



# Montana Board of Livestock Meeting Minutes

December 4, 2019

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

## Board Members Present

John Scully, Vice-Chair (cattle producer)  
Lila Taylor (cattle producer)  
Sue Brown (dairy & poultry)

Nina Baucus (cattle producer)  
Brett DeBruycker (cattle producer)

(John Lehfeldt & Ed Waldner were not present)

## Staff Present

Mike Honeycutt, EO  
Brian Simonson, Deputy EO  
Evan Waters, Centralized Services  
Dan Olson, Centralized Services  
George Edwards, Livestock Loss Board  
Chad Lee, Milk Control Bureau

Donna Wilham, Adm. Asst. to EO  
Dr. Marty Zaluski, State Veterinarian  
Dr. Tahnee Szymanski, Animal Health  
Dr. Gregory Juda, MT VDL Director  
Gary Hamel, Meat & Poultry Inspection

## Public Present

Jay Bodner, MSGA  
John Steuber, USDA Wildlife Services  
Maggie Nutter, Marias River Livestock Association

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## MEETING CALLED TO ORDER

**8:00 AM**

Vice-Chairman John Scully called the meeting to order at 8:00 AM

## ROLL CALL

**8:00 AM**

John Scully requested a roll call of everyone present

- All BOL members were present except for John Lehfeldt and Ed Waldner

- DOL staff members present were Mike Honeycutt, Donna Wilham, Dr. Marty Zaluski, Dr. Gregory Juda and Gary Hamel
- No member of the public was present at the time

## **APPROVAL OF BOARD MINUTES**

**8:01 AM**

John Scully requested approval of past meeting minutes

## **MOTION/VOTE**

**8:01 AM**

**Nina Baucus moved to approve the minutes for the BOL 10/22/19 BOL Meeting. Lila Taylor seconded. The motion passed.**

## **APPROVAL OF BOARD ADMINISTRATIVE CONSENT ITEMS**

**8:01 AM**

- John Scully requested that the Animal Health Bureau's USAHA Out-of-State Travel Report be removed from the Consent Agenda
- Lila Taylor requested that the Animal Health Bureau's One Health Conference Meeting Report be removed from the Consent Agenda
- Nina Baucus requested that the Animal Health Bureau's Out-of-State Travel Request be removed from the Consent Agenda

## **MOTION/VOTE**

**8:03 AM**

**Sue Brown moved to approve the following Consent Agenda items: the Animal Health Bureau's Feral Swine Summit Report, the Meat & Poultry Inspection Bureau's Open Position Status Report and the Veterinary Diagnostic Lab Report. Brett DeBruycker seconded. The motion passed.**

## **OUT-OF-STATE TRAVEL DISCUSSION**

**8:03 AM**

John Scully asked if there were any questions regarding the out-of-state travel request that had been removed from the Consent Agenda:

- Nina Baucus expressed her concerns regarding the number of Animal Health Bureau employees absent from the Helena office during certain out-of-state travel times
- Mike Honeycutt said that there is a need for a large number of Animal Health Bureau people to be gone twice a year for travel, during the United States Animal Health Association (USAHA) Conference and the Western States Livestock Health Association (WSLHA) Meeting

- Mr. Honeycutt said that to assure that all the veterinarians did not leave the Helena office at the same time for a conference, he has requested they stagger their leaving and return times
- Dr. Zaluski assured the BOL that many of the veterinarians' colleagues attend the conferences as well, making it easier for discussion with them on issues concerning the DOL. He said business continues
- John Scully reported that during the October 2019 USAHA meeting, he had received calls at home from producers with questions regarding FPA suspects on Brucella. John said he was unable to reach anyone in Helena to speak to about the situation
- Mike Honeycutt explained that the DOL has an obligation under State policy on out-of-state travel requests to make sure that the dollars spent on that travel are to the benefit of the State of Montana and that is why those travel requests are brought to the BOL to make that determination
- Dr. Zaluski explained that he is currently the President of USAHA and that his term expires in October 2020 at their annual meeting
  - Dr. Zaluski said, that there are four District USAHA meetings each year, which has been standard travel in years past for the DOL, but as President, he is expected to attend three additional meetings plus some other occasional requests from organizations that appreciate the presence of USAHA
- The National Cattlemen's Beef Association (NCBA) executive committee had authorized coverage of expenses for Dr. Zaluski to attend their annual convention in February in San Antonio, TX

## **MOTION/VOTE**

**8:12 AM**

**Sue Brown moved to approve Dr. Marty Zaluski's travel to the Cattle Industry Convention & NCBA Trade Show in February 2020 in San Antonio, Texas. Lila Taylor seconded. The motion passed.**

## **OUT-OF-STATE TRAVEL REPORT – USAHA MEETING DISCUSSION**

**8:15 AM**

John Scully had questions regarding the Consent Agenda USAHA Meeting Report:

- In the USDA update from that meeting, the report says with the decrease in Brucellosis testing at slaughter, there is a corresponding decrease in tag retirement. Mr. Scully asked why the decrease and requested it be explained relative to the retiring of the tags
- Dr. Zaluski explained that the USDA scaled back Brucellosis testing for animals over 24 months of age, recognizing that the country has been free of Brucella. This has also created a decrease in the logging of IDs that are going onto the slaughter floor. Less testing, less reconciliation of tags from dead animals
  - In Montana, the DOL is asking for a test of all DSA animals prior to leaving for slaughter and has not been affected by the USDA decrease in testing

- Dr. Zaluski said that when Montana animals go to a slaughter plant, a certain percentage of those animals are allocated to the DOL for the Brucellosis Surveillance Credit. ID tags are retired under a national database called AHER
- John Scully requested that more information be given to him regarding the ability of USAHerds software to communicate with the Federal database
- Dr. Zaluski reported that USDA has been discussing the possibility of a cost share with producers who purchase electronic animal ID tags to receive a reimbursement to defray some of the expense of those tags
  - The reimbursement plan has been discussed since 2018, but Dr. Zaluski said he has not seen a plan for it rolled out as of yet
  - Dr. Zaluski reported that there is pending litigation regarding USDA's authority to mandate RFID tags without a rule change
- According to Dr. Zaluski, the Low-Frequency RFID tags have been very well implemented in the Canadian dairy industry, but the Ultra-High Frequency tags are currently a superior technology.
  - Sectors of agriculture right now have adopted the Low-Frequency RFID tags and have significant concerns over change to another tag because of what they've already invested in
- Brett DeBruycker voiced his concern over animal ID because he said assumptions keep variability in the market, keep competition in the market and keep pricing in the market and animal ID data gets rid of those assumptions
- Dr. Zaluski suggested that veterinarians have an obligation to vaccinate for diseases that are a current risk to the animal population and if the risk is no longer there, they should consider stopping that vaccination and putting that money and efforts towards other areas of production where there is an actual benefit rather than a potential detrimental effect, and for states that haven't seen brucellosis for 20-30 years it is questionable whether vaccination for it is an appropriate use of the producers' money
- Dr. Zaluski also reported that when Brucella vaccine is administered at the same time you're vaccinating a calf for RSV, the immune response is smaller
- John Scully felt the DOL staff should be complimented after reading one USAHA speaker's comments that said USDA program review of Montana's Brucellosis program showed that Montana successfully prevents Brucellosis from escaping its DSA
- Another comment Mr. Scully pointed out from USAHA said that DSA producers show exceptional compliance in regulations, which he said shows that educating producers has been successful and that veterinarians are being influenced by the data in this state

## **MOTION/VOTE**

**8:51 AM**

**Nina Baucus moved to approve the Consent Agenda item that included: the Animal Health Bureau's USAHA Travel Report. Lila Taylor seconded. The motion passed.**

Tahnee Szymanski answered questions regarding the One Health Conference:

- The One Health Conference is one activity where the DOL cooperates with State Public Health Officials, an activity that falls under the work plan for the annual USDA cooperative agreement with the DOL
- South Dakota has been doing One Health Conferences for eight years and now do two per year with success. The DOL has modeled their One Health Conference from South Dakota's system and hopes to continue to do them on an annual basis

## **OLD BUSINESS**

**8:54 AM**

### **8:54 AM – UPDATE ON PLANNING AND ACTIVITY FOR POTENTIAL NEW MVDL BUILDING**

#### **8:54 AM – Report on December 3<sup>rd</sup> VDL Industry Committee Meeting**

John Scully reported on the December 3, 2019 VDL Industry Committee Meeting:

- The meeting was a public one, with industry invited, having in attendance four BOL members, John Scully, Sue Brown, Nina Baucus and Lila Taylor. Jay Bodner was the only industry member of the Committee in attendance
- Mike Honeycutt, John Scully and Brian Simonson developed a process to move forward on the proposed new MVDL building that had been approved unanimously by the Stakeholder Committee for the proposed new MVDL at the meeting on December 3, 2019
- The process developed does assume that the same services will be provided by the MVDL in the new facility and covers historic data and data projected over a 3-5 years period of time
- The information provided for the process includes charts on tests by section, employees by section needed, space needed, including collateral space, critical path issues, expenses, including utilities and maintenance, Legislative Committee Recommendations per square foot, BSL3 and non-BSL3 Lab space requirements and costs
- Mr. Scully discussed funding types listed on the charts for financing the MVDL saying that it is fundamentally funded from two Legislative sessions ago from DSA general fund allocation and some from per capita
- Next session it will have to be researched whether the MVDL can still identify that 40% of its testing is for zoonotic diseases, affecting public health, which could affect the amount of general fund allocated to the MVDL
- Designated by the Legislature two sessions ago, the MVDL fee funding was changed to an enterprise fund, meaning that fees, not per capita, could be used to cover expenses without Legislative authorization

- Mr. Scully said there are many variables to consider, including whether the new MVDL space would be a new-build or a lease or possibly a remodel of the current space and should the MVDL shut down or change the services offered?

## **MOTION/VOTE**

**9:16 AM**

**Sue Brown moved to approve process for moving forward regarding the proposed new MVDL building, as presented by John Scully. Lila Taylor seconded. The motion passed.**

### **9:19 AM – Report on HB586 Committee/Board of Regents VDL Resolution**

The DOA staffs the 586 Interim Committee including members Representative Kerry White, Senator Gordon Vance, Senator Pat Flowers, Representative Brad Hamlett, representatives from FWP, the Montana Department of Agriculture, MSU President's Office, MSU Extension and DOL representative Dr. Juda. The Committee sent a letter to the MSU Board of Regents requesting that the proposed new MVDL be located on the MSU campus. The Board of Regents sent back a resolution that included the following:

- The Board of Regents stated that they commit to providing a lease of MSU property for the purpose of constructing a State-owned or leased laboratory facility, primarily for the DOL's VDL with contingencies
  - The commitment is to lease land located on the property of MSU in Bozeman, but does not say where. MSU retains ownership of the land
  - The amount of land to be leased will be appropriate for the scope of the project, but will not include future expansion or other facilities
  - The Board of Regents will consider the lease agreement when a funding source and financing plan for the facility are identified
  - The DOA must obtain the Board of Regents' approval prior to initial construction of the facility and must follow procedure
  - Neither MSU or the Montana University System will be responsible for the cost and design of construction, the site improvements or the operations and maintenance
  - At any conclusion of the lease, the lessee shall arrange and finance the decommissioning of the facility
  - A timeline was set forth of having this done by September 2022
  - The commitment is contingent on the Department of Agriculture vacating McCall Hall and relocating either to a new laboratory building or to an off-campus location
    - McCall Hall space currently occupied by the Department of Agriculture is 6,700 square feet
- Mike Honeycutt said that these contingencies are really no different than what FWP did 30 years ago in negotiating their Region 3 facilities. They have to decommission that site if they ever move

There was further discussion on some of the charts included in the MVDL paperwork put together by Brian Simonson:

- Direct lab space square footage for each section of the MVDL, including collateral square footage to arrive at a gross square footage number were listed on the chart.
- Direct lab space total is 7,000 square feet, with a gross square footage total of 13,706 at the current MVDL
- Operation and maintenance (O&M) for the current MVDL is \$139,395 per year
- An estimate of new construction cost for 13,706 square feet of space, the amount at the current MVDL, is \$10.377 million, Estimated renovation cost of the current MVDL would be \$8 million
- An estimate of new construction cost of the 40,000 square foot facility drawn up by the Legislative Lab Committee would be around \$27 million. O&M costs for that same size facility are estimated to run around \$326,000 per year
  - Dr. Juda explained that the 40,000 square-foot model suggested by the Legislative Lab Committee includes all the “bells and whistles” and even options, such as food testing, that are not done in the current MVDL, but might be considered in the 30-50 year future
  - Dr. Juda said, that possibly the new MVDL could add classroom or lecture space to help work in collaboration with MSU’s veterinary program
- Mr. Scully said that funding sources for the new MVDL need to be considered as per capita fees, NAHLN funding, general fund and current lab fees probably won’t pack it in
  - One item not figured for certain in considering funding sources for the new MVDL would be 3-5 year projections of growth in the MVDL, including projections by test, number of employees or space needed
  - Mr. Scully said that funding from USDA for Brucellosis could dry up if it is removed from their list and no longer considered a terror threat
  - The USDA is funding an employee at the MVDL who is working there on Brucellosis.
  - Mike Honeycutt said that the MVDL does surveillance testing for Brucellosis, and USDA uses other labs to do confirmatory testing and he does not see USDA ceding that confirmatory testing out to satellite campuses across the country
- Mr. Scully suggested having three to four people, including Dr. Juda, a BOL member and someone from industry go to view neighboring VDLs to get a better idea to give to the architects of what the proposed news MVDL should look like

Mr. Honeycutt reported that the next meeting of the 586 Committee is scheduled for January 17, 2020 in Helena and that Dr. Juda will be in attendance

**10:14 AM –RECESS**

**10:31 AM – RECONVENE**

## **OLD BUSINESS**

**10:31 AM**

### **10:31 AM – ORGANIZATIONAL RULE UPDATE**

John Scully opened discussion on updating the Montana Department of Livestock Organizational Rule, per Legislative request:

- The Legislature divided the Montana Department of Livestock into three funding Divisions, now listed in the Organizational Rule
- Current statute says that an Executive Officer may be hired by the Board of Livestock and is at the pleasure of the Board of Livestock, but John Scully requested to add a reference, if necessary, that an Executive Officer of the Board of Livestock can be a contracted employee
- Rather than say that the VDL protect the public health by testing, the rule now states, assist the DPHHS in diagnosing zoonotic diseases
- The Organizational rule update lists that both the Milk Control Bureau and the Livestock Loss Board are administratively attached to the DOL
- The specific names of BOL members have been removed from the Organizational Rule but are available upon request

## **MOTION/VOTE**

**10:40 AM**

**Nina Baucus** moved to approve the Organizational Rule as drafted, with addition of the reference section as mentioned by **John Scully**. **Sue Brown** seconded. The motion passed.

### **10:40 AM – PERSONNEL UPDATES**

#### **10:40 AM – Update on Brands Division Administrator Position Description**

Mike Honeycutt reported that the Brands Division Administrator job description that was approved by the BOL earlier this year had been approved and is now the official one:

- Mr. Honeycutt requested that the BOL approve opening the Brands Division Administrator position so it can be posted tomorrow and be open through the first week in January so that applicants can be screened, with interviews to be held in mid-January
- The position would be advertised as a Band 7, the same level as the Deputy Executive Officer and State Veterinarian, but, Mike Honeycutt recommends posting the optimal hiring range a tier below those levels at \$40-\$42 per hour or roughly \$84,000 per year

## **MOTION/VOTE**

**10:41 AM**

**Lila Taylor** moved to post the vacant Brands Division Administrator position. **Brett DeBruycker** seconded. The motion passed.



## MOTION/VOTE

**10:43 AM**

**Lila Taylor moved to post the vacant Brands Division Administrator position immediately. Nina Baucus seconded. the motion passed.**

### **10:44 AM – Update on Current Open Hiring Processes**

- *Meat & Poultry Inspection Bureau*
  - The NW Regional Supervisor position is filled
  - The Compliance Officer position is almost filled
    - Applications have been gone through and now interviews are being set up
    - The new Compliance position was advertised in a couple locations, but won't be housed near Bozeman, so that more of the state is covered. The position requires the applicant to be within 30 miles of the stated location
  - The Relief Inspector positions have both been filled
  - The Kalispell Inspector position has been filled
  - The Billings Inspector position has been posted and applications are being gone through, getting ready for interview set-ups
- *Brands Enforcement Division*
  - The Market Auditor position is open
    - The Market Auditor position description was last updated in May 2006, and needs to be updated, and to consider statutorily in the future what the DOL will be doing in a new livestock sales environment
  - The Market Auditor conducts investigative audit to detect potential violations, reviews the operation of the livestock market, such as financial data and description subsidiaries which may be involved in the purchase and sale of livestock, information that comes from the Local Livestock Inspector

## MOTION/VOTE

**10:54 AM**

**Brett DeBruycker moved to immediately post the vacant Market Auditor position in the Brands Enforcement Division. Sue Brown seconded.**

- It was decided that a committee of Brett DeBruycker, BOL Personnel Chair, and Lila Taylor meet with Mike Honeycutt in a February/March time frame to discuss updating the job description for the Market Auditor position

- Mike Honeycutt said that the knowledge skills and abilities on the current Market Auditor job description require several years of accounting and audit and hiring a person requiring those skills will still be required in an updated job description
  - The Office Manager position is still open as it went out one time for applicants and the pool of applicants received were not satisfactory. Mr. Honeycutt said it would be reposted
  - Mr. Honeycutt said that the Western Supervisor position has been kept open as it is not a critical one to fill right now and that the payout for the retiring employee was long term
  - A requested agenda item for the next BOL meeting was a review of both the Western and Eastern Supervisor positions
  - The application period for the open Lewistown District Investigator position has been closed and the interview done, but no offer has been made as of yet
- The open positions at the VDL and in the Milk & Egg Bureau would be discussed during their presentation time at today's meeting

### **11:01 AM – Pending Retirements**

Dr. Zaluski reported on the two pending retirements in the Milk & Egg Bureau:

- Dan Turcotte, Bureau Chief and Roy Hall, Sanitarian, both long-term employees, submitted their resignations effective January 1, 2020
- Dan Turcotte said that he would be potentially open on a limited basis to return as a contracted employee, however, a six-month separation is required before that could take place
- Within the past year, Alex Dachs was hired, who completed his Sanitarian training, working both milk inspection and learning the operations at the egg plant, and he has been working with Dan Turcotte on a transition plan.
- Both Alex Dachs and Rosemary Hickey, another Sanitarian, are continuing in the Milk & Egg program. Dr. Zaluski said, with the majority of egg inspections happening at the Great Falls egg plant, for the short term, operations should be at status quo, without the need of adding additional days of egg grading
- Dr. Zaluski requested to hire the Inspector position first, because if training is needed for the new employee, it takes about six months

## **MOTION/VOTE**

### **11:11 AM**

**Lila Taylor moved to hire the vacant Inspector position in the Milk & Egg Bureau. Sue Brown seconded. The motion passed.**

- With \$80,000 in payouts, Mike Honeycutt said that he thought the hiring of a Bureau Chief in the Milk & Egg Bureau would be significantly down the road

- It was requested that at the next BOL meeting that a financial report showing the financial issues to be dealt with regarding the retirements be brought to the BOL for discussion

### **11:18 AM – Discussion on Job Classification for Brands Investigators**

Mike Honeycutt reported that the job description for the Brands Investigators had been sent out to them for review:

- Mike Honeycutt said he would consult legal counsel regarding questions arising from the BOL regarding the appropriate role for the Brands Investigators relating to County Attorneys and Sheriffs dealing with crime activity and how they are to report it
  - Mr. Honeycutt said his understanding over time is that it is the responsibility of the DOL to investigate those criminal codes assigned to the DOL and take that information to the County Attorney with a recommendation of what to do, but it is the County Attorney's decision of how to proceed forward
- In regards to Animal Welfare cases, the Sheriff's Department is in charge of those cases; the DOL is there to identify ownership
  - In the new law just passed, it requires that the DOL be present in a minor role, to pass an opinion of what they see as normal ranching activity, in animal seizure cases when the veterinarian does their initial inspection
- A target of the next BOL meeting was set for the BOL to supply any amendments, subtractions or conflict resolutions on the Brands Investigator job description

## **NEW BUSINESS**

**11:25 AM**

### **11:25 PM – ECONOMIC AFFAIRS INTERIM COMMITTEE/LEGISLATIVE WEEK UPDATE**

Mike Honeycutt reported that the DOL is not on the agenda for the Economic Affairs Interim Committee meeting on January 15, 2019:

- Mr. Honeycutt explained that January 13-17, 2020 is when all Legislative interim committees are scheduled to meet in Helena
- Mr. Honeycutt said that Dr. Szymanski will be doing an update on feral swine and report on DOL activities in regards to them, at the EQC during that week
- The HB586 Committee will be meeting on January 17, 2020 in Helena
- John Scully requested that at the next BOL meeting that there be discussion on the additional steps the DOL needs to take regarding communication and providing information to the industry

### **11:27 PM – INTERAGENCY BISON MANAGEMENT PLAN (IBMP) DECEMBER MEETING RECAP**

Mike Honeycutt reported on the IBMP meeting that he and Dr. Zaluski had attended on December 3, 2019:

- Mr. Honeycutt explained that much of the meeting covered areas that the DOL did not have any bearing on
- Improving the safety and quality of Tribal Hunts was discussed, typically the ones taking place on the north side in the area of Bay Gulch
- Much discussion occurred regarding carcass management, with one speaker who discussed carcass composting to help remove some of the offal off the landscape to deter predators
- There was discussion, but no subcommittee set up, on bison being allowed to roam year-round on the west side of the Park, which includes West Yellowstone, up the Big Sky side of tolerance and the Taylor Fork Drainage area. This has been a controversial issue for residents in those areas
- Currently, at Stephens Creek, the Park Service is holding 24 individual bison, mixed cows and bulls, in quarantine
  - In the APHIS group of bison, there are 14 cow/calf pairs currently under quarantine, plus three bulls
- Fort Peck reported that the first five bison received there a little over a year ago have completed their QA testing. The 55 bison received this summer are about half way through their QA testing programs
- There were no big changes in the 2019-2020 Winter Operations Plan for YNP
  - The 2018 number of bison in YNP after calving count at this time last year was 4,600. Through the operations of the Winter Operations Plan, that number was brought down to 4,100. Heading into the 2019-2020 Winter Operations Plan, the after-calving count right now is estimated to be 4,900
  - The Central bison herd in YNP is about 60 to 40, male to female ratio; the Northern herd is roughly a 50 to 50 male to female ratio
- To help balance bison population, YNP announced that they have a plan to capture about 110 animals of various ages and sexes for future quarantine because they have built quarantine facilities at Stephens Creek
- The goal of bison removal last year was 600-900. Depending on winter-kill and predation, to reach those numbers, some removal may have to come from hunting or ship to slaughter. Hunting has not been effective in past years with only around 300 taken on a high-end year
- Dr. Zaluski said that a best-rule-of-thumb method of figuring bison population in YNP is that aside from winter-kill or predation, the herd will grow about 13% per year
- Another rule-of-thumb rate Dr. Zaluski reported is that the Brucellosis rate in the bison has remained at a steady state of around 50%, with six out of 10 bison calves born out of Brucellosis-positive or Brucellosis-exposed females
- A citizen's group on the Beatty Gulch area had sought a preliminary injunction against hunting activities in that area and the north side of the Park for this year. That injunction has been denied and the Federal Government has been successful in changing the venue of the case into the hands of Judge Waters at the Montana US District Court

- Maggie Nutter and Kameron Kelsey from the Nine Quarter Circle Ranch appeared to be the only two people at the IBMP meeting with a ranching interest
  - Maggie Nutter expressed that her concern at the IBMP meetings is the public comment for expansion of tolerance, which she says is expansion of territory, and that means an expansion possibility of the DSA

## **LEGAL COUNSEL UPDATE**

**11:42 AM**

John Scully adjourned the meeting into an Executive Session to meet with legal Counsel Rob Stutz by conference call

**11:14 AM – EXECUTIVE SESSION**

**12:14 PM – RECONVENE**

**12:14 PM – LUNCH**

**12:47 PM – RECONVENE**

**12:47 PM – CENTRALIZED SERVICE DIVISION REPORTS**

**12:47 PM – LIVESTOCK LOSS BOARD**

George Edwards reported that he had attended the Northern Continental Divide Ecosystem (NCDE) meeting in Missoula on December 3, 2019:

- After it was mentioned at the meeting that one of the goals of the NCDE is to try to keep livestock predation down to 2018 levels, Mr. Edwards informed them that those levels have already been exceeded this year and that right now, the LLB has paid for one more head of livestock than in all of 2018 with two months' worth of claims still to come in
- Mike Honeycutt and George Edwards are on the Friday agenda of the 2019 Montana Woolgrowers Association annual convention
- Mr. Edwards planned to attend the MSGA Land Use and Environment Committee meeting during their annual convention because of them possibly addressing the processes of Wildlife Services and also claims from the LLB
- Mr. Edwards reported that one landowner to whom many predation claims had been paid already this year had decided to pull their lease for three years and not put any animals on the land. He added that the neighbors to that landowner expressed concern because when those cattle are gone, their cattle may be next for the grizzly bears
- Mr. Edwards reported that since the per capita law had taken effect on October 1, 2019, he had two people who requested predation claims pay their per capita. He handed out a list to the BOL members of all predation claims since the first of the year and whether or not the claimant had paid per capita

- According to Mr. Edwards, the average price paid to predation claimants for a bred cow is around \$1,200

### **12:59 PM – VOTE ON EXECUTIVE SESSION DISCUSSION**

John Scully asked for a vote on the legal strategy discussed during Executive Session dealing with a letter claim that had been committed to the BOL for consideration:

- Mr. Scully said that his belief is that the amount of money to be dealt with is within the scope of Mike Honeycutt's authority as Executive Officer of the DOL

### **MOTION/VOTE**

#### **1:00 PM**

**Nina Baucus moved that Mike Honeycutt move forward with the settlement discussed in the Executive Session held earlier in the day, contingent upon his getting a release for claims subject to his authority to negotiate. Lila Taylor seconded. The motion passed.**

### **1:00 PM – CENTRALIZED SERVICE DIVISION REPORTS CONTINUED**

#### **1:00 PM – PREDATOR CONTROL**

##### **Update on Activities of USDA-Wildlife Services**

John Steuber, State Director, gave updates on activities of USDA Wildlife Services:

- A feral swine summit was held on November 15, 2019 with USDA Wildlife Services, the DOL and the Invasive Species Council
- The Farmer's Union and the Marias River Livestock Association had USDA Wildlife Services speak about feral swine at meeting held at the Port of Sweetgrass
- A letter was received by the APHIS Administrator from Senator Jon Tester on December 3, 2019, asking that APHIS make sure to keep feral swine out of Montana
- The 1095 Tango helicopter located in Helena is in for a complete engine overhaul at a cost of \$160,000. Both the 1095 Tango and the 6962 Charlie helicopters will be due for replacement of a main rotor hub assembly in about 1 ½ years
- Coyote work has slowed down this time of year while grizzly bear work has dramatically increased because of livestock depredations
  - In 2013 the number of depredations and investigations for grizzly bears was 25 statewide; this past year it was up to 157
  - There are serious grizzly bear problems in the Gravellies, Red Lodge and the Rocky Mountain Front
- Lion depredations have been up dramatically the last few years with lion depredation reports doubling the year after the Legislature started making

payments in 2017. This past year, the investigations were up to 76, mostly sheep

- Black bear range has been expanding, especially around Miles City and Rosebud County. The biggest issue with black bears is unprotected bee yards
- Wolf investigations went from 93 last year to 104 this year, which was about half of what it was in 2009-2010, when wolf depredations were high
- The Deputy Administrator for USDA-APHIS Wildlife Services, Janet Bucknell will be in Montana to attend and speak at the Montana Woolgrowers Association annual convention
- Because John Steuber will be at other meetings in Fort Collins at the time, Kraig Glazier and Dalin Tidwell will be in attendance at the Montana Stockgrowers Association Land Use and Environment Committee meeting during their annual convention
- John Steuber discussed the need to replace the two DOL helicopters in 3-5 years, which are 1968 and 1970 models
- He said that for a used helicopter, similar to the models currently in use, and with 6,000-8,000 hours of time on the airframe could cost around a million dollars
- John Scully requested that at the next BOL meeting a plan regarding the purchase of helicopters for use in the predator control program and answer the question of whether or not the DOL has authority to set aside monies for capital replacement or if it can be done relative to the DOL's current situation
- The status of the MOU between Wildlife Services, the US Fish & Wildlife Service and Montana FWP was discussed, which is renewed every five years, according to John Steuber
  - If grizzly bears are delisted, Wildlife Services would be under the management authority of Montana FWP. Currently, grizzlies are still listed and Wildlife Services is under the management authority of the US Fish and Wildlife Service
- George Edwards reported that at the NCDE meeting, Montana FWP said they are now working on a statewide grizzly bear management plan rather than dividing it up into regions

## **1:05 PM – MILK CONTROL BUREAU**

Chad Lee reported on the recent activities at the Milk Control Bureau and Milk Control Board:

- The Milk Control Board's next meeting is scheduled for Friday, December 13, 2019 at 11:00 am in the Capitol building. Agenda items for that meeting include:
  - Legal counsel regarding the Dean Foods Chapter 11 Bankruptcy Filing and public comment on that
  - The Milk Control Bureau's recommendation for FY20-FY21 Milk Control assessment rates, and the Bureau's recommendation to decrease those rates by 8.3%

- Explore the idea of an ad-hoc committee by producers to basically provide input on Board of Milk Control rulemaking, building some consensus in industry and then coming to the Board
- Receiving the Milk Control Bureau report – Finances and Milk Control Bureau activity that involves cross-training, documenting processes and managing the impact of the October 2018 price formula change
- Consider potential amendments to the Administrative Rules to the Producer Committee (A committee consisting of producers of dairy farmers with authority to approve transfers of quota and take over marketing of raw milk sales and raw milk sales that go out of state). It will be explored whether to continue that committee and have public input on that
- Discuss the September 19, 2019 memorandum from the DOL regarding out-of-state travel authorization

Chad Lee reported that Dean Foods, at least for the short term, has paid producers for the milk they purchased in October and will continue to pay for the milk they purchase from producers

- Dean Foods have paid the Milk Control Bureau's and Milk & Egg Bureau's assessments that were withheld from producers' payments and submitted that to the DOL
- Chad Lee said that even though Dean Foods has not paid milk control assessments assessed on the plants as distributors of milk assessments that the plants owe for the Milk & Egg program, he feels those will be paid
- According to Chad Lee, the court has ordered a preference for producer compensation, but he won't speculate how all of it will fall out
- Mr. Lee reported that of the 49 dairies in the state that are part of the pool, 30 of them are part of the Dean Food pool

## **1:38 PM – ANIMAL HEALTH & FOOD SAFETY DIVISION REPORTS**

### **1:38 PM – VETERINARY DIAGNOSTIC LABORATORY**

#### **1:38 PM – Request to Hire Two Lab Technician Positions**

Dr. Greg Juda requested that the BOL approve his hiring of two Lab Technician positions at the Veterinary Diagnostic Laboratory:

- A Clinical Microbiologist position was vacated due to a recent resignation

## **MOTION/VOTE**

### **1:39 PM**

**Sue Brown moved to hire the vacant Clinical Microbiologist position at the Montana Veterinary Diagnostic Laboratory. Brett DeBruycker seconded. The motion passed.**



- A Lab Technician position has been open for about a year and a half, and Dr. Juda would like to fill it with a Lab Technician who would primarily support the Molecular Diagnostics Division and cross-train to support other lab sections

## **MOTION/VOTE**

**1:40 PM**

**Brett DeBruycker moved to hire a Lab Technician position at the Montana Veterinary Diagnostic Lab, that would primarily support the Molecular Diagnostics Division and cross train to support other Laboratory sections. Sue Brown seconded. The motion passed.**

### **1:40 PM – Request for Capital Equipment Purchase**

Dr. Greg Juda requested that the BOL approve the purchase of an ultra-low temperature freezer for the Serology Laboratory Section:

- The previous freezer was shared by MVDL and USDA for the Brucellosis surveillance program, but, it failed
- With the transition from the Wrap assay to the FP assay for testing for Brucella, USDA provided the Animal Health Division with \$65,000 in equipment funding slated for a plate reader
- Dr. Juda explained that the MVDL was able to obtain a plate reader, free-of-charge from MDSL, but if approved by the BOL, would request approval to purchase the ultra-low freezer instead
- Dr. Juda would like to allocate \$9,500 of the \$65,000 towards the freezer that would be shared by the Serology Laboratory and USDA to support the Brucellosis program

## **MOTION/VOTE**

**1:42 PM**

**Brett DeBruycker moved to reallocate \$9500 of USDA funding to the MVDL to purchase an ultra-low temperature freezer that would be shared with USDA and used to support the Serology Laboratory's Brucellosis program, at the Veterinary Diagnostic Lab, if approved by USDA. Lila Taylor seconded. The motion passed.**

Dr. Greg Juda gave an update on the status of the MVDL's incinerator:

- Dr. Juda said that the cost of repair for the incinerator was more than the \$60,000 planned, and ended up costing around \$90,000
- Because damage to the floor was more extensive than was thought, the entire floor of the incinerator was replaced, along with a door hinge, air piping and other things that were rusted and corroded, taking five full days to complete rather than just one day

It was requested that Dr. Juda bring back a proposal to the next BOL meeting for authorizing 2-4 people to visit other veterinary laboratory sites

## **1:49 PM – ANIMAL HEALTH BUREAU**

### **1:49 PM – Brucellosis Update**

Dr. Tahnee Szymanski provided the Brucellosis update, as Dr. Liska was working in the field:

- The transition in mid-October from the wrap screening test for Brucellosis to an FPS test has resulted in a large number of suspects, compared to previous years
  - Since November 27, 2019, 48 animals from 29 different herds were suspect or reactor animals. 27 of the herds have been released from quarantine and 16 animals are being held for retest
- GYA states were forced into different screening tests due to a terminal breakdown at MDSL that could not be repaired
- The DOL chose the FPA test due to its rapid turn-around time, but it is more sensitive and more specific
- The DOL is working with USDA to come up with a protocol for the new FPA test and is currently operating under an interim protocol from USDA Ruminant Health that allows most herds to be off quarantine in 5-7 days or less
  - Summaries of the interim protocol have gone out to veterinarians who do work in the DSA so they can explain the new testing procedures with their clients.
  - The BOL suggested having some kind of document put together as well for producers regarding the change in testing
- Dr. Szymanski explained the steps followed in the testing under the interim protocol and that, depending on the FPA values, the MVDL results can be used to declare animals, otherwise they are sent to an out-of-state laboratory
- The MVDL Serology Lab has started running the secondary tests, called CFs, about two or more times a week
- The diagnostic purchase rate paid to the producer from USDA for a euthanized animal in this Brucellosis testing process is a flat fee of \$250
- A buyout for a Tuberculosis-suspect animal to a producer by USDA is fair market value
- It was requested that the veterinarians have an emergency number where they can be reached when they are on the road
- Dr. Szymanski said that allocated within the Federal Cooperative Agreement there is an amount of money to be transferred to FWP for live elk captures. DOL meets with FWP staff and regional biologists to plan out locations for the winter live elk captures
- Dr. Szymanski received a message from Dr. Eric Liska who reported that in the Gravellies, south of Alder, and in the Wine Glass Hills, northwest of Livingston, will be the locations of live elk captures this coming winter
  - Dr. Szymanski reported that FWP no longer does elk site testing when they do live elk captures. They collect samples from captured elk, randomly collar the animals and have blood tested at the MVDL

- Dr. Zaluski said to note that there is a significant overlap between the genetic profiles of Brucella isolated from bison and that isolated from elk and that localizing it back to which population it came from is difficult

### **2:25 PM – Tuberculosis Update**

Dr. Tahnee Szymanski reported that two of the three Bovine Tuberculosis epidemiological investigations the DOL had been working on in Montana had been completed:

- The latest test to be completed, the June 2018 detection of bovine tuberculosis in a steer at slaughter in South Dakota resulted in the following statistics
  - 4867 animals tested, 44 Caudal Fold Test suspects, 2 Comparative Cervical Test suspects, 0 Bovine Tuberculosis Reactors
  - 25 Staff worked on the investigation for a total of 2,027.5 hours and total mileage of 47,482
    - Animal Health Bureau employees who worked on the investigation had their time coded to the Federal Cooperative Agreement
    - Brands employees who worked on the investigation coded their regular eight hours to the DOL and any overtime accrued was charged against the Federal Cooperative Agreement
  - Dr. Szymanski reported that an assembled group of animals from multiple locations in the investigation were not required by USDA to go to the next level of dilution in the trace-out
  - The DOL followed the recommendation of USDA for some herds involved in the investigation that did require testing, but did not require them to be under quarantine
- The March 2019 Investigation, where a cow was found positive at slaughter at a plant in Nebraska was a direct trace back to a Montana herd. That investigation is not yet completely closed out as that herd is still required to do assurance tests

Dr. Szymanski reported that the number of official calfhood vaccinates (OCV) in the state of Montana suggest that most of the replacement animals are being vaccinated

- John Scully requested that a percentage of those OCVs be given to him
- John Scully also requested that a comparison be put together of how handling of brucellosis cases has changed in the last five years
- Nina Baucus requested that information regarding a Texas dairy where tuberculosis was found, how their restitution issue was handled

### **2:47 PM – Response to Comments – MAR Notice 32-19-298**

Dr. Tahnee Szymanski reported on the status of the proposed changes to the Administrative Rules listed in MAR Notice 32-19-298 that the BOL had previously been approved for public comment:

- ARM 13.4.301, Inspection of Alternative Livestock and ARM 13.4.1302, Requirements for Mandatory Surveillance both contained a change that would allow the amount of time an alternative livestock producer has to report a dead animal to the DOL from one day to five days, which is consistent with Federal CWD program standards

- One comment received voiced concern that the change would decrease the likelihood that would confirm a diagnosis or cause a death on game farm deaths, or may hinder the ability to obtain samples for CWD testing
  - Dr. Szymanski explained that these proposed rule changes do not change the requirement for alternative livestock users to test mortalities for CWD and mechanisms have also been added to the rule that would allow the DOL to address missed samples. So, her proposal is to adopt the changes as proposed

## **MOTION/VOTE**

**2:49 PM**

**Sue Brown moved to adopt the proposed changes in ARM 32.4.301, Inspection of Alternative Livestock and 32.4.1302, Requirements for Mandatory Surveillance, as presented by Dr. Tahnee Szymanski. Brett DeBruycker seconded. The motion passed.**

- Dr. Szymanski requested that due to some discovered mistakes, ARM 32.4.1309, Import Requirements for Cervids, be vacated and added to a new proposal to be republished

## **MOTION/VOTE**

**2:51 PM**

**Brett DeBruycker moved to vacate the proposed rule changes for ARM 32.4.1309, Import Requirements for Cervids, and republish it with a new proposal. Sue Brown seconded. The motion passed.**

- Dr. Szymanski's next request was that the remaining administrative rules listed in the original proposal be adopted
- One public comment had been received that was generally, a comment in support of the changes that stated the proposals will help to limit the spread in alternative livestock and reduce the risk of spillovers

## **MOTION/VOTE**

**2:52 PM**

**Brett DeBruycker moved to adopt the remaining proposed changes to rules in MAR 32-19-298, as presented by Dr. Tahnee Szymanski. Sue Brown seconded. John Scully voted no. The motion passed.**

**2:54 PM – RECESS**

### **3:09 PM – RECONVENE**

### **3:09 PM – CENTRALIZED SERVICE DIVISION REPORTS CONTINUED**

### **3:26 PM – FISCAL BUREAU**

#### **3:09 PM – Aerial Hunting License Renewal**

A reminder was given to the public that pilots can apply any time during the year with the DOL for their aerial hunting license renewal. The reporting deadline is January 31, 2020:

- The aircraft flown and pilot's license must be registered with the Department of Transportation Aeronautics Division
- This is the first year, with legislation just passed, that allows the DOL to use some of the \$50 filing fee for administrative purposes
- The Legislature capped the amount that the DOL can utilize for administrative purposes for processing aerial hunting license renewals at \$2,500. Last year \$1,800 was collected in aerial hunting fees by the DOL

#### **3:11 PM – October 31, 2019 State Special Revenue Report**

- Brian Simonson said that Local Inspection Revenue is down in the Brands area at \$98,820 as of October 31, 2019. That is 8% closer than last month
- Market Inspection Fees are 20% ahead of this time last year
- Per capita fee numbers are on par with last year's numbers
- While last year in the VDL State Special Revenue numbers were down \$56,000, this year the numbers are running positive

#### **3:13 PM – November 2019 through June 2020 Expenditure Projections**

- Brian Simonson reported that the positive Budgeted Funds total of \$570,355 shows the DOL is solidifying with a growth of \$1,602
- In total Personal Services, the DOL is \$281,635 projected better than was budgeted
- There are some vacancies and other things lending to the Brands total Personal Services number being \$97,000 to the positive and the VDL Personal Services number being \$80,000 to the positive
- Total Operations number shows \$283,181 positive for the DOL, with \$153,000 in the Centralized Services Division and Brands at \$65,000. Mr. Simonson feels that there is underspending and possibly over-budgeting in those areas of contracts, rents and other expenses that may be lending to those numbers that are very similar to how they did last year

#### **3:16 PM – October 31, 2019 Budget Status Report**

- Brian Simonson reported that with 25% of the budget year lapsed, the DOL has 24% of the budget expended

- Personal Expenses expended as of October 2019 were almost \$200,000 higher than October 2018
  - Mr. Simonson said that in his estimation, the higher number indicates a fuller employment in the DOL, but being 3% from the budget number also indicates that there still are some vacancies
- There is a 10% increase in Operations, being \$91,500 over this time last year, but slightly under for the budget year
- Mr. Simonson explained that the DOL does not fill retirement vacancies until the sick leave and vacation has been paid for and the DOL is solvent again going forward, which maintains a balanced budget per person
  - Mike Honeycutt explained that employees who retire after working for the DOL for 30-40 years and are at their max accrual because they have not taken time off, can receive a maximum of 384 accumulated hours vacation pay and one-quarter of their accumulated sick leave at the time of their retirement
  - Unlike vacation days, that can be lost if not used, comp time is paid. Once the maximum comp time is reached, overtime must be taken

### **3:26 PM – INFORMATION TECHNOLOGY**

#### **3:26 PM – Follow Up to Customer Reports on Online Permits System**

Dan Olson gave an update on the online permits (market, bison, sheep) that rolled out on November 7, 2019:

- Montana Interactive went through a major update, which caused some statewide network latency issues
  - Complaints received from those affected by those latency issues have been followed up on and many of them were because of people's own outdated web browsers and connectivity issues and many were also having issues getting used to using the new updated system
  - On December 5, 2019, Mr. Olson reported that there was going to be an update to fix the bugs that were identified, followed by a meeting with Montana Interactive to "mop up" any other issues. That meeting would be attended by himself and Brands representatives from the DOL
  - DOL IT is also compiling spread sheets to record any more issues and any enhancements that people feel should be added to help them with the new system
- Since November 7, 2019, Mr. Olson reported that there have been six online bison permits, 38 online sheep permits and 676 online market permits (shipping permits) through the new system

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

**3:31 PM**

Maggie Nutter, President of the Marias River Livestock Association, was the only one who presented public comment:

- Ms. Nutter reported that at a recent Farm Bureau Convention there was discussion and upset expressed about the DOL's consideration of raising brand rerecord fees and the possibility of that fee only covering one species of animal
- Ms. Nutter mentioned several instances where she felt the DOL should have communicated better with the public
  - She said she has been fielding many questions regarding wild hogs from the public and even though Dr. Tahnee Szymanski has done good work regarding invasive species, she said that people still have a lot of questions and are not hearing answers from the DOL
  - There was no press release regarding Leslie Doely, Brands Administrator leaving her post for another position in the DOL and Ms. Nutter felt the public should have been made aware of that change in Division heads
  - There are questions as well from the public, according to Ms. Nutter, about the bison quarantine and movement and the Fort Peck Tribe bison quarantine
- Ms. Nutter said that she is probably the closest thing the DOL has for media in the room because she'll probably put some items in her newsletter. She said the DOL needs to consider filling a public relations or communications position so the industry gets DOL information first hand
  - Ms. Nutter questioned whether Dr. Szymanski has the time to write the press releases on the changes in Brucellosis testing or the grizzly depredations in the Gravelly Mountains
  - John Scully said that Ms. Nutter's points were well taken and that the DOL did request from the Legislature such a position, and sharing a position with another Department, but it was rejected

## **BOL DISCUSSION**

**3:41 PM**

- Lila Taylor requested that by the next BOL meeting, that Mike Honeycutt have information put together for who the Brands Inspectors answer to, who do they call if they have questions, or to get their brands books from, since the exit of Leslie Doely as Brands Administrator
- John Scully requested that an agenda item be placed on the next BOL meeting agenda that will address the rerecord fee, which had been tabled at an earlier meeting
- Nina Baucus requested that a method be figured out of how to collect per capita for all state livestock, because per capita monies are what will be used to purchase a new helicopter for the DOL
  - John Scully said that George Edwards had identified a methodology that had been solved by legislation
  - Lila Taylor suggested that finding out how many cattle are assessed under county petitions might be another way to find out how many people are not paying per capita

- Mr. Scully said that until a method is developed to electronically cross interface programs such as permitting, sales reports, local inspections to those who pay the tax, the only other way to figure it would be manually, done by possibly Doctoral candidates or data specialists hired by the DOL
  - Nina Baucus said she felt that the per capita not being paid on horses in the state could be a large number as Ernie McCaffrey said there were at least 70,000 horses in his District, but that only 40,000 were listed on the per capita rolls at that time
  - Lila Taylor said that NASS figures presented when she served in the Legislature were 110,000 horses in the state of Montana
- John Scully requested that the issue of the most lucrative opportunity to cross match data for tracking per capita be put on the agenda at the next BOL meeting along with discussion of changing the statute dealing with the per capita penalty fee
- John Scully requested that at the next BOL meeting, it should be discussed how much per capita fee over what period of time should be set aside for the purchase of DOL helicopters

## **SET DATE FOR NEXT BOARD MEETING**

**4:02 PM**

Mike Honeycutt reminded the BOL that Legislative week was scheduled for January 13-17, 202 and that January 20, 2020 is a State holiday

The next regular BOL meeting was tentatively scheduled for Thursday, January 23, 2020 in the BOL conference room in Helena


## **MOTION/VOTE**

**4:07 PM**

**Brett DeBruycker moved to adjourn the BOL meeting. There was no second.**

## **MEETING ADJOURNED**

**4:07 PM**

  
John Scully, Vice-Chairman