



**Region 5 Citizens Advisory Committee  
Tuesday, December 19, 2023  
10:00 a.m. to 3:00 p.m.  
Region 5 Public Meeting Room**

**Attendees**

**Region 5 CAC members present:** Bruce Hoiland, Pat Riley, Chris Fleck, Dan Aadland, Susan Gilbertz, Doug Dreeszen, Kayhan Ostovar, Anne Marie Emery, Lee Deming.

**Region 5 CAC members not present:** Josh McQuillan, David Russell, Lloyd Rue, Christine Whitlatch, Rusty Butler

**Region 5 FWP staff:** Matt Ladd, Robbie Seykora, Mike Ruggles, Chrissy Webb, Ryder Paggen, Jessica Goosmann, Bryan Giordano

**Commissioner:** Brian Cebull

**DEQ staff:** John Rasmann, Larry Alheim

**DNRC:** Joe Holzwarth

**Public:** No members of the public were in attendance.

## **Agenda**

10:00 a.m. – Opening and staff introductions.

10:15 a.m. – 2023 Hunting and Wildlife Updates.

*Matt Ladd, Region 5 wildlife manager, and Region 5 Commissioner Brian Cebull.*

11:00 a.m. – Yellowstone River Train Derailment Overview.

*Larry Alheim and John Rasmann, Montana Department of Environmental Quality.*

12:00 p.m. – Lunch

12:30 p.m. – Montana Department of Natural Resources & Conservation state lands mapping software.

*Joe Holzwarth, DNRC Area Planner.*

1:00 p.m. – CAC Roundtable Discussion

2:45 p.m. – Public comment, items not on agenda

3:00 p.m. – Adjourn

## **2023 Hunting and Wildlife Updates**

### **Matt Ladd, FWP Region 5 Wildlife Manager and Region 5 Commissioner Brian Cebull**

#### **December Commission Meeting Recap**

##### **Elk**

- Amendment from Commissioner Cebull: modify quota range for HD 555 for elk population. Previous range was 15-50 changed to 15-100 and added private land B tag in HD 555.
- Brucellosis could be present in some elk in this HD due to Wyoming elk herds moving into Montana in the Robertson Draw fire area.
- Robertson draw fire in 2021 has changed the elk distribution and behavior in HD 555. FWP will potentially add aerial surveys to get better idea of population and distribution.
- Amendment from Commissioner Cebull: Modify LPT 502-20 and make it valid only in HD 502. Set quota at 5 either-sex tags. Create LPT 555-20 which is valid only in HD 555. Set quota at 25 either-sex tags.

##### **Antelope**

- Amendment from Commissioner Cebull: Increase antelope archery 900-20 quota range from 1-5600 to 1-7500.
- Add 100 doe/fawn license to HD 546, with a quota range of 50 to 600 licenses. 2022/2023 hunting seasons only had 5 doe/fawn licenses due to population concerns. 2023 surveys showed antelope population has recovered enough to allow an increase in doe/fawn licenses.

##### **Deer**

- Overall decline in mule deer throughout the region and in much of the state.
- HD 535: remove antlerless mule deer harvest opportunity for general license. Goal to increase buck to doe ratio and take harvest pressure off of the antlerless portion of the population.
- HD 535 only permitted deer district in Region 5. Currently no CWD detected in the district.
- HDs 590, 502, 555, and 515: general license changed from either-sex mule deer to antlered buck only. There will be youth opportunities for either sex mule deer in some of those districts.

##### **Moose/Sheep/Goat**

- New archery tag added for moose and mountain goat.

- Season will begin 1 week earlier than the general season.
- During the Commission meeting, Bighorn Sheep hunting concerns were expressed for unlimited hunting districts with potential location data sharing, selling of locations, bonus points and hunters purchasing an unlimited sheep tag, 48-hour closure notice with abuses that could lead to overharvest. FWP has been asked to look for solutions. Groups offering input to FWP include the Wild Sheep Foundation and members of the public.

### **Chronic Wasting Disease (CWD) Update**

- Goal of CWD management is to reduce the spread of CWD and one strategy used is reduction of the buck to doe ratio. Mule deer bucks have been identified as a primary spreader of CWD due to their wide-ranging activity during the rut period. Whitetail bucks tend to cover a smaller geographic area during the rut compared to mule deer bucks and may not contribute to the spread of the disease across the landscape as much as mule deer bucks.
- CWD is fatal; one case of captive elk surviving CWD in a different state.
- Sampling in Region 5: 16 positives out of 672 samples.  
Positive CWD samples:
  - HD 502: 2 mule deer, 2 white-tailed deer, 1 elk.
  - HD 555: 1 white-tailed deer.
  - HD 575: 1 mule deer.
  - HD 590: 9 white-tailed deer, all near Huntley and Worden. One located on Yellowstone WMA; will likely spread to mule deer soon.
- Test results were available to hunters in an average of 7 days.
- Statewide: 6804 samples collected; 174 positive (early December totals, not end of year totals).
- CWD found in new HDs this year: 213, 471, 703; found in elk in HD 502.
- CWD has been detected in every region in the state.
- CAC members expressed concern over processor sanitation practices after CWD positive animals have been on site.
  - CAC member wondered if FWP tests processing plant coolers or meat shops in general for CWD.
  - FWP response: Not aware of any processing plant testing. Unknown if Department of Health and Human Services does either.
  - Matt Ladd mentioned CWD is more concentrated in lymph nodes, brain and spinal cord tissue than in meat tissue.
- Prions that cause CWD can exist in environment for years.
- CAC Question: Is blue tongue and/or EHD is linked to CWD?

- FWP response: no connection between the diseases. Blue tongue and EHD are similar but separate diseases; both transmitted by midge bites, usually linked to midges in stagnant water.
- Animals can survive these diseases, but in some cases those animals may become infertile.

## **Bear Conflict & Management**

- New Region 5 bear specialist started April 2023, Daniel McHugh.
- In process of hiring bear tech to assist with grizzly augmentation from the Northern Continental Divide Ecosystem to the Greater Yellowstone Ecosystem and assist with black bear and grizzly bear conflicts in FWP regions 3 and 5.
- Black bear regulations will be discussed at Feb. 16 commission meeting.
  - Proposals include: BMU 520 to change the start date and end dates of the season, hunters extract tooth for submission and do not bring animal to FWP office for check-in.
  - Full information is available for public review and comment leading up to the Commission meeting online here:  
<https://fwp.mt.gov/aboutfwp/commission/february-2024-meeting>
- Increase in conflicts for both black bears and grizzly bears in last two years in Region 5.
- Daniel responded to 97 black bear conflicts and 7 grizzly conflicts. Approximately 73% of these conflicts were in Carbon County.

### **Black bear conflicts**

- 19 depredation, 26 encounters, 17 home or vehicle entry; 24 home proximity; 8 property damage; 25 trash; 22 unnatural food sources
- FWP only responded to active bear situations. Not all garbage conflicts in Red Lodge were logged but were numerous.

### **Grizzly bear conflicts**

- 3 encounters; 1 property damage; 2 trash; 1 home proximity.
  - Bear town hall meeting held in Red Lodge Dec. 9 with 48 members of the public in attendance. Intention was and is to continue to do public outreach events on bear awareness and safety.
- Grizzly bear confirmed in Pryor Mountains. FWP has had reports of grizzlies in the Pryors for the past decade, but that information couldn't be validated until this year.
- Commission passed Grizzly bear ARM rule at December meeting that is a step in de-listing grizzly bears. This is all being done in preparation for future management.

## **Wildlife Management Areas**

- Snowy Mountains WMA was opened in the spring. Shed hunters, black bear hunters and general season hunters used it in abundance. Improvements are being made to the WMA currently. Funding is in the works to finalize development of water system, roads, fences, and onsite grazing systems.
- Haymaker WMA- road improvements are being worked on. Putting in switch backs to make roads safer and more accessible. Work scheduled for next summer. There will be a cattle guard installed at the entrance.

### **2023 Hunting Season**

- Deer harvest was down, mule deer harvest down significantly.
  - Commission and FWP staff are working to address these low numbers.
- Hunter numbers down, likely from unseasonably warm weather and lack of snow.
- Elk harvest was average to above average in some areas.
- Upland game birds doing well, higher numbers across state.

## **Yellowstone River Train Derailment Overview**

### **Larry Alheim and John Rasmann, Montana Department of Environmental Quality**

*Notes provided by DEQ staff*

On June 24, 2023, a Montana Rail Link train derailed east of the town of Reed Point, Montana. The rail cars involved in the derailment contained molten sulfur, asphalt, sodium hydrosulfide, and aluminum scrap metal. The contents of the sodium hydrosulfide cars were successfully transferred to intact tank cars and no releases occurred. Some of the asphalt tank cars were damaged during the derailment and an estimated 400,000-440,000 pounds of asphalt were released to the Yellowstone River. Estimates were made by evaluating each tank car as it was removed from the river and determining the volume of product remaining in each car. Cars were re-evaluated once they were moved to the containment area and volume estimates were adjusted.

As response efforts progressed and the site was stabilized and the source of asphalt was removed, the Unified Command (UC), comprised of the US EPA, MT DEQ, Montana Rail Link, and Stillwater Fire/DES, redefined objectives to include:

1. Provide for the Safety of the Public and Response Personnel
2. Keep the Public Informed of Response Activities
3. Maximize Protection of Environmentally and Culturally Safe Areas
4. Maximizing Collection of Actionable Asphalt
5. Actively Plan to Reduce Command Footprint and Plan for Demobilization

Responders have traveled over 50,000 river miles within the identified impact area from river mile 0.0 (Twin Bridges site) to river mile 136 (approximately 7 miles below the Bighorn Confluence), as defined by Shoreline Cleanup and Assessment Technique (SCAT) Teams.

SCAT Teams surveyed 827 sites from the derailment site to RM 136. Of those 827 sites, SCAT teams were able to treat 164 sites during the survey with Operations personnel imbedded in the team; 213 sites were sent to and treated by Operations and the remainder were No Asphalt Observed or No Further Treatment Recommended

To date, responders have collected over 236,000 pounds of asphalt from the Yellowstone River which consisted of moving 10,571 bags with an average of approximately 24 pounds per bag. This collection represents approximately 53% - 58% of the estimated 400,000- 440,000 pounds of asphalt that was released during the derailment.

This collection amount was quantified utilizing the following process: Weighing and documenting the weight of each supersack bag. The material in the bags was inspected in intervals. A percentage value was added to compensate for various debris in the asphalt. This percentage was deducted from the overall weight to compensate for "other debris" that was not asphalt (i.e., wood limbs, rocks, etc.).

#### **Transition Plan: Current Status**

The Transition Plan identifies a clear path for Operations through the remainder of Phase 1 of the Proposal for Future SCAT and Shoreline Recovery Guidelines and meets the objectives set forth by Unified Command.

MRL has committed to leaving public information signs in the areas that have been requested by UC. These signs have a QR Code that links to the derailment informational page. This informational site has links to the [rpderailment@mtrail.com](mailto:rpderailment@mtrail.com) email to allow the public to provide input and submit data and/or photos that can be utilized to guide the remaining Task Force to address impacts as necessary.

As impacts are identified, the Task Force Leader will evaluate the impact utilizing the document: Phase 1 of the Proposal for Future SCAT and Shoreline Recovery Guidelines.

The Task Force Leader will dispatch as follows:

1. Respond to the notification that it has been received and is being evaluated the same day that it is received. All field responses will be evaluated on a case-by- case basis.
2. If the impacted site can be accessed via shore, the Task Force Leader will dispatch the local land portion of the Recovery Task Force;
3. If the site cannot be accessed via shore, then a waterborne response will be evaluated, including a water response safety review.

4. The Task Force that responds to the site will collect the data as identified on Reed Point MT Bridge Derailment OPS Treatment Form.
5. The Task Force Leader will provide the SCAT Team Leader the completed Treatment Form. This will allow the SCAT Team Leader to document this impact collection accurately and consistently.
6. Once this data has been documented, the collected asphalt and/or impacted material will be weighed and disposed of at the MRL Laurel Yard.
7. Once the evaluation and/or mitigation is completed, an email response will be sent to the original person, group or agency documenting the status. (Note: If the impacted site cannot be accessed, due to safety or other issues, The SCAT Team Leader will document the impact and this impact will be reviewed in Phase 2).

During the transition, an email update detailing the status of the recovery efforts will be provided to stakeholders, as identified on a Key Contact List if work is conducted. If there is a significant development such as a wildlife impact injury, or impact to water intakes, an email will go out to the designated agency Key Contact List as soon as possible.

## **NEXT STEPS**

### **Phase 2**

A draft plan for Phase 2 has been developed by MRL and submitted for review and approval by the UC. Comments have been provided on the draft which will be approved prior to the start of any work in 2024. Phase 2 of the response will commence once water levels have reached safe levels in spring 2024 and will be initiated with an initial Rapid Assessment Survey followed by a targeted SCAT survey in the summer.

- The first step in Phase 2 will be a Rapid Assessment Survey (RAS) conducted in spring of 2024 before the river flows become unsafe. The goal of the RAS will not be to survey all the riverbank or every mid-channel island but focus on the most likely areas where asphalt may now be exposed, based on information gathered during Phase 1 operations. An Operations team will be on stand-by during the RAS. If the RAS team finds areas of treatable asphalt deposits, they will notify the Operations crew. Operations will attempt to treat all identified deposits before river conditions or water flows become unsafe.
- The second step in Phase 2 will be a SCAT survey initiated in the summer of 2024 once river flows have dropped again to a safe level. The river and weather conditions will need to be such that field teams are safe spending several hours in the field each day. It is predicted that the survey could start sometime in late June to early July. The Phase 2 SCAT surveys will focus on three groups of zones/areas:



1. A subset of no more than 50% of the 263 zones which received treatment from Operations during Phase 1. Zones will be selected based on the total weight of asphalt collected from the zones during Phase 1. The percentage of the zones will be determined based upon observations from the RAS, total number of other areas for survey from group 2 and 3 below, and initial observations made within the first few days of the SCAT surveys.

2. Any public reports of asphalt deposits, provided to [rpderailment@mtrail.com](mailto:rpderailment@mtrail.com), which were deemed to be below “actionable” limits and not addressed during Phase 1. Only reports with specific geographic location, or detailed description of the location will be visited.

3. Any areas identified during the RAS which could not be addressed by Operations during the spring.

- Any zones that receive treatment by Operations as a result of the SCAT surveys will be reviewed by a full SCAT team (MRL/BNSF, State, and Federal representatives) to confirm treatment completion, as feasible, to the previously agreed upon endpoint guidelines.

**DEQ Enforcement Response.** Enforcement is currently drafting and will issue a Notice of Violation to the Responsible party (RP) and continue to develop an Administrative Order using relevant data and information. Date of AOC issuance is undetermined at this time.

### **State Agency Partners**

- FWP Billings Office: Mike Ruggles, lead
- DNRC Billings Office: Joe Holzwarth, lead
- NRDP: Doug Martin, lead
- DES Area Rep: Jeff Gates
- DPHHS Helena: Dawn Nelson, State Toxicologist
- Maggie Cook-Shimanek, State Medical Officer

### **Incident Hotlines**

- Found asphalt contamination: [rpderailment@mtrail.com](mailto:rpderailment@mtrail.com)
- Found contaminated wildlife: 1-888-275-6926

### **CAC comments and questions on the Yellowstone River Train Derailment**

- Aside from the asphalt, how has the response team managed the trash including the bridge timbers, and smaller stuff like the scrap metal?
  - DEQ response: Response teams collected bridge timbers and most of the scrap metal stayed in the railcar.
- Are there long-term data sets to look at resource damages from the derailment?
  - DEQ/FWP response: There are some long-term data sets, such as bi-annual fishing pressure estimates, standardized all-species fish surveys in the area, maybe some limited water quality data available from municipalities and USGS.

Capacity to have trends on all natural resources is difficult and in some cases not practical.

- How will the agencies address the smaller impacts like impacts to turtles, riparian and aquatic communities, and how far downstream will the impacts be investigated?
  - DEQ response: DEQ and others are evaluating with a team of EPA toxicologists, DPHHS toxicologists, FWP fish and wildlife staff. Montana Natural Resource Damage Program will continue to investigate, plan to include professionals for some resources like Kayhan for turtles if issues are detected. Typically takes years to finalize such assessments.

## **Montana Department of Natural Resources & Conservation state lands mapping software**

### **Joe Holzwarth, DNRC**

- DNRC is working with all their land offices to have state-wide access and restriction information for the public and internal use.
- 97% complete on capturing all parcel information.
- Parcels are put in categories with the majority being accessible is by public road followed by not accessible by public road. Others have administration only or other access.
- Dec. 2024 is the goal to launch the mapper for the public and other entities to use the data. Likely places to find the data include DNRC and FWP websites, and entities such as Onyx can use the data.
- When MT was granted statehood, the 16<sup>th</sup> and 36<sup>th</sup> section in each township was designated as “state trust land.” With this in mind, it explains why some land is not accessible.
- CAC Question: Who owns islands?
  - DNRC Response: Determining who owns an island is very complicated and is not a simple answer.
- CAC Question: Horseback use on state land?
  - DNRC Response: typically, horseback riders and their horses are allowed to recreate on all state lands that are shown as “walk-in only.”
- 99.5% of all state land is leased in Montana to the benefit of the school trust funds.
- CAC Question: mineral rights on state lands?
  - DNRC Response: DNRC has mineral rights on most trust land. There are a few exceptions, such as federal land exchanges.

## **CAC Roundtable Discussion**

**Kayhan Ostovar:** Spent a lot of time on the river this summer and didn't see many river otters or tracks. Question about the river otter quota of 4 in Region 5 and 4 in Region 7. How is it set?

Are population estimates conducted for river otters? Any chance of supplementing the area population?

- FWP response: Relative abundance using habitat modeling is used for species like river otters. This includes different models, sightings, tracks, signs, etc. There are very few incidental captures of otters in Region 5. There has not been any recent discussion regarding augmentation of river otters in Region 5. Ashley Taylor is Region 5's furbearer expert.

**Susan Gilbertz:** Mostly concerned about public access to public lands and resources.

**Doug Dreeszen:** Concerns on unlimited sheep hunting and the quota status. Feels there was inaccurate information being presented by the Commission during the last commission meeting. Has spent decades in the mountains hunting sheep and is interested in being part of future discussions.

**Dan Aadland:** Concerned by the low white-tailed deer numbers in his area (near Rosebud creeks). The quantity of Region 5 white-tailed deer B tags is concerning based on population numbers.

- FWP Response: Region 5 reduced the number of white-tailed deer B licenses from 5200 to 4500 last spring. After green-up counts this coming spring, FWP will have the opportunity to reduce the number of licenses further if needed. White-tailed deer numbers along the Beartooth front were substantially impacted by late snowstorms last winter and early spring.

**Chris Fleck:** Was concerned with the Stillwater River and extensive work in the river including large equipment traveling in the stream and bank stabilization and riprap that followed the 2022 flood. What are the long-term implications of redirecting streamflow, removing large woody debris, and lots of riprap? Chris had questions about where the funding comes from with these projects. He also addressed the extensive streambank work on Rock Creek in Carbon County following the flood. Brought up the possibility of some improvements at Whitebird FAS. Site can easily become congested during busy times of year; would like to see a better boat ramp installed, as there has not been one at the site since 2011.

- FWP Response: The current neighbor fencing situation at Whitebird FAS is being addressed; cadastral map will be updated to show accurate parcel area. Current maps are not correct, and fence was built by adjacent landowner. The current fence will be removed, and a new property fence will be put in its place. Waiting to complete the land survey. Request for public to communicate concerns over streambank and riprap projects with county conservation districts, county commissioners, and FWP fisheries staff. Staff reviews 310 permits and applies the 124 permits. There were a lot of permits and some work done outside of permits. 310 violation or question can be best answered by local conservation districts. DES managed the FEMA funding for flood recovery and

worked with the counties and the public to use emergency funds. It was a complicated year with a wide variety of opinions about the work that has been done and is planned. FWP is attempting to work with landowners to incorporate large woody debris back into river in some places to improve rearing habitat and cover for juvenile fish.

**Pat Riley:** Access is his main area of concern and reason he's on the CAC. There are plenty of elk in the Bull Mountains, but the public doesn't have access to them. Same in Region 7 near Custer. Hunting is part of our heritage and culture and worried about the future. Hard for new hunters and hunters without connections to get on private lands. Has family members and knows others that are opting out of hunting because of the difficulty to find access. He allows people on his own property because of the passion he has for hunting and the opportunity. Worried about mule deer numbers as well. Harvest was down which followed the low numbers he saw in pastures. Doesn't know where they went or what happened. Has concerns about turkeys and needing more being harvested because of congregation in certain areas causing issues on his property. Looking for ways to make increase number of Block Management Areas. Improving water for livestock on the Snowy WMA will benefit wildlife including elk.

- FWP Response: department working to build relationships with the agriculture community. Increase in Block Management payments. Mule deer numbers are down and harvest was below average for the most part around the region. We can certainly send turkey hunters to harvest some through the 1<sup>st</sup> of January and next spring.

Another CAC member said he was on the list for an EHA Hunt was 46 on the list and didn't get a call. Felt they passed him by.

- FWP Response: Mike would follow up on process and get back to them.

**Anne Marie Emery:** Concern about I-193 ballot proposal. Private landowners being able to harvest animals on their own property without drawing the permit. Is this building a loophole that will be over exploited? Bighorn River fish counts are down. Would like a creel survey on that river. Pressure on the Bighorn River is an issue. Mentioned the need for bear resistant garbage cans in Fort Smith, as there were a number of bear issues this season. Who is responsible for bear management along the upper Bighorn River? She thanked maintenance staff for their work at the sites and being responsive to her calls.

- FWP response: Bears around Fort Smith will require collaboration with the Crow Tribe for management.

**Lee Deming:** Fished Bighorn River for 30 years. Fished there recently was surprised by the size of fish he and others caught; lower catch rates but still ok. Dislikes the single district requirements for elk and deer hunting permits. Would like to see permits that are valid in multiple regions. Access is a large issue. Grateful for the "thank the landowner" campaign and

online portal. Had a question about the bison herd on the reservation and if they are genetically pure or not.

- FWP Response: Mike will check with the tribe to see if their herd has been tested or not.

**Bruce Hoiland:** EHA agreement: does it affect the number of permits for that area? Has concerns about the commission making new numbers on quotas and not using the biologist numbers. Concerned about deer numbers in the state. Sees people not harvest elk due to limited access but then get deer to fill the freezer which might be hurting the current deer population. Would like to see future reports for deer harvest to show total harvest on the Musselshell River. Would like to see less licenses going to non-residents and more to residents in his area. Lost opportunity for locals overtime.

- FWP Response: EHA's don't affect the number of permits but does use the list for hunters, will check with local biologists to see if there is a way to evaluate harvest from the check stations or other sources to the Musselshell Valley. Not sure it is possible most data is by Hunting district rather than specific locations.

Upcoming meeting: next CAC meeting and summer tour discussion. Talked about having the meeting off site in another location such as Red Lodge. There was a lot of interest in wildlife diseases. The wildlife health lab might be a destination for a future tour.

- Tentative plan for CAC on March 13, 2024. Location and time to be determined.

No public was in attendance.

**Meeting adjourned.**