



Montana Board of Livestock Meeting Minutes

(This Meeting was Open to the Public & By ZOOM)

April 25, 2023

MT Department of Livestock Board Room #319
301 N. Roberts, Helena, Montana

Board Members Present

Gene Curry, Chairman (cattle producer)

Alan Redfield (cattle producer)

William Kleinsasser III (swine producer)

Jake Feddes (cattle producer)

Nina Baucus (cattle producer)

Lily Andersen (dairy & poultry)

(Greg Wichman attended by ZOOM, joining the meeting at 8:53 AM and departing the meeting at 3:44 PM)

Staff Present

Mike Honeycutt, EO

Evan Waters, Centralized Services

Buddy Hanrahan, Centralized Services

Dale Haylett, Centralized Services

Tom Shultz, Centralized Services

Mike Spatz, Centralized Services

Jay Bodner, Brands Enforcement

Ty Thomas, Brands Enforcement

Kaylee Hiel, Meat, Milk & Egg Inspection

Olivia Johnson, Meat, Milk & Egg Inspection

Donna Wilham, Adm. Assistant to EO

Dr. Marty Zaluski, State Veterinarian

Dr. Merry Michalski, Animal Health

Dr. Greg Juda, Director, MVDL

Dr. Bradley De Groot, Animal Health

Alicia Love, Meat, Milk & Egg Inspection

Darcy Alm, Meat, Milk & Egg Inspection

Jay Nelson, Meat, Milk & Egg Inspection

Public Present

Cheryl Curry

Dalin Tidwell, USDA Wildlife Services

Kelly Richmond, Associated Food Stores

Roger White, Associated Food Stores

Rob Adamson, Meadow Gold Dairy

Ron Arambarri, D&D Food Town

Wesley and Emily Seabolt, 468 Market

Chris Schell, Reynolds Market

David Lewis, NDA/Big Creek Dairy

Wendy Judisch

Ryan & Kristen Bailey

Nate

Lisa

Bryan

Javi

Sam Hofer, DFA Producer/Surprise Creek Colony

R. Todd Olsen, MT Stockgrowers Assn.

Ed Ryan, Ryan's Grocery

Leonard Kleinsasser, DFA Producer

Luke Hofer, DFA Producer

Chris Gentry, Madison Foods-Ennis

April, Glenn's Market

Cory Thompson, Cory's Valley Market

Ed Waldner, MDA

Scott Hovland, Sunburst Mercantile

Javier Tapia

Food Roundup

Jay

Doug

Todd

Galaxy S9

Krista Lee Evans, Montana Milk Producers Association
Vanessa Hendrix, Orange Street Food Farm
Scott and Rebecca Demaree, Gardiner Market
McKee Anderson, Montana Food Distributors

MEETING CALLED TO ORDER

(0:00) 8:00 AM

Chairman Gene Curry called the meeting to order at 8:00 AM

CALL TO ORDER AND INTRODUCTIONS

(0:00) 8:00 AM

Chairman Gene Curry called for BOL introductions:

- Nina Baucus, Cattle Representative, Helena
 - Ms. Baucus said that they have a cattle and sheep ranch north of Helena, near Wolf Creek
 - Calving was about finished, and, Ms. Baucus thought they were down to about 10 ewes left to lamb
 - The “glacier” in their back yard finished melting, Mr. Baucus said, adding that the ground was saturated, and the spring on their property that had given a half-gallon a minute in past years, was kicking out 10 gallons a minute, which she said was very exciting
- Lily Andersen, Dairy & Egg Representative, Livingston
 - Ms. Andersen said that they have both dairy and beef cattle
- William Kleinsasser III, Swine Representative, Augusta
 - Mr. Kleinsasser said that he was the Swine Representative from Augusta
- Jake Feddes, Cattle Representative, Manhattan
 - Mr. Feddes reported that they had finished calving and were doing AI and synchronizing and putting embryos in. He added that he appreciated Chairman Curry allowing the meeting on this Tuesday, as they would be breeding cows on Wednesday
 - Moisture was looking great in their area, Mr. Feddes said, with even some of the dry areas getting moisture this year. Winter wheat was already coming up and looking good, as well
 - Mr. Feddes said the cattle market looked great and that he didn’t see it changing. He was looking forward to a good year for everybody in the cattle industry
- Greg Wichman, Sheep Representative, Hilger
 - Mr. Wichman was not on the ZOOM call yet, as he was running a little late and would be on as soon as he could
- Alan Redfield, Cattle Representative, south of Livingston
 - Mr. Redfield reported that they only had a couple head left to calve and that they planned to put some embryos in on the upcoming Saturday

- The snow had not all quite melted off the hay meadows, Mr. Redfield said, and that he almost got the tractor and disc stuck in a snow drift in their yard
- Gene Curry, Cattle Representative, Valier
 - Mr. Curry said that they had a diversified operation, a farm and a cow/calf operation
 - Calving was not quite finished, with about a hundred head left and about three heifers left to calve. Mr. Curry reported that they would breed heifers at the end of May
 - There was a good snow about a week earlier, he said, that came with wind and one of the calves was stepped on that was next to the windbreak. But, the moisture was welcome, Mr. Curry said.
 - Although they had not started farming yet, Mr. Curry said that a neighbor had started, but was shut down the next day, before the snow was done
 - The winter wheat, Mr. Curry thought, would be alright; they had gotten it fertilized a day or so before that last snow came in

BOARD ADMINISTRATIVE ITEMS

(5:53) 8:06 AM

(5:53) 8:06 AM – BOARD APPROVAL OF PAST MEETING MINUTES

Gene Curry requested a motion to approve the minutes of the Montana Board of Livestock March 29, 2023 Meeting:

- Nina Baucus reported that she had not been able to review the minutes with Donna Wilham and hoped that approval of the minutes could be done at the next BOL meeting
- Mike Honeycutt said that the minutes would not be posted to the BOL website until they were approved by the BOL

MOTION/VOTE

(7:35) 8:08 AM

Nina Baucus moved to approve the minutes from the Montana Board of Livestock March 29, 2023 meeting, with the caveat that Nina Baucus would make some edits, as discussed. Jake Feddes seconded. The motion passed.

- Nina Baucus encouraged the BOL members to read the BOL Policies and Procedures to help understand how the BOL worked and the responsibility that each member carried. She explained that the BOL was the Director of the DOL, with each BOL member's voice holding equal weight. She explained that the BOL, not the Governor, hired Mike Honeycutt
- Gene Curry suggested that at a future meeting, the BOL go through the Policies and Procedures to update it and make sure everyone had the same understanding of them. Mike Honeycutt said those Policies and Procedures had not been updated since 2018

CENTRALIZED SERVICES DIVISION REPORTS

(12:36) 8:13 AM

Mike Honeycutt explained that Centralized Services Division Reports would be done during this time slot, as Brian Simonson would be attending the Cabinet meeting that was scheduled for 10:00 AM

- Mike Honeycutt said that he would be asking for a change in the afternoon agenda to flip-flop the VDL segment with the Animal Health Bureau segment, as Dr. Juda was scheduled for an appointment around 3:00 PM

(14:06) 8:14 AM – FISCAL BUREAU

Brian Simonson, Deputy Executive Officer introduced himself, explaining that he and his wife were both raised in Havre. He said that he had been with the DOL going on five years, he had retired from the Navy as a Lieutenant Commander after 20 years in the logistics world, where he had been sent to post-graduate school where he received his Finance Degree

(14:59) 8:16 AM – Per Capita Fee Collections Update

Brian Simonson reported that there was a big change from last month's estimated numbers:

- Mr. Simonson explained that per capita estimates were made when people didn't report their livestock numbers in February or March and then, the Department of Revenue sent them a bill, which added around 5,000 reporters and a little over \$1 million compared to last month. Any per capita bills left unpaid that were above the threshold, would go to collections for the State of Montana
- The number of reporters, comparing 2023 to 2022, was down around 10%, and the per capita fee reported was down about 9%
 - Mr. Simonson said he was a little optimistic that the numbers were not more than a 10% reduction, and that by the end of May or June when the money started coming in and the per capita bills were paid, that was when the full picture would be seen
- Mike Honeycutt said that per capita was considered required self-reporting by livestock owners
- Gene Curry said that there were 1,300 fewer reporters this year than last. Alan Redfield speculated that it could be that many people quit because they couldn't get hay, especially having to pay \$250/ton

(23:43) 8:24 AM – March 31, 2023 State Special Revenue Report

Brian Simonson said that there was not a lot of significant movement going on in the Brands area for State Special Revenue, as things were coming in as expected:

- Market Inspection Fees were the one item to call out, Mr. Simonson said, as there was a lot more activity this month compared to last month, numbers showing \$396,581, a \$136,000 improvement over last month. He added that even though the numbers were moving in a positive direction, they were still underwater compared to last year
 - Jake Feddes said that the number of cattle being sold via video sales had increased over the last 10 years, and he thought the numbers in the report

reflected there being less cattle in Montana and people “dumping their junk” last year

- Mike Honeycutt said the numbers were because of culling and that now there was going to be a natural down cycle, even though it was still trending with what previous years looked like. He said, essentially, the markets had just returned to normal
- Alan Redfield thought that there might be a bump in the next month with everybody done calving and figuring in the ones that lost calves and things that just didn't work. He said that the price of cull cows right now was pretty good
- Investment Earnings in Brands were showing \$227,000 better than last year at this time, with the March rate at 4.537% compared to the rate at the beginning of the year at .3017%
- Mike Honeycutt explained that last year was an anomaly in cattle movement, in pro rates and in what was happening at the markets, and that comparing FY22 to FY23 was like comparing apples to oranges. He said that even though the per capita fee being collected this year was down from the year before, it was actually returning back to what the previous years were in FY19, FY20 and FY21

(30:13) 8:31 AM – April 2023 Through June 2023 Expenditure Projections

Brian Simonson said that there was not a lot of differences in expenditure projections from last month to this month:

- Personal Services numbers, Mr. Simonson said, were pretty tight in comparison to last year
 - The Benefits numbers under Personal Services showed a reduction of \$14,000 compared to the previous month because there was a reduction in the premium benefit in Work Comp that was realized, Mr. Simonson said
 - Mr. Simonson said that the DOL was projected to be overspent in authority for the year by \$97,000
 - Mr. Simonson explained that there were \$197,874 in payouts this year and the DOL did not receive a holiday benefit this year that had been given the previous year, a cost avoidance of \$200,000
- Under Operations, Mr. Simonson said that Milk & Egg contributed heavily to the Contracts section, showing \$133,000 to the positive
- Under Budgeted Funds, the fund growth for the future in Shielded Egg Grading was at \$138,000, and Mr. Simonson said that was right where they wanted it to stay
- Mr. Simonson explained that Centralized Services Rent was projected to be \$102,000 over, due to several bienniums of Rent increases built into the budget, without a corresponding actual authority increase and the Rent not actually going up, meaning that the DOL was realizing some savings from an authority basis
- The Repair and Maintenance number of \$54,000 to the positive and the Other Expenses number of \$55,000 to the negative, were primarily in the VDL and in Meat & Poultry, Mr. Simonson said
- Although Salaries were positive for the year in Meat & Poultry, their Operations were in the red, but better than last year, Mr. Simonson reported. Those

numbers were negative, primarily being driven by more windshield time, more hotels and more gas, as a result of being understaffed

- Mike Honeycutt explained that through their Collective Bargaining agreement, a raise and corresponding authority was executed for Meat & Poultry Inspectors at the beginning of the fiscal year. The off-cycle Collective Bargaining negotiations meant that Meat & Poultry started out the biennium a little behind, but, Mr. Honeycutt said that moving forward with an Operations and Overtime augment asked for in HB2, that would relieve some of the pressure going forward
- The \$138,000 projected budget excess in Shielded Egg, Mr. Simonson said, was growth
- A negative \$3.407 projected budget deficit in Per Capita Fee could be directly tied to payouts in Brands and Animal Health, and in the way that more per capita monies were being spent at the VDL, Mr. Simonson explained
- Mr. Simonson said that with an additional FTE allotted to the Milk Control Bureau, numbers were over-projected
- Regarding the VDL, Mr. Simonson explained that Rent was substantially more than the previous year and that the negative \$45,914 projection in the VDL was due to Lab fees
- Brian Simonson pointed out that the total Budgeted Funds projected showed about a \$40,000 reduction from the previous month, probably tied to a retirement payout, but, still being a positive \$99,124, it was not a catastrophe
- Mike Honeycutt explained, for the sake of the two new BOL members, how the Personal Services budget got constructed
- This fiscal year budget had a 5% vacancy savings, figured from calculating the employees' salaries and benefits and taking that percentage off that amount
- When a 40+-year employee retired with so much built up sick time, vacation time and comp time, Mr. Honeycutt said that the DOL had to pay out to them roughly about half and maybe more, of what their annual salary was and sometimes the DOL could not mitigate that payout unless they didn't hire the position for the rest of the year
- Nina Baucus explained that the benefit savings system had been changed in the DOL by Mike Honeycutt and Brian Simonson, and so even though some long-time employees were still "grandfathered" into the old system, the new system utilized a use-it or lose-it program

(42:30) 8:43 AM – March 31, 2023 Budget Status Report

Brian Simonson explained that this report compared this year to last year and added that the notes on the bottom of the report was a good snapshot of where the DOL was:

- Personal Services was 69% expended with 69% of the payroll complete for the Fiscal year, which Brian Simonson said was good, especially with all the payouts and things that had occurred in the DOL this fiscal year
- Operations were 71% expended with 67% of the budget year gone. But, Mr. Simonson said that those numbers would continue to come together each month until they should be even by the end of the fiscal year
- Mr. Simonson explained that there was a \$14,000 reduction in the Personal Services budget due to a Worker's Compensation premium change

- Mr. Simonson reported that the DOL was doing much better than last year at this time in overtime and salaries and gave kudos to Brands and Meat & Poultry for trying to keep that under control
- The DOL was doing \$324,000 better than at this time last year in general fund, Mr. Simonson said, and with the plus-up in general fund from the Legislature, starting July 1st on the Personnel and Operational side, he thought they might actually look positive next year
- DSA testing was up compared to this time last year, accounting for most of all the \$72,000 more spending
- Repair & Maintenance showed a negative \$30,000 and Other Expenses showed a negative \$62,000, but, Mr. Simonson said it still was not as much spending as in FY22 at this time
- Mr. Simonson noted that the negative \$116,000 in Transfers was because the DOL had not yet made the elk collaring transfer to FWP. Last year at this time, that had already been done. Mike Honeycutt said it would be zero by the end of the year
 - The Federal Umbrella number was also affected by that transfer, and so, Mr. Simonson said that the negative \$176,000 was also not a true number
- Mike Honeycutt pointed out that through this point in the year, the DOL had only spent a total of \$12,650 more than they did last year
- Although there were some big negatives and positives in the Fund category, most of it has to do with the VDL, but, in the end, the total budget funding ended up being \$12,000 to the positive, according to Mr. Simonson
- Mr. Simonson reported that HB2 did figure in an inflation factor for the next biennium with the lowest percentage being 7% and the highest percentage around 15%. He added that the DOL was the only State agency that did not ask for its inflation to be readjusted back to what it was
- Mike Honeycutt said that the DOL couldn't figure out a reason for them to say what they wouldn't be able to do if they didn't get that money, which was a total of about \$200,000. So they just let it go

Greg Wichman, Sheep Representative, north of Lewistown, joined the BOL meeting (8:53 AM) and gave an update of happenings at his place:

- Mr. Wichman said a three-day storm the previous week dumped somewhere between 15 to 18 inches of heavy, wet snow, arriving with wind. He said they were still sorting out things, getting some cows in and doctoring some pneumonia in sheep, and that was why he wasn't attending the BOL meeting in person
- Mr. Wichman reported that Australia and New Zealand were gearing up to send animal carcasses to the United States, and if they got geared up to that point, he felt that the sheep market would stay right about where it was right now
 - Mr. Wichman said he thought you'd be seeing an 80-pound lamb going for around \$1.85, although he had hoped for the mid-\$2.00s and even to the \$3.00s range, like it had been for a short time. Nina Baucus added that to break even last year, they figured they'd need a minimum of \$2.00, but were paid \$1.45. Greg Wichman said they had sold at \$1.40 last year

OLD BUSINESS

(57:45) 8:58 AM

(57:52) 8:58 AM – UPDATE ON GOVERNOR’S OGSM STRATEGIC MANAGEMENT AND EXECUTIVE OFFICER STRATEGIC GOALS

Mike Honeycutt reported that on April 18, 2023, he and Brian Simonson met with the Governor for an OGSM (Objectives, Goals, Strategies and Measures) meeting:

- The per capita numbers presented to the Governor, Mr. Honeycutt explained, were through March 31, 2023
 - He said that 2021 was an outlier year, and that 2022 was the first year of producers using the Gentec System and some having problems with it. Although 2023 per capita numbers were ahead of 2022's, they still were not as high as those in 2021 at that point
- Mr. Honeycutt said he was able to report to the Governor that expenses were under budget, but, revenue was a little bit behind expense. He added that revenue would start catching up and would probably equal expense by the end of the year
- The total liquid cash line continued to move up, Mr. Honeycutt said, and that the DOL currently had around \$15 million in the bank. He said that if there were some unforeseen things that came up, such as retirement payouts and employee exits, there was a personal contingency fund that could be backed up by cash, but, the DOL would need some extra authority
- The DOL was pretty, fully staffed, Mr. Honeycutt said, even though there were still some trainings to do. Out of 137 employees, he said there were only eight or nine vacancies
- The Animal Health Bureau lost the Assistant State Veterinarian, the Import Office Manager and one other employee who moved into the Meat, Milk & Egg Inspection Bureau
- The Market staff was almost fully staffed and there were a couple openings on the law enforcement side in Brands
- 2022 was a huge year in market cattle movement, Mike Honeycutt said, but FY23 was tracking more like 2020-2021. Roughly 52,000 cattle were moved through consignment companies in March. In March of 2021 there were 44,000 moved and in March of 2020, there were 34,000 moved
- Mr. Honeycutt said that it was a good thing that anybody showed up for the Secure Beef Supply meetings recently held, because of the time of year they were held. But, that was the period of time that the grant money would cover them. He added that the DOL would continue to try and get more grant money to cover more of those meetings
 - Mr. Honeycutt said he had spoken with ag organizations to see if they would be able to offer a Secure Beef Supply training during their meetings
- A new State-inspected meat processor opened up in Corvallis, Mr. Honeycutt reported

- A lot more work had been done on hazing bison this year than in previous years. But, Mr. Honeycutt said that those hazing operations had been successful in keeping any of them from getting beyond where they were supposed to be
- Mr. Honeycutt expressed his pride in the DOL staff and the folks helping with the hazing operation and also the citizens who were making reports to help with that
- The new BOL members had been confirmed, which Mr. Honeycutt said was a positive to report to the Governor
- Regarding DOL policy, budget agendas and the Legislature, Mr. Honeycutt reported that those were pretty much done
- Most people were appreciative of the dealer audits the Brands Division had been conducting, Mr. Honeycutt said
- Mr. Honeycutt reported that the DOL had received an intent to sell from Headwaters Livestock Auction in Three Forks
- There had been several calls into the DOL regarding mRNA vaccines and livestock, Mr. Honeycutt reported, with some requesting legislation on it. He said he told the folks that the Legislature was past the point to do anything about it other than a study resolution and that there were no mRNA vaccines available that the Montana used on livestock
- One low Mr. Honeycutt said he reported to the Governor, was the announcement of the BLM conservation rule-making process, which was a concern to the DOL and its impact on livestock and ranching on the landscape if it became a Federal rule. He added that the sage grouse and grazing rules also remained a concern to the DOL. Both of those would be discussed further in another segment of today's BOL meeting
- There were nine sites, representing around 37,000 pigs, that had signed onto the Swine Health Improvement Program (SHIP), Mr. Honeycutt said. But, there were still 31 facilities left to start in the state. Dr. Michalski was the DOL Veterinarian who was working on that program
 - William Kleinsasser said that at their operation, they did a Vet Herd Health check quarterly, and that some had that done twice a year. He said that a check was also done every three weeks by a Veterinarian to see every pig that got sold, and so, he thought that might be the reason for the slow movement on getting the SHIP program going
- There was a delay, Mr. Honeycutt reported to the Governor, in the launch of the new online Brand system that would replace Fort Supply. He said that testing was still being done by staff to identify critical issues that would have to be worked through before launch
- Mr. Honeycutt said that his focus for the next month was going to be Dr. DeGroot getting out and doing scheduled DSA public meetings, pushing to get more SHIP facilities, the Brand software testing to identify issues to be presented to the vendor, make preparations for any bison cow/calf haze back after May 1st, and prepare any rules packages and any policy packages, with BOL approval, based on legislation that was passed during the Session that needed to get implemented
- 2022 was an outlier year for meat processing, because of culling, Mr. Honeycutt said. 2023 though, had almost reached 2021 numbers, and with three months

left to go in the fiscal year, he felt the 2021 numbers would be reached, but that 2022 numbers may not be matched

- Mr. Honeycutt said he felt things had improved over the status quo pre-COVID in the meat processing situation across the state. He said that some had used their money to invest in their space and were doing more with that space
- Poultry was still a big driver of meat processing in the state, Mr. Honeycutt said, and he gave credit to the Colonies who were doing more with that, making more use of their custom exempt status
- Mr. Honeycutt explained that his graph of the meat processing in the state made it look as though cattle numbers were so much less than poultry numbers. He said more cattle were being processed, but, they didn't make up as big a percentage
- There was nothing new added to the DOL Organizational Chart, but, Mr. Honeycutt said that the Governor liked to see that chart each time they had their OGSM meeting

The BOL had a discussion regarding livestock import/export routes in Montana:

- To avoid the DOL getting blindsided, Nina Baucus encouraged that a plan be formulated regarding trucks hauling livestock in the state and what would be done if a major portion of highway was shut down and the livestock could not go on to their out-of-state destination for a time
- Gene Curry shared that at the Secure Beef Supply Plan meeting he had attended in Shelby, a major focus of discussion there was identifying areas in their region where livestock could be unloaded if a portion of the highway was closed
- Mike Honeycutt said a plan was being discussed for what to do if there was a 72-hour stop movement order put out in the state
 - Part of the plan would be, with so much livestock on the road, to allow livestock headed for slaughter to continue to its final destination, such as those headed to the plant in Idaho
 - For those livestock trucks in Montana headed north to Canada, there were only two places for Livestock to cross, one open 8 am to 5 pm and the other crossing only open by appointment. Mr. Honeycutt said those trucks would probably be full of feeder cattle and with it being an international border, those crossing points would be closed and trucks would be backing up
 - Gene Curry said that there were also live, fat cows going south that come through the border that were heading to packing houses
 - Mr. Honeycutt said if a livestock truck crossed the border at Couatts and was heading across Montana, perhaps something could be worked out with Alberta to just allow that truck to turn around and return back where they came from
 - Mike Honeycutt shared that the Canadian truckers sometimes had a difficult time when heading to the feedlots in the Midwest, because if the Veterinarian shows up two hours late at the border that those two hours counted against them

- There was a lot of work to be done between Montana and Canada and Montana and other states, and their differences in regulations, Mr. Honeycutt said, adding that sometimes Montana had more in common with their partners to the north than with those in Florida or Georgia
- Mr. Honeycutt said that both the USDA and the Canadian Food Inspection Agency (CFIA) should adopt policies that coexisted, because there was a bottleneck that was created for those who lived in states with the international border
 - The Governor, Mr. Honeycutt said, had written a letter to Secretary Vilsack regarding time zone problems that had developed when Montana's international border workers had to deal with east coast USDA workers and the problems that created for animals crossing the border being able to be processed. Dr. Zaluski had also done some work on the situation with APHIS and got them to understand the problem
- An animal welfare situation could develop, especially in a disease situation, Mr. Honeycutt said, if no animals were allowed to move and those animals would need to be off-loaded somewhere and be housed and fed during that period of time, possibly avoiding euthanasia, and a loss of protein

(1:30:47) **9:31 AM RECESS**

(1:30:55) **9:46 AM RECONVENE**

NEW BUSINESS

(1:31:00) **9:46 AM**

(1:31:05) 9:46 AM – PROGRESS UPDATE ON DOL POLICY AND BUDGET-RELATED LEGISLATION

Mike Honeycutt reported that with the Legislative Session nearly over for everybody, and essentially over for the DOL, that his Legislative Update should be a fairly quick one:

- **HB2**, a bill that contained the main DOL budget, was going to be up for the third reading today, after being concurred the day before at its second reading
 - Mr. Honeycutt said there was a little bit taken off the inflationary adjustment, but that all of the DOL's decision packages were still intact as initially proposed
- **HB5**, a bill that contained the inflationary adjustment for the new Lab complex, including the VDL, the Wool Lab and the Ag Analytical Lab, was still intact and had not yet gone to the floor, but had at least gotten through Senate Finance and Claims, Mr. Honeycutt reported. He said that with some of the amendments made to HB5, that he expected there would probably be a Conference Committee held on it
 - Greg Wichman said that it was his understanding that the money to fully complete the Wool Lab had been verbally committed, but that it had not been committed on paper as of yet

- **HB10**, a bill that would cover the DOL request for its IT Plan allowing continuation of upgrades to the IT software systems over the next biennium, was still intact as initially requested, but would be back to the House with amendments, meaning there would be a Conference Committee pulled together to see if there was anything to work out between the House and Senate
- **HB13**, a bill that contained the State Employee Pay Plan had passed and had been signed by the Governor
 - The State Employee Pay Plan included a one-time \$1040 payment to all full-time State employees and also a 4% or \$1.50/hour raise, whichever was greater in each of the next two years for State employees
- **HB44**, a bill carried by Representative Dooling, had been done for a while, Mr. Honeycutt reported
- **HB51**, a bill carried by Representative Read, which added a State Indemnity Fund, was done
- **HB59**, a bill carried by Representative Fitzgerald that would extend the sunset on all the LLB programs and the predator control statutory appropriation, had gotten through the entire Legislative process, Mr. Honeycutt said
- **HB66**, a Department of Revenue bill that would harmonize the due date of per capita fee with the reporting date was signed into law
- **HB84**, a bill carried by Representative Walsh to eliminate the commercial practice of feeding garbage to swine for bio-security purposes had been signed into law
- **HB100**, a bill which required livestock owners, in a disease investigation, to gather their animals for testing, had been signed into law
 - Mr. Honeycutt said that the House had made amendments to the original bill that the Senate didn't like. The Senate removed those House amendments, bringing the bill back to its original version
- **HB104**, a DOL aerial hunting bill allowing out-of-state contractors to hunt the entire state, had been signed into law
 - Mr. Honeycutt explained that the bill had initially been introduced by Representative Beard, who then became Senator Beard. Representative Ler carried it through the rest of the Legislative process for the DOL
- **HB153**, a bill carried by Representative Ler which would modernize the language of the video satellite livestock auction law, was signed into law
- **HB158**, a bill carried by Representative Kassmier updating custom exempt language to match the Federal law, was signed into law
- **HB159**, a bill carried by Representative Kassmier, repealing the Livestock Crimestoppers Act, was signed into law
- **HB388**, a bill carried by Representative Kassmier, but not a DOL bill, was supported by the DOL, and would increase penalties for uninspected livestock, had been signed into law
 - Gene Curry reported that his granddaughter said that word was going around the rodeo circuits that there was going to be increased surveillance at rodeos
- **HB662**, a bill, carried by Representative Anderson that would prohibit grazing on public land without permission, was tabled by Senate Ag

- **HB767**, a bill, carried by Representative Kassmier and one that the DOL provided information on, required the DOL to set up a process for people to bring forward new brand characters not ever issued by the DOL office. Those would then go through, probably the Brands Committee and BOL, and if established there, would open up a number of brands. That bill had been signed into law, and Mr. Honeycutt said that the DOL now had to work on getting that implemented
- **SB37**, a bill carried by Senator Hertz to update the definition on meat inspection for non-amenable species, had made it through the House and was headed towards the Governor
- **SB52** was a bill that never got a hearing
 - Greg Wichman explained that the wording the Governor's Office wanted in SB52, the bill proposing to kill dogs that were harassing or injuring livestock, was a liability that the sheep industry felt lost ground for them
- **SB71** a bill carried by Senator Solomon that would update a lot of the language in the Milk Control policies, made it through the House and was headed towards the Governor
- Mike Honeycutt reminded the BOL that if the Governor did not sign a bill presented to him within 10 days, it became law without his signature
- **SB78** a Livestock Loss Board bill carried by Senator Gillespie that would pull back on reimbursement values for registered livestock, was on its way to the Governor
- **SB375**, a bill carried by Senator Lang on removing notice for killing of animals running at large, made it through the House floor and was headed towards the Governor
- **SR64** was complete, with the appointees to the BOL being confirmed. Those appointees filed their paperwork with the Secretary of State, making everyone official
- **SJ14**, a resolution carried by Senator Lang opposing bison introduction on the CMR Wildlife Refuge, had passed and had been filed with the Secretary of State, Mr. Honeycutt said
- Mike Honeycutt said that he thought that this was likely the last week the Legislature would be in town, finishing early and leaving them a couple of days to use later on down the road if there was need of a Special Session

The BOL discussed guard dogs:

- Nina Baucus said that guard dogs were used for sheep and cattle by producers, and if someone was riding their bike with their pet dog following behind through private property where cattle or sheep were grazing, that a guard dog could become very aggressive, but, that was what they were supposed to do, and if that person would get mad and shoot the guard dog, it could cause a lot of issues
 - Ms. Baucus said that their range calf operation was located by the Gates of the Mountains, a block management area where it was fairly open with no fence and dirt roads. She said they have signs posted, indicating that the area was private property and also listed rules to stop public access.

She highly recommended that proper posting be done by anyone in the same situation

EXECUTIVE OFFICER UPDATES TO BOARD AND DISCUSSIONS

(1:52:03) 10:07 AM

(1:52:03) 10:07 AM HUMAN RESOURCES UPDATES

Mike Spatz, Human Resource Officer for the DOL introduced himself and distributed handouts to the BOL

(1:52:54) 10:08 AM Staff Openings, Recruitment and General Updates

Mike Spatz updated the BOL regarding staff openings and recruitment during the past month:

- Mr. Spatz reported that currently, the DOL was recruiting eight positions, with three of them in the interview stage
- Since the last BOL meeting, Mr. Spatz said that there had been five new hires and zero newly-vacated positions
- HB13 had finally been made official, Mr. Spatz said, with the Governor signing it into law on April 11, 2023
 - One provision for HB13 was that all full-time State employees would receive a \$1,040 bonus going out in their May 3, 2023 paycheck, and that the pay increases provision of HB13 would be in effect in July
- Gene Curry reported that the compensation for the Executive Officer had been delayed because the Governor had requested to wait to address that until all the pay increases were announced and finalized for State employees. He hoped to address that at the next BOL meeting
- Mr. Spatz reported that he and Mr. Honeycutt had been in initial discussions of the need for an in-house Attorney
 - There was a vacated position within the Centralized Services Division, an FTE that could be used to reclassify into an Attorney position, Mr. Spatz said
 - Although the pay range for a full-time Attorney position would be based on the level of that Attorney, Mr. Spatz thought the position would be classified in the pay range of between \$64,000 to \$105,000/year
 - Mr. Honeycutt said that even though the FTE would be available, the rate of pay for putting an Attorney into that position would be around \$60,000 to \$70,000 more if the DOL chose to pay the Attorney at the \$105,000/year range
 - Mr. Honeycutt assured the BOL that the new Meat Inspector positions to be hired were a package deal that not only covered the cost of the positions, but also included Federal matching funds and the additional authority to hire those general fund positions
- Mr. Honeycutt said that in 2017 and 2018, the DOL had been paying roughly between \$100,000 and \$150,000/year to Agency Legal Services (ALS), but, because of the turnover in ALS, the DOL had become less reliant on them and

had been utilizing the Governor's Office for legal counsel, along with some assistance from FWP's Attorney, Sarah Clerget

- Nina Baucus shared that with the turnover of legal counsel at the DOJ in a year's period of time, it was a mess trying to educate them about the DOL
- In looking at the future, Mr. Honeycutt said, that even though the Governor's Office and FWP had provided help to the DOL with some documents questions, he said that both developing and ongoing situations with APR, the BLM appeal and the USDA Wildlife Services' case, he felt that the having an in-house legal person would best serve the interest of the DOL. The cost of relying on outside counsel could also run \$150 to \$200/hour, he added
- Mr. Honeycutt said that an in-house counsel would be able to handle public records requests that came into the DOL, along with dealing with some of the personnel situations that arose in the Human Resources area. In regards to pulling together paperwork for a market transfer, Mr. Honeycutt said that in-house legal counsel would do that along with conducting the public hearing required before that transfer was completed
- An in-house legal counsel, the majority of the time, Mr. Honeycutt said, would represent the BOL, because they were the Director of the DOL. But, in the case of an employee agreement or grievance situation, ALS legal counsel might still need to be utilized
- Mike Spatz said that the job description for the in-house Attorney position had still to be created. Greg Wichman added that there would need to be a job description in place before moving to hire someone so the BOL knew what they're looking to hire

MOTION/VOTE

(2:00:46) 10:15 AM

Alan Redfield moved to hire in-house Agency Legal Counsel. Jake Feddes seconded. The motion was revamped.

Alan Redfield said that he wanted to change his motion to complete the job description first so the in-house attorney could be hired

MOTION/VOTE

(2:12:02) 10:27 AM

Alan Redfield moved to develop a job description for the position of in-house Agency Legal Counsel before hiring that position. Jake Feddes seconded. The motion passed.

(2:13:09) 10:28 AM YELLOWSTONE BISON WINTER OPERATIONS UPDATE

Mike Honeycutt gave an update on the status of the Yellowstone Bison Winter Operations:

- Mr. Honeycutt reported that there were about 35 head of bison outside of the Park that included about 12 cow/calf pairs

- Mike Honeycutt said that there were still a few tribal hunters hanging around who had until May 1st to be able to hunt those bison outside the Park on Federal unclaimed land. If cow/calf pairs were out in Zone 2 after May 1st, a haze back starts to get them back home into the Park
- The two cattle guards going into the Park normally got removed about the third week of May by the Montana Department of Transportation, to accommodate motorcycle traffic. But, Mike Honeycutt said that if bison were still hanging around outside the Park after May 1st, the DOL would try to hold those from being removed for as long as possible
- The bison that Yellowstone Park Service had been holding at the capture facility that they hadn't intended to put into quarantine, were turned loose and the group headed towards Mammoth rather than going north, and Mike Honeycutt said he hoped that those animals would continue to flow to the south
- The west side of the Park, according to Mr. Honeycutt, got socked in with so much snow this year that the bison couldn't move very well and never really came out of the Park
- Mike Honeycutt said that he thought that in the Custer-Gallatin National Forest Plan, there were some provisions for managing the forest in a way that might encourage bison to move through and use that landscape more. He added that in the Horse Butte area, once upon a time, bison were not allowed there, but now, the question was, how long did it take to get them to move that direction and explore that area
- Although there was tolerance for both sexes in the Taylor Fork area of the Park, Mr. Honeycutt said they had not seen the movement of bison into that area. He said that he hadn't seen people abjectly opposed to bison migrating there on their own, but they did not like the enhanced migration concept
- Mr. Honeycutt explained that every once in a while, some bison did get by and get into Idaho. He said that a couple years ago an addendum was added to the EA that established the tolerance area, because the area established to keep them from crossing the river was just too tough to haze them back
- Dr. Marty Zaluski announced that in a conversation he had with the Superintendent of the Park the day before, they would be starting consultations with the DOL on a new EIS in the next four to six weeks

(2:26:17) 10:41 AM BLM BOARD OF LAND APPEALS STATUS UPDATE

Mike Honeycutt reported that there was really no update to give on the BLM Board of Land Appeals Status, as the appeal still remained in the discovery phase:

- Mike Honeycutt said that because it was a legal proceeding, he did not want to answer a lot of questions about the situation, but he did feel the obligation to let the BOL know what step of the process the DOL was in at this point

(2:26:57) 10:42 AM DISCUSS POTENTIAL MOU ON DOL IT SERVICES

Mike Honeycutt reported that nothing had changed from what he had written in his weekly report to the BOL, which was that there were conversations in State government about how to operate State government more efficiently:

- Mr. Honeycutt said that the Department of Agriculture had posted a position for a Chief Information Officer (CIO) and the idea had been floated that the DOL join with the Department of Agriculture on their CIO position and the IT staff of both Departments could share and cross over. Although there had been no discussion on what an MOU would look like, Mr. Honeycutt said that the Governor said he wanted to see something put together by “Juneish” on the possibility
 - Mr. Honeycutt said the sharing situation could gain efficiencies for both Departments and save each agency money
 - Buddy Hanrahan was currently designated as an IT Supervisor for the DOL, as the DOL did not have a CIO
 - Mr. Honeycutt said he would be participating in conversations that were taking place to vet out the idea, but that it would have to be brought to the BOL for approval
- Another idea was to potentially look at the Department of Administration’s ITSD to take over the IT function for the State agencies, establishing just one IT Department for the entire State that would work on each agency’s behalf
 - Nina Baucus said that it didn’t work to have the State deal with the DOL’s IT issues, as a few years ago the State tried to help the DOL with Brands and it had taken Buddy Hanrahan a lot of time to straighten out what the State had done after the DOL took the IT back. She said she did not want to go down that road again
- Ms. Baucus also raised concern that the IT people in the Department of Ag would be loyal to them, and that was the way it should be. She said she would not be in agreement to work with two different organizations where the loyalty would be with one and the other became a stepchild. With emergency situations that could arise in the DOL, Ms. Baucus said that the DOL did not have the option of being a stepchild
 - Gene Curry said that the DOL was very unique in State government with the BOL hiring the Executive Officer; not the Governor appointing the position, and that meant the EO was loyal to the BOL and to the producers of Montana
 - Mr. Curry said if there was an efficiency in the idea, that might be worth exploring, but that he did not want to play second fiddle in a joint sharing situation. He added that in the past there was a push by some government agencies and some Governors to eliminate the DOL and sweep it into the Department of Agriculture and he was opposed to that, as most producers he knew were as well
 - Nina Baucus said that the DOL was a regulatory and a law enforcement agency and the Department of Agriculture was a service agency, two very different jobs
 - Greg Wichman said that the DOL was such a specific entity and needed to keep things in-house rather than farming it out and letting somebody who only generally knew what was going on take care of it

- Gene Curry raised concern that the CIO position was an upgrade in pay from the DOL's IT Supervisor position and that might jeopardize the potential of retaining the DOL's IT person in that Supervisor position
 - Mr. Honeycutt said that the DOL had gotten very good results with the IT Supervisor position, but that sometimes agencies developed CIO positions to steal somebody good from another agency. After a while, though, the agencies became top-heavy with Administrative-type positions, and not working on providing the service or benefit of what they're supposed to be working on and salaries escalated. He added that there was a concern of doing more with less, and the question was, did both the Department of Agriculture and the DOL need a CIO
 - Mr. Honeycutt said that there were State agencies smaller than the DOL that had three or four HR people, but, the DOL had one. He said that the DOL had three IT people and he thought the Department of Agriculture had five, and that Ag was comparable in size to the DOL
- Jake Feddes said he had strong reservations about working with another agency, even though he understood efficiency; he said you could try to make yourself so efficient that you didn't run efficiently. He voiced concern about the retraining needed to deal with the Brands and Animal Health issues and the emergency-type situations that could arise. His allegiance, Mr. Feddes said, didn't follow the Governor, but was to the producers of Montana and he put that above anything else, even what the Governor wanted
 - William Kleinsasser said that Jake Feddes couldn't have said it better and he agreed with what had been said
- Alan Redfield shared a story about someone he knew years earlier that had worked for State IT and left because of its inefficiencies. Mike Honeycutt said that in the last two years there had been a lot of changes in the leadership with State ITSD and the Department of Administration and that both the State CIO and the Data Officer had been very helpful to the DOL in its new strategy and plan. He did also defend the three DOL IT gentlemen, saying that they had been excellent in computing all that strategy to State ITSD
 - Lily Andersen said that the idea was something to keep an eye on, but, that if the DOL was so thankful for their own IT people, that maybe the DOL needed to boost what was being done for the IT people to try and keep them around

(2:50:03) 11:05 AM USFS LISTING WORKPLAN FOR YELLOWSTONE BISON

Mike Honeycutt reported that the US Fish and Wildlife Service had put out their Endangered Species Act (ESA), listing the workplan for future years:

- Mr. Honeycutt said that Yellowstone bison appeared on the fiscal year 2025 plan, and so, around September/October 2024, the DOL could probably begin to see the US Fish and Wildlife Services start to work on the petition for ESA designation for Yellowstone bison with lots of opportunity for the DOL to engage
- Although the US Fish and Wildlife Service had rejected a petition to list Yellowstone bison as an endangered species, Mr. Honeycutt said that a judge in Washington DC overruled that and said they must go through the process. He

explained that certain groups had pushed for the Yellowstone bison to be listed as an endangered species because they were genetically different than other bison

- The BOL questioned whether the indigenous people could still get permission to shoot the Yellowstone bison if they were listed as endangered. There was also a question of whether the DOL would be able to haze Yellowstone bison if they were listed as endangered
- Mike Honeycutt said that even now there were concerns about the DOL's current hazing operations disrupting grizzly bears, and so, he thought it would severely curtail the management actions the DOL could conduct regarding bison if they were listed as endangered
- Mr. Honeycutt said that the DOL would probably be responding as an Executive Branch to the BLM Conservation Rule and had already been engaged with the Governor's Office and other agencies on it. He said he expected that there would be a coordinated approach as to how to respond to it
 - Mr. Honeycutt explained that the rule entertained the notion of conservation leases of public lands and the ability to use Federal public lands for non-commercial purposes, which he said could affect livestock grazing, oil, gas, mining and other commercial aspects on Federal public lands, such as BLM land
 - The timeline for public comment was shared with the BOL, and Mr. Honeycutt said he hoped all Ag organizations would comment on the rule, but he thought there would be a coordinated State approach because many of the State agencies were all of one mind about the proclamation and he thought there would be a coordinated effort also among like-minded Western Governors and Attorney Generals as well

(2:57:14) 11:12 AM EXECUTIVE OFFICER OUT-OF-STATE TRAVEL REQUEST – PNWER CONFERENCE, JULY 2023

Mike Honeycutt requested that the BOL approve him traveling to this year's Pacific Northwest Economic Region (PNWER) conference in the place of Dr. Tahnee Szymanski, as she was no longer employed by the DOL:

- Mr. Honeycutt said that this year's PNWER was scheduled to be held at the end of July in Boise, Idaho.
- Dr. Tahnee Szymanski had been approved about a year ago by the BOL to attend the conference, as she had been serving as the Co-Chair for the cross-border Livestock Health Committee before she left the DOL. Mr. Honeycutt said he felt it was probably the right thing for the DOL to do in finishing off their commitment to PNWER as the Co-Chair of that committee
- Mr. Honeycutt said that because the President of the Montana Stockgrowers Association may attend the event, it would help defer some of his costs

MOTION/VOTE

(2:59:04) 11:14 PM

Alan Redfield moved to approve out-of-state travel for Mike Honeycutt to replace

Dr. Tahnee Szymanski at the 2023 PNWER meeting in Boise, Idaho in July 2023. Nina Baucus seconded. The motion passed.

PREDATOR CONTROL

(1:52:03) 10:07 AM

(1:52:03) 10:07 AM LIVESTOCK LOSS BOARD (LLB) PREDATION CLAIMS REPORT AND GENERAL UPDATES

Mike Honeycutt said that George Edwards had been taking some time off and so he would review the Predation Claims Report with the BOL:

- Mr. Honeycutt said that this was an extremely slow time of year for the LLB, with the grizzly bears still asleep, and with the time it took for Wildlife Services to investigate a predation and get that information to Mr. Edwards, the numbers might not be received for a couple of months
 - Mr. Honeycutt said that by the time Mr. Edwards returned to work, predation claims would be starting to heat up
- Regarding a timeline on how long a producer would have to send in a predation claim, Mr. Honeycutt said he was not aware of what that timeline would be, as the LLB had a lot of new policies he had not discussed with anyone yet
 - One law that was put in place in the 2021 Legislature that was brought forward by Senator Gillespie, was the one that said if you hadn't paid per capita, you didn't get paid a predation claim
- Mr. Honeycutt said that in HB2, an amendment was made to the LLB budget by Representative Read giving them sustaining funds for mitigation so that they would not have to rely solely on rollover funds, because folks had concerns that grizzly bear depredations, especially, were beginning to eat up those funds with nothing left to roll over
- One predation claim on the LLB report showed a payout of \$5,000 for a horse and another claim for a cow of \$2,000. Mr. Honeycutt said that was the reasoning behind the LLB putting forward a change allowing them more discretion over registered livestock claims as the market value of one animal could eat up much of the predation claims funding
- Nina Baucus reminded the BOL that the claims being paid out were on confirmed depredations

(3:11:04) 11:26 AM RECESS

(3:11:12) 11:34 PM RECONVENE

PREDATOR CONTROL (Continued)

(3:11:17) 11:35 AM

There were technical difficulties in connecting Dalin Tidwell with the meeting

**(3:16:29) 11:40 AM UPDATE ON ACTIVITIES OF USDA WILDLIFE SERVICES
(Presented by Dalin Tidwell, Montana State Director)**

Dalin Tidwell, State Director of USDA Wildlife Services, introduced himself and thanked the DOL and the BOL for the opportunity to catch up with everyone and keep the good communication going

(3:17:05) 11:40 AM – General Updates

Dalin Tidwell updated the BOL on activities at USDA Wildlife Services:

- Mr. Tidwell reported that after 41 years of good, solid work and relations with Helena Aircraft, the shop would be closing up in the middle of May due to health issues and other things. And so, Wildlife Services would be starting the solicitation for a new maintenance contract that he hoped would not only do the helicopter work, but the fixed wing work as well
- Mr. Tidwell said because of the loss of Helena Aircraft, Wildlife Services would need to send some engine off to be rebuilt and deal with making payment outside of the Federal government system contracting until another maintenance contract could be made with someone
- The season so far had been an excellent one, Mr. Tidwell said, with around 460 hours of helicopter time, 200 hours of fixed wing time that had resulted in just shy of 7,000 coyotes being taken
 - Greg Wichman commented that he felt that about 10% of the coyotes came from the Specialist in his area and that they had been doing a good job
- The grizzlies had been starting to move, not to the eastern part of the state yet, but mostly in the north/northwest/northcentral part of the state, along the Front, Mr. Tidwell reported
- With the weather situation, Mr. Tidwell said that some of the pilots had been flying on weekends because of bad weather during the week

(3:23:53) 11:47 AM LUNCH

(3:24:08) 12:30 PM RECONVENE

BRANDS ENFORCEMENT DIVISION

(3:24:14) 12:30 PM

Jay Bodner, Brands Division Administrator, introduced himself

(3:24:31) 12:30 PM – OUT-OF-STATE TRAVEL REQUEST

Jay Bodner said that he had two out-of-state travel requests

**(3:24:39) 12:30 PM – International Livestock Identification Association (ILIA)
Meeting in Albuquerque, New Mexico**

Jay Bodner requested that the BOL approve out-of-state travel for four Brands staff to attend the ILIA meeting, scheduled for July 2023 in Albuquerque, New Mexico:

- Mr. Bodner explained that the ILIA was comprised of a number of member organizations, states and provinces who worked towards promoting livestock identification and inspection. Currently, Mr. Bodner said, Ty Thomas, the Assistant Brands Administrator, was on the ILIA board
- Mr. Bodner said that the DOL would be hosting the ILIA in 2024
- Along with Jay Bodner, Ty Thomas and two additional Brands staff, Gene Curry was asked by Ty Thomas to also attend the meeting
 - Ty Thomas said that he had requested that Gene Curry, as the Chair of the BOL attend the ILIA, because he wanted a BOL member to see how the meeting was run, since the DOL would be hosting the meeting in the summer of 2024
 - Jay Bodner said that he wanted to make sure that the DOL had a strong representation at this year's ILIA meeting from both staff and from the BOL because of Montana hosting the meeting next year. He wanted to take any opportunity for potential sponsorships for the Montana meeting that might be acquired while at the New Mexico meeting
- Ty Thomas further explained that the ILIA meeting typically has around 200 in attendance coming from the Western United States, New Zealand, Australia, Mexico and Canada

MOTION/VOTE

(3:30:04) 12:36 PM

Alan Redfield moved to approve the out-of-state travel for four Brands staff and Gene Curry to attend the ILIA Meeting in Albuquerque, NM, July 24-26, 2023. Jake Feddes seconded. The motion passed.

(3:30:29) 12:36 PM – Knowledge Conference in Las Vegas, Nevada

Jay Bodner requested that the BOL approve out-of-state travel for one Brands staff person to attend the Knowledge Conference in Las Vegas, Nevada in May 2023:

- Mr. Bodner explained that the computer contractor, GlideFast, was interested in promoting the computer program they put together for the Brands Enforcement Division at the Knowledge Conference, showcasing the new program and demonstrating it
- GlideFast requested that one of their people and one Brands staff person attend the conference to help answer questions that could arise during the demonstration. Mr. Bodner said that GlideFast would pick up the majority of the costs of the registration, along with travel costs. The DOL would provide per diem costs and some ground travel costs for the Brands staff person who would attend

MOTION/VOTE

(3:34:18) 12:40 PM

Nina Baucus moved to approve the out-of-state travel for one Brands staff person

to attend the Knowledge Conference in Las Vegas, NV, May 16, 2023. William Kleinsasser seconded. The motion passed.

(3:34:51) 12:41 PM DRAFT CONCEPTS FOR ADMINISTRATIVE RULE CHANGES

Jay Bodner said he was requesting some BOL input regarding three administrative rule changes that he hoped to get BOL input on before engaging in the full rulemaking process:

- Mr. Bodner said that the draft rules were not in the BOL packet, but that he would send the concepts to the BOL after the meeting. He was also hoping that the proposed rule changes could be run through the Brands Advisory Committee as well

(3:37:19) 12:44 PM – Recording and Transferring of Brands (ARM 32.18.110) -New Brands

Jay Bodner said that there were proposed changes in two areas of ARM 32.18.110- Recording and Transferring of Brands. He reviewed the first set of proposed changes, having to do with new brands:

- Mr. Bodner said that the reason for the proposed changes in this rule was because the Brands Division had been seeing a considerable number of producers who applied for new brands and then quickly transferred them to other folks, and the Division wanted to make sure that the DOL was not in the business of people profiteering off brands
 - Another reason for the proposed rule change, Mr. Bodner said, was because of the passage of HB767. If there were new additional characters people would be applying for, this proposed rule change would assure that they would not just be scooping up those characters and turning around and selling them
- This proposed rule change, Mr. Bodner said, would only apply to new brand applications, not the brand that you're currently holding today. The new brand would have to be held until the next rerecord year, except under some circumstances, such as a death.
 - The proposed rule change would also require that to transfer a new brand before the next rerecord year, if there were multiple owners on the brand, one of the original owners would have to remain on the brand

(3:42:46) 12:49 PM – Recording and Transferring of Brands (ARM 32.18.110) - Seasonal Brands

Jay Bodner reviewed the second set of proposed changes to ARM 32.18.110, having to do with seasonal brands:

- Mr. Bodner explained that this portion of proposed changes to ARM 32.18.110 would allow other state brands to be applied in Montana
 - Mr. Bodner said that the impetus for this proposed change came because of a situation of a producer who purchased feeder cattle in Billings, kept them for 4-6 weeks in Montana, then shipped them to California for grass. Mr. Bodner proposed to change the time frame for applying the out-of-state brand on those cattle from 36 hours before shipping to an extended

amount of time, which would not only mean the cattle would only have to be worked once before shipping, but would provide flexibility for State Inspectors to extend the 36-hour time frame

- Jake Feddes said that it seemed there were more issues that went with rewriting the rule than what was presented and so, he thought it would be easier, once HB767 went through, to have them apply for their out-of-state brand then, see if that's approved and then that brand was actually a Montana brand
- Greg Wichman said he agreed with Jake Feddes' idea that the person reapply for their out-of-state brand and if it was accepted the rule change might not ever need to be done
- Jay Bodner said if the rule was rewritten, it did touch on a couple other rules and statute as well, and actually got much more complicated than what was on the paper he presented
- Mike Honeycutt said that in the case of cattle coming into Montana on a grazing permit that had a brand similar to a Montana owner's, if there was a conflict and the brands could not be distinguished from each other, he thought the law would support that the cattle belonged to the person with the Montana brand
 - Alan Redfield suggested adding to the proposed change regarding the out-of-state brand, that the cattle must not be out on grass, but confined to a feedlot, so that there would be no chance of a mix-up

(3:55:38) 1:02 PM – Records to be Kept (ARM 32.15.102) -Licensed Dealers

Jay Bodner said that the proposed changes to ARM 32.15.102 would be a followup after the passage of HB153, which updated the statute language regarding livestock video auctions:

- Mr. Bodner said that the changes would require that for livestock video auctions or internet auctions that became licensed in Montana, there were certain requirements, including keeping any records, contracts or information that the DOL might request from them
- Mr. Bodner said that a new license agreement, basically for video auctions, had been designed that would include information regarding who got paid. He added that the new agreement would make clear in the language included on it that there had been a change of ownership, and if complications would still arise after that, the Investigator would be the one to make sure that things were done correctly
- Mr. Bodner pointed out that the rule still needed additional work on it to clarify the premise portion of the rule

(4:00:01) 1:06 PM – BRANDS ENFORCEMENT UPDATE

(4:00:01) 1:06 PM – Staffing

Jay Bodner updated the BOL on the latest staffing information in the Brands Enforcement Division:

- Mr. Bodner reported that the District 19 Investigator position out of Miles City, the District 9 Investigator position out of Dillon, who also manages the market there, and the Glasgow Market Supervisor position, were all currently posted
- No interviews had been scheduled yet for those positions, Mr. Bodner said. The Glasgow position was being readvertised
- Interviews for the Eastern Area Supervisor were scheduled for May 1st, Mr. Bodner reported. This position was shared with the Animal Health Bureau

(4:01:23) 1:07 PM – Audits for Markets and Dealers

Jay Bodner updated the BOL on where the Brands Enforcement Division was on conducting their market dealer audits and license renewals:

- With the dealer licenses set to expire May 1, 2023, Mr. Bodner reported that 66% of the dealer licenses had already been renewed. Now that renewals were slowing down somewhat, Mr. Bodner said they planned to send out a reminder letter after May 1st to those not renewed, saying that their license had expired
- Mr. Bodner reported that all markets had renewed their licenses except for one, who he thought was the one that was considering transferring ownership
- The Billings market audits scheduled for April had been cancelled, Mr. Bodner said, because of some bad weather, but, those had been rescheduled for May 1st. Also scheduled for May were market audits for Lewistown and Great Falls
- Market audits for Glasgow, Sidney and Glendive, Mr. Bodner thought would be scheduled in June or July. He said that the operations at the Glasgow market had been thrown off a bit because of some problems they had, and he did not want to overburden them
- Mr. Bodner reported that the Brands Division Market Auditor was doing a good job conducting dealer audits and was currently on the second round of them, not having seen any bumps in the road or hurdles that were unexpected
- Mr. Bodner said that audits had not been conducted for a while, but that the goal was to complete 10%, and they were at that goal. The hope was to refine the auditing process and see if there would be an opportunity to do more
- Mr. Bodner distributed to the BOL, copies of a letter of intent to sell from Headwaters Livestock Auction in Three Forks
 - Mr. Bodner said that on Monday of that week, the buyer of that market had been contacted again to assure that they had all that was required of them as the purchaser

(4:05:42) 1:12 PM – GlideFast

Jay Bodner updated the BOL on where the Brands Enforcement Division was with their new software system:

- Mr. Bodner said that there were some issues that still needed to be fixed or addressed before final implementation. The enhancements that could make the system run better were not critical to make sure the system could operate, but, were nice to have
- The Brands team had been doing significant testing in the markets, brands and inspections areas and the contractor had been meeting with the DOL almost

daily, Mr. Bodner said, and as that was being done, it helped narrow down issues that needed to be fixed

- There were some shortcomings in the new system where it could just not do certain things, and it might come down to having to live with certain things, Mr. Bodner reported, and then, there was training to be done for Brands staff
- Mr. Bodner said they wanted to get the system completed to the point that the Brands Division could be operated without slowing down commerce or creating more work for the market staff
- Nina Baucus thanked Mr. Bodner for involving field staff in the testing, as they were the ones who would have to use the new system
- Going live with the new system would probably not be until the first of June, Mr. Bodner said, as the GlideFast event that the DOL was participating in was scheduled for mid-May, and GlideFast would need two weeks after that to download and clone everything to make sure it was in production and ready to roll

ANIMAL HEALTH & FOOD SAFETY DIVISION REPORTS

(4:11:17) 1:17 PM

Gene Curry announced that there would be a flip in the schedule, with Dr. Juda doing the Veterinary Diagnostic Lab presentation first

(4:11:37) 1:17 PM– VETERINARY DIAGNOSTIC LABORATORY

Greg Juda, Lab Director of the Montana Veterinary Diagnostic Lab, introduced himself

(4:12:00) 1:17 PM– Out-of-State Travel Request to NBAF for ASF/CSF Preparedness Training

Dr. Greg Juda requested that the BOL approve out-of-state travel for VDL staff to attend an African Swine Fever preparedness exercise in Manhattan, Kansas in June 2023:

- Dr. Juda reported that the new National Bio and Agro Defense Facility (MAF), located in Manhattan Kansas, would replace the Plum Island facility that was being decommissioned in the next year or two, and that was where the exercise was being held
- USDA had just recently announced the exercise and they were paying for the travel, lodging, registration and for all the coursework. The extra costs, per diem and ground transportation, Dr. Juda felt would be a very minimal financial commitment to the DOL, with those being funded by the general Lab travel budget

MOTION/VOTE

(4:13:40) 1:19 PM

Alan Redfield moved to approve out-of-state travel for Dr. Erica Schwarz and Dr. Jonathan Sago to attend ASF/CSF Preparedness Training, June 12-15, 2023 in Manhattan, Kansas. Jake Feddes seconded. The motion passed.

(4:14:07) 1:20 PM– MVDL Operational Update

Dr. Greg Juda gave an operational update from the Montana Veterinary Diagnostic Lab:

- Dr. Juda reported that the most significant operational update encountered since the last BOL meeting was that the previous week there had been a 27-hour internet interruption, basically affecting the entire MSU network, which was shut down due to a security threat
 - With no internet available during that time, Dr. Juda said that they could not log in samples for testing to resolve test results to clients or send out blast communications
 - Dr. Juda thanked the DOL IT team who were able to come up with some creative ways to keep MVDL operations running, even without a true wired internet connection. Dr. Juda also thanked Dr. Marty Zaluski, Britta Sekora and the folks in the Animal Health Bureau for attempting to communicate to some of the client base through their channels to let them know the MVDL was “dead in the water” at the moment
 - What was recognized after the incident, Dr. Juda said, was that in the new Lab facility and maybe even now, it would be worth having a secondary wired connection or redundant internet connection and that maybe it would be possible for the MVDL to have an independent wired connection separate from MSU
 - Dr. Juda said there were some distinct advantages for the State being on its own network and even on their own phone system
- Regarding the Chemistry Analyzers in the Clinical Pathology section of the Lab, Dr. Juda said that he had contacted the Siemens representative who informed him that they did provide lease options for that equipment, with the ability to purchase it at the end of the lease contract
 - Dr. Juda said they were waiting for some quotes on leasing and were working with the State Purchasing Procurement Bureau to get on the Vizient Group Purchasing Organization contract, of which Siemens is on that contract. Being on that contract would provide the MVDL with discounted supplies if they decided to purchase the equipment
- Dr. Juda reported that the amount and start dates of the NAHLN funding continued to shift, but, as of last week, the MVDL was told that this year’s grant funding would be distributed in one lump sum of \$287,878 and that the start date of it would be June 1, 2023. He said that the NAHLN financial plan must be submitted by the MVDL by May 4, 2023
 - In discussion with Dr. Zaluski, Dr. Juda said they felt a good approach to utilizing the NAHLN grant funding would be to focus on service contracts and instrumentation that the Lab critically needed and defer as much of the funding as possible to it so that the maximum proprietary funding dollars would be freed up. One thought was to also spend a bit more on CWD testing kits than originally proposed
 - Dr. Juda explained that when they submit their financial plan for the NAHLN grant funding, they wanted it to be as close as possible to what the money would be spent on, as any deviation exceeding 10% of the total required resubmission of the financial plan and approval through the

NAHLN office. He did add that NAHLN did give the ability to modify the financial plan, which Dr. Juda said they had done in the past to cover expenses

- Dr. Juda updated the BOL on the FY24 American Association of Public Health Laboratories (APHL) Fellowship applications
 - Dr. Juda explained that VDLs were eligible to host Fellows for a period of up to two years, and they were paid by APHL a salary and a housing stipend to work in VDLs
 - Last year, the MVDL was one of the few VDLs in the country who were able to get placement of an APHL Fellow. Erica, the MVDL's fellow, had been working since August 2022 at the Lab on a CWD project and Dr. Juda reported that project was going well for her and that she was able to serve, essentially, as an extra Lab Technician during the peak testing season
 - Dr. Juda said because of the success of Erica as a Fellow, he was hoping the MVDL could secure one or even two Fellows this next year. Dr. Schwarz had offered to submit two applications for APHL Fellows, identifying one project for a Fellow as a 50% CWD/50% Assay Development for Serum Neutralizations and Immunofluorescence Assays and also another project for a Fellow to investigate High Pathogenic Avian Influenza testing of neurologic mammalian brains that test negative for rabies
- The MVDL, Dr. Juda said, had been routinely testing brains of animals for rabies that had been submitted, and if it tested negative, they've tested it for HPAI by default. He said that many of those animals had tested positive and that was something they'd like to further investigate
 - Dr. Juda said that the extra HPAI testing for those animals submitted to the MVDL were done on raccoons, fox and bears and that the testing was of interest to NAHLN who recently requested reports showing animals the National Laboratory had been testing that were not considered livestock, such as song birds, bald eagles, falcons and mammals
 - Dr. Juda said that he suspected that HPAI was not just spread by animals eating an infected animal, but he suspected transmission could have occurred through shared water sources or bird droppings
 - Dr. Zaluski said that HPAI might also be spread by birds through food sources. He said that there had been a small handful of cases in the world of human transmission, but, the CDC considered the potential to people to be extremely low, but to be aware that the HPAI influenza virus was highly unstable and the potential for mutation was there

(4:36:00) 1:42 PM– NEW DIAGNOSTIC TEST REQUESTS

Dr. Greg Juda requested that the BOL approve the addition of a couple new diagnostic test modalities:

- The first panel, Dr. Juda said, related to Canine Tick-Borne Disease, a four-test panel immunofluorescence assay

- Dr. Juda said that this was something a Fellow would work on as a project to get the testing panel up, running and validated
- The second panel was an Equine Tick-Borne Disease Antibody Screen
- Dr. Juda reported that none of the regional labs in the area currently offer these tests and that the MVDL had received requests over the past year and years for these tests. He added that the MVDL itself had specifically referred six tests for clients just this last year and had fielded calls from interested individuals who chose then to submit directly themselves to an out-of-state lab because of the shipping fees the MVDL would have to charge them for referring the test to another lab
- There had been an increase in Tick-Borne Disease transmission recently, and so, Dr. Juda felt that indicated there could be a small market for the testing. The MVDL, he said, not only had the equipment to do the testing, but the expertise and personnel to do the testing as well

MOTION/VOTE

(4:42:06) 1:48 PM

Alan Redfield moved to approve the request to keep pursuing the viability of adding two additional diagnostic tests at the VDL, as discussed by Dr. Greg Juda. Nina Baucus seconded. The motion passed.

Dr. Greg Juda reported that he heard from Marina Little at the Montana Architecture & Engineering Division that they would be advertising for bids for the new Labs construction project, tentatively, in May and that they were looking for the bid opening date to be sometime in early June

(4:44:43) 1:51 AM RECESS

(4:44:44) 2:00 PM RECONVENE

ANIMAL HEALTH & FOOD SAFETY DIVISION REPORTS (Continued)

(4:44:58) 2:00 PM

(4:44:58) 2:00 PM – MEAT, MILK & EGG INSPECTION BUREAU

Alicia Love, Meat, Milk & Egg Inspection Bureau Chief, introduced herself

(4:44:58) 2:00 PM – Request to Hire NW Area Relief Inspector

Alicia Love requested that the BOL approve the hire of a NW Area Relief Meat Inspector:

- Ms. Love reported that there had been a vacancy created in the NW Area Kalispell region because the person who was in that Relief Inspector position had accepted the Superior and Plains position

MOTION/VOTE

(5:19:27) 2:38 PM

Nina Baucus moved to approve the hire of a NW Area Relief Meat Inspector for the Kalispell region. Alan Redfield seconded. The motion passed.

(4:45:53) 2:00 PM – Out-of-State Travel Requests

(4:45:54) 2:01 PM – National Advisory Committee on Meat & Poultry Inspection (formerly NASMFID)

Alicia Love requested that the BOL approve out-of-state travel for the Eastern Area Supervisor to attend the National Advisory Committee on Meat & Poultry Inspection being held in Cody, Wyoming in June 2023:

- Ms. Love said that this conference was historically attended and was where the DOL received updates on changes that were coming to USDA and provided a good chance to get insight on how other State audits were going. It also provided training opportunities for those in attendance
- Because the conference was scheduled during Montana's onsite audits for USDA, Ms. Love said she would not be attending but was requesting to send the Eastern Area Supervisor

MOTION/VOTE

(4:47:12) 2:02 PM

Alan Redfield moved to approve out-of-state travel for Samantha Novak to attend the National Advisory Committee on Meat & Poultry Inspection, June 11-14, 2023 in Cody, Wyoming. Jake Feddes seconded. The motion passed.

(4:47:40) 2:03 PM – National Association of Dairy Regulatory Officials (NADRO)

Alicia Love requested that the BOL approve out-of-state travel for the senior Milk Sanitarian to attend the National Association of Dairy Regulatory Officials Conference being held in Madison, Wisconsin in July 2023:

- Ms. Love explained that this conference served as a follow-up to a conference she had just attended in April where attendees discussed regulatory changes to the Pasteurized Milk Ordinance (PMO) and made their recommendations to them. At this NADRO conference, Ms. Love said, the attendees were informed which recommendations from the PMO conference had been accepted by the FDA and they were provided the timeline for when those were to be implemented. She said it also provided opportunity for State programs to meet and have an information exchange
- Ms. Love said that she had not shared the recommendations attendees made from the April PMO conference with her staff because the FDA still had to make a decision on which recommendations they would be implementing. The NADRO Conference, held every two years, was where the FDA provided their final decisions on those recommendations and which changes they would be making to the PMO and give attendees further guidance on how the changes would be occurring
- Mike Honeycutt said that Dan Turcotte had attended this conference in the past. If Montana was not represented at this conference they would not be able to

Speak directly to the FDA, and would have to take whatever decisions came out of the conference because Montana would not be present to represent its side of things

MOTION/VOTE

(4:50:25) 2:05 PM

Jake Feddes moved to approve out-of-state travel for the senior Sanitarian to attend the National Association of Dairy Regulatory Officials, July 8-12, 2023 in Madison, Wisconsin. William Kleinsasser seconded. The motion passed.

(4:54:46) 2:10 PM – Proposal to Adopt ARM 32.2.405 – Milk Hauler License Fees

Alicia Love updated the BOL on the status of the proposed changes to ARM 32.2.405- Milk Hauler License Fees:

- Ms. Love reported that the comment period of the amendments of that rule closed on April 21, 2023 with no comments received

MOTION/VOTE

(4:55:19) 2:10 PM

Lily Andersen moved to approve the adoption of the amendments to ARM 32.2.405 – Milk Hauler License Fees. Alan Redfield seconded. The motion passed.

(4:55:46) 2:11 PM – Request from Retailers to Suspend 12-Day Labeling (Sell-By) Rule (ARM 32.8.202) to Minimize Delivery Costs

Alicia Love reported that McKee Anderson had approached the DOL with concerns regarding changes in milk prices and had requested to speak to the BOL regarding those concerns:

- McKee Anderson, President of the Montana Food Distributors Association (MDA), said that he was here representing the membership who were affected by a recent increase in milk distribution prices in the state
- Mr. Anderson explained that in 2018, MDA had engaged in a study regarding the distribution of Montana milk in Montana, and at that time, trying to level the prices statewide was not working for Darigold and Deans Food, the owner of Meadow Gold. Now, Deans Food had sought Chapter 11 protection bankruptcy and were in reorganization, affecting Meadow Gold. Mr. Anderson said he felt that was why Meadow Gold established a Ring distribution system that had been implemented on April 1
- Mr. Anderson said that even though the Ring 1 retailers did not have an appreciable charge, those Montana retailers getting milk delivered in the Ring 5 distribution area were, with no advanced notice, getting charged about \$1.20/gallon on Class 1 milk
- The Costcos, Walmarts and Wincos of the world, Mr. Anderson said, had basically contracted for private label branding with Darigold effective July 1, 2022 and Darigold stopped delivering to the outlying areas on that same date. Perry Farms, another organization that distributed, had been with Meadow Gold but went to a private label. The end result, Mr. Anderson said, was that now

Meadow Gold had gained a monopoly on the total distribution to the smaller areas in Montana

- The best alternative to the situation, Mr. Anderson said was to make a request to suspend the 12-day rule allowing current distributors that had trucks deliver to small stores to get a fresher product
- Mr. Anderson said that Associated Foods indicated to him that if it was allowed to suspend the 12-day rule, Meadow Gold would still be the milk supplier, but they would load those trucks in Utah or Idaho.
- Alan Redfield said that Utah and Idaho had 10 times the dairies that Montana had and that if we took the product out, we just put our whole dairy industry that's on Meadow Gold out of business because you're out of state and you have no leverage at all. He added that he couldn't drive to Bozeman Costco for 30 or 40 cents/gallon of milk
- Lily Andersen said that as a Meadow Gold Billings producer, they had a substantial freight increase six months ago and added that it was impressive that Meadow Gold was able to hold off that long. Ms. Andersen said she took pride in having a quality milk product and that with the 12-day rule in place, they were providing freshness in the fridge for that Mom with growing kids
- McKee Anderson said that the cost of milk was turning people to alternatives
 - Lily Andersen said that some people were confused about the sell-by dates on the milk and that maybe there needed to be more consumer education about that
- Vanessa Hendrix, Orange Street Food Farm in Missoula, said that if the point is protecting the dairy farmer, if the cost of local milk remained as high as it was, retailers were going to have to find a different place to 12-day date the milk and bring it to them, as the 12-day rule and the monopoly with Meadow Gold seemed to be directly impacting local retailers. She said she didn't see that adding seven days onto the date would totally destroy the Montana Dairy Farmer Association as it was and might even mean that more Montana milk could be sold to surrounding states.
 - Ms. Hendrix said she was fearful that by not adopting a longer date it would be more harmful to the dairy farmers than by not adopting it. If it were a 21-day date, she thought you would see a higher likelihood of Montana independent retailers purchasing Montana milk again
- Lily Andersen said that she owned a small, locally-independent feed store with a Murdoch's right down the road, and she was accustomed to competing with "the Big Boy," and that at the end of the day, you would never be able to compete with Costco, Winco or Walmart
- Krista Lee Evans, representing the Montana Milk Producers Association, said she wanted to clarify a few things
 - She said that Dean Foods did not own any plants in Montana, but that those plants were owned by a cooperative, Dairy Farmers of America
 - Ms. Evans said that there was misinformation with regard to Meadow Gold having a monopoly, pointing out that there were a number of entities that delivered 12-day milk from Montana, including Meadow Gold, Lifeline, Kalispell Creamery, CoreMark, Darigold, URM and Smith's

- Regarding conversations about the protectionism from Montana dairy producers, Ms. Evans said that was not the case, because, if you looked across the country, you'd see significant price resets associated with milk. She credited Meadow Gold with holding off as long as they possibly could with the impact to the retailers to which they delivered
- Ms. Evans said that they could not and would not discuss prices because of collusion and anti-trust issues, and if there were conversations about price, they would have to step out of the room, as they were not allowed to have those
- There were increased costs associated to dairy farms delivering plants, Ms. Evans said, but, those costs increased substantially as a result of fuel increases, etc., and that the BOL had a reset motion today that passed increased costs on to producers
 - The prices that retailers were seeing across Montana, Ms. Evans said, were not a lot different than if Mr. Feddes delivered a load of cows into Bozeman as compared to Billings or the Midwest
 - Hauling bulk milk out of Montana and having it processed somewhere else was very unrealistic, Ms. Evans said, as milk weighed over eight pounds per gallon and the cost of transporting it was borne by the producer. There would be a certain point where they wouldn't be able to afford to haul the milk that far to have it processed
 - Ms. Evans explained that wholesale retail price controls did exist in the not-so-distant past, but, at the request of grocery entities, those were removed. She said that they were willing to come to the table and look at wholesale retail price controls to help retail entities so that they could remain as competitive as possible
- Ms. Evans explained that the contract between Meadow Gold and the individual stores was negotiated by Associated Foods, so, she hoped that both Associated Foods and Meadow Gold could sit down and maybe talk about the Ring system or look at a different way to allocate costs
- Milk was considered a "Loss Leader," Ms. Evans said, and so some stores decreased the price of milk to bring in more people who end up buying their other items as well. She added that some grocery store owners were having milk delivered on a truck containing other items besides just milk, such as an Associated truck, and then the freight costs could be shared across all of the products rather than just the milk
 - Addressing the assertion that Walmart did not see a price increase in milk, Ms. Evans said that was just not true, and that even though the price might not be seen in the purchase of milk, it didn't mean they weren't paying more for the gallon of milk they were selling
- Ms. Evans said that the reason the sell-by date was in Montana was so that the shelf life was in the consumer's refrigerator and not in somebody's storage or warehouse waiting to be delivered. She added that even if the dates were extended, did that mean stores were going to change their deliveries or add cooler space. She said that Meadow Gold did not increase their prices to increase their profit, but to stay functioning and that the inflation/distribution issue was getting laid at the feet of the 12-day rule

- Continuing to provide a product and not at least break even couldn't continue, Ms. Evans said, and she thought there was a different solution to the issue but to move slowly and thoughtfully when messing with a market that was so complex. The word on the street, Ms. Evans said, was that there was another big market reset coming under Federal order that might make going out of state riskier than folks understood or recognized
- Ms. Evans explained that Meadow Gold and Darigold were Montana farmers' milk, even though it didn't say it was Montana milk on the jugs
 - Lily Andersen said that she worked very hard to get consumers to understand where their milk came from, explaining that there was a #30 code on milk jugs, showing it was processed in Montana, and that at the www.wherismymilkfrom.com website, it also broke down the other numbers in that code which showed which plant the milk came from
 - Even though Nina Baucus said that as a consumer she would never think of going online for that information, Krista Lee Evans said there should be a better job done of educating consumers, but, if 21-day milk was brought in, it wouldn't take long to figure out which milk was from Montana
 - Rob Adamson, Meadow Gold said that some retailers, such as the six Town and Country stores in the state, posted signage stating that it's Montana milk
- The Class 1 plant in Bozeman processed for Darigold and the Class 1 plants in Billings and Great Falls processed for Meadow Gold, Ms. Evans said they did not have any other mechanism to do butter or further processing like that, other than for fluid milk
- Chris Gentry, who said she was on the Associated Foods board, representing Montana retailers and also had a store in Ennis, reported that Darigold gave a two-week notice to her store that they would not be doing direct deliveries anymore as they were pulling out of all other stores in Southwest Montana
 - With no other option than to go to Meadow Gold, Ms. Gentry said she was now on the Ring system with an increased drop charge, but, she said that because of the volume of milk sold at their store, their cost/lid would not be as much as those smaller stores who were further away in Ring 4 or Ring 5, which could be an increase of up to \$1.20/lid drop charge, and that was who she was asking for. Ms. Gentry said she would like to find a solution and balance, as they wanted to support Montana farmers and ranchers but, their store was seeing inflation costs of goods going up as well
- Rob Adamson, Meadow Gold Dairy, said that when they take a price increase to Associated Foods, they were able to spread it equally to their stores. But, the independent owners of Associated Foods felt it wasn't fair for a person who lived 10 miles away to subsidize the milk price of somebody that lived in Wibaux, and that was where the Rings came in, because that was similar to what they did with their groceries...the further away you were, the more percentage you would pay
- Mr. Adamson said that school milk was done on independent contracts and that the freight was in the price of their milk. The price of the milk had increased, but that it couldn't be changed until the current contract ran out

- Rob Adamson said that the price of milk at Walmart and Winco had gone up somewhere between 44 cents and 60 cents
- Roger White, Chief Operations Officer for Associated Food Stores, said that they supported independent retailers in nine states and his job was to help them compete against all the competition that was out there
 - The agreement that Associated had with Meadow Gold was a volume agreement, and when Rob Adamson came to them regarding a price increase, Mr. White said they didn't feel it was right to subsidize someone a hundred miles away versus someone who was closer, so that was when Meadow Gold came up with the "Cost to Serve" model or Ring System
- Mr. White said that Associated Foods supplied groceries to all the stores in Montana out of their efficient distribution center and they were looking for a better solution to distributing milk to the smaller stores
 - Gene Curry suggested that with Associated Foods trucks going from Montana back to Salt Lake daily, why didn't they back their truck up to Meadow Gold in Great Falls, load it with milk and take it back to Salt Lake, put it in their cooler and ship it back to the stores in Montana
- Mr. White said that every time you touch the milk it adds more cost to it. Rob Adamson said that the milk was very possibly handled eight or nine times before it got into the hands of the consumer
- Rob Adamson said that he hated it when people felt that Meadow Gold had a monopoly. He said he looks at it that Meadow Gold was the only one left that was willing to do the work
- Mr. Adamson said that Sysco and Food Services did the milk for the school in Ennis, but that Meadow Gold delivered to most of the schools. He added that if the BOL was willing to sign an NDA they would be more than happy to sit down with them and show them everybody they deliver to and disclose pricing to them so they could feel confident that the people were getting that fair price
- Rob Adamson explained that the Ring system was based solely on distance and a drop fee per store per mileage. The drop fee was not per gallon, which meant that the more volume of milk they delivered, the less per gallon it was costing the store
- David Lewis introduced himself as a dairy farmer in Western Montana who also was on the board of the Northwest Dairy Association and Darigold Board of Directors
- Mr. Lewis said he felt it was important for everybody to understand that Dean Foods no longer existed as they went bankrupt and Dairy Farmers of America bought them, meaning that it was owned by farmers now with a share of a bunch of plants. He said that he was a member of Darigold who owned the Bozeman plant, a small cooperative who merged with Darigold, a larger cooperative
 - It was not true, Mr. Lewis said, that Darigold had a new contract with Costco, they don't have a contract, but go month to month with them, selling out of their Bozeman plant
 - He said Costco sold milk cheap because they bought semi loads at a time to the point that costs had dropped and they sell milk on a 6% margin

- Mr. Lewis explained that Costco was charged different rates for different zones, the further away they were, it cost more to distribute
 - He explained that being 240 miles from Bozeman, his freight rate was \$3,000 to \$4000 higher than someone who lived in Bozeman. For outbound freight, Mr. Lewis said they charge more the farther they go
- Linden Transport hauled the majority of the milk for Darigold, Mr. Lewis said, and they had raised rates 25% in the last year
- Mr. Lewis said that he had good conversations with Miss Gentry and appreciated them. The emails that he saw on Darigold direct ship to Miss Gentry's store and several others said that Darigold raised prices. But, Mr. Lewis said they changed and other stores did as well, adding that Direct Store Delivery (DSD) service was never discontinued. Mr. Lewis said that from the emails that he saw, other stores that had DSD went to United Retail Merchants (URM), getting shipped out of Spokane
- What Meadow Gold had done in Montana, Mr. Lewis said, was pretty astronomical and that they could not replicate it, adding that Meadow Gold had a great distribution center and was probably doing it just as cheap as anybody
- Dave Lewis said he was reasonably sure someone would dual date if you paid them enough to handle the inventory and that they did that in Spokane for Coremark and URM for milk that came into Montana
 - Mr. Lewis said there was no problem with the 12-day rule, but with one warehouse, two supplies had to be managed, no different than Associated Foods would have to do...doable, but not fun
- Another solution Mr. Lewis suggested was that Associated could put a warehouse at the entry to Montana where trucks could stop and pick up milk with 12-days on it and go. He said that it would work great for Coremark trucks as they had the cooler in front with milk loaded from the side
- Mr. Lewis said that some of the little stores get milk delivered twice a week, but the easiest way for them to cut costs would be to order more, getting delivered just once a week. He said the problem though has been that they just don't have any storage space
- Jake Feddes said that it was just said that Meadow Gold did it as cheap as anybody, but, obviously, they had been losing a lot of money and that's why they had to raise prices because you couldn't continue to do it as cheap as they had been doing it. He said it was hitting every industry
- Dave Lewis said that Darigold had been losing money right and left because they couldn't pass on inflation fast enough, adding that they couldn't even get \$30/hour Union Labor truck drivers
- Gene Curry said it looked like the solution to the issue was between you guys, as the BOL was more into making sure that whatever product the consumer gets is safe and the BOL was not into trying to figure out who was going to make money and who wasn't going to make money
- Mike Honeycutt explained that the options available to the BOL were to change the rule or do nothing, as the mechanism for a temporary suspension of the 12-day rule was not there, absent of some sort of Governor's declaration and an actual disaster emergency or very extreme situation. He said that a rule change

would put you at 90-120 days out at a minimum, but, even then there would be a lot of public comment, some from industry that could be half supporting, half not supporting, and that made it difficult to make changes. The solution Mr. Honeycutt said, would probably be between business to business

- Rebecca DeMaree, Gardiner Market expressed her appreciation for being able to talk with the BOL
- Ms. DeMaree said the two-week notice received hit them as a shock and that for her store in Tier 4, it would equate to a 20% increase in the drop fee. She said she was grateful that Meadow Gold was still delivering to their town, and after figuring the numbers, she saw that with their store being the only delivery in town, Meadow Gold was still running in the hole. She apologized for having used the word “monopoly” with Meadow Gold, but Meadow Gold was their only source and that made it feel like a monopoly
 - There was already a higher product cost in Gardiner than in an urban, larger volume store, and so, the drop ship charge, Ms. DeMaree said, was still not covering costs and that she thought the 12-day rule change was the best solution, based on the information she had
- Ms. DeMaree said that even though she loved what Krista Lee Evans said about trusting Montana milk for another two weeks, that 98% of her customers had no way of knowing that product would still be good for another two weeks in the fridge
- Figuring out a solution that all parties would be amenable to, Ms. DeMaree said, would not have too big of an impact financially on other folks
- Ms. DeMaree said that she was under the impression from a local family who had a member who worked at the Governor’s Office that if this was the solution, the Governor’s Office could tell the DOL to issue an exemption for the 12-Day rule
- Mike Honeycutt said the government could do anything they wanted, with the exception of the litigation that came after that. The Governor had authority to suspend rules and various laws in times of emergency, but, Mr. Honeycutt said that to do that without those conditions was something he had never experienced before and that no one had consulted with him on that
- Mr. Honeycutt said he was putting it back for the industry people to come back and tell the BOL a permanent solution to bring forward that they all agreed to, so it could be done the proper way, because having the BOL pick winners and losers was a way to potentially unwind the entire thing
- Alicia Love urged some very serious caution to going around the rulemaking process and avoiding public comment periods as she did not want to get her Sanitarians and Bureau caught in between. She said because proper channels had not been followed on a previous rule change, there were winners and losers and now her milk budget was paying for lawyers
- Chris Schell, Reynold’s Market in eastern Montana, suggested dating the milk 12 days from pasteurization when it arrived at their store, explaining that they do that to all kinds of products in their store every day. Rebecca DeMaree said they do that with every other fresh product in their store that they make

- Rob Adamson said if you date pasteurization when it got to your store that date could be changed by three or four days. Krista Lee Evans said that they do not pre-date it. David Lewis said that Mr. Schell wanted to put the pasteurization, not the sell-by date on the milk
- Gene Curry said that every other product in the store, neither the DOL or BOL have control over. Alicia Love said that dates on meat were not regulated and that there was no set time period that meat could be advertised for, but, when Sanitarians look at what a plant was doing at the local and county level, they would make sure that the 12-Day rule was what was being offered to consumers and stores
- Mike Honeycutt said that the rule said that no person other than the packager of the milk may mark the package with the pasteurized date and a sell-by date without the permission of the DOL. Alicia Love said she needed to get herself clarified to see if the date being put on milk was spelled out in the DOL rule or if it was in the PMO
- Rebecca DeMaree said that their store was under Federal Food Safety code and they have to have a trained person in charge with food safety training. The person sets dates for product and they can come and check when their store makes sandwiches or breads in-store, as they have a set number of days for different products
 - Alicia Love said that Ms. DeMaree was referencing products made in-house and offered for consumption that needed to be controlled for Listeria because the store was considered the producer. Milk she said, was not produced in the store
- Lily Andersen said that while she appreciated the solution, she felt it was established that day that the issue was complicated and was something that she didn't feel a rule change would be made and that it would work out and it should be something to look into before just hopping on that solution
- Alan Redfield wondered if it would be an option to put some milk on a Sysco truck
 - Rebecca Donnelly said that when they looked into Sysco, the rates were nowhere near what producer rates were. She said that Meadow Gold used to take expired milk back and give credit for that product and now they dump it down the drain with no credit given
- Jake Feddes said that the issue was complicated and he didn't believe it would be solved in the next hour or today. He suggested putting together a working group with some BOL members, some industry folks and some retailers, and in 30-60 days sit down and figure out a solution
- Chris Gentry, Madison Foods Market, said she agreed to the working group and wondered if Meadow Gold could help smaller stores in outlying areas with that drop charge while the process was being worked through. Rob Adamson said he had already worked with Roger White regarding the milk situation and they worked out that the cost of the stores would move by May 1st, and that he had already told the other retailers that everything would move by May 1st, and so, it would be very difficult to take that back

- Greg Wichman agreed to putting together the working group and felt that the BOL needed to move on because he said the horse had been run around the track four or five times already. Mr. Wichman departed from the meeting at 3:44 PM (6:28:44)
- Gene Curry said that the consensus was that they were not going to solve the problem today and requested that the working group be established
- Lily Anderson said she would be the point person representing the BOL, Rob Adamson would represent Meadow Gold and Dave Lewis would represent Darigold. Gene Curry said there would be more on this by the end of the day and he would get everybody's contact information and figure out the next step of the process
- Dr. Marty Zaluski said he did not want to lose the opportunity to announce that coming down the pipe would probably be some meetings with industry on producer and processor assessments to fund the Milk Inspection Program. He said that because of its geography, Montana had three Sanitarians and that the assessments funded those Sanitarians
- Dave Lewis said that as producers it was \$12,600/year for his three inspections and he would like to see the grocery stores kick in a little help to pay for inspections because we inspect their stores

(6:33:25) **3:49 PM RECESS**

(6:33:54) **4:02 PM RECONVENE**

ANIMAL HEALTH & FOOD SAFETY DIVISION REPORTS (Continued)

(6:33:57) **4:02 PM**

(6:33:57) **4:02 PM – MEAT, MILK & EGG INSPECTION BUREAU (Continued)**

Alicia Love, Meat, Milk & Egg Inspection Bureau Chief introduced herself

(6:34:08) **4:03 PM – GENERAL UPDATES**

(6:34:08) **4:03 PM – Update/Introduction of New Meat, Milk & Egg Staff – EIAO Jay Nelson, Label Specialist Kaylee Hiel, Administrative Assistant Olivia Johnson, Meat Inspector Min Walker and Meat Inspector Alice Bruce**

Alicia Love did a quick introduction of new staff in the Meat, Milk & Egg Bureau who she said were doing orientation that same week:

- Kaylee Hiel, the new Label Specialist came over from the Animal Health Bureau
- Jay Nelson, the new EIAO, Food Safety Officer, filled the position that Alicia Love held previously
- Olivia Johnson, the new Administrative Assistant would be doing some of the work that used to be handled by Bonnie
- Min Walker, a new Meat Inspector

- Alice Bruce, the new Meat Inspector for the Manhattan/Bozeman area

(6:35:57) 4:04 PM – Rating Update for Bozeman Area BTU (Dairies) and Plant

Alicia Love thanked the BOL for allowing payment for Lynn Godfrey to do the BTU rating for the Bozeman area

(6:36:20) 4:05 PM – Alicia Love, Bureau Chief, Attendance at National Conference of Interstate Milk Shipments (NCIMS)

Alicia Love said that there had already been a good discussion on the outcome of the NCIMS Conference she had attended at the beginning of April, but said she would be happy to provide an additional information:

- Ms. Love said that she felt that a significant number of the proposals discussed at the meeting would be passed through by the FDA. She said it was a nice thing that the NCIMS meeting provided time for a lot of debate and amendments to some of those proposals, but, there were some proposals that went through without alteration by the States before they were presented to the FDA. Ms. Love said though, that some of the proposals might not go through because some folks in the room were not so sure what the unintended consequences would be if they were to go through
- In deciding on which proposals to send on to the FDA, Ms. Love said that each state had just one vote, no matter the size of their dairy industry
- Erin Burns from the Milk Lab also attended the NCIMS Conference, Ms. Love said, and there was discussion on some Lab items

(6:39:40) 4:08 PM – ANIMAL HEALTH BUREAU

Dr. Marty Zaluski, State Veterinarian, introduced himself and said that he had just a few items to present

(6:40:02) 4:08 PM – Request to Hire Compliance Tech

Dr. Marty Zaluski requested that the BOL approve the hire of a Compliance Technician position:

- Dr. Zaluski explained that Kaylee Hiel, who was hired as a Label Specialist in the Meat, Milk & Egg Bureau, had left her position as a Compliance Technician in the Animal Health Bureau, and so, that was why that position was vacant

MOTION/VOTE

(6:40:20) 4:09 PM

Jake Feddes moved to approve the hire of a Compliance Tech in the Animal Health Bureau. Alan Redfield seconded. The motion passed.

(6:40:46) 4:09 PM – DISCUSS REIMBURSEMENTS FOR DSA TESTING AT LIVESTOCK MARKETS

Ryan and Kristen Baily had questions regarding reimbursement for market testing:

- Kristen Bailey explained that they live in the DSA, and when their animals go through a chute to be bled at a particular livestock yard, they get charged \$2/head, and she was wondering if a producer could get reimbursed for that
- Dr. Zaluski explained that regarding the compensation that the DOL provides for Brucellosis testing on cattle for producers in the DSA, there was compensation for ranch testing for the Veterinarian and also compensation for those tested at the markets
- Ranch testing compensation to the Veterinarian was a sliding scale, based on the number of cattle tested, Dr. Zaluski said, adding that there was also a \$2/head compensation, a chute handling fee that typically went to that producer, regardless of the number of animals tested
- For market testing, it was a flat rate of \$7.50/animal, no matter how many animals got tested. But, there was a \$1/animal handling fee added onto to that, an extra fee the BOL had voted to add to the flat rate at a previous BOL meeting. Both of those fees, Dr. Zaluski said, went to the Veterinarian
 - Dr. Zaluski said that although it seemed to be more clear about the reimbursement for producers in ranch testing, because the money went directly to the producer, he said they didn't necessarily communicate to the markets or producers that are at the markets, there was already a handling charge included
- Dr. Zaluski said that it was never the intent of the DOL to dictate the business relationship between the producers who bring animals into the market and the Veterinarian, and he suggested to Ms. Bailey that if she felt there was already some remuneration going to that Livestock Market for handling, that she should approach that market and address the issue
- Ms. Bailey said that the producer should not be getting punished for having to get their animal bled for being in the DSA and that perhaps, rather than sending the handling fee to the market Veterinarian, maybe the Livestock Auction should fill out a form and send it in for reimbursement rather than getting paid directly and the Veterinarian having to split their reimbursement with the Livestock Auction
 - Ms. Bailey's idea made some sense, Dr. Zaluski said, and he would be happy to look into whether it would be better to have a separate dollar sent to the markets for each animal tested and whether doing that would be too cumbersome
- In some markets, Dr. Zaluski said, Veterinarians bring their own staff and they need to recoup some of those costs. But, in some markets, there was a greater contribution by the Commission Company staff, and in that case, Dr. Zaluski said, they should take the reimbursement
- Animals go through the chute, Dr. Zaluski said, for more reasons than just Brucellosis testing. They get tagged and tags were read, they get preg checked, aged and sorted
- Gene Curry said it was free enterprise and that he didn't think the DOL could dictate to a market what they could charge for, but, if the DOL was compensating someone for a chute charge, maybe they should make sure that the right person was getting compensated

(6:53:08) 4:22 PM – OPERATIONAL UPDATE

(6:58:27) 4:22 PM – HPAI Update

Dr. Marty Zaluski reported that there had been another case of HPAI two Friday's ago:

- A flock of several dozen was reported in Rosebud County, Dr. Zaluski said, adding that the disease was so fatal that by the time the DOL even started working on indemnity with USDA, all of the birds had died
- Dr. Zaluski said he expected the cases to continue to ramp up through the Spring. There was another bird enroute to the VDL now with another suspect case that had several mortalities over the last few days
- Dr. Zaluski said that he believed the virus was now at some level in our local wildlife, not just the migratory wildlife, even though it still increased with wild bird migration. But, it had not gone down to practically zero like it had in 2021, adding that in 14 months, across the entire country, he didn't believe that one week had passed without HPAI being found somewhere
- Two other possible susceptible species to HPAI, Dr. Zaluski said were, insects, such as flies and rodents who could transmit the virus through movement of debris and organic material. It was thought that in some cases, poultry houses had been infected by flies
- Gene Curry reported that they had not seen a dead goose on their property yet, compared to the previous year where there were dead geese all over the field, and when the fox came in and ate the infected dead birds, they became contaminated
- Dr. Zaluski said it was the natural progression of a virus to become less pathogenic, which he said he wouldn't doubt is what happened in wildlife, but that had certainly not been the case as far as lethality in poultry

(6:58:27) 4:27 PM – Emergency Preparedness Website

Dr. Marty Zaluski reported that Dr. Merry Michalski did a nice job in creating an Emergency Preparedness website:

- The website, Dr. Zaluski said, could be found on the liv.mt.gov, and communicated some of the resources available to producers of cattle, poultry and swine in the case of a natural disaster

(6:59:24) 4:28 PM – Hiring Update

Dr. Marty Zaluski updated the BOL on hiring in the Animal Health and Food Safety Division:

- Dr. Zaluski said that interviews had been scheduled for Friday and the following Monday to fill the position of Assistant State Veterinarian. He said there were still three candidates, one from Egypt and two others
- Nina Baucus and Greg Wichman were BOL members who had volunteered to participate in the interview process

(7:00:54) 4:30 PM – Annual Report – Animal Health and Food Safety

Dr. Marty Zaluski distributed the Annual Report of the Animal Health and Food Safety Division to the BOL:

- Dr. Zaluski explained that the document articulated all of the important work that the Animal Health and Food Safety Division had done through the year covering the Meat, Milk & Egg Bureau, the Veterinary Diagnostic Lab and the Animal Health Bureau. He said it could also be found online
- To document all of the significant items in the Report and the amount of work it took to compile the work in the Report, Dr. Zaluski said, was pretty impressive

(7:02:30) 4:31 PM – Texas Animal Health Commission DSA Import Rule

Dr. Marty Zaluski announced that a hard-won victory had been won with the State of Texas Animal Health Commission:

- Dr. Marty Zaluski explained that about 10-12 years ago the Commission had passed a rule that required cattle from a DSA be tested after entry into Texas
- Testing for sexually intact bulls not going for feeding had to be tested between 60-120 days after import. Testing for sexually-intact females had to be tested between 30-90 days after arrival into Texas. This meant that if you had a short-bred cow, that animal could be under quarantine for close to a year before she'd calve out and be eligible for testing
- Dr. Zaluski said that the Texas rule amounted to pretty much a prohibition of importation of DSA cattle. Through a lot of tactful badgering from the Montana end to the Texas State Veterinarian, Dr. Zaluski said there was a consideration of removing the rule, and at a hearing during the first week of April, it was voted to remove the restriction, but, that it would take four weeks to fully work its way through the process. Any DSA-source cattle already in Texas would have their testing requirements waived

Dr. Zaluski updated the BOL on the status of filling the vacant Assistant State Veterinarian position:

- The two candidates to fill the Assistant State Veterinarian position were scheduled for ZOOM interviews on Friday morning for one and the other on the following Monday morning
- Dr. Zaluski said that both candidates had Montana roots. Nina Baucus said she would make it work to be a part of the interviews. Dr. Zaluski said he would reach out to Mr. Wichman as well

Nina Baucus requested a discussion regarding consideration of a second system in case MSU had a cyber attack and was taken down again in the future:

- Mike Honeycutt said that both MSU and the State were targets of IT security because they both had lots of data to access and systems that could be ransomed. He said that the question was one for State ITSD and what they felt more comfortable with
- Mike Honeycutt said that training your staff and practicing good security would help guard against a cyber attack and he said that MSU's response to that recent attack was evidence that they were practicing everything they should
- Dr. Zaluski said that it wasn't for him to work out, but that they had talked to the engineers and IT about the situation

COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS/COMMENTS FROM PRODUCER ORGANIZATIONS

(7:11:33) 4:40 PM

Mike Honeycutt announced that there was no public left on ZOOM or out in the audience

SET DATE FOR THE NEXT BOARD MEETING

(7:11:47) 4:40 PM

Gene Curry requested the BOL set the date for their next meeting:

- Mike Honeycutt reminded the BOL of Memorial Day coming up at the end of May and suggested that maybe sometime in the second week of June would be a good time as there didn't appear to be anyone out of the office during that time period
- Normally, Mr. Honeycutt said, because of the books closing on July 26th, a meeting after that would not be scheduled until the end of July or early August
- Gene Curry said that Stockgrowers Mid-Year was on June 13th, and Mike Honeycutt said that the IBMP meeting was scheduled the week before that in Gardiner. He added that he would be gone on June 26th
- Jake Feddes said he would be out of town June 1 through June 9, and Lily Andersen said the beginning of June didn't really work for her business at the store. Ms. Andersen said that June 20th looked really good to her. Mike Honeycutt said the 20th would be a day that would work as he saw nothing major scheduled there and that Dr. Zaluski would be gone the following day
- The next BOL meeting was scheduled for Tuesday, June 20, 2023

MEETING ADJOURNED

(7:17:24) 4:46 PM


Gene Curry, Chairman