



Montana Board of Livestock Meeting Minutes

September 19, 2018
MT Department of Livestock Board Room #319
301 N. Roberts, Helena, Montana

Board Members Present

John Lehfeldt, Chairman (sheep producer)
John Scully, Vice-Chair (cattle producer)
Lila Taylor (cattle producer)
Ed Waldner (swine producer)

Nina Baucus (cattle producer)
Sue Brown (dairy & poultry)
Brett DeBruycker (cattle producer)

Staff Present

Mike Honeycutt, EO
Brian Simonson, Deputy EO
Gary Hamel, Meat & Poultry Bureau
George Edwards, Livestock Loss Board
Ty Thomas, Asst. Brands Administrator

Donna Wilham, Adm. Asst. to EO
Dr. Marty Zaluski, State Veterinarian
Dr. Tahnee Szymanski, Animal Health
Dr. Eric Liska, Animal Health
Evan Waters, Centralized Services

Public Present

Rob Stutz, Legal Services Division
Sarah Clerget, Legal Services Division
John Steuber, USDA-APHIS Wildlife Services
Tammy Bridges, MT Beef Council

John Youngberg, MFBF
Jay Bodner, MSGA
Chaley Harney, MT Beef Council

MEETING CALLED TO ORDER

8:00 AM

Chairman John Lehfeldt called the meeting to order at 8:00 AM

APPROVAL OF BOARD MINUTES

8:03 AM

MOTION/VOTE

8:03 AM

Nina Baucus moved to approve minutes as presented, from the BOL 8/2/18 meeting. Sue Brown seconded. The motion passed

APPROVAL OF BOARD ADMINISTRATIVE CONSENT AGENDA ITEMS

8:03 AM

A request was made to pull the Out-of-State Travel Requests from the Consent Agenda for clarifying questions

MOTION/VOTE

8:03 AM

Lila Taylor moved to approve the Consent Agenda Bureau Reports from the Meat & Poultry Inspection Bureau and the Milk & Egg Bureau. John Scully seconded. The motion passed.

It was explained by Mr. Honeycutt that even though many of the out-of-state travel requests for the various bureaus had already been brought forward and voted on by the BOL previously, others did not have enough information to be voted on at that time

MOTION/VOTE

8:04 AM

Sue Brown moved to approve out of state travel requests from the Veterinary Diagnostic Lab and the Meat & Poultry Inspection Bureau. Nina Baucus seconded. The motion passed

OLD BUSINESS

8:06 AM

8:06 am – Finance Committee Discussion–

John Scully reported on the BOL Finance Committee meeting held the day before on September 18, 2018:

- Present at the meeting from the BOL was the BOL Finance Committee (John Scully, Ed Waldner and Nina Baucus) and Lila Taylor. The meeting was posted as an open meeting to the public with an agenda. Topics covered were:
- Predator Control Funding
 - John Steuber, USDA-APHIS Wildlife Services, provided a breakdown of 2018 Program Funding Sources for Montana Wildlife Services

- Predator Control Reimbursement Funding, handled by the Livestock Loss Board is \$200,00-\$300,000 annually – general fund monies
 - Predator Control Management Funding is \$350,000 annually – per capita fee monies
 - Actual per capita fee monies are \$296,000 because helicopter insurance and per capita fee monies for three counties that do not participate in the predator control program are subtracted from the \$350,000
 - Cattle Petition Funding is \$539,177
 - Sheep Petition Funding is \$84,863
 - FWP Funding is \$110,000
 - USDA Federal Funding is \$1.7 million
 - Rocky Mountain Elk Foundation funding is \$25,000
 - Montana Sportsmen for Fish & Wildlife Funding is \$20,000
 - Natural Resources Defense Council Defenders of Wildlife Funding is \$48,500
 - John Scully reported that in a previous BOL meeting it was voted to spend \$75,000 each year on predator control, mistakenly discussed as a decrease to the public, when it remains as an increase in our previous amount of money spent under per capita of \$75,000
- Lab Study and Financing
 - Mike Honeycutt, Brian Simonson, Evan Waters and Staff put together a comparative sheet dealing with various lab tests, a cost analysis for various lab activity and generated documentation dealing with last year's increase of costs
 - To determine whether or not to raise Lab prices, price points for various tests and funding requirements need to be put together to make a recommendation by sometime in October
 - General Fund appropriations for the public health portions of the Lab have been submitted and per capita monies going into that budget have also been increased pursuant to the Legislative Audit
- Financial Reports
 - It was recommended by DOL Fiscal Bureau to do no increase in per capita this year
- A stakeholder meeting, in review of the upcoming biennium budget with organizations, should be taking place in the next three to five weeks
 - The number one item regarding the proposed combined lab complex is to have a readable copy by October 1, 2018 and mailed out to stakeholders for review

8:26 am – BOL Policies and Guidelines–

The “last generation” of the BOL Policies and Guidelines was discussed:

- The title “BOL Procedures and Guidelines” was changed to “BOL Policies and Procedures” where necessary in the document
- Punctuation was corrected throughout the document and made consistent

- Nina Baucus requested that, following the wording of the BOL Policies and Procedures, that motions during the meeting be written out and given to the BOL secretary before they are voted on by the BOL
- John Scully said the reason that particular policy had been skipped in the past is because it becomes a practical problem, and with the meetings now being recorded, there is already a record of the motion without written documentation

OLD BUSINESS

8:31 AM

8:31 am – Economic Affairs Interim Committee Update –

The DOL was on the agenda of the Economic Affairs Interim Committee's September 6, 2018 meeting. Mike Honeycutt, John Scully and Nina Baucus attended that meeting:

- After the myriad of public meetings held by the DOL regarding DSA expansion and the expansion of brucellosis vaccination into additional counties, there were no questions from the Committee regarding those things at the meeting
- The Governor's office approved to move forward eight of the nine legislative concepts for drafting, approved earlier in the year by the BOL
 - The one item that didn't get approved to move forward was adding goats to the estray list
- The DOL did not receive an endorsement from the Interim Committee, and what that means is that the DOL will need to find a sponsor to draft any bills for the 2019 session

8:35 am – Combined Lab Building Update –

John Scully explained that during the 2017 Legislative session, the DOL was asked to contribute \$75,000 for planning of the proposed combined lab complex:

- LPW Architects was the firm chosen to do the planning and their results were put into a document that Mr. Scully presented to the BOL for review and could also be found online on the Economic Affairs website
- Meetings with the Interim Lab Study Committee were held after the 2017 Legislative Session but were not attended by all individual members of the proposed lab complex. In the end, the VDL was basically left standing alone on the project
- Mr. Scully said that Senator Vance was disappointed in that outcome, but he added that the Legislative Lab Study Committee did the DOL a real service and understands the plight regarding the Lab
- MT FWP said at one point they would be willing to join the VDL in a building if they could be separate in the building

Mr. Scully outlined his suggestions on what the DOL should do from this point forward, regarding the proposed combined lab complex:

- (1) A readable copy of the architects' results be made complete and printed by October 1, 2018 and mailed to stakeholders for review
- (2) The staff in Helena and the VDL concur on or amend the architects' results with detail concerning function and size of the proposed space by October 15, 2018

- (3) A cost estimate of the facility be provided by October 15, 2018
- (4) Review all changes and any other issues of the results with the BOL at the October 2018 meeting
- (5) Itemize capital expenditures for required operation with reoccurring one-time items identified with a timeline related to the construction and/or obsolescence
- (6) Hold a meeting with stakeholders, prior to November 15, 2018
 - Review the current biennial financials, with specifics to the first year-end and projections for the second year-end
 - Review the new Lab proposal
 - Discuss options for moving forward (long-range planning, long-range building activity, Congress, University activity)
 - Review Legislative requests and new HB3 that deals with the DOL's current financials
 - Review the budget for 2021
- (7) Either before or after the stakeholder meeting, develop options for Lab operations
 - Whether or not there is a new building, there must be a plan for emergency response, and address any disfunctional building issues
 - If there are emergency response plans and any disfunctional activity on building issues, what would be the functional adjustments made for personnel and testing, based upon the identified contingency
- (8) During the May 2019 BOL meeting,
 - Establish building process options and make choices for proceeding, considering Legislative outcome
 - Analyze the function and service choices based upon likely outcome and engage stakeholders and the community with regards to those choices
- Mike Honeycutt said all of Mr. Scully's suggestions regarding the new lab complex are contingent upon funding and if that is not there, a solution about what to do going forward needs to come within the next 2 years
- The importance of rallying support from stakeholders to work with Legislative partners regarding the new lab complex was stressed
- Mr. Honeycutt said that all three Montana Congressional staffs are aware of the Lab situation, as that is high on his priority list when speaking to them

MOTION/VOTE

9:03 AM

John Scully moved to move forward on the eight points he presented regarding the Combined Lab Complex building. Lila Taylor seconded. Motion passed.

9:04 am – IBMP Update –

Mike Honeycutt brought the BOL up to date as to where things are currently in the IBMP process:

- The next IBMP meeting is scheduled in November 2018 at Chico Hot Springs

There are three major pieces of oversight that the IBMP body has responsibility for:

- The Overall Adaptive Management Plan
 - This plan sets up what activities can take place in wild buffalo management of those emanating from Yellowstone National Park (YNP) and what the partner responsibilities are within those different areas of management
- The Winter Operations Plan
 - This plan is agreed upon by the partners and usually takes place in mid-November after YNP has completed their wild bison count and a recommendation is made of what needs to be done to maintain an appropriate population
- Quarantine Process and Protocols
 - YNP's Stephen's Creek facility has both cohort bison and elk in quarantine
 - Utilizing suggestions from the DOL and USDA, the Stephens Creek facility has been updated to be a more appropriate quarantine facility with testing of the animals being done on a regular basis
 - A DOL veterinarian is present for the testing and removes positive animals from the group
 - What has not been fully agreed upon in the Memorandum of Agreement between the DOL and YNP is what happens with the bison once they meet quarantine obligations
 - Under Federal rules, once a bison is released from quarantine, there is still a required assurance period with inventory control and mandatory testing for up to a year
 - No animals have moved from the Stephen's Creek facility yet, although some were released in two separate security breaches, and when recaptured, that set the quarantine clock on those animals back to zero

Mr. Honeycutt reported on news articles that came out this week regarding bison population counts:

- Mr. Honeycutt said that the DOL concurs with the articles speaking about an aggressive cull of wild bison population last year, but questioned, why did they say an aggressive cull did not yield a larger decrease in population
- Mr. Honeycutt said that there was a miscount of YNP population the previous year and that 300 head in the central herd were missed. This year, the central herd count is above average
- One question brought up at IBMP is whether or not wild bison counts are done before or after calving and the decision about that will be addressed at the upcoming IBMP meeting
- The IBMP Adaptive Management Plan states that a population of 3000 wild bison in YNP is a manageable number
- Mr. Honeycutt said that it remains to be seen how the population of excess bison in YNP will be culled, whether by quarantine or tribal hunts, but that the ITBC is no longer taking shipments of bison meat

- In the past three years, the CSKT Tribe is the larger tribe left in taking bison for meat, as the appetite for bison meat among tribal partners that participate in the culling process by slaughter has decreased
- Tribal partners have stated at IBMP meetings that they have encouraged the Department of Interior, the National Park Service and YNP to bypass the Lacey Act and consider allowing hunting in YNP because they feel it would be better for fair chase, safer for surrounding communities and more effective in bison population control
- Tribal partners have also stated often at IBMP meetings that the trap at the end of the Park does not allow the bison to get past it onto the Federal unclaimed land where they have a right to take the animals
- The “Administrative Harvest” of YNP bison accounts for over half of the excess bison
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Concern was raised about the bison housed at the American Prairie Reserve

- The bison on the Reserve are considered domestic bison that are also per capita fee-paying bison
- There was the concern about management with possible BLM approval given to remove fences on the Reserve and that brucellosis-carrying elk would be able to enter the Reserve
- Mike Honeycutt reminded the BOL that open range does not apply to bison and that in the state of Montana, there is no tolerance for domestic bison running at large and so exterior fencing will have to be maintained
- If brucellosis-infected elk were to breach the Reserve’s fencing during the risk period, the DOL would consider that DSA

9:30 am – 2018-2019 Montana Beef Council Contract Approval –

Mike Honeycutt explained to the BOL that renewal of the annual contract with the Montana Beef Council was due by September 30, 2018:

- By statute, the DOL is required to have an agreement with the Montana Beef Council
- The 2018-2019 contract was not changed from the previous year, but the schedule of expenses could possibly increase over last year’s

MOTION/VOTE

9:33 AM

Lila Taylor moved for approval of the annual agreement for the Montana Beef Council with the Montana Department of Livestock. Ed Waldner seconded. The motion passed.

There were concerns raised about the BOL being invited to the Montana Beef Council's September 24, 2018 meeting in Billings to discuss the beef checkoff activity and lawsuit outcome:

- John Scully said he was uncomfortable going to the meeting to discuss solutions because, with the DOL's statutory obligation, he did not feel they should play a role in how to promote or distribute checkoff forms and thought it would be better discussed with industry. Brett DeBruycker said he, too, felt that the future of the Beef Council and checkoff needed to come from the people
- Chaley Harney said that her intent for the BOL invite was for a more observatory and part of discussion role, but not to make decisions or provide direction

LEGAL COUNSEL UPDATE

9:40 AM

9:40 AM – Missoula Livestock Exchange Sale – Board Administrative Action

Sara Clerget told the BOL that because Rob Stutz was the Hearings Examiner on the sale of the Missoula Livestock Auction Exchange, that she would be the one to answer any procedural or substantive questions on the decision and what to do going forward:

- The hearing was one required by statute, not a contested case hearing and left the BOL with three ways to move forward on the decision
 - Accept the recommendation of the Hearings Examiner
 - Modify the recommendation of the Hearings Examiner
 - Reject the recommendation of the Hearings Examiner
- Ms. Clerget said, after no opposition was voiced at the hearing, and after reviewing the statute the sale came under and that it appeared to meet all the needed procedural points needed, her recommendation was to accept the Hearings Examiner's recommended decision in full as a final agency decision
- Rob Stutz made a note that footnote 2 did not belong in the decision and so he issued an irradi, which he recommended be included in the decision
- One of the reasons the hearing was held was because neither of the two persons wanting to buy the Exchange had previously owned a livestock market, although one does have a ranching background
- Mike Honeycutt said that Les Graham, MALAM, mentioned no opposition from any of the other current Montana livestock market owners to the sale

MOTION/VOTE

9:43 AM

John Scully moved to accept the sale of the Missoula Livestock Auction Market as discussed. Lila Taylor seconded. The motion passed.

9:47 AM – Update from Legal Counsel, Rob Stutz

Rob Stutz gave an update on legal issues facing the DOL:

- Berger
 - The Bergers are in bankruptcy and allegedly owed money to a variety of creditors, including the Bank of Colorado
 - The DOL was holding funds for sale of cattle by the Bergers at a market, awaiting proof of ownership. When some of the money began to revert to the DOL, the Bank of Colorado sued the DOL, saying they were entitled to the money because they were creditors of the Bergers
 - The case is resolved, with the Bergers providing proof of ownership of the cattle in an electronic format, and a check for \$66,567.99 was sent from the DOL to the Bank of Colorado, which they accepted and agreed to not pursue claim to the \$11,000 that had already reverted to the DOL

- Coremark
 - A hearing on the case was reset, at the request of Coremark's counsel
 - The Coremark oral argument, the motion for summary judgement, was set for September 27, 2018 at Federal court in Helena
 - Both Coremark and the DOL argued for a summary judgement and got a cross motion for summary judgement where the judge decides the win
 - Mr. Stutz reminded the BOL that the issue from Coremark was limited to a first amendment free-speech issue because the others, including an interstate commerce issue, were dismissed

- S&T Project Meats
 - At the last BOL meeting, it was reported that S&T Project Meats had filed a lawsuit on a petition for judicial review of the DOL decisions and also had filed a claim with the Risk Management Tort Claims Division
 - Because Risk Management did not respond to the claim within 120 days, by virtue of statute, it's denied
 - The attorney representing Risk Management and Tort Defense, the attorney representing S&T Project Meats and Rob Stutz had a conference call about a week and a half ago and discussed the potential for a resolution

- K&C Meats
 - The deadline for K&C Meats to answer a lawsuit the DOL filed in Missoula County against them when their inspection services were suspended have come and gone without an answer from K&C Meats' attorney

There was discussion regarding the administrative rule stating that an inspection for movement, or change of ownership inspection are only good for 36 hours:

- An out-of-state processor, according to some producers who have made contact with the DOL, said that the processor will cease buying Montana cattle if the 36-hour rule remains in effect because it takes longer than 36 hours to get logistics lined up to move the cattle out of the state
- A producer asked the DOL for an exemption from the 36-hour rule, but there is no authority given to the DOL within the rule to authorize an exemption

- Mr. Honeycutt said he would like to receive in writing what is the actual concerns and the expected remedy before making a decision of what to do regarding the rule
- Rob Stutz requested that while the DOL is waiting for the written concerns and expected remedy, that more research be done on the 36-hour period requirement

10:13 AM - RECESS

10:27 AM - RECONVENE

10:27 AM - EXECUTIVE SESSION

11:08 AM - RECONVENE

LEGAL COUNSEL UPDATE CONTINUED

11:08 AM

- Cottonwood Bison
 - This lawsuit is a challenge concerning hunting of bison on the north end of YNP and the compliance with Federal laws
 - The DOL has participated with other State defendants in a motion to dismiss and are awaiting Judge Haddon's decision in the case
 - A hearing is scheduled for September 26, 2018 in front of Judge Haddon to amend – Governor Bullock's general counsel, Raph Graybill, will present on behalf of the defendants at that hearing

ANIMAL HEALTH & FOOD SAFETY DIVISION REPORTS

11:09 AM

11:09 AM – ANIMAL HEALTH BUREAU

11:09 AM – Request to Fill Vacancy in Bison Program

Dr. Zaluski requested permission from the BOL to hire, before bison operations start in the spring, the Advice and Operations Technician position:

- The position vacancy was created when Clay Vines, who was in that position, was hired as the Bison Operations Manager

MOTION/VOTE

11:10 AM

Brett DeBruycker moved to fill the Advice and Operations Technician position in the Bison Program. Ed Waldner seconded. The motion passed.

- Clay Vines was officially hired on January 15, 2018, and he was able, because of a cancellation, to get into the POST Academy in September 2018.

11:11 AM – Request to Fill Vacancy in Animal Health - License Permit Technician

Dr. Szymanski requested permission from the BOL to hire a License Permit Technician position:

- Brooke Ruffier, who was previously in that position, was successfully hired into the Brucellosis Compliance position

MOTION/VOTE

11:12 AM

Brett DeBruycker moved to fill the vacant Animal Health License Permit Technician position in the Animal Health Bureau. Sue Brown seconded. The motion passed.

11:13 AM – Final Adoption of ARM 32.3.212 – Additional Requirements for Cattle

Dr. Szymanski reviewed amendments to ARM 32.3.212, Additional Requirements for Cattle, previously presented to the BOL, and requested that those amendments, along with any public comments received on them be approved by the BOL for submission to the Secretary of State's Office for adoption:

- ARM 32.3.212 Additional Requirements for Cattle
 - Amendments will change import requirements for domestic bison to match those of cattle and be consistent with Federal programs relative to brucellosis and tuberculosis

MOTION/VOTE

11:16 AM

Lila Taylor moved to adopt changes in ARM 32.3.212 Additional Requirements for Cattle as discussed. Brett DeBruycker seconded. The motion passed.

11:16 AM – Final Adoption of ARM 32.3.433 – Designated Surveillance Area

Dr. Szymanski reviewed amendments to ARM 32.3.433, Designated Surveillance Area, previously presented to the BOL, and requested that those amendments, along with any public comments received on them be approved by the BOL for submission to the Secretary of State's Office for adoption:

- ARM 32.3.433 Designated Surveillance Area

- Dr. Liska has held a total of eight public meetings in areas affected by the amendments to the DSA rule and also met, along with FWP, one-on-one with a producer
- Four comments were received for the proposed rule amendments and based on that, and working in consultation with FWP, the DSA boundary has been revised from what was previously presented to the BOL

MOTION/VOTE

11:19 AM

Brett DeBruycker moved to adopt the final amendment in ARM 32.3.433 Designated Surveillance Area as discussed. Ed Waldner seconded. The motion passed.

11:16 AM – Final Adoption of ARM 32.3.436 – Brucellosis Vaccination

Dr. Szymanski reviewed amendments to ARM 32.3.433, Designated Surveillance Area, previously presented to the BOL, and requested that those amendments, along with any public comments received on them be approved by the BOL for submission to the Secretary of State's Office for adoption:

- ARM 32.3.436 Brucellosis Vaccination
 - A revision to what was previously proposed is, instead of saying counties that contain or border a DSA, the counties will be listed out specifically to be included in the vaccination
 - One comment regarding the revised rule requested that Big Horn County be included in the list of counties to be included in the vaccination, but it was inadvertently left off that list. DOL staff also recommended that Big Horn County should be on the list and the BOL had discussed that it be added to the list in the August 2, 2018 BOL meeting

MOTION/VOTE

11:25 AM

John Scully moved to alter proposed rule, ARM 32.3.436 Brucellosis Vaccination to include Big Horn County based upon recommendation of the Animal Health Bureau Staff, a comment to the proposed rule and the discussion on the proposed rule during the August 2, 2018 meeting. Brett DeBruycker seconded. The motion passed.

MOTION/VOTE

11:26 AM

John Scully moved to adopt ARM 32.3.436 Brucellosis Vaccination as amended in the previous motion. Lila Taylor seconded. The motion passed.

11:27 AM – Final Adoption of ARM Housekeeping Rule Changes

Dr. Szymanski reviewed amendments to 19 ARM rules that just cleaned them up, giving more clarity and previously presented to the BOL, and requested that those amendments, along with any public comments received on them be approved by the BOL for submission to the Secretary of State's Office for adoption:

- ARM Housekeeping Rule Changes

MOTION/VOTE

11:27 AM

Sue Brown moved to adopt final amendment of ARM 32.3.212. Nina Baucus seconded. The motion passed. – **THIS MOTION WAS MIS-STATED**

11:29 AM - LUNCH

12:23 PM - RECONVENE

CENTRALIZED SERVICES DIVISION REPORTS

12:23 PM

12:23 PM – Livestock Loss Board

- George Edwards reported that the LLB has paid out claims for 42 more animals this year than last year with a dollar amount of \$18,000 more than last year at this time
- Mr. Edwards said that LLB has \$237,000 in their account for loss payments, but with the notice on September 14, 2018 of a Federal grant for the year, \$30,000 will be added to that amount for wolf loss claims, until the end of the fiscal year on June 30, 2019
- In the previous fiscal year, LLB paid out \$40,000 above what was taken in, eating away at their savings account
- By the next BOL meeting, Mr. Edwards said that Daniels County will have a registered quarter horse loss to pay, which is expected to cost more than a normal horse loss
- A payment was made for the loss of two guard dogs at \$1300/dog
- Mr. Edwards reported that he will again be applying around October 18th for another grant from US Fish & Wildlife Services that he hopes will add around \$100,000 to the LLB wolf-only loss prevention fund. It requires a 50% cross share

12:40 PM – Predator Control

- John Steuber said that during his attendance at the Miles City ram & ewe sale and at the Woolgrowers the previous week, he was reminded by producers that the number one predator in Montana is the coyote
 - Of the \$1.649 million Wildlife Services (WS) receives in Federal appropriations, 85%-90% goes for coyote damage management
- Federal appropriations to WS have been reduced since 2011, resulting in not being able to fill some vacancies in Montana, including Blaine County, Musselshell County and Gallatin County
 - WS has cut their flying time down to 300+ hours rather than 600+ hours as was done before the cuts that occurred in 2003
- Grizzly bear work has been increasing, around 12 grizzlies have been snared or culvert trapped, one was requested to be killed. 48 wolves that were depredating were killed and 12 packs were radio-collared
- The pilot situation for WS should go well this year because no deployments are anticipated for those pilots who are in the National Guard
- WS has received funding this year from Fish, Wildlife & Parks (\$110,000 for wolves), Rocky Mountain Elk Foundation (\$25,000 for wolves), Montana Sportsmen for Fish & Wildlife (\$20,000 for wolves and grizzly bears)
- Last year's WS wolf work cost \$278,642 and about \$107,000 for grizzly bear work. FY18 expenses for grizzly bears are currently running 25%-30% higher than in FY17
 - Grizzly bear work costs less because WS doesn't typically fly for grizzly bears and grizzly bear work should be completed in 1-2 days, while tracking a pack for wolves can take 45 days
 - Grizzly bear, wolf and lion depredations, confirmed by WS, have been reported in 19 counties and 13 of those counties have no cattle petition
- WS has an MOU with FWP and a sub-permit with US Fish & Wildlife Services to do livestock depredation investigations. WS co-investigates with FWP, when possible, when grizzly bears are involved in the depredation – WS makes the determination and FWP and/or US Fish & Wildlife Services determines the management action
- Expenses for flying the two DOL helicopters was \$224,000 (pilot salaries and benefits), hangar space is paid by USDA, fuel is \$110,000, maintenance varies from \$205,000-\$435,000
- There was discussion about the level of insurance coverage for a State-owned helicopter being flown by an employee of a Federal agency
 - It appears that the current insurance for the helicopter, covers hull damage but not liability that's collateral to the damage, or coverage for the pilots' liability, because they are not State employees
- The FSA Indemnity Program is not recognized in Montana because there is already a State program in place

1:50 PM - RECESS

1:59 PM - RECONVENE

1:59 PM – FISCAL BUREAU

1:59 PM – September 2018 – June 2019 Expenditure Projections

- Brian Simonson reported that he and Evan Waters had been putting in a lot of time with IBARS and getting the Governor's report ready, and have about finished end-of-year close out
- FY 2018 ended in the black
- The FY19 budget includes carryforward authority for FY17, FY18 as well as HB09 general fund, which is a fund to reinstate the Governor's 10% general fund cut from the 2017 Legislative Session – total carry forward money is \$175,078 that is already included in the budget amount
- The negative budgeted funds numbers coordinate with the 2016 snapshot, the 80% payroll increase and the Union negotiations. Mr. Simonson requested some direction for going forward with the HB3 submission regarding those numbers because that request is due by October 15, 2018
- A negative in the Livestock Loss Board may be addressed with carryforward funds

MOTION/VOTE

2:11 PM

John Scully moved that staff proceed forward with HB3 consideration based upon the snapshot and/or union negotiations and the wage appeal. Lila Taylor seconded. The motion passed.

2:13 PM – August 31, 2018 Budget Status Report

Brian Simonson reported that the Budget Status Report is a comparison of this August and last August and what the fallout is for the DOL:

- \$62,000 total Personal Services were spent so far this year and the DOL will spend that in some HB3 justification
 - The discrepancy between year-to-date actual expense on Personal Services was not an expense at this point in time last year. A lot of it is tied up into the February 2018 statutory increase that took place for all employees
 - The DOL will pick up another 50 cents across the board increase in February 2019 through the State pay plan approved last biennium
- In Operations, the report shows \$170,000 less was spent than at this time last year, but that is because of timing and when the bills came in to be paid

2:14 PM – State Special Revenues Comparison as of August 31, 2018

Brian Simonson said that the total State Special Revenue number listed makes it appear that the DOL is short \$4.7 million:

- The number will carry through into every report from now until May 2019 when the per capita revenue, which was recorded twice in 2018, is realized
- Mr. Simonson said that otherwise, all of the numbers are on track

2:17 PM – Per Capita Fee (PCF) Rate Change Proposal

Brian Simonson said that this report will drive the decision by the BOL as to whether or not to change the per capita fee rate next year:

- The average amount of per capita received annually the past three years is \$4.9 million
- Projections for the next three years with no change in the per capita fee rate, is \$5.5 million annually
- The recommendation by DOL staff then, based on having enough money annually to meet the DOL budget, is to not raise the per capita fee
- If Fall Run numbers are short this year, an increase could be done in September of 2019 because the authority would already be there, based upon the DOL's current budget
 - Brett DeBruycker said his feeling is that cattle prices are not going to go lower
 - John Lehfeltdt said sheep prices did go lower than \$1.50 and are at \$1.40 now
 - Mike Honeycutt said that even when there is a dip in the cattle market for some economic or environmental reason, it will climb back to that historical level and stay consistent
- Mike Honeycutt explained that if the DOL asked for an increase now, the DOL would not have any authority to spend that increase in the next biennium. He recommended that in 2020, to couple the per capita conversation with the biennial planning
- Mike Honeycutt also recommended that if a particular part of the livestock industry is burgeoning and that more monies would be needed for disease control of those increased populations of animals, that the industry be consulted before raising the per capita rate
- Mr. Honeycutt said that there is a possibility of utilizing a combination of revenue sources, possibly increasing user fees rather than only per capita fee rates for some issues

MOTION/VOTE

2:40 PM

Brett DeBruycker moved for the staff recommendation to not change per capita fee rates. John Scully seconded. The motion passed.

2:41 PM – OBPP Planning Timetable for 2021 Biennium

Brian Simonson highlighted some dates on the Office of Budget and Program Planning (OBPP) timetable that begins with the budget submission and ends in the Legislative cycle:

- The final time to submit supplemental appropriation requests is October 15, 2018, one to keep in mind when considering HB3 requests
- November 1, 2018 is when OBPP provides LFD with present law-based budget
- November 15, 2018 is when OBP transmits the Executive budget and is also the deadline for LRBP to be submitted
- December 3, 2018 is when OBP submits the budget

2:43 PM – Request to Hire an Accounting Technician

It was announced that Twila Morgan, Payroll, retired from the DOL after 28 years, and an Accounting Technician, currently in the DOL, was moved into her position. The request is to fill the Accounting Technician's vacant position:

MOTION/VOTE

2:44 PM

Nina Baucus moved to hire an Accounting Technician. Sue Brown seconded. The motion passed.

2:46 PM – IT BUSINESS ANALYSIS AND STRATEGIC PLANNING

Mike Honeycutt told the BOL that the DOL IT plan has to roll up into the overall State IT plan, and because of that, the DOL is being forced into a revised format or layout:

- The IT Department is requesting \$650,000 annually in the next biennium to fulfill the DOL IT plan, a figure that was determined by comparative pricing of products
- Mike Honeycutt assured the BOL that the \$30,000 annual IT budget figure presented does not include expenses, hardware costs and other costs that are spread out into other divisions

John Scully said that after receipt of Legislative authority to be reported at the May 2019 BOL meeting, no funds will be expended from either budget year until a comprehensive project management plan is presented to and approved by the BOL, including at least the following:

- (A) Software function improvements and application by Division
- (B) Implementation and training timelines, accountability and costs
- (C) Contract approval, including reoccurring expense, timelines for renewal, software upgrade process and ownership of those upgrades and software
- (D) Line item project financials, including personnel requirements, travel, etc., for the entire expenditure
- (E) The impact on existing functionality and contracts
- (F) What would you keep/lose, what would you get/improve
- (G) What is the impact of it if you get it
- (H) The pros and cons for vendor alternatives for required or desired functions

- (I) Final approval and submission through the State procurement process consistent with customer stakeholder education and
- (J) Specific hardware requirements and the dollars necessary

MOTION/VOTE

3:02 PM

John Scully moved to include \$650K in each year of the biennium of 2020-2021 as a request to the Montana Legislature, subject to the conditions discussed in the project management plan of A through J prior to appropriated and authorized funds being spent for the IT plan. Ed Waldner seconded. The motion passed.

Mr. Simonson reported that the DOL has lost the ability in the aging Milk & Egg Bureau system application to upgrade it and the DOL is researching ways to deal with that:

- The Safe Inspect system has some capabilities to transfer over to the Lab and to Brands for inter-departmental communications for better coordination and real time data. The product also integrates with USAHerds
- The VADDS system, would be addressed in the second year of the biennium as research would continue to find a product that could utilize data from multiple sectors in the DOL

ANIMAL HEALTH & FOOD SAFETY DIVISION REPORTS CONTINUED

3:10 PM

3:10 PM – VETERINARY DIAGNOSTIC LABORATORY (VDL)

3:10 PM – Laboratory Fee Update

Mike Honeycutt said that the BOL Finance Committee discussed the VDL market analysis at their meeting the day before and decided to postpone discussion of the Laboratory fees until the next BOL meeting to assure all the data points are in place

BRANDS ENFORCEMENT DIVISION REPORTS

3:11 PM

3:11 PM – Market Staffing Updates

Ty Thomas, Assistant Administrator for the Brands Enforcement Division, reported that all markets are fully staffed except for three open positions:

- The Billings market is down two brand inspectors
- The Missoula market is down one part-time brand inspector but, with interviews already conducted, he plans to make an offer to one of the candidates tomorrow
- The Ramsey market needs to fill a short-term worker position

- Mr. Thomas said that he and Leslie Doely revamped the Brands Enforcement Division application system to make it simpler and for the DOL to receive applications more quickly. The Taleo system will still be a method that applicants can utilize as well

Mr. Thomas addressed several general issues brought up by the BOL:

- He said he has observed the past few weeks, since filling in for Brands Administrator Leslie Doely, the reasons she has requested an office manager/assistant. She is set to return sometime around Thanksgiving
 - The BOL said they had planned to address the situation after the first of the year
- Mr. Thomas said he likes to visit each of the markets in the state at least twice a year and some more often than that
- The online employee review process does not hamper communication between Brands supervisors and staff, as it cannot be completed without both the supervisor and the employee verifying that a face-to-face meeting took place
- Mr. Thomas answered questions that arose in the 36-hour inspection rule discussion during the Legal Counsel Update
 - South Dakota has a 24-hour inspection rule and would be sending Mr. Thomas reports of when Montana cattle start going across their scale
 - Mr. Honeycutt said that a written understanding of producers' issues with the 36-hour inspection rule need to come forth before a rulemaking process can begin to possibly amend the rule

CENTRALIZED SERVICES DIVISION REPORTS CONTINUED

3:33 PM

3:33 PM – Milk Control Bureau

Chad Lee reported on the 8/22/18 Board of Milk Control Meeting

- The Board of Milk Control proposed a rule at that meeting to amend the Class 2 And Class 3 price formulas
 - The proposed amendment to Producer Pricing Rules ARM 32.24.480 was published July 6, 2018, a hearing was held for it on August 3, 2018 and it was adopted effective September 19, 2018
 - No comments were received during the hearing; two comments were received during the comment period
 - The new amendment, for Class 2 prices for butterfat increase by about 6%; skim milk price is decreased by about 1%
 - The new amendment for Class 3 prices for butterfat increases by 21%, skim milk price is decreased by about 1%
 - With the new amendment, the Board of Milk Control estimates that quota prices will be \$17.10/cw, which is 68 cents, or 4% higher than it would have been under the old formula
- The Board of Milk Control is hoping to receive back more surveys from producers on the direction they should take on recommendations from the Milk Study

- Surveys were sent to all dairy farmers in the state with a reminder letter sent out in August and another reminder letter was to be sent out today
- The Board also discussed looking ahead for rate setting for assessment rates for next year

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

3:37 PM

John Youngberg said that the Montana Farm Bureau staff have been traveling around the state to attend county meetings:

- An issue raised at a Fergus County meeting regarded charges for estray animals listed in statute
- Montana Farm Bureau may be looking at some legislation to clarify charges for estray animals and damages, as some people have been trying to charge \$150/day for trespassing livestock. The statute simply states paying "reasonable cost" and damages
- Mr. Youngberg stated his appreciation for the DOL not raising per capita fees this year as he said cattle prices are at the bottom right now
- Mr. Youngberg announced that their annual convention is set for November 7-10, 2018

SET DATE FOR NEXT BOARD MEETING

5:34 PM

The next BOL meeting was scheduled for October 18, 2018

MEETING ADJOURNED

3:46PM


John Lehfeldt, Chairman