



Montana Board of Livestock

Meeting Minutes

August 15, 2016

Capitol Conference Room #152

Helena, Montana

Board Members Present

John Lehfeldt, Chairman (sheep producer)

John Scully, Vice-chair (cattle producer)

Lila Taylor (cattle producer)

Nina Baucus (cattle producer)

Sue Brown (dairy and poultry)

Board Members Not Present

Brett DeBruycker (cattle producer)

Ed Waldner (swine producer)

Staff Present

Mike Honeycutt, EO

Gary Hamel, Meat Inspection

George Harris, Centralized Services

Dr. Bill Layton, Diagnostic Laboratory

Leslie Doely, Brands Enforcement Division

Donna Wilham, Adm. Asst. to EO

Dr. Martin Zaluski, Animal Health

George Edwards, Livestock Loss Board

Tyler Thomas, Brands Enforcement Div.

Dr. Steve Smith, Diagnostic Laboratory

Public Present

Eric Sommer, USDA-NASS

Bridger Mahlum, MT Chamber of Commerce

Jeanne Rankin, MT Veterinary Medical Assn.

Jim Brown, MT Woolgrowers Assn.

Nick Gevock, MT Wildlife Federation

John Steuber, USDA Wildlife Services

Dalin Tidwell, USDA Wildlife Services

Alex Few, USDA Wildlife Services

Representative Ed Greef

Quentin Kujala, MT FWP

Matt Graveley, Rocky Mountain Stockgrowers Assn.

Julie Foster, Ravalli County Economic Development Authority

Robert Magnan, Ft. Peck Tribes

Ed Bauer, Ft. Peck Tribes

Floyd Azure, Ft. Peck Tribes

Majel Russell, Elk River Law Office

Beau McLean, Living River Farms

Christopher Green, Living River Farms

Janet Hughes, USDA APHIS VS

Tom Linfield, USDA APHIS VS

Ryan Clarke, USDA APHIS VS

MEETING CALLED TO ORDER

8:04 AM

Chairman John Lehfeldt called the meeting to order at 8:04 AM

APPROVAL OF 6/24/16 and 7/7/16 BOL MEETING MINUTES

8:08 AM

Lila Taylor moved 6/24/16 minutes be approved. Nina Baucus seconded. Motion passed.

8:08 AM

Nina Baucus moved 7/7/16 minutes be approved. Sue Brown seconded. Motion passed.

OLD BUSINESS

8:09 AM

8:09 AM - DOL Pay Adjustment

Mike Honeycutt reported on progress in the Department pay adjustment:

- The BCD requesting the \$500,000 additional authority in this biennium budget for a Department pay adjustment to move employees who are not already, to 80% of market, has been delivered to the Governor's Budget Office
- Approval of the BCD is expected within the week, with pay increases for those particular employees expected in the upcoming pay period or the next and retroactive to July 1, 2016
- Total impact for the annual budget, that has been added into the EPP proposal to the Legislature for the next biennium, is \$412,000, with 90% of the funds coming from per capita

8:13 AM - Lab Performance Audit Update

Mike Honeycutt reported on DOL response, up to this point, to the 2016 Lab Performance Audit results:

- The DOL has committed to do a cost analysis for the Lab before December 2016. In conjunction with that full cost analysis, will be an analysis of the Milk Lab fee structure – John Scully suggested hiring an outside professional source to get this done
- Tom Shultz, of the DOL IT Department, has been working with Dr. Smith at the Lab to integrate VADDS with USAHerds
- There will be a presentation later in the day by Dave McEwen, chair of the Lab Building Committee regarding the new Lab building complex at Bozeman
- A call for stable and consistent per capita funding in the Lab needs to be addressed by the BOL as budgeting is set for the next biennium

8:19 AM - Financial Audit Update

Mike Honeycutt reported on DOL response, up to this point, to the 2016 Financial Audit results:

- The final EO payout was covered by estray funds

- The rerecord fund shortage, with the BOL's approval, was able to be repaid with the extra unspent authority and cash on hand in Brands, and the balance is now where it needs to be and it will last until expiration
- To avoid compliance issues in future audits, the DOL is working between the auditors and the DOA to determine the fund type for Department estray funds

John Scully requested that George Harris, at some point, identify for the Board other Department unearned revenue accounts that would be treated in the same fashion as the estray funds.

Mike Honeycutt said that through legal counsel, statutory language identifying a rerecord grace period was vetted and it was found to not be legal to have a grace period on a State deadline. Per John Scully's request, Mike said that legal counsel could present information to the Board regarding that matter.

8:26 AM - Brucellosis Audit Update

Mike Honeycutt reported on the ongoing Brucellosis Audit:

- The DOL has provided workspace for Orry Hatcher, Legislative Audit Division performance auditor, who is currently working through the Brucellosis Audit
- Per the request of the Legislative Audit Division, some 400-500 brucellosis lab testing results from producers in the DSA were provided to that Division. According to statute, notification must be given to producers that their lab information was shared with someone outside of the DOL. Notification has been sent to those producers that their records were released to the Legislative Audit Division.
- Initial timeframe was for a September-October completion of the audit, and if not then, Mr. Honeycutt assumes they would want to complete the audit before the 2017 Legislative Session, and possibly before the final interim Legislative Audit meeting held before that Session.

8:43 AM - Interagency Grizzly Bear Activities

Nina Baucus reported on Grizzly Bear meetings she attended during the past month:

- She shared at the July 2016 Missoula meeting of the Northern Continental Divide Ecosystem that the east side of the state has been having more problems than the west side of the state with grizzlies
- She voiced her concerns with the trapping and snare issue that will be on the ballot this fall at the Interagency Grizzly Bear Management portion of the Fish and Game Commission meeting. She added that Wildlife Services needs every tool they have available when dealing with grizzlies, including neck snares and M44s.

Nina Baucus said she reiterated to the Fish and Game people that because of increased depredation and public safety issues, the grizzly bear in Montana needs to be listed only in the PCA zone around YNP and in the northern area of GNP.

NEW BUSINESS

8:49 AM

8:49 AM - Lab Building Update

Dave McEwen, President of the Montana Woolgrowers Association, is also part of the Lab Planning Committee for the proposed combined Lab complex, of which BOL members Lila Taylor and Nina Baucus are also a part. He appealed to the BOL for their commitment in going forward as part of the combined Lab complex to be constructed on or near the Montana State University campus.

- Legislative and industry money has already been received for the ideas for the new Lab complex
- MSU President Cruzado and MSU College of Agriculture President Dr. Charles Boyer have been approached by the Committee and it was made very clear to the Committee that Extension, students and research must be involved in the Lab
- Each entity in the new Lab has to have a business plan, be fiscally sound and have suitable management within the new Lab
- The physical needs of the Lab have been determined and the Committee is now at the point where the scope of cost and facility size need to be put together. As soon as funding is secured, that part of the planning will be turned over to the Montana Manufacturing Extension Center at MSU. The cost for the Center to do that work will be around \$5000-\$8000 and Dave McEwen was informed by his public affairs person that those funds would be available after the upcoming Legislative session
- MSU has other priorities at this time, and so, other than the exploratory part of development, the new Lab development will not start until 2019
- There is no “free lunch” with this proposal, each entity that is part of the new Lab needs to stand on their own.
- Entities that have already committed to be a part of the new Lab complex are the Wool Lab, the Montana Seed Testing Lab, the Schutter Lab, the Regional Pulse Diagnostic Lab, the Cereal Quality Lab and the Montana Fish Wildlife and Parks Lab.
- Dr. Clark at the McLaughlin Center in Great Falls told Dave McEwen that the building, such as the one the Committee is planning, is the right path to take, but to not get in a hurry about it.
- The new Lab complex planning will continue to go forward even without the commitment of the VDL

Lila Taylor said that there are a lot of ways to fund this project, but working together with all those entities is the way to go to acquire funding from the Legislature. Sue Brown said the Lab is a great idea and with all of the entities working together, it is more likely to occur. John Scully said there is no doubt that this Lab is worth pursuing.

Dr. Layton of the VDL said there will be problems with a new Lab complex like this, but benefits as well. Dr. Steve Smith of the VDL added that he feels it is definitely valuable to pursue the Lab, but his concern is that it does not get to be so broad that the project

loses momentum because it does not work for everyone involved.

Quentin Kujala, Montana FWP, said that he thinks very much in the same light as FWP looking at the new Lab effort. He said it is a good effort to explore but there is still a lot of definition needing to show up before folks see that timeline. He is willing to watch the conversation and more than willing to be engaged at this point in time.

MOTION/VOTE

9:10 AM

John Scully moved, that the Board of Livestock reaffirm their commitment to the proposed combined Lab facility concept as it was presented today and to write a letter expressing such. Nina Baucus seconded. The motion carried.

9:11 AM – Interagency Bison Management Plan (IBMP) Update

Mike Honeycutt, Nina Baucus and Dr. Zaluski reported on the IBMP meeting they attended in Bozeman on August 3, 2016

- DOL was required to provide an update on the operations through this winter and spring
- Mr. Tierney reported at the meeting that bison operations in the Yellowstone area were slow this year
- It was reported to the IBMP that an adaptive management change for year-round tolerance order that had been signed by the Governor, was found to have a mistake in the map. Because of that, there were some groups that challenged DOL staff's moving of bison saying that staff was operating illegally according to the Governor's order. The Governor's office has now put in a correction so the narrative will match the map.
- Two presentations supported that the severely degraded northern range of YNP is causing a trend of northern movement of bison towards the border. Up to this point, there has been no conversation about trying to force the bison away from that northerly direction they want to go. Nina Baucus shared that a range specialist said in his presentation that because of heavy grazing with no rest in the Gardiner Basin, the native plants are dying out and being replaced by new vegetation. Dr. Zaluski said that less pressure should be applied at the moment to the northern range to give it time to recover
- Dr. Zaluski shared that the Park Service was more clear on their concerns regarding the current bison population in YNP, saying it is really in the best interest to modulate or reduce that population to a smaller target
- Nina Baucus reported that there was much discussion on last year's tribal hunt in the Park and tribal representatives are working on making them less chaotic this year
- YNP reported on the environmental assessment that came out in January and closed in February. At this point in time, no decision has been made on the DA.
- DOL is the lead IBMP partner this year and is responsible for publishing and distributing the annual report and winter operations plan for this upcoming year. Dr. Zaluski is the lead on that

- The next IBMP meeting is scheduled on December 1, 2016 at Chico Hot Springs in Pray, MT

John Scully expressed his concerns for DOL field employees who continue to operate under the old IBMP hazing process and do not have clarity on bison population numbers or direction on what other alternatives there are to take with year round tolerance rules in place when bison cannot be tolerated in an area.

9:29 AM – Fort Peck Quarantine Discussion

Mike Honeycutt introduced those present from the Fort Peck Tribal delegation. He said that one option of YNP's EA was quarantine of bison at the Fort Peck bison quarantine facility. He gave some background of a visit by DOL staff a couple weeks earlier to that facility. DOL staff who visited the facility included himself, Jeff Mount and Dr. Zaluski.

- Floyd Azure, Chairman of the Fort Peck delegation introduced in-house counsel Majel Russell and Councilman Ed Bauer
- Mr. Azure said that they were at the DOL meeting to help resolve the bison problems expressed earlier in the day. He shared some details about the quarantine facility on the Fort Peck Reservation
 - Facility cost over a half million dollars
 - FWP, NPS and the Bison Foundation were all involved in the project
 - The Tribe put a lot of money into buying land of their own in getting things ready for the facility for the project
- Mr. Azure felt that bison would be in the quarantine facility by now with the Tribe taking the ones that tested negative before they left YNP. The Tribe would then hold them in quarantine for a time until they were proven to be negative. If any did not test negative, they would be disposed of immediately.
- The Fort Peck Tribal cattle industry was addressed by Mr. Azure:
 - He feels as a Tribe they do not want to jeopardize the cattle industry they have on their reservation. It is a big business, is part of their revenue, and there is no way they would not want to jeopardize that or any of their ranchers' cattle in any way, shape or form
 - 90 range units are leased on their reservation; 70 of those units are to enrolled members, the remaining are to non-enrolled members; the Tribe alone has their own cattle herd of over 1000, and with calving, that number is now over 2000
 - Range unit leases bring in over \$1 million/year
 - Sales of Tribal cattle bring in over \$1 million/year
- Mr. Azure explained why the Fort Peck Tribe can help resolve the bison problem:
 - The Tribe has the capacity of taking in 600 bison/year on their range units with no problem
 - There are numerous tribes and other organizations that want some of the bison and are willing to assist the Fort Peck Tribe
- Mr. Azure gave reasons he feels the Fort Peck Tribe should be allowed to take the DSA bison that have been tested negative for brucellosis the first time:

- The steps the Fort Peck Tribe have taken and the money they have spent on this
- The Fort Peck Tribe should be treated fairly as a rancher is – Mr. Azure said that if ranchers remove cattle from the DSA, they must apply for a shipping permit and the cattle must be tested 30 days prior to shipping. He said he doesn't feel the process that the Tribe has been going through right now is fair to the Tribe. The bison staying in the DSA area have been held for about 8 months and have been tested five times, all negatively and they are still there. 49 of the bison are bulls that cannot transmit brucellosis, even if they had it. He feels this should be looked at
- Mr. Azure said he has no problem working with the State of Montana and the National Park Service and has opened his doors to them and would allow them to come in at any point in time they feel they have to or they need to see what's going on, and this is with his and his Council's approval, and he stands by that
- Mr. Azure said that there are four counties within the Fort Peck Reservation and the majority of those counties lease land from the Tribe, either agricultural or ranch land and the Tribe wants to be a good neighbor to everybody
- The Tribe has never defaulted on an agreement with the State of Montana and has never had a problem with them, according to Mr. Azure. He says this is just another contract the Tribe wants to deal with the State and that is why he is here
- Mr. Azure said there is a bison manager that is out there every day and if a bison escapes, leaving that facility, it will be taken out
- Robert Magnan added that the Tribe has two veterinarians, one from the University of Nebraska and one from Laurel, Dr. Don Woerner, who has agreed to help
- Majel Russell, legal counsel for the Fort Peck Tribe, answered questions and also made her case for the Fort Peck Tribe to receive the Stephens Creek bison
 - Ms. Russell said that the Fort Peck Tribe has agreed to secure brucellosis testing equipment for use onsite and also to put down any buffalo that would test positive for brucellosis
 - Ms. Russell, said that in the past, there was an agreement the Tribe entered into with the State of Montana when buffalo were brought onto the Fort Peck Reservation from the Turner Ranch that allowed the State and APHIS to come into the reservation to do any necessary testing. There were mandates in the contract that the Tribe fully complied with and the Tribe had no problem with that. Obviously, a new contract would need to be looked at to make it specific. Yes, the Tribe has agreed to cooperate with the State to enter into the Reservation and do whatever testing the State feels is necessary to put them at a comfort level so that there is a mitigated risk to any of the livestock industry
 - Robert Magnan said that in 2012 the Tribe received buffalo through the State and then in 2014, received 133 more from the Turner Ranch. The first of November will be the last of the required testing for the five-year

surveillance period. Ms. Russell added that not one animal had tested positive after coming out of the quarantine process and into that soft release

- The whole reason the Fort Peck Tribe decided to move into the quarantine process, according to Ms. Russell, was that the National Park Service (NPS) decided that quarantine might be a viable and preferred alternative to the slaughter of buffalo as a means of bison reduction at YNP and the NPS entered into the EA process. When the discussions about a quarantine started, APHIS and the State of Montana had ended their activity for a quarantine process. So, the Fort Peck Tribe stepped up and said they would develop a quarantine facility. That unfolded in the public limelight and everybody was aware that the Fort Peck Tribe was going to move forward to develop this facility at Fort Peck. The Tribe sought Federal money, they used their own money and have now spent over a half million dollars to develop the facility. It was in response to a need for an alternative to deal with the bison at YNP
- It fulfills the objective of the ROD (FWP's Record of Decision), which is to try to move live bison to tribal land
- It facilitates that public objective endorsed so many years ago - the Tribe's objective is as much as possible to move those live bison to Fort Peck, put them under quarantine, preserve the genetics, comply with the State, work with the State on contracts where the Tribe will comply, get testing as necessary, put those animals down that test positive, and have a healthy herd that later they can translocate to other tribes
- Remoteness of the facility has been well documented – 800 square miles surrounds the quarantine facility. That is more remoteness than you will ever have at the DSA. Fort Peck is further away from any cattle that might be at risk than at the DSA
- Ms. Russell said that \$200,000 of the funds to pay for the facility came from the Department of the Interior through the Bureau of Indian Affairs. Over \$300,000 was Tribal money. This facility was constructed exactly to the State of Montana and APHIS plans and specifications of the first facility
- The Fort Peck Tribe has demonstrated a willingness to cooperate and has stepped forward and spent the money
- Nina Baucus expressed her concerns with allowing the YNP bison to be released to the Fort Peck Tribe
 - If YNP bison are given to the Fort Peck Tribe, other tribes may request some as well. Although it has not been seen on the Fort Peck Reservation so far, Ms. Baucus was concerned about tribal mismanagement of bison that had already occurred by another tribe in Montana, causing the death of those bison released to their care.
 - If Federal and State funds are used to move the bison to the Fort Peck Reservation, audits would need to be done. Ms. Baucus questioned that as a sovereign nation, would the Tribe allow those audits to be done.

- Ms. Baucus said that the bison situation is dealing with a disease and with a disease, there is no room for error
- Ms. Russell said that all the Indian tribes in the state are sovereign nations, are not one and the same, do not manage themselves altogether the same, they have different governments and governmental structures, and it is not a fair tactic to take the issues that may have occurred with one tribe and apply them to the Fort Peck Tribe. Whatever one tribe does is not evidence of how another tribe is going to conduct themselves
- A question was raised to Ms. Russell and Dr. Zaluski about when the Fort Peck Tribe informed the DOL that the quarantine facility was being built since the DOL testified to the Economic Affairs Committee earlier this year that the DOL was not aware the facility had been constructed until it was completed.
 - Ms. Russell said that the Tribe is a member of the IBMP and Dr. Zaluski is at the IBMP regularly. She said that there was a public meeting last summer in Gardiner, with the roll out of the alternatives, and through the State Vet's office, was present. Those discussions have occurred at the IBMP over the last several years. She said that legally they are a sovereign nation within their reservation and are not really in a position to have to report everything the Tribe is doing to the State of Montana
 - Dr. Zaluski said that for some time there was discussion of setting up quarantines by tribes, but he was not aware of construction of the Fort Peck facility
- Ms. Russell commented that brucellosis-infected elk, a diseased species, are roaming the state everywhere and there are not the same aggressive measures taken to separate elk away from cattle.
- John Scully commented that the DOL staff is under state statute regarding YNP bison or buffalo because they are considered a species that require disease control. If there were a statute for elk, he said that the DOL would be dealing with them differently
- John Scully feels that the 49 captured bison and the 600 quarantined bison need to be dealt with separately.
- Mike Honeycutt clarified a point made regarding the need to designate bison as wildlife or domestic, once they leave the quarantine facility. He said that according to statute, wild or not wild doesn't matter, if the bison are still under quarantine and escape the facility they would be considered a potential disease threat, and by statute would come under the jurisdiction of the DOL. If they have graduated quarantine and pose no potential disease risk and leave the facility, they are the responsibility of FWP and their statutes
- Ms. Russell said while the buffalo are on the reservation, they will not ever designate them as livestock because they want to conduct cultural and traditional harvests
- Chairman John Lehfeldt said that he sees no reason the bison should not go to tribal places, but he is not the one to make that decision. He said that a solid agreement that would bring comfort to the industries needs to be put together and put before the State Veterinarian. John Scully said that the process would

not be one taken by the BOL, but instead by the DOL staff and the State Veterinarian's office

- Mike Honeycutt commented on DOL staff interpretation of State statute 81-02-120 and how they have upheld it
 - One part of the statute says the State Veterinarian "may" allow that transfer of wild bison or wild buffalo to the tribes for disease control programs if those animals can be certified brucellosis-free
 - To the DOL staff, that first step of certification of brucellosis-free is the precondition for transport of the animals to the tribes
 - Mr. Honeycutt questioned whether it is within the realm of the State of Montana to make a decision to transfer the animals from a Federal jurisdiction to a sovereign nation
 - Mr. Honeycutt said there is still a question on the interpretation of whether the word "may" in the statute is discretionary or mandatory. The DOL staff has been looking at the liability on both sides and operating under the barometer of risk assessments of brucellosis-free to make their determinations. He said it is a very difficult decision for staff, and in the future, they may need some direction on which interpretation to take and that is why there has not been a transfer
- Ms. Russell commented on statute 81-02-120:
 - She said that there is not clarity in the statute as to how many tests it takes for an animal to be proven to be disease-free. She said if they are tested negative five times, is that sufficient? The Tribe thinks that at some point there has to be a determination that these animals are now disease-free, how many times do they need to be tested
 - Ms. Russell raised a concern that there are some other situations in the statute they haven't understood and that is how the buffalo that are tested positive for brucellosis get transported to Colorado for that testing. How do those diseased animals cross the state and they are diseased, and they leave the park and they cross the highway and go right on down to Colorado for that testing? How is that any less risk than what they are asking? That has been always a sticking point. They haven't understood how that can occur when there has been this hardline rule with tribal buffalo
- Ms. Russell said they did not want to come here to talk about liability, but said that right now, in this room standing here, they are the ones that have some damages with this issue. They have put out a half million dollars - \$300,000 of their own tribal money, \$200,000 of other money that could have been used for very important critical needs on the reservation, but put it into this effort because they were hopeful that they could be a viable option for this problem. They have \$500,000 invested in this. As of today, Ms. Russell said she didn't know of any other party that can really come up and say in regards to this Yellowstone brucellosis issue that they have been damaged by this much money. She said they didn't want to talk about liability, because they are very hopeful that an agreement can be reached

- Mr. Scully referred to the May 19, 2016 letter from the Attorney General's office to the DOL stating that statute 81-02-120 does not grant the DOL authority to manage wild bison that do not require disease control. Mr. Scully said that by statute 87-01-216, bison that emanate from YNP are a species requiring disease control. Any plan that the DOL engages in for buffalo that leave YNP, by that same statute, requires a plan approved by the Governor. The DOL needs to separate two different things – 1. The transmittal of those buffalo already in quarantine with the possibility that there could be more numbers that leave YNP to tribal space, 2. What happens when those buffalo go to other tribes? Mr. Scully asked Dr. Zaluski if the Governor had a plan and also if he has criteria from FWP that had been presented to him that needs to be included in some kind of plan or letter of agreement from their viewpoint relative to the request being made by the Fort Peck Tribe
- Dr. Zaluski said that the DOL operates under the IBMP and the administrative record and consider that the bison plan. Over and above that, the Governor has not expressed an opinion or direction regarding this matter. He said that they have not explored that in detail particularly due to the constraints that already have been discussed. Dr. Zaluski said he is not sure that an agreement would be able to address the constraints that are posed in 81-02-120
- Mr. Scully said that the IBMP to him is somewhat extraneous to the notion that the DOL can comply with the statutory requirements based upon a circumstance that is not included in the IBMP in specifics
- Ms. Russell said that they have had extensive conversations with the Governor's staff in regards to this and her interpretation is that they are waiting to see where the BOL, Mr. Honeycutt and Dr. Zaluski stand before they show their hand.
- Mr. Scully asked Dr. Zaluski is it the DOL or FWP who has the statutory obligation to lead the management of identified diseased buffalo coming out of YNP in order to arrive at an agreement and consult with the DOL and provide a plan that is approved by the Governor. Have criteria been expressed to Dr. Zaluski from FWP relative to their management duties that need to be included in any plan that the DOL agrees to that have been approved by the Governor?
- Dr. Zaluski said that he would have to look at the code and he has not had that discussion with FWP
- Ms. Russell said that there are two agreements the Fort Peck Tribe had entered into. The first one was promulgated by FWP and signed by FWP, the second agreement was signed by the Governor. Her assessment would be that the buffalo were determined disease-free. Although she did not know what kind of document there is that determines that. That is the question they had when the Elk Island buffalo were brought in. Ms. Russell asked if the DOL provided a document that said those buffalo were disease-free and no longer under the jurisdiction of the DOL? Was that done when the buffalo left the Ted Turner Ranch and went to soft release and went from Ted Turner to Fort Peck? Did the DOL issue a document that said now these animals are disease-free and no longer under the jurisdiction of the DOL? Her assumption would be that after those buffalo at Stephens Creek have been tested to a point that the DOL is comfortable they are disease-free, there should be some sort of documentation

where the Department says these are disease-free under their determination and then it would be FWP that would promulgate this agreement with the Fort Peck Tribe. That seems to be the way that this occurred in the prior two agreements. The Fort Peck Tribe would like to see what the process would be that you finally determine that the animals are disease-free

- John Scully said there is some kind of determination that should have been made, but it wasn't

RECESS

10:28 AM

RECONVENE

10:52 AM

DIVISION REPORTS

10:52 AM

10:52 AM - Milk and Egg Bureau

Dan Turcotte gave Bureau updates, saying that it has been a difficult year for the milk and egg industry:

- Milk and egg prices are both down – another dairy may be going out of business at the end of August and several older facilities either need to build a new facility or get out of the business
- He hopes to get together with Ed Waldner to get feedback from him on what the prospect of the milk industry is going to be for producers
- Mr. Turcotte is looking at not filling the Dairy Sanitarian position because of losing so many milk producers. Although the filling the position may be put on hold for now, Mr. Turcotte is working with Sheila Martin to rewrite the 21-year-old position description

Mr. Turcotte gave updates on the egg facility in Great Falls

- Construction of the new building has been delayed for a year
- Four producers, who the Bureau hasn't had before, will be using that facility, and by February, they will start the second portion of their flock, making the total State flock going through the Great Falls plant at around 500,000 birds
- The Great Falls plant will be going to a six days/week processing time, which can be handled with the current staff. Extra eggs coming through the plant in February can be shipped to Roy, WA if needed for processing (About 80% of the eggs coming through the Great Falls plant are already sent there).

Mr. Turcotte reported on meetings he attended in May and June 2016.

- The Preventative Controls Training Course he attended in Portland in June brought the Bureau into compliance with the Food Safety Modernization Act (FSMA)
 - 80% in attendance were industry people and that provided an opportunity for feedback on how well the FSMA Act would work and gave Mr. Turcotte a better understanding of the new law and for helping write the rule (he is

- o on a council that will help write it) to be in compliance before he attends the IMS Conference in April 2017
 - o Attendees were told at the meeting that to stay FSMA compliant, more auditing and more documenting of possible allergens introduced during the processing of dairy products needs to be done – What was once considered an FDA Good Manufacturing Practice (GMP) under CFR 21-17, will now be a requirement and will be audited, broadening the scope of inspections and opening the possibility that another compliance officer will need to be hired or trained to do audits
 - o Mike Honeycutt said that the Economic Affairs Interim Committee will at some point, want to address the added cost to the State to be in compliance with FSMA
- In May 2016, Mr. Turcotte attended required training at an IMS meeting held in Denver
 - o The FDA, industry and the team that investigated last year's multi-state Blue Bell Listeria outbreak, were presenters at that meeting
- Mr. Turcotte said that starting the next week, he would be spending a week with the FDA inspectors who will be doing ratings on plants and producers
- The USDA will be coming in at the end of August to do egg work and recertify plant workers

11:14 AM – Livestock Loss Board (LLB)

George Edwards reported on LLB updates since the past BOL meeting:

- Cattle payouts for grizzly losses are 31 more head than last year on the same date
- Sheep depredation numbers should be 48 higher than on his handout as Mike Hogan, Wildlife Services spoke with a rancher who had a grizzly depredation last fall and just recently as well, and did not report the losses as of yet
- Fund transfers – In the 2015 Legislative Session, HB 145 capped the LLB death loss fund at \$300,000 and allowed the LLB to divide the remaining money for loss prevention and up to half could go to Wildlife Services. The transfer, when done, will be \$82,149 to go to Wildlife Services
- LLB meeting is scheduled for August 24, 2016 in Red Lodge, a meeting to primarily issue out the remaining \$82,000 for the loss prevention grant for both grizzlies and wolves
- On August 31, 2016 Mr. Edwards will be presenting the LLB's biennial report to the Economic Affairs Committee and will also be speaking to them about the LLB's Legislative requests

11:19 AM – Predator Control

John Steuber, State Director, USDA Wildlife Services (WS) gave updates and also introduced two employees of Wildlife Services - Dalin Tidwell, Eastern Montana District Supervisor and Alexandra Few who will be handling much of the paperwork and EAs required for NEPA.

- Increased grizzly bear and wolf depredations have taken away from dealing with coyote damage typically addressed at this time of year. When grizzly bears or

wolves are present in an area, M44s and neck snares must be pulled, and that has impacted the ability to do coyote work

- Grizzly bear work has increased dramatically, with each reported incident often involving multiple livestock. The past couple weeks have been busy with those incidents in Madison, Carbon, Park Counties, all the way down the Rocky Mountain Front and the Sweetgrass Hills in Toole County
- The WS annual mandatory training workshop is scheduled for August 22-24, 2016. The LLB has been invited to one of the sessions, as their meeting will be held near the same area as the workshop
- WS will also be attending the Montana Woolgrowers Association ram and ewe sale on September 14-15, 2016 in Miles City and will give their report to that Board
- WS has been unable to fill three positions in Blaine, Phillips and Hill Counties due to lack of Federal and cooperative funding in those areas.
- WS no longer receives Congressional earmark funding for grizzly bear investigations. About a third of the funding for their wolf work comes from FWP. He said the \$82,000 coming from LLB will be used for non-lethal work on grizzlies, including investigations and radio collaring
- John Scully requested that John Steuber and George Edwards be put on September's or October's agenda to give the profile as it was ended in the Legislature of counties who participate in the predator control program

11:34 AM – Brands Enforcement Division

Leslie Doely reported on Brands Enforcement Division actions in filling personnel vacancies:

- Two new inspectors were hired in Miles City and one Market Supervisor was hired in Glasgow, pending their background checks
- The backup Brands Recorder position interviews will be held on August 16, 2016
- Sidney, Glendive and Lewistown District Investigator positions and the Billings Market Supervisor position all close today and after the screening process, try to fill those within a couple weeks
- As far as market personnel, Brands is not fully staffed, but with moving an FTE from Helena to the market, moving a district investigator into the market, utilizing short-term workers, utilizing parcel sale day help positions, and possibly utilizing operations budget funds to hire a temporary worker, Ms. Doely is fairly confident there will be enough workers to cover Fall Run
- Ms. Doely said she would send new employee information to the BOL on a weekly basis and would get a list of the new hires to the BOL by the end of the day

Ms. Doely reported on other Division updates:

- The Division has been working with Centralized Services Division on transparency issues, assuring that Brands collections match the work being done.
- The Division has also been preparing to do Deputy Stock Inspector book audits

- Ms. Doely said that the Brands Enforcement Division has not yet delved into how to address rerecord and the grace period but it needs to be addressed and finalized prior to the rerecord year

Ms. Doely and Mike Honeycutt reported on the MALAM meeting they attended in Bozeman on July 29, 2016:

- It was a positive interaction with 9 of the 13 market owners who were present at the meeting – discussions with them covered their perspective on how many people they need on staff at the markets and concerns about video market auctions.
- Mike Honeycutt said that one of the major points of conversation with market owners was regarding the shorthandedness at the markets, He feels that they came to an understanding of the confines of the resource allocation of the DOL and how having a need for extra help at the markets doesn't mean the DOL can add another position in the middle of a biennium. Mr. Honeycutt said there should be more conversation with the market owners because understanding their business needs helps in allocating DOL resources in a better way
- John Scully said the feedback he received from that MALAM meeting about Ms. Doely and Mr. Honeycutt was terrific and he encouraged them to visit with the market owners when they go around and visit with employees. He added that there needs to be followup on video requirements and methodology for video markets because there were questions regarding it, how the checks were deposited, etc.

Ms. Doely reported on Brands Division preparations before the 2017 Legislative Session

- Ms. Doely said that she did not request any additional FTEs in the BOL-approved executive budget, but expected to have all the positions she does have authorized filled by January, barring any further vacancies
- John Scully requested that Ms. Doely put together a working group, possibly including Mike Honeycutt, to begin the process of moving to a more electronic field process for the 500 independent brand inspectors and to present that need to the Legislature this year
- Assistant Brands Administrator Ty Thomas is establishing the standards for the Fort Supply system (contract expires at the end of March), how the staff should be using that system and is working on determining whether or not it is going to be the system used by the DOL going forward. Shopping around for a new system will begin in the next few months

Assistant Brands Administrator Ty Thomas was introduced and highlighted his attendance at the International Livestock Identification Association Conference held in Fargo, ND on July 17-20, 2016.

EXECUTIVE SESSION

12:00 PM

RECONVENE

1:30 PM

DIVISION REPORTS CONTINUED:

1:30 PM

1:30 PM - Centralized Services Division (CSD)

FY16 Projection to Actual Expenditures Review

George Harris, CSD, stated that in FY16 CSD redesigned the financial presentations to include expenditure projections made in March, in a more detailed effort to control expenditures. In the future, he hopes to have projections made earlier than March. He requested feedback from the BOL as to how they felt about this new method and how well they felt it will work going forward:

- Overall, total expenditures for the CSD, Milk Control Bureau, Milk Lab, LLB, State Veterinarian's Office, DSA, Milk and Egg Bureau, Brands Enforcement and Meat and Poultry Bureau were 5% and less within the March projections
- Overall, VDL total expenditures were within 6.5% of projection – ran into a snag with NAHLN and budget amendment
- The federal animal health disease grants are figured on a federal cycle, different than our fiscal year and projections were not as close, 11.7% of actual expenditures, and the alternative livestock expenditures were within 21.4% of projections
- John Scully commented that he did not want to get into too many projections too early and wants to make sure the management focuses on the budget status rather than on the projections
- Mike Honeycutt said that it takes both projections and actuals to get a complete budget picture, and he believes that is what helped the Department operate so close to budget this year
- John Scully requested that the Industry Interim Committee Members be sent copies of the year-end financials that were discussed at this meeting

State Special Revenue Collection Comparison – FY15 with FY16 Actuals

- The ending per capita fee cash balance on June 30, 2016 was \$2.5 million, without the \$500,000 language appropriation which is pending right now
- In the Brands Enforcement Division, \$232,000 was taken out of revenues to adjust for an annual rerecord instead of a FY rerecord, as per the BOL's instructions, adjustments were made in the new brands and transfers and in the insurance, leaving a beginning cash balance for FY17 of \$4,348,764
- Revenues in FY16 in the Brands Enforcement Division are up around \$242,000 mostly because of market and local inspection revenues increasing
- As per BOL action in June and the passage of the new Milk Rule, Milk Lab will be coded to general fund in future reports, meaning less per capita fee in the main Lab
- Mike Honeycutt interjected that one argument arising at the 2016 Legislative Session could be that legislators feel the DOL does not need general fund monies, but instead should do a better job collecting per capita fees. According to

State statute however, per capita taxes are self-reported, with no enforcement teeth for the DOL

Budget Status Through FY16

- Utilizing operational plan adjustments and carry-forward authority, the DOL did not have to petition the Governor's office for a personal services contingency or utilize any specialized funds in FY16
- George Harris said this was the smoothest year-end he has had in the DOL since he started work there in 1996

FY18-FY19 Budgeting Update

- The State Government has until August 29, 2016 to get their budgets submitted
- DOL will be utilizing a whole new budget reporting system – the Internet Budget and Recording System (IBARS) that George will have training to operate on August 16, 2016
- George Harris made a request to each administrator and program manager that on the OTO they really pin down the statutes when they write their goals and objectives, to help defend the budget

Information Technology Manager Recruitment

George Harris announced that the new IT Manager position has been filled by Dan Olson, a network administrator with 20 years of IT experience, who will begin work at the DOL on August 22, 2016. Dan will be introduced at the next meeting.

RECESS

2:27 PM

RECONVENE

2:45 PM

DIVISION REPORTS CONTINUED:

2:45 PM

2:45 PM – Veterinary Diagnostic Lab (VDL)

Update on Electrical Issues at VDL

- A reoccurring electrical issue at the VDL has caused outlets to not work that feed the ultra-low freezers and it has also been putting a strain on the equipment
- This summer, there have been three outages in a one to two month period
- The hope is that the three cracked arrestors that were found and parts replaced recently in a transformer will resolve the problem

Incinerator Inspection – DEQ and Maintenance

- An unannounced incinerator inspection at the VDL by DEQ was passed with no violations

- The refractory along the outside of the heavy metal door on the incinerator is starting to crack and Dr. Layton is hoping to have the same company that did last year's refractory inspection repair it while the crew is in Montana
- A decision needs to be made regarding the replacement of a 20-year-old milk instrument in the Milk Lab that has been breaking down. The company would like the Milk Lab to enter into a lease option to replace the \$85,000 instrument
- Traffic and deliveries to the VDL have been interrupted due to replacement of a sewer line that has caused complete closure of the Lab's driveway

Out-of-State Travel Request

Dr. Layton said that VADDS training will not be held in Bozeman as previously thought, but will now be held in Brookings, SD. Dr. Layton recommends that one IT person attend this training in October 2016.

MOTION/VOTE

3:01 PM

John Scully moved that one IT person attend VADDS training in Brookings, SD in October 2016. Sue Brown seconded. The motion carried.

Safety Inspection – Department of Labor and Industry (DOLI)

Dr. Steve Smith reported on the surprise safety inspection of the Lab by the Department of Labor and Industry:

Three "serious violations" were found. "Serious" violations are ones the Lab is required to respond to by the end of August:

- Temporary wiring used as permanent – Lack of outlets caused a need for extension cords; the Lab is replacing many of those with power strips, and some work areas were rearranged, alleviating the need for extension cords, which will alleviate the problem
- Exposed wires – Fixed the same day as the inspection
- Respiratory Protection Program
 - Clarification on respiratory protection requirements have come from DOLI
 - Respirator fit testing and training programs need to be done.
 - Fitness testing on employees to assure they are medically clear to wear a respirator also needs to be done. These tests run around \$113 at Urgent Care and need to be done annually. Dr. Layton hoped that Powered Air Purifying Respirators (PAPR) could be used instead of the tight-fitting respirators, and that would eliminate the need for fitness tests, but employees wearing PAPRS also need to be fitness-tested
 - A draft plan for this program has been written and should be wrapped up in the next week or two

Dr. Smith reported on the "other than serious" safety problems found at the Lab during that same DOLI inspection (these do not require a response):

- Flammables were not stored in a cabinet – Now moved to a cabinet
- No load rating on metal cage where a stash of empty boxes had been stored – Boxes were removed from that area

- Electrical panels and emergency shutoffs did not have easy access –Some have been fixed by moving items out of the way, others are just factors of the building
- Some old extension cords need replacement, one was removed from going through a doorway, and a hardwired cord on at least one instrument needs an inline switch installed – All should be addressed this week

3:18 PM – Meat and Poultry Bureau

Requests to fill Meat and Poultry Bureau open positions

Gary Hamel gave reasons he was requesting to fill two meat inspector positions, one in the Missoula area in the NW district and one in the Dillon area. These are both current FTEs that are already included in his budget. Mr. Hamel also talked about creating another meat inspection position in the Missoula area, one that is not included in his budget

- Montana Poultry Growers Co-op, a new poultry facility in Hamilton, requires once-per-week inspections
- As part of their ag program, the Missoula County School District is constructing a fully functional slaughter facility that will require inspections once completed, probably in a year
- Mr. Hamel did an internal hire, taking a Bozeman-area position and moving its location to the Dillon area because he has a gentleman already driving throughout the week from Manhattan to the Dillon area to service facilities in that area
- Growth is brisk in the Missoula area, according to Mr. Hamel, and he wanted to explore the idea of creating another meat inspector position there to fill the inspection services in that area

MOTION/VOTE

3:36 PM

John Scully moved to fill the NW District meat inspector position and the Dillon meat inspector position and explore the possibility of hiring a third position in the Missoula area. Lila seconded. The motion carried.

Mike Honeycutt expressed the need to have enough staff available to service these growing areas in our state. He said that he does not want the DOL to be an impediment to entrepreneurship or to job growth.

Gary Hamel requested an administrative rule change for ARM 32.6.712 Food Safety and Inspection Service due to changes in the Code of Federal Regulations that are necessary to maintain the Bureau's "at least equal to" status.

MOTION/VOTE

3:38 PM

John Scully moved to proceed forward in the notice of proposed rulemaking change in ARM 32.6.712 to maintain the "at least equal to" status for the Bureau.

Nina Baucus seconded. The motion carried.

Gary Hamel gave general updates for the Meat and Poultry Bureau:

- The mobile bison slaughter facility came through Montana at the end of July and slaughtered 38 bison bulls. A Montana state meat inspector was onsite. The operation is scheduled to return to Montana sometime in November and Mr. Hamel will keep the BOL informed about that
- The results from the Federal/State Audit Branch of the annual “at least equal to” self-assessment the Bureau went through were a determination of “preliminary to at least equal to.” According to Mr. Hamel, that is a good sign
- The Montana Poultry Growers Co-op, a new poultry facility in Hamilton was licensed on July 26, 2016 and slaughtered their first birds on the 27th. Once the kinks are worked out, Mr. Hamel expects that the facility will be up to 500 birds on slaughter days

PUBLIC COMMENT

3:44 PM

Montana Representative Ed Greef from the Bitterroot came to introduce Beau McLean and Christopher Green, the managers of the state’s first poultry processing facility that is open to the public, the Montana Poultry Growers Co-op, located in Hamilton, MT:

- They have worked for many years to bring their vision to this point – many people have been anxiously watching as well
- They have a huge amount of public support and much involvement from members of the Co-op – the county is very much behind these folks
- Rep. Greef reiterated Mike Honeycutt’s earlier comments about the creation of new jobs and the ripple-out effect that has as a benefit to the state. He added that as a legislator, jobs are important...new jobs are important
- Rep. Greef said he looks forward to where this has a potential to lead in years to come
- Rep. Greef also added his support and advocacy to the DOL as they go into the next Legislative session

Beau McLean and Christopher Green, shared information and answered BOL questions about the new Hamilton poultry facility:

- Both have degrees from Oregon State University – Christopher in Marketing and Beau in Animal Science with an emphasis in poultry
- Began in 2013 with a marketing plan for western Montana and found that pasture-raised local poultry is where there was a demand
- Funding for the plant came from public and private sources – individuals, farmers in the area, restaurants wanting “local” birds, one large donation from an individual, a GTA grant and other grants were essential
- Chickens are pasture-raised within a moveable enclosure that allows them fresh grass and that makes for “happy” chickens
- Demand has been huge – their product has been sought after by restaurants, grocery store chains and U of M.

- In their 3rd week of being open, they have processed over 1000 chickens and plan to double their production next year, processing not only whole chickens, but chicken parts as well
- On processing days the facility employs 10-12 people

Per John Scully's request, Beau McLean said they could provide the DOL with a business plan to inform the Department of projections of increases in the facility's production that would require more servicing by the Department

4:12 PM - Milk Control Bureau

General Updates

Chad Lee reported on current Milk Control Bureau activities:

- The next Board of Milk Control Meeting is scheduled for August 29, 2016.
Agenda items include:
 - Biennium budgeting for FY19 –Looking at present law adjustments
 - Re-election of the Vice-chair
 - Work on the changes to the surplus sales rules and address impacts
 - Begin the process of establishing current rule definitions into the Federal Milk Class Definitions
 - ✓ HB 431 (81-23-101 1b), passed in 2007, made clear that the Board of Milk Control establishes rules for definitions in milk classes and that these milk classes were to follow federal definitions.
 - ✓ Working session meetings regarding the definitions will probably be in October

The Milk Control Bureau just completed incorporating the last adjustments for the audits:

- Historic periods for audits were Sept 2012, June-August 2013, and November 2014
- Audits found that farmers were overpaid during that time
 - Errors were found in reports from plants and in Bureau calculations
 - Adjustments were made over a 4-month period of time

An adjustment was made in the last pooling dealing with milk utilized at the Montana Correctional Enterprises Plant in March and April:

- A rule change made it so that particular plant was no longer considered a pool plant within that definition.
- Another rule, found in the initial quota assignment rules, indicated that if the prison obtained quota they had to have utilization included in the pool. Because of this, the Bureau had to include them in that utilization, even though they are still not considered a pool plant.
- The adjustment made for this in March and April actually helped the farmers

The Milk Control Bureau hopes to have its annual Milk Market Report completed by the August 29th Milk Control Board meeting:

- The Board of Milk Control reviews and approves that report and then it is published
- Milk prices are improving a little bit, although September is going to be down relative to August, but August is a lot better than June.

Chad Lee is working with Dan Turcotte and said that the assessment forms are going out

Report on Travel

Chad Lee reported on his attendance at the International Association of Milk Control Agencies conference held in Vancouver, BC on July 24-27, 2016:

- Over 100 people were in attendance, including reps from:
 - Three federal orders
 - Six states...Maine, MT, NY, VA, CO and NV
 - The Canadian Dairy Commission
 - Six provinces.
 - 9 different dairy organizations
 - 5 different dairy processors
 - Some other service providers
- Topics covered pertinent to the Board of Milk Control
 - State of the milk industry
 - Regulatory interaction with product innovation
 - History of the organization
 - Milk movement
 - Transportation efficiency and reports from the USDA and the Canadian Dairy Administration
- Chad Lee shared some other bits of information he learned at the conference:
 - Large amounts of milk are being dumped in certain areas of Canada
 - A shortage of butterfat in Canada has caused Alberta ice cream makers to begin importing butter from Europe to work into their ice cream mixtures
 - Canadian milk prices are \$25/cw compared to the US's at \$14-\$15/cw

COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS:

4:29 PM

Dr. Jeanne Rankin, President Montana Veterinarian Medical Association (MVMA) gave information on the new Veterinary Feed Directive (VFD):

- The VFD is a new law from the FDA that requires all the medicated feed for livestock including water and poultry medications to have a veterinary directive similar to a prescription
- The VFD Rule, effective January 1, 2017, requires that a veterinarian see your flock, see your herd and write the appropriate prescription
- Stockpiled feed will be illegal – Mike Honeycutt raised concerns about owners of 4-H and similar show animals not being aware of the new rule and the DOL will be contacting veterinarians who service those animals to inform the owners

- MSU Extension is working with the MVMA and holding public information meetings around the state regarding the new law. Meeting dates are posted on the MSU Extension website, but to get complete information, contact your county extension agent

Dr. Rankin reported on an upcoming Rolling Cow exercise that will take place in Fort Benton at the Chouteau County Fairgrounds

- This is a functional exercise in response to a livestock truck overturning
- Roles and responsibilities of each agency when such an event occurs will be covered...firemen will be directed on how to cut the overturned trailer
- Direction will be given on how to handle the animals involved in the roll over...euthanasia, etc.
- Dr. Rankin will be sending out notices detailing the event – DOL was invited to participate in the event

Dr. Rankin told the BOL that MVMA highly supports the Diagnostic Lab and wants to see its success. She reminded them that they have board members and advisory members that could be part of the advisory committee.

SET DATE FOR NEXT BOARD MEETING:

4:36 PM

John Lehfeltdt set Friday, September 23, 2016 for the next BOL meeting.

Discussion

John Scully would like Mike Honeycutt to look at the tools he would like to use and propose three to five measurement guidelines that the BOL can look at in September or October for his performance for this year, so come February or March there can be an appropriate review.

MEETING ADJOURNED

4:43 PM


John Lehfeltdt, Chairman