



Montana Board of Livestock Meeting Minutes

May 23, 2018

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

Board Members Present

John Lehfeldt, Chairman (sheep producer)
John Scully, Vice-chair (cattle producer)
Lila Taylor (cattle producer)

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

Ed Waldner) was not present

Staff Present

Mike Honeycutt, EO
Gary Hamel, Meat & Poultry Bureau
George Edwards, Livestock Loss Board
Evan Waters, Centralized Services
Leslie Doely, Brands Enforcement Division

Donna Wilham, Adm. Asst. to EO
Dr. Marty Zaluski, Animal Health
Dr. Tahnee Szymanski, Animal Health
Dr. Eric Liska, Animal Health
Dan Olson, Centralized Services

Public Present

Kraig Glazier, USDA Wildlife Services
Rob Stutz, Legal Services Division
Jim Hagenbarth
Craig Fager, MT FWP

Kelsie Harbert, MFBF
Sarah Clerget, Legal Services Division
Kori Anderson, MSGA
Quentin Kujala, MT FWP

MEETING CALLED TO ORDER

8:02 AM

Chairman John Lehfeldt called the meeting to order at 8:02 AM

ROLL CALL

8:02 AM

Chairman John Lehfeldt received a roll call of BOL members, staff and public present:

- Six BOL Members were present, all present except for Ed Waldner
- Five Staff were present, Mike Honeycutt, Donna Wilham, Dr. Marty Zaluski, Dr. Tahnee Szymanski and Gary Hamel
- One industry member was present, Kori Anderson, MSGA

APPROVAL OF BOARD ADMINISTRATIVE CONSENT AGENDA ITEMS

8:06 AM

Lila Taylor requested that the Brands Enforcement report be pulled from the consent agenda and covered during the Brands Enforcement segment

MOTION/VOTE

8:06 AM

John Scully moved to approve the remaining consent agenda items that included minutes from the BOL 4/3/18 and 5/2/18 meetings and the 4/19/18 conference call, the report from the Veterinary Diagnostic Lab and an out-of-state travel request from the Meat & Poultry Inspection Bureau. Sue Brown seconded. The motion passed

OLD BUSINESS

8:06 AM

8:06 am – Finance Committee Discussion –

John Scully discussed items to be addressed in preparation for the upcoming Legislative session:

- It was decided that a meeting should be scheduled with the industry and other stakeholder groups, the BOL Finance Committee, Mike Honeycutt and other BOL members, if they want to attend, to discuss the BOL budget and prepare for any lobbying needs at the 2019 Legislative session
- Mike Honeycutt advised a BOL Finance Committee meeting be held sometime in June to discuss how to finish the current fiscal year with the various funds the DOL has available.
- Both John Lehfeldt and John Scully's BOL terms will end on 3/1/18, and so Mr. Scully requested that their followup training be rescheduled because of new BOL members coming on board
- Mr. Scully requested that in preparation for the upcoming Legislative session, that he be removed as chairman of the BOL Finance Committee

8:18 am - PERSONNEL COMMITTEE UPDATE

8:18 am - Deputy Executive Officer Position

Mike Honeycutt gave updates on the Deputy Executive Officer position:

- Interviews were conducted on 5/2/18 for candidates of the Deputy Executive Officer position
 - BOL members who participated in the interview process were John Lehfeldt, John Scully, Lila Taylor and Nina Baucus
- An offer was extended to Brian Simonson, current Vice-Chancellor and CFO at MSU Northern, who is scheduled to start work at the DOL on 7/9/18

8:21 am – Personnel Evaluation Update

Mike Honeycutt reported that all DOL personnel evaluations are to be completed by June 15th:

- Managers are to utilize the DOA Fusion system for their employee evaluations
- Mr. Honeycutt suggested that his evaluation before the BOL take place at the next scheduled BOL meeting
- Mr. Honeycutt said that he would prefer his full-board evaluation be done publicly
- Brett DeBruycker was requested to check into whether the structure of Mr. Honeycutt's evaluation would remain the same, since it will be done on the Fusion system.

8:26 am – Transition Planning

Mike Honeycutt reported on DOL transition planning relative to filling difficult-to-fill and leadership positions:

- Transition planning reports from the DOL management team are to be in Mr. Honeycutt's hands by 6/30/18
 - Reports are to include a list of critical positions in their Division
 - Reports are to include plans for quickly filling critical positions and leadership positions once they are vacated

8:31 am – BOL POLICIES AND GUIDELINES

John Scully reported on proposed changes made by he and Nina Baucus to update the BOL Policies and Guidelines:

- The document was renamed BOL Policies and Procedures rather than BOL Policies and Guidelines to better follow the law
- Along with grammatical corrections, changes were made in the document in several places that addressed the structural changes due to the DOL reorganization
- Language was added that the Executive Officer would be evaluated by the BOL annually prior to June 15th
- Regarding BOL records, the proposed change was that they MAY be kept in the Executive Officer's office or other identified location, rather than shall be kept in the EO's office
- Language was added to the Animal Health Bureau's functions including significant programs they deal with, adding alternative livestock, rabies and DSA

- One Meat & Poultry Inspection Bureau function, Laboratory testing, was simply left as that, striking language that said the testing assured a clean and wholesome product, since there is no standard measurement for wholesome
- Language was struck and other added under the VDL and now states that the Lab supports the Animal Health Bureau surveillance system rather than only “part of their data base”
- The VDL was also listed to cooperate with the Animal Health Bureau to ensure public health rather than just cooperating with the Milk & Egg Inspection programs
- The Legislative Audit Division may have some guidance on the Fiscal Operations Bureau which now has language added that says, performs all accounting of revenues and expenses, and strikes the words “by putting in place proper internal controls.”

Mr. Scully requested that the updated Policies and Procedures be sent with a letter to industry committee people who had sent the BOL their recommendations for changes, some of which were implemented

- Mr. Honeycutt requested that the document be placed on the BOL website
- Mr. Honeycutt also requested that the document be included in the employee handbook

MOTION/VOTE

8:48 AM

John Scully moved to accept the Board of Livestock Policies and Procedures as amended. Nina Baucus seconded. The motion passed.

8:52 am – LEGISLATIVE AUDIT UPDATE

8:52 am – Brucellosis Performance Audit Update

Mike Honeycutt gave updates on the Brucellosis Performance Audit

- Orry Hatcher, Legislative Audit Division (LAD) auditor who originally conducted the audit, has left the state and a new auditor has been assigned to finish up the audit
- Department staff has worked with the new auditor to educate that person as to what the audit is about
- Mr. Honeycutt said it appears the LAD is trying to finalize their audit report because they have been fact-checking what was in the audit report to assure that the DOL has completed items. He expects that it would be on the LAD’s June agenda

8:54 am – 2018 Financial Audit Update

Mike Honeycutt gave updates on the 2018 Financial Audit

- The exit conference took place on 5/2//18 and Mr. Honeycutt is expecting a finalized report that will then require the DOL's written submission of formal responses to the LAD's recommendations and findings
- Target date for the 2018 Financial Audit to go public is 6/26/18 at the Legislative Audit Committee meeting, or sooner

8:58 AM – MEAT & POULTRY INSPECTION PROCESS IMPROVEMENT COMMITTEE

8:58 AM – Appeal Process Update

Mike Honeycutt reported that a favorable opinion was received from FSIS supporting the appeal process drafted by the DOL with help from Rob Stutz and backed by the overall DOL rule:

- It was requested that Gary Hamel post the process on the DOL website and distribute it to all of the establishments serviced by the DOL so they are aware that the process is backed by FSIS and supported by DOL rules

9:00 AM - Food Recall Process Approval

Mike Honeycutt discussed the Food Recall Process document he had sent to the BOL the previous week that had been reviewed by FSIS:

- FSIS made grammatical changes to the document, which is similar to the process used by other states
- Concerns were voiced regarding establishment of a Recall Committee
 - There is still disagreement between the industry and the DOL as to how the language regarding the Recall Committee in the document should be phrased, but FSIS supports the current language. Because of this, a Recall Committee has not yet been finalized.
 - Concern was raised that the Recall Committee could be used as a forum to approve a new standard not contemplated by FSIS for public health
 - If the Food Recall Process is put into administrative rule, a Recall Committee already needs to be in place
 - Concern was raised about finding people to serve on a Recall Committee that would be informed, knowledgeable, not biased and available
- The BOL can formally decide whether the Food Recall Process should be left as a policy process or put into administrative rule, but until a State process is formalized, the Federal process could be followed
 - The rulemaking process will allow the sorting out of disagreements the industry has about the proposed Food Recall Process

John Scully reported that he had read information on action being taken at the Federal level that would allow State-inspected plants to sell their product to adjacent states

- Mr. Honeycutt said that the same legislation was brought forward before and failed, but if it did pass this time, it would be the ultimate test of Montana's procedures, policies and rules

- Concern was voiced about the quality of inspection processes of meat coming into Montana from other states if the legislation passes

MOTION/VOTE

9:17 AM

John Scully moved to proceed forward with rulemaking for the Recall Committee, based upon the last recommendation from the Meats Committee that was made to the overall board. Lila Taylor seconded. The motion passed.

9:19 AM – EIAO Position Update and Approval

Mike Honeycutt gave an update on the vacated EIAO position in the Meat and Poultry Inspection Bureau:

- The EIAO job description has been run through the State classification system and now has more of an emphasis on food safety and science work rather than education and training time as it was previously
- Scientific support listed in the previous job description is no longer being supported by the Federal government
- The new job description requests a Bachelor's Degree or equivalent in Sanitation, Food or Animal Science, Meat Science or a related field
- The new job description would prefer a Master's Degree in Public Health or a Doctor of Veterinary Medicine that has been focused on an Animal Health or Public Health mission
- The new job description also requests two years of experience in the field doing food sanitation
- The upgraded educational requirements bring this position into the Band 6 range, one that ranges from a salary of \$13.15/hr. up to \$59.39/hr. or \$27,000/yr to \$123,000/yr.
- Unless already certified, the EIAO new hire will be required to take two months of training including EIAO school and Inspection Methods which will cover inspection and process and the PHIS and EIAO training

MOTION/VOTE

9:36 AM

John Scully moved to post the job position for a Food Safety, Assessment and Investigation Officer (EIAO) at a salary range of \$24.50 to \$35 per hour. Sue Brown seconded. The motion passed.

9:47 AM – OVERALL APPEAL RULE UPDDATE

Mike Honeycutt reported that the Overall DOL Appeal Rule (32.2.102) went through the administrative rule process and is now an official rule for the State of Montana:

- The revised rule now gives a person 60 days rather than 30 days from the time an action was taken by a DOL employee that they disagree with, to submit an appeal to the employee's immediate supervisor
- With the new rule, a BOL member can refer people with complaints regarding the action of a DOL employee to that employee's immediate supervisor first
- The appeal must be made in writing
- Rob Stutz pointed out that the new rule allows BOL members to let the appeal process play out at lower levels first before it comes before them. He also said that the appeal process in this rule is a management review
- Public health and safety is better addressed through this rule allowing regulatory actions to be taken immediately by the DOL rather than waiting for 30 days to have that go into effect

LEGAL COUNSEL UPDATE

10:00 AM

10:00 am – Introduction of New Counsel

Sarah Clerget from Agency Legal Services for the AG in Rob Stutz's office introduced herself:

- Ms. Clerget said she is taking over legal services from Jeff Hindoien who has taken another position and who was general counsel for the DOL in the Park Street Pasties case
- Ms. Clerget said she has much background in working with boards
- Ms. Clerget said that she would check with Mr. Vanesco, the hearings examiner for the Park Street Pasties case as to their ETA on a decision for the appeal

RECESS

10:04 AM

RECONVENE

10:14 AM

LEGAL COUNSEL UPDATE - Continued

10:14 AM

11:14 AM – Legal Counsel Update

DOL Legal Counsel Rob Stutz reported on litigation issues for three ongoing lawsuits in the DOL:

- S&T Project Meats
 - Mr. Stutz reported that S&T's attorney filed a claim with Risk Management Tort Defense for judicial review
 - Risk Management and Tort Defense will also consider the damage estimate given to them by S&T Project Meats

- The dollar amount for the red-tagged meat at S&T Project Meats is 42.5 pounds, approximately \$1200 worth
- S&T Project Meats is claiming damages against the DOL for a little over \$300,000, which includes costs for time taken attending BOL meetings and conferring with people
- Cottonwood Bison
 - A group concerned about the hunting and hazing of bison and its impact on public safety filed this lawsuit against State and Federal defendants – Governor Bullock, FWP and the DOL are the State defendants
 - The type of claim filed can only be made against Federal defendants and so if the complaint is not amended, the DOL should be dismissed from the suit
 - Governor Bullock’s office filed a motion to dismiss on behalf of the State defendants and they have agreed to dismiss it
- Coremark
 - The case has been ongoing for 10 years
 - Coremark filed several claims against the DOL in Federal court, but were told they would have to produce in discovery much information demonstrating how the State of Montana rule has impacted the growth of their business. Because of this, Coremark has agreed to dismiss all claims except for a free speech claim
 - A motion for summary judgement will be filed by Kyle Chenowith, DOL’s legal counsel in the case, and the briefing is due on June 1, 2018

Rob Stutz explained what he found in his research regarding penalties for non-payment of per capita fees:

- The Department of Revenue (DOR) is the agency in charge of pursuing penalties for either failing to report livestock numbers by March 1 or for failure to pay the per capita fee by May 1, according to their statute
- For non-compliance of per capita, as defined by statute, DOR can assess a \$25 penalty, which goes to the general fund
- Mike Honeycutt said that in his conversations with the DOR, they do not always execute penalties for late and non-payment of per capita fees because they believe it is punishing the honest and might encourage more non-compliance
 - Rob Stutz said that statute requires payment of per capita and you cannot “grandfather” yourself out of that requirement by failing to report year after year
- Mr. Honeycutt believes the DOL needs to concentrate on working with the DOR, who are very open to doing comparisons between those non-reporters as opposed to those drawing services
- George Edwards, with the Livestock Loss Board (LLB) has educated people on per capita when they utilize LLB services
- John Scully suggested cross matching data with local brand inspectors, the same way the local assessors did years ago, to help find non-payers of per capita fee

CENTRALIZED SERVICES DIVISION REPORTS

10:39 AM

10:39 AM – Livestock Loss Board

- George Edwards reported that he and Nina Baucus attended the Northern Continental Divide Ecosystem Grizzly Bear meeting:in Kalispell a couple weeks earlier
- FWP released their numbers on depredation from wolves on 5/21/18, which said that wolf numbers remain stable
- Mr. Edwards reported that his office had received more calls on coyote depredation than had been received in the past 10 years
- Mr. Edwards reported on the current financial status of LLB
- There is about \$156,000 in the account right now and on July 1st, the LLB will start with \$200,000, meaning there will be some rollover funds that will be applied to State loss prevention grants
 - Half of the rollover fund for the last couple of years has gone to Wildlife Services to bolster grizzly bear work
- The Feds still have not responded to Mr. Edwards' several calls regarding the Federal grant he applied for last Fall

10:44 AM – Predator Control

Kraig Glazier gave updates on activities at USDA Wildlife Services:

- New Deputy Administrator, Janet Bucknell, who replaced Bill Clay will be spending a week with the Montana Wildlife Services people in July
- Mr. Glazier reported that at the NCDE meeting he attended in Kalispell a couple weeks ago the committee reported that they are pushing the direction of trying to come up with something for Fish and Wildlife Services for delisting this fall
- Grizzly bears emerged early this year and so far, there have been a record number of livestock kills by them in the southern and western parts of the state and on the Rocky Mountain Front
- Wildlife Services has had the lowest return to confirmed depredations ever recorded after equipment had been set up, however, four grizzly bears have been captured on depredations
- Wolf depredations are a little above average so far this year
- Mr. Glazier said he has recorded the highest populations of coyotes on producers this year since he has had data in his Management Information System
- It was requested that Mr. Glazier bring an update on the local county cattle petitions for the June BOL meeting

FISCAL BUREAU

10:57 AM

10:57 AM May 2018 – June 2018 Expenditure Projections

Evan Waters, Finance Accounting Bureau Chief presented projections through April of the 2018 fiscal year:

- In Personal Services for the DOL, there is a projected deficit of \$154,410 but Operations are projected to be over \$41,299
- The projected deficit in General Fund dollars of \$225,697 is in the Meat & Poultry Inspection Bureau. Carryforward authority can be used, however, to take care of most of that deficit
- Carryforward from the 2016 General Fund is around \$70,000 and carryforward from the 2017 General Fund is around \$55,000.
 - 2016 carryforward funds must be expended this year or lose them
 - Mr. Honeycutt said he and Mr. Waters are exploring ways to keep the 2017 carryforward funds
 - Mr. Honeycutt said the BOL Finance Committee must work with the DOL before fiscal year end on proper placement of funding sources
- There is a rent payment deficit of \$108,291 due to the DOL now compensating employees for use of their home as an office, to help defray the cost of their internet and the cost of a post office box for State mail. This payment to employees was decided during union negotiations

11:07 AM April 28, 2018 Budget Status Report

Evan Waters reported on the budget status of the DOL, comparing it to the same time last year and said the numbers remain fairly consistent:

- It was requested that for the June BOL Finance Committee meeting, that Mr. Waters calculate the dollar amount of net vacancy savings accumulated over the past year due to hiring delays, etc.
- It was also requested that for the past 10 years it be calculated how many percentage points expenses increased each year
- Mr. Honeycutt has requested that, just like two years ago, the management staff bring forward their itemized list of additions they need in their area. The BOL will then decide which of those things will be added to the next budget

11:17 AM Year-to-Date as of April 28, 2018 Revenue Comparison

Evan Waters reported on State Special Revenue collections that have been collected in cash, but are now recognized as revenue:

- The DOL is running \$312,977 more in revenue than last year
- New brands and transfers and the security interest filing fees must be amortized and deferred monthly
- Security interest filing fees have increased to \$95,012 because a new five years has begun for them
- Per capita fees collected are just a little under last year's, possibly because people did not pay early, they waited until DOR sent out the bills
 - It was requested that the per capita fees collected be broken down by species so that it can be reported which species is causing a loss
- The VDL is showing \$34,365 more in revenue than last year at this time

MILK CONTROL BUREAU

11:23 AM

Update on Milk Market Regulation Study

Chad Lee gave an update on the Milk Market Regulation Study, which he said was successful:

- After receiving the 83-page draft report on 4/16/18, the Milk Control Board and Bureau compiled comments for the consultants and sent them to Dairy Technomics on 5/1/18. Industry comments were due 5/2/18
- The final report is expected before the first week of June and will be presented by the consultants at the Bureau of Milk Control meeting on 6/25/18
- Mr. Lee expects that the Board of Milk Control will implement study recommendations in two stages
 - Stage One – proposing changes in Class 2 and Class 3 price formulas
 - Stage Two – producers to bear the cost of in-state freight and changes to the quota system into pooling which could take 1-1.5 years due to the need to investigate potential impacts closely
- Mr. Lee felt the study was successful in developing a method where producers who stay in a quota paid well and yet have the option to expand and produce over quota without hurting other producers

Report on the April 30, 2018 Board of Milk Control Meeting

Chad Lee reported on the April 30, 2018 Bureau of Milk Control meeting:

- 19 industry stakeholders, including 16 producers attended the meeting
 - Eight Darigold producers made public comment advocating for expedited action by the Board to change the Class 2 and Class 3 price formulas to be more similar to Federal pricing
 - ✓ Currently, Montana's Class 3 price is about 20% less than the Federal price
 - The Board directed staff to prepare an administrative rule proposal changing the Class 2 and Class 3 pricing formulas (32.4.480) to be similar to Federal pricing and that will be discussed at the 6/25/18 meeting
- Comments to communicate to the Milk Market Regulation Study consultants were discussed at the meeting
- The Board directed staff to have legal counsel analyze a statute (81.23.302) dealing with transportation and charges of milk between plants

General Updates from the Milk Control Bureau

General updates from the Bureau were given and discussed:

- There has been one actual closure of a Montana dairy and one in the process of closing, accounting for around 150 head of milk cows, but Mr. Lee expects those cattle to go to another dairy
- Milk production is up
- Demand for fluid milk has been decreasing steadily each year – average consumption has gone from 180 lbs/yr to 150 lbs/yr

- Cheese consumption makes up the difference in the decreasing demand in fluid milk
- Butter consumption is going up
- There is growth in exports of dairy products – dairy solids, whey, etc.
- Walmart built a fluid milk plant in the Midwest market that displaced Dean Foods as the milk supplier and Dean Foods has decided to exit the region
- Canada lowered their fluid Class down to the same level or lower than the US price and so US milk is no longer a competitive factor

LUNCH

11:55 AM

RECONVENE

12:36 PM

ANIMAL HEALTH AND FOOD SAFETY DIVISION REPORTS

12:36 PM

12:36 PM – MILK & EGG BUREAU

12:36 PM - Request for Out-of-State Travel to Training for Preventive Controls for Grade A Dairy Plant Regulators

Dan Turcotte requested that the BOL approve out-of-state travel for himself and Rosemary Hickey for training:

- Required training is for an FDA course for Dairy Plant Regulators that deals with the PMO being realigned with FISMA
- Course is fully funded by FDA and is scheduled for August 22-23, 2018 in Newport Beach, CA

MOTION/VOTE

12:38 PM

John Scully moved to approve travel for Dan Turcotte and Rosemary Hickey to attend training for Preventive Controls for Grade A Dairy Plant Regulators in Newport Beach, CA on August 20-23, 2018 and fully funded by FDA. Lila Taylor seconded. The motion passed (Brett DeBruycker wasn't present)

12:38 PM - General Updates from the Milk & Egg Bureau

Dan Turcotte gave general updates from the Milk & Egg Bureau:

- With the signing of five new egg producers, the Great Falls egg processing plant will probably be at 1.2 million eggs/day by the end of the year

12:41 PM – MEAT & POULTRY INSPECTION BUREAU

Gary Hamel reported on the Meat & Poultry Inspection Bureau's preparation for the upcoming audit:

- Six establishments have been selected for audit, each one produces jerky, which is one of the focuses of the auditors
- As soon as establishments were identified, the Bureau sent in teams of individuals to each of them to address any regulatory non-compliance issues, particularly sanitation and HAACP
- Letters were drafted and sent to establishments selected for the audit process outlining expectations of the protocol for the audit

12:46 PM – ANIMAL HEALTH BUREAU

12:46 PM – FMD Functional Exercise After Action Request

Dr. Marty Zaluski reported on the just-completed FMD Functional Exercise held in Helena on May 8-10, 2018:

- Six states total participated in the Exercise, of which Montana was chosen to be the Index State – Montana, California, Colorado, Minnesota, South Dakota and Wisconsin
- Some participants in the Exercise were other State Agencies including the Department of Agriculture, Public Health, DNRC, Disaster and Emergency Services
- Of the 70 professionals directly engaged in the response, seven were from the DOL
- The command center was set up in the Scott Hart Building utilizing conference and other rooms in the Department of Livestock and Department of Agriculture sections of the building
- The Fort Supply database provided cattle movement information more quickly than expected, providing information that was more timely and critical than information found on a health certificate
- Dr. Zaluski highlighted lessons learned from the Exercise
 - The Exercise highlighted the significant need for planning and surveillance planning
 - Training was lacking in the ICS command structure
 - There were gaps in staffing to conduct planning and training
 - The Exercise showed that the State's FMD emergency response plan is incomplete, outdated and not very useful

1:08 PM – Brucellosis Live Elk Capture Update/Proposed DSA Boundary Change

Dr. Eric Liska outlined proposed changes to MCA 32.3.433 Designated Surveillance Area, specifically a boundary adjustment:

- An FWP elk capture in the southern and northern Tendoy Mountains yielded 100 elk, 40 from an area north of the proposed boundary line and 60 from the area south of the proposed boundary line.

- In Hunt District 300, the Big Sheep Creek area, a brucellosis sero-positive elk, was found during the risk period in an area where cattle exist, and it is because of that Dr. Liska is proposing for the DSA boundary to be expanded
- The number of cattle affected by the boundary adjustment would be around 10,000
- Jim Hagenbarth, Hagenbarth Ranch, Dillon, expressed his concern regarding exposed elk getting into a herd of cattle saying that it is a serious threat that not only can affect humans, but could affect the cattle markets, the class of cattle ranchers will be grazing and possibly affect what areas are allowed to be grazed
- The Western Livestock Health Association, of which Dr. Tahnee Szymanski is President, will meet in Big Sky, MT in June, and the brucellosis situation will be discussed there
- Dr. Liska said that the USDA just completed a review of Idaho's DSA, had completed Wyoming's DSA review the year before and Montana's is due to be done in 2019

MOTION/VOTE

1:28 PM

John Scully moved that the BOL approve the recommendation brought forth by Dr. Eric Liska to expand DSA boundary in MCA 32.3.433. Lila Taylor seconded. The motion passed.

1:36 PM – Request for Permission to Pursue Changes to Administrative Rules

Dr. Tahnee Szymanski proposed changes to three administrative rules, MCA 32.3.212 and 32.3.224, which she would like to cluster together and MCA 32.3.436:

- To be consistent with USDA's program standards, domestic bison and cattle would be under the same import requirements. The domestic bison portion in 32.3.224 would be repealed and then incorporated into all of the sections of import requirements for cattle in 32.3.212
- Concerns were raised regarding bison coming from Indian reservations and Yellowstone National Park into the State

MOTION/VOTE

1:50 PM

Sue Brown moved to consolidate MCA rules 32.3.212 and 32.3.224 into one rule, MCA 32.3.212 as discussed. Brett DeBruycker seconded. Nina, Scully, Lila were no. The motion failed.

- Mr. Honeycutt cautioned the BOL that treating bison differently than cattle down the road could bring unintended consequences

- Dr. Zaluski clarified the intent of the rule changes regarding domestic bison and cattle saying that we want to recognize the fact that the domestic bison originate from brucellosis-class-free states and are benefitting from that status the USDA grants states for that species
- The proposed change in MCA 32.3.436 is to add brucellosis vaccination requirements in additional counties – Big Horn, Broadwater, Carbon, Jefferson, Stillwater and Sweetgrass due to the range of elk and the fact that the DOL is not able to do constant surveillance around the DSA border. Also, a proposed change is to simplify the requirement for official vaccinates, that if they are in the DSA and are 12 months of age, they need to be an official vaccinate

MOTION/VOTE

1:50 PM

John Scully moved to adopt the proposed changes in MCA 32.3.436 as presented that cattle 12 months of age in any counties touching the DSA must be bangs vaccinated. Lila Taylor seconded. The motion passed.

- There was discussion on whether a statewide vaccination should be put in place, and the best way to receive input from the industry regarding it
 - A directive was given to Animal Health to write a rule regarding statewide vaccination, Mike Honeycutt was directed to write a letter to industry informing them of the rule and then it would be put on the agenda for the next BOL meeting
- Jim Hagenbarth said he felt that treating bison as cattle and calling them domestic would keep them from being considered wildlife
 - If those bison are called wildlife, agencies wouldn't have authority to move bison off creeks and their numbers on allotments would be cut due to exceeding standards and guidelines for riparian areas
 - The weapon the environmental community has in using wildlife to take grazing off public lands is taken away
 - Bison managed as domestic can be managed in a more responsible way, especially for brucellosis
- Mr. Hagenbarth also expressed that he had changed his mind about a statewide brucellosis vaccination requirement and is now for it because of the risk involved

MOTION/VOTE

2:24 PM

John Scully moved to reconsider the MCA 32.3.212 rule recommendation. Lila Taylor seconded. The motion passed.

MOTION/VOTE

2:26 PM

John Scully moved to adopt as a rule the recommendation to consolidate MCA rules 32.3.212 and 32.3.224 into one rule, MCA 32.3.212 as presented. Sue Brown seconded. The motion passed.

Dr. Tahnee Szymanski proposed a rule change for MCA 32.3.108 Quarantine and Release of Quarantine, MCA 32.3.201 Definitions, MCA 32.3.206 Official Health Certificate, MCA 32.3.207 Permit, MCA 32.3.216 Horses, Mules and Asses, MCA 32.3.307 Test Expenses and Duties, MCA 32.3.301 Definitions, MCA 32.3.407 Department Ordered Brucellosis Testing of Animals, MCA 32.3.411 Procedure Upon Detection of Brucellosis, MCA 32.3.412 Memorandum of Understanding, MCA 32.3.430 Quarantine and Retest of Suspect Animals in Negative Herd, MCA 32.3.2002 Swine Identification Code: Assignment of Codes, MCA 32.3.1003 Contaminated Premises, MCA 32.4.101 Definitions, MCA 32.4.202 Identification of Omnivores and Carnivores, MCA 32.4.601 Importation of Alternative Livestock:

- Because quarantine forms are no longer printed and can either be issued verbally by a veterinarian or the DOL will provide a template that can be used, the recommendation is to strike the portion of MCA 32.3.108 that says quarantines must be issued on a department-approved blank. Also, a code citation will be added
- Recommended changes in MCA 32.3.201 are
 - Change the definition of a health certificate to say that it is a certificate of veterinary inspection, which is terminology used in the Federal Traceability rule
 - Include all camelids, rather than just llamas in the list of livestock
 - Because all animals that are two months of age are not tested for brucellosis, it is recommended in MCA 32.3.201 to add to the definition the word “Tuberculosis” test-eligible bison to the definition
- Recommended changes in MCA 32.3.206 are
 - To be consistent with Federal standards, it is recommended to remove the requirement that the identification of a transporter be required on a health certificate document
 - Remove the portion of the rule that requires health certificate documents must be mailed
- Recommended changes in MCA 32.3.207 are
 - To be consistent with Federal standards, it is recommended to remove the requirement that the name of the transporter must be provided to issue an import permit
 - Remove the portion of the rule that requires the DOL to mail permits to those requesting them
- Recommended changes in MCA 32.3.216 are
 - Make a correction of an administrative rule number that is listed incorrectly in the rule
 - To remain consistent with language in other administrative rules change “grazing herd plan” to “Seasonal Grazing Permit

- Some code citations at the end of the administrative rule have also been updated
- In MCA rules 32.3.1003, 32.3.307, 32.3.311, 32.3.407 and 32.3.411, it is recommended that the term “Deputy State Veterinarian” be stricken from responsibilities and the term State Veterinarian or Designee be added instead, because the responsibilities listed are no longer a duty of a Deputy State Veterinarian
- In MCA 32.3.412 the only suggested change is correcting a rule citation
- It is recommended to repeal, MCA 32.3.430 because the language is not consistent with the current scientific practice and is encompassed in other areas of administrative rule. And also repeal MCA 32.3.2002 because the DOL now utilizes premise ID numbers for identification at the national level. Also, it is recommended to change an incorrect administrative rule citation
- It is also recommended to correct code citations in 32.4.101 and 32.4.202
- Recommended changes in 32.4.601 are to require that all alternative livestock rather than only elk, be certified as free of central nervous System (CNS) symptoms

MOTION/VOTE

2:57 PM

Brett DeBruycker moved to amend MCA 32.3.108 down to 32.4.701 with proposed changes as discussed. Sue Brown seconded. The motion passed.

RECESS

2:59 PM

RECONVENE

3:08 PM

BRANDS ENFORCEMENT DIVISION REPORTS

3:08 PM

3:08 PM – Consent Agenda Items Pulled Per Request by Lila Taylor

Lila Taylor requested clarification on the Market Inspector situation in the Brands Enforcement Division:

- Leslie Doely explained that of the three Market Inspector positions that are vacant, one, Dalton Brown, was an internal promotion with the position being vacant for several months and two of the open positions were from people who had been at the DOL for less than a year.
- Two of the vacant positions are in Billings and one is in Miles City

MOTION/VOTE

3:11 PM

Lila Taylor moved to fill the three vacant positions in the Brands Enforcement Division presented by Leslie Doely. Sue Brown seconded. The motion passed.

John Scully requested discussion on the Online Brand Lien Renewal consent agenda item:

- Leslie Doely said that the program for the online brand lien renewal process was built by Montana Interactive at no charge, but after that, they charge a fee for each transaction
- The program was successful, having a high rate of use. Nearly half of the liens received arrived online
- Staff time was reduced through use of the program, not having to process checks and all the paperwork
- There is a charge for every online credit card transaction, and Ms. Doely said potentially, the fee structure may have to increase to the producer to cover those charges

There was discussion about the YTD Market Stats Data from the consent agenda:

- Brands income in the markets was down at the start of 2018. Volume is under in January 2018, but did spike in October of 2017. Calf prices were higher in October 2017 compared to October 2016
- It was mentioned that markets revenue has decreased because of outside sales and that should be analyzed

Changes in the local inspection process were discussed

- Brand inspection fees may have to increase
- Get improved technology into the hands of the local inspectors to do away with so much paperwork
 - The DOL could purchase the software, but the local inspector would have to purchase their own I-Pad, which may not be agreeable to those inspectors whose volume of inspections is low
- Workload and geography of each local inspector should be analyzed over a period of three years

3:38 PM – Market Inspector Wage Change Request

There was more discussion regarding Leslie Doely's reasoning for requesting an increase in the hourly salary of Market Inspectors, the lowest paid employees in the DOL:

- It is difficult to recruit and retain employees and Ms. Doely was hoping a raise in the base pay from \$13.98/hr to \$15/hr would help with recruitment
- The Market Inspector position earns the majority of the overtime in the Brands Enforcement Division
- The pay band for Market Inspectors is different than for their supervisors and with the pay increase there would still be more than a 10% spread between them
- The minimum wage in Missoula is \$15/hr and by raising the salary now it might get ahead of that range if it moves to other places in the state

- There was concern raised that the authority to cover the last pay raise in the DOL that affected mostly Brands Enforcement Division employees has not yet been given
- The fairness of giving one group of employees a raise and not others was also a concern
- The Market Inspector job vacancy did not receive any applicants last time around and so it will be reposted after the BOL Finance Committee meets in June and can make some decisions about the budget

3:16 PM – Request to Modify Position and Hire

Leslie Doely requested that a current Administrative Assistant position vacant since October or November of 2017 in the Brands Enforcement Division, be returned to the supervisory position it had been previously:

- When the position had been a supervisor position, that person did administrative duties in addition to quality control, internal audit functions, monitored the work flow and did the personnel management of the compliance staff
- The position is currently being reclassified and Ms. Doely believes the salary will be roughly \$2/hr more than it was previously
- A Weststaff temp has been helping with the work load at a cost of \$14.50/hr
- Mr. Honeycutt said that with 1.6 million brand inspections coming in on paper and having to be transferred to a database, he said the BOL needs to decide if it would be better to invest in technology or invest in people
- The BOL took no action on the request
- There was more general discussion
 - Ms. Doely said that all District Investigators have been instructed to meet annually
 - The local inspector's books are audited even before the book is completed and sent into the DOL

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

4:41 PM

- Korie Anderson, MSGA, thanked Mike Honeycutt and Dr. Zaluski for their willingness to answer their calls and questions
- Ms. Anderson also invited all BOL members to their mid-year meeting on June 14-15, 2018 In Dillon
- Ms. Anderson said that the DOL can send a letter regarding statewide vaccination to MSGA and she would bring it in front of their board, but that would be opposed by MSGA because they have a policy on that

SET DATE FOR NEXT BOARD MEETING

4:46 PM

- Mr. Honeycutt shared that the MT Beef Council was meeting on June 19, 2018 and would like to meet with the BOL at that time. Mr. Honeycutt said if the BOL does meet with them, it would have to be a public meeting
- The next BOL meeting was scheduled for Wednesday, June 27, 2018.

MEETING ADJOURNED

4:50 PM



John Lehfeldt, Chairman