that says the Legislature needs to define the term.

04:57:52 Rep. McChesney said the bill draft conceptually goes in the direction he prefers, but that as the definitions of single project or development remain in question he will not support it.

04:58:38 Rep. McNutt moved that the WPIC adopt Sen. Hamlett's bill regarding combined appropriations and developed springs. The motion passed 7-1 by voice vote.

05:00:42 Ms. Thigpen explained changes to the bill draft regarding avulsion, LC 8010, and revisions suggested by Tommy Butler of DNRC. ([EXHIBIT 9](#)) ([EXHIBIT 10](#))

05:07:37 Rep. Connell asked Ms. Thigpen if the DNRC's amendments conflict with the issue of land abandonment. Ms. Thigpen said he has raised a good point for discussion.

05:09:06 Sen. Barrett said LC 8010 meets the intent of yesterday's discussion while the other bill draft goes too far.

05:09:49 Sen. Barrett moved that the WPIC adopt LC 8010. The motion passed 6-2 by roll call vote. Sen. Stewart-Peregoy and Rep. Hands voted no.

05:10:30 Rep. Hands expressed support for the bill draft presented by Mr. Butler.

05:10:58 Sen. Hamlett asked for clarification regarding the DNRC's suggestions. Rep. Hands said the DNRC's bill draft helps resolve conflicts and that its language is more clear.

05:12:10 Ms. Thigpen said LC 8010 incorporated the changes suggested yesterday.

05:13:32 Sen. Hamlett said he thinks the concerns have been addressed.

05:15:54 Sen. Hamlett assigned LC 8015 to be carried by Sen. Vincent.

05:16:43 Mr. Kolman explained the process of assigning bills.

05:17:03 Sen. Vincent said he would support Sen. Hamlett carrying the avulsion and combined appropriation legislation. Sen. Hamlett agreed to do so.

05:17:55 Mr. Kolman asked the WPIC to submit any revisions to the committee's final report.

Public comment on any matter not contained in the agenda and that is within the jurisdiction of the WPIC

- 05:19:09 Robin Franzen of Belt presented photographs to the WPIC depicting the disrepair of the town's water storage tank and asked for help with funding to fix the tank. Mr. Franzen said Belt had been turned down for Treasure State Endowment Program (TSEP) funds at the last Legislature. Mr. Franzen said Belt is also in need of an upgrade to its lagoon, which is experiencing problems meeting new, stringent e. coli requirements, and asked for the WPIC's help with funding. Mr. Franzen said water from the rusty ditch left by the abandoned Lewis Cooley Mine by the public library goes into Belt Creek and has contaminated the town's swimming hole. Mr. Franzen thanked the WPIC and said the purpose of his visit is to make WPIC members aware of the contamination in Belt Creek and ask for their help in cleaning it up. (EXHIBIT 11) (EXHIBIT 12)
- 05:27:17 Jean Fontana, Belt, said the swimming hole is directly below the town's water wells and the town's water tank is directly above the mines. Ms. Fontana asked for the WPIC's help with the situation.
- 05:28:27 Sen. Hamlett said Belt is in a unique situation. Sen. Hamlett said water gets into the coal mines and leaks out of the mines' closed openings. Sen. Hamlett said one solution to the problem would be to put in a wastewater treatment plant paid for by the federal government. Sen. Hamlett said another possible solution would be for the abandoned mines program to fund a waste water treatment plant in Belt. Sen. Hamlett said Belt's woes echo the infrastructure problems seen in other small Montana towns. Sen. Hamlett said the issue demonstrates the impact of lack of TSEP funding on such communities.
- 05:33:52 Sen. Vincent asked for comment from the DEQ. No representative was present.
- 05:34:04 Sen. Barrett said the DEQ has a list of contaminated areas and asked where Belt places on that list.
- 05:34:18 Sen. Vincent said funding exists to take care of such abandoned sites and asked what has been done thus far. Sen. Hamlett said thousands of miles of underground mine shafts are full of water which is now coming out. Sen. Vincent thanked Sen. Hamlett and said he would like to get answers from the DEQ.
- 05:35:47 Rep. McNutt asked the representatives of Belt if they plan to apply for another TSEP grant. Ms. Fontana said they will. Ms. Fontana said the Bureau of Abandoned Mines has studied the area and concluded it would be too expensive to clean up. Ms. Fontana said the citizens of Belt did not create the problem and need to see it cleaned up before more problems are created.
- 05:37:16 Rep. Connell asked if the town's wastewater system had been meeting e. coli standards before the new standards were put in place. Mr. Franzen said they had previously been mostly compliant and the DEQ now requires an ultraviolet disinfection system. Mr. Franzen said the lagoon system is not affected by mine water. Rep. Connell asked if the representatives of Belt knew where they ranked

on the TSEP grant list when they applied regarding the mine contamination. Ms. Fontana said they had gone from the top of the list to the bottom without explanation.

- 05:41:45 Sen. Hamlett explained Belt's problems and asked for Mr. Davis' input. Mr. Davis said the question could be better answered by Ray Beck, Division Administrator of the DNRC's Conservation and Resource Development Division.
- 05:43:17 Rep. McNutt clarified that TSEP grants come from the Department of Commerce, not the DNRC.
- 05:44:34 Sen. Barrett asked Mr. Schenk if the DFWP keeps a list of impaired fisheries. Mr. Schenk said the DFWP keeps a list of streams impaired due to water quantity issues but not according to the aforementioned criteria.
- 05:46:45 Mr. Wheaton said the acid mine drainage found in coal mines in that area is a long term problem that is difficult to cure.

Committee action on report

- 05:48:08 Mr. Kolman reviewed additions to the WPIC's final report.
- 05:50:53 Rep. McNutt moved to approve the final report. The motion passed 7-1. Rep. Hands voted no.
- 05:51:23 Rep. Connell personally acknowledged Rep. Hands and Rep. McNutt.
- 05:52:17 Sen. Hamlett asked WPIC members for their final thoughts.
- 05:52:33 Rep. Hands said although she had been somewhat surprised at the committee's conclusion, she thanked the WPIC for letting her speak.
- 05:54:22 Rep. McChesney reminded the WPIC that water is the state's least understood and most jeopardized natural resource.
- 05:55:57 Sen. Vincent thanked the WPIC for its consideration of his bill draft. Sen. Vincent said he tried to couch the legislation in a manner everybody would understand and that he hopes WPIC members understand why he did so. Sen. Vincent said he does not think the WPIC's work has gone to waste as there will always be more work to be done. Sen. Vincent said the committee must agree the exemption issue will not be going away any time soon.
- 05:59:47 Sen. Stewart-Peregoy expressed appreciation for being able to bring perspective from the First Nations of the Montana Territory. Sen. Stewart-Peregoy said the WPIC must understand and utilize the knowledge gleaned from history when crafting policy. Sen. Stewart-Peregoy said the exempt well issue will not go away and encouraged the WPIC to ensure water is preserved for future generations.

- 06:02:08 Sen. Barrett said more problems become evident the more that is learned about water issues. Sen. Barrett expressed dismay that the bond for the St. Mary's project has gone unused since 2005 due to lack of federal participation. Sen. Barrett said Belt could use such funding today.
- 06:04:30 Rep. McNutt thanked the WPIC members and asked that they stay on top of GWIP funding. Rep. McNutt said the situation regarding water will continue to be dynamic. Rep. McNutt said it bothers him that senior water rights holders are sometimes shortchanged in favor of other interests.
- 06:06:42 Sen. Hamlett said Montana is unique in many ways and faces unique responsibilities and challenges as a headwaters state. Sen. Hamlett said Montana's stewards must remain cognizant of the need for water reserved for future use. Sen. Hamlett said senior water rights and Montana's prior appropriation doctrine must be protected and the GWIP must be fully funded. Sen. Hamlett said the exempt well issue, though contentious, must continue to be examined. Sen. Hamlett thanked the public as well as state agencies, staff, and WPIC members for their participation. Sen. Hamlett adjourned the WPIC.

Adjourn

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