



Montana Board of Livestock Meeting Minutes

October 22, 2019

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

Board Members Present

John Scully, Vice-Chair (cattle producer)
Lila Taylor (cattle producer)

Nina Baucus (cattle producer)
Brett DeBruycker (cattle producer)

(John Lehfeldt, Sue Brown & Ed Waldner were not present)

Staff Present

Mike Honeycutt, EO
Brian Simonson, Deputy EO
Evan Waters, Centralized Services
Dan Olson, Centralized Services
Dr. Marty Zaluski, State Veterinarian
Dr. Tahnee Szymanski, Animal Health

Donna Wilham, Adm. Asst. to EO
Leslie Doely, Brands Administrator
Ty Thomas, Asst. Brands Administrator
Matt Noyes, Brands Enforcement
Gary Hamel, Meat & Poultry Inspection

Public Present

Rob Stutz, Legal Services Division
John Youngberg, MFBF
Kraig Glazier, USDA Wildlife Services
Les Graham, MALAM

Brian Ohs, MSGA
Chaley Harney, MT Beef Council
Kiley Martinell, MT Beef Council
Boe Robbie, Robbie Cattle Company

MEETING CALLED TO ORDER

8:04 AM

- Vice-Chairman John Scully called the meeting to order at 8:04 AM

ROLL CALL

8:04 AM

John Scully requested a roll call of everyone present

- All BOL members were present except for John Lehfeldt, Sue Brown and Ed Waldner

- DOL staff members present were Mike Honeycutt, Brian Simonson, Donna Wilham, Marty Zaluski, Gary Hamel and Dan Olson
- One member of the public was present, Boe Robbie

APPROVAL OF BOARD ADMINISTRATIVE CONSENT AGENDA ITEMS AND BOARD MINUTES

8:06 AM

- Information was requested regarding the Meat & Poultry Inspection Bureau Consent Agenda item requesting to fill a vacant position
 - Gary Hamel explained that a Meat Inspector resigned with just minutes of notice given and he wanted to fill that Billings position because there were establishments that needed coverage
- Mr. Hamel said that with that most recent resignation, there are now five open positions in the Meat & Poultry Inspection Bureau, but with interviews having been held the previous week, he had made offers to people to fill three of them
 - Current open positions are the Billings Meat Inspector that just resigned, a Kalispell Meat Inspector, two relief Meat Inspectors in Helena and Missoula and a Compliance Investigator position who will cover primarily the western half of the state
- Nina Baucus requested that the minutes for the October 8, 2019 Proposed New Livestock Market hearing be removed from the consent agenda to discuss some needed corrections
- Questions regarding the Centralized Services Division-Information Technology request for out-of-state travel was discussed
 - Dan Olson explained that the out-of-state travel request to the USAHerds Software Conference was incomplete because no specific location, date or time had been given to him as of yet, but he expected it to be held in mid to late spring as it has been in past years. He did know that the conference would be held somewhere in Alabama, but did not yet know which city

MOTION/VOTE

8:12 AM

Brett DeBruycker moved to approve the Consent Agenda items, including the Out-of-State Travel Request from Centralized Services Division-Information Technology and the minutes for the BOL 9/24/19 Finance Committee Meeting and the 9/25/19 BOL Meeting. Lila Taylor seconded. The motion passed.

- It was decided to make no changes in the minutes for the October 8, 2019 Proposed New Livestock Market hearing, as Sue Brown's name had been listed as being present at that hearing

MOTION/VOTE

8:13 AM

Brett DeBruycker moved to approve the minutes for the 10/8/19 BOL Meeting/New Livestock Market Hearing. Lila Taylor seconded. The motion passed.

OLD BUSINESS

8:14 AM

8:14 AM – UPDATE ON PLANNING AND ACTIVITY FOR POTENTIAL NEW MVDL BUILDING

Mike Honeycutt reported that there had been no new activity by the HB586 Administrative Committee

- A letter had still not been sent by the Department of Administration to the Board of Regents, to get on their meeting agenda to discuss the possibility of land being made available, particularly in the Bozeman MSU area, for the construction of a co-located State Lab facility
 - The Administrative Committee has an obligation to produce a report on the co-located State Lab facility by September 2020 – a plan that would allow for a lease-option
 - Official voting members of the Committee are from the Department of Livestock, Department of Agriculture, Fish, Wildlife and Parks, MSU's President's office, MSU Extension, two representatives from the House and two from the Senate
 - John Scully requested that a list of members of that Committee be compiled and distributed to the BOL and made available to the public
- Mr. Honeycutt said the Board of Regents meets quarterly, and with them having just met in September, he expects that they will meet again sometime in December or January
- Senator Vance, who is a representative of the Department of Administration Administrative Committee, is scheduled to give a report at the Economic Affairs Interim Committee during their November 7, 2019 meeting
- Brian Simonson suggested getting the Lab Building Committee back together to make decisions on which Lab facility plan would work for all groups involved before engaging the consultants
 - John Scully suggested communicating with the consultants before a meeting of the Lab Building Committee to be sure it would be okay for them to not be in attendance at a meeting of the Lab Building Committee, because he thought the issues dealing with price, square footage and flexibility was all part of the information they were going to glean
- Mike Honeycutt said that Brent Roeder of the Montana Woolgrowers has identified himself as a representative of the sheep industry on the internal industry stakeholders' side of the Lab Building Committee when it meets again. Industry stakeholders on that committee are the Veterinarians, Stockgrowers, Farm Bureau and Woolgrowers

- Mike Honeycutt said he had already received feedback from Farm Bureau staff, who had asked questions out in the countryside about the proposed new Lab, about what the public sees as necessary in the Lab
- Although the size of the proposed Laboratory may be adjusted from the 40,000 square feet originally planned, John Scully said that the feedback he has gotten was that nobody wanted to cut the current services the Lab offers
- John Scully said he will get the Lab Building Committee meeting arranged

8:30 AM – MDOL ORGANIZATIONAL RULE UPDATE

Mike Honeycutt requested any additional input the BOL would like to add to the revised MDOL Organizational Rule that had been redone, including edit requests from some members of the BOL:

- Mr. Honeycutt said that according to State statute, in the administration of State government, every one of the principle agencies are to have an organizational rule that basically describes the organization of that particular department, and the Organizational Rule for the DOL had not been looked at in 10 years
- As far as administratively-attached boards to the DOL, the difference in the Crimestoppers Board from the Board of Milk Control and the Livestock Loss Board is that the DOL calls Crimestoppers meetings and does their accounting and the other two boards handle their own meetings
- John Scully said he wanted to be sure that the DOL's Organizational Rule aligns with the DOL Policies and Procedures
- Mike Honeycutt pointed out that language in the Organizational Rule does not explicitly say that the BOL is involved in hiring beyond the Executive Officer, but that as the Director of the Department, they can involve themselves in whatever way they choose to involve themselves in
- No action was taken on the Organizational Rule

8:40 AM – UPDATE ON JOB DESCRIPTION FOR BRANDS INVESTIGATORS

John Scully requested that the BOL go through the job description for the Livestock Crime Investigators in case they had any additional input. The request for a change in that job description had previously been made by the District Investigators:

- Once the District Investigator job description is approved by the BOL, it must still be signed off on by every person who has that job title for it to be approved, 16 in total
- Originally, a 15+-page job description was given by District Investigator staff to Mike Honeycutt to revise, and he was able to pare it down to 8 pages
- Mike said language was removed from the original document to avoid redundancy
- A major change made from the original document put more of an emphasis on law enforcement, listing it as 60% of the District Investigator duties rather than just 40%-50%, which Mr. Honeycutt said will help avoid certain problems with law enforcement officers taking up positions in POST certification training

- A 10% Animal Health work piece was also added to District Investigator duties, especially due to vaccination requirements expanding to more counties and TB traces in the state to deal with
- Also added to the District Investigator job description was the expectation of them to play a role in the counties they serve in public outreach and education, attending industry meetings and organizational functions as a representative of the DOL
- Because MCA statutes do not consider supervision of non-employees “supervision,” the language in the new job description states that District Investigators “coordinate” the Local Inspector program in their district
- John Scully requested that the sections of the job description referring to the relationship of the District Investigator to the County Sheriff, be reviewed by legal counsel
- Mike Honeycutt pointed out that language in the job description says the District Investigator have knowledge of tribal regulations and that they have to have relationships with tribal entities, but it stopped short of saying District Investigators enforce on the reservation, because that’s a case-by-case basis when allowed by the tribe to do that
 - Mr. Honeycutt also added, in the case of Local Inspectors, that the DOL did not cede control or authority of them to tribal authority
- Language was added to the job description to clarify the role of a District Investigator in the case of their presence during a veterinary inspection, a requirement that was passed by the 2019 Legislature
- John Scully requested that the language regarding the District Investigator’s responsibility for estraying animals be looked into

9:06 AM –RECESS

9:16 AM – RECONVENE

9:16 AM – ROBBIE CATTLE APPLICATION FOR NEW MARKET HEARING UPDATE, DISCUSSION & POTENTIAL DECISION

John Scully announced that he had asked counsel Rob Stutz to be present at this BOL meeting for discussion of the proposed findings and facts of the law by the Hearing Examiner relative to the hearing for the Robbie Cattle Company application for a new livestock market:

- Mr. Stutz reported that he had a proposed decision prepared by the Hearing Examiner, Lindsey Simon, for the hearing for the Robbie Cattle Company application for a new livestock market
- Mr. Stutz also reported that all BOL members present at the meeting today were also present at that same hearing and because of that, according to statute 2-4-621, there is no requirement of filing post-hearing materials
- Mr. Stutz said he had copies of an email from Robbie Cattle Company/Montana Cattle ConneXion/Robbie Livestock stating their position on the proposed

findings and conclusions that the BOL could review, but it is not required by statute for them to do so, but, could be considered in addition to the proposed findings and conclusions

- John Scully said that from his standpoint as Chairman of the BOL, he would not allow the email, as it would open the door for anybody else that would like to make comments as well
- Mr. Stutz said that the burden of proof is on the Robbie Cattle Company to demonstrate by preponderance of evidence, which is greater than half the evidence, in favor of the grants of application, in order for the BOL to grant the application
 - The recommendation from the Hearing Examiner was that the preponderance of the evidence did not demonstrate that the application requirements were proven
- Mr. Stutz pointed out a couple typographical errors and he made clarifications in the Hearing Examiner's document that he felt was her intent. He recommended the BOL consider the changes:
 - Robbie's application was for a livestock market certificate and so, on page 14, paragraph number 19, Mr. Stutz recommends that a clerical change be made in the Hearing Examiner document that lists it as an "online livestock market" to just "a livestock market"
 - On page 12, paragraph 15, Mr. Stutz recommends striking "neither of whom are cattle producers" because whether it is factual or not is in the context of a conclusion of law
 - Sue Brown's name as a BOL member present had been left out of a previous draft, but, that error had already been corrected in the Hearings Examiner's document
- Mr. Stutz explained that as a Quasi-Judicial decision, it must be made by a majority of the BOL, not a majority of the BOL members present to vote
- John Scully read the Hearing Examiner's decision that stated the proposed livestock market does not satisfy the financial statement requirements of MCA 81-8-251 (2-9h) and therefore a certificate of public convenience and necessity cannot be issued
 - The decision also said that the applicants did not meet their burden to demonstrate by a preponderance of the evidence that public convenience and necessity require the authorization of their proposed livestock market
 - Hearing Examiner Lindsey Simon said in her decision, that for those reasons she recommended that the application be denied
- A written statement submitted by Janice Allen was filed, but not given weight as other testimony, because it was considered hearsay, not presented under oath and not subject to cross examination
- Rob Stutz made one more point, that if the BOL chose to deny the application, it would not prevent Robbie Cattle Company or any entity from filing a new application with the DOL
- Mr. Scully did not allow any further testimony from anyone in the audience, but said that the BOL would act on the decision made by the Hearing Examiner

MOTION/VOTE

9:32 AM

Lila Taylor moved to accept the Hearing Examiner's report regarding the application for the new Livestock Market, with corrections, as presented by Rob Stutz and any other minor errors that might not have been addressed, those that would not substantively affect the BOL's conclusion in this matter. Brett DeBruycker seconded. The motion passed.

9:33 AM – LEGAL COUNSEL UPDATE

Rob Stutz reported that the request for a new livestock market was his significant legal update for the past month:

- Mr. Stutz did report that the S&T Project Meats case is closed and that they have certified that they have destroyed the product that was in question
- Mike Honeycutt reported that the DOL had not received a request for S&T Project Meats' settlement check as of yet

OLD BUSINESS CONTINUED

9:36 AM

9:36AM – PERSONNEL UPDATES

9:36 AM – Update on Brands Division Administrator Position Description

Mike Honeycutt updated the BOL on the updating of the Brands Administrator position description:

- The position description for the Brands Administrator that was approved by the BOL during the last BOL meeting has been sent to the classifier, a third-party contractor, for review
- The classifier came the previous week to do a job analysis and is expected to have a conclusion in mid-October
- Once the classifier's recommendation is received by the DOL, it is sent to the Department of Administration for their approval

9:39 AM – Update on Current Open Hiring Processes

Mike Honeycutt reported on current vacancies in the DOL and action being taken regarding them:

- *Brands Enforcement Division*
 - Interviews were held on October 17, 2019 for the open District Investigator position in Lewistown
 - Mr. Honeycutt said that Ty Thomas did not report to him that there was any stress at the markets right now, even with the open positions and that the DOL is in good shape with market staffing
- *Meat & Poultry Inspection Bureau*

- The DOL is currently in the recruitment process to fill a Compliance Investigator position, vacant because of a retirement
- The DOL will be moving on filling the just-vacated Meat Inspector position, who resigned Friday of the previous week
- Regarding the two new Relief Inspector positions, one Relief Meat Inspector was offered a position, and hopefully an offer will be out on the Helena opening soon
- Mike Honeycutt said he had signed off on an offer to fill the open Meat Inspector position in Kalispell
- *Veterinary Diagnostic Lab*
 - The new Pathologist has started
 - There is a conditional acceptance for a Microbiologist who is finishing a PhD program out of state
- Mr. Honeycutt said that legal counsel, Rob Stutz called his attention to the Federal law that uses the terminology that the US Secretary of Agriculture shall make inspectors available, and so he does not believe that legally, the DOL could deny an application for a meat or poultry facility simply because of a staffing issue
- Mr. Honeycutt said that he believes the pay range for a Meat Inspector going from \$13/hour three years ago to the current \$19/hour is a major driver to the type of applicants the DOL has been receiving for those jobs

NEW BUSINESS

9:45 AM

9:45 AM – REVIEW ECONOMIC AFFAIRS INTERIM COMMITTEE AGENDA NOVEMBER 7

Mike Honeycutt reported that as of right now, the Economic Affairs Interim Committee's November 7, 2019 agenda had changed from what was initially expected from looking at their workplan:

- It was thought that HJ29, the joint resolution for the Study of Meat & Poultry Inspection, would be taken up in November, but that item was not listed on the agenda
- One item that was listed on the agenda was a HB586 Committee report from Senator Vance
- The Committee had not met since August 2019, and one action item outstanding for them is regarding the letter to the Board of Regents to get on the Board of Regents agenda to talk about land for the proposed new Lab
- Because of a bill passed by Representative Lew Jones this past session, the State is required to do a look back/look forward on its financial history, agency by agency
 - Although the task is the responsibility of the Legislative Finance Committee, the DOL will be a part of that because of being under Economic Affairs oversight

- Mike Honeycutt said he feels the DOL has a good handle on the agency's financial history, what it is currently, and what the future threats are that could threaten DOL revenue and the ability to carry out its mission
- Concern was raised regarding the type of funding used to carry out the interim study on Meat & Poultry Inspection, as legal fees already paid for that were from per capita funds

9:53 AM – LEGISLATIVE PERFORMANCE AUDIT – GOVERNOR’S OFFICE HANDLING OF EMPLOYEE SETTLEMENTS

Mike Honeycutt reported that during the last couple weeks, the Governor’s office had notified the DOL that they will be coming to the DOL sometime in the next month, to look through records pertaining to employee settlements the DOL has had in the past five or six years:

- This action by the Governor’s office relates to an ongoing performance audit of the Governor’s office and the handling of employee settlements
- The Governor’s office has asked agencies to have their chief legal counsel take the lead on this. Mike Honeycutt said he has asked Rob Stutz, who is very familiar with those settlements, to be the DOL’s point of contact

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

9:56 AM

John Youngberg and Brian Ohs said they did not have any comments on non-agenda items

9:57 AM – FERAL SWINE MEETING DISCUSSION

It was decided to wait for Nina Baucus’ report on her attendance at the Feral Swine meeting held in Sweetgrass until the Animal Health Bureau presentation

9:58 AM – RECESS

10:18 AM – RECONVENE

10:18 AM – CENTRALIZED SERVICE DIVISION REPORTS

10:18 AM – FISCAL BUREAU

10:18 AM – ITS Update

Dan Olson gave an update on HB10 funding activities in the DOL:

- Requests for Proposal (RFP) are continuing to be reviewed for the DOL’s HB10 IT projects

- Dan Olson said that projects being looked at to utilize HB10 funding are those related to internal systems that will better help internal staff with efficiencies and process and will help constituents outside the DOL as well
- The main focus of those projects will be getting all data into one area that will, in the future, be able to be accessed on a website to find Lab information, Brands information, and any other information, all tied together
- Mike Honeycutt explained that although Brands has a direct correlation with the spending of per capita money, Brand information, Lab information, Animal Health Information related to Certificates of Veterinary Inspection, related to the Brucellosis program could all be needed for one situation and having one system that correlates all that information makes it easier to connect across the board, rather than spending an hour combing through each one of those individual systems
- The older Legacy software systems currently being used and in need of a big facelift, such as the ones in the Milk & Egg Bureau and the Meat & Poultry Inspection Bureau, are some of biggest priority to address for HB10 funds along with the Brands lookup system, another older system
- Mr. Honeycutt said that engagement with external stakeholders, whether they are accessing DOL information on a laptop or a mobile device needs to be considered because it changes a lot about how information is presented on a website
- As of right now, Mr. Honeycutt said that the DOL is about 15 years behind private industry standards in its IT technology for constituents
- Dan Olson reminded the BOL that there is no expiration date on the HB10 funds allocated, but the goal is to get the projects done in the time frame that was set in the biennium
- Mike Honeycutt said that in addition to the major project of HB10, the IT personnel still have to uphold and maintain the services that employees require to function technology-wise, both in the Helena office and around the state
- Mike Honeycutt said that Dan Olson has done a great job working with DOA's ITSD who make policies and overarching decisions for how State functionality works
 - Mr. Olson said that for a majority of IT issues, the work can be done remotely, but if there is an actual physical issue with a computer, travel is required
- Dan Olson said that one of the higher priorities right now in IT is Fall Run

10:49 AM – FISCAL BUREAU

10:49 AM – September 20, 2019 State Special Revenue Report

- Brian Simonson said that monthly meetings have been occurring with the Fiscal Bureau and other divisions in the DOL to go over operational expenses in detail and personnel trends
- Currently, the DOL is 17% through the budget year and is 17% expended
- In State Special Revenue numbers, the revenue numbers are larger than last year because the DOL is getting close to the end of 10- and 5-year cycles

- Security Interest Filing Fees are higher in the new brands and transfers section as well because of getting close to the end of budget cycles
- Local brand inspections are down by \$37,000, but that number is offset by the markets being two times what they were at this point last year
- Brian Simon said that under the Per Capita Fee section, the Non-Federal Cost Recovery numbers appear to be down 50% from last year, but, on September 30, 2018 three month's worth of revenue were recorded and at the same time in 2019, just two month's worth of revenue were recorded
- The VDL Lab Fees were showing a \$56,000 difference from 2018 because those recorded three month's worth of revenue and only two month's worth were recorded in 2019. Lab fees were actually up \$15,000

10:59 AM – October, 2019 Through June 2020 Expenditure Projections

With just 17% of the budget expended, Brian Simonson said that confidence in some of the projection numbers need a little bit more maturity:

- Brian Simonson said that the \$563,753 total budgeted funds number is large because Operations numbers (contracts, supply, rent and other expenses) are big positive numbers over what the budget authority is, and so the projection is, at this point, that considerably less funds will be spent
- The \$244,171 Personal Services number was about half Milk & Egg and then some vacancies in the DOL
- Under Budgeted Funds, Per Capita Fees, a positive \$333,583 is projected, which was mostly be in CSD and Brands
- The Contract numbers under Operations were due to testing, one-time-only with the DSA expansion, and was based on history, not growth going forward
- Travel numbers under Operations can vary due to timing of activities and events and so the numbers shown in this report actually show less travel last year. As the DOL matures in the year, that number will become more true
- Meat & Poultry Inspection Bureau was showing general fund and Federal monies of \$105,000 due to a lot of variables, one of which was a new Collective Bargaining Agreement that was eating up the savings and also several vacancies in that bureau
- Mike Honeycutt said that the timing of the contract renewal for the Collective Bargaining Agreement in the Meat & Poultry Inspection Bureau does not put the DOL in a position to get those numbers in the Snapshot until the next biennium

11:07 AM – September 30, 2019 Budget Status Report

Brian Simonson said that compared to last year, in the overall DOL, numbers were pretty solid and within expectations of pay raises that have occurred, and fuller employment was what was being seen:

- Personnel was up 7.5% from last year with fewer vacancies and some higher pay at the VDL
- Dr. Juda was not on staff last year at this time, and that explains why the DOL was \$120,000-\$130,000 over from last year in Personnel

- Of the \$340,000 in Equipment, around \$200,000 was from one-time-only purchases in Animal Health, vehicles and lab equipment plus \$137,000 for NAHLN equipment
- In the Transfer figures of \$342,000, \$112,000 was going to revenue and \$240,000 was going to FWP programs
- In the VDL, more general funds than per capita fees were spent; in Brands last year, \$81,000 more per capita fees were spent instead of Brands fees

11:14 AM – LUNCH

11:50 AM – RECONVENE

BRANDS ENFORCEMENT DIVISION

11:51 AM

11:51 AM – Update on Rerecord Plan Document

Leslie Doely presented her draft rerecord plan for the BOL's input and highlighted what she felt were important points to discuss in the plan:

- Ms. Doely explained that a benefit of rerecord was that the DOL has a point of contact with around 50,000 people in Montana, which could provide an opportunity to address the DOL's per capita issue
 - Several choices of how to address the per capita issue at rerecord were listed by Ms. Doely:
 - #1 Require that a filled-out per capita form be attached to a brand re-register
 - #2 Ask if the person re-registering their brand has filed per capita and whether they own livestock
 - #3 Ask if the person re-registering their brand has filed per capita
 - #4 Change nothing
 - #5 Ask, are you aware of the requirements to report per capita on these livestock
 - Based on an initial request from Legal Services Division, Ms. Doely said that the DOL could require a person renewing their brand to complete a per capita reporting form, even if that person reports "0" livestock
 - By getting more people to report on the per capita form, even if it is listed as "0," it adds more people into the system and the Department of Revenue can then communicate with them during the next billing process, letting them know that per capita is supposed to be paid
- Ms. Doely requested input from the BOL regarding whether or not brands should be recorded as one species and one location per brand certificate as opposed to up to three species listed per brand certificate. A brand registration fee would be charged for each brand certificate submitted
 - Ms. Doely said that having separate certificates for each species would simplify brand records

- There was some BOL concern discussed relative to the separate certificates for each species, because whoever files security interests and liens would have to do that more than once, depending on how many certificates there are for one brand
- Concern was also raised about the cost to the producer of having one species per brand certificate, rather than up to three, and then charging a fee per each certificate
- Ms. Doely requested input from the BOL regarding the DOL paying the credit card fee for online brand renewals
 - Ms. Doely said that the credit card fee is a disincentive for people to renew their brand online and instead pay by check, which requires extra staff time to process the payment
 - Ms. Doely figured that an estimated cost of the DOL paying the credit card fee for online brand renewals would be \$58,000, or \$2.24 per brand
 - Mike Honeycutt said that the cost of paying the credit card fee is not just a one-year cost, but is giving up revenue over a 10-year period until the next rerecord
- Brett DeBruycker suggested doubling the brand rerecord fee to \$200, which he said might help clean up the brands rolls
 - John Scully reminded the BOL that statutory requirements say, fees commensurate with costs, and so, if the brands rerecord fee is doubled, the DOL costs would have to have doubled
 - Mike Honeycutt said that the cost of delivering the programs over a 10-year period needs to be considered and also how much costs will increase each year
 - It was agreed by the BOL that the rerecord fee would need to be increased because costs to run the brands program have gone up from 10 years ago. It was not decided, though, how much that increase should be
 - Both John Youngberg, MFBF, and Brian Ohs, MSGA, felt that doubling the brand rerecord fee would be not be well received by producers. John Youngberg added that for him, who just brands one animal every couple years, it would not be worth \$200 for him to do that
 - Lila Taylor requested that the motion be tabled until the next BOL meeting so that more data could be compiled

MOTION/VOTE

12:43 PM

Brett DeBruycker moved to increase the brands renewal fee to \$200 and to pay the credit card fee if the renewal is done online. Lila Taylor seconded. (Lila Taylor withdrew her second at 12:48 pm). The motion failed.

- Concern was raised about what was being done by the DOL, particularly by the IT staff, to cross-reference per capita lists with other lists that are present at the DOL to determine who has livestock

- Leslie Doely said that when Axiom was first implemented as the Brands database, the per capita list was sent to field staff to help correlate per capita data with the Brands database, but it wasn't particularly successful. She said that collecting information from folks regarding per capita during brand rerecord is an effort to determine who has livestock
- Dan Olson added that the DOL, at this point, does not have anything to flag comparing the DOL information versus the Department of Revenue information
- John Scully suggested that college Statistics class students be hired to compare a sample list of about 500 people from the Brands database and compare it to the Department of Revenue's database relative to per capita. He said they could also utilize information from transactions that take place at sales yards to provide some kind of comparative analysis before a software program gets it done
- John Scully requested that information regarding the cost of fixing the reports in Axiom that are needed during rerecord be brought to the next BOL meeting
- Currently, in the Brands Enforcement Division, the Market Auditor position is vacant, along with the Western Brands Supervisor position, the Administrative Office Supervisor, Office Manager and a Temporary position are still open
 - The Office Manager position has been posted
 - The Western Brands Supervisor position cannot be filled until at least January 1, 2020
 - It was requested to get a copy of the job description for the Market Auditor position to the BOL members
 - This BOL meeting was the last one Leslie Doely would attend as the Brands Administrator, as she took another job in the DOL

1:05 PM – CENTRALIZED SERVICE DIVISION REPORTS CONTINUED

1:05 PM – PREDATOR CONTROL

Update on Activities of USDA-Wildlife Services

Kraig Glazier gave updates on activities of USDA Wildlife Services, as State Director John Steuber was in attendance at a wolf symposium meeting in Chico:

- John Steuber and the USDA-APHIS Wildlife Services Feral Swine Program Director from Colorado attended a border seminar in the Sweetgrass Hills that was hosted by the Marias River Livestock Association
 - Over 70 people attended that seminar, which was also attended by Dr. Tahnee Szymanski and BOL member Nina Baucus
 - Presentations were given by a University of Saskatchewan feral swine researcher and a Saskatchewan farmer who is part of a committee working on eradicating feral swine in their area

- A big hunting facet attending the seminar were upset after hearing that they would not be able to hunt the feral hogs, as that is how their populations spread
 - It was explained at the seminar that when shooting one pig, the others that get away will run and set up satellite populations in other areas, and that is how pig populations can spread for so far a distance
 - Dr. Marty Zaluski explained to the BOL that the 2015 Montana Legislature passed Montana code defining feral swine, and making activities that expand the range of feral swine, including hunting them, illegal and subject to heavy fines
- John Steuber is scheduled to speak at the Farmer's Union in Great Falls regarding feral swine
- A feral swine summit is scheduled in Billings at the Northern Hotel on November 15, 2019 and is a joint effort between the Montana Invasive Species Council, the DOL, USDA-APHIS Wildlife Services and FWP
 - Goals of the Billings feral swine summit include:
 - To educate people about Montana laws pertaining to feral swine
 - Members of the Western Governor's Association, the Pacific Northwest Economic Region and the Montana Invasive Species Council will discuss whether additional policy regarding feral swine is needed and whether there is cooperation needed between Montana/North Dakota and Montana/Saskatchewan/Alberta to try to control and work collaboratively to help control feral swine population numbers.
- Kraig Glazier reported that this is another year grizzly bear depredations have outnumbered wolf depredations, a trend that has continued
 - Wildlife Services investigated 22 predations in the Gravelly Mountain Range from one producer, three of them from wolves and the rest from grizzly bears
- Secretary of the Interior David Bernhardt and Representative Greg Gianforte both attended a meeting up along the Rocky Mountain Front regarding the grizzly bear predation issues and what can be done by the US Fish & Wildlife Services and the Montana FWP
 - Some items addressed at the meeting were the health and human safety issue and needing more management of grizzly bears
- Mr. Glazier said he had just attended a meeting the day before hoping to get recommendations on flexibility regarding grizzly bears, but he said that the Endangered Species Act and the 4(d) rule are pretty much set in stone and that he was disappointed that there was no talk about delisting
- Mr. Glazier reported that although grizzly bear mortality limits in the NCDE have been around 50 for the past couple of years, that there has been positive population growth since 2006
 - Mr. Glazier explained that grizzly bear mortality limits are based off a six-year average with a certain percentage for males and females. Mortality limits don't just include those shot by people, but also include those made

by autos and trains and any bear removed to augment a different population

1:27 PM – ANIMAL HEALTH & FOOD SAFETY DIVISION REPORTS

1:27 PM – VETERINARY DIAGNOSTIC LABORATORY

1:27 PM – Lab Operations Update

Dr. Marty Zaluski gave an update from the Veterinary Diagnostic Laboratory:

- The incinerator floor is currently being replaced at the VDL
 - The floor was more heavily corroded than initially suspected, requiring that the floor and part of the wall be fabricated
 - A new steel floor and a new lining, which Dr. Zaluski believes will be made of brick, is being added, and should last 10 years or more
- Because of the VDL being able to purchase some other equipment at lower costs, a load scale with a hoist was purchased
 - The load scale will allow the VDL to weigh items to be incinerated and charge the customer accordingly
- A second Pathologist, Dr. Sago, has been hired at the VDL and has been on board about three weeks
- Dr. Zaluski has received a commitment from a veterinary microbiologist to start at the VDL in mid-Spring
 - The microbiologist candidate is finishing her PhD in Florida on Zika Virus
- John Scully said that with the skill sets of the new hires, he is going to ask in the next 5-6 months that Dr. Juda meet with MSU to see whether there are any opportunities for the VDL with the University
- Dr. Zaluski commented that being able to have Dr. Juda, as Lab Director work solely on administrative and managerial tasks has given the VDL the opportunity to create bridges and take advantage of things that before, there was no capacity or time to develop
- A Hematology Analyzer should be installed by year's end for use in the Clinical Pathology section of the VDL
- The VDL is collaborating with other NAHLN Labs to use Homeland Security grant funding to acquire a Workhorse Unit for the PCR portion of the VDL

1:38 PM – ANIMAL HEALTH BUREAU

1:38 PM – Request to Initiate Rulemaking Process Regarding ARM 32.4.502, Importation of Restricted or Prohibited Alternative Livestock

Dr. Tahnee Szymanski reported that she was re-submitting a request to initiate the rulemaking process for changes in ARM 32.4.502, Importation of Restricted or Prohibited Alternative Livestock, that had previously been out for public comment:

- Based upon the public comment received and after consultation from legal counsel, Rob Stutz, Dr. Szymanski, was requesting that a new proposal for that same rule be submitted for public comment

- Public comments received on the first proposed ARM changes addressed the following:
 - Questioned the DOL’s authority to enact the rules
 - A potential for the proposed rule to be in violation of the Commerce Clause of the United States Constitution
 - Felt there was a lack of scientific evidence to support the proposed changes
- Changes to the rule would include the addition of language in the authorization and implementation portion of the rule that encompasses all of the DOL’s authority to implement the rule
- The reasonable necessity statement is much more fleshed out than the previous submission
 - Dr. Szymanski said that FY19 numbers (17 certified herds; 8 detections) regarding CWD detection in certified herds continue to show the same trend as those in FY18 (15 certified herds; 6 detections), supporting the proposed rule

MOTION/VOTE

1:41 PM

Brett DeBruycker moved to approve publishing of the proposed changes in ARM 32.4.502, Importation of Restricted or Prohibited Alternative Livestock, as presented by Dr. Tahnee Szymanski. Nina Baucus seconded. The motion passed.

1:41 PM – Bovine Tuberculosis Epidemiological Update

Dr. Tahnee Szymanski gave updates on the three Bovine Tuberculosis epidemiological investigations the DOL had been working on in Montana:

- *June 2018 Investigation*
 - Montana is down to ½ of one herd left to be tested out of the 15 Montana herds originally subjected to testing, and that testing is scheduled for the final week in October 2019
 - To date, 4,096 head have been tested with 39 caudal-fold suspects (those who require additional testing)
 - Two suspect animals on the followup testing, the comparative cervical, were found to be negative for Bovine Tuberculosis at slaughter
 - Total time and mileage for DOL personnel involved in this investigation was just over 39,000 miles and 1600 hours worked
- *December 2018 Investigation*
 - A suspect steer, found in South Dakota, was traced back to a herd in Garfield County, Montana
 - All required testing of that herd has been completed, with no suspects
- *March 2019 Investigation*
 - A cow found positive at slaughter at a plant in Nebraska traced back to a Treasure County, Montana herd

- The Treasure County herd needs to complete an assurance test that will take place in either December 2019 or November 2020, based upon USDA guidelines for those tests
- Dr. Szymanski explained that it is a mixture of veterinarians who work on these epidemiological investigations--DOL staff veterinarians and USDA Veterinary Services staff
 - DOL veterinarians charge their time working on these epidemiological investigations to the Federal cooperative agreement.
 - If Brands personnel are involved and accrue overtime working on the epidemiological investigations, it is also charged to the Federal cooperative agreement

1:45 PM – Update on Feral Swine Management in Montana

Mike Honeycutt discussed feral swine management in Montana, hoping to clarify some of the confusion that has arisen from the public regarding the issue:

- Current State law puts the responsibility for feral swine management in Montana on the DOL
 - There is a mechanism in place that if DOL expenses for managing the feral swine goes beyond \$1000, the agency will be able to access general fund for that cost
 - Wildlife Services has the ability to get feral swine funding from USDA on a case-by-case basis. Sustaining funding from USDA is also available, but only if there is an active population in the state
- Dr. Tahnee Szymanski added that the DOL does have a response plan if a potential feral swine report comes into the state, with the DOL Brand Inspectors working with Wildlife Services and FWP field staff, so that each of those agencies are immediately aware and can start that response

BOL DISCUSSION

1:49 PM -

- Lila Taylor asked if the Brands Enforcement Division had sent out the Estray List mailing that had been discussed at a previous BOL meeting
- John Scully reminded the BOL members to review the District Investigator job description and submit any changes to Mike Honeycutt right away
- Mike Honeycutt said that he would incorporate BOL changes into the job description and then meet with District Investigators so they can sign off on it before the next BOL meeting

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

1:55 PM

Chaley Harney, Executive Director of the Montana Beef Council, said she was attending this BOL meeting with Kiley Martinell, the Montana Beef Council's newly-appointed president:

- Ms. Harney said that letters had been sent from the Montana Beef Council to all Montana Brands Inspectors that included information regarding the Beef Check-Off consent form
- Of all the letters sent, Ms. Harney said that 37 of them had been returned because of bad addresses and her office was going to help clean up that mailing list
- John Scully reminded the BOL that a meeting regarding the Veterinary Diagnostic Lab needed to be scheduled at some point

SET DATE FOR NEXT BOARD MEETING

1:59 PM

The next regular BOL meeting was scheduled for Thursday, December 5, 2019 in the BOL conference room in Helena

MOTION/VOTE

2:02 PM

Lila Taylor moved to adjourn the BOL meeting. Brett DeBruycker seconded. The motion passed.

MEETING ADJOURNED

2:02 PM



John Scully, Vice-Chairman