



Montana Board of Livestock Meeting Minutes

September 25, 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)

Brett DeBruycker (cattle producer)

(John Lehfeldt & Ed Waldner were not present)

Nina Baucus (cattle producer)

Sue Brown (dairy and poultry)

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

Dr. Eric Liska, Animal Health

Donna Wilham, Adm. Asst. to EO

Dr. Emily Kaleczyc, Meat & Poultry

Leslie Doely, Brands Administrator

Ted Wall, Brands Enforcement

Matt Noyes, Brands Enforcement

Wes Seward, Brands Enforcement

Dr. Gregory Juda, VDL

Public Present

Rob Stutz, Legal Services Division

John Youngberg, MFBF

Kraig Glazier, USDA Wildlife Services

John Steuber, USDA Wildlife Services

Tim Graff, USDA Wildlife Services

Becky Frye, USDA-APHIS Veterinary Services

Jay Bodner, MSGA

Chaley Harney, MT Beef Council

Kiley Martinell, MT Beef Council

Les Graham, MALAM

Rob Stutz, Legal Services

MEETING CALLED TO ORDER

8:01 AM

- Vice-Chairman John Scully called the meeting to order at 8:01 AM
- All BOL members were present except for John Lehfeldt and Ed Waldner

APPROVAL OF BOARD MINUTES

8:02 AM

MOTION/VOTE

8:02 AM

Nina Baucus moved to approve the minutes as amended for the BOL 8/28/19 BOL Meeting. Sue Brown seconded. The motion passed.

APPROVAL OF BOARD ADMINISTRATIVE CONSENT AGENDA ITEMS

8:03 AM

- At the request of Nina Baucus, Mr. Scully pulled the Brucellosis Public Meetings Report from the Consent Agenda

MOTION/VOTE

8:03 AM

Lila Taylor moved to approve the Consent Agenda items, including the Out-of-State Travel Summary under Bureau Reports from the Animal Health Bureau, Bureau Reports from the Livestock Loss Board and Milk & Egg Bureau. Brett DeBruycker seconded. The motion passed.

- Because Dr. Eric Liska was attending a Management course, it was decided to have him present the Brucellosis Public Meetings Report later in the day when he got a break
- Mike Honeycutt reported that in regards to out-of-state travel, the DOL does make an effort to send different people to some of the annual meetings but that those in management roles go every time because they represent the DOL and must vote on things

MOTION/VOTE

8:05 AM

Brett DeBruycker moved to approve the Out-of-State Travel Requests for the Brands Enforcement Division. Sue Brown seconded. The motion passed.

8:07 AM – Board Member Appointment Discussion

John Scully reported that he had been informed by the Governor's Office the day before that even though he and John Lehfeldt's terms ended in March 2019, that they were expected to continue to serve in their roles on the BOL until such time that new appointments are made

OLD BUSINESS

8:09 AM

8:09 AM – UPDATE ON PLANNING AND ACTIVITY FOR POTENTIAL NEW MVDL BUILDING

8:09 AM – Letter from HB586 Lab Study Committee to Montana Board of Regents

Mike Honeycutt reported that the first meeting of the HB586 Study Group was held in August 2019 in Bozeman:

- An action item from the meeting was to send a letter to the Board of Regents requesting time on their agenda to discuss the physical property for the proposed new Lab
- It was reported at the Economic Affairs Interim Committee meeting, held on September 11, 2019, that the letter had still not been sent to the Board of Regents, but it is hoped that a letter was sent by now, directly to Casey Lozar, the Chairman of the Board of Regents
- Once the actual letter is sent to the Board of Regents and is received from the Department of Administration, copies will be made for the BOL and for the public

8:11 AM – Attached Boards Discussion

John Scully reported on the progress of discussions with DOL attached boards regarding requirements for pre-out-of-state travel authorization by the BOL:

- A letter had been sent by Brian Simonson to the Board of Milk Control and the Livestock Loss Board identifying for them the requirements for out-of-state travel requests and that authority resides with the BOL

Mike Honeycutt said that he and Brian Simonson were given time on the agenda of the September 19, 2019 Livestock Loss Board meeting where they discussed several things

- Financial Management was discussed
- Staff Management was discussed
 - It was clarified that the DOL is obliged to provide staffing to the LLB, meaning that as a DOL employee, their salary benefits and all of those actions come under the BOL chain of command
- Public Transparency was discussed
- To assure that clear records of their meetings were in place in the future, Mr. Honeycutt offered DOL help to them to assure meetings are recorded and posted to the website and that use of the BOL conference room, with its audio/video capabilities, was also offered to them

8:18 AM – Report from September 24 Finance Committee Lab Discussion

John Scully reported on the September 24, 2019 BOL Finance Committee Lab Discussion:

- Mr. Scully requested that Mike Honeycutt and Donna Wilham put together a step process for the evaluation of VDL finances in regards to the proposed new Lab, whether it be lease, purchase or new construction

- The two industry leaders in attendance at the BOL Finance Committee meeting from the Montana Stockgrowers Association and the Montana Farm Bureau, both concurred with the proposed new VDL evaluation process, along with the BOL
- Mr. Scully requested that a comparison be compiled regarding the cost of construction of the proposed new Lab to other labs and that be evaluated
- Several handouts were discussed during the course of the meeting
 - Handouts were given with a breakout by section of testing done at the VDL comparing the past three years
 - The jump in accession fees from FY18 to FY19 were due to a timing issue of when the fees began being incorporated as part of testing costs, and so, accession fees are remaining stable
 - The chart shows slight growth in the Serology section, which tests brucellosis
 - Both Molecular Diagnostics and Pathology have remained flat in growth
 - There are sizeable decreases in the testing in Clinical Pathology, Virology, Microbiology and Histology
 - Clinical Pathology's small animal panels decreased because of competition from private labs
 - Other decreases, according to Mr. Scully, are attributed to staffing challenges at the VDL during the past three years where some work had to be turned away or farmed out to other labs
 - Dr. Juda explained that a Virology customer was lost in January 2019 due to a business to business acquisition that represented 4% of the VDL's revenue in 2018
 - Citing Trichomoniasis testing, Dr. Juda explained that a lack of appropriate technology in the VDL does not allow the rapid turnaround of testing results some other labs can offer customers
 - Milk Lab testing results are not represented on the charts as the Milk & Egg Bureau house the information received from Dan Turcotte and his team of inspectors. Mike Honeycutt believes that with the decline in the number of dairies across the state, the number of tests conducted will also show decline
 - Brett DeBruycker requested that labs in the Northwest be contacted to see if they are dropping in testing numbers in the same Lab sections and if they are not dropping in numbers, but increasing, the DOL should evaluate why they are getting business and the VDL is not
 - The VDL organizational chart that was handed out showed three vacancies, and it was questioned whether or not there is sufficient staff to produce tests and provide customer service at this time
 - There is currently a Federally-sponsored microbiologist employed at the VDL who would have to be replaced if the VDL were ever to lose that position
 - It is hoped that as VDL vacancies are filled, that testing business at the VDL will also increase

- During the time of limited staffing, the VDL cross-trained several employees, which, in the Clinical Pathology and Histology sections, previously 2 full-time FTEs, is now being covered with 1.5 FTEs
 - Dr. Juda did say, however, that FTE numbers could change once the full impact of CWD testing is realized
 - Charts prepared by Brian Simonson were utilized to identify current Lab space to help understand what it is costing the DOL on an on-going maintenance basis to operate the current VDL
 - The chart shows that O&M gross square footage cost without consideration for replacement values or capital is \$10.17/square foot
 - O&M costs increase for a new construction BSL3 Lab by about \$8/square foot
 - Another figure not addressed in the current VDL is replacement capital costs that will also add to the cost of a new facility
 - Square footage at the current VDL is approximately 13,000 square feet; a more modern layout increases that square footage along with planning extra space for future testing, such as CWD
 - Original square footage plans from the architects, for the proposed new VDL were approximately 40,000 square feet
 - Dr. Juda reiterated that to his knowledge at this point, there is nothing in the current layout of the building activity that creates a safety hazard on an ongoing basis
- Dr. Juda explained that the ELISA tests done in Serology are some of the VDL's least expensive to perform because the reagents used are subsidized by the USDA, but the National Lab has lost the ability to produce an essential component of the assay and a more expensive test platform will need to be utilized, which is more expensive
 - Dr. Juda said that the increase in testing costs in Serology will be offset somewhat by the increase in testing fees
- John Scully said that the DOL needs to be sure to analyze general fund revenue, fee revenue and per capita revenue in the VDL during the budget cycle in the spring, heading into Legislative activity
 - Mr. Scully reminded the BOL that a Legislative audit showed that the DOL needed to increase the amount of per capita expenditures for the VDL, which was done, at a sum of about \$250,000
 - When the Legislature changed VDL to be an enterprise fund, it helped the DOL use additional revenue from fees that were not able to be used before
- John Scully reiterated that Representative Woods from Bozeman had previously made a very clear point that the DOL should be dealing with and providing information for the Legislature, should the VDL take on CWD and prion activity
- Mr. Scully requested that the three CWD documents on Susceptibility of Human Prion Protein Conversion by chronic Wasting Disease Prions, one from 8/27/19 on Minnesota's Move to Curb CWD Among Deer and another dealing with

infected meats copied by staff and mailed to the BOL and that industry get copies of them as well

- Per a question from Sue Brown, Dr. Zaluski said that according to the Center for Disease Control, the chief animal health authority in the U.S., their position is that there is no evidence that CWD can transmit the species barrier

9:39 AM – Information Technology Update

Dan Olson gave a status update on the funds approved from the 2019 Legislature for IT development in the DOL:

- As part of systems analysis, Division stakeholders and IT staff have been viewing demos from different vendors software products that will potentially be utilized in their Division
 - Dan Olson, Ty Thomas and Leslie Doely went to Boise to view their newly-installed Brand System that could replace the Brands Axiom system
- Brian Simonson and Dan Olson have been meeting with the State CIO to follow up on what steps need to be taken going forward with an RFP process to assure coverage with the Department of Administration and Legislative Finance Committee reports
- Brian Simonson reminded the BOL that HB10 is a long-range capital element in the State of Montana Government that will transfer authority in each year of the biennium, \$650,000 into HB10 for the DOL, but, once that authority is transferred into HB10, it will sit there until the whole operation is completed and the money is spent
 - Mike Honeycutt said that the DOL does not want to be the agency that takes 5-10 years to complete the IT project, but keep the DOL in the “green light” progression, moving forward mode
 - John Scully said that the DOL needs to reach out to the industry, educating them regarding how the HB10 \$650,000 for IT is being spent because that money is per capita funds
- Dan Olson said that they are preparing to create the RFP, a lengthy document covering every need that the DOL has that the application is going to affect that will go out for proposal
- Leslie Doely and Dan Olson have been working on rerecord planning, possibly marrying the brand ownership list and per capita payment list

9:55 AM –RECESS

10:12 AM – RECONVENE

OLD BUSINESS CONTINUED

10:12 AM

10:13 am – REPORT ON INTERAGENCY BISON MANAGEMENT PLAN ACTIVITIES

10:13 AM – Update on Recent Movement of Bison to Fort Peck

Mike Honeycutt reported on the most recent movement of bison graduated from quarantine to the Fort Peck Tribe:

- 55 bison bulls from Yellowstone National Park that had been in quarantine for almost 2 years at the Stephens Creek bison quarantine facility, were transferred to the Fort Peck Tribe
- 5 bison bulls had previously been transferred to the Fort Peck facility in November 2018. One died because it got some quills in its eyes, was not doing very well and eventually got caught up in a fence and died
 - The remaining four bulls have just one brucellosis test left, which, if it is negative, the Fort Peck Tribe will be free to do with those bulls what they please. The 55 new bulls will need to be brucellosis tested at 6 months and then at a year with negative results before the Fort Peck Tribe are free to do with them what they please
- Female bisons' quarantine process takes longer because they have to go through calving and post calving tests before they can clear quarantine

10:22 AM – IBMP Winter Operations Plan Update

Mike Honeycutt reported that the DOL is in the process now of proposing to the various agencies for IBMP the DOL input for the IBMP Winter Operations Plan:

- The plan will be discussed at the next IBMP meeting, scheduled for December 3, 2019
- Items to be included in the IBMP Winter Operations Plan include
 - What is the population count of Yellowstone bison
 - What are goals for removal of bison from the population
 - Tribal hunting
 - Quarantine or administrative harvest

10:22 AM – IBMP Adaptive Management Plan Update

Mike Honeycutt reported that there were no changes to the IBMP Adaptive Management Plan compared to the previous year:

- It was decided to reduce the number of IBMP meetings from three to two because there was not enough content for a summer meeting
- Although the number of bison intended to be taken out of Yellowstone National Park last year exceeded the goal, this year it was close to the goal

10:26 am – PERSONNEL UPDATES

10:26 AM – Update on Movement to State Pay Plan 25

Mike Honeycutt gave an update on the State's plan to move all State employees to a new State Pay Plan they call State Pay Plan 25:

- All current job descriptions will be migrated into the new plan on a position-by-position basis, beginning with those positions that are most prevalent in State Government
- Administrative Assistants, Accountants and Accounting Techs will be the first to migrate, with a completion deadline by October 24, 2019

- Deadline for all job descriptions to be migrated is October 2020

10:29 AM – Update on Job Classification for Brands Investigators

Mike Honeycutt reported that in communication with Matt Noyes on September 23, 2019, he was told the position description for Brands Investigators had been completed:

- Mr. Honeycutt said that he shared with Mr. Noyes that the description needed to be shared with himself, Ty Thomas, Leslie Doely and Travis Elings before being presented to the BOL. Mr. Honeycutt said he had not seen it as of yet
- Matt Noyes said that a committee was formed, and out of that committee, the new position description was put together
- It was suggested that Mr. Noyes leave copies of the new position description with Mike Honeycutt, Leslie Doely and Human Resources to find out if the document needs work and then submit it to the BOL for their approval and then it could go onto State Human Resources

10:33 AM – Discussion of Brands Division Administrator Position Description

Mike Honeycutt reported that the BOL had been given an updated position description for the Brands Division Administrator Position on September 5, 2019:

- The BOL had previously been notified that Leslie Doely, effective July 1, 2019, would no longer be the full-time head of the Brands Enforcement Division and would stay on part-time for a 90-day period of time with full benefits while the BOL worked on a new position description. That 90-day period expires at the end of September
- The question raised to the BOL was if Leslie Doely agreed, whether or not the BOL wanted her to continue for longer time in her part-time position until the position description was agreed upon by the BOL and then classified and approved by the Department of Administration
- Ms. Doely agreed to stay through the month of October on a half-time basis

MOTION/VOTE

10:54 AM

Lila Taylor moved to retain Leslie Doely in her Brands Administrator position, on a half-time basis, until the end of October. Brett DeBruycker seconded. The motion passed.

Changes in the updated position description were discussed

- Passive language was changed, utilizing more active verbs, including coordinates, evaluates, documents, prepares, administers, manages, rather than using the verb monitors
- The BOL will need to decide what the role of law enforcement will be in the position – Should the position be more administrative or more law enforcement-oriented
- The BOL will need to decide on educational requirements for the position

- It was decided to have a work session for making changes to the position description after the Brands Enforcement Division report

11:06 AM – REPORT ON ECONOMIC AFFAIRS INTERIM COMMITTEE OVERSIGHT

11:06 AM – Review of Presentation and Questions

Mike Honeycutt reported that at the Economic Affairs Interim Committee Oversight meeting, he gave them an overview of where the DOL was budgetarily and with Legislative changes that needed to be implemented

- Mr. Honeycutt informed the Committee on African Swine Fever and that the DOL would be doing CWD testing
 - The possibility of a major foreign animal disease coming to Montana and the types of resources that would demand were discussed
 - The spread of brucellosis, larger areas under surveillance were discussed, along with what that could do budgetarily to the DOL
- Mr. Honeycutt said he needs to go back and see what the Committee approved at the end of the day regarding Meat Study activities and their work plan. He believes it will be brought forward during their November 2019 meeting
 - One of the things that Mr. Honeycutt saw in the work plan was having a panel of processors come forward and talk about issues they are dealing with
 - Mr. Hamel was asked at the meeting how the process of new directives in the meat program were being communicated, which Mr. Hamel walked them through the process
- When asked by the Committee how the DOL was enforcing per capita fee requirements and the DOL's level of enforcement, Mr. Honeycutt said, it was a dog with no teeth in a lot of respects and said that changes in that would have to be made Legislatively
- Because of the passage of HB715 requiring the Legislative Fiscal Division and the Office of Budget and Program Planning of the Governor's office to work together on a 20-year look-back and a 10-year look-forward on State revenues, the DOL was put on the list for oversight at the meeting, and asked questions regarding those things. It helped that the DOL had already met with the Legislative Fiscal Division on it
- One threat is that USDA has a projection that cattle numbers will be declining in the next 10 years, which would affect per capita and many areas of revenue in the DOL
- A chart was presented showing general fund increase for the DOL over the last 20 years. It looks like a hockey stick, but that sharp increase that occurred during the DSA crisis and Lab issues in 2015 was only \$2 million

11:15 AM – PUBLIC HEARING REPORT BACK, RECOMMENDATION AND BOARD DECISION ON GLASGOW MARKET CERTIFICATE OF OPERATION TRANSFER

Rob Stutz reported on the hearing held the week before in Glasgow regarding the transfer of the Glasgow Livestock Market Certificate:

- Mr. Stutz reported that the hearing was attended by several members of the public, principals of both the seller and buyer of the Glasgow Stockyards and one witness, Cody Cornwell, who is one of the principals
 - No one opposed the application
- Nothing substantive was added to the information on the application materials
- All requested information was provided along with supplemental information that the DOL requested
 - Financial statements for each of the partners, Principals Cody Cornwell and Jake Newton met requirements of the statute regarding short- and long-term assets
- Mr. Stutz recommended approval for the application of the transfer of the livestock market certificate

MOTION/VOTE

11:21 AM

Brett DeBruycker moved to accept counsel Rob Stutz’s recommendation to transfer the license of the Glasgow Stockyards to the party of the petition. Lila Taylor seconded. The motion passed.

11:22 AM – UPDATE ON ROBBIE CATTLE COMPANY APPLICATION FOR LIVESTOCK MARKET OF OPERATION

John Scully reported that during the August BOL meeting an application for a new livestock market operation was submitted to the BOL:

- Because representatives of the petitioners advised the BOL that they were withdrawing their petition for a new market shortly after the BOL meeting ended, Mr. Scully asked Mike Honeycutt to send a letter to the petitioner to ask who speaks for the petitioner and confirm whether or not they were making an application
 - A response was received that a petition for a new market was intended
- Financial information was presented to the DOL, but was insufficient to meet the needs of the application
- A new financial application by the petitioners was submitted and is consistent with the requirements of the statute
- With a valid petition before the BOL for creation of a new market, a hearing was scheduled for October 8, 2019 at Park City School, starting at 4 pm
- Mr. Scully said that he and Mr. Honeycutt suggested that the hearing be held before the BOL, that Counsel Rob Stutz be present for the hearing to advise the BOL appropriate questions to ask, and have an outside Hearings Examiner officiate the hearing

MOTION/VOTE

11:32 AM

Brett DeBruycker moved to proceed forward with the new livestock market petition for Park City, Montana. Lila Taylor seconded. The motion passed.

LEGAL COUNSEL UPDATE

11:33 AM

11:33 AM – Legal Update from DOL Legal Counsel, Rob Stutz (May Require Executive Session)

Because Rob Stutz did not have any legal counsel update to present, it was reported by Mike Honeycutt that the S&T Project Meats product that was in question had been destroyed

NEW BUSINESS

11:34 AM

11:34 AM – MDOL Organizational Rule Update

Mike Honeycutt reported that Pat Murdo, Economic Affairs Committee, had called to his attention that the DOL organizational rule was outdated:

- The rule had not been changed since 2010 and several changes had taken place in the DOL since that time
- The Board of Horse Racing is not longer under the DOL umbrella
- The Legislature did a reorganization of the DOL in the 2017 session
- With the DOL reorganization came reorganizing people in the budget structure
- Much of the language around some of the DOL issues has changed
- A BOL rule listed BOL members, but if a BOL member resigns, the rule must be changed
- It was decided that the BOL review the document and take action on it at the next BOL meeting

11:48 AM –LUNCH

12:31 PM – RECONVENE

12:33 PM – Report on Brucellosis Public Meetings from the Consent Agenda

Dr. Eric Liska reported on the Brucellosis public meetings he held in 10 counties over a three-week period of time:

- Meetings were meant to be informational on Brucellosis in general and Brucellosis regulations, concentrating on vaccination requirements, enforcement of vaccination requirements and DSA rules and regulations

- Dr. Liska reported there were a number of questions regarding USDA regulations on electronic ID, capturing and collaring of elk and about the upcoming electronic health certificate policy
- Beginning at the end of 2019, the DOL will stop printing Certificate of Veterinary Inspection paper booklets followed by a requirement, effective January 1, 2021 in Montana, an electronic Certificate of Veterinary Inspection, rather than paper, will be required to be submitted to the DOL by veterinarians
- Two different types of electronic ear tags are currently available on the market, low frequency and UHF tags and the USDA says it does not want to specify which technology for producers to utilize, but leave it up to the industry to make that decision
 - Dr. Szymanski said that the DOL owns 20 RFID readers that read low frequency tags

12:53 PM – CENTRALIZED SERVICE DIVISION REPORTS

12:53 PM – PREDATOR CONTROL

Update on Activities of USDA-Wildlife Services

John Steuber introduced Kraig Glazier, District Supervisor and Tim Graff, Helicopter Pilot:

- Tim Graff recently retired from the National Guard after 37.5 years, Eric recently retired from the National Guard after 33.5 years, but both will remain with USDA Wildlife Services as pilots
- The DOL owns two helicopters, the Hughes 500 B model, which is stored in Helena and the 1968 OH58 model, which is stored in Billings
- Concern was raised regarding the helicopters the Hughes 500 Model which has 15,500 hours of airframe time on it and the OH58, which has around 14,000 hours of airframe time on it
- Parts are no longer made for either helicopter and finding parts has been difficult and expensive
- Although Mr. Steuber said there are not safety concerns with the helicopters, he said it is time to think seriously about options regarding replacement helicopters
- Nina Baucus volunteered to be on a subcommittee to work with Wildlife Services to figure out how to proceed forward regarding the helicopter issues over the next 1-3 years
- Mike Honeycutt spoke about the possibility of utilizing the law enforcement surplus program that supplied the DOL with the military surplus helicopter it owns
 - The OH58 helicopter was originally a “freebie,” but Tim Graff said to get it mission ready took about \$75,000
- On September 16, 2019 a hangar audit was done of the military surplus helicopter, the OH58, housed in Billings that John Steuber said took about 5 minutes. The auditor said after looking at the books that a good job was being done with the helicopter

John Steuber gave updates on activities at Wildlife Services

- Two new Wildlife Specialists were hired by Wildlife Services, one in Glacier County and one in Carbon, Stillwater and Big Horn Counties
- Mr. Steuber said he had attended the Montana Woolgrowers Association meeting, speaking to their board about different issues
- Mr. Steuber said he spoke at the MSU Extension Education Seminar on a number of different issues
- Grizzly bear work at Wildlife Services has, for the second year in a row, surpassed wolf depredations in the state
- Two years ago there were around 100 grizzly bear investigations by Wildlife Services, and that increased to 138 last year and it will be over 150 this year
- Mr. Steuber expressed his appreciation for Dr. Szymanski's work on getting feral pig informational meeting organized
- There is a feral pig meeting on October 18, 2019 and a Montana feral swine summit scheduled in Billings on November 15, 2019
- Alberta is doing quite a bit to control feral pigs, while Saskatchewan is not so much
- Mr. Steuber said that Federal funding is available for flying if feral pigs get into Montana
- Wildlife Services is currently working on renewing the 5-year MOU with FWP

1:21 PM – FISCAL BUREAU

1:21 PM – Montana Beef Council (MBC) Contract

Brian Simonson explained that there was an 18% increase in the accounting costs for the DOL's work with the Montana Beef Council and that he had developed three options of how to charge the costs to the MBC:

- Charge the increased cost to MBC immediately
- Do not change the cost charged at all
- Phase in the increased cost over a 3-year period of time
- Because the contract is annual, it was questioned whether a phase-in of costs would be legal. Rob Stutz said he would do more looking into it
- According to statute, MBC will pay our full expenses not to exceed 5% of collected dollars. Currently the cost is \$6,839; the increase would raise it to \$8,109
- The accounting costs had not been reviewed for several years. Chaylee Harney said the agreement started in 2007 and she had worked with Christian McKay on the accounting numbers at one time

MOTION/VOTE

1:35 PM

Nina Baucus moved to approve the DOL's annual contact with the Montana Beef Council incorporating Appendix A, page one adjustments, which is the full-payment, and other changes as presented. Sue Brown seconded. The motion passed.

1:36 PM – Per Capita Fee Rate Change Proposal

Brian Simonson explained that DOL total budget is about 30% per capita fee, 20% general fund, 20% Brands and everybody else makes up the other 35%:

- “Everybody Else” is Federal Umbrella, Meat & Poultry Inspection, Milk Inspection, Shielded Egg, Milk Control and VDL
- John Scully said that in terms of funding the DOL, the industry pays 50% of the total

Brian Simonson explained that this is the time of year the DOL is required to send a letter over to the DOR regarding setting per capita fee rates, which by statute can't be raised greater than 10%

- It was recommended by Brian Simonson to leave per capita rates where they currently are
- John Youngberg, MFBF said that the livestock industry is tight right now and he feels it is a good thing to not raise per capita rates this year

MOTION/VOTE

1:40 PM

Brett DeBruycker moved to leave per capita fees at the current level. Lila Taylor seconded. The motion passed.

1:41 PM – Per Capita Fee Penalty and Compliance Issues Discussion

Per capita fee penalty and compliance issues were discussed:

- Evan Waters said that in discussion with the Department of Revenue, the only people who would be subject to penalty for not paying per capita would be those who had reported before because they are in the system
- There is a statute that says a penalty must be imposed for those who have not filed, but it does not say who provides the penalty. The \$25 penalty fine listed goes back into the general fund
- John Scully requested that the penalty provisions be looked at and that staff come back with some ideas for enforcement

1:45 PM – August 31, 2019 State Special Revenue Report

Brian Simonson reported that just two months have gone by in the new fiscal year and so he did not have much to say on the revenue report except that he does not think there are major concerns or outliers in it:

- Although it is a slow period right now, once Fall Run starts, there will be a better idea of what's happening with revenues

- Per capita fee is not reporting deferred revenue from previous years and so the only thing that will be seen on per capita fee is what is actually being brought in this fiscal year

1:46 PM – September 2019 through June 2020 Expenditure Projections

Brian Simonson explained that the numbers seen in this section were what Evan Waters put together with Bureau support, showing projections in salaries, overtime, utilities, rent and travel:

- At this point, Mr. Simonson said everything is positive although there is not a high degree of assurance at this point the DOL will be \$560,000 to the good by the end of this year
- In a couple months there will be a much better idea of where the budget projections are for the end of the year
- Brett DeBruycker said that he would not be shocked to see cow numbers decrease this Fall

1:50 PM – ANIMAL HEALTH & FOOD SAFETY DIVISION REPORTS

1:50 PM – ANIMAL HEALTH BUREAU

1:51 PM – Proposed Change to ARM – Trich-Epizootic Area

Dr. Tahnee Szymanski reported on a request from the Marias River Livestock Association regarding removing Glacier and Pondera Counties from the Trich-Epizootic area that had been presented during the August BOL meeting:

- The table Dr. Szymanski presented to the BOL showed that significantly high numbers of bulls are being tested for Trichomoniasis in Glacier and Pondera Counties compared to the number of bulls tested in the state of Montana
- There was one positive incidence of Trichomoniasis found in 2013
- Concern was raised about leased bulls coming into Montana and how they are tracked
- There was also concern raised that there are still Trichomoniasis pockets in Big Horn County and to not take that area off the Trich-Epizootic testing requirements. Lila Taylor reported that some registered breeders are giving bulls to their neighbors to use so they won't use other bulls
- Dr. Szymanski said that about every three years they look at all the brand inspections, including grazing permits that have been issued for animals into the four counties that are part of the Trich-Epizootic area
- Brett DeBruycker said he did not understand the reasoning behind the request by Marias River Livestock Association to remove Glacier and Pondera Counties from the Trich Epizootic area because ranchers in the two counties should not be subject to the additional cost when sending bulls to market
- Dr. Szymanski said that after discussing the issue in-house regarding the incidence of Trichomoniasis in that area and in regards to the DOL's ability to conduct epidemiological investigations thoroughly and completely in that area,

she feels they have the confidence it will occur and so they are in support of the change

MOTION/VOTE

2:04 PM

Brett DeBruycker moved to accept the State Veterinarian Office's recommendation to accept the request by the Marias River Livestock Association to remove Glacier and Pondera Counties from the Trich-Epizootic testing requirements. Sue Brown seconded. Nina Baucus and Lila Taylor voted no. The motion failed.

2:04 PM – Adoption of Proposed Rules Following Public Comment Period – Reportable Disease and Importation of Alternative Livestock

Dr. Tahnee Szymanski reported on a proposed rule that went out for public comment in May 2019:

- Dr. Szymanski reported that the comment period has closed for two components of a rule, updating the diseases that are listed as identifiable in the State of Montana and language that would prevent the importation of cervids into Montana over concerns about CWD
- ARM 32.3.104, Subject Diseases or Conditions, was a list of diseases that are reportable in Montana had one comment in support of the proposed changes
- ARM 32.4.502, Importation of Restricted or Prohibited Alternative Livestock, received around 30 comments that focused on particular areas
 - One area focused on the authority of the DOL to enact those rules saying there was a potential that the proposed rule would be in violation of the Commerce Clause of the U.S.
 - Another area was in regards to the scientific evidence that was presented to support those proposed changes
- Counsel Rob Stutz said that an amended rule could be filed to address the comments and go out for a second comment period. He advised adopting the Subject Diseases or Conditions section of the ARM and let the importation of prohibited livestock section die

MOTION/VOTE

2:07 PM

Sue Brown moved to adopt proposed changes in ARM 32.3.104 Subject Diseases or Conditions, as presented by Dr. Tahnee Szymanski. Brett DeBruycker seconded. The motion passed.

The BOL decided to delay action on ARM 32.4.502, Importation of Restricted or Prohibited Alternative Livestock and that it will be noticed that the DOL appreciates all

the comments, and once received, takes them into consideration and intends to file a replacement notice to the proposed rulemaking in order to address these concerns

2:09 PM – Report and Discussion on Domestic Bison Import, Movement and Management Regulations

Dr. Tahnee Szymanski explained the current rules in regards to importation of domestic bison into Montana:

- Dr. Szymanski said that in previous rulemaking, the requirements for domestic bison were changed to match those of cattle, because in regards to USDA programs for Brucellosis and Tuberculosis, domestic bison are considered the same as cattle
- Bison are considered official vaccinates, like cattle, but there are several exceptions provided
 - If the bison originate from a state, area or territory that has been Brucellosis Class Free for 10 years or more, which is all areas of the U.S. at this time
 - If the bison are 12 months of age or older they should have a negative Brucellosis test, unless they originate from one of those areas, so essentially, domestic bison coming into the state of Montana are not required to have vaccination or testing
 - Domestic bison originating from the DSA would be subject to the same regulations as cattle, except for the brand inspection
- As far as Tuberculosis test requirements, it depends upon the classification of the state or zone where the bison originate from
 - Most of the U.S. is considered accredited free, necessitating no Tuberculosis testing, except in a modified accredited area such as Michigan, where they would have to have a single negative Tuberculosis test
- Domestic bison must all be officially identified before importation with that identification listed on the official health certificate
- Bison originating from the DSA
- Domestic bison must meet Montana's health certificate and import requirements
- Mike Honeycutt reminded the BOL that these rules are not talking about Yellowstone wild bison, only those that are classified as domestic, per capita paid bison
- Dr. Szymanski said that the USDA classified those bison with Yellowstone and Grand Teton National Parks as wild bison

2:22 PM – MEAT & POULTRY INSPECTION BUREAU

2:22 PM – Administrative Rule Changes

Dr. Emily Kaleczyc reviewed the proposed Administrative Rule Changes brought up at the previous BOL meeting with a few small changes that had been added since that time, for the BOL's consideration:

- The goal of the proposed rule changes was to simplify the number of regulations for Meat & Poultry producers, eliminate outdated language and streamline what is in rule
- Definitions were removed that were duplicated either in code or in the Code of Federal Regulations (CFR), which is adopted by reference in one of the DOL rules
- Meat and poultry have been combined in definitions so they can be included in one area
- The definition of a Meat Depot has been clarified in the proposed rule changes
 - Meat Depot will not include facilities that are already licensed through a retail license with a local public health authority, such as grocery and convenience stores
 - A Meat Depot will include facilities where meat intended for human consumption and sale is stored and not just a place where meat intended for human consumption and sale is stored. So, it will not include private freezers in private residences
- Meat Depots licensed through the DOL must be inspected
- Sanitation requirements would be less burdensome and more general
- Basically, meat stored in a Meat Depot must be stored in an environment where it won't become adulterated during storage
- A Meat Depot cannot be within a private residence, but in a place where it is accessible by an inspector
- Restrooms for the Meat Depot won't require an outside window, but will no longer be allowed in private residences
- An exemption regarding restrooms for operations with active licenses as of a certain date, would be added to be grandfathered into those operations
- Dr. Kaleczyc also requested that future dates in the rule be changed to account for the time it takes for a rule to get through the publication and comment period and to allow custom exempt facilities time to review the changes before the rule goes into effect

MOTION/VOTE

2:33 PM

Brett DeBruycker moved to publish the proposed rule changes, as presented by Dr. Emily Kaleczyc in ARM 32.6.712, ARM 32.6.701 and repeal of ARM 32.6.703 through ARM 32.6.711 and repeal of ARM 32.6.801 through ARM 32.6.815. Sue Brown seconded. The motion passed.

2:34 PM – RECESS

2:47 PM – RECONVENE

BRANDS ENFORCEMENT DIVISION

2:47 PM

2:47 PM – Update on August Brands Enforcement Truck Stops

Leslie Doely brought a 2-day report on law enforcement truck stops in the Brands Enforcement Division for the BOL to view:

- A total of 166 vehicles were stopped
- 48 of those vehicles were from out of state, and so they were probably stopped to check for health certificates and make sure import requirements were made. Only one had a violation for no health permit
- Seven tickets were written for violation of 81-3-211, which is no inspection or a similar violation and nine warning tickets were issued
- One issue noted was a noticeable uptick in social media communication about report activities and many more calls to the office for duplicate certificates occurred around the dates the report was compiled. Mike Honeycutt said this was good and the enforcement staff may set up more of these throughout the course of the year

2:50 PM – Lost, Strayed, Stolen and Estray Reports Mailer Estimate

Leslie Doely did a cost estimate to send a Lost, Strayed, Stolen and Estray Report by mail to the Deputy Stock Inspectors, as requested by Lila Taylor:

- Utilizing State Print and Mail Services, standard postage to send the list to around 500 Inspectors would be \$488.66 per mailing

MOTION/VOTE

2:51 PM

Lila Taylor moved to mail lost, strayed, stolen and estray reports out quarterly to the Local Brand Inspectors at a cost of approximately \$500. Nina Baucus seconded. The motion passed.

2:52 PM – Update on Rerecord Plan Document

Leslie Doely reviewed the Rerecord Plan document she had compiled, requesting BOL input:

- The timeline for rerecord starts January 1, 2021 and goes through December 31, 2021, with April 2022 an addition to the timeline, where people can request those brands dropped during the rerecord period
- Ms. Doely hopes to have a functional working document done for the rerecord process by the end of October, although she expects the document to be changing and modifying throughout the process
- There were questions on how the extra rerecord workload would be handled
 - Ms. Doely did not recommend outsourcing or contracting rerecord work as questions received by the public typically are not straightforward and

- those that are straightforward are either done electronically or through a simple process
- Temporary workers will be brought in for a short-term assignment, working each day, as was done during previous rerecord sessions. Because the highest volume of work is January and December of the rerecord year, those temps may not be needed the entire year
 - There were two possibilities brought forward on how rerecord could intersect with per capita fee payment compliance, both of which John Scully requested be brought back at the next BOL meeting for further discussion
 - Cross checking brand ownership with whether or not per capita payments have been made could be done, along with sending a per capita reporting form to those renewing brands. Returned forms would get names into the system
 - A legal review would need to be done to see if reporting of per capita is required before being able to rerecord a brand
 - Currently, there is a \$25 penalty fee for not paying per capita
 - Ms. Doely said probably starting in July 2020, forms of public outreach, including web notification, press releases and mailers regarding rerecord will begin to go out
 - There are a number of emails on record with Brands that Ms. Doely said they will begin to utilize when the mailings begin
 - There is a joint press release tentatively scheduled to go out in July 2020 from the Montana Historical Society regarding their Montana Memory Project that would include rerecord information as well
 - Per MCA, rerecord information must be public-noticed in all newspapers in each county
 - Mr. Honeycutt said that in addition to newspapers, more underpinning in public relation program needed to be done, including print and online media, radio, TV and appearances on talk shows throughout the year
 - Several Brands forms are set to be revised before rerecord, including the brands certificate
 - When mailers go out to brand owners, there will be more options than just online rerecord offered because last time, only having that one option frustrated people
 - It is planned to utilize Access.Gov, an online service that actually dovetails into the Brands database, for brand owners to renew their brand online. Access.Gov is provided as part of the Montana Interactive contract that the DOL already has been contracting with
 - Axiom is the current Brands database that was used for the last rerecord, and even though there are some things to update on it since the last rerecord to make accounting easier, it is the plan to utilize Axiom software again for the 2021 rerecord
 - Dan Olson assured the BOL that the utilizing of Axiom for this rerecord will not hinder the production and planning of a new system in parallel, utilizing the HB10 funds

- A Brands wallet card is in the planning stages that would increase compliance. The card would include brand information, species and location of the brand, brand image and owner name. A suggested fee for the card is \$10, but that fee would be established later
- Ms. Doely said a procedure to correct clerical errors still needed to be established
- Procedures also need to be put into place if an incorrect amount of money is sent for rerecord and it comes in a week before rerecord ends
- Accounting details and dealing with names and businesses not registered with the Secretary of State's office also need to be addressed
- Ms. Doely presented some options that would change rerecord fees
 - Would the DOL absorb the credit card fees for those brand owners who pay online
 - It was suggested to raise the rerecord fee, which is revenue collected for 10 years of service to the DOL
 - A possibility was raised to charge a fee to rerecord each species of animal that is branded and for each different location.
 - Ms. Doely said that charging for rerecord in this way would simplify the Brands database making it easier to track documents such as brand liens and accounting. Brett DeBruycker requested that this be discussed at the next BOL meeting

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

3:37 PM

Chaley Harney, Executive Director of the Montana Beef Council was the only person to speak on non-agenda items:

- Ms. Harney said, that letters will be sent from the Montana Beef Council to all Brands Inspectors that would include the most recent beef check-off consent form and information about the Beef Council being part of the collections process
- Ms. Harney offered to help with any gatherings or meetings of Brand Inspectors or District Investigators and make sure that they eat beef that night. She offered to present at those meetings and answer any questions they may be getting from producers in the field
- The Montana Beef Council annual meeting was just completed the previous week

OLD BUSINESS CONTINUED

3:39 PM

3:39 PM – Work Session to Amend Brands Enforcement Division Administrator Position Description

The BOL reviewed and amended a job description, sent to them by DOL staff on September 5, 2019, for the Brands Enforcement Division Administrator position:

- It was decided to change language regarding “Chief Law Enforcement Officer” to say that the Administrator directly supervises, or if POST-certified, serves as the Chief Law Enforcement Officer
- Rather than state that the Administrator evaluates political issues, the verbiage was changed to Legislative issues
- Because the Brands Administrator’s budgetary responsibility amount has an impact on the job classification, that person’s responsibility of a budget figure of \$4 million was listed in the job description
- Also listed in the job description, because of classification purposes, was the number of persons supervised. The Brands Administrator is over the Brands Enforcement Division employees, but, directly supervises two non-supervisory employees
- Listing that the job is in a dynamically stressful working environment, was left in the job description
- Having a knowledge of Information Technology was added to the job description
- Requiring a Bachelor’s Degree or equivalent work experience was left in as well as 5 years of work experience in the livestock industry, business or public administration or law-oriented, or a combination
- Some language was stricken because of redundancies and some minor changes in punctuation and spelling were also made

MOTION/VOTE

4:13 PM

Brett DeBruycker moved to approve the job description for the Brands Administrator position as amended. Sue Brown seconded. The motion carried.

Mike Honeycutt said that DOL will submit the Brands Administrator job description to the Department of Administration’s (DOA) State Human Resources Division, who will send it to a company called CMS for classification. Once classified, the DOA will adopt that recommendation and it will then be returned to the DOL and can be posted after that

MOTION/VOTE

4:14 PM

Brett DeBruycker moved to post the Brand Administrator position job opening as soon as the job description has been approved by State Human Resources. Lila Taylor seconded. The motion passed.

SET DATE FOR NEXT BOARD MEETING

4:16 PM

The next regular BOL meeting was scheduled for Tuesday, October 22, 2019 In Helena, after the Proposed New Market Hearing/BOL Meeting that had already been scheduled for October 8, 2019 in Park City

MOTION/VOTE

4:20 PM

Nina Baucus moved to adjourn the BOL meeting. Lila Taylor seconded. The motion passed.

MEETING ADJOURNED

4:20 PM



John Scully, Vice-Chairman