

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
FWP Headquarters – 1420 East 6th Avenue
Helena, MT
JANUARY 14, 2010

Commission Members Present: Dan Vermillion, Vice-Chairman; Willie Doll; Ron Moody; Bob Ream.

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

Guests: See January 14, 2010 Commission file folder for names of who signed in.

A work session was held prior to the Commission meeting to discuss the Hunter/Landowner Stewardship Project, the Wilderness Conservation Management area along the Rocky Mountain Front, and to discuss issues mutual to FWP and the Board of Livestock.

Topics of Discussion:

1. **Call to Order - Pledge of Allegiance**
2. **Approval of Minutes of December 10, 2009**
3. **Approval of Commission Expenses through December 2009**
4. **Commission Reports**
5. **Damselfly Fishing Access Site (Cherry Creek FAS) Right-of-Way Purchase – Final**
6. **Budget and Legislative Priorities – Proposed**
7. **Echo Lake and Swan Lake ARM Rule Correction – Proposed**
8. **Approach to Bison Management in Montana - Informational**
9. **2010 Peregrine Falcon Take – Proposed**
10. **Moore Big Horn Sheep Property Acquisition near Anaconda – Final**
11. **Bighorn Sheep Conservation Strategy - Final**
12. **Shed Antler Hunting on Statewide Wildlife Management Areas – Proposed**
13. **Upland Game Bird Easements – Endorsement**
 - Lower Beaver Creek Conservation Easement near Hinsdale**
 - Christensen Bend Conservation Easement near Hinsdale along the Milk River**
14. **Petition to Close Waterfowl Hunting on Mitchell Slough – Final**
15. **Open Microphone – Public Opportunity to Address Additional FWP Issues**

1. **Opening - Pledge of Allegiance.** Vice-Chairman Vermillion called the meeting to order at 1:00 p.m. and led the Pledge of Allegiance.

2. **Approval of the Commission Meeting Minutes of December 10, 2009.**

Action: Ream moved and Moody seconded the motion to approve the December 10, 2009 minutes. Doll made amendments to the Upland Game Bird section as follows: Doll recommended that the Little Rockies be closed to turkey hunting. He stated, too, that the pheasant is the only bird species in Montana where it is unlawful to take a hen. He asked what people are supposed to do if they do manage to accidentally take a hen - take it, leave it or

what? He would like to see one hen ~~either sex~~ included in the bag limit. Jeff Herbert, FWP Wildlife Assistant Bureau Chief, said there is no biological reason not to hunt hen pheasants. *Motion carried with amendments.*

3. Approval of the December, 2009 Commission Expense Report. *Action: Ream moved and Doll seconded the motion to approve the expense report as presented. Motion carried.*

4. Commission Reports.

Vermillion said wolves and elk depredation have been hot topics in Region 3. There is also a lot of support for a Saturday opener for the big game season. The youth hunt is well received, however there is a question as to whether that hunt needs to be limited to white tail deer only because of concerns that two more days of mule deer hunting in southwest Montana would be excessive.

Moody said he attended the BLM Advisory Committee meeting in Lewistown where discussions included development of BLM's resource management plan on the Highline, of which sage grouse are a component of that plan. Bison are another topic of dialogue. The concept of introducing them to prairie lands and locking them in fenced areas is of concern. The American Prairie Foundation project is the catalyst for the social and biological concerns of the Bison. He wants the public to engage in these decisions.

Doll said sheep producers in his district are concerned about predators. Folks are also concerned about what can be done to help the game birds with the onset of another tough winter. He attended the Citizen's Advisory Committee meeting where discussions included the lack of state parks in Region 6, but it was noted that FWP is looking into potential park sites to address the situation.

Ream said he attended the legislative EQC meeting which focused on wolves and depredation problems.

5. Damsely Fishing Access Site (Cherry Creek FAS) Right-of-Way Purchase – Final. Chas VanGenderen, FWP Parks Division Administrator, explained that FWP is proposing to purchase a perpetual easement from Natural Resources and Conservation for a fishing access site on a 2.25-acre parcel of School Trust Land on the Madison River at the mouth of Cherry Creek. The Bureau of Land Management has agreed to enter into a management agreement for joint management and maintenance of the FAS. FWP has applied for, and received, a PPL grant in the amount of \$20,686 that will be matched by FWP for the acquisition. The land is valued at \$39,375 (\$17,500/acre). This reach of the Madison River receives significant pressure from the public and commercial fishing guides. Advertisement of the Environmental Assessment generated ten responses, all in support of the proposal.

Action: Ream moved and Moody seconded the motion to authorize FWP to purchase a Right of Way from DNRC for the Damsely FAS.

Vice-Chairman Vermillion asked for public comment. There was none.

Action on Motion: Motion carried.

6. Budget and Legislative Priorities – Proposed. Director Maurier stated that Governor Schweitzer is requesting state agencies to cut 5 % from their budgets. Since FWP has its own budget, that does not apply, however the department is still mindful of the situation and will explore options to conserve funds. FWP will realize savings through continued efficiency measures and through the installation of a new video conferencing system.

Sue Daly, FWP Finance Division Administrator, said the executive planning process is ready for the 2011 legislative session. The internal process establishes legislative and budgetary priorities which the Commission reviews and approves. FWP is not funded by the general fund, but funding sources require the department to remain conservative. FWP won't be asking for any revenue increases. Demands for long term financial resources are on the rise. Priorities include agency management, financial management, habitat, species, recruitment and retention, fish and wildlife violations, long range planning, public awareness and involvement, data assessment, species of concern, access, service, stewardship, sustainability, and safety.

Action: Vermillion moved and Ream seconded the motion to approve the legislative priorities as presented Motion carried.

7. Echo Lake and Swan Lake ARM Rule Correction – Proposed. Becky Jakes Dockter, FWP Legal Counsel, explained that in May 2008, the Commission adopted ARM 12.11.2204 and 12.11.3106 regarding no wake zones on Echo Lake and Swan Lake. The language adopted by the Commission was inadvertently cited to the wrong ARM which created a rule that made Echo Lake and Swan Lake completely no wake lakes, which was not the intention. Instead, it was the intention of the commission to exempt three corridors on Echo Lake from the 200-foot no wake zone rule and extend the 200-foot no-wake zone on Swan Lake. This was not a Commission error, but a clerical mistake. This amendment does not change how recreationists recreate on the lakes, but corrects the language of the rules to reflect the intent of the Commission.

Action: Ream moved and Moody seconded the motion to approve the proposed Administrative Rule correction as written, for publication in the Montana Administrative Register.

Vice-Chairman Vermillion asked for public comment. There was none.

Action on Motion: Motion carried.

8. Approach to Bison Management in Montana – Informational. Dave Risley, Fish & Wildlife Division Administrator, stated that there are rumors and innuendos spreading across the state regarding what Montana is doing with bison. Bison are a unique challenge, and FWP and the Commission are charged with the responsibility to manage them as a wild animal. They have been placed behind fences, which is not the definition of wildlife. Bison are not migratory or endangered. FWP wants to engage the public in determining the role of bison on the landscape; the public needs to let the department know what they want. FWP is exploring options as to what to do with them as there is no clear direction on how to handle them. Utah has a wild population, but it is surrounded by desert. The Department plans to move forward with a scoping process to develop a statewide bison management plan.

9. 2010 Peregrine Falcon Take – Proposed. Jeff Herbert, FWP Wildlife Division Assistant Bureau Chief, stated that in December of 2009, the USFWS published a rule that allows Montana, Mississippi, Oklahoma, Pennsylvania, Texas and Utah to operate under the new federal falconry regulations, which gives each state more authority in managing take. Five take permits were issued to Montana falconers in 2009, but no peregrines were taken.

FWP proposed changes to existing regulations:

- Authorize a quota of five juvenile (nestling or fledged) peregrines in 2010
- Expand period of take to include June 1-August 31
- With proposed change in dates, eliminate Item #8 from the 2009 regulations that stated “*a fledgling may be trapped in the vicinity of the aerie*”.

The following regulations will guide allowable take of young peregrines falcons during 2010 (includes proposed changes).

Level of Take¹:

The level of take will be no more than 5 juvenile peregrines during 2010.

¹If using the 5% allocation authorized under federal guidelines, the most recent 3-year intensive survey effort (2006-2009-2012) will be used to establish that allowable level of take. No take will be authorized if the number of documented active nests falls below 50 as indicated by the 3-year survey protocol.

Regulations Governing Take:

1. Currently licensed Montana resident general or master falconers will be required to submit a permit application for the limited opportunity to take a wild peregrine falcon. If more than 3 persons apply, a drawing will be held to determine successful applicants and issuance of permits.
2. Take by nonresidents is prohibited.
3. The limit will be one peregrine falcon from the wild for each successful applicant.

4. Season dates are June 1 to ~~July 15~~ August 31.
5. Young may not be removed from their aeries before they are 5 days of age.
6. To avoid premature fledging of nestlings, aeries should not be entered when young are 28 days of age or more.
7. At least one nestling must be left in each aerie prior to fledging.
8. ~~A fledgling may be trapped in the vicinity of the aerie.~~
9. Each falconer who takes a juvenile (nestling or fledged) from the wild must report the sex and legal description (T R ¼ ¼ S) or GPS coordinates (e.g. UTM, decimal degrees) of the nest location of each bird to FWP (nearest regional headquarters) and to the USFWS within 5 days of take of the bird. A photo of the nesting cliff will be provided to FWP.
10. A falconer who takes a juvenile (nestling or fledged) from the wild must band it with a permanent, non-reusable, numbered Fish and Wildlife Service band (provided with the permit) and must present the banded bird for inspection by FWP personnel within 5 days of capture.
11. For potential stable isotope analyses and law enforcement purposes, the falconer will present the bird to FWP after the bird is 30 days old and two breast feathers will be plucked. The feathers will be shipped or mailed to the Division of Migratory Bird Management; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, Mail Stop 4107; Arlington, Virginia 22203-1610. When submitting the feathers, the permittee should report the legal description (T R ¼ ¼ S) or GPS coordinates (e.g. UTM, decimal degrees) of where the nestling was taken from the wild.
12. Birds taken may only be transferred between currently licensed Montana raptor permit holders and may not be transferred out of state without FWP approval.
13. The following nests will be prohibited from take due to high value wildlife viewing opportunities, ongoing agency-approved research efforts, or to meet other management objectives.
 - Blodgett and Painted Rock aeries in the Bitterroot
 - Johnsrud aerie on the Blackfoot River
 - Frenchtown aerie on the Clark Fork River
 - Woods Bay aerie near Flathead Lake
 - Coulter (or Meriwether) aerie on the Missouri River
 - Sacrifice Cliff aerie on the Yellowstone River near BillingsFalconers requiring more precise location information should contact FWP.
14. Take will be prohibited from that area of Montana lying east of the following line:
Beginning at the Montana-Alberta border at the northern initiation of Interstate 15 (I-15), south along I-15 to Great Falls, then east along MT HWY 87 to its junction with MT HWY 191 at Eddie's Corner, then south along HWY 191 to Big Timber and its junction with Interstate 90 (I-90), then east and south along I-90 to the Montana-Wyoming border.
15. For regulations on tribal lands, national parks or federal wildlife refuges, please contact the appropriate tribal government or federal agency.
16. The sale, barter or exchange of birds from the wild is prohibited.

Motion: Moody moved and Ream seconded the motion to approve FWP's recommendation to authorize the take of up to five juvenile peregrine falcons for falconry purposes in 2010 within a take period of June 1–August 31, and to remove from the regulations “a fledgling may be trapped in the vicinity of the aerie”.

Vice-Chairman Vermillion asked for public comment.

Ralph Rogers, falconer, expressed support for the motion.

Action on Motion: Motion carried.

10. Moore Big Horn Sheep Property Acquisition near Anaconda – Final. Ken McDonald, FWP Wildlife Division Bureau Chief, explained that the 29.74-acre Moore property is located west of Anaconda, and connects the Blue-eyed Nellie and Garrity Mountain Wildlife Management Areas. This acquisition would greatly benefit bighorn sheep. Five Valleys Land Trust, with financial support from the Montana Wild Sheep Foundation, purchased the property in December 2008 from the Moore family. In March 2009, Five Valleys Land Trust submitted a grant application to fund the purchase of the land for conveyance to FWP. Five Valleys Land Trust requested \$142,500.00 in Upper Clark Fork River Restoration grant funds for FWP to purchase the property and provide \$17,500.00 in startup maintenance funds. The Natural Resource Damage Program's Trustee Restoration

Council made a funding recommendation to the Governor on December 17 to acquire the property. This fee-title purchase will constitute the fourth addition to the 460-acre Blue-eyed Nellie WMA complex, which has become a popular site for wildlife viewing and provides three points of access to the Beaverhead-Deerlodge National Forest. There is no cost to department for acquisition.

Action: Ream moved and Doll seconded the motion to approve that FWP complete the fee-title acquisition of the Moore property, and commend the efforts of Five Valleys Land Trust and the Montana Wild Sheep Foundation to bring the parcel into public ownership, and express FWP's interest in continued cooperation with NRDP to conserve and restore natural resources in the Upper Clark Fork River Basin.

Vice Chairman Vermillion asked for public comment.

Jim Weatherly, Montana Wild Sheep Foundation, urged adoption of this motion. The Foundation has worked hard to raise funds to purchase this land, which is the only piece of property in that corridor that would be suitable for development that has not yet been developed. This acquisition would preserve the corridor and would benefit the sheep, and would keep private landowners from being in the middle.

Action on Motion: Motion carried.

11. Bighorn Sheep Conservation Strategy – Final. Development of the bighorn sheep conservation strategy was initiated two years ago, with Tom Carlsen, FWP Wildlife Biologist, at the helm. It has gone through all of the required procedural steps, but was tabled in November for further review and is now before the Commission once again for final decision.

Vermillion thanked Tom Carlsen and Quentin Kujala for their hard work on this lengthy project.

Ream was concerned about the words “only” and “should” pertaining to the statement in the Executive Summary that reads “*FWP believes that any localized removal, transfer, or conversion of established domestic sheep allotments on public lands for the benefit of bighorns **should only** come with the willing participation of the producer*”. He said it needs clarification as it pertains to the statute, as this language appears to give veto power to the producer.

Bob Lane, FWP Legal Counsel, said that sentence describes a policy for implementation; there is already a statute that FWP has to comply with. This as a policy with wording that provides flexibility, which is enough when combined with the statute. It does not create an absolute veto, but provides guidance.

Action: Ream moved and Moody seconded the motion to strike the words “only” and “willing” and add “and land managing agencies” and add the statute reference number.

Vice-Chairman Vermillion asked for public comment.

Jim Bailey stated that he supports the motion with the suggested amendments.

Glenn Hockett, Gallatin Wildlife Association, said they are committed and they want a level playing field. Politics is getting in the way of good science. He approves of the suggested amendments made by Ream but wants to further amend the motion to include striking the words “only” and “willing”.

Bill Mealer, SCI, is concerned about limited participation. Sheep sales produce a lot of money for Montana. The Plan should maintain status quo and some expansion in Region 3. This plan is overall very good but the veto issue will affect transplant of sheep in many areas and will provide sheep to other states rather than Montana, which he is opposed to.

Jim Weatherly, Montana Wild Sheep Foundation, is concerned with the word “only” as they feel it gives veto power to agricultural producers. Also remove the word “willing” as there isn’t a sheep herd that exists that won’t work without participating agencies – everyone has to work together. They support the motion with the suggested amendments.

Tom Woodbury said this is a very comprehensive science based document. He urged prioritization in implementation in herds in areas like the Bitterroot. Share the same goals in protecting the sheep and expanding the habitat. MDT needs to put lower speed limits on the roads where sheep are known to habitat to avoid collisions.

Paul Griffin, Gallatin Wildlife Association, wants to remove the words “only” and “willing” and put in “offer to participating producers”. Public land is public land.

John Helle, Montana Woolgrowers Association, takes offense to comments to remove language from this well-crafted document. They are not against wild sheep, but are against propaganda and their ability to raise sheep on land they have had for generations. They have agreed that bighorn sheep are allowable if they don’t come into their sheep operation. He does not like the removal of the words “willing participation” as they have signed a MOU and are supportive, but they don’t want groups to come after their domestic sheep allotment.

Elaine Allestad, Big Timber, said this was discussed in 1987 when she was on the Commission. It boiled down to this same issue. She agrees with Helle – changing language is contradictory. “Willing” should stay in the document.

Kellie Engles, sheep producer, said it is important to maintain a willing cooperation. She said Carlsen tested their sheep when there was the die off of bighorns. She stressed the word “willing” must stay in the document if you want to accomplish anything – more will get accomplished with willing cooperation.

Jim Brown, Montana Woolgrowers Association, was pleased that producers spoke to the impacts on them. Woolgrowers were willing to support his, but the amendment to the proposal will not be supported. He feels there are conflicting amendments. In November the word “only” was discussed, and the removal of “willing” kills cooperation. This plan will only work if you have cooperation by producers. He recommended withdrawal of the amendment to the proposal and pass it as it was. Woolgrowers want to continue to be a willing participant in translocation and reintroduction efforts as they have been.

Vermillion said the Commission recognizes it does not have jurisdiction over federal land management use plans that are not FWP plans. The Commission is cognizant of grazing laws. FWP is not telling any federal agency what they must do to any allotments. Statutory language is binding, so whether it is in the summary or not, FWP is still bound by it.

Moody said nothing good will happen for bighorn sheep unless FWP and the sportsmen and the land management agencies and the producers work together. He recommended that FWP expand the list of sites for relocation and prepare an annual report for all interested stakeholders. The Plan calls for adaptive management, so a year from now, the Commission may choose to act in an entirely different direction.

The Commission concurred that an annual report would be beneficial, and directed FWP to compile such a report. Following further discussion, Vice-Chairman Vermillion directed FWP to insure that the report outlines the potential areas for sheep reintroduction, details why a particular spot is not suitable for reintroduction, and specifically remarks on whether a lack of a “willing” producer is the reason a particular spot is not suitable for reintroduction

Vermillion said the word “should” gives enough flexibility. Decisions are made by landowners as there is federal law that will dictate that. It is important to keep the doors open. An annual review process is a good idea. If there is not a willing producer, that issue can be dealt with at that time. He suggested that the motion reestablish the word “willing”.

Action: Ream moved and Moody seconded the motion to restore the wording “work with private landowners and land managing agencies to identify, maintain and enhance bighorn sheep habitat.” Also replace “FWP believes”, with “FWP acknowledges” and add “statute MCA87-5-71”, and strike the word “willing” and add “and land managing agencies”.

More discussion and debate followed.

Action: Ream moved and Doll seconded a substitute motion to amend the sentence in the Executive Summary to read as follows: “FWP believes (not “FWP acknowledges”) that any localized removal, transfer, or conversion of established domestic sheep allotments on public lands for the benefit of bighorns should only come with the willing (restored the word “willing”) participation of the producer and land managing agency” (removes the statute reference too). Motion carried.

Action: Moody moved and Vermillion seconded the motion to approve the Plan as amended. Motion carried.

12. Shed Antler Hunting on Statewide Wildlife Management Areas – Proposed. Quentin Kujala, FWP Wildlife Management Section Chief, explained that WMA big game winter ranges are generally closed to the public from December 1 to May 15, which eliminates human disturbance when wildlife most needs to conserve energy. The spring opener attracts crowds of antler hunters. Some WMAs remain relatively quiet, while others, like the Sun River WMA, can attract hundreds of people and more than 200 vehicles. When the gate is opened, people, horses and vehicles rush in to collect shed antlers. Conflicts and disputes arise, causing a flight response by frightened deer and elk in an attempt to avoid all the people. Elk that remain on WMAs in some years due to weather conditions can be “ran around” by antler collectors. Given these circumstances, FWP proposes to limit all statewide WMA opening days to walk-in only with only two antlers collected per person that day. And to maintain consistency, FWP recommends a statewide approach.

Action: Moody moved and Ream seconded the motion to adopt a statewide shed antler collecting rule on WMAs to establish a three-day walk-in only season beginning with the first day if a WMA open season. This rule will be within local established WMA management plans. .

Moody explained that he recommends three days, as opposed to one, in an attempt to address the significant trespassing problems prior to opening day to hide and hoard antlers. The three-day season may reduce that because others could find their stashes. He didn't include the “2 antlers per day” regulation suggested by FWP as he felt it would create enforcement problems.

Vice-Chairman Vermillion asked for public comment.

A gentleman named Rich said he agrees with this plan. There has been stockpiling on the Sun River Game Range in the past, and this might discourage that activity. He is glad the two-antler regulation is not part of it.

A gentleman named Jeff from Townsend said he agrees with the walk-in rule, but feels if someone is not already stockpiling, they may start stockpiling because of the three-day part of the rule.

Tom Davidson, Great Falls, said he guarantees there are stockpiles and he thinks this will encourage it. Because drinking and other illegal stuff is already against the law, he suggested increasing fines/citations if people do something wrong. He suggested developing one area for horses to go through, one for vehicles, and one for walk-ins. He suggested that FWP initiate a \$25 permit to hunt shed antlers to offset the costs of FWP having to babysit at the range. That would discourage some folks.

Roxanne Swartz said she couldn't keep up with the younger folks who can walk faster. Permits for vehicles, walk-ins, and horses would control the crowd better as it would only be permittees on the game range hunting for antlers. She encouraged stiffer penalties. She would rather see permits than walk-in only.

Vermillion stated that the demand for horns is going to increase and the elk herds need to be protected. This is an important discussion. He encouraged everyone to submit comments in writing or give the commissioners a call during the public comment period.

Moody recommended that FWP produce a brochure that explains the conservation issues and that the game ranges are for the benefit and protection of elk and deer. The public needs educated, and hopefully a small bit of regulation won't have to lead to larger regulations.

Action on Motion: Motion carried.

13. Upland Game Bird Easements – Endorsement.

Ken McDonald, FWP Wildlife Division Bureau Chief, presented the two easements which are both a part of the Milk River Initiative.

Lower Beaver Creek Conservation Easement near Hinsdale

The 507-acre Lower Beaver Project is located two miles northwest of Hinsdale along Beaver Creek in Valley County. The property includes timbered riparian habitat along 3.3 miles of Beaver Creek, wetlands along three oxbows, and several small agricultural fields that are all important to white-tailed deer, pheasants, waterfowl, fish, two Threatened/Endangered Species, six Montana State Species of Concern and many non-game species.

Currently free public access is allowed. Acquisition of this easement would retain free public hunting and access to Beaver Creek for fishing. This property is adjacent to the Bernie Hart Conservation Easement, and is near the Hinsdale and Vandalia WMAs and the Page-Whitham Ranch Conservation Easement. Funds would be provided by Upland Game Bird Enhancement Program, State Wildlife Grants, and the Canyon Ferry Trust.

Action: Ream moved and Vermillion seconded the motion to endorse the Department's recommendation to begin negotiations to acquire a conservation easement on Lower Beaver Creek. Motion carried.

Christensen Bend Conservation Easement near Hinsdale along the Milk River

The 164-acre Christensen Bend Project is located two miles northwest of Hinsdale along the Milk River in Valley County. The property includes timbered riparian habitat along 1.75 miles of the Milk River, wetlands along a half mile oxbow, and a mix of small agricultural fields which are all important to white-tailed deer, pheasants, waterfowl, fish, two Threatened/Endangered Species, six Montana State Species of Concern, and many non-game species. Currently free public access is allowed through the Block Management Program. Acquisition of this easement would maintain access to public hunting and fishing, and other types of recreation. The property is adjacent to the Bernie Hart Conservation Easement and the Hinsdale WMA, and is near the Vandalia WMA and the Page-Whitham Ranch conservation easement. Funds would be provided by Upland Game Bird Enhancement Program, State Wildlife Grants, and the Canyon Ferry Trust.

Action: Moody moved and Ream seconded the motion to endorse the Department's recommendation to begin negotiations to acquire a conservation easement at Christensen Bend

Vice-Chairman Vermillion asked for public comments on both easement proposals. There was none.

Action on Motion: Motion carried.

14. Petition to Close Waterfowl Hunting on Mitchell Slough – Final. Mack Long, FWP Region 2 Supervisor, explained that John and Kathy Lewis had submitted a petition to the FWP Commission in July, 2009 requesting that the Commission close waterfowl hunting on Mitchell Slough, which runs through their 360-acre property in Ravalli County, for safety purposes. Public access to the Mitchell Slough has been contested over the last several years by some landowners along the natural waterway. Mitchell Slough varies in width from 17-24 feet, and the banks are short and steep. Landowners feel they lost a private property right, as well as the right to tell hunters who can or cannot hunt. Additionally, a residential structure is located about 150 yards from the Slough, and livestock are common along the stream.

Stream Access Laws apply to Mitchell Slough, and under those laws, rivers and streams capable of recreational use may be used by the public regardless of streambed ownership. It also states that certain activities require landowner permission. Hunters generally must stay in the water to be in compliance with Stream Access Laws. There are locations on Mitchell Slough where waterfowl can be harvested safely and ethically. Closing the waterway to all hunting opportunities is not necessary, but hunters may have to pass on shots. If a violation occurs, enforcement action will be necessary. Laws are in place to protect landowner rights while still allowing public access.

Chairman Colton directed the Region to conduct an onsite inspection to collect the facts, and to visit with the owners, then prepare a report and recommendation. The Department recommendation is to deny the request at this time and continue negotiations with landowners, ranchers and sportsmen along this public waterway. The recommendation was published for public comment. FWP received 1,541 comments in support of the FWP recommendation, 29 comments in support of the Lewis' petition, and 14 comments not related to either the petition or the recommendation.

Action: Moody moved and Ream seconded the motion to deny the petition at this time, and to direct FWP to continue negotiations with the Mitchell Slough landowners and sportsmen to explore the possibilities of establishing areas where public hunting could be conducted and establishing areas that could be closed for safety and welfare reasons.

Vice-Chairman Vermillion asked for public comment.

Roger Raynal said he manages a fourteen hundred-acre ranch at the head of Mitchell Slough similar to the Lewis' property, has been an outfitter and guide for twenty years, and is a member of Ducks Unlimited. He supports the Lewis's petition. Placement of shot can also constitute trespass according to a court decision in 1928. There are 68,000 of river and streams in Montana, so he asked why it comes down to allowing people to hunt on this small area when there are so many other opportunities.

Kathy Lewis said that last summer when the Slough was opened to fishing and duck hunting, four hunters were on their private property and were peppering her home with shot. When she approached the men, they told her to go home. She lives there, it is her property, and she has a right to protect it. The Lewis' have a ranch in the Bighole on which they allow hunting with permission, and they find gates left open and garbage left behind. She stated that people need to ask to hunt.

Vice-Chairman Vermillion directed FWP to continue negotiation with the landowners. He has followed the Mitchell Slough issue and it has been a difficult process. Stream Access Law has held all the way from US Supreme Court, and that law allows recreation which includes hunting. It does have to be done in a legal manner. He is a strong advocate of the stream access law but it must be done lawfully.

Action on motion: Motion carried.

15. Open Microphone – Public Opportunity to Address Additional FWP Issues. There was none.

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*Action: It was moved and seconded to adjourn the meeting. Motion carried.*

Meeting adjourned at 4:30 p.m.

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**Dan Vermillion, Vice-Chairman**

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**Joe Maurier, Director**