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Montana Fish,  
Wildlife & Parks

# Montana Fish & Wildlife Commission

## MINUTES

Montana Fish and Wildlife Commission Meeting  
Montana WILD – Helena, MT

May 12, 2016

Commission Members Present via video: Dan Vermillion-Chairman, Richard Stuker-Vice Chairman, Gary Wolfe and Matt Tourtlotte

Fish, Wildlife & Parks Staff Present: Jeff Hagener, Director and FWP Staff.

Guests: May 12, 2016 - See Commission file folder for sign-in sheet.

### Topics of Discussion:

1. Call to Order and Pledge of Allegiance
2. Approval of Minutes of the April 14, 2016 Commission Meeting
3. Approval of Commission Expenses
4. Commission Reports
5. Director's Report
6. Montana Backcountry Hunters and Anglers Quiet Waters Initiative Petition – Final
7. Big Hole-Beaverhead River Administrative Rules – Final
8. Widow Coulee Fishing Access Site Construction Closure (R4) – Final
9. Wolf Creek Bridge Fishing Access Site Construction Closure (R4) – Final
10. Clark Fork Remediation Phase 5 and 6 Floodplain Closure Rule – Proposed
11. Gold Creek Fishing Access Site Acquisition (R2) – Endorsement
12. Racetrack Pond Acquisition (R2) – Endorsement
13. Sun River, Blackleaf, and Beartooth Wildlife Management Area Inholding Acquisitions (R4)– Final
14. Nongame Check-Off Workplan – Proposed
15. 2016 HB 454 Hunting Access Agreements – Proposed
16. 2016 Fall Upland Game Bird Quotas and Limits – Proposed
17. Sharp-tailed Grouse Transplant (R2) – Endorsement
18. Bighorn Sheep Augmentation – Informational
19. Natural Resources Defense Council's Trapping Regulation Petition – Final
20. 2016/2017 Furbearer Seasons and 2016 Quotas – Proposed
21. 2016 Wolf Hunting Seasons, Quotas and HD Boundaries and SB200 Wolf Quotas – Proposed
22. Grizzly Bear Tri-State Memorandum of Agreement – Proposed
23. Greater Yellowstone Ecosystem Grizzly Bear Hunting Regulation Framework – Proposed
24. Public Comment – For Issues Not On This Agenda

### 1. Call to Order - Pledge of Allegiance

Chairman Vermillion called the meeting to order at 8:05 a.m. and led the Pledge of Allegiance.

### 2. Approval of Minutes of the April 14, 2016 Commission Meeting

*Action: Vice-Chairman Stuker moved and Commissioner Tourtlotte seconded the motion to approve the minutes of the April 14, 2016, as amended. Motion passed.*

### 3. Approval of Commission Expenses

*Action: Vice-Chairman Stuker moved and Commissioner Tourtlotte seconded the motion to approve the March 2016 Commission expenses. Motion passed.*

### 4. Commission Reports

Commissioner Wolfe reported he attended the Region 1 and 2 Citizen Advisory Council (CAC) meeting; frustration with Smith River Floaters understanding the rule for having their homemade boxes inspected and certified as bear resistant containers; spoke with Colin Maas, Smith River Park Manager on this issue. Numerous phone calls and meetings regarding items on agenda. Spoke with an individual who encouraged the Commission to look into the possibility of setting aside a percentage of limited draw licenses for individuals who accrued some determined number of preference points. Discussion with an individual who was representing a group of seniors who are interested in the Commission take a look at

providing additional antlerless elk hunting opportunities over a certain age; preparing to develop a petition to the Commission. Would like to make a motion to approve a resolution supporting the Blackfoot Clearwater Stewardship Project.

Director Hagener stated to make sure the Commission and the Department are covered, opportunity for public comment should be solicited before the final vote is made.

**Action: Commissioner Wolfe moved and Commissioner Tourtlotte seconded the motion that the Commission approve the following resolution:**

*WHEREAS, Montana's wildlife are held in trust for all citizens and rely on a mix of land ownership to prosper and flourish; and  
WHEREAS, public land provides the lion's share of recreational opportunity for Montana hunters and anglers; and  
WHEREAS, to preserve the future viability of Montana's native fishes, including bull trout and Westslope cutthroat, we must protect the North Fork of the Blackfoot, Monture Creek, and West Fork of the Clearwater River which are critical habitat for spawning fish and deserve to be protected and managed for continued fish propagation; and  
WHEREAS, Montana's terrestrial wildlife require intact, large-scale habitat to remain strong in population in the face of increased development, climate change and loss of migration corridors; and  
WHEREAS, the Blackfoot Clearwater Stewardship Project will help ensure the future viability of the Blackfoot-Clearwater Wildlife Management Area which supports wintering populations of elk, mule deer, white-tailed deer and over 200 other species of wildlife who utilize the surrounding habitat year-round; and  
WHEREAS, Montanans who live, work and play in the areas encompassed by the Blackfoot Clearwater Stewardship Project have been actively involved in the development of the project over the last ten years; and  
WHEREAS, the County Commissions of all three impacted Counties support the Blackfoot Clearwater Stewardship Project; and  
WHEREAS, the Blackfoot Clearwater Stewardship Project will ensure the future economic viability of towns reliant upon tourism dollars in the summer, fall, winter & spring by its inclusion of the Otatsy Recreation Area and the increased management of public lands; and  
WHEREAS, public involvement in forest planning and vegetative treatment projects will be protected by legislative directive while helping to improve habitat conditions for elk, deer & bighorn sheep through sensible management of public lands; and  
WHEREAS, the Blackfoot Clearwater Stewardship Project collaboration has already achieved their stated goal of forest restoration and fish and wildlife habitat restoration through ongoing funding by the Collaborative Forest Landscape Restoration Program, however protective status for the higher elevation headwaters has yet to be realized.  
THEREFORE BE IT RESOLVED, that on May 12, 2016, the Montana Fish and Wildlife Commission endorsed the Blackfoot Clearwater Stewardship Project and asked for its introduction to the United State Congress as soon as possible.  
BE IT FURTHER RESOLVED, that the Commission directs the Department of Fish, Wildlife & Parks to send a copy of this resolution to Montana's Congressional Delegation and members of the State Land Board at their earliest convenience.*

Chairman Vermillion asked for public comment.

Ben Lamb, Member of the Blackfoot Clearwater Stewardship Project, thanked the Commission for their support; now is the time to move something forward.

Marc Cooke, Wolves of the Rockies (WOR), supports motion; win, win for everyone.

Commissioner Tourtlotte stated this is a great resolution, will support.

Chairman Vermillion commended all parties who are involved with the Blackfoot Project.

**Action on Motion: Motion passed.**

Commissioner Tourtlotte reported there was a grizzly bear killed in Sweetgrass County by Mr. Titeca; bear was a danger to his livestock and was a problem to public safety; Sweetgrass County Sheriff's Department had removed the bear carcass before any investigation could be done; US Fish and Wildlife Service (FWS) is conducting the investigation but they are hamstrung because the evidence was removed; the way Sweetgrass County officials are doing their job, has created problems. Received several comments, emails and had good conversation regarding topics on today's agenda.

Vice-Chairman Stuker reported he has received over 40 calls and emails from Valier, Dupuyer and Conrad residents regarding grizzly bears; based on calls and information he received there is a bear problem in this area; residents feel unsafe and are afraid; several issues; will talk with Region 4 Supervisor Gary Bertellotti; public safety should be upmost importance. Received calls and emails regarding topics on today's agenda and elk counts in hunting district (HD) 313.

Chairman Vermillion reported he has received several phone calls from frustrated Region 3 turkey hunters; need to increase permit numbers the demand is there and seems like there are plenty of birds; a lot of local hunters did not receive permits this year. Region 3 has had a great spring. Several conversations concerning today's agenda. Commissioner Kerstein was unable to attend meeting due to health issues; wishes him a speedy and quick recovery.

## **5. Director's Report**

Director Hagener reported there is a lot more grizzly bear movement and activity this year due to the warmer weather; Department is addressing these issue but need to work with the FWS; some employees are working 24-hour days. Environmental Quality Council met last week; went well; several issues were discussed. Had a successful walleye spawn on Fort Peck Lake; over 80 million eggs were

collected. Private Land / Public Wildlife (PL/PW) Council met in April; good progress was made; Block Management, 454, and a new proposal for licenses was discussed; will meet again in June. Discussed the land reconciliation issue with the Parks and Recreation Board who requested to form a working group; contemplating how to form the work group. June Commission tour, open house and meeting will be held in Dillon June 8 & 9; looking at consolidating into one day. Western Association of Fish and Wildlife Agencies (WAFWA) summer meeting will be held in Cody, Wyoming.

Chairman Vermillion requested to have bighorn/domestic sheep disease interaction added to the WAFWA summer meeting agenda

**6. Montana Backcountry Hunters and Anglers Quiet Waters Initiative Petition – Final**

Rebecca Dockter, Chief Legal Counsel, discussed and explained Commission authority for the petition process; MCA 87-1-303 states any rules must be adopted in the interest of public health, public safety, and protection of property in regulating the use of these lands; the Department has looked at the petition and it is the Department's opinion this petition would fall under the River Recreational Rules; very large request; rules are not in place for the rivers that are contemplated; if rule making is initiated, multiple phases would take place, including forming a CAC. If the Commission denies the petition, the recreational use regulations on the water bodies listed in the petition will remain as they are currently. If the Commission initiates rulemaking, the process outlined by the Recreational Use rules will be adhered to including environmental analysis, development of a management plan, and implementing the management plan. Backcountry Hunters and Anglers (BHA) presents recommendations to drastically restrict waterways without demonstrating any necessity to protect public health, public safety, public welfare, or to protect property and public resources.

Chairman Vermillion asked if rule making is initiated, would a CAC need to be set-up for each particular drainage or for the whole package, and does the Commission have the discretion to direct the Department whether they want one or five different working groups.

Dockter stated it is not contemplated in the rule itself.

Commissioner Tourlotte and Dockter discussed what the Commission needs to do at the meeting.

Tom Flowers, Chief of Law Enforcement explained four months the Department was contacted by the BHA relative to this issue, the petition progress and how they move forward. The petition was received and reviewed; individual Regions were queried to see if there is an issue, and all answered there was not a issue; potential is there for issues; the Department's stance is the petition is unwarranted at this time.

*Action: Commissioner Tourlotte moved and Chairman Vermillion seconded the motion that the Commission approve Backcountry Hunters and Anglers petition regarding quiet waters.*

Commissioner Wolfe informed the Commission there could be a perceived conflict of interest on his part based on the organization he works for.

Dockter stated as long as Commissioner Wolfe does not personally or professionally gain anything by the decision in this matter, it is not a legal requirement for him to recuse himself, as long as he has informed everyone; it is her opinion Commissioner Wolfe and the Commission can decide if he needs to recuse himself.

Chairman Vermillion stated he feels comfortable with Commissioner Wolfe participating in the vote.

Dockter stated the two options for the action on the motion is to deny or initiate rule making; need clarification of the motion.

Commissioner Tourlotte stated his intention was to approve the petition and move forward for rule making process.

Chairman Vermillion stated if rule making is initiated, the Commission could deny the petition at a later time, this action will begin the administrative process, so the public has ample opportunity to comment in this decision.

Greg Munther, BHA, explained the reasoning for the petition.

Bob Ream, Helena, modest and conservative proposal; supports petition. Asked for opportunity of comment on the wolf proposal; surprised at proposal; suggest three and stick to it; biologically does not make sense, need to be moderate and consistent.

Steve Platt, Montana Chapter of BHA and Helena Hunters and Anglers (HHA), urges to pass the motion; rivers get more use every day.

Gail Joslin, BHA, Montana Chapter of Wildlife Society, shoreline and aquatic species are impacted; chemical pollution; supports motion.

Paul Rossignol, Montana Sportsmen for Fish and Wildlife (MTSFW), supports enforcement's decision to deny petition; problem does not exist; taking time and money away from the Department.

Arlyn Lemier, Missoula, petition would deny public and recreational access; need to share the waters; power restrictions.

Bill Cunningham, Choteau, supports petition and motion; proposal is modest.

Len Kopec, Augusta, good proposal supports petition; proactive.

Ryan Busse, Kalispell, supports petition and motion; makes common sense; not drastic approach.

Ben Long, Kalispell, supports petition; need to protect natural resources.

Hank Fisher, Missoula, supports petition; river use is important to Montana and recreationists; need to get ahead of any controversy.

Land Tawney, BHA, supports proposal; potential for harm is there.

Robin Cunningham, Fishing Outfitters Association of Montana (FOAM), supports petition; urges to initiate process.

Scott Bosse, American Rivers (AR), supports petition; move forward with rule making.

Jerod Frazer, Bozeman, supports petition; proactive and conservative.

Mike Penfold, Our Montana, need to preserve options along the rivers, supports petition.

Chairman Vermillion stated this is the beginning of the process and conversation for all users; everyone has a voice; does not mean restrictions will be put in place but conversation is worth having.

Vice-Chairman Stuker concurs with Chairman Vermillion; need to make sure it is still multiple-use; there are areas where technology should not be allowed; in favor of moving forward at this time.

Commissioner Tourtlotte stated the path is to move forward and put out for discussion; concept is to be proactive.

*Action on Motion: Motion passed.*

Bruce Rich, Fisheries Administrator gave a brief water update; Sun, Teton and Marias Rivers area is dry, the rest of the state is looking decent.

#### **7. Big Hole-Beaverhead River Administrative Rules – Final**

Bruce Rich, Fisheries Administrator, stated the final proposal is unchanged from the tentative proposal (see minutes from the December 10, 2015 Commission meeting). Public involvement was solicited; hearings were held in Butte and Dillon; all comments received supported the proposal except for one, an attorney representing an outfitter opposed the Beaverhead River and Big Hole River administrative rules in their entirety.

*Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Commission approve the existing Big Hole and Beaverhead River rules for another five years and adopt the amendments to ARM 12.11.206 and 12.11.211 as proposed.*

*Action on Motion: Motion passed.*

#### **8. Widow Coulee Fishing Access Site Construction Closure (R4) – Final**

Bruce Rich, Fisheries Administrator, explained the Widow Coulee Fishing Access Site (FAS) project will consist of repairing a 400 foot section of the entrance road. The plan is to install erosion control methods, reset the barrier rocks, re-grade the road and put down a better base material to provide a more stable surface, improve drainage, and lessen the steep grade of the road; maintenance to the existing entrance so an environmental assessment (EA) was not required. The project was awarded \$173,750 in Missouri Madison River Recreation Fund grants towards the completion of this project. The road improvements will have a positive effect on both public safety and natural resources; drainage problems will be resolved, reducing future maintenance issues, and the road improvements will provide a safer road for public use.

*Action: Vice-Chairman Stuker moved and Commissioner Tourtlotte seconded the motion that the Commission approve FWP's request to temporarily close public access to the Widow Coulee FAS during construction scheduled this summer.*

Chairman Vermillion asked for public comment.

*Action on Motion: Motion passed.*

#### **9. Wolf Creek Bridge Fishing Access Site Construction Closure (R4) – Final**

Bruce Rich, Fisheries Administrator, explained the Wolf Creek Bridge construction project will include paving and lining the parking area, re-locating four camp sites, adding two tent camp sites, installing a second vault latrine and developing a storm water retention area. FWP conducted an EA with a 30-day public comment period; 23 comments were received; 16 people were in support; 5 were opposed

either in full or in part; 2 comments from Department of Transportation (DOT) requesting further project detail clarifications; FWP has been in contact with DOT to address their questions and concerns. Site enhancements will have a positive impact on both public safety and natural resources; drainage problems will be resolved, reducing future maintenance issues and the road and other improvements will provide for safer and more enjoyable public use; will provide two ADA campsites and allow for a defined parking area and flow of traffic; designated tent camping sites will also be provided.

*Action: Vice-Chairman Stuker moved and Commissioner Tourlotte seconded the motion that the Commission endorse FWP's request to temporarily close public access to the Wolf Creek Bridge FAS during construction scheduled this summer.*

Commissioner Wolfe and Vicki Robinson, Region 4 FAS Program Manager, discussed the public comments who oppose the closure.

Chairman Vermillion asked for public comment.

*Action on Motion: Motion passed.*

#### **10. Clark Fork Remediation Phase 5 and 6 Floodplain Closure Rule – Proposed**

Bruce Rich, Fisheries Administrator, explained the Department of Environmental Quality (DEQ) is conducting a cleanup project to remove contaminated soils in the streambanks and historic floodplain within the Upper Clark Fork River drainage. The project is part of the Milltown Reservoir/Clark Fork River Superfund Site, which includes the Clark Fork River from its headwaters below Warm Springs Ponds to the former Milltown Reservoir east of Missoula. Cleanup throughout the Superfund Site has been occurring in construction phases; each phase is associated with a different segment of the Clark Fork River, each with different construction start and end dates. Phase 5 and 6 (Galen to Gem Back Road) is currently under construction and haul trucks and heavy equipment are operating in this area. For public safety, public access both on foot and floating has been closed in this area while construction is underway. Construction activities are scheduled to be completed in July 2016. The current floodplain and river closure in this area of the River will also expire on July 15, 2016. Re-vegetation of the Phase 5 and 6 areas is just underway. Plants in their first growing seasons are highly vulnerable to damage from foot traffic. To allow more time for new plants to become established, it is beneficial to continue to restrict foot traffic in the floodplain, rather than open the area to public access entirely. With expiration of the current area closure, DEQ is proposing we allow float or wade through access only, but establish a new rule to prohibit access to the floodplain from July 15, 2016 through September 15, 2018. There are a few areas where foot access in the floodplain would not hurt the re-vegetation effort. To maximize angling opportunity while the plants are becoming established, the Department also proposes to sign these areas as exceptions to the floodplain closure. Upon approval, FWP would solicit public comment and report back to the Commission with a final recommendation in July. The existing rule expires on July 15. DEQ has spent over \$13 million dollars on this portion of the cleanup. Allowing floodplain access could result in significant damage to the cleanup, especially the vegetation, which would have significant harmful effects on habitat development in this area.

*Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Commission propose a biennial rule closing the floodplain to public entry between Galen and Gem Back road (Phase 5 & 6), to protect plant growth, except as signed otherwise, effective July 15, 2016 through September 15, 2018.*

Mike Bartkowiak, DEQ, offered to take the Commissioners out to see the site; would be beneficial; largest river clean-up in the world.

Chairman Vermillion asked for public comment.

*Action on Motion: Motion passed.*

#### **11. Gold Creek Fishing Access Site Acquisition (R2) – Endorsement**

Bruce Rich, Fisheries Administrator, explained in 2012, FWP was allocated \$1,000,000 through the Natural Resource Damage Program (NRDP) to acquire and develop FASs on the upper Clark Fork River. About \$850,000 of this funding has been designated for site development; the remaining \$150,000 is intended for acquisitions. Starting in 2016, FWP Region 2 plans to acquire and develop the first sites with this money, with a short-term objective to develop two existing sites and to acquire one new site each year. The goal is to add between 6-10 FASs to the Region 2 program over the next several years. Site acquisition will involve fee title purchases, or cooperative agreements with other agencies such as DNRC, BLM, and local county governments. The intention is to provide fully developed sites with gravel access, parking lots, concrete vault latrines, boat launches, fencing, and signing, as appropriate. All new acquisitions would be located between Galen and Clinton, Montana. Currently, there are only two FAS sites in this reach (Bearmouth FAS and Kohr's Bend FAS); neither has developed infrastructure; sites will be included as part of the 6-10 planned development locations. A small site in Gold Creek, Montana has been identified as a likely first parcel to acquire with the NRDP funding. The site would likely be less than 10 acres in size. Currently the site is owned by a local rancher who has expressed an interest in selling. At this point FWP is seeking endorsement by the Commission to pursue acquisition of the property. Public involvement will occur through the EA process in both the acquisition process and subsequent site development activities.

*Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Commission endorse further due diligence towards acquisition of the Gold Creek property, with the goal of eventually establishing a fully developed Fishing Access Site.*

Director Hagener stated the funds are from the NRDP; not part of the legislative restriction.

Chairman Vermillion asked for public comment.

*Action on Motion: Motion passed.*

#### **12. Racetrack Pond Acquisition (R2) – Endorsement**

Bruce Rich, Fisheries Administrator, explained as with the Gold Creek FAS acquisition, FWP was allocated \$1,000,000 through the NRDP to acquire and develop FASs on the upper Clark Fork River. Racetrack Pond (near Deer Lodge), will be acquired by means of a transfer/donation from the DEQ to FWP upon completion of site cleanup by the DEQ and the NRDP; the property is approximately 272 acres and includes a fishable pond and significant Clark Fork River frontage. In addition to donating the land, DEQ and the NRDP are also willing to collaborate on FAS design details, and to cost share some of the FAS construction costs; they need to receive direction from FWP concerning infrastructure design and to receive a commitment from FWP to accept the property once cleanup efforts are complete. FWP is seeking endorsement by the Commission to pursue acquiring the property once cleanup is complete and to commit to spending some of the NRDP funds to develop its FAS infrastructure. With Commission approval, public involvement will occur and an EA will be developed. Since site development is shared with the DEQ and the NRDP, additional public processes may be administratively invoked for those portions of the project DEQ and NRDP are responsible for.

*Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Commission endorse further due diligence towards acquisition of the Racetrack Pond property when cleanup is complete, with the goal of eventually establishing a fully developed Fishing Access Site.*

Chairman Vermillion asked for public comment.

*Action on Motion: Motion passed.*

#### **13. Sun River, Blackleaf, and Beartooth Wildlife Management Area Inholding Acquisitions (R4) – Final**

Ken McDonald, Wildlife Administrator, explained FWP proposes to purchase by fee title, 9,488.26 acres of Trust Lands managed by the Montana Department of Natural Resources and Conservation (DNRC) identified as inholdings on three FWP Wildlife Management Areas (WMA's). The WMA's are the Sun River, Beartooth and Blackleaf; the number of acres to be purchased in each WMA, respectively, is: 3,410.35, 5,438.43 and 639.48. Total appraised value for these acres combined is \$11,146,000; individually, the three WMA's acreage appraised as \$6,252,000; 4,039,000; and \$855,000, respectively; 75% Pitman-Robertson dollars and 25% from habitat Montana will be the funding source. DNRC's primary mission for Trust Lands is to generate revenue for Trusts. Public expectations are different for both types of state-owned land, and in some circumstances this can be cause for conflict. FWP has been collaborating with DNRC on identifying priority DNRC lands that occur within WMAs. These specific parcels have a higher likelihood of conflicts because of their values for wildlife, the limited income they generate for the Trust, and their potential for achieving higher income that would be in direct conflict with habitat values. A draft EA was released for public review on March 4, 2016 and public comment was solicited until April 8, 2016, followed by a public scoping effort in May and June of 2015; copies were distributed to neighboring landowners and interested individuals, groups, and agencies to ensure their knowledge of the proposed project; 72 comments were received; 67 support, 5 opposed; comments revealed no new information or cause for alteration of information contained within the EA. Under a no action alternative, acquisition of these acres on the Sun River, Beartooth and Blackleaf WMAs would not occur. These same acres would continue to be leased according to DNRC standards, practices and increasing rental rates. DNRC procedure includes well-defined steps whereby a Land Banking auction for these lands on a county by county basis will be conducted. As the lessee and nominator of the sale parcels, FWP is afforded the ability to stop the sale process up to 10 days before the auction occurs. Any parties wishing to bid on the sale parcels at the Land Banking auction must submit a bid deposit of 20% of the minimum bid price, 10 days before the auction.

*Action: Vice-Chairman Stuker moved and Commissioner Wolfe seconded the motion that the Commission approve acquisition of DNRC inholdings on the Sun River, Beartooth and Blackleaf WMAs.*

Chairman Vermillion asked for public comment.

Shawn Thomas, DNRC Division Administrator, thanked the Department; outreach has addressed issues; solution to administrative issues.

Chairman Vermillion asked how long does DNRC have to deploy the funds.

Thomas stated the land banking funds have to be reinvested within 10 years, otherwise it will go to the general fund.

Chairman Vermillion and Thomas had a discussion on the DNRC land banking funds.

Director Hagener asked Thomas to report back to the Commissioners as acquisitions are made.

Thomas state yes, DNRC would be happy to follow-up with the Commission.

*Action on Motion: Motion passed.*

**14. Nongame Check-Off Workplan – Proposed**

Lauri Hanauska-Brown, Non-Game Management Bureau Chief, explained under the provisions of 87-5-122, MCA, “the FWP Commission shall review and annually approve the nongame wildlife program’s projects recommended by the Department for funding from the nongame wildlife account; the Commission shall provide for public comment during the review and approval process.” 2015 tax year donations are unknown at this time, the average received by FWP from the 2004-2014 tax years was \$27,500/year; as of March 31, 2016, \$20,800 had been donated for tax year 2015. FWP is proposing the following work in FY17 with this anticipated funding in addition to some balance in the fund from previous years: \$ 5,000 Inventory, monitoring and conservation work on Montana Species of Concern and species in need of inventory as determined through a formal ranking process; \$ 5,000 Prioritize habitat for conservation including: 1) identifying the most critical habitat needs for nongame, threatened or endangered species, 2) identifying and monitoring threats to these critical habitats; \$ 5,000 Competitive student stipend for nongame research; \$35,000 Wildlife viewing and outreach projects that encourage more Montanans to appreciate Montana wildlife. Public comment will be solicited. The recommended work addresses several components of FWP’s overall nongame management program, including threatened and endangered species management, as identified in the State Wildlife Action Plan (SWAP). Tax check-off funding is used in conjunction with State Wildlife Grants to address high priority habitat, survey and inventory, and species conservation needs. Alternatives could include allocating more or less among these categories.

*Action: Vice-Chairman Stuker moved and Commissioner Tourtlotte seconded the motion that the Commission tentatively approve the proposed Nongame Tax Check-Off work for Fiscal Year 2017.*

Chairman Vermillion asked for public comment.

Marc Cooke, WOR, supports motion; win-win situation for finding common ground.

Chairman Vermillion stated it is noteworthy the Department is dedicating \$35,000 to wildlife viewing and outreach project to encourage more people to enjoy Montana’s wildlife.

*Action on Motion: Motion passed.*

**15. 2016 HB 454 Hunting Access Agreements – Proposed**

John Vore, Game Management Bureau Chief, explained under the provisions of 87-2-513 MCA, FWP received the authority to issue either-sex or antlerless elk permits to landowners for management purposes. The landowner must offer free public elk hunting, meet the various conditions of the statute, and enter a contractual public elk hunting access agreement with FWP. The contract defines the areas open to public elk hunting, the number of elk hunting days that will be allowed on the property, and other factors that FWP and the landowner consider necessary for the proper management of elk on the landowner’s property. There are two proposed agreements. The Swanz Agreement specifies two 411-21 either-sex permits for Mr. Swanz and/or a family member(s), while the Robert Lee Ranch agreement specifies one 411-22 either-sex permit for Robert Lee or a family member. In turn, FWP would issue eight additional 411-21 permits for the John Swanz property and four for the Robert Lee property from the already randomized list of unsuccessful applicants for the 411-20 either-sex permit. Successful applicants could only hunt on the deeded property for the specified ranch. The Swanz agreement was first used in 2002 and has been reapplied annually since based upon continued positive post-hunt evaluations. The Access Agreements are included in the Commission packet. The Swanz agreement has received public review in previous years via the Commission’s hunting season setting process. To date, that review has generated relatively few public comments. The post-hunt evaluations have sought feedback from all identified hunters and the landowner. To date, the evaluations confirm that agreement terms, and reasonable expectations, are generally being met. The Robert Lee Ranch agreement was new last year and got good reviews. The public comment period for any adopted proposal will run through 5 p.m., Friday, June 17, with final action at the July Commission meeting. Failure to approve this agreement may result in reduced public elk hunting access in this area. Existing agreement terms have met with positive reviews of these working access opportunities with no adverse resource impact identified.

Vice-Chairman Stuker stated line 4a in the Swanz proposal should state “offer to assist any of these eight hunters”.

*Action: Commissioner Tourtlotte moved and Vice-Chairman Stuker seconded the motion that the Fish & Wildlife Commission adopt for public comment the proposed John Swanz Ranch and Robert Lee Ranch hunting access agreements as presented by FWP.*

Chairman Vermillion asked for public comment.

Chairman Vermillion stated with the exception of one gentleman, seems hunters have enjoyed this experience.

Vice-Chairman Stuker asked if there are not any public land that are not accessible to public access that could be included in this to make a larger area for all involved to hunt.

Ray Mule’, Region 5 Wildlife Manager, stated there no public land that is landlocked on these ranches; they do border forest service land which has other public access.

Chairman Vermillion, Vice-Chairman Stuker and Director Hagener and Supervisor Bertellotti discussed PL/PW and discussions on how to expand this program.

Director Hagener stated the American Prairie purchased the PN Ranch (48,000 acres) and they intend to enroll that into block management.

*Action on Motion: Motion passed.*

#### **16. 2016 Fall Upland Game Bird Quotas and Limits – Proposed**

John Vore, Game Management Bureau Chief, explained upland game bird season dates for 2016 were approved in February; other than those changes specifically outlined below, no changes to the 2016 adopted quotas and limits are proposed.

**Crossbows** – The Commission previously took action on allowing crossbows for taking mountain grouse and fall turkey, but that adoption did not make it into the regulations. To have crossbows included in future regulation brochures FWP proposes that crossbows be considered a legal means of taking for mountain grouse and fall turkey.

**Sage grouse** – Adaptive Harvest Management (AHM) for sage grouse annually assesses populations and bag limits. AHM in the final Management Plan and Conservation Strategies for Sage Grouse in Montana recommends a conservative bag limit if average lek counts are below the long-term average (LTA) and a standard limit if the average count exceeds the LTA. The plan further prescribes a season closure if average lek counts are at least 45% below LTA for three years. Counts above the 45% closure criteria but below the LTA for three consecutive years would prompt a proposal to reopen the season as would a single year with counts above the LTA; in both instances, the closure criteria would no longer be met. Because of heightened public awareness of sage grouse the Commission adopted a conservative two-bird bag limit in 2007, which has continued through 2015, and adopted three distinct management zones for sage grouse in 2014. These zones allow for management at a scale finer than statewide. Between 2007 and 2014 lek counts declined falling below 45% of the LTA, but rebounded in 2015 to above the 45% cutoff but below LTA. Early indications for spring 2016 are that sage grouse numbers have rebounded significantly from recent lows in many areas of the state and are above last year's increase. Biologists are reporting very high male attendance on leks, but all data is not yet collected, entered and analyzed. If these encouraging preliminary findings continue, and if the number of birds on leks is above the long-term average, FWP will propose to reopen the sage grouse season in areas where it is currently closed. Lek data will be analyzed and presented to the Commission at the July meeting, along with any proposal to reopen the season in any or all of the management zones.

No other changes are proposed for other upland game bird bag, possession limits and permit quotas. If approved, public comment will run through 5 p.m., Friday, June 17, with final adoptions at the July 14 Commission meeting. This proposal is based upon field observations and regional input and is consistent with statewide upland game bird management.

*Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Fish & Wildlife Commission approve for public comment the proposed 2016 crossbow regulations and 2016 upland game bird bag and possession limits as unchanged from 2015.*

Chairman Vermillion asked for public comment.

*Action on Motion: Motion passed.*

#### **17. Sharp-tailed Grouse Transplant (R2) – Endorsement**

John Vore, Game Management Bureau Chief, explained sharp-tailed grouse (STGR) west of the Continental Divide in Montana are a species of concern with a state ranking "at high risk because of extremely limited and/or rapidly declining population numbers, range and/or habitat, making it highly vulnerable to global extinction or extirpation in the state"; east of the Continental Divide STGR are doing very well with a state rank of "apparently secure, though it may be quite rare in parts of its range, and/or suspected to be declining". STGR west of divide became extinct in the early 2000s and has remained an FWP priority for 32 years dating back to the Libby Mitigation Plan that quantified habitat and wildlife losses after Koochanusa Reservoir was created. FWP and a number of other partners recently completed an evaluation of potential sharp-tailed grouse habitat in western Montana; the objective of the project was to compare habitat variables important to STGR in occupied areas east of the continental Divide to those in unoccupied areas west of the Divide to determine if suitable habitat exists for a potential reintroduction effort in western Montana; results show there is high quality habitat that could serve as core areas for the reintroduction of STGR. To date FWP has worked with our partners, landowners, and ranch managers to complete the habitat assessment. If endorsed, FWP would like to write a reintroduction plan and EA to re-establish self-sustaining sharp-tailed grouse populations west of the Continental Divide in two core areas identified as having the most suitable habitat: the Blackfoot Valley and the northern Bitterroot Valley; the objective is to establish a viable population of approximately 200 birds in each area, or 400 birds total; would capture 80-120 birds each year for 5 years in Regions 4, 5, 6 and 7 at capture sites dispersed across eastern Montana to minimize impact on local source populations. This project would support both the western Montana sharp-tailed plan and the statewide Upland Game Bird Plan.

*Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Commission endorse the development of a restoration plan and environment assessment for sharp-tailed grouse in western Montana.*

Chairman Vermillion asked for public comment.

Chairman Vermillion asked if there is any historical presence of sage grouse west of the divide.  
Vore state no, there is not.

*Action on Motion: Motion passed.*

**18. Bighorn Sheep Augmentation – Informational**

John Vore, Game Management Bureau Chief, explained this is an informational item only concerning the potential to augment the bighorn sheep herd reintroduced into Wolf Creek in the Madison Valley from the original source herd near Hebgen Lake. If the local biologist deems it necessary and conditions permit we have the flexibility in the EA and decision notice (DN) to do another augmentation. Fifty-two bighorns were first moved from the Hebgen Lake area to Wolf Creek in the winter of 2014-15. This was followed by an augmentation of 22 sheep from the same source herd in 2015-16. The DN recognized that, "in future years, transplants/augmentations" may be necessary. If necessary, sheep would be taken from the same source herd and released to augment the reintroduced herd.

Chairman Vermillion asked if there are any other restoration or translocation projects being looked at.

Vore stated not right now, just the Tendoy project is outstanding.

Commissioner Wolfe stated he attended Montana Outfitters and Guides Association (MOGA) annual meeting in January; he received a position statement from the Wildlife Society and the American Association of Wildlife Veterinarians on domestic sheep and goat disease transmission risk to wild sheep; good issue statement.

Chairman Vermillion stated domestic sheep and goat disease transmission will be on the agenda at the WAFWA meeting in July.

**19. Natural Resources Defense Council's Trapping Regulation Petition – Final**

John Vore, Game Management Bureau Chief, explained the Natural Resources Defense Council (NRDC) submitted a rulemaking petition requesting:

- all traps and snares used to capture or attempt to capture any wildlife must be visually inspected at least every 24 hours;
- prohibiting neck snare traps within grizzly bear habitat between March 1 and December 1 or if grizzly bear sign is present;
- and prohibit the use of M-44's to take or attempt to take any animal within occupied grizzly bear habitat between March 1 and December 1 or if grizzly bear sign is present.

FWP is proposing furbearer regulations in a separate agenda item. Public comment has not been sought regarding the specific requests in the petition; public will have opportunity to comment on the proposed trapping regulations during the regular trapping regulation review process. An alternative to initiating rulemaking is for the Commission to deny the Petition; amending ARM rules is not the proper venue for trapping regulation changes. Trapping regulations are seasonal rules adopted annually and are required to be published and provided to the public and are not rules as defined in the Montana Administrative Procedures Act. Separating any regulatory language into administrative rule prevents the public and Commission from the yearly process of developing and evaluating appropriate regulations. In response to the petition the Department feels:

- A 24-hour trap check is inappropriate for Montana's big landscape and would severely limit lawful opportunity for trappers; prohibition of neck snares as proposed is not needed. It would primarily affect public agencies addressing livestock protection and the Commission has no authority to regulate these activities; there are other western states and providences that have 48-96 trap check times; Idaho and Wyoming have a 72-hour trap check; would severely limit trappers.
- There is no problem in Montana with neck snare traps; there is no record of snared grizzlies; photographs in the petition were not from Montana, probably Alaska; snares are not legal for wolves in Montana.
- M-44s are already prohibited where threatened or endangered species might be adversely affected; Department of Livestock (DOL) has purview over this area; onerous process to get a license; all users are prohibited from using M-44s in areas that are or could be occupied by threatened or endangered species.

Another alternative is to deny the Petition and suggest the proposed regulations during the furbearer regulation agenda item. The regular trapping regulation review process considers changes every May/July and allows the public, including NRDC, multiple opportunities to be involved in the process. The Department recommends denying the petition because the topics may be covered under the regular furbearer season setting process on this month's agenda.

Chairman Vermillion asked if grizzly bears are delisted, would those areas become open to regulated M-44 use.

Vore stated it could be; applies to any endangered species; don't know what the political landscape will look like; currently lynx are listed, the lynx protection zone is outlined.

**Action:** *Vice-Chairman Stuker moved that the Commission deny NRDC's petition regarding trapping regulations.*

**Vice-Chairman Stuker withdrew his motion.**

Zack Strong, NRDC, thanked the Department for the time staff has met with him to talk about issues raised in the petition and helping set up and facilitate a meeting with the Montana Trappers Association (MTA). The goal for the petition is to try and reduce the threat of non-target take to grizzly bears and other wildlife in Montana; the three reasonable, moderate and specific rules would help Montana take steps in achieving this goal; FWP is already following the three policies in a MOU between FWP and FWS; NRDC agrees with the policies and feels the public should abide by the same policies. Addressing these issues through the furbearer season process does not address the use of M-44s; petition addresses more species than just furbearers (nongame species, predator species, wolves, mountain lions and black bears); petition also asks the Commission to amend an existing administrative rule which requires a different process. Asking the Commission to move forward with rule making and give the public a chance to comment.

Chairman Vermillion and Vore discussed if the Department or Commission have jurisdiction/authority over the use of neck snares for other species in grizzly bear country.

Commissioner Tourtlotte stated it seems like the petitioners are looking for comprehensive relief the Department may not fully address; make sense to encompass actions by DOL and other entities; relief the petition is asking for cannot be addressed in the furbearer regulation; inclined to move forward so the process can be laid out and if other entities need to be involved.

Dockter stated the furbearer season regulations/restriction are set when you can and cannot take them, for the entire year. The Department cannot regulate M-44s; DOL and Department of Agriculture (DOAg) regulates them and has specific rules and regulations.

Director Hagener asked if the Department has any authority for snaring coyote, fox or skunk.

Vore stated Department of Livestock statutes also speak to "predators", FWP is proposing setbacks for all trapping efforts in the furbearer regulations to reduce potential for conflicts with public land recreationists and their domestic dogs.

Commissioner Wolfe asked for an explanation how M-44s are currently used in Montana and are they used on public lands.

Vore stated the training manual for M-44s has 26 regulations that a person needs to follow in order to have a license; cannot be used for recreational harvest, depredation only.

Commissioner Wolfe stated he is an opponent of M-44s on public land because of personal experience.

Vice-Chairman Stuker stated M-44s are used in the eastern part of the state for coyotes; have never seen them used on public land; spring livestock is on deeded land until the first of May and the only means of taking coyotes that are depreddating livestock is with M-44s; signs are posted. Petition items should be addressed with other furbearer regulations in Commission season setting.

Strong stated the DOAg has a set of rules that govern the use M-44s; anyone in Montana who receives a certification can use M-44s; primarily used by the federal government but there are several other private applicators; recreational public lands are the only part that are prohibited, can be used on other areas of public land. Respectfully disagrees with the Department; the Commission does have authority to regulate.

Vice-Chairman stated he has said in the past and would still like to have a meeting with DOL to discuss several issues.

**Action:** *Vice-Chairman Stuker moved and Chairman Vermillion seconded the motion that the Commission deny NRDC's petition regarding trapping regulations for those reasons, and the Commission needs to have a meeting with the Department of Livestock.*

Chairman Vermillion asked for public comment.

Maggie Nutter, Marias River Livestock Association (MLA), values her right to protect livestock; M-44s are used on coyotes; does not want M-44s removed; supports motion.

Toby Walrath, MTA, against proposal; met with the Department and Strong; Strong stated the 24-hour trap check should be something that should be implemented for ethical reasons and was not specific to the grizzly bear delisting; accepting a petition from a New York based organization that did not include input from Montana trapping experts is unacceptable; future meetings with the Commission are welcomed; requests the proposal is denied; unreasonable for trappers in Montana.

Jeff, Livingston, agrees with Mr. Walrath's synopsis of the situation.

Marc Cook, WOR, supports petition; when politicians get involved with decisions regarding wildlife, it doesn't come out well; let the general public way in on the petition and move forward; 24-hour trap check is not an unreasonable amount of time. Asked Vice-Chairman Stuker if the M-44s are retrieved once used.

Chairman Stuker replied, yes, they do.

Bob Sheppard, MTA, against petition; agrees with Mr. Walrath's statement; continual sources of amazement of how people in New York City can figure out how Montana can manage our wildlife and regulate Montanans.

Mac Minard, MOGA, against petition, supports motion; in favor of a stand down and encourage communication with DOL.

Tom Barnes, Dillon, concurs with Mr. Walrath's and Mr. Sheppard's comments.

Paul Rossignol, MTSFW, deny petition; coming from people who do not understand Montana trapping; deviation of the way decisions should be made.

Robyn Ankin, Seeley Lake, supports Mr. Sheppard's and Mr. Walrath's comments.

Tim McKenrick, Boulder, supports Mr. Walrath's and Mr. Sheppard's comments.

Burt Wustner, MTSFW/MTA, supports motion, against petition; agrees with Mr. Walrath's and Mr. Sheppard; Montana issue, not another state.

Dagmar Riddle, Whitehall, supports petition; many reasons why; cruel and unusual means; predators should be dealt with in a nonlethal management way; ranchers are using public land.

West Miles, Trap Free Montana (TFM), supports petition; not for the benefit of species being trapped, not what is best for wildlife.

KC York, TFM, supports petition, need to do better for our wildlife.

Angela Blad, MTA, 100% agrees with Mr. Walrath and Mr. Sheppard.

Jason Maxwell, MTA, supports Mr. Walrath's and Mr. Sheppard's comments; Montana requires breakaways on snares.

Lance Jones, Stevensville, supports Mr. Walrath's and Mr. Sheppard's comments; deny petition.

Vice-Chairman Stuker stated he hopes the Commission supports approves the motion that is on the floor, request a meeting with DOL to address these concerns and work out an agreement with both parties rather than being confrontational at this time.

Commissioner Tourtlotte stated the motion is stopping the petition before anyone can discuss it; if the motion does not pass, will make an amended motion.

Vore stated the reason the Department is recommending denying the petition is because there are more appropriate venues where fishing, hunting and trapping regulations are considered by the Commission.

Chairman Vermillion asked for clarification that the Department is not taking a position on the substance of the petition, the place to have the discussion is in the regulatory process not the ARM process.

Vore stated the Department is taking a position on the specifics of the petition as well as the venue; feel the venue is more appropriate before the Commission in the regulatory setting.

Commissioner Wolfe stated he agrees the furbearer regulations is a place where much of the petition could be addressed; concerned about the M-44 issue; likes Vice-Chairman Stuker's suggestion to meet with DOL; will vote in favor of motion.

Chairman Vermillion stated Mr. Strong went out of his way to be non-confrontational, non-decisive and polite to people that disagree with him; the opposing side is focusing on and alleges Mr. Strong is a nonresident; he grew up in Great Falls and employees he works with live in Montana, and have every right to participate in this process just like trappers do; suggests in the future not to use divisive language; do not help the cause; will vote to deny petition; everyone has a role and everyone needs to respect that.

Vice-Chairman Stuker stated he agrees with Chairman Vermillion; not only with this issue but all issues; stick with the facts; do not belittle the other side.

Chairman Vermillion stated trap checks can be put in today's furbearer regulations and direct the Department to try and establish a formal communication process with DOL, and encourage MTA and Zack Strong and supporters, to be involved with the communication effort.

*Action on Motion: Motion passed. 3-1*

*Aye – Chairman Vermillion, Vice-Chairman Stuker and Commissioner Wolfe  
Nay – Commissioner Tourlotte*

**20. 2016/2017 Furbearer Seasons and 2016 Quotas – Proposed**

John Vore, Game Management Bureau Chief, explained furbearer season structure and quotas are defined by the Commission. Proposed changes for 2016 are addressed below; all other season elements and quotas, including fisher quotas, are proposed as unchanged from 2015.

- Statewide: Establish trapping setbacks on federal and state public land for all species at all times to reduce the likelihood of unintentional capture of dogs. This change will extend the regulations and setbacks the Department currently has for wolves and furbearers during trapping season to year-round for all species including predators such as coyotes and non-game wildlife such as foxes.
- Region 1: Increase otter quota from 23 to 28.
- Region 2: Increase bobcat quota from 180 to 200.
- Region 6: Decrease swift fox quota from 30 to 10.
- The data for fisher did not indicate a biological need to adjust the harvest quota (5) or female subquota (2) in Region 1 and 2 at this time; the data demonstrates the importance and utility for documenting and monitoring the fisher status, and justifies the continuing collection of harvested fisher and other fisher mortalities in the future.

There are biological justifications for proposals, and provide sound furbearer management to include trapping with consideration of comments and concerns from other user groups. The intent is to reasonably share the landscape, associated resources and opportunities to the extent possible. Public comment period will run through 5 p.m., Friday, June 17, with final adoptions at the July 14 Commission meeting.

*Action: Vice-Chairman Stuker moved and Commissioner Wolfe seconded the motion that the Commission approve for public comment the proposed 2015 furbearer season structure and quota changes as proposed by the Department.*

Commissioner Wolfe asked if the fisher population is at a level where only seven fishers can be harvested, why are we harvesting any fishers.

Vore explained there is a female sub-quota associated with the quota of seven, when the sub-quota is reached the season is closed; the current combined quota of seven has been sustainable for a number of years.

Commissioner Wolfe asked if the fisher quota was zero, could there be an expansion of the remnant population of native fishers along the Idaho/Montana border.

Vore stated he doesn't believe it would; the current harvest is light; the population is mainly in Idaho and enter into Montana along the Bitterroot Mountains. The Department decreased the quotas in the mid-1990s; the age/sex ratio of the harvest did change, and brought down within the perimeters, which have been established.

Mike Thompson, Region 2 Wildlife Manager, explained the population productivity over the past years.

Vore stated he spoke with Tim Their, Region 1 furbearer Biologist, who stated the sample size is low, but indicates everything is alright and is similar to Region 2; not a native population, a result of past transplants.

Neil Anderson, Region 1 Wildlife Program Manager, fisher harvest is low, quota of 2; 2010-2015 total of 9 fisher were harvested, five adults, 3 juveniles and one unknown; number of juveniles per adult female has increased over time; on the border where would like to be; fair amount of reproduction occurring and heading in the right direction; Idaho suggests Region 1 does not have a lot of prime fisher habitat; not impacting the overall fisher population by taking a couple fisher.

Commissioner Wolfe stated Idaho has a stronger fisher population than Montana and they have no fisher season.

Vice-Chairman Stuker and Vore discussed set-back trap authority and regulations.

Chairman Vermillion asked for public comment.

Toby Walrath, MTA, supports changes in quota based on biological evidence; supports not changing the fisher quota; discussed are spring regional meetings.

Commissioner Wolfe and Walrath discussed fisher/martin trapping.

Marc Cooke, WOR, recommends 24-hour trap check for wolves.

Kylie Paul, Defenders of Wildlife (DOW), concerned about fishers in Montana; asking to put a moratorium on fishers, modify martin trap boxes, need to have a monitoring program and a multi-agency fisher strategy conservation plan.

Bob Sheppard, Ovando, supports MTA comments; set-backs need to be re-evaluated.

Burt Wustner, Lolo, supports MTA comments and FWP recommendations; fisher market is down.

Ilona Popper, Gardner, supports DOW fisher comments; supports farthest possible set-backs on traps.

Jeff, Livingston, supports MTA comments.

Dagmar Riddle, Whitchall, supports DOW comments; against trapping.

KC York, Trap Free Montana Public Lands (TFMPL), website or current harvest hotline for otter does not give up-to-date information; trappers wait to bring in animals; against proposal.

John Wilson, MTA, supports MTA comments, Region 2 proposal and Bob Sheppard's comments.

Sue Ann Stephenson-Love, Great Falls, supports DOW comments.

Commissioner Wolfe asked what species are trapped with leghold land traps sets other than bobcat and wolves that fall under the furbearer regulations.

Vore stated leghold land sets can be used for martin and fisher.

Walrath stated any animal could be caught, depending on the technique.

Commissioner Wolfe stated he will offer a friendly amendment to the proposed motion.

*Amendment to Motion: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion to modify the fisher harvest in Region 1 and Region 2 from the currently proposed levels to zero.*

Chairman Vermillion stated this is the beginning of public comment.

*Action on Motion: Motion passed.*

## **21. 2016 Wolf Hunting Seasons, Quotas and HD Boundaries and SB200 Wolf Quotas – Proposed**

John Vore, Game Management Bureau Chief, explained regulated hunting and trapping of wolves was endorsed by the Governor's Wolf Advisory Council in 2000 and is included in Montana's wolf conservation and management plan. Wolf seasons have evolved over the years from the first season in 2009 having a conservative hunting-only quota of 75 wolves, to including trapping in 2012, to the current season with no quota except near the national parks and sportspersons may take up to five wolves. Montana's wolf management maintains a healthy, viable and connected population while allowing harvest and reducing conflicts. FWP is proposing no change to the 2015-16 season structure with the exception of wolf management unit (WMU) 313. WMU 313 proposal is as follows:

1. Increase the wolf quota in WMU 313 from two to six wolves
2. Institute a split season with the wolf quota in WMU 313 divided equally into two hunt periods to minimize the chance of overharvesting any one particular pack as follows:
  - September 4 – November 30 (end of elk/deer general rifle season): quota of three wolves
  - December 1 – March 15: quota of three wolves

The quota for the second time period will remain at three even if the quota for the first time period remains unmet. Unfilled quota numbers from the first time period will not be "carried over" to the second period.
3. Institute a no wolf trapping zone in WMU 313 in the Deckard Flat – Trail Creek elk closure area because of concerns over conflict with recreationists and dogs.

The objective of this proposal is to stabilize the number of wolves that use WMU 313 by harvesting slightly less than 29% (a harvest rate supported by the scientific literature) of counted wolves, allow for increased and sustainable hunter opportunity, and yet have minimal impact on recreational wolf viewing in Yellowstone National Park. FWP seeks to maintain wolf numbers at a level that balances the competing social expectations of stakeholders who hunt wolves, elk and other affected prey while at the same time having minimal impact on recreational wolf viewing in the Park for stakeholders with that interest. Since 2011 FWP staff has counted between 18 and 40 (average of 29) wolves using WMU 313, and wolf harvest quotas to date have been set at levels that are a *de facto* strategy to increase wolves. The proposed changes to wolf regulations will allow FWP to better achieve the seven measurable objectives for wolf management in Montana. The proposed harvest rate of 29% instituted using a split season will ensure no adverse biological impacts, and will limit impacts to research and non-consumptive interests. FWP feels this proposal represents the best available compromise between two polarized social views.

Senate Bill 200 allows landowners to take wolves that are a potential threat to human safety, livestock or domestic dogs. The Commission annually approves a quota for SB 200 take; last year was up to 100 in separate Commission-approved intervals of 25. Few wolves are taken under SB 200 with 6 in 2014 and 12 in 2015. FWP proposes no change to the SB 200 quotas.

Public comment period will run through 5 p.m., Friday, June 17, and final action at the July Commission meeting. This mostly status quo proposal is aligned with known biology, management history and experience, livestock depredation trends, survey efforts, and public comment. It's consistent with wolf season objectives, other species management and continues to value wolves as an integral component of functioning ecosystems. The proposal is consistent with the Montana Gray Wolf Management Plan.

*Action: Chairman Vermillion moved and Vice-Chairman Stuker seconded the motion that the Commission approve for public comment the proposed 2016-2017 wolf season as presented by FWP.*

Chairman Vermillion asked for public comment.

Rick Lamplugh, Gardiner, suggested quota of three.

Linda Thurston, Gardiner, wolves are important to Gardiner and tourism; no change to quota in 313.

Unknown, increase quota, not lower it.

Dagmar Riddle, Whitehall, against increase in 313; need buffer zone around park with no hunting.

Kat Brekken, National Wolf Watcher Coalition (NWWC), need bigger, broader approach to how we are protecting our gems.

Chairman Vermillion stated everyone will have the opportunity to provide written comments.

Deby Dixon, Gardiner, wolf numbers are decreasing in and out of the Park.

Emil McCain, Gardiner, concerned about economy in/around park; not biological sound.

Al Redfield, Livingston, supports proposal; this is a balance.

Chris Kelley, Emigrant, supports increase in wolf harvest.

Nathan Varley, Bear Creek Council (BCC), proposal targets wolves who spend time within the boundary of park.

Gail Richardson, Bozeman, wolf numbers dropping in park; lower quotas; leave at three.

Derek Goldman, Endangered Species Coalition (ESC), reduce wolf hunting trapping and quotas; will submit petition during comment period.

Unknown, opposes taking more wolves; will decrease balance in the park.

KC York, TFMPL, opposed of quota increase; what is the definition of "potential threat" under SB200?

Mark Cooke, WOR, livestock depredation declining; elk mortality can be from other factors; wolves can help with chronic wasting disease and brucellosis; increasing social tolerance does not work.

Ilona Popper, Gardner, tourism should be major factor in quotas; FWP is attempting to address the concerns of non-consumptive users; no guiding principles; number should max out at 15%, not 29%; wolf numbers should increase for tourism and science; drop quota to three.

Rachel Caldwell, National Parks Conservation Association (NPCA), recommends maintaining or decreased quota in 313; exercise caution.

Cheryl Kindsday, Wolf Watchers Coalition (WWC), disagrees with numbers; be prudent.

Steve Clevidence, Stevensville, packs within park have decreased; proposed quota of six is unfavorable and a slap in the face too non-consumptive users; no increase.

Chris Colligan, GYC, simply a social question, several measurable impacts; reject proposal; acknowledge the values of managing wolves for the local economies and other interests outside of hunting.

Brad Shultz, Livingston, biologists to a great job; responsible proposal and supports.

Justin Duffy, Livingston, support biologists and their sound science; supports increase in harvest along park line.

Edwin Johnson, Gardiner, insinuated Commission past actions were based on political action and funding; federal control over Montana resources.

Chairman Vermillion stated he struggles with Johnson's comments.

Commissioner Tourtlotte stated he is offended to Johnson's comments; the Commission has always placed a value on 313, well documented; no money is involved; iconic place to the Country; Commission has spent a lot of time and consternation trying to strike a balance; comment crossed the line.

Vice-Chairman Stuker stated Johnson's comment was out of line.

Commissioner Wolfe stated he has never had a discussion with Governor Bullock about wolf quotas.

Erin Edge, DOW, proposal could negatively impact local economy; reduce wolf quota in 313.

Unknown, what happened to the habitat for elk and other big game, need study; more wolves need to be taken.

Brian McCullough, Helena, supports small increase to wolf quota in 313; need to keep wolves on the move; working towards a good balance.

Kyle Korvash, Gardner, supports increase in quota; biologists are doing a great job; wildlife tourism is up but hunting tourism is down, need balance.

Mac Minard, MOGA, tourism and hunting is a balance; dramatic decline in Shiras moose, believe there is relationship between moose decline numbers and wolves.

Arlyn Lemier supports increasing the quota; needs to save Montana.

Paul Rossignol, MSFW, elk number concerns; would like wolf number increased in other areas in Montana.

Matt Cunningham, Emigrant, support increase in quota for 313; step in the right direction; need to accept proposal for the population of the northern herd.

Gene Kremer, Gardiner, supports proposal; proposal is on track; unique challenge.

Vice-Chairman Stuker stated the only conversation he has ever had with politicians regarding wolves, was at his confirmation hearing.

Vice-Chairman Stuker stated he did second the motion for discussion purposes; feels the quota of six is too high; will vote against motion; concerned about moose population.

Chairman Vermillion stated he will vote for the proposal; important for public to be involved; asks the Commission supports the Department's proposal.

Vice-Chairman Stuker and Becky Dockter, FWP Chief Legal Counsel discussed the consequences on a failed motion and proposal does not pass.

Chairman Vermillion stated the Commission needs to make a decision, not go with the status quo; need a number for discussion purposes.

**Action on Motion: Motion failed. 1-3**

**Aye – Chairman Vermillion**

**Nay – Vice Chairman Stuker, Commissioners Tourtlotte and Wolfe**

**Action: Vice-Chairman Stuker moved and Commissioner Tourtlotte seconded the motion that the Commission approve to remain with the status quo of two in WMU 313 for the next year and all other regulations including Senate Bill 200 stay the same.**

Director Hagener asked if the motion includes the no trapping in the Deckard Flats area.

Vice-Chairman Stuker stay trapping would stay in place and no split in quota.

*Action on Motion: Motion passed. 3-1*

*Aye - Vice Chairman Stuker, Commissioners Tourtlotte and Wolfe  
Nay - Chairman Vermillion*

## **22. Grizzly Bear Tri-State Memorandum of Agreement – Proposed**

Ken McDonald, Wildlife Administrator, explained the Greater Yellowstone Ecosystem (GYE) grizzly bear population is recovered and has been proposed for delisting. The proposed delisting rule includes demographic criteria, including mortality thresholds that will need to be met to maintain recovery. The states of Montana, Idaho, and Wyoming along with state and federal habitat managers are in the process of updating a Conservation Strategy that has guided management since 2007, including demographic criteria required in the recovery plan and proposed delisting rule. The Conservation Strategy will serve as the post-delisting management plan for GYE grizzly bears. A proposed appendix to the updated Conservation Strategy is a Memorandum of Agreement (MOA) between Montana, Idaho, and Wyoming that defines the process by which the three states will coordinate the management and allocation of discretionary mortality of grizzly bears in the GYE. By agreeing to the stipulations of the MOA, the states will ensure annual total mortality rates are not exceeded within the Demographic Monitoring Area (DMA) for independent males, independent females and dependent young. The states identified adjustable mortality rates to manage human-caused mortality within the DMA to levels that will sustain a population range based on the 2002-2014 model-averaged Chao2 population estimate of 674 grizzly bears within the DMA (95% Confidence Interval = 600 to 747) which occurred during the time period when the population reached a biological carrying capacity. Adjustable mortality levels allow for higher or lower mortality rates and correspond to the upper and lower 95% confidence intervals of the 2002-2014 model-averaged Chao2 estimate. Adjustable mortality rates enable the states to address higher human-bear conflict levels that may occur when the bear population is well above the population recovery criterion and ensure the population stays above the recovery criterion of a minimum population size of 500 animals in the GYE. The states will review the population vital rates and demographics a minimum of every 5 years to recommend appropriate adjustments to mortality rates. With approval by the Commission, the draft MOA will go out for public review for a 30-day period. The basic components of the MOA are also in the proposed federal delisting rule, recovery plan amendment, and draft conservation strategy, which were all recently available for public comment through the U.S. Fish and Wildlife Service (FWS). The Idaho and Wyoming Fish and Wildlife Commissions are also considering approving the same MOA. An alternative is to not enter into the MOA, and rely on the three states to meet the intent of the MOA through coordinated management, this would provide less regulatory certainty to critics of delisting, and will make delisting more subject to litigation challenge. The MOA is not required under the delisting rule but is a strong tool to demonstrate the states are collectively working together to manage the grizzly bear population. Wyoming Commission approved the MOA and the Idaho Commission will address soon.

## **23. Greater Yellowstone Ecosystem Grizzly Bear Hunting Regulation Framework – Proposed**

John Vore, Game Management Bureau Chief, stated this proposal is not about delisting the grizzly bear or the population numbers. FWP has been active and engaged partner in the GYA grizzly management. The proposal is consistent with the FWP 2013 grizzly bear management plan for southwestern Montana and is conservative. FWS is requiring Wyoming, Idaho and Montana to outline the structure and framework of any future grizzly bear hunting seasons. Montana FWP's draft season is based on mortality limits for the DMA in the recovery plan and proposed delisting rule, which includes all types of mortality, such as road kills and management removals; mortality limits depend on the size of the bear population. If all types of mortality during a calendar year in the DMA are below the limits, then hunting could be allowed the following year. The number and sex of bears that could be taken by each state would be mutually agreed on by the states, but the total could not exceed the mortality limit for the DMA. FWP anticipates Montana's allocation of hunting season mortality, if any, will be a small number, less than 10 in most years and zero in some. Montana's proposed grizzly bear season structure and framework is conservative and designed to minimize take of female bears. The important elements are:

- Seven Grizzly Bear Management Units to distribute harvest and avoid multiple harvests in one unit. Each unit will have its own harvest quota that will close the unit if reached.
- To protect females and young of all ages no harvest of any bear that is with another bear or bears.
- Season dates designed to protect females. Females, especially those with young, emerge from dens later in the spring and go in earlier in the fall than do males. Proposed dates are early spring (March 15 – April 20) and late fall (November 10 – December 15).
- It is illegal to take a bear that is in its den.
- Limited quota of licenses by drawing equal to Montana's harvest allocation.
- Mandatory hunt orientation course for license holders.
- Seven-year wait for hunters who draw a license.
- Twelve-hour reporting period for harvests and mandatory check within two days.
- Season will close within 24 hours of reaching either the female quota or the male quota.

Public comment will remain open through 5 p.m., Friday, June 17, with final action at the July Commission meeting. The mortality limits established for the DMA are the result of many years of intense research. The proposed hunting season framework was assembled by FWP staff closely involved with grizzly bears in the DMA.

*Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Fish and Wildlife Commission approve for public comment the draft Memorandum of Agreement and the proposed grizzly bear hunting season structure.*

Chairman Stuker asked how licenses would be divided between resident and non-residents.

Vore stated non-residents would have limited opportunity.

Commissioner Wolfe appreciates the Departments hard work; a lot of moving pieces. Subtle differences between the MOA and the delisting rule; MOA is an appendix to the conservation strategy and should be close in alignment with the delisting rule (explained differences); recommends the exact language from the rule and be inserted into the MOA; want to be consistent to minimize legal issue opportunity.

Director Hagener stated the states have worked together for three years and have tried to be extremely consistent, but no one saw the rule until it was released.

Chairman Vermillion asked for public comment.

Tom France, National Wildlife Federation (NWF), need to step back and take time to make sure things are done right; appreciates the states working together but Montana is different; need to develop objectives.

Chris Colligan, Greater Yellowstone Coalition (GYC), minor modifications between the rule, state plan and MOA; what is total mortality; opposes sport hunting of grizzly bears; encourages the state to take a step back and reopen the southwest Montana plan.

Erin Edge, DOW, inconsistencies in MOA, rule and conservation strategy; delay hunting after delisting status.

Iлона Popper, BCC, applauds conservative approach; a long term conservative management approach is appropriate.

Mac Minard, MOGO, supports passage of MOA and hunting framework; inconsistencies; nonresident component is small.

Maggie Nutter, Sweetgrass, supports MOA and plan; management needs to be liberal for public safety.

Paul Rossignol, MSFW, inconsistencies within documents; hunting season could mitigate depredation.

Rachel Caldwell, NPCA, does not support FWS draft rule.

Nick Gevok, MWF, management population should be based on current populations levels; supports robust monitoring and research program after delisting; need to be conservative.

Nelson King, Park County Environmental Council, contentious process and issue.

Arlyn Lemier, Missoula, supports delisting of grizzly bears.

Frank Rigler, Gardiner, supports proposal and motion; need to have a season.

Bonnie Rice, Sierra Club (SC), opposed to delisting; numerous problems with science; premature proposal; numerous inconsistencies; state should institute a multi-year moratorium on trophy hunting.

Dagmar Riddle, Whitehall, opposed to hunting season after delisting; buffer zone around park should be established.

Nathan Varley, BCC, need to protect tourism economy; need conservative approach.

Gail Richardson, Bozeman, against trophy hunting; state animal and iconic species.

Robert Erickson, should have a high number of tags with lower quota; too many bears.

Kat Brekken, NWWC, need to take a step back; not peer reviewed; will go through litigation process.

Alan Redfield, Livingston, supports proposal and motion.

Nancy Ostlie, Bozeman, disapproves of trophy hunts.

Derek Goldman, ESC, shares concerns with inconsistencies; errors in MOA.

Wes Miles, TFMPL, opposes hunting of grizzlies bears.

Wendy Hergenraeder, Humane Society of the United States (HSUS), grizzlies are far from recovered; hunting regulations and MOA are inadequate, will not protect grizzly bears.

Chairman Vermillion stated Montana has historically proven and set the standard for state management of popular species; restated even if the Commission approves the hunting season structure, there will be no hunt in the near future; just because there is a framework in place, it doesn't mean there will be a grizzly bear hunt this fall. The Commission and Department has proven itself as a sound and reasonable partner with federal agencies to manage these species in a way that keeps them off the endangered species list; the grizzly bear delisting is a success story of the endangered species list. Department should be proud of the work they have done.

*Action on Motion: Motion passed.*

**27. Public Comment – For Issues Not On This Agenda**

Nick Gevok, MWF, moose populations are threatened and struggling.

Tom Barnes, Dillon, would like information on bridge work happening in the Dillon area, and why is the Forest Service (FS) conducting the work.

Vice-Chairman Stuker stated the Commission has no authority over his request.

Director Hagener stated Barnes can contact the Region 3 Supervisor in Bozeman but if it is a FS bridge, it is their responsibility.

Ken McDonald, Wildlife Administrator, FS engineers have condemned this bridge; will cost around \$300,000 to fix; FS asked FWP to help alleviate cost; still work in progress.

Maggie Nutter, Sweetgrass, having grizzly bear issues and problems in northern Montana along the Rocky Mountain Front; safety hazard for families; something needs to be done.

Commissioner Stuker wants Department to report back to the Commission at the next Commission meeting regarding what the Department is doing to help alleviate this issue.

Commissioner Tourtlotte stated these people need answers and actions the problem is being addressed.

Commissioner Wolfe stated Defenders of Wildlife is engaged on the west side, in many community programs and working with the different communities.

Brian McCullough, Helena, recommends identifying all private acreage that will be open for shoulder hunts in the fall; article in the local paper from Board of Outfitters regarding this information.

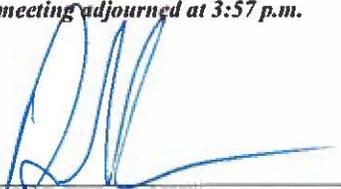
Vice-Chairman Stuker stated information in the article was not accurate.

Director Hagener stated the Department provided the maps but not the produce the data; Department of Labor and Industry oversees Board of Outfitters and are required to maintain the data; the Department did not produce the data, just the map because the Department has GIS capabilities.

Mark Cooke, WOR, stated he is willing to approach his board to see if there are financial capabilities to help Maggie Nutter and her area.

*Action: Commissioner Tourtlotte moved and Commissioner Wolfe seconded the motion to adjourn the meeting. Motion Passed.*

*The meeting adjourned at 3:57 p.m.*

  
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Dan Vermillion, Chairman

  
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M. Jeff Hagener, Director