

Program Evaluation

Hunting Access

DFWP Wildlife Division



ENVIRONMENTAL QUALITY COUNCIL

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Introduction

The Environmental Quality Council is required to evaluate programs within the Department of Fish, Wildlife, and Parks (DFWP) pursuant to 75-1-324, MCA. That law requires in part that the EQC, “review and appraise the various programs and activities of the state agencies, in the light of the policy set forth in 75-1-103, MCA, for the purpose of determining the extent to which the programs and activities are contributing to the achievement of the policy and make recommendations to the governor and the legislature with respect to the policy”.

The policy reads as follows:

The legislature, recognizing the profound impact of human activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances, recognizing the critical importance of restoring and maintaining environmental quality to the overall welfare and human development, and further recognizing that governmental regulation may unnecessarily restrict the use and enjoyment of private property, declares that it is the continuing policy of the state of Montana, in cooperation with the federal government, local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which humans and nature can coexist in productive harmony, to recognize the right to use and enjoy private property free of undue government regulation, and to fulfill the social, economic, and other requirements of present and future generations of Montanans.

At its June 2015 meeting, the Council allocated 272 hours of staff time, or about 45 hours apiece, to evaluate six programs within the DFWP Wildlife Division. In September 2015, the EQC began this review with a look at Wildlife Conflict Management. The EQC continues this work in January 2016 with a review of Hunting Access and Nongame, Threatened, Endangered, and Candidate Species.

This report focuses on Hunting Access, particularly access to or through private lands. 87-6-415, MCA, requires hunters to obtain the permission of a landowner, a lessee, or their agents before hunting on private property. The universal tool for hunting access is one-on-one contact with landowners.

The DFWP has several programs and activities to assist this process. A diagram depicting the many “tines” of hunting access at the DFWP is provided on page 4. This report focuses on the following programs and activities, identified by the DFWP as the main components of its efforts to assist hunting access:

- Block Management
- Access Public Lands
- Special access projects
- Upland Game Bird Access Enhancement
- Open Fields for Game Bird Hunters

- Unlocking Public Lands (previously known as Unlocking State Lands)
- Hunter Landowner Stewardship Project

Financial Snapshot

Hunting access programs are funded by portions of various license fees, including the resident and nonresident Hunting Access Enhancement Fee, nonresident upland gamebird licenses, nonresident deer, elk, and big game combination licenses, and SuperTags¹.

In Fiscal Year 2015, the DFWP specifically attributed \$6.44 million in Wildlife Division expenditures to hunting access programs.² This is the most accurate figure the DFWP can provide but may not capture all expenses. Much like the wildlife conflict management programs evaluated by the EQC in September 2015, not all DFWP employees who work on hunting access-related issues code their time or expenses that way.

Of the \$6.44 million in specifically attributed expenses, 69% of the funding came from license revenue dedicated to hunting access. Another 28% was funded with federal Pittman-Robertson dollars, which are generated by excise taxes on sporting firearms, handguns, pistols, revolvers, ammunition, bows, arrows, and archery equipment. "Come Home to Hunt" license revenue was used for 2% of expenditures and general license revenue and private funds accounted for less than 1% each.

Of total hunting access expenditures, operating expenses accounted for \$5.3 million or 82.6%. The biggest chunk of that -- \$4.48 million or 84.2% -- went to Block Management contract payments to landowners. The remainder paid for personal services. The DFWP counts 22.08 FTE specifically for its hunting access programs.

¹ A SuperTag can be used in any hunting district in Montana, including a trophy district. One is available per year by lottery for each of these species: moose, mountain sheep, mountain goat, antelope, elk, deer, bison, and mountain lion.

² This figure excludes expenditures for two habitat programs that require hunting access to qualify for participation: the Upland Game Bird Enhancement Program and Open Fields for Game Bird Hunters. These programs' expenditures will be discussed in the EQC's Wildlife Habitat program evaluation in March 2016.

Education/Information

Hunter, bowhunter education
Becoming an Outdoors Woman
Hunter-Landowner Stewardship Project
Montana Hunt Planner
Land ownership maps
OHV grant program

Programs

Hunting Access Enhancement
o Block Management
o Access Public Lands
o Special access projects
Upland Game Bird Enhancement
Open Fields for Game Bird Hunters
Habitat Montana
Reimbursement for hunting-related livestock loss
Game damage assistance

Statutory Factors

Recreational liability limitations
Stream and bridge access
State school trust land recreational access
Private landowner permission required

Citizen Councils

Private Land/Public Wildlife
Regional councils

**Interagency Travel and Recreation
Management Planning**

FWP Lands

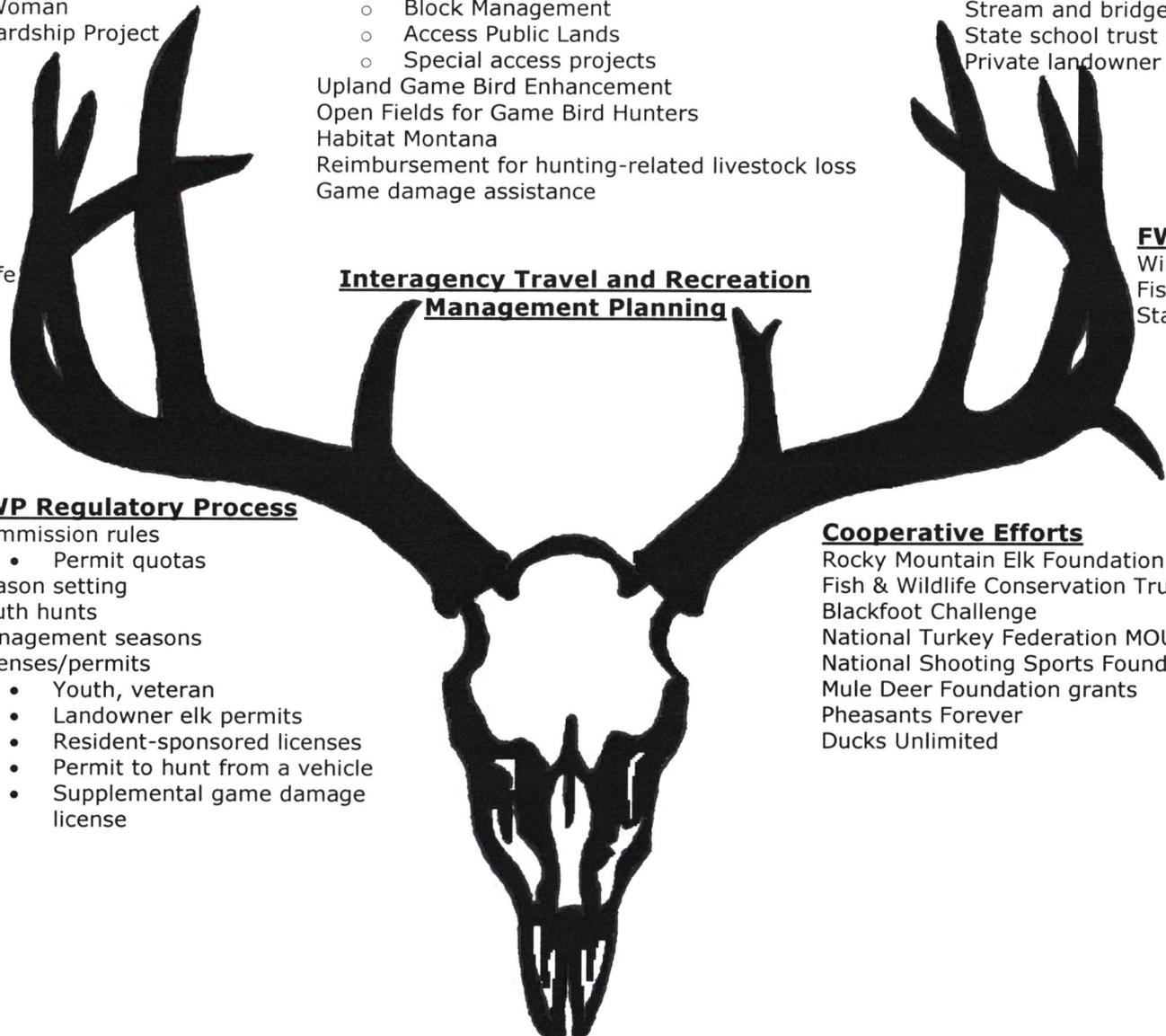
Wildlife Management Areas
Fishing Access Sites
State Parks

FWP Regulatory Process

Commission rules
o Permit quotas
Season setting
Youth hunts
Management seasons
Licenses/permits
o Youth, veteran
o Landowner elk permits
o Resident-sponsored licenses
o Permit to hunt from a vehicle
o Supplemental game damage license

Cooperative Efforts

Rocky Mountain Elk Foundation grants
Fish & Wildlife Conservation Trust projects
Blackfoot Challenge
National Turkey Federation MOU
National Shooting Sports Foundation grants
Mule Deer Foundation grants
Pheasants Forever
Ducks Unlimited



Tines of Hunting Access in Montana

Block Management

Background

The Block Management Program (BMP) is the primary component of the DFWP's hunting access programs. The current-day BMP facilitates free public hunting access on private lands and some isolated public lands through voluntary contracts between the DFWP and private landowners. Landowners may receive cash payments and other benefits for participation.

Though some of the DFWP regions had access agreements with landowners as early as the 1970s, the first formal iteration of the BMP was established by the department in 1985. Landowners were threatening to close their land to all public hunting, expressing concern about the number of hunters on their land, damage to the land, and the time it took landowners to deal with hunters.³

In response, the department created the BMP, using incentives to recognize and reward landowners for their assistance to the public during hunting seasons and reduce interruptions to farm and ranch operations. Incentives included:⁴

- Signs, maps, permission booklets;
- Livestock loss compensation;
- Game damage materials;
- Temporary department personnel were hired to manage hunting activities on large ranches or groups of ranches;
- Monetary reimbursement for landowners who managed their own hunters; and
- Liability protection.

According to a legislative audit report, each region created its own BMP in 1985 to respond to the concerns of landowners in that area. Overall guidelines were written in 1990 so that all regions had the same framework for eligibility, compensation, administration, and requirements for outfitting on Block Management Areas (BMAs).

Administrative rules were created for the BMP in 1994 using the broad authority of the then-Fish, Wildlife, and Parks Commission granted in 87-1-301 and 87-1-303, MCA. The rules essentially followed the previous guidelines, but program evaluation and compensation were not included.⁵

The Legislature blessed the BMP -- authorizing landowner assistance for participation and establishment of hunter management and hunting access enhancement programs -- via House Bill No. 195 in 1995. That legislation grew out of recommendations made by the Advisory Council on Private Land/Public Wildlife (PL/PW), which was appointed by the governor in response to House Joint Resolution No. 24 (1993).

³ Block Management Program Performance Audit 97P-10, Montana Legislative Audit Division, December 1999, page 11.

⁴ Ibid.

⁵ Ibid, page 12.

The preamble of HJR 24 described conflict between landowners, hunters, and outfitters:

“WHEREAS, landowner/outfitter/sportsperson relations have become increasingly strained over the past several years, leading to increased polarization between the groups; and

WHEREAS, landowners feel victimized and helpless to control increasing game populations and feel that their contributions to wildlife habitat are overlooked or insufficiently acknowledged; and

WHEREAS, sportspersons resent diminishing access to private and public land for hunting opportunities and increasingly view commercialization as a threat to the long-term viability of wildlife management and our hunting heritage;”

Rep. Chase Hibbard, one of the sponsors of HJR 24, said the resolution was drafted after several “one-sided” bills that pitted landowner, sportsmen, and outfitter groups against each other were presented to the House Fish and Game Committee that session.⁶ Hibbard said voting “yes” or “no” were the only options and described his experience on the committee as “incredibly difficult”. Rep. Dick Knox, who also sat on the committee, said some members “wanted to wear hard hats because legislative bombs were lobbed back and forth.”⁷ Twelve bills in all were introduced in 1993 dealing with issues of private land and public wildlife.⁸

To end the gridlock, the Legislature asked the governor in HJR 24 to coordinate a sustained, ongoing, cooperative effort through the DFWP “to address these issues by establishing statewide, regional, and local groups to develop mutually satisfactory solutions that will preserve Montana’s hunting and wildlife heritage”.

By consensus, and using input from local groups and public hearings held around the state, the PL/PW developed recommendations for improving access to private lands and for providing tangible benefits for landowners who allow access for hunting. Those benefits included receipt of a free Class AAA sportsman’s license for resident landowners or a Class B-10 nonresident big game combination license for nonresident landowners,⁹ as well as offsetting impacts to general ranch maintenance, conservation efforts, weed control, fire protection, liability insurance, roads, fences, and parking area maintenance.¹⁰

Factors used to determine benefits included but were not limited to:

- the number of days of public hunting provided;
- wildlife habitat provided;
- resident game populations;
- number, sex, and species of animals taken; and
- access provided to adjacent public lands.¹¹

⁶ House Fish & Game Committee Minutes, January 27, 1995, page 2.

⁷ Ibid, page 9.

⁸ Senate Fish and Game Committee Minutes, March 9, 1995, HB 195 Exhibit 7, page 1.

⁹ 87-1-266, MCA.

¹⁰ 87-1-267, MCA.

¹¹ Ibid.

Benefits earned by a landowner could be applied in but were not limited to the following manner:

- Weed control payments made directly to the county weed control board or the landowner;
- Fire protection payments made directly to the local fire district, the county, or the landowner;
- Direct payments to the landowner to offset insurance costs incurred for allowing public hunting access; and
- Assistance provided by the DFWP in the construction and maintenance of roads, gates, and parking facilities and in the signing of property.

To be eligible, landowners had to provide “reasonable public hunting” access to land enrolled in an access program and could not charge a fee for that access.¹² Land was not eligible if outfitting or commercial hunting restricted public hunting access.¹³

Originally given a 4-year sunset, the hunting access enhancement program and tangible benefits for BMP cooperators were extended by the Legislature in 1999 and made permanent in 2005. At the time, DFWP Director Jeff Hagener called the BMP the “most successful public hunting access program in the nation”.¹⁴

The same BMP benefits and access requirements persist today.¹⁵ What has changed is the total amount of benefit a landowner can receive and how hunting access enhancement programs are funded.

In 1995, HB 195 capped payments to participating landowners at \$8,000 per year, though PL/PW Member Steve Christensen, a rancher, said that if funding sources could be identified, serious consideration must be given to eliminating or increasing the cap.¹⁶ That happened in 2001 when the Legislature increased the limit to \$12,000. That cap is the same today.

Payments to landowners are calculated in the following ways and are dependent on available funding:¹⁷

- Annual enrollment payment (\$250)
- Hunter day impact payment of up to \$11/hunter day, consisting of:
 - Basic impact payment of up to \$6.60/hunter day
 - Length of season impact payment of \$2.20/hunter day for cooperators who place no restrictions on when hunting can occur during commission-established fall hunting seasons. This rate is 1/3 of the basic impact payment.

¹² 87-1-265, MCA.

¹³ 87-1-267, MCA.

¹⁴ House Fish, Wildlife & Parks Committee Minutes, March 8, 2005, SB 77 Exhibit 1, page 1.

¹⁵ Landowners may now designate an immediate family member (House Bill No. 235, 2005) or employee (House Bill No. 137, 2009) to receive the landowner’s free Class AAA combination sports license or Class B-10 nonresident big game combination license.

¹⁶ House Fish & Game Committee Minutes, January 26, 1995, HB 195 Exhibit 4, page 2.

¹⁷ E-mail from Alan Charles, December 16, 2015.

- Species/gender impact payment of \$2.20/hunter day for cooperators who place no restrictions on the species and gender that may be hunted. This rate is 1/3 of the base impact payment.
- Optional 5% weed management payment.

Cooperators who don't allow public hunting but who provide access corridors to isolated state or federal land are eligible for 50% of the basic impact payment and 50% of the length of season impact payment based on the number of hunters for whom access is provided.

Additional forms of compensation may include:

- reimbursement for livestock losses directly attributable to providing free public hunting;
- the supplying of wildlife damage materials and supplies; and
- participation in other department cooperative programs.

In addition to payments, the DFWP still helps manage hunting activities on BMAs by providing signs, maps, permission books, and, in some areas, staff to patrol and assist hunters.¹⁸ Landowners also receive limited liability protection under 70-16-302(1), MCA.

There are two basic types of BMAs. In Type I areas, hunters administer their own permission, either by using sign-in boxes or rosters or by hunting on areas that specify no permission is required. Type I BMAs do not typically limit hunter numbers.

In Type II areas, someone other than the hunter, typically a landowner or DFWP employee, administers permission using permission slips. Type II BMAs often use hunter management systems, including limits on hunter numbers, reservation systems, and pasture assignments.

Interested landowners are selected for BMP enrollment based on various criteria, including total acreage, habitat type and quality, potential hunting opportunities, access to inaccessible federal and state lands, and regional wildlife management needs. Priority consideration is given to lands that are open to all species and gender of game birds and animals available in huntable numbers during the applicable fall season dates.¹⁹

Participants, known as cooperators, may enroll in or contract to participate in the BMP for up to 5 years at a time. Participation varies year-to-year, as shown in the Block Management Summary on the next page.

¹⁸ Pursuant to 12.4.206(1)(a), ARM, the compensation value of those services is deducted from the total monetary compensation for which the cooperator is eligible.

¹⁹ 12.4.205(1)(e), ARM.

BLOCK MANAGEMENT SUMMARY – (1996 – 2014)

Year	Total Cooperators	Total BMAs	Total Acres	Total Hunter Days	Total Payments to Landowners
1996	882	796	7,131,119	345,833	\$2,757,103
1997	937	744	7,545,606	364,090	\$2,571,358
1998	916	719	7,259,606	297,440	\$2,541,863
1999	930	720	7,147,023	294,784	\$2,545,761
2000	1004	766	7,696,500	326,180	\$2,792,854
2001	1082	857	8,653,420	348,524	\$3,200,561
2002	1150	921	8,809,758	378,444	\$3,556,451
2003	1245	986	8,761,893	408,093	\$3,897,189
2004	1262	981	8,767,387	410,924	\$3,943,073
2005	1237	935	8,528,241	421,636	\$3,917,848
2006	1244	939	8,294,611	436,267	\$4,091,161
2007	1256	920	8,106,504	442,258	\$4,123,583
2008	1256	924	8,449,162	455,473	\$4,221,100
2009	1274	927	8,776,560	471,024	\$4,732,869
2010	1286	931	8,457,624	486,225	\$4,935,603
2011	1289	918	8,166,055	437,088	\$4,916,595
2012	1231	866	7,685,318	299,115 ²⁰	\$4,739,276
2013	1210	835	7,614,097	323,413	\$4,585,096
2014	1194	828	7,392,123	329,992	\$4,477,266
2015	1184	827	7,281,851	Not available	\$4,465,983

Source: The Department of Fish, Wildlife, and Parks

The number of enrolled BMP acres in 1994 was 5 million. With HB 195, the PL/PW hoped to increase enrolled acres by at least 2 million.²¹ The program met that goal by 1996.

BMP enrollment peaked in 2009. Overall enrolled acres declined between then and the 2015 hunting season by 17%. However, DFWP attributes part of the decline to a change in land ownership. Plum Creek Timber Company sold 310,000 acres that ultimately were transferred to state and federal ownership. The land remains open to public hunting access but is no longer enrolled in the BMP.

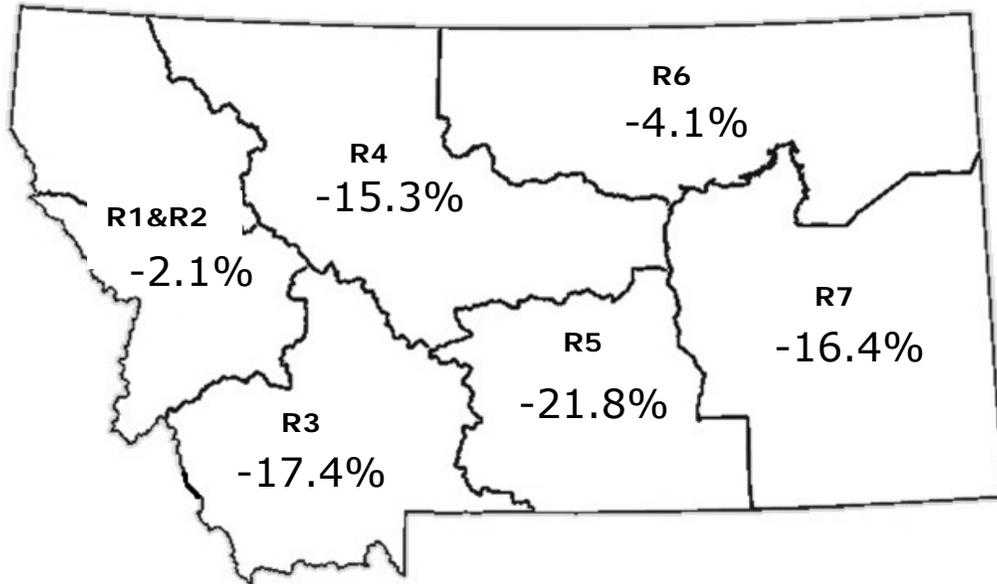
Excluding those acres, BMP acreage declined 13.5% between 2009 and 2015. The number of cooperators declined by 7% in that same time period and the total number of BMAs declined by 10.8%

²⁰ The sharp decline in hunter days in 2012 reflects a change in the way hunter days are recorded by the DFWP. After 2011, hunter days were recorded only on BMAs where the landowner received compensation.

²¹ House Fish & Game Committee Minutes, January 27, 1995, HB 195 Exhibit 1.

Regional data tell a more detailed story in the following diagram. Regional data was not available for 2009, but a comparison of enrolled acres in 2010²² versus 2015 shows the percentage of decline varies across the state.

Percent Decline in Enrolled BMP Acres Between 2010 and 2015 by DFWP Region



The DFWP says trend data show some large BMP acreages are replaced by small acreages. Some large ranches enroll smaller portions. Some cooperators drop out for a variety of reasons.

Since 1996, the DFWP estimates the average annual attrition rate in the BMP is 3% to 5% while new enrollment ranges from 5% to 7% annually.

²² 2011 data was used for Regions 1 and 2.

In 2013, 58 cooperators or 4.72% did not reenroll for the following reasons:

Number of Cooperators	Reason given for not re-enrolling in 2013
19	Property sold or lease dropped
10	FWP declined to reenroll the property due to ranking or failure of cooperator to return contract by deadline
14	Compensation too low, not enough game, property overhunted, poor hunter behavior, or all of the above
6	Issues unrelated to program (wolves, bison, and FWP land acquisitions)
5	Unknown
2	Landowner decided to lease
1	Fire danger
1	Safety reasons

The DFWP conducts periodic satisfaction surveys with BMP cooperators. A 2009 survey resulted in the following data from cooperators who responded: ²³

- 92% were satisfied or very satisfied with the overall BMP;
- 78% said the BMP was an important or very important way for them to manage game numbers;
- 92% said the BMP was an important or very important way for them to manage hunter activities;
- 89% rated hunter behavior on their property as good or very good;
- 65% said their relationship with hunters improved or greatly improved due to participating in the BMP; and
- 79% were satisfied or very satisfied with the total compensation they received.

Fiscal Overview

In Fiscal Year 2015, the DFWP specifically attributed \$6.4 million in expenditures to hunting access programs; 90% of that, or \$5.79 million, is specifically attributed to the BMP.

Contract payments to landowners account for 77.3%, or \$4.48 million, of the BMP expenditures. Operating expenses amounted to 9.5%, or \$549,040, and personal services to 13.2%, or \$765,174.

Of the 22.08 FTE attributed specifically to hunting access programs, 15.29 are for the BMP. The program has six full-time hunting access coordinators, 1 each in Regions 2 through 7, and hires 40 to 44 part-time hunting access technicians each season. The technicians patrol

²³ Block Management Hunting Access Program Report, 2014, page 9.

assigned BMAs, ensure the areas are properly signed, service BMP roster boxes, coordinate with landowners, and in some cases handle onsite permission.

Participation in the BMP, even for cooperators with multiple-year contracts, is contingent on the annual availability of funds.

When HB 195 was adopted in 1995, the DFWP estimated in the bill's fiscal note that 244 landowners already participating in the BMP would be eligible for the assistance and benefits established in the bill at an average annual cost of \$2,750. The fiscal note expected 125 new landowners to enroll in the next 2 fiscal years and receive an average payment of \$4,000.

At the time, the Executive Budget recommended a 5% reduction in personal services, which equated to 11 FTE in the DFWP 1997 biennial budget.²⁴ The FWP Commission objected to the recommendation and the DFWP said it would be unable to absorb the administration of HB 195 with existing staff. The DFWP requested four additional FTE (two game wardens and two conservation specialists²⁵) over the biennium, \$112,500 in annual operating costs, and \$1,171,000 for payments for landowner participants.²⁶

Ultimately, the Legislature provided more than requested. In HB 2, the Legislature authorized \$1.1 million in state special revenue in FY 1996 to implement HB 195 and \$1.5 million in FY 1997.²⁷ The BMP already had nine FTE and the additional funding allowed for four more starting in FY 1996, plus another five more in FY 1997. Of the nine new FTE, five were in enforcement and four were conservation specialists.²⁸

The funding sources for HB 195 were the newly created variable-priced, outfitter-sponsored Class B-10 nonresident big game and Class B-11 nonresident deer combination licenses.

HB 195 set aside 5,500 Class B-10 licenses and 2,300 Class B-11 licenses for applicants indicating their intent to use the services of a licensed outfitter.²⁹ The FWP Commission was authorized to set fees for the licenses on an annual basis at a market rate with the intent that as close as possible to but not more than the 5,500 and 2,300 licenses be sold.

The DFWP's Director, Pat Graham, testified in the House and Senate Fish & Game Committees that the agency believed the variable-priced licenses could generate more than \$1 million in revenue annually.³⁰ Concerns were expressed during committee hearings that HB 195 was borne on the back of nonresidents. Graham said resident fees had already

²⁴ Fiscal Note for HB 195, as introduced, assumption 6.

²⁵ Conservation specialists are seasonal positions that assist landowners during the hunting season.

²⁶ Fiscal Note for HB 195, as introduced, assumption 6.

²⁷ Legislative Fiscal Report 1997 Biennium, Office of the Legislative Fiscal Analyst, Volume II, June 1995, page C-7.

²⁸ Personal conversation, Sue Daly, Finance Division Administrator, DFWP, November 18, 2015.

²⁹ This provision was one of several related to outfitters contained in HB 195 and a companion bill, House Bill No. 196, that were proposed by the PL/PW but are not discussed in this program evaluation.

³⁰ House Fish & Game Committee Minutes, January 26, 1995, HB 195 Exhibit 9, page 3.

increased 50% since 1991 with part of the increases supporting the BMP. He did say, however, that future increases in funding for the hunting access enhancement program should come from increases in resident license fees.³¹

The Montana Wildlife Federation (MWF) testified the variable-priced licenses were an affront to Montana's steadfast resistance to allocation of fish and wildlife based on economics or commerce, but called the licenses the "linchpin" that held HB 195 together. With the bill's 4-year sunset, the MWF said it viewed HB 195 not as a long-term solution, but as an excellent interim measure that could create a civil atmosphere that would allow various constituencies to "deliberately and thoughtfully continue to find solutions consistent with basic Montana values and principles."³²

In License Year 1996, the variable-priced, outfitter-sponsored licenses generated \$5.96 million. The FWP Commission set the cost of the variable-priced B-10 at \$835, compared to \$398 for unreserved B-10 licenses, and the DFWP sold 5,213 licenses. The cost of a variable-priced B-11 license was set at \$515, compared to \$225 for an unreserved B-11 license, and the DFWP sold 3,114.

The 1999 Legislature extended the hunting access enhancement program beyond its original 4-year lifespan to March 2006. It also doubled the nonresident upland game bird license fee to \$110 and dedicated the extra revenue to hunting access enhancement.

Funding of the BMP was greatly expanded by the 2001 Legislature with the addition of a hunter access enhancement fee at a cost of \$2 per resident and \$10 per nonresident each year (Senate Bill No. 285).³³ The PL/PW, which the governor retained to fulfill requirements of HB 195, recommended the fees saying expansion of the BMP was needed to "help disperse hunting pressure and accommodate landowners wishing to participate."³⁴

The bill's fiscal note estimated the new fee would generate an additional \$802,000 in revenue per year. One PL/PW member estimated 1 million more acres could be enrolled in the BMP.³⁵

The PL/PW recommended some of the revenue also be used to improve access to public lands and upland bird hunting, improve program management, and increase the landowner payment cap from \$8,000 to \$12,000. (The bill's fiscal note estimated this would cost \$159,120 for existing cooperators.)

When the BMP was made permanent in 2005 (Senate Bill No. 77), at the recommendation of the PL/PW, another bill in that same session (House Bill No. 235) provided additional

³¹ Language regarding consideration of resident license fee increases for future funding expansions was included in HB 195 (Chapter 459, Section 7(2), 1995 Laws of Montana) but removed by the 1999 Legislature (Senate Bill No. 338).

³² House Fish & Game Committee Minutes, January 26, 1995, HB 195 Exhibit 11, page 2.

³³ The nonresident hunting access enhancement fee was not assessed with the purchase of a variable-priced, outfitter-sponsored license.

³⁴ Private Land/Public Wildlife Advisory Council Report and Recommendations, January 2001, page 4.

³⁵ Senate Committee on Fish and Game Minutes, January 30, 2001, page 3.

funding through the creation of the "SuperTag" lottery³⁶. The lottery makes available one tag for each of the following species that can be used in any hunting district in Montana, including a trophy district: moose, mountain sheep, mountain goat, antelope, elk, deer, bison, and mountain lion. Chances cost \$5 each and hunters may purchase an unlimited number. The bill's fiscal note predicted \$746,232 in new revenue in the first year.

In 2009, the DFWP increased the per hunter day impact payment to landowners from \$10 to \$11. Landowners received an average payment increase of 9%, a cost of about \$460,000 more to the program that year.³⁷

In 2010, voters fundamentally changed the way in which the BMP is funded by passing I-161. The initiative abolished the variable-priced, outfitter-sponsored licenses (making the allotted number of licenses available to all nonresident hunters) and increased fees for all Class B-10 licenses from \$628 to \$897 and Class B-11 licenses from \$328 to \$527.³⁸ I-161 set aside 25% of the license fees for hunting access programs.

House Bill No. 607 (2011) also impacted funding for hunting access programs. The bill allowed nonresident hunters to return the elk tag portion of their Class B-10 big game combination license if the hunter was unsuccessful in drawing a special elk permit. The bill also redirected all of the revenue from the split licenses to the general license account. None was dedicated to hunting access.

The DFWP says that in the first year that I-161 and HB 607 were in effect, the combined reduction in hunting access program funding compared to the previous 5-year revenue average was \$210,000. The higher-priced Class B-10 and Class B-11 licenses did not sell out, for a loss of \$30,000, and the redirected revenue from HB 607 amounted to \$180,000.

In 2012, I-161 resulted in a \$20,000 loss and HB 607 in a \$500,000 redirect. In 2013, the sale of Class B-10 and Class B-11 licenses rebounded for a gain of \$200,000 to hunting access. But HB 607 resulted in a \$480,000 redirect for a net loss of \$280,000 to hunting access.

In 2014, revenue from Class B-10 and Class B-11 licenses continued to climb and almost neutralized the lost revenue from the HB 607 redirect, with a net loss of \$40,000 to hunting access. In 2015, the DFWP thinks hunting access could see its first net gain since I-161 and HB 607 went into effect.

The DFWP says it currently has adequate funding to pay for the existing BMP program. However, it says the hunter day impact payment should be reassessed.

The DFWP is concerned about how the BMP might factor, if at all, into the current conversation about how to better manage Montana's elk populations. Alan Charles, Sportsman/Landowner Relations Bureau Chief, says the DFWP is evaluating how the shoulder seasons recently approved by the Fish and Wildlife Commission may impact the BMP, including potential implications for its budget, administrative rules and processes, and

³⁶ Both bills were recommended by the PL/PW.

³⁷ Block Management Hunting Access Program Report, 2014, page 3.

³⁸ I-161 requires fees for Class B-10 and Class B-11 licenses to be adjusted annually based on any change to the consumer price index from the previous year. For the 2015 hunting season, Class B-10 licenses cost \$996 and Class B-11 licenses cost \$592.

overall program delivery. The DFWP also does not know yet how many cooperators may be interested in participating in shoulder seasons.

Audits

The Legislative Audit Division (LAD) completed performance audits of the Block Management Program in 1999 and 2013.

The 1999 audit report made several recommendations, including:

- creating specific program objectives and establishing measurable criteria and strategies to achieve them;
- coordinating access provided under the BMP, the Upland Game Bird Habitat Enhancement Program (UGBHEP), and Habitat Montana (now known as Access Montana) and publicizing and monitoring hunting on conservation easements and UGBHEP projects;
- reevaluating the current base payment system and exploring other benefits for landowners, including rewards for entering into aggregate BMAs;
- establishing contracts longer than 1 year;
- ensuring new and reenrollment of landowners is justified and documented;
- reviewing tabloid and map information to make it more consistent and easier to understand and ensuring BMAs are properly signed prior to the hunting season;
- better explaining the BMP and how it works;
- establishing a review process for regions' annual reports and documentation and a forum to discuss the various methods for completing the same or similar tasks; and
- using the same software and developing a common format for contracts and permission slip/roster information.

The department concurred with all of the recommendations. The complete audit report and the department's response are available at:

<http://leg.mt.gov/content/Committees/Interim/2015-2016/EQC/Committee-Topics/program-evaluations/BMP-1999-audit-report.pdf>

A followup to the 1999 audit report published in September 2003 found most of the recommendations were fully implemented. Changes that were not fully implemented did not raise concerns from an audit perspective.

The second BMP performance audit in 2013 again pointed out ways to improve the program's administration. The audit found comprehensive policies and procedures were still needed to document and establish consistency in contracting, enrollment, and reenrollment processes. The DFWP partially concurred with this recommendation

The audit looked at landowner compensation again as well. It recommended the DFWP use statutory criteria to provide compensation in a way that ensures accurate, equitable, and consistent payments. The DFWP partially concurred with that recommendation. The audit also said the DFWP should address funding shortfalls for the BMP by reducing total expenditures or reviewing options to increase revenues. The DFWP concurred.

Where the DFWP and the audit diverged in opinion was on issues related to access to state and federal lands adjacent to BMAs. The DFWP did not concur with a recommendation that the public should be allowed to access adjacent public lands if the appropriate land management agency did not restrict access.

The audit and the DFWP also disagreed over whether monetary compensation could be provided through the BMP to landowners whose BMA land was also included in a DFWP conservation easement.

The complete audit report and the department's response are available at:
<http://leg.mt.gov/content/Publications/Audit/Report/13P-04.pdf>

The LAD is currently conducting a followup to the 2013 audit and expects to present it to the Legislative Audit Committee in February 2016.

Special Access Projects

The DFWP is authorized under 87-1-265(2), MCA, to develop landowner assistance programs outside the scope of the BMP to promote public hunting access to private land. For about a decade, the DFWP has used Special Access Projects to address species-specific, regional hunting access issues.

The DFWP says these projects are typically species-specific access agreements with landowners who, for example, provide a special access corridor across their land for mountain goat or mountain sheep permit holders. In recent years, the DFWP established special access projects for localized elk hunts in which it hired a hunting access coordinator to help manage elk hunting access on several area ranches.

The DFWP says some special access projects are short-term projects, while others are longer term. There are typically six projects or fewer per year.

Special Access Projects are funded with a portion of the hunting license revenue dedicated to the Hunting Access Enhancement Program. The DFWP spent a total of \$6,139 on Special Access Projects in Regions 1, 4, and 6 in FY 2015.

Access Public Lands

The DFWP uses Access Public Lands (APL) to coordinate its activities related to hunting access on public lands. The program works to:

- negotiate and maintain legal public hunting access to public lands;
- resolve landowner/sportsman conflicts related to hunting access on public lands using a cooperative interagency approach;
- assist in marking public land boundaries; and
- disseminate information about hunting access on public lands.

APL is funded with a portion of the license fees dedicated to the Hunting Access Enhancement Program and revenue from the sale of "Come Home to Hunt" licenses (87-2-526(5), MCA). This statute authorizes the sale of 500 nonresident B-10 big game combination licenses and 500 nonresident B-11 deer combination licenses to nonresidents

who hunt with a resident sponsor or family member. Effective March 1, 2016, the cost of these licenses is one-half of the regular fee.

In FY 2015, the DFWP spent \$105,000 through APL to purchase an access easement on and across the Lazy J Cross Ranch in Region 2. The DFWP also allocated \$5,000 for an ongoing public land signing effort in Region 7, which places “enter” and “exit” signs on legally-accessible state and Bureau of Land Management (BLM) land.

Other examples of APL projects include³⁹:

- In 2011, FWP purchased an easement on a half mile of road that leads to the Haymaker Wildlife Management Area (WMA), securing legal public access to the WMA and adjacent U.S. Forest Service (USFS) land for a total cost of \$50,000.
- In 2012, the Stacey Creek right-of-way easement was secured, granting permanent public access across a half mile of formerly private road to thousands of acres of USFS land in the Custer National Forest in southeast Montana. FWP’s cost was \$20,000.
- The Three Buttes Cooperative Access Project in Region 6 is a cooperative signing effort between the BLM, the Department of Natural Resources and Conservation (DNRC), private landowners, and the DFWP to install BLM and DNRC boundary signs and one information kiosk on more than 4,000 acres of BLM and DNRC land located 16 miles south of Culbertson along the Missouri River in Richland County. Total project cost was \$4,500.

Unlocking Public Lands

In 2015, the Legislature expanded the Unlocking State Lands Program and renamed it the Unlocking Public Lands Program (Senate Bill No. 309). Starting in 2016, taxpayers can receive a \$750 tax credit per qualified access provided through their land to previously inaccessible public land.

Public land is defined for this program as state land or land administered by the USFS or BLM.⁴⁰ The maximum credit a taxpayer may claim in a single year is \$3,000.

The original program, enacted in 2013, provided a \$500 credit per qualified access to state land and had a \$2,000 cap per taxpayer. Both programs allow the taxpayer to receive a refund if the credit exceeds the taxpayer’s tax liability.

A qualified access must be certified by the DFWP and the department may establish a contract with a landowner:⁴¹

- to provide direct access across a landowner's land to a public parcel; or
- who owns land adjacent to the point where the corners of two parcels of public land meet. A landowner with this kind of contract must grant access through the landowner's land to establish a corridor between the two parcels of public land. At

³⁹ Private Land/Public Wildlife Advisory Council Report and Recommendations, January 2013, page 24.

⁴⁰ 15-30-2380, MCA

⁴¹ 87-1-294, MCA

least one of the parcels of public land must be accessible by a public road, waterway, or access granted by a landowner.

Private land is not eligible for Unlocking Public Lands if outfitting or commercial hunting restricts public hunting opportunities on that land.

Four parcels were enrolled in the program's first year (2014). The same four parcels enrolled in 2015. Two other landowners applied in 2015, but neither qualified.

The DFWP estimates there are approximately 9,300 parcels of state, USFS, and BLM lands that do not have public access in Montana.⁴²

Upland Game Bird Enhancement Program

Established by the Legislature in 1987, the Upland Game Bird Enhancement Program (UGBEP) is a cost-sharing program intended to work with individual landowners, agencies, and organizations to enhance upland game bird habitat and populations. Revenue from the sale of upland game bird hunting licenses supports the program.

Projects may include a range of activities, such as establishment of nesting cover, food plots, and shelterbelts, native rangeland restoration, grazing management, conservation of CRP lands, and conservation easements.

Preference is given to project applications submitted by youth organizations, 4-H clubs, sports groups, and other associations. However, individual landowners may also apply, as long as the land in the project area remains open to public hunting in accordance with reasonable use limitations imposed by the landowner.⁴³ For instance, landowners can require hunters to obtain permission prior to hunting.

As of December 2014, the UGBEP had 376 active habitat enhancement contracts comprising over 373,000 project acres with over 823,000 acres available for public upland game bird hunting.⁴⁴

The EQC's Wildlife Habitat program evaluation will discuss the Upland Game Bird Enhancement Program and its funding in more detail in March 2016.

Open Fields for Game Bird Hunters

Open Fields for Game Bird Hunters is a new habitat program administered through the UGBEP. Started in Fiscal Year 2013, the program is funded through a combination of UGBEP dollars and federal funds that the DFWP received to provide "add-on" rental payments on high-quality upland game bird habitat enrolled in the Conservation Reserve Program (CRP) where walk-in public hunting is allowed.

⁴² Senate Committee on Fish and Game Minutes, February 17, 2015, Exhibit fis36a01.

⁴³ 87-1-248(4), MCA

⁴⁴ Report to the 64th Legislature, Montana Upland Game Bird Enhancement Program, DFWP, January 2015, page 21.

A landowner may enroll up to 160 CRP acres and receive a one-time lease payment of \$5/acre for each year that remains in the landowner's CRP contract. A minimum of 3 years is required.⁴⁵

Enrollment in Open Fields is voluntary and competitive. To receive a higher evaluation score, landowners can offer additional CRP or non-CRP acres for walk-in game bird hunting.

Lands not eligible for the Open Fields program include⁴⁶:

- Lands enrolled in the BMP in 2014;
- Non-BMP lands that are immediately adjacent to a BMA under the same ownership;
- Lands that are part of an active UGBEP contract unless the contract terminated on or before August 30, 2015;
- Stands of grass dominated by crested wheatgrass or smooth brome; and
- Due to different management jurisdictions, land within Indian Reservations.

Since 2012, landowners enrolled approximately 33,000 acres in Open Fields.⁴⁷ The average length of a contract is 9 hunting seasons.⁴⁸

The EQC's Wildlife Habitat program evaluation will discuss Open Fields and its funding in more detail in March 2016.

Hunter-Landowner Stewardship Project

Established in 2009, the Hunter-Landowner Stewardship Project is a web-based information program intended to promote responsible hunter behavior and good hunter-landowner relations. It grew out of recommendations by the Hunter Behavior Advisory Council and the PL/PW, which urged FWP to expand its efforts on this front beyond the hunter education program.⁴⁹

The Hunter-Landowner Stewardship Project uses videos and interactive web tools to address 14 topics related to hunter-landowner relations, including permission, fair chase, livestock and farm/ranch activities, game retrieval, what to hunt and harvest, vehicle use, weeds,



⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ <http://fwp.mt.gov/hunting/hunterAccess/openFields/>, November 6, 2015.

⁴⁸ Report to the 64th Legislature, Montana Upland Game Bird Enhancement Program, DFWP, January 2015, page 8.

⁴⁹ Block Management Hunting Access Program Report, DFWP, 2014, page 25.

litter, fire danger, safety, reporting violations, hunting with dogs, hunting on public land, and hunting nongame animals or other animals on private land.⁵⁰

This voluntary program is completed by interested persons at their own pace. Successful participants receive a certificate of completion, which some landowners require to obtain hunting permission.

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⁵⁰ <http://fwp.mt.gov/hunting/hunterAccess/hunterLandowner/>, November 9, 2015.