



March 21, 2024

RE: Establishing a MT Central Flyway Zone 3 in 2025 - Addendum

Dear Honorable Commissioners,

This is an Addendum letter to my previously submitted comments from the morning of Tuesday, March 19. On the afternoon of March 19, the FWP posted additional data to the April 17 Commission Meeting Webpage entitled, *2020 Resident Waterfowl Hunter Survey Results*.

I have reviewed the data and verbatim responses to: *"Any additional comments you may have regarding the waterfowl hunting seasons in Montana are more than welcome."* This has led me to develop additional comments to my previous Zone 3 proposal.

It appears that there is some sentiment from Zone 1 Central Flyway (CF) waterfowl hunters to establish a split Goose hunting season, like that in CF Zone 2. Doing so will seriously effect goose hunters in the far northeast counties of Daniels, Sheridan, and Roosevelt (DSR). As stated in my first Zone 3 comment letter these counties typically have waterways frozen over by November 15 (October 24 last year). Any Zone 1 goose season split in October or November will seriously effect goose hunters in those counties. This area has a significant early season migration of Canada, Snow, and White-fronted geese.

The best way to alleviate this conflict is to establish a new Zone 3 comprising of the DSR counties.

There is a remedy to this situation. It is federally permissible for the state to establish a MT Central Flyway Zone 3 comprising of the DSR counties.3. There would be no impact on Central Flyway Zones 1 & 2 goose hunting seasons (whatever they may be).

In the on-line FWP posting *WATERFOWL SEASON SETTING PROCESS* it states that *"New zones may be requested every five years with the next opportunity being in 2025."*

So, it is possible to establish a new MT Central Flyway Zone 3 comprised of the DSR counties. The establishment of new zones must follow the Commission and Central Flyway process, and it requires approval from the USFWS. The creation of new zones is permissible only within the timeframe specified by the USFWS, occurring once every five years. The zoning process will open in 2025, but meetings may begin in August 2024.

Please refer to my previous comment letter, dated March 19, for maps and Federal Register citations.

What I am asking of you, the Commissioners is:

1. What is the process for further consideration of my proposal?
2. Who would be the most appropriate personnel (MTFWP Flyway Coordinator?) to work through?

Please feel free to contact me at your convenience for discussions or additional information.

Sincerely,

*Stephen J. Christian*

Ec: Faye McNew & Ken McDonald, MTFWP – Helena  
[fwcomm@mt.gov](mailto:fwcomm@mt.gov)

Sweet Grass Wildlife Working Group is a collaborative group of landowners, sportsman and outfitters that was formed in 2020. We submit the changes for the 2024 -2025 Waterfowl seasons for zone 2 of the central flyway.

Facts:

Zone 2 is in the high plains mallard management area giving the whole central flyway which allows 97 days of authorized duck season by USFWS. At current season dates we use 97 days for ducks including youth and falconry seasons. Zone 2 is currently using the 107 days authorized by USFWS for dark geese.

Due to the past few waterfowl seasons in zone 2 we have seen later migrations and combined with season dates we have experienced lower hunter opportunity. We have also experienced an increase in waterfowl hunters in Montana residents and an influx of nonresident waterfowl hunters "chasing migration" causing overcrowding when peak numbers are in area. It is a matter of fact and stated "waterfowl population numbers can't be affected by legal hunting and legal limits".

Over the past several seasons we have seen weather patterns change making seasons later and that has affected the waterfowl migrations in the southern portions of Montana affecting zone 2 waterfowl hunters using the outside dates USFWS allows gives hunters better opportunity to harvest waterfowl and hunting opportunity in the future. By moving seasons back and the potential closure of the YRC it also provides economic benefits for the town of Hardin and those towns in the 87 mile stretch of the YRC when tourism is very low besides giving more access and opportunity to waterfowl hunters.

Proposals and support:

We support the elimination of Yellowstone River waterfowl closure that was originated for the purpose of Canada goose resting place due to low population numbers in the 1959. In modern times we now have an explosion of Canadian goose population (350,000 using the YRC) numbers which brings into question of justification exclusion area, also will alleviate hunting pressure in zone 2 and open more public access and opportunity.

USFWS outside dates for ducks and geese authorized by USFWS/guidance to state:

Ducks outside dates that the state can work in are Sept. 23<sup>rd</sup> to 31<sup>st</sup> Jan.

Geese outside dates that the state can work in are Sept 23<sup>rd</sup> to 15<sup>th</sup> Feb.

Falconry Ducks outside dates Sept. 1<sup>st</sup> – Jan. 31<sup>st</sup>

Current season dates zone 2, 2023-2024

Ducks: youth season Sept 23<sup>rd</sup> – 24<sup>th</sup> only licensed youth ages 15 and under

Falconry: Sept. 20<sup>th</sup> – Oct. 8<sup>th</sup> split season Oct 21<sup>st</sup> – Jan. 16<sup>th</sup>

Regular duck season: Sept 30<sup>th</sup> -Oct. 8<sup>th</sup> split season Oct 21<sup>st</sup> – Jan 16<sup>th</sup>

97 days authorized by USFWS

Dark Geese Sept 23<sup>rd</sup> -24<sup>th</sup> youth season only licensed youth ages 15 and under

Sept 30<sup>th</sup> to Oct 8<sup>th</sup> split season Oct 21<sup>st</sup> – Jan 24<sup>th</sup> 107 days authorized by USFWS

Falconry Sept. 20 -Oct. 8<sup>th</sup> Oct. 21<sup>st</sup>-Jan 16<sup>th</sup>

New proposed dates to Commission from MTFWP for 2024-2025 season: zone 2

Ducks: Sept 28<sup>th</sup> – Oct. 6<sup>th</sup> split season Oct. 19<sup>th</sup>- Jan. 14<sup>th</sup>

Dark geese: Sept 28<sup>th</sup> – Oct. 6<sup>th</sup> split season Oct. 19<sup>th</sup> – Jan. 22

Youth Ducks/ Geese Sept. 21<sup>st</sup> – 22<sup>nd</sup>

Falconry Ducks: Sept 18<sup>th</sup>- Oct 6<sup>th</sup> split season Oct 19<sup>th</sup> – Jan. 14<sup>th</sup>

New proposal zone 2 proposed season change from Sweetgrass Working Group for the 2024 -2025 season within the outside dates set by USFWS.

Ducks: Sept. 28<sup>th</sup> – Oct. 6<sup>th</sup> split season Nov. 2<sup>nd</sup> – Jan 29<sup>th</sup>

Dark geese: Sept 28<sup>th</sup> – Oct. 6<sup>th</sup> split season Nov 2<sup>nd</sup> – Feb. 7<sup>th</sup>

Ducks/ Geese: Youth Sept. 21<sup>st</sup>-22<sup>nd</sup>

Falconry Ducks: Sept. 18<sup>th</sup> – Oct 6<sup>th</sup> split season Nov 2<sup>nd</sup> – Jan 29<sup>th</sup>



STEPHEN J. CHRISTIAN PO Box 562 COLSTRIP, MT 59323 406-740-1025 MTDUCKHUNTER@GMAIL.COM

March 25, 2024

RE: Open Freezout Lake WMA to Hunters

Dear Honorable FWP Commissioners:

I will be submitting a very detailed oppositional response to the FWP's proposal to open the Yellowstone River closure (YRC) to waterfowl hunting.

Please find below my "tongue-in-cheek" proposal to open the entire Freezout Lake Wildlife Management Area (FOLWMA) to hunting for all game species for the entire 2024-25 season.

Please open the entire Freezout Lake Wildlife Management Area (FOLWMA) to all hunting including the whole waterfowl hunting season. Below is a statement from the FWP's FOLWMA website:

*A portion of the WMA is seasonally closed to all public entry to provide security for migrating waterfowl. The closed area closes at the beginning of the general waterfowl season and lasts through November 19. The closed area then reopens on November 20 for general public access, to include hunting (usually by this date the majority of the area has frozen over and waterfowl activity on the area is quite limited).*

I once hunted the FOLWMA back in the early 90s. Even then I found it to be quite crowded with waterfowl hunters. Surely it must be much worse today. The FOLWMA is primarily managed for spring waterfowl production. Hunters pay for the FOLWMA so it should all be open the entire hunting season (big game, upland birds, & migratory birds) to spread pressure around and create more public hunting access opportunities.

Please take the above as the humorous and ironic proposal as I have intended. My purpose is not to be flippant, but to provide an alternate scenario to the YRC proposal. It's simply an example of someone not familiar with the hunting and public/social impacts on the FOLWMA seeking more access for hunters similar to the FWP YRC proposal.

My next public comment submittal will be the detailed response to the YRC opening.

Thank you for your service to Montana hunters,

*Stephen J. Christian*



STEPHEN J. CHRISTIAN PO Box 562 COLSTRIP, MT 59323 406-740-1025 MTDUCKHUNTER@GMAIL.COM

March 26, 2024

Dear Honorable FWP Commissioners:

I am an avid waterfowl hunter and wetlands conservationist. I have hunted the Yellowstone River valley for 40+ years. I hunt ducks and geese across the state on both open water (lakes, ponds, creeks, rivers) and dry fields.

I am strongly opposed to opening the 87-mile stretch of the Yellowstone River closure (YRC) between the Bighorn River and the Rosebud-Custer County line for "on the water" Canada Goose and duck hunting. I hadn't heard that this issue was coming up again after many silent years. There was no mention of opening the YRC in last year's public comments on the 2023-24 waterfowl seasons.

The YRC is an underreported Montana FWP conservation and economic success story! I enthusiastically complement the generations of MTFWP commissioners, biologists, and administrators who were and are true waterfowl conservation visionaries.

I have five main areas of concern with this proposal. They are detailed in attached Sections 1-5.

Below is a summary of those concerns:

1. The coverage of the YRC topic at the season setting comment public meetings was not adequately advertised. There had been no public statement issued by FWP that the YRC opening topic was going to be on the agenda or discussed. Also, did the FWP consider consulting the Region 7 CAC on this topic? *See Section 1 – Public Participation*
2. The FWP 2023(?) random survey of licensed MT waterfowl hunters may be flawed. *See Section 2 – Survey.*
3. This is a conservation and economic success story! The social impacts of the closure may not have been explored or considered. *See Section 3 – Social Impacts*
4. Is this the start of FWP opening the other "closed to waterfowl hunting" areas across the state? Have these other areas been studied recently for their impact on waterfowl populations and hunter access dynamics? *See Section 4 – What is next?*
5. On March 19, FWP posted Supporting Documentation – Hunting Season / Quota Change Information. Some of the data and graphs used to support this proposal may be inaccurate and dated. *See Section 5 – FWP Supporting Documentation.*

The FWP has done an admirable job with all its activities and duties over my lifetime. However, in this instance, please do not remove this time tested, 66-year-old provision from the 2024-25 Waterfowl hunting regulations. Why fix something that is not broken.

Thank you,

*Stephen J. Christian*

## SECTION 1 – Public Participation & Notification of Topic

The waterfowl hunting public was not notified that the proposed opening of the YRC was up for debate. Below is the online advertisement for the proposed regulations meetings for the 2024/2025 hunting seasons. This was a generic meeting notice with no agenda items listed other than the broad statement “that all aspects of hunting regulations.....”. That’s very wide open & nonspecific. Meetings were held in FWP Regional Office cities.



THE OUTSIDE IS IN US ALL.

*Comment also being accepted for other commission agenda items*

**HELENA** – The deadline to comment on proposed hunting regulations for 2024/2025 hunting seasons is Nov. 21.

Every other year, broad changes to hunting regulations are considered through a public process that includes public scoping and comment on regulation changes proposed by FWP. Ultimately the Fish and Wildlife Commission adopts most hunting seasons for two-year intervals. This season-setting process looks at all aspects of hunting regulations, including season structure, regulations and hunting district boundaries.

The commission will vote on hunting regulations for the 2024/2025 hunting season during its Dec. 14 meeting, which will include the opportunity for the public to comment.

The proposed regulations maintain conservative measures FWP already put into place last year and earlier this year to address mule deer declines in parts of Montana.

**To view proposed regulations and to comment, go to [fwp.mt.gov/aboutfwp/commission/december-2023-meeting](https://fwp.mt.gov/aboutfwp/commission/december-2023-meeting).**

The public can also comment on the following items that will be before the commission at its Dec. 14 meeting:

- Game Damage Management Season
- Translocation of marten
- Town of Circle Urban Deer Management Plan
- Consolidated Public Use Rules (ARM)
- Weapons restrictions in certain state parks
- Flathead Indian Reservation Non-Member Fishing and Bird Hunting Regulations

For more information on these proposals and to comment, go to [fwp.mt.gov/aboutfwp/commission/december-2023-meeting](https://fwp.mt.gov/aboutfwp/commission/december-2023-meeting). Public comment will be accepted through Nov. 21. A full agenda of the Dec. 14 commission meeting will be posted at a later date.

-fwp-

Typically, over the years, these meetings have been big game and to a lesser extent upland bird centric.

Looking back at the December 13, 2023, FWP Commission meeting agenda, there was no mention of setting 2024/25 Waterfowl seasons, limits, openings, or closures.

Additionally, at last years’ April 18, 2023, FWP Commission meeting (where the 2023-24 waterfowl regulations were set) there was no mention of a possible future opening of the YRC. Also, there were no on-line comments or Zoom testimony from the public suggesting the opening of the YRC.

And finally, Region 7 Citizen Advisory Committee (CAC) – The FWP may have neglected to mention the proposed YRC opening at the June or December 2023 CAC meetings. Refer to Meeting Notes: <https://fwp.mt.gov/aboutfwp/commission-councils-committees/region-7-citizen-advisory-council> Perhaps this would have been a good venue to gauge local citizen attitudes on the subject.

## SECTION 2 – Surveys (Page 1)

It was important for the FWP to provide the detailed survey results (and process) and public meeting details to back up the statement:

*“First, a restriction on waterfowl hunting was established in 1958 on an approximately 87-mile portion of the Yellowstone River between the confluence of the Bighorn and Yellowstone rivers to the Rosebud-Custer County line. Hunter surveys and public meetings indicated support for opening this stretch of river to waterfowl hunting during the season. The department is recommending elimination of this closure.”*

I want to complement the FWP on its prompt response to my March 11 request for the survey data and the public comments from the hunting season regulations scoping meetings. On the morning of March 11, the prime survey question (see following page) and the on-line public input comments for the Biennial Hunting Season-Setting process were posted to the Commission meeting website. The statement above that there “*was support at the June & July public meetings*” is anecdotal since I have been told that no records exist for comments received at those meetings.

From my communications with FWP staff it is my understanding the methodology for the survey was:

1. 1000 names were randomly selected from the 26,000+ licensed 2022 Montana resident waterfowl hunters.
2. From that 1000, there were 123 respondents to the emailed “Survey Monkey”.
3. The survey respondents were from across the State.
4. The respondents were not asked what area or FWP administrative region that they primarily waterfowl hunt in.
5. It appears that no demographics were collected from the respondents.

It is valuable to again note that the random survey included waterfowl hunters from across the State many (most?) of whom may have never hunted this portion of the Yellowstone River corridor.

The setup information to the survey question was:

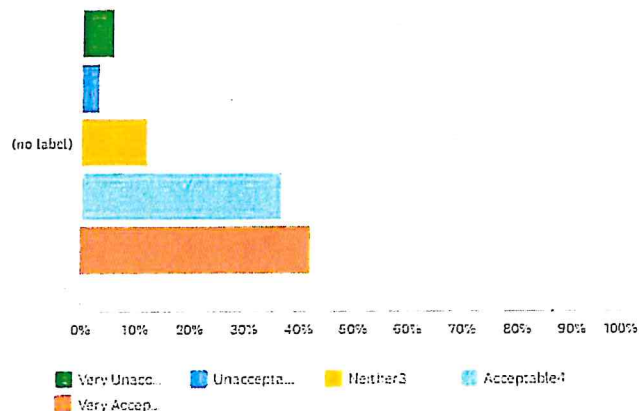
*Waterfowl hunting has been closed between the confluence of the Bighorn and Yellowstone Rivers to the Rosebud-Custer County line since 1959. Because waterfowl are currently abundant, FWP is considering a recommendation to open this stretch of river to waterfowl hunting in 2024.*

## SECTION 2 – Surveys (Page 2)

Below is the most recent survey question and results:

Q1 On a scale from 1 (very unacceptable) to 5 (very acceptable), how acceptable would it be to open this stretch of river to waterfowl hunting starting in 2024? (select ONLY ONE number below)

Answers: 123 Skipped: 0



	VERY UNACCEPTABLE1	UNACCEPTABLE2	NEITHER3	ACCEPTABLE4	VERY ACCEPTABLE5	TOTAL	WEIGHTED AVERAGE
(no label)	5.69%	3.25%	12.20%	36.59%	42.28%	123	4.07
(no label)	7	4	15	45	52		

Results from the survey question indicate that there was statewide “acceptance” (from 97 respondents) for opening the YRC. However, this resultant data may be positively skewed. There may have been a large number of respondents from Regions 1-6 who aren’t familiar with waterfowl hunting along the YRC in Treasure and Rosebud counties.

Basically, an emailed “survey monkey” recipient from Kalispell or Butte, who may have no idea about how waterfowl hunting is conducted in the Treasure-Rosebud County area, sees the question, and reacts to it, “Heck Yea! Open it up! That is more opportunity for hunters”.

A better process may have been to randomly survey waterfowl license holders from Treasure and Rosebud Counties. This would give a more accurate evaluation from waterfowl hunters who are most familiar with and benefit from the YRC closure.

As to the 167 individual on-line commenters for Biennial Hunting Season-Setting Public Input process, there were only 6 who had any remarks on the YRC issue. Replies to that question were buried within their extensive comments on big game regulations. That leads me to believe that those commenters may not be licensed waterfowlers from the affected area.

There are two other overlooked groups to the YRC issue that are affected:

1. Local landowners, county, and legislative leaders.
2. Local business owners and leaders.

Perhaps the FWP should consider surveying or contacting those two groups.

To date – I have not heard from any of my local family, friends, business owners, landowners, or contacts in the waterfowl hunting community who say that they participated in the survey or would support opening the YRC.



### Section 3 – Social Impacts

The 87-mile segment of the Yellowstone River (YRC) was closed in 1958 to “on the water” waterfowl hunting when duck and goose numbers were low. The closure was designated to give the Hi-line population (HLP) of Canada Geese a safe haven to hold the birds in the area longer to provide increased opportunity for hunters.

What a great conservation success story! This protected area was a primary reason for the significant recovery of the HLP Canada Goose population. Local agricultural practices supply abundant food sources and the YRC provides a protected resting area. Thus, the HLP Canada Geese don't migrate further south and have a shorter spring migration back north. They return to the northern nesting areas in better overall health.

And with that came a boom for Canada Goose hunters and the local community businesses. From late November to the end of the Goose season hunters from all over the state and country flock to the area. The YRC area has truly become one of the best Canada Goose hunting areas in the northern USA. Many families and friends gather annually for comradery and a great hunting experience. What was once a well-kept secret has blossomed (thanks to social media) into a “Go To” destination for Canada Goose hunters.

Opening the YRC to waterfowl hunting may be devastating for hunters and businesses alike. Geese harassed on the river will likely seek safer resting and wintering areas. That may be east or west on the river. But most likely south to Wyoming, Colorado, and New Mexico. Consequently, locally on the Yellowstone there will be lower numbers of geese and hunters. Area businesses (motels, restaurants, gas stations, etc.) will suffer.

What is to be gained? Yes, the proposed opening of the YRC will benefit a very small number of waterfowl hunters (and I sympathize with them). But beware, winter is a dangerous time of the year to operate a boat and/or hunt on the Yellowstone River. Who in their right mind would let their retriever enter the high flow iced-up river. And what of the trespassing issue when hunters need to retrieve a goose on private lands above the river's high-water mark?

So where can an avid “on the water” duck and goose hunter go to enjoy their passion? There are many other over-water hunting opportunities nearby and across the state. These include:

1. The rest of the Yellowstone River to the Wyoming and North Dakota state lines.
2. The Bighorn, Tongue, Musselshell, and Missouri Rivers.
3. All the western MT river systems.
4. Tongue River Reservoir.
5. Other FWP Wildlife Management Areas (WMA)
6. USFWS Wildlife Refuges

In conclusion, why fix something that isn't broken? The YRC is a bona fide Montana conservation and economic success story!

## Section 4 - What is next?

Below are the other closures of areas to waterfowl hunting in MT. Why were they closed? Was this done in days long past to help waterfowl populations to increase? Perhaps these too need be re-evaluated by FWP in 2024 for opening in 2025-26 season?

**Statewide Closures from the 2023-24 Waterfowl Regulations** (legal descriptions were purposely deleted for brevity)

**Region 2:** Warm Springs Pond No. 3 (Deer Lodge County). *Why?*

**Region 3:** Helena Valley Regulating Reservoir (Lewis & Clark County): This area will be open to hunting until the opening of the waterfowl season, then it will be closed to all hunting. *Why? Is it 90% surrounded by some kind of public land?*

**Region 3:** South Half of Lake Helena (Lewis & Clark County). This area is closed to the hunting, harassment, or molesting of migratory waterfowl except for the direct and immediate foot, boat or dog retrieval of downed game having fallen in the closed area. *Why?*

**Region 3:** Portion of the Manhattan Game Closure. *Why?*

**Region 3 and Region 4:** Gates of the Mountains Game Preserve. *Why?*

**Region 4:** Freezout Wildlife Management Area: (Teton County): This area will be open to upland game bird hunting until the opening of the general waterfowl season. From the opening of the waterfowl season through November 19, no hunting, access or harassment of wildlife will be allowed except for the direct and immediate foot, boat or dog retrieval of downed game having fallen in the closed area. This area will then reopen for all hunting from November 20 to the end of the season. *Why? From the FWP WMA Website: "A portion of the WMA is seasonally closed to all public entry to provide security for migrating waterfowl." Sound familiar? Perhaps Freezout WMA should be opened for the entire waterfowl season to increase hunter access. Please refer to my March 25 "tongue-in-cheek" comment on opening Freezout to hunting all season long.*

**Region 4:** Missouri River (Cascade County): The Missouri River below the ordinary high water inclusive of all islands, backwaters, and sandbars, beginning at the confluence of Sand Coulee Creek and the Missouri River. *Why? Was this another area designated closed to effect an increase in waterfowl populations?*

**Region 6:** McLean Reservoir (Hill County): *Why?*

**Region 6:** Nelson Reservoir (Phillips County): All of those parts of Nelson Reservoir and within 300 yards of its shoreline within the following described sections. *Why? Was this another area designated closed to effect an increase in waterfowl populations? It is completely surrounded by public land.*

**Region 6,** Sands Lake (Hill County). *Why? Half of it is bordered by state land.*

**Region 7:** Treasure & Rosebud counties: Beginning at the junction of the Bighorn and Yellowstone rivers, then east down the Yellowstone River to the Rosebud-Custer County line, east of Hathaway, Montana (as posted). This closure shall be within the confines of the normal stream flow and shall include all islands, backwaters and sandbars. *Why? We know the answer to keeping it closed! It's a Montana FWP conservation and economic success story!*

## SECTION 5 – FWP Supporting Documentation

On March 19 the FWP posted to the April 17 Commission Meeting webpage - 2024-2025 MIGRATORY BIRD REGULATIONS "Supporting Documentation". While informative as to the How and Why the FWP has made this proposal, there are some potential flaws with the data and graphs presented at the end of the document. My review:

1. Describe the proposed season / quotas changes and provide a summary of prior history.
  - a. A good summary and description of the closed section.
2. What is the objective of this proposed change?
  - a. An opinion of the FWP.
3. How will the success of this proposal be measured?
  - a. It is telling that FWP states that *"it would be difficult to measure the impact of the proposed measure as hunter harvest and effort in the area is largely dependent upon weather conditions and migration patterns."*
    - i. Migration patterns may change significantly due to this proposal.
  - b. The final sentence – ***The success of the proposed change will be measured by public feedback.***
    - i. How many years into the future will that be measured?
    - ii. If unsuccessful – Will FWP actually move to reinstate the YRC? When?
    - iii. **Is this not the best time for public feedback to the proposal? What is the overall sentiment of today's Public Comment?**
4. What is the current population's status in relation to management objectives?
  - a. What is the actual population of Canada Geese in the YRC? The FWP narrative states that *"Survey efforts in recent years, for the same area (Bighorn River to ND) now yield over 100,000 Canada Geese."*
  - b. Figure 4 indicates 295 geese (g) per kilometer (Km) on the YRC. And 233 g/Km East of the YRC to Glendive.
    - i. YRC 87 miles = 140 Km
      1.  $295\text{g/Km} \times 140\text{ Km} = 41,300$  geese.
    - ii. East of YRC to Glendive 96 mi. = 154.4 Km
      1.  $233\text{g/Km} = 22,368$  geese
    - iii. The remainder (36K+) of the 100,000 geese in the above statement must reside between Glendive and the ND border? Can the FWP verify that?
5. Provide information related to any weather/habitat factors, .....
  - a. Please see 1st paragraph – A great description of the YRC, detailing that it provides an excellent winter resting area. Once the river freezes up east and west of the YRC many geese move to the YRC. Thus, the geese are in much better condition for their migration north to the nesting grounds. For the data in the Figure 3 graph: Is this an average of many years or just a single year? Was the river completely open during the survey flight(s)? Has any data been collected for population densities during a hard winter with "ice up" above and below the YRC?
6. Briefly describe the contacts you have made with individual sportsmen or landowners, public groups or organizations ..... (both pro and con).
  - a. **2011?** Was this a local landowner and waterfowl hunter survey?
  - b. Is there not any more recent survey data (other than the state-wide survey previously discussed)?
  - c. Perhaps this year another local or regional survey should be performed.
7. Figures 3 – 5 of the Supporting Documentation. In what years was the data collected for these graphs? References in #6 above refer to 2011.



25 March 2024

Fish & Wildlife Commission  
1420 East Sixth Avenue  
P.O. Box 200701  
Helena, Mt 59620-0701

**Re: FOAM Support of Swan River fishing regulation amendment, Via email**

Dear Commissioners:

On behalf of the board of directors and over 1,000 professionally-licensed guide and outfitter members of the Fishing Outfitters Association of Montana (FOAM), I am writing to express our strong support for the recently proposed Swan River fishing regulation amendment to reinstate the historic catch-and-release regulation for rainbow trout on the Swan River. There is growing concern among the guiding and outfitting communities that the continued allowable harvest of rainbow trout on the Swan River is detrimental to the trout fishery of that river.

The current regulation on the Swan River allows for the harvest of five rainbow trout daily and in possession. This current regulation was first proposed by Fish, Wildlife & Parks (FWP) at the 15 August 2019 Fish and Wildlife Commission (Commission) meeting for the 2020 Montana Fishing Regulations. At that meeting, the catch-and-release regulation for rainbow trout was removed and the Western District Standard regulation (5 fish, only 1 over 14") was adopted for rainbow trout on the Swan River. Prior to the adoption of the 2019 FWP proposal for the 2020 Fishing Regulations, fishing regulations on the Swan River were catch-and-release for cutthroat trout and rainbow trout since the early 1990s – nearly 30 years.

Interestingly, in the *2020 Fishing Regulation Proposals, August 15, 2019 Missoula, MT*, document authored by FWP and presented to the Commission, the Scoping Summary states that "This proposal was not included in the online public scoping survey." (Please see, *2020 Fishing Regulation Proposals, August 15, 2019 Missoula, MT, (Proposal 17) Swan River, page 17.*) With only the 15 August 2019 Commission meeting available for public comment on the original proposal to allow the harvest of rainbow trout on the Swan River, we think strongly that this original proposal was not properly presented to the public nor was it given a proper timeframe to allow the public to comment.

In that same document (*2020 Fishing Regulation Proposals, August 15, 2019 Missoula, MT, (Proposal 17) Swan River, page 17*), the rationale given to allow harvest of rainbow trout was that "Monitoring in the Swan River shows reduced abundance of Westslope Cutthroat Trout. Implementing catch-and-release for Cutthroat Trout and promoting harvest of Rainbow Trout is intended to help the Cutthroat Trout population. Rainbow Trout are thought to be partially responsible for the decline in Cutthroat Trout abundance." The rationale to promote the

harvest of rainbow trout to protect, conserve, or somehow bolster the cutthroat trout population in the Swan River is given also in the FWP Response to this proposed amendment and in the recently-adopted Statewide Fisheries Management Plan. While this rationale is biologically viable and often implemented across the West in rivers to promote cutthroat trout and native fish generally – where more robust populations of cutthroat trout exist, it is not applicable to the Swan River – where cutthroat trout have been seemingly extirpated.

Although FWP states that “monitoring in the Swan River shows reduced abundance of Westslope cutthroat trout,” FWP has not conducted any monitoring of the Swan River fishery in years, certainly in the last decade. The most often cited work for Swan River fish populations is that conducted by the US Forest Service (Gardner, B. 2022. Relative Abundance of Fish Populations in the Swan River: 2014-2022. US Forest Service, Flathead National Forest. 14pp.). Gardner (2022) showed that from 2014 to 2022 relative abundance of cutthroat trout declined from 2% to 0% of all species tallied through comprehensive snorkel surveys. Further, Gardner (2022) concluded that “Cutthroat Trout appear to be functionally extirpated in the river.”

FWP continually touts that for the Swan River implementing catch-and-release for cutthroat trout and promoting harvest of rainbow trout will help the cutthroat trout populations. However, from their own supporting documents on this proposal, FWP states that “[we] do not have any estimates of the number of rainbow trout harvested. These types of data are typically collected through creel surveys, unfortunately none have been conducted on the Swan River. In the absence of these data, it is difficult to determine the overall impact harvest has on the rainbow trout fishery.” Therefore, by their own statement, FWP cannot conclude that harvest has NOT been detrimental to the rainbow trout fishery.

FWP in their supporting document states that “Given the amendment is contrary to management described in the Statewide Fisheries Management Plan, the department supports the fishing regulations currently in place.” However, based on FWP’s own criteria in the Statewide Fisheries Management Plan, perhaps the Swan River is not currently a suitable candidate for intense cutthroat trout management. The Statewide Fisheries Management Plan states that although “across their range in Montana, nonhybridized westslope cutthroat populations are a high priority; however, many populations are hybridized and as such, populations with less than 10% non-native trout ancestry are considered “conservation” populations.” The Statewide Fisheries Management Plan also defines “the conservation goal for westslope cutthroat trout west of the Continental Divide is to maintain viable populations with diverse life histories throughout their existing distributions in all drainages. Identified “conservation” populations west of the Continental Divide include isolated resident populations and populations with a migratory life-form that provide connectivity among populations and angling opportunity for large fish.” Certainly, based on Gardner’s (2022) work – the only fisheries population work conducted on the Swan River in the last decade - the cutthroat trout fishery in the Swan River cannot meet these criteria.

FOAM has and will continue to strongly support the concepts and methods for fisheries conservation within the Statewide Fisheries Management Plan. However, we cannot support the application of its cutthroat fisheries management conservation criteria in the form of rainbow trout harvest being applied to a flourishing rainbow trout fishery such as the Swan River in the absence of any viable biological evidence. Unfortunately, all fisheries work conducted on the Swan River over the last decade has shown that cutthroat trout have been functionally extirpated from the Swan River. FWP has not conducted any harvest or creel-type surveys or population or fisheries composition surveys on the Swan River in over a decade; therefore, effect of harvest – positive or negative on either species – cannot be determined or even estimated.

Aldo Leopold once said, “the first rule of intelligent tinkering is to keep all the pieces.” Applying an across-the-board harvest regulation without knowing the initial size of either population, or the effects of that harvest on the population, is neither responsible management nor conservation. Therefore, we are in strong support of the

recently proposed Swan River fishing regulation amendment to reinstate the historic catch-and-release regulation for rainbow trout on the Swan River. We would strongly encourage FWP to institute a statistically-viable trout fishery monitoring program, including a creel census, on the Swan River. Such information would responsibly inform conservation or population management decisions and could potentially allow for some level or type of harvest in the future. Such a monitoring program is necessary too simply to assess the condition of the cutthroat trout fishery.

Thank you for your time and consideration.

Respectfully,

A handwritten signature in blue ink, appearing to read "Michael A. Bias". The signature is fluid and cursive, with a prominent initial "M" and "A".

Michael A. Bias, Ph.D.  
Executive Director

## **PROPOSED FISHING REGULATION AMENDMENT FOR APRIL COMMISSION MEETING-SWAN RIVER**

### **1. FWP proposal to be amended?**

Not an amendment to a proposal by Department but rather a Commissioner initiated amendment to the 2024 Fishing Regulations on the Swan River in Region 1

### **2. Proposed amendment?**

#### SWAN RIVER

- No intentional fishing for bull trout.
- Catch-and-release for cutthroat and rainbow trout.
- ~~Rainbow trout: 5 daily and in possession.~~
- Closed to angling June 1 through Sept. 30 within a 300-yard radius of the Woodward Creek and Lion Creek stream mouths, unless posted at a greater distance.

#### Piper Creek Bridge downstream to Swan Lake

- Artificial lures only. Single-pointed hooks only. No treble or double hooks. Anglers may remove treble or double hooks from the lure and replace them with a single hook, or the shanks may be cut off the other hook points to leave a single hook. Lures with multiple hook attachments may still be used but any treble hook must be replaced by a single hook.

#### Swan Lake outlet downstream to the Highway 35 Bridge

- Open entire year.

### **3. Requested by FWP? (YES/NO)**

No

### **4. Rationale & Background:**

- Historically Swan River regulations required catch-and-release for rainbow as well as cutthroat trout. In adoption of the Statewide Fish Management Plan recently, the regulations on the Swan River were modified to permit harvest of rainbow trout authorizing up to 5 rainbow trout per day.
- The western Montana management plan policy of rainbow harvest is in deference to endemic species preservation, most notably westslope cutthroat.
- Historically, rainbow trout have been present in the Swan River since the 1920's, and pure cutthroat trout haven't been present in the river for decades, however there are many hybrids present. There are other pure bred populations of cutthroat in surrounding tributaries above the barriers.
- Outfitters and regular anglers on the Swan River have noticed a marked decrease in angling success since the rainbow trout harvest has been instituted, the general observation is that the River cannot support a harvest policy for rainbows, given the water flow dynamics and other unique characteristics of the river. Because of the hybrid mixture, it is the belief of many, that hybrid "cutbows" are most often harvested being misidentified as a rainbow. The fear is that the River

is on the trajectory of being "fished out" and thereby jeopardizing a sustainable recreation fishery enjoyed by many anglers.

- The Department isn't able to perform fish surveys in the manner historically applied due to the modification of a put-in ramp on USFS lands preventing the launch of specific watercraft; therefore the Department hasn't conducted an estimate in several years. Outfitters fishing logs and reports are essentially the only source of data currently available.
- There are many waterways in the surrounding area with outstanding harvest opportunity for rainbow trout, most notably Van Lake.
- I met with a group of constituents both outfitters and sportsmen as well as the Region 1 fishing staff to discuss the issue and concerns. I was not informed by anyone that going to all catch-and-release would be a biological unsound adjustment nor have any material effect on the intent for protection of endemic species.
- I am bringing forth this amendment for the following reasons:
  - To retain the quality of the recreational experience on the Swan River for future generations
  - The thrust of the rainbow harvest for protection of endemic species is extremely important, and I completely support its application. But in the case of this specific river, the statistics regarding cutthroat, history of actions taken, and other facts on the ground, the application of the policy will in my opinion do little to preserve cutthroat.
  - Application of single hook regulations will add additional protection for bull trout.

### **FWP Response:**

The Swan River is similar to many NW MT systems typified by low productivity and low fish density. Fishing regulations in the early 1990's (~1992) eliminated harvest for rainbow trout in the reach from Piper Creek bridge downstream to Swan Lake, this was done as a result of overharvest being blamed for reduced fish density. Since that time, catch and release angling has become the norm for much of the angling public, and many trout anglers rarely keep fish in sections where harvest is allowed. Therefore, during the 2021 regulation cycle, FWP simplified regulations by changing the Swan River from catch and release for rainbow trout to the Western District standard (5 fish daily, 1 over 14"). This change made the Swan River consistent with many other rainbow trout fisheries in the area and still protected against overharvest, but allowed for modest harvest on a species that is problematic for native westslope cutthroat trout, which is consistent with the Statewide Fisheries Management Plan. Harvest of rainbow trout by anglers is listed as a management action for the Swan River in the Management Plan as a way to protect native species as well as providing diversity of angling opportunity.



FWP does not have any estimates of the number of rainbow trout harvested. These types of data are typically collected through creel surveys, unfortunately none have been conducted on the Swan River. In the absence of these data, it is difficult to determine the overall impact harvest has on the rainbow trout fishery. But, as many/most of the large rainbows caught in the lower Swan are likely adfluvial, the increasing lake trout population cannot be dismissed as a strong driving force on rainbow decreases in the Swan system. We will assess lake trout predation on rainbow trout in the upcoming suppression efforts on Swan Lake. It is also important to note that there is additional protection given to hybrid rainbow/cutthroat trout in the regulations (\*Page 89); any trout with an orange slash is considered a cutthroat trout and therefore falls under the catch and release regulations for the Swan River.

The terminal tackle restriction of single hook only would likely provide some benefit to bull trout, which are often inadvertently caught while fishing for rainbow trout. Although, extending the single pointed hook to the entire Swan upstream of Swan Lake would be more effective. The combination of single pointed hooks and catch and release for rainbow trout and cutthroat trout would make the artificial lure exception unnecessary as bait fishing decreases dramatically in other streams where these restrictions are applied. The proposal highlights that rainbow trout harvest is still provided on local valley-bottom lakes. While this is true, a return to catch and release angling does reduce harvest opportunity for river anglers, and contrary to management described in the Statewide Fisheries Management Plan.

Given the amendment is contrary to management described in the Statewide Fisheries Management Plan, the department supports the fishing regulations currently in place. This said, the department does not anticipate significant or irreparable harm to the fish resource if the commission adopts this amendment.

**Wickman, Erik**

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**From:** Don and Judy Hotter <donselectricinc@live.com>  
**Sent:** Thursday, March 21, 2024 11:05 AM  
**To:** FWP Commission  
**Subject:** [EXTERNAL] I am totally opposed to having the river opened for goose hunting in this area. That is now a refuge area. I have hunted on the river since 1980 and it is a very good area to hunt geese. Why do the BILLINGS hunters come and hunt this area as...

Sent from my iPad