

## Region 7 Citizens Advisory Committee Meeting & Legislative Open House

December 4, 2024 – R7 HQ

**CAC Present:** Bob Hagedorn, Ed Joiner, George Luther, Megan McKeighan, Liz McFarland

**Staff Present:** Brian Burky, Jamie Hould, Travis Muscha, Brett Dorak, Mike Backes, Brad Schmitz, Marla Prell, Erin O'Connor, Maribeth Ault, Lena Havron, Marina Yoshioka, Melissa Watson

**Guests:** Fish and Wildlife Commissioner Bill Lane, Charlene Reddig (Senator Daines' office), Sen. Bob Phalen (SD 17), Rep. Greg Kmetz (HD 36)

### **Introduction:**

Brad welcomed everyone and explained the makeup of the CAC. We hold meetings with our CAC twice per year and have the group together to meet with legislators every other year before the Session starts. It's good to have them, Commissioner Lane and Helena staff here. This meeting is a good way to learn about the bills FWP is proposing and to provide transparency before the Session starts. Next the entire room introduced themselves and explained who they are, where they're from and who they represent.

Brad mentioned a few staff updates. Warden Captain Todd Anderson retired earlier this summer and was replaced by Justin Feddes, who was one of our sergeants. Justin has since been replaced in that sergeant position by Todd Enders. Todd was with Enforcement in our region for many years, several of those as a sergeant, before moving on to the ranching world but has decided to come back and we're glad to have him. Amanda Hall has joined us as the Nongame Biologist, replacing Brandi Skone who transferred to Region 4. Currently, the Baker Wildlife Biologist position is vacant; we recently attempted to fill that but were unsuccessful and will readvertise in a few months. Cory Allred is our newest Wildlife Biologist and is located in Sidney. This was a new biologist position for us – the first one we've been able to obtain in 32 years. Oliver Gulig has been with us for a year now as the Baker warden, and Tanner Mitchell transferred here to the Forsyth-Hysham warden district from the White Sulphur district. Ryan Kasson has vacated the Sidney warden district for other opportunities out of state; that district will be filled with a new individual very soon. Joe Hinton joined us at Makoshika State Park, filling the eastern Parks & Outdoor Rec Maintenance Foreman vacancy.

Next, Brad cited the CAC Charter. He likes to clarify roles, so folks don't get frustrated. The CAC is not a regulatory body, but rather is a think tank of advice. FWP is a public agency of state government under the direction of the governor of Montana, as chief executive of the state. As such, FWP has the public trust responsibility to implement and enforce laws passed by the Montana legislature, including making rules and regulations only as authorized by those laws. Similarly, the Montana Fish and Wildlife Commission and the Montana Parks and Recreation Board are assigned their own regulatory and rulemaking responsibilities and authorities under state law.

Because these authorities cannot legally be delegated to others, CACs do not possess decision-making authority, but rather serve in an advisory capacity to FWP. Nonetheless, CACs are encouraged to help build community consensus and make informed recommendations to the department, board, and commission. Individual CAC members, like any citizen, may separately choose to communicate their thoughts with commission members, board members, and legislators, although FWP itself takes no role in these individual citizen contacts with other officials.

Commissioner Lane added that folks sometimes think recommendations from the CAC seem to go to Commission and fall on deaf ears. He assured that the voice is there and is being heard; there is lots to take into account, especially if something is going to rules. Be patient and know that you're being heard.

Brad included that we are currently looking at recruitment of some new folks, which Marla is working on.

#### **Legislative Update:**

Marina Yoshioka, Acting Director, provided an overview of the upcoming Legislative Session, noting the Memorandum that was provided to attendees. We propose agency legislation in September. These proposals can be found online on the September meeting section of the EQC website. This is where ideas were brought to them in the form of proposed legislation; these proposals have been preapproved.

**LC 506 - Motion Tracking Devices:** Amends current statute to prohibit the use of motion-tracking devices within the same calendar day of hunting. The current statute refers only to use "while hunting." This is a clarification bill intended to keep up with motion technology through time. It is similar to the aircraft bill which speaks to how you may or may not use an aircraft while hunting.

**LC 507 – Petition-Initiated Rulemaking:** Amends current statute to clarify that citizen or Legislator petitions to initiate rulemaking must relate to an issue that the agency has jurisdiction to regulate. This is a clarification bill that would establish sideboards of what is and isn't within the purview of FWP. It would apply to all executive agencies.

**LC 508 - Bird Dog Training License:** Amends current statute to require license applicants to report the number of bird dogs to be trained on wild birds under the existing Class D-5 license and authorizes the Commission to limit Class D-5 licenses if deemed necessary. The intent with this bill is to build on previous efforts and obtain more data from the field.

**LC 509 - Authority to Regulate Public Use of Private Property Under Access Agreement:** Amends current statute to recognize Commission authority to establish rules for public use of private property managed by the Department under active public access agreements with private landowners. This essentially is a landowner support bill and allows Enforcement to support landowners who experience misbehavior on their land while they are enrolled in an access program. It includes all access programs.

**LC 511 - Authorize Second Mountain Lion License / Remove Reporting Requirements for Tendoy Mountain Sheep:** Amends current statute to allow issuance of second mountain lion license in same license year and remove special reporting requirements for Tendoy mountain sheep harvest. This isn't saying that we are adding a second lion license but provides us with the ability to do so if deemed necessary and provides more flexibility to manage the resource. The Tendoy sheep project has concluded so reporting is no longer necessary; this acts as cleanup bill in that regard.

**LC 512 - Beaver Damage:** Amends current statute to authorize damage-based muskrat or beaver harvest for damage to structures other than just irrigation infrastructure or stock water ponds. This bill would allow for landowner permits for beaver damage. Currently, damage only qualifies if it's on irrigation or stock tanks. This expands to rural or urban structural damage and makes the permit easier.

**LC 513 - E-Tag Possession:** Amends current statute to clarify that a person can have their spouse's or minor child's e-tag in their possession or control. This clarifies transport of an animal by someone else if an e-tag was used by the hunter to validate the harvest of that animal.

Maribeth clarified that it did not make into the regulations this year, but there is a new ARM rule that if transporting an animal for someone else that used an e-tag, the transporter has to have the confirmation # issued for the e-tag when it was validated.

**LC 514 - Trapper Apprentice Program:** Proposes creation of new trapper apprentice program analogous to existing hunter apprentice program. Similar to hunters in the apprentice program, this would allow folks more time to meet all the requirements of trapping and still be able to actually trap.

**LC 515 - Game Bird Farm Requirements:** Amends current law to remove reporting requirements for game bird farm operators, remove timeline for processing application, and extend the duration of game bird farm licenses. This and LC 516 are red tape cleanup bills intended to make both things easier. Reporting would be refined to remove some of the administrative burden.

**LC 516 - Shooting Preserve Requirements:** Amends current law to require that shooting preserves be located on private property without contiguous acreage limitation, extend duration of license period, remove minimum release numbers, and simplify harvest reporting requirements.

**LC 517 - Reclassification of Wolves as Furbearers:** Proposes classification of the gray wolf as a furbearer and alignment of existing wolf tagging and furbearer hunting restrictions. Currently wolves are classified as a species in need of management. This would clean up a lot of things on the back end and aligns the resource with how it's currently managed.

**LC 518 - Commercial Licensing Standardization.** Amends current law to standardize licensing requirements (*e.g.*, expiration dates, duration, record keeping) for a range of commercial activities regulated by the Department (*e.g.*, taxidermy, fur dealers, shooting preserves, menageries, alternative livestock ranches, etc.). This is a red tape cleanup bill that reduces regulation and creates standardization.

**LC 519 - Repeal of Predatory Bird Statute.** Proposes repeal of statute authorizing the killing of predatory hawks and owls, which is prohibited by Federal Migratory Bird Treaty Act. This is another red tape cleanup bill that aligns state statute with federal law. Predatory birds still may not be harvested.

**LC 520 - Paddlefish Caviar.** Proposes repeal of current structure allowing for donation of paddlefish roe for commercial caviar sale. This would remove historic framework that is no longer necessary due to the new diversion at Intake.

Marina added that there are four other bills that we're considering but have not yet gone through EQC or been pre-introduced. At this time, they are conceptual in essence. The first is a boating reg cleanup bill that would allow for standardization with federal regulation. Currently, we receive Coast Guard money to run some of our boating programs but we're going to lose that funding because our rules don't align with federal oversight. We are proposing to clean up and remove the Coast Guard out of our funding source. Therefore, this would eliminate the current boat validation decals.

The second bill under consideration addressed ex-officio warden authorities. Park rangers have not been ex-officio wardens for a while now, so this removes authorities and the 'park ranger' wording.

The third potential bill would be a landowner access partner compact that creates statutory consequence for rule violators. Effectively, if you break rules on a particular parcel of property, you could be banned from all the other lands enrolled in the compact.

And lastly, the fourth potential bill would address statutory appropriation for aquatic and wildlife research. This would provide statutory appropriation for long term research projects.

#### Budget Update:

Lena Havron, Chief Financial Officer, provided an overall report on fiscal health of the agency. It's a robust process when we ask for increases or changes to our budget. Everyone from every region has a voice via the regional supervisors. This is effectively the EPP requests. This Session is starting with over 400 requests. This information can be found on the Governor's website under the Office of Budget Planning; memos can be found there, and we are Section C.

FWP is self-funded. We receive zero general fund dollars. Our funding comes from license sales, State Park license plate fees, coal tax, bed tax, and marijuana revenue which goes to help fund Habitat Montana. License sales have been consistent, but we have seen a drop in the federal Pittman-Robertson funds over the last two years. PR funds come from excise tax on the sale of things like guns, ammo, archery equipment, etc. These funds are down about 25% this year. House Bill 2 requests give us the ability to move between State and Federal authority. This provides for some flexibility if PR funds continue to decline. Our budget is large. In our most recent EPP request, we asked for 30 base FTE and 15 proprietary FTE. This is a really big ask this year, but we have support from the Governor.

The annual budget cycle starts with HB140 with a report every January. This report takes a look at all the mechanisms we have in the general license fund and if we need to do a fee increase. We are not going to ask for a fee increase this session. Big projects like the Glasgow office expansion are funded from the general fund.

Senator Phalen asked why we are advertising conservation easements and seem to be wanting more producers to get into easements. Brad replied that what Senator Phalen is most likely seeing are now Habitat Conservation Leases (HCL), not conservation easements which were highly controversial. Two years ago, we looked at conservation easements and determined that we weren't getting them accomplished because the politics associated with them were so high. The perpetual nature of them was detrimental. HCL's are very similar in that they help to protect habitat, allow for property to remain in production agriculture, and have an access component so, therefore, are way more acceptable to everyone. We have 10 HCL's in the first batch. There are some terms. Brett went on to explain that there are some terms with HCL's such as leaving native range and not tilling, allowing public access, etc. There are sideboards that say you can't put in pipelines, for example; there's just a process for doing so. Subdividing is not allowed. Brad added that we recognize the high political nature of these and worked with the Governor to make sure they were term leases.

Liz asked if there are still any perpetual easements on the books. Brad answered yes, but not in Region 7. The bar has been raised because of the angst associated with perpetual easements and they have to have the full support of the respective County Commissioners. This puts the onus back on the

landowner to work with their County Commissioners, and they take a long time so we're doing fewer perpetual easements these days.

Rep. Kmetz inquired as to where the money for HCL's comes from, Brad replied that they are funded by Habitat Montana. Lena added there are no PR funds associated with these; it's more so the marijuana tax money.

Rep. Kmetz asked about FWP making outright purchases of property. Brad stated that those are hard to do, and if it happens it's usually small parcels. One example is the recent Isaac Homestead Wildlife Management Area addition. We were able to purchase and add that piece from a neighboring landowner and it worked well for both parties. The purchase created contiguous access and is pretty rare for us.

Sen. Phalen asked what happens to the tax base with HCL's? Brad noted that the landowner is still paying taxes to the county, none of those changes. The big positive is that an HCL doesn't take ag out of ag. The landowner still owns the property and still runs their operation. We're getting habitat value and a bit of access while the landowner keeps their ground in production.

Liz asked how much access we're getting. She said that it's very limited and little access in her experience. She feels the access piece is something that could be improved. Brad noted that a lot of entities provide easements, such as the U.S. Fish & Wildlife Service. Most of those aren't looking for access like we are. We are upfront about providing habitat preservation and access for the public. There is some negotiation on what that access has to look like, and an equation used by the Block Management program is utilized. HCL's are good middle ground.

Liz then asked about the addition to Isaac Homestead; is the intention to keep that undeveloped? Brad replied that the purpose of Wildlife Management Areas is to provide habitat preservation and for sportspersons to be able to use that ground. That will continue with this piece of ground. Some ag practices, like grazing and a little farming were already happening and we intend to leave that in place. We often utilize a sharecropper and those have been good, mutually beneficial arrangements.

#### **Program Updates:**

**Maintenance:** Jamie noted that we hired a new Maintenance Supervisor, Joe at Makoshika. He takes care of an area covering the Lower Yellowstone area to the North Dakota border, and also takes care of Makoshika. Projects this year include the Stipek boat ramp improvements, Seven Sisters road repairs and other road projects, the Intake water project which involved a new well and distribution system, the Tongue River Reservoir cabins (which was a larger capital project), work on the Makoshika campground, and projects around the headquarters. He has a great crew but was a little understaffed this year. He also deals with county weed contracts, which are MOU agreements for weed spraying at some of our sites. The Treasure County coordinator retired and hasn't been replaced so there hasn't been a contract there, and he is hoping to have a private contract next spring.

**Enforcement:** Maribeth noted that Ryan Kasson left and a new hire, McKenzie Clark, will be starting in January and soon after going to the Montana Law Enforcement Academy. McKenzie is a native Montanan and worked on the fisheries crew here this summer, is an avid outdoors enthusiast and will be a good fit. Hunting season was slow compared to previous years. Wardens saw the typical types of

violations and had some good investigations. They deal with lots of access and hunter questions. The new Conservation License requirement has been a hot topic and they've been working hard to provide education on that.

Wildlife: Brett noted that deer surveys were positive with a 20% increase seen in mule deer overall, but the region is still about 40% below the long-term average. This increase is attributed primarily to fawn survival. Check stations were completed last weekend; total hunters were down. Staff saw lots of mature animals. Elk numbers are strong in the region. We did have our first CWD-positive elk in the region. Several pheasant releases took place this fall. Upland bird numbers are strong and there have been lots of satisfied hunters. The Isaac Homestead addition had been something we were hoping for for a long time and are glad to have accomplished. We received 16 applications for 88,000 acres in the last cycle of Habitat Conservation Leases, which just closed. The first moose license in Region 7 was issued this year and a bull was taken by a resident out of Sidney.

Admin Support: Erin explained the makeup of her staff, that being one full-time and one part-time admin assistant. The front office has two main busy times of the year. The primary one is March when the new license year begins, and the main nonresident application period takes place. This is also when she and her staff are providing full-time support to Licensing in their call center. The second busy period is expectedly during hunting season, typically from the beginning of September to the end of November. This year, Admin staff were tasked with being in the Licensing call center year-round now, as well as providing support to Block Management by assisting with contract quality assurance and the pilot process for online BMA reservations. Our region is one of two with the most BMA's (approximately 240 in this region) and has the least amount of admin staff, so this was a definite workload for her staff but nice to see what that process looks like for Travis and his crew.

Fisheries: Brad reported for Mike who had to leave for a different meeting. Mike is heavily involved in the Tongue River water users group. The crappie population at Tongue River Reservoir is notably down, while walleyes are up. We are working to recreate that balance. The Miles City Hatchery has recently been successful in propagating crappies so that is promising. Mike has spent a lot of time on the proposed fishing regulations which include several proposals surrounding paddlefish regulations.

Comm Ed: Marla has spent a lot of time this year providing communication. This has included explaining mule deer management, working with Divisions on press releases and social media, hunter ethics, licensing changes, and Mike's efforts on the crappie population and fish regulations changes, just to name a few. It was a busy year for education, which those programs are under her. This includes working with volunteers, etc. It has been busy since the pandemic and related changes to education programs, including our return to a Hunter/Bowhunter Ed field day requirement for minors. She is trying to rebuild our volunteer instructor force. Aquatic ed is always steady with kids fishing days and similar programming. She has a Pathways student working with her through the local high school, who has been learning all kinds of things in all of our divisions.

Parks & Outdoor Rec: Brian noted that our region has five state parks, 25 fishing access sites, and now the new cabins at Tongue River Reservoir which will be open year-round. We installed a new dock at South Sandstone, which was donated by Exxon. He has been working with Walleyes Unlimited to get a new boat ramp here at town. The Walleyes group is doing a wonderful job of fundraising for that, and we should be able to use some Dingell Johnson funding. There are plans for a new campground at Makoshika next year which should include 20 new sites and a playground. The designs are coming along

nicely. We are pursuing PR money for the archery range and course at Makoshika. There has been lots of programming for youth and families this year.

Access: Travis noted that he has two full-time staff, plus 12 access technicians. Block Management is easily the biggest of the access programs. Region 7 has 335 landowners for 246 BMA's totaling approximately two million acres. The Department piloted a reservation system for BMA's this fall for six or seven BMA's, including one here in Region 7. That BMA had a reservation every single day of the season. There is intent to expand that next year. He will be attending the Access Manager meeting in a few weeks. In 2020, the Public Access Lands Agreement (PALA) program was started, which is access through private land to inaccessible public land. We have 15 PALA's in the region for about 87,000 acres of public land. The PALA program is slowly growing statewide. There is also the Elk Hunting Access agreement program, formerly the 454 Program, which is fairly new to us. Through this, a landowner can receive an elk permit but is required to allow three additional public hunters. Lastly, there is a private land fishing access program, but it's pretty small and there isn't much funding right now. It's new and something we're trying to learn about and how to make it work. There is one project in this region with no payment associated with it. He and his staff just finished up hunting season and are busy entering hunter day data. BMA contracts will start again in March.

### **Roundtable**

Liz stated that in terms of maintenance, as big as this region is she frequently hears that things look really good and are well kept up. People are pleased and surprised of how things look in this region.

Rep. Kmetz stated that he sees that we're stressing education of hunters, and things are getting better in the field. People are seeing value in taking care of other people's property. We're turning out a better class of hunters and anglers. We should continue to train folks how to be better and keep landowners happy.

Bob noted that hunting season in his country was quiet. He asked if BMA numbers are going up or down. Travis replied that acres are declining but the number of landowners is staying the same. What's happening is the ones we tend to lose are bigger properties and new ones are smaller. There was an increase in acres last year but that went down again this year. The rate of decline is not drastic. The loss this year was between 70 and 80,000 acres.

Bob asked about access on the Ferguson place. Brad asked if he meant North or South Wildcat and Brian noted that the Ferguson piece is on the south side. Brad elaborated that those are two different agreements. The South one is in Block Management. The Montana Outdoor Legacy Foundation bought it and asked us to manage it for them. It is still in ag production. The North one is still in the midst of some negotiations with our Lands folks. Bob asked if anyone has heard of strain of pheasant called a blueback. He'd never heard of them, but a guy said he bought some from a game farm in WY.

Megan said she had lots of kudos for everyone's work this year, especially the educational program. Kids loved the bat walk and teachers loved the Project Wild workshop. This has been lots of good relations.

Ed noted that he saw quite a bit of things this fall, all positive. He spent quite a bit of time hunting in the Remington Fire area, and there was still animals there despite no moisture. On one trip he could smell a coal seam fire and is afraid there will be a lot of those popping up in the burn areas. Now is the time to get rid of them; folks should keep an eye out in the spring when they're out and

about. He saw an increase in the numbers of animals on the landscape. He would like to see the free youth Sportsman licenses reinstated for Hunter Ed graduates and believes those were a good incentive for kids to take the class. Overall, seemed like a decent year. And he got his elk.

Commissioner Lane mentioned that the November meeting was moved from October. The Commission is dealing with ramifications of grizzly bears and wolves, and now coyotes. He is keeping a close eye on that. He wonders if we are giving up too much to get grizzlies delisted to where we'll regret it later in terms of wolves and coyotes. He doesn't see anything hot button for the January meeting. He tries to do the best of representing Region 7 that he can but needs the input of the regional people.

Ms. Reddig said that she appreciated the invite. If there are any federal issues she can take back to Senator Daines, she's glad to do that.

Sen. Phalen asked about how BMA's can be put on State land and then lock people out. Travis replied that in 1992, FWP and DNRC entered into an agreement to incentivize landowners enrolled in Block Management to allow leased land to be formally enrolled in a BMA. In 1996, there was a public process, and anything formally enrolled had to go through public comment. This situation is mainly in Region 7. State lands were formally enrolled until the mid-2000s; we haven't done any since then but have acres enrolled from the mid-90's and 2000's that we're still dealing with. DNRC and FWP both have an ARM rule for this. We are not doing it anymore but still have to manage what we have. This restriction only applies during hunting season and became a bigger issue this year. Commissioner Lane noted that he had a few of those phone calls as well. He feels corner access is going to become an issue, too.

Sen. Phalen added that corner access has been brought about at least once. He wondered about deer numbers - where are they going down? Brett commented that whitetail numbers have gone down in the Glendive area where there was a fair amount of EHD outbreak. Mule deer numbers are down overall from the long-term average, but spring surveys are showing 20% increase, and staff in the field and hunters saw lots of fawns. Post-season surveys will start this week. Spring numbers will determine B tag numbers. The downward trend started in 2020 with drought, but we're now seeing an upward trend. Brad added that mule deer are different from whitetail and are highly impacted by moisture. Spring moisture is good indicator of what deer numbers are going to do.

Bob asked if BMA's can deny access to State land. Travis replied that if the State land is formally enrolled, yes. In BMA's where there are enrolled State lands, those sections are treated like private land during hunting season and take on the same rules as the BMA during hunting season.

Bob asked if an outfitter that acts as the lessee's agent can drive wherever. Maribeth replied that offroad travel is strictly prohibited by everyone. If a lease allows the lessee to drive wherever for checking cattle, etc., they may be able to give that privilege to the outfitter. That is a question for the land management agency.

### **Conclusion**

Brad closed the meeting by saying that he appreciated everyone's attendance. Legislators are always welcome to come to any of our CAC meetings. If legislators hit the Session and have questions or concerns, please call. We appreciate your efforts and help.