MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
1420 E. Sixth Ave
Helena, MT
October 3, 2002

Commission Members Present: Dan Walker, Chairman; Tim Mulligan, Vice-Chairman; Darlyne Dascher; John Lane and Mike Murphy.

Fish, Wildlife & Parks Staff: Jeff Hagener, Director; and other Department personnel.

Guests: Kelly Gorin, OBPP: Robin Cunningham, FOAM; Don Nickerson, PPSA; Mary Ellen Schnurr, MOGA; Jean Johnson, MOGA.

Present but did not sign in: Kyle DiAugustino

Topics of Discussion:
1. **Opening - Pledge of Allegiance**
2. **Approval of Commission Minutes, September 11, 2002**
3. **Approval of Commission Expenses through September 30, 2002**
4. **Makoshika Oil and Gas – Final**
5. **Smith River Land Exchange – Final**
6. **Fee Rule Addendum FAS Camping – Tentative**
7. **Paddlefish Regulation – Final**
8. **Hebgen Lake No Wake Zone - Final**
9. **Update on Automated License System - Information**
10. **Update on River Recreation - Information**
11. **EA to Use Lost Creek As A Repeater Site for the Highway Patrol - Final**
12. **Draft EIS: Grizzly Bear Management Plan for SW Montana – Information**

1. Opening - Pledge of Allegiance. Chairman Dan Walker called the meeting to order at 8:10a.m. and led the Pledge of Allegiance.

2. Approval of Commission Minutes. Minutes of the September 11, 2002 meeting were approved as presented.

ACTION: Commissioner Darlyn Dascher *moved to accept the minutes. Second by* ***Commissioner John Lane.*** *Motion to approve passed.*

3. Approval of Commission Expenses through September 30, 2002.

ACTION: Lane *moved to accept the Commission Expenses, seconded by* ***Dasher.*** *Motion passed.*

4. Makoshika Oil and Gas – Final. Doug Monger, Parks Division Administrator, told Commissioners an oil exploration company had leased all previously unleased mineral rights within the the Glendive and Cedar Creek area which includes property within Makoshika State Park. The 1997 Legislature appropriated $100,000, on a one time basis, to Fish, Wildlife & Parks to secure mineral rights within Makoshika. The seven sections were appraised at approximately $338,000. A price of $140,000 has been negotiated with Dawson County which would purchase both the fee title and the surface and minerals rights. An EA was done and no comments were received. This transaction will go to the Land Board as it is over 100 acres and over $100,000. The land comes with two outstanding leases, one to the Makoshika Bowman, and the second to an individual with grazing rights. FWP would continue to operate with these leases. Permission is requested to proceed with closing the land sale for seven sections of Makoshika State Park.

***ACTION: Dascher** moved to accept the acquisition of the oil and gas and the surface rights as well. Second by **Vice-Chairman Mulligan.** Motion passed.*

5. Smith River Land Exchange – Final. Monger told Commissioners the four 6's Ranch has been trading the use of a boat camp area they owned in exchange for grazing an area owned by FWP. The ranch owners are interested in cleaning up their land holdings. Land the Department will receive is 12.84 acres with a value of $57,780. The parcel being traded to the ranch is 5.09 acres and is valued at $30,540 and another parcel of 10 acres appraises for $35,630. The ranch would reimburse FWP for the difference in value. Between the time the original information was sent to the Commission and information was prepared for this meeting, a small piece of land, 1.8 acres in Camp Baker was found that FWP would like included in the exchange. An EA was done on the proposed exchange and two comments in support of the proposal were received. This land exchange does not need to go to the Land Board, as it is under $100,000 and 100 acres.

***ACTION: Commissioner Murphy** moved the Department proceed with the land exchange. Second by **Lane.** Motion passed.*

6. Fee Rule Addendum FAS Camping - Tentative. Monger said, as the Commission had instructed during the last meeting, a study of access areas where fees were not being charged was done. The Department proposes amending the fee rule to include nine additional sites. Deadman's Basin in Region 5 is on the list, however, because under the primitive parks legislation it would be illegal to charge at this site so Deadman's Basin should be deleted. The Department recommends amending the biennial fee rule to incorporate the nine additional sites as described.

***ACTION: Mulligan** moved approval of the nine additional sites as identified by the Department. Seconded by **Walker.** Motion carried.*

Commissioner Murphy: I would make a motion to amend, after the last meeting; we did approve the Thompson-Chain-of-Lakes, to include that. I had discussions with the staff in Kalispell and other people regarding that issue. Being a little novice to the situation, circumstances would eat a little crow because I did vote to approve adding those to the fee rule.

But after having discussion and the kind of discussions that have gone on in the past up there with the community involvement, the citizens that were involved with that whole activity. I think some commitments that were made back in '93; people are of the belief that there would not be a fee associated with those fishing access sites. I think all fairness to that Libby community, I would like to amend to remove the Thompson-Chain –of-Lakes from that fee schedule, at this point; and allow that committee to get back together. I have talked to Dan and he will make a solid effort during this upcoming year to get the people back together and talk about this. I think that will give them an opportunity to come back with some concurrence as to direction. Maybe on their own accord even be supportive of coming in with some recommendations to add these fishing access sites to the list. At this point, based on what I see, from the standpoint of what discussions took place in the past, I think with that involvement and with that community effort, that we should allow them that same opportunity before we add this to the list. I just feel that in fairness. I would like to make a motion that we remove this from the list at this point. Realizing there would be the instruction that the staff work to bring the people back together and come back with a recommendation at the end of this season, next season. I think in that same motion, I would also like to see the Logan State Park, in the same area, refrain from increasing that fee at this point until we have had the opportunity for that same activity in that are.

ADDITIONAL ACTION: Commissioner Murphy *moved to amend the motion to remove the Thompson-Chain-of-Lakes from the fee schedule, to allow the committee to meet and refrain from increasing the fee to Logan State Park until there has been the opportunity for the same activity on this area. Second by* ***Dascher.***

Dascher*:* I am not sure about the Logan site. I also had some calls and made a few calls on my own on that and got a brief a reminder of the agreement that had been reached there by the people. I think we need to stand by those agreements, even though I would like to see us charge there. The agreement was made and I think we need to go back and let the groups work it out and see what we can come up with rather than us upsetting the whole applecart here.

Mulligan: It might be the right thing to do but I question whether this is the right time in the midst of the public process of making a decision on the part of the rule that went out to the public before the public comment period is up. I assume we would have a chance to make that decision, when are we scheduled to make the final, November? **Monger:** At the November meeting. **Mulligan:** It would seem to me that would be the proper time to make the changes rather than midway through the public comment period. **Walker:** I would concur with your comment and add that at a point in time where we are looking at eliminating some opportunities altogether, the thought of not bringing all of our parks into parity as far as charging to the best of our ability, doesn't seem proper. It's an issue of fairness. Yes, there was a commitment made. Yes, ten or more years have passed. Times have changed and yet we haven't gone through the tentative process and I think we ought to do that.

Mulligan: I don't understand what this past commitment was. If Dan could write something up and maybe have this group that you are referring to input some comment so we can review it as a whole, between now and November when we need to make a decision, would help quite a bit.

Dascher: I'll withdraw my second on that motion. Let's wait until November and decide at that point. **Walker** asked if anyone else would make a second to **Commissioner Murphy's** motion.

Murphy: Could Dan give a brief overview now of what that agreement entailed and how that process did happen back in '93.

Vincent: After the last Commission meeting, I spoke with **Commissioner Mulligan** and **Commissioner Murphy** about past commitments that had been made or perceptions that had been made. The Department went through a very exhaustive planning process and completed the plan in November of '93 and it calls for revising this plan next year in November. There were no specific commitments that we would never charge fees. It actually says that is one management activity that would and could be considered in the future. What it very clearly did is commit the Department to a process and that process would include involvement with an oversight committee that would be established shortly after this plan was approved. We did put together the oversight committee which meets at least annually and address' a variety of different management activities. There is not a specific commitment that says we will not charge a fee but it does say there is a commitment to a process to involve the oversight committee and to include significant public involvement before any substantive changes take place.

My interpretation is that charging fees at Thompson-Chain-of-Lakes without going through this process would be perceived in the community of Libby as being a breach to the commitment that we made back in '93. I think there's a perception up there that we said that we wouldn't charge fees. There's some support now for charging fees. We need to backup, take time to work through the process and come before this Commission, hopefully a year from now, with something that would be palatable to at least most of the people in the community.

Thompson-Chain-of-Lakes is the only 3,000 acre, 18 mile long fishing access site in the state and there are many different access points. The logistics of charging a fee there haven't been addressed. I'm confident that if you make the decision to defer charging fees for one year, we can come back to this Commission at that time and have a reasonable alternative to consider.

Walker: Given the tentative process ahead of us, is it not possible for you to deal with this fee issue between now and then? **Vincent:** In the next 30 days? **Walker:** Yes. **Vincent:** I don't think that would begin to give us and the community of Libby enough time to do that. If that's the direction you give us, we'll give it our best college try. **Walker:** If we don't accept **Commissioner Murphy's** motion that will be your direction. **Vincent:** I'm afraid what I will hear from the community is we won't accept fees and then we would be coming in to you saying if we choose to charge fees we're going to have a very angry community in Libby. I would rather back up and come back to you a year from now and say there is some acceptance of fees and this would be an administrative procedure for collecting those fees and the community would be solidly behind it. **Walker:** If the community is that solid on not accepting fees, will they help us in some of the other areas where we are going to be closing campgrounds, with voluntary contributions? **Vincent:** As a matter of fact we have one group, Bruce Vincent represents the community for Great Northwest, and they've actually adopted one of our sites and

that might be an alternative the community might accept. Say "We'll adopt three or four more sites and take care of those ourselves." In the past, the Libby Rod and Gun Club had taken of some of those sites. There are a variety of different creative solutions to the problem if we're given enough time to address. **Walker:** When I said that it was facetiously, of course, but I'm talking about sites in other parts of the state. I simply am interested in equalizing costs and opportunities throughout the state in the name of fairness. **Vincent:** Are you referring to parks sites or fishing access sites? In terms of fishing access sites, right now Region One is not being subsidized by other portions of the state. Our cost per acre is less than the statewide average at $14. **Mulligan:** Are all the campgrounds FWP campgrounds? **Vincent:** There is a Forest Service campground on MacGregor Lake. **Mulligan:** Do they charge? **Vincent:** Yes, they do. And Logan State Park is on Middle Thompson and we do charge at Logan State Park.

Murphy: I am going to proceed, I hope I can get a second. I do not believe that a month would be enough time for Dan to get this put together with that community up there. I do believe that from a credibility standpoint the Department, we do owe that community the opportunity to get back together. Doug, I'd like to ask is there a similar situation anywhere throughout the state where this kind of an effort took place in regards to putting these together, a similar type of activity. It seems like it is fairly unique and from a credibility standpoint, the Department's involved in that process, we need to give that process an opportunity to come back. I would hope they would be coming back in support of this. **Monger:** Just the nature of Thompson-Chain-of-Lakes is unique. However, we have a number of public involvement processes that have and are currently going on. The Smith River comes to mind. The Flathead Lake-Wildhorse Island situation is another. That style of public involvement takes place in a lot of locations. There are other places in the state where we have turned Department owned property over to another entity to operate for us.

Dascher: Dan, how would the folks in Libby react if we leave this as is and in November, delete Thompson-Chain-of-Lakes, if that's what everybody agrees to and then give you the opportunity over the next year, as the plan goes. Is there going to be resentment because we left it until November to deal with or can we just go ahead and work through this. **Vincent:** I can't answer that for sure but I'm afraid you might be correct, the resentment. We've been deflecting comments so far in hopes of coming before the Commission and considering this as an alternative. I'm afraid if we go forward at that point in time our ability to deflect those comments will be .. **Dascher:** You mean if we go forward until November? **Vincent:** I'm afraid they are going to see that if we are ineffective in removing Thompson-Chain at this time they may come to the conclusion that a fee may be in place and therefore they may look at this 30 day period as their opportunity to comment. **Mulligan:** I think that's exactly the way it should be done. I don't think we should be deflecting comments. I think those comments should come to the Commission and should come until November. I don't know why we would want to deflect comments. I would like a copy of that plan. I want to hear what the public has to say and understand how the Thompson-Chain-of-Lakes came together and how this perception happened and be able to make a decision from that standpoint. I certainly don't want to be isolated from those comments. That's the purpose of the public comment time period. I think we would be bastardizing the public comment process by short-circuiting it at this point in time. I may not at all be against removing it from the list if I can see enough information that justifies going the

direction. What you are saying makes sense, but to do it now in the middle of the process seems wrong regardless of whether I'm for it or against it. **Vincent:** Well, I guess I'm just one of those people who likes to avoid controversy if there's a way to avoid it and reach some reasonable consensus at a later date. That's the choice you'll have to make.

Murphy: I have to agree. If the past process that's involved with this, the community involvement in the whole process, personally from a credibility standpoint I think we need to give that activity an opportunity to proceed and I feel the same way. I certainly, don't think that one area should necessarily be given a free ride to the extent that the others are paying. I also think there was a commitment that I feel strongly we ought to allow the Department the opportunity to work with… I think we're going to get public comment anyway. If it isn't on here at least 30 days, when we go back next and look at putting this on with some kind of recommendation hopefully coming from the community that we're going to get that public comment at that point too. I guess we're postponing that for a year, at that point, but at least we're going to give this activity that was in place there an opportunity to work, give those people an opportunity to come back to the Department through that process with their recommendation. I would hope they would come back supporting this but they won't have had it basically forced on them. What's happened in the past, the discussions and whatever, I feel strongly that we ought to give that an opportunity to work. So I'll ask for another second and I'll continue my request as a motion.

Walker: Do we have a second to **Commissioner Murphy's** motion? I don't know whether it's better to allow your motion to die without a second or to vote on it. What is your preference? **Murphy:** You're anticipating? **Walker:** I will give you a second but I'm going to vote against it. **Murphy:** You've already answered the question, but 30 days, you're not going to get anything but negative response. **Vincent:** The homeowners will support fees but unfortunately we've been there before, between the homeowners and the folks in Libby and it is a real split between those groups and became extremely divisive during the boating issue. That's what I'm trying to prevent, another divisive and contentious issue between two groups on the oversight committee. **Walker:** When you have your discussions, I think the points **Commissioner Mulligan** brought up were excellent. We will not have gone through this ten year period but we're at a point in time where we're raising fees for others and it seems like a logical time to bring the Thompson-Chain, in a fairness issue. We'll see how this turns out over the next month. **Mulligan:** Does the plan describe the background of how the Chain-of-Lakes came to be? I think it would be good if we could get a copy of that so we can at least understand the history.

***ACTION CONTINUED: Murphy's** motion died for lack of second.*

Monger told Commissioners not many comments on the fee rule have been received as yet. There have not been a lot of comments on the fee rule as yet. One Smith River outfitter was concerned about the amount of fee increase for outfitters. The State Parks Futures Committee draft report has also been out for public comment. A number of comments have been received as it related to those recommendations. Private campground owners are supportive of increasing the parks fees so they are equivalent to private campgrounds. A disabled individual commented

that to go into some parks in a vehicle, which is his only method of getting into the parks, he has to pay a $4 per vehicle fee and walk-in people only have to pay $1 or $2. This is something that had not been considered. An amendment to the fee rule to only charge disabled individuals the walk-in fee if they are the sole occupants of their disabled or mobility impaired vehicle will be presented at the November Commission meeting. **Walker** asked if the disabled individual stays overnight they be treated the same as everyone else. **Monger** assured him this would be in the rule. The comments received will be sent to the Commissioners prior to the next meeting. **Walker** asked **Monger** and **Vincent** if it would be possible and advisable to put a news release in the local paper, letter to the editor type, explaining what is being done on the Thompson-Chain so people would be dealing with facts. **Monger** said this could be done for the northwestern Montana region. **Mulligan** said to ensure the public knows to send comments in to the Commission and not the region.

7. Paddlefish Regulation – Final. Chris Hunter, Fisheries Division Administrator, reviewed the proposed regulations and what had taken place since the September 11, 2002 meeting. At that meeting a tentative was adopted that would reduce the harvest cap from 1500 to 1000. Another press release was sent out and so far no public comments have been received. The Commission is being asked to adopt the amended paddlefish regulation, which reads, "The paddlefish fishery is managed under a harvest cap in conjunction with North Dakota. Montana has set regulations so that annual harvest will not exceed a thousand fish. FWP may close the season within 48 hours notice in any year if it appears that the harvest target otherwise may significantly be exceeded."

***ACTION: Dascher** moved to accept the Department's recommendation. Seconded by **Walker.** Motion passed.*

Hunter again assured Commissioners the limit would be monitored closely and if necessary will be brought back to the Commission for further reduction.

8. Hebgen Lake No Wake Zone – Final. Jim Kropp, Enforcement Division Administrator, told Commissioners that after reviewing the public comments the main issue is the operation of personal watercraft in the areas proposed for no wake zones. He noted approximately ten percent of the registered water craft in Montana are personal watercraft. These account for 43% of the accidents in Montana. Most accidents are behavior caused.

Pat Flowers, Region Three Supervisor showed the Commission on a map the areas being recommended for no-wake zones and presented the background on the proposed rule. Although the original request was for Rainbow Point only, it was thought this would be the logical time to consider several other congested areas of the lake. Proponents of the rule are mainly concerned with safety issues and opponents do not think there is enough of a safety concern to warrant this rule. They felt through better enforcement and more education any problems could be solved and this additional regulation is not necessary.

The first alternative is to reject the proposed rule and let existing general boating regulations govern. This has the advantage of keeping regulations as simple as possible on the lake. It would

eliminate what is perceived as unnecessary interference by the government. It also avoids limiting some of the uses that people are concerned about which is primarily unrestricted water skiing and use of personal watercraft. The disadvantage of this approach is it doesn't address what FWP thinks is a public safety hazard. A second alternative is to adopt the proposed administrative rule. This would reduce the speed in congested areas and would help eliminate the public safety problem as FWP sees it. The disadvantage of the rule is that it would limit some of the traditional uses and the way they have used water skiing, and personal watercraft in the area. The last alternative is the modification to the proposed rule. It reduces the no wake zone in some areas from 300 to 200 feet. It eliminates the no wake zone in one area of the lake. The advantage of the modifications is that it provides more opportunity for skiing given the additional 100 feet. It focus' on what FWP thinks are the toughest areas or the most congested areas yet still address' what FWP considers are the public safety problems.

Flowers reviewed the proposed changes and the rationale behind the changes. The changes were a result of public comments and a review of the sites. Rainbow Point Bay is the one exception to the 200-foot rule. This area is heavily used. FWP felt by staying with the 300 foot no wake zone no skiing would be allowed in that bay. Skiing in this bay is not considered to be a safe use of the area.

Dascher noted the proposed rule said within 200 feet of the docks and moored boats, she thought it was 75 feet for moored boats. She thinks the statute is different from what is in the proposed rule. **Kropp** said it is different in the sense of operations. If operating in a no wake zone, they can pull in and out from shore as long as there is no wake. **Mulligan** said it would be good if they could summarize what the current rules would be on the lake with a no wake zone. **Jim Miller, Game Warden** in West Yellowstone, said he did not believe there was not a no wake for a vessel next to a moored boat. Personal watercraft can't operate within 200 feet of a moored boat.

Walker: On the regulations as written, it is within 200 feet or as buoyed; how do you plan on implementing this? **Miller:** On the "or as buoyed" there is a process that will have to go through PP&L to get a permit to put a buoy out. It is the same process that would have to be gone through to redo the docks. It's an option given to the private marinas such as the Madison Arm Resort. Currently he has a buoy out 200 feet or so away from his docks. It would make that enforceable. Through the permitting process would make it reasonable as to where those people would put the buoys, they would not be able to just put them any place. **Walker:** But when you say "or as buoyed" there are a number of people who have commented who are not in favor of this proposal. Are we going to be liberal or are we going to be conservative in how we place these buoys? **Miller:** It isn't our intention to place the buoys; it would be the private marinas. Yellowstone, Holliday and all those that would place the private buoys on the no wake zones if they so please and went through the permitting process. **Walker:** For the Lonsesomehurst Campground, who places those buoys. **Miller:** We don't have any intention of placing one there, right now, unless it was needed because of a clarification issue. **Walker:** It is unclear to me what we are talking about. I'm thinking of the skier, they pull their boat in; there is a sign that says "200 foot zone." But there's not buoys, is that what you're going to tell me and so they really don't know where to start and where to finish. How does this work physically,

how do they know when they can jump on the accelerator or where they can start their skier? How does it work in other parts of the state? **Miller:** It's tough to draw a line in the water, basically so there has to be some give either way. It's when you're 200 feet away to your best guess, unless someone is standing there with a range finder or laser finder it would be difficult to enforce. Unless it was very obvious, obviously coming up next to a dock at a full wake speed but if they are 170 feet away, it would be tough without a range finder and that is something I wouldn't want to focus on. The 200 feet would be a guideline. If it became a problem in the future, that is why it's written "or as buoyed" so it would be easy for FWP to go through the permitting process and put a buoy out there if there is a recurring problem with that.

Mulligan: Dan, maybe for the benefit of all the reiterations that have been gone through in the past in the western side of the state, basically the concept has been that it is a judgment call, to set up to 200 feet and 300 feet and from my understanding, Enforcement's approach has been to use good judgment and reasonable enforcement. If they think someone is pushing it, they may stop them and talk to them and if they are obviously violating it then they would be cited. It is not some absent buoys in every spot in western Montana that we would be able to do anything other than use good judgment and expect the people to use good judgment. It is not an easy issue to nail down into black and white. I think what you are thinking is how do you enforce this thing and implement it. Basically, maybe Jim can correct me if I'm wrong, but it has been a judgment process and working with and educating the public, enforcing those that are obvious violations. **Kropp:** I would respond that the vast majority of water contacts are purely educational. We stop somewhere around 25,000 boaters each summer and we do write citations for serious water safety infractions but it is mostly educational. In a situation like this and in other areas around the state where we have 300 feet pretty much standard no wake zones on all of our lakes in western Montana. Unless it is extremely blatant, people running personal watercraft or skiing off the shore or off the docks, public or private, generally we just warn them. In many cases we warn them first and if the activity doesn't cease then we will cite them. **Walker:** And the normal is 300 or 200? **Kropp:** It is 300 in western Montana. **Mulligan:** No, it's 200. We started with 300 but decided to go back to 200. **Walker:** I thought it was but I was sure you knew. I'm concerned about a differing regulation for Rainbow Point. For people to learn the regulations is difficult enough without having variations, is it 200, is it 300. Are you telling me 200 wouldn't suffice at Rainbow Point, it would not offer a level of safety that would be acceptable? **Flowers: W**e thought by going to 300 feet it would eliminate any skiing in the bay. 200feet would allow some skiing. If you felt for consistency sake that was important, I can't argue there would be a huge difference in terms of public safety. It was our preference because we thought it best to just eliminate, it would move the congestion out of the bay any skiing in the bay but I can't say it would be a huge difference.

Dascher: I'm trying to picture the size of this bay and in looking at it; it looks to me like it would be maybe a quarter of a mile wide. Would it be that wide? So you're going to take these people from where they put in at that dock then they've got to go across that bay and out into the main part of the lake in order to ski off that next point, is that what you are saying? **Flowers:** Correct, to the east.

Mulligan: The intent was to eliminate skiing in that bay could they go to a 200 foot limit and specifically state that the bay is a no wake zone? **Flowers:** That would work also. **Mulligan:** I would assume the 200-foot would continue past Rainbow Point a certain distance to the east. **Flowers:** The way it's worded is just Rainbow Point Bay. **Mulligan:** Is the campground within the bay. **Miller:** Yes, and there's a boat launch facility, a public dock and a private dock within the bay. **Mulligan:** So we're not concerned out around the point itself. **Miller:** No. **Mulligan:** It might be simpler to just state no wake in Rainbow Point Bay, if that is the intent. **Flowers:** That is the intent. **Walker:** Well, then you have to define the bay. **Mulligan:** Is it fairly obvious where the bay is at? **Miller:** Yes, it was obvious within the points; there are two distinct points. The bay is very obvious. **Mulligan:** You could even say the bay within Point A and Point B and make it fairly clear. **Miller:** Yes, I would have to go look at it again. **Walker:** The people that use that Lonesomehurst campground, there are overnight camp spots there, still? **Miller:** Yes, there are. **Walker:** And day use? **Miller:** Yes, there is a parking area and it does get a lot of day use. **Walker:** I'm going to ask you for a judgment call, what percentage of the people that utilize those campgrounds are there for water sports. All of them? **Miller:** No, it is a large campground and I would say maybe 10 boats on a weekend, just a guess, so 10 campers on a weekend. **Walker:** Ten using the water and ten not? **Miller:** Maybe a hundred not, it is a large campground. Maybe not a hundred, 50. One-fifth of them would be a good guess. **Walker:** On the 4th of July, the same sort of percentage? **Miller:** Probably a little higher percentage then. **Mulligan:** Are there other private landowners using that facility? **Miller:** Very few, there's one private dock and maybe three other homes. **Walker:** I heard significantly from persons who had summer home at Romsett and Lonesomehurst and one other area for a number of years and apparently a large reason for those homes was water sports and their preference to ski from shore and so forth. In fact the comments were pretty uniform in stating they didn't see a problem. Does this modification allow them the traditional uses they have had? Will they be able to ski from shore? **Miller:** Yes, specifically at Romsett, each of the cabins, they are fairly concentrated. The docks are right in front of Romsett and the moored boats are out in front of them. The way the regulation is currently proposed and written is 200 feet from this end dock and this is all sandy beach. This would allow that. Currently they probably take off 50 to 100 feet away from the nearest dock. So it would push them down the beach a little bit. It's my concern and just through observation, of dropping young skiers they are teaching to ski, within 50 to 100 feet of the dock. If they hold on the problem is going into the dock. That is the main part of the safety concern. The Lonesomehurst summer homes are the ones we have eliminated from the proposal mainly because there are no moored boats out in front. There are two docks, and it is just not as congested as the eight to ten boats that are moored out in front of the five docks. The other one is the Madison Arm lakeshore summer homes. It's spaced so a lot of the docks are more than 400 feet away from each other. So it would allow them to get away from the docks yet have shore starts. **Walker:** Are those docks for single boats? **Miller:** They are docks that aren't used to hold boats, they are to just get on and off boats and they moor boats out front. **Walker:** So does it make sense to have a regulation in a sparsely used area? I can see that on a busy dock area. **Miller:** My concern is dropping the water skier off on the shore next to the docks. The arc of the boat, with the skier going out away from the boat and they get close to the docks sticking out in the water. That was my safety concern. **Walker:** I didn't read every single word of all the comments but that's the first time that we've had great concern for skiers coming in has been expressed.

Mulligan: I need clarification because we're listing lakeshore summer homes within 200 feet of the shoreline. Is that the one you were just talking about? **Miller:** Yes. **Mulligan:** Could you show again where that would start and where that would stop? **Miller:** (Showed Commissioners where the summer homes would be on the map.) It is a pretty long beach area. That was a slip on my part, that one is 200 feet from the shoreline. Shore starts would put them away from the cabins in that specific area. **Mulligan:** They would have to go to one side or the other. **Miller:** Yes, they would. **Dascher: W**hat would be the danger of allowing them to start from shore. If they want to start from shore, 200 feet is still a fair distance out there but you can quit skiing anyplace. **Miller:** As long as they would stay away from a moored boat that would be fine. **Flowers:** That's one of the alternatives that we talked about. Consider here is to further amend the proposed rule to allow shoreline starts in that lakeshore area. To change the rule to read "around docks and moored boats."

Walker: We've been fairly specific throughout this, to specific areas and this one seems to be a reach and we are at a disadvantage because you are more familiar with the area than we are but for the purposes this started out as, to me, this lake shore are seems to be a reach. **Flowers:** I would say that of all the areas that we've specified here, there's probably less congestion in this lakeshore area than any of the others. **Walker:** Are there any others like this that we haven't been able to see? I'm not interested in restrictions. **Flowers:** Proposed or not proposed? **Walker:** Are there any others that are proposed that are… **Flowers:** Not to my knowledge. **Walker:** Unless we have a real safety issue I don't want to do this. That's where I'm coming from. **Flowers:** Yes and we don't either. We're always trying to strike that balance between limiting regulations but making sure that we are doing our job in terms of insuring public safety. So when we got the public comment, a lot of discussion that followed between Jim and I was ensuring there was a problem. The other concern that Jim hasn't mentioned in that lake shore area is there is the potential for additional docks there through this permitting process which will lead to further congestion. That was some of the rationale for why we said to just make it to the lake shore. I think a valid alternative right now would be to change that to be only focused around docks and moored boats in the lake shore area just like we've done around Romsett. That would allow them the shore starts and it would be at this point, a fairly limited restriction. **Walker:** I disagree to this extent, tell me if I'm right or not. The definition of a dock, I'm in agreement with you if it's a dock where there are a number of boats, but if it's a dock that is provided by a cabin owner for one boat or maybe a visitor's boat, I go wait a minute, there's very little traffic here. So he shouldn't be treated the same as a dock where ten or fifteen boats might be in and out. So you need some work on that definition or just do this as you have down in every other area by being specific. **Flowers:** As I said, you're absolutely right. There isn't quite the use as there is at Romsett, for example. It is restricting an area where there is less use. I wouldn't argue that at all.

Murphy: Pat, how many accidents or injuries have there actually been in the Hebgen area in the last several years. as to the number of accidents. (**Flowers** asked **Miller** to respond.) **Miller:** In the last several years, a lot of these go unreported if they are minor damage. I can only speak of the ones I've done accident reports on. This year there was one boat went aground, out of the water. Two years ago a boat, T-boned another motor boat. Three or four years ago, a water

skier was cut by the prop, fairly severely. I've been in West Yellowstone for five years and I've had three, what I would call major accidents. **Dascher:** Were any of these accidents next to private homes or where they out where the public is more concentrated? **Miller:** The water skier was cut by a prop in front of the Lonesomehurst summer home area. The boat accident was in the Romsett area. **Murphy:** When you say "or as buoyed," that seems pretty broad. Who is going to do that, who is going to make that decision? How are those buoys going to get established? That sounds like it could open up a can of worms as far as how that might be established. Does that mean that it could be buoyed at a hundred feet versus 200 or is it 200 minimum and buoyed out from that? **Miller:** The "or as buoyed" is just standard language. Through the permitting process, which we would be involved in, PPL has assured me of that, it could be 100 feet. It would depend on the area and how everyone involved in the permitting process got together and determined the best spot for that buoy. So there is some play that way but it is not something that's going to put a no wake buoy in the middle of the lake. It would be put at the mouth of a cove going into one of the private marinas. **Murphy:** Another question I have, down here on the Lonesomehurst campground area, why is that going through there? It doesn't look like it could be more than about 5-600 feet there. Coming out of that Lonesomehurst area there? **Miller:** That sounds about right. **Murphy:** If that's the case, it sounds to me like you're going be congregating these skiers right side by side going back and forth through there. **Miller:** One of the proposals is to drop the no wake zone in front of these summer homes. So we wouldn't congest them at the front of this bay here but around the public boat dock and boat launch, where everybody beaches their boat for the night, there would be a 200 foot. **Walker:** His question then, would that eliminate ski traffic in that south fork arm or not? **Miller:** The very upper end of it, it probably would. **Walker:** So there would be a no wake zone from that point south. **Miller:** From about half way down the bay. Realistically, this side of the shore wouldn't be but it's shallow and you couldn't turn the skier…but it would be away from this. It's really shallow back there and there's not a lot of speed there. It's more up here. **Flowers:** The only thing I have to offer, I had the same question, "or as buoyed," as we were going through this discussion and as Jim explained, ultimately these buoys have to be permitted by PP&L. There is a public process for that. We would weigh in on that process and our intent would be to ask for, if we end up with some kind of a no wake zone, would be to offer a recommendation request that they honor that and it would be up to PP&L to decide what they wanted to do exactly. In addition, based on real site-specific look, if it made sense to put a buoy at 150 feet rather than 200, I don't think we would quibble on something like that.

Kyle DiAugustino, Big Sky, MT.: **Mr. DiAugustino** frequents Hebgen and is for safety and for pre-emptive safety. As to Rainbow Point, he understands why people want to start out of there. The lake is cold and children have trouble starting. An adult can stand or sit in the water to assist them. Farther out it is harder to get a child started. His other concern, Romsett is usually the best place to ski on the lake if it is windy. It would be hard to have it closed. If a 200 foot no wake zone is put there it closes off the bay. He believes there are only three homeowners complaining. He does not think whole area should be closed as the lake is meant for recreation.

Mulligan: Pat, were you able to get a hold of the Forest Service, that's a Forest Service campground at Rainbow Point, is that correct? **Flowers:** Yes. **Mulligan:** My understanding is

they were fully supportive of going this direction. **Flowers:** I did not talk to them personally, but my understanding, in talking with Jim, is that they are.

Mulligan: Then on Lonesomehurst, we are strictly talking about the campground, could you show me again where that campground. **Miller:** Lonesomehurst campground is at this peninsula. **Mulligan:** How far north does it go? **Miller:** The peninsula is the campground, the proposed no wake zone would be 200 feet from that peninsula. **Mulligan:** So we would not at all be affecting that upper portion. **Miller:** No. **Walker:** The second part of that is it affectively wipes out the south end … **Mulligan:** He said it's shallow and not used very much anyway. **Walker:** The Romsett homes area, the popular ski area is along that whole shoreline, looks like there is ¾ of a mile of it? **Miller:** Yes. **Walker:** It even goes north? **Miller:** Along the shoreline. **Walker:** OK, so the protected area, point that out for us. **Miller:** Off of these cabins, there are five docks and moored boats in front here. So it would be a 200-foot zone around there. **Walker:** If the boats were not moored, it would reduce the restricted area wouldn't it? **Miller:** Yes. Just from the docks. **Walker:** Why are they moored? **Miller:** It's just the customary way they have done for years, to beach their boats. **Walker:** So by enacting this, you would move those dock starts, probably west down that shore and they would become shore starts. Would that make the problem worse? **Member of the Audience:** That is right in where the main ski lane is. So I would think that would make it worse because then this whole area is congested with boats and it moves into a ski lane where a turnaround would be made and stay away from the boats. Most of the time when they come out they head out in a northeast fashion. If they were sent to the west they would be coming out right where you would be turning around. **Flowers:** Right now they do have two more boats on the edge of that bay, on the east edge and if they moved those moored boats out of there, out in front of their docks, it would allow a lane along the east side of that bay where they could go out to the northeast, stay away from the channels and you could still swing your skiers out and away from them. We're trying to guess at how patterns might change but our guess is that it could work if they moved the couple moorings they have there. **Dascher:** How far would they have to move the boat? I'm assuming this moored boat is out in front of their house. As I understand it, Jim, these aren't exactly in front of their house. **Miller:** No, more in front of the dock that is maybe 100 yards down the beach from their summer home. Some of the summer homes are tucked back off the beach. **Dascher:** So by having them move their boats, would it be easier or harder for them to access their boats or would it make any difference? **Miller:** No difference, really. **Dascher:** Why would the water be just as deep, the boat would be just as protected? **Walker:** Again, in terms of magnitude, how many boats are docked in that area? **Miller:** At any given time, eight moored boats out in front of the docks. **Walker:** How many are docked? **Miller:** None. A few canoes and maybe a few dinghy's to get out to the boats would be beached but they don't use the docks to dock a boat. Very seldom.

Walker: Is this Romsett area critical? It looks like we may be creating a traffic problem that we could only solve by adding more no wake zones and if we don't do anything, we wouldn't have the traffic problem. **Flowers:** It is our opinion that there is currently a traffic problem and this is one of the most congested areas. As I said, looking down the road to use patterns, if this should go in place, it is a little tough to do but in thinking about ourselves, what we thought is there would still be an opportunity for the shore starts if they went out to the northeast, they could stay

away from the swing lane on the skiers and existing calm area that they are going to be concentrated in. I guess what we're getting, is we're moving the skiers and personal water craft use away from the areas of the docks and moored boats and you're removing that amount of congestion. You're not going to eliminate any skiers. We're moving the pattern over into an area that's going to be away from the docks and moored boats and in our opinion, that was going to be a safer situation than the way it currently is.

Walker: I think we are at the point of offering or a motion on this. **Mulligan:** I had one more question, in looking through some of the comments and there are comments specifically identifying Romsett as the problem, others identify as not. Is the problem at Romsett, does it include the takeoffs or is it the people going back and forth and playing games around the boats? **Miller:** The problem at Romsett is both. With the docks and the moored boats in front of the docks, currently some of the cabin owners takeoff and take the skiers through the moored boats to get out into the lake to ski. That is one of the main safety issues we are trying to address. Trying to stop water skiing in between the moored boats and the docks. There is a lane right there and they would drop skiers off at the beach, sometimes, they would hold on and they would go between moored boats and the dock which are 30 yards, 100 feet across. That's really the safety issue at Romsett, just trying to get the skiers and the personal watercraft 200 feet away from these moored boats and docks. It is hard to see here, the last dock would be right in here and the first dock would be right here, it is maybe a 150 yards at the most and 200 feet from there, this is the main skiing area. The skiing area isn't at Romsett itself, it's to the west of it. **Mulligan:** Well, I'll throw a motion out and we'll see where it goes.

ACTION: Mulligan *moved approval of the Department's amended recommendations, with the exception I'd like to amend 2-h to read "lakeshore summer homes within 200 feet of the docks and moored boats."*

Walker: Is that the one we were thinking of eliminating altogether? **Dascher:** I thought so. **Mulligan:** I guess I didn't follow it that way. I thought we were going to do it around the docks…
Walker: We want to get started so I'm going to speak against your amendment, that Item h ought to be eliminated altogether because the docks as described are stretched along about a mile of shore line, where docks for one boat or two boats are widely spaced apart and to allow this is to effectively put a no wake zone pretty much all the way across from that east point of the south shore arm, about a mile and a quarter across there. That was my understanding, and you felt that that was way low as far as the congestion issue? **Flowers:** Among all the areas that we propose, that's the least congested of the sites. **Walker:** I think we had a misunderstanding. **Mulligan:** I think so too.

ACTION CONTINUED: Mulligan *moved to amend his motion to adopt the Department's amended rule as listed with the exception of eliminating 2-h.*

Dascher: We still haven't addressed the area where they could take off from shore with their skiers, in a couple of these places. **Walker:** No, we haven't. **Dascher:** We need to do that also. It could be done in a separate motion.

***ACTION CONTINUED: Walker** seconded **Commissioner Mulligan's** motion so the amendments could be considered.*

Dascher: We need to have an area where they can take off, if it be the Romsett summer homes and perhaps this Rainbow Point, where they can take off from shore. Is that going to create a hazard at those places? **Flowers:** My understanding is that at Romsett, you would still have the opportunity for shore line starts in the area just adjacent to where the summer homes. There may be some conflict now between shore starts and the swing lane for the skiers. There would still be an opportunity for shore starts to head out this way, to take skiers out that way. **Dascher:** Is that the only place that we have problems with people taking off from shore? **Flowers:** It is my understanding going on … Rainbow Point. Just to clarify, we have not proposed any restriction along this shore to the east, it's just in the bay itself that is restricted.

Walker: Is that private ground there, in section 29? **Miller:** There are some private inholdings, the rest of this is Forest Service. **Walker:** So the alternative is if the boater wants shore starts, he goes over to those areas and are they sandy or muddy? **Miller:** Sandy. **Murphy:** What about the Lonesomehurst campground, are there shore starts there? **Miller:** I don't recall ever seeing any shore starts. **Walker:** We now have a motion before us to accept the amended rule with the elimination of Item h. Is that correct **Commissioner Mulligan? Mulligan:** Yes.

ACTION CONTINUED: Walker:** moved to amend the amended rule to eliminate Item C. Second by **Murphy.

Mulligan asked for a discussion on this motion. **Mulligan:** I would like to know your rationale on eliminating C when that is one of the more congested areas with moored boats. What are you trying to get around there? **Walker:** I'm trying to do two things at once. One is to move the discussion along. The second is, we have significant opposition to this rule from persons who use that area, whether they are permanent residents or not. We are sighting a safety issue that I guess I'm not seeing. In all the letters, we had accidents and we had near misses and we had probable near misses but we really haven't had any accidents in that area. It appears to be wide open, I wish I could have visited it. I think we're taking a pretty heavy wrench to a problem that may not exist and if it does we can revisit it in the future. **Mulligan:** I think there were some of the comments that heavily supported limiting that area. I do see the logistical problems in counting on a change in patterns after it is done so we don't create a bigger problem. I think it is a problem. **Flowers:** I was going to offer an alternative. Jim described the nature of the problem was primarily skiing at wake speed between the docks and moored boats. As an alternative you could make it a no wake zone between the docks and moored boats so it would be a little less restrictive. It would still prevent them from ripping in front of their docks and dropping people off right in front of their docks but it would help to deal with what is the most chronic or acute safety hazard as we see it. **Mulligan:** Who is the predominant user of this area. Is it private cabin owners or is it also the public. **Miller:** The predominant user is large extended family. They have many of the cabins between Lonesomehurst and Romsett. I would add though, the beaches is growing in popularity every year. Every weekend there will be

private parties out there. **Mulligan:** Do those private parties access it by boat? **Miller:** No, you can drive right to it. I meant public parties. **Mulligan:** It is public ground? **Miller:** Yes.

Dascher: You were going to eliminate it altogether? **Walker:** Yes, because it looks like we're trying to take care of the entire lake for a problem that started at Rainbow Point. Clearly the Kirkwood Homes people, they have their own issue and they entered that in but we've picked up some public marinas on the north side of the lake, the Madison Arm Resort and we've eliminated the lakeshore summer homes and I think the Lonesomehurst area. I'm just wondering if we don't have a problem, let's not fix it. If the majority of that traffic and virtually all of the offending traffic is by a group of people who are not running into their own boats, I'm saying what are we doing. Because if we do that we're going to push congestion west and I don't want to do that either. I don't know if I'm right but sometimes we fix one thing and we make a bigger problem.

***ACTION CONTINUED: Walker** restated there is a motion and second to eliminate the Romsett summer home area and called for a vote. Motion passed four to one, **Mulligan** opposed the motion.*

Murphy: I'm not sure how I'm going to vote on the whole thing yet. One of the questions I have is in regard to the buoy situation. Where it says "as buoyed." That leaves it pretty open and if I were going to support this at all, I'd like to see that changed so that it says it's going to be at 200 feet, would be the max or less, if so determined. To leave it "as buoyed," wide open, it could be 500 feet out. How that process would take place as far as the determination of that leaves it wide open. Before I could support this at all, I'd have to see that set up so that it is 200 feet and potentially less if buoyed as such. **Mulligan:** A little clarification to that. That buoy process through PP&L, my understanding that would be a totally separate process, separate public process. How does their authority intertwine with the Department's authority to set no wake zone and buoys. For example, if the homeowners of Kirkwood come back and said, "We'd rather have it 500 feet" where does the Department authority weigh in on this? **Miller:** I guess their authority comes with the dam and having the water, they have the authority to permit the docks on the water, the docks and the buoys. Where exactly their authority comes from, I don't know. I just know they have that authority. **Mulligan:** What I'm getting at I understand Mike's concern, what I'm wondering is even relevant, where we qualify this or not if in fact PP&L can rule however they'd like. **Dascher:** I understand your concerns also, Mike, but it's statewide on all the stuff we have done. It's as buoyed. So it wouldn't be just here. **Flowers:** What we tried to do is adopt the language that's used statewide which is "or as buoyed." What made sense was if you drop the buoys at 190 feet, it's good enough and we would go with the buoys. Where there is a magnitude difference, wouldn't hold water. If you wanted to change the language so it reflected 200 feet or as buoyed or less, we'd probably get there too. It is not our intent to extend them any further. **Murphy:** Would that be trying to circumvent any other state law then or overall rule that might cover it? **Bob Lane, Chief Legal Counsel:** If we're talking about the "as buoyed" I always felt that meant basically if you were talking about a number of feet and said "as buoyed" my interpretation would be that meant you were going to buoy that approximately along the line of the 200 feet. The buoys would be used to give a definite line where it was felt that was a good aid to the public. So what we meant, that we should sort of an open ended

authority, it was meant, I think, that we would be able to put buoys in there where it was really necessary to establish that line clearly because of the facts or circumstances of that particular area. I guess we could put language to that effect if you felt that this was really a problem on being open ended. Personally I think we've never used it that way and I think the language is probably good enough because that's what we're going to do is to simply put the buoys approximately along the line but just make a definite line where it helps. **Mulligan:** That would be my understanding from previous discussions. The intent was perchance we set the buoy at 195 feet that was the enforceable number. Someone said well, it wasn't a complete 200 feet out there, therefore I'm not guilty, that it was kind of a give us that latitude. I had some concern when it was mentioned that PP&L may be able to come in and say it's going to be a100 feet rather than 200 feet. I'm not sure where that would set in relation to our rule if in fact that would even be legal for them to do that. **Bob Lane:** I really can't answer the question about PP&L's authority. I assume that comes from their FERC licensing and as part of that licensing they have authority to manage and a requirement to manage some of the recreational use of that body of water. I think they have some authority there. How that really meshes with ours I can't really answer that. My answer would be a practical one is that we have some authority to regulate safety here and if they have some authority to set buoys, the best thing is probably not to try and answer that in dividing line legally but to work it out with them, with the public. So if they have a separate process, that may be the way to go. **Murphy:** I understand the legal logic on it but it still leaves the door open, in my opinion, if somebody wanted to set it at 500 feet, that potentially could happen. Guess I'd like to see it set so that 200 feet or less as buoyed. However, that would best read to try an accomplish that same goal. Like you say there has to be flexibility as far as it being 205 feet. **Bob Lane:** Maybe we could add language such as "200 feet or as buoyed approximately along that 200 foot restriction." Something like that so it wouldn't be open ended. **Kropp:** The reason that we have not proposed to buoy the entire lake or to control the buoys ourselves, is because it's not static. The level of the lake is constantly changing, they drift out, people grab them with their boat and drag them out. They are a huge maintenance item. That is why a few years back we went to the number of feet restriction from shore consistently to get away from having buoys on every lake.

ACTION CONTINUED: Walker** moved to amend Item A, that the 300 feet be amended to read 200 feet so the 200 foot restriction would be lake wide. Second by **Lane.

Mulligan: Do you prefer to leave them the latitude to be able to ski within that area for the consistency vs just posting the bay? Do you think that would be clearer? **Walker:** Yes, I do. **Mulligan:** I think from an enforcement standpoint, just marking the bay would be easier to do than saying 200 feet and given the latitude for people to push that on calm days. **Walker:** So your preference would be to change the wording to read "Rainbow Point Bay as buoyed" and do away with the… **Mulligan:** Or signed, buoy it or signed. We could just leave it open too. I don't know if there's a clear point, my feeling is given the approach enforcement has in the past, that what you said is probably fine, because we're giving some latitude. My concern is the 200 feet is it'll provide some opportunity for people to push that into the bay and be more difficult to enforce. **Walker:** I think education is the key not enforcement. **Flowers:** I think that would work fine for us from an enforcement perspective if you wanted to go with Rainbow Point Bay

as signed or buoyed. **Dascher:** You'd make that whole bay a no wake zone then. **Flowers:** Yes, that's correct.

ACTION CONTINUED: ***Walker*** *withdrew his motion and substituted a motion to read "Rainbow Point Bay as buoyed" and eliminate the wording "within 300 feet of the shore line." Second by* ***Lane.***

Bob Lane: Just for clarity, are you talking about no wake as buoyed. **Walker:** Yes. **Bob Lane:** We probably should have that on the record to say that. **Walker:** That's a sub under …. **Mulligan:** Are we going to do an amendment on the 200 feet or the buoyed part or are we going to leave it as is. **Walker:** That's up to **Commissioner Murphy. Murphy:** Consistent with other rules, it sounds like you've got "or as buoyed" in there. Is that right? **Bob Lane:** Yes, that's common. **Murphy:** Common but is it practiced at all or is it not? **Bob Lane:** I think it's a general practice where the particular circumstances warrant that kind of thing. Where the line might need to be defined and it's just practical application of this on a fact by fact basis. When we set the rule if we think we need to draw the line between two points of some nature know that it would be clearer sometimes to have buoys out there for enforcement, then we put that in there. It is common.

Walker: We have before us the proposed amended rule as amended, Item A to eliminate the words "within 300 feet of the shore line or." To eliminate Item C in its entirety and to eliminate Item H in its entirety. **Mulligan:** Mr. Chairman, did we ever vote on your amendment on A? **Walker:** If we didn't, we will now. I do have a motion that I made on Item A, Rainbow Point Bay to amend it to delete the word "within 300 feet of the shore line" as seconded by **Commissioner Lane.** All those in favor of that amendment signify by saying "Aye."

ACTION CONTINUED: *Motion passed.*

Walker: Is there any discussion on the motion as amended. It would be **Commissioner Mulligan's** motion as amended.

ACTION CONTINUED: *Motion passed.*

9. Update on Automated License System – Information. Barney Benkelman, Chief of IT Bureau presented an update on ALS as of September 16. An item of note is that over a million transactions will have gone through the system within this month. The numbers of defects needing to be fixed, voids and other problems have gone down.

World Com's bankruptcy continues to be a high priority. There have been some difficulties with subcontractors not being paid which impacted their support to FWP. However, at this time that problem has been resolved.

Phase Two is moving forward. Within the next week or two, testing of software will begin. Phase Two operations and implementation poses some challenges. The internet implementation is being delayed. It had been hoped to have this in place prior to this season. The risks of trying

to implement something that is not ready are much greater than the risks of the increased volumes in transactions during a short time period. The focus will be on quality.

The Legislative Auditor's Officer has completed an audit on the system. The report contained two minor issues and those are being corrected at this time. The final audit report will be presented at the November Legislative Audit Committee meeting.

Walker asked about the tags issue. **Benkelman** said they are continuting to examine products. The pouches and adhesive are better. They are working with the vendors to come up with better products.

Walker questioned if it was time that the vendor be complimented and talk about their performance in a positive manner. **Benkelman** said FWP has to some extent. There are still some issues to work through. He would be reluctant to be overly complimentary at this time. He suggested considering doing something when the one million sale is made. **Walker** suggested giving this consideration. Their financial situation is separate from their performance and we need to move on.

Mulligan asked what were the predominate reasons for off line issues and the predominate cause of voids. **Benkelman** said not any one thing can be cited. Auditing and monitoring tools have been put in place to identify some of the issues. The majority of offline issues are more than likely to be some sort of connectivity problem. The voids are probably a simple mistake in issuing.

Lane asked how the sportsperson would receive the license with internet sales. **Benkelman** told commissioners they are still considering what would be allowed to be printed locally. Those requiring a carcass tag would still come from the headquarters. The person would be unable to hunt the next day with any license requiring a carcass tag.

Mulligan said the test on the pouch would be how well they hold up on the animal in the field. He asked if they were working with Enforcement to have them give feed back. **Benkelman** said they are working closely in these areas. **Mulligan** said he did not want the staff to wait until Enforcement said something, he wants Enforcement personnel to be asked if there is a problem.

10. Update on River Recreation – Information. Charlie Sperry, River Recreation Management Specialist, briefed the Commission as to what had transpired during the first meetings of the River Recreation Advisory Council. The Council has just begun the process of examining the critical questions presented. Sperry said since this process is just beginning, there is not much substantive information he can give the Commission at this time. **Mulligan** is a participant on this advisory council.

Walker asked if the Council was doing any planning for information dissemination. **Sperry** said they had. The draft would be presented to the public. There would probably be regional meetings and the public would have an opportunity to comment on the recommendations before

they are presented to Commission. The Council will have an additional opportunity to take the public input and decide how they want to incorporate it, if at all, into their recommendations. Information is currently available on the FWP website. This information will be mainly a status report. Sperry is also giving presentations to other organizations. **Walker** is concerned that in looking at the guiding principals, and he would want to write an article as a follow-up to the article that may have been in one of the outdoor magazines, he could write an article about Montana doing it all over again and use quotes from the original article which were untrue to write a negative article. He requested that preemptive work be done. **Walker** suggested having Conservation Education personnel at some of the meetings to do some media strategy to preempt some of the spurious activities. Mulligan suggested putting a disclaimer on anything put out by the Council saying this is not final.

11. EA To Use Lost Creek As a Repeater Site For The Highway Patrol – Final. Glenn Erickson, Management Bureau Chief told Commissioners the proposal is to allow the Montana Highway Patrol to install two microwave dishes and one VHF repeater at an existing communication site on Lost Creek Wildlife Management Area**.** A building and tower are currently on the site. The installation date has been extended to December 1 because of delivery of equipment. This date is still in line with the normal closure of the winter range site. An EA has been prepared and was sent out for public comment. This is a critical link in Highway Patrol communications.

Walker asked if Commission approval would be needed if this installation could not be done by December 1? **John Firebaugh**, **Region Two Wildlife Manager** said it probably would, because it had been anticipated the project would be completed by December 1 and then the area closure would go into effect. **Erickson** said the closure date is already in the hunting regulations. **Walker** asked **Bob Lane** for an opinion as to whether or not wording could be included in the motion for this project that would allow the work to be done after December 1 if necessary. This would prevent having to have a conference call or review the proposal at another meeting. **Lane** said to it would be legal to make this a part of the motion. **Mulligan** asked who from the Department would be designated to give the approval to go beyond that date. **Erickson** replied **Mac Long, Region Two Supervisor,** would be the logical designee.

ACTION: Murphy *moved approval of the two microwave dishes and one VHF repeater as proposed by the Montana Highway Patrol and to allow the Department through the Region Two Supervisor,* ***Mac Long,*** *the discretion to allow construction to take place past the December 1 closure date as necessary. Second by* ***Dascher.*** *Motion approved.*

12. Draft EIS: Grizzly Bear Management Plan for SW Montana – Information. Arnie Dood, Endangered Species Biologist gave an overview of the SW Montana Grizzly Bear Management Plan and the status of this plan. Plan development started in 2000. A group of five citizens from each state, Montana, Idaho and Wyoming, was assembled to assist in development of a conservation plan for the Yellowstone area. The group came up with 29 recommendations. Among those recommendations were that the three states needed to develop management plans for the Greater Yellowstone area. Idaho and Wyoming have completed their plans and Montana

is in the process of completing a plan. The three states and the federal government are working to bring the three plans and the federal conservation strategy together so that delisting of the grizzly bear in the Yellowstone Ecosystem can proceed when the recovery criteria are met.

Mulligan asked for a short summary of where the federal agencies are with the conservation strategy and where the states are with their plans. **Dood** said there had been an effort to bring the conservation strategy and the three state's plans together. They are in the process of completing that effort. After next weeks meeting there should be a product to present to the Yellowstone Ecosystem Subcommittee and the hope is it will then go to the Interagency Grizzly Bear Committee in December. At that time there will be a conservation strategy for that primary conservation area agreed to and the three state plans will fit with the conservation strategy. **Mulligan** asked if this would require a new round of public review. **Chris Smith, Chief of Operations,** said this is one of the issues the IGBC will discuss. A recommendation is expected from the Yellowstone subcommittee. The IGBC will have two key decisions to make with respect to the conservation strategy. One is whether the agencies endorse the recommended plan developed by the technical committee and make a commitment on behalf of the agencies to implement that conservation strategy if bears are delisted. The second decision is, would an additional round of public comment be required. From his perspective, this would not be necessary. **Mulligan** said the federal agency finished the comment period on the conservation strategy, was it then amended and put in a final form? Were the public comments received incorporated? **Smith** said the document that is being produced is the final conservation strategy and it incorporates the comments that were initially submitted to the Fish and Wildlife Service.

Walker asked if it would be possible to enact legislation to put a fee on conservation licenses effective with delisting which would fund the state management program for the species. He would like to have sportsmen fund the management program for these species and he believes they are willing to do so.

Meeting adjourned at 12:20p.m.

Dan Walker, Chairman	**M. Jeff Hagener, Director**