Private Land/Public Wildlife Advisory Council

Report and Recommendations

Presented
to
Governor Brian Schweitzer
and the
62nd Legislature

January 2011

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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, 2007, Governor Brian Schweitzer appointed 15 Council members to terms ending June 30, 2009, 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.**

The PL/PW Council will work by consensus to reach decisions. A way to test whether or not the group is achieving consensus is to ask the participants how they feel about a particular proposal or option according to the following statements:

1. I can say that I **wholeheartedly agree** to the decision.
2. I find the decision **perfectly acceptable.** It is the best option available to us.
3. I can **support** the decision, although I'm not especially enthusiastic about it.
4. I do not fully agree with the decision and need to register my view about it. However, I do not choose to block the decision. **I am willing to support the decision** because I trust the wisdom of the group.
5. I do not agree with the decision and feel the need to **block** the decision from being accepted as consensus.
6. I feel we have no clear sense of unity in the group. We need to **do more work before consensus can be achieved.**

Consensus is achieved if all participants indicate that they are at levels 1-4.

When someone determines a position at 5 or 6, that person must assume the burden of clearly articulating his or her concern to the larger group, and if possible, work to develop a solution which that person can present to the group for the group's consideration. The group may continue with the procedure until consensus is achieved or the group decides to not move forward with a particular decision or recommendation.

Council Activities (2009-2010)

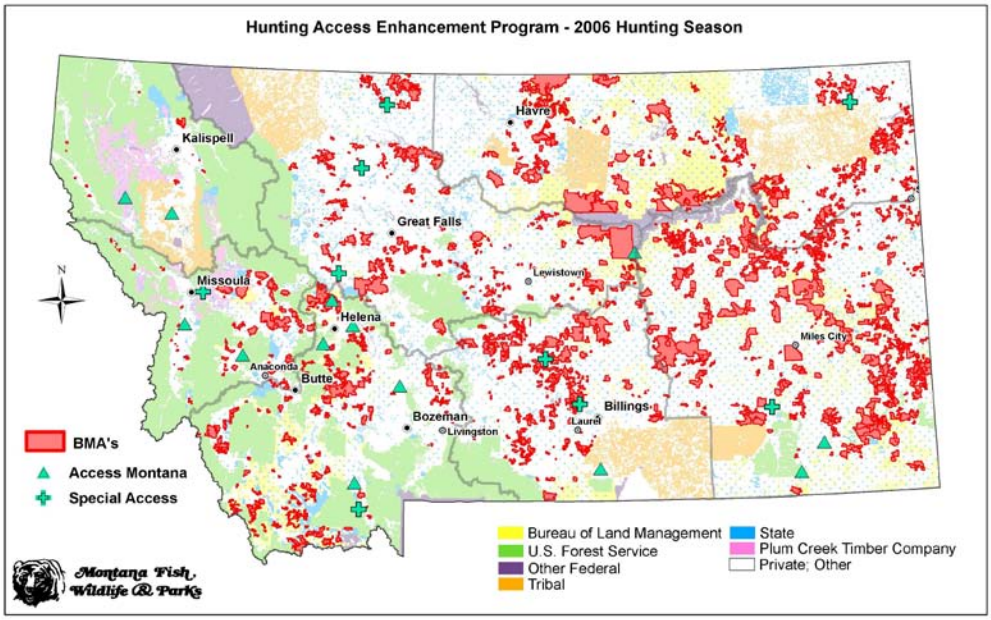
During the period December 2009 through December 2010, the Council met six times at various locations throughout the state. In September 2010, the Council presented one (1) Draft Recommendation, titled "Collaborative Solutions for Problematic Wildlife Concentrations," to the public for comment. Upon completion of a 45+ day public comment period, during which 27 individuals or organizations submitted formal comments, the Council met by on December 14, 2010, and decided **NOT TO ADOPT** a Final Recommendation, based upon indications from public comments that the Draft Recommendation needed more work before it might gain widespread support among the various affected constituents. *(Draft Recommendation – Addendum #1)*

While also during this time, Council members worked in two committees to a) examine FWP landowner incentive programs, and b) explore other options for funding FWP Hunting Access Enhancement Programs, no draft recommendations were developed for either of these issues.

During 2009-2010, a citizen's initiative, I-161, designed to abolish variable-priced outfitter-sponsored nonresident licenses and replace them with general nonresident big game combination licenses while also raising the price for all nonresident big game combination licenses, qualified for the 2010 ballot and subsequently received a majority of the vote. While the PL/PW Council did not take a formal position on I-161, the Council did post a paper on the PL/PW Council website, informing the public about facts related to the history of the variable-priced outfitter-sponsored licensed and potential impacts of I-161. *(I-161 & related information – Addendum #2)*

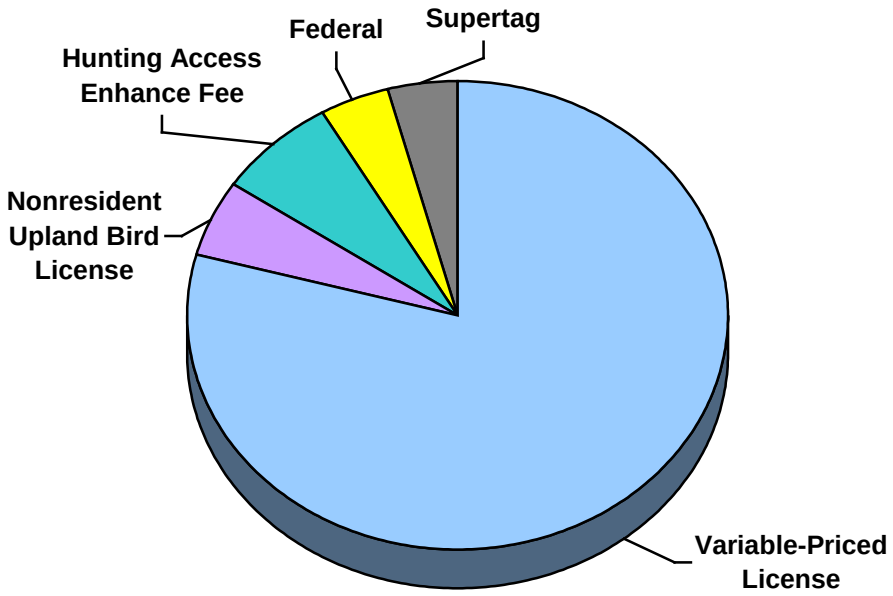
Shanley Creek
BMA
Hunting
with
Written Permission Only.

HUNTING ACCESS ENHANCEMENT PROGRAM REPORT



(Block Management, *Access Public Lands*, Special Access Projects)

HUNTING ACCESS ENHANCEMENT PROGRAM – FY10 REVENUE



Variable-Priced Outfitter-Sponsored Nonresident Big Game Combination Licenses

A portion of the revenue generated by the sale of variable-priced nonresident hunting licenses set aside for clients of licensed outfitters is used to fund the hunting-access programs. Prices are set at market rates to ensure an average annual sale of 5500 Big Game Combination Licenses and 2300 Deer Combination Licenses. The annual average sale is calculated over a 5-year period.

Nonresident Upland Game Bird License

Effective 2000 license year, nonresident upland game bird license fee increased to $110, with $55 earmarked hunting access enhancement programs.

Resident/Nonresident Hunting Access Enhancement Fee

Effective 2002 license year, hunting access enhancement free created ($2 resident/$10 nonresident), with revenue earmarked for hunting access enhancement program.

Supertag

Effective 2006 license year, supertag created- lottery with unlimited chances ($5 each) for Supertag – 5 Supertags – 1 each for elk, deer, moose, sheep, goat; 2007 – antelope, mountain lion, bison added to list of Supertag options;

Federal

PR excise tax dollars – amount varies annually;

Program Name
Hunting Access Enhancement Program
(includes Block Management, *Access Public Land*, and Special Access Projects)

Program Manager
Alan Charles, Coordinator, Landowner/Sportsman Relations

FY10 PROGRAM EXPENDITURES:

Landowner Contracts:	$5,107,109*
Landowner/Hunter Services:	$1,711,486
Enforcement (6 FTE):	$530,138
Administrative Overhead:	$536,236
TOTAL :	**$7,884,969**

($4,732,869 for 2009 hunting season contracts; remainder accrued for 2010 hunting season contracts)*

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 $11***** per hunter day in annual impact payments, with optional 5% additional weed management payment. Total annual payment may not exceed $12,000. ***Beginning with the 2009 hunting season, FWP increased the hunter day payment from $10/HD to $11/HD, resulting in an average increase of 9% per landowner payment.**

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 2007 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 Public Lands* 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 FY10, a total of $200,189 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 2009 hunting season, regional program coordinators reported 0 potential new cooperators could not be enrolled due to lack of funding.

BLOCK MANAGEMENT PROGRAM REPORT (1996 – 2010)

- **PROGRAM STATISTICS**
- **PROGRAM EVALUATION**
- **PROGRAM IMPLEMENTATION**

2010 Block Management Program Statistics:

- **1,286 Cooperators; 931 (BMAs); 8,881,125 Acres;**

REGIONAL STATISTICS

R1: 10 Cooperators; 15 BMAs; 827,000 acres (majority is corporate timber land);
R2: 126 Cooperators; 67 BMAs; 856,125 acres;
R3: 105 Cooperators; 89 BMAs; 765,000 acres;
R4: 201 Cooperators; 122 BMAs; 1,453,000 acres;
R5: 188 Cooperators; 159 BMAs; 800,000 acres;
R6: 297 Cooperators; 164 BMAs; 1,300,000 acres;
R7: 359 Cooperators; 315 BMAs; 2,880,000 acres;

2009 Block Management Program - Season Averages

a) average number of acres per cooperator……. 7,069
b) average number of hunter days per cooperator.....366
c) average landowner contract payment.....…..$3,680 (8.9% increase from 2008)
d) average hunter use (resident / nonresident)…. 83% res. / 17% nonres.

BLOCK MANAGEMENT SUMMARY – (1996 – 2010)

Year	Total Cooperators	Total BMAs	Total Acres	Total Hunter Days	Total Payments to Landowners
1996	882	796	7,131,119	345,833	$2,757,103
1997	937	744	7,545,606	364,090	$2,571,358
1998	916	719	7,259,606	297,440	$2,541,863
1999	930	720	7,147,023	294,784	$2,545,761
2000	1004	766	7,696,500	326,180	$2,792,854
2001	1082	857	8,653,420	348,524	$3,200,561
2002	1150	921	8,809,758	378,444	$3,556,451
2003	1245	986	8,761,893	408,093	$3,897,189
2004	1262	981	8,767,387	410,924	$3,943,073
2005	1237	935	8,528,241	421,636	$3,917,848
2006	1244	939	8,294,611	436,267	$4,091,161
2007	1256	920	8,106,504	442,258	$4,123,583
2008	1256	924	8,449,162	455,473	$4,221,100
2009	1,274	927	9,005,350	471,024	$4,732,869
2010	1,286	931	8,881,125	*not available	$4,935,603

Summary of Research

Block Management Landowner & Hunter Evaluations from the 2009 Montana Hunting Season

HD Unit Research Summary No. 31

Michael S. Lewis and Alan Charles

June 2010

Administered by Montana Fish, Wildlife & Parks (FWP), Montana's Block Management Program was established in 1985 with three main goals:

1. To maintain public hunting access to private and isolated public land.
2. To help landowners manage public hunting on lands under their control, and provide benefits to offset the impacts of those public hunting activities.
3. To help FWP accomplish its mission of managing wildlife resources. In a state where nearly 65 percent of the land is privately owned, FWP depends on public hunting to manage populations of deer, elk, and other game animals.

A total of 1,274 landowners were enrolled in the program in 2009, comprising more than nine million acres of Block Management Areas (BMAs) across the state. Approximately 85,000 people hunted a BMA in 2009 (which resulted in more than 460,000 hunter days on all BMAs combined).

To measure the success of the program, FWP periodically conducts landowner and hunter evaluations. Two separate surveys were conducted following the 2009 Montana hunting season:

- **Landowner Evaluation.** All landowners enrolled in the program in 2009 were sent a survey by mail.
- **Hunter Evaluation.** A randomly selected sample of 761 people who hunted on a BMA(s) in 2009 were sent a survey by mail.

These two surveys were nearly identical replications of similar surveys conducted following the 2003 and 1996 Montana hunting seasons (Charles & Lewis, 2004; Charles, 1997). Hence, for the most part, results obtained from the 2009 surveys are directly comparable to 2003 and 1996 survey results.

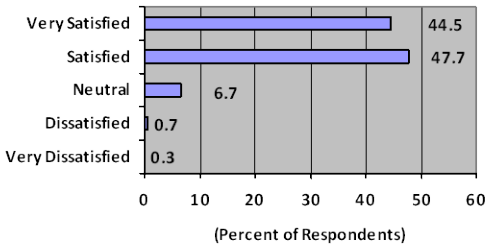
Overall, there was an excellent response to both 2009 surveys. A 66 percent response rate was achieved from the landowner survey. A 60 percent response was achieved from the hunter survey. These response rates are considered to be very high for mailback surveys of this type.

This research summary highlights the key findings from both the 2009 landowner and hunter evaluation surveys. Wherever possible, survey results obtained in 2009 are compared to those results obtained in 2003 and 1996.

HIGHLIGHTS FROM THE 2009 LANDOWNER EVALUATION

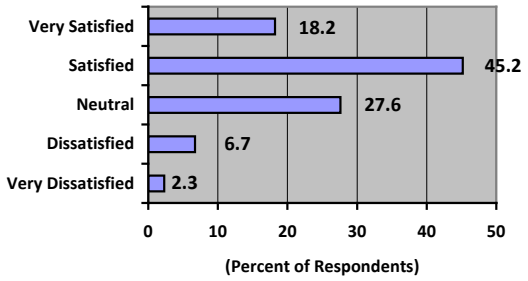
When asked how satisfied they were with the overall Block Management Program, 92 percent of the landowners who responded to the survey indicated they were satisfied or very satisfied (see Figure 1 below). This compares to 93 percent in 2003, and 80 percent in 1996.

Figure 1. Response to: "*How satisfied are you with the overall Block Management Program?*" (2009 Landowner Evaluation)



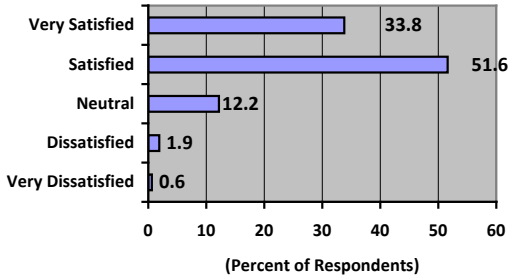
Most of the landowners (78 percent) reported the Block Management Program is an important or very important way for them to manage game numbers on their BMA(s). Related to this, 63 percent of the respondents were satisfied or very satisfied with the results of the program in terms of managing game numbers on their BMA(s) in 2009 (see Figure 2 on the next page). This compares to 63 percent in 2003, and 60 percent in 1996.

Figure 2. Response to: *"How satisfied were you with the results of the Block Management Program in managing game numbers on your BMA(s)?"* (2009 Landowner Evaluation)



Almost all of the landowners (92 percent) indicated that the Block Management Program is an important or very important way for them to manage hunter activities. Related to this, 85 percent of the respondents were satisfied or very satisfied with the results of the program in terms of managing hunter activities on their BMA(s) in 2009 (see Figure 3 below), and 79 percent were satisfied with the number of hunters who hunted on their BMA(s). Furthermore, 89 percent rated hunter behavior on their BMA(s) as being good or very good in 2009. In 2003 and 1996, 90 percent and 77 percent of the respondents respectively were satisfied or very satisfied with the program in terms of managing hunter activities.

Figure 3. Response to: *"How satisfied were you with the results of the Block Management Program in terms of managing hunter activities?"* (2009 Landowner Evaluation)



Of note, 80 percent of the landowners who completed and returned a survey for the 2009 season reported that they believe hunter behavior has improved or greatly improved as a result of the Block Management Program. This compares to 81 percent in 2003, and 76 percent in 1996.

Also, 65 percent of the landowners reported that their relationship with hunters has improved or greatly improved as a result of participating in the program. This compares to 64 percent in 2003, and 61 percent in 1996. Less than two percent of the landowners in 2009 reported that their relationship with hunters has deteriorated or greatly deteriorated as a result of the Block Management Program.

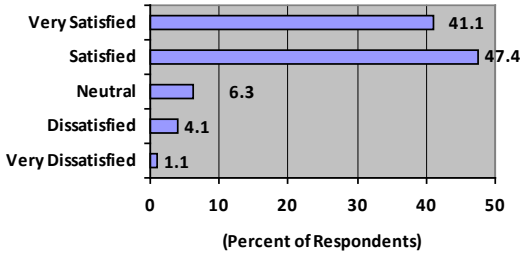
In terms of the compensation they received for enrolling in the program, 79 percent of the landowners responding to the survey reported they were satisfied or very satisfied with the total compensation they received for the 2009 hunting season. Less than nine percent were dissatisfied or very dissatisfied. In 2003 and 1996, 79 percent and 75 percent of the respondents respectively were satisfied or very satisfied with their total compensation.

Of the landowners enrolled in 2009 who expressed an opinion, 99 percent said they plan on continuing their participation in the Block Management Program for the 2010 hunting season.

HIGHLIGHTS FROM THE 2009 HUNTER EVALUATION

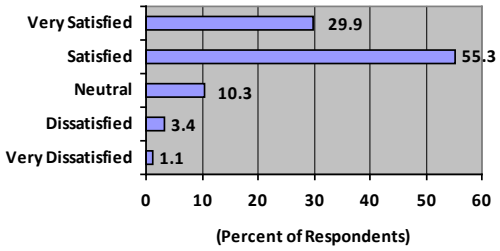
When asked how satisfied they were with the Block Management Program this past fall (2009), 89 percent of the hunters who responded to the survey reported they were satisfied or very satisfied (see Figure 4 below).

Figure 4. Response to: *"Overall, how satisfied were you with the Block Management Program this past fall?"* (2009 Hunter Evaluation)



Furthermore, 85 percent of the hunters reported they were satisfied or very satisfied with the hunting opportunities provided by the Block Management Program in 2009 (see Figure 5 on the following page). This compared to 86 percent in 2003, and 76 percent in 1996.

Figure 5. Response to: *"Overall, how satisfied were you with the hunting opportunities provided by the Block Management Program in 2009?"* (2009 Hunter Evaluation)



Of the hunters who responded to the survey in 2009, 83 percent reported they believe that the Block Management Program has improved or greatly improved landowner-hunter relations. Less than three percent believe that landowner-hunter relationships have been harmed or greatly harmed by the program. In 2003 and 1996, 84 percent and 70 percent of hunters respectively reported they believe the program has improved or greatly improved the relationship between hunters and landowners.

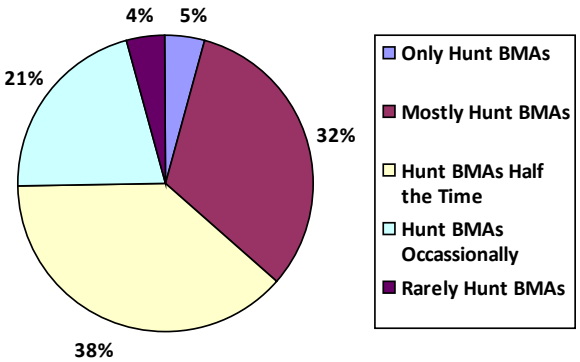
Related to hunting opportunities…

- Fifty (50) percent of the hunters who responded to the survey found game animals on BMAs hunted present in numbers meeting or exceeding their expectations in 2009.
- Sixty (60) percent were successful in harvesting game on a BMA(s) in 2009.
- Eighty-eight (88) percent were satisfied or very satisfied with the rules on BMAs hunted in 2009.
- Sixty-four (64) percent were satisfied or very satisfied with the number of other hunters encountered on BMAs hunted in 2009.

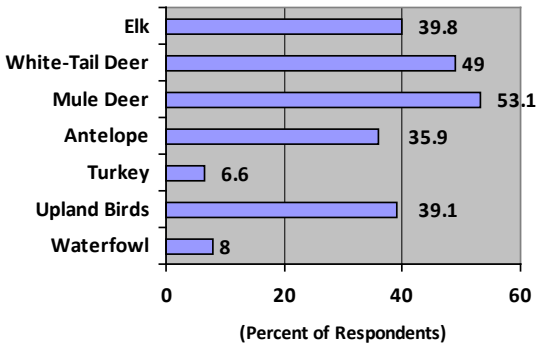
Hunter profile information (2009 season)…

- The average hunter spent nearly 10 days hunting BMAs.
- The average hunter hunted on four to five different BMAs.

Time spent hunting BMAs…



Game Hunted on BMAs…



Discussion

The Block Management Program is designed to balance the needs of landowners, hunters, and FWP. Landowners receive assistance in managing public hunting activities and benefits to offset the impacts of allowing public hunting. Hunters receive opportunities to hunt on enrolled lands, offered either on a first-come, first-serve basis or through some other means of allocated use. FWP is able to utilize the program as a tool to help achieve wildlife management goals and objectives.

In 1995, the Block Management Program was enhanced through additional funding and authority, allowing it to grow substantially over the next fifteen years. During this time, FWP staff has explored various ways to implement the program locally to accommodate differences in regional wildlife management needs and hunter use activities.

Results of the 2010 Block Management landowner and hunter evaluations, as well as past evaluations, suggest that the program has been a success both from the perspective of landowners enrolled in the program and hunters hunting on BMAs. FWP staff has been able to use the program to effectively manage big game populations, provide diverse public hunting opportunities, and develop effective relationships among landowners, hunters, and FWP.

References

Charles, Alan and Michael S. Lewis. 2004. *Block Management Landowner and Hunter Evaluations: Survey Highlights from 2003 and Comparisons to 1996 Surveys.* Responsive Management Unit Research Summary No. 13. Helena, MT: Montana Fish, Wildlife & Parks.

Charles, Alan. 1997. *Summary of the 1996 Landowner & Hunter Evaluations.* Helena, MT: Montana, Fish, Wildlife & Parks.

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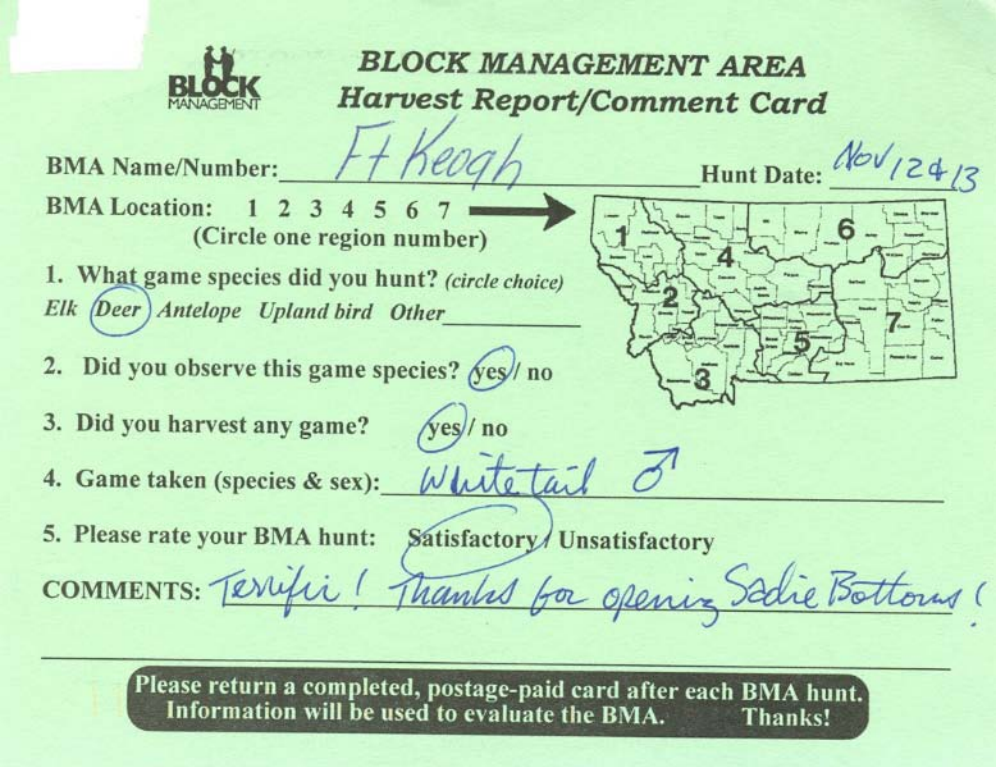
To obtain copies of this summary

Contact the Human Dimensions Unit of FWP by phone (406) 444-4758 or visit FWP's website at http://fwp.mt.gov (and click on the following links…"Doing Business", "Reference Information", "Surveys", Social & Economic Surveys").

2009 Season
Hunter Comment Cards/Daily Sign-In Coupons

A total of <u>17,267</u> hunter comment cards were received for the 2007 hunting season. These cards were voluntarily returned, and answered 3 specific questions.

<u>COMMENT CARD SAMPLE</u>



BLOCK MANAGEMENT

BLOCK MANAGEMENT AREA
Harvest Report/Comment Card

BMA Name/Number: Ft Keogh Hunt Date: Nov 12 & 13

BMA Location: 1 2 3 4 5 6 7
(Circle one region number)

1. What game species did you hunt? *(circle choice)*
Elk *Deer* *Antelope* *Upland bird* *Other*_____

2. Did you observe this game species? yes / no

3. Did you harvest any game? yes / no

4. Game taken (species & sex): White tail ♂

5. Please rate your BMA hunt: Satisfactory / Unsatisfactory

COMMENTS: Terrific! Thanks for opening Sadie Bottoms!

Please return a completed, postage-paid card after each BMA hunt.
Information will be used to evaluate the BMA. Thanks!

<u>SUMMARY OF RESULTS</u>

Total received: 17,267

Total hunters observing game they were hunting:	**14,041**	**81%**
Total hunters who bagged game:	**4,045**	**23%**
Total hunters who rated BMA experience satisfactory:	**13,774**	**80%**

NOTE: These cards are used to evaluate individual BMAs, monitor regional, area, and program trends, and measure general hunter satisfaction with their BMA experience. Postage-paid hunter comment cards were included in every regional tabloid distributed to hunters. Hunter comment card information is also incorporated into daily sign-in coupons used extensively in FWP regions 4, 5, and 6, at Type I BMAs where hunters administered their own permission.

PROGRAMS FOR HUNTER MANAGEMENT AND HUNTER ACCESS

< The department may establish within the Block Management Program programs of landowner assistance that encourage public access to private and public lands for the purposes of hunting. **(87-1-265 through 87-1-269 MCA)**

< Participation is voluntary, based on agreements between the landowner and FWP.

< Recreational liability protection (as described in 70-1-201 MCA) is extended to cooperators participating in the program.

< A landowner participating in the program may receive benefits, including compensation up to $12,000 annually, for providing public hunting access to enrolled land.

< Benefits will be provided to offset impacts associated with public hunting access including but not limited to general ranch maintenance, conservation efforts, weed control, fire protection, liability insurance, and road/parking-area maintenance.

< Enrolled resident and nonresident landowners may receive a non-transferable resident Sportsman's license or nonresident Big Game Combination license, as applicable.

< Licenses granted in this program will not affect the quota of 11,500 nonresident Big Game Combination License.

BLOCK MANAGEMENT PROGRAM
Mission, Goals, Enrollment Criteria & Process

Mission Statement

Block Management is a cooperative, adaptable program designed to maintain Montana's hunting heritage and traditions by providing landowners with tangible benefits to encourage public hunting access to private land, promote partnerships between landowners, hunters, and FWP, and help manage wildlife resources and the impacts of public hunting.

Goals

WILDLIFE MANAGEMENT
1) Program supports state & regional wildlife program objectives.
2) Program supports other FWP wildlife programs.

HUNTER OPPORTUNITY
1) Program maintains current opportunities and expands new opportunities.
2) Hunter pressure is managed at levels satisfactory to landowners and hunters.

LANDOWNER RELATIONS
1) Program recognizes landowner contributions to maintaining wildlife resource.
2) Program establishes long-term positive relationships with hunters/landowners/FWP.

ADMINISTRATIVE ACCOUNTABILITY
1) Program is fiscally responsible and accountable.
2) Program maintains a measurable, acceptable level of satisfaction among participants.
3) Ongoing structured program review maintains program adaptability.

PARTICIPANT EDUCATION/OWNERSHIP
1) Program fosters ownership among program participants.
2) Program fosters responsible hunter behavior.
3) Program increases hunter respect for private property and landowner concerns.

Regional Block Management Program Enrollment Process

1) Existing cooperators in each region will be evaluated through criteria and a process that:
    a) Identifies them as ineligible for re-enrollment;
    b) Identifies them as eligible for re-evaluation and equal consideration with new enrollment and other re-evaluated re-enrollment candidates;
    c) Identifies them as eligible for automatic re-enrollment;

2) The regional block management coordinator shall use a BMA Property RE-ENROLLMENT WORKSHEET to circulate a list of cooperators who were enrolled during the previous year to the appropriate field warden and field biologist for input. If applicable staff, including the program coordinator, agree that a cooperator should be automatically enrolled, no further action is required beyond having the regional coordinator maintain copies of the completed Automatic RE-ENROLLMENT Review Report in the current file for documentation of the re-enrollment decision.

3) Each Regional Supervisor will appoint a committee (which includes, at a minimum, the regional block management coordinator and at least one member each from the Wildlife and Enforcement divisions) to make annual Block Management Program regional enrollment and re-enrollment (if not identified for automatic re-enrollment) recommendations, which the Regional Supervisor will ultimately approve or disapprove in writing.

4) All new enrollment and re-evaluated re-enrollment candidates will be evaluated and ranked through a process which utilizes the ENROLLMENT Evaluation Form and BMA Property Application Form to document criteria and related information.

5) The Regional Block Management Enrollment Committee shall evaluate all previous BMA properties designated for "re-evaluation and ranking with new properties" and any new properties offered for enrollment utilizing these forms:
    - BMA Property RE-ENROLLMENT Worksheets
    - BMA Property ENROLLMENT Application Forms
    - BMA Property ENROLLMENT Evaluation Forms
    - ENROLLMENT Decision Report

6) All evaluations will be recorded on the appropriate form, including the names of FWP staff who provided input relevant to the evaluation and recommendations. Completed Decision Reports will be approved and signed by the Regional Supervisor. Original copies of signed forms and related materials will be maintained by the regional Block Management Coordinator, with copies of the signed ENROLLMENT Decision Reports sent to the Field Services office in Helena, care of the Coordinator of Landowner/Sportsman Relations.

Region _____ BMA Property

ENROLLMENT Evaluation Form

Instructions*: This form is to be used to evaluate all new properties offered for enrollment AND any existing BMA properties which have been designated for re-evaluation and ranking with new enrollment candidates. Scores and comments developed in completion of this form will be used by the Regional Block Management Enrollment Committee to determine which properties will be enrolled, and in what order of priority.*

Landowner Name: _____BMA acreage (private & isolated public)_____

BMA/Ranch Name: _____General Location: _____

1. Is this new property offered for enrollment _____ (OR) existing BMA property being re-evaluated _____?

2. What is/are the PRIMARY hunting opportunity(ies) available on this property:

   ELK M/WTDEER ANT UGBD PHST TRKY WTRFWL BEAR OTHER:_____

Criteria to be considered is making enrollment decisions	**Low Med High**
What is the level of public demand in the hunting district or general area for the type of hunter opportunity offered with this property? *Explain:*	1 2 3
What is the level of FWP need for the type of hunter opportunity offered with this property, as it relates to regional management objectives or regional access strategies? *Explain:*	1 2 3
How does this property rank in terms of size, land composition, and habitat type/quality necessary to provide the primary hunter opportunity offered with this property? *Explain:*	1 2 3
What is the potential for high levels of hunter satisfaction, based on opportunity offered, proposed levels of hunter use, and proposed methods of hunter management? *Explain:*	1 2 3
Additive Criteria	**NO YES**
Can enrollment of this property potentially address an existing game damage problem? *Explain:*	0 1
Will enrollment provide access to adjacent public land with limited/no public access? *Explain:*	0 1
Will enrollment provide access to private land previously closed to free public access? *Explain:*	0 1
Will enrollment of this property add acreage to an existing BMA? *Explain:*	0 1
Will enrollment provide some kind of special opportunity that is in high demand? *Explain:*	0 1
Will property be enrolled without any restriction on season length or sex/species of game? *Explain:*	0 1
TOTAL SCORE	

1. Where does this property rank in terms of enrollment priority? **Low Med High**

2. Based on regional budget and enrollment process, is this property assigned a sequential number (optional) to identify where, in order of priority, it ranks? **Yes / No #_____**

ROAD
CLOSED

ACCESS PUBLIC LANDS REPORT

Program Title:
Access Public Lands (formerly called Access Montana)

Program Coordinator:
Alan Charles

Program Authorizing Statute:
MCA 87-1-265 Hunter management and hunting access enhancement program created. The department may establish…programs of landowner assistance that encourage public access to private and public lands for purposes of hunting and may adopt rules to carry out program purposes.

Program Funding:

Source: Portions of license fees funding the Hunting Access Enhancement Program
Come Home to Hunt license revenue (*new in 2010 (FY11) – 4-year sunset*

FY10 Program Allocation: $25,000

Program Mission: *Access Public Lands* coordinates FWP agency activities related to hunting access on public lands. The program works to negotiate and maintain legal public hunting access to public lands, resolve landowner/sportsman conflicts, assist in marking public land boundaries, and disseminate information about hunting access on public lands. *Access Public Lands* utilizes a cooperative inter-agency approach for the resolution of landowner/sportsman conflicts related to hunting access on public lands.

Program Goals:

- Coordinate efforts to identify public lands where public hunting access currently exists.
- Coordinate efforts to identify public lands hunting access needs and, where necessary, establish legal public hunting access to public lands either where such access does not currently exist or where current access is threatened.
- Reduce landowner/sportsman conflicts related to hunting access on public lands.

Program Objectives:

- Work with regional staff and state and federal land managers to implement boundary marking projects in targeted areas to reduce conflicts and improve hunter dispersion.
- Solicit input from landowners, sportsman, and department staff to identify areas of historic conflict and develop appropriate solutions wherever possible.
- Develop and disseminate directories, maps, and informational brochures to assist the public with information about hunting access to public lands.
- Identify/prioritize areas where public land hunting access is needed, but either not available or threatened.
- Participate in state and federal land management agency planning and decision-making processes that affect public land access.
- Work to develop partnerships with local and regional state and federal land management agency personnel responsible for implementing public land access projects.

PROJECT SYNOPSIS – STATUS REPORT

- Munson Creek Access (Thompson Falls) – Joint FWP / USFS trailhead development. Provides critical access for sheep hunting. – Completed - Project Cost: $46,000 – FWP cost share: $23,000.

- Ninepipe Area Recreation Map – Reprint – identifies FWP, USFWS, and Tribal Lands available for hunting and other recreational use in the Ninepipe area. – Completed– Total Project Cost: $1,500 for 5,000 copies – FWP cost share: $1000.

- McCarty Creek Access (Boulder) – Joint FWP / Jefferson County / USFS / DNRC project. Road development and parking area that provides access to large block of Beaverhead Deerlodge Forest. – Completed – Total Project Cost: $11,800 – FWP cost share: $3,000.

- North Hills Access Project (Helena) – Joint FWP / BLM easement and road development. Development of alternative route that provides access to southern end of Sieben BMA, BLM and DNRC lands. Route will provide year-round access to public lands – Completed – Estimated Total Project Cost: $40,000 – FWP cost share: $16,500.

- Quartz Creek Access to Helena National Forest (Clancy) – Long-term agreement whereby FWP provided two cattle guards in exchange for a 5-year agreement to provide access to the Helena National Forest – Completed – Total Project Cost: $2,300.

- Hay Draw Recreational Access Corridor (Broadus) – Joint FWP/BLM project provided drive in access across DNRC land to access multiple sections of BLM lands. Project involves development of an access road, parking areas, marking of approximately 30 miles of perimeter boundary lines, and agreement to provide patrolling through the hunting season - – Completed –Total project cost: $41,000 – Estimated FWP cost share: $20,500.

- Private Land Ownership Maps – Joint FWP/NRIS project to produce accurate, updated electronic map information, using USGS 100,000 quad map series, that identifies ownership of private land throughout the state – Completed – Total Cost to FWP: $0, other than staff time.

- Smith 6-S Ranch Access in the East Pioneer Range – project provided for a 1+ mile long access corridor road across private land to USFS land, with perpetual public access easement purchased by FWP and new road built to reduce damage to riparian caused by location of previous road. Project was a joint effort between private landowner, USFS, BLM, DNRC, local sportsman's groups, and FWP. Completed. Total project cost: $70,000.

- Larb Hills Public Cooperative Access Project (R6) – Joint efforts between FWP and BLM to install boundary signs on more than 4,000 acres of BLM land in Phillips County. Established two parking areas with information kiosks, and installed metal posts/signs along boundary. Completed. Total project cost: $4,500

- Three Buttes Cooperative Access Project (R6) – Cooperative signing effort between BLM, DNRC, private landowners, and FWP to install BLM and DNRC boundary signs and one information kiosk on more than 4,000 acres of BLM and DNRC land located 16 miles south of Culbertson along the Missouri River (Richland County). Completed. Total project cost: $4,500

- In 2010, four public access right-of-way projects were given tentative approval by FWP Commission, resulting in appraisals being contracted for a total cost of $23,000.

SPECIAL ACCESS PROJECTS REPORT

Program Title:
Special Access Projects

Program Coordinator:
Alan Charles

Program Authorizing Statute:
87-1-265 MCA. Hunter management and hunting access enhancement program created.
(1) The department may establish…programs of landowner assistance that encourage public access to private and public lands for purposes of hunting…
(3) The department may also develop similar efforts outside the scope of the block management program that are designed to promote public access to private lands for hunting purposes."

Program Funding:
Source: Portions of license fees funding for the Hunting Access Enhancement Program
FY 10 Program Allocation: $10,000

Program Mission:
The department may initiate Special Access Projects that address species-specific, regional needs that may not lend themselves to involvement either in Block Management or Access Montana. Special Access Projects may also be used to develop pilot projects to address species-specific, regional hunting access issues.

Program Goals:
- Address localized, species-specific hunting access needs in innovative ways;
- Explore new methods for developing hunting access/hunter management agreements;
- Develop pilot projects that may lead to future enrollment in conventional programs;
- Involve localized communities of landowners, hunters, and FWP staff in projects;

Program Objectives:
- Provide regional staff with enough flexibility to develop local projects that can address regional species-specific hunter management/hunter opportunity needs;
- Utilize available funding to develop pilot projects that will aid in the future development and structure of the Hunting Access Enhancement Program;
- Utilize Special Access Projects to meet needs that cannot otherwise be met through existing administrative frameworks of the Block Management and Access Montana programs;
- Develop a wide array of hunting access options from which landowners, hunters, and FWP can choose when developing hunting access agreements or selecting hunting access opportunities;

PROJECT SYNOPSIS – STATUS REPORT

- Northeast Montana (Glasgow) – Individual hired under personal services contract, assigned duties to provide area landowners with information about FWP hunting access programs and discuss potential hunting access agreements focused on upland bird hunting opportunities - Completed - Project Cost: $4,800.

- Southwest Montana (Madison Valley) – Elk Hunt Coordinator hired to assist hunters and landowners in the southern portion of the Madison Valley by coordinating public elk hunting activities – Completed - Project Cost: $3,000/annually.

- Central Montana (Bear Paw Mountains – Big Sandy) – Elk Hunt Coordinator hired to assist hunters and landowners in the Bear Paw Mountains area by coordinating public elk hunting activities – Completed - Project Cost: $5,000/annually.

- North Central Montana (Sweet Grass Hills – Shelby) – Elk Hunt Coordinator hired to assist hunters and landowners in the Sweet Grass Hills area by coordinating public elk hunting activities – Completed - Total Project Cost: $3,500/annually.

- West Central Montana (Helena) – Elkhorn Working Group formed to study issues related to management of elk in the Elkhorn Mountains and make recommendations to the department regarding their efforts - Completed. Project Cost: $4,500.

- Southwest Montana (Madison Valley) – Madison Valley Working Group formed to study issues related to management of elk in the Madison Valley, along with other wildlife and habitat management issues in that area – ongoing – Project Cost: $4,000.

- West Central Montana (White Sulphur Springs) – Elk Hunt Coordinator hired to assist hunters and landowners in the East Big Belts area during late season hunt by coordinating public elk hunting activities – Completed – Project Cost: $5,171.

- Eastern Montana (Miles City) – Hunters Against Weeds Car Wash – FWP/Custer Rod & Gun Club joint project offering a free car wash and decal to hunters who produced a valid hunting license during a three-day period including opening day of antelope season – Completed – Project Cost: $2,419.

- Western Montana (Avon/Ovando) – Elk Hunt Coordinator hired to assist hunters and landowners in this area during late season hunt by coordinating public elk hunting activities – ongoing – Project cost: $3,500.

FISHING ACCESS ENHANCEMENT PROGRAM

Program Name
Private Land Fishing Access (2009)

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 08 Allocation	$25,000
FY 08 Expenditure	$ 9,136

Program Status:
The program is in its seventh 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.

2007
PRIVATE LAND FISHING ACCESS PROJECTS

1. 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, 2008.

2. 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 $750 for 1 year.
The Agreement expires with "ice out" in the spring of 2008.

3. Flathead Land Trust
This Agreement provides public access to McWennegar Slough. McWennegar Slough is a 26-acre site located approximately 4 miles east of Kalispell off of Highway 35. It was donated to and is currently owned by the Flathhead Land Trust who is interested and willing to assist FWP is acquiring the property to be developed and used as an FAS. In the meantime FWP is working with MDT to obtain a Recreation Use Permit on the land between Hwy 35 and the Flathead Land Trust property. The purpose of the Agreement is to provide indemnification to the FLT and a small amount of funding for miscellaneous expenses associated with allowing public access while FWP continues to pursue fee title to the property.

The negotiated fee was $800.00 for 1 year.
The Agreement expires on March 31, 2008.

4. Bernie Nowak
Mr. Nowak's property is located in the upper Rock Creek drainage adjacent to State Highway 348 north of Phillipsburg. Anglers have historically pulled off the paved roadway and parked on Mr. Nowak's property. The purpose of this Agreement is to provide indemnification for Mr. Nowak. In addition the Regional FWP staff will provide assistance in developing a small parking area, fencing and signs directing the public where to park.

The negotiated fee was $25 for 2.8 years.
The Agreement expires on June 30, 2010.

2008
PRIVATE LAND FISHING ACCESS PROJECTS

1. William Butler (R1)

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, 2009.

2. Flathead Land Trust (R1)

This Agreement provides public access to McWennegar Slough. McWennegar Slough is a 26-acre site located approximately 4 miles east of Kalispell off of Highway 35. It was donated to and is currently owned by the Flathhead Land Trust who is interested and willing to assist FWP is acquiring the property to be developed and used as an FAS. In the meantime FWP is working with MDT to obtain a Recreation Use Permit on the land between Hwy 35 and the Flathead Land Trust property. The purpose of the Agreement is to provide indemnification to the FLT and a small amount of funding for miscellaneous expenses associated with allowing public access while FWP continues to pursue fee title to the property.

The negotiated fee was $800.00 for 1 year.
The Agreement expires on May 22, 2009.

3. Fred Davison - Many Hills Ranch (R4)

The Many Hills Ranch is located in the Highwood Mountains east of Great Falls. The Agreement provides for public angling access site on Highwood Creek. The landowner requested assistance in tracking who was on his property and in keeping vehicles in designated parking areas. The department will provide a sign in box and signs to designate parking/camping areas. Highwood Creek transects a portion of the ranch providing approximately .5 miles of fishing opportunity within the boundaries of the property.

The negotiated fee was $4000.00 for 5 years ($800/yr).
The Agreement expires on June 14, 2013.

4. Teller Wildlife Refuge (R2)

The Teller Wildlife Refuge is a privately owned 1,200-acre ranch that was placed under a conservation easement in the 1980's by Otto Teller. The Teller Refuge is adjacent to FWP's Woodside FAS and provides enhanced access to the Bitterroot River for anglers as well as other related recreation activities. Although the Teller has historically been open to the public it was closed last year because of ongoing concerns over theft of items, domestic animal control, litter and vandalism. Funding provided through this program provided for fencing and for signage to display site regulations. The Refuge has since been reopened for public access.

The negotiated fee was $1,500 for 1 year.
The Agreement expires on Sept 30, 2009.

5. William Muir

William Muir and Montana Fish, Wildlife and Parks have worked together to develop public fishing access and a parking area that allows for pedestrian access to Phantom Coulee Reservoir (a.k.a. Englandt Res.). Phantom Coulee Reservoir is located approximately 7.5 miles east of Geraldine, MT. Access will be acquired at a sign-in box adjacent to the parking area. Funding through this program provided for gates, fencing, sign posts, gravel for the parking area and sign-in box materials. An additional $500 is allocated for landowner compensation for weed control efforts, litter control, maintenance, etc.

The negotiated fee was $2,333.60 for 2 years of which $1833.60 was for materials. Future annual compensation is $500/yr.
The Agreement expires on April 1, 2010

ADDENDUM #1

(Draft Recommendation Considered, but Not Adopted)

(DRAFT RECOMMENDATION – Circulated for public comment in 2010, but **NOT ADOPTED** for any sort of Final Recommendation, based PL/PW Council decision – 12/14/10)

PRIVATE LANDS/PUBLIC WILDLIFE COUNCIL

COLLABORATIVE SOLUTIONS FOR PROBLEMATIC WILDLIFE CONCENTRATIONS

Discussion Draft:

Problematic Wildlife Concentration (PWC) poses both challenges and opportunities. The Private Lands/Public Wildlife Council – comprised of landowners, outfitters and sportsmen – has devoted many hours in discussion of the issue, and has developed a solutions-oriented proposal for discussion. In the Council's unanimous opinion, this community-based, facilitated PWC Solutions proposal will enhance the prospects of positive solutions for all concerned.

Background:

At the present time, PWC involves significant risks to landowners and neighbors, the health of domestic and wild herds, our Montana hunting heritage and legally-mandated game management objectives. In dealing with this issue, the FWP Commission presently has legal authority to modify license/permit/season structures, including either-sex, bull/buck/cow/doe tags, etc. Additionally, there is potential for lawsuits or "one-sided" legislation, neither of which the Council thinks offers the best solution. The PL/PW's proposal is based on these principles:

No new legal authority for FWP or the FWP Commission is created by this proposal;

This process will not force public access on private property;

Important private and public interests are involved, and collaborative, community-based solutions should be given priority;

Responsible representatives of key interests—agriculture, landowner, outfitter, sportsmen - must be at the table, and that any directed solutions should have understanding and support of all interests;

The PWC Solutions resources are available to anyone suffering severe adverse impacts, including a landowner with PWC on his/her own property.

The proposal includes a 4 year "sunset"; the process would terminate unless renewed with support of the key interests.

Definition:
For the purposes of this proposal, "Problematic Wildlife Concentration" (PWC) is defined as *the intentional or unintentional concentration of big game animals where game management by hunting has not been able to be effectively utilized, resulting in negative impacts to neighboring areas/or and landowners, failure to achieve legally-mandated Fish, Wildlife and Parks management objectives, and/or risk to domestic and wild herd health.*

Summary:
There is no existing FWP Department or commission authority to force public hunting access on private land, and this proposal does not create any new authority. Therefore, the proposed PWC solutions process cannot be used to force public hunting access on private lands.

The proposals for solutions are based on the ethical and legal principle that landowners have the right to manage their property as they see fit, so long as that management does not cause preventable, significant harm to their neighbors or to important community health and safety interests.

The proposal is aimed at dealing exclusively with situations where significant negative impacts are taking place. When this occurs, there needs to be a predictable and fair-to-all-parties process, structured to achieve a solutions-oriented, community-based discussion to resolve the issue. Given the importance of "getting it right," it is proposed that the following process be implemented with a 4-year sunset clause.

It is important to realize that a landowner may believes he/she has PWC on his/her own property. Under this proposal, the landowner would first talk directly to the local FWP Biologist to see if a solution can be identified. If a solution is not agreed upon, or if further action is desired, the landowner can submit a PWC application, as discussed below. The application can include a request for an invitation to neighboring landowners to attend a local PWC solutions committee meeting in order to work on a collaborative solution to the PWC in the area.

Facilitated Discussion and Solutions
FWP will establish a formalized program – tentatively called **PWC Solutions** -- to provide professional facilitation and financial resources to assist resolution of PWC situations on a site-specific basis. To obtain these services, an affected party will file a written and signed application to a newly established State PWC Solutions Committee. (See description of Committee composition, below.) The application will state the particulars of the PWC issue, including specific, documented negative impacts, the efforts that have been made to resolve them, and the reasons that a **PWC Solutions** process is proposed. **Lack of hunting opportunity is not a valid or sufficient basis for filing an application.** FWP will provide its assessment of the merit of the application, and the implicated party or parties will be notified of the application and invited to provide comment. The state committee may seek any additional information it deems necessary to make an informed judgment.

A $350.00 application fee shall be required, said fee to offset costs of implementing the PWC Solutions process.

The Committee will consider the application. A vote of 6 members shall be required to determine that the application has merit. In that case, FWP will make available **PWC Solutions** resources to address the issue.

Note: Specific criteria to determine whether or not a specific PWC application merits approval will need to be established for utilization by the State PWC Committee.

Facilitated Discussion Process:
Phase One:
The initial facilitated effort should be personal, "one on one", involving the parties most directly affected. If FWP or another state agency staff has initiated the application, a neutral, third-part facilitator/mediator selected by the State PWC Committee shall be utilized.

Phase Two:

a. If mutually-agreeable solutions are not achieved by Phase One, a community-based dialogue of all affected people/interests will be initiated. A **Local PWC Solutions Committee** will be established, comprised of the applicant and implicated party or parties, FWP staff, and, (as determined by the facilitator,) hunters, outfitters, landowners, additional experts, and other affected interests. The committee will use a team approach, working to achieve collaborative, consensus-based solutions enjoying broad community support, and to monitor compliance/effectiveness.
b. Agreements will be written, and include clear steps for monitoring compliance as well as the agreement's effectiveness in achieving the agreed-upon goals.
c. The consensus agreement and monitoring plan will be presented for review by the State **PWC Solutions Committee.**
d. If the consensus agreement does not require action by the Fish, Wildlife and Parks Commission, the State PWC Solutions Committee may approve it by majority vote, and notify the FWP Commission of the action taken. If the agreement does require FWP Commission action, the State PWC Committee will, by majority vote, forward its comments and recommendation to the Commission for its consideration.
e. **PWC Solutions** plans approved by the Committee/FWP Commission will receive FWP resources needed to monitor the plan's implementation. Concise annual reports on the plan will be prepared with **PWC Solutions** resources (using neutral, third party resources where appropriate) for Committee/Commission review. If annual reports indicate a need to modify the agreement, the same community-based, consensus process shall be used to address the issues.

Phase Three: Proposed Committee Solutions
If the Phase One and Two processes fail to develop an agreement, either because the party or parties with PWC declines to participate, or because consensus on solutions was not achieved, the applicant may petition the State **PWC Solutions Committee** to hold a hearing to consider potential solutions is warranted. The person/agency submitting the petition shall suggest a proposed solution. Six votes will be needed to move forward with a hearing.

At such a hearing, the State Committee will receive written and verbal evidence from all interested parties.

In order to approve a proposed solution to resolve a specific PWC problem, the State Committee must have seven (7) affirmative votes, and must have determined that the following three criteria have been met:

a) that significant negative consequences and/or risks arise from the PWC situation;
b) that the applicant's proposed solution or one developed by the State Committee, has a strong potential to alleviate the problem; and
c) that the party or parties on whose land the PWC exists has/have either declined to participate in good faith in the Phase One/Two processes, or has/have otherwise declined to take reasonable steps to alleviate the problem.

An affirmative vote will be referred to the FWP Commission for its consideration for implementation.

State PWC Solutions Committee—Diverse Composition:
It is essential that the composition of the Committee reflect the diverse community interests impacted by PWC. To that end, the Council recommends that it be comprised of nine members as follows:

One member of the Board of Livestock -- Governor's appointment
One member of the FWP Commission -- Governor's appointment
Two members representing production agriculture *
Two members representing the outfitter industry *
Two members representing recreational sportsmen *
One major landowner not actively engaged in production agriculture or member at large**

*One appointment each by the Majority and Minority Leaders of the Senate
**Appointed by the Private Land/Public Wildlife Council
The Governor will appoint the chairperson from among these members.

Proposed Working Group: Assessment of Existing Remedial Tools, Their Use, and Potential New Tools
Under present authority, the FWP Commission may modify license/permit/season structures, including either-sex, bull/buck/cow/doe tags, etc. The Council proposes that a working group of diverse interests, co-chaired by two members of the PLPW, be assembled to consider the existing remedial tools, their use and effectiveness, and potential new tools.

Again, the PL/PW Council offers these proposals as a constructive alternative to the present situation, and looks forward to hearing thoughts from all interested parties.

ADDENDUM #2

(I-161 & Related Documents)

I-161

(Staff Note: The language below is the official language that appeared on the 2010 ballot, explaining I-161, taken from the Montana Secretary of State's website.)

BALLOT LANGUAGE

INITIATIVE NO. 161

A LAW PROPOSED BY INITIATIVE PETITION

I-161 revises the laws related to nonresident big game and deer hunting licenses. It abolishes outfitter-sponsored nonresident big game and deer combination licenses, replacing the 5,500 outfitter-sponsored big game licenses with 5,500 additional general nonresident big game licenses. It also increases the nonresident big game combination license fee from $628 to $897 and the nonresident deer combination license fee from $328 to $527. It provides for future adjustments of these fees for inflation. The initiative allocates a share of the proceeds from these nonresident hunting license fees to provide hunting access and preserve and restore habitat.

I-161 increases state revenues over the next four years by an estimated $700,000 annually for hunting access and an estimated $1.5 million annually for habitat preservation and restoration, assuming that all nonresident hunting licenses are sold. It also increases general nonresident hunting license revenues by inflation.

[ ] FOR abolishing outfitter-sponsored hunting licenses, replacing outfitter-sponsored big game licenses with nonresident licenses, increasing nonresident license fees, and increasing funding for hunting access and habitat.

[ ] AGAINST abolishing outfitter-sponsored hunting licenses, replacing outfitter-sponsored big game licenses with nonresident licenses, increasing nonresident license fees, and increasing funding for hunting access and habitat

(Staff Note: A copy of the official fiscal note for I-161 appears on next page)

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR

PO BOX 200802
HELENA, MONTANA 59620-0802

MEMORANDUM

TO: Anthony Johnstone
Assistant Attorney General

FROM: David Ewer, Director
Office of Budget and Program Planning

SUBJECT: Fiscal Note for the Nonresident Hunting Initiative

DATE: October 23, 2009

In accordance with 13-27-312, MCA, we are submitting the attached fiscal note for the revised initiative regarding nonresident hunting licenses that was received in this office on October 13, 2009.

Please contact Amy Sassano if you have questions regarding the fiscal note.

RECEIVED
HELENA, MONTANA
2009 OCT 26 PM 4:47
SECRETARY OF STATE
LINDA McCULLOCH

cc: Lisa Kimmet, Deputy of Elections and Government Services Division

TELEPHONE: (406) 444-3616 FAX: (406) 444-4670

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note for Initiative

Bill #		Title:	Nonresident Hunting Initiative

- ☐ Significant Local Gov Impact
- ☐ Needs to be included in HB 2
- ☐ Technical Concerns
- ☐ Included in the Executive Budget
- ☑ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference	FY 2014 Difference
Expenditures:	$0	$0	$0	$0
Revenue (State Special-SSR):				
General License	$83,350	$295,665	$495,319	$703,055
Habitat Montana	$1,435,350	$1,512,306	$1,584,673	$1,659,969
Hunting Access	$584,616	$694,650	$798,122	$905,782
Net Impact SSR:	$2,103,316	$2,502,621	$2,878,114	$3,268,806
General Fund Impact:	$0	$0	$0	$0

Description of fiscal impact:
The proposed initiative abolishes the outfitter-sponsored B-10 and B-11 licenses; increases the B-10 price from $628 to $897 and the B-10 general quota from 11,500 to 17,000; increases the B-11 price from $328 to $527; maintains a B-11 general quota of 6,600 (2,000 of which are landowner sponsored); earmarks 25% of the revenue from B-10 and B-11 sales for hunting access; and provides for an annual price adjustment based on the Consumer Price Index for Urban Consumers (CPI-U). Passage of the proposed initiative would result in revenue increases over the first four years to the General License Account ($1.6 million), Habitat Montana ($6.2 million), and Hunting Access ($3.0 million).

FISCAL ANALYSIS

Assumptions:
1. Under current law, the sale of nonresident Class B-10 and Class B-11 licenses generates an average of $17,558,434 annually split among the Hunting Access program ($4,897,184), the General License fund ($9,111,000), the Habitat Montana program ($3,155,800), and the Upland Game Bird program ($394,450).
2. Under current law, the amount collected from the variable priced B-10 and B-11 outfitter-sponsored licenses in excess of the amount collected for the general B-10 and B-11 licenses is used for Hunting Access.

3. 87-1-242(2), MCA requires that 20% of any increase in B-10 and B-11 licenses – except the outfitter sponsored licenses – be allocated to Habitat Montana.
4. It is assumed there are no fee increases approved by the Legislature. Equations list whole numbers for brevity.
5. The proposed initiative has no impact on revenues allocated to the Upland Game Bird program.

Hunting Access (Current Law)

$ 3,067,353	5-year average annual revenue from 5,500 outfitter-sponsored B-10s
$ 1,341,831	5-year average annual revenue from 2,300 outfitter-sponsored B-11s
$ 314,000	from 500 "Coming Home to Hunt" B-10 licenses @ $628 (HB585 from the '09 Session)
$ 164,000	from 500 "Coming Home to Hunt" B-11 licenses @ $328 (HB585 from the '09 Session)
$ 10,000	from $10 hunting access fee for the two "Coming Home to Hunt" allocations
$ 4,897,184	

General License (Current Law)

$ 8,364,000	$492 from 17,000 Class B-10 (11,500 general + 5,500 outfitter sponsored)
$ 673,200	$102 from 6,600 Class B-11 (2,300 general + 2,300 outfitter sponsored + 2,000 landowner)
$ 73,800	from 300 nonresident youth Class B-13 (50% of B-10 price)
$ 9,111,000	

Habitat Montana (Current Law)

$ 1,711,500	B-10 licenses: 5,500 @ $77 plus 11,500 @ $112
$ 1,427,500	B-11 licenses: 2,300 @ $200 plus 4,300 @ $225
$ 16,800	B-13 licenses: 300 @ 50% of $112 (half the cost of an adult B-10)
$ 3,155,800	

6. The proposed initiative abolishes the outfitter-sponsored B-10 and B-11 licenses; increases the B-10 price from $628 to $897 and the B-10 general quota from 11,500 to 17,000; increases the B-11 price from $328 to $527; maintains a B-11 general quota of 6,600 (2,000 of which are landowner sponsored); earmarks 25% of the revenue from B-10 and B-11 sales for hunting access; and provides for an annual price adjustment based on the Consumer Price Index for Urban Consumers (CPI-U).
7. It is assumed the demand for the increased B-10 and B-11 license quotas will exceed the number of licenses available.
8. The effective date is March 1, 2011. The deadline for nonresident big game license applications is March 15, 2011. It is assumed that 100% of the revenue for the 2011 season will be collected before fiscal year end on June 30, 2011.
9. The following equations show the impact to the listed accounts for FY 11. The equations list whole dollars for brevity.

Hunting Access (Proposed Initiative-FY 2011)

$ 3,812,250	B-10 licenses: (25% of $897 x 17,000)
$ 869,550	B-11 licenses: (25% of $527 x 6,600)
$ 448,500	B-10 "Coming Home to Hunt" licenses: ($897 x 500 = $448,500)
$ 263,500	B-11 "Coming Home to Hunt" licenses: ($527 x 500 = $263,500)
$ 78,000	Hunting access fee on abolished outfitter-sponsored licenses: $10 x (5,500 + 2,300) = $78,000
$ 10,000	Hunting access fee on 1,000 "Coming Home to Hunt" licenses: ($10 x 1,000 = $10,000)
$ 5,481,800	

General License (Proposed Initiative-FY 2011)

$ 8,227,150	B-10 licenses: ($897 - $224 Hunting Access - $23 UGB - $166 Hab MT = $484) x 17,000
$ 860,970	B-11 licenses: ($527 - $132 Hunting Access - $265 Hab MT = $130) x 6,600
$ 106,230	B-13 licenses: ($897 - $23 UGB - $166 Hab MT = $708) x 50% x 300
$ 9,194,350	

Habitat Montana (Proposed Initiative-FY 2011)

$ 2,818,600	B-10 licenses: 17,000 @ $166 ($112 + 20% of the price increase)
$ 1,747,680	B-11 licenses: 6,600 @ $265 ($225 + 20% of the price increase)
$ 24,870	B-13 licenses: 300 @ 50% of $166 (half the cost of an adult B-10)
$ 4,591,150	

10. The CPI-U annual average percent of change was calculated from the October 2009 Global Insight National Forecast. The four quarters for each year were averaged resulting in CPI-U increases of 2.04% for FY 2012, 1.88% for FY 2013, and 1.92% for FY 2014.
11. The following table lists the additional revenue collected under the proposed initiative with CPI-U increases used per the initiative beginning in FY 2011.

	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference	FY 2014 Difference
Fiscal Impact:				
Expenditures:				
TOTAL Expenditures	$ -	$ -	$ -	$ -
Funding of Expenditures:				
TOTAL Funding of Exp.	$ -	$ -	$ -	$ -
Revenues:				
State Special General License	$ 83,350	$ 295,665	$ 495,319	$ 703,055
State Special Habitat Montana	$ 1,435,350	$ 1,512,306	$ 1,584,673	$ 1,659,969
State Special Hunting Access	$ 584,616	$ 694,650	$ 798,122	$ 905,782
State Special Upland Game Bird	$ -	$ -	$ -	$ -
TOTAL REVENUES	$ 2,103,316	$ 2,502,621	$ 2,878,114	$ 3,268,806
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund Revenue (01)	$ -	$ -	$ -	$ -
State Special Revenue (02)	$ 2,103,316	$ 2,502,621	$ 2,878,114	$ 3,268,806

Significant Long Term Impact:

1. If the annual CPI-U adjustment increases license fees and the national downward trend of nonresident hunters continues, at some point the number of nonresident applicants could drop below the number of licenses available, resulting in less additional revenue than predicted in this fiscal analysis.

Sponsor's Initials	*Date*	*Budget Director's Initials*	10/26/09 *Date*

(Staff Note: Appearing below is the information sheet the Council posted on the PL/PW Council website, explaining the history of the variable-priced outfitter-sponsored licenses and potential impacts of I-161.)

Evolution of the Outfitter Sponsored License and Provisions of I-161

• The 17,000 limit on nonresident elk combination licenses was adopted by the 1975 Legislature. 1975 Mont. Laws. Ch. 546, §1, eff. May 1, 1976.

• This limit, the higher license fee for nonresidents, and the restriction of nonresidents to an elk combination license was challenged in federal court on constitutional grounds by an outfitter and a number of nonresident hunters. The case was eventually decided by the United States Supreme Court with the Court holding that the limitations were constitutionally valid. Baldwin v. Fish & Game Comm'n, 436 US 371 (1978).

• In December 1985, FWP Commission adopted an annual rule proposed by the Department that established the outfitter set-aside of 5,600 of the elk combination licenses as part of the 17,000 nonresident elk combination licenses. The remaining 11,400 were reserved for those who did not wish to utilize the services of an outfitter. All licenses were subject to a drawing in the event of an oversell.

• This rule was challenged by the Montana Wildlife Federation. The state district court in February, 1986, denied a preliminary injunction that would have stopped the sale of the new set-aside licenses for outfitters and then later in October, 1986, dismissed the litigation as moot. Montana Wildlife Federation v. Flynn, Cause No. ADV 86-96 (1st Judicial District). o FWP arrived at 5,600 as an average of the number of outfitter clients served between 1982 and 1985.

o FWP saw the set-aside as an off-set for three rule changes that resulted in "unintended harm to the outfitting industry." The rule was temporary until the 1987 Legislature could address the "recognized inequities." FWP brief in support of motion for summary judgment.

o FWP further found that "since it is the policy of Montana to foster small and medium-sized businesses that help build the economy of the state, especially those that provide employment for Montanans, the Department believes that allocating a block of licenses to nonresidents who have retained outfitters services is furthering this policy." FWP press release "Nonresident big game license sale procedures for 1986" by Ron Aasheim. Oct. 18, 1985.

o Court supported furthering "[the state] policy . . . of fostering the business of outfitting . . . and to permit the planning of 1986 hunts by outfitters and hunters with a minimum of uncertainty."

o Court referred to the Baldwin Court, which "recognized that Montana licensed outfitters occupy a singular position under state law [in that] the "equal responsibility statute" has the following consequence: "The outfitter thus in a sense is a surrogate warden and serves to bolster the state's warden force. This appears to me to be another reason the state might have to provide for the economic validity of outfitters." Decision by Judge Loble. Feb. 2, 1986.

o Court further found that FWP's rule was not "an invidious discrimination" against the Montana Wildlife Federation and its members, which included nonresident hunter members.

• In 1987 the Montana Legislature established the 5,600 outfitter set aside licenses in law and established for the first time a pool of 6,000 nonresident deer combination licenses to be divided equally between outfitted clients, the general nonresident public, and landowners to sponsor hunters on their deeded land. 1987 Mont. Laws. Ch. 458, eff. March 1, 1988. o With regard to the new deer licenses (B-11), FWP testified to intent to earmark the additional revenue from the new licenses be "earmarked for conservation easements, lease or fee title purchase of wildlife habitat. . ." Director J. Flynn, Feb. 5, 1987.

• "[t]he quota is reasonably related to a legitimate state interest and is therefore constitutionally permissible." Director J. Flynn in a letter to Rep. Ed Grady, Feb. 19, 1987. In 1993 the Montana Legislature passed a resolution (HJR 24) establishing the Private Land/Public Wildlife Council (PL/PW). The Council was direct to address the interests of hunters, landowners and outfitters and the continuing debate about access to private land and the public's ability to pursue public wildlife. The Council represented landowners, sportsmen, outfitters, and included a member of the Montana House and Senate, Dept. of State Lands, and the FWP Commission. **1993 Mont. Laws. Ch. ____**
• The PL/PW, was appointed by then-Gov. Mark Racicot and organized in summer, 1993. The PL/PW met regularly and in October 1994, finalized its recommendations for the 1995 Legislature
• In 1995 the Montana Legislature passed legislation (HB 195 and HB 196) based on the PL/PW's recommendations. **HB 195 created market-based, variable priced, guaranteed big game combination and deer combination licenses for the clients of outfitters, known as the outfitter sponsored license (OSL). Nonresidents hunting with an OSL were prohibited from hunting big game outside the confines of his/her sponsoring outfitter.**
• Outfitted Sponsored Licenses are distributed through a system whereby the FWP Commission annually adjusts the price and target number of licenses to be sold in an effort to sell an average of 5,500 big game combination (B-10) and 2,300 deer combination licenses (B-11) annually over a five year period. These outfitter sponsored licenses cost more than the traditional nonresident licence. Each five-year period is unaffected by previous five-year periods. See Addendums 1 and 2.
• HB 195 established the enhanced Block Management program to be funded by the revenue generated by the higher cost market-prices OSL.
• HB 195 included several other provisions. Specifically, it: o stipulated that any permits or tags obtained as a result of holding an outfitter sponsored license are valid only when hunting under the conduct of an outfitter;

o decreased the 1987 set aside of 5,600 (B-10) to 5,000 and increased the 2,000 (B-11) to 2,300;

o provided for a five-year moratorium on the issuance of new land-based hunting outfitter licenses. The moratorium was later allowed to sunset as an unnecessary act (the quota was never reached) and

• HB 196 was a companion bill to HB 195 and provided new restrictions applicable to the new outfitter sponsored licenses. Specifically, it:
amended § 87-2-511 (4), MCA, to require that the outfitter – with regard to the client hunting under the outfitter sponsored license –
o "accompany the applicant"
o "provide guiding services . . ."
o "direct the applicant's hunting for all big game hunted by the applicant . . ."
o "advise the applicant of [Montana's] game and trespass laws" and
o "submit to the department . . . complete records . . ."
• Provided that the outfitter sponsored license is only valid when used in compliance with the affirmations of the applicant and the outfitter as stated above. 87-2-511(4)

• Required the outfitter to file an area of operations plan with the Board of Outfitters (Board); and

• Required Board review and approval of proposed new or expansion of the area of operations plan.

• In 1996 those licenses established by the 1995 legislature were sold for the first time. That was also the first time that licenses set aside for outfitters were sold at a Higher price than those sold in the general category.

Subsequent legislative actions continued to support and enhance the program recommended by the Private Land/Public Wildlife Council and established in law by HBs 195 and 196:

• **1999 Session: SB 338 (Mesaros) (83% approval)**Enhances "moratorium" language from HB 195 to establish a cap of 543 licenses for land-based hunting outfitters to terminate March 1, 2006; and

• Further restricts the use of the landowner sponsored deer combination licenses.
http://data.opi.mt.gov/bills/2005/billhtml/SB0077.htm

2005 Session: SB 77 (Hansen) (97% approval)
• Removes the sunse t from the hunter management and hunting access enhancement program, making all parts of the program established by HB 195 (1995 Legislature) permanent, including: o Incentives to landowners for providing free hunting access;
o Restrictions on landowner liability for allowing hunting;
o Outfitter sponsored license;
o Funding sources from various license fees;
o The Private Lands/Public Wildlife Council; and
o Biennial reports to the governor and legislature.
http://data.opi.mt.gov/bills/2005/billhtml/SB0077.htm

Provisions of I-161
• Eliminates the outfitter sponsored license and all language that requires the outfitter to: o "accompany the applicant;

o “provide guiding services for the species hunted by the applicant;”
o “direct the applicant’s hunting for all big game [elk and deer] . . .”
o “submit to the department . . . complete records . . .”

• Eliminates the requirement that any permits or tags secured as a result of holding an outfitter sponsored license are valid only when hunting under the control of an outfitter.
• Increases the number of licenses in the general drawing category by 5,500 from 11,500 to 17,000 B-10 and the number of unreserved B-11 licenses from 2,300 to 4,600. B-11 licenses reserved for landowner-sponsors remain at 2,000.
• Eliminates 5,500 B-10 Outfitter Sponsored Licenses
• Eliminates 2,300 B-11 Outfitter Sponsored Licenses
• Increases the price of the general drawing B-10 from $628 to $897 (43%) and the B-11 from $328 to $527 (61%). Nonresidents pay additional fees for drawing ($5.00) and the hunting access enhancement fee ($10).
• Eliminates the FWP Commission authority to allocate any portion of separated Class B-7 or Class B-11 licenses to the outfitter sponsored category.
• Establishes a hunting access account that may only be used to fund any hunting access program established by law or Administrative Rule. The following funds must be deposited in the account: o 25% of the fee for the sale of both B-10 and B-11 licenses;
o 25% of the fee for hunting licenses issued to nonresident children of a resident and the hunting access enhancement fees established by the 2001 Legislature ($2/residents, $10/nonresidents).

• Effective March 1, 2011

Addendum 1. The following is a summary of how the law passed in 1995 is implemented.
Section 87-1-268 says:
The commission shall annually set fees for outfitter-sponsored Class B-10 and Class B-11 licenses allowed under 87-2-505 and 87-2-510. The fees must be set at a market rate intended to sell as close to but not more than an average of 5,500 Class B-10 licenses and 2,300 Class B-11 licenses each year, calculated over a 5-year period.
12-3-180 ARM: CALCULATION METHOD – VARIABLE PRICED OUTFITTER SPONSORED LICENSES B-10 AND B-11
(1) The commission shall determine the upcoming year's target number of the variable priced outfitter sponsored class B-10 and B-11 licenses using a unit method. The commission will evaluate the number of licenses sold in the previous years within the five-year unit of time to determine the number of licenses to be sold in the upcoming license year.
(2) The five-year unit of time is self-inclusive. Any under or over sale of licenses in a previous five-year unit shall not affect the target number of licenses in the current five-year unit. The adjustments to over or under sales of licenses shall be made only within the current five-year unit.

(3) The year 2001 is the first year in the first five-year unit under this rule, and the commission shall consider data from this year in making its target number calculations.
(4) The target amount of licenses to be sold is 27,500 class B-10 and 11,500 class B-11 within each five year unit.

Land Tawney
Chairman
Private Land Private Wildlife Council

Brett Todd
Member
Private Land Private Wildlife Council

VARIABLE-PRICED LICENSES

B-10 Sales - Big Game Combos

Year	Target	Price	Sales at Deadline	Date Sold Out	Net Sales
1996	5,500	$835	5,213	6-May	5,420
1997	5,500	$835	5,127	30-Apr	5,388
1998	5,500	$835	5,331	1-May	5,372
1999	5,500	$835	5,455	16-Mar	5,405
2000	5,600	$835	6,209	Deadline	5,980
2001	5,500	$975	5,719	Deadline	5,539
2002	5,400	$1,100	5,011	41 left on 9/3/02	5,209
2003	5,600	$1,025	4,801	276 left on 9/03	5,324
2004	5,800	$975	'5,321	9-Jun	5,746
2005	5,750	$975	6,010	Deadline	5,852
2006	5,500	$995	6,589	Deadline	6,483
2007	5,000	$1,195	6,064	Deadline	5,876
2008	5,000	$1,500	5,366	Deadline	5,219
2009	4,750	$1,500	3,974	218 left on 9/2/09	**4,532**
2010	**5,390**	$1,250	3,837	987 left on 9/2/10	

B-11 Sales - Deer Combos

Year	Target	Price	Sales at Deadline	Date Sold Out	Net Sales
1996	2,300	$515	3,114	Deadline	3,085
1997	2,100	$675	2,395	Deadline	2,365
1998	2,000	$725	1,994	Deadline	1,973
1999	2,000	$745	2,143	Deadline	2,112
2000	1,955	$775	2,304	Deadline	2,256
2001	2,300	$850	2,183	13-Aug	2,254
2002	2,565	$775	2,148	201 left on 9/3/02	2,329
2003	2,300	$775	2,026	2-Sep	2,255
2004	2,300	$775	2,298	March 16th	2,265
2005	2,400	$775	2,458	Deadline	2,420
2006	2,300	$795	2,511	Deadline	2,492
2007	2,200	$845	2,733	Deadline	2,682
2008	2,000	$1,100	2,292	Deadline	2,266
2009	1,800	$1,100	1,759	May 12th	**1,800**
2010	**2,250**	$995	1,757	227 Left on 9/2/10	