

# **WILDLIFE MITIGATION ADVISORY COMMITTEE CHARTER**

**May 28, 1991**

**Revised December 6, 1995**

**Revised May 22, 2009**

## **BACKGROUND**

The Wildlife Mitigation Trust Fund Advisory Committee (Committee, WMAC) was formed in 1990 by the Montana Department of Fish, Wildlife and Parks (Department, MDFWP). The Committee includes state and federal fish, wildlife, and land management agencies, Montana and Pacific Northwest utility organizations, hydroelectric dam operators, Indian tribes, and local government officials in matters related to the implementation of projects to mitigate for the effects of hydroelectric development at Libby and Hungry Horse Dams on wildlife and wildlife habitat. This committee was created pursuant to Article 10 of the Wildlife Mitigation Agreement for Libby and Hungry Horse Dams (Settlement Agreement). This charter describes the purpose, organization, procedures and activities of the Advisory Committee. Procedures for nominating and reviewing proposals for new projects are included.

## **PURPOSE**

The Wildlife Mitigation Trust Fund Advisory Committee (WMAC), is chartered to "provide advice and guidance to the Department in the design and implementation of wildlife mitigation activities" pursuant to the Settlement Agreement. A secondary purpose of the WMAC is to provide a general forum and focal point for information exchange among all federal, state, tribal, and private entities affected by wildlife mitigation activities related to development of the Federal hydroelectric system in Montana.

## **ORGANIZATION**

1. Each agency, tribe, or organization listed in Article 10 of the Settlement Agreement will be allowed one official representative on the committee. The designated representative must have the authority to speak for their organization on policy matters relative to the wildlife mitigation program. Each agency shall designate an alternate who will represent them if the official representative is unable to attend the meeting. Attendance is not limited to the official representative.
2. The Department may invite entities other than those identified in the Settlement Agreement to participate in the WMAC in a non-voting (ex-officio) capacity at its own discretion and as recommended by WMAC. Committee members may nominate groups for ex-officio member status.

Definition of "Ex-officio" membership:

- Primarily an information source, participates in general discussion prior to consensus building process;
  - Does not participate directly in consensus building except to provide information as requested;
  - Ability to contribute or cooperate in implementation of wildlife mitigation projects;
  - Represent a broad constituency not listed in the Agreement but affected by the implementation of the mitigation program.
  - Special legal or regulatory standing;
  - Incorporates special interests but overall representation must be balanced;
  - Receives full information packet; and
  - Must be invited to participate by the Department and endorsed by the committee.
3. The Director of the Montana Department of Fish, Wildlife and Parks or his designee will serve as the non-voting chair. Duties of the chair will include:
- a. Prepare agendas, develop summary minutes, and conduct regular WMAC meetings.
  - b. On matters requiring committee action, provide pre-meeting background materials 30 days in advance of scheduled meetings.
  - c. Develop and provide an annual report to WMAC at the end of each fiscal year. The annual report will address mitigation projects undertaken, wildlife benefits derived, and provide an accounting of revenues and expenditures (including a listing of funds currently held in the trust account) in accordance with generally accepted accounting principles.

## **PROCEDURES**

1. WMAC shall decide how to conduct meetings and how to develop advice and guidance. The procedures listed below reflect decisions made by the committee regarding function of the committee.
2. Committee meetings will be held in accordance with Montana's Open Meeting Law and announcement of each meeting will be distributed to the local news media two weeks in advance of the meeting.
3. The committee shall meet at the request of the chairperson or a majority of the members.

4. Committee meetings will be held at rotating locations in the project vicinity.
5. The committee shall attempt to make recommendations through consensus (i.e. those in the minority do not raise an objection). If consensus cannot be achieved, Committee recommendations shall be made by majority vote. Those in the minority will be provided an opportunity for a minority report.
6. The chair has final decision-making authority. If the chairperson chooses to not follow a recommendation by the WMAC, such decision will be accompanied by a written explanation of why the recommendation was not followed.
7. The Department shall submit requests for technical or policy review as needed. Materials will be provided to WMAC members 30 days in advance of scheduled meetings whenever possible and will consist of recommendations with a range of options.
8. The committee may appoint subcommittees as needed to perform technical review of ongoing and proposed projects.
9. The committee shall see that significant wildlife issues are submitted to the Department at least 30 days prior to committee meetings, if possible.
10. The Department may amend or modify this charter based on consensus recommendations by WMAC.

## **ACTIVITIES**

The WMAC shall:

1. Review and make recommendations regarding proposed policies affecting the design and implementation of the wildlife mitigation program.
2. Develop and recommend to the Department mitigation priorities for use in considering proposed mitigation projects and in providing direction for use in developing long- and short-term objectives.
3. Review proposed wildlife mitigation projects to insure they comply with the requirements of the NW Power Act, Columbia Basin Fish and Wildlife Program (1987), Wildlife Mitigation Agreement for Libby and Hungry Horse Dams, Montana's Mitigation Policy and other approved land use plans. The committee will also determine and provide recommendations as to whether proposed projects comply with mitigation priorities recommended by the WMAC and agreed to by the Department.

4. Review and provide input to the Department relative to the technical aspects of proposed projects.
5. Review and evaluate the effectiveness of ongoing wildlife mitigation projects implemented under the Wildlife Mitigation Agreement for Libby and Hungry Horse dams.
6. Identify problems affecting wildlife relative to the development of the Federal hydroelectric system in the Columbia River Basin in Montana and provide reports or summaries of these findings to the Department.
7. Facilitate the development of consensus on wildlife mitigation projects between the Department and other entities affected by wildlife mitigation activities in the Columbia River Basin of Montana.
8. Disseminate information about wildlife mitigation projects implemented under the Trust Fund to its constituent groups and bring information from those groups to the Committee and Department.
9. Advise the department on opportunities to improve public involvement in the wildlife mitigation program.
10. Identify and inform the Department of opportunities to incorporate outside funding sources to increase the amount of wildlife mitigation that can be accomplished under the settlement agreement.

# ADDENDUM 1 - PROJECT REVIEW PROCESS

Revised December 6, 1995

## Projects Costing Less Than \$25,000

FWP will utilize existing WMAC guidance, as provided in approved plans, to complete such projects without additional WMAC review. Accomplishments and expenditures will be documented in the annual report and at the next regularly scheduled WMAC meeting. However, if such projects require an environmental assessment or environmental impact statement, then we will provide a minimum 30-day period to solicit comments from the Advisory Committee and the public before making a final decision on the project. Accomplishments and expenditures for these projects will also be documented in the annual report and at the next meeting of the Advisory Committee.

## Projects Costing More Than \$25,000

**If time is not a factor** affecting project completion, Fish, Wildlife & Parks will utilize the Advisory Committee review process as outlined below:

<u>ACTION</u>	<u>Approximate Date</u>
Proponent provides camera-ready project proposal form	Feb 15
Pre-meeting packet with proposal; mailed to WMAC members	Mar 15
Proponent presents at Advisory Committee meeting	Apr 15
Technical review	Jun 15
Program evaluation and prioritization	Aug 15
Pre-meeting packet with FWP evaluation and recommendation	Sep 15
Advisory Committee review and comment	Oct 15
FWP Decision	Dec 15

**If time is a factor** affecting project completion, Fish, Wildlife & Parks will utilize our environmental review process to solicit comments from the advisory committee and the public simultaneously. At a minimum, this includes notification of the proposed project and at least a 30-day comment period on the draft environmental document. Advisory Committee members may also request special meetings or conference calls they feel are warranted to discuss the project.

Fish, Wildlife & Parks is also required to follow a process established in our Statewide Habitat Plan (FWP 1995b) for any project that involves acquiring an interest in land, including leases, conservation easements, and fee-title acquisitions. Decision-making authority rests with the Fish, Wildlife & Parks Commission. Additional approval is needed from the Montana State Land Board for projects costing more than \$100,000. Steps involved in this process are summarized below.

**Project Proposal.** The project proponent develops a project proposal. Fish, Wildlife & Parks staff reviews and then completes a project proposal form for projects deemed worth

pursuing. The form includes information on how well the project would meet program goals, consistency with formal agreements and previous program decisions, habitat values, threats to habitat integrity, degree of protection, cost/benefit estimates, potential partnerships, and other criteria.

Regional Review. The project is ranked against other current and potential projects, reviewed and approved by the wildlife mitigation coordinator and the regional supervisor for Fish, Wildlife & Parks.

Wildlife Division Review. Regional office sends project proposal to Helena for review and approval by the Wildlife Division administrator.

Approval to Proceed. We must get approval to enter negotiations with a landowner from the Fish, Wildlife & Parks Commission. If they approve, Fish, Wildlife & Parks initiates negotiations with the landowner regarding price and terms of the agreement. Once a project is preliminarily approved from the Commission, we will notify the Advisory Committee of the Commission's decision. **WMAC members will be given the opportunity to become involved with the project at this time.** Based on recommendations from the majority of committee members, special meetings or conference calls may be arranged to allow more involvement in the decision-making process.

Project Development. Fish, Wildlife & Parks gets appraisals, title reports, engineering designs, partnerships, or other steps necessary to more fully develop the project.

Analysis and Review. Fish, Wildlife & Parks completes a draft environmental and socio-economic analysis and proposed management plan for public review and comment once the landowner and Fish, Wildlife & Parks agree on terms and cost. We host a public hearing on the project during a minimum 30-day public comment period. **WMAC members are again invited to provide input on the project at this step.**

Final Approval. Public and Advisory Committee input is used to modify and finalize the analysis and management plan. This input is used to develop a recommendation for the Fish, Wildlife & Parks Commission on whether to approve, modify, or reject the project. The Commission is provided copies of the final analysis, Fish, Wildlife & Parks' recommendation, and all public comments at least ten days before making their decision.

Implementation. The project is finalized once the Commission and the State Land Board give final approval. The conservation easement, lease, baseline inventory, or other documents are finalized. Closing dates are set and the land, easement or lease is purchased.