

FWP COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: May 9, 2013

Agenda Item: Marias River WMA Access Settlement

Division: Wildlife

Action Needed: Proposed

Time Needed on Agenda for this Presentation: 15 Minutes

Background

The Marias WMA is nine miles southwest of Shelby along the Marias River in Toole and Pondera counties. It consists of 7,540 deeded acres, 492 leased DNRC acres, and 833 leased BLM acres. The Marias River runs the entire 14-mile length of the property from west to east with wide riparian habitats and associated river breaks, all composed primarily of native habitat. Existing public access is on the north side of the WMA at the McCormick road to a parking area; and on the north-central area at the Zel access. Both access points are to the WMA boundary and do not provide vehicle access to the river bottom.

After FWP acquired the property for \$7.6 million in 2008 it was determined an implied easement was established historically by Charlie Lincoln in 1951 for public hunting to the east via the Lincoln Road. Wanken Farms, however, disputed this as a public road and open access and blocked the road before the property line between Wanken and the WMA. Good faith negotiations in 2010 and 2011 could not resolve the differences between Wanken Farms and FWP.

A lawsuit was filed in 2012 by FWP against Wanken Farms asking for a declaratory judgment identifying public and administrative access on the east of the WMA. Wanken Farms counterclaimed for trespass and abuse of process. A court ordered mediation was held on April 15, 2013. An agreement was negotiated: in return for a transfer of the 360 eastern most acres, Wanken would grant perpetual unlimited administrative access and limited public access across Wanken property. This will provide a southeastern access to the river bottom during hunting season and provide six parking spots, three for overnight. Administrative access on the Lincoln Road is also included with administrative access on the two-track bench roads that traverse the property. The settlement agreement and map is enclosed.

Public Involvement Process & Results

The agreement is a result of a lawsuit settlement subject to approval by the FWP Commission and the Land Board. A 30-day public comment period on the terms of the settlement would be set.

Alternatives and Analysis

The settlement, reached as a result of court-ordered mediation, is contingent on approval by the FWP Commission and the Land Board in its current form.

Agency Recommendation & Rationale

FWP recommends approval of the terms of the settlement proposal with final action set for the July 10 commission meeting. Public access to the east for hunting purposes is a reasonable solution to the access problems encountered by the acquisition of this property

Proposed Motion

I move to establish a 30-day public comment period to determine whether the settlement agreement should be ratified by the FWP Commission on July 10.