

PRIVATE LAND/PUBLIC WILDLIFE COUNCIL
Montana Wild – Helena, MT
March 7th – 8th, 2016

Day 1: Meeting convened at 1:00 p.m. March 7th.

Council Members Present: Sen. Duane Ankney, Ed Beall, Rep. Zach Brown, Ed Bukoskey, Cynthia Cohan, Lee Cornwell, Larry Feight, Daniel Fiehrer, Bill Geer, Blake Henning, Denley Loge, Joe Perry, Richard Stuker, John Swanz, Carl Zabrocki.

Absent: Dusty Crary, Bob Ream

Fish, Wildlife & Parks Personnel Present: Jeff Hagener, Director; Ken McDonald, Wildlife Division Administrator; Alan Charles, Landowner/Sportsman Relations Bureau Chief; Hank Warsech, Licensing Bureau Chief.

I. Welcome, Introductions, Opening Remarks, Agenda Overview – Hank Warsech:

Hank Warsech introduced himself and described how PL/PW Council activities will be administered. Hank will serve as FWP staff liaison and lead meeting proceedings, and there will be no chair appointed.

Review & Council Charge: Director Hagener addressed the Council and discussed the Council's charge during the term of their appointments. The primary purpose of this council is as the name implies – addressing issues related to public wildlife on private lands. The Director encouraged members to leave their personal agendas behind and work toward mutually acceptable solutions, emphasizing that the department is only the conduit to help them conduct their work. The council does not have authority to direct the department, but can make recommendations to FWP, as well as to the Governor and legislature.

The Director talked about the following topics he would like the council to consider during the first several meetings that require immediate attention if they are to be available for legislative action, with the expectation that any final recommendations regarding these short-term topics would need to be decided upon by June or July 2016:

Short-term/Legislative –

- 1) Raising the \$12K cap for payment to an individual landowner in Block Management.
- 2) Adding the option to be able to issue a complimentary license in addition to a permit authorized under MCA 87-2-513 (sometimes referred to as HB454, as well as considering any other suggested changes to make this program effective. MCA 87-2-513 allows FWP to issue an either-sex or antlerless elk permit to a landowner who offers free public elk hunting.
- 3) Combining the Home to Hunt and Native MT Nonresident licenses.
- 4) Clarifying definitions of administrative, field services, and contract costs for Block Management – in response to HB 2 OTO and restriction language placed on the Hunting Access Program budget.

- 5) Addressing issues related to restrictive language in HB 403 that applies to Habitat Montana funding

Director Hagener also identified some of the issues that the Council might work with over the longer term.

Longer Term/Program Review –

- 1) Block Management Audit issues
 - a. Cooperator payment basis (hunter use per day)
 - b. Access through Block Management to public lands
 - c. Assessment of staff and funding needs: Current and future
- 2) Game Damage Audit Issues
 - a. Public access requirements: How to define to allow for consistent application?
- 3) Shoulder season parameters: Updates, how to measure success?

II. Council Member Introductions: Members introduced themselves by explaining who they are, what their interest is in the Council, and what their expectations are as a Council member.

Director Hagener then asked Council members to spend some time considering a couple of questions he thought might help provide some useful insight into what is at the core of the work and issues they will be dealing with in the future. Council members spent some time writing down their initial thoughts and answers to these questions, and reviewed and discussed the results of this initial brainstorming effort on Day 2 of the meeting.

- 1) What do you see as the primary factors of influencing landowner-sportsman relations today?
- 2) What suggestions do you have to address these factors?

III. Video – “Owning Eden”: Council members viewed the video, followed by a roundtable discussion of various topics from Council members.

IV. Council History and Accomplishments: Alan Charles provided an overview of the history of the PL/PW Council, past council’s accomplishments, and legislation that resulted from past Council recommendations.

V. Work Session – Council Operating Guidelines and Ground Rules: Under a framework of questions that asked “*How will this PL/PW Council operate? What roles, expectations, and behaviors do you have for your relationships with (1) each other; (2) the public; and 3) FWP/Governor/Legislature?*” Council members adopted guidelines and ground rules for future Council work.

[Attachment A - Decision Making Process & Operating Guidelines](#)

A. Decision-Making Process:

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

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

Consensus is achieved: If all participants indicate that they are at levels 1-4. When someone falls at 5 or 6, that person must assume the burden of clearly articulating his or her concern to the larger group, which must then assume responsibility for seeking to accommodate those concerns. The group may continue with the procedure until consensus is achieved or the group decides to disagree, or not move forward with a particular decision or recommendation.

Lack of Consensus: If the Council cannot achieve consensus, the Council may move forward on issues where consensus was not reached if a supermajority of members (80%) vote in favor of the issue or recommendation. The majority and minority voting memberships of the Council shall report to FWP on the issue or recommendation dividing the group, along with a voting record.

B. Operating Guidelines:

PL/PW Council members will:

- Represent all the citizens of Montana, and not just specific groups or interests.
- Create idea components rather than person components.
- Demonstrate respect for each other by:
 - Listening actively
 - Listening honorably, and respecting each other
 - Giving the other person permission to openly speak his or her mind
 - Avoiding attacking remarks, "name calling," hitting," etc.
 - Not interrupting
 - Not conducting side conversations
- Participate in Council deliberations
- Leave personal agendas off the table or outside the meeting room.
- Take or call for a "time-out" when or if one is needed.

- Attend meetings unless unavoidable; communicate ideas to other members if necessary.
- Take personal responsibility for “catching up” on any meeting that may be missed.
- Make efforts to contact absent members to get their input if decisions need to be made.
- Establish “traplines” to gather and share information with area “constituents.”
- Welcome FWP participation in Council activities to provide necessary information and guidance while also allowing for Council independence.
- Utilize a facilitator to assist with meetings on an as-needed basis.
- Media requests will be handled by Hank Worsech, who will coordinate with Ron Aasheim, Communication & Education Administrator for FWP, as necessary.

Day 2: Meeting convened at 8:30 a.m., March 8th

Council Members Present: Sen. Duane Ankney, Ed Beall, Ed Bukoskey, Cynthia Cohan, Lee Cornwell, Larry Feight, Daniel Fiehrer, Bill Geer, Blake Henning, Denley Loge, Joe Perry, Richard Stuker, John Swanz, Carl Zabrocki.

Absent: Rep. Zach Brown, Dusty Crary, Bob Ream.

Fish, Wildlife & Parks Personnel: Jeff Hagener, Director; Ken McDonald, Wildlife Division Administrator; Alan Charles, Landowner/Sportsman Relations Bureau Chief; Hank Worsech, Licensing Bureau Chief.

I. Work Session: Block Management (HB 2) Budget Restrictions FY 2016/2017 – Director Hagener:

Last session the legislature placed restrictions in HB2 on the Hunting Access Program budget, restricting and placing a one-time-only provision on one portion that can only be used for administrative costs, with the remainder restricted only for use as contract payment and field services activities. These restrictions were not based on any actual costs from past expenditures, but rather a perception by some legislators that contract payments to landowners should be increased, without understanding that the services provided by field staff and hunting access technicians are valued as much or more by many landowners as an increased payment. Subsequently, for FY16/17, the Department worked to develop definitions for what constitutes administration, contract payments, and field services, so that expenditures could be tracked accurately and reported back to the legislature. HB2 requires FWP to report to the EQC regarding program expenditures in May, 2016, and FWP will also have to work during the 2017 legislature to address the HB2 budget restrictions. Director Hagener wanted the Council to understand this issue, consider the definitions the Department has developed to identify appropriate program activities, and provide any useful feedback or recommendations regarding this issue.

[Attachment B - HB 2 and Budget Item Definitions](#)

*****Action Item:** The Council agreed by consensus to endorse the definitions, as proposed by FWP to include the addition of “hunt coordinator” to the Field Services definition. Senator Ankney also suggested that it could be very helpful to have a couple of citizen Council members appear and speak at the May EQC meeting when this topic is discussed.

Proposed wording to provide definitions of Administration, Landowner Payments, and Field Services, as recommended by the council:

- Hunting Access Program Administration –
Operations costs and personal services costs for time spent by program staff to prepare and manage program budgets, prepare and process contracts and BMA maps, prepare, print and mail program materials, issue payments and cooperator licenses, prepare program reports, and attend program planning meetings.
- Hunter Access Program Payments to Landowners –
Direct payments to landowners.
- Field Services Provided to Manage Hunting - *Operations costs and personal services costs for time spent by program staff to set up and manage Block Management Areas, including activities such as meeting with landowners to evaluate properties and establish BMA rules, installing BMA sign-in boxes and boundary signs, providing BMA patrol presence, issuing BMA permission either on-site or from remote locations, distributing and collecting permission slips and dismantling BMAs after the hunting season ends. Also includes personal services and operations costs for hunt coordination to assist landowners and hunters.*

II. Work Session: Block Management – Statutory Cap for Cooperator Payments – Alan Charles

When originally authorized, MCA 87-1-267 placed the cap of \$8,000 on the payment a landowner could receive. In 2001, at the recommendation of the PL/PW Council, the cap was raised to \$12,000, and has not been raised since. (See Attachment X) Approximately 60 of the 1,240 cooperators currently receive the maximum amount of \$12,000. The average cooperator payment today is \$3,800. In 2009, an increase from \$10 to \$11/hunter day resulted in about \$750,000 cost to the program. However, those that were already at the cap didn't realize any increases because they were already at the cap.

[Attachment C - MCA 87-1-267](#)

Alan Charles described the payment process. Currently \$11 per hunter day:

- \$250 enrollment fee
- \$11/hunter day
- Landowners can also qualify for additional 5% weed management payment

If the cap were raised to \$15,000, for example, the estimated cost for 60 cooperators to receive an additional \$3,000 would be \$180,000.

Questions posed in this discussion for follow up:

- How much revenue is generated by the additional 3% of nonresident deer and elk combination license fees that the 2015 legislature directed to the Hunting Access Program Account?
- What percent of total enrolled acres are represented by the landowner contracts that are presently at the cap?

*****Action Item:** Council members agreed through consensus to move forward in taking a closer look at increasing the \$12,000 cap on payment for Block Management Cooperators. To help with that discussion, the department will provide additional information, including answers to the questions posed during this session.

III. Work Session: Landowner Elk Permits for Access (87-2-513 MCA) – Alan Charles:

Created in 2002, this statute allows a landowner to receive a limited permit valid only on that landowner's land in return for a contractual public elk hunting access agreement that allows the department to issue at least four permits to members of the public which are also only valid on the landowner's land. (The statute requires that no more than 20% of the permits of the total permits issued under this statute may be issued to the landowner, member of the landowner's family, or ranch employee.) FWP attempted and failed get the bill amended to authorize issuance of a permit and/or license. FWP has also fielded questions on whether a block of landowners could block up or group several parcels, and apply this statute to that group of parcels. The answer is no as currently written – the statute is specific to individual landowners.

[Attachment D - MCA 87-2-513 & ARM](#)

Council member John Swanz, who has participated in the program since 2002, and until 2014, was the ONLY landowner who participated in the program, explained that the program had been very successful from his perspective, both for his own family needs and for the public. Mr. Swanz said the hunters who had participated had all been very happy with the arrangements, and he said he couldn't understand why other landowners did not participate. Council members reviewed the example provided of the John Swanz Ranch Public Elk Hunting Access Agreement.

[Attachment E - Swanz Proposal](#)

Council members and department staff discussed some of the limitations of the law, including the fact that nonresident landowners might not always be able to draw a nonresident license, which would render the permit useless. Discussion emphasized that the goal of this law is to enhance the hunting opportunity for the landowner, but also it secondarily helps the issue of access and provides an opportunity for hunters.

Questions posed in this discussion for follow up:

- Is/could leased land under operation of a landowner be included in an MCA 87-2-513 permit? Right now FWP legal interpretation is no.
- How we can make this tool better known/promoted to landowners? Mr. Swanz replied he thought the best avenue was through FWP field staff (bios, wardens, HATs, etc.).

*****Action Item:** The Council agreed through consensus that there was value to exploring ways to work with the current statute to see if it can be made more attractive to landowners. The Council will consider ideas to loosen the restrictions in order to expand access and hunting opportunities for both landowners and sportsmen.

IV. Work Session: Overview of Come Home to Hunt and Native Nonresident Licenses – Hank Worsech:

Hank provided Council members with copies of the statutes for both of these licenses, and also a copy of the 2014 PL/PW Council recommendation #4 that proposed to combine these two licenses into one license. The bill that contained that recommendation was pulled by the sponsor during the 2015 legislative session because of other bills related to FWP licenses that the sponsor was involved with. Hank also pointed out that a different bill did change the price of both licenses to one-half the price of general nonresident combination licenses, which was one issue that would have been addressed through the 2014 PL/PW recommendation. Hank also explained some of the issues related to sales of these licenses, and where the funding from those license sales is directed. He also provided Council members with information related to the sales of all FWP licenses.

[Attachment F - MCA 87-2-526](#)

[Attachment G - MCA 87-2-514](#)

[Attachment H - PLPW 2014 Recommendation 4](#)

*****Action Item:** After considerable discussion, Council members agreed to continue working on this issue to determine potential recommendations.

V. Work Session: Habitat MT (HB 403) Budget Restrictions – Ken McDonald:

Habitat Montana is an earmarked portion of nonresident licenses that is dedicated to acquisition and maintenance of important wildlife habitat. By statute, 80% of Habitat MT funds can be used for fee title acquisition, conservation easement, or long-term leases. The other 20% is dedicated to Operations and Maintenance (O & M), which includes things like maintaining WMA's fences, noxious weeds, grounds, facility maintenance, and providing staffing for these activities. Ken explained that the 2015 legislature placed restrictions, through HB403, on the use of funding dedicated to the Habitat Montana program for FY 16/17 that restricted FWP from purchasing any land except those parcels already under negotiation. He explained while the Department focuses much of the effort in this program on acquiring conservation easements, that the restriction on any purchase of land may prevent the department from acquiring property with exceptional wildlife habitat value from a willing landowner. Ken also pointed out that there have been questions as to whether or not the current restriction of no more than 20% of the budget being used for O&M is adequate for potential needs in the future.

[Attachment I - HB 403](#)

[Attachment J - MCA 87-1-241, 242](#)

Questions posed in this discussion for follow up:

- Does the Council support acquisitions by the department?
- What is the recommended ratio for funding acquisitions and easements versus O&M?
- Does the Council support removing the Habitat Montana funding restrictions that appeared in HB403?

****Action Item:** Council members agreed to discuss this issue further for development of potential recommendations.

VI. Subcommittee Assignments: Council members agreed to appoint three subcommittees focused on working with the three issues that may require action during the 2017 legislative session.

- **Block Management Landowner Payment Cap:** Ed Bukoskey (Lead), Ed Beall Larry Feight, Duane Ankney, and Bill Geer.
- **Landowner Elk Permit for Access:** Denley Loge (Lead), Richard Stuker, Blake Henning, John Swanz, and Lee Cornwell.
- **Coming Home to Hunt and Native MT NR Licenses:** Cynthia Cohan (Lead), Carl Zabroski, Dan Feihrer, Zach Brown, and Joe Perry.

VII. Public Comment Period: No people presented comments to the Council.

NEXT MEETING: Scheduled for April 25th – 26th, 2016, in Helena.

Council adjourned at 3:30 p.m.

Supplemental Materials:

[Attachment A - Decision Making Process & Operating Guidelines](#)

[Attachment B - HB 2 and Budget Item Definitions](#)

[Attachment C - MCA 87-1-267](#)

[Attachment D - MCA 87-2-513 & ARM](#)

[Attachment E - Swanz Proposal](#)

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