

MINUTES
Montana Fish, Wildlife & Parks
Commission Conference Call Meeting
1420 East 6th Avenue – Helena Headquarters
Helena, MT 59620

MAY 5, 2011

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

Guests Present: Matt Volz, Associated Press.

Fish, Wildlife & Parks Staff Present: Director Maurier, Becky Dockter, Tom Palmer, Regena Peterson, Ken McDonald, Gary Bertellotti, and Graham Taylor.

Topics of Discussion:

1. Call to Order

2. Sun River WMA - Delay the May 15, 2011 Opening Date For up to Two Weeks - Final
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**1. Call to Order.** Chairman Ream called the conference call meeting to order at 10:00 a.m.

**2. Sun River WMA - Delay the May 15, 2011 Opening Date For up to Two Weeks - Final.** Approximately 2,800 elk wintered on the Sun River WMA this winter. Typically, elk begin migrating from the WMA to the back country in mid-April, with migration nearly complete by the May 15 opening date when hundreds of people flock onto the WMA for antler collection. Conflicts between humans and elk create stress on the elk, and complaints from the public.

This year the heavy accumulations of snow along the migration routes kept the elk from moving off the WMA. And because weather predictions did not indicate conditions conducive to adequate snow melt that would open the migration corridors by May 15, FWP’s recommendation had been to delay the opening date of the Sun River Wildlife Management Area to May 29, 2011 at noon, and to delegate authority to the Director, with concurrence by the District 3 Commissioner, to open the WMA when conditions were deemed appropriate. The Region 4 Citizens Advisory Committee had recommended delaying the opening of the WMA for at least one week (until May 22, 2011), and if elk numbers were still high, to delay opening it yet another week (until May 29, 2011).

Ken McDonald, FWP Wildlife Bureau Chief, informed the Commission that yesterday, May 4, FWP staff encouraged the elk to begin migrating off the WMA. There are approximately 800 elk still on the WMA, but with warm weather now predicted, conditions should provide continued migration. In light of this development, the Department recommends delaying the opening date to May 22 if there are still a number of elk on the WMA, but if the elk have migrated off, to open the WMA on May 15 as originally scheduled.

Gary Bertellotti, FWP Region 4 Supervisor, stated that the Region feels that with the predictions for warm weather, and yesterday's migration, a May 15 opening date is not totally out of the realm of possibility, but they would like the ability to delay the opening to May 22 if the elk happen to still be there. Bertellotti said the elk are going into calving season so it is best to get them off the game range soon.

*Action: Moody moved and Vermillion seconded the motion that the Commission give Region 4 the authority to delay the opening of Sun River WMA until May 22 if in their judgment it is necessary for the benefit of the elk.*

Ream stated that the wildlife managers need maximum flexibility for elk management.

Vermillion stated that one of the management priorities on game ranges is to assure that the elk are not under undue stress caused by humans gathering antlers.

McDonald recommended amending the motion to delegate authority to the Director rather than to Region 4.

*Action: Moody amended the motion to delegate authority to the Director rather than to Region 4. Vermillion seconded the amendment.*

Vermillion asked if the WMAs in Region 3 are still scheduled to open on May 15.

McDonald confirmed that the WMAs in Regions 2 and 3 were still opening on May 15. Region 3 biologists said conditions look good, and Jay Kolby in Region 2 said that although there is a lot of snow, the elk have options for migration corridors. No other regions have expressed a need to go beyond May 15.

Vermillion asked if another meeting would be required or if the Director can direct a change in opening dates if the forecast is wrong and heavy snow falls.

McDonald replied that anything beyond May 15 needs Commission approval at this point. He suggested that the motion could once again be amended to include all WMAs rather than solely the Sun River WMA.

Moody agreed to the additional amendment to the motion.

Vermillion suggested expanding the scope in the original motion to include that opening day in the regions would be May 22, 2011 if the Director and the Department determines it necessary, with the ability to extend the date as necessary.

The Commission Secretary asked for a formal motion that includes all amendments.

*Action: Ream moved and Moody seconded the substitute motion to give the Director and the Department the authority to extend the 2011 opening date of all Wildlife Management Areas as conditions warrant, and as deemed necessary by the Department, for the purpose of minimizing human and elk interaction and conflict. Motion carried.*

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Moody stated that he would like to sit down and discuss laws and Commission authorities, and how the Commission applies them, as well as decision making and how grounded the Commission is on making decisions. He asked that the Legal Unit be involved. He would like to talk about how authority is used in making social decisions and biological decisions.

Vermillion stated that this legislative session made it clear that there is consternation on how decisions are made and what authority the Commission has in making decisions. He heard allegations that the Commission oversteps their authority. He agreed that it is important that a discussion regarding Commission authorities be held.

Ream stated that SB255 made him very aware that the Commission needs to be more careful on justification of biological and social decisions. Statutory authority is broad and does not provide much direction.

Becky Jakes-Dockter, FWP Legal Counsel, said they would be pleased to assist in the discussion. They would provide information on how the legal unit assists the Commission.

Colton suggested conducting a review of the entire process that FWP and the Commission goes through when setting regulations, beginning with setting the agenda to tentative recommendations to comment periods to final decisions. There are specific processes. Public hearings and comment periods are held, and there are parameters on any changes from the tentatives to the finals. He would like to have a general discussion on responsibilities of the Department and of the Commission respectively.

Stafne stated that he would benefit from such a discussion as a new Commissioner.

Colton added that the Commission and Department need to address the criticisms that assert that final decisions are drastically changed from the tentative recommendations. There needs to be a process that stipulates what sideboards are set when recommending tentatives. There is a belief that the Commission makes decisions predominantly based on public comments made at the Helena meetings. There needs to be information that justifies the basis of agenda items.

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Meeting adjourned at 10:40 a.m.

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Bob Ream, Chairman  
Joe Maurier, Director