MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
1420 East Sixth Avenue
Helena, MT
January 24, 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: Charlie Sperry, new River Recreation Conflict Coordinator for FWP; John Wilson, Helena; John Mundinger, Creative Solutions; Don Nickman, Prickly Pear Sportsmen's Assoc.; Representative Debby Barrett, Montana House District 34; Donna Sevalstad, Beaverhead Co. Commissioner; Senator Bea McCarthy, EQC Chair; Robin Cunningham, FOAM; Mary Ellen Schnur, MOGA; Hugh Zackheim, River Network; Thomas Mandyke, Helena Independent Record; Dana Post, Helena; Larry Copenhaver, Montana Wildlife Federation.

Present but did not sign in: John Grensten, BLM, Malta; Randy Matchett, C.M. Russell Wildlife Refuge; Gates Watson, The Conservation Fund.

Topics of Discussion:
1. **Opening - Pledge of Allegiance**
2. **Approval of Commission Minutes, Dec. 13-14, 2001**
3. **Approval of Commission Expenses through December 2001**
4. **FWP Budget Priorities**
5. **Appointment of Paddlefish Roe Advisory Committee - Final**
6. **Reed Point FAS Acquisition (Region 5) - Information**
7. **River Recreation Management - Information**
8. **MT Dept. of Transp. Project on Blackfoot-Clearwater WMA (Region 2) - Information**
9. **Three Dollar Bridge Acquisition (Region 3) - Information**
10. **Bull River Land Acquisition (Region 1) - Information**
11. **Smith River Landowner Definitions - Tentative**
12. **Prairie Dog Plan and ARM Rule Concurrence - Final**
13. **Prairie Dog Annual Rule - Tentative**
14. **Weaver Slough Land Proposal (Region 1) - Information**

1. Opening - Pledge of Allegiance. Commission Chairman Dan Walker called the meeting to order at 8:15 a.m. and led the Pledge of Allegiance.

2. Approval of Commission Minutes:

ACTION: Commissioner Darlyne Dascher *moved approval of the December 13-14, 2001 minutes.* ***Commissioner Tim Mulligan*** *seconded the motion.* ***Motion carried****.*

3. Approval of Commission Expenses through December 31, 2001:

ACTION: Mulligan *moved approval of the expenses as presented;* ***Dascher*** *seconded.* ***Motion carried****.*

4. FWP Budget Priorities.

Background: Preparations for the 2003 Legislature are underway including development of the Governor's budget proposal. The FWP Commission is an important part of that process as the statute requires the Commission to review and approve the FY04/05 budget proposal. The department will present to the FWP Commission draft priorities that will be used to guide the overall budget as well as other legislative initiatives.

Jeff Hagener, FWP Director, spoke about the Executive Planning Process in the three main resource program areas: Fish, Wildlife and Parks, as well as administrative functions. Start by working off a base budget. As programs are expanded, adjustments to the budget have to be made. Also look at federal funding. The best way is to do this is to look at the individual divisions.

Chris Hunter, Fisheries Division Administrator - The **Fisheries program** strategic plan identified four elements: fisheries management, fisheries habitat, fishing access and aquatic education. The department's six-year operating plan for the fisheries program identified native and sport species management, urban fisheries, and illegal introductions as major emphasis areas for new work.

There is pressure on the hatchery programs. They are tasked to raise larger fish, which means fewer fish. As far as the new Ft. Peck Hatchery, they must ask for 3-5 FTE for people to run that hatchery full-time. Some from that 3-5 will help with the walleye egg take. They must do a creel survey every three years at Ft. Peck and the price tag for this is $100,000 every third year. There is also a need for creel surveys on the Flathead River. **Hagener** asked if the 3-5 FTE are needed in next biennium. **Hunter** said they probably need one for 2003 because once primary construction starts, they will need that person on the ground to become familiar with how it operates. Will need 1 or 2 more in 2004. The remaining 2 would be needed in 2005.

At the last session they asked for 3 FTE for seasonal fish technicians. They did get those and divided them among the regions. This session will ask for an additional 4. The fisheries biologists' workload has increased over the last 10 years. Biologists are spending less time doing fieldwork and the fish technicians must pick up more of it.

Some of the changes to the FY 04-05 budget will focus on information and education efforts. They are presently doing most of this through CARA money and that will continue. **Commissioner Mike Murphy** asked what species will be at that hatchery. **Hunter** said it will include walleye, chinook, sauger, and pallid sturgeon.

Hunter - Included in the fisheries program Legislative priorities is broadening the funding base to include non-angling users in the Fishing Access Site program. **Mulligan** said he hears about condition of access sites and that maintenance and upkeep do not seem to be there. **Hagener** said it will take Legislative action to broaden the fees. **Hunter** said they are asking the regional fish managers how they are doing with maintenance. **Hagener** said the Enforcement Division is stretched thin as far as fishing access sites. They are taking a good look at the situation to find ways of doing it differently and more efficiently. **Mulligan** pointed out that it is hard to look at acquiring new access sites when there are problems maintaining those the department already has. **Hagener** said they expect a run on future fisheries funds at the next Legislative session. They have a good opportunity to improve habitat and enhance the fishery on the Clark Fork. Enhancing the fishery there would help spread crowding from other areas. He does expect an effort at the Legislative session to take away RIT money. **Mulligan** said the watershed groups are growing. Should we have another drought year, there will be even more focus on the watersheds and they are looking at ways to keep water in the drainages. Maybe should look at getting more support with the Legislature from the agricultural communities.

Murphy - In talking about recovery of native species, what is involved as far as looking at partnerships? Is concerned about irrigation and fish ladders. **Hunter** said that the groups they work with include the Farm Bureau, private ranchers, etc. Working with the agricultural groups is a win-win situation as they attempt to find ways to benefit both the agricultural user and the fish. Right now they are doing a lot of work with screens on private lands. **Murphy** asked if the department anticipates working with the federal government to bring in federal money. **Hunter** said they work with the U.S. Fish and Wildlife Service and will get $1 million per year over the next few years for work on fish passage. **Mulligan** said he would like to see something that says we will not impact a resource to manage social conflicts unless there is more money to do it. Dealing with social conflicts does not seem like our priorities are in the right place. An example is the Beaverhead-Big Hole; we can't keep doing that without more money to deal with those kinds of social issues. **Hagener** said a question will be how great is the demand. If we carry this to the Legislature, we need to take a strong stand on it and stand together. We can't address those social issues without the adequate resources. **Mulligan** said it's a huge, mandated issue but the department can't afford to do it.

Chris Smith, Chief of Staff - The initial use of this document was to provide guidance to FWP staff as we develop specific budget proposals. It would be fairly simple to insert into this a sentence under Fisheries and talk about social conflicts. For example, "However, the Commission priority is to maintain the resource as a first priority before dealing with social conflicts." **Walker** said that traditionally the department's role is to do this work, which will continue. Has a problem, however, with "either/or" type demands. Would urge caution as we move through this. Need to work on fishing access.

Glenn Erickson, Wildlife Division Management Bureau Chief - One of the priority areas for **Wildlife** budget requests for the FY 04/05 fiscal biennium is enhancement of hunting access. This would include the block management and Access Montana programs. Because access is such a key issue, special access projects with the federal government are major issues. A second budget request is development of regional management plans via community or geographic working groups, and the third request is monitoring and evaluating Coal Bed Methane development. Here we need to assess the impacts on wildlife. In initiating research efforts, there are no easy ones left. One they are looking at is fawn recruitment by looking into the future rather than into past. The second area in research is sagebrush/sage grouse habitat and a lot of work needs to be done here because they must look at the entire ecosystem. A third area is predation, which has changed over time with different predators impacting on the various species. Another budget request is for expanding the environmental education program associated with the Spring Meadow development. The last request addresses shortfalls for priority activities of the base budget such as harvest surveys, Wetland Legacy, warden overtime, travel, etc. For example, some of the work for harvest surveys is contracted out and it should be converted to FTEs. Another shortfall is for aircraft rental as those costs keep escalating. We fall short with our aerial surveys yet as plans are developed, they dictate use of the aerial surveys.

If existing and new resources are not sufficient to address these priorities, we will have to reduce or eliminate grant programs with the universities, convert auctions for bighorn sheep and moose to an alternate year program, and reduce education programs or field activities.

The wildlife program Legislative priorities include enhancing public access to private lands and improving landowner-sportsmen relations, and amending the migratory bird stamp legislation to eliminate stamp artwork. There appears to be a lack of interest as only four artists submitted work for the stamp program, so may have to drop the artwork/stamp program and just have licenses. Another priority here is amending the posting requirements for legal notices. With present-day methods of communication, our legal notice requirements are archaic. We will look at new ways of doing this. Another one is amending the taxidermy laws.

Walker - Will the taxidermy law be based on the outcome of meetings that are going on?

Mark Earnhardt, Law Enforcement Program Manager - There is still a gap between where we want to go with the taxidermy law and where they want to go.

Mulligan - External pressures seem to dictate doing more and more statewide management plans. Have we developed a schedule? **Erickson** responded that they do have a schedule and the new ones relate to upland birds, sheep, and goats. The revision schedule dealt with deer, elk and black bear. It's an ongoing effort. **Mulligan** said we seem to be more reactive and then have to shift priorities. Need to have some kind of planning process. **Murphy** asked what aspect of the educational programs will be affected by reductions. Said he is concerned that the general public is not being adequately educated and would like as a priority to address that concern. His concern is with hunter recruitment as the number of hunters going into the field is stagnant or going down. There is not as strong an emphasis to get out there as there used to be,

and some of this comes from a negative impact from the general public. Need strong pro-hunting educational efforts and FWP can do a lot to address that.

Ron Aasheim, Conservation Education Administrator - Through license fees, hunters have paid for conservation education. Didn't get much Legislative direction on where to take cuts. Areas like brochures and television coverage is where cuts will have to come from. **Murphy** said we need to address that public element which is influencing our ability to hunt in Montana. That element is being swayed and FWP must become more of a factor in presenting a positive image of hunting. Recognize, however, that it will take a lot of money. **Walker** said he would look for recommendations on how the department could accomplish that. It gets into the discussion of why we're here. Must be cognizant of an ever-diminishing base. Have a good message for managing the resources, and most people understand that if it is done in a positive way. **Mulligan** asked how we prioritize and decide what training and for what purpose. **Aasheim** said we look to the priorities we are talking about here, and look at target audiences and how to get to that audience. **Mulligan** said he is looking at longer-term scoping to ask where we want to get the public to and should weigh those needs against proposed budget cuts. **Aasheim** said the urban fishing effort and bear ID are examples of long-term projects. Magazine editorial projects are long-term. They go through a list of specific issues before they do news releases and magazine projects. **Walker** said he would like to see those plans. This general subject that Commissioner Murphy brought up must be addressed. There are many people out there whose perception of hunting has changed, and it is imperative we do something about it. People need to understand our purposes. Asked the amount of dollars involved as far as reduction of grant programs, and auctions for bighorn sheep and moose.

Erickson said it is between $60,000 and $80,000 for the grant programs. For shooting ranges it is $180,000 and that is matched. Took in from $10,000 to $17,000 for the moose auction and $100,000 for the bighorn sheep auction last year. **Murphy** asked why cut off those auctions, and if it costs that much to put on those programs. Erickson said it's the additional work effort. Have to ask if we should cut surveys or should the biologists use their time working on the auctions? Would still do some, but have to reduce their efforts. **Walker** said in his region, the biologists spend time looking at new easements, and block management activities. How significant is that effort in terms of time and money? **Erickson** said it varies by locality, but in some regions is a tremendous workload. The emphasis is on protecting and enhancing habitat, but also have to conduct certain surveys at certain times. Unfortunately, sometimes they get put off. **Walker** asked if the time cost is allocated in the budget. **Erickson** said you can't see it. There is a separate budget for block management but not one for conservation easements. There is for maintenance, but not for the biologists' time. **Walker** asked if there was an opportunity to put that cost where it should be. He has a problem with reduction of survey work.

Mulligan said he wants to see more emphasis placed on being good neighbors at our Wildlife Management Areas. An example is fencing. **Paul Sihler**, Field Services Administrator, said we are mixing operational funds and FTE. They are two separate items that don't necessarily connect. A lot of the work with conservation easements is perpetual. There is an ongoing responsibility for someone in the field that is absorbed into existing operations. There is a point, however, where additional resources are needed. An example is the issue of river conflicts.

Dascher said she notes there is no money in the 526 account. Looking at ways to shift some of this, would that free up some money? **Sihler** said it gets to the issue of money versus time. It's not always a money issue, but sometimes a time issue. **Dascher** suggested that perhaps it is time to address that with the Legislature. **Walker** said we need to use this discussion as a rationale for more FTE to do the work. Or need to stop acquiring property. If the property can't be maintained, should stop acquiring it. **Hagener** said of the 80% category, could try to get a bigger share of "pie" and utilize more of it for acquisition processing costs. That statute will be addressed in the 2005 session. Could look to the 2003 session to adjust the ratio. The last Legislature went even further suggesting taking a look at term easements. However, they do take more time. **Sihler** said should identify the annual ongoing monitoring and time commitments needed for a project. **Walker** said he would like to see us look at alternatives. **Mulligan** said there are certain costs that keep growing, and at some point must look at how to absorb those costs. **Walker** said an elk management plan is an example of something this Commission wants done, and we need to work at helping FWP do that. We have been talking about eliminating activities, which have to do with acquisitions. It seems that overhead is running the department. **Hagener** said FWP has spent a lot of time developing a plan, and then it didn't come through. If the department proposes a different split of funding, must ask what that split will be.

Doug Monger, Parks Division Administrator - In looking at the **Parks Division** budget priorities, the foundation on which they base priorities is taking care of existing sites, providing for their maintenance, and protection of visitors. The second level is taking care of their parks infrastructure, and the third is providing services the visitors desire, which can be anything from campground programs to visitor center operations. They are in a downward trend of cash balances in their reserve accounts and need to work within the reality of those accounts as they exist today. Putting a lot of emphasis, priority and hope on the operations and recommendations of the State Parks Futures Committee. Don't feel new direction will come from that committee but hope new funding, both operationally and maintenance-wise plus long-term funding, will come from their recommendations, legislatively. Operation and maintenance of existing facilities is more important than construction and acquisition of new facilities. Acquisition of in-holdings is more important than new liabilities. It is a balancing act between operating expenses and personnel services. One part of that balance is to increase enforcement at state parks. At some, fee collection compliance is 20-25%. They rely on self-service, but need help from Enforcement with this. They need more guides and staff members to help with Interpretative programs. Schools and various youth groups are increasingly asking to use parks as learning opportunities. Increased use has become one of their higher needs because if they get more people at the parks, it helps the local community. There is a desire for more even distribution of parks throughout the state. Yet they don't want to acquire more parks if it is detrimental to the existing parks.

They are receiving $750,000/year from state fuel taxes to use for access from main highways to the state parks. There are increasing recreationist conflicts on state waters, and management of that is handled through the Fisheries Division. Parks Division is involved more on the lakes and reservoirs. The Lewis and Clark Bicentennial is a big issue for the parks. Even a 20% visitation increase will have a big impact. As far as acquiring in-holdings, maintenance of existing

facilities is of higher priority. The last bullet item is development of a community grants program to distribute LWCF and Federal Aid funding for local recreational development. That program was shut down for five years but the money is now coming and they must reinvigorate that program. They have $750,000 in the Parks budget from federal sources which they don't have match for, so they are looking at the grants program for this source.

To cut back, they are looking at shortening their season length. They are finally getting the Parks system to meet standards that the public expects. Cannot look at closing some parks, so are considering shortening their season. If they did close some parks, would have to close major ones to generate enough cash.

The Parks program Legislative priorities include enhancing management or funding of State Parks, which is the main effort behind the Parks Futures II Committee. The other Legislative priority is enhancing state matching funds for boating safety education and enforcement. They are looking at a state parks decal fee increase for boats from $2.50 to $5. This money would go toward boat safety and Coast Guard compliance. This request didn't make it through the last Legislative session but they are optimistic it will at the next one.

Walker - How much do you rely on volunteers? **Monger** responded that Parks uses about 1,500 volunteers. Half of their campground attendants are volunteers, and the visitor centers have one staff member at each with the rest volunteers. A similar program is the student intern program. They use 10-20 student interns annually, half of which go to state parks. An area of need is for mid-level park managers to supervise volunteers and interns. **Murphy** asked if it is cost effective to increase active enforcement. **Monger** responded that the most cost effective way is to use student interns, and it probably is not as cost effective to have law enforcement people there. But they use enforcement for more than fee collection. **Murphy** said the public always asks why there is an access fee when they pay taxes? Out of a $12 million budget, $240,000 is general fund money. **Monger** said they strive to have the user pay as much as they can, whether that is motorboat fuel tax, park fees, etc. For the most part, the general public is willing to pay more with user fees or their tax dollars for the parks system than the Legislature is willing to do. **Hagener** said the trend has been in the other direction. Years ago the department had $3/4 million of general fund money between Parks and Enforcement, and over the years that has been continuously cut back to where we are now. Last session they took away another $100,000+ of department general fund money. The trend has been more to take away than give us. **Walker** asked if on Parks Priorities, is it reasonable under "Increasing access to State Parks, and including creation of a state park in Region 6," can those be separated? That would add emphasis to each. **Monger** said, "yes." **Walker** also suggested under Legislative Priorities that funding should be addressed there, as well as what Parks is doing with volunteer efforts, which is terrific. On the boat decal thing, what is the upside there? **Monger** responded that fees for off-highway vehicles and snowmobiles are at $5.00. The point of a decal originally was to provide proof that the vehicle owner paid county taxes. The counties basically reimburse our Enforcement Division for checking compliance of county tax law. It was not originally intended to go toward a boating program as a funding source. Want to keep it fair and consistent with snowmobiles and off-highway vehicles as the logic is the same for all of them. Only motorized craft have registration requirements, so there is a potential funding source with non-motorized

craft. That funding source could be used for things like river conflicts. **Hagener** said the boat decal fee increase came through on the Senate side with strong support, but faded on House side because of a timing issue. The dollar amount was not the real issue. The public has been very strong in their support for the department to do more in boating education and boating enforcement. **Monger** said what they heard in the Legislature was that as long as the money went for boating programs, there was support for it. That's also what we hear about Parks fees.

Walker - Now is the time to look at next Legislative session as to where you might go with that, and the thought of including non-motorized boats. Those users create costs and fill garbage cans. We need parking for them. Would support being aggressive with the decal increase from $2.50 to $5, and expanding it to include non-motorized craft. **Dascher** asked if the Parks Futures II Committee recommends looking at specialty license plates as a funding source. **Hagener** said the special Lewis and Clark Bicentennial license plate got in because there was no additional cost associated with it. The FWP Foundation, however, considered it a money loser rather than money maker.

Hagener - As far as enhancing customer service through ALS, they are moving forward but looking at customer relations. It is simpler and gives a larger, broader database. Customer service is better dealt with in the field.

In improvement of agency management through a competency pay plan, all of state government is moving to performance-based pay. All performance plans are to be in place by March 31, 2002. The hope is there will be sufficient funding from the Legislature to fund the pay plan.

There is a need for getting better information to the public on how our funding works: where it comes from and where it goes. Some facilities are deteriorating and some are very crowded. Looking at retaining vehicles and other major equipment longer, reducing travel, reducing aircraft costs, and reducing the number of area offices.

In looking at Legislative priorities, the ALS system is different, but it will be a settling out process. The 50 cents from each license that goes to agents is considered too low. For the State Lands recreational use license, there is talk of making that a more broad-based fee. Several sites on the State School Trust Lands are used as unofficial FAS sites and state parks sites. The department is looking at what to do with those. Could get some at a minimal cost, but must look at maintenance costs. The primary emphasis must always be customer service.

Dascher - Reducing the number of area offices also reduces customer service. Prefer this be an option of last resort. **Mulligan** said that in the planning process, would ask Director Hagener to look at what is out there for each program. That planning process is very helpful for the Commission as far as requests they get and working with budgets. **Walker** asked if the department has ever looked at changing the fee structure for license agents. If not, would ask the department to do that. **Mott** said they are researching it now and calling other states to see how they handle it. They need more data and information, which is in progress.

Smith said FWP sees this as a thumbs-up/thumbs-down situation and are looking for clear direction. The situation is similar to a land purchase where they look for direction from the Commission. Once they have more information, they will come back with more details.

ACTION: Walker *- Gave the thumbs-up, which was unanimous among the Commissioners.*

5. River Recreation Management - Information

Background: Competition between recreational uses of Montana's rivers is increasing. The Commission adopted biennial rules for the Beaverhead and Big Hole rivers in response to local concerns, and recognized the need to address river management issues in a comprehensive and strategic fashion. The Commission requested Governor Martz appoint a citizen council to provide advice on river management issues.

The Environmental Quality Council (EQC) considered the action of the Commission in adopting the Beaverhead and Big Hole rules. The council declined to request the Commission rescind and readopt the rules under MAPA, but several members of the EQC said they want to address the Commission. Those legislators were invited to appear before the Commission at this meeting.

Smith - Introduced **Charlie Sperry**, River Recreation Specialist, who will join us officially on March 11. Has a strong background working on river recreation issues with various groups. Soliciting nominations for river recreation advisory committee. Also seeking advice on how to address river recreation in a comprehensive fashion, how to fairly allocate access, and how to deal with private property rights as far as commercial use of a river. Charlie will work with regional staff on local watershed issues. Will actually work at this on two levels: the broad statewide level, and local watershed level. **Mulligan** strongly recommended that the citizens' advisory committee include those stakeholders who are involved in the process, which would include their involvement in looking at goals and finalizing them, looking at the scope of authority, and looking at the membership. The stakeholders should be involved from the beginning rather than the department taking those steps alone.

Smith - Excellent point and I'll make sure we do that. We'll move on to the issue of the Environmental Quality Council's review of the Beaverhead and Big Hole rules.

Bob Lane, Chief Legal Counsel - Senator Bea McCarthy, the chair of EQC, is here. Representative Debby Barrett, who was on the sub-committee that dealt with this rule, is also here. The Commission exercised their authority under the annual rule and biennial rule process. Early in 2001 the Governor asked EQC to review the Commission's authority to adopt the rules looking at broader social issues. EQC would not normally review an existing rule. They have authority to look at MAPA rules, to poll the Legislature for legislative intent, to delay implementation of a proposed rule, but have no particular authority to deal with decisions about the validity of the underlying statutory authority. However, they were asked to do this and they do have authority of oversight of agencies and looking at their programs. The substance of the rule was not dealt with. Just the legal authority to deal with the rule was dealt with in this process and the procedure for adopting the rule was dealt with in the process. From May on,

EQC has looked at the process by which we adopted the rule. EQC has recommended that we adopt the rules through the MAPA process, which is the more formal process. The department said that we didn't have time to adopt it under MAPA and get the public input that should be obtained for re-consideration of the rule. It is also his understanding that FOAM has sued the department and Commission over this issue alleging that we didn't use the right process, the rules are permanent and not seasonal, and we don't have the underlying authority. The issue is now in court and the court has the power to make these decisions. In that sense, we welcome that opportunity. The unfortunate part of this is we may not have a decision from the court in time for the Commission to make its decision on the new rule, and possibly not in time for the next Legislative session. Our advice to the Commission has always been that we clearly have the authority to adopt these kind of rules under the plain meaning of the statute, and either process (biennial or annual rule) or the permanent ARM rule process is appropriate and valid for adopting these rules.

Hagener - What I handed out was Senator McCarthy's letter to the Governor, which outlined EQC's decision on the issue brought before the EQC.

Senator Bea McCarthy, Chairman of the EQC - Here to report on what the committee has done, work that has been going on for almost nine months and the letter EQC sent to the Governor. Thanked Jeff Hagener, Bob Lane and Commissioner Mulligan for their help throughout this process. The Environmental Quality Council is a bipartisan public and Legislative committee. Gave this issue a full hearing in May and took a vote, which was to turn it over to their three-member sub-committee. That sub-committee continued the process of hearing it. There have been 31 public hearings in the district on this issue. By the time EQC held its two public hearings and the sub-committee held theirs, it has been well heard. The sub-committee voted 2-1 that the Commission had not done the correct thing. The full committee did not agree with the sub-committee, and they voted 10-6 that the Commission has done the correct thing, and had the authority to make the decision. I'm here to say that you do have the authority, you do need to go forward with this, and our full committee believes you handled the issue correctly.

Representative Debby Barrett, Dist. 34, which is in southwestern Montana where these river rules took place - Agree with what Bea McCarthy said about the Commission, the department and cooperation they received. Still contends we can protect our resources but also protect economies.

The "no vested interest" sideboard was a policy of one group at the table and it should not be within FWP authority. Doesn't think FWP has the authority to regulate commerce or an industry. With this sideboard in place, outfitters were at the table but unable to protect their interest. Rivers are a public resource and the public needs to be informed. Only users were represented at the table. Everyone is affected by this public resource, and all of the public should be at the table. Strongly recommends that FWP and the Commission first put into place guidelines, criteria and definition, which should be clearly stated.

Smith - Development of guidelines, criteria and definitions is what we are trying to do through broad, statewide policy discussions. **Hagener** asked if we have timeframes in place for

establishment of this committee. **Smith** said within the next few weeks, will draft framework, goals and purpose for the broad statewide policy group. Will put together a mailing list to try to reach all the users with a broad range of interests, and provide that information to them. Would ask them for feedback on the role, scope and goals for the advisory group, as well as provide suggestions for who else might serve with this group. Hope by early summer to have made real progress. **Walker** asked what action would be required of the Commission as far as appointment of the group. **Smith** said would depend on whether the Commission prefers Director Hagener formally to appoint the committee members or do that as a Commission action. Maybe the time for official action would be at the March Commission meeting and certainly no later than April. **Walker** said would be more interested in the composition than the names and asked if the timeline was reasonable. Perhaps a conference call would be way to handle it so their findings could be published. **Mulligan** said at the earliest it will take until March to be finished with the communications needed. Imperative the Commission be involved in that process. **Hagener** said originally the Commission decided that Commissioner Mulligan would be their representative. **Mulligan** said it will take considerable discussion just to determine the makeup of the advisory council. It will be an intense two months so it is recognized and credible by all the interested stakeholders who need to be at the table in this process. Must put in the effort at the front end of this. **Hagener** said an official letter is coming from the Governor endorsing what has been lined out here.

6. Appointment of Paddlefish Roe Advisory Committee - Final

Background: In 1989 HB 289 established the Paddlefish Roe Donation program to allow the collection and marketing of paddlefish roe at the Intake Fishing Access Site on the Yellowstone River near Glendive. The Glendive Area Chamber of Commerce and Agriculture receives 60% of the revenue from the sale of the donated roe to be used for civic projects. The Paddlefish Roe Advisory Committee determines those projects that will be funded.

Chris Hunter - The Glendive Chamber of Commerce provides FWP with a list of recommended names for membership on the Advisory Committee. Of the five they recommend, all have served on the committee before and all have experience with the program. Those recommendations are: Mike Carlson (representing agriculture and the Chamber of Commerce), Kevin Dorwart and Dennis Snow (representing local government), and Kevin McGovern and James Thielman (representing area sportsmen). For appointment to the Paddlefish Roe Advisory Committee, the FWP Commission must adopt these recommendations.

ACTION: ***Dascher*** *moved that the Commission adopt the FWP recommendation for the Paddlefish Roe Advisory Committee.* ***J. Lane*** *seconded.* ***Motion passed****.*

Chairman Walker announced that **Commissioner John Lane** will be the Tip-Mont representative.

7. Reed Point FAS Acquisition (Region 5) - Information

Background: The Reed Point site is within a reach of the Yellowstone River providing excellent trout fishing, and would split a 20½ mile float into 7.2 and 13.3 segments (one-day floats). After the fishery priorities meeting in November, Region 5 was asked to approach the affected homeowners' association for a preliminary reaction.

Harvey Nyberg, Regional Supervisor, Region 5 - Gave a presentation about this site. **Murphy** asked if some improvements would be needed on the access road to get trailers with boats in there. **Nyberg** said the road would easily accommodate fishing boat trailers. They do envision some road improvement during the full development of the site. **Murphy** said it didn't appear there was a lot of room right at the site to turn around. **Nyberg** said, "Yes, there would have to be some improvement there." Parking would not be on the river edge; parking would be up on the bench. A person would bring their boat and trailer to the river, launch their boat, and then take their vehicle and trailer back up onto the bench. **Mulligan** asked if the nearby subdivision lot buyers recognized there would be public use outside of the subdivision owners. **Nyberg** said, "No, they expected it would be some of the other 250 lot owners who would be launching there." It would be a greater amount of use, but those who bought lots on either side of that would expect that the public would be driving through their property to access the communal lot site. There was expectation of some disturbance related to people launching boats. Has seen the original documents and they point out there is a lot owners' launching area. **Mulligan** said he thinks it's a good site and the Commission should support it, but doesn't want to hear down the road that the lot owners have filed a lawsuit. Is that a possibility? **Nyberg** said it is always a possibility, but no more likely here than anywhere else. **Murphy** asked how the asking price of $120,000 for 20 acres compares with sales of other lots. **Nyberg** said they vary quite a bit. Some would be more and some substantially less. The initial development proposed with acquisition would be fencing, signage and weed control. Estimate the cost of that to be about $2,000, which would be part of the acquisition package. For full development they envision putting in a block and cable mat boat ramp, improving a parking area, installing a latrine and doing any additional fencing or signage needed. Estimate the cost for that at about $40,000. **Murphy** asked if there was still an irrigation pump there, and if there was still a water right and point of diversion there that will have to be accessed. **Nyberg** said the one time he was at the site, the pump site looked to be in a dilapidated state. Not sure if it is serviceable. Would guess when they subdivided this out, they had to do something with the water right and may have distributed it among the lot owners. **Walker** said it was his understanding the pump site is no longer in use.

Nyberg - Recreational access in south central Montana is an extremely important issue. Have a growing public that participates in recreational boating. Have 77% of their area in private land ownership and the majority of the land along their rivers and streams is in private ownership. Public access sites are very important in south central Montana. Estimates this site will receive 2,000 to 5,000 recreation user days per year. This has a good fishery and one in their area that is under-utilized. The public comments they received from lot owners included the typical issues they hear about fishing access site acquisition: trespassing, fire danger, dogs at large, camping, level of development to occur there, litter, shooting and level of maintenance the site would

receive. Can address all those issues during the environmental assessment process. **Dascher** asked if they had checked on the possibility of splitting the 40 acres and selling back a part of it. **Nyberg** said they have talked about that but haven't resolved it. Another argument says it is better to have some extra space as a buffer, especially if there will be concerns from neighbors. Having an open space that is not developed is an advantage.

Action: Chairman Walker *and the other commissioners gave a thumbs-up for the department to continue pursuing the purchase of 40 acres for this fishing access along the Yellowstone River near Reed Point.*

8. Montana Department of Transportation Project at Blackfoot Clearwater WMA (Region 2) - Information

Background: Montana Department of Transportation is proposing to improve Highway 83 from Clearwater Junction north to Seeley Lake. FWP has several sites through this corridor that could be impacted by the construction, including the Blackfoot Clearwater WMA and Salmon Lake State Park. Due to the potential impacts to FWP land interests, wildlife, recreation, MDT budgets and public controversy, an informational item to brief the Commission seemed important at this time.

MDT and FWP wish to investigate an innovative approach to address traffic safety and wildlife concerns through the use of an overhead wildlife crossing or tunnel. Before MDT expends funds necessary for an adequate study, that department would like some assurance from FWP and the Commission that it is open to the idea and that this alternative construction feature, if selected, satisfies mitigation requirements. Some portions of the FWP property that could be impacted by construction are jointly owned with the Rocky Mountain Elk Foundation.

Mike Thompson, Region 2 Wildlife Biologist - Showed the location of this project on a map. It is at the lower end of Salmon Lake. The property, which is jointly owned by FWP and the Rocky Mountain Elk Foundation, is on the east side of the road. MDT has had this on their books for about 10 years. When they looked at the final design, they saw an engineering problem, which meant they couldn't continue. Some of that problem involved moving a large amount of material. The road-widening project, from a human safety aspect as well as loss of animals being hit, was not acceptable. A tunnel will help, but will not stop entirely the vehicle/animal collisions. Doing that would require some extensive fencing as this is in an occupied winter range. MDT is still in a fact-finding phase of the project. **Walker** asked about the number of collisions in that area. **Sihler** responded that MDT has that data. **J. Lane** asked if they have considered temporary fencing to see if a pattern develops. **Thompson** said it is worth looking at, but when FWP builds a barrier the department is blamed when problems arise. **Sihler** said MDT is sensitive to the fact there is a game range here. **Thompson** said MDT anticipates a doubling of traffic here over 10 years and they appear to be strongly committed to moving ahead with this.

ACTION: Walker *recommended moving forward with further investigation of this project.* ***Dascher*** *seconded.* ***Recommendation carried unanimously****.*

9. Three Dollar Bridge Acquisition, Upper Madison River (Region 3) - Information

Background: The proposed Three Dollar Bridge Fishing Access Site is a heavily used Madison River access located about halfway between Ennis and West Yellowstone. An estimated 3,000 anglers use the site annually, paying the landowners $3 to park and walk the property's three miles of river and shoreline. When the land was put up for sale, River Network and Trout Unlimited raised funds to secure a purchase option and set a course to protect the property from subdivision, conserve its fish and wildlife habitat, and continue the tradition of public use. As a key component of this project, River Network is now asking FWP to consider purchasing a 100-acre tract, including all three miles of river frontage, for a permanent fishing access site. The estimated value of this tract is $500,000, but funding provided by the National Fish & Wildlife Foundation, the Orvis Company, River Network, Trout Unlimited, and other private donors is anticipated to reduce the department's cost to $300,000 or less. River Network is now working through the appraisal and other details of the transaction, and plans to work closely with the department as the project moves forward.

Bruce Rich, Region Three Fisheries Manager – This area supports 1/3 of all river trout fishing in the state. The public has used it heavily over several decades, with the permission of a private landowner. The l00-acre tract is a subset of a larger parcel. The stream here is fast running, with relatively steep banks and large boulder-like substrate. There is very little stream margin people can utilize to wade up and down the river. It is an area where you have to wade along the shore to get to where you want to fish, and then walk back along the shore again. It is difficult to traverse up and down the river inside the channel, and fishing from a boat is not permitted here. The site is used year around. The surrounding ranch is about to be sold, possibly for subdivision. The site is part of a unique ecosystem for birds and big game. The Orvis company, one of the private donors expected to help reduce the department's cost for this acquisition, has a national appeal for funding of the project with a story about it on the inside front cover of a recent catalog.

ACTION: Chairman Walker *gave a thumbs-up for the department to proceed with steps necessary to acquire Three Dollar Bridge FAS.* ***Commission concurred unanimously****.*

10. Bull River Land Acquisition (Region 1) - Information

Background: In cooperation with Avista Corporation Inc. and several other partners, FWP would like to help conserve an extensive wetland complex with associated bench lands and miles of stream in the headwaters of the Bull River and Lake Creek drainages. This area has high habitat values for bull trout, westslope cutthroat trout, grizzly bear, moose, elk and other wildlife. This project would be accomplished through a combination of fee-title purchase of 716 acres owned by Sterling Mining Company/Genesis Inc. and possible fee-title/conservation easement purchase on as much as 1,800 acres of Plum Creek Timber Company lands. A fee-title appraisal has been conducted to determine fair market value of the Sterling Mining Company/Genesis Inc. property, and the property was valued at about $2½ million. Montana FWP could hold fee-title and/or conservation easement on Plum Creek lands and may hold fee-title to the Sterling Mining

Company/Genesis Inc. property depending on funding sources and participation by other partners.

Laura Katzman, Region 1 Research Specialist - Two dams owned by Avista Corp. have recently re-licensed. Avista Corp. is jointly developing protection mitigation and enhancement measures to address fish, wildlife, wetlands, water quality and other resources in the lower Clark Fork River, Lake Pend Oreille basins. When project was first available, it was just the 716-acre parcel. With the potential purchase of Plum Creek Timber Company lands, the project has grown to over 2,000 acres. There is a wide range of supporters for this project. Benefits include protection of an important wildlife corridor between the east and west Cabinet Mountain Range. It is gentle land with three wetland habitats. Because this is a very scenic area, development interest is high. The Avista Corporation has committed to partially funding the Sterling portion of the project in the Bull River drainage. Other funding sources are being explored, including both federal and private. This item is being presented today as an information item. **Hagener** asked what kind of timelines are part of this. **Katzman** said it will take several years to complete the project. **Murphy** said he has concerns over some land acquisitions and always suggests having discussions with people in community. From what he has heard, the input is positive. As long as the department is not dealing with any significant outcry over the state having control of this type of property, he sees it as an acquisition on which the department should move forward.

Dan Vincent, Region 1 Supervisor - There is strong support from their county commissioners and private organizations on this acquisition. **Mulligan** asked if there would there be an easement on all of this property to restrict development when it is in fee title. **Katzman** said what has been set up through the Avista process is Avista would hold title for up to 10 years and at the end of 10 years, if an agreement has not been worked out, to automatically put a conservation easement onto the property. This is to make sure that the money being spent is holding to what it was meant for. **Sihler** said the department may not put any money in this, but that is not certain at this stage. This project is in a much earlier phase than the Three Dollar Bridge project, but it was big enough and important enough that they wanted to bring it before the Commission now.

Gates Watson, Montana Field Representative, The Conservation Fund - Their organization supports the project. They spent significant time taking it to their board at the national level. They are anxious to help bridge the funding gap with their dollars and private foundation interests.

L. Katzman - Will not involve any FWP dollars. FWP would hold interest in the land, most likely a conservation easement on Plum Creek land. **Mulligan** said they have worked with the Conservation Fund on a number of projects and they are an effective organization. His understanding is their role is one of interim funding and they do not hold an interest. **Katzman** said The Conservation Fund has a revolving account for these kinds of projects, and then they move on to other projects. At this time it appears The Conservation Fund could be involved in holding title on the Genesis property for up to three years and then they would transfer it over to Avista or FWP or some other conservation group.

ACTION: ***Walker*** *said he looks favorably on this acquisition and the other Commission members agreed.*

11. Weaver Slough Land Proposal (Region 1) - Information

Background: The proposed action here is to provide up to $180,000 over 3 years in state waterfowl stamp funds to help the Flathead Land Trust acquire conservation easements from major landowners along Weaver Slough. This project would help conserve habitat and associated agricultural lands along Weaver Slough, an oxbow lake associated with the Flathead River system a few miles north of Flathead Lake. FWP could retain a second interest in the conservation easement or hold a separate conservation easement.

Weaver Slough is one of only six remaining, naturally created oxbow lakes associated with historic meanders of the lower Flathead River. The purpose of the conservation easement is to maintain current riparian/wetland habitats along this remnant oxbow lake that has nearly 6 miles of shoreline, 200 acres of open water, 150 acres of riparian/wetland habitats, and 1,068 acres of adjoining farmlands. Another benefit would maintain open space and habitat connectivity between Flathead Lake and Blasdel waterfowl production area, and Weaver Slough and other important habitats along the Flathead River. Additionally, if purchases can be completed on these lands, one landowner would donate a conservation easement on another 350 acres of high quality habitat along the Flathead River north of the slough.

Gael Bissell, Wildlife Biologist, Region 1 - The Flathead River is an important river in that area, and throughout its length the bends, sloughs, and oxbows are important wildlife habitats. The area is recognized as an important waterfowl migration path. There are several existing conservation easements and the goal here is to be a partner with land trusts in the area. Weaver Slough has importance in riparian wetland habitats and is important for bull trout over-wintering habitat. There is a good population of upland game birds here as well as an important raptor nesting area. A number of raptors winter in this area. Surrounding landowners are very committed to protecting their lands for wildlife habitat and open space. Some funds have been committed for appraisals and other transaction costs. The overall cost is about $2.4 million and the Flathead Land Trust has raised nearly $1 million of that. They are looking for about $180,000 in FWP funding from waterfowl stamp money. An advisory committee supports the project. The earliest they can come back with a specific project would be three to six months.

Sihler - This is a project where FWP would be a partner, but with an agreement others would take the lead. In terms of the ongoing monitoring and easement responsibilities, the department would have an arrangement with the Flathead Land Trust where we would have an interest in the easement but they would be in the lead position. FWP would be in kind of a backstop position should something happen to the Flathead Land Trust. Those details are yet to be worked out, but that is the direction we're headed. **Walker** asked how much housing is on the 1,500 acres. **Bissell** said there are three or four homes. There are none in the interior of Weaver Slough; an absentee landowner owns the majority of the slough interior. There are two farmhouses in the area and one is abandoned. **Dascher** asked if there was a way to keep those landowner's dogs

from disturbing the birds and waterfowl, or are they far enough away? There should be some language in the agreement about that. **Bissell** said one of the existing farms is right on the slough. There should be a statement of the purpose, which is to protect the nesting waterfowl and birds, and expect landowners to live up to that. They haven't gotten to that level of detail, but that is a good point. **Murphy** said he would reiterate what he has said before about checking local feedback. **Mulligan** said many of land trusts don't have the restrictions that we have and suspects they will be less than what we are used to seeing.

Tom Hinz, Migratory Bird/Wetland Coordinator - This is a big commitment. The law requires only that the department use the money for protection, conservation and development of wetlands. The benefits that the region is looking at for this property for waterfowl and trumpeter swan recovery, and all of the wildlife benefits common to that area, are pluses. We're looking at preserving the watershed, the river and the riparian area. If we can keep development out of there, we've accomplished that. Any money FWP puts into this, which is state license dollars, will be matched with North American Wetlands Conservation funds. We can apply for up to $1 million at a time, which the Flathead Land Trust intends to do this year. It's a wonderful opportunity to take a relatively small amount of state license dollars and magnify it several times with this federal funding source. That's why our Migratory Bird Stamp Advisory Committee approved this project because it's a great opportunity to leverage that money several times.

***ACTION: Walker** gave a thumbs-up to proceed with investigation of this proposal. **The rest of the Commission concurred**.*

11. Smith River Landowner Definitions - Tentative.

Background: The Smith River Rule was finalized at the December 13, 2001 Commission meeting. At that meeting, the department was directed to draft proposed definitions of a "landowner" to include within the rule. The definition is to cover situations such as properties held in fee title by corporations, partnerships or multiple stockholders.

Tom Reilly, Parks Division Assistant Administrator– The FWP Legal Division has drafted the proposed landowner definitions. **Hagener** said they have tried to put this all into a context that addresses the different and rather complex types of landowners. These definitions also address the question of what qualifies as a landowner. The department is asking for a tentative at this point, give 30 days to look at it if there are concerns, and hope this covers the situation from both sides. A second alternative is shown as an option, which is not having a definition. The department feels the con to that is it still leaves open the question of who does qualify as a landowner, as opposed to putting a landowner definition in place so it is clearly known who the landowners are. **Reilly** said they have strived to make it one landowner per piece of property which seemed to be the original intent of all this.

Bob Lane, Chief Legal Council - Land parcels are owned in various ways which include farm corporations, partnerships, tenants, leasees, etc. The question is how to fairly treat all of them. One interpretation defines the landowner and immediate family. Then there is the question of how to define a landowner for a corporation. Basically if there is a landowner with fee simple

title, that is the landowner. That person and their immediate family could enjoy the privileges. If there is a corporation or other co-owners and some members of the corporation physically reside on the property, the corporation must choose someone within that group as the recipient of the landowner privileges. If there are no co-owners residing on the property, then we set up a procedure to designate someone as recipient of the privileges. It could be one of the co-owners, it could be a member of the immediate family of a co-owner, or it could be a ranch manager or a leasee. In that situation it would not be the recorded title owner but rather the person who operates the property. Instead, it would be the person who is residing on the property. For each parcel of land, there can be only one person and immediate family as beneficiary of the privileges.

Murphy - Would this have any implication on maintenance float activities? **Reilly** responded that maintenance could occur no matter who is doing it. These definitions are for recreational floating. **Murphy** asked about a situation where brothers jointly own property. Would they have to decide who receives the privileges? **B. Lane** said if one lives on the property with his family, then he would be the recipient. If both live there, one would be recipient of the privileges, and the other one would be entitled to the privileges as an immediate family member. **Dascher** asked about a corporation with a manager living on the property. If various people from the corporation rotate in and out of there, how is that situation handled? **B. Lane** said they considered putting in the rule that the designation would have to be done on a yearly basis. However, they didn't want to put too many demands on the landowner or be too restrictive with it unless there were problems.

***ACTION: Mulligan** moved to adopt the tentative rule as presented; **Dascher** seconded. **Motion carried unanimously**.*

Additional Information Item - Director Hagener said **Mack Long**, Region 2 Supervisor, distributed a Decision Notice about the use of helicopters to transport mountain goats into the Scapegoat Wilderness where FWP proposes to airlift approximately 10 mountain goats to a winter range 1.5 miles within the Scapegoat Wilderness. The purpose is to re-establish a viable population of mountain goats near Red Mountain and Sourdough Creek. There was a question about whether that needed to go before the commission for approval. The policy in regard to transplants is that if it is a new transplant, it does go before the Commission. However, Commission action is not required here because mountain goats are already in the area and this is an augmentation.

12. Prairie Dog Plan and ARM Rule Concurrence - Final

Background: The draft conservation plan for prairie dogs in Montana was developed by the Montana Prairie Dog Working Group, which includes participation by a broad cross-section of stakeholders in prairie dog management in Montana. The primary focus of Montana's prairie dog conservation planning effort is on identifying and implementing actions needed to ensure long-term conservation of prairie dogs, and species associated with prairie dogs. It is focused secondarily on addressing the risk factors identified by the U.S. Fish and Wildlife Service in its "warranted but precluded" finding. Unlike the more specific management plans adopted by FWP

for several Montana "game" species, the prairie dog management plan lays out a general, ongoing approach and direction for prairie dog conservation and management in Montana.

Heidi Youmans, Small Game Bureau Chief - FWP is requesting: 1) Final Commission concurrence with the draft prairie dog conservation plan for Montana; 2) Commission agreement on the joint, tentative adoption of the proposed amendment to ARM 12.2.501 to include black-tailed and white-tailed prairie dogs under the definition of "nongame wildlife in need of management"; and 3) Commission agreement on the joint adoption of the proposed annual rule regulating prairie dog shooting.

1. Draft prairie dog conservation plan. This is based on what the working group feels Montana should do. It is very general in nature. There has been a change in the legal status of prairie dogs. It is not a recovery plan for a threatened species. The primary issue centers on statewide abundance standards. The most recent high number of prairie dogs was in 1988, and that number also indicates landowner tolerance for prairie dogs. The statewide abundance standards are the minimum standards guide.

As requested by the Commission at the December meeting, the finalized plan will include corrections on pages 12 and 13 that clarify that the ARM rule amendment and any regulations adopted under the status as "nongame wildlife in need of management" will be jointly adopted by FWP pursuant to Mont. Code Ann. 87-5-105, and the FWP Commission pursuant to Mont. Code Ann. 87-1-301(1)(a). (756 on tape).

2. Proposed ARM amendment. This augments the existing statute and institutes commitment by Montana.

3. Proposed annual rule regulating prairie dog shooting. This is the most contentious issue. Part of the proposal is a seasonal shooting closure on public lands, excluding state school trust lands from March through May. On an area of BLM lands in south Phillips County, a year around shooting closure is proposed. Within that 25,000-acre area, there are 1,300 acres of prairie dog towns. The third part of this is a shooting closure to extend protection on the state's remnant white-tailed prairie dog population on approximately 120 acres within a portion of Carbon County. Of the shooting that takes place, pressure would be transferred from public lands to private lands during March, April and May. **Dascher** suggested a change, on page 24 of the January draft of the new plan, under strategy C where they have workshops, they eliminated Glasgow as one of the sites. **Youmans** said they could do that. **Dascher** asked if they would work out MOUs with the tribes right away. **Youmans** said she understood from what the Region 6 supervisor said they would be doing that. **Dascher** asked if when the agreement is made between the department and the tribes, would that be included in the regional plan or does it go to the state plan as far as counting the prairie dogs? **Youmans** said with other states, it's all or nothing, i.e., all tribal lands or no tribal lands. She said she is hopeful that through the process the 11 tribes are working on they will at least reference prairie dog acreage in the state plan. As far as counting toward a state total, the plan won't do that. Each tribe looks at forging its own conservation agreement with assurances with the U.S. Fish and Wildlife Service as a sovereign entity. For Montana they will end up with referencing and talking about tribal acreage, but it

won't count for the state total. Since reservation boundaries are artificial lines, it is important to do all the collaboration we can at the ground level. **Dascher** said they need to recognize the acreage with prairie dogs that is on tribal lands, and use that number for the state total. Need to be able to acknowledge that it is there. We are not controlling it; we just need to acknowledge that the acreage of prairie dogs is there under management of another entity. **Hagener** asked if tribal lands are included when they count historical habitat acreage. **Youmans** responded that they are included in historical acreage. **Walker** asked if they count them by using a footnote, asterisk, or whatever, and show the net number. **Youmans** said basically they have done that in several places of the plan, including page 8 of the January draft and the top of page 9, which reference total vs. tribal acreage. In terms of proportional increases and decreases, it should be invisible.

Chris Smith - In developing regional goals and the final statewide objective, particularly in conducting a MEPA analysis, will include the acres of prairie dogs that occur on tribal lands as one of the factors. With respect to tribal lands, our analysis must be based on certain assumptions. We will continue to monitor so if our assumptions are incorrect and conditions change, we may have to adapt and respond in the future. It is important to remember that in this plan we are not setting acreage objectives. The action defined in this plan under Objective 2 is to establish statewide and regional numbers. In that process, we will count that acreage on tribal lands. **Dascher** asked what would happen if the tribes eradicated all their prairie dogs, and what would that do to the state's requirement for prairie dogs? **Smith** said under that scenario, having an agreement with the tribes is no different than if they had no agreement. When they formulate the plan, they make certain assumptions about what happens on tribal lands. Those assumptions may be based on an agreement developed with the tribes. If they don't have an agreement, they still have to make some assumptions. **Youmans** said none of the other states are taking on obligations for acreage that may or may not be on tribal lands. We are just portraying it so it is easier to see how the total acreage relates to historic acreage. **Murphy** asked how far along other states are with this. **Youmans** responded that they are in various stages. Some are in limbo. Wyoming considered similar measures that their commission did not pass. They will revisit the issue at their February Commission meeting. South Dakota instituted a change in legal status as well as a prairie dog shooting season for this year. Montana is a little ahead of other states on it and there are eyes on the state as a result. **Hagener** asked if Colorado had a total ban now on shooting of prairie dogs. **Randy Matchett**, C.M. Russell Wildlife Refuge, said Colorado has instituted a shooting closure on both private and public lands. **Youmans** said they are trying to figure out how many prairie dogs they have, so they put in the regulation before completing their inventory.

Murphy - In the statute under HB 492, it says nothing may be interpreted there to limit a landowner's ability to control prairie dog concentrations on private land. Is there anything in this plan to prevent that landowner from eliminating all the prairie dogs on that land? **Youmans** said, "No, and the Legislative intent was abundantly clear." **Walker** asked if that would be black-tailed only, or would it also be for white-tailed? **Youmans** said it would be for either species. **Mulligan** asked what the rationale was for having the shooting season end earlier than what other states are doing. **Youmans** said that's a very contentious issue that the Prairie Dog Working Group wrestled with a great deal. The March-April-May closure is a compromise

considering the biological, social and economic realities. **Mulligan** asked how they would know a year from now if that caused any problems. Will enough monitoring been done to know if that is the right season date? **Youmans** said a sub-committee of the Prairie Dog Working Group tried to design a manageable, cost-effective monitoring field effort. They wanted it to give the sorts of information needed to consider whether to do this next year and for how long. The monitoring part of instituting a new regulation is viewed as very important. It is the intention of BLM people, Nature Conservancy people, and FWP to get you that information. **Mulligan** asked if there will be an annual requirement for counting such as for deer and elk, which must be staffed and funded by the department. **Youmans** said she thought this effort would be funded with some existing money, as well as WCRP dollars, a new source appropriated by Congress for non-game species. The plan provides for a monitoring effort every three years and they are looking at the new money for that. Those counts would look at progress toward statewide goals rather than the shooting. **Murphy** asked if BLM has implemented a restriction and why the state must come in with a rule behind that to facilitate that same activity.

John Grensten, BLM, Malta - They identified this as a shooting closure based on the fact they manage land, not animals. They have no authority to manage prairie dogs in the state of Montana. The best way for them to do that as a land closure was to close it to the discharge of firearms and then allow anyone in there with a valid permit to hunt big game, upland birds or waterfowl. What that meant was that one could go into the area and hunt big game, upland birds and waterfowl. However, you cannot discharge a firearm in pursuit of a coyote, fox, prairie dog.

Smith - Should keep in mind that BLM regulations apply only to specific, limited portions of BLM lands.

ACTION: Dascher *moved that the Commission concurs with the draft conservation plan for prairie dogs in Montana and directs FWP to proceed with formal adoption of the plan and its implementation;* ***J. Lane*** *seconded.* ***Motion carried unanimously****.*

ACTION: Dascher *moved that the Commission and the Department accept the proposed ARM rule to amend reclassifying prairie dogs as "non-game wildlife in need of management";* ***J. Lane*** *seconded.* ***Motion carried unanimously****.*

ACTION: Dascher *moved that the department accept as tentative a joint approval by the Commission and the department for the proposed annual rule regulating prairie dog shooting on federal lands;* ***J. Lane seconded****.* ***Motion carried unanimously****.*

Meeting adjourned at 4:15 p.m.

Approved this 20th day of February, 2002

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