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Montana Fish,
Wildlife & Parks

Montana Fish & Wildlife Commission Meeting August 9, 2018

Fish & Wildlife Commission

MINUTES

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

August 9, 2018

Commission Members Present: Dan Vermillion, Chairman, Richard Stuker Vice-Chairman, Tim Aldrich, Logan Brower and Shane Colton

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

Guests: August 9, 2018 - See Commission file folder for sign-in sheet.

Topics of Discussion:

1. *Call to Order and Pledge of Allegiance*
2. *Approval of Minutes of Past Commission Meetings*
3. *Approval of Commission Expenses*
4. *Commission Reports*
5. *Director's Reports*
6. *Special Presentation*
7. *Future Fisheries Improvement Program Summer 2018 Projects*
8. *East Rosebud Fishing Access Site*
9. *Dailey Lake FAS Easement*
10. *Missouri River and Toston Fishing Access Site Closure Rule (R3)*
11. *Big Creek Instream Flow Water Rights Lease Agreement (R3)*
12. *Clark Fork River Closure for DEQ Cleanup of Grant Kohrs Ranch Area (R2)*
13. *New Rule I: Grizzly Bear Demographic Objectives for the NCDE*
14. *Selection of Organizations to Auction 2019 Moose, Sheep Goat, Mule Deer and Elk Licenses*
15. *Nongame Checkoff Workplan*
16. *Nevada Lake WMSA Forest Habitat Project*
17. *W-Bar Conservation Easement*
18. *Memorandum of Understanding between MFWP and USDI-Bureau of Reclamation- Freezeout Lake WMA*
19. *2018-2019 Furbearer & Trapping Seasons and 2018 Quotas*
20. *HD 214 Elk B License Adjustment*
21. *Permanent Access Assignment to FWP for Dry Cottonwood Creek and Deer Lodge River Ranches (R2)*
22. *Brucellosis Proposed 2019 Annual Work Plan*
23. *Reservoir Creek Beaver Transplant*
24. *Tendoy Bighorn Sheep Update*
25. *2018 Blue Ridge Ranch HB 454 Hunting Access Agreement*
26. *Public Comment for Issues not on This Agenda*



1. Call to Order – Pledge of Allegiance

Chairman Vermillion called the meeting to order at 8:33 am and led the Pledge of Allegiance.

2. Approval of Minutes of the June 14, 2018 Commission Meetings

Chairman Vermillion asked for a motion to approve June Minutes.

Motion: Chairman Vermillion moved and Vice-Chairman Stuker seconded the motion to approve minutes.

Motion Passes 5-0

3. Approval of Commission Expenses

Chairman Vermillion stated that there were no expenditures regarding budget. Budget expenditures to date is zero. They have a budget of \$34,477.00. Where did the budget end up last year?

Director Williams advised that she was sure they were under budget last year.

Chairman Vermillion stated that they came in around 19 percent under budget for the fiscal year.

Motion: Vice Chairman Stuker moved and Chairman Vermillion seconded the motion to approve the Commission expenses.

Motion passed. 5-0

4. Commission Reports

Commissioner Colton apologized for not being able to attend the meeting in person. He is telecommuting from Billings Regional Office. He stated that he had just a few things to report. We are now approving some of the damage hunts coming in from Region 7. In region 7 there are elk that are starting to move into the crop lands as things dry up. It seems there is an efficient process for that. We continue to work the Bighorn River Alliance to see if we can get some relief from the Bureau of Reclamation operating plan. There seems to be there is going to be an overhaul. The cooperators in that area are primarily farmers and ranchers that need relief from some of the problems that have been caused as well as the folks fishing on it. This includes those who are running recreational businesses. Thank you.

Commissioner Brower stated that harvest has started in numerous areas. He bought a fishing boat and would like to thank the staff that man the invasive species check stations. It is a long summer job. He appreciated that they are there all day doing this job. A couple of things were brought to his attention was that on the eastern side of the State were spending a bit of time picking up the signs that were blowing over. They are hoping for permanent signs. Maybe something in the future can be done about that. The tags that are being put on the boats between the boat and trailer, some people aren't taking care of those and it takes additional time at the check stations to clean them off. Maybe we could do something a little different there.

He stated that in July he attended the Trapper Advisory Committee in Helena on July 10 and 11. Day one was mostly educational revolving around the history of trapping, the role of trapping, and various introductions. The end of day one and then day two addressed the concerns around trapping from the trapping and non-trapping communities. Jenny Tribe was the facilitator and he thought she did a great job with the meeting. He wanted to thank the individuals who are willing to put in the time for that committee. For those interested, the next meeting will be August 28 and 29. He will not be able to attend. The next meeting will be in Miles City in October. The item of importance that was on everybody's agenda was trapper's education. He knows that the Commission asked about this. It got tied up because of authority. It is important to all parties that this moves forward. Thank you.

Commissioner Aldrich stated that on June 26 the financial review of advisory committee in Helena. At that time, Mr. Sperry, Mr. Temple, and staff led everyone through the matrix of how to look at what we need for additional revenues generated primarily by licensing permits. He thinks that it is a good product. We went through some examples, corrections, and additions that will be presented to Director Williams after the meeting next Wednesday. The matrix looks at the general fund licensing revenue level and using that as a basis for where we need to be in the next four years. This will determine if more money is needed or if we are doing okay. It could also pose an opportunity to catch up on other expenses pertaining to things that have not been done in a long time.

July 13 and 17 he attended the Western Association of Fish and Wildlife Agencies in Eugene, Oregon. He attended most of the meeting with the directors and other commissioners. He spent time with the people that deal with mule deer and bighorn sheep. He met a lot of people that he hopes to stay in touch with. Commissioner Aldrich stated that he has been getting comments on the pending use of a portion of the Clark Fork River. It was brought to his attention by outfitters and others. This is something that is on the agenda so he will not continue talking about it. In the last two months, he has received input from people interested in beaver trapping and beaver management. Since the June meeting he has had conversations about the importance of beavers in the 21st century. Many of us are seeing weather and other related events like we have never experienced. He has chatted with public land managers, wildlife managers, members of conservation non-profits, and broad mixture of friends and associates. There is clearly interest in the wise management of beavers in Montana.

Beavers are friends, villains, and harvestable species. They are interesting to watch. They are fish habitat builders as well as fish migration obstructionists. They are conservers of water quality and quantity. They are food for carnivores and enemies of landowners landscaping endeavors and more. One thing is clear and that is beavers is a public trust that is to be managed for all Montanans by the State. Montana Fish, Wildlife and Parks is the key agency for this. Earning praise and criticism, the beaver occupies private and public lands in Montana that provide essential habitat. Some public agencies have responsibilities and tools for only preserving habitat. The State has the responsibility for managing the species on all ownerships and habitats within the State. Without adequate habitat, the game is over for wildlife including beaver. He believes the ecological values of beaver need to be addressed and considered in the management of the species as well as the habitat. He is convinced that climate change is upon us. Now is the time to for us to recognize and respond to the importance of conserving and managing clean cold water for all Montanans.

Commissioner Aldrich urged the Department to initiate cooperative efforts with agencies and organizations involved in managing beavers and their habitat. He would like to see a focus on expanding and enhancing the information available for future efforts to manage beaver and their habitat. Thank you.

Vice Chairman Stuker stated that the northern part of the state has fire restrictions. It is in drought status with Hoot Owl Restrictions on the Sun River due to extreme temperatures. He advised that he was put on the

Upper Missouri River Management Plan Scoping Committee. The committee has met twice. At the first meeting, he thought the Department did a good job presenting the five major changes. He won't address them as he thinks Eric will in the meeting today. He also attended a meeting in Great Falls where they presentation had a turnout of 13. Other meetings there was zero attendance. Another meeting, we had one attendee who happened to be a committee member and another meeting of 15 attendees. Either there is not as much interest as we thought or people are satisfied with what we have so far. The last meeting was Monday. We went over the comments and input from the town meetings. Everything seems to be moving forward. He is disappointed with some of the attendance of the meetings.

There was an interesting thing that came out of the first and second meeting. As we are talking about the Madison as we move forward, this too may be an issue with Canyon Ferry. An outfitter that served on the committee said that there is getting to be an overabundance of commercial fisherman out there. It is causing a problem. At the second meeting, two homeowners came in and stated that it is starting to get dangerous out there. They would like to see decals bigger on the commercial boats so they can see if the boat is commercial or not. The guides and outfitters do not have the ethics they used to, such as going within 10 feet of the docks and children getting roughed up in the wake. People are angry and are doing the same thing to the guides. The outfitters are now getting buzzed when they are trying to fish. So, whatever we do with the Madison River is going to have to be a blue print for a lot of the other areas. In his opinion, We are going to have to address this very soon.

Vice Chairman Stuker was asked to attend a meeting in Big Timber by Barb Beck, Region 5 Supervisor, with a land owner from the 580 hunting district. He found out a year or two ago, that half of the area is in his commission district. He felt that they had a good meeting with the landowner. He had a lot of concerns about CWD, possibly brucellosis, and over objectivity of the elk there. We explained that this had to go to the Legislature because it is in statute. He would have us to start considering giving more tags to hunters. This would be similar to what we do with deer in areas that are over populated.

The area that concerns Vice Chairman Stuker the most is that last year the landowner approached an employee in Region 5 about opening up 10,000 acres to the general public for the last week of the season. He outfits the first four and for the last week wanted to work with the Department on a coordinator. He would open up 5,000 acres to hunt Monday, Tuesday, Wednesday, and the other 5,000 acres Thursday, Friday, and Saturday. This would be the last week of the season with no restriction on type of game hunted in that area. From there, they could move into the shoulder seasons with the same type of rotation. He was told unless he opened all his property, the Department did not want to work with him. So, he said fine. That bothers me when we are trying and the folks in Helena are trying to open more access to hunters. It would be nice if all the acreage was opened.

If we could get a foot in the door and make a positive impression on the landowners, maybe we could move higher. He feels the mentality out there is if they can't get access to all the acreage, they won't accept crumbs. We found out in shoulder season that really isn't crumbs. This is of great interest to those who wanted to go cow hunting. In this case, bull hunting was going to be allowed too. This is not an isolated case. He has heard this in three different regions that these things are happening. He would hope that we can correct that to move forward and work with the landowners even if it amounts to a few weeks. That is an opportunity for our hunters. It is also a better tool for managing the areas that are over objectives. Something he was told by an employee in Region 5 is that the landowners have had an opportunity to work with FWP and they haven't. Because of this, he should never talk to them. Vice Chairman Stuker advised that is never going to happen. If we do not have communication; we are not going to move forward. This type of attitude is a big concern to him. He realizes that the Commission has no say over the employees but, the PLPW is trying to get access. This type of behavior sets it back. Thank you.

Chairman Vermillion stated that the Department is getting things ready for the game damage hunts. Kudos to Howard and the rest of the biologists that have been working hard to get that set up for the August 15 start. That process is seamless. He thinks the process is working well for Howard and his team.

Chairman Vermillion advised that he attended a meeting and met with landowners about the Dome Mountain WMA. We had FWP staff and landowners talking about the hazing program that has been going on for control of the brucellosis efforts. They are trying to keep space between the wildlife and the domestic stock. Despite everyone's best efforts, you can push elk and they don't always go where you want them to. It is equally difficult in a place like Paradise Valley to have traditional landowners that have known each other for years and they work well together. Then there are a couple who just bought expensive property and bought it because it has elk. They are not as quick to come to the table to address these issues. Across the landscape, it's tough. If you have a place for the elk to go and be safe they will go there. He feels that they have made progress in communication. He wanted to thank the Kinkie family for being willing to meet and work with us. This has been a constant stress for them throughout the years. They have stayed at the table and continued to work with us. We thank them. The Department has been doing a good job with the limitations that we have to try to help them and minimize the impact of Brucellosis or the threat of the disease on their herds.

He advised that he went back a couple of days later. A concern was raised about the ranch and the WMA borders. They are frustrated. They are trying to deal with fence and weed issues. It's an easy fix for the Department and not a huge chunk of fence. The weeds are there but, he thinks that with some application time we could address it. He will follow up with the Department on that. Most of that might be next year. There are things we can do to make their lives easier.

Chairman Vermillion stated that with the snow pack that we had April 1, he guessed that it exceeded the snow packs of 2011 and 1996. In 1996 and 1997 we were on the river in mid-August. In 2011 we were on the river early August. This year with more snow and a cooler spring, we were on the river the last week of June. The water is coming out quickly. If you think about how that has changed in those 20 years for all the irrigators and recreators; something has changed and it has changed dramatically. We had a lot of snow last winter. It's gone. The water level on the Yellowstone River is dropping. The fact that we are already doing a Hoot Owl Restriction on the Sun River in August when in June it hit a record high and was flowing over the dam. That's a quick change.

He has been getting calls about game damage. Highland Livestock east of Livingston and trying to figure out how to help them with the frustration of qualifying or not qualifying for game damage. This is a family that would like to work with the Department. They do participate in a shoulder season hunt and the cow elk are causing significant damage. Last year they had 80 nonpaying resident hunters hunting on their land. We need to figure out an opportunity for them to qualify and consider that more so we can help them. This is a conversation that he would like to have with the Department today.

There was a tragic accident on the Yellowstone River the other day. The Sheriff deputy ran into the bridge at the 89 access. It is a tricky access if you don't know what you are doing. He thinks that this is a tricky access for everyone, especially those who do it for work. He has been getting calls about what can be done to make it safer. He is not sure what the answer is but, we need to see if there are options to make it safer.

Chairman Vermillion advised that he has been getting calls about the trapping modifications and beavers. There has been calls about the boat inspection stations. He is hearing that the stations are working well this year with little wait in line to have boats inspected. He knows it was the tough the first year that this started but, he would like to commend the Department for their hard work and efforts. It seems to be working well this year.

Vice Chairman Stuker stated that with the mention of the Livingston area ranch earlier that is having trouble qualifying for damage hunts, Region 6 is working with a ranch that is very similar. They have an agreement for 50 cow elk for the regular hunting season and that qualifies them for damage hunt assistance. He would like to thank the Director for the comments on what he had said earlier because there are a lot of great employees at FWP. He didn't want to insinuate that there was not. Thank you.

No Comments.

5. Director's Report

Director Williams stated that it has been a busy summer season. She has been trying to travel around the State as much as she can much to the chagrin of the capable staff who is running things while she is visiting different regions. What she is struck by is the geographic diversity of the Montana and the variety of issues that we cover. Today's agenda shows that. She is struck by whether it's Fisheries, Wildlife, Enforcement or Parks as well as all the administrative staff that it takes to support the work we do on the ground. She is impressed by how hard everyone works and what it takes to pull this off. We work on recovering species. We work on restoration and management. Even with Enforcement and habitat the breadth is exciting. We couldn't do that without our capable staff, the number of advisory councils, and the help of the public. She had to laugh as she was writing down all the acronyms that we have for all the committees. We thank everyone that helps us with those.

To answer Vice Chairman Stuker comments, she thinks that we are making strides as an agency to be service oriented and adhering to the scientific integrity of the biology. Sometimes we have room for improvement. She feels that the Department improves where they can. It's something that we are really paying attention to. We have gone through a branding exercise and it's important to talk about our four beliefs: opportunity outside, integrity, balance, and inclusion. That sums up a lot of what we heard in your reports today. We really focus on those pieces. It covers a lot in the inclusion and balance. Opportunity goes to providing the best service that we can while we have the scientific integrity. As for specific reports for all the Regions, there is a lot of things going on, a lot of people working hard, and trying to coordinate that best we can. We have drought conditions and have had flood conditions as well as fire and heat. Those external conditions have added on to what we do. She would like to have Eric Roberts, Fisheries Manager Bureau Chief, to update us on the Madison River.

Eric Roberts, Fisheries Manager Bureau Chief, stated that he contacted Region 3 about the Madison River Rec plan. Mark Delarey is also on video conference for questions. The Department is working with Mike Mitchell from U of M on the Negotiated Rule Making Process. He comes highly recommended for this type of effort. The Department will be releasing a press release soon to solicit for panel members. By mid to late September, the Department hopes to have recommendations to take to the Commission by the October meeting. They are hoping to have the Commissions endorsement and approval of the panel members. It is his understanding that the timeline would start to convene that panel would be January-February of 2019.

Chairman Vermillion asked if this is started in January or February, if he knew what the time line looks liked.

Mr. Roberts advised that he was not sure and referred to Region 3.

Mark Delarey, Region 3, stated that 2020 is the goal for implementing any rule. So, we backed down from that date so we can convene a committee in January-February. We would try to get something to the Commission in April-May to line us up for approval working through a rule making process.

Chairman Vermillion asked if that is with an actual implementation of whatever the rule is by 2020?

Mr. Delarey answered that was correct.

Chairman Vermillion asked if under Negotiated Rulemaking if it is required that we are done by April? If it takes longer, do they have the ability to take more time?

Mr. Delarey answered that it was not required under Negotiated Rulemaking. It is the timeline we set in to ensure that we complete the process in time for 2020. There is some flexibility to work through the process.

Chairman Vermillion thanked Mr. Delarey.

Vice Chairman Stuker stated that when they approve this, he was understanding that the Commission was going to be approving the application forms. They would also be seeing all the applicants. He is understanding that is not the case. It sounds like the Department is going to come up with the application without any input from the Commission. The Department would choose a committee that the Department would recommend to us. Are we going to be able to see all those individuals or just the ones that you recommend? Are we going to be able to see the applications beforehand?

Mr. Roberts answered that there will be a commission member that will take part in the application ranking procedure. Is that correct Mark?

Mr. Delarey stated that was correct. The Department can make the applications available to the Commission. Legal advised that the process that he laid out is what we are following. We believe that it is inclusive of the Commission with a commission member on the committee. We can provide all the applications for the committee if you would like with recommendations for membership.

Vice Chairman Stuker stated that he would like to see the applications. He would like to see all the applicants. What he has not heard is what the make-up of the committee is going to be. How many guides? How many general fisherman, commissioners, and department personnel, etcetera? He thinks that it is very important to know possibly before you get too far into selecting the committee members. Maybe the Commission is not going to be agreeable with some of the make-up of the committee. It must be a selection that represents everyone. It must fairly represent everyone. This is going to be a blue print for future rivers. We would appreciate this if you could do this. Thank you.

Chairman Vermillion stated that he agrees with Vice Chairman Stuker. He assumes that is what the Department plans to do. It can make the recommendations but, it's going to be up to the commission to decide how and who gets on the committee. He advised that he would not be voting on that. He wants to make sure that the people who are best equipped will be on the committee.

Director Williams stated that it is very important that the make-up of the committee is something that we are very transparent about and include the Commission in that discussion.

6. Recognizing Outgoing TipMont Board Members

Dave Loewen, Chief of Law Enforcement, greeted the Commission and stated that is an honor to be in front of you today especially under these circumstances. He would like to publicly recognize three of their

are in your commission packets. A summary of environmental compliance is also in your packets. Of the ten proposals recommended for funding, three have completed the environmental compliance. There was a 30-day comment period with no comments received. The other EAs will be completed as necessary by other entities. The Department requests that the Commission approve the Future Fisheries Funding as recommended by the Future Fisheries citizen panel for the summer of 2018 funding cycle. He added that Michelle McGree, Future Fisheries Officer, was available for questions regarding the funding cycle or the program in general.

Chairman Vermillion asked for a motion.

Proposed Motion: Vice Chairman Stuker moved and Commissioner Brower seconded to approve the citizen review panel funding recommendations for the summer 2018 funding cycle of the Future Fisheries Improvement Program.

Chairman Vermillion stated that he was pleased to see that there was a project in the Musselshell that is a warm water fishery that doesn't always get a lot of Future Fishery Attention. It's nice to see that we are doing all the other projects as well.

Motion Passes 5-0

8. East Rosebud Fishing Access Site (R5)

Background: This proposed 10-acre fishing access property in Region 5 is approximately 3.5 miles south of Absarokee on East Rosebud Creek. It would provide the first public access opportunity on East Rosebud downstream from the US Forest Service boundary. The landowner of this property also owns the land upstream, downstream and across the creek. Historically there has been no public access in this area. This section of the creek is not floatable, consequently access would be limited to wade fishing. No price has been negotiated for the property, however the landowner is aware of and has agreed to compensation at a fair market appraisal of the property.

Public Involvement Process & Results: There has been no formal public involvement to date on acquiring this parcel. Upon gaining the commission's endorsement to proceed with this acquisition, the department would conduct an environmental review and solicit public comments.

Alternatives and Analysis: The commission's endorsement would enable the department to pursue the acquisition of this parcel. Included in the review would be an evaluation of the alternatives.

Agency Recommendation & Rationale: FWP recommends the commission endorse the department's request to pursue acquiring this parcel of land that would provide public access to a fishery that has not historically had public access.

Eric Roberts, Fisheries Manager Bureau Chief, stated that this was an endorsement of the East Rosebud Fishing Access Site in Region 5. This fishing access is approximately three miles south of Absarokee on east Rosebud Creek. It would provide the first public access opportunity for east Rosebud downstream from the U.S. Forest Service boundary. Historically there has been no public access in this area. This section of the creek is not floatable. The access would be limited to wade fishing. No price had been negotiated. However, the landlord has agreed to compensation at fair market value appraisal of the property. The Department requests that the Commission approve acquiring this parcel of land that historically has not had public access.

Proposed Motion: Commissioner Colton moved and Chairman Aldrich seconded to endorse FWP's request to pursue acquisition of this 10-acre parcel on East Rosebud Creek for a new fishing access site.

Commissioner Colton stated that this is one of the better projects that he has seen come across the State in a very long time. This will be an amazing opportunity for people in eastern Montana. He applauds the Department and the Region for making this contact. He visited with Ken and they are all ready to go. He hopes that there will be support from the rest of the Commission.

Motion Passes 5-0

9. Dailey Lake Fishing Access Site Easement (R3)

Background:

Dailey Lake Fishing Access Site is located in the Paradise Valley between Livingston and Gardner. The site includes 242-acres of land owned in fee title by the FWP and 122-acres of DNRC- leased property on the north end of the lake. The leased property is owned by the DNRC School Trust Division and has been leased by FWP since the late 1980's or early 1990's. A portion of the DNRC- leased area has been developed for camping and includes a boat ramp and dock. DNRC recently appraised the property value of the site at \$490,000, which through DNRC's lease fee calculation formula increased the annual lease fee from \$8,870 to \$19,611 escalating annually to \$23,437 over the next 10-years. Rather than continue leasing the entire 122-acres, FWP proposes to reduce its leased footprint to approximately 25-acres that encompasses only the improved camping area and to purchase a permanent easement from DNRC on the 25-acres. DNRC's appraisal of the property indicates a value of \$4,000 per acre putting a value of the easement property at approximately \$100,000. The purchase of an easement will provide FWP a perpetual interest in the property that is no longer subject to market fluctuations and annual escalator increases.

Public Involvement Process & Results:

There has been no public involvement at this stage of the process.

Alternatives and Analysis:

Alternatives and the subsequent analysis will be conducted by FWP upon approval by the commission.

Agency Recommendation & Rationale:

FWP recommends that the commission approve the department to initiate discussions with DNRC regarding obtaining a permanent easement as opposed to a lease on the Dailey Lake FAS. It offers the advantage of paying a onetime fee based on current market values and would eliminate continuing to pay future lease fees for an indefinite period of time based on market fluctuations and continued reappraisals of the property.

Eric Roberts, Fisheries Manager Bureau Chief, stated that they are looking for an endorsement for the Dailey Lake Fishing Access Site Easement in Region 3. The fishing access site is located between Livingston and Gardner. This includes 242-acres of land owned in fee title by Fish, Wildlife and Parks as well as 122-acres of leased property from DNRC on the north end of the lake. The leased property is owned by DNRC School Trust Division and leased by FWP since the late 1980's/early 1990's. DNRC recently appraised the property value to be \$490,000.00. DNRC lease fee calculation formula would increase the annual lease fee from \$8,870.00 to \$19,611.00. this escalates the lease annually to \$23,437.00 over the next ten years. Rather than leasing the entire 122-acres, FWP proposes to reduce the lease footprint to

approximately 25-acres that encompasses only the improved camping area and to purchase a permanent easement from DNRC. Appraisal of the property indicates a value of \$4,000.00 an acre, putting the value of the easement property at approximately at \$100,000.00. The purchase of the easement would provide FWP with perpetual interest in the property that is no longer susceptible to market fluctuations or annual escalator increases. FWP recommends the Commission approve the Department initiate discussions with DNRC regarding obtaining a permanent easement on the Daily Lake FAS. Thank you.

Proposed Motion: Vice Chairman Stuker moved and Commissioner Brower seconded to endorse FWP's request to pursue an easement from DNRC in place of a lease on the Dailey Lake FAS.

Chairman Vermillion stated that he had questions. He was reading this over last night. What happens if the Department decides to just lease the 25-acres and let's DNRC manage the remaining 115-acres? The people of Montana are still going to be able to do what they want there aren't they?

Mr. Roberts stated that he would like to defer that question to Region 3. Perhaps Mark Delarey has some insight on that?

Mark Delarey, Region 3, greeted the commission and stated that it would be open for public use. Most of the use is on the 25-acres. That is the piece that we developed. He is not sure how much use would occur on the remaining acres as the recreation occurs on the primary 25-acres. That would remain in DNRC ownership. It would continue to be a piece of public land.

Director Williams stated that there have been discussions with DNRC about this specific site. She thinks that there was a concern but, thinks this is moving in a positive direction in talking about a permanent easement. There have been many discussions with DNRC with the concern about the public access managed the way we do now and having that go away. Aren't there some improvements on the DNRC portion?

Chairman Vermillion advised that he was not aware of that. FWP has done a great job with what it has developed there. There is a lot of cattails on the south end of the lake. He understands what the Department is doing and why they are trying to work with DNRC on this. He also understands DNRC requirement to maximize value on the lands for the benefit of the kids. He will vote for it and endorse it. He is having a hard time reconciling some of the things when he thinks of public ownership of land. This isn't as straight forward as he hoped it would be.

Mr. Roberts stated that to clarify that a portion of the leased area has been developed for camping. That is a portion that the Department currently leases from DNRC.

Motion Passes 5-0

10. Missouri River and Toston Fishing Access Site Closure Rule (R3)

Background

The Montana Department of Transportation notified FWP in 2015 of its intention to replace the Highway 287 bridge on the Missouri River at Toston beginning March 2019. MDT will require the contractor to provide safe public float passage, including a 40-foot wide by 6-foot high effective opening between in-stream construction-related obstructions, and appropriate navigational signage and hazard posting. MDT has informed FWP that it does not anticipate that the construction will create conditions that require temporary closures of the river or the Toston FAS. However, as a precaution, MDT has asked the

commission to authorize a rule that would let FWP, in consultation with the local commissioner, temporarily close the river and/or the FAS on a short-term basis during the new construction timeline March 1, 2019 to September 30, 2020. The contractor, with confirmation from MDT, would be required to notify FWP of each occurrence of such a request. The contractor would be responsible for posting signs at upstream and downstream access sites notifying the public about any temporary FAS or river closures. FWP understands that the Missouri River is very popular among the angling public and important to the regional tourism economy. For these reasons, FWP would only consider closures in the interest of public safety and if there are no other reasonable alternatives available.

Public Involvement Process & Results

Upon proposal of the rule, FWP would invite public comment and report back to the commission with a final recommendation.

Alternatives & Analysis

The commission could choose not to propose a rule that would allow temporary short-term closures of the river during construction. Without this option, emergency conditions might precipitate adoption of an emergency rule to close the river and/or the access site. FWP would prefer the ability to anticipate such needed actions to enhance public notice and safety.

Agency Recommendation & Rationale

FWP recommends that the commission propose the rule and initiate public involvement. The rule would allow FWP to assess the contractor's request with input from MDT for a temporary short-term closure and determine whether such action is warranted and whether there are alternatives that would have less impact on recreation opportunities without jeopardizing public safety.

Eric Roberts, Fisheries Manager Bureau Chief, stated that they propose a closure rule for the Missouri River and Toston Fishing Access site. The Montana Department of Transportation notified FWP in 2015 that there was intention to replace the highway 287 bridge on the Missouri River at Toston. This would begin March of 2019. MDT will require safe public float passage including 40 feet wide and six-foot-high effective opening between instream construction, related obstructions, appropriate navigational signage and hazard posting. MDT does not anticipate that the construction will create conditions that will require temporary closures of the river or the Toston FAS. As a precaution, MDT, has asked the Commission to authorize a rule that would let FWP in consultation with the local commissioner to temporarily close the river and/or fishing access site. This will be a short-term basis during new construction March 1, 2019 through September 30, 2020. FWP understand that the Missouri River is very popular for the angling public and the tourism economy. FWP will only consider closures in the name of public safety and if there are no reasonable alternatives available. FWP recommends that the Commission propose the rule to temporarily close the Missouri River and Toston FAS as necessary to initiate public involvement.

Proposed Motion: Vice Chairman Stuker and Commissioner Brower seconded to move that the commission propose an annual rule authorizing FWP, in consultation with the local commissioner, to temporarily close a portion of the Missouri River and/or the Toston FAS on a short-term basis necessary to safely complete removal of the existing bridge and construction of a new Highway 287 Bridge during the time March 1, 2019, to September 30, 2020.

Chairman Vermillion stated that portion of the river is a straight shot and shouldn't be too big of a deal if closure is necessary.

Motion Passes 5-0

outgoing TipMont board members. They have served an incredible amount of time on the board. They have done an incredible job. As you know the TipMont program if Fish, Wildlife, and Parks is a wildlife version of Crimestoppers. The board members (which Commissioner Aldridge also serves on) have the unique position to not only see what the Game Wardens are doing in the field by reviewing the case submissions but, they also get to see the passion that the public has when the public turns to the TipMont program to report wildlife crime. They get to see the whole picture. It is an interesting perspective that most people don't get to see. Our TipMont program has risen due in part to our TipMont manager Brian Shinn to a nationwide model of what a program should look like and can be. It really is working quite well. I would like Brian Shinn to come up and talk about each board member and present them with a plaque.

Brian Shinn, Program Manager, TipMont, greeted the Commission and stated that he would like to recognize each of the individuals for what they have done and their participation with the program. He stated that David Brown has been with us for seven years. He is the banker of the group. One of the things the board does is allocate rewards to individuals that submit violations that result in actions. We vote on the rewards as group. David always has the inside on keeping the finances on track. He would like to thank Davis for his service.

Mr. Shinn stated that Jean Johnson has been with us for nine years. She was appointed by Jeff Hagener. All our board members are appointed by the Director. She represents the sportsman's groups. She would get some eye opener of some of the violations that came through regarding some of the sports groups. It was nice to have her there to get her perspective. She had a lot of knowledge in representing that group. Thank you, Jean.

He stated that Jay Ramral was inherited. He was appointed by Director Cool in 1991. He has been with hunter education a long time. He has served on our board for 26 years and represents the recreationists. Jay has a lot of history with the state. It has been very interesting to have Jay on our board. We thank you Jay.

Mr. Shinn stated that know that they are all standing before him he would like to say what a privilege it was to work with each and every one of them. You all did a fantastic job of balancing the group and hate to see you go. You have served us and the community well. You helped protect the resources of Montana. The citizens appreciate what you do and we do a lot of behind the scene things with our rewards. It was very instrumental having you and everything you did for the group. Thank you.

Chairman Vermillion stated that before they go on to the agenda items, he wanted to share the Commissions deep appreciation for the service that the three of you have given. To have someone on the TipMont board for 26 years is impressive. He advised that he was on that board for a short period of time. His schedule did not allow him the time he needed to be on the board. He did go to one of the meetings and was really impressed with the dedication. They pay a lot of attention to Fish and Wildlife policy. The TipMont program is something that he feels is great idea that has worked well. He really learned a lot by sitting at the table last night and watching the committee go through it's process. They talked about what to award and how much to award. It's an example of how much thought and time and real consideration that it takes. The citizen's dedication and involvement to help protect a public resource will make sure that that it is here for future generations. He thanked all three of them, the FWP staff and everyone else that is on the board. It is important and plays a key role in the process that keeps our wildlife to survive for future generations.

7. Future Fisheries Improvement Program Summer 2018 Projects

Background

The Future Fisheries Improvement Program 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 the 14-member citizen review panel appointed by the governor. Recommendations are forwarded to the commission every six months for consideration and approval. For the summer 2018 funding cycle, the citizen review panel recommends funding 10 of 13 submitted proposals at a program cost of \$285,979.50. Matching funds or in-kind contributions from outside sources total \$1,480,721 for a 4.8-to-1 match.

Public Involvement Process and Results

The public is informed about program funding opportunities via news releases, a public meeting, and information posted on FWP's website. The citizen review panel conducted a public meeting and reviewed applications, discussed proposed projects with applicants in attendance, and provided the opportunity for public comment. No public comment was received at the meeting, except from applicants in attendance. All applications received for the funding cycle were posted on FWP's website, which allowed viewers to submit comments online. No online comments were received. Environmental assessments were prepared for three of the 10 projects recommended for funding. Of the remaining seven, five have been or will be assessed under the federal National Environmental Policy Act, one will have an EA completed by the Department of Environmental Quality, and one is a categorical exclusion (fencing). The comment period for drafted EAs will end August 5, and no comments have been received. An update can be provided at the commission meeting.

Alternatives and Analysis

- A. The commission could approve funding recommendations for active projects submitted by the citizen review panel and prioritized by the ranking committee. This alternative would provide funds to assist in the completion of projects that will improve habitat for wild fish populations.*
- B. The commission could disapprove or modify the recommendations of the citizen review panel. Under this alternative, applicants would need to seek other sources of funding or suspend projects that otherwise would have benefited wild fish populations.*

Agency Recommendation and Rationale

FWP recommends the commission approve Alternative A, the funding recommendations as submitted by the citizen review panel. Completion of these projects would benefit wild fish populations.

Eric Roberts, Fisheries Manager Bureau Chief stated that this is a final action for the Future Fisheries Program. The Future Fisheries Program continues to provide funding for projects that restore habitats in streams, lakes, and rivers for the benefit for wild fisheries. The citizen review panel met in Seely Lake on June 14 to develop funding recommendations for the summer of 2018 funding cycle. Ten of the 13 funding proposals received were recommended for funding or partial funding. Funding recommendations totaled \$286,000 match with an associated \$1.48 million. That is approximately a one to five match. With these recommendations, approximately \$298,000 will remain in for the final grant cycle biennium. Recommended projects from the citizen panel have gone through a ranking process. The final rankings

11. Big Creek Instream Flow Water Rights Lease Agreement (R3)

Background.

On February 15 the commission directed FWP to negotiate water-right lease renewal agreements for currently leased water rights from Big Creek as well as negotiate additional new water right leases as appropriate. An agreement has been negotiated with John L. Lake, Jr. and the Yellowstone Stage Stop Estates Water Users' and Homeowners' Association to renew an existing lease of 2.8 cubic feet per second. The agreement also leases the remaining portion of these owners' water rights from Big Creek, which total up to 1.58 cfs. The cost of the 2.8 cfs lease renewal is \$7,500 per year for 10 years. The additional water lease will be compensated at the same rate (\$2,679 per cfs).

The lease renewal protects 2.8 cfs of the first priority right on Big Creek. The additional new water lease would protect up to 1.58 cfs of the first and second priority rights. The actual amount of water that can be protected under the additional water lease will be determined by DNRC. The purpose of the leases is to maintain flow in the lower 1/4 mile of Big Creek. Like other upper Yellowstone River tributaries, the focus of this water lease is to protect flow in Big Creek to provide for the successful spawning, incubation, emergence and outmigration to the Yellowstone River of Yellowstone Cutthroat Trout.

Public Involvement Process & Results.

As part of the original change to instream flow in 1999, DNRC provided notice to potentially affected parties of the opportunity to object to the change to instream flow. Other water users were also given the opportunity to provide new evidence of adverse effects during the first renewal of the lease in 2009. As part of the current lease renewal process, DNRC would notify other water users and allow them to submit new evidence that the in-stream-flow lease has adversely affected their water rights. The additional water right lease will be subject to the regular water right change process which will include the completion of an environmental assessment by DNRC, and other water users will be given the opportunity to object.

Alternatives and Analysis.

The No-Action alternative would be for FWP to not renew the current lease and not lease the additional water rights resulting in significantly lower Yellowstone Cutthroat fry production from Big Creek. Another alternative would be for the water right owners to temporarily change the water right to instream flow without the involvement of FWP. This alternative would require them to incur the legal and technical cost of pursuing a new change to instream flow. The owners may well choose not to pursue a new change to instream flow for the benefit of the public fishery without FWP assistance.

Agency Recommendation & Rationale

FWP recommends that the commission approve the Water Rights Lease Agreement to continue the protection of instream flow in Big Creek benefiting Yellowstone cutthroat trout.

Eric Roberts, Fisheries Manager Bureau Chief, stated that Big Creek instream flow water rights lease renewal for Region 3. In February, the Commission instructed FWP to negotiate water right lease renewal agreements for current water right leases as appropriate. An agreement with John Lake Jr. and the Yellowstone Stage Stop Water Users Association to renew an existing lease of 2.8 cubic feet per second. The agreement also leases the remaining portion of the owner water rights from Big Creek that total up to 1.58 cfs. The total cost of the 2.8 cfs is \$7,500.00 per year for ten years. The additional water lease will be compensated at the same rate. The lease renewal protects 2.8 cfs. Of the first priority, right on Big Creek. The other lease would protect up to 1.58 cfs of the first and second priority rights. The purpose of the lease is to maintain the flow in the lower mile and a quarter of Big Creek. The focus of this water lease is to

protect flow Big Creek for successful spawning and incubation of emergent migration to the Yellowstone River for the Yellowstone cutthroat trout. FWP recommends the water rights lease agreement to continue the protection of instream flow of Big Creek and benefiting Yellowstone cutthroat trout. Thank you.

Proposed Motion: Commissioner Aldrich moved and Commissioner Brower seconded to approve the Water Rights Lease Agreement with John L. Lake, Jr. and the Yellowstone Stage Stop Estates Water Users' and Homeowners' Association.

Chairman Vermillion stated that this is a good project that will pay fishery dividends. When you say first and second priority rights, he is assuming that it means the first and second oldest water rights on Big Creek.

Mr. Roberts answered yes, that was his understanding.

Chairman Vermillion asked if FWP had an additional water lease with Mountain Sky or is this the entire Big Creek water lease?

Mr. Roberts advised that he wasn't sure and does not recollect completely. We have put together a few of these water leases over the last few months.

Chairman Vermillion stated that there are three then, Mountain Sky and then the two.

Motion Passes 5-0

12. Clark Fork River Closure for DEQ Cleanup of Grant Kohrs Ranch Area (R2)

Background

The Department of Environmental Quality is conducting a cleanup project to remove contaminated soils in the streambanks and historic floodplain within the Upper Clark Fork River drainage. The next phase of this project involves the area around Grant-Kohrs Ranch National Historic Site (see map attached). DEQ will begin cleanup of this area of the Clark Fork in October 2018. Public safety is a concern during the construction period due to heavy equipment working in the area. DEQ is asking for a river closure from October 2018 to October 2020 to protect the public while allowing the cleanup work to occur. The department is proposing a biennial closure rule allowing FWP to close the Clark Fork River to all public occupation and recreation including, but not limited to, floating, swimming, wading, and boating from Arrowhead Park to the site commonly known as "Vet Clinic".

Public Involvement Process & Results Kohrs

With commission approval, FWP would solicit public comment on the proposed biennial closure rule from August 13 through September 21st, 2018. The results would be presented to the Commission with a final recommendation on October 17, 2018.

Alternatives & Analysis

- 1. The commission approves the request by FWP to go out for comment on the proposed biennial rule.*
- 2. The commission does not approve the request to go out for public comment on the proposed biennial rule.*

Agency Recommendation & Rationale

The department is proposing to solicit public comment on a biennial closure rule allowing FWP to close the Clark Fork River to all public occupation and recreation including, but not limited to, floating,

swimming, wading, and boating from Arrowhead Park to the site most commonly known as "Vet Clinic" from October of 2018 to October of 2020.

Eric Roberts, Fisheries Manager Bureau Chief, stated that this agenda item has been evolving the last two weeks. He believes the Commission has the latest information that we have received from DEQ. This is for a Clark Fork River closure for DEQ cleanup for Grant-Kohrs Ranch area in Region 2. The Department of Environmental Quality is conducting a clean-up project to remove contaminated soils on the stream banks and historic flood plain and the upper Clark Fork drainage. The next phase of this project involves the area around the historic Grant-Kohrs Ranch National Historic Site. DEQ will begin clean-up of the area. Public safety is a concern during the construction period and will have equipment working in the area. DEQ is asking for a river closure from October 2018 until October 2020 to protect the public in order for the clean-up work to occur. As requested by DEQ, the Department is proposing a biennial rule closure allowing FWP to close the Clark Fork River to all public occupation, recreation including and not limited to floating, swimming, wading, and boating through Grant-Kohrs Ranch.

The Department is proposing to solicit public comment on a biennial rule closure allowing FWP to close the Clark Fork River through the Grant-Kohrs Ranch from October 2018 to October 2020. Available to address comments is Autumn Coleman from the DEQ and is a section supervisor there. George Mathieus, Deputy Director, DEQ is here as well as staff from the Grant-Kohrs Ranch.

Chairman Vermillion wanted to be clear about this as he and the Commission have received many phone calls regarding this. There was concern whether DEQ's plan for this section of river is a good one. They feel that it is the best fishing on the Clark Fork. He doesn't fish there but, that is how it was represented to him. He asked Mr. Roberts to elaborate to the Commission on the extent of what the jurisdiction is. It is not whether the cleanup is correctly designed. That is out of our purview. This is a river safety question and if the DEQ request to close the river is appropriate. Is that correct?

Mr. Roberts stated that it is a public safety issue. He could let Ms. Coleman elaborate to the extent of the encroachment of the river and what the project will undertake.

Chairman Vermillion stated that he just wanted make sure that we don't get side tracked. There is a lot of concern as to whether this section of river should be treated this way. That is not our decision. That is DEQ's decision. That is really past our ability to comment. What is before us today is whether there is a public safety need to do this. Is that correct?

Mr. Roberts stated that is correct. Our request of you today is to allow us to solicit public comment on this proposed project.

Chairman Vermillion asked if it was just the area that is crosshatched on the map.

Mr. Roberts stated that was correct.

Chairman Vermillion asked if there was a public access site at the end of the crosshatched portion of the map down river to the Clark Fork Veterinary Clinic.

Mr. Roberts stated he was not sure if public access is available there.

Chairman Vermillion asked about the Arrowstone to the top of the crosshatch on the map.

Mr. Roberts stated that there is public access between the points.

Chairman Vermillion asked if the Deer Lodge residents could still go enjoy the river.

Mr. Roberts stated that was correct.

Chairman Vermillion stated that it is his feeling that this should be put out for public comment. He would like the Department to look at something that is not so excessive. Two years is a long time. He feels that this is a blanket closure and there are so many people that use this resource. The Department and DEQ should come up with something that would give us more options to weigh on. He is uncomfortable saying it is closed for two years unless we hear DEQ say it is okay to go in there. He would much prefer to see the Department work with DEQ to come up with something that allows us to have some input. If it is about protecting vegetation, then great. He feels that two years is excessive. He realizes that it will take that long. Opportunities should be looked at to give the public and the Department an opportunity to re-open if it is appropriate. There should be check in points with the opportunity to pull back and reopen the river if appropriate. I will vote to put it out for public comment.

Commissioner Aldrich stated that he would like to change the motion.

Proposed Motion: Commissioner Aldrich moved and Chairman Vermillion seconded the commission allow FWP to solicit public comment on the proposed biennial rule to close the Clark Fork River to public occupation and recreation for the area through the Grant-Kohrs Ranch National Historic Site.

Public comment.

No public comment.

Commission comment.

Commissioner Aldrich stated looking at the picture that were provided shows a significant amount of machinery operation and disturbance of materials as well as temporary bridges. There is a potential for public safety issues here.

Chairman Vermillion stated that he didn't think anyone was questioning that. He is concerned about closing for two years is the way to go. We don't want to lose any public opportunity in that area if the equipment is not being used and public use won't affect the vegetation. He wants to see more flexibility.

Motion Passes 5-0

13. New Rule I: Grizzly Bear Demographic Objectives for the NCDE

Background: The Northern Continental Divide Ecosystem is one of six recovery areas identified in the Grizzly Bear Recovery Plan. Grizzly bears in the NCDE are currently listed as threatened under the Endangered Species Act, although they have met their recovery criteria and may be proposed for delisting in the near future. The NCDE includes Glacier National Park, parts of the Flathead and Blackfeet Indian Reservations, parts of five national forests, Bureau of Land Management lands, and state and private lands. Recovery of the grizzly bear in the NCDE has been focused on a core recovery zone and a buffer area

around it, identified as Zone 1. Together, these zones make up the Demographic Monitoring Area, where the objective is continual occupancy by grizzly bears, facilitated by maintenance of compatible habitat conditions and population criteria. The DMA encompasses more than 16,000 square miles (or 42,000 square kilometers). Managers from federal and state agencies and the tribes have developed a draft "Conservation Strategy for the Grizzly Bear in the Northern Continental Divide Ecosystem," which is intended to guide management of grizzly bears once they are delisted. All are expected to sign the Conservation Strategy, thereby agreeing to use their respective authorities to maintain and enhance the recovered status of the grizzly bear in the NCDE after delisting by implementing respective regulatory mechanisms, interagency cooperation, population and habitat management and monitoring, and other provisions.

To delist a species or distinct population segment of a species from the ESA, there must be adequate regulatory mechanisms in place to ensure that it will not once again become threatened or endangered. Montana is proposing to adopt the demographic objectives of the NCDE Conservation Strategy into administrative rule to demonstrate Montana's commitment to maintaining a recovered grizzly bear population in the NCDE, as well as strengthen the regulatory mechanisms associated with population management.

Public Involvement Process & Results: The U.S. Fish & Wildlife Service has already taken public comment on an earlier Conservation Strategy draft. An updated Conservation Strategy has now been prepared that incorporates many of the comments received and new available science. If the commission votes to propose the administrative rule language, the public will be provided an opportunity to comment in writing and at public hearings pursuant to the Montana Administrative Procedure Act.

Alternatives and Analysis: Proposing the rule language would provide the public an opportunity to comment on the demographic objectives as detailed in the Conservation Strategy. If the commission adopts the proposed rule language, Montana would strengthen its regulatory mechanisms and better demonstrate its commitment to maintaining a recovered grizzly bear population in the NCDE.

Not proposing or adopting the rule language would leave the Conservation Strategy in place but would not add to the strength of Montana's regulatory mechanisms.

Agency Recommendation & Rationale: The department recommends the commission propose the drafted administrative rule language.

Ken McDonald, Wildlife Division Administrator, stated that he would like to bring to the Commission a proposal for a Commission rule with an adopt entry rule, demographic commitments, or objectives in a conservation strategy being developed for the northern Continental Divide ecosystem grizzly bear population. What this rule does is put into the administrative rules of Montana, those objectives that we have worked on for the last several years. This will describe how we are really going to manage grizzly bears after they are delisted. Fish, Wildlife and Parks with other agencies have developed a conservation strategy for the NCDE grizzly populations. The document is 300 pages long. The Commission was given the executive summary. This is available online if anyone is interested. This strategy is the post delisting plan. It outlines how different aspects of the grizzly bear habitat and population will be managed in the future. It is similar to the Yellowstone conservation strategy. We started working on the strategy in 2011. A draft went out in 2013 for public comment. We received the public comment and then was on hold for a while as the focus was on Yellowstone. During that time the U.S. Forest Service was amending their forest plans to adopt habitat standards which is chapter three of the document into the forest rules. The other components did not change that much. Chapter two is the population management need and is the most significantly changed since the 2013 draft. One of the objectives of this exercise is to make sure that we

have some public comment on that component. There are other authorities and the population management really is under the purview of FWP as well as the other population managers, SKT, Blackfoot Tribes, and the National Park Service. By agreeing to these objectives, the Department and the Commission are agreeing to limit future management discretion to ensure the population stays well above recovery levels. If you look at the old recovery plan, we are double what the anticipated recovery level would be. By incorporating the objectives into rule, the Commission is agreeing that we are going to manage at this level. We are providing assurances that will maintain the population well above the recovery level. Bill Schenk is here from our legal department. He will give us an update on the arm process and how this will all fit into the arm process. Cecily Costello our grizzly research biologist will talk about the population objectives and what it means to put it in rule. In the end, if you approve we will move forward with what the next steps will be. We will answer any questions that you may have.

Bill Schenk, Attorney, Fish, Wildlife and Parks, stated that he will give an orientation on what will happen as we go through the rule making process. This has been brought before you as it fits the powers of the Commission that you have recognized in statute to set policy for the protection, preservation management, and propagation of wildlife. This is going to guide both Commission and Department activities in the future. It will impact things that the Department will bring to you. It could impact hunting of bears as well as WMAs and the Department decision making that needs to take place. He thinks it qualifies as a policy for the protection, preservation, and management for wildlife.

As the Commission, you would have to look at the administrative procedures act and ask if it fits into the definition of a rule. What you will find there is a definition that includes each agency regulation standard or statement of general applicability that implements, interprets, or prescribes law or policy or describes organization procedures practice requirements of an agency. Once you qualify for that you have choices, you can do an informal rule making process and if it's an issue of significant interest to the public then you are supposed to go through a more formal rule making process. This is an issue that is a significant interest to the public. Therefore, we have begun to plan for the rule making process that will involve both information to the public as well as comment in a variety of ways. The requirement is for a more formal hearing type that allows people to contribute public comment. We are planning on that in several locations one in Kalispell, Missoula, Great Falls, and either Choteau or Shelby. It is pretty simple and that is what the APA requires you to do. That is the legal background on this and he would be happy to take any questions.

Vice Chairman Stuker asked about the consideration of Choteau, Shelby, and those areas.

Mr. Schenk answered that it was talked about. We are thinking about Great Falls and either Shelby or Choteau. The region has taken the lead to try to figure out what would be best to do.

Vice Chairman Stuker asked about the other meeting sites.

Mr. Schenk stated that would be Kalispell and Missoula.

Vice Chairman Stuker stated that his comment would be that whatever works best go with that.

Mr. Schenk advised that he would take that under consideration.

Dr. Cecily Costello, Research Biologist for Grizzly Bears, Fish, Wildlife and Parks, gave a presentation on the grizzly monitoring program. She explained that FWP has been involved in helping with a revision of the conservation strategy that was put out in 2013. The changes included the new science that they are involved in. This was published in 2016. They also responded to a lot of the public comment that they

received. She talked about the goals of establishing a flourishing grizzly population. She explained the demographic and conductivity with other ecosystems. She further explained the mapping of the demographic areas and original recovery zones.

Dr. Costello explained mortality management and how that could affect any future hunting. She talked about the radio collars and the tracking of the bears which are primarily female. This helps with tracking growth over time. She described the modeling process for wildlife species that is used to determine how to proceed with the conservation. Dr. Costello ended the presentation talking about the data that was gathered to determine mortality and viability. She compared the 2013 strategy to the present one. She stated they monitored conductivity and the past and present differences.

Mr. McDonald stated that he was going to go over the next steps. What you have before and included in the motions for proposed commission rule. This is an arm rule. If you approve this, we would file this proposal with the Secretary of State's office August 14, 2018. The public comment period would open on August 24. Even though you approve it today, the official arm rule public comment opens on August 24 with a 60-day comment period. This would end October 24, 2018. We would propose four public hearings. Under the Secretary of State's rules the comment period must be open for a while. This would be the end of September or early October. At the end of the public comment period, we would incorporate the comments received at hearings and the written comment process. We would come back to the Commission at the December meeting for final approval with any modifications as a result of the comments. It then gets filed with the Secretary of State December 11, 2018. The rule would go into effect December 21, 2018.

He wanted to clarify that what they are proposing is a rule that would adopt the population objectives post delisting so, after the delisting. As for the delisting proposal, Director Williams please correct my statement if that has changed. The U.S. Fish and Wildlife Service was talking about proposal sometime in early winter as in November or December that would trigger a federal rulemaking process for a proposed delisting. There would be another opportunity for comment as well. Unlike Yellowstone, at the same time of the delisting proposal there was a hunting season proposal. That was a requirement of the federal delisting proposal. We are not looking at that with the NCDE. You will notice that we have not talked about hunting seasons or regulations. That is something that we would consider later if the Commission and the Department decide to approve that. Just to clarify a point is that under the mortality thresholds that Ms. Costello talked about; that if hunting was allowed, it would be an additional type of mortality that we would have to fit under the thresholds. If the Commission adopts the rules and the thresholds, that would dictate if there would be a hunting season that includes the demographic monitoring area. He can answer any questions. Thank you.

Proposed Motion: Commissioner Aldrich moved and Commissioner Brower seconded the Fish and Wildlife Commission propose administrative rule language and provide the public an opportunity to comment on the demographic objectives adopted from the Conservation Strategy for the Grizzly Bear in the Northern Continental Divide Ecosystem.

Vice Chairman Stuker asked if 1, 2, and 3 management zones are delisted under this we would have authority but, outside that they would not. Is that correct?

Mr. McDonald stated that we would anticipate that U.S. Fish and Wildlife Service and their proposed delisting rule would also propose a distinct population segment (DPS). The map you have is a draft of what that DPS might look like. Ultimately that will be up to the U.S. Fish and Wildlife Service through the federal rulemaking. We are confident about the north, south, and west boundaries. The east boundary you can see as a dotted line because that has not been finalized. The east line is what was in the 2012 draft

because that is what is what went out for public comment. We left it there as is for the conservation strategy. The final delineation of what gets delisted will be determined by the U.S. Fish and Wildlife Service.

Public comment.

Helena Region 3

Nick Gevoc, Conservation Director, Montana Wildlife Federation, stated he thinks this is an impressive presentation by the Department. Montanan's should be proud of this and to look at where we are with grizzly bears. The goals in this are excellent. We have a healthy population of bears and hopefully continue to build on that population. In March, there was a large meeting of conservation organizations and Director Williams was able to attend. They talked about where we are with grizzly bears in the northern Rockies and the Yellowstone ecosystem. Right now, the populations are only 70 miles apart in the Yellowstone and the neighboring continental divide. That is not wandering bears. That is established bears. That is why we are so committed to the prevention work. He received a nice note form one of the FWP staff and we were able to get carcass management going in conjunction with the National Wildlife Federation, Montana Stockgrowers Association, and several other partners. There was a female with two cubs going into a bone yard. They cleaned up the bone yard and hazed the bears. They never came back. That is three bears that are still alive, cattle that are still alive, and people that are less stressed.

We have a carcass pick-up program in the Centennial Valley that is in its second year. The efforts are gaining steam. What is apparent is we know how to live with grizzly bears in the middle of the Bob Marshall Wilderness. The challenges are out in the other areas. Any time bears show up for the first time it is difficult. The Department did great work on this plan. If you sum up Ms. Costello's presentation, it is not like counting elk on a winter range. It is a species that is very difficult to count. The agency has shown a great deal of professionalism.

When we talk about the expanding areas and we saw Frank Banvannon's presentation, the areas where grizzly bears are occupied was 80 percent public land and 20 percent private land. The areas they are moving into are basically 50/50. That is why it will be difficult. We can learn to live with them. We support this plan we think it's excellent. It shows what a great Department we have. Thank you.

Hal Harper, Helena, greeted the Commission and stated that he was thankful for the Montana Administrative Procedure Act. When it was decided that it was going to be a rule would guarantee that there would be public comment. That is the way we like to do things in Montana. Your commission is on the tip of the spear for the State of Montana. We know what the grizzly means to the State of Montana, the tribes, the nation and the future of wild places. When we move forward with delisting, he is not sure how much control the Commission will have over that. When you sign, please be cognizant of the two Indian tribes as their signatures are crucial on the document and try to get their input. He is proud of the Commission and what they have done. The Commission has done everything in their power to ensure the grizzly population is growing and stable.

Right now, what you have control over is mortality. He realizes that everyone will do what they can regarding hunting and safe highway crossings as well as help landowners with management of the bears. Right now, the Department does not have control over habitat. That is a big component of whether the bears are going to survive. The Department and the Commission will have to rely on other agencies and landowners to help with this. The existing wildlands in the State of Montana are the reason that we have a recovering grizzly bear population. It is critical that the wildlands do not shrink and that they remain wild. He thinks it would be most helpful if Senator Daines and Representative Gianforte would immediately

abandon their plans to shrink wildland habitat in the State of Montana. If they truly want to help delisting of this magnificent species, then we need to preserve our wildlands. They are getting squeezed out and we all know that. Give the Montana grizzly the best shot at survival for the future. Do what you can to preserve the wildlands of Montana. Thank you.

Frank Struges, Law Clerk, Western Environmental Law Center of Helena, stated that he wanted the Commission to know that the law center endorses robust public comment period on the conservation strategy. He wanted to emphasize that Montanans have not really had an opportunity to comment on the final conservation strategy. As for the draft that went out five years ago, a lot has changed since then. This includes populations, legal status of bears in Yellowstone, and food sources. With some of the changes that were mentioned in the presentation earlier, we think it important to have a robust public comment period opportunity. It is important that the public know what these changes are. In May, there was a meeting that took 90 minutes to explain the changes between the draft and the final conservation strategy. We want to make sure that Montanans get a chance to comment and are informed. Montanans really care about grizzly bears and their management. Grizzlies are a big economic driver. We want to make sure before this gets signed that there is an important public comment period. It appears that this is something that the Commission is considering as well. Thank you.

Butch Gillespie, Marias River Livestock Association, greeted the Commission and stated that he would like to see this go forward. He wishes that this would have started a long time ago. He feels that it very important that we move on and a lot of adaptations have to happen. Economics are involved as well. It is not all positive. The grizzlies are here and we don't want to go back to where we were and have to start over again. He feels that everyone agrees with this. Thank you.

Bozeman Region 3

Glen Hockitt, Volunteer President, Gallatin Wildlife Association, greeted Commission and stated he thinks that conductivity should occur before delisting. He agrees with Hal Harpers comments. He feels that habitat is key and getting the tribes to sign on is important. He really appreciates and support Hal's comments. He wanted to read a section from the Demographic Monitoring Management. Mr. Hockitt appreciates the language that the Department uses in trying to maintain a minimum number of bears. It says in the manual that manage mortalities from all sources to support a 90 percent or greater estimated probability that the grizzly bear population within the DMA remains above 800 bears. That is different than the paper that he would like to admit for record. It is called *Trail at All* from 2010. This is a critical review of literature on viable wildlife populations. It shows that if you had 800-900 animals, there would be a 90 percent chance of that population persisting for ten years. That is significantly different.

He feels that the minimum grizzly population should be bumped up to 1000. The document talks about being able to achieve a goal of 800 bears that you would really be managing for a population of 1000. We don't want to forget that this paper outlines that is a viable minimum population. We are managing at the edge of the extinction vortex. He hopes that is not lost track of. He suggests that the language suggest managing for more than a 1000; That way you will have a better probability that these animals will continue to exist for 100 years. The Department and everyone will show cooperation to build more awareness and tolerance for the bears. As Mr. Harper pointed out, protecting wildlands are critical to keep habitats for bears.

He read from a paper called the *Pragmatic Population Viability Targets in a Rapidly Changing World*. This article looks at a variety of different species. The article covered a literary review. Long term persistence and evolutionary potential required a number of individuals often greatly exceeds the targets proposed by

conservation management. They critically reviewed population size requirements on species based on empirical and theoretical estimates made over the past few decades. This literature collectively shows that thousands not hundreds of individuals are required for a population to have an acceptable probability of riding out environmental fluctuations and catastrophic events. Ensuring the continuation of evolutionary processes. The evidence is clear that policy does not reflect these findings. That is often because of the politics. He appreciates the Department building on scientific foundations, but he thinks the article he read will help. I hope the Commission will consider this. Thank you.

Missoula Region 2

Mike Vador, Missoula, stated that he supported Mr. Harper's statements as well as Mr. Hawkitt's. He supports holding public comment periods. He requests that one of the hearing be held in Missoula. Missoula has over 100,000 residents living on the edge of the NCDE. He would like to see FWP compile and publish a written response of public comments at the hearings. He would also request that there is a truly independent peer review of this by truly independent scientists that have no contract history with the State. Thank you.

Lee Metzcar, Population Ecologist, stated that he has experience with grizzly bear population dynamics. He appreciated the opportunity to comment today. He also appreciates the excellent work of Dr. Costello. He finds it fascinating and very valuable. He would like echo the request for public comment especially for one to be held in Missoula. As a population ecologist, He would like to echo other comments made earlier about true stability of the lower 48 states be achieved only when we have achieved conductivity between the northern Continental Divide, the Yellowstone, and other ecosystems. The criteria of 1000 animals does not meet the staple population that can endure in perpetuity. We should keep that in mind as the overriding goal. He would like to support Mr. Vador's comment to request the reports and monitor the program. He would like to also see this submitted for outside peer review. Thank you.

Bethany Cotton, Wildlife Program Director, Wild Earth Guardians of Missoula, stated that they support the public comment period as it is quite imperative. She appreciates the public hearing as well. She also supports having the hearing in Missoula and the regions impacted by the NDCE decisions. She wanted reiterate a few things. The summary that the Department provided to you noted that a previous was presented to the public. It is quite important to note that the draft is over five years old. The public comment period for that draft closed over five years ago. Very significant changes have occurred on the ground in terms of federal and state management including significant forest management changes within the NCDE as a well as the status of the greater Yellowstone of grizzly bear populations not having protections.

To illustrate that at an IBC meeting that she attended, it took the agencies including Dr. Costello over 90 minutes to just summarize the differences. That was before the new conservation strategy was released to the public. Again, there has been no public comment on the new conservation strategy by any federal agency. While they are very much in support of the State putting chapter 2 out for public comment, we do hope that you move forward with that proposal. We continue to have concerns that the complete conservation strategy is not in any meaningful way had a public comment period. We would ask the State to support requests to the federal agency to go ahead and do that. Ms. Cotton asks that the State not sign the conservation strategy until the public comment and comprehensive federal comment period is held on the complete document. Please do not sign off until both public comments periods are completed.

Montanans love grizzly bears. It is clearly important. Just in the last few weeks we have seen the new economic data and the drivers of eco-tourism of our wildlife to our economy. It's important that we take the decisions seriously and we look at the emerging threats so the public can fully engage. They also endorse

that there be an independent peer review of all the proposals. We thank you for your efforts here today. Thank you.

Patricia Aims, Missoula, stated that she is here to support the proposal and to have a public comment on chapter 2. She thought that this is what it was mostly about. If she had known otherwise she would have been better prepared with more comments. She agrees with some of the others as they are not wanting the proposed hearing to preclude any opportunity for public comment on all six chapters since there have been significant changes. Four generations of her family have lived in Montana and she has spent her life in grizzly country. Ms. Aims loves grizzly bears and wants to make sure that we protect them in every possible way. She hopes that there is an adequate habitat plan as well as other plans in place for the grizzlies. Thank you.

Claudia Narcisso, Montana Chapter of the Sierra Club, stated that she was impressed with Mr. Harper's comment regarding wildlands are key to connectivity and current recovery. She encourages the Commission to do what it can to protect that. She wanted to comment on support for chapter 2 of the conservation strategy comment period. She would like to request that a written response of the comments be available to the public and how the comments were considered. She would anticipate that there would be given an opportunity for a more comprehensive review of the full conservation strategy as promised by the Fish, Wildlife and Parks. Ms. Cotton gave a nice summary for that. She supports Ms. Cotton's comments and echoes that as well. Thank you.

Erin Edge, Defenders of Wildlife, greeted Commission and stated that Defenders of Wildlife wanted to support the comment period and the hearings that were mentioned. This allows the public opportunity to comment on some demographic objectives lined out in the rule and conservation strategy. The conservation strategy specifically and do not expect to see any other public comment. This does give the public opportunity and give their thoughts. Thank you.

Kalispell Region 1

Arlene Montgomery, Program Director, Friends of the Wild Swan, stated that she appreciates Fish, Wildlife and Parks, proposing this rule for grizzly bear demographic objectives for the NCDE. This is only one part of the grizzly bear strategy that deals with the population objectives. It does not address habitat, conductivity between ecosystems, and the impacts of forests and highways have on grizzly bears. These are important perimeters that determine population increases or decreases. This years' bear mortality already exceeds the conservation strategies allowable threat threshold. There are still a few months to go before the bears start to prepare to den. A rule that focuses solely on counting bears and modeling population does not represent the full extent of what is necessary to recover grizzlies. Habitat and conductivity must be included.

She also echoes some of the previous comments that the rulemaking process allowing the public to comment on the entire process of the conservation strategy which was promised by the U.S. Fish and Wildlife Service. She looks forward to submitting written comments on this rule.

Keith Hammer, Swan View Coalition, greeted Commission and stated that he appreciated the comments periods on the demographics that are generally shown in chapter two of the conservation strategy. As many other have stated, that is not the public review and we do not want this to be construed or misconstrued as being the public comment period that is required for the conservation strategy. We were presented this morning with a frequently asked questions sheet on FWP letterhead. It basically follows FWP's conservation strategy that the public has had many different opportunities along the way to comment on the whole strategy. The public will have this opportunity if it is approved by the Commission to comment on a

portion of it. Eventually, U.S. Wildlife Service will propose a delisting at some point and we can comment on it then.

He has a letter that the U.S. Wildlife Service promised the public on June 19. This letter was presented to Martha Williams, every member of the grizzly bear committee, that presented in the meeting in Polson. What it promised was the U.S. Wildlife Service will make the revised conservation strategy available for public comment. He doesn't agree that the public should get to comment on this when it is final. Others have articulated that this has been since 2013. The Commission was provided with a briefing packet of 15 or more pages from the conservation strategy. If you notice, every chapter was subject to changes. As Ms. Cotton noted, it took over 90 minutes to be verbally outlined at the meeting. We would like to stress that even though it is a good idea to have a comment period on chapter two that Fish, Wildlife and Parks is taking responsibility for. This is not the full public review the U.S. Wildlife Service promised. He also wanted to comment about some of the things that was said about conductivity.

The things you heard from Dr. Costello and some of the others today of the population numbers. Peck's also did research to see if the populations were moving between the Northern Continental Divide and the Yellowstone ecosystem. The study generated some very pretty maps, that showed what bears can do and the most likely areas they would travel. They ran the program 20,000 times and failed in getting any of the male grizzlies making it to one ecosystem to the other in a bear season. It means that the bears in the low lying intervening areas that are not our public wildlands associated with the deaths of the bears on the highways in the Mission Valley. It shows that the male bears cannot make it across the intervening areas in a single year and they need to be able set up shop in home ranges in between the ecosystems. This is going to require more than 800-1000 grizzly bears in the northern continental divide ecosystem. It would be true for Yellowstone. While there is some expansion of the grizzly bear range. We are nowhere close to connecting the ecosystems. Dr. Metzcar mentioned earlier that this is what is essential to connect the ecosystems and grow the bear populations for delisting. Thank you.

Brian Peck, Wildlife Consultant, Columbia Falls, greeted Commission and stated that the elements of the NCDE Conservation Strategy, something the U.S. Wildlife Service committed to doing before 2016. They recently went back on their word at a recent subcommittee meeting. You are to be commended for action in place of theirs. However, there are several issues to be aware of. The comment period brought up by FWP no absolves the U.S. Wildlife Service from keeping its word and responsibility to hold the promised comment period on the conservation strategy. The FWP address the rulemaking only on chapter two. It is the entire document that is to demonstrate adequate regulatory mechanisms where grizzlies can be delisted. It's the entire document the FWP will be asked to sign on before the strategy will go into effect. Please expand the scope of the public comment period to include the entire strategy and push the U.S. Wildlife Service to do the same. The Commission has tremendous leverage here. Without your signature, there is no final conservation strategy. You have the power to ensure that the conservation strategy follows the science and obeys the law. This is something that the current document does not do.

In all the pronouncements to the media and the public, both FWP and the U.S. Wildlife Service count the success of grizzly recovery because the NCDE has 1,000 or more bears. 2.3 percent population trend rate, and full occupancy of bear management units. The proposed rule that you are considering only commits to protecting a population of 800. That is a sanctioned 20 percent decline. If you had 1,000 dollars in the bank, you wanted to withdraw it and they only wanted to give you 800 of it, you would be looking for another bank. This is the same thing. The conservation strategies goal is to have a stable increasing population. Agreeing to protect 800 bears when you already have over a thousand is not stable for increasing. Additionally, the current adult female survival rate of 94.7 percent should be the objective not the lower 90 percent that we see in the rule.

Finally, it is important to remember that in 1997 which was 21 years ago; the federal court told the U.S. Wildlife Service they could not base the claims of recovery on population size, trend and habitat occupancy. They had to develop habitat base criteria detailing the quantity and quality of habitat necessary to reach and maintain recovery. Yet the U.S. Wildlife Service and the current conservation strategy have refused to do so. Instead listing habitat recovery measures dealing primarily with habitat security but, not with quantity and quality and productivity as required by the court. FWP with its top notch grizzly biologist knows infinitely more about grizzly bear habitat quality and locations than anyone at U.S. Wildlife Service. The Commission has the unique opportunity to push the U.S. Wildlife Service to comply with the law and assist them in doing so. He hopes the Commission will take that challenge instead of letting the U.S. Wildlife Service continue heading off a dead-end cliff. Thank you.

Other Regions

No Comments.

Butch Gillespie, Marias River Livestock Association, wanted to add to his earlier comments. He stated that what is troubling is that there was not one comment on bears that are as far out as the middle of Montana. He thinks that there even more east of the surveillance area. As the population grows, it will push more bears out to the eastern region of Montana. He wondered if we had the whole state covered with bears before we have enough. This is something that we should consider.

Commission Comments

Vice Chairman Stuker stated that in 2002 there was a bear recovery plan EA written by a biologist who is no longer with the Department. What concerned him was a paragraph that the grizzly recovery will affect livestock and agricultural industries and other individuals. This will have minimal effect on the State so there shouldn't be any worries. He feels that even though there will be minimal effect to the State, there will be to individuals. he supports the strategy. We need a conservation strategy. We need the grizzly delisted so that we can better manage the bears. We need to take everything into consideration as we move forward. Thank you.

Commissioner Aldrich wanted to make sure that everyone is looking at the same context of this rule, the strategy, and the time frame of the various things people were talking about. As a Commission, we are looking at this proposed rule. We got beyond that with all the questions and answers that were brought up around the State. He wants to make sure that he is looking at this right. It will be a larger context at some point but, right now it's just this rule.

Ken McDonald, Wildlife Division Administrator, stated that was correct. It is just the proposal that you have before you are the demographic objectives. That is the area that FWP has the ability to manage and has authority over. That is what we are looking for. As far as the habitat chapter, some of that area is U.S. Forest Service land. The U.S. Forest Service has their own forest planning process to incorporate the habitat objective from the conservation strategy into their forest plan. There are five forests that impact part of the NCDE. There was a public process for that. That is part of the primary chapters about that. The other items address conflict management, coordination, and didn't change much from the earlier draft. In the conservation strategy, there is a whole section on how things have changed and how comments should be addressed. The key components are being addressed through separate processes.

Chairman Vermillion stated that Commissioner Aldrich is correct in some of the comments. This emphasized how everyone has issues on how the U.S. Fish and Wildlife Service has handled some of the delisting and public comment process. He thinks that this conversation has shown time and time again that how the State has managed wolves over time has shown we are pretty good at doing these kinds of things. This Department is filled with some really great people.

This Department has consistently set the standard for conversations and communications for the local communities. It's not without issues or disagreements. With the commission set up that we have, the biologists, wardens, and regional offices across the landscape Montanans have the ability to interact with the people who are putting together the science and give their input along with the decision makers. What he has learned from his time on the commission is that good management gives Montanans the most flexibility when it comes to managing species. Montana has consistently, unlike some of its neighbors, shown that a long-term perspective in respecting the wildlife populations and understanding their economic value. We understand how they impose and impact landowners. Going forward if people want to see the bears spread out in the prairies and traditional habitats, the only way that is going to happen is with local conversations based on good science. Landowners in particular, need the flexibility to have tolerance. We need to understand that the bears cannot exist without the tolerance of the landowners. The way to build that tolerance is through conversations and long term relationships between the Department and scientists. This is something that the Department is good at. It is an honor today to be able to put this rule out because it shows that his process can work.

If you look at where we were with bears in 1974 when they were listed, the bears were on a downhill trajectory. The Endangered Species Act stepped in. Many people think that Endangered Species Act is controversial and puts shackles on landowners but, we wouldn't be here today having this conversation without it. We wouldn't be here today without a lot of the nonprofits, U.S. Fish and Wildlife Service, and the landowners. There is a collaborative process that must take place for the bears to survive. He thinks everyone is on the same page and has done a wonderful job. The presentation shows why he has faith in the Department's ability to manage this resource. There is going to be a lot of tough conversations that have to occur. He thinks that it is important for people who don't live in towns like Valier, Augusta, Choteau, or Fort Benton to understand how the bears affect the landowners. If there is no fundamental understanding or to be open to the idea that the impact is real and how it affects the ability to tolerate bears on the landscape, people are missing an important piece to the puzzle.

This is the beginning of a process. Once the State takes over the management of the bears, it will be up to all of us to help create a natural and social habitat that will allow the bears to survive. Montanans cannot be at odds. It will take all of us to work together. If we do, it will show that the bears will be here for our grandchildren to see and that is important.

Motion Passes 5-0

14. Selection of Organizations to Auction 2019 Moose, Sheep, Goat, Mule Deer and Elk Licenses

Background: ARM 12.3.131 & 12.3.132 establish the criteria and process for selecting conservation organizations to conduct the moose, sheep, goat, mule deer and elk license auctions/lotteries. The Department solicited proposals to conduct the auctions/lotteries. The Commission decides which organization is awarded the license(s) for distribution through auction or lottery. The 2018 species

auction licenses were awarded to: Rocky Mountain Elk Foundation (RMEF) – elk, Mule Deer Foundation (MDF) – mule deer, Wild Sheep Foundation (WSF) – bighorn sheep, Safari Club International Great Falls (SCI-Great Falls) – goat, Montana Ducks Unlimited (MTDU) - moose. All licenses were auctioned at fund raising events.

Public Involvement Process and Results: *A press release and notice on the FWP website for solicitation of interested organizations were completed this year. A letter of solicitation was sent to cooperators that have expressed interest. Responding proposals for 2019 licenses came from the following: Wild Sheep Foundation for the sheep, Mule Deer Foundation for the mule deer; Rocky Mountain Elk Foundation for the elk and moose licenses; Safari Club International Great Falls for the goat license; Montana Ducks Unlimited for the moose license and Grand Slam Club/ Ovis for the moose, sheep or goat license.*

Alternatives and Analysis: *This format has been successful and the Department has not utilized another alternative. Interest in obtaining and aggressively auctioning these licenses has remained high with these responding conservation organizations at least. Further, many of these conservation organizations have effectively and significantly partnered with FWP on other conservation and management efforts.*

Agency Recommendation & Rationale: *The Department typically does not make a specific recommendation to the Commission in terms of which organization should be awarded which license and has been asked by the Commission to merely pass along the proposals submitted. Most of the organizations will have a representative at the Commission meeting to answer any specific questions.*

Hank Worsech, Legislative Liaison, Fish, Wildlife and Parks, greeted Commission and asked if they have the packets for the organizations wishing to participate. As you can see from last year's information, the moose went for \$30,000, at Montana Duck's Unlimited auction. The Wild Sheep Foundation sold the sheep license for \$340,000, the goat sold at the CSI Great Falls for \$30,000, the elk sold at the Rocky Mountain Elk Foundation auction for \$35,000, and the deer license went for \$29,500 at the Mule Deer Foundation auction. There is representation from several organizations and he would like to give each of them a moment to speak.

Chairman Vermillion stated that each organization will come up and have a chance to speak. The Commission would like to hear about what they do and the type of conservation programs they have helped with in Montana. The type of conservation is a primary focus.

Mr. Worsech introduced a new club that was applying called the Grand Slam Club. There is a representative that came a long way to talk to us today.

Dale Martin, Director, Grand Slam Club, stated in 60 years they have never solicited a game tag. We have had organizations come to them such as Nebraska whose big horn sheep tag went for \$130,000. That was a new record. We have 4,400 members around the world in 40 countries. To give you an idea of what we did last year, we added up the convention expenses that equaled 100 million dollars. Our theme is "Hunting is the Number One Conservation Tool". We have never had to solicit a tag but, because of the quality of your tags, when you asked us to be here we came.

We have a program called Super Slam. That is the North American 29 big game animals. The single tag that we are interested in is the Shiras moose. Of the 29, there are three moose, Alaskan Yukon, Sitka Canadian, and the Shiras. The Shiras is the most difficult to get. We have a number of members that need a Shiras moose tag. We think that this is of great interest. This is what we will do if we are awarded the tag:

1. We will feature this in the magazine just before the convention.
2. It will be featured in the auction booklet that comes out just before the convention. This also tells them how to bid on the tag. The internet bidding is open to the whole world.
3. We will send out 30,000 email blasts to our members.
4. We will invite two of you to come to the convention and set up in the exhibition area.
5. The organization typically gets ten percent of the tag sale. For this, we would only take five percent.

This is what we have planned. If the economy is good he thinks the tag will do well. Thank you.

Robert Sanders, Manager of Conservation Programs, Ducks Unlimited, stated they are interested in the moose tag for 2019. Ducks Unlimited has been a long-term partner with FWP delivering habitat recovery programs since 1984. We have delivered over 170, 000 acres of conservation projects across the State. We have about 7, 000 members in the state of Montana. Our members enjoy having this tag. Over the past few years we have averaged around \$38,000 per year. No other conservation organization has worked as much as ours to conserve the wetland habitats which help the moose in Montana. The tag is auctioned locally at our Helena Banquet. Ducks Unlimited appreciates being part of this. We appreciate your time. Thank you.

Brian Solan, Executive Director, Montana Wild Sheep Foundation, wanted thank the Commission for being considered for the sheep tag. He advised that he brought props for the presentation. One of the tags they auctioned produced a Wild Horse record ram of 216 3/8 inches. Some of the proceeds are used to produce and auction off replicas of the rams. Money raised is used to help state parks, especially Wild Horse. This tag above all others, is special and creates a lot of good programs including the statewide bighorn research program that is doing some great work on the diseases that affect the sheep. We have supplemented that work with Montana Wild Sheep funding for a genetic pilot study, purchase collars for translocations, and supplementing that on the ground in Montana. Thank you.

Clay Brewer, Biologist, Montana Wild Sheep Foundation, greeted Commission. He stated that the mission of the foundation is simple. They want to keep the sheep on the mountain. Although getting a tag is impressive, it is not the sole reason we do this. The resource comes first in every decision we make. It's not all about hunting or trophies. These are just products of good management. Mr. Chairman I was glad to hear you mention your staff earlier. He has shared the WAFWA wild sheep group for years. He works with Bruce Sterling, Tom Carlson, Ken McDonald, and I don't think anyone does it better than your staff to preserve the heritage of this great state. We have partnered with the Wild Sheep Foundation since 1986. Between auction tags, grant programs, and many other things, we have put nearly seven million dollars into work on the ground in the state of Montana. We look forward to your continued partnership. Thank you.

Patty Ehrhardt, Former President, Safari Club International of Great Falls, stated they have held the goat license for the last eight years. During that time, we have given back \$154,000 to Fish, Wildlife and Parks. We have given over \$100,000 in projects. We work with the local biologists and have transplanted goats twice now. We are looking at a third and have donated considerable money towards that. The primary purpose of our organization is to promote hunting, to keep it alive, and to conserve the animals. We have done a lot of projects regarding this. Our banquet went on line three years ago. We have sold the license as far as South Carolina. This year it went to a gentleman in Wyoming. Who will be bidding on it again. Right now, we are working with FWP on the sage grouse and an elk calf study this spring. We are

also working on a project to clear some land for the mountain goat. We have enjoyed working with you and hope that you will consider us. Thank you.

Vice Chairman Stuker asked that Ducks Unlimited have a lot of bids from out of state. He understands that the auction is held in state but, do bids come from out of state?

Robert Sanders, Manager of Conservation Programs, Ducks Unlimited stated that it is a combination of both. We have bidders in person typically 3 or 4 and depending on the RSVP of people that phone in advance. We then will have phone bids as well. Thank you.

Proposed Motion: Vice Chairman Stuker moved and Commissioner Brower seconded the Commission approve Rocky Mountain Elk Foundation to be awarded the 2019 elk auction license, the Mule Deer Foundation be awarded the mule deer license the Wild Sheep Foundation be awarded the big horn sheep license, the Safari Club International of Great Falls be awarded the mountain goat license, and Montana Ducks Unlimited be awarded the moose license.

Chairman Vermillion stated he realized that the Grand Slam Club traveled a long way to be here today and these are never easy decisions. Sometimes it takes a couple of appearances to start to develop a network. He advised that when he decides on these, he looks at conservation work and collaboration with FWP and the local communities. He looks at what is being done to perpetuate and propagate these species. He supports the motion.

Vice Chairman Stuker added that he appreciates Grand slam for coming. We hope that you do come again and give a more information on conservation programs and how you would help Montana or if you have in the past. This also what he looks at when determining licensing awards. We hope to see you next year. We would like to see a proposal that shows conservation work in Montana or the other states that you may be working with. Thank you.

Motion Passes 5-0

15. Nongame Check-Off Workplan

Background:

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." While final 2017 tax year donations are unknown at this time, the average received by FWP from the 2004-2016 tax years was \$30,000/year. FWP is proposing some combination of the following work in FY19 dependent on the final allocation:

- | | |
|------------------------|--|
| <i>\$ 5,000</i> | <i>Inventory, monitoring, and conservation work on Montana species of concern and species in need of inventory as determined through a formal ranking process.</i> |
| <i>\$15,000</i> | <i>Non-federal match for a project to learn more about bat roost sites and winter hibernacula in the face of an impending disease.</i> |
| <i>\$ 5,000</i> | <i>Wildlife viewing and outreach projects that encourage more Montanans to appreciate Montana wildlife.</i> |

\$ 5,000 *Competitive graduate student stipend for nongame research.*

Public Involvement & Results:

Four comments were received, all in support of this proposal and generally in support of nongame wildlife conservation.

Alternatives and Analysis:

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. Tax check-off funding is used as non-federal match for federal State Wildlife Grants and other federal grant awards to address high-priority habitat, survey and inventory, and species conservation needs. Alternatives could include allocating more or less among these categories.

Agency Recommendation & Rationale:

FWP recommends the commission give final approval to fund the proposed work with nongame tax check-off funds.

John Vore, Game Management Bureau Chief, Wildlife Division greeted Commission. He stated that the Commission annually reviews and approves the nongame projects that are being worked on by the Department. FWP is proposing some combination of the following which could be inventory conservation work as stated on your sheets as well as non-federal match for a project to learn more about bat roost sites and winter hibernacula in the face of an impending disease, wildlife viewing and outreach projects that encourage more Montanans to appreciate Montana wildlife and competitive graduate student stipend for nongame research. We received four comments all in support of the proposal and generally in support on nongame conservation. Are there any questions?

Proposed Motion: Commissioner Brower moved and Chairman Vermillion seconded that the commission approve the proposed Nongame Tax Check-Off Workplan for fiscal year 2019.

No Comment.

Motion Passes 5-0

16. Nevada Lake WMA Forest Habitat Enhancement Project

Background:

FWP has proposed a forest habitat enhancement project on 465 acres of the Nevada Lake WMA (near Helmville in Powell County) for the purpose of: improving elk and deer winter forage, restoring historically open-stand conditions dominated by large-diameter ponderosa pine, restoring a stand structure that allows fire to burn at a low-severity appropriate for the historic fire regime, recruiting ponderosa pine regeneration, and reducing fuel loading. The treatments would enhance forest and grassland vegetation that provide a valuable source of seasonal forage and cover for wildlife. Treatments would include enhancing aspen stands, thinning understory ingrowth, and improving forest resiliency by reducing fire risk and beetle-infestation risk.

Public Involvement Process & Results:

FWP released a draft environmental assessment seeking public review of the proposed project on April 25, 2018; it was available for public comment for 30 days. A legal notice of the proposal and availability of the draft EA was published in four newspapers. FWP mailed 27 printed copies of the draft EA and emailed approximately 28 notifications of the EA's availability to adjacent landowners, interested individuals, groups and agencies. FWP received four comments total, all from individuals. Two comments supported the project, one did not indicate support or opposition, and one opposed the project.

Alternatives and Analysis:

If no action were taken, FWP expects that valuable wildlife habitat, including critical ungulate winter range would continue to deteriorate due to current forest conditions, and the risk of insects, disease, and high-intensity wildfire hazard would continue to increase.

Agency Recommendation & Rationale:

FWP recommends the commission approve the proposed action to move forward with project implementation to achieve habitat benefits, including the long-term availability of forage on elk winter range and other wildlife habitat values.

Jason Park, Forester, Wildlife Division greeted Commission. He stated that this item on the agenda involves the sale of timber. This has cash value and the Commission has the authority to approve the project as timber is considered real property. FWP has proposed a forest habitat enhancement project on 465 acres of the Nevada Lake WMA. This is for increasing deer and elk winter forage as well as restoring historically open-stand conditions dominated by large-diameter ponderosa pine, restoring a stand structure that allows fire to burn at a low-severity appropriate for the historic fire regime, recruiting ponderosa pine regeneration, and reducing fuel loading. The treatments would enhance forest and grassland vegetation that provide a valuable source of seasonal forage and cover for wildlife. Treatments would include enhancing aspen stands, thinning understory ingrowth, and improving forest resiliency by reducing fire risk and beetle-infestation risk. We had put this in at a previous commission meeting a few months ago. They had a late comment come in that they felt should be addressed. We delayed until this meeting. FWP recommends the commission approve the proposed action to move forward with project implementation to achieve habitat benefits, including the long-term availability of forage on elk winter range and other wildlife habitat values.

Proposed Motion: Commissioner Aldrich moved and Commissioner Brower seconded the commission approve the Nevada Lake WMA Forest Habitat Enhancement Project.

No Comments.

Chairman Vermillion stated that it's good to see the Department working on projects. You can see in the old pictures compared to the current ones that there is a difference. The habitat enhancement projects considering the world we live in, are a good way to get the areas productive.

Motion Passes 5-0

17. Robb-Ledford WMA Aspen Enhancement Project

Background

The Robb-Ledford WMA provides year-round habitat, including critical winter habitat, for elk, mule deer, moose, pronghorn, greater sage-grouse, and ruffed grouse. Bighorn sheep occupy habitats in close

proximity to the proposed treatment areas. FWP is proposing to implement approximately 44 acres of aspen enhancement treatments through contracted harvest of conifer trees that have commercial value and lop-and-scatter of trees with no commercial value. The proposed project is adjacent to an ongoing FWP conifer removal project aimed at maintaining sagebrush grassland. Aspen woodland habitats were identified as Tier 1 Community Types of Greatest Conservation Need in the 2015 FWP State Wildlife Action Plan, because of their relatively limited abundance and the high plant and animal diversity they support. The greatest conservation threats are considered to be fragmentation and reduction due to human-related development and forest succession. Forest succession — that is, shading out and competition by taller conifers — is expected to functionally eliminate the current aspen-dominated habitat patch within 40 years without wildfire or a forest treatment.

Public Involvement Process & Results

This project proposal has been discussed with local sportsmen's interest groups, livestock lessees, neighboring state and federal agencies, and other interested parties. The ongoing Robb-Ledford and Blacktail WMA Conifer Removal Project, treating expanding conifers in sagebrush grasslands, was vetted through the Sheridan area wildlife biologist interested-persons email list and through an environmental assessment process. Public comment was limited but exclusively supportive. Upon endorsement, FWP would complete further public scoping and analysis in the form of a draft environmental assessment and associated public review.

Alternatives and Analysis

No action would result in perpetuating the current condition and, barring the occurrence of a natural disturbance event, conifers would continue to outcompete aspen and decrease in abundance within the proposed project area until the aspen stand would no longer sustain itself. We estimate that through time the aspen-dominated patch would be continually reduced, resulting in reduced carrying capacity for wintering moose, reduced fawn-rearing habitat and late-fall browse resources for mule deer, reduced winter browse for elk, loss of existing ruffed-grouse habitat, and reduced surface water flowing from existing localized springs.

Agency Recommendation & Rationale

FWP recommends the commission endorse this project, which would allow FWP to develop an environmental analysis and additional public review. Implementing the proposed treatment is expected to enhance aspen and support productive wildlife habitat for a variety of wildlife species.

Jason Park, Forester, Wildlife Division, greeted Commission. He stated this is an initial proposal. The Robb-Ledford WMA provides year-round habitat, including critical winter habitat, for elk, mule deer, moose, pronghorn, greater sage-grouse, and ruffed grouse. Bighorn sheep occupy habitats near the proposed treatment areas. FWP is proposing to implement approximately 44 acres of aspen enhancement treatments through contracted harvest of conifer trees that have commercial value and lop-and-scatter of trees with no commercial value. The proposed project is adjacent to an ongoing FWP conifer removal project aimed at maintaining sagebrush grassland. Aspen woodland habitats were identified as Tier 1 Community Types of Greatest Conservation Need in the 2015 FWP State Wildlife Action Plan. The greatest conservation threats are fragmentation and reduction due to human-related development and forest succession. It is expected to functionally eliminate aspen dominated habitat. This has gone 40 years without wildfire and forest treatment.

FWP recommends the commission endorse this project, which would allow FWP to develop an environmental analysis and additional public review. Implementing the proposed treatment is expected to enhance aspen and support productive wildlife habitat for a variety of wildlife species.

Proposed Motion: Commissioner Brower moved and Vice Chairman Stuker seconded the Fish and Wildlife Commission endorse the Rob-Ledford WMA Aspen Enhancement Project, allowing FWP to conduct further analysis and public involvement.

Chairman Vermillion stated that this another great project on a WMA.

Nick Gevoc, Conservation Director, Montana Wildlife Federation, stated he serves on the Beaverhead-Deer Lodge National Forest Group. Recently a forest-wide assessment was completed on aspen enhancement. This allows the Forest Service to go in and do the treatments without an EA with each project. This fits in beautifully with the surrounding national forest lands. It's a strong project and aspen need a lot of help. Thank you.

Chairman Vermillion stated that he was in Cooke City and a gentleman asked him about aspen stand enhancement. He had never heard about this. He asked Mr. Park to explain what this meant.

Mr. Park stated that historically when there was natural fire on the landscape, the aspen stands would see disturbance. A return interval that would keep conifers out and regenerate the aspen. Aspen is a young live species compared to the conifers that grow amongst it. Without having that natural disturbance occur at some point, we have to take a proactive approach. Aspen is a sun loving species. It needs moisture availability. The conifers compete with the aspen. We are trying to expand the footprint of the aspen back to what it's capable of. We would like to see the regeneration of younger trees as well.

Chairman Vermillion asked if it included cutting down the older aspen or mostly conifer and other trees to allow the stand to grow.

Mr. Park stated that it can occasionally. For this specific proposal, we are not asking that. We are primarily treating the conifers. Aspens are essentially one organism. So, for the saplings to regenerate the taller trees have to die. A disturbance would have to happen to allow the aspen to survive.

Chairman Vermillion stated that he was told that the aspen also had something to do with song bird habitat. There was a lot concern about the cutting down of the aspen around Cooke City. Aspen is good for birds.

Mr. Park stated that they are dynamic systems and extremely valuable to wildlife.

Motion Passes 5-0

18. W-Bar Conservation Easement

Background:

FWP proposes to pursue a conservation easement on 6,760 acres of deeded land in Wibaux County. This property comprises the largest intact parcel of Beaver Creek riparian habitat from its headwaters to the North Dakota line, encompassing over 11 miles of Beaver Creek and over 10 miles of Dry Creek and other tributaries. The woody draws on the property are impressive and numerous, offering critical winter cover for mule deer and whitetails (100% of the property is winter range for one or both species). The woody draws give way to shrubby hillsides and extensive native prairie uplands, providing excellent habitat for upland game birds such as sharp-tailed grouse, pheasants, partridge, and turkeys. The diversity and quality of habitat are valuable for nongame species. The property could potentially support over 40% of the State Wildlife Action Plan Species of Greatest Conservation Need. Beaver Creek supports native and introduced game fish species year-round and serves both forage fish production and gamefish rearing habitat for the Little Missouri drainage. The size and quality of habitat make the property a high priority for conservation.

Public Involvement Process & Results:

FWP has not sought any public comment at this time. Upon endorsement from the commission, FWP would conduct appropriate negotiations, analysis, and public review processes.

Alternatives and Analysis:

Proposed Action: Pursue the W-Bar Conservation Easement to conserve an important property for wildlife and provide perpetual public recreational access while keeping the land in private ownership.

No-Action Alternative: FWP would forgo the opportunity to conserve and enhance valuable wildlife habitats with a willing private landowner partner. Wildlife habitats on the property may change through time to be less productive and there would be no guarantee of public access in the future.

Agency Recommendation & Rationale:

FWP recommends endorsement by the commission, allowing FWP to proceed with further development of this conservation opportunity. A conservation easement would help ensure continued management for wildlife habitat productivity and public access.

Ken McDonald, Wildlife Division Administrator, stated they are seeking an endorsement on an easement. If you pass this today it would start the process for all the due diligence process. This is a conservation easement covering 6,760 acres Wibaux County. This is a large block that covers 6,760 acres and has a lot of woody draws in it. A lot of intact native habitat. Because of the diversity of the riparian component it can support up to 40 percent of the species in greatest conservation need. This is a really diverse habitat. We are seeking an endorsement today. We would proceed with all the due diligence including environmental assessment and public comment period and we would be back in the future with a final.

***Proposed Motion:** Vice Chairman Stuker moved and Commissioner Brower seconded the commission endorse FWP's proposal to negotiate the W-Bar Conservation Easement and complete associated due diligence and analysis.*

Chairman Vermillion stated that he hunted there a few years ago, and it is special country.

Nick Gevoc, Conservation Director, Montana Wildlife Federation stated that they are thankful to have landowners that are willing to work with the Department. Horse Creek is getting a lot of attention and this builds on it. It's a fantastic property. It will bring in more hunting and help the local economy. We support this. Thank you.

Motion Passes 5-0

19. Memorandum of Understanding between MFWP and USDI-Bureau of Reclamation - Freezeout Lake WMA

Background

A 20-year management agreement between FWP and the U.S. Department of the Interior, Bureau of Reclamation, for Freezeout Lake WMA (BOR portions thereof) is presented. FWP and BOR have previously operated on a similar 50-year agreement, which recently expired. BOR controls 6,040 acres (majority as water surface) within the greater 11,333-acre Freezeout Lake Wildlife Management Area. This agreement sets the sideboards for management of those BOR lands by FWP to include planning, development, construction, management, and operation and maintenance activities associated with it.

Such responsibilities also include the operation, maintenance, and replacement of any public recreation facilities. The previous 50-year agreement has worked well for both parties and subsequent public use, and it is expected that this new agreement will work in the same fashion.

Public Involvement Process & Results

On the heels of a satisfactory 50-year agreement, this new 20-year proposed agreement warrants no extended public involvement process. No substantial or significant adjustments are proposed to its operating environment.

Alternatives and Analysis:

Under a no-action alternative, an operating agreement for land and water management responsibilities would no longer exist. BOR would, by default, assume full management responsibility for their 6,040 acres. Management complexity and duplicity would ensue, given the juxtaposition of FWP-deeded acres and associated infrastructure. As proposed, this 20-year agreement would allow management responsibility and authority to be held by FWP in a fashion comparable to the previous 50 years. Public use of the entire area, including FWP and BOR lands, would continue in its present format and management status. There is a lot to be said for continuity of management practices and regulatory schemes as land managers and the recreating public use of this area.

Agency Recommendation & Rationale

FWP recommends final approval of the 20-year management agreement between BOR and FWP according to the terms and conditions as delivered in the final agreement, subject to commission approval.

Ken McDonald, Wildlife Division Administrator, stated that this is for a final approval on an agreement between FWP and the Bureau of Reclamation for agreement of management of Freezeout Lake Wildlife management area. The boundaries are about 11,300 acres. About 6,040 acres are controlled by the Bureau of Reclamation. This is the surface water and some of the land surrounding the surface water. There are maps in the packets showing this. We have had an agreement with the Bureau for the last 50 years that outlines management between the two agencies. This has expired so it needs to be renewed. The proposal is the renew the agreement for another 20-year period to continue the cooperative management. The agreement sets side boards for how FWP would manage the lands. This includes planning, development, construction management, operations, maintenance, and recreation management. The agreement has been seamless between the agencies for the last 50 years. There are no big changes being made. It is just a continuation of how we have been doing business. We are seeking your approval. This would be a final. We would like continue this for another 20 years. Thank you.

Proposed Motion: Commissioner Brower moved and Vice Chairman Stuker seconded the Fish & Wildlife Commission provide final approval of the Freezeout Lake Management Agreement between FWP and the USDI, Bureau of Reclamation.

No public comment.

Motion passes 5-0

20. 2018/2019 Furbearer & Trapping Seasons and 2018 Quotas

Background: Furbearer season structure and quotas are defined by the Fish & Wildlife Commission. FWP is proposing four changes for 2018/2019 as addressed below. All other season elements and quotas are proposed as unchanged from 2017/2018.

1) *Region 3: Decrease bobcat quota from 250 to 150.*

Region 3 is proposing this change because both the juvenile-adult ratio and the number of bobcats caught per day are declining, likely indicating a declining population. Also, trappers are reporting concerns about fewer bobcats and observing fewer rabbits, the bobcats' main prey.

2) *FWP is proposing to clarify the definition of a center swivel on the underside of a ground-set foothold trap to be a swivel within five chain links from the trap and the chain/swivel connected to the underside of the trap as close to the center as the trap design reasonably allows.*

3) *FWP is also proposing to clarify the language about trapping within 1000 feet of occupied dwellings. Below is the current language with the proposed new sentence highlighted.*

Occupied Dwellings – *Ground sets, including all snares, are prohibited within 1000 feet of an occupied dwelling without written notification of the occupant(s). This requirement does not apply to live cage traps or mouse and rat traps.*

4) *In the 2017 regulations, FWP tried to clarify where the roads and trails setbacks apply as "roads having any type of motorized use at any time of the year." This change was not brought to the commission because it was meant to clarify and not change the regulation. The 2017 language has led to more confusion and concern. Therefore, at this time we propose to go back to the 2016 definition of open roads and hiking trails as "designated by administrative signs or numbers." FWP is prepared to come back to the commission next year with language for the commission to act on based on further internal discussion, input from FWP's internal Regulations Review Committee, and the recently assembled citizen Trapping Advisory Committee.*

Public Involvement Process & Results: *Regional FWP staff attends annual district meetings of the Montana Trappers Association each spring. The public-comment period for the proposed changes was open from June 14 to July 15. We received 275 comments, which are included in the commission packet. The clear majority of comments were general anti-trapping. Many spoke to beaver management, were against trapping swift fox, and advocated a trap-check time. Comments that addressed the proposed changes were supportive.*

Alternative and Analysis: *Proposals 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.*

Agency Recommendation and Rationale: *FWP recommends maintaining 2017 structure and quotas except for the proposed changes above. This is consistent with existing information and represents reasonable and appropriate consideration of user groups and the continued presence of contemporary data in furbearer management that include trapping.*

John Vore, Game Management Bureau Chief, Wildlife Division, greeted the Commission, and stated that this is a final for the Commission to consider. At the June Commission meeting, there are three more things to be considered:

1. The decrease in the bobcat quota for Region 3 from 250 to 150.

2. Proposal to clarify the definition of a center swivel; the underside of a ground foothold trap to be a swivel within 5 chain links from the trap and the chain swivel connected to the underside of the trap as close to center of the trap design as reasonably allows. This is so when the trap is in the ground the trap can be set right in the ground.
3. Clarifying language about having traps within 1,000 feet of occupied dwellings. Currently occupied dwellings portion of the regulations reads ground sets including all snares are prohibited within 1,000 feet of an occupied dwelling without written notice to the occupants. We proposed to add to that stating this requirement does not include live cage traps, rat or mouse traps.

Mr. Vore stated there is a fourth item that was not included in June was brought to our attention about clarify what public roads were in the 2017 regulations. There is still some confusion on that. We are proposing to go back to the 2016 definition of roads. This would be “roads that are designated by administrative signs or numbers”. We had changed that to read “roads that having any type of motor vehicle use any time of the year”. This has caused confusion so we proposed to go back to the 2016 definition. We are prepared to come back to the Commission next year with language for the Commission to act on based on further internal discussion and input from our Internal Regulation Review Committee as well as the recently formed Trapper Advisory Committee. The committees will review the language of the roads and many things that are in the regulations.

Mr. Vore advised that the public comment period was open for a month. We received 275 comments. Most the comments were anti-trapping. Many spoke to beaver management, trapping of swift fox, and other advocated a trap check time. There were comments specifically addressing the changes and were supportive of those. Thank you.

Proposed Motion: Vice Chairman Stuker moved and Commissioner Brower seconded to approve the proposed 2018/2019 furbearer season structure, regulation, and quotas as proposed by FWP. All other season elements and quotas are to remain unchanged from 2017/2018.

Open for comment.

Vice Chairman Stuker asked about the number of swift fox around the state and if it is showing a decrease. It was mentioned last month that a study is being done his on part of his property as it is part of the study area. So what are the numbers doing? Are they going up, down or staying the same?

Mr. Vore Advised that the number of swift fox did take a hit following the winter of 2011. It was a hard winter and posed difficult to forage smaller animals by the swift fox. We have been involved in a study of swift fox as far as their range and numbers. The initial draft that went out earlier that had numbers that were revised where higher.

Dr. Inman advised that he did not have the numbers with him. We did drop the quotas of swift fox from 30 to 10. There was a 60 percent or two third decline in the quota for swift fox. This was because of the drop in population of the past that we thought was about 60 percent at the time that the quota change was made. When the numbers were revised by Dr. Axel Moehrensclager, it wasn't as bad as it was first thought to be. While the population did decline, we took a large portion away from the swift fox quota.

Chairman Vermillion asked Mr. Vore elaborate on the interest of the swift fox and it being pulled from the regulation package as of now. The swift fox is not on the agenda today and is not part of the proposal. Is

that correct? The quota and the trapping regulations are on today's agenda. In order to take note of all the comments that they received, the swift fox will be possibly put on the October agenda.

Chairman Vermillion stated that he received a few calls about modification of the center swivel and the five-chain links. He advised that when he looked through the modifications, he wondered if that modification came through the Trappers Advisory Committee.

Mr. Vore stated that did not come from the Trapper Advisory Committee. It came from the trapping community.

Chairman Vermillion stated he didn't hear a lot of pushback on that.

Mr. Vore agreed.

Vice Chairman Stuker had a question. A question he knows that Commissioner Aldrich is also wanting to ask, when he looks at agency recommendations and rationale existing information (second line down) represents reasonable consideration of user groups. He was curious as to what user groups. Was it trappers or different environmental groups that you were considering their presence? He does know that in the past that trapping and hunting has funded the Department. Also, the non-consumptive people that he has tried to take into account on his 313 and 316 votes. He was wondering if they were included when the recommendations were made.

Mr. Vore stated that he did not know and thank you for bringing that to attention. He advised that they do include all considerations and comments from everyone regardless of where they come from whether it be from the community or other stakeholders. We try to be as inclusive as possible.

Vice Chairman Stuker stated that the Trapper Advisory Committee had different comments. He also visited with Dr. Inman this morning about the makeup of that. Is it more trappers? Less trappers? He going to ask this so it is on the record. He has received comments about this.

Mr. Vore advised that there are 12 people on the committee comprised of trapper verses non-trappers. The makeup is a higher percentage of trappers. It was interesting as we had Ms. Tribe facilitating as Commissioner Brower had mentioned earlier. H feels that she did an amazing job keeping the conversation pointed toward interest based. She pointed out during the meeting that it could be eleven and one even if the interests are being addressed. It's not a vote but that the interests of the committee are being addressed. He also wanted to point out that the ones that identified themselves as trappers. For instance, Dave Pauly who is also the national president of the Humane Society. Just because someone identifies as a trapper does not mean that they are one end of the spectrum or another.

Commissioner Aldrich stated that he read through a lot of emails and comments from a lot of people. There was a lot of representation from people who don't like trapping at all. They would like to see it go away. One thing that he did notice was the well thought out presentations of the groups and some individuals. He thinks that they are a very awakened group. He felt like there were some sound comments.

Commissioner Brower added that being at the first meeting not to side with any one group but, the trapping community doe feel like whatever happens they are continually making changes. The other group feels under represented. The people labeled as trappers feel like they must defend themselves.

Vice Chairman Stuker added that as a rancher you would be hard pressed to find anyone else in this room that dislikes predators more than he does. He doesn't like it when he or a neighbor loses a calf. They are here and we need to manage them. Also, for the non-consumptive individuals. He feels for the trappers because they have done this for hundreds of years. Things are changing in Montana and we must look at all of the areas and take that into consideration as we move forward. He hopes that the Trapper Advisory

Committee can come together and bring something to the Commission that will work. His concern is that if we do not come up with something then trapping may go away. This could happen by legislators or by initiative and we do need trapping especially in my industry. He wants to make sure that trapping stays here. He wants to make sure that we all work towards a goal that will keep trapping here.

Commissioner Colton stated he received input too about recommendations on center swivels and there are people here in my region as well as Helena that want to comment. He might have further discussion after that.

Public comments.

Helena Region

Mark Cooke, Wolves of the Rockies, greeted the Commission and stated that the comments are dead on. Mr. Vore touched on something that I am seeing in your realm. He is sure that this can be recalled. Mr. Vore commented that all were considered when comments are prepared and submitted to the Commission. What he sees is a few comments from the consumptive community come forward and they are acted on for the consumptive community. He has nothing against hunting. When the wolf comments came in around January or February, 95 percent of the comments were in favor to help wolves. They were disregarded by the department because in the proposal the Department had the opportunity to submit this and they never did. He pulled the comments for the trapping proposal that you are considering today and 80 or 90 percent or more support modifications to trapping.

The Department once again has the opportunity to make adjustments to the proposal and amendment to have something that looks and feels good to the non-consumptive community. Once again, that small percentage and the trappers have their way. The Department does not come forward with any modifications. That is not right. We are better that this. The majority of people in Montana either don't want trapping or want modifications to trapping. The Department isn't stepping up to the plate. Thank you.

KC York, Trap Free Montana stated that on the 275 comments, 15 identified themselves as trappers. As Mr. Cooke expressed there is definitely a continuance. Part of the concern is that 24 hour trap checks will be looked at. The members will work that out. Many times, we have tried to get the 24-hour trap checks before the Commissioners and out for public comment. The concern is that if the Trapping Advisory Committee does not come to a consensus then what? There are only a few other states that do not have a mandatory trap check. We also pushed for the swift fox when the quota was reduced. We supported the quota being dropped down to 10 swift fox. She asked why they were doing this. Looking at the average, that was the number that had been trapped in the previous years. We asked why? Was it because of the lack of interest? Market value is \$7.00 for swift fox. Ten were being allowed to be trapped because there was not enough to trap.

According to an extensive survey, public documents that are available online, The Swift Fox Conservation Strategy- the population dropped by 67 percent. Was that because the trappers weren't interested or not enough swift fox? We are still waiting on the numbers. Dr. Inman responded to our inquiries. Why are we even trapping them at all? Why ten? What if all ten were females? Dr. Inman said it wasn't really that bad. It was just preliminary numbers. We have yet to see the numbers. We don't know what those numbers are. If we put this off until October, swift fox trapping starts November 1. We hope that by October you have something that is science based and supporting the conservation strategy and keeping them from being delisted. That is huge of course and the cost of getting the fox reintroduced.

She doesn't want to hear in October that it's too late and it must be revisited. We feel that the non-consumptive user is often reactive. We don't have the opportunity to make these proposals. We only get to respond to them. If it is her recollection the Trapper's Advisory meets with FWP every Spring. It has to be

open to the public if it is held in the FWP offices. We don't know when they are happening. We would like to find out a way for people to know about that. We would like to be part of the propositions and the proposals. Thank you.

Tim McKendrick, Montana Trappers Association, greeted the Commission and stated that he was also on the phone this morning discussing the difference in the traps. The reasoning is the value of the traps. He does own a couple of the traps. He never uses them. They are something to hang on the wall. It is not worth modifying them because of the worth. You will find that most people won't spend the money to modify the old traps. The ones he does use are all modified. The newer traps are already modified. We do our best to keep everything current and up to speed. We appreciate FWP spearheading this. The Trappers Association has worked hard to identify the problems. There are a lot of little things that people may not realize. We appreciate FWP working through all this and hope to continue work with FWP in these areas.

He would like to address the bobcat situation. He had been at a meeting in Dillon and it was brought to our attention that the biologists were seeing a reduction. There isn't a huge reduction. The trappers of District 3 got together and agreed that if we saw a decline that we would recommend a reduction in bobcats that would be significant. We are talking a significant reduction to the point that we felt the cats had a chance to come back. Last year's quota was reached two weeks after the normal quota. It didn't go through February and March as the season permits. It was still filled in a short period of time. He also spoke with houndsman and other people that are out and about. They are not seeing as many cats as they once did. The houndsman were not harvesting female cats so the process had already begun before the meeting occurred. The trappers try to meet every year with biologists and others every year to discuss wildlife and the trends that are occurring. This helps to head off trouble where they can. Thank you.

Kalispell Region

Tom Thiebert, Montana Fur Harvesters, greeted the Commission and stated that the only thing he would like comment on so far is that they are supported by the citizens of Montana. The 2016 election demonstrated that. The Montana Fur Harvesters do support the proposed regulations. Hopefully those can move forward. Thank you.

Bozeman Region

No comment.

Missoula Region

No comment.

Great Fall Region

Jim Buele, President, Montana Trappers Association, greeted the Commission and stated that they support items one, three, and four as presented. We would ask your consideration on item two. The reason for this is for cast jaw type traps. There are relatively few traps of this type in use by today's community. When the cast jaw collector trap is modified in this manner, it reduces the value from a \$35.00 collector trap to a \$10.00 user trap. Thank you for considering this.

Billings Region

John Hughes, Montana rancher and trapper, greeted the Commission and stated that He has been ranching for 60 years and trapping for 50. He is a member of the Montana Trappers Association. He runs a trapping supply business. He gets about 100 calls a week regarding all types of trapping issues. The changes and

modifications for the trap are his brainchild. He has been getting input from ranchers and recreational trappers about the cast jaw and steel jaw traps. Generally speaking, cast jaw traps are older traps that hold some value. Some are valued at \$35.00 to \$100.00. They are still in use. He doubts that less than 10 percent of the trappers use them. We now have the new generation cast jaw traps that are high end tools. The traps have all the bells, whistles, and modifications. If you change this and exclude this cast jaw traps, it won't affect the new traps. It will only exclude the older traps. He advised that he spent some time with Captain Harold Guse, Region 5. We settled on the cast jaw language because anyone can tell the difference between a cast jaw and steel jaw traps. Rather than using the term antique, which creates a gray area. This is a proposal that comes from his customers and trapping association members. He urges to exclude cast jaw traps. He thinks it is good for trappers, ranchers, public, and everybody. The trapping modification came out of the 2016 Trapping Advisory Committee that was made up of Montana trappers. We gave that to FWP as a recommendation but never got it too far along. He offered to answer any questions. Thank you.

Chairman Vermillion asked about the trap modifications. He wondered if the modifications only applied to working traps. He understands that the value of the traps is based on an antique perspective and realizes that modifications would devalue a trap that is worth \$35,00.

Mr. Vore explained that it is correct that the modifications would only apply to the traps that are used for actual trapping. So, if the trap is only a collector's item, then it does not have to be modified. They trap cannot be used.

Just some additional information, Dr. Inman went back to clarify the swift fox question. Instead of the 67 percent decline that was initially in a draft document, when the data was analyzed it was only a 33 percent decline. The estimate of population is 347 swift fox in north central Montana. The trapping season for swift fox in Montana is only apportion of trapping District 6. It is limited east and west only north Highway 2. It's just a portion of the trapping district and is not all of Montana that swift fox can be trapped. To clarify so there is a better understanding, In October we will be considering the conservation strategy. Today we are making final decisions on trapping quotas. There will not be any trapping quotas in October as we will only address the swift fox conservation strategy.

Chairman Vermillion asked how that would play out with the strategy when the Department decides what the quota should be.

Mr. Vore answered that the strategy outlines that we want to have viable and sustainable populations in Montana. Just as we did when we reduced the trapping two years ago, if that is necessary then that is what will be done to keep the population viable and sustainable. We will make those kinds of modifications. It is not a cook book as to what the quotas will be. It is all considered.

Chairman Vermillion stated that the Commissions position today is about the swift fox quota that can be relied upon and the public can be sure that the quota won't have adversity. There will be biological and viable sustainability for the whole state.

Commissioner Brower asked about the trap connection center close to the center as reasonably allows, what is the measure of reasonably allows?

Mr. Vore stated that on the bottom of the trap some of them do not have a place where they can place it right on the center. This is because of the design of the trap. You may have to move it over a bit. It's just to allow for that flexibility in design.

Commissioner Brower stated that he didn't want an instance where a warden and a trapper would have to justify to each other the position of the center.

Mr. Vore stated that if it reasonably had been attached closer to the center then the warden would have a case.

Chairman Vermillion asked if there was a mechanism for people who want to modify their traps to meet regulation. Something helps define the swivel and the five chain links to help show what is adequate.

Mr. Vore stated that the attachment of a center swivel to a trap as reasonably possible is already in regulation. The only change that we are making is to allow for five chain links.

Chairman Vermillion thanked Mr. Vore for the clarification.

Commissioner Aldrich asked if they were doing coyote trapping in the same area that the swift fox are being trapped. Is part of it incidental or intentional? Is there any part of the population that would be I that ten quotas? Such as the trap being intended for coyote and not the swift fox.

Mr. Vore stated that there is coyote trapping there by recreational trappers and people who trapping for livestock protection. There probably is some incidental catch. Those types of catches go against the quota. It's not always a matter of economics. There are people out there who target the swift fox.

Commissioner Colton stated that he wanted clarification as to if they want to entertain the definition of where the center swivel should be and the cast jaw exclusion. He wanted to know if they would have to send it back to the Trapper Advisory Committee or send out for public comment. It seems the definition would need to be vetted. He would like more direction from John or Becky on that.

Becky Dockter, Chief Legal Counsel, advised that she asked Mr. Vore if number 2 addressed the cast jaw trap. She is unclear if this adequately defines or describes cast jaw traps. She would rely on Mr. Vore or Dr. Inman to clarify that. If it was the intent in the first place to include the definition that describes the cast jaw, she doesn't think that any type of definition or clarification that would be made to this would have to go for public comment because the original intent was to describe the cast jaw trap. If it doesn't adequately do that, then that would have to go back out. She hopes that is clear and that it depends on either or and what the intention was. What she understood it to be was that it was trying to define in terms so that it is understood by everyone to include the cast jaw trap.

Mr. Vore stated that as adopted by the Commission last year, the center swivel definition applied to all ground set traps that would be used in the field including the cast jaws. Whether the center swivel is attached or the chain is attached he unclear of the difference there and perhaps Mr. Hughes could explain further. Right now, any cast jaw trap (a foot hold trap) that is being used must have that to be legal. What we are speaking to in this modification is only the addition of the chain links where the swivel is as opposed to being at the bottom of the trap.

Ms. Dockter stated that if she understood Commissioner Colton's question correctly and what Mr. Vore just described, if we want to ban the cast jaw traps then we would have to go out for public comment. There is no ban here for it and putting a center swivel on it does not effectively ban it. She did hear people say that they are not being used. If these are the ones that are being asked about, they are not being used and the value is really being placed on a wall. She hopes that clarifies. If not, maybe we should question again.

Vice Chairman Stuker stated that maybe he is wrong so his understanding is that they are not banning the cast jaw trap. They just didn't want to modify them.

Chairman Vermillion asked for a motion.

Motion passes 4-1. Commissioner Colton opposed.

21. HD 214 Elk B License Adjustment

Background: FWP proposes to change the area valid for Elk B-license 002-00 in HD 214 from private lands district-wide to “only valid west of Storm Lake Road and Storm Lake Trail.” This change would go into effect immediately upon commission approval to prevent the possible overlap of rifle hunters and bowhunters on private lands that are leased for open recreation by Anaconda-Deer Lodge County.

In 2018, Region 2 recommended, and the commission approved, the use of the regional Elk B license 002-00 in multiple hunting districts for the 2018-2019 hunting seasons, including HD 214, south of Anaconda. FWP’s recommendation for including HD 214 was to address chronic elk damage, which occurs in the western part of the district, south of Philipsburg. However, it was an accidental oversight on the part of Region 2 to include private lands across all of HD 214, which includes winter range adjacent to the Garrity Mountain WMA. Overharvest of elk that are not causing game damage could occur in the eastern portion of HD 214 on a large block of private land administered for public recreation by Anaconda-Deer Lodge County, and on any number of neighboring private lands with access circumstances that could result in excessive antlerless harvest.

The objective of this change is to correct a mistake in the prescription of the 002-00 Elk B license:

- To protect a vulnerable segment of the elk population from overharvest
- To direct available hunting pressure to the correct portion of HD 214.

Additionally, as information only and requiring no commission action, FWP will clarify regulations for use of the 002-00 Elk B license during Oct. 20 – Feb 15 for HDs 210, 211, 212, 215 and 216 to include DNRC lands outside USFS and FWP WMA boundaries, and the Prison Ranch in HD 212 with permission. The regulations will read:

- Aug 15 – Oct 19 – Antlerless Elk. Only valid on the above-described private lands.
- Oct 20 - Feb 15 - Antlerless Elk. Valid on the above-described private lands AND ALSO VALID on DNRC lands outside National Forest boundary and outside the boundaries of FWP WMAs. Additional note for HD 212] - In HD 212, ALSO valid on Montana State Prison Ranch, in compliance with Prison Ranch access regulations.

Public Involvement Process & Results: The proposed change for HD 214 was brought to FWP’s attention by the Anaconda Sportsmen’s Club, and the club and the county stand ready to assist with outreach and signage to inform the public of this change, if enacted.

Alternatives and Analysis: If the proposed adjustment is not adopted, there is the potential to overharvest local elk.

Agency Recommendation & Rationale: FWP recommends the commission approve adjusting the 002-00 Elk B license in HD 214 only valid west of Storm Lake Road and Storm Lake Trail.

John Vore, Game Management Bureau Chief, Wildlife Division, FWP will clarify regulations for use of the 002-00 Elk B license during October 20 – February 15 for HDs 210, 211, 212, 215 and 216 to include DNRC lands outside USFS and FWP WMA boundaries, and the Prison Ranch in HD 212 with permission. This includes August 15 – October 19 – Antlerless Elk. Only valid on the above described private lands. October 20 - February 15 - Antlerless Elk which is valid on the above-described private lands and valid on DNRC lands outside National Forest boundary and outside the boundaries of FWP WMAs.

The proposed change for HD 214 was brought to FWP’s attention by the Anaconda Sportsmen’s Club, and the club and the county stand ready to assist with outreach and signage to inform the public of this change, if enacted.

Proposed Motion: Commissioner Aldrich moved and Commissioner Brower seconded that the commission approve making the 002-00 Elk B license in HD 214 only valid west of Storm Lake Road and Storm Lake Trail for the 2018 season.

Public Comment.

Helena Region

Doug Stone, Anaconda Sportsman Club, stated that he had a part in the last acquisition of Garrity Wildlife Management Area. The elk that are there were planted in the 1970's. There were no elk east of the Storm Lake Road. The elk did well there and blossomed to 361 head. They were all laying around on a plateau that was near the Reservoir Gulch WMA. The herd started going downhill about nine years ago. The herd has diminished to 150 elk. He does not feel that a shoulder hunt is needed in that particular area. It would decimate the herd. He doesn't feel that this would encourage the hunters to hunt in the right area. It would encourage them to make an easy hunt by being able to drive 20 minutes and getting an elk and not necessarily going to the area that the shoulder hunt is originally intended. The Sportsman Club does not want the hunting on that half of the WMA. He feels that the Storm Lake Road would be a good division for the hunt. The elk are a problem on the Rock Creek side. Hunting on the east end is not helping meet the objective on the west end. We need to separate the areas for the shoulder hunts. Sorry we came in late about this as we were just made aware of it. There is concern about county land and ASARCO land regarding a six-month hunting season. They do not want a six-month hunting season. There is also going to be a conflict of hunters. It'll be archery hunting versus rifle hunting. Which is not a good combination. We highly recommend that you split the area for hunting. We will help post signs for this. Thank you.

Nick Gevoc, Wildlife Federation, stated that he supports the Anaconda Sportsman Club. He would take it a step further to say that 213 is under objective and wonder how we got here with a shoulder season there.

Mike Thompson, Wildlife Manager, Fish, Wildlife and Parks, stated that the herd fluctuates at or below in that district overall. There is a game damage problem on the west side of the hunting district. The thought was the shoulder season to be on private land only. We are here today as it is our fault here in the region as of the oversight of the effect of private land 002-00 that would extend the hunting district. Even though there is little private land that the elk use on the east side of the district, there is a particular piece that is accessible owned by the Washington Corporation that is leased by the Deer Lodge County. The elk there are really vulnerable. We don't want to exterminate them either. We really appreciate your helping us solve the problem created.

Mr. Gevoc added that this is a good change for this year but, think that this is a district that we would want to review. Let's use the other tools that we have. Thank you.

Chairman Vermillion asked for other public comment. He stated that the hunt starts in about four days. We need to work very quickly to get that August 15 start to the shoulder hunt.

Mr. Thompson advised that it is August 15 and they need to work quickly since they caught the mistake. The Sportsman Club is helping post the 200 blaze orange signs over the weekend. They will start as soon as you hit the gavel.

Chairman Vermillion added that since it is pretty warm weather for hunting there might be a little time. He wanted to thank the Sportsman's club for finding the mistakes.

Motion Passes 5-0.

22. Permanent Access Assignment to FWP for Dry Cottonwood Creek and Deer Lodge River Ranches, in Region 2

Background:

Montana Fish, Wildlife and Parks proposed to accept assignment of the “right of public access” component of a conservation easement to be held by the Montana Land Reliance on the Dry Cottonwood Creek and Deer Lodge River Ranches (the Ranches) in Deer Lodge County. The Ranches are comprised of a diverse mix of habitat, including 5.5 miles of the Clark Fork River, big game winter range, and irrigated meadows. MLR would purchase a CE on the Ranches to protect the water resources, wildlife habitat, working agricultural ground, and public recreation opportunities currently present on 3,409 acres. MLR would then assign to FWP the portion of the CE that provides for public hunting access on the entire project area and public recreational access to the Clark Fork River corridor. Following guidance in the CE and Public Access Plan, FWP would be responsible for verifying that the landowner offers the opportunity for at least 800 hunter days of fair and equitable, free, public hunting access each year into the future. FWP would also be responsible for verifying that the landowner offers the opportunity for free, year-round, public recreational access within a posted (open) and/or otherwise described Clark Fork River corridor. FWP would provide an enforcement presence consistent with other CEs, Block Management Areas, and Fishing Access Sites. The Upper Clark Fork River Basin Remediation and Restoration Trustees Advisory Committee voted on June 21, 2018, to provide funding from the Montana Department of Justice Natural Resource Damage Program to complete this proposed project. No FWP funds would be used to acquire the proposed CE.

Public Involvement Process & Results:

A draft environmental assessment was made available for public comment from June 13 through July 12, 2018. The EA was posted on FWP’s website and comments could be made directly on the EA’s webpage or submitted to Region 2 via mail or email. Legal notices were published twice each in the Anaconda Leader, Independent Record, Missoulian, Montana Standard, Philipsburg Mail and Silver State Post. FWP sent 31 printed copies of the EA and 50 emails of the EA’s availability to adjacent landowners and interested individuals, groups, and agencies. A statewide news release was prepared and distributed on June 13, 2018. FWP held a public hearing on June 26, 2018, in Deer Lodge and five people attended and commented. In all, seven commenters supported the proposal and one did not indicate support or opposition. No comments were received in opposition. One neighbor asked that large-caliber rifles be prohibited in the river bottom. FWP’s response is that while rifles have been allowed for many years in the current BMA, the CE will not require that rifles be allowed in the river bottom, and FWP will work with the commenter and the owner of the land under easement on a provision in the access plan that meets the need—perhaps a safety zone.

Alternatives and Analysis:

No action is the only viable alternative, which would leave MLR with the task of finding another entity other than FWP to administer public access on this CE.

Agency Recommendation & Rationale:

FWP recommends that this public-access project be completed. The project has benefitted from the input of an informed public, not only by way of this Montana Environmental Policy Act project, but also in the NRDP process for funding the project.

Chairman Vermillion stated that he and Commissioner Colton was on the board of Montana Land Reliance. Is there any money involved with this transaction? I didn't see that there was.

Ken McDonald, Wildlife Administrator, advised that there was not.

Chairman Vermillion advised that they go ahead and participate.

Mr. McDonald stated that they are seeing final approval for assignment of public access on the conservation easement that is held by the Montana Land Alliance. This project is something a number of organizations have been working with. the decision notice states that the background Natural Resource Damage Program and Clark Fork Coalition are working with Montana Land Alliance and American Public Land Exchange to protect five and a half miles of Clark Fork River and 3,409 acres by purchasing two different ranches and consolidating them into one property. There would be a perpetual conservation easement placed on that property to be held by the American Public Land Alliance. As part of the deal the Natural Resource Damage program is bankrolling most of it. To their credit, they require that public access be incorporated into their litigation efforts.

What this project is that Montana Land Alliance with hold the conservation easement and are assigning the right to public access to Fish, Wildlife and Parks. We would manage that access as part of the overall project. What this would involve is public hunting access on the 3,409-acre parcel and up to 800 hunter days. There would be year-round public access on the appropriate parts of the Clark Fork River. The Natural Resource Damage Program is helping fund all this. The other partners are helping to make sure that this happens. There is no cost to the Department for this public access for securing the assignment. There may costs down the road that FWP may incur for maintenance and managing of the access. It fits well with our other access programs. It's a good fit for conservation and public access. There was as EA done by the region in a public meeting. Five people commented at a public hearing. we also received eight more comments and counting the five. Seven were in support, one just wanted to say that rifles shouldn't be allowed in that area. This gets us into the decision notice signed by the region to proceed and we agree. We are asking that your final approval. We would then receive the assignment for managing the public access.

Chairman Vermillion stated that this would be 800 hunter days that would be managed by the Department in collaboration with co-easement holder with the Land Alliance in perpetuity.

Mr. McDonald stated yes as well as the ultimate land owner.

Chairman Vermillion added for the next 100 days in perpetuity.

Mr. McDonald stated that for year-round public access to the river for 5.5 miles of river.

Chairman Vermillion asked for motion.

Proposed Motion: Vice Chairman Stuker moved and Commissioner Brower seconded that the commission approve FWP's proposal to accept assignment of the "right of public access" component of a conservation easement to be held by the Montana Land Reliance on the Dry Cottonwood Creek and Deer Lodge River Ranches in Deer Lodge County.

Jay Erickson, Montana Land Alliance, greeted the Commission and stated that the stretch of the Clark Fork River was polluted a long time ago. through the Montana Department of Justice, the Natural Resource Damage Program was able to spend a tremendous amount of money to clean up the five and a half miles of river. The 3,400-acre also represents very good access to elk and deer hunting. The county road bisects it

north and south, as well as east and west. The five and a half miles of a good fishery on the Clark Fork River. We are really excited to put that money into play and to the public benefit. He thinks that it will be a treasure for Montana taxpayers, anglers, and hunters. The Montana Land Alliance as you probably know has conserved a million acres of private land with 900 conservation easements across the state of Montana. We are in a good space to work with Fish, Wildlife and Parks but to monitor this property and to keep it as pristine as it is for the distant future. We are really happy to work with Fish, Wildlife and Parks and the National Resource Damage Program. Thank you.

Nick Gevoc, Conservation Director, Montana Wildlife Federation, greeted commission and stated that this is an area where elk re over objective and we need this access. This could really help us to redistribute some elk. This is a great project that we strongly support. Thank you.

Dave Stone, Anaconda Sportsman's Club, He and the president of the club went to the meetings and were in total agreement with this. Gary Oldhouse and myself, checked on the accesses and the roadways to the property. It's a win, win for everybody. We highly support this proposal.

Chairman Vermillion added that given the Horse Creek easement that we approved sometime last Spring created some consternation at the last land board meeting. Can you describe quickly the public process that he Department has gone through and DNRC. The process that has gotten us to this point as far as conservation easements and the assignment of the hunting rights.

Mr. McDonald stated that he believes they did it similar to any other easement. We had a public meeting and environmental assessment that went well. This went out for public comment that is also described here. We did send it to a number of organizations and published availability of it. This process didn't seem to raise any consternation and then the decision notice and environmental assessment that is in your packets. This then, came to the Commission.

Chairman Vermillion thanked everyone that worked on this project. There's no question that we have a great landowner, non-profits, and state agencies that are working on it. The beneficiaries of this is the people that care about open space and the riparian's values. Also, the folks that are really looking for a place to hunt in this area. This kind of access in perpetuity is exceptionally important work that is supported strongly by public comment.

Mr. Erickson stated that because of this conservation easement, there is a lot of public access. This does drive down the value of this ranch. The good and bad part of that is that the grass will be available to neighboring ranches that want it. They want it for a low price. This is good for the economy too. It's good for the county. Thank you.

Vice Chairman Stuker asked about conservation easement no longer having to go in front of the Land Board.

Ms. Dockter explained that the Governor's office has made the decision not to take conservation easements based upon the language in the statute itself. It was something as a practice that we had been doing. In fact, we did look back to the early 1990s when we started doing that. The statue that was in affect at the time since the early 1980s which is still the same statute. There was a time when we weren't taking these to the Land Board. The statute said we didn't have to take them. For some reason that we cannot figure out, we did start taking them to the Land Board. That practice has been reversed. We are not taking conservation easements to the Land Board. Does that answer your question?

Vice Chairman Stuker stated that he had additional comment. He believes that it is 100 acres or \$100,000.00 that has to go before the Land Board. The Governor would make the final decision if we approved it through here.

Ms. Dockter advised that the way the statute reads is that the Commission always has to approve every conservation easement, every land transaction for the Department. The only part that is different is that it is only land acquisitions. They would go to the Land Board if it is over 100 acres or over \$100,000. Does that make sense? You always have oversight here. The public process that was described by Mr. McDonald can now and always be in play for any acquisition that we do. It just that land acquisitions and they are over that threshold, it needs to go to the Land Board.

Director Williams added that we are making a distinction that this is not a land acquisition. This is an acquisition of interest in land not a conservation easement but an access agreement.

Ms. Dockter stated that is right. The statute makes it clear that a land acquisition is different than an interest in land by looking at the enabling statutes for this. This includes the Commission's authority that allows you the oversight for all interests in land. So, that is land acquisitions, interests in lands, easements, you name it. That process will always be intact. Thank you.

Chairman Vermillion wanted to thank everyone for all the work on this project. This is a huge opportunity for sportsmen and women. It will be around for a long time after we are all gone. That is pretty great. Thank you very much. The Natural Resource Program comes for the Attorney General's office and is a settlement that was reached and now we have the money to restore the watershed. All those in favor?

Motion passes 5-0.

23. Brucellosis Proposed 2019 Annual Work Plan

Background

In January 2013, the commission endorsed elk management recommendations from a citizen working group for use in areas with brucellosis (the Designated Surveillance Area as described by the Montana Department of Livestock). Annual work plans describe specific management actions based upon these recommendations. The proposed 2019 annual work plan largely restates the 2018 plan to include hazing, limited fencing, limited lethal removal of elk, habitat modifications, and other efforts to adjust elk distribution away from cattle at small scales to mitigate the risk of brucellosis transmission from elk to cattle. The proposed 2019 plan also expands the landownership and dates describing where and when elk may be lethally removed to influence elk distribution away from cattle. The number of elk that may be taken is not proposed to be changed.

Public Involvement Process & Results

The public comment opportunity for the proposed annual work plan will run from the August 9 commission meeting through 5 p.m. Monday, September 17.

Agency Recommendation & Rationale

FWP recommends adoption of the proposed 2019 annual work plan that largely restates earlier plans and includes expanded landownership and dates describing where and when elk may be lethally removed to influence elk distribution away from cattle. The number of elk that may be taken is not proposed to be changed.

Alternatives and Analysis

The proposal may be adopted as presented or with adjustment per FWP justifications, public comment, and commission discussion.

Quentin Kujala, Project Manager, Wildlife, Fish Wildlife and Parks, stated that a little history so that we are all on the same page. In 2012 the department convened a citizen work group to ask and answer the questions of what the Department consider and do in respect with brucellosis and elk. The answer came back to the Commission essentially conceptually, and broadly to manage the risk of mitigation. It's not a recommendation to eradicate the disease, elk or cattle. Any disease in the free-range wildlife is difficult to think about and impossible to think about eradication. We manage risk in tight spaces during the risk season which is winter through late spring.

The concept was to manage the risk that came with specific recommendations. Things like hazing elk away from cattle to minimize the risk of transmitting from one animal to the other. Fortifying the haystacks was another way to prevent elk from coming in close proximity of cattle. Use of hunters where appropriate and in shooting and harvesting a few elk in a controlled fashion. This would adjust the distribution of the remaining elk. This relates to Commission authority and authorized actions for the Department to consider. All of which is directed to managing brucellosis. The actions that were authorized by the Commission, in pursuit of risk mitigation were first manifested in a 2013 workplan. This is now the seventh plan that we are talking about. All of them have been annual plans. The Commission may remember that this topic was met with a little opposition from the elk enthusiast side. The Commissions response to that opposition was to schedule regular update and next annual approval. So, no decision, no action, no response.

It is now time for the public review. The risk season we have examples in the Madison Valley, Paradise Valley, and west of Bozeman. Also, south of the interstate between Bozeman and Norris. There are hazing efforts to keep elk out of the cattle. This is all on small scales. We are talking about the winter time frame so there is not a lot of landscape to work. Sometimes it's looking for relief measured in inches. There has also been an elk management removal that is called dispersal hunts for the Madison but was not put into place. The situation mitigated itself and the elk moved way. That was the only lethal removal that was authorized last season. It didn't happen and that has been consistent with what we have seen in the last couple of years since 2013 when we started putting actions on the ground. Twenty-eight elk have been harvested and no elk has been harvested by landowner kill permits. As the annual elk plan states, the elk removals are tightly controlled, no more than 10 elk at a time authorized by the Commission. None of this is proposed to be changed.

For the 2019 risk plan for the upcoming season, anything that comes out of here will go to public comment and will come back to the Commission for a final approval in October. Today this is a proposal. In addition to what you received today there is an additional handout that addresses track change and that version is in front of you. it is converted to track change. Some of the changes are just simply changing the date. At the bottom of page 8 and the top of page 9 are the only subsequent changes that you will see. The first one id to expand the dates of elk removal which is the dispersal hunts when we reach out to hunters. This helps us kill a few elk to move the others. We expanded the dates to start potentially August 15 instead of after the general hunting season. We are proposing that as we hear from the designated surveillance area. Some elk are showing up early and the connection with the early arrival staying through the fall season into the winter. The thought is that we could interrupt some of that behavior by early September removal even if the risk is not there that day. The elk distribution sets up a risk for later in the winter.

The next change speaks to space rather than time. This would allow for dispersal hunts to happen on private land, not just DNRC properties but, Forest Service and BLM properties. This comes from conversation about trying to distribute the elk. Often, we are faced with stopping at fence lines abd the elk get used to us and go over the fence. They come back later that day or the next day. It gives the option to expand the harassment by hunters if you will. It still leaves in place the requirement that any definition of elk removal, a dispersal hunt needs to make room for viable elk habitat. At the end of the hunting effort there needs to

be a place for the elk to go unbothered by hunters. it still leaves in place the cap for the number of elk hunted. This does not include wildlife management areas. There was some conversation directed to that. In talking with the brucellosis work group that so graciously comes back to meet each year. They discussed advocacy that included WMA lands and in hesitancy to do that came up with this proposal. All else carries over as proposed from last year.

Proposed Motion: Vice Chairman Stuker moved and Chairman Vermillion seconded to approve for public comment the proposed 2019 annual work plan for elk management in areas with brucellosis as proposed by FWP.

Chairman Vermillion stated that this is the start of the public process and we will decide on this in October. This will be opened to public comment. He wanted thank Region 3. He knows that this is an issue that this kept FWP busy in a hot zone. He thinks that there has been great progress through willing land owners and quality department staff. We've shove that we can do this in a way that is respectful to the wildlife and acknowledges the risk to the landowners. This is a serious disease. We don't know how it got here but, we need to deal with it. HE thinks the Department has shown great decision and the staff has done great job. He wanted also thank everyone for meeting with landowners every year and ironing out any of the issues we have had in the past. Hopefully this season will go more smoothly.

Public comment.

Helena Region

Nick Gevoc, Conservation Director, Montana Wildlife Federation, greeted the Commission and stated that he remembers when we first had this and you asked the hunters of Montana to have patience and trust in the agency. The sparing nature in which the agency has used this has built this trust. He thinks the Department deserves a lot of credit for using this as sparingly as possible in dealing with what all know is a very complex wildlife management issue. As you all know there was an elk that tested positive in the Tendoy. He feels that this is something Montana will be dealing with for the rest of our lives. We think the continued discretion is appreciated by the hunters. Thank you.

Chairman Vermillion stated that the Department's work on this issue reflects just what Mr. Gevoc said. Back in 2012 when we approved this, it took several hours and hundreds of people similar to when we were addressing wolves.

Mr. Kujala stated that the Department wants to make sure that the public can see all the pieces. Mr. Gevoc referenced the elk that tested positive in the Tendoy. That information is currently being applied to the Department of Livestock's public process to explore and propose the adjustment of the DSA boundary. This means that the DSA gets larger. This has re-sparked the conversation and has brought attention to this detail. What is the long-term answer here? What will tomorrow look like? What about next year? The work group and others is a value that we get from diverse citizen groups that have expressed interest. We would like to see a coming together a second time to grapple with that question as a group. The experience we have gained and the new thing that are out there that can be discussed in that conversation. This is not part of the motion. He did want to bring this part of the process to light. Thank you.

Chairman Vermillion thanked Mr. Kujala and the Department for all their hard work.

Commissioner Aldrich stated that he heard about the elk just west of Bozeman and wondered if there was a high prevalence of brucellosis. Is that a true matter?

Mr. Kujala stated that in a relative sense, yes. It is one of the higher prevalences that we have found it is bracketed by lows that go back to the late 1980s when we first started looking for brucellosis. It was in the single digits of one to two percent and the highs compared to the elk we have captured and tested in parts of the Paradise Valley. It was a very small wintering group that tested exposure of 50 percent. It's not a relative low but, not the highest we have seen.

Motion passes 5-0

24. Reservoir Creek Beaver Transplant

Background: *The Bannack Grazing Association requested beaver be transplanted onto their private property in Reservoir Creek, 26 miles southwest of Dillon. The association seeks the passive and cost-effective restoration and water-storage benefits that beaver can provide. They accept that beaver may create some conflict with irrigation infrastructure. FWP determined that there is suitable habitat on a portion of Reservoir Creek, and there is no conflict with upstream or downstream landowners (USFS and DNRC). The lower end of Reservoir Creek is a losing reach that is dry and does not flow to Grasshopper Creek, making it unlikely that beaver would recolonize the stream. One culvert was identified as being vulnerable to creating flooding issues if plugged by beaver, and a plan to protect it from beaver will be implemented in the short term. The BLM plans to upgrade the culvert and this should alleviate the issue permanently.*

Public Involvement Process & Results: *An environmental assessment was prepared, and comment was accepted through June 22, 2018. The EA proposed transplanting up to six beavers from adjacent drainages; preparing the site with beaver dam analogues and slash piles to minimize short-term predation risk; and inspection and protection of culverts, if warranted, to ensure roads are not impacted by beaver. Sixty individuals, five organizations and two agencies commented on the proposal. One neighboring landowner was opposed, citing unsuitable habitat and impacts to aspen and westslope cutthroat trout. The balance of comments supports the project. Several comments recommended a temporary or permanent closure to beaver trapping. FWP concurred with one suggestion to move entire family groups to maintain social structure and improve the chances of success. A decision notice recommending we move forward with the proposal was issued by FWP Region 3 on June 27, 2018. The EA and decision notice are included in the commission packet.*

Alternatives and Analysis: *The alternative is to not transplant beaver into Reservoir Creek. The stream will continue to deliver excess sediment and lack connection to the floodplain as documented by the BLM Dillon Field Office in 2011. A nonprofit organization could engineer structures and modifications to the stream channel to alleviate sediment and reconnect the floodplain, but these alternatives were not considered in the EA. FWP is not insensitive to the issue of a temporary closure to beaver trapping in Reservoir Creek. If a closure is warranted, FWP will pursue it during the next furbearer-season-setting process. Permission to harvest beaver would be required on association property, and Montana DNRC requires a land-use license to trap on its property. FWP believes these provide adequate opportunity to minimize harvest and allow beaver to occupy suitable habitat.*

Agency Recommendation & Rationale: *The department recommends final approval of this proposal. The project represents a good opportunity to use beaver as a cost-effective and passive way to achieve habitat benefits for both fish and wildlife in Reservoir Creek.*

Chairman Vermillion stated that the last item on the agenda was the translocation of beaver. He was reminded that the Tendoy is the last item. Traditionally we do a shoulder season update in August. This year we are going to address it at the October meeting. We will have a presentation from the Department to the Commission about the shoulder season success and monitor where we are at before we have our December meeting.

John Vore, Game Management Bureau Chief, Wildlife Division, greeted Commission and stated that the Reservoir Creek Beaver Transplant is a final decision for the Commission. The Bannack Grazing Association has requested that we transplant beaver onto their private property that is 26 miles southwest of Dillon. We looked for the passiveness of the cost of restoration and the water storage benefits that beaver can provide. They also accept the erosion that beaver may cause some conflict with irrigation infrastructure.

The lower reach of Reservoir Creek is a dry reach and a losing reach for a couple of miles. So, it is unlikely that beaver from Grasshopper Creek would find their way through the drylands to the upper reach of Reservoir Creek. This is why we are considering doing the transplant there. This did go out as an EA in June. It was put out for 30 days for comment. We are transplanting six beavers to adjacent drainages. We are also preparing the site with beaver dam analogs and slash piles to minimize the risk of the beaver leaving. This also provides protection for culverts.

For the EA process, we did have it out for public comment. We had 60 individuals, five organizations, and two agencies that commented on the proposal. One supported it. There was one neighboring landowner that opposed it citing that there was unsuitable habitat and the impacts to the aspen and the west slope cutthroat trout. The balance of the comments supported the project.

Proposed Motion: Commissioner Brower moved and Commissioner Aldrich seconded that the commission approve the transplant of up to six beavers into Reservoir Creek.

Public comment.

Nick Gevoc, Conservation Director, Montana Wildlife Federation, stated that he finds it interesting that we have had a few conversations lately about beavers but, the landowners asked for it. It certainly shows that are certainly some watershed benefits. This hopefully will get other landowners thinking about it. The Department was responsive and we had a meeting last month to talk about this. It is a good project. Thank you.

Motion passes 5-0

25. Tendoy Bighorn Sheep Update

John Vore, Game Management Bureau Chief, Wildlife Division, stated that this was a brief update on the Tendoy bighorn sheep. We did a de-population project there in preparation for restoration using healthy sheep. These are sheep that are clean from the mycoplasma. The depopulation was accomplished and are now ready to move forward with the repopulation. We are looking for sheep that suit the needs there. We

have to be very particular about the type of sheep that we use there as they must be healthy sheep that will not infect the neighboring sheep in Idaho. In Montana, we are having trouble finding sheep that can be used for the Tendoy's. In the last couple of years, the testing when we have had the test available to find out if there is mycoplasma in sheep. We have been doing the health testing around the state. Dr. Robert Garrott's project looked at seven different herds in the state and over the last two years the health lab has looked at an additional six. That is a total of 13 herds. One of those is Hunting District 622 which has disease free sheep. Unfortunately, there won't be any of those sheep available this year for transplanting. It is unlikely that we would get enough sheep from 622 in addition to some of them being slated to be transported to northwest Montana in Region 1.

We have already used some of the sheep to put in Hunting District 122. We will continue to do this so we are using the same sheep stock as in the past. We looked at all the Montana herds and reached out to Alberta as well as Wyoming. Wyoming has sheep in the Devil's Canyon herd on the west side of the Bighorn Mountains. They have plenty of sheep and usually take sheep every year; sometimes twice a year. This helps keep a population that they are satisfied with. He has been in conversations with his counterpart and others. They are amenable to the idea of sharing sheep with Montana. However, it wouldn't be this year. They have sheep slated to go in other areas of Wyoming. Next year we may be able to get some of the sheep to help repopulate the Tendoy's. Thank you.

Chairman Vermillion stated that just to follow up on that there will be a work session in November. He just wanted to make sure that everyone is aware that is happening.

Mr. Vore stated that they will talk about that they will talk about the bighorn sheep in general and include the Tendoy's.

Vice Chairman Stuker stated that the November work session was scheduled for the 15th. Is that correct?

Mr. Vore stated that was correct.

26. 2018 Blue Ridge Ranch HB 454 Hunting Access Agreement

Background

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. FWP is asking the Commission to approve the 2018 Blue Ridge Ranch Public Elk Hunting Access Agreement. This is a new agreement that specifies one 622-21 either-sex archery-only elk permit to Will Carlson or eligible designee (immediate family member or authorized full-time employee). This permit would only be valid during the archery-only season. In turn FWP would issue four 622-22 either-sex elk permits issued to hunters randomly selected from the list of unsuccessful applicants for 620-20 and 622-20 either-sex elk permits. These permits would only be valid during the general hunting season. Successful applicants could only hunt on the enrolled property for the ranch. Additional access would be allowed 25 general hunters and ten parent/mentor and youth pairs (10 pairs equals 20 hunters) disbursed throughout the general hunting season (October 20, 2018 through November 25, 2018), possessing a 620-20 (either-sex), 622-20 (either-sex), or 698-00 (antlerless only) permit or a 621-00 (youth-antlerless only) or 622-00 (antlerless only) B-

License, will be allowed to hunt free of charge for antlerless elk on all enrolled land. The detailed Access Agreements are included in the commission packet.

Public Involvement Process & Results

Public comment on this agreement will be taken at today's meeting.

Alternatives and Analysis

Failure to approve this agreement may result in reduced public elk hunting access in this area.

Agency Recommendation & Rationale

FWP recommends the Commission approve the proposed Blue Ridge Ranch hunting access agreement.

John Vore, Game Management Bureau Chief, Wildlife Division,, stated that the Blue Ridge Ranch 454 hunting access agreement. Hank Worsech is here and has been in contact with the landowner much more than I have. He will be able to give you some of the history of the negotiations that have been going on.

Hank Worsech, greeted the Commission and advised that this is a different situation from other 454s in the past. He wanted to explain why that is. The end of May Mr. Carlson contacted the Director and advised that he was upset that he did not draw his license. He is a non-resident and applied for a non-resident combo. Therefore, could not go through the drawing to get the permit. That area has 140 landowners permits for non-residents. He would have been guaranteed the permit if he had the license. He was upset because he thought he should be entitled to the license as well under landowner preference.

It took seven call and six hours to explain that isn't how the law works. He explained to Mr. Carlson that another option would be a 454 agreement. He would have to buy a license through the surplus licenses. Which he did and apply for the 454. He would need to work with the region to get that done. It was explained also, that he would need to grant access to four either sex hunters on his property and a negotiated number of cow hunters to also hunt the property. Mr. Worsech admitted to dropping the ball by not contacting the region right away regarding this. He did refer Mr. Carlson to talk to the biologist in the region and they started the negotiating the agreement. It was going well but, they did reach an impasse. At that point more people got involved. He worked with the Legal Department to work on more negotiations. Mr. Vore can explain more on that and Mr. Carlson has also agreed to this and is looking forward to working with FWP.

Vice Chairman Stuker asked if there were copies of that agreement as the Commission has not seen them.

Mr. Worsech advised that he would forward copies to the Commission.

Chairman Vermillion stated the Commission will need copies before it voted on.

Mr. Vore stated that the agreement specifies that one 622-21 which is the either sex archery only elk permit will go to Will Carlson or an eligible designee. That could be either a family member or an authorized full time employee. This permit would only be valid during the archery only season. In turn, Fish, Wildlife and Parks would issue four 622-22 either sex elk permits issued to hunters

randomly selected from the list of unsuccessful applicants from the 620-20 or the 620-22 either sex permits. These would only be valid during the general season. Successful applicants could only hunt on the enrolled property of the ranch.

Mr. Carlson has agreed to allow additional access for 25 general hunters as well as for 10 parent and youth hunters in pairs. This would be another 20 hunters dispersed throughout the general hunting season that is October to the end of November and possessing a 620-20 either sex permit, a 622-20 either sex permit, a 698-00 antlerless only permit or a 621-00 youth antlerless only permit and the 622-00 antlerless only B license. They could hunt free of charge for antlerless elk only on the enrolled property. This did not come in until quite late.

Proposed Motion: Vice Chairman Stuker moved and Commissioner Brower seconded that the Fish & Wildlife Commission adopt the proposed Blue Ridge Ranch Public Elk Hunting Access Agreement as presented by FWP.

Chairman Vermillion understood that in exchange for Mr. Carlson or his designee to get an archery permit in this district, there will be four Montanans and licensed cow hunters that get an opportunity for an either sex rifle hunt on his property during the general season.

Mr. Vore answered that was correct.

Vice Chairman Stuker asked if 620-20 either sex is the four hunters that qualify under the 454 or is that additional hunters besides that.

Mr. Vore asked if he was looking at the bottom part of the paragraph. Which are you referring to?

Vice Chairman Stuker stated that 620-20 either sex hunters can go.

Mr. Vore stated that is in addition to the four hunters during rifle season are the 622-22 permits. They would be allowed to take a bull and that would be the four permits. The others with either sex permit would only be allowed to take a cow.

No public comment.

Chairman Vermillion stated that this has come up at the last minute but, he appreciated the fact that the Department was quick on its' feet and worked with the region as well as the Commission to get this completed as it was time sensitive. Sometimes people don't think government can work quickly but, it was nice in this situation to get it done. There will be four folks this season that will get a hunt of lifetime.

Vice Chairman Stuker stated that he wanted to thank the Department and everyone that worked on this. He thinks it is a great opportunity not only for the four but, also the youth. They are going to get an opportunity to take a cow with a parent or mentor. He is happy to see that is hopefully going to go through. He hopes that the Department can work on more of these in the future. This will be three now.

Commissioner Aldrich stated that another discussion they had during lunch was relative to permits in the 270 area. It's nice to have more than the 17,000 people asking for our non-resident combo licenses. It does create another set of circumstances that may need to have us look at the language we have in other places so we don't trap ourselves or others in thinking something can happen when it cannot.

Chairman Vermillion thanked everyone for their work on this and hopes that the Department will continue to have a relationship with Mr. Carlson and continue the 454 agreements in the future.

Motion passes 5-0

27. Public Comment for Issues not on This Agenda

Chairman Vermillion asked for public comment.

No comment in the regions.

Helena Region

KC York, Trap Free Montana, stated that she felt the need to clarify a question about the trapping of coyotes and the incidental take of swift fox. She thinks it is important to note that within the 10 quotas of swift fox that if there is an incidental catch of swift fox that would go against the quota. However, trapping of coyotes for example as predators is year-round. So, any of those swift fox does not come off the quota and we have been pushing for that for a long time. She feels that is important as we have no control over that. The season runs from November 1 to March 1. They hit the 10 quotas and any other is incidental take does not come off the quota. Edmonton also had a horrendous winter in 2011. The same year that we believe that had an impact of decline on the swift fox. In 2012 swift fox was downgraded in Canada from endangered to threatened. They remain protected there. It is illegal to trap swift fox.

Our numbers have been going down since 2005. At what point when we are down to less than 400 can we afford to keep doing this? How do we achieve our goals of the swift fox occupying suitable habitat? The main time they disperse is right before they breed. They breed during our trapping season. She is flabbergasted that we cannot address the swift fox now. She was hoping in October there would be something more to help the swift fox and not be trapping them when they are dispersing and breeding. This is when they have young to care for and is the gestation period. Thank you.

Dave Sone, Anaconda Sportsman Club, Greeted Commission and stated that they have a shooting range east of Anaconda that is located on FWP property. Our agreement with FWP is to try to keep it clean. Which we do but, it is getting out of control. The Butte Shooting Club has an area that they shoot at. They had to close it due to all the garbage. We are talking refrigerators, dishwashers, televisions, and whatever. We cleaned this up with the help of the biologist and the Sportsman's Club. We cleaned it up a month and a half ago. We took a huge dumpster out of there containing everything you could imagine. He has been back several times and cleaned it again. The last time he was out there, someone had left a bunch of refrigerators and stoves and dumped them in the pit to shoot at. Last Sunday in the middle of the day there were a bunch of kids over there. The neighbors called the Sportsman's Club thinking that they were being shot at. They call us thinking we can do something about it. We can't. They shoot bombs at night (taneride). They put inside the stoves and refrigerators and blow them up. He thinks that is a liability if someone gets hurt with shrapnel. What he is suggesting is that maybe the wardens that have to do some PR time could go out there sporadically and sit for an hour or two instead of waiting for a boat to come by. Now that they have closed the one in Butte we have a big problem

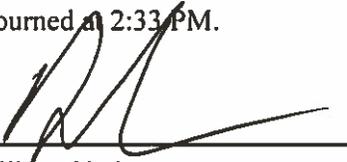
here. He wanted FWP to be aware of that. They are going to send a warden to put a camera up to see if that can help. Thank you.

Chairman Vermillion thanked the Sportsman Club for all the hard work even if it isn't appreciated much.

Chairman vermillion asked for motion to adjourn.

Motion passes 5-0.

Meeting adjourned at 2:33 PM.



Dan Vermillion, Chairman



Martha Williams, Director

