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

JANUARY 13, 2011

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

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

Guests: See January 13, 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 December 9, 2010 Commission Meeting**
3. **Approval of Commission Expenses through December, 2010**
4. **Commission Reports (Includes Appreciation to Kurt Alt, Retired)**
5. **Director's Report**
6. **Upper Madison River Easement Settlement - Final**
7. **Hauser Reservoir Administrative Rule Amendment - Proposed**
8. **Milltown Dam Administrative Rule Repeal - Proposed**
9. **Hazards to Navigation and Waterway Marker Requirements Rule – Proposed**
10. **Tongue River Reservoir No-Wake Boating Restrictions – Proposed**
11. **Brush Lake No-Wake Boating Restrictions – Proposed**
12. **Church Slough No-Wake Petition – Proposed (R1)**
13. **Fennen Slough No-Wake Petition – Proposed (R1)**
14. **Killbrennan Lake No-Wake Petition – Proposed (R1)**
15. **Alvord Lake No-Wake Petition – Proposed (R1)**
16. **Flathead River Rules - Proposed (R1)**
17. **Modification of Muzzleloader / Shotgun Ammunition Regulations in Weapons Restriction Areas - Proposed**
18. **City of Helena Urban Deer Take - Final**
19. **2011 Peregrine Falcon Take – Proposed**
20. **Wildlife Management Areas Openers - Proposed**
21. **Four-year Waiting Period for Some Either Sex Elk Permits – Proposed**
22. **398-80 Antlerless Elk Licenses in HD360 and HD362 - Proposed**
23. **Bison Translocation - Endorsement**
24. **Open Microphone – Public Opportunity to Address Additional FWP Issues**

1. Call to Order - Pledge of Allegiance. Chairman Ream called the meeting to order at 8:40 a.m. and led the Pledge of Allegiance.

2. Approval of the Commission Meeting Minutes of December 9, 2010.
Action: Vermillion moved and Moody seconded the motion to approve the December 9, 2010 minutes. Motion carried.

3. Approval of the December, 2010 Commission Expense Report.
Action: Moody moved and Vermillion seconded the motion to approve the expense report as presented. Motion carried

4. Commission Reports.
Moody stated that the PLPW committee met last month in Lewistown. Discussions included the effects of I161 on landowners and on outfitter businesses. PLPW had developed a proposed process for resolving conflicts arising from concentration / harboring of wildlife, however comments came back stating that the process was hard to understand and lacked authority. PLPW decided not to go forward with this proposal.
Vermillion stated that he attended several meetings during the three day WAFWA Conference in Tucson. It was apparent when meeting with the USFWS that the gray wolf is recovered, and hunting is valid to control them. They are committed to moving forward with resolving the wolf issue. Wyoming is looking at changes in its Commission - they view things in a different way. Idaho shared the emotional experience they endured when they lost a member of their staff in the field while conducting research. They had two fatalities in the last year; they talked about the difficulties in dealing with those losses.
Ream said dealing with the loss of an employee not only includes the department, but extends to the grief stricken families as well. Idaho has a good policy in place to deal with crises such as these. Director Gruen was deeply affected by the losses. He suggested FWP develop such a policy. He reminded everyone that FWP will be sponsoring the summer WAFWA conference at Big Sky in July.

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Commissioner Vermillion read a letter of appreciation to Kurt Alt, recently retired Region 3 FWP Wildlife Manager. Kurt has been a huge asset to the department and to the state of Montana. Kurt Alt thanked the Commission and Department. He said the Commission has been a courageous group, and has dealt with some tough issues and made good decisions. He said to keep up the good work.

**5. Director's Report.** Director Maurier noted that things are moving quickly with the legislature in session. Budget presentations are completed, and a 5% reduction from the Department is expected. It appears that there is a full-out assault on what FWP does and on what the Commission's goal is. Habitat Montana is under the gun, as are many other things.

**6. Upper Madison River Easement Settlement - Final.** Bill Schenck, FWP Legal Counsel, explained that FWP proposes an exchange of access easements to ensure permanent public recreational access to a section of the upper Madison River south of Ennis. The proposal arises from a settlement agreement with landowners who are concerned about a 52-year-old 'road easement' across a portion of their land. The landowners contend that the easement is no longer valid, and propose to have it vacated. Under the settlement, FWP would relinquish the existing road easement and, in exchange, the landowners would grant a permanent easement for *non-motorized* public recreational access along this same 500-yard shoreline of the Madison River. Of the three comments received regarding the proposed action, two supported the proposal, and one expressed concern about the loss of road access. No road exists at the site, and the Department has no intention of developing a road in the riparian zone of the Madison River.

*Action: Vermillion moved and Colton seconded the motion to authorize the Department to enter into the proposed settlement agreement and conclude the Upper Madison River Exchange of Public Access Easements. Motion carried.*

**7. Hauser Reservoir Administrative Rule Amendment - Proposed.** Bob Lane, FWP Chief Legal Counsel, explained that in September of 1995, an administrative rule (12.6.801, which was transferred to ARM 12.11.3205 in 2001) was written to close the section of water from Canyon Ferry Dam to Brown's Gulch to protect eagles who migrated to the reservoir to feed on kokanee salmon. Since the salmon are no longer there, eagles no longer migrate to this part of the river, so the rule is no longer necessary. There will be no impact to wade fishing.

*Action: Moody moved and Vermillion seconded the motion that the FWP Commission approve amending ARM 12.11.3205 to remove the seasonal closure of Hauser Reservoir from Canyon Ferry Dam to below Brown's Gulch. Motion carried.*

**8. Milltown Dam Administrative Rule Repeal - Proposed.** Bob Lane, FWP Chief Legal Counsel, explained that in November of 2003, the Commission adopted Administrative Rule 12.11.3963, which restricts boating, sailing, floating and swimming 200 feet above the dam and 200 feet below the dam. Milltown Dam was removed in March 2008 making ARM 12.11.3963 obsolete.

*Action: Ream moved and Moody seconded the motion that the Commission approve the repeal of ARM 12.11.3963 because the rule is no longer necessary. Motion carried.*

Dave Risley, Fish and Wildlife Division Administrator, stated that the WAFWA conference in Arizona provided many interesting perspectives on a variety of topics. The gray wolf, and the litigation involved, was of particular interest this year. The western states efforts to move forward with wolves are stymied due to litigation. Also, Aquatic Nuisance
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Species (ANS) are becoming an issue. Keeping nuisance species out of Montana is cheaper than fighting them once they are here. Discussion included who should bear the brunt of funding ANS programs.

9. Hazards to Navigation and Waterway Marker Requirements Rule – Proposed. Ron Jendro, FWP Recreation Program Manager, stated that it is the policy of FWP to promote safety on public waters, and it is becoming common to see people placing obstacles on the water for slalom courses, waterski courses, and so forth, which can create safety hazards. Floating docks, platforms, long docks (75feet), navigation lights, jumps, rails, and inflatable trampolines are also hazards. Nevada does not allow anything on the water overnight. Utah has an application process with stipulations that items on the water overnight must be illuminated. FWP recommends that 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 each permitted waterway hazard shall be marked with lights if placed overnight.

Action: Vermillion moved and Colton seconded the motion to approve the recommendation of FWP that any possible hazard, except diver down flags, must be approved by FWP through a formal application process, all unattended objects must be visibly marked with one's name, and each permitted waterway hazard shall be marked with lights if placed overnight. Motion carried.

10. Tongue River Reservoir No-Wake Boating Restrictions – Proposed. Tongue River Reservoir State Park is located six miles north of Decker, where boating, fishing and water sports are popular, and the heavy use of motorized watercraft is creating significant water safety concerns. Currently, 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 the shoreline. Due to the geographic design of Neck Bay, the 300 foot rule's 'boundaries' change and is often unclear as to where the rule is in effect. Wardens have issued citations for violations of the no wake zone but because of the difficulty to tell the precise location of the zone, wardens can only write warning tickets. FWP is proposing to include the entire Neck Bay as a no wake speed area to reduce confusion. It would be buoyed across the entrance.

Action: Colton moved and Moody seconded the motion to approve FWPs recommendation to require 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.

11. Brush Lake No-Wake Boating Restrictions – Proposed. Ron Jendro, FWP 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. Buoys were placed there in 2007, however the 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. Citations have been issued. 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.

Action: Colton moved and Vermillion seconded the motion to approve FWPs recommendation to require all motorized watercraft to travel at no wake speed within the boat ramp & dock area and the "no boats"/swimming area as buoyed. Motion carried.

12. Church Slough No-Wake Petition – Proposed (R1). Lee Anderson, FWP Region 1 Warden, explained that Church Slough is popular for recreational use and provides resting habitat for thousands of migrating waterfowl. The slough can be accessed from the Flathead River and private access sites. Flathead County built a boat ramp on the slough, but it is under a horsepower restriction due to a lawsuit in which a landowner filed a complaint against Flathead County and FWP regarding construction of the public boat ramp. Flathead Wildlife, Inc. filed a petition to close the entire Church Slough to boating from March 1 to April 10 to protect migrating waterfowl and to make the slough No-Wake from April 11 through February 28 to decrease bank erosion and boating hazards and to put all boaters on an equal basis. The Flathead River Commission has discussed concerns over bank damage due to boat wakes The Region 1 Citizen Advisory Committee recommended that the FWP Commission tentatively adopt the seasonal boating closure and the no-wake rule for the rest of year.

Action: Dan moved and Moody seconded the motion to approve FWPs recommendation to adopt a seasonal boating closure from March 1 to April 10 and a No-Wake Boating Rule from April 11 through February 28 be tentatively adopted for Church Slough and that FWP complete an environmental assessment and conduct public outreach on the proposal.

Chairman Ream asked for public comment.

Warren Illey, Flathead Wildlife Petitioner, supports approval of the petition as it will protect migratory waterfowl and habitat.
Jeffrey Tiberi, Montana Conservation Districts, stated that the use of no-wake zones for conservation issues is a good management tool. It is a good way to protect rivers and streams.

Jim Manning, Clancy, supports the petition.

Action on Motion: Motion carried.

13. Fennen Slough No-Wake Petition – Proposed (R1). Lee Anderson, Region 1 Warden, explained that Fennen Slough supports migratory waterfowl and warm and coldwater fish, and is a popular recreation site. It is shallow and warms up early in the year. Landowners say high-speed boat wakes are causing accelerated bank erosion, damaging the ecosystem and endangering swimmers, so they are petitioning for a no-wake boating status on the entire Fennon Slough, and installation of a buoy maze and sign at the slough entrance. Landowners have already done some bank restoration. The slough can be accessed from the Flathead River, Sportsmen's Bridge, and a county access site. The Region 1 Citizen's Advisory committee supports the petition without the buoy maze.

Action: Vermillion moved and Moody seconded the motion to adopt a No-Wake Boating Rule on Fennon Slough and that FWP complete an environmental assessment and conduct public outreach on the proposal.

Owen Sowerwine, MenloPark, CA, said from a landowners point of view it is a nice place to ski, but it is not natural in this slough to have a lot of waves. Boats create waves like hydrogen bombs and destroy the banks. Cloudiness of the water will also have impacts. A large swan population reside on the slough that needs to be protected as well.

Richard Buckmaster, Fennen Slough resident, said any arguments for a no-wake zone on Church Slough are applicable to Fennen Slough as well. Large boats going fast create three foot waves which equal a hundred year flood. Erosion is bad.

Colton asked if a buoy maze would make enforcement easier and more clear.

Anderson said the preference is to post buoys at the entrance and scattered throughout the channel similar to other lakes. A maze is not necessary. Those going into with high speed will do it with or without a maze.

Action on Motion: Motion carried.

14. Killbrennan Lake No-Wake Petition – Proposed (R1).
15. Alvord Lake No-Wake Petition – Proposed (R1).
Lee Anderson, Region 1 Warden, explained that the two lakes are small and are used almost exclusively for fishing. They are long and narrow with only a small strip of open water for no-wake travel outside the 200-foot no-wake regulations. Both lakes have primitive Forest Service boat-launch facilities that are used by small fishing boats. Conflicts occur when a larger vessel comes through and uses the no-wake strip. Additionally, there are nesting birds on these lakes that are in danger. Support has been expressed for this rule change by sporting groups, businesses, county commissioners, and the public.

Action: Vermillion moved and Moody seconded the motion to establish Kilbrennan Lake and Alvord Lake in Lincoln County near Troy, Montana as no-wakes lakes, and boats are limited to no-wake speeds on the entire lakes.

Chairman Ream asked for public comment.

Mark Mason, US Forest Service, stated that the Forest Service manages land around these lakes, and they have had concerns over the years on boating use. They have been approached by Lincoln County Commissioners and members of the public requesting these lakes be made no-wake lakes. They support this motion.

Action on Motion: Motion carried.

16. Flathead River Rules - Proposed (R1). The U.S. Forest Service has adopted regulations restricting motorboats on portions of the North Fork, Middle Fork, and South Fork of the Flathead River. Lee Anderson, Region 1 Warden, explained that these rules were never formally adopted, so wardens cannot enforce them as they don't have legal authority to issue citations to violators. The public will be provided an opportunity to comment on this proposal.
Action: Colton moved and Vermillion seconded the motion to approve the Department's recommendation to adopt restrictions on the Flathead River consistent with the U.S. Forest Service's restrictions.

Colter Penn, Flathead National Forest, said the regulations also meet the requirements of the Wild and Scenic River Act. The Forest Service supports the proposal.

Action on Motion: Motion carried.

17. Modification of Muzzleloader / Shotgun Ammunition Regulations in Weapons Restriction Areas - Proposed. The purpose of Weapons Restriction Areas (WRAs) is to manage wildlife populations and provide hunting opportunities in proximity to populated areas (residential and developments) where the firearms allowed in these areas are of relatively short range and limited velocity – muzzleloaders, handguns and shotguns - because the use of high-powered firearms presents safety issues. Mike Korn, FWP Enforcement Division, explained that 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. The enhanced ammunition is readily available at sporting goods stores throughout the state and many hunters have inquired about the legality of their use. Because of the growing number and size of WRA's, this is becoming an issue that requires attention. The proposed rules would make the regulations current with the technology, and would provide clear direction for hunting in WRA's. A working group of interested parties, professionals in their fields, met to discuss the various new types of ammunition for shotguns and muzzleloaders, and developed language that could be adopted into the regulations to maintain the safety margin of hunting in WRA's. The wording is as follows:

Weapons Restriction Areas
Weapons Restriction Areas are established to manage wildlife populations and provide hunting opportunities in proximity to populated areas where the use of high-powered firearms presents safety issues. Because safety is of utmost concern, firearms allowed for use in these areas are of relatively short range and less power –muzzleloaders, handguns and shotguns.
Restrictions are stated in the license/ permit description and/or with a specific date range.
The following regulations and restrictions apply <u>only</u> to designated Weapon Restriction Areas.
• **Muzzleloader**
• 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 charged with black powder, pyrodex, or an equivalent;
• 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. ***Sabots or other similar power and range -enhancing manufactured loads that enclose the projectile from the rifling or bore of the firearm are prohibited. "Skirts" or gas checks on the base of a projectile are acceptable.***
• **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.
• Must only use plain lead projectiles- slugs or buckshot. ***Sabots or other similar manufactured power and range -enhancing loads that enclose the projectile from the rifling or bore of the firearm are prohibited.***

Action: Moody moved and Colton seconded the motion to adopt the recommended regulations changes in the Annual Deer, Elk & Antelope regulations regarding weapons allowed in a Weapons Restriction Area.

Chairman Ream asked for public comment.

Mark Lambrecht, Helena, said in his experience with sabot slugs, there is a great variety. They enhance the accuracy of shooting. It is critical to get an accurate shot when hunting. Public safety is important. He suggests requiring sabot slugs through rifles rather than banning them.

Tony Anderson, Region 1 Citizen's Advisory Committee, said the new technology allows increased accuracy. This falls back to ethics. It is better to be accurate than to leave wounded game. He commented "if you start regulating it, where will it go".

Action on Motion: Motion carried.

18. City of Helena Urban Deer Take - Final. Quentin Kujala, FWP Wildlife Bureau Management Chief, said the City of Helena is requesting a take up to 50 deer to prevent population growth above the target of 25 deer per square mile. This take is to occur with methods of trapping and lethal removal. The City will first apply this quota to complaint areas with no take after March 31, 2011.

Action: Colton moved and Vermillion seconded the motion to adopt, as final, the take of up to 50 urban deer by the City of Helena as presented by City staff. Motion carried.

19. 2011 Peregrine Falcon Take – Proposed. Ken McDonald, FWP Wildlife Division Bureau Chief stated that there are no recommended changes to last year's regulations. He noted that there is a bill before the legislature for non-residents to also be allowed to take falcons . If that passes, things will change.
Those regulations are:

- authorize take of five nestling peregrines in 2011 (this is <5% of 2009 fledged young, the percentage agreed to in the EA)
- 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 efforts
- prohibit the sale, barter or exchange of birds from the wild

Action: Vermillion moved and Colton seconded the motion to approve FWP's recommendation to authorize the take of up to five peregrine falcon nestlings for falconry purposes in 2011 within a take period of June 1–August 31. Motion carried

20. Wildlife Management Areas Openers - Proposed. Quentin Kujala, FWP Wildlife Bureau Management Chief, explained that this proposal is to standardize all game range opening times rather than have some open at noon and some open at midnight. The purpose is to address resource and safety issues. Large congregations of people gather outside the WMAs immediately prior to opening to collect shed antlers, which can be hazardous to people and animals.

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.

Commissioner Moody noted that when he and Commissioner Doll attended the Sun River WMA and Beartooth WMA openings to observe, it was hazardous to human life. This action is a no-brainer for responsibility.

21. Four-year Waiting Period for Some Either Sex Elk Permits – Proposed. Quentin Kujala, FWP Wildlife Bureau Management Chief, explained that a four-year waiting period for specific "either sex" elk permits has recently seen several variations proposed. The permits would include limited entry antlered/brow-tined/either sex elk permits with drawing odds of 10 percent or less based on first choice resident and nonresident applicants from the previous year's application/drawing results. If an applicant receives <u>any</u> either sex elk permit that had a drawing success rate of 10 percent or less the previous

year, that hunter must wait four years before applying for any either sex elk permit with a 10 percent or less drawing success rate based upon the previous year's drawing results. This waiting period would apply to the person, not the land. A landowner who qualifies for landowner preference would not be exempted from the four-year waiting period. The land, however, would remain eligible for use in a landowner preference application every year of the wait period for the landowner's designee who has not drawn one of these permits in any of the previous four years. Additionally for each or any year of the waiting period, a qualifying landowner may potentially secure an either sex elk permit valid only on his/her deeded land via a hunting access contract as defined by "HB 454 access agreements". This proposal would eliminate the possibility for any one individual to draw the same long-odds type of permit more than once in any four years. Currently available antlered/brow-tined/either sex elk permits that fall into this category are: 282-20, 283-20, 310-20, 339-20, 380-20, 401-20, 410-20, 426-20, 441-20, 447-20, 455-20, 500-20, 502-20, 520-20, 575-20, 620-20, 621-20, 622-20, 631-20, 632-20, 690-20, 690-21, 799-20.

While this proposal would not significantly increase drawing odds in most districts, based upon 2010 drawing statistics, four of the 23 districts would exhibit improved odds to slightly greater than 10 percent after four years of restricted entry. Based upon 2010 quota numbers, the number of hunters "waiting" will grow to approximately 3,700 after four years before individuals drawn the first year will be eligible to apply again.

Discussion followed. The legislature may affect any immediate decisions so the consensus was to table this until later.

Action: Vermillion moved to table this topic until the May Commission meeting. Moody seconded the motion with an amendment to table it until the December Commission meeting. Motion carried.

22. 398-80 Antlerless Elk Licenses in HD360 and HD362 - Proposed. Quentin Kujala, FWP Wildlife Bureau Management Chief, stated that this is a near emergency situation. The elk population in HD360 and HD362 continues to decline due to several years of general season harvest, the unlimited antlerless elk license, late season management, and game damage hunts. This 2010 hunting season showed record high harvests in these districts, resulting in further declines to the population. Sportsmen have expressed concern about overharvest of elk on the public lands in this unit, and have petitioned FWP to limit this license only to private lands to address game damage concerns at the point of occurrence. This proposal is to move to 500 licenses, with a proposed quota range of 100-1000. This limited license offering would be valid on private lands only in order to address landowners' game damage concerns and sportsmen's concerns of overharvest on public lands.

Action: Vermillion moved and Moody seconded the motion to adopt the proposed season adjustment in elk HD 360 and 362 as presented by FWP

Pat Flowers, FWP Region 3 Supervisor, said there has been an ongoing collaborative process with landowners and sportsmen to decide how to manage elk in the Madison Valley. There has been an aggressive approach to harvest. Based on harvest this year, concerns were expressed by wardens, landowners, and biologists regarding the lack of ethical behavior by hunters.

Chairman Ream asked for public comment.

Glenn Hockett, Gallatin Wildlife Association, said they are not opposed to this, but they are concerned, and he wants further changes next year.

Bill O'Connell, Gallatin Wildlife Association, said they support this, but they are concerned about the number of tags being raised from 200 to 500. They want it to be more restricted.

Action on Motion: Motion carried.

23. Bison Translocation - Endorsement. Dave Risley, Fish and Wildlife Division Administrator, explained that FWP is seeking endorsement from the Commission to identify potential locations where quarantined bison can be held until permanent locations can be identified. Potential interim holding locations that will be explored include Spotted Dog WMA, Marias River WMA, Beartooth WMA, and possibly some non-WMA sites. There is a provision in the Interagency Management Plan to capture and relocate bison to other suitable habitat. They bison are being held at three private facilities now, but the Department wants to move them to a public facility. Permanent placement of these bison would be determined following completion of a statewide bison management plan that identifies permanent sites where brucellosis-free bison could be established. He said these bison are the most Brucellosis tested animals on earth. If FWP moves forward on a proposal to place bison on a WMA, a complete EA or EIS will be completed which will include an ample

public comment process. Similarly, if FWP identifies permanent sites through the management planning process, there will be a thorough MEPA process. During the comment period on the EA to place the first cohort of quarantined bison with TEI, Inc., there was significant public comment of which included a strong advocacy to hold the bison on a WMA, and by some to use the WMA as a nucleus of a free-roaming herd. FWP needs to make sure that bison remain off of the Endangered Species list. Alternatives include leaving the first cohort of bison with TEI, and issuing another RFP for the subsequent quarantined bison pending completion of a statewide plan, or providing the bison to Native American Tribes that have expressed interest in having them.
Action: Colton moved and Moody seconded the motion to endorse that FWP move forward with identification and analysis of potential sites where quarantine bison can be held in the public trust until completion of the bison quarantine feasibility study, and a bison management plan for MT that may identify the same or alternative, permanent sites.

Chairman Ream asked for public comment.

Senator John Brenden said he introduced SB337 in 2009 that read that FWP could not relocate wild bison within the state unless they were relocated to the National Bison Range at Moiese. He said there is the potential for Brucellosis outbreaks, which would hurt farmers and landowners. He believes landowners will become angry and limit access to their land, which would be harmful to hunting. Locating bison on Spotted Dog or on any other WMA will close that land to other kinds of recreation. Fences will cost a lot to construct, and shooting at an elk near a bison herd will frighten them and cause them to go through the fences. He said there are bison in Montana that get out, and they cause a lot of damage. He opposes translocating the buffalo.

Senator Rick Ripley said he is concerned about disease, safety issues, and damage to private property. Wherever the bison are relocated to will cause serious problems. They would migrate out of the Bob Marshall.

Cele Pohle, Powell County Commissioner, said they (the Commissioners) were surprised when they found out that Spotted Dog and the Bob Marshall Wilderness were on the list of potential release sites. They would not have supported the acquisition if they had known about this relocation proposal. That information was not provided to them. She said they had been apprehensive about the acquisition in the first place, but had agreed to support it with conditions that they be kept informed of developments, that an advisory board be organized, and that a Good Neighbor Policy be established and adhered to. They feel the Good Neighbor Policy has not been adhered to -- FWP needs to talk with the neighboring landowners. They don't feel the public's best interests will be served with bison roaming the area. Neighboring landowners had to contact FWP when they felt FWP should have contacted them. They recommend the Commission either table this or exempt the Spotted Dog WMA and the Bob Marshall WMA from the feasibility study.

Frank Prince, Montana Cattlemen's Association, wants to see the environmental impact statement. He asked if FWP will follow the same laws as the cattle producers. He asked how they will be kept in. It will cost a lot to put fences up - what is the cost. As it stands, the Cattlemen's Association opposes it. It will cost producers money when damages are incurred.

Stan Frasier, Montana Wildlife Federation, said this is long overdue. The MWF strongly supports it. Don't let special interest groups mess this up. The bison that are coming from Yellowstone Park should be able to migrate to the Forest Service lands around the park. These animals have been tested and retested – brucellosis is not an issue. It is peculiar that cattle can be on a *Wildlife* Management Area, but bison cannot be there, and bison are wildlife. They won't be that big of a problem. He encourages getting bison back on the landscape.

Jay Bodner, Montana Stockgrower's Association, said they do not support bison translocation. They have concerns over monitoring requirements and grazing issues, and if FWP will be able to monitor them. Containment issues are also a concern, as are private property rights. APHIS has new rules that will affect wildlife as well as livestock.

Jim Bailey, Gallatin Wildlife Association, supports the movement of quarantined bison and finishing the study. There should be a commitment to using the EA process to move forward. This is an opportunity for Montana to lead the nation on placing bison on public lands.

Glenn Hockett, Gallatin Wildlife Association, supports the motion. The landscape can be found. Must house these quarantined bison while searching for permanent locations.

Glenn Monahan, Bozeman, said the day is coming when we will have wild bison in Montana. Folks coming to Montana are keenly aware of how poorly Montana treats bison, and of the non-tolerance of them. It does not impress tourists. He is an outfitter, and suggested diversifying the economy. Use lands for other than just livestock. Opposition comes from the

stock growers, but there are no documented cases of bison transmitting brucellosis to livestock. These bison are not carrying the disease. There is room for small herds of bison in Montana. On public lands, there is a duty to satisfy multiple interests.

Gayle Joslin, Helena Hunters and Anglers Association, said they have commented multiple times in support of bison management. It is time to address this magnificent icon and provide space for them on WMAs, and develop a plan for free ranging bison.
Jim Posewitz, Helena Hunters and Anglers Association, said he recommends the Commission put bison back on Montana landscape. It will take a total commitment.

Patricia Dowd, NPCA Director, Bozeman, supports this process. It is a step in the right direction to place bison outside the Park. Manage them like other wildlife and hope it will increase public tolerance of bison. Expand habitat for bison outside of the park.

Jane Roybal, Montana-Wyoming Tribal Fish & Wildlife Commission Secretary, said the Tribal Commission has concerns. They have submitted tribal applications for placement, and were not accepted. Fort Peck applied for reconsideration. They have support of the Tribal Council. The tribe needed time to complete preparations and construct fencing, which is now done and public comment has been conducted. He asked for tribal consideration in this translocation process, and asked that the Commission assure the bison get placed in suitable places.

Lawrence McEvoy, Clancy, said this "brucellosis flap" is overblown and exaggerated to be used as a scare tactic. Yes, it is a consideration, but it can be dealt with. His neighbors have bison and they have never gotten out. Roosevelt Park in ND does not have a problem with the bison and they are free ranging. People, nationwide and from out of the United States, are aware of how Montana treats the bison. It is worldwide. He supports the study, the EA, and the EIS if necessary, to determine the feasibility of locating the bison somewhere other than in cages.

Matt Skoglund, Natural Resources Defense Council, said they support this proposal to look at alternative sites to house the quarantined bison. They also support the development of a plan to allow free ranging bison in Montana as it is long overdue. People in Montana need more tolerance.

Bill O'Connell, Gallatin Wildlife Association, said they support this proposal. It is long overdue, and it is workable. They also support placing them on tribal lands. Agricultural producers have a resistance to change.

Mike Fox, Fort Belknap Tribe, urged the Commission to keep the tribal alternative under consideration. They presented one of the first proposals to take bison from the Park. They are in support of this. The tribes are not privatized -- it would be government to government. They are ready and willing to help, and have worked with the Fort Peck who agreed to hold bison for them until they got their fences up, etc.

Robert Magnan, Fort Peck Tribes Fish and Game Department, said that when they applied, they stated they would be ready by 2010. They are ready, and fencing is completed. He said this would not be a private herd, and they indicated that in their proposal. They invite FWP to visit the site. They spent $200,000 on fencing, and have not yet received a reply from FWP. They have heard rumors that FWP does not feel their fencing is satisfactory, but nobody from the agency has looked at it. They have a proposal to keep some offspring.

Jim Manning, Prickley Pear Sportsmen's Club, said they support moving forward with an alternative to establish a buffalo herd, and distributing genetics throughout Montana, including tribal lands. This is an initial process. Itt may evolve into a hunting experience. He stands in support, and said it is long overdue.

Michael Kohl, Missoula, said he grew up on the Fort Peck Reservation. He agreed the issue is controversial. We have seen it can work in small scale, through the American Prairie Foundation. Importantly, the Yellowstone bison are genetically pure. The state can benefit. He supports FWP continuing with the EA process.

Becky Weed, Belgrade, said it makes sense to conduct a thorough examination for taking action. Timing of this announcement was sudden and poorly timed. She asked that FWP move forward with this process, but stated that both sides of the issues must acknowledge each other's visions. Question all assumptions.

Ervin Carlson, Intertribal Buffalo Council, Rapid City, SD, supports restoring buffalo in Indian country. They want to relocate the bison back to WMAs, and feels a partnership would be an opportunity to engage a viable option and share

mutual goals for the bison. Perhaps the state does not share the concept that tribes are not private. The tribes expect deference to be a viable option, and they want to. They want a working relationship. They want to see tribes placed on the same page as the other options. Culturally they know how to manage them. They would like to be a priority.

Christina Crocker, Intertribal Buffalo Legal Counsel, said they represent fifty-five tribes nationwide. The tribes were stated as an alternative, but the FWP Director translated the tribes as private, which is not true. The Schweitzer administration has been supportive and collaborative with the tribes. She urged FWP to work with tribes and utilize their abilities. They are sovereign governments.
Steve Forest, Bozeman, said this is an important step and encouraged FWP to continue to go forward with the process to undertake translocation.

Josh McGraw, landowner adjoining Spotted Dog WMA, said he has concerns about bison on the Spotted Dog WMA. The WMA is meant for wildlife, but bison would interrupt that. The elk and deer etc travel through small fences, but a bison fence will not let that continue. He is concerned about brucellosis. They would want reimbursed if brucellosis did occur. They are worried about their fences and nose to nose contacts. They drive cattle through that area and worry about safety. He urged the Commission to reconsider and take the cattle producers into consideration.

Joe Gutkoski, Yellowstone Buffalo Foundation, spoke to the slaughter of the bison in 1988, when 586 buffalo were slaughtered in the barrow pit north of Gardiner. It became a national issue, resulting in Montana losing fifty percent of the tourist trade. The hunts are terrible and are repeating mistakes of the past because of the power of the stockgrowers. We can trust the tribes to take care of the quarantined buffalo. Distribute 50% to tribes and 50% to public land. Brucellosis is a myth of the stockgrowers. He wants to see bison on public land. FWP would be a hero of the nation if that happens.

Don Woerner, DVM, Laurel, MT, has worked with livestock and pets and with commercial bison. He is representing a conservation group known as Our Montana. Wild bison are in need of respect and conservation, and the public needs to facilitate that. Public participation is necessary in the planning process to promote a broad vision. Do not allow groups to dominate. A serious effort to reestablish healthy bison on the landscape will help Montana's reputation around the world. We need to demonstrate that Montana takes our wildlife e seriously. Re-evaluate the natural home for wild things.

Keith Aune, Wildlife Conservation Society, said he is part of a group of influential conservationist who took bison on as a principal species. The buffalo icon brought us to the point we live in. They endorse efforts to manage them and write a comprehensive plan. He offered their support in any way they can assist. This is not the only place where bison conservation is being considered – they are funding an effort in Alaska, Banff, Mexico and other areas. This is a practical thing that can be done. These bison were certified brucellosis free according to federal rules. They have met and exceeded those regulatory requirements.

Ryan Quigley, Avon, said this will be the same as the wolf issue.

Reece Price, Avon, said he has a friend with a ranch in SD where they have trouble with bison and fences, and a horse had been gored. The special interest groups are expressing their dreams. Brucellosis is a concern. FWP is stretched thin with money and FWP will not be able to manage them. It will be another wolf issue. There should be a clear plan of compensation in case of brucellosis outbreaks. He opposes translocation.

Tom Woodbury, Western Watersheds Project, said the tribes have been here longer than ranchers have been here. He said it is time for everyone to think about and respect the bison themselves – they are not being given the respect they deserve. There is a lack of respect for the tribes too. Better communication between FWP and the tribes is needed. There is not enough respect for government to government relations with the tribes. The tribes are ready to be leaders on managing wild bison in Montana. He encouraged FWP to interact with the CMR and look at that as a viable option.

Ben Lamb, MWF, said they are in support of having this conversation and moving forward. This issue cannot be adequately addressed without conversations with the public and livestock industry. Hunting brings $300 million into Montana - we are looking at $1.5 billion dollars. Sustainable economies are agriculture and tourism.

Kip Fisher, National Wildlife Federation, said this is simply discussing a public process, not where they are going. We are looking at a legitimate way to move forward. There have been surprises in the news articles. People feel we are jumping into things. A formal process is necessary. We cannot undermine tribal interests in the quarantined bison. The formal process should outline why or why not they can or cannot receive bison.

Mike Mease, Buffalo Field Campaign, stated that the bison are here from old times. Cattle brought the Brucellosis disease here in the first place. Because FWP has not done homework, the bison must continue to be quarantined. Brucellosis is not an issue – the bison have gone through the process. They have earned the right to become wildlife again. They are important to what this country means and what it's about. Tribes have shown reverence and respect for the species. The bison are sacred. We can't seem to open up the land for bison – this is an opportunity to bring back the bison. Open your minds and don't just listen to the cattle interest. We have always curtailed to the cattle industry.

Majel Russell, Intertribal Council Attorney, said the tribes are not special interest groups. They are sovereign governments. The Schweitzer administration has made efforts to bring tribes into the government to government processes. It is frustrating to have to attend a public forum to clarify what standing the tribes do indeed have. They are sovereign and political, and have rights to make decisions in government.

John Hagengruber, US Forest Service, said they remain open to working with the state on any proposal. He added that they would require a comment process on the federal level.

Director Maurier said this is the beginning of the process. This is a process of the debate we have to have. He said the legislature has several bills on this issue so everyone needs to pay attention. We are not hiding from the legislature – we want an open debate. FWP recognizes that no matter what we do, landowner concerns are our concerns. FWP has been working with, and will continue to work with, the tribes. Circumstances changed when we had to make a decision to move the quarantined bison, and they were moved temporarily to the Turner Ranch. Some folks thought this was a violation of public trust. FWP did not use the tribes as he did not know if public saw the tribes as public or private.

Vermillion said this debate has been difficult. It is important to look at what FWP is proposing. One side does not want wild roaming bison, and the other side does. This discussion is about where to put them and how to do it. This is the beginning of the conversation even though it has gone on for a long time. These animals have been tested many times – they are certified brucellosis free by using the same testing process as is used nationwide in livestock. He encouraged everyone to participate in the public process and to be mindful of what is happening at the legislature. Respect the other side's position. He added that funding for building fences is provided by NRD money – not by sportsmen's license dollars.

Colton said this is not an exclusion of the tribes. It is prompted because FWP has been sued, so therefore bison are placed on state land. The primary thrust is to release bison from the quarantine facility. Do not hear what you want to hear to serve your own purposes. The Plan was signed off on to transplant them. If it is to be broken, let the legislature do it. – which they are trying to do. This is to open discussions with every option open. We have to translocate these bison to state land because of the litigation.

Moody questioned why the current litigation impedes negotiations with the tribes when most of the plaintiffs claim they would be satisfied. The First Nations have historical, legal, and cultural standing on this species. The intent is to start a discussion, however the tribes' interest has standing. He is not in favor of moving bison until tribes testify that they feel they have been dealt with equitably. Public confidence is vital to this process. The assertion that this is another wolf issue is not true if we act substantively and cooperatively. We must get in front of, and master, change. The destruction of one entity for the success of another is not success.
Action on Motion: Motion carried.

24. Open Microphone – Public Opportunity to Address FWP Issues Not on Agenda. There was none.

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

The meeting adjourned at 1:30 p .m.
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Bob Ream, Chairman

Joe Maurier, Director