



# Montana Fish, Wildlife & Parks

Region 3  
Citizens' Advisory Committee  
Wednesday, May 3, 2006  
Western Montana College  
Dillon, Montana

**Greetings:** Pat Flowers welcomed everyone. CAC was formed 5-6 months ago in order to touch base with different parts of the community. An overview of our organization and how we manage was conducted at the first meeting. The committee identified the primary issues that it wanted to cover initially. The number one issue was access. Because of the enormity of the topic, the issue was split into stream and hunting access. Stream access was an appropriate topic to discuss here since we have been working on Big Hole/Beaverhead River access. Our next meeting is set for August 9 in Ennis. We will be covering hunting access. Pat reviewed the agenda.

**Attendees:**

Joe Cohenour  
Michael Leach  
Tom Barnes  
Ed Peretti  
Leroy Mehring  
Al Harmata  
Sam Samson

Sandy Seaton Sallee  
Amy McNamara  
Cyndi Andrus  
Meg Smith  
Bob Gibson  
Rick Arnold

Audience introductions.

Pat – introduced field staff in attendance and stressed that the committee should feel free to call any of them with any questions or concerns.

Public comment was opened

Tony Schoonen– Encouraged FWP to keep working cooperatively to get something settled with fishing access sites. Legislators have cut the money; we need fishing accesses and don't need them blocked off. There is a need for acquired right of ways. Non-residents come in and lock off access.

Cyndi clarification – is the money being diverted?

Tony – Talked with Jeff and the money was cut from \$50,000 to \$20,000 by the last legislature. Don't know where the money is going.

Pat - Bruce will cover access funding in his overview.

Jim Hagenbarth – ranch in Montana and Idaho both, he has concerns about brucellosis status. FWP doing a wonderful job monitoring brucellosis. Concerned about YNP and how they handle it. Livestock is not allowed to mix with bison. Governor, State of MT - redoing MOU managing risk-free brucellosis livestock. Access, elk get infected they will not be able to be on any private land. Could lose industry that supports wildlife.

Gene – President Beaverhead Association. Improving fishing access sites, where does the funding come from to improve them?

Pat – Bruce will address that issue.

Rick – What is your concern?

Gene – would like to see more access, we are losing access due to lease expiration rather than purchase. Was told public was going to have to pay to pickup those leases. What can we do to improve FASs?

Item – prepared comments.

Bruce Rich – Overview of programs here in R3. Fishing program and FAS program. Six premier trout rivers - 29% of all statewide fishing goes on in Region 3, Region 2 and 4 followed R3. Handed out a summary of fishing days in Region 3.

One third of the nine issues concerning fisheries are about access.

1. Formal fishing access site program – brown signs indicating site, 90 in our region – 300 statewide. 2. Acquisition – acquire through license dollars and federal dollars. 3. Fee title we purchase or donated. 4. Formal lease- private landowner or government entity for fixed rate 20% fall into category 10% fall into both.

Bruce explained the Ruby sites and how we acquired those.

Gene – will we have to reclaim those sites when the lease ends?

Jerry – Contract specifies what we need to do next.

Road, boat ramp or restroom is the development stage. Renovation comes into effect later down the road, funded by license dollars and some federal \$. Then we have maintenance and operation of the sites, administered by Parks division. \$.25 of car registration “opt-in” program goes to FASs. A portion of every fishing license fee goes to FASs, 50% to acquisition and 50% to operations and maintenance. Bruce went over user days at FASs.

Collect fees at 11 sites—\$30,000 was collected and goes back to operations and management.

Gene does that take in the Smith River

Jerry – No just R3 (the Smith is in R4). Jerry named the FASs where fees are charged.

Bruce – We have a unique site called \$3 bridge – with a voluntary \$3 fee – all fees collected at this site stay at this site. Bruce went over positions and how many we have, neighbor relations, vandalism, commercial use float/fish, noxious weed control, site and river crowding, camping fee compliance, land encumbrance, and requests for right of ways or easements.

Private land FAS program funded by license agent dollars and has been around approx. 5 years. We had \$50,000 now we have \$25,000.

Rick Arnold - what is money spent on?

Bruce – It is comparable to block management. Compensates landowners for letting people use their land.

Bruce – a formal access site by lease has a contract with landowners, we develop the site with a sign and port-a-potty

Private lands FAS – There may be a pond or a piece of water not readily accessible by high water mark – we will sign landowner up for access - we compensate for things like litter, we will not have a restroom. There might be a place to park in front of a gate and we do not sign or have a published guide.

Amy – How do people know they can access this?

Bruce – Some signs are done, because these sites occur, there are already people using these areas historically. Bruce informed folks of other sites we currently have.

Question was brought up on how to enhance or improve FAS.

Bruce – Work party of interested folks who could jointly help improve FAS or it is put on prioritization list.

Rick- how much money is allocated to this, private lands?

Bruce - \$25,000 statewide is available.

Rick - is there a set of rules or criteria?

Bruce – Yes, program is administered from Helena, we work with them.

Rick – as a guide, when walking with clients you go through high-water marks these high-water marks are not clearly marked – when someone buys land and access is cut off, is this the kind of item that would be addressed

Bruce- Possibly.

Bob – we should be raising the fishing license price. Outfitters and guides pay a fee to commerce, that money does not come back to FWP? We should be collecting from the non-fishing, kayaking folks.

Pat talked about commercial use and mentioned a draft will be coming out soon to address some of these issues – have some fee paid by outfitters to use FAS.

Bob –there is a lot of opportunities here, Montana has a gift.

Gene – is there a percentage going to FAS from SuperTag?

Mel – No the money from SuperTag goes to hunting access and enforcement.

Bruce - Access through other government-managed property – Forest Service, BLM, DNRC, and city land – we lease off a number of these entities, generally the cost is low and we then manage the sites.

Sen. Bill Tash – term leases?

Jerry – some are term and some perpetuity

Rep. Debby Barrett - Each person who fishes, don't they have to have a Montana fishing license?

Bruce – Law abiding do have a fishing license, we have a lot of non-angling folks using FASs, we have a lot of rock climbers, mushroom pickers etc.

Pat – went over an article in a newspaper regarding the new parks administrator and his interest in purchasing new parks and new FASs.

At the last meeting the committee talked about Montana Challenge. Pat offered this for the November meeting.

Meg Smith – How much is enough access and how many FAS and Parks are going to be enough? Does the group have any say on this?

Pat – Yes. You are advisory and your input will be passed on.

Jerry – We only deal with willing sellers and we have to be able to take care of these sites. State parks we have had no acquisition \$ with the exception of one in region 6.

Bob - is there an in-house proposal for more access – do you really want more access on the Gallatin, etc.?

Meg – does this ruin the experience?

Rick - no

Pat – We do have a proposal, we do feel we need more access in the lower Gallatin; an informal site was lost in Logan. Shields Rover access has been very poor.

Tony – every river is different, Big Hole we have adequate, Jefferson is fairly good, depends on river.

Bruce- every time we look at a site we ask several questions, do we want to have another access site, how would we manage it, what is car capacity, etc.

Tony – limited by budget also.

Pat – We evaluate whether we want or need and the cost, including weed abatement costs.

Cyndi – looking at tourism, sustaining and protecting resource, we are looking at ways to market Montana. Looking for folks who have the same feelings as us about the resource.

Sam Samson – as pressure increases, there is a saturation point.

Bob - Maybe we need to leave some rivers alone.

Tom -Does trout unlimited offer assistance?

Bruce – we have had several occasions, one being a boat ramp was funded and work party helped build the boat ramp by Trout Unlimited – we have not gotten into major funding issues with these groups. We have an adopt-a-fishing-access-site program.

Jerry – capability by Trout Unlimited is limited, we work with what they can financially handle. We work with a lot of groups and organizations including Boy Scouts, families of lost loved ones.

Rick – What would you suggest Trout Unlimited could do?

Tom- didn't know what they could do – just thinking of what Rocky Mountain Elk Foundation does.

Rick – currently the money comes from banquets and the money is used for Project Wet, scholarships, river restoration programs. We do not have money for major projects.

Hagenbarth - How much access is too much. Depends on the quality of the resource. Watershed groups are very powerful, should be used to address some of these resource problems.

Pat – this is our second meeting – how would the committee like to conduct the meeting.

Committee – likes the interaction. If these comments are not addressed as they come up they will be lost or forgotten.

Pat – other question – where do you want to go after you get a briefing on subject. Go on or collectively say action or follow up item and make recommendations. At the end of topic, it will be asked where you want to go with an item.

Bob- what do you want out of the committee?

Pat - I would like to see thoughtful consideration and as an advisory group tell me how you weigh in. Need feedback one way or another.

Bob – tough to make a decision in the time that advisory committee members are on committee.

Pat – work through topics that were given at first meeting, advisory committee can decide whether to move on to other topics or stay with just the one topic for a few meetings. Especially on key issues.

Gene – interaction was talked about, if public interacts all the time nothing will get accomplished.

Tom –It is hard to listen, digest, and come to conclusion. Possible at the next meeting, take a short time and maybe try to come to conclusion, maybe even use e-mail.

Pat – yes, another option, use time to consider what was said on key issues then go back to them at next meeting.

Bob – only meeting four times a year that is not very often. Could meet more would be an option.

Pat – Cost would be a consideration, would rather consider extension of meeting hours.

Sandy – would like to see longer meeting time, maybe an hour more, while everything is fresh and on the table.

Joe- can we have smaller working group, and bring suggestions to committee. Too much information to absorb especially with group size. Have a group doing FAS and another group doing hunting access and bring them to the committee.

Meg- not in favor of smaller working groups.

### **Bob Lane – Stream Access Law**

Welcomed everyone. Gave legal background. Purpose is to stimulate some discussions. Bob gave background into stream access. State is entity of property rights. 1984 framework of current stream access law was set up. Supreme court states all of the waters of the state are the property of the state for the use of the people. Flowing waters could be used for recreational use. State owns the beds of the larger waters, the smaller streams are privately owned, but can be used by the public for recreational use. 1985 stream access was adopted. There is no right to cross private property to get to a stream without permission. You can portage around man made obstacles such as a fence; did not address natural obstacles – is still somewhat an open question. Lakes were not addressed. And there is no guidance for this like streams. Bob went over the different classes of streams. Commission has adopted rules to make restrictions, application has to be made and taken to the commission, and commission has right to make rules. Adoption such as Big Hole/Beaverhead outfitter restrictions has been done. The law is intended for water recreation to lessen the impacts to private property; this means there are no big game hunting, limited camping, and no duck blinds.

Limited access and bridge access is in the forefront right now. HB269 clarified public access; if public access was given up it had to be replaced. Bridges have limited access due to safety.

Rep. Barrett – HB133 fences to bridge abutments was discussed. Was interest in allowing fences to bridges as long as there was still access to the river HB 260 and HB 133 did not pass. There will be further meetings on access to bridges. FWP is now doing an inventory of bridge crossings to see if crossings are actually being used, how much, is there any controversy involved with any of these.

Meg – railroads considered private property, and has a bridge crossing

HB 269 geared at county and public roads. Railroads are private property and can enforce trespass on the use.

Leroy – when you have a fence ten feet high, electrified, and goes to the bridge, what can be done. On Turner's property on the upper Ruby, there is barricade fences and cannot use them.

Bob – When we do the inventory we will take into consideration; if there controversy about access already, is there a need for access. If so, we will address it.

Sam – as a former commissioner, my belief is where there is a county right away, there is a 60 ft right away and if it is taken away, does it have to be replaced?

Bob – this will probably be an issue taken to the legislature. It depends on what CAC and the county commissioners come up with on what will be done.

Ted – would like to see county and landowner be held harmless in any new legislation.

Bob – There is already protection in the stream access law to landowners, good point, will take note to that.

Tony – made caution, we do not want to weaken the current law. Current stream access is fine; we do not need to complicate it. We still have some serious problems with the electrified fences on the waters especially on the Ruby.

Bob – Trout Unlimited and Montana Wildlife Federation are working on language for access at bridges and will share with group to take up at a further meeting. Trout Unlimited and Montana Wildlife Federation have drafts, but FWP would like to finish their inventory first.

Michael – Mitchell slough, could set a precedent with Supreme Court. Had incredible recreation opportunity – but cannot access it without having rocks thrown and trespass citations being issued.

Bob – Cannot talk about it, it is being litigated, and no stream access by judge has been decided. It is going to the Supreme Court.

Rep. Barrett – fences were there before stream access, HB 133, was a tool for commissions to clarify a bill regarding fences. We need to clarify stream access and not weaken the current law. In Montana it is up to private landowner to keep livestock in but is against the law to set up barriers.

Sam – he feels the landowners put up fences for reasons.

Tony – need to make laws clear – need to address electric fences in legislation – no electric fences in public right away.

Pat - When draft is done, we will send draft out before August meeting and will talk about it at August meeting. (Pat will check on draft status)

Sandy – I get the feeling there are a lot of anti-fence folks. Fences are a ranching tool and need, would be a good idea if people help other neighbors to build the right fence that meets both the rancher's and fisherman's needs.

Hagenbarth – disagrees with Tony, does not want to get rid of electric fences. If is friendly to wildlife. Not nearly as dangerous as people think.

Tony - clarified he is only talking about bridge and acquired right of ways.

Public Comments; none

Pat – process discussion was done, everyone agreed on a six-hour meeting, committee agreed on 1-7 p.m., use some of the extra time for discussion from last meeting.

Cyndi proposed to the committee to have a dinner/working meeting so we do not lose any of the six hours.

Committee was in agreement.

Pat- should there be a follow-up discussion from tonight into the next meeting regarding FASs? How much in total is going into acquisition? We will get that out to committee next week.

Bob - committee should look into other areas where we can get more money. Is the money going into general fund for commerce from outfitter/guide fees? About \$800,000/\$900,000 from bed tax goes into parks and not FASs, which is part of the commerce.

Rep. Barrett – outfitting and licensing, money does not go into general fund. Pays for heat, light, attorney fees and run the board of outfitters.

Bob Lane – we are looking into commercial use at this time.

Jerry – explained commercial use fees that we are looking at implementing as a department.

Pat – this committee can comment on the draft rules of the commercial use fee policy when it comes out. This draft should come out sometime this summer. It will be sent out to the committee members when it comes out.

Beginning of each meeting we will take the first hour to discuss items talked about at last meeting.

### **Kurt Alt – Hunting Access Discussion Preview**

Commercial use will be addressed on wildlife management areas.

Hunting access will be a complex issue.

1. Hunting access to private land
2. Access within public land
3. Access to private land - for effective population control

Do not see a way to address private land that is shut off without the help of the public or legislature.

Need the committee to talk openly and actively about the subject

Off road use-tearing up of roads

Disrespect for private lands

Disrespect for landowners

Slob hunting behavior

Poor landowner behavior

Pat - last meeting you were asked if you wanted to serve on CAC for four years or two, who's willing and/or interested in serving 4 years?

Michael, Joe, Rick, Cyndi, Amy, Sam, Bob, Leroy, and Ed had interest.

Craig and Marina will be given the opportunity to say whether they want to serve a longer term (they were unable to attend this meeting)

Will have briefing sheet on hunting access at next meeting like we did with this one.

Committee agreed they would like a tour of Wall Creek WMA in the morning before the meeting.

Next meeting will be at the El Western in Ennis from 1-7 p.m.

May have to run a paid ad in the Madisonian in order to get it in the paper. We will do a press release. Mel will put the CAC members on the media list so they will receive news releases.