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Montana Fish & Wildlife Commission

MINUTES

Montana Fish and Wildlife Commission Meeting

FWP Headquarters – 1420 East 6th Avenue - Helena, MT

February 10, 2017

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

Fish, Wildlife & Parks Staff Present: Martha Williams, Director and FWP Staff.

Guests: February 10, 2017 - 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 December 8, 2016 Commission Meeting
3. Approval of December 2016 and January 2017 Commission Expenses
4. Commission Reports
5. Director's Report
6. Recognition of Jeff Hagener
7. Waters Approved for Commercial Bait Seining Annual Rule – Final
8. Future Fisheries Improvement Projects - Winter 2017 Funding Cycle - Final
9. Skyles Lake Fishing Access Right-Of-Way Realignment (R1) – Endorsement
10. Milwaukee Fishing Access Site Lease Agreement with Department of Transportation (R3) – Endorsement
11. Gallatin Forks Fishing Access Site Bridge Realignment (R3) – Endorsement
12. White Bear Fishing Access Site Land Disposal (R4) – Endorsement
13. Edgar Bridge Donation on Clarks Fork River (R5) – Endorsement
14. Mussel Inspection and Decontamination Lease Sites – Endorsement
15. 2017 Spring Turkey Quotas - Finals
16. 2017 Migratory Bird (Waterfowl, Sandhill Cranes, Mourning Doves and Snipe) – Proposed
17. Use of Lighted Nocks on Archery Equipment – Final
18. Region 2 TNC Lands Biennial Recreational Access Agreement – Proposed
19. Wildlife Management Area Biennial Public Use Rules – Final
20. Right-Of-Way Expansion Through Ninepipe Wildlife Management Area (R1) – Endorsement
21. Freezout Lake Wildlife Management Area Memorandum of Understanding with Bureau of Reclamation (R4) – Endorsement
22. Gordon Conservation Easement Addition (R6) – Endorsement
23. Public Comment – For Issues Not On This Agenda

1. Call to Order - Pledge of Allegiance

Chairman Vermillion called the meeting to order at 10:30 a.m. and led the Pledge of Allegiance.

2. Approval of Minutes of the December 8, 2016 Commission Meeting

Vice-Chairman Stuker asked to amend the minutes to remove "Senator Daines" and add "Montana's Representatives in Washington D.C." in Chairman Vermillion's report, on page 810.

Action: Vice-Chairman Stuker moved and Commissioner Wolfe seconded the motion to approve the minutes of the December 8, 2016 Commission Meeting as amended. Motion passed.

3. Approval of December and January Commission Expenses

Action: Vice-Chairman Stuker moved and Commissioner Wolfe seconded the motion to approve the December 2016 and January 2017 Commission expenses. Motion passed.

4. Commission Reports

Commissioner Tourtlotte reported he has received calls asking if the snow and the cold weather has impacted wildlife; recommended they call the Regional office; will be interesting to see what the spring counts are; bad winter in his area. Approved a couple game damage hunts in Region 7. Received calls regarding items on this and future meeting agendas; numerous calls on the Quiet Waters Initiative, a lot of interests in the proposal, generating a lot of discussion; calls from archers asking what the Commission is going to do with archery technology, particularly lighted nocks.

Commissioner Wolfe reported Region 1 and 2 have had significant amounts of snow and cold weather this year. Two game damage hunts have been approved in Region 1 and four/five in Region 2; shoulder season has cut down the number of game damage hunts. Received phone calls and emails regarding the Quiet Waters Initiative; many in opposition, some in support; attended public meeting in Missoula, strong support; encourages the new Commission and the public to look at the petition on a water course by water course basis, and make their decisions based on that; not an all or nothing petition. Received calls and emails on lighted nocks. Has been an honor and very humbled to serve on the Commission the last four years; has tremendous respect for the Department and its employees; the general public is engaged and dedicated with wildlife and conservation; too much animosity and fighting between constituents, need to work together to advance conservation and good sound wildlife management; encourages the Department and Commission to continue thinking ecological diversity, and wildlife management on a landscape scale. Need to continue thinking about large carnivores; important to have them on the landscape; believes best natural defense against chronic wasting disease becoming established in the state is to have a healthy wolf population especially in the Greater Yellowstone Ecosystem.

Vice-Chairman Stuker stated he has approved damage hunts for Regions 4 and 6. Attended the Quiet Waters Initiative public meeting in Great Falls; over 260 individuals attended; 48 people spoke against and 2 spoke for the proposal; people are upset and want it gone; if there are areas that need protection or for safety reasons he will vote for. Spoke to the local high school government classes about fish and wildlife issues and Quiet Waters Initiative. Received a call from a resident from Swan Valley who stated he would like the Commission and Department to look at and assist small ownership plots that have problems with wildlife. Received a call regarding the White Bear Fishing Access Site (FAS); the gentleman is working with Great Falls legislators to see if they would introduce a bill that would allow the money from the sale (if White Bear was sold) to be put into a fund just to be used to purchase another FAS. Received a call stating they would like a FAS site at Ackley Lake if Parks decides to abandon the property. Has applied to be reappointed; has been a pleasure to work with and thanked the Commission, Department and constituents; learning experience; too much misunderstanding and bickering between constituents, need to keep the conversations going.

Chairman Vermillion recognized Commissioners Wolfe and Tourtlotte for their time on the Commission; enjoyed working with them and a true honor; Commissioner Wolfe set high standards and conscientious approach to interacting with the public; has had a conservation impact for the state of Montana

Chairman Vermillion asked for a moment of silence for and recognized Jim Liebelt, who passed away October 24, 2016 and his family; he was a dedicated FWP employee, loved the outdoors and a true comrade.

Director Williams echoed Chairman Vermillion's comments on behalf of the Department and thanked Jim and his family for his hard work and service.

John Borgreen thanked the Department and Commission for honoring Jim.

Chairman Vermillion asked for a moment of silence for Commissioner Kerstein, who passed away in January; declared and read a Commission proclamation in his name (see copy of proclamation in the February 10, 2017 meeting file folder).

Chairman Vermillion reported he has received numerous call on Quiet Waters; some support, some insulting and negative comments with motive and accusations; understands it is an issue with great passion; proposal was put out by the Commission for public comment purposes; some individuals stated the Department has not given the petition a fair hearing; need to remember to value and recognize the effort the BHA put into the petition; whether it is approved or denied, the petition deserves a fair hearing; it was made very clear when the proposal was passed the Commission wanted to start a conversation on this issue. Discussions on access issues and numerous game damage hunts within his district. Received several calls regarding tribal hunts in and around Gardiner; Region 3 is working hard to keep respect on the landscape and the impact to the community to a minimum. Attended the Western Association of Fish and Wildlife Agencies (WAFWA) winter conference; interesting discussions and productive meeting. Welcomed Director Williams to the Commission and Department.

5. Director's Report

Director Williams stated she is honored to be in the Director's capacity; one of the positives of agreeing to step in the position was the tremendous team in place, including employees and Commission. Wished Jeff Hagener well in his well-deserved retirement and for leaving the agency in a better place. Thanked Commissioner Wolfe and Tourtlotte for their time and commitment to the Commission. A lot of time and effort is going into the legislative session (gave lengthy update on current legislative Fish and Wildlife bills).

Phil Kilbreath, Recreation Program Specialist gave an update on the Quiet Waters Initiative; recommends having a meeting on May 4 to take action on the Quiet Waters rule only; recognized Jessica Snyder and Linnaea Schrocer for their work on the petition.

Eileen Ryce, Fisheries Administration gave a brief update on mussel response activities; plan is in place and a draft proposed rule is in the process of being written; working closely with the legislature.

Chairman Vermillion and Ryce discussed the possibility downstream mussel dispersals and the Department's approach.

Chairman Vermillion and Ryce discussed where the Department currently is in reviewing the proliferative kidney disease (PKD) outbreak from last fall.

Commissioner Wolfe asked for, and Gary Bertellotti gave a brief update on the current shoulder season.

Chairman Vermillion and Bertellotti discussed the current shoulder season in Region 4.

6. Jeff Hagener

Chairman Vermillion recognized former Director Jeff Hagener and thanked him for representing the Department; has left an incredible legacy of cooperation, achievement and has shown the right way to be a public servant.

Hagener thanked the Commission for the opportunity to serve with them and for their hard and dedicated work.

7. Waters Approved for Commercial Bait Seining Annual Rule – Final

Eileen Ryce, Fisheries Administrator explained a bait fish seining license is required for persons 15 years of age and older to seine for and transport bait fish for commercial purposes in Montana, and for any person who seines for and has in their possession more than 24 dozen non-game bait fish. The Commission may designate waters that are allowed for these purposes, and FWP describes these waters annually in the Commercial Bait Seining Application form. With the presence of dreissenid mussel larva discovered in Tiber Reservoir; to prevent their spread, all transport of water and live animals away from Tiber Reservoir (Lake Elwell) and tributaries downstream from Interstate 15 and the Marias River and tributaries downstream from Interstate 15 must be stopped. For this reason, bait collection in Tiber Reservoir and the Marias drainage will be removed from the list. Because this is an emergency, the Department requests the Commission take public comment at the February Commission meeting and based on that input, make a final decision immediately so the new rule can go into effect. The only way collection of bait from these waters would not come with a risk of moving the mussels is if the bait collector were to use well water to transport fish; such a requirement would require a change to ARM rules, which is a 6-month process and will not respond to this crisis soon enough. The risk of transmission of dreissenid mussels from the Marias River drainage justifies the cessation of commercial collections there; other waters are still available for commercial collections in the vicinity, such as the Missouri River below Morony Dam.

Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Fish and Wildlife Commission approve these waters for removal from the list of lakes authorized for collection by bait fish seining license holders.

Chairman Vermillion asked if the reason Canyon Ferry is not on the list, is because it is not a body of water that allows bait seining.

Ryce stated that is correct.

Chairman Vermillion asked if there is any concern about bait seining in the Missouri drainage that may be moved to other waterbodies around the state.

Ryce stated that is the reason why the Marias drainage is being removed off the list; in the new aquatic invasive species (AIS) rule it states bait will not be allowed to be transported in surface water, must be transported in clean water; will be made clear on the permits; will come back to the Commission if new information arises to adjust the list.

Vice-Chairman Stuker asked if the rule was previously approved and if this was an amendment to the rule or is this the actual rule; questions the motion if this approval is for the entire rule.

Rebecca Dockter, Chief Legal Counsel stated the actual rule has not been approved for this year; motion should state "to approve the 2016 rules as proposed last year, with the exception of waters to be removed this year".

Amended Motion: Commissioner Wolfe moved and Vice-Chairman Stuker seconded to clarify and amend the motion that the Fish and Wildlife Commission approve the list of waters for bait seining that was approved last year, with the exception of waters that were identified in the current proposal.

Chairman Vermillion asked for public comment.

Action on Amended Motion: Motion passed.

8. Future Fisheries Improvement Projects - Winter 2017 Funding Cycle – Final

Eileen Ryce, Fisheries Administrator, explained the Future Fisheries Improvement Program (FFIP) continues to provide funds for projects that restore fishery habitats in streams, rivers and lakes for the benefit of wild fisheries. Applications are reviewed twice each year by a 14-

member Citizen Review Panel (CRP); recommendations are forwarded to the Commission every six months for consideration and approval. For the Winter 2017 funding cycle, the CRP recommends funding 15 of 19 submitted proposals at a program cost of \$236,456.78; matching funds or in-kind contributions from outside sources total \$828,030.98, for a 3.5-to-1 match. Environmental Assessments (EAs) were prepared for 10 of the 15 projects recommended for funding; of the remaining five projects: one project fell under a categorical exclusion (defined under ARM), one will be assessed under the federal National Environmental Policy Act (NEPA), and two will have EAs completed externally. The comment period for the drafted EAs end February 12; two comments have been received, both in favor.

Action: *Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Fish and Wildlife Commission approve the Citizen Review Panel funding recommendations for the Winter 2017 funding cycle of the Future Fisheries Improvement Program.*

Vice-Chairman Stuker stated he has issues and it is inappropriate with approving something before the comment period ends; should be tabled and have a special meeting if it cannot wait until the April meeting.

Chairman Vermillion asked for public comment.

Chairman Vermillion, Vice-Chairman Stuker, Commissioner Wolfe, Rebecca Dockter, Chief Legal Counsel and Ryce discussed Vice-Chairman Stuker's comments and it was decided to hold a special tele-conference call the following week.

Action: *Vice-Chairman Stuker moved and Commissioner Wolfe seconded the subsidiary motion to table the original motion and hold a special tele-conference call the following week.*

Action on Subsidiary Motion: *Motion passed*

Vice-Chairman Stuker stated it is going to be tough on the Department meeting every-other-month, but the Department must try and plan in advance so this sort of issue does not happen in the future.

9. Skyles Lake Fishing Access Right-Of-Way Realignment (R1) – Endorsement

Eileen Ryce, Fisheries Administrator explained Skyles Lake FAS is a two-acre site on Skyles Lake five miles north of Whitefish on Montana Highway 93. Skyles Lake FAS has parking for two vehicles and a primitive boat launch. Montana Department of Transportation (MDT) is planning a reconstruction project for Highway 93; this project will encroach upon Skyles Lake FAS and will require the Department to convey .06 acres of property to MDT in order to accommodate the widening and re-alignment. MDT would improve the approach to the FAS access road and compensate the Department at fair market value for the property. FWP recommends the Commission endorse efforts by the Department to convey .06 acres of property at Skyles Lake FAS to MDT for the purpose of reconstruction and improvement of Highway 93. The property is not essential to the operation of the FAS and public access to the FAS would be improved as a result of the improved highway approach.

Action: *Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Fish and Wildlife Commission authorize the Department to pursue disposal of 0.06 acres of property at Skyles Lake Fishing Access Site to accommodate the widening and re-alignment of US Highway 93.*

Chairman Vermillion asked for public comment.

Action on Motion: *Motion passed.*

10. Milwaukee Fishing Access Site Lease Agreement with Department of Transportation (R3) – Endorsement

Eileen Ryce, Fisheries Administrator explained Milwaukee FAS is located along the Madison River east of Three Forks. MDT and FWP are proposing to enter into a lease agreement for the existing FAS access road and a small parcel on the west bank of the river for a boat launch. A formal arrangement was never established to provide FWP a legal interest in the access road when the FAS was acquired in 1979. The access road is deteriorating with portions sloughing into the nearby backwaters of the Madison River. A lease or permit is needed to allow FWP to initiate repairs on the access road. FWP recommends the Fisheries Division and Lands Bureau move forward in negotiating an agreement with MDT to obtain a permit for management of the access road and boat launch area encompassing approximately two acres.

Action: *Vice-Chairman Stuker moved and Commissioner Wolfe seconded the motion that Fish, Wildlife and Parks initiate its due diligence process to evaluate the possibility of entering into a no-cost lease agreement with MDT on approximately two acres adjacent to the Milwaukee Fishing Access Site.*

Chairman Vermillion asked for public comment.

Action on Motion: *Motion passed.*

11. Gallatin Forks Fishing Access Site Bridge Realignment (R3) – Endorsement

Eileen Ryce, Fisheries Administrator explained Gallatin Forks FAS is located along the Gallatin River. The Gallatin County Commission is proposing to realign and construct a new bridge across the Gallatin River at Nixon Gulch to improve infrastructure and travel safety; the realignment will encroach upon the Gallatin Forks FAS at its most northwest corner. The proposed project shifts the roadway and bridge alignment slightly east, approximately 60 feet resulting in impacts to the FAS; approximately 1/10th of an acre will be impacted. The Department recommends the Commission endorse the agency's request to pursue the development of this easement. Although a small portion of the FAS will be impacted, travel safety will be improved, as well as the potential for more efficient transport of river sediment.

Action: Vice-Chairman Stuker moved and Commissioner Wolfe seconded the motion the Fish and Wildlife Commission endorse FWP's proposal to pursue Gallatin County's easement request for the bridge realignment on the Gallatin Forks Fishing Access Site.

Commissioner Wolfe asked if MDT would reimburse FWP the fair market value for the property.

Ryce stated just an easement is being discussed, no transfer of funds.

Chairman Vermillion asked for public comment.

Action on Motion: Motion passed.

12. White Bear Fishing Access Site Land Disposal (R4) – Endorsement

Don Skaar, Fisheries Special Project Bureau Chief, stated the Commission has had several deliberations concerning the White Bear FAS; the site has become an attraction for various non-sporting type of use during summer months, including under-age use of alcohol, illegal drug use, violent behavior, public disturbance, vandalism and litter etc. In March 2015 and July 2016, the Commission approved a seasonal closure; there was a temporary reprieve but this type of behavior has returned during the times the closure was not in place; discussions during this time included the Region seeking alternative approaches that included three potential sites to trade which were unsuccessful. Land disposal is not the Department's normal approach to dealing with problem FASs; important to recognize the quality of the FAS program is what the Department is looking for, not necessarily just quantity. Good public access is still in existence in the area; if approved, the Department would still seek access in the area as opportunity arises.

Action: Vice-Chairman Stuker moved and Commissioner Wolfe seconded the motion that the Fish and Wildlife Commission authorize the Department to proceed with its due diligence process in the disposal of the White Bear Fishing Access Site property.

Commissioner Wolfe asked when the Department disposes of a capitol asset, what is the disposition of the funds.

Skaar stated the funds go into the real property trust account.

Chairman Vermillion asked if license dollars would be used to buy new property, but the sale proceeds would not directly benefit the Department.

Commissioner Wolfe stated he is assuming there is no matching federal funds used for the original acquisition site of the White Bear FAS that would limit the flexibility.

Skaar stated this property was donated; no money, including federal funds, was put into the site.

Chairman Vermillion asked how property is disposed of without violating the donor's intent.

Vice-Chairman Stuker stated he believes the donor has been in front of the Commission before stating he does not mind the property being disposed.

Becky Dockter, Chief Legal Counsel stated she is not sure if there is a deed restriction; need to make sure there is no violation of the donors intent; this action is for an endorsement only and will need to proceed through due-diligence.

Chairman Vermillion and Dockter discussed in length the formality and legality issues with this land disposal.

Vice-Chairman Stuker stated there are individuals who have been speaking with legislators about establishing a bill that would make an exception to the trust law; this FAS has been a problem since he has been on the Commission; safety concern; does not agree with selling FAS but agrees with quality, not quantity; drags down FWP and Commissions reputation for what is being provided.

Chairman Vermillion asked if another closure from April – September can be done without disposing of the property.

Gary Bertellotti, Region 4 Supervisor, another closure could be done; the Departments concerns are long-standing, 10+ years of issues; every scenario has been attempted to solve these problems and have been unsuccessful; the Department does not want to sell property that provides access and recreational opportunity, but there is no other solution.

Vice-Chairman Stuker asked if a motion should be done that would allow a closure from May – September, in case the property is not disposed of by this time.

Bertellotti stated due-diligence may not even be done by this time; good idea.

Chairman Vermillion asked what the due-diligence includes.

Bertellotti explained due-diligence includes an appraisal and survey; currently working with the county to lift the recreational and agricultural restrictions so it's a sub-dividable property and most value can be gained.

Chairman Vermillion stated he is hard pressed to see why a sale is the only option; understands the on-going struggle for the Department; not in favor of disposing of the property; supportive of another annual rule and give the Department more time.

Amended Motion: Vice-Chairman Stuker moved to amend the motion to include if the property is not disposed of by May that the seasonal closure would happen again.

Vice-Chairman Stuker stated he hopes the legislature will pass something that would allow the money to be set aside to buy an additional FAS within the same area; supports motion because of his concern for safety issues that residents have testified to in the past; still have problems when it is closed.

Commissioner Tourlotte stated he is in opposition of the motion; the Department needs more time to come up with a better plan to dispose of the property; this has been an issue for at least four years; need to set precedent with a situation like this and make sure the funds that are derived from the disposal will go back to benefit sportsmen/women so there is no net loss in access; this is one way of eliminating the problem, but fears it would create additional problems down the road; supports another closure.

Commissioner Wolfe stated he is adamantly opposed to the wide spread disposal of public lands but he also believes it is appropriate to dispose of certain public properties when they are not meeting the management goal for which they were acquired; if this property would have been purchased with sportsmen dollars he would not support, but since it is a donation and if the donor is agreeable to the sale he will support; supports the action for due-diligence.

Chairman Vermillion suggested an alternative approach to look at a motion that would endorse the Department to proceed with the trade option and allow the Department to explore those options with the express goal from the Commission that the disposition occur in the manner which allows the benefit to flow to the Department, and have the back-up contingency if the exchange cannot occur the closure for the 2017 season is in place.

Vice-Chairman Stuker explained the motion includes what Chairman Vermillion is asking; the final decision will come back to the Commission at a later date.

Chairman Vermillion stated he agrees; his issue is if the funds would go into the real property trust fund, the Department spends money pursuing this process, and the Commission has the inability to support.

Vice-Chairman Stuker and Dockter discussed selling and transferring property legalities.

Chairman Vermillion and Dockter discussed the real property trust fund law.

Vice-Chairman Stuker recommend a substitute Motion.

Substitute Motion: Vice-Chairman Stuker moved and Commissioner Wolfe seconded a substitute motion to: reinstate the seasonal closure and instruct the Department to continue looking at a land trade and put this issue back on the April or May meeting agenda for an update.

Chairman Vermillion asked for public comment.

Dennis Hanson, Chester, this area is a safety hazard; hopes a legislator can carry a bill that allows the money going to go back to the sportsmen.

Action on Substitute Motion: Motion passed.

13. Edgar Bridge Donation on Clarks Fork River (R5) – Endorsement

Eileen Ryce, Fisheries Administrator explained Carbon County has offered a donation of approximately 1.5 acres of property located along the Clarks Fork of the Yellowstone at Edgar for development as a FAS. This property is bordered by a county road and an old county bridge access road, which provides good access to this parcel while isolating it from neighboring properties. This site would provide public access to a long section of the Clarks Fork River that currently has no public access. The closest FAS to this site are located 26 miles

upstream and 26 miles downstream. FWP recommends the Commission endorse the Department's request to pursue acquiring this parcel through a donation from Carbon County. The public would gain access in the middle of a long section of the Clarks Fork River that currently has no public access.

Action: *Chairman Vermillion moved and Commissioner Wolfe seconded the motion that the Fish and Wildlife Commission endorse FWP's request to pursue Carbon County's offer to donate a parcel of land along the Clarks Fork River near Edgar for a new fishing access site.*

Chairman Vermillion asked for public comment.

Chairman Vermillion thanked Carbon County for their donation; this stretch of river does need some public access.

Action on Motion: *Motion passed.*

14. Mussel Inspection and Decontamination Lease Sites – Endorsement

Eileen Ryce, Fisheries Administrator, explained the Mussel Response team is identifying locations to set up inspection and decontamination stations on private and public land around Tiber and Canyon Ferry. Most of the sites will be located on Bureau of Reclamation (BOR) land however there may be the need for leasing private land as well; these stations will need to be set up and operational by April 15. The Department recommends the Commission endorse the Department to identify and lease sites for mussel inspection and decontamination sites on or near Tiber and Canyon Ferry.

Action: *Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Fish and Wildlife Commission endorse FWP moving forward to identify and lease and/or permit sites for mussel inspection and decontamination sites.*

Chairman Vermillion asked for public comment.

Chairman Vermillion, Director Williams and Ryce discussed current and future AIS funding.

Action on Motion: *Motion passed.*

15. 2017 Spring Turkey Quotas – Final

Quentin Kujala, Wildlife Management Section Chief, stated the final 2017 spring turkey quota proposal is unchanged from the tentative proposal (see minutes from the December 8, 2016 Commission meeting). Public comment ran from December 9 - January 13; 31 comments were received; 23 spoke in favor of the proposals; 3 were against; 5 spoke to other matters including too few turkey licenses in Powell County, turkeys are a problem on a ranch near Lolo, an advocacy for two spring male licenses per person in the Bears Paw Mountains, spring season should start and end later, and a comment on pheasant season.

Action: *Vice-Chairman Stuker moved and Commissioner Wolfe seconded the motion that the Fish and Wildlife Commission adopt the proposed spring 2017 turkey quotas and limits as presented by FWP.*

Chairman Vermillion stated he would like to look at a season structure change for Region 3 turkeys and make them an over-the-counter opportunity rather than a special permit during the next biennial season setting process.

Action on Motion: *Motion passed.*

16. 2017 Migratory Bird (Waterfowl, Sandhill Cranes, Mourning Doves and Snipe) – Proposed

Quentin Kujala, Wildlife Management Section Chief explained migratory bird hunting regulations pertain to cranes, snipe, doves, ducks, geese, swans, and coots. Montana participates in both the Central and Pacific Flyways and adheres to the federal frameworks established by the U. S. Fish and Wildlife Service (FWS) in cooperation with the flyway councils. The federal framework season dates and bag limits are proposed by the FWS in December and finalized in March; states may be more conservative than these frameworks but may not exceed them.

For the 2017-18 migratory bird regulations, FWP proposes:

- Expanding sandhill crane hunting opportunities in the Rocky Mountain Population by adding 7 days to sandhill crane seasons to equal the federal framework maximum of 30 days.
- Reduce the daily pintail bag limit would be from 2 to 1 in both flyways in accordance with the federal framework.
- Reduce the closed period in the Central Flyway Zone 2 split duck, coot, and goose seasons from 12 days (October 9-20) to 5 days (October 16-20). Central Flyway Zone 2 ducks would end January 9, and geese would end January 17.
- Increase the "bonus teal" opportunity, which allows 2 additional blue-winged teal in the daily bag, in the Central Flyway duck season from the first 9 days to the first 16 days.

All other elements of the 2017-18 season are proposed to remain unchanged except for calendar rotation. Migratory bird season comments were received throughout the year; several comments from individuals who did not like the 12-day duck and goose closure in the Central

Flyway Zone 2 in October primarily due to the lost opportunities when ducks and geese are present and all wetlands are unfrozen and available.

Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Commission adopt for public comment, the 2017-2018 Migratory Bird Hunting Regulations as presented by FWP, and all other portions of the previous 2016-17 migratory bird season regulations not affected by Commission action today.

Chairman Vermillion and Jim Hansen, FWP Central Flyway Coordinator, discussed Central Flyway Zone 1 and 2 boundaries and duck zones.

Chairman Vermillion asked for public comment.

Action on Motion: Motion passed.

17. Use of Lighted Nocks on Archery Equipment – Final

Quentin Kujala, Wildlife Management Section Chief, stated the final proposal is unchanged from the tentative proposal (see minutes from the December 8, 2016 Commission meeting). At the December 8 Commission meeting, the Montana Bowhunters Association (MBA) asked the Commission to consider allowing lighted nocks on archery equipment arrows; as per Commission direction, FWP developed a proposal to allow the use of lighted nocks using the newly-adopted Commission Technology put out for public comment on December 9 – January 13; 1,515 comments with 1,400 in favor of the proposal, 114 against and one comment not on topic; those in favor, including the MBA, cited lighted nocks do not aid in the hunt but only in arrow and game retrieval and it is allowed in many other states; those opposed, including the Traditional Bowhunters of Montana (TBM), spoke to the creep of technology in a supposedly primitive sport and that lighted nocks would prompt hunters to take unethical shots in low-light situations; one comment spoke to the need for more weapons restriction areas near towns in flat areas.

Action: Vice-Chairman Stuker moved and Chairman Vermillion seconded the motion that the Fish and Wildlife Commission allow the use of lighted nocks on archery equipment arrows as proposed by FWP.

Vice-Chairman Stuker stated he is considering the proposal based on comments; does have of concerns of technology creeping in; the agricultural community is in favor of this proposal.

Commissioner Wolfe stated he is conflicted with the proposal; can see how lighted nocks may assist in the recovery of wounded game, but is reluctant to add more technological advantages.

Commissioner Tourtlotte stated he has advocated for this in the past; supports the proposal.

Chairman Vermillion stated this is an opportunity for the Commission to hopefully take this issue off the legislative table and keep the authority with the Commission and show the Commission is listening; Commission authority would be more responsive to address abuse issues that may arise.

Chairman Vermillion asked for public comment.

Tim Roberts, Fort Benton, opposes but would rather see it happen with the Commission than with the legislature; sets precedent for a slippery slope.

Steve Schindler, TBM, oppose all electronic additions to the bow or arrow.

Paul Ellis, Bozeman, supports proposal.

Action on Motion: Motion passed. 3-1
Aye – Vermillion, Stuker, Tourtlotte
Nay - Wolfe

18. Region 2 TNC Lands Biennial Recreational Access Agreement – Proposed

Quentin Kujala, Wildlife Management Section Chief, explained this proposal would extend for two years The Nature Conservancy (TNC) Recreation Management Area biennial rule previously established by the Commission in August 2015. During the winter of 2015 FWP met with TNC to discuss ideas for a possible land recreation management plan for their 163,883 acres in Missoula and Powell counties including their Clearwater – Blackfoot Project acquisition of 117,152 acres purchased from former Plum Creek Timber Company in January 2015. The proposed renewal of this biennial rule will provide continued year-round recreational access for public use. Public notice of the rules and a public comment period will begin upon endorsement. Managed public access will reduce the resource damage, prevent vehicular damage to soils and vegetation, and will avoid excess disturbance to native wildlife including threatened and endangered species. Without these rules, TNC may close these lands to public access.

Action: *Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Fish and Wildlife Commission renew the proposed biennial recreational use rules for The Nature Conservancy's Recreation Management Area Lands.*

Chairman Vermillion asked for public comment.

Commissioner Wolfe stated TNC has been very generous by allowing public use and recreation on this property and it is appreciated.

Chairman Vermillion stated this is a great display of how TNC works for the communities.

Action on Motion: *Motion passed.*

19. Wildlife Management Area Biennial Public Use Rules – Final

Rick Northrup, Habitat Bureau Chief, stated the final proposal is unchanged from the tentative proposal (see minutes from the December 8, 2016 Commission meeting). Public comment was solicited December 12 - January 13; six comments were received; four comments in support; one comment suggested eliminating Rule 13 because of the restrictions it places on sport shooting and suggested this section of the rules eliminates opportunity for hunting non-game species or field-checking whether a weapon is sighted in, which is not correct (Rule 13 allows weapons discharge for all lawful hunting purposes); another comment recommended placing restrictions on antler hunting from horses because of fairness and safety concerns.

Action: *Vice-Chairman Stuker moved and Commissioner Wolfe seconded the motion that the Fish and Wildlife Commission adopt the biennial public use rules as proposed.*

Action on Motion: *Motion passed.*

20. Right-Of-Way Expansion Through Ninepipe Wildlife Management Area (R1) – Endorsement

Rick Northrup, Habitat Bureau Chief explained Ninepipe WMA is a 4,000-acre area south of Ronan and lies within the boundaries of the Flathead Reservation. MDT is planning a reconstruction project to widen the highway and construct a bike path along the highway and would encroach upon Ninepipe WMA, requiring FWP to convey approximately four acres of property, including some wetland habitat, to MDT. Upon endorsement, FWP would work with MDT to prepare an EA for public review and comment; the public has already had several opportunities to participate in and comment on the reconstruction project during the planning process conducted by MDT; the total extent of the project and potential impact to Ninepipe was not evaluated in detail. MDT prepared an EIS on the project and a record of decision was completed in 2008.

Action: *Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Fish and Wildlife Commission authorize the Department to proceed with an analysis of impacts for disposing of land from Ninepipe WMA as part of the Highway 93 reconstruction project.*

Commissioner Wolfe and Northrup discussed MDT compensation to the Department.

Chairman Vermillion asked for public comment.

Action on Motion: *Motion passed.*

21. Freezout Lake Wildlife Management Area Memorandum of Understanding with Bureau of Reclamation (R4) –Endorsement

Rick Northrup, Habitat Bureau Chief, explained initial acquisitions, lease agreements, and subsequent management of Freezout Lake WMA began in 1953; an updated 50-year lease agreement with the Bureau of Reclamation (BOR) was established in 1967. This agreement transferred all management authority of the described lands from the BOR to the Department. For FWP to maintain management authority of the WMA in its present form, a new Memorandum of Understanding (MOU) is necessary. Since there is no language in the 1967 agreement that specifically speaks to an official renewal process, Commission approval is a necessary step to begin this process. No official public process or comments have been taken at this time. Upon Commission endorsement, an EA would be completed with an opportunity for public comment. FWP recommends endorsing the process to conduct a Montana Environmental Policy Act (MEPA) analysis and begin establishing a new MOU with the BOR in order to, at minimum, maintain management authority of Freezout Lake WMA in its current form.

Action: *Vice-Chairman Stuker moved and Commissioner Wolfe seconded the motion that the Fish and Wildlife Commission authorize the Department to proceed with negotiations and analysis for establishing a new lease agreement with the BOR for continuing to manage properties within the Freezout Lake WMA.*

Chairman Vermillion asked for public comment.

Action on Motion: *Motion passed.*

22. Gordon Conservation Easement Addition (R6) – Endorsement

Rick Northrup, Habitat Bureau Chief, explained FWP purchased a 15,157-acre conservation easement (CE) from Gordon Cattle Company (GCC) in Blaine county in 2003. Unbeknownst to either party, a parcel of about 103 acres owned by GCC was not identified or included in the easement; FWP proposes to add this parcel to the existing CE. The parcel is located 13-miles northeast of Chinook and is adjacent to the 15-Mile Creek Unit, one of two units conserved by the CE. The parcel comprises silver sagebrush, mixed grass prairie and includes about 0.7 miles of 15-Mile Creek. A primary function of the original CE was to protect large blocks of intact wetland and grassland habitats from conversion to croplands. The 103-acre parcel faces a similar threat, particularly if it were sold. Consistent with the easement lands, this parcel provides high value habitat for breeding waterfowl and grassland birds and year-round habitat for mule deer and pronghorn. Species of conservation need documented in the area include Sprague's pipit, McCown's longspur, swift fox, and greater sage-grouse. No official public involvement has taken place. Upon endorsement, FWP would conduct an EA and seek public comment on the proposal. Proceeding with the proposal would expand the acreage of conserved habitats, maintaining a large block of intact habitat; if the decision were made to not pursue these additional acres, they would remain susceptible to cropland conversion, which continues to occur, particularly in this part of the state. FWP recommends the Commission endorse this proposal, allowing the Department to conduct due diligence, further negotiations, and MEPA analysis.

Action: *Vice-Chairman Stuker moved and Commissioner Wolfe seconded the motion that the Fish and Wildlife Commission endorse this proposal to incorporate a parcel into the Gordon Cattle Conservation Easement as described, allowing FWP to continue negotiations and to conduct analysis and associated public review.*

Vice-Chairman Stuker stated Mr. Gordon has been good to work with and has done different programs with the Department besides the CE.

Chairman Vermillion asked for public comment.

Action on Motion: *Motion passed.*

Chairman Vermillion and Vice-Chairman Stuker stated at the Forsyth meeting they asked the Department to look into a section of land south of Chinook near the monument; asked if the Department has made any progress in communicating with the current owner(s).

Northrup stated the Department is aware of the possible opportunity; it is the Department's intent to discuss land projects after legislative session is over.

Chairman Vermillion asked the Department to look into this possible acquisition and update the Commission at their April meeting.

23. Public Comment – For Issues Not On This Agenda

Commissioners discussed having a teleconference the following Wednesday, February 15 at 12:00 p.m., to take action on the Future Fisheries Improvement projects.

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

The meeting adjourned 2:05 p.m.



Dan Vermillion, Chairman



Martha Williams, Director