



# Montana Board of Livestock Meeting Minutes

(This Meeting was Virtual)

May 20-21, 2020  
Helena, Montana

## Wednesday, May 20, 2020

### Board Members Present

John Scully, Vice-Chair (cattle producer)  
Lila Taylor (cattle producer)  
Sue Brown (dairy and poultry)

Nina Baucus (cattle producer)  
Brett DeBruycker (cattle producer)  
Ed Waldner (swine)

(John Lehfeldt was not present)

### Staff Present

Mike Honeycutt, EO  
Brian Simonson, Deputy EO  
Evan Waters, Centralized Services  
Dan Olson, Centralized Services  
Dr. Gregory Juda, MT VDL Director

Donna Wilham, Adm. Assistant to EO  
Dr. Marty Zaluski, State Veterinarian  
Dr. Tahnee Szymanski, Animal Health  
George Edwards, Livestock Loss Board  
Gary Hamel, Meat & Poultry Inspection

### Public Present

Rachel Cone, Montana Farm Bureau Federation  
John Youngberg, Montana Farm Bureau Federation  
Justin Loch, Montana Farmers Union

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## CALL TO ORDER

**1:03 PM**

Vice-Chairman John Scully called the meeting to order at 1:03 PM

## ROLL CALL

**1:03 PM**

John Scully requested a roll call of everyone present:

- All BOL members were present except for John Lehfeldt
- Mike Honeycutt was present

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

**1:03 PM**

- John Scully requested an early public comment period because he said that there was a possibility the meeting could run long
- There were no public comments given at the time

## **BOARD APPROVAL OF BOARD MINUTES AND ADMINISTRATIVE CONSENT ITEMS**

**1:04 PM**

John Scully allowed the BOL to request removal of any of the Board Administrative Consent Items for discussion:

- John Scully requested that the Animal Health Bureau Summary Report be moved to the agenda for the next day's meeting
- Nina Baucus requested the removal of the Meat & Poultry Inspection Bureau Report Custom Exempt segment be removed from the Consent Agenda

## **MOTION/VOTE**

**1:05 PM**

Sue Brown moved to approve the minutes for the 4/22/20 and 4/23/20 BOL meetings, the Bureau reports from the Meat & Poultry Inspection Bureau, absent the Custom Exempt portion of the report, the Milk Control Bureau and the Milk & Egg Bureau. Lila Taylor seconded. The motion passed.

## **DISCUSSION OF BUREAU REPORTS PULLED FROM BOARD CONSENT AGENDA**

**1:05 PM**

In order to prepare to answer the questions Nina Baucus had regarding the Custom Exempt portion of the Meat & Poultry Inspection Bureau Consent Agenda report, John Scully said to move that discussion to the next day's meeting agenda

## **OLD BUSINESS**

**1:07 PM**

### **1:07 PM – UPDATE ON COVID-19 DEPARTMENT OF LIVESTOCK RESPONSE & CONTINUITY**

Mike Honeycutt gave an update on the operations of the DOL relative to COVID-19, since the BOL meeting:

- Regarding activity at meat packing plants, cattle and livestock marketing and euthanasia due to the COVID-19 outbreak, the DOL had put together preparation

for those things, even though, at this point, there had not been a huge amount of that activity in Montana

- After a request to FSIS from the DOL for some flexibility regarding handling product going into food banks was denied, the DOL did not move forward with any plans
- A number of Federal Acts had come out in the past couple weeks relative to meat processing plants to deal with some of the impacts from the COVID-19 response
  - One act could possibly give Custom Exempt facilities the ability to do retail processing
  - Other acts would allow State programs to have their products shipped into interstate commerce
  - Other acts would affect the direction of how cattle are brought into the market, futures versus the stock market
  - A safety inspection service call took place with FSIS where they told State officials that their stance was that they did not foresee allowing any change in operations because it would be a challenge for food safety
- Mike Honeycutt said he spoke to the Economic Affairs Interim Committee regarding the impacts COVID-19 was having on the DOL
  - The Committee's major questions to the DOL were regarding meat products going to food banks and the ability to sell those products locally
- Mr. Honeycutt reported that things were running pretty normally in the field offices and with field staff, but that most of the DOL Helena staff were still working from home, and he wasn't sure how the Governor's Phase II of the COVID-19 response, due to start June 1, 2020, would affect the DOL
  - The DOL has been told to wait for direction from the Department of Administration on how to begin to bring people back to the office and follow CDC and OSHA guidelines for COVID-19
- In a conference call Mr. Honeycutt participated in the day before, USDA gave details on the Coronavirus Food Assistant Program (CFAP)
  - The CFAP program's \$16 million in Cares Act funding for Montana, directly related to COVID-19, will be released to the agriculture industry and facilitated through the Farm Service Agency (FSA), with signup starting May 26, 2020
  - Mr. Honeycutt said that Montana's Farm Service Agency will partner with the DOL in helping make sure that livestock producers know the CFAP program is available for them because there are a limited number of programs FSA typically runs for livestock
  - Livestock that are eligible to be covered in the CFAP program can be found on the farmers.gov website which lists information on CFAP payments for those different classes of livestock
  - Those making \$900,000 or more gross adjusted income may not be eligible for payments
  - It is not certain if FSA will be asking for validation of per capita payment for those producers requesting CFAP assistance, but Brett DeBruycker

commented that he would really rather not put anything in place that might slow down the transfer of those funds from the FSA into producers' hands

## **1:21 PM – UPDATE ON PLANNING & ACTIVITY FOR POTENTIAL NEW MVDL BUILDING**

### **1:21 PM – CWD prion Biowaste Within the MVDL During CWD Testing**

Dr. Gregory Juda explained his handout, listing the MVDL's approach to controlling CWD prion biowaste in the current Lab and then how to potentially move those procedures into a new Lab:

- Dr. Juda reported that in the current MVDL building, procedures regarding the sterilization of medical devices that have potentially been exposed to prion-related diseases and biowaste processes are based on published "best practices literature, including recommendations from the World Health Organization (WHO), the American National Standards Institute (ANSI) and the Association for the Advancement of Medical Instrumentation (AAMI)
- Tissues that potentially contain prions are currently incinerated as the preferred method of disposition in the MVDL and autoclaving of prion-contaminated sharps is utilized in the MVDL as well
- The Rocky Mountain Laboratory in Hamilton, MT published a paper late last year regarding the inactivation of CWD prions. That paper's recommendation was a five-minute exposure to 40% bleach, which Dr. Juda says could be implemented as best practices within custom slaughter plants
- Dr. Juda explained that due to the COVID-19 situation, the representative from Bio-Rad, the manufacturer of the ELISA-assay equipment for CWD, had not been able to schedule an install or training on the equipment, that had been purchased through a NAHLN grant
- John Scully requested that Dr. Juda include on his CWD handout the identification of the source studies he lists and also include and identify the studies and documentation Dr. Szymanski refers to in her report on her attendance in a USDA Virtual CWD summit
- It was discussed to leave the conversation regarding the appropriate use of per capita funds in the MVDL until another BOL meeting

### **1:36 PM – Update on Legislative Committee Activity and Expectations**

Mike Honeycutt reported that there has not been a direct meeting of the HB586 Lab Study Committee that came out of the 2019 Legislative Session:

- Mr. Honeycutt thought there was a placeholder on the agenda of the Environmental Quality Council meeting, scheduled for May 27, 2020, regarding the HB586 Committee's work and the Combined Lab Complex concept
- The HB586 Committee has an obligation to provide a report this fall regarding what was passed in the 2019 Legislative Session regarding HB586
- Mr. Honeycutt said he felt there was a weak potential for involvement from other agencies in a Combined Lab Complex

### **1:38 PM – Update on MVDL Staff Work with Department of Administration and Architects**

Dr. Greg Juda reported that good progress had been made after having a 2.5-hour conference call shortly before this BOL meeting with the architects who are working on the plans for the proposed new MVDL:

- Based on the feedback regarding square footage requirements given to the architects, they had produced the first draft of a couple different options for floor plans
- Dr. Juda reported that two calls with the architects were scheduled after the Memorial Day holiday to firm up a floor plan and be able to acquire a building cost estimate to hopefully present to the BOL at their June meeting and to A&E by July 1, 2020
- It was requested that Dr. Juda find out how much of the \$100,000 given by the 2019 Legislature for the proposed new MVDL building planning had been spent

### **1:41 PM – Potential Funding Scenarios**

Brian Simson explained his handouts breaking down the FY20 funding for the DOL:

- 32% of DOL funding comes from per capita fees, just under \$5 million
  - Centralized Services Division utilizes 37% of the per capita fees obtained by the DOL
  - Brands Enforcement Division utilizes 22% of the per capita fees obtained by the DOL
  - Animal Health Bureau utilizes 16% of the per capita fees obtained by the DOL
  - Veterinary Diagnostic Lab utilizes 16% of the per capita fees obtained by the DOL
  - Predator Control utilizes 9% of the per capita fees obtained by the DOL
- Per capita fee and general fund make up for about 60% of MVDL funding, Laboratory fees make up the remaining 40% of MVDL funding, with a little bit of funding coming from NAHLN grants
- Mr. Simonson said that per capita fees have not been raised since 2019, and that revenue collections are within a percentage point or two compared to last year's numbers
- There is a 35% safety net built into per capita fee, and Mr. Simonson said that if adjustments need to be made, based on what is happening in the livestock industry, the DOL would have time to make back that money
- According to Mr. Simonson's projections, if per capita revenues remain the same with no increased percentage in the fee requested, by the end of 2025, there should be enough money to fund a helicopter and pay for inflationary adjustments going forward, but if a new MVDL is added to the mix, per capita fees would need to be increased
- Because there were several one-time-only purchases for 2020, John Scully suggested compiling a list of them because there would be future questions about them

- Regarding the proposed new MVDL, on Mr. Simonson's handouts, he projects the new MVDL, if approved, will be completed in June 2025 at a cost of \$25,439,000
- To fund the project, the annual payment total is \$1.26 million, with O&M costs increasing expenses \$130,000 annually, and if a capital replacement cost option is chosen, it would add about \$250,000 to the annual payment
- Associated costs for the proposed new MVDL amount to 25% of the total construction costs (\$4 million) and include consulting and management fees, loose furnishings, commissioning of the building, Audio/Visual equipment, surveying, geo-technical analysis, permits, keying and moving expenses

Mr. Simonson projected costs for five funding scenarios for the proposed new MVDL

- Leasing: Mr. Simonson said, that for financing the MVDL, leasing is probably going to be off the table for consideration, as it adds \$1 million annual additional cost and doesn't fit into the A&E's Long-Range Building Plan (LRBP) funding process
  - Leasing cost would be \$2.2 million annually plus an additional \$500,000 annually for administrative costs and taxes...a total of \$2.7 million annually
- 100% General Fund, LRBP Funded: Mr. Simonson said that the entire project costs would carry throughout all of this type of funding
- 50% Per Capita Fee/50% General Fund: Mr. Simonson said that the DOL would be using per capita fee of \$6.9 million for part of the down payment and would need to finance \$5.8 million, but needed to add annual increases for O&M and repair and replacement
- 70% Per Capita Fee/30% General Fund: Mr. Simonson said that in this funding scenario there would need to be a 0.8% annual per capita fee increase over a six-year period to generate the funds needed
- 100% Industry Funded (Per Capita and Lab Fees): Mr. Simonson said in this scenario a 2% per capita fee increase would need to be made to assure there is enough per capita fee funding
- Mr. Simonson added that if the 100% Industry Funded or the 70% Per Capita Fee/30% General Fund funding scenario are chosen as the way to fund the proposed new Laboratory, that you can expect him to be requesting from the BOL in September for probably a 4% increase in per capita fees because of the addition of a possible helicopter purchase and Legislative salary increases needing to be covered as well

Mr. Simonson said that if the proposed new Laboratory would not end up on University property, the numbers he is showing would go up by whatever the real estate cost would be, because a lot of the other costs would remain the same

- Once the DOL moves past the Legislative approval process of the proposed new Laboratory, the DOL would work in conjunction with A&E to figure out how to get the building and funding process done

Mr. Scully said there are a couple hurdles to address in funding the proposed new Laboratory:

- Can per capita funding be utilized for a capital acquisition of a building?  
According to MCA 15-24-921, it talks about salaries and expenses connected to enforcement of livestock laws and bounties, and so that needs to be addressed
- The industry needs to be educated on the proposed new building and then find out their willingness to support it. John Scully suggested that Mike Honeycutt and Brian Simonson present the information to the individual industry groups
- Brian Simonson reported that if the Legislature does not support the proposed new Laboratory this coming session, that it can be presented next session, but, the gross cost of that delay would run about \$700,000/year
- Lila Taylor expressed her hope that the BOL make a final decision about the proposed new Lab by the end of June to present to the Legislature rather than waiting until the 2023 session because the request needs to be seen a few times if you want something done.
  - Nina Baucus added that she wants to keep the momentum going on what's been accomplished so far on the building plans
- Sue Brown said that with the state of the world right now and all the animal diseases she thinks the Legislature will see that it is becoming more imperative to have a laboratory facility in Montana

## **MOTION/VOTE**

**2:56 PM**

**Nina Baucus moved that the BOL and DOL 1. Proceed with the architects and finish the design as Dr. Juda has identified prior to the first of July 2. That Brian Simonson and Mike Honeycutt reach out to the industry to share with them the appropriate information dealing with the statuses of design of the building, the reductions from the previous published document and the financing scenarios 3. That inquiry be made on legal opinion for the use of per capita funds, based upon the current state of the statute. Sue Brown seconded. The motion passed.**

**2:59 PM – DEPARTMENT OF LIVESTOCK EPP PRIORITIES FOR 2021-2022**

Mike Honeycutt said that EPP Priorities give the staff an opportunity to express their needs, but that there should not be an expectation that all of them will be done:

**3:01 PM – Animal Health and Food Safety Division**

**3:01 PM – Animal Health Bureau**

Dr. Tahnee Szymanski reported on the EPP request items in the Animal Health Bureau in order of priority:

- *Acquire Two Lease Vehicles to replace two DOL-Owned Bison Management Vehicles*
  - The request is to replace two DOL-owned vehicles in the Bison Management program, that have relatively high mileage, with two leased vehicles, at a cost of \$12,000/year for the 2021-2022 biennium

- Dr. Szymanski said that historically, those vehicles in the Bison Management program were purchased with USDA Federal cooperative agreement funding, but that funding will now only cover leased vehicles
- Because those two vehicles had been purchased with USDA Federal cooperative agreement dollars, the USDA would have the first option to take them back when the DOL decides to retire them
- *Acquire One Lease Vehicle to Replace a DOL-Owned Area Supervisor Vehicle*
  - The request is to replace the DOL-owned vehicle formerly driven by the retired Western Area Supervisor, with around 170,000 miles on it, that is no longer usable, with a leased vehicle, at a cost of \$6,000/year for the 2021-2022 biennium
  - The leased vehicle would be paid for with per capita fee out of both the Animal Health Bureau and the Brands Enforcement Division
  - Dr. Szymanski indicated that the feedback she received from the people who had recently shuttled the DOL-owned vehicle back to Helena, was that it should not be in service anymore and should not continue to be driven
  - Dr. Szymanski did say, however, that there is a plan to cobble together vehicles for a vehicle for the newly-hired Western Area Supervisor to drive that will carry that person over until the 2021 Legislature would approve a leased one
- *Acquire a DOL-owned vehicle for an Animal Health Bureau Veterinarian*
  - The request is to replace a DOL-owned, 11-year-old veterinary truck with a new DOL-owned veterinary truck
  - The new veterinary vehicle cannot be leased because of the modifications needed to add a veterinary box to the vehicle. Cost for the vehicle with the veterinary box is a cost of \$30,000 in 2022, utilizing per capita funds
- *Acquire additional Funding for Montana's DSA for Brucellosis*
  - The request is to increase general fund dollars by \$125,000, each year of the 2021-2022 biennium for the DSA, in association with the recently proposed boundary adjustment of that area
  - The proposed DSA boundary readjustment is expected to add over 13,000 test-eligible animals
  - Not all of the additional funding request for the DSA from the last Legislative session was used, partly because of the transition to the FP as the primary screening test for brucellosis and producers opting to not do voluntary testing
  - Budget expectations projected for year-end in the DSA are around \$50,000 general fund to the positive

### **3:25 PM – Milk & Egg Bureau**

- *Acquire One Lease Vehicle to Replace a DOL-Owned Sanitarian Vehicle*
  - The request is to replace the DOL-owned vehicle formerly driven by the retired Milk & Egg Bureau Chief Dan Turcotte, with around 160,000 miles on it, and is beyond its serviceable, useable life, with a leased vehicle, at a cost of \$3,458/year for the 2021-2022 biennium

- The vehicle is currently being driven by the recently-hired Sanitarian out of Great Falls

Dr. Zaluski announced that all of the DOL-owned vehicles that the Division is requesting to replace remain operational, but are not as reliable for long trips and added that there comes a time when the repair costs become so significant to make it unadvantageous for the DOL to continue to maintain them

### **3:31 PM – Meat & Poultry Inspection Bureau**

Gary Hamel reported on the Meat & Poultry Bureau EPP request items requesting staff training, for a total training cost of \$50,400 for the 2021-2022 biennium. This cost would be split 50/50 between general fund and Federal special revenue (funding is from FSIS):

- *Acquire Funding to Provide Public Health Veterinarian Training to EIAO Trainer*
  - The request is to provide funding, at a cost of \$4,750 general fund and \$4,700 Federal funding, a one-time-only cost, to send Dr. Emily Kaleczyc, who is a Veterinarian on staff and serving as EIAO and staff trainer, to a Public Health Veterinarian six-week training
  - Concern was raised that the DOL not usurp the authority and business of the Department of Public Health and Human Services (DPHHS) by giving the perspective the DOL is trying to take their job over from them
  - When concern was raised that Dr. Emily Kaleczyc's position was reclassified to that of a Veterinarian, shortly after she was hired, it was decided to discuss that situation at a future BOL meeting
- *Acquire Funding to Provide Inspection Methods Training to four Inspection Staff*
  - The request is to provide funding at a cost of \$14,200 general fund and \$14,200 Federal funding, a one-time-only cost, to send four Inspection staff to an Inspection Methods one-month training
- *Acquire Funding to Provide Livestock Slaughter Training to five Inspection Staff*
  - The request is to provide funding, at a cost of about \$7,000 general fund, one-time-only cost, to send five Inspection staff to a Livestock Slaughter one-week training

Gary Hamel reported on the Meat & Poultry Inspection Bureau's final EPP request item:

- *Acquire Funding to Provide an additional 0.5 FTE to Perform Labeling Functions Within the Meat & Poultry Inspection Bureau*
  - The request is to provide additional general funds and an additional 0.5 FTE to the Meat & Poultry Inspection Bureau, for a person to perform additional labeling functions
  - Mr. Hamel reported that there has been an increased volume of new and existing labels, particularly with Meat Depots, and with an existing label needing to be reviewed every two years, it has been a difficult task for the one Label Specialist to cover
  - Dr. Zaluski added that a significant percentage of the violations found that have resulted in detention of products have been related to label details, something he considers a vulnerability in the program and said that oversight for labels on product needs to be stepped up

### **3:47 PM – Veterinary Diagnostic Laboratory**

Dr. Gregory Juda reported on the Veterinary Diagnostic Laboratory's EPP requests for the upcoming biennium:

- *Acquire Funding to Provide Chemical Waste Disposal Services for the MVDL*
  - The request is to provide chemical waste disposal services to the MVDL at a cost of \$5,000 per capita fee funds for each year of the 2021-2022 biennium
  - Dr. Juda said, this was a cost that had to be incurred whether or not the BOL approved it because Montana State University had provided the service to the MVDL until Federal regulations would no longer allow them to perform hazardous waste disposal for State Laboratories on campus
  - It is anticipated that the hazardous waste will need to be picked up two times per year, at a cost of \$2,500 for each pickup
- *Acquire Funding to Provide Additional Lab Information Management System (LIMS) Support for VetStar Animal Disease Diagnostic System (VADDS)*
  - The request is to provide one additional week of on-site LIMS technical support for VADDS (\$11,000/year) and annual maintenance for Milk Lab Integration (\$3,000/year), a total on-going cost of \$14,000 per capita fee funds for each year of the 2021-2022 biennium
- *Acquire Funding to Provide Lab Equipment for CWD Testing*
  - The request is to provide funding for pieces of equipment that will increase operational efficiency and allow the MVDL to perform the new assays like the CWD testing is bringing online, at a total one-time-only cost of \$70,000 per capita fee funds
  - Dr. Juda said he expects that the MVDL will be performing about 10,000 tests/year on CWD for FWP and for hunters in the state
  - John Scully said that it should be found out whether or not per capita fee funds can be utilized to purchase the equipment, to which Dr. Zaluski said that CWD testing supports alternative livestock producers who conduct that testing as part of their required surveillance for the herd certification program
- *Acquire Funding to Provide Two New Thermocyclers*
  - The request is to provide funding for two new thermocyclers to replace the NAHLN-purchased ones, ABI-7500s, that are older and help prevent any situation where the MVDL may be without one in case of breakdown
  - The ABIs have moved on to a newer platform and purchase of two new thermocyclers would give the MVDL PCR capacity in-house, independent of NAHLN-owned equipment
- *Acquire Funding to Provide an Autostainer for the Histology Laboratory Section*
  - The request is to provide funding for an autostainer in the Histology Lab section, which currently does all of the slide staining manually. This is a one-time-only request
  - Acquisition of the autostainer would allow the technician to perform some of the more specialized stains
- *Acquire Funding to Provide an Automatic Dishwasher and Waterbath for Media Prep Laboratory Section*

- The request is to provide funding for an automatic dishwasher and waterbath for the Media Prep Lab section, providing more automation and helping technicians to spend more time on actual testing rather than washing everything by hand. This is a one-time-only request
- *Acquire Funding to Provide a Slide Label Printer*
  - The request is to provide a slide label printer, a one-time-only request, which would provide automation to the MVDL's current operation, printing, rather than manually labeling slides by hand

### **3:58 PM – Centralized Services Division**

Brian Simonson kicked off the presentation of EPP requests for the CSD due to technical difficulties on Mike Honeycutt's end:

- *Acquire Funding to Purchase a Helicopter for Use in Predator Control*
  - The request is to provide per capita fee funding to purchase a different helicopter to replace one of the two helicopters currently being used for predator control by the DOL. Cost would be anywhere from \$250,000 to \$1 million in per capita fee funds, depending on which helicopter option was chosen
  - Mr. Simonson said that an April letter from John Steuber reported that both helicopters, the 1982 McDonald-Douglas 500 and the 1968 Bell, have a lot of hours on them and are going to be expensive to repair in the future
  - Mr. Steuber's recommendation is that the DOL make \$290,000 available to replace the 1968 Bell helicopter, currently housed in Billings, with a used military model, as soon as the fall of 2021
  - Mr. Simonson said that there are 47 used Army helicopters that will be available, and if the DOL puts a request in for one, that request could be canceled later, if needed. Payment for one of those helicopters would be made in fall of 2021
  - It was suggested by John Scully that if Mr. Steuber's recommendation was agreed upon by the BOL, that perhaps \$150,000 in authority be requested from the Legislature for each year of the biennium
- *Acquire Funding for a Computer Funding Augment*
  - The request is to provide ongoing per capita fee funding of \$10,000 for each year of the 2021-2022 biennium for replacement of 33 laptops in the Brands Enforcement Division that are expiring
  - The \$10,000/year request would augment the laptop replacement annual fee of \$30,000 currently in place, because those 33 laptops had originally been purchased with one-time-only funds and the additional funds would roll them into the annual phase replacement of computers in the DOL
- *Acquire Funding for Additional Staff for Brands Rerecord*
  - The request is to provide additional money in FY22 for two full-time temporary Brands rerecord workers, one who would work July 1, 2021-March 31, 2022 and another temp who would work from November 1, 2021-January 31, 2022, at a cost of \$67,000, paid for in Brand Fee dollars

Mike Honeycutt presented the remaining EPP requests from the CSD

- *Acquire Funding for a Staff Attorney and a Public Information Officer for the DOL*
  - The request is to provide ongoing per capita fee funding for the hire of a staff attorney (\$100,000/year) and a Public Information Officer (\$80,000)
  - Hiring House Counsel would not mean that the DOL would not still be utilizing Agency Legal Services, which charges \$106/hour. House Counsel's primary focus would be doing statute rule work and interpretations for staff

Brin Simonson reported that on the operational side of the budget, historically, there has been a 1% - 2% inflationary increase across the DOL and the payroll has been around a 1% increase

#### **4:15 PM – BOL VOTE ON DEPARTMENT OF LIVESTOCK EPP PRIORITIES FOR 2021-2022**

The BOL made a decision to vote on the EPP requests presented by DOL staff

#### **Animal Health Bureau**

*Acquire Two Lease Vehicles to replace two DOL-Owned Bison Management Vehicles*

#### **MOTION/VOTE**

**4:16 PM**

**Brett DeBruycker moved to approve the lease of two vehicles to replace two DOL-owned vehicles currently being used in the Bison Management Program, at a cost of \$12,000 each year of the 2021-2022 biennium. Lila Taylor seconded. The motion passed.**

*Acquire One Lease Vehicle to Replace a DOL-Owned Area Supervisor Vehicle*

#### **MOTION/VOTE**

**4:17 PM**

**Brett DeBruycker moved to approve the EPP request for the lease of a vehicle to replace a DOL-owned vehicle, currently being used for an area Supervisor vehicle in the Animal Health/Brands Enforcement Divisions at a cost of \$6,000 each year of the 2021-2022 biennium. Sue Brown seconded. John Scully voted NO. The motion passed.**

*Acquire a DOL-owned vehicle for an Animal Health Bureau Veterinarian*

#### **MOTION/VOTE**

**4:18 PM**

**Sue Brown moved to approve the EPP request for the purchase of a Veterinarian vehicle in the Animal Health Bureau for \$30,000. Brett DeBruycker seconded. Sue Brown, Brett DeBruycker voted AYE. Lila Taylor, Nina Baucus, Ed Waldner and John Scully voted NO. The motion failed**

*Acquire additional Funding for Montana's DSA for Brucellosis*

## **MOTION/VOTE**

**4:20 PM**

Lila Taylor moved to approve the EPP request for additional funding for Montana's DSA for Brucellosis at a cost of \$125,000 additional general fund each year of the 2021-2022 biennium. Nina Baucus seconded. The motion passed.

### **Milk & Egg Bureau**

*Acquire One Lease Vehicle to Replace a DOL-Owned Sanitarian Vehicle*

## **MOTION/VOTE**

**4:21 PM**

Lila Taylor moved to approve the EPP request for the lease of a vehicle to replace a DOL-owned vehicle, that was used by the Bureau Chief in the Milk & Egg Bureau, at a cost of \$3,458 for each year of the 2021-2022 biennium. Nina Baucus seconded. The motion passed

### **Meat & Poultry Inspection Bureau**

*Acquire Funding to Provide Public Health Veterinarian Training to EIAO Trainer*

## **MOTION/VOTE**

**4:21 PM**

Brett DeBruycker moved to approve the EPP request for a Meat & Poultry Inspection Bureau staff member to attend Public Health Veterinary training, at a cost of \$4,750 for each year of the 2021-2022 biennium. Sue Brown seconded. Sue Brown and Brett DeBruycker voted AYE. Nina Baucus, Lila Taylor and John Scully voted NO. (At 4:32 PM, Ed Waldner reported that he was an AYE vote. That would make the vote a tie). The motion failed.

There was BOL discussion regarding the Public Health Veterinarian Training vote:

- Concern was raised that Public Health is not the purpose of the DOL. An opposing view stated that the Public Health Veterinarian is a title and function that FSIS uses for insuring the highest standards of food safety
- Mike Honeycutt pointed out that the Meat & Poultry Inspection Bureau has a veterinarian with a Masters Degree in Public Health, who happens to serve as the EIAO
- John Scully asked if there was a motion to reconsider the previous vote, and with none requested, said that a reconsideration could be done at any time during the meeting today or tomorrow

*Acquire Funding to Provide Inspection Methods Training to four Inspection Staff*

## **MOTION/VOTE**

**4:28 PM**

Lila Taylor moved to approve the EPP request for sending four Meat & Poultry Inspection Bureau staff members to attend Inspection Methods training, at a cost of around \$14,000 for each year of the 2021-2022 biennium. Sue Brown seconded. The motion passed.

*Acquire Funding to Provide Livestock Slaughter Training to five Inspection Staff*

**MOTION/VOTE**

**4:30 PM**

Lila Taylor moved to approve the EPP request for sending five Meat & Poultry Inspection Bureau staff to attend Livestock Slaughter training, at a cost of around \$7,000 for each year of the 2021-2022 biennium. Sue Brown seconded. The motion passed.

**4:32 PM** - Ed Waldner said that he could hear the vote for the Public Health Veterinarian going on, but that John Scully could not hear him. He said that his vote was in favor of that training. Adding Mr. Waldner's vote as an AYE, rather than a NO, would make the vote a tie vote, and the motion would still fail

*Acquire Funding to Provide an additional 0.5 FTE to Perform Labeling Functions Within the Meat & Poultry Inspection Bureau*

**MOTION/VOTE**

**4:33 PM**

Lila Taylor moved to approve the EPP request for hiring an additional .5 FTE staff person in the Meat & Poultry Inspection Bureau to help with Labeling functions, at a cost of \$14,338 for each year of the 2021-2022 biennium. Brett DeBruycker seconded. The motion passed.

**Veterinary Diagnostic Laboratory**

*Acquire Funding to Provide Chemical Waste Disposal Services for the MVDL*

**MOTION/VOTE**

**4:34 PM**

Nina Baucus moved to approve the EPP request for a chemical waste disposal service at the Montana Veterinary Diagnostic Laboratory, at a cost of \$5,000 for each year of the 2021-2022 biennium. Ed Waldner seconded. The motion passed.

*Acquire Funding to Provide Additional Lab Information Management System (LIMS) Support for VetStar Animal Disease Diagnostic System (VADDS)*

**MOTION/VOTE**

**4:34 PM**

**Nina Baucus moved to approve the EPP request for additional Lab Information Management System (LIMS) system support for VADDS at the Montana Veterinary Diagnostic Laboratory, at a cost of \$14,000 for each year of the 2021-2022 biennium. Lila Taylor seconded. The motion passed.**

*Acquire Funding to Provide Lab Equipment for CWD Testing*

## **MOTION/VOTE**

**4:36 PM**

**Nina Baucus moved to approve the EPP request for CWD Lab equipment, as discussed by Dr. Gregory Juda, for use at the Montana Veterinary Diagnostic Laboratory, at a one-time-only cost of \$70,000, contingent upon having the legal authority to utilize per capita funds to do so. Sue Brown seconded. Scully voted NO. The motion passed.**

**4:36 PM -** Brett DeBruycker posed the question as to whether or not John Scully was allowed to vote on the motions:

- John Scully said that he has voted every time, that he was just sitting in as Chairman of the BOL and that if it is found out that he could not vote, then someone else would have to take over the meeting
- Ed Waldner said that the Chair only votes in the case of a tie
- John Scully said he felt there was a request for a parliamentary correction, so he stopped the voting until Mr. DeBruycker's question was answered

## **4:40 PM – PROPOSED MCA CHANGES FOR 2021 LEGISLATIVE SESSION**

### **4:40 PM – Animal Health Bureau**

#### **4:40 PM – *Revision to Indemnity Paid for Animals Destroyed due to Disease***

Dr. Tahnee Szymanski reported that this was a request to revise the existing language in MCA Title 81, Chapter 2, Part 2 pertaining to indemnity for animals destroyed due to disease:

- As code is currently written, MCA classifies animals into Type 1 or Type 2, which influences the amount of indemnity that can be paid for those animals, with a limit of \$50 or \$100
- Current code also specifies that half of the indemnity is paid from a county fund by the county from which the animal resides in and half is paid by the State
  - The requested code revision is to strike language that specifies the county is responsible for half of the indemnity payment and instead allow the State to establish a fund it can use to pay out indemnity with the DOL being allowed to put \$10,000 - \$100,000 into its own indemnity fund each year for the payments.
  - Another requested code revision would be to revise language to allow a more appropriate indemnity value be given for the animals

- Dr. Szymanski said she had based her list of animals that would be eligible for indemnity off of the existing Federal disease programs that the DOL has that pay indemnity on different species. Dr. Zaluski said that it would be reasonable that the eligible list include species that pay per capita into the indemnity fund

#### **4:47 PM** – *Making the Act of Garbage Feeding to Swine Illegal in Montana*

Dr. Tahnee Szymanski reported that this was a request to revise the existing language in MCA Title 81, Chapter 5, Part 5 pertaining to make the practice of garbage feeding to swine illegal in the State of Montana:

- Dr. Szymanski said that if meat or sausage products are not correctly handled or cured, viruses, such as Foot & Mouth Disease and African Swine Fever can survive and this practice of feeding garbage to swine has contributed to the spread of those diseases
- The Federal Swine Health Protection Act requires that garbage feeders be licensed, and then it is up to the individual states whether or not they want to allow garbage feeding in their state or not – 23 states prohibit it
- Montana allows garbage feeding to swine, but currently has no registered garbage feeders
- MCA 81-2-501 gives a specific definition of garbage, limiting it to animal carcasses or parts of animal carcasses - animal by-products
- Dr. Szymanski specified that in Montana you cannot feed “uncooked” garbage, and so, in order to feed garbage to pigs, you have to cook it and also be licensed with the State

#### **4:51 PM** – **Meat & Poultry Inspection Bureau**

#### **4:51 PM** – *Regulate Custom Exempt Facilities as Required by the Federal Meat Inspection Act*

Gary Hamel reported on the request from the Meat & Poultry Inspection Bureau to revise the existing language in MCA 81-9-218 to allow the State regulatory oversight of Custom Exempt livestock or poultry slaughter or processing operations:

- Currently, MCA 81-9-218 exempts custom operations from all regulatory oversight except for obtaining a license from the DOL
- In order to maintain the State’s “At-Least-Equal-to Standard,” the DOL has been regulating custom exempt facilities, inspecting them twice a year, and this revision in the existing language of MCA 81-9-218 would solidify that, making it match the Federal law
- Mike Honeycutt pointed out that rules were updated in the past to adopt by reference the CFRs within the ARM

## **MOVE FOR ADJOURNMENT**

#### **4:57 PM**

John Scully offered another request for public comment, but received none

## **MOTION/VOTE**

**4:57 PM**

Sue Brown moved to adjourn the meeting. Nina Baucus seconded. The motion passed.

## **MEETING ADJOURNED**

**4:57 PM**

# **Thursday, May 21, 2020**

### **Board Members Present**

John Scully, Vice-Chair (cattle producer)  
Lila Taylor (cattle producer)  
Sue Brown (dairy and poultry)

Nina Baucus (cattle producer)  
Brett DeBruycker (cattle producer)  
Ed Waldner (swine)

(John Lehfeltdt was not present)

### **Staff Present**

Mike Honeycutt, EO  
Brian Simonson, Deputy EO  
Evan Waters, Centralized Services  
Dan Olson, Centralized Services  
Dr. Gregory Juda, MT VDL Director

Donna Wilham, Adm. Assistant to EO  
Dr. Marty Zaluski, State Veterinarian  
Dr. Tahnee Szymanski, Animal Health  
George Edwards, Livestock Loss Board  
Gary Hamel, Meat & Poultry Inspection

### **Public Present**

Rachel Cone, Montana Farm Bureau Federation  
John Youngberg, Montana Farm Bureau Federation  
Justin Loch, Montana Farmers Union  
Rob Stutz, Legal Services Division  
Kyle Chenoweth, Legal Services Division  
John Steuber, USDA-APHIS Wildlife Services

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## **CALL TO ORDER**

**8:03 AM**

Vice-Chairman John Scully called the meeting to order at 8:03 AM

## **DISCUSSION OF PARLIAMENTARY CORRECTION QUESTION**

**8:03 AM**

Mike Honeycutt reported on his findings regarding Brett DeBruycker's question the previous day about the validity of John Scully's voting:

- Mr. Honeycutt said that he checked information regarding quasi-judicial boards and the laws governing them under Title 2 and also under the BOL's Policies and Procedures
- Findings in Title 2 showed that the presiding officer is allowed to vote and provide motions and give seconds to motions and the last version of the BOL's Policies and Procedures show that there is no parliamentary method that was adopted by the BOL that would limit the ability of the chair to vote or participate in those actions
- Mr. Honeycutt's findings meant that all votes made the previous day were valid unless someone wanted to reconsider a vote
- There was no motion made to vote separately on the minutes from the previous BOL meetings, as they were approved, being voted on as part of the Consent Agenda items

## **OLD BUSINESS**

**8:06 AM**

### **8:06 AM – DEPARTMENT OF LIVESTOCK EPP PRIORITIES FOR 2021-2022**

Mike Honeycutt said that BOL action regarding DOL EPP priorities for 2021-2022 left off in VDL requests. John Scully told Dr. Juda he could explain to the BOL again his request as a refresher to them

### **8:06 AM – Veterinary Diagnostic Laboratory**

*Acquire Funding to Provide Two New Thermocyclers*

- Dr. Juda said the two ABI 7500 thermocyclers currently used in the MVDL are getting older and are NAHLN-owned and that the request is to purchase two new ones, which would reduce the MVDL's standing with NAHLN and allow the capacity to perform more PCR test reactions in case of an animal disease outbreak
- Funding needed for two new thermocyclers would be a one-time-only cost of \$32,000 each year of the 2021-2022 biennium
- When asked if one thermocycler at this time would do for a \$16,000 charge for each year of the biennium, Dr. Juda said that would work

## **MOTION/VOTE**

**8:08 AM**

**Brett DeBruycker moved to accept the request for two Applied Biosystems QuantStudio 5 Real-Time PCR System for the Molecular Diagnostic Lab section of the VDL, in the amount of \$32,000 each year of the biennium for the EPP request. Sue Brown seconded. (A substitute motion was made by Brett DeBruycker at 8:10 am, with an agreement for a second from Sue Brown)**

## **MOTION/VOTE (Substitute Motion)**

**8:10 AM**

**Brett DeBruycker moved to accept the request for one Applied Biosystems QuantStudio 5 Real-Time PCR System for the Molecular Diagnostic Lab section of the VDL, in the amount of \$16,000 each year of the biennium for the EPP request. Sue Brown seconded. The motion passed.**

Mike Honeycutt explained that there was a deadline at the end of May to submit EPP requests to the Office of Budget and Program Planning (OBPP) and the Governor's office where requests will be pulled together for the Governor's budget which has a deadline for submission to the Legislature.

- The final deadline for the Governor's budget is December 15<sup>th</sup>, so if an agency has an item they'd like to pull, they have until December to communicate that to the Governor's office

### *Acquire Funding to Provide an Autostainer for the Histology Laboratory Section*

- Dr. Juda explained that the autostainer for the Histology Lab would be performing a large volume of H&E stains and is used on a daily basis. Currently, the process is done by hand and at times, in order to meet the demands, requires other technicians be brought in to help
- Dr. Juda pointed out that once CWD testing starts there will be additional work demands on the Histology section of the MVDL

## **MOTION/VOTE**

**8:14 AM**

**Nina Baucus moved to accept the EPP request for an autostainer for the Histology Lab. Ed Waldner seconded. John Scully was a NO. The motion passed.**

### *Acquire Funding to Provide an Automatic Dishwasher and Waterbath for Media Prep Laboratory Section*

Dr. Juda explained that currently, glassware used in different sections of the MVDL are all washed by hand by a Laboratory Technician. The waterbath is aging and needs to be replaced at some point:

- With it being near fiscal-year-end and the MVDL budget currently running in the positive, it was decided to vote on utilizing excess funds, up to \$15,000, to purchase the dishwasher, waterbath and slide label printer rather than submit it as an EPP request

## **MOTION/VOTE**

**8:19 AM**

**Lila Taylor moved that if the MVDL budget balance is in the black, to use those funds to purchase EPP requests #6 and #7 for \$15,000, which includes an automatic dishwasher, a water bath and a slide label printer, and if there are not enough funds, purchase the ones the MVDL needs the most. Nina Baucus seconded. The motion passed.**

### **8:21 AM – Centralized Services Division**

#### *Acquire Funding for a Staff Attorney for the DOL*

Mike Honeycutt explained that the EPP request for an in-house counsel had come before the BOL the last two times EPP was done:

- It was explained by Mr. Honeycutt that in-house counsel would advise staff, and that in-house counsel cannot litigate a case for which they would be a witness or did consultation on, so, Agency Legal Services would still need to be utilized in litigation circumstances
- The \$100,000 EPP figure listed for a Staff Attorney is inclusive of benefits
- It was decided to move past the vote on a Staff Attorney because there was not enough data available to compare current cost of utilizing Agency Legal Services versus the \$100,000 annual EPP figure

#### *Acquire Funding for a Public Information Officer (PIO) for the DOL*

Mr. Honeycutt explained that the DOL had a PIO on staff for about a decade, but has been working with the Department of Agriculture to write press releases for the DOL at no charge:

- During the 2019 Legislative Session, \$50,000 was requested to contract with another agency or third party to provide PIO services, but it did not make it through the budget
- For the \$80,000 EPP request for a PIO, that person would not only generate press releases for the DOL, but would be helpful in being more proactive in communication to the industry and stakeholders, putting together documentation and information to share with them and the press as well
- There was no motion put forward to add funding for a PIO to the EPP requests

#### *Acquire Funding to Purchase a Helicopter for Use in Predator Control*

Mr. Honeycutt explained that the \$1 million dollars listed in the EPP requests for purchasing a helicopter are for a NEW helicopter to replace the 6962C:

- The revised EPP request would be for purchasing a used helicopter from the Army Aviation Program Executive Office at a cost of approximately \$290,000 after modifications are made, requesting \$150,000 each year of the biennium
  - A letter of intent to purchase one of their helicopters could be submitted to the Army Aviation Program Executive Office without getting locked into that purchase
- John Scully explained that John Steuber, Wildlife Services, recommends replacing the 1969 Model 6962C helicopter first, in the fall of 2021, before replacing the 1095T DOL helicopter, because the parts to repair it have gotten so expensive

- The DOL will not be allowed to sell the 6962C helicopter, when it is retired, because it is a Law Enforcement Support Office (LESO) aircraft on loan to the DOL and must be returned to that program
  - Mr. Honeycutt explained that LEO helicopters are supposed to be utilized in arrest and apprehension authority or law enforcement, which the DOL was able to make that argument when the helicopter was first received, because the DOL occasionally does use it for law enforcement purposes

## **MOTION/VOTE**

**8:49 AM**

**Sue Brown moved the DOL request \$150K for 2022-and \$150,000 for 2023 from the 2021 Legislature, for the purchase of a helicopter and also send a letter to the Army Aviation Program Executive Office for consideration of one of their surplus helicopters. Lila Taylor seconded. Brett DeBruycker opposed the motion. The motion passed.**

### **8:49 AM – Brands Enforcement Division**

#### *Acquire Funding for a Computer Funding Augment*

Dan Olson gave some background on his EPP request for a computer funding augment:

- Mr. Olson explained that since he had been working at the DOL, there is a \$30,000/year mark to cover the laptop 5-year replacement schedule
- Before Mr. Olson started working at the DOL, however, there was a one-time-only purchase for laptop computers in the Brands Enforcement Division that were not included in the \$30,000, 5-year replacement schedule
- Mr. Olson's computer augment plan is to stretch out those Brands Enforcement computer costs so there isn't a sudden spike in the replacement schedule when those laptops come due. This would add \$10,000/year to the current computer funding replacement schedule

## **MOTION/VOTE**

**8:51 AM**

**Sue Brown moved to approve the computer funding augment of \$10,000 for each year of the 2022-2023 biennium. Ed Waldner seconded. Lila Taylor opposed the motion. The motion passed.**

#### *Acquire Funding for Additional Staff for Brands Rerecord*

Mike Honeycutt explained that additional temporary staff have been hired in the Brands Enforcement Division during past brand rerecords and that the EPP request is to hire additional temporary staff again, with rerecord set to begin in January 2021:

- One-time-only temporary staff is requested to be hired for work for all of 2021, the rerecord year, and for post-rerecord, extending into a few months of

- 2022, for clean-up after rerecord
- With that rerecord and post-rerecord period of time occurring during two fiscal years, some temporary staff will be hired to work until June of 2021 and the other temporary staff will work in the next fiscal year
- Mr. Honeycutt said that if most of the people do their rerecord through online forms, there would be less compliance and more accuracy with less clean-up needed. But, he still foresees a lot of paper forms coming through the mail with checks, and that take more time to process
- The additional temporary staff for rerecord would be paid for with Brands fees, the rerecord fee itself

## **MOTION/VOTE**

**9:02 AM**

**Brett DeBruycker moved to approve the hire of two full-time, temporary staff for the upcoming decennial brands rerecord period. Sue Brown seconded. The motion passed.**

## **9:02 AM – PROPOSED LEGISLATIVE CHANGES FOR 2021 LEGISLATIVE SESSION**

### **9:02 AM – Animal Health Bureau**

*Revision to Indemnity Paid for Animals Destroyed Due to Disease*

John Scully requested a motion to propose an MCA revision to the 2021 Legislature that would allow the DOL to contribute a fixed amount of per capita fee to an indemnity fund for animals destroyed due to disease. Hearing no motion, he moved onto the next request

*Make the Act of Garbage Feeding to Swine Illegal in Montana*

There was more discussion by the BOL and staff of the Animal Health Bureau discussing garbage feeding to swine:

- Unless a person is registered in the State of Montana to feed garbage to swine, it is currently illegal, but for individuals feeding household waste to their own pigs for their own consumption, there is an exemption for that in the current statute
- Garbage is defined in MCA 81-2-501 and includes waste from animal products, and so feeding of distillers grains is not considered feeding garbage. MCA 81-2-509 addresses cooking garbage before feeding it to swine to a certain temperature for a certain amount of time, which would allow feeding renderings to swine
- The request was to remove from statute the provision that says people can feed garbage to swine if they are licensed to do so in the state of Montana, which would make feeding garbage to swine completely illegal
- Dr. Szymanski said that historically, feeding milk that was not pasteurized to pigs was illegal

- Dr. Szymanski said that she would have to review the wording of the requested revision in the statute to be sure it would still allow that renderings could be fed to swine
- Ed Waldner withdrew his motion until the BOL had been given further reference to what the revised statute includes. Sue Brown withdrew her second for the same reason

## **MOTION/VOTE**

**9:04 AM**

**Ed Waldner moved to make the act of garbage feeding to swine illegal in the state of Montana. Sue Brown seconded. The motion and second were withdrawn at 9:18 am**

### **9:19 AM – Meat & Poultry Inspection Bureau**

*Regulate Custom Exempt Facilities as Required by the Federal Meat Inspection Act*

Mike Honeycutt explained that the requested change in statute is basically reinforcing the practice that is already in place and is changing no activity that takes place with custom exempts, but, is just making sure the MCA doesn't hang the DOL up in a future FSIS audit:

- Brett DeBruycker wanted to make sure that the change would not add burdens to the custom exempt plants over and above what is being done now
- Gary Hamel said there will be no changes to the DOL's approach to regulating custom exempt facilities and that they would still be inspected two times per year and at various other times if issues arise

## **MOTION/VOTE**

**9:21 AM**

**Lila Taylor moved to propose an update to the 2021 Legislature in MCA 81-9-218, to meet the "at least equal to" FSIS requirement regarding the DOL's authority to regulate persons and business who operate custom exempt livestock or poultry slaughter or processing operations. Sue Brown seconded. The motion passed.**

## **LEGAL COUNSEL UPDATE**

**9:24 AM**

### **9:24 AM – Discuss Research on Statutory Relationship Between MDOL and Attached Agencies**

Kyle Chenoweth asked if there were any questions regarding the administrative attachment memo discussed last month, because at that time, not everyone had been able to read it:

- Mr. Chenoweth said that from the way he read the statute, that the BOL, as the head of the DOL, has the ability to oversee the budgetary concerns and to “right the ship” if it needs to be righted

### **9:27 AM – Litigation Update**

Rob Stutz said he had reports on three items for the BOL:

- K&C Meats Enforcement Action
  - Following the last BOL meeting, there was a move to dismiss and it was dismissed by the court, resolving that litigation
- Potential Claim Against MVDL Regarding Rabies in a Bat
  - Claimant had retained an attorney in Montana who contacted Risk Management Tort Defense to acquire background information about the claim. Risk Management Tort Defense was going to respond to that request for information
- Cottonwood Lawsuit
  - The DOL has been dismissed from this case, which was a lawsuit regarding bison management, and in particular the hunting of bison in the Yellowstone National Park area
  - The case went up to and came back from the 9<sup>th</sup> Circuit. Although it still retains the Governor’s office as a state defendant, the Governor is attempting to be dismissed from that litigation as well
  - Rob Stutz wanted to notify the BOL that Legal Counsel, himself and some staff, have assisted the Governor when they have had informational-type questions about the status on the ground so that they can best address the various questions that come up regarding that litigation and the motion to dismiss
- Mr. Stutz said that Agency Legal Services provided information to the Governor’s office attorney regarding hazing and Dr. Zaluski prepared a declaration for the lawsuit, which is a Federal lawsuit about hazing operations
- Rob Stutz said that he would request that the Governor’s attorney forward the declaration provided by the DOL to the Governor’s attorney to Mike Honeycutt, if he doesn’t have it already

## **CENTRALIZED SERVICES DIVISION REPORTS**

### **9:33 AM**

#### **9:33 AM – FISCAL BUREAU**

##### **9:33 AM – Per Capita Fee Status Report**

Brian Simonson gave updates on per capita fee collections:

- Per capita fee collections improved about \$644,000 from last month to this month, with the Department of Revenue (DOR) adding approximately 3,000 non-filers who paid after having received a DOR bill
- Per capita fee total collections are at \$2,337,645, down \$723,558 or 24% from last year

- Because the report presented to the BOL includes numbers just three days from when the DOR bills were sent, Mr. Simonson expects to get most, if not all, of the 24% drop made up. The DOR sent the bills out 2 weeks later than they did last year
- There were 16,000 fewer head of cattle reported in 2020 compared to 2019, but, since last month's report about 230,000 head of cattle were gained
- There were 200 fewer cattle reporters and 500 fewer horse reporters than last year

### **9:52 AM – Equine Per Capita Fee Letters Mailing Update**

Evan Waters updated the BOL on the equine per capita fee letters that were sent eight days previous, to possible non-reporters:

- As of 8:00 am this morning, Mr. Waters reported there were 174 new reporters, adding about 600 head of horses, over 3,000 cattle and a lot of chickens, generating around \$11,000 of additional per capita funds

### **9:54 AM – April 30, 2020 State Special Revenue Report**

Brian Simonson reported the latest numbers in DOL Special Revenue:

- With dealer license renewals just being sent out in April, dealer license renewals were down \$25,000 from last year at the end of April, but Mr. Simonson expects to see improvement in that number next month, as the DOL will continue collecting money throughout that month
- Market Inspection Fees did \$80,000 in business in April, \$26,000 less than in 2019. But, overall they are still showing around \$89,000 positive in those fees for the year
- Regarding local inspections, the, numbers are down, but the gap was closed by \$4,000 more from the end of March to the end of April. Mr. Honeycutt feels movements are down and that people may be utilizing local inspectors more than utilizing DOL staff
- Milk Inspection is up over \$2,000 from last month
- Eggs are down around \$9,000
- MVDL revenue received \$92,000 in revenue, closing the gap \$10,000 last month and \$14,000 this month
- The volunteer wolf donation fund tripled last month, increasing by \$18,500

### **9:58 AM – May 2020 Through June 2020 Expenditure Projections**

Brian Simonson reported on the April 30, 2020 Expenditure Projection Report:

- The DOL ending balance is projecting an additional \$65,000 over last month, to a total of \$875,500 ending projections of unspent authority
- Overtime this month was \$53,028, \$40,000 of which was under budgeting in the Meat & Poultry Inspection program due to vacancies and the long distances traveled for meat inspection in both Western and Eastern Montana. Only \$16,600 was budgeted for 2020
- Travel was \$42,153, \$12,000 of which is attributed to CSD, another product of under-budgeting, having only budgeted \$2,947

- Meat & Poultry Inspection Bureau travel was overspent just a little over \$24,000, a lot of which is in lodging and per diem because of staff having to cover for missing people
  - Gary Hamel reported that for the last two months, his bureau has been fully staffed
  - With the increase in new applicants for meat facilities, Gary Hamel said he is in the process of analyzing potential impacts, overtime being one of those
- Mr. Simonson reported that with the budget funding projections showing \$81,000 short at the end of the year, he may get support from the general funds of the DSA and MVDL which are currently projecting over
- Mr. Honeycutt and Mr. Scully both expressed concern regarding the use of general fund, especially from the DSA and that perhaps in the EPP process, more general fund dollars should be requested in the Meat & Poultry Inspection program
- Mr. Honeycutt said there are challenges in personnel because of the timing of the two-year Labor organization contract in the Meat & Poultry Inspection program being off-cycle with the biennium

**10:17 AM – RECESS**

**10:32 AM – RECONVENE**

**10:33 AM – CENTRALIZED SERVICE DIVISION REPORTS (Continued)**

**10:33 AM – FISCAL BUREAU (Continued)**

**10:33 AM – April 30, 2020 Budget Status Report**

Brian Simonson reported on the April 30, 2020 DOL budget status:

- Personnel expenses were relatively unchanged for the month
- Under Operations Contract, expenses were \$300,377 over, \$105,700 of which is in CSD, an over-budgeting oversight because ITSD charges were shifted to other programs through the new budget year, but changes were not made in the contract budget
- \$134,000 of the overage is in the DSA which is mostly expected to go away once Brucella testing payments work out through the VDL
- Mr. Simonson said that when he had reported earlier that the DSA is going to have \$175,000 in general fund, that \$130,000 of that is going to be absorbed through outstanding Brucella testing payments and \$44,500 is in the Federal Umbrella
- Epi testing has been reduced this year, resulting in less testing and the MVDL is at \$44,500 down in testing
- The \$121,000 in Operations Other Expenses is mostly related to overbudgeting in CSD of \$85,000

- The \$190,000 settlement charge got factored into the budget and there was an over-estimate in how much was going to be needed in the budget for other expenses
- Indirect fees in the Meat & Poultry Inspection Bureau went down \$24,000
- Brands had \$6,000 in pro-card expenses that need to be allocated
- Mr. Simonson said that Milk Inspection is the only program projecting to outspend their budget authority, and so it will have to be made up somewhere else
  - Mr. Simonson with the number of dairies going down there are less places to inspect, but expenses remain the same and so expenses are not covered with the revenue coming in
  - Mike Honeycutt said he feels the negative in the Milk & Egg Inspection program is against the personnel services because of the retirements

## **10:42 AM – ANIMAL HEALTH & FOOD SAFETY DIVISION REPORTS**

### **10:42 AM – ANIMAL HEALTH BUREAU**

#### **10:42 AM – Discussion on Voluntary Testing in the DSA**

There was a question regarding the problems that arise due to producers not choosing to voluntarily test in the DSA:

- Dr. Zaluski reported that the mandatory herd testing requirement had been removed and the DOL is now relying on voluntary testing with the philosophy that testing animals that are moving or being sold protects the buyers, but testing your own herd protects you. He added that the Animal Health Bureau stands ready to change that BOL policy

#### **10:44 AM – Update on Tuberculosis Investigation**

Dr. Tahnee Szymanski gave a recap of the two significant Tuberculosis epidemiological investigations that were in Montana beginning in 2018:

- There was detection of Tuberculosis in a steer that originated from a livestock market in South Dakota in June 2018
  - Traceback determined that the animal had come out of an assembled group with 99 potential contributors, 17 of which were from Montana
  - USDA required testing on all herds of origin that contributed to that load
  - Testing on Montana herds began in 10/18 with 15 of the herds completed by 11/1/19. Two herds were holdovers until Fall of 2019 and completed by November 1, 2019
  - There were 4,867 TB tests run associated with that first detection. From those tests, there were 44 caudal fold suspects and two PPT suspects. Two animals were taken into slaughter with no evidence of TB found.
  - 25 people worked on that investigation for a total of over 2,000 hours and just shy of 48,000 miles traveled
- There was detection of Tuberculosis in a beef cow at a plant in Nebraska in March 2019

- Traceback determined that the cow had come out of a South Dakota feedlot where she had spent approximately 110 days
- Prior to going to the South Dakota feedlot, the cow had been sold from a Montana sale barn, with the animal tracing back to a Custer County herd
- The Custer County herd was placed under quarantine and had two negative whole herd tests that were done in April 2019 and May 2019
- Eight TB responders were pulled to the MVDL from the April 2019 test. Samples were collected and cultured, but no disease was found in the animals
- In the May 2019 holdover test, all animals were negative and that herd was released from quarantine, but still required to complete an assurance test 6-12 months later
- Because six months later for the assurance testing would have scheduled it in November/December 2019 when the cows had already been run through the chute, USDA requested that the assurance testing be pushed out for an additional year, which would put that test for this coming Fall

## **BRANDS ENFORCEMENT DIVISION**

**10:53 AM**

### **10:53 AM – FORT SUPPLY MAINTENANCE CONTRACT RENEWAL**

Because the previous Fort Supply contract was not provided, the BOL decided to move that agenda item to the next BOL meeting

### **10:53 AM – DISCUSSION ON LIVESTOCK CRIME INVESTIGATOR PAY**

Mike Honeycutt reported that the Legislative 50-cent/hour salary increases have kept employee salaries on par with market, but there were some issues with Livestock Crime Investigator pay:

- Several months previous, several Livestock Crime Investigators expressed their concern to Mike Honeycutt and to the BOL regarding market adjustments and higher levels of pay
- Mike Honeycutt suggested raising the pay rate for 14 of the Livestock Crime Investigators to the same rate of pay as Market Supervisors. Two of the Livestock Investigators are already at a higher rate of pay possibly because of longevity
- Mr. Honeycutt said that raising that rate of pay would not only give a positive incentive within the Brands Division, but also provide more competitive talent when trying to fill vacant positions.
- The increase in personal services, including benefits, if the raise is appropriated, would be \$37,279, and with per capita fee carry forward for next year projected to be around \$140,000, that is how it is proposed to cover the raise
- It was decided to postpone the decision on the raise until the next BOL meeting, because if okayed, it would still be able to be reported in Snapshot

## **11:04 AM – UPDATE AND PLANNING ON VACANT/RECENTLY-FILLED BRANDS POSITIONS**

- Mike Honeycutt reported that the Brands Division Administrator position had been filled by Ethan Wilfore, who begins on June 1, 2020
- The DOL had been receiving candidates for the vacant Market Inspector positions, and according to Ty Thomas, screening on those applications has been completed
- Interviews were scheduled to be held next week for the vacant Brands Compliance position and hopefully, a hire will be made within the next two weeks or so
- The vacant Glasgow District Investigator position closes on May 27, 2020, being left open longer than anticipated because of difficulty getting applicants
- The vacant Western Region Supervisor position has closed with screening going on right now. Interviews should begin next week
- It is planned to have Ethan Wilfore, the newly-hired Brands Administrator, participate in many of the interviews for the current vacant positions

## **CENTRALIZED SERVICES DIVISION REPORTS (Continued)**

### **11:07 AM**

### **11:07 AM – LIVESTOCK LOSS BOARD (LLB)**

George Edwards reported on the latest indemnity payments made by the Livestock Loss Board:

- The handout given to the BOL listed livestock losses due to predation from a week ago. Mr. Edwards reported that there had been seven head of cattle added to that list since then, four head of cattle in Carbon County and two head of cattle in Madison County, all killed by wolves
- Mr. Edwards said that the Livestock Loss Board is short in Personnel Services and even with him being the only employee and not able to apply the 2% vacancy savings, the LLB is showing a positive for the end of the year

### **11:09 AM – PREDATOR CONTROL**

John Steuber updated the BOL on the latest information from USDA Wildlife Services:

- There have been over 50 investigations on livestock depredations by Wildlife Services so far this year that began in March
- Wolf issues were going on in Madison County, even though no livestock had gone to summer range yet in the state
- Mr. Steuber explained that it is getting much more difficult to acquire LESO helicopters because police departments and other law enforcement agencies are already in line for them
- To answer Brett DeBruycker's question regarding airframe time on a helicopter, Mr. Steuber explained that is the only part that isn't timed, but if a helicopter has over 15,000 hours on its airframe, that is starting to get to be a lot of hours

- According to Mr. Steuber, the newer DOL helicopter has more flight hours than the older one, but parts for the older one can't be found and if they are found, they are very expensive
- Mr. Steuber said that since the BOL put a letter of request in for a used Army helicopter, if one does come up, that Wildlife Services could send one of their pilots down to look at it to be sure it is what the BOL wants, because the BOL still has a right of refusal of the helicopter
  - The 75 used Army helicopters were set to be released in 2021, but Mr. Steuber wasn't sure if all them would be flyers
- John Steuber reported that litigation is ongoing in the Wild Horse Guardians lawsuit, and so a settlement had not been approved as of yet
  - John Youngberg said that in his rough reading of an article he read, the lawsuit could severely limit Wildlife Services' ability to control predators
- As of Monday, May 25, 2020, Wildlife Services will have two new specialists on board, one on the Rocky Mountain Front and one in Madison County that will be helping with grizzly bear work and funded from the US Fish & Wildlife Service
- A new range rider will be starting in the Gravellies on May 26, 2020. A range rider will be starting in the Kootenai National Forest as well. The person has had that position for the past two years

## **11:22 AM – MILK CONTROL BUREAU REPORTS**

### **11:22 AM – Update on Milk Control/Milk Inspection Fee Issues**

There was discussion on the effects the Dean Foods bankruptcy was having on the Milk Control Bureau:

- Dean Foods, who run the Meadow Gold Dairy plants in Montana went into bankruptcy, and within the last couple of months, sold their assets to Dairy Farmers of America (DFA)
- When the assets transferred from Dean Foods to DFA in April, any accounts receivable they had were put into a settlement fund. Still unpaid were producers, haulers, the Milk Control Board for their assessments and the DOL for milk inspection fees
- Chad Lee reported that the amount that the Dean Foods estate owed to clients themselves totaled \$40,653.36, with around \$1,200 being estimated and the rest being known for the plants' distributor assessments to the Milk Control Bureau and the Milk & Egg Bureau for March 2020 and April 2020
- Chad Lee said that it is the Milk Control Bureau's opinion that Dean Foods still owes, between clients and producers, \$66,314.24, with a small amount being estimated. Most of that is due on May 25, 2020
- \$28,241 is owed to the pool settlement fund, an account managed by the Milk Control Bureau, related to payments of producers
- \$15,660.88 is owed by the Dean Foods estate to the DOL in terms of producer April assessments
- Mr. Lee said that correspondence has been made as to the debt owed

- Ed Waldner said he believes the debt will be paid, but that the bank that borrowed the money to Dean Foods is the one who has to make the payments

### **11:32 AM – DISCUSSION OF ANIMAL HEALTH CONSENT ITEMS**

John Scully reported that there were still some items that had been requested to be pulled from the consent agenda had not yet been discussed:

- Dr. Szymanski said that the heart of the meeting where Carcass Disposal was discussed was recognizing the lack of slaughter capacity especially in the Midwest, and she didn't feel there was anything of benefit from that discussion to forward to George Edwards' organization
- Dr. Szymanski reported that in Gallatin County an animal tested at the market for change of ownership came back with non-negative brucellosis results. The animal ended up becoming a diagnostic purchase, euthanized, tissues collected and tested. The ranch of origin was quarantined. Test results came back as no growth and the herd of origin was released from quarantine
- Only two herds in Montana remain under quarantine for brucellosis, a 2010 Gallatin County herd and a 2019 Madison County herd
  - Dr. Szymanski said that regarding the 2010 Gallatin County herd, the DOL continues to find non-negative on their annual test but have not been able to meet the requirements to be released from quarantine

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

### **11:36 AM**

John Scully requested any comments from the public on non-agenda items, but, there were no comments offered at this time

## **SET DATE FOR THE NEXT BOARD MEETING/REQUEST TO ADJOURN**

### **11:37 AM**

No date was decided upon by the BOL for its next meeting, but it was decided that there would be a meeting held in June, that would possibly be an "in-person" meeting

### **11:44 AM – DISCUSSION OF INDEMNITY FUND**

It was decided that there should be more of a discussion of the indemnity fund issue brought forward to the next BOL meeting:

- John Scully reminded the BOL that the indemnity fund issue can also be brought forward as a piece of legislation by others as well. He said he feels that indemnity payments should be appropriate across the board

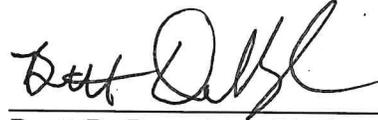
## **MOTION/VOTE**

**11:46 AM**

Ed Waldner moved to adjourn the meeting. Lila Taylor seconded. The motion passed.

**MEETING ADJOURNED**

**11:46 AM**

A handwritten signature in black ink, appearing to read "Brett DeBruycker", written over a horizontal line.

Brett DeBruycker, Chairman