Final

Environmental Assessment

Take of Peregrine Falcons for Falconry Purposes

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PO Box 200701
Helena MT 59620-0701

December 31, 2007

Montana Fish, Wildlife & Parks

Draft Environmental Assessment
MEPA, NEPA, MCA 23-1-110 CHECKLIST

PART I. PROPOSED ACTION DESCRIPTION

1. Type of proposed state action: Due to recovery and subsequent delisting of the peregrine falcon (*Falco peregrinus anatum*) in Montana and across the United States from the Endangered Species Act, Montana can authorize and permit the limited take of young peregrines for falconry purposes. The Montana Department of Fish, Wildlife & Parks proposes to allow limited take of young peregrines within authorized limits established by Federal and State regulations. Current Federal regulations allow for take of up to 5% of the known number of young produced in authorized states. In 2006, an estimated 147 young were produced in Montana that would allow up to 7 young to be taken (see the narrative summary under No. 9).

2. Agency authority for the proposed action: Authority for this action is provided under the Federal CFR 590.21.28 and CFR 590.21.29, and State Statute 87.5.201 to 87.5.210 and Administrative Rules of Montana 12.6.1101 to 12.6.1130.

3. Name of project: Take of Peregrine Falcons for Falconry Purposes.

4. Name, address and phone number of project sponsor (if other than the agency):

5. Anticipated Schedule: Complete environmental assessment – Fall 2007. Initiate take – Summer 2008.

6. Location affected by proposed action (county, range and township): Statewide excluding tribal and National Park lands

7. Project size -- estimate the number of acres that would be directly affected that are currently: Project size not applicable.

8. Listing of any other Local, State or Federal agency that has overlapping or additional jurisdiction. The U.S. Fish and Wildlife Service has primary jurisdiction and any authorized take within a state must conform to, or be more restrictive than, established federal regulations.

(a) Permits: N/A

Funding

Montana Fish, Wildlife & Parks $1000.00 for required documentation from existing falconry license fees.

9. Narrative summary of the proposed action or project including the benefits and purpose of the proposed action:

The peregrine falcon (*Falco peregrinus*) is a "generally wide-ranging but sparsely distributed" species (White *et al*. 2002), one of the most widespread and best-known raptors. It is found on all continents except Antarctica, and on many of the larger islands in the oceans. The American peregrine falcon (*F.p. anatum*) occurs throughout much of North America from the sub arctic boreal forests of Alaska and Canada south to Mexico. It nests from central Alaska, central Yukon Territory, and northern Alberta and Saskatchewan, east to the Maritimes and south (excluding coastal areas north of the Columbia River in Washington and British Columbia) throughout western Canada and the United States to Baja California, Sonora, and the highlands of central Mexico. American peregrine falcons that nest in sub arctic areas generally winter in South America. Migration of those that nest at lower latitudes is more variable; some are nonmigratory (Yates *et al.* 1988).

Peregrine falcons declined precipitously in North America following World War II (Kiff 1988). Research implicated chlorinated hydrocarbon pesticides, mainly DDT, used in the U.S. and Canada as causing the decline (Risebrough and Peakall 1988). Chlorinated hydrocarbons, including DDT and its principal metabolite DDE, aldrin, dieldrin, and others, are stable, persistent compounds stored in fatty tissues of animals that ingest contaminated food (Fyfe *et al.* 1988). Use of these chemicals peaked in the 1950's and early 1960's and continued through the early 1970's. These chemical compounds seriously affected reproduction of peregrine falcons, particularly in the eastern U.S., where peregrines were essentially extirpated by the mid 1960's (Berger *et al.* 1969). Because of the decline, the American peregrine falcon was added to the list of endangered and threatened wildlife and plants in 1970 and to Montana's Endangered Species List in 1973.

An effort beginning in the early 1970's to reestablish peregrine falcons in the Eastern, Midwestern, and Western U.S. successfully returned this species to areas from which it was extirpated by the 1960's. This effort was built around the establishment of a successful captive breeding program and the production of juvenile birds that were available for release into the wild primarily via the use of hacking towers. This cooperative program included the collaborative efforts of scientists, falconers, conservation organizations, landowners, interested individuals, state and federal agencies and tribal governments. Peregrine falcons now nest across most states in their historical range east of 100 degrees longitude and are widespread in the West. In 1998, the known population of American peregrine falcons included 1650 pairs in the U.S. and Canada. Recovery plan productivity goals in all of the American peregrine falcon recovery regions were met or exceeded. By 2002, it was estimated that there were over 2000 pairs of American peregrine falcons breeding each year in the United States.

When releases were initiated in 1981, there were no known peregrines nesting in Montana. An average of 31 captive bred young per year were released at hack sites in Montana during the 1981-1998 period. The coordinated 2006 Montana survey documented approximately 65 active nests that fledged 147 young for a productivity rate of 2.3 young/nest. Given the propensity of peregrines to nest on cliff sites that can be difficult to detect, this estimate likely does not include all nesting pairs across the state and should be considered a minimum count. This observed productivity rate exceeds the early benchmark of 1.25 young/pair that would provide for nominal population growth given adult survival rates.

This documentation of American peregrine falcon recovery led the U.S. Fish and Wildlife Service (USFWS) to remove the American peregrine falcon from the list of endangered and threatened wildlife and plants (delist) in August 1999 (USFWS 1999*a*). When it was delisted, management of the species shifted from the Division of Threatened and Endangered Species to the Division of Migratory Bird Management (DMBM). Regulations promulgated under the Migratory Bird Treaty Act (MBTA) allow activities that may remove individuals of some species from the wild, including take for falconry. Those activities are evaluated, permitted, and reviewed by the DMBM and federal guidelines and or frameworks for authorized take are published in the Federal Register.

In June 1999, anticipating delisting, State fish and wildlife agencies, through the International Association of Fish and Wildlife Agencies (IAFWA), proposed allowing take of nestling peregrines for falconry (Taubert *et al.* 1999). The states proposed a 5% take of nestling American peregrine falcons based on the most recently documented annual production of young in the States west of 100 degrees longitude (i.e. Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Nevada, Arizona, Washington, Oregon, California, and Alaska); where approximately 82% of the nesting pairs in the United States were found in 1998. Taubert *et al.* stated that, "…take of peregrines for falconry during the post delisting monitoring period should be conservative to avoid the risk of impeding further population expansion."

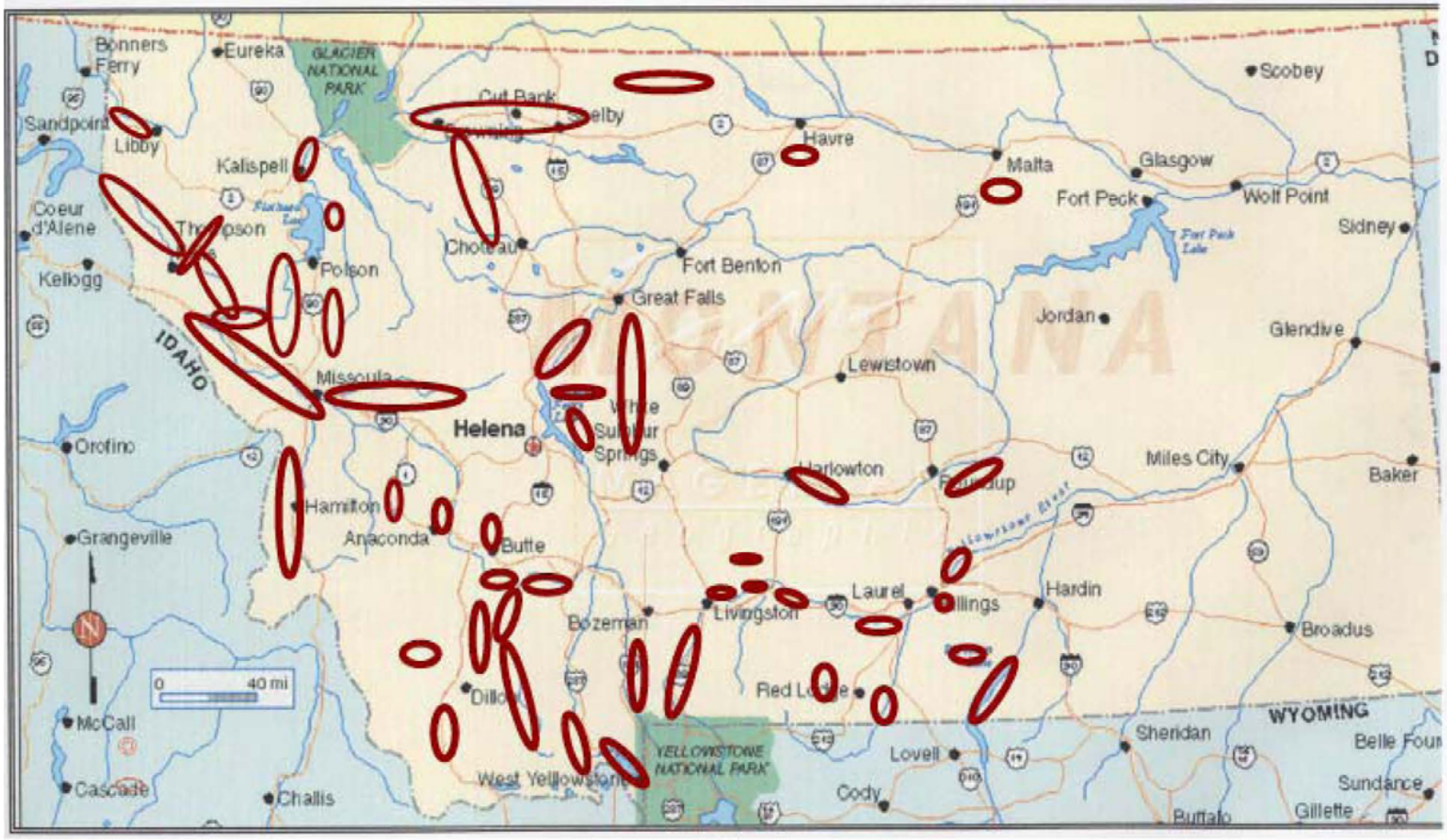
In October 1999, the USFWS published a Notice of Intent to prepare two Environmental Assessments and associated Management Plans for Take of Wild Peregrine Falcons (USFWS 1999*b*). The USFWS stated that they would protect nestling and dispersing juvenile American peregrine falcons from southeastern Canada and the eastern U.S. while considering a conservative take of nestlings from healthy populations in the western U.S. The Service published a Draft Environmental Assessment on nestling take for falconry in July 2000, and a final Environmental Assessment and Management Plan and a Finding of No Significant Impact in April and May 2001 (USFWS 2001). This plan was amended, updated, and finalized in 2004 (USFWS 2004). The plan was again updated and a Final Environmental Assessment (FEA) completed June 6, 2007. A copy of that EA is available on the USFWS website at, (http://www.fws.gov/permits/federalregister/Final%20Revised%20Nestling%20EA%20for%20Distribution.pdf). The states of Washington, Utah, Colorado, Arizona, Wyoming, and New Mexico all currently permit limited take of peregrines.

When the American peregrine falcon was removed from the list of endangered species in 1999, the bird's recovery from near extinction in North America was hailed as a tremendous conservation success story (http://www.fws.gov/news/NewsReleases/R9/A11C3CFD-AC20-11D4-A179009027B6B5D3.html). In 2006, the U.S. Fish and Wildlife Service released monitoring results showing that the bird's recovery continues at an impressive pace (USFWS 2006). The results from that nationwide monitoring effort to measure the peregrine falcon's recovery put the number of nesting pairs in North America at about 3,000 – nearly 10 times the number estimated in 1970 when the bird was first protected as an endangered species and considerably more than the roughly 1,800 breeding pairs estimated in 1999, when the peregrine was declared recovered and was de-listed.

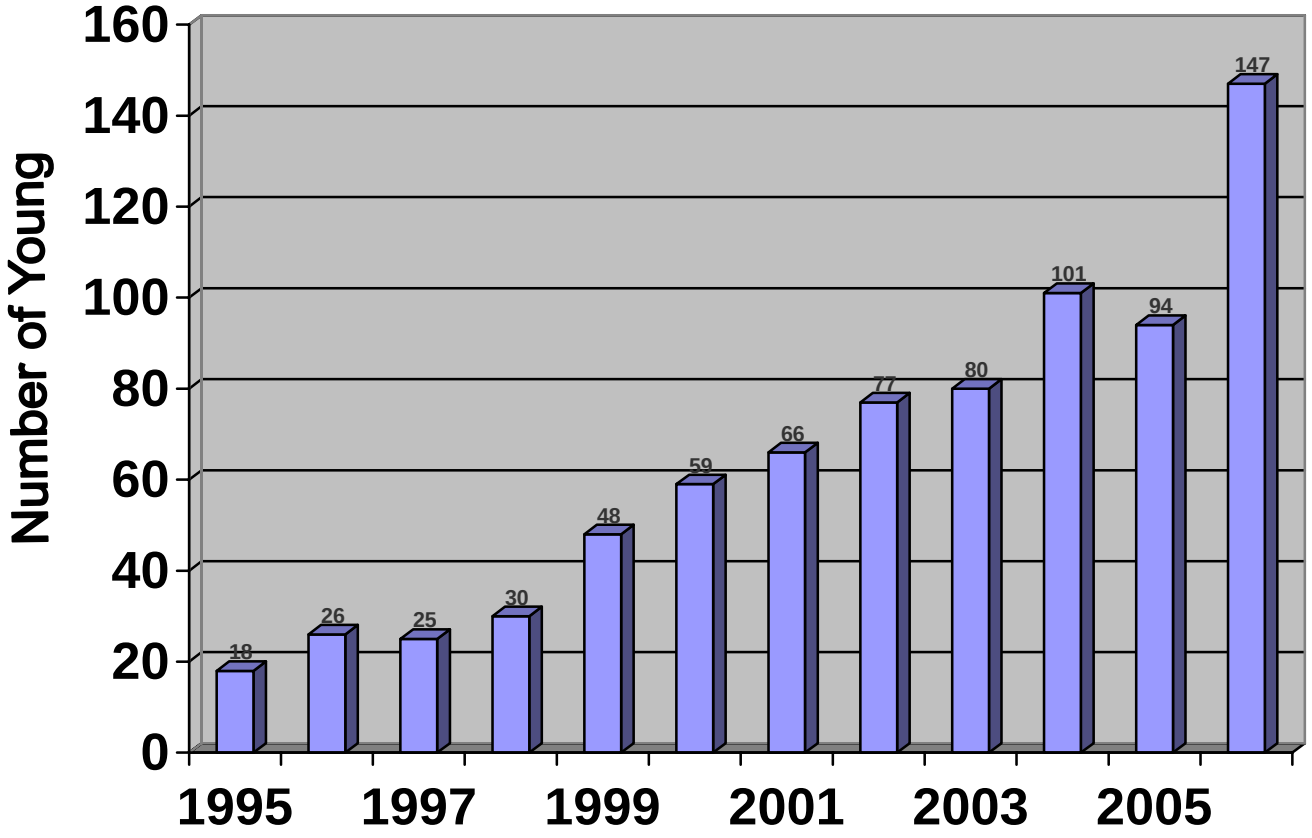
As previously noted, recovery in Montana has paralleled the national trend. When releases of captive-raised young were initiated in 1981, there were no known peregrines nesting in Montana. The first documented nest occurred in 1984 and the population has continued to increase (Sumner and Rodgers 2006). In conjunction with the Montana Peregrine Working Group and the U.S. Fish and Wildlife Service, a 5-year post-delisting survey (1999-2003) was intensively conducted to document trends in nesting peregrines and to record estimates of productivity. That survey will continue at 3-year intervals through 2015 (USFWS 2003). The following figures documents areas of Montana that are surveyed as well as the current status of the population. These estimates are considered a minimum since nesting peregrines likely inhabit remote and difficult to access habitat that is currently not surveyed.

Falconry is the hunting of wild quarry using a trained bird of prey, such as a falcon, hawk, owl, or eagle (sometimes referred to as raptors). Falconry has been practiced in different parts of the world for approximately two thousand years. In the United States, falconry has specific requirements, most of which are mandated by federal and state law, that require all falconers to provide proper food, shelter, and equipment necessary to properly keep these birds. CFR 50.21.28 and 50.21.29 describe federal requirements for Falconry Permits and Federal Falconry Standards. Falconry Permits include Permit requirements, Application procedures, Issuance criteria, and Permit conditions. Falconry Standards include Permits, Classes of Permits, Examination, Facilities and Equipment, Marking, Taking restrictions, and other restrictions. Montana Falconry Guidelines provide a summary of the general requirements to become a licensed falconer in the state and are available from MT Fish, Wildlife and Parks. Falconry permits are administered by the Enforcement Division of MFWP and facilities are inspected by field wardens.

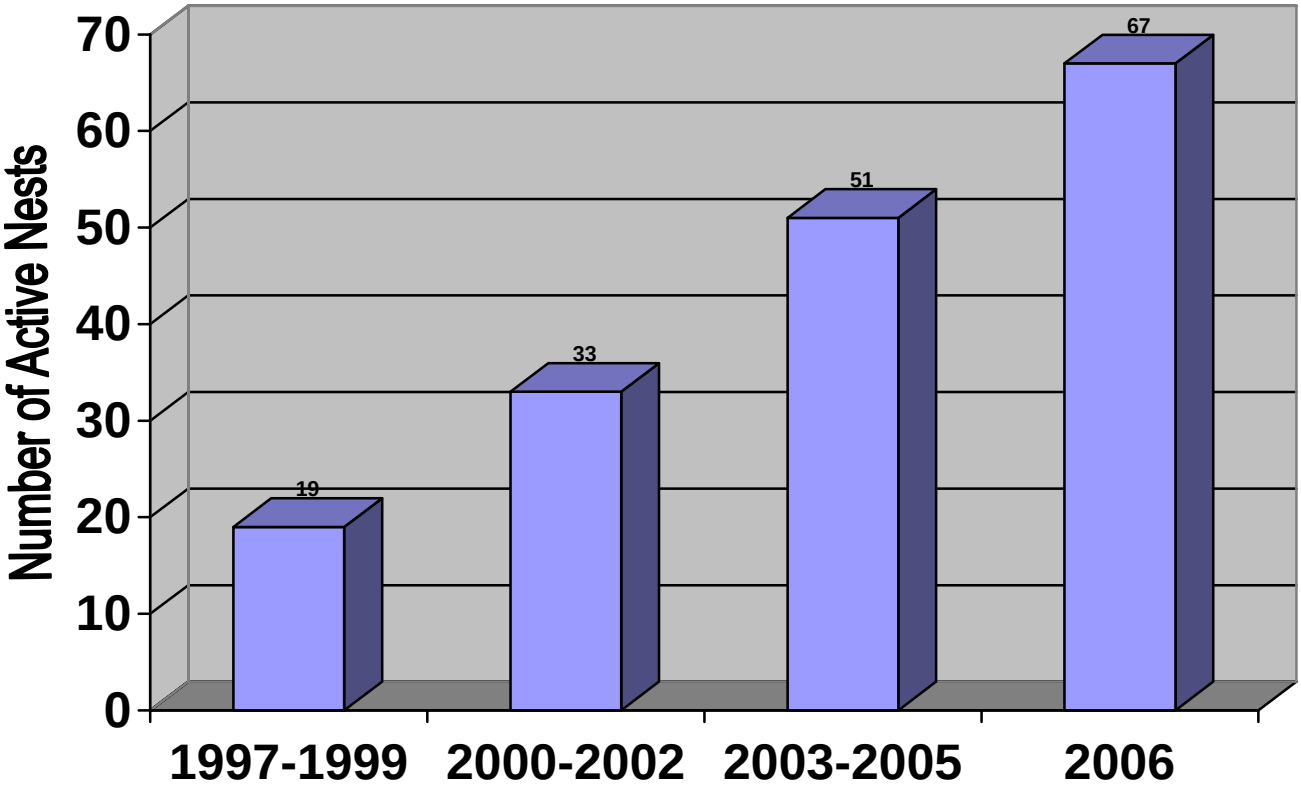
Distribution of Peregrine Falcon Survey Areas in Montana (2006)



Montana Peregrine Falcon Young Fledged
1995 - 2006



2006 Montana Peregrine Population Compared to Populations Averaged by Three-Year Periods (1997-2006).



Allowable levels of take (in this case 5% of known production) are established by the U.S. Fish and Wildlife Service through a document titled "Final Revised Environmental Assessment, Management Plans, and Implementation Guidelines: Take of Nestling American Peregrine Falcons in the Contiguous United States and Alaska for use in Falconry (USFWS 2004 and the FEA 2007). Since the allowable take calculation is rounded down to the next lowest whole number, the authorized take is typically something less than 5% of the annual production; the realized harvest (i.e. the number of birds taken by falconers) has been significantly less than what has been authorized. According to the 2006 Montana production estimates, the allowable take under federal guidelines could not exceed 7 birds and could be restricted to something less than that by state action. Recently published information (Millsap and Allen 2007) indicates that this level of take will have no measurable affect on the populations and peregrines should continue to increase both in number and distribution if suitable habitat is available.

Current federal guidelines include the following:

1. Young may not be removed from their aerie before 5 days of age.
2. To avoid premature fledging of nestlings, aeries should not be entered when young are 28 days or more of age.
3. At least one nestling must be left in each aerie prior to fledging.
4. A fledgling may be trapped for up to 30 days after fledging.
5. Each falconer who takes a nestling from the wild must report the sex and precise

information about the capture location for each bird to the appropriate State wildlife agency and to the U.S. Fish and Wildlife Service within 5 days of the take of the bird.
6. A falconer who takes a nestling from the wild must band it with a permanent, non-reusable, numbered Fish and Wildlife Service band that the Service or the falconer's State wildlife agency that regulates falconry, will provide.
7. For potential stable isotope analyses and law enforcement purposes, the falconer should also submit two plucked breast feathers from the nestling after the bird is 30 days old.

10. Description and analysis of reasonable alternatives (including the no action alternative) to the proposed action whenever alternatives are reasonably available and prudent to consider and a discussion of how the alternatives would be implemented:

Alternative A: No Action. Montana Fish, Wildlife and Parks would continue to prohibit the take of nestling peregrines for falconry purposes and under this alternative, would not implement state regulations that permit such take. This alternative has been rejected because falconry is a legal and authorized activity in Montana and the prescribed level of take, as defined by federal regulations, will not threaten the resource nor constrain continued population expansion.

Alternative B: Proposed Action. The Montana Department of Fish, Wildlife & Parks proposes to allow take of up to 5% of known productivity of peregrines in Montana by licensed falconers consistent with the applicable federal and state regulations. The FWP Commission may adopt regulations governing the take of peregrines that are more restrictive than the federal guidelines (e.g. limit the take to something less than 5%, restrict the take of nestlings at certain locations, etc.) but may not promulgate regulations that are more liberal. Coordinated population monitoring efforts will be continued through 2015 at a minimum and will serve as the basis for known production of young.

The proposed action will include consideration of the following actions.
1. Establishing which class of falconer is authorized to participate (could include licensed General and or Master Falconer)
2. Establishing a quota for the number of birds available for capture (potentially up to but not to exceed federal frameworks).
3. Establishing the number of nestlings that must remain in the nest at a capture site (federal regulations require at least one).
4. Establishing a period of time when take is permitted (currently prescribed by federal regulations based on age of the birds).
5. Establishing which nest sites may be excluded from take due to wildlife research and viewing opportunities or which geographic areas may be excluded from take if necessary to promote additional population growth in certain regions of the state.
6. Establishing an application and selection process for the limited capture permits.
7. Establishing the banding/reporting requirements for peregrines taken from the wild (both are currently required under federal frameworks).
8. Establishing any notification requirements by the permitted falconer to MFWP prior to the take of a peregrine.
9. Under current state regulations, authorized take would be limited to resident falconers only.

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PART II. ENVIRONMENTAL REVIEW CHECKLIST

3. Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

1. LAND RESOURCES Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Soil instability or changes in geologic substructure?				X		
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil, which would reduce productivity or fertility?				X		
c. Destruction, covering or modification of any unique geologic or physical features?				X		
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?				X		
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?					X	
f. Other:				X		

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (attach additional pages of narrative if needed):

1e. Falconers could be exposed to natural hazards (rock fall, etc.) while climbing and or rappelling to nest sites to capture eyass peregrines. Falconers assume all responsibility and liability when accessing nest sites.

2. AIR **Will the proposed action result in:**	**IMPACT**					
	Unknown	**None**	**Minor**	**Potentially Significant**	**Can Impact Be Mitigated**	**Comment Index**
a. Emission of air pollutants or deterioration of ambient air quality? (Also see 13 (c).)			X			
b. Creation of objectionable odors?			X			
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
e. For P-R/D-J projects, will the project result in any discharge, which will conflict with federal or state air quality regs? (Also see 2a.)		X				
f. Other:		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Air Resources (attach additional pages of narrative if needed):

2 a/b. Minor and temporary dust and or vehicle emissions would be created by falconers as they drive to and from nest locations.

3. WATER **Will the proposed action result in:**	**IMPACT**					
	Unknown	**None**	**Minor**	**Potentially Significant**	**Can Impact Be Mitigated**	**Comment Index**
a. Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?		X				
b. Changes in drainage patterns or the rate and amount of surface runoff?			X			
c. Alteration of the course or magnitude of floodwater or other flows?		X				
d. Changes in the amount of surface water in any water body or creation of a new water body?		X				
e. Exposure of people or property to water related hazards such as flooding?		X				
f. Changes in the quality of groundwater?		X				
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?		X				
i. Effects on any existing water right or reservation?		X				
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				
l. For P-R/D-J, will the project affect a designated floodplain? (Also see 3c.)		X				
m. For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a.)		X				
n. Other:		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Water Resources (attach additional pages of narrative if needed):

3b. Minor and temporary changes as could be created by falconers as they drive to and from nest locations

4. VEGETATION **Will the proposed action result in?**	**IMPACT**					
	Unknown	**None**	**Minor**	**Potentially Significant**	**Can Impact Be Mitigated**	**Comment Index**
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?		X				
b. Alteration of a plant community?		X				
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				
d. Reduction in acreage or productivity of any agricultural land?		X				
e. Establishment or spread of noxious weeds?		X				
f. ****For P-R/D-J, will the project affect wetlands, or prime and unique farmland?		X				
g. Other:		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Vegetation (attach additional pages of narrative if needed):

5. FISH/WILDLIFE Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Deterioration of critical fish or wildlife habitat?		X				
b. Changes in the diversity or abundance of game animals or bird species?			X			
c. Changes in the diversity or abundance of nongame species?			X			
d. Introduction of new species into an area?		X				
e. Creation of a barrier to the migration or movement of animals?		X				
f. Adverse effects on any unique, rare, threatened, or endangered species?			X			
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?			X			
h. For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f.)			X			
i. For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d.)		X				
j. Other:		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Fish and Wildlife:

5b. There could be a minimal change in the number of game birds harvested by falconers as a result of this action.

5c. There will be a minor but likely undetectable change in the number of wild peregrines.

5f. Proposed level of take is conservative and the current scientific information indicates this take will have no measurable effect on the population. Individual birds will be removed which could have minor impact at the local site. However, survival of remaining nestlings may be enhanced by a reduction in competition for food and space at the nest site

5g. Under federal guidelines, nestlings may be removed from the nest or captured as recently fledged young in the vicinity of the nest. There will be some stress to adults and nestlings peregrines as falconers remove young from nests. However, the best available information indicates the effects on remaining offspring are temporary. In addition, federal regulations do allow young to be taken as newly fledged birds and that method of take would minimize disturbance of the nest site itself.
5h. Certain western Montana peregrine nest sites may be found in grizzly bear habitat or along major river systems where bald eagles are nesting. Permitted take activities directed at peregrines should have minimal affects on these species.

B. HUMAN ENVIRONMENT

6. NOISE/ELECTRICAL EFFECTS **Will the proposed action result in:**	**IMPACT**					
	Unknown	**None**	**Minor**	**Potentially Significant**	**Can Impact Be Mitigated**	**Comment Index**
a. Increases in existing noise levels?			X			
b. Exposure of people to serve or nuisance noise levels?		X				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				
e. Other:		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Noise/Electrical Effects (attach additional pages of narrative if needed):

6a. A minimal increase in vehicle traffic at certain nest sites is a possibility.

7. LAND USE **Will the proposed action result in:**	**IMPACT**					
	Unknown	**None**	**Minor**	**Potentially Significant**	**Can Impact Be Mitigated**	**Comment Index**
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		X				
b. Conflict with a designated natural area or area of unusual scientific or educational importance?			X			
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		X				
d. Adverse effects on or relocation of residences?		X				
e. Other:		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Use (attach additional pages of narrative if needed):

7b. Certain peregrine nest sites are highly visible to the public and represent important wildlife viewing opportunities. Take of nestlings at these sites could be restricted so as to protect these viewing opportunities. Based on current discussions, this could include 3-5 nest sites and would be based on FWP Commission action. Criteria used to assess this option could be developed during the formulation of Administrative Rule for this action.

8. RISK/HEALTH HAZARDS **Will the proposed action result in:**	**IMPACT**					
	Unknown	**None**	**Minor**	**Potentially Significant**	**Can Impact Be Mitigated**	**Comment Index**
a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?		X				
b. Affect an existing emergency response or emergency evacuation plan, or create a need for a new plan?		X				
c. Creation of any human health hazard or potential hazard?			X			
d. For P-R/D-J, will any chemical toxicants be used? (Also see 8a)		X				
e. Other:		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Risk/Health Hazards (attach additional pages of narrative if needed):

8c. Climbing or rappelling into nest sites could pose a human health risk to the involved climber. The Montana Falconers Association has offered to develop a handout describing how to safely access nest sites.

9. COMMUNITY IMPACT **Will the proposed action result in:**	**IMPACT**					
	Unknown	**None**	**Minor**	**Potentially Significant**	**Can Impact Be Mitigated**	**Comment Index**
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?		X				
d. Changes in industrial or commercial activity?		X				
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?		X				
f. Other:		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Community Impact (attach additional pages of narrative if needed):

10. PUBLIC SERVICES/TAXES/UTILITIES **Will the proposed action result in:**	**IMPACT**					
	Unknown	**None**	**Minor**	**Potentially Significant**	**Can Impact Be Mitigated**	**Comment Index**
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:			X			
b. Will the proposed action have an effect upon the local or state tax base and revenues?		X				
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		X				
d. Will the proposed action result in increased use of any energy source?		X				
e. Define projected revenue sources		X				
f. Define projected maintenance costs.		X				
g. Other:		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Public Services/Taxes/Utilities (attach additional pages of narrative if needed):

10a. This action will require some additional administrative efforts on the part of MFWP that include processing permits applications and conducting a drawing, banding and/or inspecting any legally taken peregrine, and maintaining specific records relative to the take of these birds by licensed falconers.

11. AESTHETICS/RECREATION **Will the proposed action result in:**	**IMPACT**					
	Unknown	**None**	**Minor**	**Potentially Significant**	**Can Impact Be Mitigated**	**Comment Index**
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?		X				
b. Alteration of the aesthetic character of a community or neighborhood?		X				
c. Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report.)			X			
d. For P-R/D-J, will any designated or proposed wild or scenic rivers, trails or wilderness areas be impacted? (Also see 11a, 11c.)		X				
e. Other:		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Aesthetics/Recreation (attach additional pages of narrative if needed):

11c. As noted above, wildlife viewing opportunities could be impacted at certain highly visible locations by falconers accessing nest sites. To maintain those viewing opportunities, take of nestlings from those sites could be prohibited.

12. CULTURAL/HISTORICAL RESOURCES	**IMPACT**					
Will the proposed action result in:	**Unknown**	**None**	**Minor**	**Potentially Significant**	**Can Impact Be Mitigated**	**Comment Index**
a. Destruction or alteration of any site, structure or object of prehistoric historic, or paleontological importance?		X				
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a.)		X				
e. Other:		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Cultural/Historical Resources (attach additional pages of narrative if needed):

C. SIGNIFICANCE CRITERIA

13. SUMMARY EVALUATION OF SIGNIFICANCE **Will the proposed action, considered as a whole:**	**IMPACT**					
	Unknown	**None**	**Minor**	**Potentially Significant**	**Can Impact Be Mitigated**	**Comment Index**
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total.)		X				
b. Involve potential risks or adverse effects, which are uncertain but extremely hazardous if they were to occur?		X				
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?			X			
f. For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e.)			X			
g. For P-R/D-J, list any federal or state permits required.						X

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Significance Criteria (attach additional pages of narrative if needed):

13 e/f. During the public scoping process, certain individuals and/or organizations have expressed concern and or opposition to the proposal to allow limited take of peregrines for falconry purposes. A segment of the public opposes the practice of falconry in general and does not endorse the capture of wild birds for this purpose. Others have questioned the timing of this proposal and have expressed an interest in delaying the implementation so as to encourage additional expansion of nesting peregrines within Montana. In addition, some people believe that the use of captive-bred birds would meet the need of falconers. Refer to Appendix A for more detailed information.

13 g. See authorities section and Appendix A.

2. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

Falconry is a highly regulated activity at state and federal levels. Previously described federal and state regulations, standards and guidelines define the requirements necessary to participate in falconry. The falconry program is administered by MFWP through the Enforcement Division and documentation of individuals and the birds they possess is updated annually.

PART III. NARRATIVE EVALUATION AND COMMENT

This action would authorize the limited take of peregrine falcons for falconry purposes and should not constrain the continued expansion in the number and distribution of peregrine falcons in Montana.

PART IV. PUBLIC PARTICIPATION

1. Describe the level of public involvement for this project if any, and, given the complexity and the seriousness of the environmental issues associated with the proposed action, is the level of public involvement appropriate under the circumstances?

In October 2006, the FWP Commission endorsed a proposal to move forward with the consideration of a proposed take of nestling peregrines for falconry purposes. Public comment was entertained at the Commission meeting. Several follow-up newspaper articles and a public radio program conveyed additional information about the proposal to the public.

- The public was notified on December 15, 2006, of an initial scoping process to identify issues and alternatives associated with possible take through
- One statewide press release
- Public notice on the Fish, Wildlife & Parks web page: http://fwp.mt.gov
- Oral, written, and electronic comments were received until January 15, 2007.

Montana Fish, Wildlife & Parks then reopened the scoping process and conducted six open house meetings to share information on the proposed action and for additional scoping. Notice was published in all major newspapers and on the FWP web site. Meetings were conducted in late March and early April 2007 in Helena, Great Falls, Kalispell, Missoula, Bozeman, and Billings.

Written and electronic comments were received until April 27, 2007. Copies of the Draft EA will be made available to the public and all those who attended the open houses or commented during the scoping process. A discussion of the issues and alternatives raised is presented in Appendix A.

2. Duration of comment period, if any.

The Draft EA was released for comment on August 3, 2007 following the publication of the legal notice and the comment period was scheduled to close on September 6. At the request of Montana Audubon and members who had not seen the draft EA, the comment period was extended on September 4 an additional 2 weeks until 5:00 p.m., September 21, 2007. Written comments were sent to Arnold Dood, FWP, 1400 South 19th Avenue, Bozeman MT 59718 or emailed to adood@mt.gov.

PART V. EA PREPARATION

1. Based on the significance criteria evaluated in this EA, is an EIS required? (YES/NO)? NO
If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action.

Impacts of the proposal are minor and temporary.

2. Name, title, address and phone number of the person(s) responsible for preparing the EA:

Arnold R. Dood	FWP, 1400 South 19th Avenue, Bozeman MT 59718-5496, 406-994-6433

3. List of agencies consulted during preparation of the EA:

Montana Fish, Wildlife & Parks
Wildlife Division
Legal Bureau
U.S. Fish and Wildlife Service

Montana Audubon, Montana Peregrine Falcon Work Group, and other cooperators have been notified of this proposal.

APPENDICES

APPENDIX A

Issues Identified During Scoping and MTFWP Response

How many people practice falconry in Montana and what rules govern falconry? Montana currently has 95 licensed falconers (10 apprentice, 23 general, and 62 master class). For a complete description of the different classes, please see Montana Falconry Guidelines. These falconers currently hold a variety of raptors (101 total) including 42 peregrines from captive and wild stock. Montana also has 13 licensed raptor propagators that are able to breed peregrine falcons. Currently, the take of wild raptors in Montana is restricted to residents only.

Do raptors in captivity have to be banded? Any peregrine taken from the wild must be banded with a permanent non-removable band. Any peregrine born and raised in captivity must be banded with a seamless band that remains on the bird for its life. In addition, the appropriate forms must document the status of the bird throughout its life.

Can peregrines taken from the wild be sold? It is against the law for any raptor taken from the wild to be sold, bartered, or exchanged. Offspring of wild captured birds authorized for use in captive breeding programs, can be sold.

Can peregrines taken from the wild be transferred? Peregrines can be transferred to another licensed falconer within Montana. Any such exchanges must be documented with the proper forms and cannot be done for profit or gain. Transfers outside of Montana must be approved by MTFWP.

What is the appropriate level of take? Current level of take for peregrines is established at 5% of known production for the western population. Montana cannot exceed the established levels of take and in fact, the current allowable level of take for western states is not being met. It should also be noted that the level of take is established by using documented productivity and for Montana, this likely represents a conservative estimate of actual production. Given the typical characteristics of preferred nesting sites, MFWP acknowledges that peregrines nesting in difficult to access locations likely remain undetected but contribute to the overall productivity of the population.

How will the population be monitored to ensure that take or some other factor (new pesticides, West Nile virus, possible avian influenza) is not having a negative impact? MFWP coordinated the monitoring for 5 years post delisting. This program visited all known sites in Montana as well as recording productivity at these sites. The USFWS developed a monitoring program for the western states which is occurs every three years. The first year of that survey was 2003, and the most recent survey occurred in 2006 (see results for Montana in the EA narrative). Additional surveys are scheduled for 2009, 2012, and 2015. In the years between intensive

surveys, MFWP and its cooperators intend to monitor a sample of 25 sites in order to track rates of occupancy and productivity. These surveys should allow us to accurately track the health of the peregrine population in Montana. These surveys include volunteers, state, federal and tribal staff.

Why not delay the proposed take for a few more years or until the monitoring period is over in 2015? Peregrines were delisted from the Endangered Species Act in 1999 after reaching three times the recovery goal of 500 pairs. The recent national survey (2006) indicated that the population had increased to an estimated 3,000 pairs and continues to expand in both density and distribution. Montana has exceeded its recovery goal of 20 active nests and MFWP anticipates the population will continue to expand beyond the 65 active nests documented in 2006. The proposed level of take should not constrain continued population expansion in Montana or across other western states. MFWP believes that implementing a regulated level of take is appropriate at this time given the continued level of growth in the population of peregrines in Montana

The take of young peregrines for falconry is "morally wrong," so why allow it? Individuals have very different perspectives and opinions on what they consider appropriate human-related activities involving wildlife, including the tradition of hunting. Falconry is currently a legal activity under Montana statute, and take of young peregrines is currently permitted under Federal rules and regulations. There are and will be areas that are unavailable for take such as national parks and sites closed by commission action. These areas are available for those who chose to experience areas where take is prohibited. In addition, the federally authorized level of take will impact approximately 10% or less of the known active nests and account for less than 5% of the documented annual production of young. To put this proposal in perspective, of the current known active nests (65), a total of 7 could be visited for the removal of one young per nest. Fewer nests could be visited if more than one young could be taken from a nest as long as the federal requirement of one young remaining in the nest is met. Given 2006 productivity estimates of 2.3 young per nest, this would allow for at least one young to remain and potentially fledge from each of these nests. Also, evidence from other states where take is authorized demonstrates that authorized levels of take are seldom achieved due to a variety of limiting factors (weather, timing, etc.). This level of take could be further restricted by Commission action if deemed appropriate.

What are the Federal guidelines that must be followed if take is permitted at the state level? The Federal rules pertaining to take are accessible through the listed websites. A complete discussion of the Federal Environmental Assessment, Management Plan, and Implementation Guidelines allowing take can be reviewed on-line. These guidelines require certain specific constraints on any allowable take such as a requirement to leave at least one chick in any nest, the age of bird that may be taken, the timing of that take, and banding and reporting requirements, etc. They also allow states to restrict locations of take as well as prohibiting take if appropriate.

Can Montana restrict take at certain sites or for any reason? MFWP Commission can restrict take to protect viewing opportunities, support ongoing research or restrict take in certain areas to promote ongoing distribution increases, etc. In addition, FWP would prohibit take of the population were it to fall below 50 occupied eyries.

Are there problems with illegal activities involving take of peregrines? MFWP has enforcement programs in place to deal with illegal activities. In addition, falconry is one of the most highly regulated activities FWP permits. There have been no recent cases against licensed falconers for illegal activities and ongoing surveys conducted as part of the long-term monitoring effort have not identified any areas where illegal activities are impacting the peregrine populations.

Which class of falconers would be allowed to take peregrines? Apprentice falconers are prohibited from taking and possessing peregrines. MFWP believes that as a result of the extensive training and age restrictions for general and master class falconers, both of these classes would have the necessary skills to safely take and handle peregrine falcons.

Will there be a "quota" or "drawing" system to manage the proposed take? Yes, MFWP will institute a drawing system, similar to that used for other species of wildlife, to equitably distribute any opportunities for the proposed take. Based on a determination of actual demand and future peregrine population increases, it is possible that a "quota" system could be implemented if appropriate. In states that currently authorize regulated take, demand for permits has not been excessive and in some states, has typically been under utilized.

Will nonresidents be allowed to take peregrines in Montana? Currently, nonresidents are prohibited from taking peregrines or any other raptor from the wild in Montana. If in the future these statutes are changed, the FWP Commission will have to determine whether nonresident take of peregrines is appropriate.

Will falconers be able to take "passage" birds? Passage birds are those that migrate through Montana or have fledged and left the nest site. At this time, take of passage peregrines in Montana is prohibited by federal regulations. If Federal rules and regulations are changed to allow the take of passage birds, the MFWP will consider including them in the programs allowing take of peregrines.

Why do falconers have to take wild birds when birds bred in captivity are available? Different people have different motivations and desires. For some falconers, the opportunity to utilize birds from the wild is an important part of the tradition of falconry. As long as this take is legal and doesn't jeopardize the populations in Montana or elsewhere, it has been deemed acceptable under federal regulations and those adopted by other western states. Wild birds have different attributes than birds bred in captivity, especially when it comes to hunting capabilities and the ability to avoid predators such as golden eagles. It is important to acknowledge the role falconers played in the recovery of this species and their continued interest in perpetuating this resource. They continue to work in partnership with other conservation groups to monitor population status and document locations of

new nests. From a falconer's perspective, the opportunity to fly a wild-bred bird is a part of this recovery process.

What fees will be charged? Falconers are required to have the appropriate permits and licenses including those necessary to hunt upland and migratory game birds. In addition, if a drawing is held for available permits, the standard drawing application fee is $5.00.

FWP Record of Decision

Montana Fish, Wildlife & Parks hereby issues a decision to adopt the Final Environmental Assessment on the Take of Peregrine Falcons for Falconry Purposes. This decision includes commitments to continue managing peregrine falcon populations in Montana and to monitor that population into the future. This EA will serve in an informational capacity as the FWP Commission considers a decision to adopt tentative and final regulations, with appropriate public comment, that would authorize the limited take of young peregrines. That action, or lack thereof, will constitute a record of decision relative to the proposed take.

_____ _____

M. Jeff Hagener
Director

Date