



# Montana Board of Livestock Meeting Minutes

August 28, 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)  
Ed Waldner (swine producer)

Nina Baucus (cattle producer)  
Sue Brown (dairy and poultry)

(John Lehfeldt & Brett DeBruycker were not present; Nina Baucus arrived at 8:12 AM)

## Staff Present

Mike Honeycutt, EO  
Brian Simonson, Deputy EO  
Evan Waters, Centralized Services  
Dan Olson, Centralized Services  
Dr. Marty Zaluski, State Veterinarian  
Dr. Tahnee Szymanski, Animal Health  
Dr. Gregory Juda, VDL  
Tess Moore, VDL

Donna Wilham, Adm. Asst. to EO  
Dr. Emily Kaleczyc, Meat & Poultry  
Leslie Doely, Brands Administrator  
Ty Thomas, Asst. Brands Administrator  
Matt Noyes, Brands Enforcement  
Mike Hayes, Brands Enforcement  
Paul Johnson, Brands Enforcement  
Wes Seward, Brands Enforcement

## Public Present

Rob Stutz, Legal Services Division  
Liv Stavick, MFBF  
Charlotte Lauerma, MVMA  
Cody Cornwell  
Eli Waldner

Jay Bodner, MSGA  
Brian Ohs, MSGA  
Tammy Bridges, MT Beef Council  
Boe Robbie, MT Cattle ConneXion

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## MEETING CALLED TO ORDER

### 8:02 AM

- Vice-Chairman John Scully called the meeting to order at 8:02 AM
- All BOL members were present except for John Lehfeldt and Brett DeBrucker; Nina Baucus did not arrive until 8:12 AM

## **APPROVAL OF BOARD MINUTES**

**8:05 AM**

### **MOTION/VOTE**

**8:05 AM**

Lila Taylor moved to approve the minutes for the BOL 6/24/19 BOL Meeting. Ed Waldner seconded. The motion passed

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

**8:05 AM**

- At the request of Lila Taylor, Mr. Scully pulled the Brands Enforcement Division Bureau Report and the Meat & Poultry Inspection Bureau Report from the Consent Agenda
- Mr. Scully requested that one portion of the Animal Health Bureau Reports, the Report on NCBA Cattle Health Research & Herd Security Working Group, be removed from the Consent Agenda and that a copy of that report be sent to the Montana Stockgrowers Association and others so they can follow up
- It was requested that the Animal Health and Food Safety Bureau put an out-of-state travel budget together for the past two years to be brought to the next BOL meeting

### **MOTION/VOTE**

**8:08 AM**

Ed Waldner moved to approve the Consent Agenda items, including Bureau Reports from the Animal Health Bureau, except for the NBCA Report, Livestock Loss Board, Milk & Egg Bureau and the Milk Control Bureau and also the Out-of-State Travel Requests for the Animal Health Bureau, Brands Enforcement Division, Meat & Poultry Inspection Bureau, Milk & Egg Bureau and the Veterinary Diagnostic Lab. Sue Brown seconded. The motion passed.

- John Scully called a brief recess to await the arrival of Nina Baucus, who arrived at 8:12 AM

**8:09 AM –RECESS**

**8:20 AM – RECONVENE**

## OLD BUSINESS

8:21 AM

### 8:21 am – UPDATE ON PLANNING AND ACTIVITY FOR POTENTIAL NEW MVDL BUILDING

John Scully announced that Dr. Gregory Juda and Mike Honeycutt attended the first meeting of the Interim Committee regarding the planning of the potential new Montana VDL, which was held on August 14, 2019 at the Marsh Lab in Bozeman:

- Mr. Honeycutt reported that Representative Kerry White from Gallatin Gateway area was chosen as the Chair of the Committee and, chosen as the Co-Chair, was Representative Brad Hamlett from Cascade
- In attendance at the meeting were representatives from the Department of Administration who provided staffing for the meeting, representatives from Architecture and Engineering, General Services Division, including their Deputy Director, representatives from MSU, including Tracy Elliott, representing University Proper, Anton Beckerman, representing MSU Extension and Christy Clark from the Department of Agriculture Sciences Division and Mike Volesky, representing FWP
- Each group represented gave updates on their current conditions at the Lab
  - The DOL reported on systemic issues at the VDL that had been ongoing for some time, and also updated the group on what the DOL is doing independently through the use of HB5 funds, including getting more information regarding architectural renderings and designs
- MSU reiterated their position that they would assist with going to the Board of Regents once a plan for the Lab was in place and mentioned the potential for utilizing the parcel of land that is next to the Marsh Lab
- The Environmental Quality Council had made a request in a letter to MSU to make land available for the Lab. However, the joint communication response from the Office of the Commissioner of Higher Education and from MSU said that although they were willing to do that, there needed to be more of a plan in place.
  - The Environmental Quality Council also stated in the same letter, that they agreed with the previous Lab Study Committee's option that the Department of Agriculture's Analytical Lab move off campus
  - A motion was passed, with an abstention from MSU, who felt it wasn't ready yet, to get on the agenda of the Board of Regents at their earliest convenience to discuss MSU transferring land from them to the State. A letter regarding that request is planned to be sent to the Board of Regents
- FWP are in a 20-year land lease that goes until 2026, and so do not see a need, at this time, to collaborate with the VDL in the new proposed Lab facility
  - FWP is also in a position where they cannot own or build a building, only lease one, because of their funding type
- The Department of Administration reported that because of Legislative changes that had been made, if the proposed Lab building construction was under 45,000 square feet, there would be no requirement to return to the Long-Range Building process of the Legislature

- The Department of Administration gave an opinion that they did not feel any of the agencies present at the meeting were in a position to handle even the longest term allowed to secure a public/private partnership, which is 20 years
- The Department of Administration suggested to the Legislators present that further Legislative changes should be made during the 2021 Session to make the Lab project more feasible to finance for those participating in it
- Next meeting of the Committee will be scheduled for the second week of January when Legislators will be in Helena for their Interim Committee meetings
- John Scully requested reports be prepared
  - One report would show maintenance costs on the current Lab and how much incremental money it takes for a 40,800 square foot building, the size of the proposed building in the original plan
  - Another report would compare the operational space to provide the services now provided and the cost of running it versus the ongoing reoccurring cost of buying something else on a lease basis
  - Another report would be to compare functional space now used for conducting tests to the amount of space allotted in the plan for the proposed Lab
- Mr. Scully reported that during the Legislative process, a concern was raised by Representative Woods from Bozeman regarding CWD testing at the Lab, the prions associated with it and water issues, but, that issue was found by the Interim Committee to have been solved
  - Mike Honeycutt reminded the BOL that multiple Legislators told the DOL not to come back next biennium without a CWD testing capability in place in the Lab
- Jay Bodner, MSGA, reported that there is a lot of interest in retaining the Lab, and MSGA is committed to working with the BOL and DOL in moving forward, but with the price tag of it and the big cost to industry, MSGA has a lot of interest in looking at other options, including possibly, a scaled-down version of the Lab
- Mr. Scully reported that he had done some construction cost comparisons for the Lab in the Bozeman area, and found out that \$300/square foot was the minimum cost, without the cost of incrementals included
- Mike Honeycutt and John Scully plan to set up a Finance Committee meeting, inviting the public, ahead of the next BOL meeting to discuss numbers regarding the proposed Lab
  - It was decided to not do away with the Building Committee, and Mr. Scully planned to schedule a meeting for them at the same time as the Finance Committee meeting
- Dr. Zaluski said that industry and the BOL need to decide on the services they would like the Lab to provide and that would give direction to the budget needed

**9:30 am – PERSONNEL UPDATES**

**9:30 AM – Final Approval of Board Policy and Procedure New Language on Performance Appraisal Timing**

Mike Honeycutt reported that although the BOL had approved changing the dates for performing employee evaluations from June 15<sup>th</sup> to January 15<sup>th</sup> during the June 24, 2019 meeting, it had not been approved to change the language in the BOL Policies and Procedures for performing those evaluations with the new time frame

## **MOTION/VOTE**

**9:32 AM**

**Sue Brown moved to change the language in the BOL Policies and Procedures regarding Employee Performance Appraisal Timing from June 15<sup>th</sup> each year to January 15<sup>th</sup>. Ed Waldner seconded. The motion passed.**

### **9:33 AM – Report on Labor Negotiations**

Mike Honeycutt reported that negotiations had been conducted with NFPE for the DOL's Meat & Poultry Inspection unit:

- Those contracts are renegotiated every two years
- Concessions on salary were successfully negotiated, with not much of a financial impact on the DOL

### **9:37 AM – State Compensation Market Analysis**

Mike Honeycutt requested a recommendation from the BOL as to whether or not the DOL should move forward in doing a market analysis to determine whether or not DOL employees continue to be at a salary range of 80% of market midpoint, since the last analysis was based on the Department of Administration's 2014 market analysis:

- The last time the DOL market analysis was done, it added \$400,000-\$500,000 annually to total Department salaries
- Mr. Honeycutt requested a recommendation from the BOL of how to proceed if it shows any employees have fallen below the 80% market midpoint
- Decisions on salary adjustments should be made in March/April so those requests would be made before the Snapshot

## **MOTION/VOTE**

**9:42 AM**

**Lila Taylor moved that a review of the Market Analysis for the DOL be completed by March 1, 2020. Sue Brown seconded. The motion passed.**

### **9:43 AM – Job Descriptions and Classifications**

Mike Honeycutt explained that the Department of Administration is moving into a new pay plan, Pay Plan 25, that will govern the Departments in the State of Montana for the next four to five years:

- State Pay Plans have gone from a grading system to the current Band system and now it will be Levels, such as Accountant 1, Accountant 2, Accountant 3. The new plan will be pay neutral, so it will not have any effect on current salaries

- The Department of Administration hopes to have the entire system in place by the end of 2019
- Because the Department of Administration will be making the pay plan changes according to those job titles most prevalent throughout the State, the DOL may not have some job title changes made until later because of the uniqueness of the positions

Mike Honeycutt said that some of the DOL's Livestock Crime Investigators were present at the meeting to discuss their position descriptions with the BOL:

- Mr. Honeycutt said that the DOL met with some of the Livestock Crime Investigators last week to discuss possible changes in their position descriptions because it had been a long time since that had been done
- The process to change those descriptions would be: the rewrite of the job description through DOL management team and employees, approval by the BOL, Department of Administration review and analysis and then back to the BOL for final approval
- Paul Johnson, a District Investigator out of Great Falls, said that he had been with the DOL for 26 years and that a Market Supervisor's base salary rate is higher than an Investigator base salary rate
- It was pointed out that in districts where there was a market present, the District Investigators supervised the Market Supervisors, but, Ty Thomas now has the management responsibility over all the Market Supervisors. However, there was a question as to whether an updated job description showing that change was done
- Mr. Honeycutt requested that the rewrite of the Investigator job description first be written by the Investigators themselves, since they know their day-to-day duties, and then brought to DOL management for review

Mike Honeycutt reported that Leslie Doely had submitted her revised job description to him just the night before. The BOL decided to have Leslie present it during the Brands Enforcement Division segment of the meeting

### **10:10 AM – Planning for Critical Job Vacancies**

Nina Baucus requested that a list be drawn up of DOL employees eligible for retirement within the next five years to determine payout and a better plan for DOL budgets:

- Mike Honeycutt pointed out that CSD has been accounting for that risk in their forward-looking financials, but it had not been as big of a deal lately because several retirements had already taken place
- John Scully requested that Human Resource rules regarding employee retirements be given to the BOL to view

## **NEW BUSINESS**

**10:18 AM**

**10:18 am – EMPLOYEE RECOGNITION**

### **10:18 AM – 2019 Governor’s Award Process and Announcement**

Mike Honeycutt introduced the DOL’s 2019 Governor’s Award recipient:

- Tess Moore, from the VDL, was chosen as the DOL’s recipient of the Award because of her work in Quality Assurance in the VDL, helping the Lab get through accreditation, helping the VDL get through the many job openings during the past year and keeping both the Lab processes and contracts sound
- Mr. Honeycutt also recognized Scott Anderson and Knute Larson, also nominated for the award, whose work helped unravel a cattle theft in North Dakota

### **10:22 am – PREPARATION FOR SEPTEMBER 11 ECONOMIC AFFAIRS INTERIM COMMITTEE**

Mike Honeycutt reported that the DOL would be appearing for the first time in front of the Economic Affairs Interim Committee for Agency Oversight on September 11, 2019:

- The DOL has been working with Pat Murdo, and Brian Simonson has been preparing a budget for the Committee, using Agency Oversight documents
- In regards to the study bill for the Meat & Poultry Inspection Bureau, the Committee plans to have different stakeholders, including some who are Federally-Inspected and some who are State-Inspected establishments, talk and the DOL will also be given an opportunity to present
  - The DOL is preparing to give the Committee an overview of Federal law, how the DOL interacts with those laws and how the DOL has adopted them
- The DOL hopes to address the audit and some of the changes that have been made since then, including the work that the industry, BOL and Committee did in putting together a new appeals and recall process and how those entities have been working together since that was done

### **LEGAL COUNSEL UPDATE**

#### **10:25 AM**

#### **10:25 AM – Legal Update from DOL Legal Counsel, Rob Stutz (May Require Executive Session)**

Rob Stutz gave a legal update on litigation issues facing the DOL:

- The S&T Project Meats case has been resolved and closed
  - Dr. Zaluski reported that that S&T Project Meats wanted to consult with their attorney prior to destroying the product that was in question, and because of that, the DOL must wait on them to give access so the product destruction can be verified
- There is no new update on the K&C Meats litigation
- Mr. Stutz is tracking a case involving Tyson Foods regarding a Federal lawsuit on a recall issue and the answer deadline attempt to negotiate a resolution has been extended again

**10:28 AM –RECESS**

**10:35 AM – RECONVENE**

**10:35 AM –EXECUTIVE SESSION**

**11:17 AM – RECONVENE**

**11:17 AM –RECESS**

**11:25 AM – RECONVENE**

## **ANIMAL HEALTH & FOOD SAFETY DIVISION REPORTS**

**11:25 AM**

Dr. Tahnee Szymanski reported on the DOL's latest approach to educating the Montana public regarding feral swine:

- The DOL has been working with the Montana Invasive Species Council to consider adding feral swine to the list of invasive species in Montana
- Montana has adopted the Washington 'Squeal on Pigs" program, developing educational materials to be Montana-specific, and distributing that material out in the country
- The DOL has developed a list of allies and partners to help with the Montana program that cover several different sectors, because feral swine impacts reach beyond just livestock issues

**11:25 AM – ANIMAL HEALTH BUREAU**

**11:27 AM – Proposed Changes to Administrative Rules – Import Requirements for Goats**

After a request from a Montana veterinarian who is also a goat producer, that the DOL no longer require brucellosis testing for meat goats entering Montana, Dr. Tahnee Szymanski presented, for a second time, a proposed change to the Administrative rule 32.3.214, that lists the request for the BOL's consideration:

- Dr. Szymanski reported that when goat producers travel to out-of-state shows to buy animals, many times, the dairy breeds have already been tested for tuberculosis and brucellosis
- The disease being tested for in goats is *B. melintensis*, not *B. abortus*. *B. abortus* is found so infrequently in small ruminants, that they are not listed as one of the susceptible species
- South Dakota, Wyoming, Idaho, Oregon, Colorado and California have no test required on any goats entering their states, while North Dakota and Washington

are specific to dairy breeds, similar to what the proposed Administrative Rule change covers

## **MOTION/VOTE**

**11:30 AM**

**Nina Baucus moved to approve the proposed changes to ARM 32.3.214, Special Requirements for Goats, as presented by Dr. Tahnee Szymanski. Ed Waldner seconded. The motion passed.**

### **11:31 AM – Proposed Changes to Administrative Rules – Trich Epizootic Area**

Dr. Tahnee Szymanski presented a letter from the Marias River Livestock Association, with a request that the BOL consider removing Glacier and Pondera Counties from the four-county Trich Epizootic area:

- Currently, non-virgin bulls leaving or changing ownership in the Trich Epizootic counties are required to be tested
- Glacier and Pondera Counties have had a decline in cases, with one Trich-positive bull reported in Glacier County in the Spring of 2019, that being the only reported case in four years
- Dr. Szymanski said she believes that a tremendous amount of testing, especially on the Blackfeet Reservation, and awareness, has helped clean up the previous disease problems in those counties
- It was decided to postpone a vote on the Trich Epizootic Area Administrative Rule changes

### **11:43 AM – Proposed Changes to Administrative Rules – Requirements for Importation (HB112)**

Dr. Tahnee Szymanski reported that the Legislature successfully passed HB112, a DOL-requested bill seeking to make changes to the import section of Montana code 32.3.202 – 32.3.207, regarding requirements to have a health certificate and import permit for everything entering Montana

## **MOTION/VOTE**

**11:45 AM**

**Sue Brown moved to approve the proposed changes to ARM 32.3.202, Requirements for Importation; ARM 32.3.203, Importation of Diseased Animals; ARM 32.3.206, Official Health Certificate and ARM 32.3.207, Permits, as presented by Dr. Tahnee Szymanski. Lila Taylor seconded. The motion passed.**

### **11:45 AM – Request to Purchase Captive Bolt**

Dr. Tahnee Szymanski requested permission of the BOL for the DOL to purchase four penetrating captive bolt guns:

- Cost of the penetrating captive bolt guns is \$1600 each, which would be paid for through the Federal Cooperative Agreement Funding
- Purpose of the penetrating captive bolt guns is to euthanize animals and would allow a quick depopulation of animals in the case of an animal disease outbreak and could also be used for animal euthanization on a small scale, especially when it is not safe to euthanize with a firearm
- Dr. Szymanski suggested that Brands Enforcement Division District Investigators train veterinarians to use the guns

## **MOTION/VOTE**

**11:48 AM**

**Sue Brown moved to purchase four penetrating captive bolt guns . Lila Taylor seconded. The motion passed.**

### **11:48 AM – Disease Discussion**

At the request of some BOL members, Dr. Szymanski gave updates on current animal disease situations in the state:

- In regards to the Tuberculosis investigations, there are currently three different ones going on at the current time
  - Four herds are left to test – two the first part of September, one in October and one in November
- Dr. Szymanski reported that there are up to six states infected with Stomatitis – Nebraska, Wyoming, Oklahoma, Texas, Colorado and New Mexico.
  - She added that there have been a few reports in Montana of horses with vesicular or oral lesions that have been a cause for concern, but no report of any positives in Montana as of yet
  - Movement restrictions are in place with a lot of quarantined herds, primarily horses, in some southern states. Only about a dozen herds have been impacted by the disease that are beef or non-horse species
  - Reported cases each week have decreased as the weather moves into Fall
- The Department of Environmental Quality and Public Health have been working on getting the message out regarding livestock consuming water from ponds with algal blooms growing on them or pets or people being in the water
- The first positive case of equine West Nile was reported in Lake County and Public Health has reported some positive mosquito pools
- Rabies has remained very active in the state with several submissions per week, including an average of one to two rabid bats per week reported

### **11:52 AM – MEAT & POULTRY INSPECTION BUREAU**

### **11:52 AM – Administrative Rule Changes**

Dr. Emily Kaleczyc reported on the proposed changes to ARM 32.6.712, Food Safety and Inspection Service (Meat, Poultry)

- Dr. Kaleczyc requested to change the adoption date of the Code of Federal Regulations that is currently listed as August 22, 2016, because there have been a number of changes made to Federal rules since that time
- There was discussion regarding why the change was needed if it was already codified in State law, but another point was made that leaving it as is means it could be read to be a very open-ended blanket
- Dr. Kaleczyc said that her intent is to put the changes on a recurring cycle so it gets updated on a more regular basis

Dr. Emily Kaleczyc requested to repeal ARM rules 32.6.730 through 32.6.711 as well as 32.6.801 through 32.6.815 which are old rules adopted before Montana adopted an at-least-equal-to cooperative agreement inspection program with FSIS:

- Some examples of the older rules Dr. Kaleczyc hopes to repeal are:
  - Requires that all establishment driveways be paved
  - All rooms in establishments with a toilet must have an exterior window

Dr. Emily Kaleczyc requested clarifying language be added to ARM 32.6.701 defining the term "Meat Depot":

- Currently, Meat Depot is defined as any place where meat intended for human consumption is stored, which is broad and could include private persons' freezers and refrigerators in their home
- Dr. Kaleczyc hopes to add the term "places where meat intended for sale is stored"
- Nina Baucus suggested adding the term "for human consumption" to the language as well
- Dr. Kaleczyc said that it has been standing policy that Meat Depots only store product that is inspected and passed and then processed and packaged by a State- or Federally-inspected facility. This language would be added to the rule as a standard
- Definitions in rule would be updated to say meat or poultry rather than having each listed in separate definitions
- In ARM 32.6.702, it would be clarified that licensing and inspection for Meat Depots through the DOL would not apply to retail businesses that are already subject to on-site inspections by their local health authority
- Another clarification in rule would require that custom-exempt operations or any establishment with a State license is required to have a bathroom located in or dedicated to the business so it is accessible by the inspector. Those custom-exempt operations with a current license would be grandfathered-in as of the July 1, 2019

### **12:13 PM – Grants of Inspection from the Consent Agenda**

Dr. Emily Kaleczyc reported that there are two new Grants of Inspection recently issued:

- One is for an existing establishment that was sold to new owners
- The second was issued to a new business, K&K Ranch in Darby, that requested inspection

- Dr. Kaleczyc said that routinely, the DOL gets inquiries from businesses interested in coming under inspection as a retail facility, but, when they find out the requirements, including structural changes required in the physical building, many say they are no longer interested. Requirements are covered by regulations from FSIS to maintain the at-least-equal-to status
- Product that is listed as “Not-for-Sale” or custom-exempt processed, cannot be donated
- Mike Honeycutt reported that the two Meat Inspector positions that had been granted during the 2017 Legislature but not funded, were funded in the 2019 Legislature and those are now advertised and when hired, will be flexible, being able to move to different locations to do inspections

**12:20 PM – Request to Hire a Compliance Investigator and an Inspector in the NW District**

Dr. Emily Kaleczyc reported that there were two positions to fill in the Meat & Poultry Inspection Bureau:

- One position is to replace the individual who was the successful individual applicant for the Northwest Supervisor position and to backfill the Inspector position that would be left vacant
- There is also a request to hire a Compliance Investigator who retired yesterday and to backfill that position

**MOTION/VOTE**

**12:21 PM**

Lila Taylor moved to hire an Inspector for the NW District and a Compliance Investigator in the Meat & Poultry Inspection Bureau. Ed Waldner seconded. The motion passed.

**12:22 PM –LUNCH**

**12:54 PM – RECONVENE**

**12:54 PM – ANIMAL HEALTH & FOOD SAFETY DIVISION REPORTS CONTINUED**

**12:54 AM – VETERINARY DIAGNOSTIC LAB**

**12:54 AM – Revised ARM for Adjustments to Testing Fee Schedule**

John Scully handed the Chair position over to Lila Taylor so he would be able to make a motion the BOL had been notified of, that would reconsider action taken at the June 24, 2019 meeting for approval of the VDL fee schedule:

## **MOTION/VOTE**

**12:54 PM**

John Scully moved to reconsider action taken during the BOL 6/24/19 meeting approving proposed revisions to the ARM 32.2.403, Diagnostic Laboratory Fees schedule. Sue Brown seconded. The motion passed.

With Lila Taylor still acting as Chair, John Scully made two more amendments to the same rule, ARM 32.2.403:

- One amendment under the Reason section on page nine would now read:  
Reason: The current fee adjustments are based on market pricing

## **MOTION/VOTE**

**12:56 PM**

John Scully moved to amend the language, as he presented, in the first paragraph of the “Reason” section of ARM 32.2.403, Diagnostic Laboratory Fees. Sue Brown seconded. The motion passed.

- The second amendment Mr. Scully requested be made to ARM 32.2.403 is on the same page but next paragraph in the Reason section, and would read:  
Several volume discounts have been eliminated, as they did not reflect the surrounding markets

## **MOTION/VOTE**

**12:59 PM**

John Scully moved to amend the language, as he presented, in the second paragraph of the “Reason” section of ARM 32.2.403, Diagnostic Laboratory Fees. Nina Baucus seconded. The motion passed.

John Scully went on record to say that the industry has contributed \$250,000 in per capita funding to the Lab, based on the budget of the last year that was approved by the Legislature

## **MOTION/VOTE**

**1:02 PM**

John Scully moved to approve the proposed revisions to the ARM 32.2.403, Diagnostic Laboratory Fees schedule. Sue Brown seconded. The motion passed.

### **1:03 PM – Equipment Purchases Associated with HB2**

Dr. Gregory Juda reported that HB2 gave the VDL authority to expend monies on lab equipment essential to the operation of the VDL and requested that the BOL approve the purchases:

- Quotes for the equipment requests totaled approximately \$156,000, under the amount allotted for authority in HB2
  - Hematology Analyzer quote was for approximately \$113,000
  - Microscope for \$28,000
  - Clinical Centrifuge essential for use in Serology Lab operations relating to brucellosis testing
  - Necropsy Hoist for \$6,000
- Mike Honeycutt confirmed that the request made by Dr. Juda were in line with what was told to the Legislature that the DOL were going to purchase

### **MOTION/VOTE**

**1:06 PM**

Sue Brown moved to purchase laboratory equipment in the VDL with appropriated HB2 funds as presented by Dr. Gregory Juda. Ed Waldner seconded. The motion passed.

### **BRANDS ENFORCEMENT DIVISION REPORTS**

**1:08 PM**

#### **1:08 PM – Estray Listing and 2019 Lost-Strayed Bulletin from Consent Agenda**

John Scully requested that the BOL address the Lost-Strayed Bulletin item that had been removed from the Consent Agenda before addressing the regular agenda items:

- Lila Taylor reported that she continued to receive the Lost-Strayed Bulletins while John Grainger was the Brands Enforcement Administrator
- Ms. Taylor requested that the DOL begin mailing out the bulletins again to local inspectors and maybe post them in the yards
- John Scully requested that Leslie Doely bring figures to the next BOL meeting that would show the cost of fulfilling Ms. Taylor's request

#### **1:11 PM – Brands Enforcement Division Administrator Job Description**

##### **Discussion**

Leslie Doely brought a rewritten draft of her job description for the BOL's review, as her 90-day part-time employment she agreed to work after the announcement of her vacating the Brands Enforcement Division Administrator position, ends at the end of the month:

- The old Brands Enforcement Administrator job description was probably written prior to 2010 because the career executive assignment did not match, and so, Ms. Doely drafted an entirely new job description that she said was based on other Division Administrator position descriptions and job duties

- One main point that Ms. Doely made the BOL aware of is that the old job description listed Ms. Doely's position as the Chief Law Enforcement Officer, which is no longer true, in her case
- Several items were discussed for changes to be made on the new job description, and it was decided to wait on making a decision on it until the BOL could review it and Mike and Leslie could meet and discuss it as well.
- Scheduling a possible BOL conference call before the next meeting was talked about to discuss the new job description

**1:27 PM – Request to Hire a District Investigator**

Ty Thomas reported that there was a vacant District Investigator position in Fergus County and was requesting to do an in-house hire as it was getting close to Fall Run:

- The BOL requested that the position be advertised

**MOTION/VOTE**

**1:28 PM**

**Ed Waldner moved to fill the vacant Lewistown District Investigator position. Sue Brown seconded. The motion passed.**

**1:30 PM – Request to Transfer a Market Certificate – Glasgow Stockyards**

Leslie Doely said that the DOL had received an application, according to statute, as a request to transfer ownership of the Glasgow Market:

- Leslie Doely requested that the BOL allow the DOL to move forward with establishing a hearing date and appoint a Hearings Examiner and dictate how they would like that Examiner to preside over the hearing
- Cody Cornwell, proposed purchaser, said that his entity is called Glasgow Stockyard, LLC and that the financials have been submitted

**MOTION/VOTE**

**1:33 PM**

**Ed Waldner moved to approve that the Brands Enforcement Division and Mike Honeycutt move forward on scheduling a hearing to discuss the transfer of the Glasgow Stockyards Market Certificate. Sue Brown seconded. The motion passed.**

- John Scully explained that if a Hearings Examiner is voted in by the BOL with a request of that Examiner to make a recommendation, that the BOL would not sort through the information from the hearing, but the Examiner would do that

## **MOTION/VOTE**

**1:38 PM**

Lila Taylor moved to appoint Rob Stutz as a Hearings Examiner for the hearing to discuss the transfer of the Glasgow Stockyards Market Certificate and that Mr. Stutz be asked to make a recommendation. Sue Brown seconded. The motion passed.

Cody Cornwell commented that the Niensens lost a very key employee, the yard manager, who leaves on September 1, 2019, and so he was hoping the BOL could approve the transfer as quickly as possible

- BOL members also commented that other reasons for an expedited transfer would be because people are putting up hay and that Fall Run was coming

## **1:42 PM – New Market Certificate Application: Robbie Cattle Company, Inc. & Montana Cattle ConneXion.com**

Leslie Doely said that an application had been received to create a new certificate for a livestock market:

- Boe Robbie, Sales Manager with the Montana Cattle ConneXion.com and part-owner of Robbie Cattle Company, Inc., said that they are looking to make a new marketplace in Park City, Montana
- Leslie Doely said that a person may not operate a livestock market unless the person first obtains the certificate declaring that public convenience and necessity require the operation
- Based upon on the receipt of the application, Mr. Scully requested that the BOL move forward with a hearing

## **MOTION/VOTE**

**1:46 PM**

Sue Brown moved to approve that the Brands Enforcement Division move forward on scheduling a hearing to discuss the new market certificate application submitted by Boe Robbie. Lila Taylor seconded. The motion passed.

## **MOTION/VOTE**

**1:47 PM**

Nina Baucus moved to appoint Rob Stutz as a Hearings Examiner for the hearing to discuss the new market certificate application submitted by Boe Robbie. Sue Brown seconded. Lila Taylor voted no. The motion passed. **1:55 PM Nina Baucus withdrew her motion and Sue Brown withdrew her second.**

- Leslie Doely reminded the BOL that the DOL, not the Hearings Examiner, according to statute on a new Market license, must be the one who decides whether public convenience and necessity require the operation
- Boe Robbie commented that they would like to be completely transparent and would greatly like to have the input of the BOL and show their merits to the BOL and to the public
- There was concern raised during the discussion that two hearings would need to be done, one with the Hearings Examiner and one with the BOL
- It was suggested that Mike Honeycutt and John Scully check with legal counsel regarding who would be best to run the hearing, possibly someone who deals with business licensure questions more often than Rob Stutz has

## **MOTION/VOTE**

**1:55 PM**

**Nina Baucus moved that John Scully and Mike Honeycutt meet with legal counsel to come up with a process for the hearing regarding the new market certificate application submitted by Boe Robbie. Sue Brown seconded. The motion passed.**

- John Scully added that the BOL has a preference that the BOL do the hearing

## **1:57 PM – Rerecord Updates and Fees Discussion**

Leslie Doely addressed some items with the BOL, in preparation for rerecord, which will begin on January 1, 2021:

- Ms. Doely said that the Brands Enforcement Division received thousands of calls from producers who did not like the \$2-\$5 fee that was charged for online renewal during the last rerecord in 2011
- Those renewing online update their own information and submit their payment electronically, which saves the DOL from having to do that manually, shaving off a lot of processing time for each renewal, and so Ms. Doely proposed that the DOL absorb those added fees
- Concern was raised that if the online renewal fee is absorbed by the DOL for renewing a brand, then those who pay per capita may want their online renewal fee absorbed as well
- Ms. Doely said that there was a change made in the Policies and Procedures saying there should be a fee charged for transfer of brand, which was not done for around 12,000 transfers during the last rerecord. And so, in the upcoming rerecord, there will be a transfer fee charge as well
- Ms. Doely requested that a rerecord fee be established by December 31, 2019 and that she would put together some surrounding states' renewal processes information for the BOL so that a decision can be made in a timely fashion, because any change will require a change in the rule

Lila Taylor requested that the mistakes that resulted in lawsuits, made during the last rerecord be looked at and dealt with before the next rerecord

- Leslie Doely said she has kept a list of those mistakes since 2011

- John Scully said the biggest mistake was in regards to the grace period
- It was decided that the BOL would review the upcoming rerecord plan in October

### **2:12 PM – DOL/Montana Historical Society Collaborative Effort**

Leslie Doely reported that the Historical Society, as part of their Montana Memory Project, is only two decades away from putting all the historic brand information online:

- The online brand information is on a searchable website with information going back to 1873
- DOL's IT have been working with the Historical Society on this project and the target is to have everything up and running by July of 2020. A joint press release will be sent out announcing the collaborative effort

### **2:13 PM – Followup on New Radio Purchases and Law Enforcement Connectivity**

Ty Thomas gave an update on the new radio purchases and Law Enforcement connectivity:

- Through a motion from the BOL during their June meeting, money was allotted to the Brands Enforcement Division to purchase new radios, due to a concern for some of the field staff's ability to communicate with their current radios
- Eight new radios were purchased from the Motorola Radio Company out of Bozeman, which Mr. Thomas says, once they are up and running, "we're gonna be good to go," which will take the staff out of the safety issue concern that had been expressed during the request made at the June BOL meeting
- Mr. Thomas said that the Bozeman vendor was the one the DOL had to go with for the procurement process, and so he did not move forward with checking on any military surplus radios

### **2:18 PM – Followup on Pre-Employment Evaluation for Law Enforcement Candidates**

Mike Honeycutt requested information on how the Brands Enforcement Division is accomplishing meeting the new requirements for POST statutes, particularly in the new-hire psychological evaluations:

- One item changed during the 2019 Legislative Session was the addition of a psychological evaluation
- Leslie Doely said as a result of the statute, the Brands Enforcement Division has already implemented a process that other law enforcement agencies use, relative to evaluation of new hires
  - The new hire is given a proctored test, with a pass/fail for that type of work
  - The new hire will undergo a background check as well
  - They are screened for fitness considerations, and must meet a minimal level of fitness to attend POST
- One item changed during the 2019 Legislative Session, which was the addition of a psychological evaluation
- Mike Honeycutt said that only people in jobs in the DOL that hold arrest powers should be the ones sent to POST training because that is how they maintain their certificate

## CENTRALIZED SERVICES DIVISION

2:26 PM

### 2:27 PM – MVDL Scope of Work for \$100,000 HB5 Funds

Brian Simonson introduced Steve LeHeureux, President, and Max Grebe, Principle Architect, LeHeureux, Page Werner Architects (LPW) Architecture, the lead firm on the proposed Consolidated Lab Complex:

- LPW is the firm that will be revising the original plan for the Lab Complex, this time, with fewer entities participating in it, and utilizing \$100,000 in HB10 funds for those revised plans
- Mr. LeHeureux said that their firm had hired a consulting firm from Lincoln, Nebraska, Clark Enerson Associates, who have done 7-8 similar projects
- LPW plans to re-review the original plan with specific user groups, refining the VDL portion to verify space needed, put the revised plan into a layout, develop a 3D concept of that layout, present the concepts to staff members and users for feedback and then develop a report and cost matrix for the finished product
- The original space determined for the VDL in the Consolidated Lab Complex Plan 1A was 40,800 square feet with an estimated cost of \$39 million, give or take equipment costs
- Mr. Scully said, that DOL staff has been asked to identify what the run rate is on the square footage at the current Lab
- John Scully said he had done some research in the town of Bozeman for construction of lab spaces, and it came to \$350-\$375/square foot, which he said is not even close to LPW's estimated cost of \$39 million, a cost he said is nowhere in the scope of what is affordable
- Construction costs, according to Mr. Grebe, were escalations to 2022, which have added to today's construction costs
- Mike Honeycutt said that during the HB661 process, in every meeting, you were asked to be in a dreamer state, but now, in reality, the DOL might be looking for some insight because of need, to pull some things back but still remain in accreditation
- Mr. LeHeureux said that their consultant, Clark Enerson, with the VDL Labs they have been a part of, would be a help in understanding how funding for those labs came together
- Liv Stavick of the Montana Farm Bureau said that the \$40 million price tag for the proposed Lab is not something industry can foot the bill for, and so they are open to looking at a different option
- Brian Ohs, Montana Stockgrowers Association, shared MFBF's sentiment and said MSGA planned to talk to their members at their annual convention about the situation
- LPW, MFBF and MSGA said they would join the DOL in a November/December meeting to discuss what is actually needed in the Lab
- Mike Honeycutt said that the Committee put together by HB586 focused strongly on the proposed new Lab being built next door to where it currently sits, but, the MSU Board of Regents will have to approve the building on the MSU campus

### **3:08 PM – FISCAL BUREAU**

Because of the upcoming BOL training, John Scully requested a shorter version of the Fiscal Bureau presentation

### **3:08 PM – End of Fiscal Year 2019 Comparison Report**

Brian Simonson discussed the Projected Expense to Budget Comparison Report for June 30, 2019:

- The DOL was 6% under what had been authorized in the budget at \$812,000
  - A caveat to the figure was that the DOL had HB3 adjustments, along with some vacancy savings and augments of Federal dollars

### **3:09 PM – June 30, 2019 State Special Revenue Report**

Brian Simonson said that the State Special Revenue numbers are right where it was anticipated they should be:

- The \$200,000 short in market inspections is probably explained by 100,000 less cattle going through the markets
  - Because local inspection fees are up, Mr. Simonson said he is optimistic regarding upcoming per capita because those transactions may be happening somewhere outside the markets
  - Lila Taylor said that people are probably holding onto their heifers because they aren't worth anything right now
- Per capita fee is coming in better than expected

### **3:11 PM – June 30, 2019 Cash Balance Update**

- Brian Simonson reported that the operational cash balance is \$800,000
- Mike Honeycutt said that Standard Budgets are still getting set up
- Brian Simonson said there is a good chunk of the \$812,000 positive budget balance that will be utilized in carryforward. FY2020 carryforward has not yet been detailed
- Evan Waters said that FY2017's carryforward was all spent and a little bit of FY2018's

### **3:15 PM – EAR TAG DISCUSSION**

Nina Baucus requested input from Dr. Zaluski regarding the electronic eartags and the loss of the brucellosis tag in the ear because she had been speaking with several producers who are very upset about the loss of the brucellosis tag:

- Ms. Baucus requested an exemption for Montana, being one of the states affected by Yellowstone Park animals, from requiring loss of the brucellosis tags in the ear
- Dr. Zaluski said there is no movement to remove the option of the brucellosis tag in the ear - the country is maintaining the option to use orange RFID tags to indicate brucellosis vaccination
  - The metal tags will no longer be recognized as official identification beyond 2023 to transition to RFID tags

- Dr. Zaluski did request that folks get on mailing lists and stay in touch with their organizations and veterinarians as to what the developing situations are
- USDA is proposing a cost-share program to implement taking the money that they would have spent on production of metal tags and put them towards producers wanting to purchase RFID tags
- Dr. Szymanski said that their office has been fielding regular phone calls from veterinarians and producers regarding the tags. Dr. Liska, who had been conducting 10-county public meetings regarding vaccination requirements said that much of the time at each of the meetings has been discussing the transition from metal tags to RFID tags rather than brucellosis rules
- Charlotte Lauerman of MVMA said that if the DOL put a fact sheet together regarding the tags, that her organization would put it in their newsletter and on their website

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

**3:28 PM**

- There was no public comment brought forward at this time

**3:28 PM – RECESS**

**3:35 PM – RECONVENE**

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

**3:35 PM**

Tammy Bridges, from the Montana Beef Council requested to bring clarification to a couple items discussed at the June 2019 BOL meeting:

- Ms. Bridges said that the dollars collected within the state for the change of ownership are at 99% and added that because of the efforts of the DOL and State and District Inspectors, Montana has one of the best collection programs
- Consented dollars are down, and the ones that are collected go to the Cattlemen's Beef Board unless a signed consent form is submitted to the MT Beef Council
- Ms. Bridges said that 35%-40% of the check off dollars are consented back to the MT Beef Council and the rest is in an account no one can touch because the lawsuit, to this point, has gone nowhere
- The MT Beef Council is hoping to partner with the DOL on a mass mailing that would get an information letter to producers offering them the option to fill out the consent form

## **CENTRALIZED SERVICES DIVISION REPORTS CONTINUED**

**3:41 PM**

### **3:41 PM – HUMAN RESOURCES**

#### **3:41 PM – Board of Livestock Harassment and Discrimination Prevention Training**

John Pavao, State Diversity Program Coordinator for the Montana State Government, presented the BOL with Harassment and Discrimination Prevention Training

### **4:49 PM – CRIMESTOPPERS DISCUSSION**

John Scully told the BOL that, according to statute, the Chairman of the BOL is to do something about Crimestoppers and because the Chairman was not at the meeting, he was wondering the status of Crimestoppers and whether or not there is something that needs to be done:

- Mike Honeycutt said he doesn't believe the Crimestoppers Board meets often, maybe once or twice a year, but the DOL is responsible for having a Commission who subscribes to and who would serve on it

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

**4:51 PM**

The next BOL meeting was scheduled for Wednesday, September 25, 2019, with a possible BOL conference call to be held before that day to discuss whether or not the BOL wants to go forward with a hearing by the BOL or a hearing by the Hearings Officer on the application for the new Market in Park City

### **5 PM – STOLEN CATTLE DISCUSSION**

Nina Baucus said that a Mr. Singleton had been in touch with her

- Mike Honeycutt said that he had spoken with the man several times and had just this morning, been given a court document that is Pat Murphy's report regarding Mr. Singleton's situation. The document had been sent in an email to Leslie Doely, who copied it and gave it to Mr. Honeycutt
- Mr. Honeycutt said that the DOL law enforcement officers have, at their discretion, made a determination about whether a crime occurred or not and have made that known to the county attorney
- Mr. Honeycutt said that Mr. Singleton asked that the lost/estrays/stolen report that he reported be sent to the FBI, who are investigating the crime, and that has made its way into the FBI's hands

**MEETING ADJOURNED**  
**5:11 PM**



John Scully, Vice-Chairman