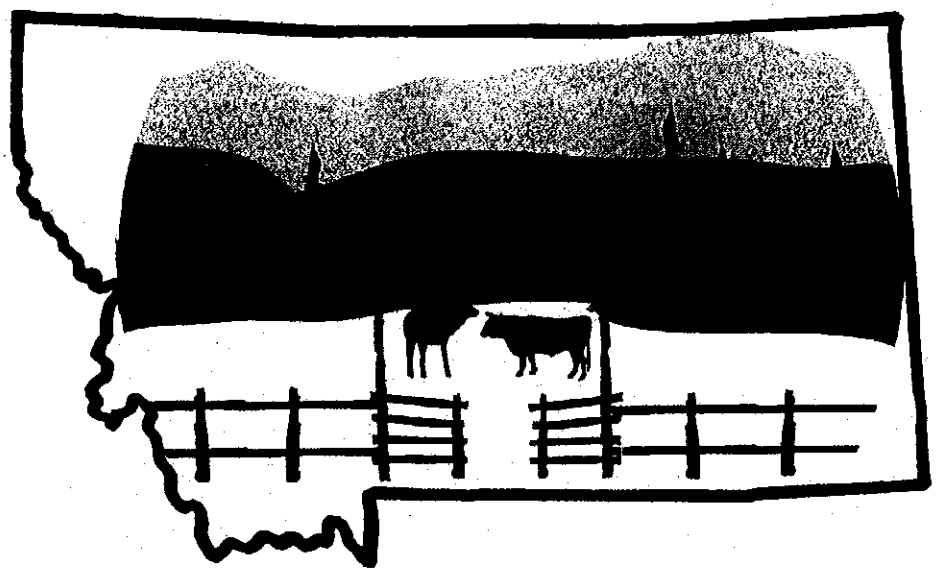
Private Land/Public Wildlife Advisory Council

Report and Recommendations



Presented to
Governor Brian Schweitzer
and the
60th Legislature

January, 2007

BLOCK MANAGEMENT

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Private Land/Public Wildlife Council – Member List – (2005 - 2007)

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Jack Rich
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Craig Roberts
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***Rep. Bill Warden**
6507 Leverich Lane
Bozeman, MT 59715

Senator Lane Larson
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*resigned effective 11/20/06 due to changes in legislature;
** resigned effective 7/1/06 due to relocation out of state;

COUNCIL CHARGE/PURPOSE

In 1995, a review committee (Private Land/Public Wildlife Council) was established in statute to make recommendations to the Governor regarding issues related to private land and public wildlife. The Council's statutory charge is articulated in Montana Code Annotated (MCA) 87-1-269 as follows:

"**Report Required - review committee.** (1) The governor shall appoint a committee of persons interested in issues related to hunters, anglers, landowners, and outfitters, including but not limited to the hunting access enhancement program, the fishing access enhancement program, landowner-hunter relations, outfitting industry issues, and other issues related to private lands and public wildlife. The committee must have broad representation of landowners, outfitters, and sportspersons. The department may provide administrative assistance as necessary to assist the review committee.

(2) (a) The review committee shall report to the governor and to the 59th legislature regarding the success of various elements of the hunting access enhancement program, including a report of annual landowner participation, the number of acres annually enrolled in the program, hunter harvest success on enrolled lands, the number of qualified applicants who were denied enrollment because of a shortfall in funding, and an accounting of program expenditures, and make suggestions for funding, modification, or improvement needed to achieve the objectives of the program.

(b) The review committee shall report to the governor and to the 59th legislature regarding the success of the fishing access enhancement program and make suggestions for funding, modification, or improvement needed to achieve the objectives of the program.

3) The director may appoint additional advisory committees that are considered necessary to assist in the implementation of the hunting access enhancement program and the fishing access enhancement program and to advise the commission regarding the development of rules implementing the hunting access enhancement program and the fishing access enhancement program."

In August, 2005, Governor Brian Schweitzer appointed 15 Council members to terms ending June 30, 2007, re-affirming the Council's charge as follows:

a) **preserving Montana's hunting heritage;**

b) **providing public hunting access on private and isolated public land;**

c) **reducing landowner impacts related to public hunting access;**

d) **providing tangible incentives to landowners who allow public hunting;**

e) **helping outfitters stabilize their industry and improve their image.**

PL/PW Council Operating Guidelines (developed by Council members during initial meetings)

PL/PW Council members will:

- *Represent all the citizens of Montana, and not just specific groups or interests.*
- *Create idea components rather than person components.*
- *Demonstrate respect for each other by:*
    - *Listening actively*
    - *Listening honorably, and respecting each other*
    - *Giving the other person permission to openly speak his or her mind*
    - *Avoiding attacking remarks, "name calling," hitting," etc.*
    - *Not interrupting*
    - *Not conducting side conversations*
- *Participate in Council deliberations*
- *Monitor communication for style, length and frequency of comments.*
- *Put personal agendas on the table so everyone understands them.*
- *Take or call for a "time-out" when or if one is needed.*
- *Attend meetings unless unavoidable; communicate ideas to other members if necessary.*
- *Take personal responsibility for "catching up" on any meeting that may be missed.*
- *Make efforts to contact absent members to get their input if decisions need to be made.*
- *Establish "traplines" to gather and share information with area "constituents."*
- *Vary meeting sites throughout the state; utilize non-traditional meeting facilities.*
- *Utilize all possible media outlets for communicating information about Council activities.*
- *Welcome FWP participation in Council activities to provide necessary information and guidance while also allowing for Council independence.*
- *Refer media requests for information about specific Council decisions or ongoing deliberations to the Council Chair or the Council staff.*
- *Welcome opportunities to attend FWP Block Management Program events.*
- *Utilize a facilitator to assist with meetings on an as-needed basis.*
- *Develop meeting agendas through the Council chair and FWP staff liaison.*

Council Activities

During the period December 2005 through December 2006, the Council met six times at various locations throughout the state. In September 2006, the Council presented four Draft Recommendations to the public for comment. Upon completion of a 60+ day public comment period, during which 22 individuals or organizations submitted formal comments, the Council met on December 5-6, 2006, and adopted, through consensus, five (5) FINAL RECOMMENDATIONS, which are contained in this report on the following page.

In addition to their FINAL RECOMMENDATIONS, Council members identified the following four issues as high-priority issues needing further work in the future:

- **Maintaining sustainable access;**
- **Minimizing habitat loss;**
- **Improving hunter recruitment and retention;**
- **Identifying and addressing key hunter/angler behavior issues;**

FINAL RECOMMENDATIONS AND RATIONALE

1. FINAL RECOMMENDATION #1: Support legislation to direct more of the money resulting from FWP restitution collected by the courts back to FWP to fund hunter education and enforcement efforts.

- *Rationale: Currently, approximately $120,000 is collected annually from FWP restitution; of this total, $60,000 is directed to FWP for education and enforcement, with the remainder directed to the State General Fund.*

2. FINAL RECOMMENDATION #2: Support legislation to increase the penalty for providing outfitting services without a license;

- *Rationale: Currently, a person cited for providing outfitting services without a license is subject to a fine of $285.*

3. FINAL RECOMMENDATION #3. Support legislation modifying FWP Upland Game Bird Habitat Enhancement Program to eliminate mandatory setting aside and expenditure of a set percentage of funds for upland game bird releases.

- *Rationale: Currently, at least 15% of the funds collected for the Upland Game Bird Habitat Enhancement Program must be set aside each fiscal year for expenditures related to upland game bird releases, and at least 25% of the funds set aside for upland game bird release must be spent each year.*

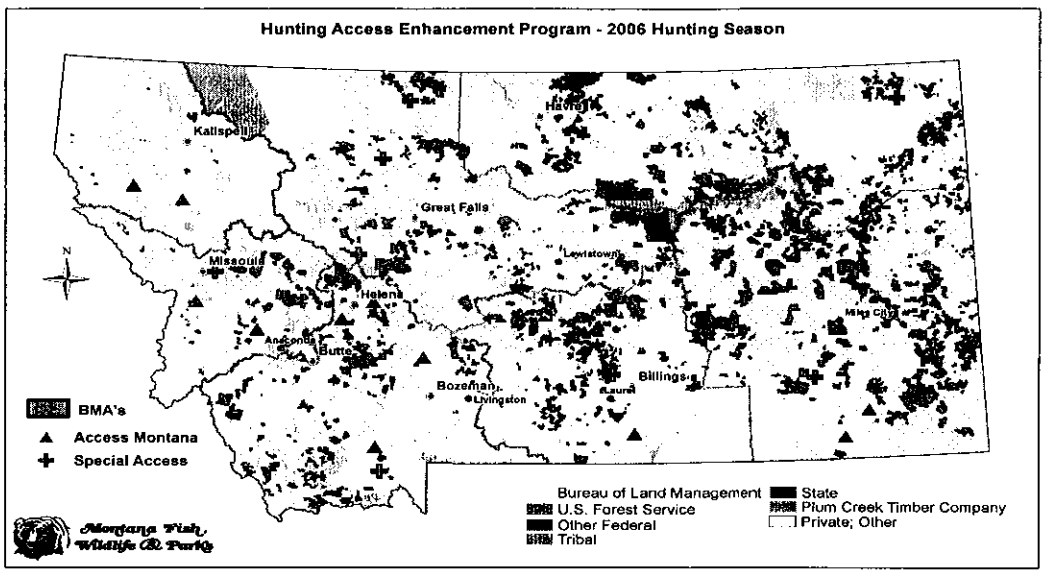
4. FINAL RECOMMENDATION #4: Support legislation to add antelope, bison, and mountain lion to the list of species for which Supertag chances are sold.

- *Rationale: Currently, unlimited chances are sold for 1 Supertag each for 5 species: moose, sheep, mountain goat, elk, and deer. In 2006, approximately $325,000 was generated through Supertag sales. Supertag revenue must be used to fund access programs and enforcement.*

5. FINAL RECOMMENDATION #5. Support legislation to help address public safety and access conflicts that arise from fences attached to bridge abutments at the intersection of two public rights-of-way.

- *Rationale: Current statutory authority is inadequate for successful resolution of conflicts.*

HUNTING ACCESS ENHANCEMENT PROGRAM



2006 Block Management Program Statistics:

- **1,245 Cooperators; 946 (BMAs); 8,301,789, Acres;**

REGIONAL STATISTICS

R1: 11 Cooperators; 13 BMAs; 765,846 acres (majority is corporate timber land);

R2: 121 Cooperators; 65 BMAs; 282,530 acres;

R3: 104 Cooperators; 92 BMAs; 704,100 acres;

R4: 194 Cooperators; 112 BMAs; 1,410,498 acres;

R5: 194 Cooperators; 167 BMAs; 940,229 acres;

R6: 275 Cooperators; 173 BMAs; 1,265,068 acres;

R7: 346 Cooperators; 324 BMAs; 2,933,517 acres;

2005 Block Management Program - Season Averages

a) average number of acres per cooperator..... 6,894
b) average number of hunter days per cooperator.....341
c) average landowner contract payment.....$3,167
d) average hunter use (resident / nonresident).... 82% res. / 14% nonres.

Program Name
Hunting Access Enhancement Program
(includes Block Management, Access Montana, and Special Access Projects)

Program Manager
Alan Charles, Coordinator, Landowner/Sportsman Relations

FY07 PROGRAM – PROJECTED EXPENDITURES:

Landowner Contracts:	$4,100,000
Landowner/Hunter Services:	$1,600,000
Enforcement (6 FTE):	$350,000
Administrative Overhead:	$350,000
TOTAL :	**$6,400,000**

Landowner Contract Payments: Under statutory authority (87-1-267 MCA), "Benefits will be provided to offset potential impacts associated with public hunting access, including but not limited to those associated with general ranch maintenance, conservation efforts, weed control, fire protection, liability insurance, roads, fences, and parking area maintenance." The current system, articulated in 12.4.206 ARM, provides for cooperators to receive a $250 annual enrollment payment, and up to $10 per hunter day in annual impact payments, with optional 5% additional weed management payment. Total annual payment may not exceed $12,000.

Landowner/Hunter Services:

- Approximately 45 seasonal BMA technicians are hired each hunting season to help set up, sign, patrol, and dismantle BMAs;

- Regional program coordinators negotiate contracts, produce informational materials, supervise seasonal staff, and respond to the needs of hunters and landowners.

- Program materials such as signs, sign-in boxes, rosters, permission slips, maps, and tabloids, and personal services and benefits for program staff are funded through program operations budgets. For the 2004 hunting season, nearly 150,000 maps, 34,000 regional BMA tabloids, and over 25,000 BMA signs were printed and distributed.

- Included in this category are expenditures for Access Montana projects (public land access) and Special Access projects (local projects focused on a specific species).

Enforcement (6 FTE):
A total of 6 full-time warden positions are funded through Hunting Access Enhancement Program sources. This 6 FTE is allocated statewide to game wardens who patrol BMAs for hunter compliance of landowner and FWP rules. Game wardens also assist with BMA contract negotiations, delivery of BMA materials, and landowner/FWP contacts.

Administrative Overhead
All FWP programs are assessed an administrative overhead charge, which is used to pay for various indirect costs associated with support functions primarily performed by staff in the Administration & Finance and Department Management divisions. Examples of such support functions include accounting, budgeting, property, personnel, administrative support, and data processing services. Administrative overhead charges are assessed on accounts based upon a percentage of overall expenditures.

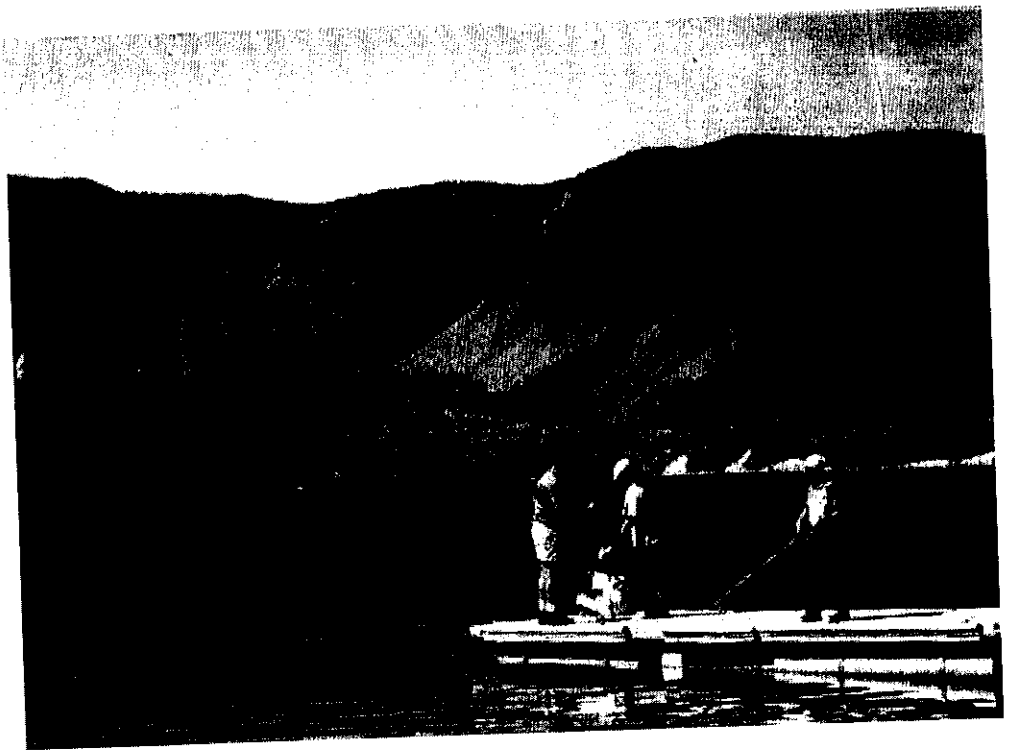
Weed Management Payments: SB 326 (effective March 1, 2000) authorized FWP to offer up to 5% in additional incentive payments to Block Management Cooperators who agree to use those payments for specific weed management activities on their lands. For FY05, a total of $171,140 was paid specifically for use in weed management activities on BMAs. In past years, of landowners who elected to receive weed management payments:

34% indicated their intent to hire contractors for weed management measures;
86% indicated their intent to purchase herbicide or other chemicals;
6% indicated their intent to donate the payment to a county weed board;
3% indicated their intent to lease or rent livestock for weed control;
4% indicated their intent to implement some type of weed education;

*Some landowners indicated they intended to use the payment for multiple uses.

ENROLLMENT STATUS
Potential new cooperators are identified through various means, including individuals contacting FWP formally and asking to be placed on a waiting list for future enrollment consideration, individuals contacting FWP field staff and discussing possible future enrollment in the program, and FWP identifying potential candidates in high-priority areas or offering high-priority hunting opportunities and making initial contacts to identify potential interest in future enrollment. At the end of the 2005 hunting season, regional program coordinators reported approximately 203 potential new cooperators had indicated interest in enrolling if funds became available.

FISHING ACCESS ENHANCEMENT PROGRAM



Program Name
Private Land Fishing Access (2006)

Program Manager:
Allan Kuser, Fishing Access Program Coordinator

Program Authorizing Statute:
This program was introduced as HB 292 and titled "Fishing Access Enhancement Program". The statutory reference is **87-1-285, 87-1-286, MCA.**

Program Funding

FY 05 Allocation:	$ 25,000
FY 05 Expenditure:	$ 18,625
FY 06 Allocation	$ 25,000
FY 06 Expenditure	$ 25,000

Program Status:
The program is in its fifth year of funding.

Program Synopsis

The purpose of the program as stated in HB292 is "to provide incentives to landowners who provide access to or across private land for public fishing." House Bill 292 was enacted by the 2001 Legislature on a trial basis with the intention of augmenting the existing FAS acquisition program. The sole purpose of this program is to give practical, tangible assistance to those landowners who allow the public access across their lands in order to fish streams or lakes that otherwise are not accessible.

The PLFA Program differs from the FAS Program in three ways:

1. The funding is specifically earmarked for use on private land.
2. It is not a capital program through which FWP develops facilities on private land, i.e. boat ramps, dam repairs, stream bank stabilization, etc. Compensation provided to the landowner can be used for these things at his or her discretion.
3. It is a stand-alone program that does not incorporate the Lands Section in negotiating deals, the D&C Bureau to design and engineer projects, or the Parks Division to maintain the sites.

2005
PRIVATE LAND FISHING ACCESS PROJECTS

1. **Anderson Ranch Company**
   The Anderson Ranch is located south of Great Falls near Cascade, Montana. Public access provided through this agreement opens up 3.3 miles of fishing opportunity on the east side of the Missouri River. The Anderson Ranch owns three miles of this land and .3 miles is public land that is now accessible to the public. Utilizing the funds provided by the Private Land Fishing Access Program the landowner has developed four separate parking areas as well as gates or pedestrian stiles in the fences to enhance angler access. Sign in boxes are not required but signs were developed for the parking areas to inform anglers of landowner regulations that include such things as: day use only, campfires prohibited, no hunting without landowner permission, pets must be under the owners control, etc.

   The negotiated fee was $962.50 annually for 10 years for a total of $9,625.
   The Agreement expires on July 15, 2014.

2. **Lee Dunn**
   Angler access is provided to Otie Reservoir through this agreement. Otie Reservoir is owned by Lee Dunn and is located south of Absarokee in Stillwater County. The Department will manage the fishery to enhance angling opportunities by stocking Yellowstone cutthroat trout into the reservoir as deemed necessary. Restoration work will be preformed in the stream upstream of the reservoir to facilitate cutthroat spawning with the intention of creating a self-sustaining population of trout. The fishery will be actively managed using a variety of techniques to control undesirable species such as suckers. The reservoir will be periodically sampled to monitor the fish population and provide data to determine management activities.

Anglers required to call by phone to get permission and sign in at registration box.

The negotiated fee was $1,200 annually for 5 years for a total of $6,000.
The Agreement expires on June 4, 2009.

3. **Craig Campbell and Meg Babits**
The Campbell/Babits property is located between Belgrade and Manhattan, Montana. The property runs north along the Gallatin River immediately upstream of the old highway (frontage road) bridge. The owners have historically allowed public access through their property. A small pioneered parking area on the east side of the river has been used over the years by anglers and other recreationists. Shooting and other unauthorized activities have historically occurred at this site. In an attempt to assist the landowners provide some control over the use of the area FWP personnel erected a sign notifying the public that they were on private land and to respect the rights of private property owners. The sign was vandalized but the landowners have continued to allow public access. Their biggest concern is noxious weeds being brought into the area. The PLFA Program funding will be used by the landowners for weed control measures.

The negotiated fee was $500 annually for 5 years for a total of $2,500.
The Agreement expires on Nov. 18, 2009.

4. **Novak Creek PLFA Area**
This property is owned by Allan and Lola Kosmerl and is located on the Missouri River approximately 1.5 river miles south of the Mountain Palace Fishing Access Site. The Kosmerl's have historically allowed public access to the river through their property. However, over time boat launching activities have denuded the vegetation and caused stream bank damage. The landowners want to stop boat launching from occurring and limit the use to pedestrian access only. Under this agreement wooden posts will be placed in the area where the boat launching is occurring to create a barrier that will prevent boats from being launched. The damaged bank will also be reseeded with riparian grasses. A sign will be posted detailing the rules and regulations for using the site.

The negotiated fee was $500 annually for 1 year for a total of $500.
The Agreement expires on June 14, 2006.

2006
PRIVATE LAND FISHING ACCESS PROJECTS

1. **Gordon Cattle Company / Kuhr Reservoir**
H. C. Kuhr Reservoir is a 25-acre reservoir located 15 miles south of Chinook. This reservoir has been open to the public and managed by Montana Fish, Wildlife, Parks since 1990. Since that time H.C. Kuhr has been a popular fishing access site and FWP has invested a fair amount of time and money into developing and maintaining access to this reservoir. The reservoir is a popular summer and winter trout fishery. On average the reservoir receives 280 angler days during the spring and summer (March-September) and 60

angler days during the winter (December-February). Anglers routinely catch 14 to 20 inch trout.

Since 1990, FWP has provided signs identifying access to the site and the rules of the reservoir and some funding for various maintenance projects. In addition, the reservoir is actively managed through annual sampling and stocking. In 2003, the reservoir was drained and renovated to remove white sucker and restocked with rainbow trout.

Funding provided through the PLFA program will be used to resurface the 2 mile road leading to the reservoir and maintain it over the 10 year life of the agreement.

The negotiated fee was $1,475 annually for 10 years for a total of $14,750.
The Agreement expires on Oct 1, 2015.

2. **Gordon Cattle Company / Brookie Pond**
Brookie Pond is located approximately 30 miles north of Zurich. Public access to this pond was gained when Henry Gordon entered the land into the wildlife conservation easement program with FWP. Upon receiving access to this pond, FWP installed a windmill aerator system on the pond and fist stocked the pond in 2004 with 120 brood cull brook trout. Brookie pond is also scheduled to receive 3,000 2-4 inch brook trout annually. This pond currently represents the only brook trout fishery in Region 6.

Funding provided through the PLFA program will be used to purchase and install a cattle guard anchored in a concrete frame, make road improvements and install signs to identify the access site, rules, and the parking area.

The negotiated fee was $459 annually for 5 years for a total of $2,295.
The Agreement expires on October 1, 2010.

3. **Hans Lampert**
The Lampert prorperty is located on the upper Clark Fork River just a couple miles south of Galen also known as the Perkins Lane Bridge. It includes approximately 2 miles of river frontage. The Lampert's have historically allowed public access to anglers who ask permission. Access will be limited to pedestrian only with no vehicles allowed off the main road. An old RXR grade bisects the property paralleling the river and anglers will be allowed to walk this old RXR roadbed to access various parts of the river if they prefer. Much of the river bottom North of the Perkins Land Bridge has heavy willow cover and would be difficult to negotiate if anglers were forced to stay down along the river.

The negotiated fee was $1,500 annually for 3 years for a total of $4,500.
The Agreement expires on July 1, 2008.

4. **William Butler**
Mr. Butlers property is located adjacent to Table Rock FAS on Little Prickly Pear Creek in the Missouri River drainage north of Helena. MDT granted a recreation easement to FWP for the purpose of developing an FAS at this location. Some of the facilities for the FAS were constructed on property now owned by Mr. Butler. The PLFA arrangement allows the public to continue to use the FAS until another more permanent arrangement can be formalized with Mr. Butler.

The negotiated fee was $500 for 1 year.
The Agreement expires on Oct. 18, 2006.

5. **Dan Mortag**
Mr. Mortag raises sheep on his property that boarders the Smith River. Anglers looking for a place to fish have made a hole in his "sheep fence" to get to the river. Funding was used to acquire and install a pedestrian gate, repair the remaining fence, and put in signs detailing the rules for using the site. Although the agreement expires in one year Mr. Mortag continues to allow public access because of the addition of the gate and fence repairs that have helped him manage his livestock.

The negotiated fee was $350 for 1 year.
The Agreement expires on Oct. 18, 2006.

6. **Doug Gamma**
Mr. Gamma owns property on Ashley Lake west of Kalispell. Mr. Gamma's family has historically allowed public access for ice fishing though his property but lately parking and litter problems are creating a nuisance for the family. Funding provided through this program will assist Mr. Gamma in providing a porta potty, signing, and improve the parking area for anglers using his property.

The negotiated fee was $500 for 1 year.
The Agreement expires with "ice out" in the spring of 2006.

7. **James Franchie Ranch**
The Franchie Ranch is located on the Boulder River just south of the community of Boulder, MT, approximately 30 miles south of Helena. The Boulder River winds through the ranch property for approximately 3.3 miles. Public access has historically been available from the lower end of the property at the Red Bridge county road crossing. Through the PLFA agreement the Franchie's will allow pedestrian access and parking at the upper end of the property as well as provide anglers a 100 ft. wide corridor to walk along the stream reach within their property boundaries. This will assist anglers in negotiating brush, logjams, steep banks, etc. A one-year term was negotiated as a trial period. Subsequent agreements will be evaluated prior to the 2007 fishing season.

The negotiated fee was $1,000.
The Agreement provided access from May through November of 2006.

8. **Yellowstone River Parks Association**
The Yellowstone River and Parks Association secured two permanent easements through private property providing public access to the Yellowstone River through the east end of the city of Billings Riverfront Park. Several conditions were associated with the easements including mitigating dust control by paving the section of the road through which the easement is located. This agreement reimburses the Yellowstone River Parks Association for the cost of paving.

The negotiated fee was $9,175.00 (the balance of FY06 funding was used as well as a portion of the FY07 funding allocation).
The Agreement provided perpetual access.