



**Migratory Bird Wetland Protection Advisory Council (WPAC) Meeting
Minutes and Meeting Summary
December 4th-5th, 2023**

Meeting Location: In person at The Calvert Hotel, Lewistown, MT

The Migratory Bird Wetland Program in Montana was established by the Montana Legislature in 1985 “for the protection, conservation, and development of wetlands in Montana” (MCA 87-2-411(2)).

Meeting Objectives:

- 1) Assemble new council, become acquainted with members, the Department, and the Program.
- 2) Familiarize the Council with their role and purpose.
- 3) Establish a layout for Council meetings (timing, locations, functions).
- 4) Council will advise the Department as to initial priorities and recommendations for future Program operations and direction.

Council Members: *Beverly Wormon, Ken Jansa, Chris Evensen, Larry Peltz, Stephen Christian, Justin Julian Bridger Pierce (virtual).*

FWP Employees, Conservation Partners, and Members of the public: *Ken McDonald (facilitated meeting), Rick Northrup, Heather Harris, Cody Pugh, Adam McDaniel, Bob Sanders, Ryan Taylor, Loren Ruport, Dustin Temple.*

Monday December 4th

1:00 - 1:30 – Welcome and Introductions

1:30 - 2:00 – Welcome from the FWP Director and his vision for the State Duck Stamp (Dustin Temple)

Montana was one of 13 states that met the goal for Fall Flights, which is state funding for wetland restoration and conservation work in Canada, used to match NAWCA grants, DU funds, and other funding.

Dustin grew up in Carbon County and spent a lot of time jumping ducks. Wetland conservation is important to him. Thanks to Steve Christian and Rep. Gary Parry for their work in the legislature. Dustin spent a lot of time defending the program during the session.

Dustin pointed out the success of the Upland Game Bird Enhancement Program Council and hopes to see similar success with this new WPAC. It is in statute that the WPAC will review and provide direction to the Program and hopefully enthusiasm for migratory birds in the State. The WPAC will help put resources on the ground, provide focus for the program, and raise awareness both inside and outside the agency. We are grateful for their serving in this capacity.

Dustin was working for the Department when the State Ducks Stamp was dropped, and he didn't agree with that decision. He decided to bring it back to help promote wetland awareness. A Montana artist won the Federal duck stamp this year. The goal of the State Duck Stamp is to get good submissions and create some buzz around the Migratory Bird Wetland Program. The WPAC will pick the winner and the Governor will announce it. This will likely be an annual contest and more details will be provided shortly. Dustin thanked the Council for their willingness to serve in this capacity.

2:00 - 2:30 – Habitat Bureau and History of Migratory Bird Wetland Program (Rick Northrup)

- The Migratory Bird Wetland Program (MBWP) was established during the 1985 Legislative session. See handout for additional details, included on pages 10-11.
- The Upland Game Bird Enhancement Program went from being a controversial, scrutinized program to a well-functioning program that is looking for additional funding.
- The 2023 legislature had some changes for the MBWP with HB 217 and HB 290.

2:45 - 5:00 – Overview of Current Program (Heather Harris)

Funds to deliver the MBWP come from the sale of state migratory bird hunting license. These funds earmarked for wetland conservation. FWP is the authority which means we manage the program and allocate the funding. Historically, the WPAC has been responsible for oversight of the Program, providing general program direction, and strategies for program delivery. They also review project proposals and provide recommendations through the traditional wetland program.

During the 2023 Legislative session HB 217 increased the funding for non-resident migratory bird hunters from \$50-\$150 and decreased for resident from \$6.50-\$5.50.

HB-290 revised the laws related to the membership of the wetland protection advisory Council. It increased the number of members from 5-7 and instituted term limits (6 years)

The MBWP currently operates using the Montana's Migratory Bird Wetland Program Guidance Document. Which was one of the major tasks the previous Council completed. It was created 10 years ago so a review and updates to it might be a task the new WPAC would like to accomplish moving forward.

Heather reviewed the Guidance document including the programs objectives, programs priorities, what makes a high-quality project and some common obstacles to delivery. She outlined the differences between a lands project (fee title, conservation easement, or lease), traditional wetland project (requiring review by the WPAC), and streamlined/enhanced program delivery, which certain "simple" project types have received programmatic approval for up to \$30,000 per project and caps at \$200,000/year.

Questions were asked about any current projects that are in the works at this point. Thompson Marsh in R7 and a project in Region 4 along the Missouri river were brought up as examples.

Heather reviewed some of the programs recent accomplishments and went over the details of some example projects including Big Lake Wildlife Management Area (WMA) addition (lands project – fee

title), traditional project (Private lands range and riparian improvement), traditional project (Steven's slough replacement of a failing water control structure and repair of head cutting), streamlined/enhanced project (Private lands transitioning expiring CRP to grazing)

Heather provided an overview of current active agreements, budgets, and license sales projections

- Number of active agreement by type
- Enhanced/streamlined projects overview since 2020
- Enhanced/streamlined budget breakdown
- License sales continue to look good
- Unsure of how the increase in non-resident licenses will unfold
- Current budget is flush

Discussion:

Discussed how to measure success in a wetland program. Is it the money spent over years, or the number of contracts? It is difficult because there is a large return in wetland work, for example DU could contribute 10k to a project and see a funding leverage of 10-fold. There is a network of conservation partners that are extremely effective at providing different pieces of one project or pointing to the best partner for a project. Everyone collaborates well and can often leverage federal match dollars from projects over a span of time.

PARTNERSHIP REPORT OUT

Partner perspective – DUCKS UNLIMITED:

Adam McDaniel provided a partner perspective for Ducks Unlimited. He works primarily with Natural Resources Conservation Service (NRCS) programs, conservation easements both Agricultural Land Easements (ALE) and Wetland Reserve Easements WRE. The majority of his work is conducted in prairie pothole habitats. His position is supported by MBWP, and he promotes the program to landowners to assist in leveraging dollars for infrastructure. He suggested the MBWP might fill a needed niche for revisiting past dam projects and completing infrastructure repairs or enhancements. He often receives calls from Ranchers, about dirt work, which doesn't fit under any U.S. Department of Agriculture (USDA) projects.

Questions and Discussion

Cody Pugh, from Ducks Unlimited, asked about the requirements around public access. Heather responded that most migratory bird projects have a negotiated component. However, if there is fall waterfowl hunting opportunity on a project, public access is generally a requirement of the Program. For the streamlined/enhanced program, the way it is currently outlined, there is a defined number of hunter days required for upland game bird hunting. It is important to note that access is negotiated and always under the landowner's control. It does not mean open access.

Bob outlined the importance of the process and building relationships. Sitting down with a landowner and having a conversation to understand their entire operation and future plans. This gives the opportunity where the landowner can learn what the different programs from different partners might be able to provide. There are a lot of organizations doing a lot of good work and the focus should be on

the entire operation. It is possible to pull from multiple funding sources for a variety of projects. MBWP could be a niche for dam repairs and other partners for other components. Rancher's Stewardship Alliance (RSA) was able to put through 58 projects last year, because it was a simple process, if it conserved water and grass, it was moved forward. Since Montana is one of the breeding states, there is generally opportunity especially in Region 6. There have been some missed opportunities for projects because of the public access requirement. It was asked how one measures success without access, brood counts, or nest success?

Council discussed the access component of the program and if it is a hurdle that keeps projects from getting completed. FWP is one of the only entities that can secure public access. However, when out of any 10 potential projects, the reality is only 1 or 2 will come to fruition and when you have an access component that narrows it down even more, it could be a hurdle. Bob thought he could potentially find out the number of projects that did not move forward because of the access component. The Council discussed variations of access levels. Maybe in areas that are considered high priority, like the prairie pothole region (70% of federal duck stamp funds goes here) access is not necessary. This area is a major breeding area and therefore benefiting hunters over the entire country. Suggestions were made that maybe access should not be required by the program for the "simpler" streamlined/enhanced projects, or providing a dollar amount threshold where access would be required if over a certain figure. It was decided this would have to be discussed and thought out carefully as it could be a slippery slope as landowners talk to other landowners. Currently, there is variation around the type of projects and the access component, mesic restorations for example do not require access, leases require some, lands projects it's not negotiable as access is a commission requirement. Dam reconstruction, access may not be necessary.

Revolving lands model was discussed where a property is purchased, improvements or restoration occurs, a conservation easement is added usually with U.S. Fish and Wildlife Service (USFWS) and then the property is sold back to a local rancher or a new rancher. Bob also mentioned that with over 30k acres in conservation easements this year, that do not include a provision for public access, it would be great if there was a way to layer an access easement over these existing conservation easements. FWP's block management can be integrated with the MBWP, and we often work with landowners who are enrolled.

Partner perspective – PARTNERS FOR FISH AND WILDLIFE:

Loren Ruport provided a partner perspective for the United States Fish and Wildlife Service Partners for Fish and Wildlife Program (PFW). The PFW program works with private landowners nationwide to implement restoration projects. They typically work out of refuge offices and are scattered across the country. There are approximately 300 PFW biologists nationwide.

In Montana, there is a small pot of funding that comes through the PFW program, but they work with all the partners and available funding sources, even if it's a program that PFW doesn't offer. They develop relationships with landowners, often starting with smaller projects, in the hopes it may lead to a larger project or even potentially a perpetual conservation easement.

This year there was over \$7.2 million brought into Montana through the federal duck stamp. There has been a huge increase over the past few years. North Dakota was unable to spend all the funding they had so got sent to Montana, which tripled their budget. RSA is a clearing house for a lot of these funds who has a lot of buy-in from landowners. Projects are brought up and partners sit around a table and split it out among applicable programs.

Is there a way to add Migratory Bird Funding to this mix?

PFW program typically doesn't have a lot of sideboards on their programs, they try to take the gloves off and not get stuck in program needs. Historically it might have been out with laser levels, now its grassland and prairie pothole restoration through range infrastructure like water lines and tanks (clean water) or grassland reseeding. But if it is a good project and doing good work, they will fund it. They will also pay contractors directly and try to keep the paperwork to a minimum. Find that working collaboratively is better than working individually and landowners see the benefit of everyone working together. It builds trust that can then extend to neighbors.

There is a lot of money available right now, National Fish and Wildlife Foundation (NFWF) is flush and has very few roadblocks. Access could be an issue with the MBWP, landowners can find it easier to go with other funding. Might be better for the MBWP to work within what fits this program but doesn't fit in other programs i.e., rebuilding a dam face. There are some differences in the programs, NAWCA is all up front, whereas FWP is accountable on a project-by-project basis. It is also a bit of strain on the landowner when they must pay up front and then get reimbursed. The question was raised if that can be changed and could the MBWP be run like a grant program.

Tuesday December 5th

8:00 – continue conversations from previous day

Greg Lemon – Presented on the New state duck stamp and the WPAC's role

- Artwork will be due by the end of December. Greg's staff will be taking digital images of artwork to share with the Council. We don't know how much of a response we will receive in artwork. The WPAC will be responsible for ranking and identifying the winning artwork.
- The finalists and winning artist will be on display at the capitol for a period of time (perhaps a week)
- The winning artwork will be rendered into a "stamp" which is a 3"X3.5" sticker and potentially other products i.e. prints
- With every purchase of migratory bird license a post card with information on wetland conservation and information on the winning artist along with a "stamp" (sticker) will be included.
- Donations would be funneled through Montana Outdoor Legacy Funds (MOLF).
- Meetings will occur with conservation partners to talk through different aspects of the state duck stamp program and how to collaborate to generate funds for habitat conservation.

Questions

- Question about where the funding to pay for this is coming from? The money is not coming from MBWP but from the marketing budget. No money will be diverted from conservation. It is not anticipated to generate a lot of money from this, it will likely be a wash, but the hope is to raise awareness and give another option to support wetland habitat conservation.
- How will non-hunters know about this program? It will be publicized. Outreach will occur through a variety of media outlets that are not focused on hunters. It was suggested that a sealed bid auction, with framed prints on easels in lobbies of banks and hotels could be a good form of advertising. DU runs this program and has had success.
- Do the artists get money? There is a \$2000 prize from the Montana Outdoor Legacy fund. MOLF will set up a wetland conservation fund.
- Will there be an option to donate through the on-line licensing system? They are looking into that as an option but at this point not sure how difficult it will be to set up.
- Are specific artists being encouraged to submit artwork? In the past, there was a limited number of artists who were selected and one artist was selected 4 times, but this was a smaller effort.
- What is the timeline? All envelopes and stickers have to be ready by March 1ST, to make licensing deadlines, so we are working backwards from this timeline. The selection will be via zoom or email effort.
- A 3x3.5 stamp and a single duck, will have limitations given the small stamp size? The artists are aware of what the smallest rendering will be. The guidelines are similar to other state and federal duck stamps. This round they have to be native waterfowl in native habitat. In the future may open to include shorebirds or other native birds.

Group Discussion and Follow Up from previous day

The WPAC discussed the importance of getting larger projects on the ground to get some of the funds expended. They spent time and gave some consideration to existing roadblocks, future direction of the program, and the Council's set up.

Roadblocks:

1) Program set up/delivery?

- Discussed unique opportunities for where MBWP might fill a niche, including reservoir repair. This is a need that is often requested by landowners but there really isn't an existing funding source available. While natural wetlands would likely remain the priority, this could be a good fit, since there have not been a lot of opportunities around natural wetlands recently.
- Discussed the positives and negatives of setting up a grant type program, like future fisheries. Or potentially allocating funds to DU or FWS. A concern with this model is the caveat about "loss of control" which is in statute; FWP can't give funds to DU to do "good things." However, DU has dedicated grant compliance person to track expenditures down to the penny. PFW program currently has a set up similar where they can get money to DU to spend on the ground. We would not need to reinvent the wheel, there is a system set up already that seems to be working. DU has a funding pot with PFW who runs funding through DU or RSA, who does the accounting, and gets payments to contractors. The good part of this model is avoiding federal paperwork but still having a private landowner agreement. PFW does the agreement and

associated National Environmental Policy Act (NEPA) checklist, and RSA/DU does the accounting and payments. The landowner agreements, whoever is setting those up, could write them as third party (RSA or DU) and make them boiler plate which would outline requirements that include funding sources, etc. Could this be model for the future, provide funding to DU, and they would provide detailed invoices as work is completed? Or another delivery method could be giving discretionary funds to Heather, to have the ability to commit \$XX to the RSA – with a follow up agreement for this or that project, which would just be a different type of streamlining.

2) Staff/capacity?

- Suggested that UGBEP's success is helped by having dedicated program staff. Could the MBWP program be improved with dedicated staff, like the upland game bird specialists? The hope is the new Habitat Conservation Lease Specialists (3 of them) could assist with working on these projects. MBWP also partners on positions with DU (a lot of DU time dedicated to NRCS programs) and PF, which a part of those agreements is to focus on wetland projects. Need to consider turnover in all positions (these and the FWP coordinator) having someone long term in this position is critical to build relationships and keep momentum.

3) Access Requirement?

- Discussion of perhaps moving forward we don't need to get hung up on access. There is a realization that pheasants and elk are different than waterfowl. Waterfowl are migratory. Perhaps access on small private reservoirs isn't that big of a concern. It was the direction of the commission that sportsman dollars should involve public access. There are projects, specifically the lands projects (Conservation Easement (CE) or lease), that will be required to have access. However, maybe for projects like a dam restoration it's not a requirement. There was discussion about how wetland projects are not necessarily in line with good hunting opportunity. Water on the landscape is important but that 10-acre pond is likely not good for hunting. Don't really think there are a lot of people who use this program for access anyway. However, bird hunting is a lot more accepted by landowner's than big game. It may just require critical thinking for projects, does it provide decent hunting, is there a certain dollar amount etc., but we should be consistent and fair for all landowners/projects (i.e., neighbor talking to neighbor)

Long Term Direction of Program

We need to consider the long term and where we want the program to go in the future, not just given the current funding balance. This is a good time to review the guidance document and discuss the priorities and if there is a need for a strategic plan. The Council decided to use the existing guidance document as a starting point for the questions 1) where we have been and where we would like to go? and 2) what is working and where we can improve? These questions will require critical thought since we don't want to narrow options down and limit opportunities, but having too many priorities can spread focus and things don't get done (consider the "Rule of 3"). Or if everything is a priority then nothing is a priority.

Current Projects:

There are several projects currently in the works that could put a dent in the funding balance. These will be sent out to WPAC for their feedback as proposals are submitted. The Council suggested that coming up with a way to track projects, maybe color coding, could help provide targets/goals keep things moving. This is something that FWP can provide the WPAC, since part of their role is holding FWP accountable. The Council requested a report of all projects that have been completed over the past 10 years.

Council Set up:

Role of Council – Policy, program direction, priorities (e.g., grass seedings, dam repairs, land projects, grazing improvements).

Role of the Department – hear from Council and determine appropriate approaches, implement (partners, procurement laws and limitations, staffing availability, etc.).

Take home messages:

- 1) Near Term
 - a. Project ideas in Region 6. We will determine what should move forward and run those through the project review process with the Council as we have in the past.
- 2) Active project list
 - a. Timelines, generally where they are in process and target goals
 - b. 10 yr list of completed projects
- 3) Department will keep parameters for streamlined approach in place unless recommended otherwise. Adjusting the parameters (i.e., increase cap from \$30,000 to \$50,000 and access component) can be thought about and discussed at future date.
- 4) Access component – needs further critical thought and discussion around questions including, what about fall projects? what is the hunting opportunity? if not more than 50%, don't require access?

Councils' set-up?

Discussed the importance of having a chair to act as a liaison and provide a single point of contact to work with Heather. Steve C volunteered to be chair.

Ken Jansa motioned Steve C for citizen chair. SECONDED. Approved. [**Note to Council**, we missed in our notes which members moved and seconded this motion. Heather will add names into the minutes once we receive feedback from Council]. This was not clarified, but was unanimous.

Discussion around timelines and meeting schedules. UGBEP has a meeting spring and fall, and the fall generally includes a field trip. This has been positive especially when legislators are involved. When considering visiting wetland projects, perhaps a spring field tour would be better in May/June. Zoom meetings could be an option if more than 2/year are needed. Two-day meetings during the week are difficult for a work week. This could be changed to whatever works best for the Council.

Meeting was set for Feb 22nd to check in on progress from this meeting. Suggested to keep it short 1-2 hours, in the late afternoon. Will provide a very specific agenda to include thoughts on 2015 guidance

document, report of last 10 years, and update on current projects. Information will be provided prior to the meeting so the Council has time to review.

Action Items:

Review Guidance document and provide comments to Steve C, by January 15th.

FWP to provide a list with status of current projects and completed projects during the last 10 years to WPAC.

Zoom meeting to discuss February 22nd 3-5pm.

Brief History of the Montana Migratory Bird License (Bird Stamp) Wetland Program

Migratory Bird Wetland Program Advisory Council meeting, Lewistown

December 4, 2023

- **1934** – sale of the first Federal Duck Stamp
- **1985** – Migratory Bird Stamp Program - First of FWP's habitat programs
 - Funds may be “expended only for the protection, conservation, and development of wetlands in Montana.” MCA 87-2-411
- **1986** – Adoption of the North American Waterfowl Management Plan
- **1987** – Prairie Pothole Joint Venture (PPJV) formed
- ~ **1988-2003** – PPJV, FWP, USFWS, and DU contributed toward positions and wetland projects.
 - Plentywood and Malta areas
 - The majority of wetland projects displayed across the Hi-Line were completed during this timeframe.
- **North American Wetland Conservation Act** grants and associated partnerships
 - FWP, USFWS – Partners for Fish and Wildlife and Wetland Districts, DU, TNC, BLM
- **Water adjudication** funding established during 2005 Montana Legislature
 - Heightened scrutiny of water use, stock dams
- **Wetland opportunities** today are largely maintenance/repairs where water rights are already secured and restoration of drained wetlands.
- **Conservation Projects:** To date, the Mig Bird Program has contributed toward 14 conservation projects, including 4 conservation easements (5,783 acres), 7 fee title acquisitions (1,899 acres), and 3 long term conservation leases (18,050 acres). Total contribution: \$1.7M
- **2023 Legislature**, changes to Advisory Council

(OLD) MCA 2-15-3405 (1) The director of fish, wildlife, and parks shall appoint an advisory council pursuant to 2-15-122 to review proposals developed by the department of fish, wildlife, and parks that involve the use of money received by the department under 87-2-411 for the protection, conservation, and development of wetlands in Montana.

(2) Members must be appointed to the advisory council who represent Montana migratory game bird hunters, nonconsumptive users of wildlife, and the agricultural industry.

(NEW) MCA 2-15-3405 (1) The director of fish, wildlife, and parks shall appoint an advisory council pursuant to 2-15-122 to review proposals developed by the department of fish, wildlife, and parks that involve the use of money received by the department under 87-2-411 for the protection, conservation, and development of wetlands in Montana.

(2) The director shall appoint seven members to the advisory council who represent Montana migratory game bird hunters, nonconsumptive users of wildlife, and the agricultural industry, including one member from each administrative region described in 2-15-3402.

(3) Members shall serve staggered, 6-year terms beginning October 1, 2023, and must be appointed so that no more than three appointments expire in any 1 year. To implement staggered terms, the director may specify a shorter length of term for initial members.

- **2023 Legislature** – changes to state migratory bird license fees

(OLD) 87-2-411. (Temporary) Migratory game bird licenses -- fees -- disposition of proceeds.

(1) The fee for a resident to purchase the migratory game bird license is \$6.50. The fee for a nonresident to purchase the migratory game bird license is \$50.

(2) Money received from the sale of migratory game bird licenses must be deposited in an account in the state special revenue fund for the use of the department and may be expended only for the protection, conservation, and development of wetlands in Montana.

(NEW) 87-2-411. (Effective March 1, 2024) Migratory game bird licenses -- fees -- disposition of proceeds. (1) The fee for a resident to purchase the migratory game bird license is \$5.50. The fee for a nonresident to purchase the migratory game bird license is \$150.

(2) Money received from the sale of migratory game bird licenses must be deposited in an account in the state special revenue fund for the use of the department and may be expended