

April 26, 2012

Dear Senator Keane and Council Members:

For the record, I am Ed Smith, sponsor of the legislation that created the Pheasant Enhancement Program in 1987. I would have liked to be present, but due to a 530 mile trip to Helena and I will be 92 years old on May 7, I have authorized Senator John Brenden to testify on my behalf.

To give you some history, I served three terms in the House of Representatives and seven terms in the Senate. I am also an avid sportsman. In those 20 years I served 18 years on Fish, Wildlife and Parks legislative committee, so am very knowledgeable of Fish, Wildlife and Parks activities and their relationship with sportsman and landowners. Smith Farms is a family operation raising livestock and grain on 6,000 acres of owned and leased property that has been open to public hunting for 75 years.

In 1983, I and 13 other landowners organized the Sandhills Block Management area consisting of approximately 25,000 acres which was the first in the State of Montana that provided excellent hunting for deer and upland game birds. The Smith family had raised and release approximately 600, 10 week old pheasants for many years. We used the Aldo Leopold method that has been used for the introduction of pheasants in Iowa in 1931 and has been successful around the nation since then.

In 1987 my last term, I introduced the Legislation 87-1-246 through 87-1-250, M.C.A. I did that to coincide with the over 3 million acres annually that the Federal Conservation Reserve Program has provided excellent care for all wildlife. Section 87-1-246 states, "the amount of money specified in each section listed from the sale of each license must be used exclusively by the department to preserve and enhance the pheasant population", in accordance with 87-1-246 through 87-1-247, M.C.A. In the 1989 session through the influence of Fish, Wildlife and Parks the word habitat was added with the promise it would not affect pheasant release. In SB 304 in the 2001 session the word pheasant was replaced with upland game birds. However, in SB 304 it states 15% of funds collected under 87-1-246 must be set aside for pheasant releases. That being said, lets review the Upland Game Bird Budget Report for 1989 through 2011 (copy enclosed). Fish, Wildlife and Parks spend \$13,383,300.00 of Upland Game Birds Funds, \$943,563.00 of Pittman-Robertson funds, \$1 million for sagebrush leases and \$1 million for Federal matching funds and there is a \$3.2 million surplus in the budget. Fish, Wildlife and Parks continues to blame the expenditure of pheasant releases on their failure to the habitat program when it had no effect whatsoever. Also, the budget shows that for the last 16 years the number of upland game bird licenses sold failed to increase. How ridiculous.

I have spent hundreds of hours and thousands of dollars in an attempt to hold Fish, Wildlife and Parks accountable for the expenditure of the funds created by the law I initiated. I have been

EQC
May 1, 2012
Exhibit 7

involved in the creation of four Legislative Audits, all found in non-compliance with that law and the rules adopted by Fish, Wildlife and Parks to implement that law. Now, we have the 12 member Councils Strategic Plan and their proposed amendments and Fish, Wildlife and Parks proposed amendments.

READ: County Commissioner Bill Nyby comments and response. It was in 2003 when the legislature passed HB 499 which was to correct the upland game bird problems as Julie French stated at the January 9, 2011 meeting, after years of trouble and neglect, Montana's much-maligned upland game bird program is now aimed in the right direction.

After all the efforts as I mentioned where do we go from here?

I want to revert to a letter I sent to Fish, Wildlife and Parks Director Joe Maurier referring to a letter to him on April 28, 2010 (copy enclosed). I want to refer to.

I am enclosing several letters that I want to address that were sent to Debbie Hohler, Upland Game Coordinator, on January 25, 2012 and her response dated February 29, 2012 and another March 7, 2012 and March 12, 2012. I would also mention a letter I sent to Fish, Wildlife and Parks Director Joe Maurier on February 11, 2012. As of this date, I have not received a response which appears to be a violation of Section 9 of the Montana Constitution and Section 2-6-102 Citizens entitled to inspect public writings.

I would like those letters read and placed as a matter of record. I would also like to include four letters read and placed in the same manner. A letter dated November 3, 2006 from Fish, Wildlife and Parks Director Jeff Hagener, a letter dated May 27, 2010 from Fish, Wildlife and Parks Director Joe Maurier, another letter dated November 10, 2010 from Director Joe Maurier, and a letter dated October 21, 2010 from Deputy Director Art Novran. I am also enclosing several documents addressing Fish, Wildlife and Parks failures to comply with the law and rules of the EQC members to review. I hope the EQC remembers our oath of office and our duties that anyone who violates a law is prosecuted.

Thank you for allowing me the time to address my concerns and will be available to answer any questions when your meeting is in progress. My telephone number is 406-483-5484.

Sincerely,

Ed B. Smith

Ed B. Smith, VP
Smith Farms, Inc.
288 Sandhills Rd.
Dagmar, MT 59219
Phn: 406 483-5484

Enclosures

Table 1.

Upland Game Bird Revenue and Expenditures FY 1988 - 2011

Fiscal Year	Income				Expenditures					Year End Balance
	Beginning Balance	License Revenue	Interest Revenue	Total Income	Bird Planting	Habitat Enhancement	Administration	Overhead	Total Expenditures	
1988		\$426,410		\$426,410			\$24,632		\$24,632	\$401,778
1989	\$401,778	\$590,534		\$992,312	\$10,489		\$15,573		\$26,062	\$966,240
1990	\$966,240	\$596,666		\$1,562,906	\$21,642	\$88,299	\$10,824		\$120,765	\$1,442,141
1991	\$1,442,141	\$808,631		\$2,250,772	\$978	\$579,724	\$28,191		\$608,893	\$1,441,879
1992	\$1,441,879	\$865,303		\$2,307,182	\$5,151	\$701,735	\$50,508		\$757,394	\$1,349,788
1993	\$1,349,788	\$882,279		\$2,232,067	\$1,884	\$1,053,665	\$52,850	\$107,415	\$1,215,814	\$916,253
1994	\$916,253	\$859,332		\$1,775,585	\$571	\$836,718	\$24,583	\$114,163	\$977,935	\$489,580
1995	\$489,580	\$885,515		\$1,375,095	\$1,299	\$891,398	\$41,342	\$82,753	\$1,006,790	\$88,305
1996	\$88,305	\$881,767		\$970,072	\$28,193	\$328,577	\$50,240	\$119,202	\$526,212	\$247,860
1997	\$247,860	\$740,955		\$988,815	\$55,437	\$714,248	\$53,936	\$55,489	\$879,110	\$109,695
1998	\$109,695	\$736,241		\$845,936	\$118,178	\$598,824	\$37,281	\$86,882	\$840,165	-\$2,829
1999	-\$2,829	\$748,389		\$745,560	\$35,403	\$108,920	\$58,263	\$53,177	\$255,763	\$489,797
2000	\$489,797	\$780,339	\$39,339	\$1,309,475	\$1,821	\$148,482	\$58,545	\$21,110	\$230,958	\$1,082,547
2001	\$1,082,547	\$671,778	\$72,286	\$1,826,611	\$11,200	\$184,830	\$40,529	\$22,106	\$358,665	\$1,567,924
2002 Adjustment*				\$0				\$178,413	\$178,413	-\$178,413
2002	\$1,389,511	\$689,710	\$47,968	\$2,127,189	\$40,878	\$144,321	\$80,957	\$18,584	\$284,740	\$1,844,449
2003	\$1,844,449	\$638,343	\$29,043	\$2,511,835	\$84,003	\$197,828	\$81,594	\$27,489	\$390,914	\$2,139,291
2004	\$2,139,291	\$680,078	\$24,488	\$2,843,857	\$99,836	\$107,527	\$48,143	\$28,395	\$284,901	\$2,568,874
2005	\$2,568,874	\$675,917	\$61,580	\$3,206,371	\$94,839	\$101,433	\$53,814	\$18,978	\$309,064	\$3,037,479
2006	\$3,037,479	\$680,941	\$118,025	\$3,836,445	\$114,232	\$748,713	\$56,488	\$45,803	\$985,236	\$2,873,401
2007	\$2,873,401	\$687,654	\$152,134	\$3,613,189	\$130,100	\$568,425	\$47,880	\$24,877	\$771,882	\$3,152,097
2008	\$3,152,097	\$701,343	\$130,381	\$3,983,821	\$131,808	\$508,739	\$82,381	\$23,187	\$746,015	\$3,237,905
2009	\$3,237,905	\$689,147	\$53,315	\$3,980,367	\$161,269	\$241,910	\$100,635	\$27,580	\$531,394	\$3,458,973
2010	\$3,458,973	\$680,704	\$11,407	\$4,151,084	\$124,410	\$203,478	\$286,063	\$32,533	\$646,484	\$3,524,600
2011	\$3,524,600	\$681,367	\$9,889	\$4,215,856	\$112,002	\$677,458	\$158,330	\$58,272	\$1,006,062	\$3,211,794
TOTALS		\$18,888,341	\$748,783	\$19,637,124	\$1,281,434	\$8,638,718	\$1,478,188	\$1,131,978	\$13,635,309	

* An adjustment was made to the balance as a result of the FY1997-1998 audit by the Legislative Auditors Office (repayment to the USFWS).

Documents shows only \$91,890 spent for pheasant releases in 2011.

H:\BUDGET\Denise\05 Wildlife\UGB\UGB PROGRAM rev_exp FY88_11.xls\Sheet1

SWP and the 12 member Council in 2009 authorized a \$250,000.00 expenditure to hire 3 Biologists to remedy the pheasant problem in NE Montana. Drew Henry has failed to accomplish anything as records will show.

\$13,623,800.00 Upland Game Bird funds
 # 943,563.00 Pitt-Men-Robertson funds
 # 1,000,000.00 Sage Brush leases.
 \$1,000,000.00 Federal Matching Funds
 \$16,566,863.00 Spent on the Upland Game Bird Enhancement Program.
 Plus \$3.2 million surplus and NO increase in bird license sales.

April 13, 2012 3:20 PM

News report

Director Maurier, Ms. Dockter and Fish, Wildlife and Parks Commissioners,

I am submitting the following comments concerning the proposed amendments to the Administrative Rules regarding the Upland Game Bird Enhancement Program.

The majority of the amendments appear to be minor housekeeping changes that will clean up most of the confusion with the rules of the program.

Reading the text, I noticed one area that needed clarification and definition and that dealt with "effective winter cover". As I read further, I see that concern was addressed as a "**NEW RULE I DEFINITIONS**". I believe this area still is quite open for discussion, because there will surely be differences of opinions on "effective cover". I believe it needs to be studied more and the definition needs to be more specific in terms of the types of cover, so there is no room for different interpretations.

The biggest concern I have with the rule changes is "**Rule 12.9.706 EFFECT OF RULE VIOLATIONS**". The changes being proposed in this rule are definitely not acceptable to me. There are several instances where the word "agency" or "agencies" has been inserted into the language in several of the rules. I believe these words need to be removed from the proposed amendments, because the Department of Fish, Wildlife and Parks should not be entering into habitat contracts with other federal or state agencies. The opportunity for corruption and misuse of taxpayer's dollars and hunting fees is too great. This corruption and misuse of funding has been quite evident in many of the documents I have received from Mr. Ed Smith concerning expenditures of Upland Game Bird Enhancement Program dollars in past years, since the inception of this program through legislation written by Senator Smith.

I also do not like the striking of the word "will" and inserting the word "may" in this rule. To me, this looks like a ploy by the Department to relieve the Department of all their transgressions, improper use of funds and unethical misuse of the intent of this legislation. Many of the documents I have reviewed from Mr. Smith, in my understanding, border on unethical and possible criminal activity. The Department needs to be held accountable for their actions. By removing "will", the Department will be off the hook for their past dealings. I feel the Department of Fish, Wildlife and Parks should be investigated by an

independent agency or law firm, not affiliated with any state agency, to determine if criminal activity has indeed occurred or taken place with any of the habitat contracts that have been negotiated and administered in the past years.

Sincerely,

William "Bill" Nyby

William "Bill" Nyby
Sheridan County Commissioner

As the sponsor of the legislation that created the Upland Game Bird Enhancement Program, I would like to include some additional comments to verify those made by Mr. Nyby regarding the proposed rule changes by Fish, Wildlife and Parks and Commission. I am a strong supporter of the March 2009 Audit, the passing of HB 499 and the creation of the 12 member Advisory Council to develop a 10-year strategic plan. As was stated in the January 2011 Billings Gazette quote, "After years of trouble and neglect Montana's much maligned Upland Game Bird Program is now headed in the right direction" according to Julia French, past Chairman of the Advisory Council.

My first question is, "Was the Council familiar of the proposed Amendments and do they support there adoptions?"

Also, in HP 499 may was removed and replaced with must to assure all requirements of the law and rules will create accountability.

To amend 12.9.706 Effects of Rule violations, which states any person or organization found in violation of any of the Upland Game Bird Enhancement rules will be disqualified from further participation in the program and be required to reimburse the department for compensation received. To exchange will to may and remove the penalty clause in unconscionable. I will destroy accountability.

If you have any questions, please call me (460) 483-5484.

Sincerely,

Ed B. Smith

Ed B. Smith, VP
Smith Farms, Inc.
288 Sandhills Rd.
Dagmar, MT 59219
Phn: 406 483-5484

March 20, 2012

Mr. Joe Maurier
FWP Director
Helena MT 59620

Dear Mr. Maurier:

~~On March 11, 2012, I received a copy of proposed amendments to the Upland Game Bird Enhancement law Sections 87-1-246 through 87-1-251 MCA and the ARM rules adopted by FWP to implement that law. First of all I request a copy of the 12-member council minutes when the Council adopted those proposed amendments. I realize many of the problems created by FWP happened before you became director, however, I would like to mention some issues that you and I have had.~~

I make reference to a letter from you dated May 27, 2010. On page 1, paragraph 2, you made reference to my opposition to the expenditures of \$200,000 of UGBHEP funds for the purchase of the Coffee Creek easement from the Central Montana Chapter of Pheasants Forever. In paragraph 2, you correctly stated there are three active UGBHEP contracts (#895, #919, #992) with the Central Montana Chapter on Coffee Creek, and combined, these three UGBHEP comprised six different habitat enhancements on Coffee Creek. The UGBHEP obligated total expenditures of \$645,584.3 for these three contracts. Per ARM rules you state not more than \$200,000 is to be spent for any single project. However Rule 12.9.703(5) states "Projects may not interfere with or duplicate other state or federal assistance programs". Note after the passage of HB499 in 2003, the word "may" was changed to "must" on all UGBHE programs.

I would also point out that #919 violated 12.9.703(b), it consists of only 40 acres not the minimum of 100 acres and the cooperator failed to contribute the 25% costs share authorized in 12.9.705(c). Contract 992 appears to have violated the fair market value by listing the cost of chemical application and cultivation by five to ten times the custom application rates and it appears by amendments to the 992 contract, that the landowner failed to contribute the mandatory 25% costs of the project.

On page 4 and 5, you referred to my comment that I made on the Memorandum of Understanding on 080617A and the proposed expenditures of \$175,000 of upland game bird funds. I question if this meets the requirement in 12.9.704 (1) through (4) when you state, "by itself, this MOU is not specifically an UGBHEP contract but rather a formal agreement for the partnership to engage in enhancing or establishing upland game habitat". Please explain.

On page 2 you state, "Mr. Smith identified concerns over contracts #549, #635, #637 #879 that were awarded an extra 10% and questioned 'Why Craig Roberts did not pay the 25% costs of the project that was a violation of 12. 9.705'". You went on to say that "each of the contracts Smith referred to were signed prior to 2001 ARM Rule. The 1989 ARM Rules (relevant at the time) allowed FWP to pay up to 100% of the costs (i.e. material labor etc.)" That statement is absolutely false. I would suggest you refer to 12.9.705(c). You will find that rule states, "the department will cover no more than 75/% of the total cost of any upland game bird enhancement projects entered into what a cooperator resulting in improvement on property owned or controlled by the cooperator". You will also find that rule became effective March 1989. Also 12.9.702(b) states "projects must be located within a suitable size area normally a minimum of 100 acres". That rule became effective March 1989 also.

In the last page paragraph 2, you stated "Mr. Smith correctly notes that the March 2009 audit report found that the UGBHEP database was incomplete and inaccurate on 80% of the contracts. You went on to state, "while the database may have uncompleted fields, FWP strongly cautions making the assumptions that 80% of the contracts are inaccurate as Mr. Smith's comments suggest".

Additionally you stated "Mr. Smith's assertions that FWP prove that Craig Roberts and hundreds of others violated these contracts is extremely inappropriate". Mr. Maurier, if you find the 2009 legislative audit that I based my comment on is incorrect or inaccurate please contact them. The legislative auditor has conducted four audits and all found non-compliances in UGBHEP by FWP. I am enclosing a letter I faxed to you dated February 11, 2012 which has not been answered. I will be looking forward to your response.

Sincerely,

Ed B. Smith

Ed B. Smith
288 Sandhills Rd.
Dagmar, MT 59219
Phn: 406 483-5484

Provide copy of 1090 contracts

xc. Governor Schweitzer
Angie Grove
Hope Stockwell
Sen. John Brenden
Rep. Austin Knudsen
Debbie Hohler
Steve Bullock

ATTORNEY GENERAL
STATE OF MONTANA

Steve Bullock
Attorney General



Department of Justice
215 North Sanders
PO Box 201401
Helena, MT 59620-1401

February 1, 2011

Mr. Ed B. Smith
Smith Farms, Inc.
288 Sandhills Rd.
Dagmar, MT 59219

Re: HB 499 reply

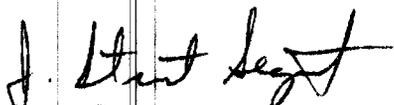
Dear Mr. Smith:

On January 31, 2011 this office received a fax from you containing a second letter regarding HB 499. In my prior response dated January 26, 2011, I informed you that the Department of Fish Wildlife and Parks ("FWP") is not required by statute to adopt specific rules to implement HB 499. Likewise, the statutes you cite in your current letter, most of which describe the statutory process for adopting rules, do not require FWP to adopt specific rules to implement HB 499, though you claim otherwise.

You also ask who is responsible for ensuring that FWP's administrative rules are followed. These rules were adopted and are enforced by FWP. The Attorney General has no direct authority over FWP. Instead, the Department is under the authority of the Governor. I see that you have contacted both FWP and the Governor's office.

The Attorney General is also unable to provide you with an opinion as to whether FWP has appropriately spent upland game bird enhancement funds. By statute, opinions of the Attorney General may only be rendered upon request of those public officials designated in Mont. Code Ann. § 2-15-501(7), and then only in regards to questions of law that relate to their respective offices.

Sincerely,


J. Stuart Segrest

c: FWP

February 24, 2012

Ms. Hope Stockwell
Montana Legislative Services Division
Helena, MT 59620

Dear Hope:

This letter is in response to the remarks you made in your letter to me dated January 27, 2012.

My question to you was, "Does the Department of Fish, Wildlife and Parks and the Advisory Council have to follow the Montana open meeting law?" You stated yes, and added "the Legislative Audit Division has reviewed your concerns about whether Fish, Wildlife and Parks and the Upland Game Bird Enhancement Program Advisory Council have met the requirements of the Montana open meeting law. Angie Grove, Deputy Legislative Auditor says she found no violations." That being said, brings up a much larger question. Has Fish, Wildlife and Parks and the Advisory Council followed the requirements of the Upland Game Bird Enhancement laws I created in 1987 which Fish, Wildlife and Parks adopted ARM rules to implement that law 87-1-246 to through 87-1-231 MCA?

My other question was, "Is Fish, Wildlife and Parks legally able to maintain a \$3.2 million balance in the Upland Game Bird Enhancement fund?" Your answer again was yes. You then stated "the Upland Game Bird Enhancement Program is making progress in spending more revenue dedicated to the program with the hiring of three Biologists in the winter of 2010 and 2011 and the program spent \$400,000.00 to \$500,000.00 more on projects than in the previous two years."

Aren't you aware this program has been in effect for over 20 years and Fish, Wildlife and Parks has had 15 years of where the Upland Game Bird Enhancement Program had over \$1 million unspent balance in that account? Fish, Wildlife and Parks and the Advisory Council have falsely led the public to believe the cost of pheasant releases was affecting the habitat program. It had no effect whatsoever. Every dollar of unspent funds could and should have been used for habitat and other things required in 87-1-246, MCA. I am enclosing a letter I sent to Upland Game Bird Enhancement Program coordinator Debbie Hohler dated January 25, 2012 that was never answered.

This appears to be a violation of ARM rules and Montana's open meeting law. I feel Fish, Wildlife and Parks have an obligation to provide the request I made and I would appreciate your and Angie's help to get the information I requested.

If you have any questions, please give me a call at 483-5484.

Sincerely,

Ed B. Smith

Ed B. Smith, VP
Smith Farms, Inc.
288 Sandhills Rd.
Daguer, MT 59219
Phn: 406 483-5484

Enc.

xc: Governor Brian Schweitzer
FWP Director Joe Muirier
Rep. Austin Knudsen
Sen. John Brenden
Angie Grove
Sheridan County Commissioners

Attorney Steve Bullock

Copies Sent to Mr Bullock

*Hope Stockwell Dated Feb 24, 2011
Letter from Hope Stockwell " Jan 27, 2011
Letter to Debbie Hoken " Jan 25, 2011
Letter to Joe Maurien " Feb 11, 2011
Upland Game Bird FY 1988-2011
Upland Game Bird Memorandum*

The auditor can only point
discrepances

March 2009 Audit

Program Management Information

Whereas strategic planning is often thought of as the beginning of the management process, management information provides data that facilitates performance measurement to ensure the plan is followed. Management information is used by managers and employees to make day-to-day decisions and to assess the efficiency and effectiveness of program activities. It is important for a program such as the UGBEP to have reliable and timely information to effectively manage the program. Part of our second objective evaluated the program information used to make management decisions.

Database Information Incomplete and Inaccurate

The program uses a database in Helena to compile information regarding operations. Information collected includes contract contact information and specifics regarding upland game bird release projects and habitat enhancement projects, such as project type and length, project size and hunting acreage size, cost-share data, etc.

Audit work found the program database has a significant amount of incomplete information. For example, we noted incorrect or missing data related to contract termination dates, hunting and project acreage, and cost-share requirements. The database includes information pertaining to all program contracts; both active and expired. The following table illustrates the type and extent of issues identified during our review of the database.

Table 7
Types and Amount of Incomplete Information Found in Database

Contract Component	Number Incomplete	Percentage Incomplete
Contract Termination Date	371	24%
Project Acreage	1,052	68%
FWP Cost-Share	513	33%
Landowner Cost-Share	1,245	80%
Third-Party Landowner Cost-Share	1,243	80%

Source: Compiled by the Legislative Audit Division from FWP records.

Expenditures for
habitat not included
Administration and
overhead FWP
spent \$8,507,864.
80% = 6,806,291
25% = 1,701,572
that FWP failed
to collect from
landowners and
organization in
violation of AR 11.
rule 12.9.705(1)(5)

As the table shows, the database is missing information for a significant portion of the contracts. For example, 24 percent of the contracts entered into the database had missing termination dates and 80 percent of project landowner cost-share data was missing.

March 2009 Audit

21

We also reviewed a judgmental sample of 10 habitat enhancement contracts and compared this to the information found in the database. This comparison identified inaccuracies with database information. For example, in one contract the database contained inaccurate contract effective date and project termination date information, was missing hunting acreage and FWP and landowner cost-share data, and had an inconsistent county location.

Database Inaccuracies Impact Program Management

The current state of the database impacts the department's ability to effectively manage the program. For example, ARM 12.9.705(1)(c) states "the department will cover no more than 75 percent of the total cost of any upland game bird habitat enhancement project entered into with a cooperator resulting in improvements on property owned or controlled by that cooperator." However, the information in the database does not provide the department with the ability to readily determine if projects are in compliance with this requirement without reviewing each individual contract.

Unreliable database information also inhibits the department's ability to accurately assess program trends statewide and in the regions. For example, it is difficult for the program to correctly measure the total number of hunting acres available. Personnel are also unable to use the information to evaluate potential impacts of expiring habitat enhancement projects, or determine which areas of the state FWP should focus or prioritize its efforts to bring new landowners into the program.

Program Information Needed at Regional Level

In addition, regional personnel do not have access to the program database, which limits their ability to readily access program management information. Currently, regional personnel must rely on copies of contracts to identify project requirements and attributes. Access to the database would allow personnel to retrieve valuable regional program information and make informed decisions about what kind of projects are needed and where these projects should be located. Providing access to regional personnel would also allow them to more proactively manage the program. This will be especially important in the coming years as the program finds itself decreasing in size and in need of more proactive management.

Other FWP Programs Provide Regional Database Information

FWP's Block Management program is a hunter access enhancement program which is generally administered by the regions. As discussed in Chapter III, the Block Management program relies on regional staff to develop contracts with private

THE UGBHE PROGRAM

From 06/20/1992 to 01/21/2005, FWP negotiated 365 shelterbelt contracts totaling \$2,459,813. Of that amount of UGBHE funds, 311 contracts involved less than 100 contiguous acres, and 283 landowners were not required to cost share 25% cost of the projects. The total costs of those projects listed was \$1,990,616, apparently in violation of 12.9.702(b) and 12.9.705 (4).

I know find, according to page 28 of the December 2000 audit, it states that in each office there are now maps showing the location of UGBHE project sites which are greater than 40 acres in size. I have a document taken from FWP records showing that 296 shelterbelt contracts are 40 acres or less. So apparently the sites were never monitored or signs posted.

From 11/03/1991 to 03/25/2003 FWP negotiated 102 range management contracts with landowners totaling \$2,604,754. Of that amount 70 landowners were paid \$1,401,898. FWP failed to have the landowners cost share 25% of the cost of the project which is required in 12.9.705(4). Twenty of those contracts consisted of less than 100 contiguous acres which is required in 12.9.705 (4).

12.0.702(1) states Projects must meet the following requirement before the department may authorize participation in the program.

- a) Projects must be designed to establish or improve habitat components such as a combination of nesting cover, winter cover, and feeding areas that are not present on the area.

Would FWP explain how these requirements could be established on the 296 shelterbelt projects that consist from 1/2 to 40 acres.

Speaking of food plots, according to information taken from FWP records there were 14 food plots planted in Region 6 consisting of 9 counties from 2001 through 2007 and FWP refused to provide supplemental feeding of upland game birds under severe weather conditions until passage of SB304 in 2001 which required the department to do so.

That is like the requirement in SB304 that required FWP to spend 15% of the \$690,000.00 collected in hunter license fees for releasing pheasants which FWP attempted to terminate in SB17 in the 2007 session. *attach*

I have documented proof that the pheasant release part of the UGBHE part of the program is much more successful than the millions of dollars spent for habitat enhancement projects.

I now find that sixteen range management contracts consisting of 40 acres or less were mentioned in the December 2000 audit.

Sincerely,

Ed B. Smith

Ed B. Smith
288 Sandhills Road
Dagmar, MT 59219
Phone: 406-483-5484

Debbie Hoxler
W&BE Coordinator
Helena, MT, 59219, fax 444-0266

January 25, 2012

Dear Debbie,

Thank you for sending the minutes of the Council meetings and the number of pheasant releases and costs of supplemental feeding statewide.

On January 12, 2012 I asked you to send me a list of expenditures for habitat enhancement contracts from 2002 through 2011. That is not necessary.

See Daley sent the Upland Game Bird Revenue, and expenditure 1999-2011 report. In see the 2011 expenditure there was a very large increase in habitat enhancement to the amount of \$677,456 and a reduction of pheasant releases to \$112,002 and still a \$3.2 million year end balance.

As you can see the cost of releasing pheasant has no effect on the habitat part of the program what so ever

What I request is of the \$677,456 expenditure is the contract number of each contract as to cost and purpose.

This is required in 87-1-247 authorized use of funds. (1) Subject to subsection (2) and (3), revenue dedicated to the upland game bird enhancement program pursuant to 87-1-247 must be used by the department to: (a) through (b) and (3) (a) and (3) as far as practicable, expenditures made pursuant to subsection (1) must be prioritized by administrative region based on need, taking into consideration any biological, recreational or economic benefit and the objectives in a strategic plan developed pursuant to 87-1-251 (2) (a)? I also request a copy of contract 592.

The weather to-day is great 50 above and no snow.

Copy of Aldo Leopold report enclosed.

Sincerely, Ed B. Smith
298 South Hill Rd
Logan, MT, 59219



**Montana Fish,
Wildlife & Parks**

P.O. Box 200701
Helena, MT 59620-0701

February 29, 2012

Mr. Ed Smith
288 Sandhills Rd.
Dagmar, MT 59219

Dear Ed,

I hope this letter finds you and Juliet doing well and looking forward to spring!

This letter is in response to your fax dated January 25, 2011.

Attached is Joe Perry's UGBEP contract that you requested. As to your request to review contracts and expenses relative to FY 2011 expenditures on habitat projects, I am working with the finance staff to ensure consistent reporting of projects.

My thanks for your patience. I will send the remaining information to you soon.

Sincerely,

Debbie Hohler
UGBEP Biologist

Enclosures: UGBEP Contract 592

Copy: Joe Maurier

FWP apparently needed time to prepare amendments

appears to be a stall?

No response to date March 22, 2012

Called Debbie Hohler. 4:00 April 19.

Mr Joe Maurier
FWP Director
Helena, MT. 59219.

February 11, 2012

Dear Mr Maurier

I find enclosed a letter I sent to Debbie Hahler on January 25, 2012 and another letter to Michael Rye on February 2, 2012 both seeking a response on activities conducted by FWP employees under your supervision. Neither have provided a response.

I am also sending a letter I received from EOC staff Hope Stockwell responding to information I requested if FWP and the 12 member Council were required to follow Montana's open meeting law which she assured me they were.

What I request of you is the same as I asked Debbie Hahler provide me with the expenditure of the \$677,456 for habitat projects in 2011 with contract numbers of each project and purpose. I also want a copy of project 572.

This request is required in Rule 12.9.704 that states (4) The department will compile an annual summary of projects undertaken under the upland game bird enhancement program, the types of projects entered into, and the associated costs of those projects.

I will be looking forward to your response

I received no
response
to date ~~3/17/2012~~
4/26. 2012

Sincerely,
Ed B. Smith
288 Sandhill Rd.
Helena, MT 59219

none

Debbie Hahler
USBP Biologist
Helena, MT. 59620

March, 7, 2012

Dear Debbie.

I am responding to your letter to me dated February 29, 2012 regarding to my letter to you dated January 25, 2012.

I will begin with Contract 592 with Joe Perry on 7 acres of his property which appears to have violated the following ARM Rules. 12.9.702(b) must be located within a suitable sized area normally a minimum of 100 contiguous acres. Rule 12.9.703(5) Projects must not interfere with or duplicate other state or federal programs. Rule 12.9.705(c) the Department will cover no more than 75% of the total cost of any upland game bird enhancement project entered into with a cooperator resulting in improvement on property owned or controlled by the cooperator.

Rule 12.9.706(1) Any person or organization found in any of the upland game bird enhancement rules will be disqualified from further participation in the program and will be required to reimburse for compensation received.

Debbie I am also enclosing a copy of a letter I sent to FWP Director Joe Maurer raising the same questions dated February 11, 2012. No response. Is Contract 592 a violation of the above ARM rules and the upland game bird enhancement laws?

It seems odd that the expenditures of \$677,458, of upland game bird funds for habitat projects may not be consistent as reported. After I receive that report I am sure there ^{will} be further comments.

Sincerely
Ed Smith

Gavina Schweitzer
Director Joe Maurer
Sen. John Brendon
Hope Stackwell
Angie Grove

Debbie Hohler

USBE Biologist

Helena, MT. 59620 Fax 444-0266

March 26, 2012

Dear Debbie,

As you will recall I sent you a letter dated January 25, 2012 requesting you to provide me with the expenditure of \$677,456.00 in the Upland Game Bird budget report for the 2011 habitat Projects

No reply. You stated in a letter dated February 29 you were working with the finance staff to ensure consistent reporting of projects.

I hate to see you put into this situation when all you can do is depend on others to provide that information. The open meeting law does require a response.

As you are aware other things have developed regarding the 12 member Councils reports - Others will have to handle that. I do have a request, would you send me a copy of a Sagebrush lease contract in Region 7 totalling \$288,625.00 and copies of contracts 739-744-924, 925

Thank you

Ed B. Smith

288 Sandhills Rd.

Dogman, MT. 59219

UPLAND GAME BIRD HABITAT ENHANCEMENT PROGRAM CONTRACT

The CONTRACT is between the Montana Department of Fish, Wildlife and Parks, called the Department, and Joe Perry
Cooperator

Box 131, Brady MT 59416, called the Cooperator. Cooperator's phone # _____
Mailing Address Zip Code

The purpose of this contract is to develop wildlife cover on 7 acres of land in Pondera County, Montana, according to the following legal description:

T 27N R 2W Section 13

The attached map(s)/site plan portray the area covered by this contract. The land and area covered by this contract is called the Project Area. The Project Area is 4 miles NE of Brady
(direction) (nearest town)

1. The Cooperator agrees to carry out the following projects and practices on the Cooperator's land described above:
Lay 1,300 feet polyfabric mulch over existing row caragana; prepare seedbed for 6.1 acres of grasses and legumes plus seeding.
- 2a. The project objectives and species of concern are: To establish grass and legume cover on 6.1 acres adjacent to existing waterfowl development area. This seeding will benefit waterfowl and upland gamebirds, such as pheasants and Hungarian partridge. Non-game birds and mammals will also benefit.
- 2b. The Department and the Cooperator agree to share the costs of the projects and practices as outlined in the attached construction outline, which is incorporated herein by this reference. The Cooperator must provide receipts for reimbursement for materials used, including seed, trees and other goods and services. The Department's obligation to pay for its share of the costs of each project or practice is contingent on payment by the Cooperator of its share of project costs, and satisfactory completion of the following practices and projects.

Practice Code	Term of Contract	Dates of Practice	Acres	Rate (cost/unit)	Total Material Cost	Total Practice Cost
<u>fabric mulch 1c</u>	<u>15 Years</u>	<u>04/95</u>	<u>0.2</u>	<u>\$0.30/ft</u>		<u>\$390.00</u>
<u>lay fabric 1c</u>				<u>\$0.05/ft</u>		<u>65.00</u>
<u>adjust cover 3c</u>		<u>05/95</u>	<u>6.1</u>	<u>\$26.00/acre</u>		<u>159.00</u>
<u>3c</u>				<u>\$25.00/acre</u>		<u>153.00</u>

.2 @ 2 C

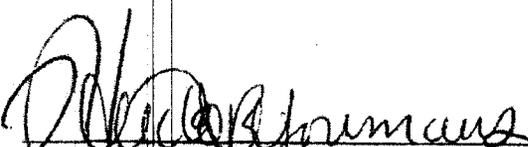
\$ 767.00 Total FWP Cost
 \$ _____ Cooperator/ASCS Share

3. This contract shall have a term of 15 years, unless terminated earlier, starting on the date written below next to the Department's signature. The Cooperator agrees to abide by all of the terms and conditions of this contract for the full term of this contract.
4. If the projects and practices are not satisfactorily completed by the Cooperator according to the schedule set forth in this contract, the Department may at its option terminate this contract, or extend the time for completion. The Department will notify the Cooperator in writing of the Cooperator's failure to complete the practice or project, and whether the Department has elected to cancel this contract or extend the time for completion of the project or practice. If this contract is terminated under this paragraph, the Cooperator will be obligated to repay the Department a sum computed under the formula set forth in paragraph 6 below.

5. On the contracted areas, the cooperator agrees:
- to protect all habitat from grazing, mowing, noxious weeds, fires, and tree cutting except as prescribed below:
6.1 acre tract north of buildings will not be grazed.
 - not to use pesticides, except as allowed with written permission by the Department representative specified in paragraph 7;
 - that reasonable free public upland game bird hunting will be allowed for the term of this contract. The landowner will retain the right to limit the number of hunters and those areas where hunting is allowed for the term of the contract. The area open to hunting is understood to include: Perry Farm
 - permit Department representatives access for inspection and study.
 - permit Department representatives to sign the project area with Upland Game Habitat Enhancement Program signs which may require hunters to ask permission or permit "walk-in only" hunting without permission. Cooperator further agrees not to post the project area with orange paint or "no hunting" or "no trespassing" signs.
6. This agreement shall be binding upon, and inure to the benefit of, the heirs, personal representatives, administrators, successors and assigns of the Cooperator and the Department. The Cooperator shall give notice to the Department of any changes in ownership or possession of the land covered by this contract. If the Cooperator's ownership or possession of the land ends during the term of the contract, and the new owner or possessor does not agree to continue this contract and be substituted as the Cooperator under this contract, this Contract shall terminate and the Cooperator shall repay to the Department a portion of the payments made by the Department, according to the following formula: multiply the sum of all payments made by the Department by the ratio obtained by dividing the number of years remaining in the term of the contract by the total number of years provided in the original term.
7. The Department designates Graham Taylor, its Regional Wildlife Manager (or assigned representative) in Great Falls, Montana, as its designated representative under this contract. All notices and communications with the Department shall be made by the Cooperator to the designated representative. All notices from the Department to the Cooperator shall be made in writing to the Cooperator at the Cooperator's address specified above. The Department may change its designated representative, and the Cooperator may change its address, by either party notifying the other in writing of such change.
8. No modification or extension of this contract will be effective unless put in writing and signed by both the Cooperator and Department. This contract supersedes all previous contracts or agreements of any kind between the parties. No failure by the Department to act on any particular matter under this contract shall constitute a waiver of the Cooperator's obligations under this contract, nor shall the Department be estopped in any way.
9. The Department's obligation to make the payments provided in this contract is contingent on the continuation of appropriations by the Montana legislature. If sufficient appropriations are not made, the Department may cancel this contract without any further obligation to the Cooperator.
10. This contract is not binding until signed by the Department or his/her designated representative, and is effective as of the date set forth below.
11. Any obligation of the Cooperator to repay the Department any sum under this contract shall continue in full force and effect following termination of this contract. In the event of any litigation between the parties to this contract, venue shall be in the district court of Lewis and Clark County, Montana. This venue provision shall remain in full force and effect following termination of this contract.
12. The cooperator understands and agrees that if the cooperator owes a sum of money to the state and/or federal government, the state will deduct such sum from the money to be paid to the cooperator under this contract.


Cooperator

Cooperator Social Security / Fed. Tax ID # (required before payment can be made)


Director or designated representative

3/24/95
Date

JOE PERRY HABITAT PROJECT

This project will enhance 7 acres adjacent to a waterfowl development on the Perry Farm. It is proposed to seed approximately 6.1 acres to permanent vegetation (grasses and legumes) next to the wetland and creek system running west to east through the property, 4 miles northeast of Brady.

The following seed mixes are recommended:

6.1 acre tract:

western wheatgrass @ 4 lb/acre,	\$2.95/lb =	\$11.80
green needlegrass @ 2 lb/acre,	\$3.60/lb =	7.20
bluebunch wheatgrass @ 2 lb/acre,	\$3.05/lb =	6.10
alfalfa @ 0.5 lb/ac,	\$1.00/lb =	0.50

TOTALS = 8.5 lb/acre \$25.60

If one or more of the native species is unavailable, an equivalent amount of tall, intermediate or pubescent wheatgrass may be substituted in the mix.

Polyfabric mulch will be laid over 1,300 feet of caraganas to be planted in April, 1995. Total cost for fabric and laying will be \$455.00. The caraganas are the outer row of a three row shelterbelt planned for 1995.

Seed bed preparation for the 6.1 acres will be reimbursed at a rate of \$25.00/acre, for a total of \$153.00. Grass seed for this tract will cost approximately \$159.00. Total cost to FWP for the project is \$767.00.

The cooperater wants to expand the shelterbelt in the future and seed another 20 acres to dense nesting cover adjacent to the current project.

A variety of waterfowl species, pheasants and Hungarian partridge are currently found in the project area. Establishing additional nesting and escape cover will result in increased survival for these species. Hunting by permission is currently allowed.

Cooperator demonstrates willingness (and by practice) to sacrifice acreage to upland bird and waterfowl production. He has existing 'contracts' w/USFWL. Svc., SCS and DU for waterfowl enhancement work. ft

Signed by Craig Roberts Contracts Council Member
Any time one signs a contract your liable

# 549	6.0 acres	subtotal \$9,041.00	10%	904.00
# 637	2.8 acres	" " \$4350.50	10%	435.05
# 879	100 acres	" " \$10100.70	10%	1010.07
# 919	40 acres	" " \$21808.40 \$45,308.60	10%	<u>2180.84</u> \$6710.80

These Contracts made prior to SB304 2001 Legislation when the
10% expenditure ~~was~~ ^{became} a legal appropriation

\$6710.80 misappropriated \$45,308.60 Cost of projects \$52,019.40

All the above contracts violated 12.9.705(c) The department will
cover no more than 75% of the total cost of any riparian game
bird habitat enhancement project entered into with a cooperator
resulting in improvements on the property owned or controlled by the
cooperator. 3 of the above contracts also fail to comply with
12.9.702 (b) projects must be located within a suitable area normally
a minimum of 100 contiguous acres and shelterbelts cannot
be located within 400 feet of occupied buildings or outbuilding
used by livestock. (c) all projects on private land must be implemented
through access conservation easement or by department cost sharing
with the landowner, project sponsor, or a federal cost share program.
Now Contract 992 do not expire until 2018. Land description
is identified in Contract 992 and the \$200,000 purchase of the
Central Montana Chapter of Pheasants Forever on Coffee Creek which
would exceed the \$200,000 limit

The price paid for Roundup applicator 1 time at \$45.00 per acre is
10 times the established custom rate. fraud?



Montana Fish, Wildlife & Parks

P.O. Box 200701
Helena, MT 59620
406-444-5633
rnorthrup@mt.gov

November 4, 2009

I want

Mr. Ed Smith
288 Sandhills Road
Dagmar, MT 59219

Dear Ed,

I hope this finds you doing well. Per our telephone conversation on October 29, you requested a list of Upland Game Bird Habitat Enhancement Program projects that I worked on while I was stationed in Plentywood.

The following table of information came from the program database and is a summary of projects I recall writing contracts for.

Contract Number	Cooperator Name	Project Type	County	Project Effective Date
715	HAGAN BROS.	WINTER FOOD OR COVER PLOTS	DANIELS	4/28/1997
327	RASMUSSEN, FARRELL	NESTING COVER	SHERIDAN	5/15/1997
694	DANELSON, ALAN	SHELTERBELTS	DANIELS	6/30/1997
739	MYHRE, HARRY	NESTING COVER	DANIELS	8/5/1997
739	MYHRE, HARRY	SHELTERBELTS	DANIELS	8/5/1997
753	SAFTY, RON	NESTING COVER	DANIELS	9/25/1997
729	JOHNSON, KEN	NESTING COVER	SHERIDAN	9/26/1997
712	FOUHY, LAWRENCE	NESTING COVER	DANIELS	10/3/1997
744	ODEGARD, CARL	NESTING COVER	SHERIDAN	10/6/1997
744	ODEGARD, CARL	SHELTERBELTS	SHERIDAN	10/6/1997
777	LARSON, HANS	NESTING COVER	SHERIDAN	10/8/1997
705	DRUMMOND, FRANCES	NESTING COVER	DANIELS	10/13/1997
838	BOGAR, BRUCE	NESTING COVER	MCCONE	10/19/1997
871	BJARKO, ALBERT	NESTING COVER	DANIELS	10/27/1997
795	CROHN, JOHN	NESTING COVER	SHERIDAN	10/28/1997
796	GOULET, GERALD	NESTING COVER	DANIELS	2/11/1998
863	SORENSEN, JOHN	NESTING COVER	ROOSEVELT	6/26/1998
846	LINDER, GARY	NESTING COVER	DANIELS	6/26/1998
842	FOUHY, ERNEST R.	NESTING COVER	DANIELS	6/26/1998

Contract Number	Cooperator Name	Project Type	County	Project Effective Date
878	OSTER, DONNA L.	NESTING COVER	DANIELS	6/26/1998
897	DAVIS, LEE & MARILYN	GRAZING MANAGEMENT	DANIELS	4/12/1999
926	CHRISTENSEN, JOHN	NESTING COVER	SHERIDAN	11/1/1999
924	BERTELSEN, ROGER	NESTING COVER <i>71 acres</i>	ROOSEVELT	11/1/1999
910	HOVEN, JAMES	NESTING COVER	SHERIDAN	11/1/1999
925	HAGAN, BRIAN	SHELTERBELTS <i>2.6 A</i>	DANIELS	11/1/1999
900	SORENSEN, DICK	NESTING COVER	SHERIDAN	11/24/1999

Please let me know if you have questions.

Sincerely,



Rick Northrup
Game Bird Coordinator



HOME SEARCH COMMENT ABOUT US CONTACT US HELP

Rule: 12.9.706

Prev. Ver. Next

Rule Title: EFFECT OF RULE VIOLATIONS

Department: FISH, WILDLIFE, AND PARKS, DEPARTMENT OF
Chapter: WILDLIFE DIVISION
Subchapter: Upland Game Bird Habitat Enhancement Program



Latest version of the adopted rule presented in Administrative Rules of Montana (ARM):

[Printer Friendly Version](#)

12.9.706 EFFECT OF RULE VIOLATIONS

(1) Any person or organization found in violation of any of the upland game bird enhancement rules will be disqualified from further participation in the program and will be required to reimburse the department for compensation received.

History: 87-1-249, MCA; IMP, 87-1-248, MCA; NEW, 1989 MAR p. 2054, Eff. 12/8/89.

Effective rule versions existed in ARM on or after March 31, 2007

MAR Notices	Effective From	Effective To	History Notes
	12/8/1989	Current	History: <u>87-1-249</u> , MCA; <u>IMP, 87-1-248</u> , MCA; <u>NEW</u> , 1989 MAR p. 2054, Eff. 12/8/89.

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For questions regarding the content, interpretation, or application of a specific rule, please contact the agency that issued the rule. A directory of state agencies is available online at <http://www.mt.gov/govt/agencylisting.asp>.

For questions about the organization of the ARM or this web site, contact gsaarm@mt.gov.

Who enforces this violation in rule 12.9.706?

EA



Montana Fish, Wildlife & Parks

P.O. Box 200701
Helena, MT 59620
406-444-5633
morthrup@mt.gov

May 16, 2008

Mr. Ed Smith
288 Sandhills Rd.
Dagmar, MT 59219

Dear Ed,

I am writing to provide you the last piece of information you requested in your letter dated April 18, 2008. This is a supplement to information I provided you with letters dated May 5, 2008 and May 16, 2008. The remaining items from your letter that had yet to be answered was:

- 1) Final total for the Pheasants Forever contract located in Sidney, MT.

I received the final billing from Pheasants Forever yesterday. As mentioned in earlier correspondence, Kraig was employed in the Sidney position from August 2006-January 2008. Payments to Pheasants Forever were for the cost of salary, benefits, office and communications costs, and transportation costs (including leasing a vehicle). The following is a full history of payments to Pheasants Forever for the Sidney position.

Billing Date	Amount
1/11/07	\$17,840.98
6/30/07	\$28,437.78
1/14/08	\$26,358.36
5/29/08	\$13,197.79
Total	\$85,834.91

Please call if you have any questions.

Respectfully,

Rick Northrup
Game Bird Coordinator

*This should be collectable
under 87-1-250 MCA.*

18-1-118. Access to records of contracting entities. Money may not be spent by a state agency under a contract with a nonstate entity unless the contract contains a provision that allows the legislative auditor sufficient access to the records of the nonstate entity to determine whether the parties have complied with the terms of the contract. The access to records is necessary to carry out the functions provided for in Title 5, chapter 13. A state agency may terminate a contract, without incurring liability, for the refusal of a nonstate entity to allow access to records as required by this section.

History: En. Sec. 12, Ch. 787, L. 1991; and. Sec. 60, Ch. 545, L. 1995; and. Sec. 2, Ch. 377, L. 1997.

Compiler's Comments:

10-12-07 10:53 FROM-

Post # Fax Note	7871	Date	10/12/07	Page	1
To	EJ Smith	From	Scott Searcy		
Contract		CA	LAD		
Phone #	483-5484	Phone #	444-3122		
Fax #	same	Fax #	444-9784		

- 1 shelterbelt Judith Jiller \$2,842.
- 1 shelterbelt Dwight Thiessen \$7,629.
- 1 Food plot Duane Ullman \$650. #350 PF
- 1 Food plot Jim Buckley \$650. #350 PF
- 1 Food plot Wayne Berry \$650. this contract no signatures void

Cost of administration of program
\$78,316.

Total cost of projects \$85,834.91 all in violation of 18-1-118, law



A plan for the birds: Fish, Wildlife and Parks unveils first draft plan for upland game birds

By BRETT FRENCH

Of The Gazette Staff

| Posted: Sunday, January 9, 2011 12:10 am

After years of trouble and neglect, Montana's much-maligned upland game bird program is now aimed in the right direction, according to Julie French.

"I think one of the most important aspects of the whole process was the audit," said French, a former Scobey legislator who was the chairman of the Upland Game Bird Enhancement Program Advisory Council. "The advisory council has worked very hard to address those problems specifically."

French sponsored House Bill 499 in 2009 that established the advisory council and required an audit of the program.

Plan unveiled

Since the bill's passage, the 12-member council has been working on the state's first 15-year strategic plan to guide management of pheasant, turkeys and other upland game birds in the state by providing measurable objectives and strategies.

The draft plan will be presented to the public for comment during a meeting Tuesday through Wednesday in Helena at the Hampton Inn beginning at 8 a.m. Already available online, the 107-page plan provides details on each of the seven FWP regions in the state and their specific goals for upland game birds and habitat work. It also details specifics such as the annual average harvest of birds, the number of upland bird hunters and the amount of money in-state and out-of-state hunters spend while pursuing birds.

Overall, it paints a very broad picture of game birds in Montana.

Through the strategic plan, and the meetings leading up to its development, FWP has received excellent guidance, said Rick Northup, statewide game bird coordinator.

"I think what this will do is provide a broader viewpoint of how the program should be run," he said.

Some history

The program was founded in 1987 to help prop up bird numbers — largely nonnative pheasant — in northeastern Montana, while also opening private lands to hunters.

Bird hunters are a huge meal ticket for the rural area, with an estimated \$14.4 million spent in 2008 in that region alone. Money for the program comes from hunters, a \$2 fee added to an upland license. Although much of the money was initially spent on raising and planting pheasant, over the years it changed to concentrate more on improvement of habitat, with the idea that more birds would survive if the habitat was good. But critics of the program — chief among them former legislator Ed Smith of Dagmar — found some of the habitat improvements were improper while others simply failed. It was Smith's dedicated activism that led to HB 499 and the new strategic plan.

For the most part, Fish, Wildlife and Parks is living up to its end of the deal so far. According to a follow-up of the audit released this summer, FWP has addressed three issues raised while a portion of a fourth complaint — improving access to FWP's database for upland bird biologists — still needs to be addressed.

Details, details

Under the plan, the emphasis remains on habitat rather than planting or supplemental feeding, although those options are still included. Three new upland game bird biologists have been hired — at a cost of \$250,000 annually — to work out of Plentywood, Miles City and Conrad to facilitate and oversee projects. In addition, the program has a new director, Debbie Hohler, to direct operations.

The plan contains information on the types of projects for which upland game bird dollars can be spent, such as food plots or nesting cover. It also states the priorities and opportunities for each game bird species. For example, in discussing the state's most popular gamebird, the ring-necked pheasant, the plan emphasizes the importance of Conservation Reserve Program farm lands, access to private lands and pheasant releases in certain areas. That strategy differs from the one for sharp-tailed grouse where the focus will be on conserving native grasslands or establishing grazing management plans.

"I personally appreciate how comprehensive the plan has been and the functional ways it provides to deal with issues," Northrup said.

Stepping down

Given the amount of money bird hunters spend in rural regions of the state, French said it's important the program move forward while being effective, efficient and follow state statutes. To ensure this, the advisory council will continue to meet to oversee the plan's implementation, although French has stepped down as chair.

"I think House Bill 499 was a very good impetus to make that program far more efficient and effective," she said.

Contact Brett French, Gazette Outdoors editor, at french@billingsgazette.com or at 657-1387.

Mt. Horeb Area Historical Society

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 Mounds
 Town of Springdale
 Web site
 Perry Township
 Web site



Left - Aldo Leopold

Aldo Leopolds Ties To The Area

Aldo Leopold, often called "the Father of Wildlife Ecology", is best known for his classic book of essays "Sand County Almanac, he was also the first Chair of the University of Wisconsin Department of Game Management. His progressive ideas on conservation are often cited and his books are widely read. What is little known about Leopold is that he had ties to the Mt. Horeb Area.

The idea of the Riley Game Cooperative was conceived in the summer of 1931, when Aldo Leopold was driving in rural Dane County looking for a good place to hunt that season. He stopped at the farm of R.J. Paulson to get a drink of water which led to a conversation between the two on the subject of game. Mr. Paulson spoke of a need to control poachers on his land despite posted signs. Aldo Leopold talked of the need to manage land to promote game for hunting. They concluded that a group of farmers working with town sportsmen offered the best defense against poaching, and could work to build up game in the area. From that conversation the inspiration of the Riley Game Cooperative was born.

By 1939, eleven farmers and five town members were part of the Cooperative, and together they managed 1,715 acres. The farm members furnished land, fencing, grain, and labor. The town members furnished capital for the project and also helped with the work. Pheasant eggs were bought and the farmers' wives raised the pheasants to 8 weeks old at which time they were weighed and banded. The farmers were reimbursed by the town members at 50¢ per bird. At 8 weeks the birds quit returning to the brooder coops and remained in the wild. (See photo to the left)

Aldo Leopold's ties to the University were linked to the game cooperative which was used as a research area. Graduate students were often assigned to the area for census work, banding of game and supervising plantings in the game cooperative.

Vermont Township
Town of Primrose

©2005 Mt. Horeb
Area
Historical Society

This Page Last
Updated
December 12, 2005

"You Can't Have A
Future
Without a Past"
-Delma Donald
Woodburn

*Mountain Area
3.2 Million
acres of CRP*

The cooperative spirit of the two diverse groups of the project continued into the 1950s, and successfully managed the area to be conducive to wildlife.

An article in the July, 1940 Journal of Wildlife Management describes the challenges the co-op faced in land management and their accomplishments: "Riley presents two major ecological problems: the gradual transfer of fertility from upland to bottoms by erosion, and the gradual elimination of cover by grazing."

Leopold contends that much of the cover for game had been lost by the debrushing by the highway crews. He mentioned that the railroad right of way had been burned yearly but when requested by the Cooperative, was only cleared to remove woody growth that had gotten too large, this provided needed cover for game.

The game co-op worked to provide better cover for wildlife by plantings. Much of the plantings were done by trial and error. Problems with cattle grazing which destroyed new plantings, and drought which killed many seedlings were encountered. Farmers did much of the plantings in 1939 and 1940. "Tree planting bees" became enjoyable social events. The planting areas were fenced as rabbits were a major cause of damage for seedlings.

Feeding of game during the winter months was also done at the game cooperative. Ten feeding stations were in place from November to March. Each station required 40 bushels of corn, at a price of \$25.00 a year. Before the Co-op was established Riley was devoid of pheasant. By 1939, with improvements to wildlife habitat and the stocking of pheasants, the birds flourished in the co-op. Other species of wildlife that inhabited the game co-op were Bobwhites, Hungarian Partridge, Ruffed Grouse, Woodcocks, and Prairie Chicken. Gray Fox came back to the area perhaps because of the increased pheasant crop.

The farm members in the game co-op in 1940 were R.J. Paulson, Joe and Jerome Brown, Oscar Hub, Melvin Thompson, L. England, Wesley Riley, Hillary McCaughey, Albert Bohle, J. Lester Henderson, William Cook, and Joe Brannan. The Town Members included T.E. Coleman, A.W. Schorger, Howard Weiss, R. J. Roark and Aldo Leopold.

The Riley Game Cooperative continued into the 1950's. It was a successful effort by two interested groups to work toward a common cause. Riley's success was that the two groups worked so well together. As Leopold wrote: "No farmer-sportsman group is stronger than the ties of mutual confidence and enthusiasm which bind its members."

It appears Mt FWP has ignored this

FWP shortchanging hunters, legislative auditors find

Mandatory fees for habitat projects not spent as law requires

By TOM LUTEY
Of The Gazette Staff

Despite collecting more than \$3 million in hunting fees for developing bird habitat, state wildlife officials haven't spent the money, according to legislative auditors.

In a performance report issued

Friday, auditors faulted the state Department of Fish, Wildlife and Parks for charging hunters for the Upland Game Bird Enhancement Program but not doing enough to develop it.

Through mandatory license fees, hunters have paid into the upland bird program since 1989. By law, the money is supposed to be



BARKUS

spent on creating habitat for field birds like pheasants and turkeys while also funding the release of birds into hunting areas.

"The department has truly done a disservice to the bird-hunting public," said Sen. Greg Barkus, R-Kalispell.

Barkus, a former member of the Montana Fish and Wildlife Commission, said the lack of habitat development was most egregious. He now sits on the Legislative Audit Committee, which will hear the

report later this month.

Simply put, FWP is supposed to contract with private landowners to develop nesting areas and windbreaks and to restore wetlands. The law dictates that FWP pay for up to 75 percent of the habitat development costs up to \$100,000 on private land. In return, private landowners are supposed to open the contract areas to hunters.

Since 2002, hunters have paid roughly \$680,000 into the program annually, but during that time FWP

all but stopped developing habitat. In three of the past seven years, wildlife officials contracted with fewer than 10 private landowners a year, a dramatic slowdown from the 1990s when new habitat contracts averaged nearly 100 annually. Many of those contracts are set to expire, including 164 by 2011.

On Wednesday, FWP declined to discuss the performance audit, although spokesman Ron Aasheim

Please see Funding, 10A

"We paid \$241,000 to a ranch that was 7,000 acres to build fences and bridges, I guess for the huns to walk across."

— Sen. Jim Shockley
R-Victor

10A Thursday, April 2, 2009

Funding

Continued from 1A

concluded that FWP had \$3.2 million in collected fees and interest that has not been put to use.

The criticism isn't that FWP spent no money on the program, but rather its accountability for the money it did spend, as well as the amount it left on the table. In some years, FWP invested less than half its collections back into the program.

In a written response to the performance audit, acting FWP Director Joe Maurier said the department is proud of the program and its accomplishments. He agreed with audit recommendations that the 20-year-old program needed a management plan and that a spending cap should be lifted on administration costs. During the audit, FWP officials told investigators that a legally mandated spending cap prevented them from directing more staffing to the program. He said the department recently created a biologist position for the program.

The state Senate unanimously approved a bill Wednesday to lift the administrative spending cap on the Upland Game Bird Enhancement Program, but not before disparaging FWP's management of it.

"The department doesn't

years criticized in the recent performance audit. The unspent portion of the program's funding continued to increase with the exception of one year. The FWP was unaware of the termination dates for nearly a quarter of its habitat contracts. In one habitat case, the department didn't know the beginning or ending dates for the contract, the hunting acreage was missing and the property was listed in two different counties.

In 2001, then FWP Director James Hagener assured the governor's office that the game bird program would be corrected following complaints by former state Sen. Ed Smith that FWP had mis-spent thousands of program dollars. Smith lambasted FWP for spending the money on habitat projects that didn't create any habitat and for not spending more money on bird releases.

Smith sponsored the pheasant enhancement law in 1987, funded by \$2 from each resident game bird license and \$23 from each nonresident game bird license. It was intended to pay for the cost of releasing pheasants into suitable hunting habitat. Pheasant hunting is big in northeastern Montana, where Smith is from.

The law was amended in 1989, after Smith left the Legislature, to allow unspent pheasant release funds to be spent on habitat.

have a clue," said Sen. Jim Shockley, R-Victor. Shockley said he'd previously dealt with the program as a House member when FWP had given thousands of dollars to a ranch for bird habitat with little to show for the investment. "We paid \$241,000 to a ranch that was 7,000 acres to build fences and bridges, I guess for the huns to walk across."

In addition to raising the administrative spending cap, the legislation passed Wednesday, House Bill 499, creates a citizen advisory committee for the game bird program. Though the vote was unanimous, no one was guaranteeing the legislation would work.

The state created an Upland Game Bird Enhancement Program advisory council in 2005 to make recommendations for improving operations, but what followed were several of the

FWP program flawed

By Joe Nistler

On March 27, a performance audit of the Montana Department of Fish, Wildlife and Parks (FWP) was released to the public.

The audit pointed out that FWP has received \$680,000 since 1982 for upland game bird habitat enhancement. However, much of that money has actually been spent on projects that have little or nothing to do with enhancing the habitat for pheasants and grouse.

For more than a decade, criticism of FWP's upland game bird policy has been led by Ed Smith of Dagmar. A former state senator, Smith has continued communications with FWP, Governor Brian Schweitzer and current Montana legislators concerning the bird program.

On April 3, Ed Smith had the following comment for

Sheridan County: "I'll be darned if I'll let Fish, Wildlife and Parks do as they please with the Upland Game Bird Enhancement Program. If we lose the bird-hunting in this county, it will be a million-dollar loss to our economy. If individual Montanans did what FWP has done in recent years, there would be criminal charges filed against them for misuse of public funds."

Smith then pointed out that Montana law has one section dedicated just to the duties of the Montana governor. In Section 4 of that section, Montana law states, "The executive power is vested in the governor who shall see the laws are faithfully executed."

Ed Smith has made it known to Governor Schweitzer how poorly the bird habitat enhancement

program has been managed.

Last year, Smith wrote a letter to Schweitzer, stating, "It will be a new day in Montana for me and thousands of Montanans when you and your 150 legislators hold FWP accountable and change their attitude that they can say and do anything they damn well please and not have to answer to anyone."

Perhaps the series of legislature-based audit reports planned this spring will move FWP closer to public accountability. At least Ed Smith hopes so.

Montana State Senate



SENATOR DON STEINBEISSER
SENATE DISTRICT 19

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HIGHWAYS AND TRANSPORTATION
AGRICULTURE, LIVESTOCK, IRRIGATION

The Big Sky Country

Scott Beecat, Legislative Auditor
Room 150, State Capitol Building
PO Box 201705
Helena, Montana 59620-1705

June 4, 2008

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I have enclosed some pictures to show how the shelter belts have been planted to trees for bird cover, yet the trees have had no care and are dead. You can see that some of the signs are too small and some cases have not been put up at all. This program is very important for economic development and stability in Eastern Montana where communities are dying and their economy is suffering.

The millions of dollars the hunter and sportsman are paying for this program through their hunting licenses are being wasted and sometimes even close to fraud. I believe that an audit needs to be completed. I also believe the FW&P better start managing this program like the laws passed in the 1987 legislature intended.

If the FW&P refuses to manage the program it may take more legislation in the 2009 session or legal action in the courts.

Sincerely,

Don Steinbeisser

Senator Don Steinbeisser SD-19
11918 Cty Rd 348
Sidney, MT 59270

Cc: Governor Schweitzer
Rep. Julie French HD-36
Ed Smith, Former State Senator
Jeff Hagener, FWP Director

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Resource Conservation & Development Area Office



June 10, 2008

Scott Seacat, Legislative Auditor
Room 160, State Capital Building
PO Box 201705
Helena, MT 59620-1705

The Mt. Department of Fish Wildlife and Parks manages two very valuable programs called the Uplands Game Bird Habitat Enhancement Program (UGBEP) and Block Management Program (BMP). These programs are valuable, not only to wildlife management, but also provide an economic stimulus for a very depressed area in Montana. Recently, former Senator Ed Smith brought it to my attention the lack of proper administration of these programs.

During April of 2008, Mr. Smith requested Senator Don Steinbeisser for SD-19 and me to travel with him to view several ranches that have active contracts with the FWP for the above mentioned programs. The ranches were Daryl Buxbaun and Victor Buxbaun Ranches in the Sidney, Mt. area and the Cullenan Ranches east of Glendive, Mt. According to Mr. Smith, he had visited with both parties and felt all ranches we viewed had not intentionally done anything wrong. What we witnessed during the April tour with Mr. Smith, is the lack of proper signage to adequately find the areas covered by the UGBE and BM programs. The trees that had been planted with money from the UGBEP had not been tilled, were short for their age, provided little cover or food for pheasants and the entire plantings did not appear to follow the rules of the program. The 2007 FWP hunter access maps & booklet for the above programs did not have adequate phone numbers, addresses or maps to find the ranches we viewed.

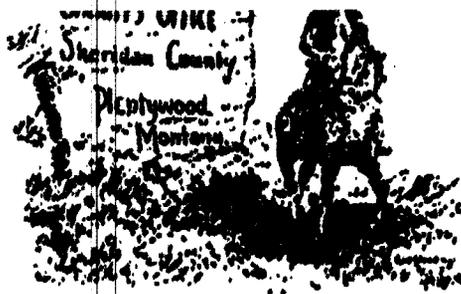
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These FWP programs are very important to this area of Montana. It is not my intention to harm these programs in any way, but to improve them. With that in mind I request the Legislative Audit Division do a full audit of the UGBEP and BMB. I also feel that the local Conservation District, located in each county in Montana, could possible be used to help provide support and advice on designing and implementing proper enhancement programs.


Richard Iversen
Coordinator, EP RC&D

*The March 2009 audit page 20 table 7 verifies
FWP failed to comply with the law*

Cc: Governor Schweitzer



SHERIFF PATRICK ULRICKSON

100 WEST LAUREL

PLENTYWOOD, MONTANA 59254

(406) 765-1200

Friday, June 13, 2008

Mr. Ed Smith
288 Sandhills Road
Dagmar, MT 59219

Mr. Smith,

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Sheriff Patrick E. Ulrickson
Sheridan County Sheriff's Office

March 18, 2008

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Powder River County Sheriff
PO Box 17
Broadus, MT 59371

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288 Sandhills Road
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cc: Senator Keith Bales
Rep. Carol Lambert

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Critical audit spurred state to hire full-time director, name citizen advisory committee

Upland bird program hobbled by FWP, Hi-Line residents say

- Story
- Discussion
- Image (8)

By TOM LUTEY Of The Gazette Staff | Posted: Sunday, November 29, 2009 12:15 am | No Comments Posted

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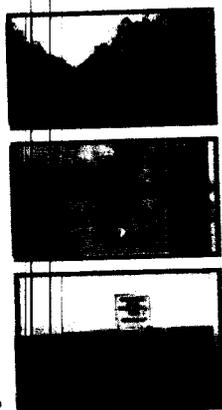
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DAVID GRUBBS/Gazette Staff

Ed Smith, of Medicine Lake, walks through a row of Russian olive trees he planted on his ranch as pheasant habitat. Smith, a former Montana legislator, is a fierce critic of the state's management of the Upland Game Bird Enhancement Program, which he helped pass into law.



Here we are over a year later and what has FWP accomplished?

I also the U.S.B.E. programs budget has been reduced by \$1 million from 2009 through 2010

They certainly haven't done what they promised in this report

Montana State Senate



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SENATE DISTRICT 19

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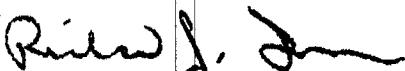
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SHERIFF PATRICK ULRICKSON

100 WEST LAUREL
PLENTYWOOD, MONTANA 59254
(406) 765-1200

Friday, June 13, 2008

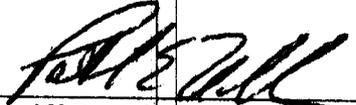
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By TOM LUTEY Of The Gazette Staff | Posted: Sunday, November 29, 2009 12:15 am | (13) Comments

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DAVID GRUBBS/Gazette Staff

Ed Smith, of Medicine Lake, walks through a row of Russian olive trees he planted on his ranch as pheasant habitat. Smith, a former Montana legislator, is a fierce critic of the state's management of the Upland Game Bird Enhancement Program, which he helped pass into law.





(4) More Photos

PLENTYWOOD — There isn't a "no vacancy" sign flashing on this lonely, snow-dusted plain for 100 miles, but at Karla Aus' Sherwood Inn, the red neon of refusal is warming up.

There are bird hunters lined up five deep in the lobby and more outside unloading spaniels from muscular pickups bearing license plates from Iowa, Washington and points between. The restaurant across the street is filled with patrons in dusty camo and blaze orange.

"This year we've had hunters from at least 39 states," Aus said. "It's big enough for us that we have a bird-cleaning area with sinks and a freezer. We don't put mints on your pillow, but we have biscuits for your dog."

Pheasants have become Plentywood's golden goose and an increasingly important \$14 million godsend for more than a dozen Hi-Line communities fighting to survive. But there are worries that this economic stimulator is being neglected by the very agency charged with making it better: Montana's Department of Fish Wildlife and Parks.

FWP under state law has collected hunting fees for 20 years in order to create habitat for field birds while also funding the release of pheasants into hunting areas. However, it's been slow to spend the money and now has \$3.2 million from fees and interest that hasn't been put to use.

Eastern Montana folks say this never would have happened on the west side of the state had anglers paid the money and blue-ribbon trout streams not benefited.

"It's kind of been an orphan child for quite a while," said Mike Jensen, who owns Cousins Family Restaurant, across the asphalt from the Sherwood Inn. "What we're saying is, 'Hey, it's time to start treating this like a pretty good economic engine.'"

The low point might have come last March, when a legislative audit found that not only had millions of dollars gone unspent but also that FWP had all but stopped working with private landowners to develop nesting areas and windbreaks and to restore wetland.

At its peak, FWP entered into 100 such contracts a year, securing 15 years of public access from landowners, who in turn benefited from mostly government-funded improvements to their property. But the number of new contracts had dwindled to just 10 a year since 2002. And 164 are set to expire by 2011. A larger number of contracts are in disarray because of bad filing practices and lack of time spent on developing a proper database.

FWP Director Joe Maurier didn't dispute the audit's conclusions. Rather, he assured the Legislature that

the agency would put more effort into making the program work.

The program now has a citizen advisory committee working on a 10-year plan for the program.

The Upland Game Bird Enhancement Program also has a full-time director for the first time in 20 years who is charged with sorting through the program's database of several hundred contracts. The department also has job postings for three full-time biologists who will divide the state and work full time on upland game birds.

"In this program, going all the way back to the late '80s, there have been two bottlenecks. And certainly the bottleneck in the field that was becoming more apparent was our field biologists," said Rick Northrop, who previously directed the upland game bird program. "The fact of the matter is there are a lot of landowners who simply haven't been contacted. There will be an active effort to get a lot more work done on the ground."

The second bottleneck was not having an administrator in Helena to keep records in order, Northrop said.

Language in the original law creating the program capped the amount of bird fee money spent on staffing, Northrop said, which the agency handled by making upland birds a fractional portion of several employees' job descriptions. The audit indicated that FWP had a ways to go before it hit the cap, but new rules approved by the 2009 Legislature removed the cap and allowed enough room for the four new positions.

Debbie Hohler, the new program director, said new contracts are still coming in slowly, but she said the biologists she hires will spend 80 percent of their time getting new landowners in the program and persuading existing contractors to renew.

"I think the audit nailed it," said Rep. Julie French, D-Scobey, who requested the audit and now chairs the advisory committee trying to right the program. "The program hadn't been a priority, and there hadn't been a priority to use its dollars to their utmost value."

For French and others, this is FWP's chance at a do-over. The hunting fees collected amount to roughly \$680,000 a year. If spent wisely, the money could be a constant stimulator to rural economies where fortunes are strongly tied to grain and oil prices.

Aus' Sherwood Inn was constructed in 1979, when oil exploration was red-hot in this extreme northeast corner of the state, a place that sits 16 miles from Canada, 26 miles from North Dakota and 500 miles from Helena. A man could hitch a ride to Plentywood, land a job in the oil patch and two weeks later have a paycheck big enough to buy a truck. That steep rise to prosperity also came with a fast descent when global petroleum prices fell.

Here, the median family income is now slightly less than \$40,000 a year. Profit margins at local farms are 4 percent or less. Pheasant money fills more than financial potholes on Main Street.

Meeting 'Big' Ed

At daybreak, Paul Yon is driving the back roads surrounding the Sandhills Block Management Area. The hunting ground skirts the Medicine Lake National Wildlife refuge, a 13,000-acre expanse with 22 lakes and small wetland potholes where 125 species breed. Hunters disoriented by the sameness of these rolling golden plains have been known to lose all sense of direction. In the minutes of daylight before the sun rises, the sky resembles the pale palm of a cupped hand enclosing the horizon.

Yon, of Bowling Green, Ohio, is so drawn to this area that he has purchased a small farmhouse and arranged for a local farmer to look after it in the off-season. Homes in this area can be had for \$50,000 — sometimes a lot less — and that makes hunters a force in the real estate market.

“Last year these fields were lousy with pheasants,” Yon said, but 72 inches of snow last winter did the birds in.

Landowners in the block management program say the population would have been better this year if more had been done to help the pheasants get through a rough winter. The birds needed grit to digest their food, as well as supplemental feed, which didn't come.

After a few miles, Yon arrived at the home of “Big” Ed Smith, who authored the Upland Game Bird Enhancement Program as a legislator in the 1980s. A blue-eyed Norwegian, who at 90 years old still possesses basketball height and baseball glove hands, Smith is FWP's harshest critic.

He faults the department for spending hundreds of thousands of dollars on projects so small that little land was actually opened to hunters. On some habitat projects, the agency spent more than \$300,000, triple the limit Smith wrote into the program at its creation. And a requirement that landowners pay for at least a quarter of the costs for their habitat improvements has been disregarded in at least 283 contracts, he said.

“I've written a lot of laws. This is the only one that's been ignored,” Smith said, as he guided Yon to a long stand of Russian olive trees, planted by Smith and his sons.

If FWP reforms all it has promised to, it might still not be enough to quiet Smith, whose list of contacts regarding upland birds includes Montana's past three governors. He's already moved on to scrutinizing FWP's use of federal funds to offset that 25 percent landowner contribution.

“My wife, she believes in peaceful coexistence. She said ‘you shouldn't do that,’” Smith said. “I believe in raising hell.”

But the politics of the issue may be turning on Smith. What's important, say members of the newly formed advisory committee, is that more habitat open to the hunting public is created. If that means regulations are eased so landowners have less skin in the game, so be it.

“One of the issues that has to be tackled first is how do you get programs on the ground where you're not relying on landowners to put up 25 percent of the money,” Jensen said. “I think that's why there's a decline in the contracts, that and the time. I talked to my cousin. He's a farmer. He said he doesn't have the time.”

Jensen isn't averse to a program rule change. Maybe it's the right bait for catching the biggest prey in

wild lands of government — results.

Posted in Montana, Top-headlines on *Sunday, November 29, 2009 12:15 am* Updated: 10:15 pm | Tags: Montana Fish Wildlife And Parks Department, Pheasant

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where WABIE funds involved in this audit?

March 12 2006

447-4800

FWP audit raises eyebrows

By EVE BYRON
Helena Independent Record

A recent audit of Montana Fish, Wildlife and Parks uncovered a laundry list of accounting problems, but officials with the state agency say the issues amount to differences in opinions as to accounting practices.

Still, FWP is heeding the recommendations of the Legislative Auditors office and already has made changes to its accounting system, according to Sue Daly, chief of finance for FWP.

"We plan to address every issue, but I want to stress that the finances of the department are being spent according to all accounting principles out there," Daly said. "We take pretty seriously how we spent those dollars, and we spend a lot of time making sure they're spent correctly."

The two-year audit for fiscal years 2003-04 and 2004-05 includes 13 recommendations related to various aspects of financial accountability, plus a disclosure issue. Some of the larger accounting questions include:

- \$62.5 million in understated conservation easements;
- A disclosure issue involving about \$2.2 million in "recovered costs";
- \$11 million in understated land values;
- A \$19 million difference in accounting for the value of the same lands in two accounts.

The questions raised by the Legislative Auditor's office caused them to issue a "qualified" opinion on the finances of FWP, meaning that "they are not comfortable in the amounts the reader of the financial statements sees," according to Scott Seacat, head of the department.

However, neither Seacat nor FWP officials believe any malfeasance or misappropriations of funds has taken place.

FWP Director Jeff Hagener said the agency wasn't trying to hide anything and has always conducted its accounting procedures in this fashion. He said his accountants receive varying directions from the Department of Administration and the Legislative Audit Division as to where certain funds should be listed, and when different auditors check the books throughout the years, they may look at accounting practices differently.

"We haven't been given clear direction," Hagener said. "But we've been doing it this way for 20 years, and it wasn't a

problem before."

Seacat said that's an "interesting take" on the recent audit.

"When we audit an agency and take a look at compliance, we have various issues we rotate into a compliance audit. But whether or not issues of recording values of conservation easements were due to a new auditor — I don't think so," Seacat said.

"There are basic standards we have to follow when doing an audit and each audit stands on its own. I don't think that the difference or increase in findings is due to a new auditor. We may have a different take on some tests, but the law is the law. In my opinion, when I look at this most recent audit, I see an overall decline in their system of controls, and they need to pay attention to that."

The findings have gotten the attention of some legislators, who raised questions about the department's ability to manage its finances, as well as concerns that a recent hike in fishing and hunting licenses was premature.

"It doesn't appear that they needed to increase their resident licenses this soon; they misrepresented the need," said Rep. Debby Barrett, R-Dillon, who reviewed the audit as part of an agency oversight subcommittee of the state Environmental Quality Council (EQC). "There wasn't the urgency they said there was, and it should make people angry."

"... I would like to see a change in that department. Their money used to come through the general fund, then through the Legislature, and we appropriated it back to Fish, Wildlife and Parks. There is even talk about doing that again if they can't be accountable."

Barrett said FWP has come up with a three-page plan to comply with the auditors' findings, and the subcommittee has invited FWP to its next meeting to make sure those steps are taken.

Seacat attributes the problems to personnel changes within the department. Still, the findings point out a lack of financial checks and balances within FWP, which troubles him.

Probably the most disconcerting finding in the audit to Seacat is the failure by FWP to disclose \$2.2 million in an "overhead account."

This account involves indirect costs — like accounting and management services — that are associated with state and federally funded programs.

"That's a situation where agencies charge indirect costs for federal grants, or any grants," Seacat said. "The law requires indirect costs to go back to the fund that incurred the original account. They (FWP) were sustaining (the \$2.2 million) in a federal account."

"That upset people ... because FWP came before the Legislature and said it needed additional revenue, so they raised (hunting and fishing license fees) and yet this money was out there," Seacat said. "They had it stashed in a federal account, implying it couldn't be used for anything else, and it could be."

Hagener disputes that characterization, and adds that the money in the overhead account has nothing to do with the hunting or fishing license fee increase.

"They are really not related at all," he said. "This is the same way the overhead account has been handled before. ... The idea that we're hiding money is totally untrue. It's just a matter of accounting."

Daly adds that if this money was disbursed to other accounts, they would see a corresponding increase in costs because the funds always have been paid out for the same purpose — accounting or management services.

"What I think they're trying to say is that the money should go back into the general license account," Daly said. "We can do that — it isn't a problem. It's always been there and the auditors are aware of it. But even if we put it into the license account, it's a net zero, because we have more revenues, but also more expenditures."

Still, FWP is looking at its accounting of the fund to see if changes are needed, Daly and Hagener said.

Sen. Jim Elliott, D-Trout Creek, sits on the Legislative Audit Committee and said that while he doesn't often agree with Barrett's politics, he wonders whether the Legislature should have better control over FWP's finances.

"I'm kind of an apologist for state employees because they work so hard, but the issue to me is we have incompetent accountants and a lack of training," Elliott said. "We get accountants fresh out of school and they leave because we can't pay them enough."

"Debby and I differ in a lot of things, but the whole purpose of the general fund is legislative oversight and maybe that's a change that's needed here."

I am very concerned how the amendment 12.9.706 could have an adverse effect on the Sagebrush Lease program.

Program funds for purchasing 30-year sagebrush conservation leases on private land in Montana. This voluntary incentive-based approach, known as the Montana Sagebrush Initiative, is intended to help conserve privately-owned sage grouse habitat, as described in the final state sage grouse plan. A geographic information system (GIS) utilizing multiple information layers, including sagebrush habitats, public lands, and active sage grouse leks, was used to objectively identify high priority habitats for conservation. Private landowners in the highest priority areas were mailed information on the program and FWP is following up with interested landowners. The leases include a one-time payment to landowners of \$12/acre while agreeing to not spray, burn or till sagebrush. If FWP and the landowner determine that some type of manipulation would benefit sage grouse, the contract will allow limited treatments upon mutual consent. This initial funding (\$2.2 million in total) is sufficient for funding 183,000 acres of leases. As of the end of November 2006, FWP has enrolled 130,330 acres involving 25 separate contracts.

Table 2. Summary of Upland Game Bird Habitat Enhancement Program projects enrolled during 2005-2006 (to date).

Project Type	Project Acres	Region	Estimated FWP Cost ¹	Estimated Total Cost ¹
Nesting Cover	640	7	\$7,888.40	\$31,545.80
Nesting Cover	50	3	\$1,058.00	\$1,058.00
Nesting Cover	40	7	\$0.00	\$1,450.00
Nesting Cover	28	5	\$2,092.50	\$6,180.00
Nesting Cover	266	7	\$3,913.48	\$7,826.98
Nesting Cover	28	5	\$2,092.50	\$8,150.00
Nesting Cover	50	3	\$1,058.00	\$1,058.00
Range Management	1540	6	\$27,258.00	\$47,388.00
Range Management	380	5	\$5,000.00	\$20,000.00
Sagebrush Lease	2008	7	\$12,048.00	\$24,096.00
Sagebrush Lease	320	7	\$1,920.00	\$3,840.00
Sagebrush Lease	3082	5	\$18,482.00	\$36,984.00
Sagebrush Lease	5145	5	\$30,870.00	\$61,740.00
Sagebrush Lease	4298	7	\$25,776.00	\$51,552.00
Sagebrush Lease	320	7	\$640.00	\$1,280.00
Sagebrush Lease	8237	7	\$37,422.00	\$74,844.00
Sagebrush Lease	600	5	\$3,600.00	\$7,200.00
Sagebrush Lease	14806	7	\$87,636.00	\$175,272.00
Sagebrush Lease	180	4	\$960.00	\$1,920.00
Sagebrush Lease	1250	7	\$7,500.00	\$15,000.00
Sagebrush Lease	47771	7	\$286,626.00	\$573,252.00
Sagebrush Lease	838	5	\$3,828.00	\$7,656.00
Sagebrush Lease	2043	5	\$12,258.00	\$24,516.00
Sagebrush Lease	3218	7	\$19,308.00	\$38,616.00
Sagebrush Lease	7622	7	\$45,732.00	\$91,464.00
Sagebrush Lease	960	6	\$5,760.00	\$11,520.00
Sagebrush Lease	757	6	\$4,542.00	\$9,084.00
Sagebrush Lease	4001	5	\$24,006.00	\$48,012.00
Sagebrush Lease	11016	7	\$66,096.00	\$132,192.00

Y 04
(TABLE 2) ELK USE DAYS AND EXPENDITURES BY REGION

2008

	R1	R2	R3	R4	R5	R6	R7
Resident Days	118,992	183,054	271,369	86,431	29,613	12,179	7,615
Resident Expenditures	\$9M	\$13.8M	\$20.5M	\$6.5M	\$2.2M	\$920,000	\$575,000
Non-resident Days	12,337	21,304	62,142	17,535	5,134	4,266	2,805
Non-resident Expenditures	\$4.4M	\$7.6M	\$22.1M	\$6.5M	\$1.8M	\$1.5M	\$996,000

(TABLE 3) DEER USE DAYS AND EXPENDITURES BY REGION

	R1	R2	R3	R4	R5	R6	R7
Resident Days	168,797	184,453	188,997	139,932	76,519	65,530	7,615
Resident Expenditures	\$9.9M	\$10.8M	\$11.1M	\$8.2M	\$4.5M	\$3.8M	\$4.5M
Non-resident Days	12,215	14,093	30,495	20,194	9,035	12,725	36,076
Non-resident Expenditures	\$2M	\$2.3M	\$5M	\$3.3M	\$1.5M	\$2.1M	\$5.9M

(TABLE 4) ANTELOPE USE DAYS AND EXPENDITURES BY REGION

	R1	R2	R3	R4	R5	R6	R7
Resident Days	NA	61	10,138	16,895	18,428	11,852	26,332
Resident Expenditures	NA	\$3,000	\$555,000	\$925,000	\$1M	\$649,000	\$1.4M
Non-resident Days	NA	3	699	2,253	2,437	1,915	6,783
Non-resident Expenditures	NA	0	\$144,000	\$464,000	\$502,000	\$394,000	\$1.4M

(TABLE 5) UPLAND GAME BIRD USE DAYS AND EXPENDITURES BY REGION

	R1	R2	R3	R4	R5	R6	R7
Resident Days	66,752	42,304	43,266	78,159	33,016	78,817	25,083
Resident Expenditures	\$4M	\$2.5M	\$2.5M	\$4.6M	\$2M	\$4.6	\$1.5
Non-resident Days	1,464	1,650	4,945	13,739	5,684	43,889	10,687
Non-resident Expenditures	\$510,000	\$575,000	\$1.7M	\$4.8M	\$2M	\$15M	\$3.7

Hunters spent \$1 M. more for hunting upland game birds - in region 6 than in the other 6 regions combined and more pheasants were harvested in Sheridan County than any other.

2009 data

Upland Game Bird Species	Average Annual Number of Hunters	Average Annual Hunter-Days	Percentage of Total Hunter-Days
Spruce Grouse	2,380	19,724	5
Ring-necked Pheasant	23,862	126,173	30
Gray Partridge	8,659	55,184	13
Wild Turkey	9,740	37,633	9
Chukar Partridge	368	2187	1

Table 3. Estimated use days and expenditures by upland game bird hunters, based on 2008 hunter surveys and a daily expenditure estimate of \$63.62 for resident and \$376.46 for non-resident hunters (Brooks and King 2009).

Hunting Data	FWP Region						
	1	2	3	4	5	6	7
Resident Days	59,215	29,039	37,020	78,700	29,838	53,827	19,916
Resident Expenditures	\$4M	\$1.8M	\$2.4M	\$5M	\$2M	\$3.4M	\$1.3M
Non-resident Days	2,434	1,359	5,175	14,850	3,969	30,272	8,650
Non-resident Expenditures	\$916,000	\$512,000	\$1.9M	\$5.6M	\$1.5M	\$11M	\$3.3M

Statewide Priorities

The Upland Game Bird Enhancement Program has the potential to benefit the full spectrum of upland game bird species and habitats in Montana. However, maximizing program benefits, in terms of game bird response and public hunting opportunities, requires a more strategic approach. The program's Guiding Principles (Page 9) recognize the need to balance public demand with other values when establishing program priorities. For instance, pheasants, sharp-tailed grouse, and turkeys are among the most popular of hunted game birds in Montana (Table 2), but public hunting access on private lands—particularly related to pheasants—is challenging over a large portion of their range. Sage-grouse, on the other hand, are only lightly hunted but are recognized for their ecological value and for ongoing

Fergus County

Year	# Hunters	Hunter Days	# Harvested	Days/Hunt	Harvest/Hunter
2007	1652	7415	8801	5	5
2006	1463	5623	7674	4	5
2005	1489	5887	6546	4	4
2003	1960	7217	9203	4	4
2002	1644	6556	7636	4	4
2001	1517	5741	6661	4	4
2000	2054	8177	9401	4	4
1999	2858	12291	15788	4	6
1998	2858	11690	16825	6	6
1997	2537	11960	16344	5	6
1996	2436	10416	14340	4	6
<p>1076 5047 8164</p>					

the pheasants released
FWP did this to evaluate the program

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Montana Upland Game Bird Licenses Sold in Calendar Year 2008

County	Residency	Sales
BEAVERHEAD	Nonresident	96
BEAVERHEAD	Resident	211
Total:		307
BIG HORN	Nonresident	233
BIG HORN	Resident	180
Total:		413

County	Residency	Sales
FALLON	Nonresident	72
FALLON	Resident	168
Total:		230
FERGUS	Nonresident	199
FERGUS	Resident	561
Total:		760

Sheridan County

Year	# Hunters	Hunter Days	# Harvested	Days/Hunt	Harvest/Hunter
2007	1712	8934	14049	5	8
2006	1951	11040	16548	6	9
2005	1674	9179	14051	6	8
2003	1938	9637	14947	5	8
2002	1219	5540	8156	5	7
2001	858	4428	4764	5	6
2000	927	4435	6894	5	7
1999	897	4151	4912	5	5
1998	1010	4721	5696	5	6
1997	706	3134	3362	4	5
<p>+ 899 + 5715 + 10726</p>					

FWP records

Pheasants released in County

September 1, 2011

Mr. Joe Perry
Twelve-Member Council
Brady, MT 59416

Dear Joe:

The purpose of this letter is to let you know I am very disappointed with the outcome of a call I made to you on July 18, 2011 when I asked you if you had received copies of testimony I presented at the May 18, 2011 public meeting in Glasgow. My testimony there concerned FWP and the Council's proposed 10 year plan of the Upland Game Bird Enhancement Program. You informed me you had not received it. That seemed very unusual when you said you hadn't as you are aware FWP and the Council have equal obligations for what appears in the Upland Game Bird Enhancement Program, so when I contact you I expect a response.

You must have contacted FWP Biologist Drew Henry because on July 25, 2011 I received a call from Mr. Henry who stated that there are no minutes. I was shocked. I explained to him that as the presiding official who conducted the meeting he was required to do so. I explained to him that according to Section 2-3-203(2) and (6) and 2-3-211 and 2-3-212(1), it states that appropriate minutes of all meetings required by 2-3-203 to be open, shall be kept and shall be available for inspection by the public. I asked him if he knew that or was informed to do so and he answered "no". Joe, someone must be held accountable for this violation.

I would also mention that Senator John Brenden, Rep Austin Knudsen, Ken Marsh and I testified and that was when I presented my eight page document and my May 3, 2011 letter to Debbie Hohler the FWP UGB coordinator.

I am enclosing a letter dated May 30, 2011 where I contacted the editors of four newspapers in this three-county area explaining how FWP and the council again violated these same sections of the law as well as other sections.

Wasn't biologist Drew Henry jointly supported by the Council and FWP to resolve the problems in this three country area of the past problems created by FWP? Did the council support his removal from that position on December 1, 2010? AS you will also recall, I sent you a copy of the upland game bird 1988-2010 income and expenditure report. On behalf of the Council, will you explain how FWP spent over \$15 million of public funds on the Upland Game Bird Enhancement program plus the addition of three million acres each year of CRP and are selling fewer bird licenses now than in 1988? This brings up the question, has FWP created a viable and permanent pheasant population?

Joe Perry
September 1, 2011
Page 2

One other thing I want to point out is when HB499 that created the 12 member council passed in 2009, it also passed an amendment that removed the word 'may' and replaced it with 'must'. I see several places in the proposed plan where the word 'may' was used which appears to be a violation of that amendment.

The big question is, "Has the 10 year plan been adopted? If so, when?" I am looking forward to your response.

Sincerely,

Ed. B. Smith

Ed B. Smith
288 Sandhills Rd.
Dagmar, MT 59219
Phn: 406 483-5484

cc. Governor Schweitzer
EQC Todd Everts
Sen. John Brenden
Rep. Austin Knudsen
Judge Mohr
Auditor Angie Grove
Sheridan County Commissioners
Director Joe Maurier
Tom Lutey

Sept. 4, 2011
Brady, Montana

Ed Smith
288 Sandhills
Dagmar, Montana 59219-9610

Dear Ed,

I am in receipt of your Sept. 1st letter, as well as your two mid July info packets. As I said on the phone, I am sorry for the delay. But you remember, I did call and ask your wife to give you a message that I was swamped with personal obligations and harvest and needed some time to deal with your demands. You must remember I am not retired. I am running a very demanding business, without help, and I have some pressing personal obligations. Both take precedence over my volunteer work on the Upland Bird Council.

I will try to answer some of your questions. I did not call Drew. I have no knowledge of what did or did not happen at that public meeting. As I told you, the Council went thru every single comment, including yours. Some changes were made as a result.

I did receive and review a list of folks that public meeting notices go to in your area. That does not mean they (papers) choose to print them.

Drew was hired as one of three upland bird biologists in the state. Their job is to carry out the work of upland game bird biologist. Once the plan is finalized (ARM rule change procedure), they will carry out the work according to that plan. While hopefully the problems of the past have been corrected, their job is not to right all your perceived evils of the past, but to work looking forward to building a successful Upland Game Bird Program. We all know there were problems in the past and they were addressed at length by Chairman Julie French and Council.

This Council has stressed the habitat enhancement portion of the program as you know. Due to the diligence of Mike Jensen, Bernie Hart, and especially Julie French, the social concerns of planting birds in your neck of the woods were recognized. Planting farm raised birds into areas that have reproducing populations is not supported in the scientific literature. You might note that this Council has a very good biological background and education. It was a compromise you might think twice about.

what about Aldo Leopold report?
Drew applied for and was hired for a regular biologist position. It was totally his choice. He was a valuable member of our team and we'll miss him. I think his replacement is nearly on board and we look forward to meeting him. Please be respectful of this person.

Drew's letter to you that you have included to me, sounds like he has answered your questions to the best of his ability. ?

Ed, you have been treated with honor and respect by me and this entire Council. Chairman Julie French allowed you the liberty to address us at length. Not only that, but to interrupt and interject in our meetings. As I mentioned to you the last meeting you attended, that liberty has not been extended to any other member of the public. Noteworthy! Mike and Julie have driven you to Helena to attend council meetings and carried the ball for you. And yet I have watched you trash Julie, Mike, and this Council in general. You refused an offer from Julie to drive you to Helena for a face to face meeting with the Director so as to resolve your concerns. It seems you aren't willing to do anything to try to resolve problems but are obsessed with copious demanding correspondence. ?

And finally, please do not address me or this Council in the peremptory manner in which you have this time. I remind you I am not a FWP employee but a member of a volunteer advisory council. I have no authority to do anything nor to answer Dept. related questions. We have done a tough job over a long period and done it admirably. We met and had public meetings all over the state. That involved no small amount of personal sacrifice on the part of volunteer council members. It has been a huge commitment of time and effort. Can you understand? I implore you, let us recognize you as the "Father of the Upland Game Bird Program" but allow the program to grow with the expertise and public involvement it requires and has received. The sportsmen of Montana deserve it!

I direct you to FWP for specifics not related to my volunteer position on an advisory council. Don't forget that the folks in the Dept. are human too and deserve some respect. They are, in large part, dedicated individuals who deserve to be treated better than you have treated them. They are trying to do their jobs. One might ask just how much of their valuable time is being wasted on trivial informational gathering and letter writing to you? Does that serve the sportsmen of Montana?

Sincerely,



Joe L. Perry

Chairman, UGBEP Citizen's Advisory Council

yes who have paid nearly \$15 million and received very little benefit. I have spent 100's of hours and thousands of dollars to no avail. I am not doing it for me. I expect accountability.

My copy

February 2, 2012

MS Michael Nye
Upland Block Coordinator
Region 6
Glasgow, MT 59230

Dear Michael:

Thank you very much for providing me with the hunter days for Smith Farms Block Management 2011 contract which has been helpful for doing so for many years.

You also mentioned if I had any questions or concerns to contact you. I know you are just as concerned about the success of the Block Management Program as I am. You may recall in 1983, I and 13 other landowners organized the Sandhills Block Management area consisting of approximately 25,000 acres and the first in the state. Smith Farms Block Management contract expired on December 31, 2011, and I am sure others expired also. I also mention that in the 1987 Legislative session I created the pheasant release law to coincide with the Federal Conservation Reserve program that has created over 3 million acres annually of excellent habitat for all wildlife. As you are aware, the hunter days in the Sandhills Block Management were 1352 in 2010 and 1627 in 2011. However, in 2006 the hunter days were 1966 and have been decreasing.

I have hunted for almost 80 years and I found hunter days do not identify the success of the program. Success is the hunters' harvest of game hunted. I have driven thousands of miles since September 1st, the beginning of bird hunting season, until the season closed on December 31 in Sheridan, Daniels and Roosevelt Counties. I didn't see a dozen birds dead or alive on the roads. I visited with dozens of businesses who depend on revenue from hunters. They have all stated the hunter numbers were down around 50 percent. On Smith Farms and the Sandhill area, the number of pheasants and deer are down at least 70 percent. We all know the severe winters in 2009, 2010 and 2011 devastated the upland bird and deer population. However, I do want to point out how Fish, Wildlife and Parks failed to properly manage the upland game bird enhancement program and how it affected the Block Management Program also.

87-1-246, MCA states the amount of money specified in the sale of each hunting license must be used exclusively to preserve and enhance the upland bird population in Montana. 87-1-247(b), MCA reviews the potential pheasant release sites. 87-1-248(1), MCA a project eligible for funding under the pheasant release program must contain the proper combination of food, winter cover, nesting cover and other pheasant habitat components necessary by the department to provide viable permanent pheasant population in Montana. For example, in 2011 Smith Farms applied for the release of 600 pheasants, 200 on the Sandhills Block Management area and 400

on 4,000 acres of our other property. Fish, Wildlife & Parks denied the 400 pheasant release, so we closed that 4,000 acres to the public hunting that had previously been open to public hunting for over 70 years. Fish, Wildlife & Parks authorized the release of 4,632 pheasants in Sheridan and Daniels County, but did not authorize the release of any pheasants in Roosevelt County.

FWP still say evaluating the programs
Fish, Wildlife & Parks negotiated six food plots for a total of 42 acres in Sheridan and Daniels Counties, but did not authorize any in Roosevelt County or the Sandhills Block Management area. Also, the food plots that the Sheridan County Commissioners prepared in 2010 and Fish, Wildlife & Parks and the Council boasted about, were never planted.

Rule 12.9.615 requires Fish, Wildlife & Parks under severe weather conditions must provide a feeding program as of January 1, 2011. They delayed it until January 8 and thousands of upland game birds died. The only birds that survived were where dozens of individuals had been feeding them since early December.

In 2009 the legislature created a 12 member council to develop a 10-year strategic plan in an attempt to improve the Upland Game Bird Program. The council held twelve meetings and there was no transparency as the minutes revealed. I was the only person from the private sector to testify. I will list the requirements authorized that Fish, Wildlife & Parks and the council must follow:

87-1-247, MCA (1) Upland Game Enhancement Program: (1) is authorized use of Funds; (2) subject to subsections; and (3) revenue dedicated to the Upland Game Bird Enhancement Program pursuant to 87-1-246 must be used by the department to:

- (a) Prepare and disburse information to landowners and organizations concerning the Upland Game Bird Enhancement program;
- (b) Review potential upland game releases;
- (c) Assist applicants in preparing management plans for project areas;
- (d) Evaluate the Upland Game Enhancement Program;
- (e) Develop a strategic plan pursuant to 87-1-251 (2)(a);
- (f) Pursuant to subsection (2), release upland game birds in suitable habitat;
- (g) Develop, enhance, and conserve upland game bird habitat in Montana;
- (h) Establish and assist in upland game citizens advisory council pursuant to 87-1-246;

(2)(a) At least 15% of the funds collected under 87-1-246 must be set aside each year for expenditures related to upland game bird release. (Note: only pheasants and a few turkeys are released.)

(2)(b) At least 25% of the funds set aside for upland game bird release are to be spent each year;

(3) As far as practical, expenditures made pursuant to Subsection (1) must be prioritized by administrative region based on need, taking into consideration any biological, recreational, or economic benefit and the objectives established in a strategic plan developed pursuant to 87-1-251 (2)(a).

FWP and the council have made the public believe that funds spent on pheasant releases affected habitat funding. False. According to the Upland Game Bird budget report for 2011, it has a \$3.2 million unspent budget that could have and should have been spent for habitat and other related costs to comply with 87-1-246, MCA.

Michael, I am providing the above information because I consider you the spoke person in Region 6 for those enrolled in the Block Management Program. However, I realize these issues have to be addressed in Helena. I have contacted several members of the Sandhills Block Management area and others who have concerns on the future of the Block Management Program.

I would suggest you spend a day here, and I will give you a tour of the area in and out of Sandhills Block Management area and see the great vegetation and review the hunter permission access blanks to determine the success of those that hunted upland game birds and deer this hunting season.

If you have any questions, please give me a call at 483-5484.

Sincerely,

Ed B. Smith

Ed B. Smith, VP
Smith Farms, Inc.
288 Sandhills Rd.
Dagmar, MT 59219
Phn: 406 483-5484

P.S. I am also enclosing a copy of 87-1-251, MCA, and a copy of Aldo Leopold's report on pheasant releases.

*Copy of this letter faxed to Debbie Gohler on February 7, 2012
to Governor Schweitzer 2/2/2012.
I have not received copies of the hunter signed entry blanks
to the Sandhills BM area as of 3/25/2012.*

Notes in regard to discussion of Ed's letter at the May 2010 Upland Game Bird meeting:

I was asked as soon as I got to the meeting, if I would put the discussion of your letter on the agenda for the meeting. I agreed. I was also told that the members of the committee were upset that the Conservation Easement for Coffee Creek had been removed from the agenda for the FWP Commission meeting. The members were told by someone on the commission that the Upland Game Bird Committee had asked to have it pulled. I made sure the Upland Game Bird committee knew that I had asked for the easement to be pulled from the agenda and not on behalf of the committee.

1. Craig Roberts told the group that he was very upset that he was being talked about the way he was in your letter. He said your accusations were false and misleading. *? That only the beginning*
2. He went through your letter section by section and refuted most of what you had written.
3. Both Craig and Rick refuted the numbers you had come up with in regards to the cost of each bird harvested. They said you did not include the whole length (years) of each contract. *FWP records*
4. The MOU's were between Pheasant's Forever, Inc. and Habitat Forever and Craig signed for them.
5. The 10% the local chapter received was compensation for work done by the chapter.
6. Coffee Creek is owned by Pheasants Forever, Inc. - 800 acres with 320 acres of state land adjacent.
7. The Conservation Easement has been a work in progress since 2005. The land goes through a valuation process and then the money to purchase the easement comes from a number of sources, including federal dollars, Habitat Montana money and \$200,000 of Upland Game Bird money.
- # 8. On Pg. 2 of the letter: Coffee Creek has had a total of \$58,410 spent on it of Upland money. The \$175,000 is an MOU and covers a number of projects. The habitat specialist is paid from this.
9. I asked how these MOU's fit into the ARM and requirements for contracts. Rick Northrup said they are using annual plans instead. I asked why this isn't reflected in the ARM. They felt it was covered and OK. *was done by rule? or decision by FWP?*
10. On Pg. 3 of the letter: third paragraph - Craig went through the contracts: #635 is on the landboard *Craig signed the contract* property; only three of the rest are actually Craig's. The rest are Pheasants Forever. *Craig signed the contract*
- ~~10.~~ The local chapter of Pheasants Forever (Fergus county) owns about \$75,000 worth of equipment that they let FWP use for free. There is also many hours of volunteer work done by the local chapter. *?*
11. Discussion around the two other advisory councils: The first adv. Council had problems with how their 10yr. plan wasn't being implemented. Rick Northrup told the group that he responded to the committee with about 11 ways they were working on the plan at that time. In regards to the second 3-man council, Craig said that it was a joint agreement that the council was not needed anymore and that it was in the minutes. I asked Rick Northrup for the minutes of that meeting. (That is the packet I gave you when we met in Plentywood. It had the minutes from both of your meetings with that 3-man adv. Council.) *look over 5 minutes to receive the minutes from Rick*
12. One of the issues surrounding all of this is the definition of "project". Visiting with Greg Petesch, he said it is something that we need to set straight. *? This was discussed in length by the group.*
13. ~~Craig~~ talked in length about how upset he was at the accusations made by you and to all the people you had made them to. *Every thing I said is taken from FWP records*
14. A motion was made to contact Dir. Joe Maurier immediately and let him know that the council wanted the easement put back on the agenda for the Commission meeting the next day. An amendment was added to the motion that stated I was to contact the director myself. The motion passed. I did contact the director. He asked me if I was comfortable with the decision and I said I wasn't but that it was my job as chair to carry out the decision made by the group. I went back to the group and told them the easement would be on the agenda. I also told them that the director asked me if I was comfortable with it and I said no. I told the council that I did not agree with it because it was way too much money.

Did FWP explain how the money would be used and was FWP following the USBE law and ARM rules - ?

A side note: I told all the council members that our next meeting would be a working meeting. We have to work on performance measures as well as go through the ARM and statute to make sure what we are recommending is in sync. I asked them to read through the ARM as well as to familiarize themselves with the statute for our discussions. MOU's will be a big part of our discussion. This council has no problem with the easements or MOU's. My concern is that the MOU's were never made a part of the ARM and there was no public hearing on how they were changing their operation... going from projects to MOU's.

This is what should have been done at the very first meeting. ~~But~~ Rep. Julie French



Expire 6-25-2013

#879

County	_____
Region	_____
Date Rec'd	_____

UPLAND GAME BIRD HABITAT ENHANCEMENT PROGRAM CONTRACT

The CONTRACT is between the Montana Department of Fish, Wildlife and Parks, called the Department, and John Nesselhuf & Craig Roberts Cooperator

908 West Washington, Lewistown, MT 59457 Mailing Address _____ Zip Code, called the Cooperator. Cooperator's phone # (406) 538-3987

The purpose of this contract is to develop wildlife cover on 100 acres of land in Judith Basin County, Montana, according to the following legal description: NE4SE4 Section 26; W2SE4 Section 24, T15N, R15E

The attached map(s)/site plan portray the area covered by this contract. The land and area covered by this contract is called the Project Area. The Project Area is 4 1/2 miles NE of Hobson, MT.
(direction) (nearest town)

1. The Cooperator agrees to carry out the following projects and practices on the Cooperator's land described above: **To conduct site preparation, cultivation, tree planting and establishment of dense nesting cover on acreage enrolled in CRP.**
- 2a. The project objectives and species of concern are: **To establish woody winter cover, nesting cover, loafing cover and roosting cover for upland game birds. To plant dense nesting cover on approximately 85 acres and tall wheatgrass edge on 7 acres. Construct 3 small shallow water dikes for cattail enhancement. Principal species benefitting from the project will be ring-necked pheasant, sharptailed grouse and Hungarian partridge.**
- 2b. The Department and the Cooperator agree to share the costs of the projects and practices as outlined in the attached construction outline, which is incorporated herein by this reference. The Cooperator must provide receipts for reimbursement for materials used, including seed, trees and other goods and services. The Department's obligation to pay for its share of the costs of each project or practice is contingent on payment by the Cooperator of its share of project costs, and satisfactory completion of the following practices and projects.

Practice Code	Term of Contract	Dates of Practice	Acres	Rate (cost/unit)	Total Material Cost	Total Practice Cost
1b Shelterbelt site prep	6/98-6/13	4/98	6.1	\$25/acre		152.50
1a *Order trees	6/98-6/13	8/97	6.1	6250 trees		2280.00
1b Plant trees	6/98-6/13	4/98	6.1	.10/tree x 6250 trees		625.00
1b Cultivate trees	6/98-6/13	6/98-6/08	6.1	Min 3 times/yr x 4 yrs		1830.00
3a Chem site prep	6/98-6/08	4/98	89.6	\$20/acre		1792.00
3d Plant DNC & edge	6/98-6/08	4/98	89.6	\$17/acre		1523.20
3b Construct new fence	6/98-6/13	5/98	60	140 rods x \$7/rod		980.00
1g Repair fence	6/98-6/13	5/98	40	56 rods x \$3/rod		168.00
5b Wetland dike install	6/98-6/13	4/98	5	3 dikes x \$250/dike		750.00

\$10,100.70

1,010.07

Plus 10% to Central Montana Pheasants Forever

Additional cost

\$ 11,110.77 Total FWP cost
\$? Cooperator/NRCS Share

*Trees and Basin Wildrye plugs paid for by MFWP directly

Why was pheasants Forever paid 10% of the cost of projects

Alfalfa
'Delar' Small Burnet

.50
.75

'Sherman' Big Bluegrass is a long-lived, native, perennial bunchgrass that grows 2 to 4 feet tall. It grows early in the spring and upland game birds, especially pheasants, choose fields containing big bluegrass for nesting sites. The 85 acres of DNC will be located in two separate fields that are divided by a field that will remain in agricultural production. The CRP fields will be fenced to exclude access by livestock.

All 94 acres that will be included in the project area will receive 2 applications of Roundup (chem fallow) prior to the seeding of grass in late April to control wild oats and cheatgrass.

ROOSTING COVER

Containerized Basin Wildrye plugs will be planted on .7 acres and Tall Wheatgrass will be seeded on the adjoining 2.3 acres to create approximately 3 acres of high quality roosting cover. The Basin Wildrye plugs will be planted on a 6 foot spacing within row and 6 feet between rows. Approximately 20 rows 240 feet long will be established. The Basin Wildrye will be cultivated until the individual clumps begin touching.

SHALLOW WATER DIKES

Three shallow water dikes will be constructed in a small drainage that will be fenced into the project area. Cattails and Reed Canarygrass are established in the draw. Shallow water dikes will create conditions that will enhance the size of the existing cattail stands. Expansion of the cattail stands will increase the use of the area by roosting pheasants.

<u>ROW</u>	<u>SPECIES</u>	<u>IN-ROW SPACING</u>
1	Caragana	3'
2	Golden Current	3'
3	Chokecherry	3'
4	Rocky Mountain Juniper	6'
5	Rocky Mountain Juniper	8'
6	Rocky Mountain Juniper	10'
7	Canada Red Chokecherry	3'
8	Lilac	3'
9	Golden Current	3'
10	Snowberry	2'
11	Cottoneaster	3'
12	Blue-leaf Honeysuckle	3'
13	Woods Rose	2'
14	Woods Rose	2'

This shelterbelt will be clean cultivated a minimum of 3 times annually for a period of 10 years. The shelterbelt planting will be fenced to exclude access by domestic livestock.

Tall Wheatgrass Edge

The boundaries of the two CRP fields will be seeded to Tall Wheatgrass. There will be a minimum of 7600 lineal feet of edge created by this seeding. The edges created will be bordered by CRP seeded to DNC on one side and small grain production on the other side. The Tall Wheatgrass seeding will be 30 to 40 feet in width and the field corners will be seeding in a manner that will create approximately 1 acre solid plantings tied into the edge plantings. (Refer to the attached planting plans) The Tall Wheatgrass is a tall growing bunchgrass that resists lodging and provides open ground interspersed with the grass. These sites are preferred by pheasants for travel lanes, roosting and escape cover. The total acreage committed to the Tall Wheatgrass edge will be approximately 7 acres.

Dense Nesting Cover

Approximately 85 acres will be seeded to dense nesting cover. The species composition is as follows.

<u>SPECIES</u>	<u>% COMPOSITION</u>	<u>#'s/ACRE</u>
'Sherman' Big Bluegrass	20	.60
Green Needlegrass	20	1.20
Western Wheatgrass	20	1.20
Tall Wheatgrass	20	2.00
Pubescent Wheatgrass	20	1.40

UPLAND GAME BIRD HABITAT ENHANCEMENT

SITE/PROJECT PLAN

NESSELHUF/ROBERTS PROPERTY IN JUDITH BASIN COUNTY

Prepared and submitted by the Central Montana Chapter of Pheasants Forever in compliance with the provisions set forth in the M.O.U. between the Chapter and the Department.

The Nesselhuf/Roberts property consists of 520 acres of crop and grazing land in Judith Basin County, Montana. The Judith River flows one and a half miles through the property, entering the west boundary and exiting to the north. Grazing management and noxious weed treatment practices have been implemented during the past five years to rehabilitate the riparian zone along the Judith River, as well as the slopes and upland benches that contain native range.

The owners have participated in the Upland Game Bird Habitat Enhancement Program with grazing deferment, cross fencing and establishment of three winter cover shelterbelt projects. The property is also enrolled in the Department's Block Management Program.

This project will provide substantial essential habitat required by many avian and terrestrial wildlife species. The proposal will include seeding dense nesting cover (DNC) on 72.2 acres, establishing over 7600 lineal feet of Tall Wheatgrass edge for travel/loafing/roosting cover on 6.4 acres, planting 5450 trees on 5.4 acres, planting 800 containerized Basin Wildrye plugs on .7 acres and 2.3 acres of Tall Wheatgrass for roosting cover and constructing 3 shallow water dikes to enhance existing cattail stands for escape and roosting cover. All of the projects will be established on agricultural land that has been enrolled in CRP during sign-up number 15.

PROJECT SPECIFICATIONS

Winter Cover Shelterbelt

This project will consist of a 14 row planting of shrubs and trees. The planting will average nearly 1200 feet long. Tree row spacing will be 15 feet. Species and in-row tree spacing will be as follows.

MONTANA FISH, WILDLIFE AND PARKS

MEMORANDUM

2 September 1997

To: Graham Taylor and John McCarthy
From: Tom Stivers

Subject: UGBHEP on Nesselhuf/Roberts property in Judith Basin County.

Enclosed is a Site/Project Plan and Contract for an UGBHEP project on the Nesselhuf/Roberts property in Judith Basin County. I find that this project will be most significant in bringing together the earlier habitat projects -- making the entire property very productive for upland birds. (This 520 acres keeps getting better and better, very much better than I expected when I began working with said landowners in 1990.)

Also, to date, all of the other Nesselhuf/Roberts projects have been impeccably implemented.

Please look this project over, and if it makes the grade on paper please pass it on for the appropriate signature.

MONTANA FISH, WILDLIFE AND PARKS

MEMORANDUM

28 October 1997

To: Graham Taylor and John McCarthy
From: Tom Stivers

Subject: UGBHEP on Nesselhuf/Roberts property in Judith Basin County.

Enclosed is a Site/Project Plan and Contract for an UGBHEP project on the Nesselhuf/Roberts property in Judith Basin County, that I now resubmit to you with the CRP verbiage included.

I find that this project will be most significant in bringing together the earlier habitat projects -- making the entire property very productive for upland birds. (This 520 acres continues getting better and better, very much better than expected when I began working with said landowners in 1990.)

Also, to date, all of the other UGBHEP projects that have been implemented on the Nesselhuf/Roberts property have been implemented impeccably (3 other shelterbelts, and a grazing plan).

Also noteworthy is that this property annually provides a lot of hunting recreation. This is the second year that this property, with 3 neighboring properties, is the Judith/Ross Fork Block Management Area.

Please look this project over and see that it's approved and funded for planting this coming spring/summer, 1998.

Purchaser's Name Central Montana Pheasants Forever
Mailing Address 908 W. Washington
City Lewistown State MT Zip 59457
Phone (406) 538-7789

For Nursery Use Only
Order No.: _____
Paid: _____
Transmittal No.: _____

PLANTING AND DELIVERY

Year to be planted: 1998 County to be planted in: Judith Basin New planting or replacement stock _____?
If replacement, what year was the original planting? _____ Order #? _____
If we are out of stock desired, shall we refund sold-out portion _____ make suitable substitution _____ or backorder to next year _____?
If substitution is desired, list acceptable species: Call me to discuss substitution
How would you like to receive your order? (Check one) No delivery or pick up prior to April 1st.
 Pick up at Nursery in Missoula. Date desired _____
 Delivered by State refrigerated truck (at no additional charge) to Fergus County office.
 UPS, ship from Nursery on (Monday through Wednesday only) _____ (Date) to _____ (UPS Address)

TREE PLANTING PLAN

Ownership Size 520 acres Type of Planting (Check only one)
 Farmstead Windbreak Streambank Stabilization
 Field Shelterbelt Erosion Control
 Living Snowfence Wildlife Planting
 Reforestation Other _____

Sketch of planting layout (or attach separate sheet).
Refer to attached Planting Plan

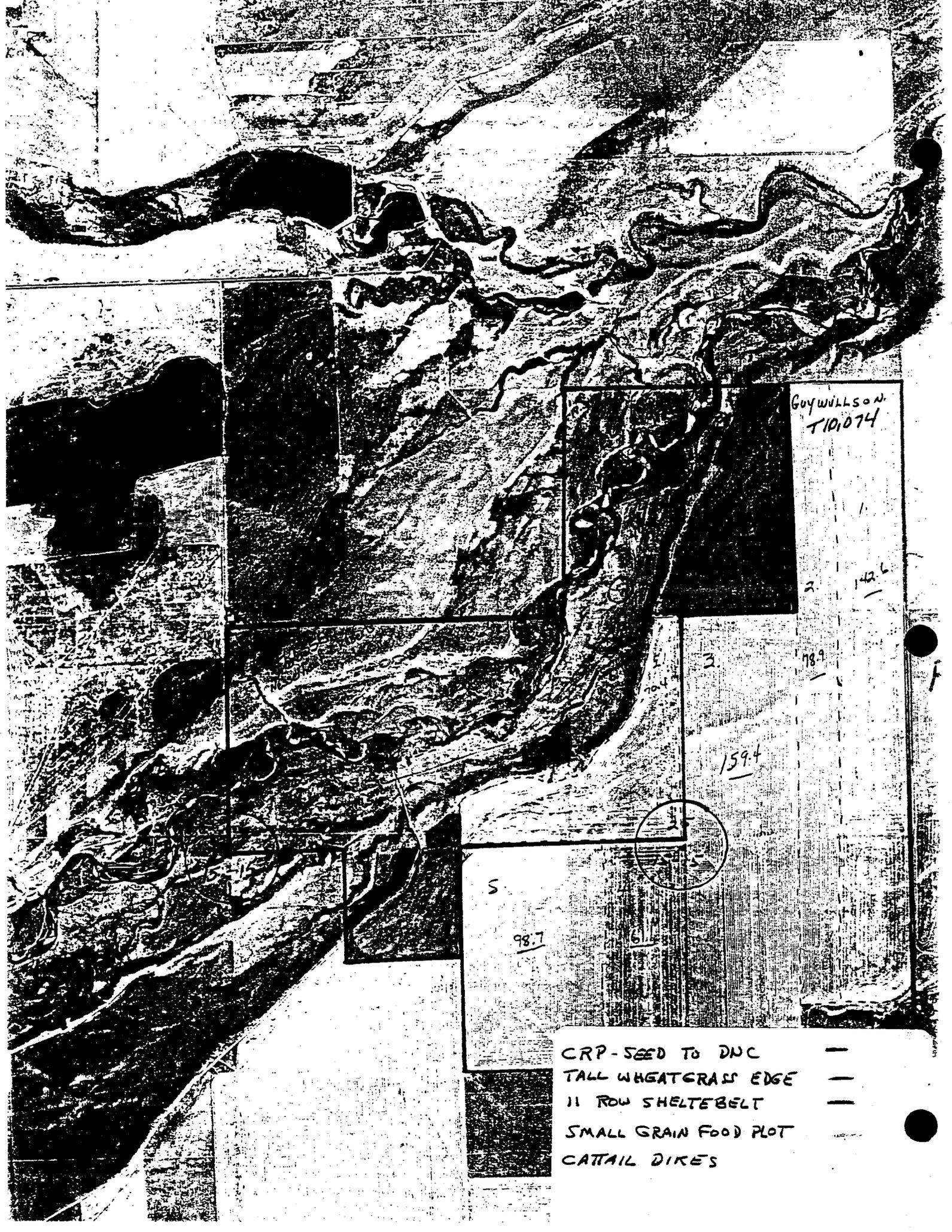
TO BE PAID BY MONTANA FISH, WILDLIFE & PARKS THROUGH THE UPLAND GAME BIRD HABITAT ENHANCEMENT PROGRAM.

In consideration of the granting of this application, I agree to abide by the stated ordering instructions and conditions of sale.
Craig E. Roberts
(Signature of Applicant)
Oct 27, 1997
(Date)

Conservation Planting Plan for this planting was approved by:

(Signature)

(Agency)



Guywillson
T10,074

2. 142.6

3. 78.9

159.4

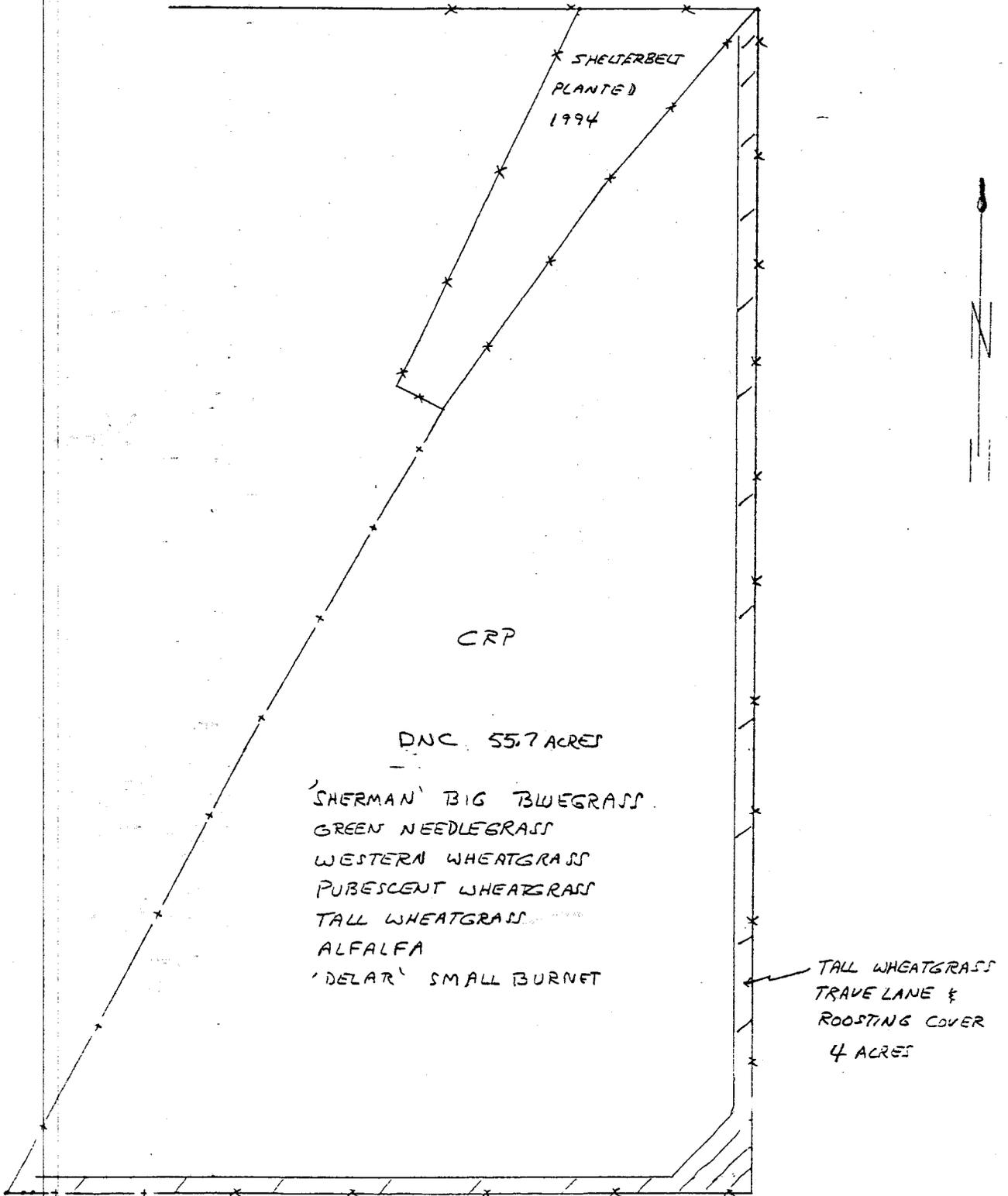
S

98.7

61.5

- CRP-SEED TO DNC —
- TALL WHEATGRASS EDGE —
- 11 ROW SHELTERBELT —
- SMALL GRAIN FOOD PLOT —
- CATTAIL DIKES —

PLAN A1 - NORTH PROJECT
W2SE4, SEC 24, T15N, R15E



ROBERTS-NESSELUH UPLAND GAME BIRD HABITAT PLAN

WINTER COVER SHELTERBELT & DENSE NESTING COVER PLANTING

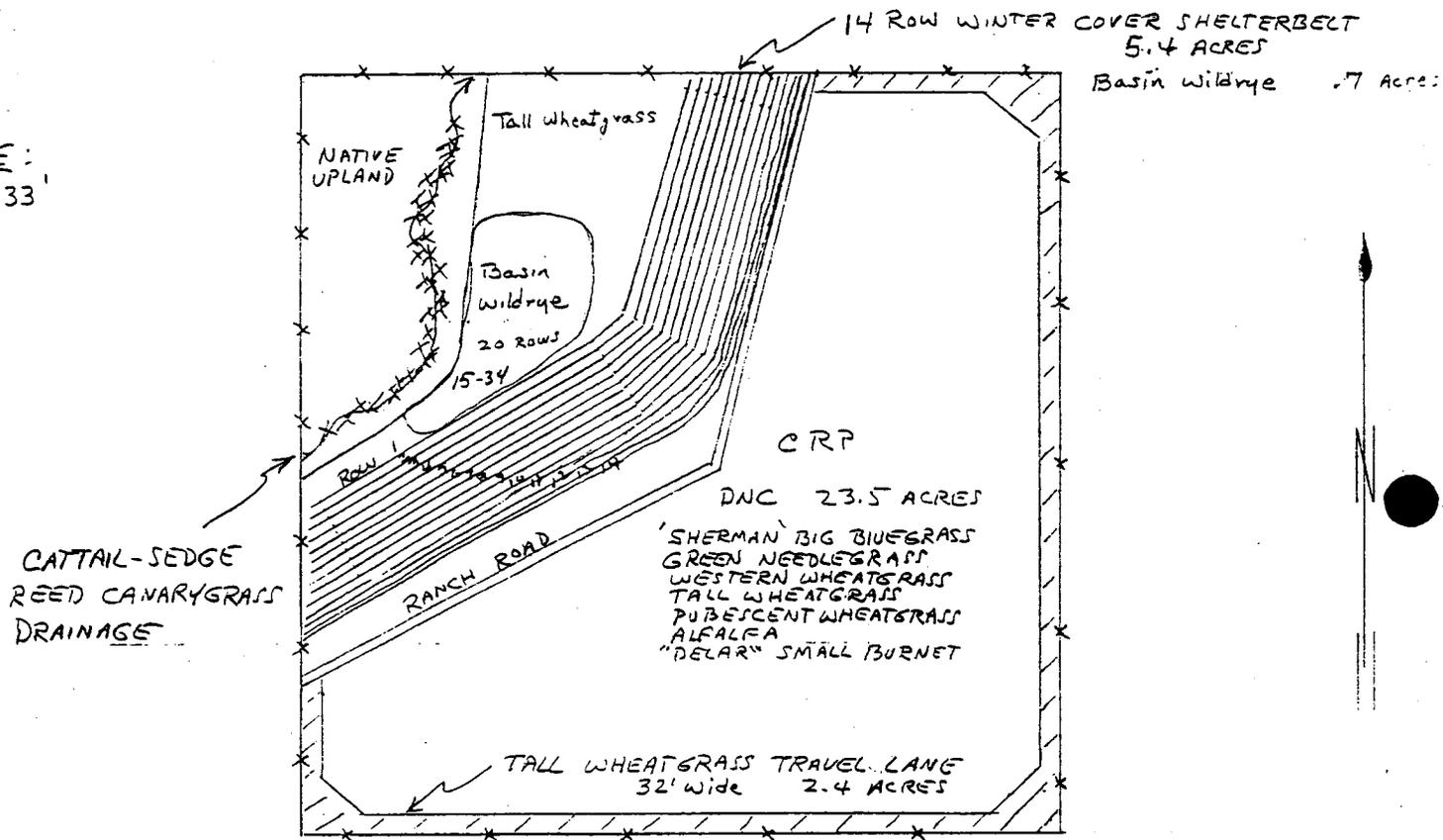
NE4SE4, SEC 26 & W2SE4 SEC 24, T15N, R15E

JUDITH BASIN COUNTY

PLAN A - SOUTH PROJECT

NE4SE4, SEC 26, T15N, R15E

SCALE:
1/10" = 33'



ROW	LENGTH	SPECIES	SPACING	# TREES	TOTAL ORDER
1	1060	CARAGANA	3	353	350
2	1081	GOLDEN CURRENT	3	360	800
3	1102	CHOKECHERRY	3	367	400
4	1123	ROCKY MOUNTAIN JUNIPER	6	187	450
5	1144	ROCKY MOUNTAIN JUNIPER	8	143	
6	1165	ROCKY MOUNTAIN JUNIPER	10	117	
7	1186	CANADA RED CHOKECHERRY	3	395	400
8	1207	LILAC	3	402	400
9	1220	GOLDEN CURRENT	3	407	
10	1228	SNOWBERRY	2	614	600
11	1250	COTONEASTER	3	417	400
12	1250	BLUE LEAF HONEYSUCKLE	3	417	400
13	1250	WOODS ROSE	2	625	1250
14	1250	WOODS ROSE	2	625	
15-34	240	Basin wildrye	6	800	800

PAYMENT SCHEDULE

NAME: Central Montana Chapter Pheasants Forever

PAYMENT DATES	PAYMENT DUE
June 1998	\$ 1010.07

PAID IN FULL ON June 1998

make check payable to: Central Montana Pheasants Forever

Mail Payment To:

Central Montana Pheasants Forever
c/o Pat Logan, Treasurer
RR 2, Box 7355
Lewistown, MT 59457

12. The cooperator understands and agrees that if the cooperator owes a sum of money to the state and/or federal government, the state will deduct such sum from the money to be paid to the cooperator under this contract.
13. In the event the lands covered by this contract are removed from CRP enrollment, the cooperator shall reimburse FWP for the portion of FWP's cost-share contribution (prorated on a monthly basis) that corresponds to the length of the remaining enrollment period. In addition to the prorated reimbursement amount, the cooperator agrees that FWP will be damaged in an amount that is very difficult to quantify, and that liquidated damages are appropriate. Such damages will be equivalent to 10% of FWP's total cost share contribution to the project.

Craig E. Roberts

Craig E. Roberts

Cooperator

John W. Nesselhof

John W. Nesselhof

Cooperator Social Security/Fed. Tax ID# (required before payments can be made)

Director or designated representative

Date

3. This contract shall have a term of ** years, unless terminated earlier, starting on the date written below next to the Department's signature. The Cooperator agrees to abide by all of the terms and conditions of this contract for the full term of this contract. **** Fifteen (15) years on the tree planting and ten (10) years on the dense nesting planting, tall wheatgrass edge planting and fifteen (15) on fences.**
4. If the projects and practices are not satisfactorily completed by the Cooperator according to the schedule set forth in this contract, the Department may at its option terminate this contract, or extend the time for completion. The Department will notify the Cooperator in writing of the Cooperator's failure to complete the practice or project, and whether the Department has elected to cancel this contract or extend the time for completion of the project or practice. If this contract is terminated under this paragraph, the Cooperator will be obligated to repay the Department a sum computed under the formula set forth in paragraph 6 below.
5. On the contracted areas, the cooperators agrees:
 - a. to protect all habitat from grazing, mowing, noxious weeds, fires, and tree cutting except as prescribed below:
 - 1) New CRP plantings can be mowed the first year for weed control. A minimum of 12 inches of stubble will be left and mowing must occur after July 15.
 - 2) One emergency practice involving no more than 50% of the CRP acreage contracted will be allowed during the term of the contract. Practices involving more than 50% of the acreage under contract or occurring more than once during the period of the contract will require the cooperators to repay the MFWP according to the following formula; that amount derived by dividing the sum of payments paid by MFWP for the contract by the total number of years provided in the original term.

Cooperator shall contact MFWP's designated representative prior to any contemplated haying/grazing of acreage under this contract. Written approval from designated representative is require prior to any haying/grazing.
 - b. not to use pesticides, except as allowed with written permission by the Department representative specified in paragraph 7;
 - c. that reasonable free public upland game bird hunting will be allowed for the term of this contract. The landowner will retain the right to limit the number of hunters and those areas where hunting is allowed for the term of the contract. The area open to hunting is understood to include: **E2SW4, W2SE4, Section 24; NW4 Section 25; NE4, NE4SE4, Section 26; T15N, R15E containing 520 acres.**
 - d. permit Department representatives access for inspection and study.
 - e. permit Department representatives to sign the project area with Upland Game Bird Habitat Enhancement Program signs which may require hunters to ask permission or permit "walk-in only" hunting without permission. Cooperator further agrees not to post the project area with orange paint or "no hunting" or "no trespassing" signs.
6. This agreement shall be binding upon, and inure to the benefit of, the heirs, personal representatives, administrators, successors and assigns of the Cooperator and the Department. The Cooperator shall give notice to the Department of any changes in ownership or possession of the land covered by this contract. If the Cooperator's ownership or possession of the land ends during the term of the contract, and the new owner or possessor does not agree to continue this contract and be substituted as the Cooperator under this contract, this Contract shall terminate and the Cooperator shall repay to the Department a portion of the payments made by the Department, according to the following formula: multiply the sum of all payments made by the Department by the ratio obtained by dividing the number of years remaining in the term of the contract by the total number of years provided in the original term.
7. The Department designates Graham Taylor, its Regional Wildlife Manager (or assigned representative) in Region 4, Montana as its designated representative under this contract. All notices and communications with the Department shall be made by the Cooperator to the designated representative. All notices from the Department to the Cooperator shall be made in writing to the Cooperator at the Cooperator's address specified above. The Department may change its designated representative, and the Cooperator may change its address, by either party notifying the other in writing of such change.
8. No modification or extension of this contract will be effective unless put in writing and signed by both the Cooperator and Department. This contract Supersedes all previous contracts or agreements of any kind between the parties. No failure by the Department to act on any particular matter under this contract shall constitute a waiver of the Cooperator's obligations under this contract, nor shall the Department be estopped in any way.
9. The Department's obligation to make the payments provided in this contract is contingent on the continuation of appropriations by the Montana legislature. If sufficient appropriations are not made, the Department may cancel this contract without any further obligation to the Cooperator.
10. This contract is not binding until signed by the Director or his/her designated representative, and is effective as of the date set forth below.
11. Any obligation of the Cooperator to repay the Department any sum under this contract shall continue in full force and effect following termination of this contract. In the event of any litigation between the parties to this contract, venue shall be in the district Court of Lewis and Clark County, Montana. This venue provision shall remain in force and effect following termination of this contract.

County _____
 Region 637
 Date Rec'd _____

UPLAND GAME BIRD HABITAT ENHANCEMENT PROGRAM CONTRACT

The CONTRACT is between the Montana Department of Fish, Wildlife and Parks, called the Department, and John Nesselhuf & Cooperator
Craig Roberts, 908 W. Washington, Lewistown, MT 57457, called the Cooperator. Cooperator's phone # 538-8639 (John)
538-3987 (Craig)

The purpose of this contract is to develop wildlife cover on 2.8 acres of land in Judith Basin County, Montana, according to the following legal description:

NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 26, T15N, R15E

The attached map(s)/site plan portray the area covered by this contract. The land and area covered by this contract is called the Project Area. The Project Area is 4 $\frac{1}{2}$ miles NE of Hobson
(direction) (nearest town)

1. The Cooperator agrees to carry out the following projects and practices on the Cooperator's land described above:
To conduct site preparation/cultivation, plant trees, install fabric mulch, plant nesting/loafing cover and fence project to exclude domestic livestock and deer.
- 2a. The project objectives and species of concern are: To establish woody winter cover, nesting cover and loafing cover for upland game birds. The principal species benefiting from the project will be pheasants, Sharptail grouse, and Hungarian partridge. Plant nesting/loafing/escape cover between tree/fabric rows in shelterbelt. Plant tall herbaceous cover on windward side of tree planting. Fence with deer proof fence.
- 2b. The Department and the Cooperator agree to share the costs of the projects and practices as outlined in the attached construction outline, which is incorporated herein by this reference. The Cooperator must provide receipts for reimbursement for materials used, including seed, trees and other goods and services. The Department's obligation to pay for its share of the costs of each project or practice is contingent on payment by the Cooperator of its share of project costs, and satisfactory completion of the following practices and projects.

Practice Code	Term of Contract	Dates of Practice	Acres	Rate (cost/unit)	Total Material Cost	Total Practice Cost
1b	Shelterbelt site prep	6/96-6/11 1996	2.83	\$25/acre x 3 cultivations		\$212.25
1a	*Order trees	1996	2.83	35¢ x 1425 trees		502.00
1c	*Purchase fabric	3/1997	2.83	\$170.83/roll x 12 rolls		2050.00
1b	Plant trees	4/1997	2.83	10¢ x 1425 trees		142.50
1c	Lay fabric	4/1997	2.83	5¢ x 5835 feet		291.75
3d	Plant nest cover	4/1997	1.75	\$40/acre x 1.75 acres		70.00
1g	*Fence Shelterbelt	5/1997	2.83	\$12/rod x 86 rods		\$1032.00
Cost Subtotal						\$4300.50
Plus 10% for Central Mt Pheasants Forever						430.05
Total						\$4730.55

* Trees and fabric paid by MFWP directly or through M.O.U. \$ 4730.55 Total FWP Cost
 * Field mesh will remain property of FWP. When no longer needed to protect & ms plantings, it will be taken down, labor fence installation Cooperator/ASCS Share
 * By collect, level made available for use of another UGBMP project.

3. This contract shall have a term of 15 years, unless terminated earlier, starting on the date written below next to the Department's signature. The Cooperator agrees to abide by all of the terms and conditions of this contract for the full term of this contract.
4. If the projects and practices are not satisfactorily completed by the Cooperator according to the schedule set forth in this contract, the Department may at its option terminate this contract, or extend the time for completion. The Department will notify the Cooperator in writing of the Cooperator's failure to complete the practice or project, and whether the Department has elected to cancel this contract or extend the time for completion of the project or practice. If this contract is terminated under this paragraph, the Cooperator will be obligated to repay the Department a sum computed under the formula set forth in paragraph 6 below.

5. On the contracted areas, the cooperator agrees:
- to protect all habitat from grazing, mowing, noxious weeds, fires, and tree cutting except as prescribed below: Reasonable free public Upland Game Bird Hunting will be allowed on the farm/ranch containing approximately 520 acres for the duration of the contract.
 - not to use pesticides, except as allowed with written permission by the Department representative specified in paragraph 7;
 - that reasonable free public upland game bird hunting will be allowed for the term of this contract. The landowner will retain the right to limit the number of hunters and those areas where hunting is allowed for the term of the contract. The area open to hunting is understood to include: E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec 24; NW $\frac{1}{4}$ Sec 25; NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec 26, T15N, R15E containing approximately 520 acres.
 - permit Department representatives access for inspection and study.
 - permit Department representatives to sign the project area with Upland Game Habitat Enhancement Program signs which may require hunters to ask permission or permit "walk-in only" hunting without permission. Cooperator further agrees not to post the project area with orange paint or "no hunting" or "no trespassing" signs.
6. This agreement shall be binding upon, and inure to the benefit of, the heirs, personal representatives, administrators, successors and assigns of the Cooperator and the Department. The Cooperator shall give notice to the Department of any changes in ownership or possession of the land covered by this contract. If the Cooperator's ownership or possession of the land ends during the term of the contract, and the new owner or possessor does not agree to continue this contract and be substituted as the Cooperator under this contract, this Contract shall terminate and the Cooperator shall repay to the Department a portion of the payments made by the Department, according to the following formula: multiply the sum of all payments made by the Department by the ratio obtained by dividing the number of years remaining in the term of the contract by the total number of years provided in the original term.
7. The Department designates Graham Taylor, its Regional Wildlife Manager (or assigned representative) in Region 4, Montana, as its designated representative under this contract. All notices and communications with the Department shall be made by the Cooperator to the designated representative. All notices from the Department to the Cooperator shall be made in writing to the Cooperator at the Cooperator's address specified above. The Department may change its designated representative, and the Cooperator may change its address, by either party notifying the other in writing of such change.
8. No modification or extension of this contract will be effective unless put in writing and signed by both the Cooperator and Department. This contract supersedes all previous contracts or agreements of any kind between the parties. No failure by the Department to act on any particular matter under this contract shall constitute a waiver of the Cooperator's obligations under this contract, nor shall the Department be estopped in any way.
9. The Department's obligation to make the payments provided in this contract is contingent on the continuation of appropriations by the Montana legislature. If sufficient appropriations are not made, the Department may cancel this contract without any further obligation to the Cooperator.
10. This contract is not binding until signed by the Department or his/her designated representative, and is effective as of the date set forth below.
11. Any obligation of the Cooperator to repay the Department any sum under this contract shall continue in full force and effect following termination of this contract. In the event of any litigation between the parties to this contract, venue shall be in the district court of Lewis and Clark County, Montana. This venue provision shall remain in full force and effect following termination of this contract.
12. The cooperator understands and agrees that if the cooperator owes a sum of money to the state and/or federal government, the state will deduct such sum from the money to be paid to the cooperator under this contract.

Craig E. Roberts
Craig E. Roberts

Cooperator

John W. Nesselhuf
John W. Nesselhuf

Cooperator Social Security/Fed. Tax

March 25, 1996

Date

[Signature]
Director or Designated Representative

#549

Visited this site in 1999 - Sept, 29 -
no signs due to 1/4 mile of forested
trees never cut/removed

County _____
 Region _____
 Date Rec'd _____

UPLAND GAME BIRD HABITAT ENHANCEMENT PROGRAM CONTRACT

The CONTRACT is between the Montana Department of Fish, Wildlife and Parks, called the Department, and John Nesselhuf and Craig Roberts, ^{Lewistown} 908 W. Washington, ^{MT} 59457, called the Cooperator. Cooperator's phone #538-3987 (Roberts) ^{Cooperator} 538-8639 (Nesselhuf)

The purpose of this contract is to develop wildlife cover on (6.0) acres of land in Judith Basin County, Montana, according to the following legal description:

SE 1/4 Sec. 24, T15N, R15E
 NW 1/4 Sec. 25, T15N, R15E

Expired 3-25-09

The attached map(s)/site plan portray the area covered by this contract. The land and area covered by this contract is called the Project Area. The Project Area is 4 1/2 miles northeast of Hobson
(direction) (nearest town)

1. The Cooperator agrees to carry out the following projects and practices on the Cooperator's land described above:
To conduct planting site preparation/cultivation, plant trees, lay fabric mulch, plant nesting cover, and fence project.
- 2a. The project objectives and species of concern are: To establish woody winter cover and nesting cover for Upland Game Birds. The principal species benefiting from the project will be pheasants, sharptail grouse, and Hungarian partridge. Plant nesting cover between tree/fabric rows in shelterbelt and fence shelterbelt to exclude domestic livestock.
- 2b. The Department and the Cooperator agree to share the costs of the projects and practices as outlined in the attached construction outline, which is incorporated herein by this reference. The Cooperator must provide receipts for reimbursement for materials used, including seed, trees and other goods and services. The Department's obligation to pay for its share of the costs of each project or practice is contingent on payment by the Cooperator of its share of project costs, and satisfactory completion of the following practices and projects.

Practice Code	Term of Contract	Dates of Practice	Acres	Rate (cost/unit)	Total Material Cost	Total Practice Cost
Shelterbelt Site Prep.	6/94 - 6/09	1993	6.0	\$25/ac. x 3 cultivations		\$ 450.00
* Order trees		1993	6.0	27¢ x 4680 trees (**backorder)		\$1314.00
* Purchase fabric		3/1994	6.0	\$128.50 x 34 rolls		\$4369.00
Plant trees		4/1994	6.0	10¢ x 4680 trees		\$ 468.00
Lay fabric		5/1994	6.0	5¢ x 16,780 feet		\$ 839.00
Plant nest cover		4/1994	6.0	\$20/acre x 6 acres		\$ 120.00
Rent tree planter		4/1994	6.0	6¢/tree x 4,680 trees		\$ 281.00
Fence shelterbelt		8/1993	6.0	\$6/rod x 200 rods		\$1200.00
Cost Subtotal:						\$9041.00
Plus 10% for Central Montana Pheasants Forever:						\$ 904.00
TOTAL COST:						\$9945.00

Trees and fabric paid by MDFWP directly or through MOU. Other items paid by cooperator.
 Backorder of 325 containerized junipers for 1995.

\$ 9,945.00 Total FWP Cost
 \$? Cooperator/ASCS Share

3. This contract shall have a term of 15 years, unless terminated earlier, starting on the date written below next to the Department's signature. The Cooperator agrees to abide by all of the terms and conditions of this contract for the full term of this contract.
4. If the projects and practices are not satisfactorily completed by the Cooperator according to the schedule set forth in this contract, the Department may at its option terminate this contract, or extend the time for completion. The Department will notify the Cooperator in writing of the Cooperator's failure to complete the practice or project, and whether the Department has elected to cancel this contract or extend the time for completion of the project or practice. If this contract is terminated under this paragraph, the Cooperator will be obligated to repay the Department a sum computed under the formula set forth in paragraph 6 below.

5. On the contracted areas, the cooperator agrees:
- to protect all habitat from grazing, mowing, noxious weeds, fires, and tree cutting except as prescribed below: Reasonable free public Upland Game Bird Hunting will be allowed on the farm/ranch containing approximately 520 acres for the duration of the contract.
 - not to use pesticides, except as allowed with written permission by the Department representative specified in paragraph 7;
 - that reasonable free public upland game bird hunting will be allowed for the term of this contract. The landowner will retain the right to limit the number of hunters and those areas where hunting is allowed for the term of the contract. The area open to hunting is understood to include: E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 24; NW $\frac{1}{4}$ Sec. 25; NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 26, T15N, R15E containing approximately 520 acres.
 - permit Department representatives access for inspection and study.
 - permit Department representatives to sign the project area with Upland Game Habitat Enhancement Program signs which may require hunters to ask permission or permit "walk-in only" hunting without permission. Cooperator further agrees not to post the project area with orange paint or "no hunting" or "no trespassing" signs.
6. This agreement shall be binding upon, and inure to the benefit of, the heirs, personal representatives, administrators, successors and assigns of the Cooperator and the Department. The Cooperator shall give notice to the Department of any changes in ownership or possession of the land covered by this contract. If the Cooperator's ownership or possession of the land ends during the term of the contract, and the new owner or possessor does not agree to continue this contract and be substituted as the Cooperator under this contract, this Contract shall terminate and the Cooperator shall repay to the Department a portion of the payments made by the Department, according to the following formula: multiply the sum of all payments made by the Department by the ratio obtained by dividing the number of years remaining in the term of the contract by the total number of years provided in the original term.
7. The Department designates Graham Taylor, its Regional Wildlife Manager (or assigned representative) in Region 4, Montana, as its designated representative under this contract. All notices and communications with the Department shall be made by the Cooperator to the designated representative. All notices from the Department to the Cooperator shall be made in writing to the Cooperator at the Cooperator's address specified above. The Department may change its designated representative, and the Cooperator may change its address, by either party notifying the other in writing of such change.
8. No modification or extension of this contract will be effective unless put in writing and signed by both the Cooperator and the Department. This contract supersedes all previous contracts or agreements of any kind between the parties. No failure by the Department to act on any particular matter under this contract shall constitute a waiver of the Cooperator's obligations under this contract, nor shall the Department be estopped in any way.
9. The Department's obligation to make the payments provided in this contract is contingent on the continuation of appropriations by the Montana legislature. If sufficient appropriations are not made, the Department may cancel this contract without any further obligation to the Cooperator.
10. This contract is not binding until signed by the Department or his/her designated representative, and is effective as of the date set forth below.
11. Any obligation of the Cooperator to repay the Department any sum under this contract shall continue in full force and effect following termination of this contract. In the event of any litigation between the parties to this contract, venue shall be in the district court of Lewis and Clark County, Montana. This venue provision shall remain in full force and effect following termination of this contract.
12. The cooperator understands and agrees that if the cooperator owes a sum of money to the state and/or federal government, the state will deduct such sum from the money to be paid to the cooperator under this contract.

Craig E. Roberts 3/25/94

Cooperator

John W. Nessel

Cooperator Social Security/Fed. Tax ID # (required before payment can be made)

March 25, 1994

TREE ORDER APPLICATION

STATE FOREST TREE NURSERY
DIVISION OF FORESTRY
2705 SPURGIN ROAD
MISSOULA, MONTANA 59801
PHONE 542-4244

SEE ORDERING INFORMATION AND CONDITIONS OF SALE
PRIOR TO FILLING OUT APPLICATION

MINIMUM ORDER, 250 SEEDLINGS
UNLESS REPLACEMENT, THEN 100

For Nursery Use Only

Purchaser's Name CRAIG ROBERTS

Address 908 W. WASHINGTON

City LEWISTOWN, MT Zip Code 59457 Phone 538-7789

Year to be Planted 1994 County to be planted in Judith Basin

Order pickup at nursery _____; Delivered with FERGUS County orders; Ship UPS _____ on _____ (Date)

If we are out of stock desired, shall we _____ make suitable substitution; _____ or refund, sold out portion?

If substitution is desired, list acceptable species: Please Call

Is this your first order from us? Yes _____ No : New Planting _____ Replacement Stock

Species Code		Number Ordered	Cost per Hundred	Total Price	Species Code		Number Ordered	Cost per Hundred	Total Price
SHRUBS (BAREROOT) (Order in lots of 50)					EVERGREENS (BAREROOT) (Order in lots of 25)				
00	Caragana	900	23 ⁰⁰	207	25	Rocky Mtn. Juniper			
01	Buffaloberry	300	23 ⁰⁰	69	26	Blue Spruce			
02	Honeysuckle				27	Ponderosa Pine, E.			
03	Common Lilac	450	23 ⁰⁰	103 ⁵⁰	28	Ponderosa Pine, W.			
04	Purple Willow				29	Douglas-Fir, E.			
05	American Plum				30	Douglas-Fir, W.			
06	Chokecherry				31	Scotch Pine			
07	Nanking Cherry				32				
08	Sandcherry				CONTAINERIZED STOCK (30 cu. inch containers) (Order in lots of 25)				
09									
10	Skunk Sumac								
11	Wood's Rose	700	23 ⁰⁰	161	33				
12	Snowberry	400	23 ⁰⁰	92	34	Blue Spruce, C-30			
13	Arnold Hawthorne	50	23 ⁰⁰	11.50	35	P. Pine, E., C-30			
BROADLEAF TREES (BAREROOT) (Order in lots of 50)					36	Douglas-Fir, E., C-30			
14	Green Ash				37				
15	Siberian Elm				(4 cu. inch containers) (Order in lots of 200)				
16	Russian Olive	150	23 ⁰⁰	34.50	38	Ponderosa Pine, W.			
17	Siberian Crabapple				39	Douglas-Fir, W.			
18	Golden Willow				40	Lodgepole Pine			
19	Plains Cottonwood				41	Western White Pine			
20	Robusta Cottonwood				42	Engelmann Spruce			
21	Daniels Cottonwood				43	Western Larch			
22					44	Buffaloberry	100	34 ⁰⁰	34 ⁰⁰
23					45				
24					46				

In consideration for the granting of this application, I agree to abide by the stated ordering instructions and conditions of sale.

Craig E. Roberts
(Signature of Applicant)

6/21/93
(Date)

TOTAL TREES ORDERED 3050

TOTAL COST OF SEEDLINGS 712.50
PROCESSING CHARGES 10.00
TOTAL CHARGES 722.50

Technical assistance for this planting was furnished by:

(Signature)

(Agency)

TREES WILL NOT BE SHIPPED UNTIL RECEIPT OF PAYMENT. MAKE CHECKS PAYABLE TO STATE TREASURER.

(BACK PAGE MUST BE COMPLETED)

MT Dept of Fish, Wildlife & Parks
John R. Rind Proxman

STATE FOREST TREE NURSERY
TREE ORDER APPLICATION

For Nursery Use Only

Order No.: _____

Paid: _____

Transmittal No.: _____

Purchaser's Name CRAIG ROBERTS
Mailing Address 908 W. WASHINGTON
City LEWISTOWN State MT Zip 59457

Please refer to your local County Extension or SCS Office for the most recent balance list before ordering.

See ordering information and conditions of sale on page 1 of the manual prior to filling out application. Minimum order 250 seedlings unless replacement; then 50 or 25 according to species.

SHRUBS (BAREROOT) (Order in units of 50)				BROADLEAF TREES (BAREROOT) (Order in Units of 50)					
Code	Species	Number Ordered	Cost per Hundred	Total Price	Code	Species	Number Ordered	Cost per Hundred	Total Price
00	Caragana		\$24.00		14	Green Ash		\$24.00	
01	Buffaloberry		\$24.00		15	Siberian Elm		\$24.00	
02	Golden Currant		\$24.00		16	Russian Olive		\$24.00	
03	Late Lilac		\$24.00		17	Siberian Crabapple		\$24.00	
04	Purple Willow		\$24.00		18	Golden Willow		\$24.00	
05	American Plum		\$24.00		19	Plains Cottonwood		\$24.00	
06	Chokecherry		\$24.00		20	Robusta Cottonwood		\$24.00	
07	Nanking Cherry		\$24.00		21	Daniels Cottonwood		\$24.00	
08	Sandcherry		\$24.00		22	Amur Maple		\$24.00	
09	Skunk Sumac		\$24.00		23	Black Cherry		\$24.00	
10	Wood's Rose	1150	\$24.00	276					
11	C. Snowberry		\$24.00						
12	Red-Osier Dogwood		\$24.00						
13	Arnold Hawthorn		\$24.00						
TOTAL-SHRUBS A.				276 ⁰⁰	TOTAL-BROADLEAF TREES B.				

EVERGREENS (Order in Units of 25) Species	BAREROOT		CONTAINERIZED												Total \$ Species	
	Code	# Ordered	4 & 5 Cu. In.	7 Cu. In.	30 Cu. In.											
Ponderosa Pine, E.	31		48	70	87											
Ponderosa Pine, W.	32		49	71	88											
Lodgepole Pine	33	*	50	72	89											
Scotch Pine	34		51	73	90											
Western White Pine	35	*	52	74	91											
Douglas-Fir, E.	36		53	75	92											
Douglas-Fir, W.	37		54	76	93											
Blue Spruce	38		55	77	94											
Western Larch	39	*	56	78	95											
Limber Pine	40	*	57	79	96											
Juniper	41	*	58	80	97											
Engelmann Spruce	42	*	59	81	98											
TOTAL-EVERGREENS C.																

*If shaded, this species is not currently available in this category.

TREES NOT SHIPPED UNTIL PAYMENT RECEIVED.

(Other side must be completed.)

D. ADD Totals A., B., and C.: \$ 276⁰⁰

E. Add 15% if Shipping by UPS (.15 x D.): \$ _____

F. ADD 15% for non-program & all orders after February (.15 x D.): \$ _____

G. Processing charges: \$ _____

TOTAL CHARGES (ADD D., E., F., and G.): \$ 286⁰⁰

Make checks payable to State Treasurer.

Order # 94-23-25

BHP

** Shipping to Fergus County **

Department of State Lands
Division of Forestry
State Forest Tree Nursery
2705 Spurgin Road
Missoula, MT 59801

December 15, 1993

Craig Roberts
908 W. Washington
Lewistown MT 59457

This is a statement/billing of your tree order. If there are any errors, please inform us immediately.

Nursery Stock Ordered	Quantity
Caragana	900
Buffaloberry	300
Late Lilac	450
Woods Rose	1850
C. Snowberry	400
Arnold Hawthorn	50
Russian Olive	150

THIS IS WHAT YOUR ORDER WILL LOOK LIKE. IF YOU WANT THE JUNIPER FOR 1995, LET US KNOW AND I'LL MAKE A HOLDOVER ORDER FOR YOU.

Total Number of Trees	4100
Cost of Nursery Stock	820.00
Processing Fee	14.00
Non-program Charge	.00
Late Charges	16.00
Shipping Charges	0.00
Total Cost of Order	850.00
Total Amount Paid	0.00
BHP Pays	850.00
Balance Due	0.00

By: *Betty Jo Powell*
Accounting
State Forest Tree Nursery

*** NOTICE ***

If you authorized us to make substitutions, we have done so for any species not in stock. If you did not authorize substitutions, you may find that this order does not include all of the species you requested. If you have any questions, or wish to change this order, please contact us within ten (10) days so that we can make the necessary changes. A \$2.00 processing fee will be charged if this order is changed. If there is a refund of more than \$1.00 due you, it will be issued separately.

cc: Judith Basin County SCS Office
cc: Fergus County Extension Office

Order # 94-23-25

BHP

** Shipping to Fergus County **

Department of State Lands
Division of Forestry
State Forest Tree Nursery
2705 Spurgin Road
Missoula, MT 59801

May 5, 1993

Craig Roberts
908 W. Washington
Lewistown MT 59457

This is an statement/billing of your tree order. If there are any errors, please inform us immediately.

Nursery Stock Ordered Quantity

R.M.Juniper, C-30 600

THIS IS YOUR HOLDOVER ORDER FOR 1994

Total Number of Trees 600

Cost of Nursery Stock	390.00
Processing Fee	10.00
Late Charges	0.00
Shipping Charges	0.00
Total Cost of Order	400.00
Total Amount Paid	0.00
BHP Pays	400.00
Balance Due	0.00

By:

Betty Jo Powell

Accounting
State Forest Tree Nursery

*** NOTICE ***

If you authorized us to make substitutions, we have done so for any species not in stock. If you did not authorize substitutions, you may find that this order does not include all of the species you requested. If you have any questions, or wish to change this order, please contact us within ten (10) days so that we can make the necessary changes. A \$2.00 processing fee will be charged if this order is changed. If there is a refund of more than \$1.00 due you, it will be issued separately.

cc: Judith Basin County Extension Office
cc: Fergus County Extension Office

UPLAND GAME BIRD HABITAT ENHANCEMENT

SITE/PROJECT PLAN

NESSELHUF/ROBERTS PROPERTY IN JUDITH BASIN COUNTY

Prepared and Submitted by the Central Montana Chapter of Pheasants Forever in compliance with the provisions set forth in the M.O.U. between the Chapter and the Department.

The Nesselhuf/Roberts' property consists of 520 acres of crop and grazing land in Judith Basin County. The Judith River enters the property along the west boundary, flows through the entire length of the ownership and exits at the north boundary. Grazing management practices are being implemented to rehabilitate the Riparian Zone along the Judith River.

This project consists of planting two shelterbelts totaling 6.0 acres, planting nesting cover between rows within the shelterbelts, and fencing the shelterbelts to exclude cattle. The shelterbelts will be located on terraces above the Judith River flood plain and adjacent to cropland in small grain production and native range sites.

This project will establish and provide essential habitat required by many avian and terrestrial wildlife species. Upland game bird species such as pheasants, Hungarian partridge, Sharptail grouse and mourning doves will benefit from the winter and nesting cover and food provided by the shelterbelt. Established cover and food will be utilized by numerous other avian species. Terrestrial wildlife will also benefit from the habitat created by this project.

Project Specifications

Shelterbelt tree plantings will be spaced 15 feet between rows. Within-row plantings will be spaced as follows: Woods Rose and Snowberry - 2 feet; Lilac and Caragana - 3 feet; Juniper, Hawthorne and Buffaloberry - 8 feet; and Russian Olive - 10 feet. Shelterbelt #1 will contain 21 rows and shelterbelt #2 will contain 10 rows of trees.

Nesting cover will be planted between rows within the shelterbelt. Plantings will include a combination of/or single species consisting of Tall Wheatgrass, Thickspike Wheatgrass, Slender Wheatgrass, Intermediate Wheatgrass, Altai Wild Rye, Alfalfa and Yellow Sweet Clover. The nesting cover will be seeded following tree planting and prior to installation of the fabric mulch. Fences shall be constructed with five strands of barbed wire. Fully treated wood posts will be used on corners and braces. Steel posts will be used at a spacing not to exceed one rod. Copies of the tree planting plan, tree order form, aerial photograph, topographical map, project summary sheet and contract are attached.

**Montana Department of
Fish, Wildlife & Parks**



PAYMENT SCHEDULE

NAME John Nesselhuf

PAYMENT DATES	PAYMENT DUE
<u>June 1994</u>	<u>3358⁰⁰</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

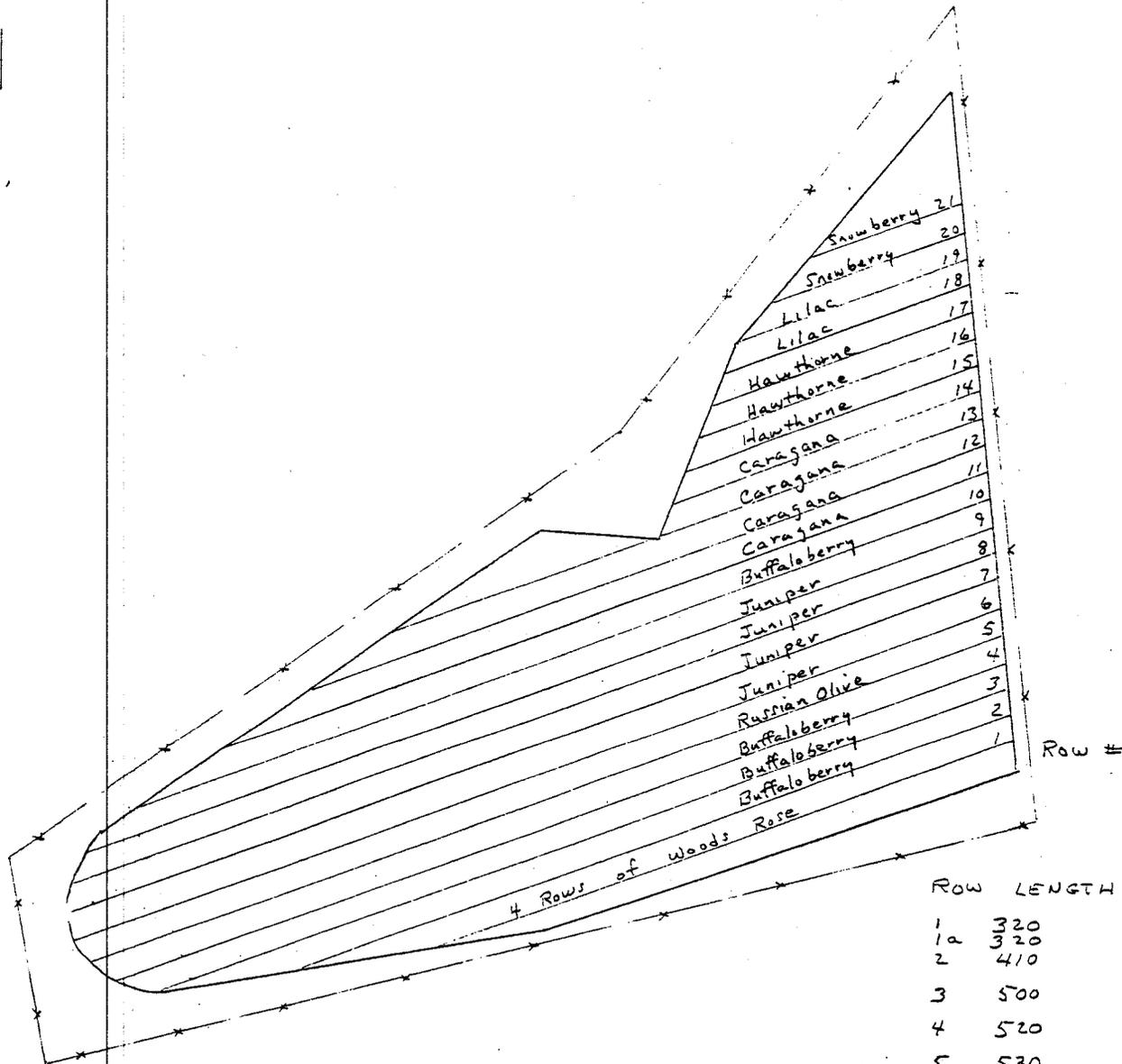
PAID IN FULL ON June 1994

3/25/94
Please make entire payment for this
contract to John Nesselhuf.
Craig E. Roberts

NESSELHUF UPLAND GAME BIRD SHELTERBELT #1

Legal Desc: SE4, Sec 25, T15N, R45E
Judith Basin County

SCALE
1" = 100'



NEW FENCE ——— 120 Rods

Shelterbelt Acreage 2.65 Acres
Fenced Acres Not Included

Between Row Spacing 15'

Spacing TOTAL TREES BY SPECIES

2'	Snowberry	75
3'	Woods Rose	427
3'	Caragana	417
3'	Lilac	77
8'	Hawthorne	54
8'	Buffaloberry	238
8'	Juniper	270
10'	Russian olive	52

Total 1610.

Row LENGTH (feet)

1	320
1a	320
2	410
3	500
4	520
5	530
6	540
7	540
8	540
9	520
10	470
11	420
12	370
13	300
14	160
15	150
16	150
17	130
18	120
19	110
20	80
21	70

Total 7270'

Nesselhut Upland Game Bird

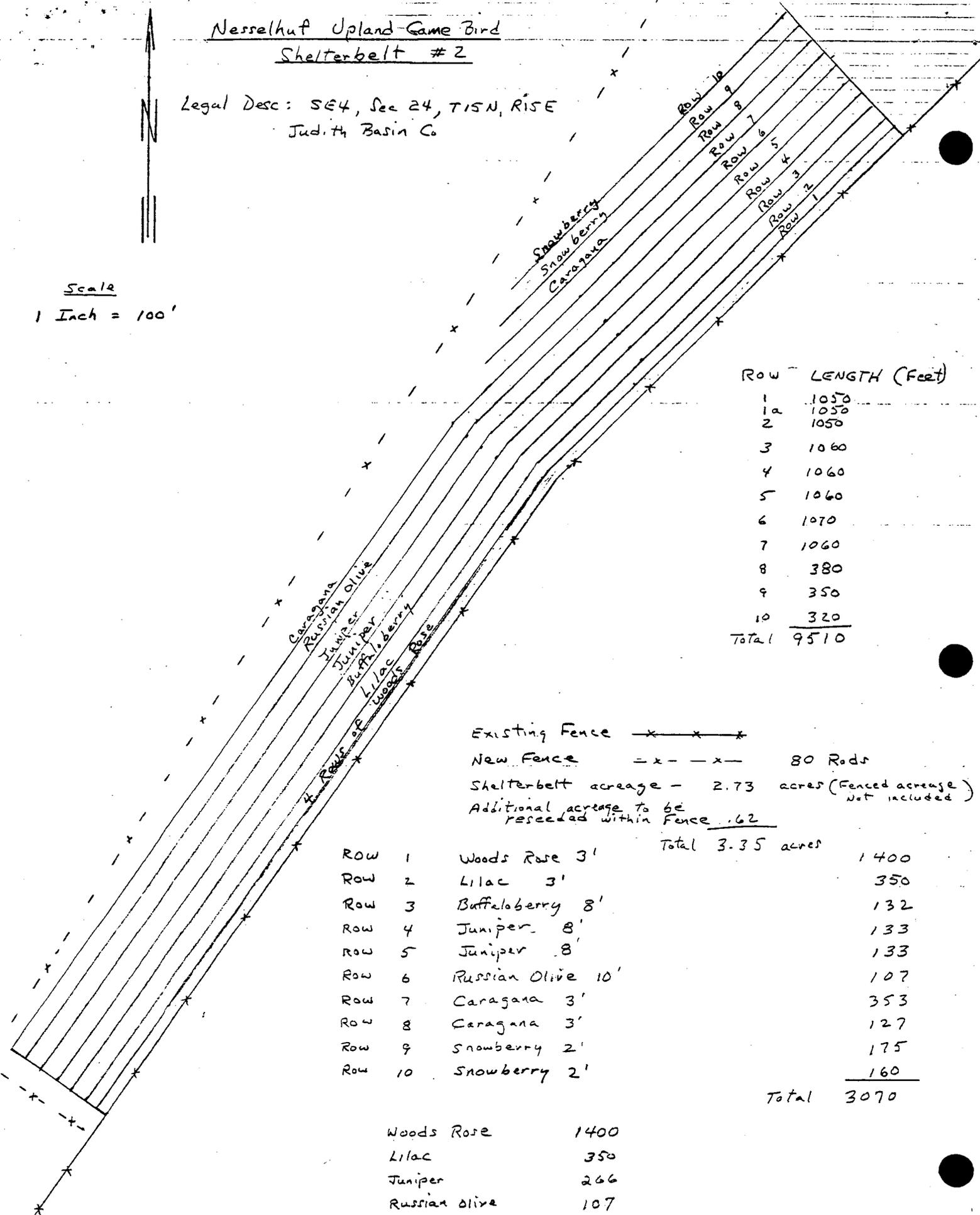
Shelterbelt #2

Legal Desc: SE4, Sec 24, T15N, R15E
Judith Basin Co



Scale

1 Inch = 100'



Row	LENGTH (Feet)
1	1050
1a	1050
2	1050
3	1060
4	1060
5	1060
6	1070
7	1060
8	380
9	350
10	320
Total	9510

Existing Fence - x - x - x
 New Fence - x - - x - 80 Rods
 Shelterbelt acreage - 2.73 acres (Fenced acreage not included)
 Additional acreage to be resceded within Fence .62

Total 3.35 acres

Row 1	Woods Rose 3'	1400
Row 2	Lilac 3'	350
Row 3	Buffaloberry 8'	132
Row 4	Juniper 8'	133
Row 5	Juniper 8'	133
Row 6	Russian Olive 10'	107
Row 7	Caragana 3'	353
Row 8	Caragana 3'	127
Row 9	Snowberry 2'	175
Row 10	Snowberry 2'	160
Total		3070

Woods Rose	1400
Lilac	350
Juniper	266
Russian Olive	107
Caragana	480
Buffaloberry	132
Snowberry	335

Tree Total 3070

Guy WILLSON
T10,074

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5.

3.

78.9

1004

Hel

159.4

FERGUS

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15-5

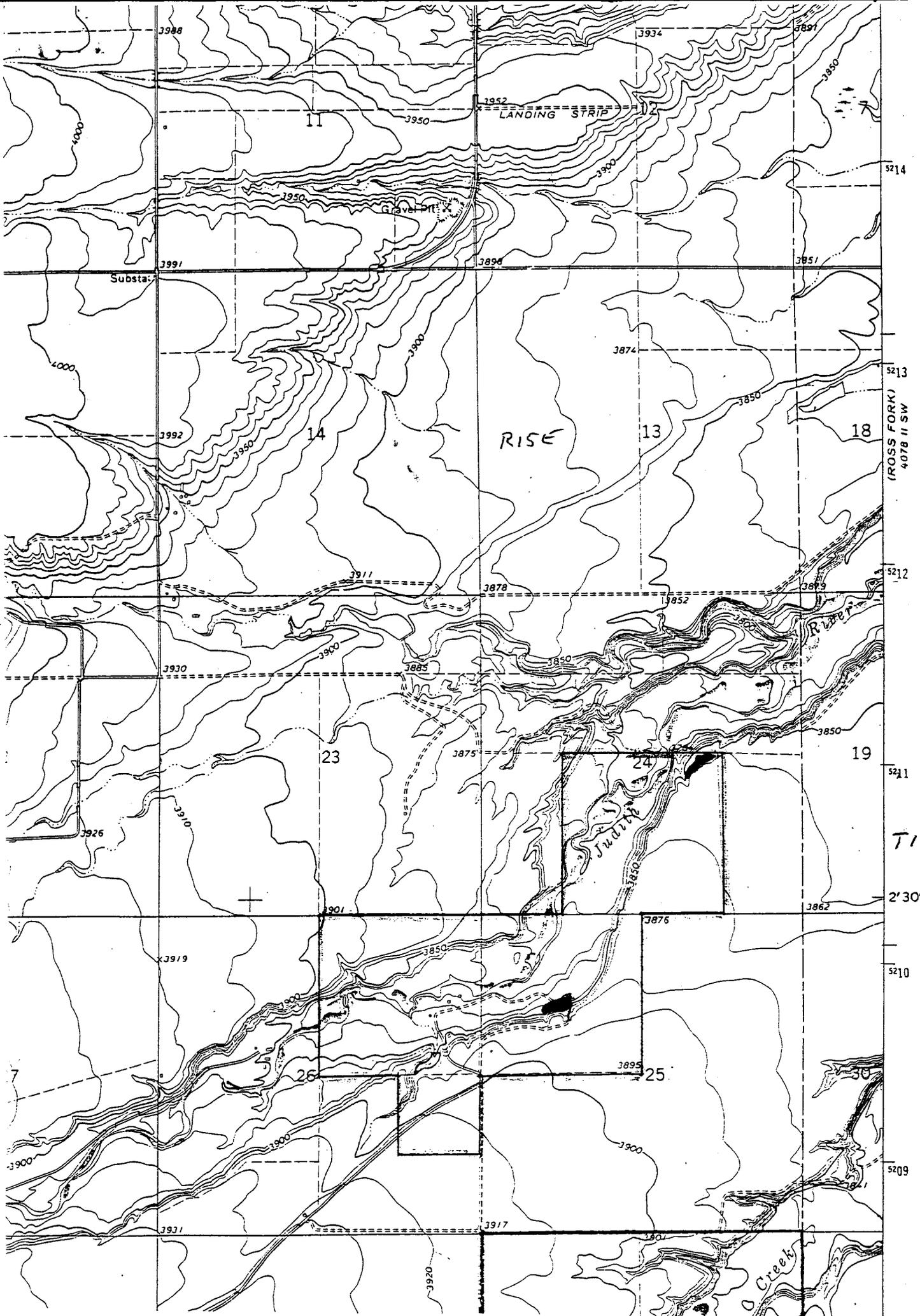
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4.

92.7

91.1

Guy WILLSON
T10,074



(ROSS FORK)
4078 II SW

T15N

2' 30"



UPLAND GAME BIRD HABITAT ENHANCEMENT PROGRAM CONTRACT

The CONTRACT is between the Montana Department of Fish, Wildlife and Parks, called the Department, and **Pheasants Forever, 908 West Washington, Lewistown, MT 59457**, called the Cooperator. Cooperator's phone # **(406)538-3987**. The purpose of this contract is to develop wildlife cover on **approximately 40** acres of land in **Fergus** County, Montana, according to the following legal description: **NE4, N2SE4, Section 21; SW4, Section 22, T19N, R14E, MPM**. The attached map(s)/site plan portray the area covered by this contract. The land and area covered by this contract is called the Project Area. The Project Area is **Six (6) miles NE of Denton, MT**.

1. The Cooperator agrees to carry out the following projects and practices on the Cooperator's land described above: **To conduct site preparation, tree planting, cultivation, lay fabric mulch, construct deer proof fencing, plant winter food plots and provide overall annual maintenance of the projects.**
- 2a. The project objectives and species of concern are: **To establish woody winter cover for upland game birds. To construct a deerproof fence to protect an existing winter cover shelterbelt from destructive browsing by deer. To plant grain crops which will be left unharvested. Principal species benefiting from the project will be ring-necked pheasants, sharptailed grouse and Hungarian partridge.**
- 2b. The Department and the Cooperator agree to share the costs of the projects and practices as outlined in the attached construction outline, which is incorporated herein by this reference. The Cooperator must provide receipts for reimbursement for materials used, including seed, trees and other goods and services. The Department's obligation to pay for its share of the costs of each project or practice is contingent on payment by the Cooperator of its share of project costs, and satisfactory completion of the following practices and projects.

Practice Code	Term of Contract	Dates of Practice	Acres	Rate (cost/unit)	Total Material Cost	Total Practice Cost
1a Shelterbelt Site Preparation	6/2000-6/2015	5/99-4/2000	18.4	25/acre		\$ 460.00
1a *Order Trees	6/2000-6/2015	10/99	18.4	14,100 trees	\$5,298.40	5,298.40
1b Plant Trees	6/2000-6/2015	4/2000	18.4	10 cents/tree		1,410.00
1b Cultivate Trees	6/2000-6/2015	6/2000-6/2010	11.8	Min 3 times/yr X 4 years		3,540.00
1c Purchase Fabric Mulch	6/2000-6/2015	4/2000	6.6	50 rolls 7 1/2 x 500 feet @ \$150/roll	\$7,500	7,500.00
1c Install Fabric	6/2000-6/2015	4/2000	6.6	5 cents/ft x 25,000 ft		1,250.00
1g Fence Construction	6/2000-6/2015	4/2000	10.0	160 rods @ \$10/rod		1,600.00
2c Winter Food Plot	4/2000-4/2001	4/2000	15.0	\$50/acre x 15 ac.		750.00

\$21,808.40

Plus 10% to Central Montana Pheasants Forever

2,180.84

\$ 23,989.24 Total FWP Cost

***Trees paid for by MFWP directly.**

3. This contract shall have a term of **15** years, unless terminated earlier, starting on the date written below next to the Department's signature. The Cooperator agrees to abide by all of the terms and conditions of this contract for the full term of this contract.
4. If the projects and practices are not satisfactorily completed by the Cooperator according to the schedule set forth in this contract, the Department may at its option terminate this contract, or extend the time for completion. The Department will notify the Cooperator in writing of the Cooperator's failure to complete the practice or project, and whether the Department has elected to cancel this contract or extend the time for completion of the project or practice. If this contract is terminated under this paragraph, the Cooperator will be obligated to repay the Department a sum computed under the formula set forth in paragraph 6 below.
5. On the contracted areas, the cooperator agrees:
 - a. to protect all habitat from grazing, mowing, noxious weeds, fires, and tree cutting except as prescribed below:
 - 1) New CRP plantings can be mowed the first year for weed control. A minimum of 12 inches of stubble will be left and mowing must occur after July 15.

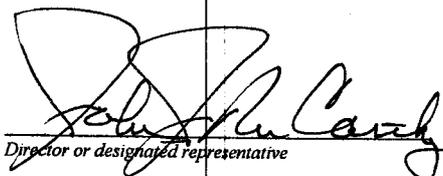
- 2) One emergency practice involving no more than 50% of the CRP acreage contracted will be allowed during the term of the contract. Practices involving more than 50% of the acreage under contract or occurring more than once during the period of the contract will require the cooperator to repay the MFWP according to the following formula; that amount derived by dividing the sum of payments paid by MFWP for the contract by the total number of years provided in the original term.

Cooperator shall contact MFWP's designated representative prior to any contemplated haying/grazing of acreage under this contract. Written approval from designated representative is required prior to any haying/grazing.

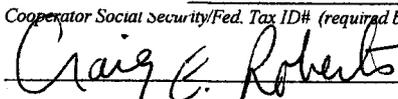
- b. not to use pesticides, except as allowed with written permission by the Department representative specified in paragraph 7;
- c. that reasonable free public upland game bird hunting will be allowed for the term of this contract. The landowner will retain the right to limit the number of hunters and those areas where hunting is allowed for the term of the contract. The area open to hunting is understood to include:
- d. permit Department representatives access for inspection and study.
- e. permit Department representatives to sign the project area with Upland Game Bird Habitat Enhancement Program signs which may require hunters to ask permission or permit "walk-in only" hunting without permission. Cooperator further agrees not to post the project area with orange paint or "no hunting" or "no trespassing" signs.
6. This agreement shall be binding upon, and inure to the benefit of, the heirs, personal representatives, administrators, successors and assigns of the Cooperator and the Department. The Cooperator shall give notice to the Department of any changes in ownership or possession of the land covered by this contract. If the Cooperator's ownership or possession of the land ends during the term of the contract, and the new owner or possessor does not agree to continue this contract and be substituted as the Cooperator under this contract, this Contract shall terminate and the Cooperator shall repay to the Department a portion of the payments made by the Department, according to the following formula: multiply the sum of all payments made by the Department by the ratio obtained by dividing the number of years remaining in the term of the contract by the total number of years provided in the original term.
7. The Department designates Graham Taylor, its Regional Wildlife Manager (or assigned representative) in Region 4, Montana as its designated representative under this contract. All notices and communications with the Department shall be made by the Cooperator to the designated representative. All notices from the Department to the Cooperator shall be made in writing to the Cooperator at the Cooperator's address specified above. The Department may change its designated representative, and the Cooperator may change its address, by either party notifying the other in writing of such change.
8. No modification or extension of this contract will be effective unless put in writing and signed by both the Cooperator and Department. This contract supersedes all previous contracts or agreements of any kind between the parties. No failure by the Department to act on any particular matter under this contract shall constitute a waiver of the Cooperator's obligations under this contract, nor shall the Department be estopped in any way.
9. The Department's obligation to make the payments provided in this contract is contingent on the continuation of appropriations by the Montana legislature. If sufficient appropriations are not made, the Department may cancel this contract without any further obligation to the Cooperator.
10. This contract is not binding until signed by the Director or his/her designated representative, and is effective as of the date set forth below.
11. Any obligation of the Cooperator to repay the Department any sum under this contract shall continue in full force and effect following termination of this contract. In the event of any litigation between the parties to this contract, venue shall be in the district Court of Lewis and Clark County, Montana. This venue provision shall remain in force and effect following termination of this contract.
12. The cooperator understands and agrees that if the cooperator owes a sum of money to the state and/or federal government, the state will deduct such sum from the money to be paid to the cooperator under this contract.
13. In the event the lands covered by this contract are removed from CRP enrollment, the cooperator shall reimburse FWP for the portion of FWP's cost-share contribution (prorated on a monthly basis) that corresponds to the length of the remaining enrollment period. In addition to the prorated reimbursement amount, the cooperator agrees that FWP will be damaged in an amount that is very difficult to quantify, and that liquidated damages are appropriate. Such damages will be equivalent to 10% of FWP's total cost share contribution to the project.

Pheasants Forever
Cooperator

Cooperator Social Security/Fed. Tax ID# (required before payment can be made)


Director or designated representative

12-29-99
Date



Keep

April 28, 2010

Governor Brian Schweitzer
Capitol Station
Helena, MT 59260

Dear Governor:

It has been brought to my attention that the Fish, Wildlife, and Parks Department has proposed to acquire a Conservation Easement on an 800 acre parcel of land known as the Coffee Creek Property and spending \$200,000 of Upland Game Bird Enhancement Program Funds; \$104,000 of Habitat Montana Funds; and, \$40,000 expenditure for cross fencing that is not identified. Governor, as the sponsor of the legislation in 1987 that created the Pheasant Enhancement law 87-1-246 through 87-1-250 M.C.A., I am adamantly opposed for several reasons. I want to begin with the sections of that law so you understand my concerns:

(1) 87-1-246 states the amount of money specified in this section from the sale each license listed must be used exclusively by the Department to preserve and enhance the pheasant population in accordance with 87-1-246 through 87-1-249. In the 1989 session the word "habitat" was added and in SB304 in the 2001 session the word "pheasants" was replaced with "upland game birds." Pheasants and a few turkeys are the only birds released. Also in SB304 it states at least 15% of the funds collected under 87-1-246 must be set aside for pheasant releases.

(Note) Fergus, Richland, and Roosevelt Counties were exempt for evaluation purposes which was 21 years ago.

(2) 87-1-249 prepare and disseminate information to landowner and organizations, and (d) evaluate the upland game bird enhancement program.

(3) 87-1-248 a project eligible for funding under the program must contain the proper combination of winter cover, food, nesting cover or other pheasant components determined necessary by the department to provide a viable and permanent upland game bird population. (f) Funds collected under 87-1-246 may be expended for supplemental feeding programs that are authorized by the department.

(4) 87-1-249(i) the department shall adopt rules to administer the upland game bird enhancement program created in 87-1-246 through 87-1-249 M.C.A. (2) rules must (i) proposed projects of suitable size, a minimum of 100 acres (iii) evidence that existing and potential species will benefit from the project. (a) establish project monitoring and reporting procedures, including a requirement that payment for projects authorized pursuant to 87-1-246 be supported by contracts, invoices, receipts or other supporting documents.

(5) 87-1-250 the department shall report to the fish and game committee of each house of the legislature concerning upland game bird enhancement activities undertaken

pursuant to 87-1-246 through 87-1-247 during the proceeding biennium together with any recommendations concerning the operation of the program.

Governor, as you are aware, we have been down this road before on several occasions, that began when I received a letter dated April 7, 2005 from your Chief of Staff, Bruce Nelson. He stated, "I have shared your concerns about FWP's management of the program with the new Chairman of the Fish, Wildlife and Parks Commission, Steve Doherty. We believe a sound approach to ensure that your expertise is used to its best advantage is to create a 3-member person advisory council to advise it on specific aspects of the program, notably planting birds and winter feeding. We believe you, along with 2 others with strong backgrounds, could provide some extremely valuable assistance to the Commission and the Department. Please let me know any thoughts you have on others who might be willing to help out. I hope you will consider appointment to the Council should it be established."

The above letter was in response to the letter I sent you dated March 9, 2005. As you are aware, I accepted on the condition that as the sponsor of the legislation to be addressed, I would serve as Chairman. I also recommended several others who would serve. Governor, I thought great, now we will finally force FWP to comply with the law and rules as FWP had failed to do from the very beginning.

When I was told that Joe Ball, who I had never heard of, and Craig Roberts, who I knew had UGBE contracts, were appointed by FWP Director, Jeff Hagener, I was shocked. To me it was like putting the "fox in the chicken coup to guard the chickens," which I will point out later. It was also Craig Roberts who wrote a letter to Director Jeff Hagener (copy enclosed) dated July 11, 2006 in which he stated, "during the second meeting we agreed on several recommendations for FWP's consideration, which we feel will strengthen the programs in the future." Governor, if that was the case why was a 12-member Council appointed? It was also your office that wrote me a letter, dated October 25, 2006, supporting Craig Roberts terminating the 3-member Council.

Governor, that being said, I will now address the proposed Conservation Easement to spend an additional \$200,000 of UGBE Programs funds on the Coffee Creek Project. After all of the prior expenditures this is ridiculous and appears to be a violation of the UGBE Program and rules, FWP negotiated a contract number 919 with the Central Montana Chapter of Pheasants Forever at a cost of \$21,808, plus 10%, \$2,180 for a total of \$23,988 and the contract doesn't expire until 2015. Then FWP negotiated contract number 992 with the same Chapter for \$26,006, plus 10%, \$2,600, for a total of \$28,606, and this contract doesn't expire until 2018. (Note) Craig Roberts signed this contract on behalf of Pheasants Forever Chapter. Then I found out FWP negotiated another contract MOU080617A again with the same Pheasants Forever Chapter on 6/17/2008 for \$175,000 of UGBE Program funds, comments accompanying this contract state, "this is a 5-year agreement involving the numerous projects primarily on public lands in the Lewistown - Coffee Creek area. Governor, if this contract is for shelterbelts, winter cover, and range management, they violate the ARM rules which require a project life of 15 years.

that the laws are faithfully executed." That being said, what would you suggest as a solution to the issues that I have brought to your attention on why FWP has and continues to administer the UGBE Program.

In closing, I also want to make you aware according to the Upland Game Bird Revenue and Expenditures FY 1988-2009 report, shows FWP collected \$16,131,494 expenditures, \$11,979,930, and in 2008 sold 1672 less upland game bird licenses than were sold in 1987. On July 6, 2004, I wrote a letter to Legislative Auditor Scott Seacot asking this question. If FWP fails to comply with that law and rules, who in State Government is obligated to hold FWP accountable for the violation. His answer, quote, "Ultimately, the Governor is responsible for the actions of the Executive Branch of Montana State Government. The Director of the Department of Fish, Wildlife, and Parks is in charge of the day-to-day operations of the department and is appointed by and reports to the Governor. In addition, a Governor appointed the FWP Commission, sets fish and wildlife regulations, approves property acquisitions, and approves certain rules and activities of the Department as provided by statute".

Governor, this puts the Upland Game Bird Program issue right at your door step at the Capitol in Helena. Will you join me in requesting a full scale investigation and put an end to this nonsense? I will be looking forward to your response.

Sincerely,

Ed B Smith

Ed. B. Smith
288 Sandhills Road
Dagmar, MT 59219
Phone: 406-483-5484

Encs.

xc: Sen. John Brenden
Rep. Julie French
Judge Gregory Mohr
Auditor Angie Grove
Tom Lutey, Billings Gazette
EQ@ToddEverts
Great Falls Tribune
Helena Independent Record
Powder River Enterprise
Mike Jensen
Sheridan County Commissioners
Bob Crandall



Montana Fish, Wildlife & Parks

MEMO

DATE: May 27, 2010

TO: Governor Brian Schweitzer

FROM: FWP Director Joe Maurier

RE: 
Constituent Correspondence (#8434.4)
Ed Smith
288 Sandhills Road
Dagmar, MT 59219

This memo is in response to a letter dated April 28, 2010 from Ed Smith expressing several concerns over past and current implementation of the Upland Game Bird Enhancement Program (UGBEP). Many issues raised by Mr. Smith have previously been answered at least once in previous correspondences. The intent of this memo is to provide clarifications and corrections to some additional questions and concerns presented by Mr. Smith.

Mr. Smith correctly points out that Montana Fish, Wildlife & Parks (FWP) proposes to utilize up to \$200,000 from the UGBEP towards the (proposed) purchase of the Coffee Creek conservation easement held in title by the Central Montana Chapter of Pheasants Forever. This property represents excellent potential for upland game birds and upland game bird hunting, in part because of enhancements made by the Central Montana Chapter of Pheasants Forever utilizing UGBEP cost share. The easement proposal was unanimously endorsed by the Governor-appointed UGBEP Citizens Advisory Committee, the FWP Commission, and the Land Board. It will provide excellent upland game bird hunting opportunity for Montana citizens in perpetuity.

There have been several upland game bird enhancement projects on the Coffee Creek property over the past several years through cost share between the UGBEP and the Central Montana Chapter of Pheasants Forever, the owners of the property. There are presently three active UGBEP contracts (#895, #919, #992) with the Central Montana Chapter of PF on Coffee Creek. Mr. Smith correctly referenced two of those contracts (#919 and #992). Combined, these three UGBEP contracts comprise six different habitat enhancements on Coffee Creek. The UGBEP obligated a total expenditure of \$64,559.43 for these three contracts. Per ARM, not more than \$200,000 is to be spent for any single project. FWP views each contract as a separate project, and has not exceeded the \$200,000 cap on any single project.

The Memorandum of Understanding (080617A) referenced in Mr. Smith's letter necessitates further clarification. Signed into agreement on 06/17/2008, MOU080290 (previously referenced as MOU080617A) is a five-year agreement between FWP and Habitat Forever, LLC, not with the Central Montana Chapter of Pheasants Forever. By itself, this MOU is not specifically an UGBEP contract but rather a formal agreement for the partnership to engage in enhancing or establishing upland game bird habitat. The MOU is entirely independent of the Coffee Creek easement. The intent of the MOU is to provide capacity to implement and maintain habitat

enhancement projects. Specifically, the MOU states: "The purpose of this MOU is to restore and enhance wildlife habitat primarily for pheasants and other game birds on public and private lands within Fergus, Petroleum, Judith Basin, and Chouteau Counties in Montana." The capacity provided by this MOU includes a habitat technician and farming equipment. Specific habitat enhancement projects that are completed with the assistance of Habitat Forever under this MOU are subject to the contract provisions of the UGBHEP. For example, if FWP enters into an enhancement project with a private landowner to install and maintain a shelterbelt, and the Habitat Forever technician does the work, the landowner is contractually obligated to maintain that shelterbelt and provide public hunting access for a 15-year contract term. Contrary to Mr. Smith's assertion that the "5-year contract" (the MOU with Habitat Forever) would violate ARM rules because shelterbelts require a 15-year contract, Habitat Forever simply functions as a contractor to complete needed work, and has no contractual obligation to the land. It is the landowner on whose land the enhancements have been made that has the 15-year contractual obligation.

Mr. Smith's letter identified concerns over contracts #549, #635, #637, and #879 that were "awarded an extra 10%" and questioned "why Craig Roberts did not pay the 25% cost of the project that was a violation of 12.9.705(5)." Each of the contracts Mr. Smith referred to were signed prior to the current (2001) ARM rules. The 1989 ARM Rules (relevant at that time) allowed FWP to pay up to 100% of the cost of a project (i.e., materials, labor, etc.). The Central Montana Chapter of Pheasants Forever handled all aspects of working with landowners, detailing program rules, establishing paperwork and contracts, and overseeing project completion. An FWP field biologist normally handles most of these responsibilities. In return for those additional work items, the Chapter received a payment equal to 10% of the project's costs. The current ARM rules now specify an allowance of 10% for organizations such as local Pheasants Forever Chapters sponsoring projects (12.9.705(4)). It should be noted that the last, active MOU between FWP and the Central Chapter of Pheasants Forever was dated 12/12/2002 and terminated on 06/30/2008.

Mr. Smith correctly notes that the March 2009 audit report found that the UGBEP database information was incomplete and inaccurate on 80% of the contracts. Since its inception, the database has undergone "upgrades" to include new data fields necessary for program tracking. Certain database fields are indeed missing information - in part because these fields were not available in older versions of the database. To address the audit finding, FWP staff are in the process of reviewing the old hard-copy files and updating incomplete fields in the database. This task is ongoing at the present time. While the database may have incomplete fields, FWP strongly cautions making the assumption that 80% of the contracts are inaccurate as Mr. Smith's comment suggests. Additionally, Mr. Smith's assertion that FWP's database issues "prove that Craig Roberts and hundreds of others violated these contracts" is extremely inappropriate.

The Department appreciates Mr. Smith's efforts and thanks him for his continued interest.

(FWP Ref: DO174-10-Gov-Ed Smith)
Page 2 of 2 5/27/10

This was taken from the March 2009 Audit



Montana Fish, Wildlife & Parks

P.O. Box 200701
Helena, MT 59620-0701
(406) 444-3186
FAX: 406-444-4952
Ref: DO370-10
November 4, 2010

Mr. Ed Smith
288 Sandhills Road
Dagmar MT 59219

Dear Mr. Smith: *Ed,*

In response to your letter dated October 14, I first want to reiterate again that Montana Fish, Wildlife & Parks (FWP) is very proud of the accomplishments of the Upland Game Bird Enhancement Program (UGBEP), and has always approached the requirements of MCA 87-1-246-250 as "must" do. The continuous assertions of noncompliance with MCA are inappropriate and wrong. FWP has always interpreted MCA as must do, and will continue to comply with the statute and rules.

The reply to the eight points were answered in a letter to you dated October 21. If you still haven't received that, please let me know and I will send another copy.

Regarding cost share, the ARM that was in place through the 1990s, 12.9.705(1) stated:

The department will compensate individuals or organizations by cost sharing the actual costs incurred for completed upland game bird enhancement projects as set forth on a contract. The department's share, not to exceed 100%, will be negotiated on an individual project basis for cost-sharing projects. In-kind services such as labor may be used for the programs participants' portion of the cost share. On cost-share projects, the department will not pay for federal costs received from such programs. The department will reimburse the landowner for up to 100% of his share of other federal, state, and/or private cost-share programs.

Regarding the audit findings pertaining to the database, pages 20-21 of the referenced audit report focuses on "incomplete and inaccurate information" in the current program database. Since its inception, the UGBEP has progressed through three unique database tracking systems. The earlier data base structures and information entered in these first two databases were only a partial representation of actual contract information. The first database system was very basic and the current database system is more comprehensive with numerous fields that track a variety of key contract items. As an example, the earliest database, which was active through the late 1990s, only tracked one acreage figure, which was sometimes entered as acres open to hunting and other times project site acres (e.g., acres planted in a shelterbelt or food plot or nesting cover plot). In similar fashion, tracking costs in the earlier databases was primarily intended to track UGBEP costs—landowner or third party cost share, which was documented on a contract, was

irregularly entered into the database. By default, lack of data shows up as zeros in computer generated reports, which is not an accurate reflection of individual project contracts. Fortunately, the current database tracks both estimated costs and automatically enters UGBEP expenditures when a voucher cover is printed from the system. Over the past five years or more, estimated landowner or third party costs have been consistently entered as contracts are developed. In spite of that, as each database transitioned into a newer version, historic data gaps were also inherited. The Legislative Audit findings clearly presented these gaps of information. FWP is working to fill data gaps where possible, starting with active contracts. The allegations that hundreds of UGBEP contractors were in violation because of blank fields in a database summary are simply false, and as stated earlier, are inappropriate.

Sincerely,


Joe Maurier
Director

c: Governor Brian Schweitzer
Senator John Brenden
Representative Julie French
Senator Don Steinbisser
Judge Gregory Mohr
Senator Jim Shockley
Sheridan County Commissioners
Mike Jensen
Angie Grove, Auditor
Dick Iverson
FWP Commissioner Bob Ream
FWP Wildlife Bureau



Montana Fish, Wildlife & Parks

P.O. Box 200701
Helena, MT 59620-0701
(406) 444-3186
FAX: 406-444-4952
Ref: DO343-10
October 21, 2010

Mr. Ed Smith
288 Sandhills Road
Dagmar, MT 59219

Dear Mr. Smith:

Montana Fish, Wildlife and Parks (FWP) takes great pride in the accomplishments of the Upland Game Bird Enhancement Program and finds the accusations that FWP hasn't complied with the laws to be offensive and absurd. As demonstrated in the answers below, as well as in previous answers, annual reports, and audit findings, FWP has complied with all aspects of the Upland Game Bird Enhancement Program statutes and rules. Below are answers to the eight points pertaining to the Upland Game Bird Enhancement Program that you have requested information about in your letter to Joe Maurier dated September 20, 2010.

1. **Listing of contracts which identify the landowners, land description, number of acres, cost share, and type of contract on MOU 2506 and MOU 080290.**

There are two contracts associated with MOU 2506 (Contract numbers 919 and 992).

Contract #919 was developed with Central Montana Chapter of Pheasants Forever to establish shelterbelts (18.4 acres) on the Coffee Creek property in Fergus County. Expenditures from the UGBHEP towards this shelterbelt project totaled \$23,164.24. These shelterbelts are located in township 19N, range 14E, and sections 21 and 22. Fifteen acres of winter food plots were also developed under this contract. These food plots are located in township 19N, range 14E, and sections 21 and 22. The UGBHEP paid \$825.00 for these food plots.

Contract #992 was developed with Central Montana Chapter of Pheasants Forever to establish shelterbelts (7 acres), dense nesting cover (46.3 acres), and food plots (87 acres) on the Coffee Creek property in Fergus County. These projects are located in township 19N, range 14E, and sections 16, 21, and 22. The UGBEP obligated \$26,006.35 for contract #992 (actual cost to date is \$21,833.60).

Contracts #919 and #992 were signed prior to the current (2001) ARM rules. The 1989 ARM rules allowed FWP to pay up to 100% of the cost of a project (i.e., materials, labor, etc.). The chapter also received a payment equal to 10% of the project's costs to account for overseeing project completion. The current ARM rules now specify an allowance of 10% for organizations such as local Pheasants Forever chapters sponsoring projects (12.9.705(4), ARM).

access, as required by statute. The conservation easement was acquired with \$200,000 of UGBEP funds matched by \$104,000 Habitat Montana funds. Acquisition of conservation easements for conservation of upland game bird habitat and access is authorized under MCA. This easement project was endorsed by the UGBEP Citizens Advisory Council, the Montana Fish, Wildlife and Parks Commission and the Land Board. The Coffee Creek CE is comprised of 800 contiguous acres and is located within T19N, R14E. Management of the Coffee Creek CE will include management of native vegetation utilizing a grazing system and maintenance of existing shelterbelts, nesting cover, food plots, and cropland. A copy of the DRAFT Coffee Creek management plan is attached (Attachment 4). All management actions within this Pheasants Forever Coffee Creek Management Plan will require mutual agreements between the landowner and FWP. UGBHEP funds will be used where appropriate and as outlined in 87-1-247(g), MCA. *Duplicated Contracts listed earlier*

7. Copies of the UGBEP tapes.

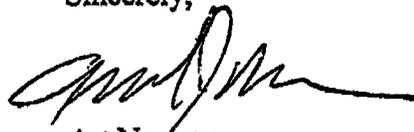
Copies of the Council minutes were mailed to you on September 16, 2010. The raw audio recordings from the May and July meetings of the Citizens Advisory Council are included in this mailing (Attachment 5).

8. Questions to Biologist Drew Henry.

Drew Henry, the recently hired biologist in FWP Region 6, was hired to implement the UGBEP and to provide increased capacity to do so specifically in northeast Montana. It is my understanding that Drew has repeatedly visited with you to answer questions and address concerns. He is available at any time to answer further questions regarding specific projects or aspects of the UGBEP as it pertains to northeastern Montana. Debbie Hohler is available to answer any questions regarding the statewide implementation of the UGBEP.

Thanks you for your continued interest in the Upland Game Bird Enhancement Program.

Sincerely,



Art Noonan
Deputy Director

c w/o Attach.5:Drew Henry

Debbie Hohler

Upland Game Bird Enhancement Council:

Rep. French, Chair, Mike Begley, Terry Comstock, Jay Gore,
Bernie Hart, Gordon Haugen, Bill Howell, Mike Jensen, Joe Perry,
Craig Roberts, Sen. Jim Shockley, and Dale Tribby

MOU 080290 is an agreement between FWP and Habitat Forever, LLC that supports a Habitat Technician's position in order to restore and enhance wildlife habitat primarily for pheasants and other game birds on public and private lands within Fergus, Petroleum, Judith Basin, and Chouteau counties. To date, work has been conducted on the Beckman WMA, Coffee Creek, and Wolf Creek. An annual work plan serves as a contract between partners and identifies the project type, acreages, and cost-shares for 2009 and 2010. The work plan is attached (Attachment 1).

2. What was the Pittman-Robertson funds spent on Upland Game Bird Enhancement Program used for?

Pittman-Robertson funds have been used periodically between 1988 and 2009 to implement Upland Game Bird enhancement projects. This has increased the capacity of the UGBEP delivery and implementation, and stretched the earmarked UGBEP license dollars further. A copy of a response to you from Sue Daly regarding this question, dated November 9, 2009, is attached (Attachment 2).

3. Amount of Block Management funds paid to Craig Roberts on the three UGBEP contracts he had with FWP

Craig Roberts receives a payment of \$1,128.75 for a 520-acre parcel enrolled in Block Management. Pheasants Forever receives payments for two other properties Craig Roberts enrolled in Block Management in his position with Pheasants Forever for properties owned by Pheasants Forever.

4. The Number of resident and nonresident upland game bird licenses sold by county in 2008 and 2009.

Hank Worsech's office has assembled this information and mailed you these data on the week of October 11. An additional copy is attached (Attachment 3).

5. How was the \$175,000 obligated in MOU 2506 spent?

See answer to #1 above. MOU 2506 does not state any obligation for a \$175,000 appropriation. The purpose of this MOU between FWP and the Central Montana Chapter of Pheasants Forever (CMCPF) is to reimburse CMCPF the cost of the materials plus 10% of the material costs. The UGBHEP obligated a total of \$23,989.24 for contract #919 (actual cost to date is \$18,690.84) and \$26,006.35 for contract #992 (actual cost to date is \$21,833.60).

6. What is the contract number and land description of the Coffee Creek Conservation Easement, and what will the funds obligated to this project be used for so they comply with 87-1-248 and 87-1-249 MCA?

The Coffee Creek Conservation Easement (CE) has been assigned Contract #2666. This conservation easement provides excellent upland game bird habitat as well as perpetual hunter



Montana Fish, Wildlife & Parks

P.O. Box 200701
Helena, MT 59620-0701
(406) 444-3186
FAX: 406-444-4952
Ref: DO502-06
November 3, 2006

Ed Smith
288 Sand Hills Road
Dagmar MT 59219

Dear Mr. Smith:

I have received a request from Chief of Staff Bruce Nelson to respond to five questions that after review by the Legislative Auditor's Office were not answered or incomplete in The Department of Fish, Wildlife & Parks' (FWP) letter to you dated June 21, 2006. FWP's further response to those five questions is as follows:

Question 1: "Our council needs to know if Don Childress did provide the seven area supervisors with the above information (UGBHEP law and 1989 rules) and we want a copy of the memorandum proving he did so."

Don Childress does not send the MCA Statute books or the ARM rule books to field staff or administrators. These are sent to the Regions by Administrative Assistants in the Enforcement Division. They do not have copies of memos to the Regional Supervisors dating back to 1989. Since the regions are on the regular mailing list for all updates of ARM and MCA books, FWP can only assume they received them in 1989. I cannot speak to procedures during previous administrations, but since I have been FWP Director, we have made a practice to notify all administrators and regional supervisors of any and all changes to rules or statutes at the earliest convenience. Most commonly this is done at resource staff meetings, supervisor conference calls and/or management team meetings. FWP can find no record of any regional supervisor expressing concern about not having received the books.

Question 2: "Why would a FWP biologist write two contracts with the Russell's if he knew the law, and why did Harold Wentland, a long time FWP employee allow a private individual over a three-year period to raise and release 65,827 pheasants at a cost of \$197,481 all in violation of the law and ARM rules?"

There are no restrictions on the number of contracts that can be awarded to an individual. None of the issues raised by you were violations of law or ARM rules. It is not uncommon for a landowner to have more than one contract when they have more than one ranch or more than a single practice. For example a landowner may have established nesting habitat in year x and then requested food plots under a different contract or requested to be in the pheasant release program in subsequent years. Mr. Wentland

contracted with the individual to provide specific services as outlined in the contract and payment schedules for implementation of the pheasant release program. The services were provided and the payments were made in accordance with the contract terms.

Revised 12.9.

Question 3: “Why did UGBHEP administrator John McCarthy and FWP attorney Jack Lynch make a \$50,000 out-of-court settlement to the individual who had raised and released the pheasants?”

The issue of the settlement was a result of mediation. The Director at that time, Pat Graham, was the person that authorized the settlement payment, not John McCarthy or Jack Lynch. The details of the settlement were not a part of the division record. FWP was under order to not discuss this case, and I would recommend that you contact Jack Lynch, FWP Legal Unit for more specific details.

Question 4: “Were the Russell’s told they were to contribute 25%?” [This is in regard to requirement for a landowner to participate in costs associated with game bird enhancement projects.]

The Administrative Rules in effect at the time of negotiating the two contracts with the Russell’s (ARM rule 12.9.705 (1) 1991 – see attached ARM rule in force at the time of the Russell contract) did not require a specific cost share from landowners. Therefore, a 25% cost share was not negotiated with the Russell’s. However, the Russells did commit to and provided \$88,500 in cost share that included some materials, in-kind construction services and labor.

Question 5: “Would you have Director Hagener and Wildlife administrator Don Childress and their staff members do an evaluation, which is required in Section 87-1-247(d), explaining what FWP accomplished after spending over \$9 million over an eighteen-year period?”

87-1-247. Authorized use of funds. (1) Not more than 15% of the money generated under 87-1-246 may be used by the department to:

- (a) prepare and disseminate information to landowners and organizations concerning the upland game bird enhancement program;
- (b) review potential upland game bird release sites;
- (c) assist applicants in preparing management plans for project areas; and
- (d) evaluate the upland game bird enhancement program.

Section 87-1-247(d) is a reference to the allowable use of administrative funds for the cited purposes and not requirements of the program as suggested in your letter.

Even though an evaluation of the program is not specifically required, the following evaluations, audits, advisory council reviews and internal agency reviews have occurred.

A list of audits/evaluations of UGBEP follows (past to more recent):

- **Upland Game Bird Habitat Enhancement Program - Evaluation for Montana Fish, Wildlife & Parks** Prepared by: Natural Resource Options, Inc. Bozeman, MT February 1998
- **An Evaluation of the Montana Pheasant Stocking Program 1988-98** Prepared by Jeffrey A. Gross, Research Assistant. Wildlife Division, Montana Fish, Wildlife & Parks, February 1999
- **Performance Audit for the Upland Game Bird Habitat Enhancement Program**, Legislative Audit Division, December 2000
- **Final Consensus Recommendations from the: Upland Game Bird Citizen's Advisory Council**, June 2003
- **Literature Review of Montana Upland Game Bird Biology and Habitat Relationships as Related to Montana Fish, Wildlife and Parks' Upland Game Bird Habitat Enhancement Program** by Brendan J. Moynahan and Johann Walker, November 30, 2004.
- **Upland Game Bird Advisory Council (2005-06) Motions and Recommendations** May 2006
- **Informal internal reviews, including 2 meetings intended to identify necessary improvements for UGBEP with staff from Regions 4, 6, and 7 (May 2006)**

Adjustments and developments resulting from reviews and evaluations include: revised ARM rules 2001; development of operations and policy manual 2002 (incl. new application process, contract format, and payment rules); Project Access Guide for hunters; development of the Montana Sagebrush Initiative (2004); project signs with landowner contact information included installed (summer 2006); established a contract with Pheasants Forever to employ a habitat specialist in Sidney (2006); assess hunter use of projects (currently taking place); and likely more changes in the future involving streamlining forms and procedures, improvements to project database, updated pamphlets, possible ARM rule changes, and others.

This should provide further details you are seeking on the five questions.

This position was a violation

Sincerely,


M. Jeff Hagener
Director

Encs. Copy of ARM 12.9.705 (1) 1991

c: Scott Seacat, Legislative Auditor
Bruce Nelson
Jack Lynch

If I want to close by saying that I do not
believe you can honestly respond to the issues
I have raised without admitting that certain
changes ~~must~~ be made.

all I am asking for is accountability -

If anyone who receives this letter please
give me call 406-488-5484

Sincerely

Ed B Smith

June 27, 2008

Governor Brian Schweitzer
Capitol Station
Helena MT 59620

Dear Governor:

The purpose of this letter is to inform you, as I am sure you already know, that I have spent hundreds of hours, thousands of dollars, and driven thousands of miles gathering information that I am using to do a background of the pheasant enhancement program that was created by my legislation in 1987. You and others wonder why I have done so. That is easy. When a law is passed, it is to be executed, and that law imposed a substantial increase of upland game bird hunters.

According to the 1988 through 2007 Upland Game Bird Enhancement Revenue and Expenditure Report, FWP collected \$13,322,780. FWP spent \$7,999,125 for habitat enhancements; \$871,771 for administration; \$992,404 for overhead and \$852,771 for pheasant releases, most of which was after the passage of SB304 in the 2001 session. That bill required FWP to spend 15% of the funds collected each year for pheasant releases. Since 2000 FWP has collected \$544,761 in interest because it appears FWP cannot find landowners to enroll in the programs, so now there is a \$3,152,097 unspent balance in the upland game bird program. This is even after the passage of an amendment in SB304 that allows FWP to legally pay landowners from the UBH programs and block management program accounts.

Plus 7 W.P. spent \$1.1 of Pittman Robertson funds.
Governor, when I introduced SB331 over 20 years ago, it was to coincide with the Federal Conservation Reserve Program that exceeds 3 million acres of excellent upland game bird habitat. The pheasant enhancement program was designed to provide upland game bird hunters access to 466,800 acres of private land, that was to be posted by FWP informing hunters about the program. According to the December 2000 audit, 54% of the contracts with landowners were not posted. The most outrageous thing about this issue is that FWP sold fewer upland game bird licenses in 2007 than were sold in 1987 when the law was passed. If FWP had followed the intent of the law, license sales should have at least doubled. No birds... no hunters.

Because of the reasons I have mentioned, I have prepared a background of the pheasant enhancement law consisting of several hundred pages beginning in 1987 and up to the date of this letter. One copy of the background report is being sent to the legislative auditors office in Helena, along with a copy of this letter, so that it will be available to you or anyone who wants to review its content. I am retaining a copy to use in another manner if you and others fail to hold FWP accountable for the expenditures of millions of dollars spent in violation of the law, rules, and Operations and Policy Manual. This background is based strictly on documents I have acquired from FWP and

correspondence I have had with you, FWP Director Jeff Hagener, Wildlife Administrator Don Childress, and others within the FWP bureaucracy in Helena, so there is no question as to its creditability.

The first thing I want to point out is that Section 4 of the Montana Constitution states, "The executive power is vested in the Governor who shall see that all laws are faithfully executed." (Emphasis added). You re-appointed Director Hagener who has had three years and nearly six months, and two legislative sessions to bring FWP into compliance with the law and rules that both of you have failed to do, and which I intend to point out. You have also appointed a commission that should have shared in that responsibility. You and Director Hagener have admitted that FWP "used poor judgment and failed to comply with the law but because of my involvement, things have improved". What a ridiculous statement. Is it being said that FWP is above the law and should be treated differently? I am sure that you and Director Hagener will continue to use the excuse that several of the things I mention happened before you became Governor or he became director. I want to remind both of you that most of the contracts with landowners are still active and are as subject to the law and rules as the day they were written.

Let's begin with the law that was passed by the legislature and became effective on March 1, 1988 when rules were adopted by FWP to administer the law 87-1-246 through 87-1-250 MCA. 87-1-246 clearly states that "the amount of money specified in this section from each hunting license listed must be used exclusively by the department to preserve and enhance the pheasant population in Montana in accordance with 87-1-246 through 87-1-249 subject to appropriation by the Legislature" (emphasis added). Funds have never been restricted.

87-1-247 Authorized use of funds generated under 87-1-246 "may be used by the department to (a) prepare and disseminate information to landowners and organizations concerning the pheasant enhancement programs (b) evaluate the pheasant release sites (c) assist applicants in preparing management plans for project areas; and (d) evaluate the pheasant enhancement program.

87-1-248 Qualifications of pheasant enhancement projects: (1) Projects eligible for funding under this program must contain the proper combination of winter cover, food, nesting cover and other pheasant enhancement components as determined by the department to provide for a viable permanent pheasant population *where has this been done?*

87-1-249 The department shall adopt rules for the administration of the pheasant enhancement program created by 87-1-246 through 87-1-250 MCA.

87-1-250 The Department shall report to the fish and game committee of each house of the legislature concerning the pheasant enhancement activities pursuant to 87-1-246 through 87-1-249 during the proceeding biennium to gather with any recommendations concerning the operations of the program.

I have reviewed some of those written reports that meant nothing to the next legislative fish and game committee. Another case of withholding information that was required in 87-1-250. If FWP would have had an oral discussion with a new committee, (some of whom had never heard of the pheasant enhancement programs), many of the problems we now face could have been avoided.

The real problem began when SB33 was introduced in the 1989 session when FWP convinced the State Fish and Game Committee to add habitat and upland game birds. However, FWP failed to remove the word "pheasant" from the law until SB 304 in the 2001 legislative session, so that created confusion. Senator Al Bishop, who was chairman of the Senate Legislative Fish and Game committee called and asked what I thought of this change. I responded that I had no problem with additional funding for habitat because FWP was receiving more funds than needed for pheasant releases. I explained to Sen. Bishop that our family had raised and released pheasants successfully for many years, and I felt that it would take more pheasant releases to make use of this additional habitat plus the excellent habitat provided by the CRP program. He assured me that FWP promised him that SB33 would have no adverse effect on the pheasant release part of the program.

This was also the promise made by Ron Marcoux with FWP in his testimony at the SB33 hearing when he stated that he felt a habitat program centered around incentives for landowners would provide long-term benefits to upland game birds and long term stability to populations. That is history. As I mentioned earlier, fewer upland game bird licenses were sold in 2007 than in 1987. Goes to show that if FWP had complied with the law, rules and promises, beginning in 1989 till now, the violations that have been committed would not have occurred. That being said, I want to point out how a lot of those funds collected by FWP were spent.

Governor, why would the FWP Commission obligate \$1.1 million of UGBE funds to the Sagebrush Initiative, pay landowners \$12.00 per acre up front on a 30 year contract not knowing what would be accomplished or was it to reduce the \$3.1 million unspent balance in the UGBHE account? FWP has already mismanaged the sage grouse population over the years to the point to where they may be considered an endangered species. Now they want to blame it on West Nile virus.

On September 24, 1991, FWP negotiated a contract for \$100,353 with Charlie and Shirley Russell and another contract in April 19, 1995 for \$253,526 for a total of \$353,879 on 20,000 acres of grazing land. In comparison from 1991 through 1995, FWP spent \$9,888 for the release of 3,295 pheasants in the entire state. The Russells were then paid another \$52,940 in block management payments that at that time, was a violation of 12.9.703(5). We now have an expenditure of \$406,319 of UGB program and BM funds. According to hunter permission slips that the Russells were required to provide to collect BM payments, it shows only 67 upland game birds were harvested from 1991 through 2001. This equals \$6,064 per bird. I do not blame the Russells. FWP must be held accountable for allowing this to happen. I have provided a document when 7214 pheasants were released in Sheridan County in 1989 at a cost of \$21,642. The non-

resident license sales increased from 357 to 794 three years later. I also provided correspondence in 1991 when FWP refused to pay for those releases until I became involved.

I want to give you another example of how FWP spent UGB program funds. In 1994 the FWP wildlife administrator in Glasgow negotiated a contract with an individual to raise and release 65,817 birds over a three year period at a cost of \$197,841. When I discussed this with him, he said he was never provided a copy of the law and rules about the program. I believe him because I have been told by others who are enrolled in the program that they too were not informed. I have provided another document where another employee from Helena listed eight reasons why that contract was not in compliance with the UGB program. It did not end there. This same employee overreacted by restricting the number of releases to the point where pheasants pre-ordered had to be intermingled with older birds and the death toll was tremendous. Because of this loss, the owner threatened FWP with a lawsuit. To prevent this exposure, FWP made a \$50,000 settlement. These are some of the things I presented at EQC hearing on September 13, 2001. The EQC committee then unanimously requested that a legislative audit be conducted on the UGB program.

An audit conducted on 10% of the UGB program contracts was published in December 2000. Keep in mind the laws of 87-1-246 through 87-1-250 MCA and the 1989 rules that were adopted to administer the law, because this is where the majority of program funds were spent. On page 6, the audit states that the pheasant release components of the program became a secondary focus. FWP cited two reasons for this: (a) low program interest in 1988 - 1989 (I will comment on this later); and (b) they believed pheasant releases were not effective. Page 30, paragraph 1 reads, "We found instances where cost share arrangements had been altered on the original contract without documentation as to who altered the arrangement or why. Many of these changes increased the cost share responsibility of the department". Paragraph 2: For example the department lacked supporting documentation for payments made during 1998-1999 for twelve of sixteen projects reviewed. In some cases there were no receipts to support payments made by the department. In other cases, supporting documentation was inadequate and consisted of a handwritten note rather than actual invoices for material, equipment and labor purchases. "For six of the sixteen sampled projects, we were unable to locate contracts and supporting documentation for project payments."

The following examples illustrate problems pointed out during our review.

1. Payments were made on a grazing management project which included fencing, stock tanks and piping. The only supporting documentation for the payment was a handwritten note. There were no receipts for purchases of fencing material, pipe supplies or stock tanks. Payment for this portion of the contract totaled over \$31,800.
2. Two payments were made on another project for a total of \$6,894. The department staff was unable to locate any supporting documentation for payment. They were also unable to locate the contract for this payment.

Governor, these are a few examples the audit found. What would happen if the other 90% of the contracts were included in another audit? I have served on school boards, fair boards, and several state and national boards. All had annual audits. If what I mentioned happened on a business level, I am sure criminal charges would be filed.

Perhaps you will recall that I sent you a letter dated March 9, 2005 stating that it will be a new day in Montana for me and thousands of Montanans when you and our 150 legislators hold FWP accountable and change their attitude that they can say and do anything they damn well please and not have to answer to anyone. That new day has yet to arrive. I do not intend to address all the correspondence I have had with you and your office, but they are included in my report.

I will address a letter that I received from your Chief of Staff Bruce Nelson dated April 7, 2005 stating, "I have personally discussed the issues and material you provided with FWP, the legislative auditor's office, and the Powder River County Attorney. It appears that many, if not most of your concerns relate to the 90s." Governor, why do you and FWP continue to pass the buck? As I stated earlier, a large number of those contracts I referred to, are still active and must comply with the laws and rules as the day the contract was written. Mr. Nelson then said that it also appeared that most of my concerns "have been thoroughly investigated over the course of many years, by the legislative auditor's office, through an extensive audit conducted in 2000". How can he say that when I have already pointed out what was found in that audit and that is an example of misuse of funds? As for the Russell contracts, I have already shown the results after spending over \$406,000.

What about the March 2001 auditor's memo? Mr. Nelson also said, "as you know, any decision on criminal prosecution is within the discretion of the Powder River county attorney. This is what the Powder River County Attorney wrote: "Section 7-4-2716(3) requires that the County Attorney must defend all suits against the State". He further stated, "I will be unable to bring any type of legal action against the state, or in this case, FWP". He was referring to the affidavit I presented to him. It seems odd that Mr. Nelson would make that statement when your office was also sent a copy of his letter.

On Page 2 of the April 7, 2005 letter, Mr. Nelson wrote,

"I have shared your concerns about FWP management of the program with the new chairman of the FWP committee, Steve Doherty. We believe a sound approach to ensure that your expertise is used to its best advantage is to create a three person advisory council for the commission to advise it on specific respects of the programs. We believe you, along with two others with strong backgrounds, could provide extremely valuable assistance to the commission and the Department. Please let us know any thoughts on others who might be willing to help."

I provided several names including Senator Joe Tropila who was chairman of the Senate Legislative Fish and Game committee who would provide excellent assistance if

legislation was needed. I am sure the proposal was made with good intentions. I knew you, your chief of Staff Bruce Nelson or Commission chairman Steve Doherty had any idea how FWP had mismanaged the UGBHE program from its very beginning which you will understand after you review this letter, and background report. You will also realize that your allowing FWP Director Jeff Hagener to select the other two members was a mistake.

I will begin with a letter FWP Director Jeff Hagener sent to you dated April 30, 2007 as he stated it was in response to my letter to him dated April 16, 2007 of which you were sent a copy. Director Hagener must have thought that I had not acquired a copy of his letter because he made a series of comments that needed to be addressed. He said one of my concerns is the amount of money expended on pheasant releases. That is correct as I have said at the beginning of this letter. What director Hagener failed to mention is that the funding he mentioned was after the passage of SB304 in the 2001 session when FWP was required to spend 15% of the \$670,000 collected by FWP on pheasant releases. As you are aware, FWP attempted to terminate that requirement in SB17 in the last session which I and others opposed and the bill was tabled. FWP has been and continues to be adamantly opposed to the pheasant part of the program to the point where they have virtually destroyed the UGB program from its original purpose and accomplished nothing.

Director Hagener then began listing all the great things Craig Roberts did to benefit the UGB program, I am sure to defend his reason for appointing him on our three member council. Hagener stated: "I have read notes and been briefed as to the UGBHE council's discussions. In large part it appears Mr. Smith led the council through an extensive review of past problems that occurred earlier in the program's history of which FWP are well aware, and has responded to and addressed in a variety of ways". Governor please keep that statement in mind. It will be addressed in my summary at the conclusion of this letter.

Director Hagener stated "FWP however has been working in a different manner to accomplish the same objectives. As an example, FWP has developed an agreement with Pheasants Forever Inc. to employ a habitat specialist in Sidney to work entirely on UGBHE program pheasant habitat projects in Richland northern Dawson Counties and those results would be used in other parts of the state". I hope not. I have provided a copy of that agreement signed by FWP Jeff Holt and FWP attorney Jack Lynch on February 2, 2006. I have also provided a document where that contract is in violation of Section 18-1-118. I would like to point out that Kraig Paulson, the habitat specialist hired, negotiated two shelterbelt contracts at a cost of \$10,477 and three food plots at \$650 each. I then found that one of the landowners was paid \$650 but the contract was invalid because it was not signed by either Kraig Paulson or the landowner. Not much benefit to the program for the \$84,834 paid to Pheasants Forever Inc.

Director Hagener state, "Mr. Smith's letter indentified concerns over UGBE program projects handled by Craig Roberts and the central Montana Chapter of Pheasant Forever". Hagener said each of the contracts I referred to (total of four) "were signed prior to the

current 2001 rules, and the 1989 ARM rules(relevant at the time) allowed FWP pay up to 100% cost of a project". I am dismayed at that statement which is a lie. 12.9.705(4) in the 1989 rules state: "For qualified upland game bird enhancement projects sponsored by landowners or organizations, the department may reimburse the sponsor up to three-fourths of the cost of the project.

Director Hagener stated the Central Montana Chapter of Pheasants Forever handled all aspects of working with landowners, detailing program rules, establishing paper work and contracts and overseeing project completion. 87-1-247(1) state: "Not more than 10% of the money generated under 87-1-246 may be used by the department (a) to prepare and disseminate information to landowners and organizations concerning the pheasant enhancement program; (b) review potential pheasant release sites; (c)assist applicants in preparing management plans for project areas and (d) evaluate the pheasant enhancement programs". Governor, what Pheasants Forever supposedly did it appears, was the full responsibility of FWP. I will leave this one up to you to decide if FWP was complying with the law. Director Hagener did admit that the current ARM rules now specify an allowance of 10% for organizations such as Pheasants Forever sponsoring a project.

Director Hagener mentioned several extensive labors that Craig Roberts and his family have dedicated toward each of the UGBE projects on their land to make them a success. Speaking of success of these projects, prior to these contracts and Mr. Roberts purchasing this land, there were few, if any, pheasants. Now it is a premier hunting location for pheasants. Mr. Roberts has been an excellent cooperater to the program and opens his land each year through the Block Management program. Director Hagener must be making these statements to justify his appointing Mr. Roberts to the three member council which I might add, you allowed him to do. I was unaware that Mr. Roberts was enrolled in the block management program. If so, his contracts are in violation of 12.9.704(4) which states that projects may not interfere or duplicate other state or federal assistance programs.

I have provided a document published by FWP from 1996 through 2006 that shows that the number of upland game bird hunters in Fergus County decreased 973, hunter days decreased 4793, and birds harvested 6666. By contrast in Sheridan County where pheasants are released, that same report shows hunters increased 503; hunter days increased 2800 and birds harvested increased 4803. In that same report, hunters spent \$15 million in region 6, which is \$1 million more than is spent in the other six regions in the state. That report also showed more birds were harvested in Sheridan County than any other county in the state. I hope you can see why Mike Jensen and I drove over 500 miles to Helena to testify against SB17 which I am sure Director Hagener endorsed. He stated in his letter, "the UGBE program coordinator has maintained contact with Mr. Smith and has even suggested getting together after the legislative session to discuss some ideas for improving the program". We had that meeting and accomplished nothing, just more stonewalling.

Director Hagener's statement in the last paragraph of his letter said, "FWP is making an honest effort to actively improve the UGBE program, addressing many program

weaknesses. FWP would request that in place of Mr. Smith submitting additional letters and calls for investigation, that he agree to allow FWP's capable staff (I am sure he included himself) to develop the upland game bird program and allow executive and legislative oversight to work through its current channels." Is Director Hagener suggesting that I let FWP continue to operate as they have in the past and are continuing now? What does he think I have been doing for the last sever years to no avail?

On October 26, 2006, I received a letter from Bruce Nelson in which he referred to a letter from legislative analyst Clayton Shenck indicating that his staff is working with FWP to review the program through a new evaluation process and he was looking forward to the results. Would you inform Bruce to quit looking because I received a letter from the legislative fiscal analyst dated May 23, 2008 stating this particular initiative was not selected as one to be followed by the legislative finance committee.

I have provided a copy of a letter from Rick Northrup UGBE program coordinator dated October 14, 2007 in reply to my letter dated October 11, 2007. In questions 11, he answered the question on a list of contracts by saying, "this is my response as to when contracts were monitored and signs posted". He said all those contracts were in compliance. I am providing copies of letters where Rep. Julie French, Sen. Don Steinbeiser, Dick Iverson and I have sent to you along with pictures. I have provided several contract sites we visited and letters from county sheriffs verifying our statements.

I am finishing this letter with the most outrageous and disturbing thing which I suspected, and which finally caused Ron Aasheim, Administrator of Communication Education Division in Helena, to admit that FWP failed to comply with Section 87-1-247(1) which states: "Authorized use of pheasant enhancement funds. Not more than 10% of the money generated under 87-1-246 may be used by the department to (a) prepare and disseminate information to landowners and organizations concerning the pheasant enhancement program". By FWP failing to provide that information FWP misappropriated millions of dollars, denied hunter access, caused FWP region staff to write contracts without information so they were operating within law. How FWP could keep this covered up is beyond comprehension. I have reason to believe that Director Hagener and many others were aware of this. Governor, that causes me to ask if you were aware prior to receiving this letter? It is unbelievable that I was forced to go through this ordeal, but I am satisfied that this is now up to you, the legislature, or the courts to decide. I will be looking forward to your response.

Sincerely,

Ed B. Smith

No response

Ed B. Smith
288 Sandhills Rd.
Dagmar, MT 59219
Phn: 406 483-5484

December 26, 2008

Mr. Ken McDonald
FWP Wildlife Administration
Helena, MT 59620

Dear Mr. McDonald:

This letter is a follow up to the message I left on your telephone on December 24, 2008 regarding the supplementary feeding of pheasants due to the extreme weather conditions that exist in Sheridan and eastern Roosevelt counties and in the Sandhills Block Management area. As you are aware, FWP has established a doe deer hunt in the Sandhills Block Management area because of the deep snow and temperatures exceeding 30 below zero which has caused the deer to move into the ranchers hay needed for their livestock.

One would think that FWP would realize that if the deer could not find an adequate food supply, it would affect the pheasant population also.

As I mentioned in my message to you, I, on December 19th did contact area supervisor Pat Gunderson and our local biologist Scott Thompson asking them to implement a feeding program. Their excuse was that it couldn't be done until the bird season closed on December 31. I explained to them that the pheasants were concentrated in the farm shelter belts that were already posted with no shooting area signs. I also made Pat and Scott aware that I have contacted Cliff Torgerson, who agreed he would do the feeding program he has done before and I have contacted the landowners where the feeders would be placed.

I also want to point out that the Sandhills Block Management area was organized in 1983 by myself and 13 other landowners and have provided hunter access for over 25 years and if the pheasant population is mismanaged by FWP, this privilege will cease to exist. That being said, as I mentioned to you, Pat and Scott, if FWP fails to implement a feeding program as required in 12.9.615 MCA on January 1, 2009, I will seek legal action that FWP comply with that law.

Your prompt action will be appreciated.

Sincerely,

Ed B. Smith

Ed B. Smith
288 Sandhills Road
Dagmar, MT 59219
406-483-5480

Cc: Sen. Greg Barkus
Governor Brian Schweitzer
Pat Gunderson

*This area has received 4 more inches
of snow since this letter was sent and
this morning's forecast predicts another
5 inches of snow this week end
12-30-08.*

SHERIDAN COUNTY COMMISSIONERS

100 W. Laurel Ave.

Plentywood, MT 59254

Tel: 406-765-1660 Fax: 406-765-2602

Gerald Kohler

Robert Nikolaisen

William "Bill" Nyby

March 12, 2010

COPY

Governor Brian D. Schweitzer
Office of the Governor
Montana State Capitol Bldg.
PO Box 200801
Helena, MT 59620-0801

RE: Northeastern Montana Pheasant Population—Upland Game Bird Enhancement Program

Dear Governor Schweitzer,

The winter of 2009-2010 has been extremely hard on the pheasant population in Sheridan, Daniels, Roosevelt and Richland counties of northeastern Montana. The heavy snowfall and cold temperatures came early and have remained well into the month of March preventing the upland game birds from obtaining life-saving, necessary food sources to sustain their numbers. Many local farmers and ranchers have been providing feed to these birds in an attempt to save the bird population without much help from the Department of Fish, Wildlife and Parks. The department is charged with the task of "preserving and enhancing the upland game bird population in Montana", which is stated in Section 87-1-246 MCA.

The department has been approached by several area citizens asking the department to implement supplemental feeding to help mitigate the shortage and lack of feeding locations. Much of the upland game birds feeding grounds, grain fields and CRP, have been covered with heavy snow depths which prevents them from getting to ground level to search for food. So far the department has been reluctant and unwilling to implement supplemental feeding, citing the same old rhetoric and excuses why they should not start a feeding program. We continually hear that "feeding concentrates wildlife, making animals more susceptible to disease and predation" and "artificial diets are typically lacking in proper nutritional value for most species". Just once, we would appreciate the department responding in a more positive way and say "let's try this to see if it would work". The local citizens that are providing a supplemental feed source, at their own expense, has given the birds a chance to survive until better conditions arrive so that the birds can disperse into the fields in search of food. The feed that is being provided by the locals is not an artificial diet, but rather the same diet they would normally find in the fields if able to do so.

The negative impacts to rural communities and businesses that are going to occur because of the lack of birds this fall are going to be devastating. Most of the service industry businesses rely on the upland game bird hunting season to remain in business and provide jobs. Bird hunting in northeastern Montana is a big economic development that needs to be sustained and continue to keep this area of Montana alive. According to the Department of Fish, Wildlife and Parks "2008

Hunter/Angler Use and Expenditures Fact Sheet, the total hunting expenditures were \$292,367,289.00 with the upland game bird hunting expenditures contributing more than 15%, or approximately \$45 million. In Regions 6 and 7, the non-resident upland game bird hunters spent \$14.3 million in 2007 out of a total of \$19 million spent by resident and non-resident hunters combined. It may not seem like a huge part of the whole picture statewide, but it is very important to the people that live and reside in this wonderful part of the world we call home.

Another negative impact that we may see in the near future is the increased use of private land leasing for fee hunting. This part of Montana is still rich in free hunting areas supplied by landowners that are willing to allow hunting on their property without charging a fee. The Block Management Areas have provided the sportsman excellent hunting opportunities. The sportsmen are excited about these areas because they do not have to contact landowners for permission to hunt on their property. This frees up more time for them to hunt. With a diminished pheasant population, the Block Management Areas and the sale of licenses are going to be negatively impacted. We can ill-afford to lose this landowner-sportsman hunting heritage and move into the business of fee hunting for only the wealthy people who can afford to pay for their hunting privileges. This is not the way of life our forefathers envisioned for this country.

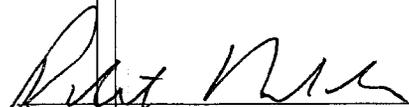
We are asking you to visit with Department of Fish, Wildlife and Parks Director Joe Maurier and strongly urge him to utilize more of the Upland Game Bird Enhancement Program funds to restock the diminished pheasant population in northeastern part of Montana as soon as practical to be available for bird hunters this fall. This pheasant release and re-stocking would provide the local communities some hope of a successful hunting season this fall. We feel this would be a rewarding economic development venture not only for northeastern Montana, but also the State of Montana. The nice thing about this is that only funds in the Upland Game Bird Enhancement Program would be utilized. As of December 31, 2008, the fund has more than \$3.2 million. It would require no funding from the State General Fund and would not be using any tax dollars from the citizens of Montana.

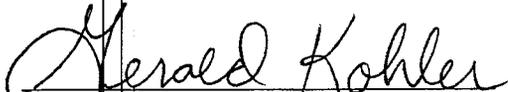
Enclosed for your perusal is a letter from a non-resident hunter from California. Also, we have enclosed documents supporting the dollar figures stated in this letter.

We feel that we are in crisis mode right now and something drastically needs to be done immediately. We can not wait 6-8 weeks to discuss and research this situation, plans for releasing and restocking of the pheasant population in northeastern Montana needs to be undertaken by the Department of Fish, Wildlife and Parks now. We are requesting a meeting with you within the next couple of weeks, if at all possible, to discuss this situation and make some decisions. We need to do something now to salvage the upland game bird hunting season and keep our communities alive. If you may have any questions, comments or need any additional information about this request, do not hesitate in contacting us. We thank you for your time and assistance in this matter and will be awaiting your response.

Sincerely yours,


William "Bill" Nyby, Commission Chairman


Robert Nikolaisen, Commission Member


Gerald Kohler, Commission Member


Mike Jensen, Upland Game Bird Advisory Council

cc: Daniels County Commission
Roosevelt County Commission
Richland County Commission
State Representative Julie French
State Senator John Brenden
State Representative Walter McNutt
State Senator Donald Steinbeisser
Mr. Rob Magnan, Fort Peck Tribal Fish & Game
Mr. Dick Iversen
Mr. Bob Crandall, Richland County Pheasants Forever

September 20, 2010

Mr. Joe Maurier
FWP Director
Helena MT 59620

Dear Mr. Maurier:

As the sponsor of the legislation that created the Upland Game Bird Enhancement Program, I am fed up with the way the FWP Department in Helena has failed to comply with that law: Sections 87-1-246 through 87-1-250 MCA . As you are aware I have sent several letters to FWP that I want answered. Because of no response from you and several others, in late August I contacted Senator John Brenden who is the Vice Chairman of the legislative FWP Committee. Senator Brenden called you and you told him if I sent copies of the letters, you would see that FWP staff would answer them. I have enclosed copies of each letter.

1. On June 21, 2010 I sent a letter to Debbie Hohler who is the UGBE Program Coordinator. I asked her for a listing of the contracts which identify the landowners, land description, number of acres, cost shares and what type of contracts i.e. shelterbelts, range management, winter cover, food, nesting cover and other requirements listed under Section 87-1-248 and 87-1-249 on MOU 080290 and MOU 2506. Partially answered.
2. On July 26, 2010, I sent a letter to Sue Daly, FWP Chief of Finance. What was the \$943,563 of Federal Pittman Robertson funds spent on the Upland Game Bird Enhancement program from 1988 through 2009? That is almost a million dollars spent and unaccounted for.
3. On July 26, 2010 I wrote a letter to Alan Charles FWP Block Management coordinator. What was the amount of block management funds paid to Craig Roberts on the three Upland Game Bird Enhancement contract he had with FWP?
4. On July 26, 2010 I wrote a letter to Hank Woreck. What is the number of regular upland game bird licenses, residents and non resident, sold in each county for 2008 - 2009?
5. I sent a letter to whom it may concern dated August 10, 2010, a copy of which was sent to you, Governor Schweitzer and others. I want to know how the \$175,000 appropriation that accompanied the MOU 2506 was spent. I have enclosed a copy of MOU 2506.
6. On September 7, 2010 I sent a letter to Debbie Hohler FWP Upland Game Bird coordinator asking her to send me a copy of the contract approved by the upland game bird council at the May 11-12 2010 meeting with the Pheasants Forever Coffee Creek Conservation Easement with the expenditure of \$200,000 of Upland Game Bird Enhancement funds. What is the contract number, the land description, and what will those fund be used for so they comply with 87-1-248 and 87-1-249 MCA?

7. On September 13, 2010 I again sent a letter to Debbie Hohler and asked if she would send me a copy of the upland game bird enhancement council's tapes regarding the May 11-12 and the July 26-27 council meetings. This was not answered. Ridiculous.

8. On September 13, I sent a letter to Drew Henry FWP biologist appointed on January 4, 2010 to correct FWP failure to comply with the UGBHE program. As you can see in the copy I sent you, there are many questions I want answered.

There are a lot of unanswered questions on how the FWP department has failed to comply with the Upland Game Bird Enhancement Program. Even more so after the passage of HB499 that now requires FWP must comply with three subsections of that law and FWP and the council must rely on to comply with the law 87-1-246 through 87-1-250 Section (5): The department shall provide administrative support as necessary to assist the advisory council in its duties pursuant to this section.

After the above questions have been answered, you will hear from me again.

Sincerely,

Ed B. Smith

Ed. B. Smith
288 Sandhills Road
Dagmar, MT 59219
Phone: 406-483-5484

*I want those request admitted
to me within 7 days or legal
action will be taken*

Encs.

xc: Governor Schweitzer
Sen. John Brenden
Rep. Julie French
Sen. Don Steinbisser
Sen. Jim Shockley
Judge Gregory Mohr
Auditor Angie Grove
Mike Jensen
Sheridan County Commissioners
Dick Iverson
FWP Commissioner Bob Ream

September 24, 2010

Rep. Julie French, Chairperson
12-Member Council
P. O. Box 356
Scobey MT 59263

Dear Representative French :

As the sponsor of the legislation that created the Upland Game Bird Enhancement law. Section 87-1-246 through 87-1-250 MCA, I hereby request a written notice from you, as the certified official representative of the twelve member council, to notify me when the next council meeting will be held at which I will attend. I make that request under "Opportunity to Submit Views - Public Hearings §2-3-111 (1) and (2) MCA; Public Participation in Government Operations §2-3-114(1)(a)(2); and Requirements for Compliance with Notice Provisions §2-3-104(1)(2)(3) and (4).

As you are aware I wrote you a letter dated June 8, 2010 expressing my concerns that you, as Council chairperson, were failing to comply with the Montana law and Montana Constitution in conducting the meetings. As you will recall, at the first meeting of the Council on July 7 and 8, 2009, you told me that this was a council meeting and I would be provided time at the conclusion of the meeting on the last day. As you are also aware, when I asked for some time you said I could have ten minutes. However, you allowed FWP staff to interrupt me during the time I was allowed. I am also enclosing a copy of the letter I already sent you to FWP Director Joe Maurier, dated September 20, 2010 asking eight questions that I want answered prior to the next meeting of the Council.

I will be looking forward to your response.

Sincerely,

Ed B. Smith

Ed. B. Smith
288 Sandhills Road
Dagmar, MT 59219
Phone: 406-483-5484

xc. Sheridan County Commissioners
Auditor Angie Grove
Judge Gregory Mohr
Mike Jensen
Senator John Brenden



**Montana Fish,
Wildlife & Parks**

July 28, 2010

Mr. Ed Smith
288 Sandhills
Dagmar, MT 59219

Dear Ed,

This letter is in response to your letter concerning the number of pheasants that were authorized for release on your property in 2010.

I am aware of, and greatly appreciate, your participation in the Block Management Program; however this is not a factor when determining the number of pheasants to be released on applicant properties. I also appreciate your food plot planting this year through the Upland Game Bird Enhancement Program, as well as any other efforts you are making with food plots on your property.

In 2010, Smith Farms submitted three applications for pheasant releases. Each of these applications is eligible for the maximum of 200 pheasants each. However, the maximum allocation of 200 pheasants per application can only be given if there is sufficient acreage and there are no limiting habitat factors.

Having seen them for myself, I am in agreement that your shelterbelt and shrub plantings are in excellent shape and are likely providing good winter cover for pheasants, as well as other wildlife during our tough winters. However, based on my evaluation and review of your applications, it was found that the requirement of at least 10% winter cover was a limiting factor, and your total pheasant allocation was calculated accordingly.

I hope this has helped in answering your questions.

Sincerely,

Drew Henry
Upland Game Bird Habitat Enhancement Biologist
Montana Fish, Wildlife and Parks
Box 146
Westby, MT 59275



Apr-02-09
FROM :

01:33pm From-MT FWP

+406 444 9733

T-903 P.001/001 F-683

FAX NO. :14064435484

Apr. 01 2209 07:20AM P1

5



Montana Fish, Wildlife & Parks

*Does FWP continue to divert
these funds to wolf management?*

P. O. Box 200701
Helena, MT 59620-0701
406-444-3186
FAX: 406-444-4952
Ref: DO470-08
October 30, 2008

Ed Smith
268 Sandhills Rd
Daguer, MT 59219

Dear Mr. Smith:

Thank you for your recent letter asking about how much of the \$110,000 of predator control funds are spent on wolf management. Beginning in state fiscal year 2007, Montana Fish Wildlife & Parks re-directed USDA Wildlife Services to spend the entire amount on assisting the state with wolf damage management as outlined in the state's wolf plan.

To learn more about the state's wolf program and read the 2007 Annual Report, see the FWP website: <http://fwp.mt.gov/wildthings/wolf/default.html>.

Sincerely,

M. Jeff Hagan
Director

Looks funds for coyote control

Sue Daly

4/1/09

*Did FWP divert the \$110,000 to wolf
program in 2008 and 2009?*

\$330,000 = total

Ed Smith

4-2-09

Mr. Smith -

*Yes. Our agreement with Wildlife Services for
FY08 and FY09 emphasizes wolf damage management.
cc for Maria + Ker McDonald*

Thanks Sue Daly

March 24, 2011



Coyotes are major hazards to newborn calves—and 2010 seemed to be a banner year for coyote population growth in our county.

Since November, the Marsh brothers (Kermit, Cecil and Darren) have teamed up with brother in law Martin Carlson, and

with Ralph and Ryan Lee, to eliminate as many coyotes as possible from the Dooley-Comertown area.

As of March 6, their totals were 108 coyotes and 11 fox. On Sunday the 6th, Kermit Marsh strung up the 119 pelts at Hi-Line Sports to get a photo.



21 Coyotes
11 fox
in the Sheridan
County area

03/03/2012 01:



Montana Fish, Wildlife & Parks

P. O. Box 200701
Helena, MT 59620-0701
406-444-3186
FAX:406-444-4952
Ref: DO019-07
January 9, 2007

Attention

Ed B. Smith
288 Sandhills Road
Dagmar MT 59219

Dear Mr. Smith:

This letter is in response to your letter dated December 12, 2006. Many of the issues you raise in the letter have been addressed and answered at least once in past correspondence. As you know, many necessary programmatic improvements were made in 2001-02 with the adoption of new ARM rules and use of a new policy manual. Montana Fish, Wildlife & Parks (FWP) believes opportunities for improving the Upland Game Bird Enhancement Program (UGBEP) remain, perhaps substantial improvement in some areas. The UGBEP coordinator has indicated that he intends to make additional changes to the program over the next two years that will further strengthen accounting, monitoring, consistency, and delivery of projects. As with most programs, UGBEP has changed and improved considerably from its inception and should continue to adapt as new needs arise.

Regarding the new signs for habitat and pheasant release projects, FWP committed to having the signs up prior to the 2006 upland game bird hunting season. Confirmation from regional staff indicates that this has occurred. In your phone conversation with the program coordinator, you had specifically mentioned two project sites in the Plentywood area that were not signed. This past week, the field biologist there made a special trip to check those two project sites and found signs where he had erected them last summer. Of course, signs will "disappear" over time and FWP will be looking for and replacing them as scheduled project monitoring occurs.

Regarding recommendations made by the UGB Citizen's Advisory Council, chaired by Craig Roberts, FWP has acted on many of the recommendations made by that Council. The program coordinator as well as the Director's Office have both provided you with correspondence that enumerates a host of accomplishments that correspond to the Council's recommendations. Specific to staffing concerns, FWP developed a contract with Pheasants Forever to hire a full-time habitat specialist for working with landowners in the Sidney area developing pheasant habitat projects. That individual has been on location for about three months. Depending on the success of this contract, FWP may expand to another area further west in Montana.

You expressed concern in your letter over the Private Lands and Public Wildlife Council (PL/PW) recommendation and corresponding proposed legislation to "terminate pheasant release provisions." It is important to note that neither the PL/PW recommendation nor the proposed legislation as

January 9, 2007

Page 2 of 2

currently drafted serves to eliminate the pheasant releasing component of UGBEP. The recommendation and proposed legislation only serve to eliminate the required expenditure currently in statute (MCA 87-1-247(3)). *From 1988 through 2001 only \$288,056 was spent on pheasant releases. That was the reason for 513304*

Your letter states that FWP only spent \$13,841 in fiscal year 2005 for habitat projects. That was the amount spent in fiscal year 2005 as of December (prior to the 2005 Legislative Session). FWP actually spent \$156,959 on habitat projects over that complete fiscal year. This is less than revenue entering the program. The Wildlife Division anticipates, however, that as additional program improvements are completed and the Division increases its emphasis of UGBEP with landowners and organizations (e.g., Pheasants Forever and National Wild Turkey Federation), the program will again grow in popularity and accomplishments.

UGBEP has now been in place for about 19 years. In past correspondence and over multiple conversations it has been conveyed to you that UGBEP has been improved considerably through the recommendations of yourself, auditors, legislators, and others. UGBEP is an important asset to Montana and remains a high priority for FWP.

How?

Sincerely,

M. Jeff Hagener
Director

That was not my responsibility

#101,433

c: Bruce Nelson

406-483-5484

If I hadn't got involved FWP could be still writing Russell type contracts

~~RECEIVED~~
~~DATE~~

**Memorandum of Understanding
between
Montana Department of Fish, Wildlife and Parks
and
Habitat Forever, LLC**

FWP Agreement # 080290

This memorandum of understanding (MOU) is entered into between the Montana Department of Fish, Wildlife and Parks hereinafter referred to as the "Department", and Habitat Forever, LLC, a subsidiary of Pheasants Forever, Inc, hereinafter referred to as "HF." Throughout this document, this memorandum of understanding will be referred to simply as the MOU.

I. Purpose

The purpose of this MOU is to restore and enhance wildlife habitat primarily for pheasants and other game birds on public and private lands within Fergus, Petroleum, Judith Basin, and Chouteau Counties in Montana. Specifically, this MOU will develop and support a Habitat Specialist position for providing farming activities and to enhance the cooperative relationship between HF, the Department, as well as other organizations and cooperating state and federal agencies.

This MOU will benefit the Department by 1) expending additional effort toward game bird habitat enhancements resulting in improved game bird numbers available to the public and 2) improving public exposure of, participation in, and support for the Upland Game Bird Habitat Enhancement Program.

This MOU will benefit HF by helping to fulfill its mission of "protection and enhancement of pheasant and other wildlife populations in North America through habitat improvement, land management, public awareness, and education."

II. Scope of the MOU and Responsibilities

A. HF and the Department mutually agree:

1. To fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by HF subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, HF agrees that the hiring of persons to perform the MOU will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.
2. That every provision of this MOU is subject to the bylaws of HF.
3. To hire one (1) Habitat Specialist who will serve to establish habitat enhancement projects, primarily on public lands, through a variety of farming

practices and secondarily to assist Department staff and other funding partners in developing annual farming plans on designated sites; third, to communicate accomplishments to parties of this agreement and the hunting community; and fourth to perform regular equipment maintenance duties. Funding from other sources may support additional tasks.

4. To annually, by March 15, develop with other funding partners a mutually agreed upon Plan of Work that provides specific work tasks, project locations, estimated costs, timeframes, and funding sources referenced to each anticipated cost. Partners will jointly develop a format for this annual document.
5. The Habitat Specialist will interact on a daily to weekly basis with local FWP staff for regular progress updates, coordination, and communication.
6. The Habitat Specialist will be responsible for quarterly reports to both parties, identifying accomplishments and anticipated work schedule, referencing the Plan of Work.
7. The Habitat Specialist will take part in meetings, training, or workshops as required by either party of this agreement.
8. The Habitat Specialist will be a HF employee who will work out of his/her residence, located in the Lewistown area.
9. The Department or other funding partners will provide space for equipment.
10. To meet as requested by either party to review progress and discuss methods for improving habitat enhancement success.
11. Any equipment items of greater than or equal to \$1,500 purchased with state funds will be agreed to in writing (email is acceptable) prior to purchase. Equipment purchases of \$5,000 or more, utilizing state funds will require purchase through the Department Procurement Officer.
12. All equipment (> \$1,500) purchased with Department funds will remain property of the Department. FWP custodian for all equipment purchased under this MOU will be Tom Stivers. At agreement termination, FWP will determine whether equipment will remain as FWP property, disposed of or donated to Pheasants Forever.
13. Habitat projects proposed for funding from the Department's Upland Game Bird Habitat Enhancement Program will follow program requirements.
14. Any habitat projects utilizing Upland Game Bird Enhancement Program funds on private lands will stipulate reasonable public hunting with an agreed annual number of public Hunter-Days.
15. This is a cooperative venture of the parties. Personnel of HF and the Department shall remain their respective employees while carrying out their duties under the MOU.
16. It is the intent of the parties to fulfill their obligations under this Agreement. However, commitments cannot be made beyond the period for which funds have been appropriated, made administratively available, or authorized by law. In the event funds from which the parties may fulfill their obligations are not appropriated, made administratively available, or authorized by law, the Agreement will terminate immediately upon written notice by either party.

B. The Department will:

1. Provide funding to:
 - a. Support salary, benefits, per diem of one (1) Habitat Specialist Position.
 - b. Fund the cost of rent and use/maintenance/repair of a pickup and farm tractor of appropriate size to accomplish habitat enhancements performed by the Habitat Specialist.
 - c. Fund the cost for purchase or lease and maintenance/repair of a cultivator and a grain/grass/legume seed planter, an equipment trailer, and other equipment as agreed to between both parties.
 - d. Provide Upland Game Bird Enhancement Program funds for habitat enhancements, as described in the Annual Plan of Work.
2. Coordinate with HF in providing daily oversight, guidance and related support for the Habitat Specialist.
3. Assist with the hiring process, including participation in interviews and will provide input for selecting candidates for the Habitat Specialist Position.
4. Provide the following as project liaison:

Name:	<u>Technical</u> Rick Northrup	<u>Administrative</u> Caryn Amacher
Address:	Montana Fish, Wildlife and Parks P.O. Box 200701 Helena, MT 59620-0701	
Telephone:	406-444-5633	406-444-3677
Facsimile:	406-444-4952	406-444-4952
Email:	rnorthrup@mt.gov	camacher@mt.gov

C. HF will:

1. Hire and employ one Habitat Specialist and provide supervision, training. Salary for this position will be comparable to the Department's permanent WMA maintenance staff (Job Code 499414), currently starting at \$12.60/hour plus full benefits.
2. Contact the Department liaison for written concurrence (email acceptable) prior to raising salary or allowing out of state travel (annual HF staff meeting excepted).
3. Provide at least annual job performance evaluations with input from the Department.
4. Provide habitat technical support for the Habitat Specialist.
5. Be responsible for paying bills which are reimbursable through this MOU and handling agreements and associated paperwork related to daily operations (e.g., fuel costs, equipment rental agreements, minor equipment repairs (< \$1,000) and maintenance, etc.).
6. Contribute \$12,400 annually in support of this MOU through cash contributions and/or in-kind administrative costs.
7. Provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine MOU compliance. (Mont. Code Ann. § 18-1-118.)

- 8. Create and retain records supporting this MOU for a period of three years after either the completion date of this MOU or the conclusion of any claim, litigation or exception relating to this MOU taken by the State of Montana or a third party.
- 9. Comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with sections 39-71-120, 39-71-401, and 39-71-405, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the HF nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the MOU. A renewal document must be sent to Fish, Wildlife & Parks, Purchasing Unit, PO Box 200701, Helena, MT 59620-0701, upon expiration.
- 10. Provide the following as a project liaison:

	<u>Supervisory</u>	<u>Local</u>	<u>Administrative</u>
Name:	Matt O'Connor	Dan Hare	Ronald J. Leathers
Address:	Habitat Forever, LLC 2880 Thunder Rd. Hopkinton, IA 52237	Pheasants Forever, Inc. 2047 Last Chance Gulch Box 134 Helena, MT 59601	Pheasants Forever, Inc. National Headquarters 1783 Buakle Circle St. Paul, MN 55110
Telephone:	(563) 926-2357	(406)465-8126	(651)773-2000
Facsimile:	same	same	(651)773-5500
Email:	mooconnor@pheasantsforever.org	dhare@pheasantsforever.org	rlathers@pheasantsforever.org

III. Disbursements

The Department will reimburse HF for expenses incurred up to \$130,000 during the first year of this MOU, which may include start-up equipment expenses. The Department will thereafter reimburse HF up to \$90,000 annually through the terms of this MOU. HF will submit invoiced bills to the Department on a monthly basis. Reimbursement will not exceed \$490,000.00

IV. Indemnification

Each party shall be responsible for its own acts and the results thereof and shall not be responsible for the acts of the other party and the results thereof. Each party, therefore, agrees that it will assume all risk and liability to itself, its agents or employees, for any injury to persons or property resulting in any manner from the conduct of its own operations, and the operation of its agents or employees under this MOU, for any loss, cost, damage or expense resulting at any time from any and all causes due to any act or acts, negligence, or the failure to exercise proper precautions, of or by itself or its own agents or its own employees, while occupying or visiting the premises under and pursuant to this MOU.

V. Period and Terms of MOU

- A. The project period for this begins on the date of the last signature and continues through December 31, 2012 unless canceled by either party.
- B. This MOU may be terminated by either party by written notice to the other party at least 30 days in advance of the effective date of termination.

The undersigned parties hereby agree to the terms and conditions specified above.

MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS

By: *Susan Kelly for Jeff Hagener*
Title: *Chief of Finance*
Date: *6-17-08*

Approved for Legal Content:

By: *William James Doleza*
Date: *June 2, 08*

HABITAT FOREVER, LLC

By: *[Signature]*
Title: *CFO*
Date: *6/26/08*

MEMORANDUM OF UNDERSTANDING

Between the

MONTANA DEPARTMENT OF FISH, WILDLIFE & PARKS

And the

CENTRAL MONTANA CHAPTER OF PHEASANTS FOREVER

(chapter no. 417)

This agreement is made and entered into between the Department of Fish, Wildlife & Parks, hereinafter referred to as DFWP and the Central Montana Chapter of Pheasants Forever, hereinafter referred to as CMCPF.

PURPOSE

For every habitat project, which CMCPF initiates and completes, that meets the guidelines for the Upland Game Bird Habitat Enhancement Program (UGBHEP): ?

DFWP will reimburse CMCPF for the cost of the materials plus ten percent. Total cost of the project plus 10% shall not exceed \$25,000.

DFWP will provide technical assistance to CMCPF through a review of the project, the project area and approval of the contract terms. All projects must be approved by the Director of Fish, Wildlife & Parks or his representative and the landowner before CMCPF begins work on the project. *How much of that fund has been spent?*

CMCPF will consider only UGHEP projects for landowners that agree to allow reasonable public access for the purpose of upland bird hunting.

CMCPF will prepare and disseminate information and answer requests for information from landowners concerning the UGBHEP.

CMCPF will meet with landowners to discuss and plan changes in cover crops, cropping and harvesting patterns, and other land use changes.

DFWP will assist CMCPF and landowners in preparing EA's and contracts for UGBHEP areas.

DFWP and CMCPF will assist landowners in implementing their contracts, and monitor the implementation of the contracts to ensure compliance.

LIAISON

CMCPF's liaison to DFWP for the purposes of this agreement is Craig Roberts, President, or his successor.

Debbie Hohler
FWP USBE Coordinator
Helena, MT. 59620.

March 9, 2011

Dear Debbie,

Last week I contacted Rep Austin Knudson's office and asked if he would send me a copy of the 87-1-250 MCA report which states, FWP shall report to the fish and game committee of each house of legislature concerning the upland game bird enhancement program activities undertaken pursuant to 87-1-246 through 87-1-249 and (section 3) (1) (2) that was to correct the problems of the past.

I was told it was only available by audio-tape. Since what I want is a written copy of the above full report by the sub-committee's discussion in addressing the activities conducted by FWP since that section of the law was passed in 2009.

E & B Smith
288 Sandhill Rd
Daguer, MT. 59219

cc. FWP Director Joe Maurier
SFA Auditor Angie Gross
EOC Todd Everts
Senator John Brandenburg
Rep Austin Knudson
Judge Mohr
Sheridan County Commissioners

October 11, 2005

Dr. Joe Ball
811 Leon Rd
Charlo MT 59620 59824

Mr. Mike Jensen
P. O. Box 94
Plentywood, MT 59254

Mr. Craig Roberts
908 W. Washington
Lewistown MT 59457

Gentlemen:

The purpose of this letter is to update you on the progress so far and ask you to make a list of recommendations that you would like to discuss and act upon at our next meeting. The documents I've provided and our discussion at the August 3 meeting should be helpful in carrying out our responsibilities as requested by Governor Schweitzer regarding the Upland Game Bird Habitat Enhancement program (UGBHE) now and in the future. There are several other documents that you have been given, and which I will refer to in this letter, that need attention. I called Rick and he is mailing you a copy of the minutes of our August 3 meeting which should be helpful in our deliberations.

One of the lengthy discussions concerned proper signage so hunters would know that they had access for upland game bird hunting on property whose landowner had a contract with FWP and who received funds from the UGBHE program. After I reviewed FWP 2005 access guide, I felt that it did not comply with the UGBHE law, ARM rules and FWP's own November 2002 Operations and Policy Manual. That manual states on page 5 and 6 that all projects must have conspicuous signs indicating they are in the program and instructions as how to obtain permission to access the property. In addition FWP provides maps for the public indicating the location of all projects and releases with information on when the project was initiated, what they initial and the landowner's name and in what town they receive their mail. After several calls, I convinced Rick, and I understand Director Hagener agreed, that the 2005 access guide did not meet the above requirements. I was assured that new signs are being printed and will be posted on both pheasant release sites and UGBHE projects contracted with landowners.

The manual that I mentioned was recommended by the legislative auditor in the December 2000 audit, Section III, page 44. FWP will need to provide some kind of procedure to be sure the landowner will provide access and allow a reasonable number of hunters to hunt upland game birds on their property. If property owners refuse to allow hunting I would insist that FWP apply the No.15 penalty clause in their contract.

October 11, 2005

Page 2

There are two other issues I intend to bring for discussion at to our next meeting. (Copies enclosed). The first matter is Contract #537 which concerns a shelter belt contract between FWP and HJJJ landowner in 1994. I want to know if the \$145,828 was paid in advance when 1/3 of the trees were not planted. I also want to know if the trees were planted according to FWP's own guidelines. Was the \$44,557 of material salvaged returned to the UGBHE account when the contract was terminated?

I question how FWP can use the number of pheasants released at a cost of \$197,481 from 1995 through 1997 all in violation of ARM rules 12.9.601 through 12.9.605 which FWP failed to comply with as pointed out by John McCarthy, former UGBHE program coordinator, in his report in 1998. Another question concerns how FWP and the council can ignore the 1989 ARM rules when FWP spent over \$8 million of UGBHE fund from July 1, 1989 through December 31, 2000 and the majority of those contracts remain active. I would like to know if Don Childress who became FWP Wildlife Administrator in 1989 and still holds that position, notified the other six FWP district offices about the UGBHE law 87-1-246 through 87-1-250 MCA and the ARM rules adopted to implement the law in March 1989.

When I met with Don Hyppa, Bryce Christensen and biologist John Ensign and Greg Risdahl on July 31, 2000, in Miles City, I asked them why they failed to comply with the law and ARM rules. They said they had not seen the law or rules. The same thing happened that same afternoon when I met with Jim Satterfield, Herald Wentland and Pat Gunderson in Glasgow. Harold said the only thing he received from Helena was a copy of the guide to releasing ring-necked pheasants as a part of the UGBHE program. This indicates to me that this may be why the UGBHE program has been a failure and has so many unanswered questions.

I have visited over a hundred project sites and was appalled at what I saw: no signs, failed shelter belts, livestock not moved from pasture to pasture, and pasture overgrazed. The list goes on and on. I would suggest that you visit some sites in your area where FWP have written contracts with landowners. They are identified in FWP 2005 access guide which you have been given. I will not comment in this letter on the FWP report to the Montana Legislature but will address the matter at our next meeting. The report contains several false and misleading statements.

Last but not least, I would like to refer you to the September-October edition of Montana Outdoors, page 3. The wisdom behind WMA's written by FWP Director Jeff Hagener. Not once did Mr. Hagener mention the UGBHE program administrated by FWP. According to the December 2000 audit, (copy enclosed), FWP wrote 607 contracts to landowners between July 1, 1989 through January 31, 2000 at a cost of over \$8 million of UGBHE funds which was to open 466,871 acres of land for access to upland game bird

October 11, 2005
Page 3

hunting. On that same page under natural wonders, there was a question, "I seem to see more and more hunters afield each year, so are license sales increasing?". Again not once was the UGBHE program mentioned and that the number of resident and non-resident upland game bird licenses sold had decreased by 4900 between 1987 through 2002.

Do I trust the FWP bureaucracy? I absolutely do not. To back up that statement, I am enclosing the minutes of the House FWP legislative committee hearing on SB304 in the 2001 session. When questions were asked by committee members, FWP personnel answered with many false statements. As you can see, FWP's attitude has been and continues to be that they can do and say anything they please and do not have to answer to anyone.

There must be somewhere in state government where FWP can be held accountable for their actions. It will be interesting to see if Governor Schweitzer's appointment of our three member council will change anything.

If you have a suggestion on our next meeting contact Rick.

Sincerely,



Ed B. Smith
288 Sandhills Rd.
Dagmar, MT 59219

xc. Governor Brian Schweitzer
Scott Seacat, Legislative Auditor
Steve Doherty, Chair of Fish & Game Commission
John Brenden, Commissioner

NOTE: This letter replaces the letter dated October 7, 2005.

Sheridan County

Year	# Hunters	Hunter Days	# Harvested	Days/Hunt	Harvest/Hunter
2007	1712	8934	14049	5	8
2006	1951	11040	16548	5	9
2005	1674	8179	14051	6	8
2003	1938	9637	14947	5	8
2002	1219	5540	8156	5	7
2001	858	4428	4764	5	6
2000	927	4435	6894	5	7
1999	897	4151	4912	5	5
1998	1010	4721	5696	5	6
1997	706	3134	3362	4	5

+ 908 + 5769 + 10226

Richland County

Year	# Hunters	Hunter Days	# Harvested	Days/Hunt	Harvest/Hunter
2007	1650	8162	11010	5	7
2006	1730	8677	12080	5	7
2005	1622	7850	9555	5	6
2003	2159	10724	14773	5	7
2002	1766	7710	10369	4	6
2001	1203	5082	6259	4	5
2000	1371	6972	10182	5	7
1999	1658	7770	9243	5	6
1998	1444	6959	7779	5	5
1997	1266	6107	6615	5	5

+ 211 + 1284 + 3802

TOP

Roosevelt County

Year	# Hunters	Hunter Days	# Harvested	Days/Hunt	Harvest/Hunter
2007	1038	5621	9067	5	9
2006	962	5398	7809	6	8
2005	803	4916	5989	6	8
2003	1569	6900	10897	4	7
2002	1197	5701	7727	5	6
2001	840	3945	5162	5	6
2000	595	2815	4020	5	7
1999	558	2926	3892	4	6
1998	478	2039	2190	4	5
1997	462	1972	2055	4	4

+ 402 + 4774 + 567

8/24
 (TABLE 2) ELK USE DAYS AND EXPENDITURES BY REGION

	R1	R2	R3	R4	R5	R6	R7
Resident Days	118,992	183,054	271,369	86,431	29,613	12,179	7,615
Resident Expenditures	\$9M	\$13.8M	\$20.5M	\$6.5M	\$2.2M	\$920,000	\$575,000
Non-resident Days	12,337	21,304	62,142	17,535	5,134	4,266	2,805
Non-resident Expenditures	\$4.4M	\$7.6M	\$22.1M	\$6.5M	\$1.8M	\$1.5M	\$996,000

(TABLE 3) DEER USE DAYS AND EXPENDITURES BY REGION

	R1	R2	R3	R4	R5	R6	R7
Resident Days	168,797	184,453	188,997	139,932	76,519	65,530	77,723
Resident Expenditures	\$9.9M	\$10.8M	\$11.1M	\$8.2M	\$4.5M	\$3.8M	\$4.5M
Non-resident Days	12,215	14,093	30,495	20,194	9,035	12,725	36,076
Non-resident Expenditures	\$2M	\$2.3M	\$5M	\$3.3M	\$1.5M	\$2.1M	\$5.9M

(TABLE 4) ANTELOPE USE DAYS AND EXPENDITURES BY REGION

	R1	R2	R3	R4	R5	R6	R7
Resident Days	NA	61	10,138	16,895	18,428	11,852	26,332
Resident Expenditures	NA	\$3,000	\$555,000	\$925,000	\$1M	\$649,000	\$1.4M
Non-resident Days	NA	3	699	2,253	2,437	1,915	6,783
Non-resident Expenditures	NA	0	\$144,000	\$464,000	\$502,000	\$394,000	\$1.4M

2007 report

(TABLE 5) UPLAND GAME BIRD USE DAYS AND EXPENDITURES BY REGION

	R1	R2	R3	R4	R5	R6	R7
Resident Days	66,752	42,304	43,266	78,159	33,016	78,817	25,083
Resident Expenditures	\$4M	\$2.5M	\$2.5M	\$4.6M	\$2M	\$4.6	\$1.5
Non-resident Days	1,464	1,650	4,945	13,739	5,684	43,889	10,687
Non-resident Expenditures	\$510,000	\$575,000	\$1.7M	\$4.8M	\$2M	\$15M	\$3.7

Hunters spent \$1M more for hunting upland game birds in region 6 than in the other 6 regions combined and more pheasants were harvested in Sheridan County than any other Co.

Page 2

(TABLE 2) ELK USE DAYS AND EXPENDITURES BY REGION

	R1	R2	R3	R4	R5	R6	R7
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2007 report

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Non-resident Days	1,464	1,650	4,945	13,739	5,684	43,889	10,687
Non-resident Expenditures	\$510,000	\$575,000	\$1.7M	\$4.8M	\$2M	\$15M	\$3.7

Hunters spent \$4 M. more for hunting upland game birds in region 6 than in the other 6 regions combined and over 3 times as much as in region 4

Provided by Debbie Hohler

Date July 29, 2010

Upland Game Bird enhancement funds spent on Habitat
in Sheridan County

Sheridan County: Estimated UGBNEP FWP Cost on projects.

Contract Effective Date	Project Type	Estimated Project Cost - FWP
1990	NESTING COVER	CRP \$16,432.90
	SHELTERBELTS	\$60.00
1991	NESTING COVER	CRP \$93,539.80
	SHELTERBELTS	\$776.80
	WINTER FOOD OR COVER PLOTS	\$3,804.25
1992	NESTING COVER	CRP \$11,551.00
	SHELTERBELTS	\$3,951.50
1993	NESTING COVER	\$1,762.50
	SHELTERBELTS	\$11,689.75
1994	NESTING COVER	\$2,200.00
	SHELTERBELTS	\$25,404.30
1995	SHELTERBELTS	\$8,434.15
	WINTER FOOD OR COVER PLOTS	\$1,350.00
1997	NESTING COVER	\$11,154.48
	SHELTERBELTS	\$997.00
1999	NESTING COVER	\$9,822.00
2001	NESTING COVER	\$5,685.06
2002	WINTER FOOD OR COVER PLOTS	Smith Farms \$600.00
2004	WINTER FOOD OR COVER PLOTS	" " \$600.00
2005	WINTER FOOD OR COVER PLOTS	" " \$500.00
2006	WINTER FOOD OR COVER PLOTS	" " \$500.00
2007	NESTING COVER	\$3,960.00
	SHELTERBELTS	\$14,928.00
	WINTER FOOD OR COVER PLOTS	\$4,121.00
2008	WINTER FOOD OR COVER PLOTS	\$3,191.50
2009	WINTER FOOD OR COVER PLOTS	\$3,150.00
2010	NESTING COVER	\$2,000.00
TOTAL		\$242,165.92

Bird population should be based on money spent on habitat

Fergus County

Year	# Hunters	Hunter Days	# Harvested	Days/Hunt	Harvest/Hunter
2007	1652	7415	8801	5	5
2006	1463	5623	7674	4	5
2005	1489	5887	6546	4	4
2003	1960	7217	9203	4	4
2002	1644	6556	7636	4	4
2001	1517	5741	6661	4	4
2000	2054	8177	9401	4	4
1999	2858	12291	15788	4	6
1998	2858	11690	16825	4	6
1997	2537	11966	16344	5	6
1996	2436	10416	14340	4	6
- 1076 - 5047 - 8164					

*the pheasants released
FWP did this to evaluate the program*

Handwritten notes on the right side of the Fergus County table.

FWP 2008 report

Montana Upland Game Bird Licenses Sold in Calendar Year 2008

County	Residency	Sales
BEAVERHEAD	Nonresident	96
BEAVERHEAD	Resident	211
Total:		307
BIG HORN	Nonresident	233
BIG HORN	Resident	180
Total:		413

County	Residency	Sales
FALLON	Nonresident	72
FALLON	Resident	158
Total:		230
FERGUS	Nonresident	199
FERGUS	Resident	561
Total:		760

Sheridan County

FWP records

Year	# Hunters	Hunter Days	# Harvested	Days/Hunt	Harvest/Hunter
2007	1712	8934	14049	5	8
2006	1951	11040	16548	6	9
2005	1674	9179	14051	6	8
2003	1938	9637	14947	5	8
2002	1219	5540	8156	5	7
2001	858	4428	4764	5	6
2000	927	4435	6894	5	7
1999	897	4151	4912	5	5
1998	1010	4721	5696	5	6
1997	706	3134	3362	4	5
+ 899 + 5715 + 10726					

Pheasants released in County

October 28, 2005

Mr. Rick Northrup
UGBHE Program Coordinator
Helena, MT 59620

Dear Rick,

This is a follow up to our telephone conversation last week and my October 11, 2005 letter.

I would like a list of UGBHE contracts written beginning in 2001 and up to the present time. I would also like a copy of the following contracts 549-635-637-700-879.

While FWP are presently posting the landowner's land who have an UGBHE contract, are they evaluating and monitoring the success or failure of those contracts, which is required in Section 87-1-247 MCA, the contract and the ARM rules adopted by FWP? Has FWP began a vigorous attempt to post the newly designed signs on landowners who have UGBHE contracts, which should have began when FWP adopted the Operations and Policy Manual in November 2002?

Have you been able to confirm a December meeting date?

Sincerely,

Ed B. Smith Ch.

Ed. B. Smith

Craig Roberts, Council Member
Dr. Joe Ball, Council Member
Governor Brian Schweitzer
Scott Seacat, Auditor

Mike Jensen
Steve Doherty
John Brennan

December 30, 2008

Mr. Rick Northrup
Former UGBEP Coordinator
Helena, MT 59620

Dear Rick:

As you may recall, on October 2, 2008 I faxed you a letter asking you to provide me with the type and cost of each UGBHE project for 2007-2008. After reviewing those contracts, I faxed you another letter dated November 14, 2008 asking you to provide me with the following contracts-CE080626, MOU08017B and MOU080617A. I finally received a copy of those contracts dated 12-8-2008 with a letter from Debbie Holher informing me that she was the new UGBHE coordinator,

Rick, you were the coordinator when these contracts were written so I expect you to be accountable for the content of those contracts.

I will begin with Contract CE080626- conservation easement with Robert and Linda Olson for \$181,964.00 funded with UGBHE funds. As I'm sure you should be aware that 12.9.705(5) (a) MCA cost share for any project may not exceed \$100,000.00 without commission authorization and no project will be funded for more than \$200,000.00. In researching that contract, I could not find the commissions' authorization. Contract MOU080617B- Yellowstone and Treasure counties for \$350,000.00 of UGBHE funds and on page 4, III Disbursements, it states, Reimbursements will not exceed \$490,000.00. Again, I find no authorization by the commission, even so that in \$290,000.00 was beyond the limit authorized in the law mentioned above.

It also appears this contract failed to comply with 12.9.705(c)- the department will cover no more than 75% of the total cost of any Upland Game Bird Project. \$60,000.00 failed to provided that requirement.

Contract MOU080617A-Fergus County-\$175,000 of UGBHE funds and again III, page 4, Reimbursements \$380,000.00 which exceeds the law mentioned above. If the commission did authorize these expenditures, provide me with the commission minutes.

Rick, I do not have the information for the other three counties mentioned in the above contracts, but I do have it for Fergus County and after the six contracts with Craig Roberts, explain to me why the hunters from 1996 through 2006 decreased 973, the hunter day decreased 4,743 and birds harvested decreased 6,666 and you want to spend \$380,000.

Your response to the questions I raised will be appreciated.

Sincerely,

Ed B. Smith

Ed B. Smith
288 Sand hills Road
Dagmar, MT 59219
406-483-5480

Cc: Governor Brian Schwietzer
Senator John Brenden
Rep. Julie French
Pat Gunderson

Senator Greg Barkus
Steve Roberts FAX 452-9787 - 12-31-08

Mr Steve Roberts
FWP Commission Chairman

Dear Steve

*Did the FWP Commission approve
the contracts listed in this letter?*

Ed B. Smith

*Total expenditures of 3 contracts listed \$1,051,964.00
If those projects did not have Commission authorization
the department of FWP misappropriated \$701,964.00
If those projects did have Commission authorization
the Department of FWP and the Commission misappropriated
\$443,928.00*

FWP shortchanging hunters, legislative auditors find

Mandatory fees for habitat projects not spent as law requires

By TOM LUTEY
Of The Gazette Staff

Despite collecting more than \$3 million in hunting fees for developing bird habitat, state wildlife officials haven't spent the money, according to legislative auditors.

In a performance report issued

Friday, auditors faulted the state Department of Fish, Wildlife and Parks for charging hunters for the Upland Game Bird Enhancement Program but not doing enough to develop it.

Through mandatory license fees, hunters have paid into the upland bird program since 1989. By law, the money is supposed to be



BARKUS

spent on creating habitat for field birds like pheasants and turkeys while also funding the release of birds into hunting areas.

"The department has truly done a disservice to the bird-hunting public," said Sen. Greg Barkus, R-Kalispell.

Barkus, a former member of the Montana Fish and Wildlife Commission, said the lack of habitat development was most egregious. He now sits on the Legislative Audit Committee, which will hear the

report later this month.

Simply put, FWP is supposed to contract with private landowners to develop nesting areas and windbreaks and to restore wetlands. The law dictates that FWP pay for up to 75 percent of the habitat development costs up to \$100,000 on private land. In return, private landowners are supposed to open the contract areas to hunters.

Since 2002, hunters have paid roughly \$680,000 into the program annually, but during that time FWP

all but stopped developing habitat. In three of the past seven years, wildlife officials contracted with fewer than 10 private landowners a year, a dramatic slowdown from the 1990s when new habitat contracts averaged nearly 100 annually. Many of those contracts are set to expire, including 164 by 2011.

On Wednesday, FWP declined to discuss the performance audit, although spokesman Ron Aasheim

Please see Funding, 10A

10A Thursday, April 2, 2009

Funding

Continued from 1A

concluded that FWP had \$3.2 million in collected fees and interest that has not been put to use.

The criticism isn't that FWP spent no money on the program, but rather its accountability for the money it did spend, as well as the amount it left on the table. In some years, FWP invested less than half its collections back into the program.

In a written response to the performance audit, acting FWP Director Joe Maurier said the department is proud of the program and its accomplishments. He agreed with audit recommendations that the 20-year-old program needed a management plan and that a spending cap should be lifted on administration costs. During the audit, FWP officials told investigators that a legally mandated spending cap prevented them from directing more staffing to the program. He said the department recently created a biologist position for the program.

The state Senate unanimously approved a bill Wednesday to lift the administrative spending cap on the Upland Game Bird Enhancement Program, but not before disparaging FWP's management of it.

"The department doesn't

years criticized in the recent performance audit. The unspent portion of the program's funding continued to increase with the exception of one year. The FWP was unaware of the termination dates for nearly a quarter of its habitat contracts. In one habitat case, the department didn't know the beginning or ending dates for the contract, the hunting acreage was missing and the property was listed in two different counties.

In 2001, then FWP Director James Hagenser assured the governor's office that the game bird program would be corrected following complaints by former state Sen. Ed Smith that FWP had mis-spent thousands of program dollars. Smith lambasted FWP for spending the money on habitat projects that didn't create any habitat and for not spending more money on bird releases.

Smith sponsored the pheasant enhancement law in 1987, funded by \$2 from each resident game bird license and \$23 from each nonresident game bird license. It was intended to pay for the cost of releasing pheasants into suitable hunting habitat. Pheasant hunting is big in northeastern Montana, where Smith is from.

The law was amended in 1989, after Smith left the Legislature, to allow unspent pheasant release funds to be spent on habitat.

"We paid \$241,000 to a ranch that was 7,000 acres to build fences and bridges, I guess for the huns to walk across."

— Sen. Jim Shockley
R-Victor

have a clue," said Sen. Jim Shockley, R-Victor. Shockley said he'd previously dealt with the program as a House member when FWP had given thousands of dollars to a ranch for bird habitat with little to show for the investment. "We paid \$241,000 to a ranch that was 7,000 acres to build fences and bridges, I guess for the huns to walk across."

In addition to raising the administrative spending cap, the legislation passed Wednesday, House Bill 499, creates a citizen advisory committee for the game bird program. Though the vote was unanimous, no one was guaranteeing the legislation would work.

The state created an Upland Game Bird Enhancement Program advisory council in 2005 to make recommendations for improving operations, but what followed were several of the

Sharing your views

Letters to the editor: Great Falls Tribune
P.O. Box 5468, Great Falls, MT 59403
Fax: (406) 791-1431
E-mail: gftribune@mcn.net

OPINION

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8A Thursday, September 14, 2000

For comments, tips or corrections: Call Managing Editor Gary Moseman at (406) 791-1465 or (800) 438-6600

TRIBUNE/EDITORIAL

Montana bird program must be held accountable

Troubling questions have been raised regarding a state program intended to increase Montana's pheasant and upland bird populations.

Of the \$8.5 million in revenue for the program, only \$270,000 has been spent actually stocking pheasants.

More than \$5 million has been given to ranchers — a fact that troubles some of the program's supporters — and about \$1.2 million is still in the fund.

Where's the remaining

\$1.5 million? Good question.

The Department of Fish, Wildlife & Parks should make no further expenditures for the program until these questions are resolved.

The issues were raised earlier this week by Ed Smith, a rancher from Dagmar who sponsored the bill in 1987 that authorized the program.

It is funded by a portion of the fees collected from bird hunting licenses.

Smith wanted to know

why private ranchers are receiving so much of the money. In one case, a rancher received \$350,000. The money was spent for such things as fencing, corals and a watering system for cattle.

Department officials defend the expenditures, noting that the 1989 Legislature expanded the program to financing "habitat enhancement" for birds.

Don Childress, head of the state Wildlife Division, said individual habitat projects are believed to be a

better way to have a long-term growth in bird numbers than simply planting the birds on property.

Farmers or ranchers who accept the money to improve habitat must open their property to hunters.

It makes sense that not all the money should be spent simply on stocking birds.

There needs to be adequate habitat to support them.

The problem is, there's no way to determine whether these sportsmen-funded

projects — and there have been 700 to 800 of them — actually work.

The state is developing a system to monitor the projects that have received funding.

That's a good first step. But until results are in, it doesn't make sense to spend more money on the same kinds of projects.

Meanwhile, the legislative auditor's office is working to figure out exactly what happened to all of the money in the fund.

These are serious issues.

If not resolved, they could doom the effort — or at least the state's role in it.

Smith already is threatening to ask the 2001 Legislature to cancel the program. He believes private groups may be more effective in restoring game birds.

Montana hunters won't have confidence in the program until the money is accounted for and there's a clear sense that the habitat projects are working.

New funding from the program should be suspended until that happens.



**Montana Fish,
Wildlife & Parks**

TO: Ed Smith

FROM: Debbie Hohler

FAX #: 406-483-5484

FAX #: 406-444-0266

DATE: 06/09/2011

PAGES: (including cover sheet): 2

Dear Ed,

Please find attached the names and address of 7 of the Council members. The other 5 Council members requested that their addresses not be made available to the public.

If you prefer, please send me 5 additional packets in their respective envelopes, and I will address these envelopes and mail them immediately upon receipt.

Thanks,
Debbie

July 12, 2011

Dear Joe
It appears to me when Council members
have the authority to conduct State business
they cannot withhold their identity

Ed

April 28, 2010

Governor Brian Schweitzer
Capitol Station
Helena, MT 59260

Dear Governor:

It has been brought to my attention that the Fish, Wildlife, and Parks Department has proposed to acquire a Conservation Easement on an 800 acre parcel of land known as the Coffee Creek Property and spending \$200,000 of Upland Game Bird Enhancement Program Funds; \$104,000 of Habitat Montana Funds; and, \$40,000 expenditure for cross fencing that is not identified. Governor, as the sponsor of the legislation in 1987 that created the Pheasant Enhancement law 87-1-246 through 87-1-250 M.C.A., I am adamantly opposed for several reasons. I want to begin with the sections of that law so you understand my concerns:

(1) 87-1-246 states the amount of money specified in this section from the sale each license listed must be used exclusively by the Department to preserve and enhance the pheasant population in accordance with 87-1-246 through 87-1-249. In the 1989 session the word "habitat" was added and in SB304 in the 2001 session the word "pheasants" was replaced with "upland game birds." Pheasants and a few turkeys are the only birds released. Also in SB304 it states at least 15% of the funds collected under 87-1-246 must be set aside for pheasant releases.

(Note) Fergus, Richland, and Roosevelt Counties were exempt for evaluation purposes which was 21 years ago.

(2) 87-1-249 prepare and disseminate information to landowner and organizations, and (d) evaluate the upland game bird enhancement program.

(3) 87-1-248 a project eligible for funding under the program must contain the proper combination of winter cover, food, nesting cover or other pheasant components determined necessary by the department to provide a viable and permanent upland game bird population. (f) Funds collected under 87-1-246 may be expended for supplemental feeding programs that are authorized by the department.

(4) 87-1-249(i) the department shall adopt rules to administer the upland game bird enhancement program created in 87-1-246 through 87-1-249 M.C.A. (2) rules must (i) proposed projects of suitable size, a minimum of 100 acres (iii) evidence that existing and potential species will benefit from the project. (a) establish project monitoring and reporting procedures, including a requirement that payment for projects authorized pursuant to 87-1-246 be supported by contracts, invoices, receipts or other supporting documents.

(5) 87-1-250 the department shall report to the fish and game committee of each house of the legislature concerning upland game bird enhancement activities undertaken

pursuant to 87-1-246 through 87-1-247 during the proceeding biennium together with any recommendations concerning the operation of the program.

Governor, as you are aware, we have been down this road before on several occasions, that began when I received a letter dated April 7, 2005 from your Chief of Staff, Bruce Nelson. He stated, "I have shared your concerns about FWP's management of the program with the new Chairman of the Fish, Wildlife and Parks Commission, Steve Doherty. We believe a sound approach to ensure that your expertise is used to its best advantage is to create a 3-member person advisory council to advise it on specific aspects of the program, notably planting birds and winter feeding. We believe you, along with 2 others with strong backgrounds, could provide some extremely valuable assistance to the Commission and the Department. Please let me know any thoughts you have on others who might be willing to help out. I hope you will consider appointment to the Council should it be established."

The above letter was in response to the letter I sent you dated March 9, 2005. As you are aware, I accepted on the condition that as the sponsor of the legislation to be addressed, I would serve as Chairman. I also recommended several others who would serve. Governor, I thought great now we will finally force FWP to comply with the law and rules as FWP had failed to do from the very beginning.

When I was told that Joe Ball, who I had never heard of, and Craig Roberts, who I knew had UGBE contracts, were appointed by FWP Director, Jeff Hagener, I was shocked. To me it was like putting the "fox in the chicken coup to guard the chickens," which I will point out later. It was also Craig Roberts who wrote a letter to Director Jeff Hagener (copy enclosed) dated July 11, 2006 in which he stated, "during the second meeting we agreed on several recommendations for FWP's consideration, which we feel will strengthen the programs in the future." Governor, if that was the case why was a 12-member Council appointed? It was also your office that wrote me a letter, dated October 25, 2006, supporting Craig Roberts terminating the 3-member Council.

Governor, that being said, I will now address the proposed Conservation Easement to spend an additional \$200,000 of UGBE Programs funds on the Coffee Creek Project. After all of the prior expenditures this is ridiculous and appears to be a violation of the UGBE Program and rules, FWP negotiated a contract number 919 with the Central Montana Chapter of Pheasants Forever at a cost of \$21,808, plus 10%, \$2,180 for a total of \$23,988 and the contract doesn't expire until 2015. Then FWP negotiated contract number 992 with the same Chapter for \$26,006, plus 10%, \$2,600, for a total of \$28,606, and this contract doesn't expire until 2018. (Note) Craig Roberts signed this contract on behalf of Pheasants Forever Chapter. Then I found out FWP negotiated another contract M0U080617A again with the same Pheasants Forever Chapter on 6/17/2008 for \$175,000 of UGBE Program funds, comments accompanying this contract state, "this is a 5-year agreement involving the numerous projects primarily on public lands in the Lewistown - Coffee Creek area. Governor, if this contract is for shelterbelts, winter cover, and range management, they violate the ARM rules which require a project life of 15 years.

Governor, lets refer back to 87-1-246 which states, "the amount of money specified in this section from the sale of each hunting license listed must be used exclusively by the department to preserve and enhance the upland game bird population in Montana in accordance with 87-1-246 through 87-1-249 M.C.A., subject to appropriation by the legislature.

In the above referenced expenditures, FWP spent \$227,594 on just those 3 contracts and, for example, according to FWP's own information in Fergus County from 1996 through 2007, the number of hunters decreased 1076, hunter days decreased 5047 and birds harvested decreased 8164. The total number of birds harvested from 1996 through 1998 decreased 15,837 and from 2005 through 2007, only 7673 birds harvested. This equals \$2,966 per bird harvested on just these three contracts. Add another \$200,000 proposed expenditure and this is \$5,572 per bird harvested. (copy enclosed) *Then add the 10% of Habitat Montana funds it increases to \$6,927 per bird harvested*

Governor, now add Craig Roberts' contract number 549 for \$9,031 plus 10% to Pheasants Forever, \$904, equals \$9,945; contract number 635 for \$1,939, plus 10% to Pheasants Forever, \$193, equals \$2,132; contract number 637 for \$4,952, plus 10% to Pheasants Forever, \$495, equals \$5,447; contract number 879 for \$10,100, plus 10% to Pheasants Forever, \$1010, equals \$11,110; all total of \$28,635. Governor, I have no idea why Pheasants Forever was awarded the 10% or why Craig Roberts did not pay the 25% cost of project that was a violation of 12.9.705(5).

According to the March 2009 audit report, pages 20 and 21, table 7, database information was incomplete and inaccurate on 80% of the 1245 contracts. That proves that Craig Roberts and hundred of others violated these contracts.

Governor, I have just scratched the surface and now you can see why Craig Roberts and the FWP Department wanted my involvement to cease.

Governor, I do not expect you to know many of the things that I mentioned, but you do know that now. The Coffee Creek Conservation Easement had to be crafted by FWP Director, Joe Muirier, Wildlife Director, Ken McDonald, and Rick Northrup because of the large amount of money involved. Just a few things. As you will recall, I sent you a letter dated June 27, 2008 which I identified a number of alleged violations, but did not get a response. I also sent you a copy of a letter dated October 19, 2009 that I sent to Sue Daly, Chief of Finance, seeking information regarding the expenditure of \$943,565 of Federal Pittman Robertson funds which was never answered. I am also sending you a copy of a Petition regarding the letter the Sheridan County Commissioners, along with the other county commissioners from Daniels, Richland, and Roosevelt counties. I understand you had Director Joe Muirier answer that letter which was sent to you.

According to 2-6-102(2) it states, "every public officer having the custody of a public writing that a citizen has a right to inspect is bound to give the citizen a copy of it." I am sure you are aware that we have a Federal and State right to know law.

As I have pointed out, the law and rules have been violated which I have documented so according to Section 4(1) it states, "The executive power is vested in the Governor, who shall see

FWP
COMMISSION
INVOLVED
ALSO

that the laws are faithfully executed." That being said, what would you suggest as a solution to the issues that I have brought to your attention on why FWP has and continues to administer the UGBE Program.

In closing, I also want to make you aware according to the Upland Game Bird Revenue and Expenditures FY 1988-2009 report, shows FWP collected \$16,131,494 expenditures, \$11,979,930, and in 2008 sold 1672 less upland game bird licenses than were sold in 1987. On July 6, 2004, I wrote a letter to Legislative Auditor Scott Seacot asking this question. If FWP fails to comply with that law and rules, who in State Government is obligated to hold FWP accountable for the violation. His answer, quote, "Ultimately, the Governor is responsible for the actions of the Executive Branch of Montana State Government. The Director of the Department of Fish, Wildlife, and Parks is in charge of the day-to-day operations of the department and is appointed by and reports to the Governor. In addition, a Governor appointed the FWP Commission, sets fish and wildlife regulations, approves property acquisitions, and approves certain rules and activities of the Department as provided by statute".

Governor, this puts the Upland Game Bird Program issue right at your door step at the Capitol in Helena. Will you join me in requesting a full scale investigation and put an end to this nonsense? I will be looking forward to your response.

Sincerely,

Ed B Smith

Never received a response

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Phone: 406-483-5484

Encs.

xc: Sen. John Brenden
Rep. Julie French
Judge Gregory Mohr
Auditor Angie Grove
Tom Lutey, Billings Gazette
EQ@ToddEverts
Great Falls Tribune
Helena Independent Record
Powder River Enterprise
Mike Jensen
Sheridan County Commissioners
Bob Crandall

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Left - Aldo Leopold

Aldo Leopold's Ties To The Area

Aldo Leopold, often called "the Father of Wildlife Ecology", is best known for his classic book of essays "Sand County Almanac, he was also the first Chair of the University of Wisconsin Department of Game Management. His progressive ideas on conservation are often cited and his books are widely read. What is little known about Leopold is that he had ties to the Mt. Horeb Area.

The idea of the Riley Game Cooperative was conceived in the summer of 1931, when Aldo Leopold was driving in rural Dane County looking for a good place to hunt that season. He stopped at the farm of R.J. Paulson to get a drink of water which led to a conversation between the two on the subject of game. Mr. Paulson spoke of a need to control poachers on his land despite posted signs. Aldo Leopold talked of the need to manage land to promote game for hunting. They concluded that a group of farmers working with town sportsmen offered the best defense against poaching, and could work to build up game in the area. From that conversation the inspiration of the Riley Game Cooperative was born.

By 1939, eleven farmers and five town members were part of the Cooperative, and together they managed 1,715 acres. The farm members furnished land, fencing, grain, and labor. The town members furnished capital for the project and also helped with the work. Pheasant eggs were bought and the farmers' wives raised the pheasants to 8 weeks old at which time they were weighed and banded. The farmers were reimbursed by the town members at 50¢ per bird. At 8 weeks the birds quit returning to the brooder coops and remained in the wild. (See photo to the left)

Aldo Leopold's ties to the University were linked to the game cooperative which was used as a research area. Graduate students were often assigned to the area for census work, banding of game and supervising plantings in the game cooperative.

Vermont Township
Town of Primrose

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Area
Historical Society

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"You Can't Have A
Future
Without a Past"
-Delma Donald
Woodburn

*Montana Area
3. ~~Montana Area~~
included in G R P*

The cooperative spirit of the two diverse groups of the project continued into the 1950s, and successfully managed the area to be conducive to wildlife.

An article in the July, 1940 Journal of Wildlife Management describes the challenges the co-op faced in land management and their accomplishments: "Riley presents two major ecological problems: the gradual transfer of fertility from upland to bottoms by erosion, and the gradual elimination of cover by grazing."

Leopold contends that much of the cover for game had been lost by the debrushing by the highway crews. He mentioned that the railroad right of way had been burned yearly but when requested by the Cooperative, was only cleared to remove woody growth that had gotten too large, this provided needed cover for game.

The game co-op worked to provide better cover for wildlife by plantings. Much of the plantings were done by trial and error. Problems with cattle grazing which destroyed new plantings, and drought which killed many seedlings were encountered. Farmers did much of the plantings in 1939 and 1940. "Tree planting bees" became enjoyable social events. The planting areas were fenced as rabbits were a major cause of damage for seedlings.

Feeding of game during the winter months was also done at the game cooperative. Ten feeding stations were in place from November to March. Each station required 40 bushels of corn, at a price of \$25.00 a year. Before the Co-op was established Riley was devoid of pheasant. By 1939, with improvements to wildlife habitat and the stocking of pheasants, the birds flourished in the co-op. Other species of wildlife that inhabited the game co-op were Bob-whites, Hungarian Partridge, Ruffed Grouse, Woodcocks, and Prairie Chicken. Gray Fox came back to the area perhaps because of the increased pheasant crop.

The farm members in the game co-op in 1940 were R.J. Paulson, Joe and Jerome Brown, Oscar Hub, Melvin Thompson, L. England, Wesley Riley, Hillary McCaughey, Albert Bohle, J. Lester Henderson, William Cook, and Joe Brannan. The Town Members included T.E. Coleman, A.W. Schorger, Howard Weiss, R. J. Roark and Aldo Leopold.

The Riley Game Cooperative continued into the 1950's. It was a successful effort by two interested groups to work toward a common cause. Riley's success was that the two groups worked so well together. As Leopold wrote: "No farmer-sportsman group is stronger than the ties of mutual confidence and enthusiasm which bind its members."

It appears Mt FWP has ignored this