

**MINUTES**  
**Montana Fish, Wildlife & Parks Commission Meeting**  
**FWP Headquarters – 1420 East 6<sup>th</sup> Avenue**  
**Helena, MT**

**APRIL 14, 2011**

**Commission Members Present:** Bob Ream, Chairman; Dan Vermillion, Vice-Chairman; Ron Moody; Shane Colton, and A.T. Stafne.

**Fish, Wildlife & Parks Staff Present:** Joe Maurier, Director, and FWP Staff.

**Guests:** See April 14, 2011 Commission file folder for names of who signed in.

**Topics of Discussion:**

1. **Call to Order - Pledge of Allegiance**
  2. **Approval of Minutes of February 10, 2011 Commission Meeting (No March Meeting)**
  3. **Approval of Commission Expenses through March, 2011**
  4. **Commission Reports**
  5. **Director's Report**
  6. **Legislative Update**
  7. **Hauser Reservoir Administrative Rule Amendment - Final**
  8. **Milltown Dam Administrative Rule Repeal - Final**
  9. **Reestablish Closure of Clark Fork & Blackfoot Rivers Near Milltown Dam Site - Proposed**
  10. **Augusta Check Station Curb and Gutter Project - Final**
  11. **Future Fisheries Projects - Winter Cycle - Final**
  12. **Glendive Chamber of Commerce & Agriculture Paddlefish Roe Committee Approval - Final**
  13. **Commercial Fishing Regulations on Canyon Ferry Lake and Lake Helena - Final**
  14. **Fishing Regulation Possession Limit Waiver on Cherry and Granite Lakes - Proposed**
  15. **Introduction to the 2012 Fishing Regulation Setting Process - Informational**
  16. **Modification of Muzzleloader/Shotgun Ammunition Regulations in Weapons Restriction Areas - Final**
  17. **Hazards to Navigation and Waterway Marker Requirements Administrative Rule – Final**
  18. **Tongue River Reservoir No-Wake Boating Restrictions Administrative Rule – Final**
  19. **Brush Lake No-Wake Boating Restrictions Administrative Rule – Final**
  20. **Church Slough No-Wake Boating Restrictions Administrative Rule – Final**
  21. **Fennen Slough No-Wake Boating Restrictions Administrative Rule – Final**
  22. **Killbrennan Lake No-Wake Boating Restrictions Administrative Rule – Final**
  23. **Alvord Lake No-Wake Boating Restrictions Administrative Rule – Final**
  24. **Flathead River Administrative Rules - Final**
  25. **2011 Peregrine Falcon Take - Final**
  26. **Standardize Wildlife Management Area Opening Times - Final**
  27. **Glendive Urban Deer Plan - Final**
  28. **2011 Grazing & Sharecrop Leases – Final**
  29. **2011 Moose, Sheep, Goat Quotas Outside Biennial Quota Ranges - Proposed**
  30. **2012 Moose, Sheep, Goat, Deer and Elk License Auction Rules - Proposed**
  31. **Sheep and Goat Transplant - Endorsement**
  32. **2011 Lion Quotas--Proposed**
  33. **Upland Game Bird Enhancement Program Strategic Plan - Endorsement**
  34. **Open Microphone – Public Opportunity to Address Additional FWP Issues**
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1. **Call to Order - Pledge of Allegiance.** Chairman Ream called the meeting to order at 8:15 a.m. and led the Pledge of Allegiance.



**2. Approval of the Commission Meeting Minutes of February 10, 2011. (There was no March meeting).**

*Action: Vermillion moved and Colton seconded the motion to approve the February 10, 2011 minutes. Motion carried.*

Moody directed attention to Page 2, Item 8 of the February minutes regarding Commission endorsement of a study for potential disposal of parcels of state parks land. He said a story printed by the press indicated that the study was intended to assist in attaining the departmental budget, but as the minutes reflect, the purpose of this study is to determine if these sites are appropriate for state park ownership. He asked for assurance there was no mission shift on the purpose of the approved study.

Maurier agreed the minutes are accurate, but noted that since the Parks Division was cut another five percent, FWP is considering all options to help the parks system, so it is not entirely inaccurate to include land disposals in the budget.

Moody stated that when the Commission provides endorsement for cited reasons, those reasons remain the reasons for endorsement until decided otherwise. Commission action is Commission action until changed. It is not accurate to report to the public that there is another set of motives.

Maurier stated that FWP did not report it that way to the media; he does not know where it came from other than that the reporter must have taken it upon themselves to interpret it that way.

**3. Approval of the March Commission Expense Report.**

*Action: Colton moved and Vermillion seconded the motion to approve the expense report as presented. Motion carried*

**4. Commission Reports.**

**Ream** welcomed A.T. "Rusty" Stafne to the Commission. Stafne, representing District 4, replaces Willie Doll. Ream reported that Bud Lilly had sent a letter of appreciation for the recognition he received regarding his donation of the access site near Logan. Ream said he remains impressed with the efforts put forth by FWP staff during this legislative session where there have been a record number of bills affecting the Department. He commended Director Maurier in his dealings with the legislature. SB255 made it clear the Commission needs to pay attention to justification of Commission decisions and changes. It isn't always a question of the resource.

**Vermillion** said it has been a relatively quiet spring, however there have been issues regarding the fishing regulations on the Yellowstone River. He has received many phone calls from sportsmen in the Billings area regarding the Yellowstone.

**Colton** welcomed Commissioner Stafne to the Commission. He stated there is a challenge by a group of anglers who want FWP to repeal regulations that were passed a year ago. They feel they were left out of the process even though public comment was widely sought.

**Moody** said this is a good time to get out and mingle with the grass roots of local hunters and anglers. It is invaluable to keep personal relationships with the people the Commission represents. He attended the Sun River Working Group meeting, the Devil's Kitchen Working Group meeting, the Billings Rod and Gun meeting, and the Block Management Cooperator's Banquet. He also attended a meeting in Billings to discuss fishing regulations.

**A.T. Stafne** said he appreciates the appointment and asked that everyone bear with him while he learns about the issues. He is from Wolf Point, and is a tribal member and Chairman of the Assiniboine Tribe. He has also worked for Tribe over the past twenty years as a councilman and as a judge, so he is not new to controversy. He said there are issues he knows little or nothing about, and will not want to hastily cast a vote on issues he is not familiar with. His part of the country has been suffering all winter from all the snow, and now it's flooding. Stafne thanked Pat Gunderson for his help and guidance.

**5. Director's Report.** Director Maurier welcomed Commissioner Stafne to the Commission, and welcomed Commissioner Vermillion back. The Commission confirmation hearing that was originally scheduled for today was cancelled; he anticipates it will be held next week. Maurier said it would be preferable if Stafne and Vermillion could attend the confirmation hearing. Stafne said if he could appear via the teleconference system, it would be helpful. Maurier reminded the Commission that the Montana Wildlife Federation meeting begins tomorrow, and the Commissioners are all invited to participate on a panel on Saturday. The new Wildlife Center is coming along nicely, and the demand to use the facility is exceeding expectations. A tour of the Center will be conducted for the Commission at the next meeting if there is time. Congress will be voting on delisting the wolf in Idaho and Montana. They will have to accept all or none of the bill. Maurier said he is cautiously optimistic it will pass.

**6. Legislative Update.** Director Maurier stated that FWP was challenged on many fronts, some of which were I161, wolves, bison, stream access, and hunting issues. Staff has done a great job; it has been a team effort. Parks was cut an additional 5%, and although the \$2 fee increase was passed, it was amended so a person could opt out for the life of the vehicle. Overall the budget looks pretty good.

**7. Hauser Reservoir Administrative Rule Amendment - Final.** Becky Jakes Dockter, FWP Legal Counsel, explained that in 1995 the Commission adopted a closure to the operation of all watercraft from Canyon Ferry Dam to below Brown's Gulch from October 15 through December 15 to protect a large concentration of migrating bald eagles that used this section of the reservoir to feed on kokanee salmon carcasses. Since bald eagles no longer migrate to this portion of the reservoir, the rule is no longer necessary so the Department recommends amending ARM 12.11.3205 to remove the closure. The Commission approved this proposed amendment at the January, 2011 meeting. No public comments were received.

*Action: Vermillion moved and Colton seconded the motion to adopt the amendments to ARM 12.11.3205 to remove the seasonal closure of Hauser Reservoir from Canyon Ferry Dam to below Brown's Gulch.*

**8. Milltown Dam Administrative Rule Repeal - Final.** Becky Jakes Dockter, FWP Legal Counsel, explained that in 2003, the Commission adopted ARM 12.11.3963 to restrict boating, sailing, floating and swimming 200 feet above the dam and 200 feet below the dam for safety concerns. Milltown Dam was removed in March of 2008, making ARM 12.11.3963 obsolete, therefore FWP recommends repealing the obsolete rule. The Commission approved the proposal to repeal the rule at the January, 2011 meeting. No public comment was received.

*Action: Vermillion moved and Moody seconded the motion to repeal ARM 12.11.3963. Motion carried.*

**9. Reestablish Closure of Clark Fork & Blackfoot Rivers Near Milltown Dam Site - Proposed.** Chas Van Genderen, FWP Parks Division Administrator, explained that in 2006 the Commission authorized FWP to close stretches of the Clark Fork River and the Blackfoot River near the Milltown Dam superfund site for safety reasons, for five years. Hazards included rapid water level changes, exposed and unstable debris and sediments, and construction activities. FWP requests a 2-year extension to the closure to allow final cleanup and restoration activities to occur.

Restoration work along the lower Blackfoot River and the former powerhouse area is scheduled for the summer of 2011, and park development is to begin in 2011 and will continue into the summer of 2012. The native vegetation planted in 2010 along the Clark Fork is still in a fragile stage of growth, so additional time would be of benefit. Other work includes removal of old bridge piers from the Blackfoot River, removal of the Stimson cooling pond, restoration of the channel, and bank stabilization on the I-90 bridges. The I-90 bridge piers have been identified as a hazard to river recreationists, therefore a risk management plan/strategy is under discussion.

*Action: Vermillion moved and Colton seconded the motion to re-establish the expired commission rule to extend the closure of the Clark Fork River from about ½ mile below Milltown Dam to 3 miles upstream, and to extend the closure of the Blackfoot River from its mouth to 1½ miles upstream, for a period of up to two years. Motion carried.*

**10. Augusta Check Station Curb and Gutter Project - Final.** Paul Sihler, FWP Lands Unit Supervisor, explained that Montana Department of Transportation is undergoing a construction project through the town of Augusta that involves paving the road through town and installing curbs and gutters. The intersection adjacent to the FWP Check Station, Walrath and Highway 287, had to be realigned to meet federal requirements for funding, and it was discovered that to accomplish the realignment, a very small portion of FWP land would be encroached upon. The Department of Transportation would like to purchase 400+ square feet, fee-title, of the Augusta Check Station at the appraised value of \$2,550 to allow them to receive funding for completion of the project. A credit for \$2,550 from Department of Transportation for improvements to FWP property was agreed upon, rather than an exchange of cash. No federal aid is involved in this proposal. Loss of this square footage would not create a hardship on the check station.

*Action: Moody moved and Colton seconded the motion to approve the fee title transfer of 400+ square feet of the Augusta Check Station for the appraised value of \$2,550 to the Montana Department of Transportation. Motion carried.*

**11. Future Fisheries Projects - Winter Cycle - Final.** Bruce Rich, FWP Fisheries Bureau Chief, explained that there are two Future Fisheries funding cycles per year that provide funding for fish habitat restoration projects. A citizen advisory panel reviews the applications then forwards their recommendations to the Commission for final approval. For this cycle, the review panel recommends funding eighteen of the twenty-five proposals at a cost of \$462,026 to the program, with matching funds and in-kind contributions totaling \$765,488. This program was affected 80% by the legislature.

*Action: Vermillion moved and Moody seconded the motion to approve the Citizen Panel funding recommendations for the Winter 2011 funding cycle of the Future Fisheries Improvement Program at a cost of \$462,026. Motion carried.*

**12. Glendive Chamber of Commerce & Agriculture Paddlefish Roe Committee Approval - Final.** Montana statute authorizes one non-profit organization to collect, process, and sell paddlefish roe. The Glendive Chamber of Commerce & Agriculture is the current organization selected to participate in this program. The organization must appoint a committee to solicit proposals for historical, cultural, recreational, and fish and wildlife activities, and to recommend funding selected projects. The Glendive Chamber must present their committee recommendations to the Commission for approval. Thirty community grant projects were funded last year. Bruce Rich, FWP Fisheries Bureau Chief, explained that there are no changes to the committee from last year, so the recommended 2011 committee is:

- Mike Roe—Glendive Area Chamber of Commerce and Agriculture
- Kevin Dorwart—City of Glendive director of Operations
- Tim Mort—West Glendive Fire Department chief and Dawson County fire warden
- Kevin McGovern—Reynolds Warehouse Grocery meat cutter in Glendive
- James Thielman—Thielman Oil Productions Services, Inc. in Glendive

*Action: Colton moved and Vermillion seconded the motion to approve the Paddlefish Roe Program Advisory Committee as recommended by the Glendive Chamber of Commerce and Agriculture, and to direct the department to enter into an MOU with the Chamber for the 2011 paddlefish season. Motion carried.*

**13. Commercial Fishing Regulations on Canyon Ferry Lake and Lake Helena - Final.** By statute, the FWP Commission is authorized to approve one commercial fishing operation for each body of water and to establish specific regulations regarding gear, limits, seasons, closures and any other limitations deemed necessary. Bruce Rich, FWP Fisheries Bureau Chief, explained that the permittee from 2010 applied for the 2011 commercial fishing permit to harvest carp, via seining, from Canyon Ferry Reservoir and Lake Helena. The public comment period generated two comments, both in support, although one expressed concern about bycatch. This concern is alleviated by the fact that bycatch has been negligible in the past, and the permittee is required to submit monthly reports of harvest activity, which provides FWP the ability to track their activities. Additionally, FWP will perform random spot checks of the operation to ensure the operation is in compliance with the permit. Last year, the permittee harvested over 1000 carp, and there were no complaints from the public on any conflicts of use.

*Action: Colton moved and Moody seconded the motion to approve the regulations for a commercial fishing operation on Canyon Ferry Reservoir and Lake Helena for 2011.*

**14. Fishing Regulation Possession Limit Waiver on Cherry and Granite Lakes - Proposed.** FWP plans to restore non-hybridized westslope cutthroat trout to Cherry Creek, a tributary to the Big Hole River, by using rotenone to remove brook trout and hybridized trout from Cherry Creek and from Cherry and Granite Lakes. Bruce Rich, FWP Fisheries Bureau Chief, explained that FWP is proposing to remove the limits (5 daily, 10 in possession) on these lakes, effective immediately, until September 1, 2011. Limit waivers create public goodwill and agency support, and will enhance the goal of fish removal.

*Action: Vermillion moved and Moody seconded the motion to remove the daily and possession bag limits for Cherry and Granite Lakes, effective immediately, through September 1, 2011. Motion carried.*

**15. Introduction to the 2012 Fishing Regulation Setting Process - Informational.** Bruce Rich, FWP Fisheries Bureau Chief, explained that every four years the Department conducts an extensive review of the fishing regulations, which includes a public scoping process, to identify any necessary changes. Smaller changes and clarifications are brought before the Commission each of the three years in between. The process has begun for 2012, which is the fourth year of the process, therefore larger issues will be identified and brought forward for Commission consideration. FWP recently developed a brochure of proposed regulation changes for the public to provide recommendations and comments on. The brochure was distributed to license agents over a month ago, and is on the FWP website. Comments will be taken through April 22, after which time, FWP staff will review them. Further engagement with the public will then occur. FWP has already received over one hundred comments. Proposed regulation changes for 2012 will be presented to the Commission

at the August meeting. A formal 30-day public comment period will follow; the Commission will then consider final adoption of the regulation changes at the October meeting.

**16. Modification of Muzzleloader/Shotgun Ammunition Regulations in Weapons Restriction Areas - Final.** Mike Korn, FWP Enforcement Bureau, presented the final proposal. Weapons Restriction Areas (WRA) were established to allow for the harvest of animals in areas where residences, adjacent populations and development preclude the use of “high-powered” firearms. Weapons are currently limited to shotgun, muzzleloader, traditional handgun and archery as a harvest means. The technology associated with ammunition, for both shotguns and muzzleloaders, has increased the range and velocity of these firearms, bringing muzzleloaders and shotguns to high power rifle capabilities, extending the range out beyond 100 yards. The use of this ammunition defeats the purpose of limitations on weapons in these areas, and creates potential public safety issues. FWP had proposed to adopt new rules that would allow for big game hunting in developed areas but at the same time, minimize the possibility of properly handled firearms presenting risks to the public and property in the area. FWP received 212 comments, of which 141 were in opposition of the proposal. It appears that there remains no overall consensus in the shooting community as to whether using these loads in developed areas is appropriate or not. Given the comments, FWP recommends no action, but to leave regulations as they are. Although this allows for the enhanced ammunition and poses potential public safety risks at WRA’s, up to this point in time, the current regulations have been adequate to allow hunting opportunities in developed areas. WRA’s need to be regularly re-evaluated by the regions, both by staff and through public review to ensure that circumstances have not changed to where the use of any firearm would endanger public safety. The rule reads as follows:

#### **Weapons Restriction Areas**

• Weapons restrictions are in effect in some hunting districts. Such restrictions are stated in the license/permit description and/or with a specific date range. The following equipment restrictions apply to Weapons Restriction Areas:

\* **Muzzleloaders**

- must not be capable of being loaded from the breech of the barrel;
- may not be loaded with any pre-prepared paper or metallic cartridges;
- must be ignited by a percussion, flintlock, matchlock, or Wheelock mechanism;
- must be a minimum of .45 caliber;
- may have no more than two barrels; and
- must only use plain lead projectiles, not sabots or similar projectiles.

• **Traditional Handguns:**

- is not capable of being shoulder mounted;
- has a barrel length of less than 10 ½ inches;
- chambers only a straight wall cartridge, not originally developed for rifles.

• **Shotgun:**

• a shouldered, breech-loaded or muzzle-loaded firearm with a smooth bore and/or rifled barrel and/or rifled choke device designed to fire shot or slugs.

• **Archery:** See legal archery equipment in this section.

• **Crossbows:** Legal in weapons restriction areas unless exception noted in specific hunting district regulations.

*Action: Vermillion moved and Moody seconded the motion that the regulations for Weapons Restriction Areas be maintained as currently written. Motion carried.*

**17. Hazards to Navigation and Waterway Marker Requirements Administrative Rule – Final.** Ron Jendro, FWP Enforcement Recreation Program Manager, explained that Montana has seen an increase in people placing objects on state waters such as floating/swimming docks, platforms, jumps, rails, inflatable trampolines, slalom courses, etc that create hazards to other recreational boaters. The present statute regarding boat safety is vague and open to interpretation so FWP proposes to initiate a rule where placement of any possible hazard, except diver down flags, must be approved by FWP through a formal application process, and all unattended objects must be visibly marked with the responsible party’s name, and shall be marked with lights if placed overnight. No public comment was received during the public comment period. The rule reads as follows:

(1) A water obstacle includes but is not limited to: (a) pier; (b) floating dock; (c) platform; (d) shoreline dock greater than 75 feet from shoreline; (e) navigational aid; (f) slalom course; (g) jump/rail; and (h) inflatable recreational equipment located greater than 75 feet from shoreline.

(2) No person shall place any permanent or anchored water obstacle on the waters of this state without a permit issued by the department or a federal, state, or county entity with authority. Water obstacles that are permitted by a federal, state, or county entity with authority are not required to obtain an additional permit from the department.

(3) All permitted water obstacles must be visibly marked with the owner's name with letters that are:

(a) a contrasting color to the object; and

(b) at least three inches in height with the letter width proportionate to the height.

(4) Each permitted water obstacle must be marked with lights if placed overnight and the marker lights:

(a) must meet United States Coast Guard requirements for marker lights;

(b) must float at least 39 inches above the water;

(c) must be an amber color flashing light that flashes a minimum of 30 flashes per minute and is visible for up to one-half mile; and

(d) if buoyed, the buoy must be self-righting and have a three-inch silver radar reflective band around the top.

(5) Placement of water obstacles without a proper permit or failure to abide the permit requirements constitutes a violation of commission rules and regulations and the water obstacles must be removed by the entity that placed the obstacle immediately upon notification. Water obstacles that create a hazard may be removed by the department at the owner's expense. Any damages incurred during removal by the department will not be the responsibility of the department.

*Action: Colton moved and Moody seconded the motion to adopt the proposed rule establishing criteria for placement of water obstacles. Motion carried.*

**18. Tongue River Reservoir No-Wake Boating Restrictions Administrative Rule – Final.** Ron Jendro, FWP Enforcement Recreation Program Manager, explained that heavy use of motorized water craft on the 12-mile long Tongue River Reservoir makes water safety a major concern. All bays on the west side of Tongue River Reservoir are no-wake speed areas, with the exception of Neck Bay which is no-wake from shoreline to 300 feet from shoreline. Due to the geographic design of Neck Bay, at full pool and through the drawdown of the reservoir during irrigation, the 300 foot rule's boundaries change, and it is unclear as to where the rule is in effect. Because of the difficulty in identifying the precise location of the no-wake zone, wardens can only write warning citations for violations. FWP is proposing to include the entire Neck Bay as a no wake speed area to reduce confusion. Following Commission approval of the proposed ARM in January, notice was published for public comment - no comments were received.

*Action: Colton moved and Vermillion seconded the motion to adopt the proposed rule amendments to ARM 12.11.805 requiring all motorized watercraft to travel at "no wake" speed in the entire geographic boundaries on Neck Bay on the west side of Tongue River Reservoir. Motion carried.*

**19. Brush Lake No-Wake Boating Restrictions Administrative Rule – Final.** Ron Jendro, FWP Enforcement Recreation Program Manager, explained that Brush Lake is located southeast of Plentywood, and is a popular recreational lake. In 2006, a day use picnic area was developed, along with a boat ramp and dock. Motorized traffic has now increased, creating congestion in the area of the ramp, dock, and swimming area. Region 6 Law Enforcement and Parks Division staff commonly witness motorboats speeding and recklessly causing hazardous situations in the area of the boat ramp, dock and swimming area. A safer atmosphere has been requested by several of the park's visitors, and the Sheridan County deputies have also conveyed concern of the high speed exhibited by watercraft in the area of the boat ramp & dock and swimming area. FWP proposes to require all motorized watercraft to travel at "no wake speed" in the area of the boat ramp & dock and the "no boats"/swimming area as buoyed. Following Commission approval of the proposed ARM in January, notice was published for public comment - no comments were received.

*Action: Vermillion moved and Colton seconded the motion to adopt the proposed rule language establishing a controlled now wake speed surrounding the Brush Lake State Park boat ramp, dock, and swimming area as buoyed. Motion carried.*

**20. Church Slough No-Wake Boating Restrictions Administrative Rule – Final.**

**21. Fennen Slough No-Wake Boating Restrictions Administrative Rule – Final.**

Becky Jakes Dockter, FWP Legal Council, explained that petitions had been submitted to FWP regarding Church and Fennen Sloughs. In January, the Commission initiated the rule-making process, which ended the petition process.

Mark Deleray, FWP Fisheries Biologist, stated that the EA was conducted according to river recreation rules. Sixty people attended the public meetings, at which twenty-five spoke, and the Department received fifty written comments. There were comments on both sides of the proposal. Deleray said FWP recommends not adopting the no-wake rule but recommended adopting the seasonal boating closure from March 1 to April 10. This is a period where little boating takes place, and there

are thousands of waterfowl on the water during this period of time. The closure is to protect the waterfowl. Boating on Church Slough is difficult as it is twelve miles upstream from Flathead Lake with limited access. Fennen Slough is closer to Flathead Lake, only three miles. The Department recommends adopting the no-wake boating rule on Fennen Slough. There is strong support from private landowners surrounding the slough where banks are suffering from erosion - the banks are made of highly erosive soil. This slough receives a great deal of use because access is easier, which exacerbates the erosion of the banks.

*Action: Colton moved and Vermillion seconded the motion to not adopt the no-wake boating rule, but adopt the seasonal boating closure from March 1 to April 10 on Church Slough.*

Paul Sandrey, Kalispell area, said he lives near both sloughs, and is concerned about the closure as he recreates on the sloughs. He hasn't seen social conflicts, and he is not aware of bodily damages. The sloughs are used a lot from June 15 through August. He said the erosion is perceived erosion – it has not been measured.

David Johnston, Kalispell area, said he echoed Sandrey's comments.

Jim Satterfield, FWP Region 1 Supervisor, stated that each slough was analyzed separately. It would take several years to set a baseline and measure the erosion.

*Action on Motion: Motion carried. Four in favor - one opposed. (Moody opposed).*

*Action: Ream moved and Moody seconded the motion to adopt the proposed no-wake boating rule for Fennen Slough as recommended by the Department. Motion carried. Three in favor - two opposed. (Colton and Vermillion opposed).*

## **22. Killbrennan Lake No-Wake Boating Restrictions Administrative Rule – Final.**

### **23. Alvord Lake No-Wake Boating Restrictions Administrative Rule – Final.**

Lee Anderson, FWP Warden Captain, presented the proposal. Both lakes, used almost exclusively for fishing, are just over the 35-acre minimum for no wake restrictions. A narrow open water use opportunity exists outside of the 200-foot no-wake regulations on each lake that have been used waterskiing. Recent complaints by the majority of the recreational users of the lakes have requested eliminating the small opportunities that disrupt the main recreational use of the lake. Public comments have all been in favor of the proposal. FWP recommends the proposed rule change as it will greatly improve the anglers' and recreational users' experience as well as clear up just how boaters are to operate on the entire two lakes. The Commission approved the proposed no-wake restrictions on Alvord Lake and Kilbrennan Lake at the January Commission meeting.

*Action: Vermillion moved and Colton seconded the motion to adopt the proposed rule establishing a controlled no wake speed as defined by ARM 12.11.101 for Kilbrennan Lake and Alvord Lake located in Lincoln County. Motion carried.*

**24. Flathead River Administrative Rules - Final.** Lee Anderson, FWP Warden Captain, explained that the Forest Service adopted regulations restricting motorboat usage on portions of the North Fork, Middle Fork, and South Fork of the Flathead River. These restrictions are posted in the Montana Boating Regulations, but Department of Fish, Wildlife and Parks Wardens cannot enforce the Forest Service rules. FWP recommends the adoption of the ARM to create consistency with the U.S. Forest Service's restrictions so wardens can enforce the restrictions, and assist the public with complaints. The Commission approved the proposed restrictions on the Flathead River at the January Commission meeting. Seven written comments were received in favor of the proposal, none in opposition.

*Action: Vermillion moved and Moody seconded the motion to adopt the restrictions on the North Fork, Middle Fork and South Fork of the Flathead River consistent with the United States Forest Service's restrictions. Motion carried.*

**25. 2011 Peregrine Falcon Take - Final.** The U.S. Fish and Wildlife Service delisted peregrine falcons in 1999 and Montana followed in 2005. Monitoring shows continued increases in the number of nesting pairs and production of young falcons. Ken McDonald, FWP Wildlife Bureau Chief, explained that the recommendation for the 2011 take is based on 2009 productivity estimates and an agreement to take no more than 5% in FWP's 2007 Final Environmental Assessment. Five take permits were issued to Montana falconers in 2010 and two peregrines were taken. Legislation has been proposed to allow non-residents to capture falcons, so if that is passed, the regulations will change. The following regulations are recommended.

- \* authorize take of five nestling peregrines in 2011
- \* restrict take to June 1-August 31
- \* limit take to one peregrine for each successful applicant
- \* prohibit take from eastern Montana to encourage expansion of the breeding population
- \* prohibit take from certain nests of high value wildlife viewing opportunity and/or part of on-going agency-approved research effort
- \* prohibit the sale, barter or exchange of birds from the wild

The public comment period generated 81 comments. A majority of the comments were in support of the regulations. Those in opposition focused on the inappropriateness of allowing individuals to possess wild falcons. One 2010 permit holder suggested a longer take period to allow for the capture of older fledglings. Another 2010 permit holder suggested a quota system be implemented to allow greater opportunity to all qualified falconers.

*Action: Vermillion moved and Colton seconded the motion to authorize the take of up to five peregrine falcon nestlings or fledglings for falconry purposes in 2011 within a take period of June 1–August 31 as well as the balance of the proposed regulations.*

Pat Helvey, Helena, said she was told that SB92, which allows non-resident falconers to take Montana raptors, would not affect peregrine falcons; that non-residents could not take them. The discussion now indicates that they can. She said the public was not informed that this legislation, which makes a major change in raptor policy, was being decided in the legislature. She was on the internet and discovered the bill, so she made copies of it for distribution. People told her they had not heard of this legislation - they had not been made aware. She said she wonders if the Department and Commission are obligated to let the public know when there is a major change to wildlife policy. Apparently this bill was something that was desired by a small group of people who seem to have a lot of pull in getting things that are favorable to their special interests. She said it bothers her that now the door will be opened to non-residents to take raptors. These raptors can be used in commercial operations and it bothers her to think that FWP would condone the commercialization of wildlife.

Ream stated that FWP will be revisiting rule making in response to SB92. He stated that everyone experienced the lack of notice and public involvement by the legislature this session. The legislature criticized the Commission on public involvement, but he informed them that FWP has had far more involvement than the Senate F&G committee has had.

*Action on Motion: Motion carried.*

**26. Standardize Wildlife Management Area Opening Times - Final.** Wildlife Management Areas provide critical big game winter range, and are generally closed between December and May to provide protection for big game. Several WMAs receive intense public use on opening days when folks collect shed antlers. This has led to large congregations of people accessing the WMA, creating resource and safety issues when large numbers of people suddenly access a WMA in the dark of night. Ken McDonald, FWP Wildlife Bureau Chief, explained that in order to address these concerns, FWP is proposing a standardized opening time of 12 noon on all WMAs with a winter closure. Six comments were received - four in favor of the noon opener, one said FWP is wasting our time with this issue, and one wanted the opening date to match with spring bear hunting. McDonald stated that FWP is also working on a standardized set of WMA rules.

*Action: Colton moved and Moody seconded the motion to approve the recommendation that all WMAs with a seasonal closure have a standardized opening time of 12:00 noon. Motion carried.*

**27. Glendive Urban Deer Plan - Final.** In 2003, the Montana Legislature authorized cities to create plans to control wildlife when public health and safety within city limits becomes an issue. These plans are required to be approved by the FWP Commission. Quentin Kujala, FWP Wildlife Management Section Chief, explained that the City of Glendive has developed a Deer Management Action Plan that lays out goals and includes actions needed to meet those goals. Their plan is patterned after plans already approved for Colstrip and Ekalaka. Public hunting, restricted to archery within the incorporated city limits, is the primary tool to manage urban deer numbers. "Open Space" areas owned by the city, within the city limits and where public hunting can occur, have been identified. A process has been set up to incorporate private open space property owners who voluntarily wish to participate in the deer management program, and to involve public hunters in the deer management program. The Dawson County Commissioners and the Dawson County Sheriffs are signatories to the plan.

*Action: Colton moved and Vermillion seconded the motion to adopt the final City of Glendive Deer Management Action Plan as presented. Motion carried.*

**28. 2011 Grazing & Sharecrop Leases – Final.** Ken McDonald, FWP Wildlife Bureau Chief, presented the two leases.

Mount Haggin WMA – South Grazing Lease Renewal

This lease is for a 10-year term involving three landowners. FWP is proposing to maintain a cooperative rest-rotation grazing program on the Mount Haggin WMA-South grazing system for a 10-year term to extend June 2011 through October 2020. The decision allows for the current usage of fee grazing (total 321 Animal Units/1,191 Animal Unit Months) for three local livestock producers (Clyde Thompson 141 AU/523AUM; Bacon Ranch 130AU/482AUM; and Ralston Ranch 50AU/186AUM). In addition, the decision allows for an increase of use by the Ralston Ranch by an additional 178 AU/658 AUM through an exchange of use agreement. This brings the total livestock use on the Mount Haggin WMA-South grazing system to 499 Animal Units and 1,846 Animal Unit Months.

*Action: Vermillion moved and Colton seconded the motion to approve the Mount Haggin WMA-South Grazing Lease Renewal as described in the Final EA.*

Nancy Schultz urged the Commission not to allow this grazing permit as there are no water sources available, and the grazing area is riparian ground. This land is important to wildlife.

Quentin said monitoring process on WMAs is conducted on a rotation basis by a staff member. That is a long-term look. Not to mentor how many animals should be there, but the potential of the property ecologically.

Director Maurier – testimony he heard was generic that it wasn't specific. Comments were that we don't take care of our property. It was an argument to stop two from buying more property. If we need to look at improvements, we are open to that.

*Action on Motion: Motion carried.*

Mount Haggin WMA – German Gulch Grazing Lease Renewal

FWP proposes to renew a cooperative rest-rotation grazing program on the Mount Haggin Wildlife Management Area-German Gulch system for a 10-year term to extend June 2011 through October 2020. The program consists of a summer grazing lease (436 Animal Unit Months) with the Peterson Fairmont Ranch, Inc. This project will improve habitat conditions across big game winter range on the WMA and adjacent U.S. Forest Service land, for the benefit of wildlife and the public.

*Action: Colton moved and Vermillion seconded the motion to approve the Mount Haggin WMA-German Gulch Grazing Lease Renewal as described in the Final EA. Motion carried.*

**29. 2011 Moose, Sheep, Goat Quotas Outside Biennial Quota Ranges - Proposed.** Quentin Kujala, FWP Wildlife Management Section Chief, explained that Biennial quotas for moose, sheep and goat licenses were adopted as final in February 2010. That adoption set minimum and maximum numbers of licenses that may be annually issued without additional commission review for any single license type. Field surveys have identified one moose license type in Region 3 where the prescribed 2011 quota is outside the adopted range. To address this, FWP proposes to decrease antlered moose licenses from 4 to 3, and to adjust biennial quota range from 4 – 10 to 3 - 10 in HD 327-20. All other quotas are proposed to be unchanged from 2010 levels or will be adjusted within current biennial ranges.

*Action: Vermillion moved and Colton seconded the motion to adopt the proposed adjustment to the moose HD327-20 annual quota and biennial range as proposed by FWP.*

**30. 2012 Moose, Sheep, Goat, Deer and Elk License Auction Rules - Proposed.** State law provides for an auction process to distribute the moose, sheep and goat licenses and an auction/lottery option to distribute the mule deer and elk licenses. The Commission approves criteria and organizations for conducting these lotteries. Ninety percent of the proceeds are returned to FWP, and the remaining ten percent goes to the organization. Hank Worsech, FWP Licensing Bureau Chief, explained FWP proposes no changes to the 2011 annual auction/lottery rules for use in the 2012 auction. FWP also proposes to change this process to an Administrative Rule whereby the Department would solicit interested organizations, and the Commission would still retain authority to choose which organization gets which license. By going to an Administrative rule process, the Commission would only see this topic when selecting the auction awardees. Little public comment has been received regarding these rules, however there has been some concern that the auction process commercializes wildlife resources.

*Action: Vermillion moved and Colton seconded the motion to adopt the tentative 2012 auction/lottery rules for the moose, sheep, goat, mule deer and elk licenses as proposed by the Department and that the Commission direct the Department to pursue an ARM process for this rule.*

Jim Weatherly, Wild Sheep Foundation, supports the change to an Administrative rule process. He said he is hopeful the Commission will keep their organization in mind for the sheep license.

*Action on Motion: Motion carried.*

**31. Sheep and Goat Transplant - Endorsement.** Quentin Kujala, Wildlife Management Section Chief, explained that FWP is seeking endorsement for three possible sheep transplant proposals. Although there are no mountain goat transfers planned at this time because no release sites have yet been identified, ten goats may be available for transplant from HD313 in January 2012 if a site is located.

Wild Horse Island has been tentatively identified as a bighorn sheep source population. A release site near the Lewis and Clark Caverns is proposed for exploration, and there is the potential for releases to winter ranges in the upper Madison (HD 302 sheep population) and Bitterroot valleys (between HD 250 and 270 sheep populations). All animals would undergo a health assessment at capture.

*Action: Vermillion moved and Colton seconded the motion to endorse these potential augmentations and explorations of new releases or reintroductions as presented by FWP.*

Jim Weatherly, Wild Sheep Foundation, supports the proposal.

*Action on Motion: Motion carried.*

**32. 2011 Lion Quotas--Proposed.** Quentin Kujala, Wildlife Management Section Chief, presented the proposed changes from the 2010 quotas. All other quotas/subquotas will remain unchanged from 2010 levels. Quotas apply to any legal lion.

Region 1

HD 100: increase total special licenses from 20 to 25 lions; increase female lion subquota from 8 to 10

Region 2

Missoula Special Management Area: increase male lion quota from 10 to 13, increase female lion quota from 8 to 12

Region 3

HD 310/311/360/361/362: decrease total lion quota from 6 to 5; maintain female lion subquota at 1

HD 320/333: decrease total lion quota from 4 to 2; maintain no female lion subquota

Region 4

HD 422/423/424/425/442: increase male lion quota from 7 to 9; increase female lion quota from 2 to 3

Region 7

**Region 7: increase total lion quota from 25 to 30; maintain no female lion subquota**

*Action: Colton moved and Vermillion seconded the motion to adopt the proposed 2011 lion quotas/subquotas as presented by FWP.*

Mary Ellen Schnurr, MOGA, recommends that the Commission consider the available wild prey base in determining mountain lion quotas. Deer populations are in a decline; in several districts deer are actually below the desired population.

Some licenses are being limited or eliminated entirely. Mountain lions fall back on domestic animals. Hunters must compete with lions for the opportunity to kill an animal in the fall. She said the take of 400 lions saves 20,000 deer.

Monty Schnurr, recommended the quota in HDs 418, 420, and 448 be increased to 8 females and 8 males. Horses and cattle have been lost to lions. Balancing a declining prey population with a declining predator population is not working. Lions are choosing alternative prey, and as long as there is a back-up source of prey, they will increase in number.

Rod Bullis, informed the Commission of the mountain lion conference is in Bozeman. He recommended reducing the quota in HD280 from 3 females to 1 female.

*Action on Motion: Motion carried.*

**33. Upland Game Bird Enhancement Program Strategic Plan - Endorsement.** FWP Wildlife Bureau Chief, narrated a Power Point presentation on the Plan. FWP administers the statewide Upland Game Bird Enhancement Program (UGBEP), which is organized into the Upland Game Bird Release Program and the Upland Game Bird Habitat Enhancement Program. The principle goals of the UGBEP are pheasant and turkey releases, establishment/enhancement of upland game bird habitat, conservation of valuable game bird habitats, and enhanced public upland game bird hunting opportunities. A legislative audit in 2009 recommended the establishment of a citizens' advisory council to participate in the development of an Upland Game Bird Enhancement Strategic Management Plan. The draft plan is being presented today for Commission endorsement.

*Action: Colton moved and it was seconded to endorse the proposed Upland Game Bird Enhancement Program Strategic Plan as presented.*

Julie French, original Chair of the advisory council, said this council is a great group of people to work with, and everyone was well- prepared when they came to meetings. FWP staff worked well with the council. She was impressed with the biologists. She suggests at the midway point – 5 years – the plan be reviewed. Restocking is a big part of Region 6.

*Action on Motion: Motion carried.*

**34. Open Microphone – Public Opportunity to Address FWP Issues Not on Agenda.**

John Borgren, Russell Country Sportsmen, said the US House passed a resolution to delist the wolf. He requested that FWP go forward with the Ravalli area plan.

Jim Bailey, Gallatin Wildlife Association, said he has not received responses to letters he has submitted in the past.

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*Action: Vermillion moved and Colton seconded the motion to adjourn. Motion carried.*

The meeting adjourned at 2:30 p .m.

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Bob Ream, Chairman

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Joe Maurier, Director