



Board of Livestock Meeting

Agenda Request Form

From: Gary Hamel	Division/Program: Meat & Poultry Inspection Bureau	Meeting Date: 9/19/18
<u>Agenda Item:</u> New Employee		
Background Info: (see attached report)		
Recommendation:		
Time needed: (consent agenda)	Attachments:	Yes No Board vote required? Yes No
<u>Agenda Item:</u> Positive Tests		
Background Info: (see attached report)		
Recommendation:		
Time needed: (consent agenda)	Attachments:	Yes No Board vote required Yes No
<u>Agenda Item:</u> Prospective Inspected Facility		
Background Info: (see attached report)		
Recommendation:		
Time needed: (consent agenda)	Attachments:	Yes No Board vote required: Yes No
<u>Agenda Item:</u>		
Background Info:		
Recommendation:		
Time needed:	Attachments:	Yes No Board vote required: Yes No
<u>Agenda Item:</u>		
Background Info:		
Recommendation:		

Meat and Poultry Inspection Bureau
Board Report in Lieu of a Presentation
September 19, 2018

New Employee

The Meat and Poultry Inspection Bureau recently hired a new inspector. Vanessa Thompson started her position as a meat inspector in the Eastern District on July 27, 2018. She replaces Bill Bury, who recently retired. She has been assigned to the Great Falls area. Vanessa has an animal science background and is eager to put her knowledge to work for the department. She is a welcomed edition to our program.

Positive tests

During a FSIS directed sample for antibiotic residues in show animals, there was one animal that tested positive. Protocol for follow-up includes retaining the animal until results of a confirmatory test are completed. Confirmatory tests are being conducted by a USDA lab.

Prospective Inspected Facility

The Missoula County School District has sent the Meat and Poultry Inspection Bureau a letter indicating that they are nearing the end of the construction phase of the meat processing lab. They are requesting inspection for both processing and slaughter. Two teachers have already taken a HACCP course and have earned certification. The bureau has reached out to the school district and has arranged to visit the prospective establishment to determine if they are ready to begin the process of becoming state inspected.



Board of Livestock Meeting

Agenda Request Form

From: Dan Turcotte		Division/Program: Milk & Egg Bureau			Meeting Date: 9/19/18		
<u>Agenda Item:</u> FSMA Training Attended							
Background Info: (see attached report)							
Recommendation:							
Time needed: (consent agenda)	Attachments:	Yes	No	Board vote required?	Yes	No	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							
Time needed:	Attachments:	Yes	No	Board vote required	Yes	No	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							
Time needed	Attachments:	Yes	No	Board vote required:	Yes	No	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							
Time needed:	Attachments:	Yes	No	Board vote required:	Yes	No	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							

Milk and Egg FSMA Training Attended

Dan and Rosemary attended an FDA required training August 19-24 in California. This is the second phase of training following the training to become certified as Preventative Control Qualified Individual (PCQI). Dan and Rosemary were certified as PCQIs last year. The training is required to certify State Rating Officers (SRO) to design and review the new Food Safety Plans (FSP) for dairy processing plants for FDA compliance. FSPs are required for all food manufacturers under the Food Safety Modernization Act (FSMA). Incorporating FSPs into the PMO was required to have dairy regulations compliant with the FSMA.

A Separate FSP is required for each product manufactured. FSPs must now cover all possible allergens as well as other hazards. The FSP must be updated as suppliers change for each ingredient as well as packaging material, boiler treatment, or other products used in the plant.

Failure to have or maintain up to date, the FSP means automatic failure of the facility and a halt to product shipment. Most dairy plants are required to be in compliance with FSMA by September 17, 2018. The exception is plants with less than one million dollars in annual sales.

Department of Livestock**1) Division**

Animal Health and Food Safety

2) Employees Traveling

Tess Moore

Steve Smith

3) Justification

The annual meeting of the AAVLD is in Kansas City, MO this year, and we request permission for two employees to attend for continuing education, networking, and to represent our laboratory.

All costs for Tess Moore's attendance will be covered by National Animal Health Laboratory Network (NAHLN) grant funds.

4) Itinerary

October 18-24, 2018

Lodging: \$1200.00 (x2)

Airfare: \$400.00 (x2)

Per Diem: \$552

Registration: $\$315(x2) + \$100(x2) + \$25 + \$50 + \$150 + \$50 = \$1105.00$

Total: \$4857.00

5) Submitted ByRequested By
Steve SmithTitle
Interim Laboratory DirectorDate
9/5/2018**Approval - to be Completed by Agency Authorized Personnel**

Date Approved by Board

Board Chair / EO

Date

NOTE: A travel expense voucher form must be filed within three months after incurring the travel expenses, otherwise the right to reimbursement will be waived.

1) Agency Number/Name 56030-Department of Livestock	2) Division Meat and Poultry Inspection
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3) Org Number	4) Employees Traveling Gary Hamel and Emily Kaleczyc
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5) Justification
 Travel to Greenville, South Carolina to attend the National Association of Meat and Food Inspectors Directors meeting held in conjunction with the Southern Animal Health Association conference. This meeting is attended by 27 state directors from across the country. During this meeting, discussions are held that are specific to meat and poultry inspection programs such as funding, audits, industry trends, etc.

6) Alternatives
 None

7) Itinerary
 Travel to Greenville South Carolina June 2 and returning to Helena June 5, 2019

8) Lodging Rate
 Within Federal Rate? Yes No
 If not, enter Federal and Lodging Rates
 Federal _____
 Lodging _____
 If requesting travel advance, list amount

(Travel advances should be issued only on an exception basis)

If rates are above the federal rate, check the items which apply below:
 1. Government rates were requested and were not available at the hotel where the employee is staying; **and**
 a. Government or significantly lower rates are not available at another hotel within a reasonable distance; **or**
 b. It is necessary for purposes of accessibility and/or security to stay at the hotel in which the conference is being held; **or**
 c. Emergency or last minute travel arrangements preclude finding accommodations within the federal guidelines; **and**
 2. Reimbursement at actual cost is within the agency's authorized appropriation level.

9) Estimated Cost	Transportation	Meals/Lodging	Registration	Other	Total
	1,200.00	1,322.00	500.00	100.00	3,122.00

10) Submitted By	Requested By Gary Hamel	Title Bureau Chief	Date 08/02/2018
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Approval - to be Completed by Agency Authorized Personnel					
Supervisor	Date	Administrator	Date	Dept Head/Designee	Date

NOTE: A travel expense voucher form must be filed within three months after incurring the travel expenses, otherwise the right to reimbursement will be waived.

1) Agency Number/Name 56030-Department of Livestock	2) Division Meat and Poultry Inspection
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3) Org Number	4) Employees Traveling Gary Hamel
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5) Justification
 Travel to Kansas City Missouri to attend the National Association of Meat and Food Inspectors Directors meeting held in conjunction with the USAHA conference. This meeting is attended by 27 state directors from across the country. During this meeting, discussions are held that are specific to meat and poultry inspection programs such as funding, audits, industry trends, etc.

6) Alternatives
 None

7) Itinerary
 Travel to Kansas City Missouri October 21 and returning to Helena October 24, 2018

8) Lodging Rate
 Within Federal Rate? Yes No
 If not, enter Federal and Lodging Rates
 Federal _____
 Lodging _____
 If requesting travel advance, list amount

(Travel advances should be issued only on an exception basis)

If rates are above the federal rate, check the items which apply below:
 1. Government rates were requested and were not available at the hotel where the employee is staying; **and**
 a. Government or significantly lower rates are not available at another hotel within a reasonable distance; **or**
 b. It is necessary for purposes of accessibility and/or security to stay at the hotel in which the conference is being held; **or**
 c. Emergency or last minute travel arrangements preclude finding accommodations within the federal guidelines; **and**
 2. Reimbursement at actual cost is within the agency's authorized appropriation level.

9) Estimated Cost	Transportation	Meals/Lodging	Registration	Other	Total
	600.00	661.00	250.00	50.00	1,561.00

10) Submitted By	Requested By Gary Hamel	Title Bureau Chief	Date 08/02/2018
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Approval - to be Completed by Agency Authorized Personnel					
Supervisor	Date	Administrator	Date	Dept Head/Designee	Date

NOTE: A travel expense voucher form must be filed within three months after incurring the travel expenses, otherwise the right to reimbursement will be waived.

1) Agency Number/Name 56030-Department of Livestock	2) Division Meat and Poultry Inspection
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3) Org Number	4) Employees Traveling Emily Kaleczyc
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5) Justification

Travel to Texas (Location subject to change to attend EIAO (Enforcement Investigations Analysis Officer) training. This course prepares individuals to operate as an EIAO. Once completed, Dr. Kaleczyc would be qualified to act as an EIAO in our state program to conduct food safety assessments and provide outreach services to state inspected facilities. Although training has not been opened for candidates yet, indications from FSIS are that the next school will take place in October, 2018. This course is approximately one month long. An EIAO is required to maintain an "at least equal to" designation for the state program.

6) Alternatives

None

7) Itinerary

Travel to Texas during the first week of October, 2018 and return to Helena at the end of October 2018.

8) Lodging Rate

Within Federal Rate? If not, enter Federal and Lodging Rates If requesting travel advance, list amount

Yes Federal _____

No Lodging _____ *(Travel advances should be issued only on an exception basis)*

If rates are above the federal rate, check the items which apply below:

1. Government rates were requested and were not available at the hotel where the employee is staying; **and**
- a. Government or significantly lower rates are not available at another hotel within a reasonable distance; **or**
- b. It is necessary for purposes of accessibility and/or security to stay at the hotel in which the conference is being held; **or**
- c. Emergency or last minute travel arrangements preclude finding accommodations within the federal guidelines; **and**
2. Reimbursement at actual cost is within the agency's authorized appropriation level.

9) Estimated Cost	Transportation	Meals/Lodging	Registration	Other	Total
	600.00	6,180.00		50.00	6,830.00

10) Submitted By	Requested By	Title	Date
	Gary Hamel	Bureau Chief	08/02/2018

Approval - to be Completed by Agency Authorized Personnel

Supervisor	Date	Administrator	Date	Dept Head/Designee	Date
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NOTE: A travel expense voucher form must be filed within three months after incurring the travel expenses, otherwise the right to reimbursement will be waived.

CONTRACT AGREEMENT

COMES NOW the Montana Board of Livestock, acting through the Department of Livestock (hereinafter "First Party") located at PO Box 202001, 301 N Roberts, Helena, MT 59620-2001, and the Montana Beef Council (hereinafter "Second Party") located at PO Box 80865, 2795 Enterprise Ave Suite 4, Billings, MT 59108-0865, and after due consideration agrees as follows:

In the interest of conducting a Beef Research and Marketing Program in the State of Montana pursuant to the provisions contained in the Beef Promotion and Research Act of 1985 (the "ACT"), and pursuant to the provisions of Title 81, Chapter 8, Part 9, of the Montana Code Annotated, the First Party agrees that beginning October 1, 2018 through September 30, 2019 for direct costs incurred by the First Party:

The parties hereunto also agree as follows:

SECTION 1. ACCESS. First Party agrees to provide Second Party office space and reasonable access, during normal business hours, to information, not privileged or confidential, necessary for the Second Party to perform its obligations under this Agreement and its requirements as a Qualified State Beef Council under the Act and the Beef Promotion and Research Order, so long as the requirements are not contrary to State statutes and regulation and this contract. Rental costs for office space will be the same as that charged to the First Party by the Department of Administration, and will be adjusted on July 1 of

each year.

SECTION 2. STAFFING AND EQUIPMENT The Second Party shall be responsible for providing all staffing and equipment necessary to perform its obligations under this Agreement and its requirements as a Qualified State Beef Council under the Act and the Beef Promotion and Research Order.

SECTION 3. PUBLIC INFORMATION. First Party shall own all work papers and end products produced by First Party under this agreement (except the Beef Council's receipt); and the Second Party shall have no authority to release information contained in work papers pursuant to this agreement without written permission of First Party, but shall have the authority to disclose information provided to the Second Party and included on the Bill of Sale - Beef Council's Receipt. In accordance with the Beef Promotion and Research Act and Order, the first party will observe the confidentiality clause on all check-off compliance matters.

SECTION 4. AUDIT. The Second Party shall maintain reasonable records of its performance under this Agreement. The Second Party agrees that the Legislative Auditor and the Legislative Fiscal Analyst may audit all records, reports, and other documents which the Second Party maintains under or in the course of the Agreement to insure compliance with this Agreement. Such

records, reports, and other documents may be audited at any reasonable time.

If for any reason the Montana Department of Livestock is subject to an audit or required production of any documents by an entity other than the Montana legislature as a result of this agreement the Montana Beef Council will be responsible for associated costs.

SECTION 5. INDEMNITY AND LIABILITY. The Second Party shall indemnify and hold harmless the State of Montana, the Board of Livestock, the Department of Livestock, and all officers, agents, and employees from and against any and all claims, demands, or actions from damages to property or injury to persons or other damage to persons arising out of, or resulting from the performance of this Agreement, provided such damage to property or injury to persons is due solely to the negligent act, error, or omission of the Second Party or any of its employees.

The First Party shall indemnify and hold harmless the Second Party, and all officers, agents, and employees from and against any and all claims, demands, or actions from damages to property or injury to persons or other damage to persons arising out of, or resulting from the performance of this Agreement, provided such damage to property or injury to persons is due solely to the negligent act, error, or omission of the First Party or any of its employees.

SECTION 6. ASSIGNMENTS. The Parties mutually agree that there will be no

assignment, transfer, or subcontracting of the contract or any interest therein, unless agreed to by both parties in writing as provided in Section 6,

Modifications.

SECTION 7. MODIFICATIONS. No letter or other communication passing between the parties to this Agreement, concerning any matter during this contract period, shall be deemed a part of this Agreement unless it is distinctly stated in such letter or communication that it is to constitute part of this Agreement and such letter of communication is attached as an Appendix to this Agreement and is signed by the authorized representative of each of the parties to this Agreement.

SECTION 8. LIMITS OF AGREEMENT. This instrument contains the entire Agreement between the parties, and no statements, promises or inducements made by either party, or agents of either party, which are not contained in the written Agreement shall be valid or binding; and this Agreement may not be enlarged, modified, or altered except as provided in Section 6, Modifications.

SECTION 9. LIAISON. The First Party has designated the Executive Officer to the Board of Livestock or (his) designee as its liaison officer and Second Party designates its Executive Director or (her) designee as its liaison officer.

SECTION 10. TERMINATION. This agreement shall continue in force and govern all transactions between the parties for the term stated or until canceled or terminated by either party. It is further agreed that the parties may mutually cancel this Agreement without cause upon thirty (30) days written notice to the other party, by certified mail. In the event of termination, the First Party shall be paid for the work performed or services rendered through the date of termination and the original copies of all documentation and records prepared by First Party prior to termination shall become the property of First Party.

Second Party agrees to accept legible copies of the documentation and records prepared by First Party. Both parties mutually agree that originals and copies will be delivered to the respective parties within a reasonable time.

SECTION 11. DISPUTES. It is mutually agreed that the performance or breach of this Agreement shall be governed by the laws of the State of Montana. In the event of litigation concerning the terms of this contract, venue shall be the First Judicial District, Lewis and Clark County, State of Montana.

SECTION 12. ARBITRATION OR LITIGATION CLAUSE. The parties hereunto agree that should a dispute arise between the parties that this dispute shall not be submitted to binding arbitration as specified in Section 27-5-114(3), MCA. Instead, disputes will be referred to an arbitration committee. The arbitration

committee shall be comprised of the Chairperson and the Executive Officer of the Montana Board of Livestock, Livestock, the President and the Executive Secretary of the Montana Beef Council. This committee shall meet as necessary to discuss and resolve grievances to the mutual benefit of both organizations. It is understood that agreements made by this committee are non-binding until they are ratified by the full boards of directors of both organizations.

SECTION 13. EQUAL EMPLOYMENT OPPORTUNITY. It is mutually agreed by the parties that no part of contract award or delivery of services shall be performed in a manner that discriminates against any person on the basis of race, color, creed, political ideas, sex, age, marital status, physical or mental handicap or national origin.

SECTION 14. SEVERABILITY. First Party and Second Party agree that should one or more parts of this Agreement be found to be void or contrary to law that the remainder of this Agreement shall remain in full force and effect as a whole contractual Agreement.

The parties herein also agree to meet from time to time as determined by the parties to attempt to find, develop and implement more efficient, less costly procedures for collections of proper monetary amounts.

This Agreement shall commence October 1, 2018 and terminate at Midnight, September 30,

2019.

DATED this _____ day of _____, 2018.

John Lehfeltd
Chairman
Montana Board of Livestock

Jim Taber
President
Montana Beef Council

DRAFT

**BEFORE THE BOARD OF LIVESTOCK
MONTANA DEPARTMENT OF LIVESTOCK
STATE OF MONTANA**

**IN THE MATTER OF THE 2018
SALE AND TRANSFER OF MARKET
CERTIFICATE FOR THE
MISSOULA LIVESTOCK
EXCHANGE**

**PROPOSED DECISION AND
RECOMMENDED ORDER**

I. INTRODUCTION

By letter dated July 25, 2018, to the Department of Livestock (“Department”), the Missoula Livestock Exchange, LLC, (“MLE”) requested a hearing on the proposed sale of the Missoula livestock market (“market”) to Five Valleys Livestock Auction, LLC (“FVLA”). Transfer of the market certificate from MLE to FVLA was a necessary prerequisite for the sale. The requested public hearing was noticed for and held at 1:00 p.m. on September 7, 2018, at the Best Western Plus Grant Creek Inn in Missoula, Montana. The undersigned presided as the Hearing Officer, heard testimony, and received and reviewed the evidence in this matter. At the request of the Board of Livestock, and based on the testimony and evidence received at the hearing, the Hearing Officer proposes the following decision and recommends the following order.

II. PROPOSED DECISION

1. MLE has owned and managed the Missoula livestock market for a number of years. The market’s physical location is 8598 Robbins Road in Missoula, Montana.

2. MLE is a limited liability company registered with the Montana Secretary of State and with six member managers: Vern Grabow, Joe Seymour, Vic Ralls, Jay Coughlin, Camille Coughlin, and Richard Smith.

3. MLE seeks to sell the market's physical location and transfer the market certificate to FVLA. All MLE member managers or their successors agree with and support the sale and transfer.

4. FVLA is a limited liability company registered with the Montana Secretary of State and with two member managers: Mauler Ventures, LLC, and Spire Properties, LLC. Justin K. Mauler is the registered agent for FVLA. Mauler Ventures is owned Justin and Annette Mauler.¹ Spire Properties is owned by Robb Horlacher.

5. On June 21, 2018, Justin K. Mauler and/or his assigns entered into a Buy-Sell Agreement ("Agreement") with MLE for the purchase of the market. By amendment of the Agreement dated August 17, 2018, the parties extended the closing date until October 31, 2018, extended the financing contingency date to October 26, 2018, and agreed to enter into a management agreement in the interim.

6. By letter dated July 25, 2018, to the Department, MLE requested a hearing on the proposed sale of the market to FVLA. By letter dated July 30, 2018, to the Department, Justin K. Mauler and Robb Horlacher notified the Department of their intent

¹ At the hearing, Ms. Hughes testified that both Mr. and Ms. Mauler were owners of Mauler Ventures, correcting a sentence in Exhibit 1 that states, "Mauler Ventures LLC is 100% owned by Justin Mauler...."

to purchase the Missoula livestock market.² The requested public hearing was noticed for and held at 1:00 p.m. on September 7, 2018, at the Best Western Plus Grant Creek Inn in Missoula, Montana.

7. In preparation for the hearing, Laura K. Hughes, auditor for the Department's Brands Enforcement Division with responsibility for market/dealer licensing, bonding, and audits, gathered information about Mr. Mauler's, Mr. Horlacher's, and FVLA's qualifications to operate the Missoula livestock market.

8. The hearing was held as scheduled, testimony was provided under oath, and the hearing was audio recorded by the Hearing Officer, a copy of the file being contained in the Hearing Officer's file. The sign-in sheets for the hearing were signed by eleven individuals, including the parties, those original sheets being contained in the Hearing Officer's file.

9. At the hearing, Ms. Hughes testified that she had received the materials necessary for her review of the transfer of the market certificate and recommended the Board of Livestock's approval of the transfer. As part of her due diligence review, Ms. Hughes prepared a report, with supporting documentation that summarizes FVLA's qualifications to operate a livestock market. Exhibit 1 contains the materials offered by Ms. Hughes at the hearing, which are accepted into the record.

² This letter was not included in the evidence offered at the hearing, but a copy was provided by the Department when the Hearing Officer's services were requested. The Hearing Officer takes judicial notice of this letter, which is a public record that was received and maintained by the Department in the ordinary course of business.

10. Ms. Hughes' testimony explained the scope of her collection and review of the materials contained in Exhibit 1. Ms. Hughes updated section B-6 of Exhibit 1 to include a letter dated September 7, 2018, from TrailWest Bank that "Robb Horlacher and Justin Mauler have been preliminarily approved to purchase the Missoula Livestock Auction."

11. At the hearing, John Uecker of the United States Department of Agriculture Packers and Stockyards Program testified about the financial obligations of a stockyard.

12. At the hearing, Justin Mauler and Robb Horlacher testified about their requested transfer of the market certificate, their interest in serving the ranching community, their establishment of financing for the purchase, and their interest in an expedited decision by the Board of Livestock on the transfer.

13. At the hearing, public testimony was provided by Walter "Wally" Congdon, who discussed the history and importance of the Missoula livestock market. Mr. Congdon spoke in support of the transfer as a rancher, as a member of the Montana Cattlemen's Association, and on behalf of Lake County, where he is a Deputy County Attorney. Exhibit 2 contains a document offered by Mr. Congdon, which is accepted into the record, from the Lake County growth policy in support of agricultural facilities.

14. At the hearing, no additional public testimony was offered and no public testimony opposed the transfer.

15. Montana Code Ann. § 81-8-253 provides the requirements for transfer of a livestock market certificate, as follows:

The department may approve the transfer of ownership of a certificate of public convenience and necessity issued pursuant to this part without a determination and showing of public convenience and necessity. Such approval may be granted only after a public hearing at which the transferee's qualifications to operate a livestock market have been thoroughly examined and found sufficient to properly operate a livestock market. A minimum of 10 days' notice by mail must be given to all persons to whom notice is sent pursuant to the provisions of 81-8-252 of a hearing to consider an initial application for a certificate.

16. Administrative R. Mont. 32.15.104(2) provides the requirement for a hearing on certain transfers of a livestock market certificate, as follows:

(2) Changes which result in ownership or control of the market passing to persons not already approved by the department of livestock to operate the market may be given approval only after public hearing before the department of livestock.

17. As an auditor for the Department, Ms. Hughes obtained documentation regarding FVLA's qualifications to operate a livestock market. Ms. Hughes received either all documentation requested or a reasonable explanation for why the information was not available. Ms. Hughes presented this information, and it was thoroughly examined by the parties and the public, at the September 7, 2018, hearing. Ms. Hughes recommended, based on her review of the materials, that FVLA's request for transfer of the certificate be approved.

18. At the hearing, Mr. Mauler and Mr. Horlacher asserted their privacy interest in the financial statements they provided to the Department, section B-3 of Exhibit 1. They previously had asserted this privacy interest to Ms. Hughes. The Montana Constitution provides a right to know in Article II, sec. 9, that states, "No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions,

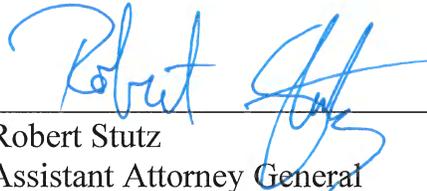
except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.” The Department has an obligation to review the proposed certificate transferee’s “detailed financial statement showing that current assets exceed current liabilities and that long-term assets exceed long-term liabilities.” Mont. Code Ann. § 81-8-251(2)(h). The public has a right to know the proposed certificate transferee’s “qualifications to operate a stock market.” Mont. Code Ann. § 81-8-258. At the hearing, Ms. Hughes testified that the financial statements demonstrated that the burden in Mont. Code Ann. § 81-8-251(2)(h) had been met; this testimony satisfied the requirements of Mont. Code Ann. § 81-8-258. Even though the statute providing a hearing on a *transfer* of a market certificate does not address the issue, the statute providing a hearing on an *application* for a market certificate excludes the financial statements from public disclosure. Mont. Code Ann. § 81-8-242(1). The financial statements in Exhibit 1 contain significant private information that clearly outweighs the public’s right to know, including Social Security numbers, banking and investment details, ownership and debt details, income and driver’s license, to name a few. These private documents are appropriately marked confidential and withheld from public disclosure.

III. RECOMMENDED ORDER

Upon the research by Department staff and the public hearing during which the qualifications to operate a livestock market were thoroughly examined and found to be sufficient to properly operate that market, the purchase of the Missoula livestock auction by Five Valleys Livestock Auction, LLC, from Missoula Livestock Exchange, LLC, and the transfer of the certificate to operate that market is APPROVED and the Hearing

Officer's proposed decision, recommended order, exhibits, and file are ACCEPTED in their entirety by the Board of Livestock.

DATED this 13th day of September, 2018.



Robert Stutz
Assistant Attorney General
Agency Legal Services Bureau
1712 Ninth Avenue
P.O. Box 201440
Helena, MT 59620-1440
(406) 444-2071
rstutz@mt.gov

HEARING OFFICER

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing to be sent to:

Missoula Livestock Exchange, LLC
c/o Camille and Jay Coughlin
8598 Robbins Road
Missoula, MT 59808

Five Valleys Livestock Auction, LLC
c/o Justin K. Mauler
126 Indian Prairie Loop
Stevensville, MT 59870

Laura K. Hughes, Auditor
Brands Enforcement Division
Montana Department of Livestock
PO Box 202001
Helena, MT 59620-2001

DATED: _____

9/13/2018



**BEFORE THE BOARD OF LIVESTOCK
MONTANA DEPARTMENT OF LIVESTOCK
STATE OF MONTANA**

**IN THE MATTER OF THE 2018
SALE AND TRANSFER OF MARKET
CERTIFICATE FOR THE
MISSOULA LIVESTOCK
EXCHANGE**

**ERRATA TO THE PROPOSED
DECISION AND RECOMMENDED
ORDER**

Footnote 2 is hereby stricken from the PROPOSED DECISION AND
RECOMMENDED ORDER issued today.

DATED this 13th day of September, 2018.



Robert Stutz
Assistant Attorney General
Agency Legal Services Bureau
1712 Ninth Avenue
P.O. Box 201440
Helena, MT 59620-1440
(406) 444-2071
rstutz@mt.gov

HEARING OFFICER

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing to be sent to:

Missoula Livestock Exchange, LLC
c/o Camille and Jay Coughlin
8598 Robbins Road
Missoula, MT 59808

Five Valleys Livestock Auction, LLC
c/o Justin K. Mauler
126 Indian Prairie Loop
Stevensville, MT 59870

Laura K. Hughes, Auditor
Brands Enforcement Division
Montana Department of Livestock
PO Box 202001
Helena, MT 59620-2001

DATED: _____

9/13/2018





Board of Livestock Meeting

Agenda Request Form

From: George Edwards		Division/Program: Livestock Loss Board			Meeting Date: 9/19/18		
<u>Agenda Item:</u>							
Background Info: Livestock Loss Board Statistics							
Recommendation:							
Time needed: 20 minutes	Attachments:	Yes		Board vote required?		No	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							
Time needed:	Attachments:	Yes	No	Board vote required	Yes	No	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							
Time needed:	Attachments:	Yes	No	Board vote required:	Yes	No	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							
Time needed:	Attachments:	Yes	No	Board vote required:	Yes	No	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							
Time needed:	Attachments:	Yes	No	Board vote required:	Yes	No	

September 10 2018

Montana LLB
 PO Box 202005
 Helena MT 59620

George Edwards
 Executive Director
 (406) 444-5609

Counties	Cattle	Sheep	Goats	Guard	Horse	Llama	Totals	Payments
Beaverhead	2	3		2			7	\$4,790.80
Carbon	19						19	\$18,686.58
Cascade		1					1	\$136.71
Daniels					1		1	
Flathead	2	1					3	\$2,361.16
Glacier	6						6	\$6,267.61
Granite					1		1	
Lake	1					2	3	\$3,964.85
L&C	4	8	6				18	\$6,810.55
Lincoln		1					1	\$186.30
Madison	10						10	\$19,601.68
Missoula		5					5	\$1,142.17
Park							0	
Pondera	3						3	\$3,289.30
Powell	11	16					27	\$13,763.62
Ravalli		8					8	\$1,883.73
Sanders							0	
Sweet Gras	2						2	\$1,799.50
Teton	8	7					15	\$12,745.63
Totals	68	50	6	2	2	2	130	\$97,430.19

Wolves

Confirmed	28	6		2		
Probable	2	2				
Value	\$38,253.19	\$2,073.75		\$2,060.00		
Owners	16	2		1		

Grizzly Bears

Confirmed	27	7				2
Probable	11					
Value	\$39,900.57	\$4,387.76				\$3,000.00
Owners	17	3				1

Mtn Lion

Confirmed		31	6		2	
Probable		4				
Value		\$6,737.01	\$1,017.91		in process	
Owners		9	1		2	

2017 January 1 to September 10th 91 Head \$83,478.23



Board of Livestock Meeting

Agenda Request Form

From: Evan Waters		Division/Program: Centralized Services			Meeting Date: 09/19/2018		
<u>Agenda Item:</u> September 2018 through June 2019 Expenditure Projections							
Background Info: Report expenditure projections by division and/or bureau and attached boards.							
Recommendation: n/a							
Time needed: 15 min	Attachments:	Yes X	No	Board vote required?	Yes	No X	
<u>Agenda Item:</u> August 31, 2018 Budget Status report							
Background Info: Report expenditure to budget comparison report by division and/or bureau and attached boards. This report also compares current year expenditures to prior year expenditures.							
Recommendation: n/a							
Time needed: 5 min	Attachments:	Yes X	No	Board vote required	Yes	No X	
<u>Agenda Item:</u> State Special Revenues Comparison as of August 31, 2018							
Background Info: Present revenues for all state special revenue funds.							
Recommendation: n/a							
Time needed: 5 Min	Attachments:	Yes X	No	Board vote required:	Yes	No X	
<u>Agenda Item:</u> Per Capita Fee (PCF) Rate Change Proposal							
Background Info: Two PCF rates and estimated revenues will be presented for reporting period 2019. Livestock count reports are due from the producers on March 1, 2019. The board will discuss and vote to set PCF rate for calendar year 2019 reporting period.							
Recommendation: n/a							
Time needed: 15 min	Attachments:	Yes X	No	Board vote required:	Yes X	No	
<u>Agenda Item:</u> OBPP Planning Timetable for 2021 Biennium							
Background Info: The timetable lays out deadlines OBPP has set for the 2021 Biennium budget							
Recommendation: n/a							
Time needed: 5 min	Attachments:	Yes X	No	Board vote required:	Yes	No X	

From: Evan Waters		Division/Program: Centralized Services			Meeting Date: 09/19/2018		
<u>Agenda Item:</u> Hire Accounting Technician							
Background Info: Payroll accounting technician retired end of August. Payroll duties were assigned to an existing accounting tech. We are requesting that a new accounting tech be hired at same level and duties. Requested hire/start date is November 12, 2018.							
Recommendation: approve the hire of accounts receivable accounting technician							
Time needed: 5 min	Attachments:	Yes X	No	Board vote required?	Yes X	No	
<u>Agenda Item:</u> Diagnostic Laboratory Cost Analysis							
Background Info: The department will present a cost analysis by lab section and average cost of tests in each lab section.							
Recommendation: n/a							
Time needed: 30 min	Attachments:	Yes X	No	Board vote required	Yes	No X	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							
Time needed:	Attachments:	Yes	No	Board vote required:	Yes	No	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							
Time needed:	Attachments:	Yes	No	Board vote required:	Yes	No	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							
Time needed:	Attachments:	Yes	No	Board vote required:	Yes	No	



Board of Livestock Meeting

Agenda Request Form

From: Chad Lee		Division/Program: Milk Control Bureau			Meeting Date: 9/19/2018		
<u>Agenda Item:</u>							
Background Info: General updates and report on August 22, 2018 Board of Milk Control Meeting							
Recommendation:							
Time needed: 10 minutes	Attachments:	Yes	No X	Board vote required?	Yes	No X	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							
Time needed:	Attachments:	Yes	No	Board vote required	Yes	No	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							
Time needed:	Attachments:	Yes	No	Board vote required:	Yes	No	
<u>Agenda Item:</u>							
Background Info:							
Recommendation:							
Time needed:	Attachments:	Yes	No	Board vote required:	Yes	No	



Board of Livestock Meeting

Agenda Request Form

Agenda Item: Request to Hire Animal Health License Permit Technician					
Background Info: This position was recently vacated due to the hiring of Brooke Ruffier into the Brucellosis Compliance Specialist position. The Animal Health Bureau is requesting to fill this vacancy.					
In FY 2018, the animal health division issued 10,876 import permits for 125,614 cattle and 26,596 horses entering Montana.					
Consequences of not filling this position:					
<ol style="list-style-type: none"> 1. Increased hold times for veterinarians and their staff calling the permit line 2. Possible reduced compliance with animal health requirements 3. Increased use and costs of the 24/7 after-hours service 4. Increased phone duties for other staff which would take them away from their projects which currently include the alternative livestock program, rule review, DSA compliance, traceability and data entry. 					
Recommendation: Board Approval to Fill					
Time needed: 5 minutes	Attachments:		<u>No</u>	Board vote required:	<u>Yes</u>

Agenda Item: Request to fill vacancy in bison program					
Background Info:					
The recently hired Bison Program Manager is attending law enforcement academy which started in early September. Animal Health Bureau is requesting permission to backfill the vacancy in the bison program created by this hire. This individual, based in the Northern Management Area (Gardiner), will be responsible for maintaining separation between Yellowstone National Park bison and cattle, monitoring the perimeter of the tolerance area, and coordinating activities with other IBMP partners.					
Recommendation: Approve to hire bison operations position.					
Time needed: 5 minutes	Attachments:	No		Board vote required	<u>Yes</u>

Agenda Item: Final adoption of ARM 32.3.212 Additional Requirement for Cattle					
Background Info: The proposed changes to this rule were the repeal of ARM 32.3.224 Domestic Bison and the incorporation of domestic bison into ARM 32.3.212 to align import requirements of domestic bison with those of cattle. This change affects brucellosis vaccination and TB and brucellosis testing requirements of domestic bison. The Department received one comment in support of this proposed change.					
Recommendation: Adoption as filed.					
Time needed: 5 minutes	Attachments:	<u>Yes</u>		Board vote required:	<u>Yes</u>

Agenda Item: Final amendment and adoption of ARM 32.3.433 Designated Surveillance Area					
Background Info: The AHB proposed an adjustment to the boundary of the Designated Surveillance Area (DSA) following the detection of a seropositive elk outside of the existing boundary. The department held a public informational meeting in Lima on July 16, 2018. MDOL received 4 submissions with comments on the proposed rule change. Based upon these comments and input from Fish Wildlife and Parks on elk distribution, the AHB is recommending an amendment to the proposed language and final adoption.					
The recommended language is as follows:					

32.3.433 DESIGNATED SURVEILLANCE AREA

(1) The designated surveillance area (DSA) of Montana is described as:

- (a) Park County – south of Interstate 90;
- (b) Gallatin County – south of Interstate 90 from the Park-Gallatin County line to U.S. Highway 191 at Bozeman, then south of U.S. Highway 191 to Highway 84, then south of Highway 84 to Churchill Road, then west of Churchill Road to Interstate 90 at Manhattan, then all other areas in Gallatin County south of Interstate 90, but west of Churchill Road;
- (c) Madison County – east of Highway 287 from its northern crossing of the Gallatin-Madison County line to Ennis, then south of State Highway 287 from Ennis to Alder, then east of State Rd. 357 (Upper Ruby Road) to Sweetwater Road, then south of Sweetwater Road to the Madison-Beaverhead County line; and
- (d) Beaverhead County – from Madison-Beaverhead County line, south of Sweetwater Road to East Bench Road near Dillon, then south of East Canal Bench Road to White Lane, then south of White Lane to Blacktail Road, then south of Blacktail Road to Highway 91, then west of Highway 91 to Interstate 15 business loop, then south of Interstate 15 business loop to Interstate 15, then east of Interstate 15, to Big Sheep Road at Dell, then east of Big Sheep Road to Deadwood Gulch Road (BLM Road 1869), then east of Deadwood Gulch Road to Forest Road 8273, then east of Forest Road 8273 to Forest Road 1033, then east of Forest Road 1033 to the West Fork of Little Sheep Creek, then east of the West Fork of Little Sheep Creek to the headwaters north of Round Timber Spring, then to the Montana/Idaho border.

Recommendation: Adoption as amended.

Time needed: 10 minutes	Attachments:	<u>Yes</u>		Board vote required:	Yes	
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Agenda Item: Final amendment and adoption of ARM 32.3.436 Brucellosis Vaccination

Background Info: The AHB proposed expanding the number of counties that are required to officially vaccinate animals for brucellosis. This was done to ensure an adequate buffer exists around the boundary of the DSA. The department held 7 informational meetings in Lima, Bridger, Absarokee, Big Timber, Boulder, Townsend, and Hardin. The Department received 4 submissions with comments on this proposed rule change. Based upon these comments, the AHB is recommending an amendment to the proposed language and final adoption.

The recommended language is as follows:

32.3.436 BRUCELLOSIS VACCINATION

- (1) All sexually intact female cattle and domestic bison 12 months of age or older in ~~a~~ **Beaverhead, Broadwater, Carbon, Gallatin, Jefferson, Madison, Park, Stillwater, and Sweet Grass county** Counties ~~that borders or contains DSA~~ must be official vaccinates.
- (a) Variances or exceptions to requirements will be considered on an individual basis by the administrator.

Recommendation: Adoption as amended.

Time needed: 10 minutes	Attachments:	<u>Yes</u>		Board vote required:	Yes	
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Agenda Item: Final amendment of ARM Housekeeping Rule Changes

Background Info: The AHB proposed several housekeeping changes to animal health ARM. The Department received no submissions on the proposed rules changes. Please reference http://liv.mt.gov/Portals/146/BoardInfo/Agenda%20Requests%20and%20Attachments%20for%20BOL%205_23_18%20Meeting_v3.pdf for proposed language.

<u>RULE #</u>	<i>Rule Title</i>
32.3.108	Quarantine - Who May Issue
32.3.201	Definitions

32.3.206	Official Health Cert					
32.3.207	Permits					
32.3.216	Horses, Mules, and Assess					
32.3.217	Special Requirements for Poultry					
32.3.307	Department Ordered Pseudorabies Testing					
32.3.311	Procedure upon Detection of Pseudorabies					
32.3.407	Department Ordered Brucellosis Testing of Animals					
32.3.411	Procedure upon Detection of Brucellosis					
32.3.412	Memorandum of Understanding					
32.3.430	Quarantine and Retest of Suspect Animals in Negative Herd					
32.3.1003	Contaminated Premises					
32.3.2002	Swine Identification Code: Assignment of Codes					
32.4.101	Definitions					
32.4.202	Identification of Omnivores and Carnivores					
32.4.701	Transport Within and Into Montana					
Recommendation: Adoption as proposed.						
Time needed: 5 minutes	Attachments:	<u>Yes</u>		Board vote required:	Yes	



Board of Livestock Meeting

Agenda Request Form

From: Steve Smith	Division/Program: MVDL	Meeting Date: 9/19/18
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Agenda Item: Laboratory Fee Update**Background Info:**

After performing a cost analysis, I am presenting a proposed update to all laboratory fees, for the board's consideration and approval. The attached document lists current fees, proposed fees, percent change, and comments as necessary. This not only adjusts lab fees according to market levels, but also significantly streamlines and simplifies the fee schedule to make it more user-friendly.

Recommendation:

Approval of the proposed fee structure.

Time needed: 30 minutes	Attachments:	Yes	No	Board vote required?	Yes	No
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Agenda Item:**Background Info:****Recommendation:**

Time needed:	Attachments:	Yes	No	Board vote required	Yes	No
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Agenda Item:**Background Info:****Recommendation:**

Time needed:	Attachments:	Yes	No	Board vote required:	Yes	No
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Agenda Item:

Background Info:

Recommendation:

Time needed:	Attachments:	Yes	No	Board vote required:	Yes	No
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Agenda Item:

Background Info:



Board of Livestock Meeting

Agenda Request Form

From: Tyler Thomas	Division/Program: Brands Enforcement Division	Meeting Date: 9/19/2018
<u>Agenda Item: Market Staffing Updates</u>		
Background Info:		
Recommendation:		
Time needed: 20 minutes	Attachments:	Yes No Board vote required? Yes No
<u>Agenda Item:</u>		
Background Info:		
Recommendation:		
Time needed:	Attachments:	Yes No Board vote required? Yes No
<u>Agenda Item:</u>		
Background Info:		
Recommendation:		
Time needed:	Attachments:	Yes No Board vote required: Yes No
<u>Agenda Item:</u>		
Background Info:		
Recommendation:		
Time needed:	Attachments:	Yes No Board vote required: Yes No
<u>Agenda Item:</u>		
Background Info:		
Recommendation:		
Time needed:	Attachments:	Yes No Board vote required: Yes No