



# Montana Board of Livestock Meeting Minutes

April 6, 2017

MT Public Service Commission-Bollinger Room  
1701 Prospect Avenue, 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 and poultry)

Brett DeBruycker (cattle producer)

## Staff Present

Mike Honeycutt, EO

Gary Hamel, Meat Inspection Bureau

George Harris, Centralized Services

Evan Waters, Centralized Services

Leslie Doely, Brands Enforcement Division

George Edwards, Livestock Loss Board

Donna Wilham, Adm. Asst. to EO

Dr. Tahnee Szymanski, Animal Health

Dr. Eric Liska, Animal Health

Dr. Bill Layton, Diagnostic Laboratory

Dan Turcotte, Milk & Egg Bureau

## Public Present

John Steuber, USDA Wildlife Services

Gene Curry, Valier Rancher

Errol Rice, MSGA

Kim Kafka, N. American Elk Breeders Assn.

Tammy Bridges, MT Beef Council

Chaley Harney, MT Beef Council

Ken Mesaros, Cascade Rancher

Lisa Coligan, DOA

---

## MEETING CALLED TO ORDER

**7:59 AM**

Chairman John Lehfeldt called the meeting to order at 7:59 AM

## APPROVAL OF 2/22/17 BOL MEETING MINUTES

**7:59 AM**

## **MOTION/VOTE**

**7:59 AM**

**Nina Baucus moved that the February 22, 2017 minutes be approved as presented. Lila Taylor seconded. The motion passed.**

## **OLD BUSINESS**

**8:00 AM**

### **Audit Updates**

#### **Lab Performance Audit Update**

Mike Honeycutt reported positive progression relative to the DOL's addressing of the Lab Performance Audit recommendations:

- Nothing new to report in the integration process of VADDS/USAHerds
- House Appropriations heard Rep. Balance's HB661 on April 4, 2017 which would use money from several State agencies to fund a study on the proposed Combined Lab Complex in Bozeman
  - Study would take place in November or December of 2017
  - Study committee would include two members from the Environmental Quality Council, two from Economic Affairs Interim Committee and a third party to visit other labs – DOL would be available for consultation
  - Information from study would be used to begin to take Legislative action in the 2019 Session to ask for funding for the Complex
- Cost analyses of the Lab will be done every year after FY-end

#### **Brucellosis Audit Update**

Dr. Liska gave an overview of the draft plan to address the recommendations from the Audit Committee:

- Actions have been taken to address the Committee's request that the DOL improve oversight of DSA brucellosis testing compliance by using the Brand Inspection process
  - Utilize only Department DSA employees for brand inspections in the DSA
  - Improve the timeliness of the brand inspection review in the DOL office
  - Improve field to office technology to receive immediate test results
    - ✓ Cooperative Agreement funds were used to develop an auditing program that would make sure all brand inspections that are completed are returned to the DOL
- Dr. Liska believes the DOL has completed the Audit recommendation #1 to improve oversight of brucellosis testing compliance by developing and implementing a consistent response to cases of non-compliance with DSA program requirements
  - When annual compliance evaluations show low compliance herds, those cases are investigated individually

- Animal Health veterinarians are working with Mike Honeycutt and Leslie Doely to develop a protocol for ticketing and working with out-of-compliant producers
- Dr. Liska believes that the DOL has completed the Audit recommendation #2 that the DOL improve oversight and accountability of DSA herd management plans through the development of the criteria to provide basis for management plans and use that criteria as a basis for documenting risk assessments and for creation of those plans
  - The DOL has a consistent method of developing herd management agreements that include risk assessment
  - The DOL has established a criteria for why a plan was developed for the producer and that will continue to be used if they are in the DSA and will work with them on herd management agreements if they desire
- The DOL continues to work on the Audit recommendation #3 that the DOL improve oversight and accountability of DSA herd management agreements by documenting review and updating DSA management agreements
  - An administrative rule change, currently posted for public comment, would require herd management agreements be reviewed every five years rather than annually and would take effect April 29, 2017 or when it is approved by the BOL a second time
  - A DOL spreadsheet has been created that lists all producers with herd management agreements which is reviewed monthly to show any new producers that have come on board and also lists those producers who need appointments if they want to renew their agreement
  - If the DSA area is enlarged, different methods will be used to inform producers in those areas that their operation is now part of the DSA and inform them of how to set up a herd management agreement
    - ✓ The per capita fee list for producers in a new area will be utilized for contact information to send out an information in a mass mailing
    - ✓ Signage will be posted at the markets
    - ✓ Public meetings are held
- Dr. Liska believes that the DOL has fulfilled the Audit recommendation #4 that the DOL maintain full supporting documentation for oversight and approval for brucellosis vaccination reimbursement payments
  - The DOL keeps in-house the top sheet of the adult vaccination certificate along with all supporting documentation
- The DOL will continue to follow current law, policies and practices and feels they have fulfilled the Audit recommendation #4 by using the IBMP adapted management plan documents as the guidelines for determining when to conduct hazing and lethal removal of bison that have breached tolerance boundaries
  - Mike Honeycutt said that operational staff have been asked to be much more detailed in their lethal removal reports
  - Mike Honeycutt wants to have documentation or an explanation in the operational reports from the person on the scene of why hazing was not an option

- Mike Honeycutt asked for written or communication confirmation from operational staff if the DOL has requested a hunter from FWP and that they are not able to get a hunter in within the time frame needed for lethal removal
- Mike Honeycutt said according to 81-2-101, 81-2-102, 81-2-120 MCA and 32.3.224A, the DOL has authority to enter private property for the purpose of removing bison for disease control, but it is exercised cautiously to gain the trust of property owners and to exercise worker safety
- The DOL will continue to follow current law, policies and practices and feels they have fulfilled the audit recommendation to emphasize cooperation with FWP for the use of public hunters to remove bison in non-tolerance areas

### **Personnel Update**

Mike Honeycutt reported on the status of the DOA Fusion online employee performance appraisal system

- The March 2017 timeline for Fusion implementation was missed by DOA, but Mr. Honeycutt and Sheila Martin may utilize the system for final year-end evaluations and performance appraisals and then launch fully into it next year
  - The Fusion system will evaluate an employee on 50% goals and objectives and 50% competencies
- Mike Honeycutt gave the BOL Personnel Committee members a copy of a paper form of the Fusion evaluation he filled out, listing his own goals

## **NEW BUSINESS**

**9:03 AM**

### **Appropriations**

John Scully reported on presentations given at the House Joint Committee and Senate hearings at the 2017 Legislative Session:

- John Scully complimented and thanked DOL staff for the work they had done and detailed presentations they gave to both House and Senate
  - Chairman Moore was complimentary to both Mike Honeycutt and staff for their thoroughness in the appropriations process
  - The DOL will not be one-time funded in the coming biennium
  - Presentations given by staff focused on 54 or so decision packages, broken down by geographic area and relative to function of operation in their division
  - Final appropriations have not been decided as of yet
- Mr. Scully asked for funding for a Lab building study
  - A separate bill was introduced to fund an interim study for the Lab complex and is currently being considered by the Legislature
- Mr. Scully requested authority of the Appropriations Subcommittee to give Mike Honeycutt an increase in salary as he is an at-will employee and not subject to other state employee wage increases

## Legislative Update

Mike Honeycutt gave an update on bills he is tracking during this Legislative session that have some relationship to DOL:

- The legal fence law (HB256) adding the criteria and prototypes for electric fencing has been signed by the Governor
- Adding mountain lions to the LLB predation reimbursement list (HB286) has been signed by the Governor
- Clarification in some language in a Livestock Loss Board law that states who they can pay grants to and expanding the types of projects they can apply grants to (SB41), has been signed by the Governor
- The ability of counties to be able to use a portion of their cattle and sheep petition money for local bounty programs at the county level (HB305) was signed by the Governor
- A bill that would exclude leaf cutter bees from the per capita livestock fee (HB345) would only cause a 1% reduction in per capita revenue for the DOL. and has been signed by the Governor
- Changing the DOL definition of milk that says it comes from “lactating cows” to all hoofed mammals (SB157) clears up the issue of the DOL definition of only dealing with cows. It has been signed by the Governor
- rules for calculation of milk license fees HB377 was signed into law. A bill to require the Board of Milk Control to provide for milk equivalent conversion factors by rule (HB377) was signed by the Governor and will become effective October 1, 2017
- The livestock transportation permit laws (HB338) which extends the use of a grazing permit for livestock movement from just being to the adjoining county to beyond adjoining county, passed second and third readings in the House
  - DOL had reservations about the bill because of disease management and DSA requirements, but after clarification on that, with the bill garnered so much bipartisan report, Mr. Honeycutt told the Governor’s office to sign it
  - Most of the revenue lost from this bill passing would be by the Deputy Stock Inspectors
  - The DOL may receive some extra revenue from the bill passing because of the \$10 grazing permit fee, but the DOL may have to hire extra District Investigators to monitor the new law
- The bill that would allow domestically bred foxes to be pets (HB157) was tabled in the second House
- A bill that would change labeling requirements for milk, requiring dual dates (HB272), was tabled in the House and missed bill transmittal.
- A bill creating an exemption for all raw milk producers (HB325), was tabled in the House and may be brought up again today on the Senate floor for a vote
  - Ed Waldner said if the liability for raw milk falls on the county, the Liberty County sanitarian said it would break the county financially if there was a raw milk outbreak

- The Montana Local Food Choice Act would allow anything produced at home and in a private transaction between an informed consumer and a producer in the home, to not be subject to government regulation (HB352) was tabled in the second House
- A bill requiring health warnings on raw milk sales (SB300) would be considered if SB325 passes. SB300 was tabled, but is in Judiciary Committee
- A bill that would lift the sunset on the livestock loss program and continue to allow funding to be used for prevention work (SB73) is on the Senate floor now and so there should be a floor vote soon
- A Senate Resolution that would remove Brucella Aboretus from the Federal list (SJ19) has reached the second House
- A Joint Resolution to discontinue artificial feeding of elk (LC0504) was tabled in its second House and is not moving at the present time.
- A bill to revise the distribution of brand inspector fees (HB443) failed on a floor vote in its transmittal
- The Montana Pet Breeders Act (HB582) added an amendment that would make the DOL responsible for that licensure
- HB648, which authorizes transfers and clarifies sources funded will take Lab fees and put them into an enterprise account as opposed to a State Special Revenue fund. The bill was in committee yesterday and so it had not had executive action
- HR30, an interim study of livestock law enforcement, looks at the law enforcement aspect of the DOL to assure it is staffed properly. There is a hearing on that resolution today
- A statutory interim study on Montana State University laboratories (HB661), at a cost of approximately \$221,000 has had its first House hearing
  - DOL is contributing \$66,000 towards the study, which will come out of the VDL fund balance - \$33,000 Lab fees, \$33,000 per capita already in the VDL account. This bill has had its first House hearing
  - FWP is contributing \$23,000, as the amount of lab space they would occupy would be smaller than that of the VDL
  - MSU has been asked to contribute an equal amount as the DOL for the remaining labs, including the Wool Lab and Seed Lab

Mike Honeycutt congratulated all three BOL members, Ed Waldner, Nina Baucus and Sue Brown because he had received an email confirmation that they are moving toward the Senate for reappointment to the BOL

## **DIVISION REPORTS**

### **9:41 AM**

#### **9:41 AM – Milk and Egg Bureau**

Dan Turcotte reported on general updates for the Bureau:

- The Bureau conducted two state ratings for a plant and a jug manufacturer
- One milk producer has been lost since the last meeting
- Two new sheep dairies will be opening

- The sheep dairy under construction in Wolf Point will do milking as well as manufacturing cheeses. It should open in late spring
- The sheep dairy at Hysham will start this year with production of sheep milk and go to cheese production next year
- Egg licensing is nearly complete and being done in an Excel program because the computer system has not been functional
  - Mike Honeycutt had a meeting with Montana Interactive (MI) to discuss the IT struggles of the Milk and Egg Bureau
    - ✓ Because the DOL is in a contract with MI there are no development or maintenance costs
    - ✓ A list of government services is being compiled to see if the DOL can better use MI to get more IT needs met department-wide
- Dan Turcotte reported on activity at the Great Falls egg plant
  - Construction at the new Great Falls egg plant is going well
  - Staffing and keeping egg plant employees for six 12-hour days has been an issue
  - Some staff has been dropped back to five days a week, requiring that more eggs be sent to Washington for grading
- In March, USDA recertified the shield egg graders and the shell egg graders, including Dan Turcotte, and did their review of the Great Falls plant
- May 12-17, 2017, Mr. Turcotte will be attending the National Conference on Interstate Milk Shippers (NCIMS) in Michigan
- Mr. Turcotte will be reviewing proposals from the Food Safety Modernization Act, PMO and FDA to make decisions on the stance the Milk and Egg Bureau wants to take when it is discussed at the Conference

### **9:50 AM – Livestock Loss Board (LLB)**

George Edwards reported on member reappointments for the LLB:

- He received an email from the Governor's office that said Seth Wilson and James Cross were reappointed and Whitney Klasna from Lambert was replaced by Doreen Gillespie from Ethridge

George Edwards gave an update on bills he is tracking during the 2017 Legislative session that affect the LLB:

- Because testimony in the House and Senate regarding grants/payments varied from the final written amendments in the bill to add mountain lions to the LLB predation reimbursement list (HB286), LLB will do an administrative rule to clarify payment so it follows the Legislative intent
- Regarding LLB grants, the legal fence bill (HB256) will require that if someone puts in a grant to install an electric fence for prevention, the boundary fence must meet the legal fence requirements under the law
- A Joint Resolution that urges delisting of grizzly bears (JR15) passed the House, but they have not taken executive action on it yet
- SB41 which clarifies who can receive loss prevention grants, and expands the types of projects funded by those grants was signed by the Governor

- SB73, which would revise laws related to livestock loss, had an amendment put on it that would free up state grant money that was tied up due to a flaw in the last session. No final votes on it yet, although it has been passing easily with each vote so far

George Edwards reported on general updates for the LLB:

- Mr. Edwards will be at the table during the Northern Continental Divide Ecosystem (NCDE) grizzly bear meeting on April 25<sup>th</sup> at the Glacier Peaks Hotel and Casino in Browning from 10am – 4pm
- Predation claims are still being received from 2016, and claims for 2017 are coming into the office every couple days
- A 2016 claim from Glacier County came in April 5th and a 2017 claim for wolves arrived from Teton County
- Head counts remain about the same as last year
- The BOL asked if it could be determined before predation payments were made whether or not the producer paid per capita fees
  - George Edwards said that the LLB board does not want to check producers' per capita status before making predation payments
  - It is not contemplated in the legal framework of the DOL to deny predation payment if a producer has not paid per capita, and to change that a rule change may be needed or vetting of taxation issues before the DOL would consider that policy

### **10:04 AM – Predator Control**

John Steuber reported on aircraft and aircraft storage that Wildlife Services (WS) uses for predation work:

- Three helicopters and three planes are being utilized for this year's predation work
  - Aircraft have been equipped with Automatic Flight Following (AFF) units, which gives their real time location, flight speed and elevation, monitored at the Billings office
  - USDA pays the AFF subscription on the aircraft and if DOL sells the aircraft, the AFF equipment goes back to the Federal Government
- WS is moving this week into a USDA-owned hangar located on Airport Road in Helena
  - The new hangar consolidates three previous storage places into one and was paid for by USDA-APHIS, USDA-APHIS-WS & USDA-APHIS-WS-MT

John Steuber reported on personnel changes in WS:

- Great Falls Wildlife Specialist Steve Demers retired March 31, 2017, after 32 years
- Columbus-area Wildlife Specialist Curt Miedtke will replace Mr. Demers in the Great Falls area
- Wildlife Specialist TJ Dorval from the Colorado WS office will replace Mr. Miedtke in the Columbus area and will also be covering Red Lodge, and Carbon & Stillwater Counties



- TJ Dorval will be re-certified next week to shoot from a flying helicopter; he is already certified to shoot from a flying airplane

John Steuber reported on predations around the state:

- Work has continued to remove a troublesome wolf pack that recently killed four calves in Teton County
- A wolf pack west of Melville killed three calves and a yearling heifer. WS removed 2 wolves from that pack and the landowner removed the collared wolf

John Steuber gave general updates from WS

- Kraig Glazier and Mike Hogan will attend the NCDE meeting on April 25<sup>th</sup> in Browning
- Mr. Steuber foresees more calls and more work for WS because of the new mountain lion predation payments being offered to producers that was just voted in by the 2017 Legislature
  - Predation calls from counties not participating in the USDA cooperative program, Carter, Richland, Powder River and northern Dawson, will require some kind of agreement between the county and WS for how those predations will be investigated – no investigation, no reimbursement payment

## **RECESS**

**10:19 AM**

## **RECONVENE**

**10:39 AM**

### **10:39 AM – Brands Enforcement Division**

#### **Fort Supply Contract Addendum**

Leslie Doely gave an update on the renewal of the Fort Supply Contract and the Addendum:

- Contract expiration was March 31, 2017 but was extended to April 15, 2017
- Initial purchase of Fort Supply software was in 2012. Contract renewal cost for 2013, 2014 and 2015 was \$70,000; contract renewal in 2016 was \$42,000 and 2017's contract renewal proposed cost is \$24,750
  - John Scully reviewed the Fort Supply contract and addendum to identify any issues in language that could affect the DOL:
    - ✓ There is no way to terminate the current contract without proving some type of liability
    - ✓ Problems could arise in standard service hours
    - ✓ All standard service hours are logged by the contractor and are logged up to the nearest half hour, which could actually mean rounding them down
    - ✓ It appears that the DOL is paying for Fort Supply's software improvements through standard service hours

- ✓ DOL is required to pay for mistakes made in Fort Supply software and functionality enhancements
- ✓ There are no rollover conditions of service hours listed in the contract – In paragraph G strike “up to” 50 standard service hours and simply say 50 standard service hours be rolled over
- ✓ Total service hours were dropped from 350 to 170
- ✓ Nothing in the contract says that Fort Supply has a right to use the charts, graphs and content that they received from the State of Montana in any fashion whatsoever without the approval of the individual who provided the information or the State of Montana
- ✓ Changes need to be made in the coding errors section of the contract to assure DOL isn't paying for or using service hours that should be covered by the developer
- ✓ Contract language needs to state that DOL will be notified prior to updates or upgrades and be given the choice as to whether or not they want them
- ✓ Clarification is needed on Mobi control installation

A request was made to include the cost of DOL IT hours spent working with Fort Supply to the overall cost of using the program

## **MOTION/VOTE**

**11:30 AM**

**John Scully moved that Mike Honeycutt and Leslie Doely proceed to a final draft and signature for the addendum of the contract #5 for the Fort Supply contract. Lila Taylor seconded. Motion carried. The motion passed.**

### **Administrative Rule Change Proposals**

- Leslie Doely requested a change be made in Administrative Rule 32.18.109 (f) FREEZE BRANDING that says “a grazing permit will not be issued to freeze brand cattle.” She said that if the freeze brand was recognized as a holding brand, then there should be no restriction from moving them on a grazing permit. No motion was made
- Leslie Doely requested that three Administrative Rules, 32.18.102 AGE TALLY MARK, 32.18.103 NUMERAL MARK and 32.18.104 PLACEMENT OF DIGITS, be consolidated into one
  - Rather than using the language “tally marks,” “number brands,” and “placing digits,” in the three separate rules, use the language “special ID marks” to identify all three in the new rule
  - Add that a holding brand is required back into the rule

## **MOTION/VOTE**

**11:35 AM**

**Brett DeBruycker moved to consolidate language from ARM 32.18.102, 32.18.103, and 32.18.104 into one new rule and add that livestock using special identification marks are branded with the owner's holding brand. John Scully seconded.**

## Motion passed

### General Updates

- Leslie Doely said a Crimestoppers meeting is scheduled for Tuesday, April 11, 2017 at 10:00 am in the DOL conference room.
- Leslie Doely gave a Brands Enforcement Division personnel update
  - Robin Smith was hired as District Investigator in District 18, covering Sidney and Glendive
  - There have been no qualified applicants yet for the Ramsey short-term worker position
  - An internal promotion opened up a Miles City area Market Supervisor position which closed April 5, 2017 and interviews will be scheduled shortly
  - Interviews are being set up for the Missoula-area District Investigator position, vacated about two months ago
  - An inspector vacancy in Billings will be opened shortly
- Ms. Doely said that a search of BOL meeting minutes to locate certain brand history still needs to be done as conversations with people who know some of that history was not enough to answer questions raised at the BOL February 22, 2017 meeting
- Ms. Doely reported that the phone app to look up brand information is not working properly and she has been working with Montana Interactive to incorporate something web-based that would make access easy for Deputy Stock Inspectors

### **11:46 AM – Montana Beef Council Conversation**

Mike Honeycutt introduced Montana Beef Council staff, Chaylee Harney, Executive Director and Tammy Bridges, Director of Collections and Compliance. He also introduced Kyle Chenowith, who replaced Ben Reed of State Agency Legal Services, and is working with Rob Stutz on DOL issues

- Chaylee Harney said she would answer questions regarding the MOU Montana Beef Council entered into with USDA
  - The MOU is part of a lawsuit and so her discussion about it was limited
  - The MOU became public after being printed in the newspaper
- There was discussion regarding the annual contract the Montana Beef Council has with the DOL, due to be renewed in September
  - It was requested by BOL that an amendment be added to the DOL/MT Beef council contract, prior to September renewal, to protect the DOL against any audit or audit costs in regards to the lawsuit
  - Chaylee Harney said that the Montana Beef Council was open to negotiating that amendment to protect the DOL and would bring it to her board for discussion
  - Counsel Chenowith said that according to language in section 8 of the DOL/MT Beef Council contract, it does not appear that the DOL would be in any danger of being audited by the federal government

DOL Counsel Kyle Chenowith discussed the findings of his and Rob Stutz's research of how the current USDA/MT Beef Council MOU affects the DOL

- There is no dispute for the DOL regarding the current USDA/MT Beef Council MOU at this time
- There is no direct ruling, only recommendations so far as to whether or not check-off payments are guarded under the first amendment of the Constitution
- Counsel believes that the USDA/MT Beef Council MOU doesn't bind the DOL because the department contract with Montana Beef Council is not for the "implementation of conduct of plans or projects" and would not subject the DOL to any Federal audits
  - The DOL is basically the entity collecting the check-off funds and turns them over to the Montana Beef Council who keeps 50%, for use in promotion of their plans and projects, and 50% goes to USDA
- Counsel Chenowith says in the basic tenet of United States Federalism, the DOL generally can't be subject to federal holders of the USDA
- Counsel Chenowith says there is no privity of contract between the DOL and the parties involved in the USDA/MT Beef Council MOU. There is specific language in the DOL/MT Beef Council contract that would not allow this to be included without express agreement

## **MOTION/VOTE**

**12:03 PM**

**Brett DeBruycker moved to add an amendment to the current contract between the Montana Department of Livestock and the Montana Beef Council, before the September 2017 deadline, that states that if the Montana Department of Livestock is ever audited regarding the MOU between the Montana Beef Council and the USDA that the Montana Beef Council will pick up the cost of that audit. Lila Taylor seconded. Motion passed.**

## **12:05 PM – Comments from the General Public**

Gene Curry, Past President of the Montana Stockgrowers Association and a Valier-area rancher shared some comments:

- Mr. Curry thanked and complimented DOL staff and the BOL for what they do for the industry and for the good things he is seeing come out of the 2017 Legislative session for the industry
- Mr. Curry explained the carcass removal program east of the Rockies, beginning in the area between Birch Creek and the Teton River
  - The program is a cooperative effort between MSGA, US Fish and Wildlife Service and MT FWP to remove the carcasses which are attractants to grizzly bears
  - The February 1, 2017 start date was missed and in April, there is still no driver available for the carcass removal truck – Mr. Curry will operate the truck himself until a driver is hired
- The Valier landfill has agreed to bury the carcasses

### **12:11 PM – Discussion**

Mike Honeycutt reported on the discovery of several cattle carcasses found in the Yellowstone River near Laurel at the beginning of April:

- Travis Elings, Brands Enforcement Division Eastern Supervisor, attempted to establish ownership, but could not because of decomposition of the carcasses
- No reports have been received by the DOL for those animals missing
- It has been established that DOL is not responsible for carcass removal and that responsibility may belong to DEQ or DNRC

## **DIVISION REPORTS CONTINUED:**

### **12:14 PM**

### **12:14 PM – Meat and Poultry Bureau**

#### **Requests for Out-of-State Travel**

Gary Hamel had two out-of-state travel requests, one for himself and one for James Peterson, newly-hired Compliance Officer:

- Mr. Hamel requested approval to travel to Las Cruces, New Mexico to attend the spring meeting of the National Association of State Meat and Food Inspectors Directors on April 24-27, 2017
  - 26 of Mr. Hamel's counterparts will be in attendance at this meeting
  - Main meeting topics include Sale of Exempt Meat, Updates from the Federal/State Audit Branch and a State Directors' Discussion
  - The nearly \$2000 in funding needed for him to attend this meeting is already in the base budget

## **MOTION/VOTE**

### **12:16 PM**

**Nina Baucus moved that Gary Hamel attend the National Association of State Meat and Food Inspectors Directors Spring meeting on April 24-27, 2017 in Las Cruces, New Mexico. Sue Brown seconded. The motion passed.**

- Mr. Hamel requested approval for the newly-hired Compliance Officer, James Peterson to attend Surveillance Investigation and Enforcement Methodology (SIEM) training in either Denver or Omaha on May 8-19, 2017:
  - The course is a FIFSA "at least equal to" requirement for compliance officers
  - The \$3400 cost of the training is not in the program base, but budget projections show that the Bureau should be able to absorb the cost
  - Class size is limited to 30 persons on a nomination-only basis, and as of right now, Mr. Peterson is accepted into the training

## **MOTION/VOTE**

**12:19 PM**

Lila Taylor moved that James Peterson attend the Surveillance, Investigation and Enforcement Methodology (SIEM) training on May 8-19, 2017 in either Denver, Colorado or Omaha, Nebraska. Brett DeBruycker seconded. The motion passed.

## **General Updates**

Gary Hamel talked about some recent audits in the Bureau:

- The USDA Performance Audit, scheduled for April 3-14, 2017, was postponed by the auditors and will begin next week
- During a March 30, 2017 Civil Rights Audit, John Pavao, Diversity Program coordinator for the DOA assisted the DOL
  - The auditor made several suggestions for civil rights statements to be placed on Bureau documents and additions to the website
    - ✓ DOL IT staff have completed suggested changes to website
  - A couple Meat and Poultry Bureau employees were required to take a course on the Federal AgLearn System
  - The auditor shared about procedures for handling programs and civil rights complaints and was impressed with how the DOL handles its civil rights issues
- Mr. Hamel said that he just signed a grant of inspection this morning for an entity in Great Falls to produce burritos
- Mr. Hamel said the Hamilton poultry facility will be opening again the last week of April with their first slaughter scheduled at that time

## **LUNCH/EXECUTIVE SESSION**

**12:22 PM**

## **RECONVENE**

**1:37 PM**

**1:57 PM – Vote on Executive Session Discussion (Technical difficulties required vote to be taken later)**

## **MOTION/VOTE**

**1:57 PM**

Ed Waldner moved that based on advice from the legal counsel and the Department of Administration and the information received, that this board deny the employee grievance discussed in executive session today. Nina Baucus seconded. The motion passed.

## **DIVISION REPORTS CONTINUED:**

**1:37 PM**

## **1:38 PM – Veterinary Diagnostic Lab**

### **Clinical Pathology/Lab Fee Pricing**

Mike Honeycutt said with direction from the Lab Performance Audit, direction from Interim Affairs, direction from the Section C Subcommittee and direction from the BOL, the DOL has been asked to make recommendations, based on the Lab fee pricing cost analysis, and report to the BOL beginning with the next fiscal year, any areas fee increases at the VDL are warranted, maintaining market competitiveness

According to the cost analysis, for FY 16, total costs over revenue at the VDL were just under \$1.1 million.

- A Consumer Price Index (CPI) proposal was considered to balance total costs over revenue numbers
  - The CPI shows there have been significant increases in the medical technology industry - The last time the VDL raised fees was 15% in 2014
  - Dr. Layton said a 10% across-the-board increase in fees in most areas is warranted going into the biennium to keep up with the CPI and balance costs over revenue numbers. Based on FY16 numbers, such an increase would bring in \$76,282 additional revenue
  - Tests that would not be increased 10% are: Clinical Pathology tests which cover areas that pose no public health risk or economic impact to the industry; Brucella, Trichomoniasis, Equine Infectious Anemia (EIA) and Rabies which are either at or above market prices already or are subsidized by other funding sources

### **MOTION/VOTE**

**1:58 PM**

**John Scully moved to adopt a 10% increase in the identified recommended test fees and that the implementation and timing be planned by Dr. Layton and Mike Honeycutt. Lila Taylor seconded. The motion passed.**

- Dr. Layton and Mike Honeycutt discussed the possibility of adding an accession fee for each session of tests done at the VDL:
- In a comparison with adjacent state laboratories, four of the six labs currently add accession fees at an average charge of \$4.00
- In FY16, if a \$4 accession fee been charged for the 19,799 accessions which occurred (EIA is exempt), an additional \$79,196 in revenue would have been collected

Adding the increased revenue from the CPI proposal (\$76,282) and the increased revenue from a \$4 accession fee (\$79,196), would increase VDL revenues nearly \$155,000 annually

### **MOTION/VOTE**

**2:05 PM**

**John Scully moved to implement a \$4 accession fee as recommended by Dr. Layton. Sue Brown seconded. The motion passed.**

Mike Honeycutt discussed considerations regarding whether or not to continue with the Clinical Pathology section of the VDL:

- A lot of the work done in the Clin Path section of the VDL is on small and companion animals, not all posing a public health risk, not directly related to livestock, but it is a place to recover more costs
- With the retirement of an employee and a section supervisor and another employee possibly leaving, Clin Path may be short-staffed in 30-60 days since it takes 2 FTEs to operate that section of the VDL
- Replacement of older equipment within the next year or so needs to be addressed
- While fixed costs remain the same, demand for services in the Clin Path section of the VDL have been steadily declining since 2013
  - Dr. Layton believes that vets are doing more in house testing rather than utilizing the VDL
  - VDL has equipment limitations for small animal testing while private corporations have machines that offer more tests and more specific tests
  - Private corporations offer expertise and consultation in various areas and interpretation
- To try to recover costs in the Clin Path section of the VDL something much more substantial than a 10% across-the-board price increase will be required
  - Clin Path testing costs would have to be raised from 0% for some tests, all the way up to 119% for other tests to recover costs
- Closing the Clin Path section of the VDL may cost more in the long run
  - If Clin Path were closed and the two FTEs were repurposed to other sections of the VDL, it would be a loss of \$43,000 in revenue
  - If Clin Path were closed and FTEs were also dropped, the savings would be \$32,210 in a year
  - How much revenue would be lost if Clin Path were closed and veterinarians chose another lab because they can't get testing done under one roof for livestock and small animals
- Dr. Layton suggested not discontinuing work on all small animals
  - Small animals do have zoonotic diseases and VDL monitors their effect on public health
  - Some small animals are extremely expensive, and there could be an impact in some breeder's operation requiring pathology services
- Although the number of sessions done on small animals at the VDL was more than on livestock, the number of livestock tested was more than for small animals

## **MOTION/VOTE**

**2:44 PM**

**Sue Brown moved to NOT vote on whether or not to keep the Clinical Pathology section of the VDL open, but to study the Clinical Pathology information at the next BOL meeting. Ed Waldner seconded. The motion passed.**



## **Fossmatic – Milk Laboratory**

Dr. Layton said Fossmatic will be ending maintenance and parts for the Milk Lab's Fossmatic milk analyzer soon. He discussed options:

- A company rep offered \$15,000 for the old machine with a \$1300 rebate on a new purchase – Total cost with maintenance contracts comes to \$79,000, a savings of \$18,00-\$19,000 on a new Fossmatic
  - Leasing a new Fossmatic would cost \$1100/month for a 72-month lease or \$1600/month for a 48-month lease
  - A new Fossmatic has new software but not new technology
  - Creameries around the state, including Meadow Gold, plan to stay with the old Fossmatics
- Another option was given to the Lab from an individual whose small business does maintenance on Fossmatics
  - He offered the Lab a maintenance contract for \$4,200/year that includes two maintenance visits/year
  - Parts to maintain with some spare parts for the Milk Lab's Fossmatic will cost \$8,000-\$10,000 from this individual

## **MOTION/VOTE**

**2:52 PM**

**Ed Waldner moved to continue using the Fossmatic analyzer in the Milk Lab for one year. Brett DeBruycker seconded. Nina Baucus voted no. The motion passed.**

## **Waste Management**

Dr. Layton gave updates on staff certification in chemical waste disposal at the VDL:

- Dr. Steve Smith completed OSHA's HAZWOPER 40-hour training in Butte and received additional training from Judy Watkins at DEQ
- Dr. Smith and one other staff person still need to attend a 4-8 hour course through the DOT
  - The DOT course trains a person to inventory the waste that is produced by a lab

## **General Updates**

Dr. Layton reported that the re-keying of the Marsh Lab will take place in August 2017:

- A vast majority of the re-keying will be paid for by MSU
- To cover needs of Lab staff, Dr. Layton requested extra keys and touchpad locks at an additional cost of \$4,000-\$5,000

## **MOTION/VOTE**

**3:00 PM**

**John Scully moved that the VDL be re-keyed per the information given by Dr. Layton. Brett DeBruycker seconded. The motion passed.**

Dr. Layton said that the Lab's accreditation is scheduled for August 21-22, with report write-up on the 23<sup>rd</sup>. Four auditors will be participating in the accreditation

Driveway paving at the VDL should be done in two weeks

### **3:04 PM – Fusion Presentation**

Mike Honeycutt introduced Lisa Coligan, an HR Generalist in the State Human Resources Division of the DOA who gave a demo of the Fusion system, which will be used for the DOL online employee performance appraisals:

- Lisa Coligan explained that the Fusion system is an Oracle product, and the first of several employee-type management modules the company has available
- The Fusion system starts with a self-evaluation component
  - Employee evaluates themselves on goals
  - Employee also rates themselves on a set of agency statewide competencies
  - Comments can be provided to explain why they rate themselves that way
- Supervisor provides their version of the employee evaluation
- A face-to-face meeting between employee and supervisor should then take place
- The Fusion system has the ability for employee or supervisor to add information throughout the year
- Employer self-evaluation forms have a supervisory component added and forms can be custom-built by the DOA for each Department
- Permission can be given to designated people in a Department (ex: HR or Dept. Heads) to view all of an employee's information throughout the year
- Current cost for the Fusion system is built into the fee the DOL pays for SABHRS access

Mike Honeycutt added that at the next BOL meeting Dean Mack, Deputy Administrator in the State Human Resources Division at DOA, will do a presentation covering the entire personnel process in State government and how to manage employees in disciplinary situations

### **3:30 PM – Milk Control Bureau**

Chad Lee reported on the Board of Milk Control meeting held on March 31, 2017

- There was discussion on the rule proposal seeking the merger in area 32 of chapter 23 into chapter 24. It may end in a hearing and a vote on the proposal at the end of April
- The board discussed topics and prioritization of a milk control study that will hopefully be carried out next fiscal year. It appears the Legislature will approve that for the next Milk Control's budget
- The Class III pricing formula was discussed and a motion made that the board move towards changing that formula
  - The Milk Control Bureau recommended a couple things regarding that formula

- ✓ Base the formula off a federal formula with a Montana differential adjustment
- ✓ For Class III milk, structure it with a second pricing element so neither the plants or producers would actually know this price in advance of production That is similar to how it works in other markets
- The potential for organic milk production was discussed in the public comment portion of the meeting

Chad Lee reported on activity at the 2017 Legislature affecting the Bureau:

- HB377, a bill requiring the Board of Milk Control to provide for milk equivalent conversion factors by rule was signed into law and will possibly become effective October 1, 2017
- SR30 for confirmation of Jerry Wiseman and Scott Mitchell to sit on the Milk Control Board was approved, but has not been adopted yet by the Senate

Chad Lee gave some industry notes

- After the January 2017 highest quota price in two years, prices are slipping and the April quota price may be the lowest since August 2016
- In the Northeast and the Midwest, large volumes of milk are being dumped
- In Montana milk supplies are tighter, and some bulk milk and dry milk are being imported to the state for processing
  - A hope to make up for the lack is that Meadow Gold is increasing the amount of milk they are shipping from Great Falls to Billings
- The milk assessment is being affected by low milk production
  - For the first eight months of this FY compared to the first eight months last FY, production is down 367,000 lbs/month – This is part of why quota prices are higher

## **RECESS**

**3:41 PM**

## **RECONVENE**

**3:49 PM**

### **3:49 PM - Centralized Services**

#### **Per Capita Fee Collection Update – TY2017– FY2018 Revenue**

John Scully asked George Harris if there are there any problems in dealing with the per capita fee collection YTD for 17 and 18. Mr. Harris said, “no.”

#### **State Special Revenue Collection Comparison FY16 with FY17 Actuals**

John Scully asked George Harris if are there any issues in dealing with Special Revenue collections comparisons for FY16 and FY17 Actuals. Mr. Harris said, “no.”

#### **FY17 Expenditure Projections to FY-End 2017**

John Scully requested that George Harris fill us in on 2017 expenditure projections to FY-end 2017

George Harris said that Mike Honeycutt, Dr. Layton and himself reviewed budget projections in the Diagnostic Laboratory and the Milk Lab

- Total budget projections in the Diagnostic Lab are at \$26,758
- Because of paying recharges, the Milk Lab budget projections are currently at a negative \$10,954
  - There is no need for concern on the Milk Lab and Diagnostic Lab figures, as the two will net out

George Harris said that Dr. Zaluski, Dr. Szymanski, staff and himself discussed the DSA budget projections

- At the rate of spending right now, DSA budget projections are at a negative \$25,980
  - One thing driving the costs was the Beaverhead County brucellosis investigation costs
  - There are also brucellosis testing costs that should have been coded to the Federal umbrella cooperative agreement with APHIS and not to the DSA
  - Coding costs correctly for these legitimate tests will offset that negative figure and hopefully get it to a positive figure of \$49,000, the commitment of general fund offered from the DOL during the Legislative session

Mike Honeycutt discussed his plans on tracking Federal cooperative grant funding in a more efficient way:

- Correct coding errors much sooner than the week before the grant's expiration date – monthly budgets analyses now being done have helped identify those errors much more quickly
- 30-60 days out, review a list of department priority needs that may benefit from use of any funding that may be left over from a grant

George Harris discussed the Meat and Poultry Bureau's negative \$34,794 budget projection:

- Retirement projections from those people not retiring by the end of FY17 were pulled
- \$30,000 of the negative projection is in personal services payouts

George H. said he sees no issues on **Budget Status** or the **Projected Cash Balances** as presented.

### **General Updates**

- George Harris said that CSD is building a database of private aerial hunting contractors that keeps track of the number of pilots and number of animals being taken
- CSD is up-to-date on performance roles of employees

- Mr. Harris said that the IT staff has been really busy
  - Today, IT staff is at the VDL helping to get a new internet line installed
  - They continue to work on interfacing USAHerds and VADDS
  - The maintenance agreement with VADDS has just been completed
- In HB4, the DOL expects to receive another Federal cooperative agreement
- In HB3, the budget office requested that the DOL identify any budget authority
  - There is some transfer authority in the Brands Enforcement Division
    - ✓ The \$129,000 in spending authority from FY15 is in State Special Revenue but cannot be spent because Brands doesn't need that transfer
    - ✓ The unused transfer authority has been returned to DOA
- In HB648, the enterprise fund at the VDL, CSD is doing a fiscal note
  - On the fiscal note it was requested that if the bill doesn't pass that the \$1.2 million go back into HB for the VDL

#### **4:05 PM – Comments from the Public on Non-Agenda Items/Comments from Producer Organizations**

Mike Honeycutt introduced Ken Mesaros, cattle and alternative livestock rancher from Cascade, MT and Kim Kafka, elk producer, farmer and President of the North American Elk Breeders Association from Havre, MT. Both gentlemen have public comment on rule 32.4.201 the Identification of Alternative Livestock, to allow producers to apply tags to alternative livestock and collect samples for CWD submission. The BOL voted that down at the February 22, 2017 meeting:

- Ken Mesaros explained his reasoning to bring some modification to the rule to make it more consistent with the majority of the states that regulate it
  - Dr. Zaluski's nationwide survey showed that most of the states do allow producers to tag their own animals and collect the tissue samples for CWD collection
  - Mr. Mesaros said a whole-herd inventory and inspection, carried out by a DOL agent is done annually to account for every animal. A vet is then hired at an extra cost to put tags in
- Mr. Mesaros requested that if the BOL reconsiders its action, expand the portion of the rule that only allows the producer to tag just that year's calf crop to include adults as well
- Kim Kafka explained his reasoning to modify the rule
  - The reasoning behind requiring a vet to tag animals began prior to the 1990s to mitigate theft
  - Mr. Kafka said that last year it cost him \$39/calf to have them tagged by a vet and \$140/animal to have them pull a brain stem and be CWD tested
- Mr. Kafka does not like the State system of tagging that gives an animal a different number every time they are re-tagged after losing a tag and then requiring a vet to put in a new tag

- Mr. Kafka said it has been hard to get a vet out to his place to re-tag because much of their time is taken up dealing with people's pet issues
- Freeze branding would destroy his market of animals being sold to hunting ranches
- Both Mr. Mesaros and Mr. Kafka talked about the continued testing required on their animals
  - CWD-accredited animals require 100% mandatory testing for six years to move them across most state lines
  - Brucellosis and TB testing are required to market any animal
  - It is required their operations test 100% of mortality

## **MOTION/VOTE**

**4:21 PM**

**Lila Taylor moved to reconsider action of the BOL 2/22/17 vote regarding rule 32.4.201, the Identification of Alternative Livestock, to allow producers to apply tags to alternative livestock and collect samples for CWD submission. Sue Brown seconded. The motion passed.**

### **4:28 PM – Animal Health Division**

Dr. Tahnee Szymanski spoke for Dr. Zaluski who was at an IBMP meeting in the Paradise Valley today – Mike Honeycutt added that the DOL is no longer the lead agency at the IBMP

### **Out of State Travel Requests**

Dr. Tahnee Szymanski requested that Dr. Liska attend the Wyoming Governor's Brucellosis Coordination Team Meeting April 18, 2017 in Pinedale, WY

- Travel would be paid for by DSA dollars
- Dr. Liska has been asked to provide an update regarding the status of Montana's Brucellosis program, including the DOL's live-built capture

## **MOTION/VOTE**

**4:29 PM**

**Brett DeBruycker moved that Dr. Eric Liska attend the Wyoming Governor's Brucellosis Coordination Team Meeting, April 18, 2017 in Pinedale, Wyoming. Sue Brown seconded. The motion passed.**

Mike Honeycutt explained that Dr. Zaluski serves on the USAHA Executive Committee and attends their meetings each year. His service in that and being on the leading edge of Animal Health across the country does serve well for the Department and State well because of what he can share with his colleagues, what he can learn from his colleagues, and also exercise some leadership as far as what is happening in Animal Health nationwide

## **MOTION/VOTE**

**4:31 PM**

**John Scully moved that Dr. Marty Zaluski attend the USAHA Meeting in St. Joseph, MO, August 1-2, 2017. Sue Brown seconded. The motion passed.**

### **Board Update – SD Bovine TB Epidemiologic Investigation, Impact on MT**

Dr. Tahnee Szymanski provided an update regarding the South Dakota Bovine TB alert impact on Montana cattle

- Currently there are 41 lesioned animals in the affected herd of 650 animals in South Dakota and by the end of this week all of those animals will have gone to slaughter
  - The genotype of that isolated strain of TB is one that most closely matches one isolated from dairy cattle in the central portion of Mexico
- Three Montana herds have been tested because of the South Dakota Bovine TB alert
  - One contact herd that had some rodeo animals in the affected herd has completed a whole herd negative TB test and should be released for quarantine in a couple weeks. USDA may have some additional action they take on that herd
  - A second herd completed a whole herd negative TB test after indirectly receiving 14 heifers from South Dakota. Those heifers will be slaughtered and should they show no signs of TB, that herd will be released from quarantine
  - The third herd is a 1000-head, Montana-based herd that runs adjacent to the affected herd in South Dakota. Testing on them begins this weekend and hopefully will be done in 2-3 weeks
- The Legislature has requested that the DOL re-evaluate Administrative rules pertaining to Mexican-origin cattle, and would like the DOL to propose a language change more consistent with North Dakota's
- Along with other testing requirements, North Dakota requires a TB test on herd of origin in Mexico, something that has prevented Mexican cattle from coming into North Dakota
- About a million head of Mexican-origin cattle are imported into the US each year
  - 900,000 cattle that come from Mexico annually go into feeder channels
  - The remaining 100,000 cattle that come from Mexico annually are the Corrientes for roping
    - ✓ Roping cattle (or sporting bovine) are required to have a negative test if they are 6 months of age, if they have been roped or destined for a sporting event
    - ✓ Any M-branded cattle coming into Montana must be tested before entering the state
- 14-40 cases/year of mycobacterium bovis is reported in US cattle. Less than 15 of those are of Mexican origin
- To help decide if Montana should continue to allow Mexican-origin cattle into the state, Dr. Szymanski discussed requesting that public health report any detection of mycobacterium bovis in a human in Montana to the DOL so that any necessary epi work can be done

Mike Honeycutt requested that at the next BOL meeting the board consider a rule change in 32.3.436, a rule concerning vaccination requirements in the DSA and the entirety of the counties that are part of the DSA

- A discussion regarding the rule at the next BOL meeting will be put on the agenda


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

4:54 PM

The BOL decided to schedule a conference call after the Legislative session is over and then on that conference call discuss a meeting date. Conference call was scheduled for Thursday, May 18, 2017 at 9 am

### **MEETING ADJOURNED**

4:59 PM

  
John Lehfeldt, Chairman