

LEGISLATIVE AUDIT DIVISION

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MEMORANDUM

TO: Legislative Audit Committee Members

FROM: Joe Murray, Performance Audit

CC: Jeff Hagener, Director, Department of Fish, Wildlife and Parks
Ken McDonald, Administrator, Wildlife Division
Alan Charles, Landowner/Sportsman Relations Coordinator

DATE: January 2016

RE: Performance Audit Follow-up (16SP-01): Block Management Program (orig. 13P-04)

ATTACHMENTS: Original Performance Audit Summary

Introduction

In October 2013, we presented our performance audit of the Block Management program. The audit included seven recommendations to the Department of Fish, Wildlife and Parks (FWP). We gathered information from FWP to assess their progress in implementing the audit's recommendations. This memorandum summarizes the results of our follow-up work in addition to presenting background.

Overview

Audit work found a number of improvements were needed in how the Block Management program was being administered. Recommendations addressed issues related to property enrollment, program funding, landowner compensation, and coordination with state and federal land management agencies. For the seven recommendations addressed in the audit report, FWP concurred with one recommendation, partially concurred with three, and did not concur with three. Based on our follow-up work, FWP implemented two recommendations, one is being implemented and two are partially implemented. Two recommendations were not implemented. Both of these were recommendations with which FWP did not concur.

Background

The Block Management program establishes cooperative agreements between private landowners and FWP to provide public hunting access to private lands and isolated state and federal lands. Landowners enrolled in the program are called cooperators and enrolled properties are called Block Management Areas (BMA). Started in 1985, the Block Management program is FWP's largest hunting access program. Federal and state trust lands can also be included within BMA boundaries. The Block Management program helps cooperators manage hunting activities on their property and offers monetary compensation to help mitigate impacts of hunter access on enrolled property. Federal and state trust lands are not eligible for monetary compensation. The program is administered by FWP's Landowner/Sportsman Relations Coordinator located in Helena. Regional Hunting Access Enhancement Coordinators located in

FWP's regional offices manage program activities in the field. In addition, the program also employs approximately 30-40 seasonal Hunting Access Technicians to help carry out necessary program activities. This includes issuing BMA permission slips, collecting hunter use documents, patrolling BMAs, and maintaining contact with enrolled landowners.

Landowner participation in the Block Management program is voluntary and cooperators and FWP can enter into contracts of up to five years. During the 2015 hunting season, approximately 1,220 landowners enrolled about 7.3 million acres of land around the state. There are two types of BMAs. With Type I BMAs, hunters administer their own permission by filling out sign-in cards or roster books found in sign-in boxes located at designated BMA access points. Type II BMAs require someone other than the hunter to issue permission to hunt. This is often the cooperator, but can also be FWP regional staff through a hunter reservation service offered by the program. Many Type II BMAs require reservations and may limit hunter numbers. Hunters must possess a valid hunting license and any applicable permits to hunt on a BMA.

The majority of Block Management program funding comes from 28.5 percent of the revenue from nonresident big game hunting licenses. This includes nonresident big game combination (deer and elk) licenses and nonresident deer licenses. FWP officials indicated this funding comprised approximately 80 percent of program funding. Other funding sources include resident and nonresident hunting access enhancement fees and a portion of the fees charged for nonresident upland gamebird licenses, SuperTag (a special hunting license awarded by lottery) fees, and Pittman-Robertson funds. Pittman-Robertson funding comes from a federal excise tax on firearms and ammunition which is allocated to the states by the U.S. Fish and Wildlife Service. Hunters are not charged to hunt on BMAs. Cooperators can receive up to \$11 per hunter day in compensation. By statute, a cooperator cannot receive more than \$12,000 per year from the program. In 2015, the Block Management program paid cooperators approximately \$4.46 million in compensation.

Audit Follow-up Results

Our performance audit report of the Block Management program issued seven recommendations for program improvement. As part of our follow-up work, we interviewed program staff in Helena and one region, reviewed property enrollment documentation, reviewed program policies and procedures, and obtained legislation from the 2015 Legislative Session that related to program activities. The following sections summarize FWP's progress toward implementation of the report recommendations.

Recommendation #1

We recommend the Department of Fish, Wildlife & Parks develop and implement comprehensive policies and procedures to document and establish consistency in the Block Management program's property enrollment, contracting, and re-enrollment processes.

Implementation Status – Implemented

During the audit, we found enrollment documentation was limited, incomplete, or nonexistent for the sample of BMAs we reviewed. This, in turn, also impacted FWP's ability to support contract terms negotiated with enrolled cooperators. Follow-up work found FWP has made improvements in both these areas. We found FWP has either clarified policies in several areas or developed new policies to help improve consistency and documentation of the enrollment and contracting process. Interviews with Block Management program staff found updated policies have been provided to regional staff. Policies now better define how the enrollment process should be completed. This includes specific documentation that should support decisions including landowner applications, property evaluation forms, and enrollment decision sheets. Policies have also formally defined the standard BMA contract period (September 1 – January 1) and when payment reductions should or should not occur for species or gender restrictions. For

example, policies have been clarified to ensure cooperators do not see payment reductions for gender or species restrictions that are put in place beyond their control (such as a Fish and Wildlife Commission order). In addition, regional staff is also now required to submit copies of all enrollment documentation to Helena. This provides the opportunity for the Landowner/Sportsman Relations Coordinator to review the documentation, verify that enrollment decisions are documented, and follow-up with regional staff if there are any questions or concerns. Based on our follow-up work, it appears staff is following the new and updated policies. We reviewed four recently enrolled properties and found they contained all enrollment documentation required by policy. In addition, we reviewed properties FWP evaluated for re-enrollment into the program. Policies require these decisions be documented on a property re-enrollment worksheet. Follow-up work found decisions to re-enroll or not re-enroll a property were documented and documentation was submitted to Helena as required.

Recommendation #2

We recommend the Department of Fish, Wildlife & Parks address Block Management program funding shortfalls by:

- A. Reducing the total expenditures of the Block Management program, or**
- B. Reviewing additional options to increase Block Management program revenues.**

Implementation Status – *Implemented*

During the 2015 Legislative Session, a number of bills were introduced to increase funding for the Block Management program. The one bill that passed, House Bill (HB) 140, increased the percentage of funding from nonresident big game combination licenses and nonresident deer combination licenses that is earmarked for FWP's Hunting Access Program account. This is the account that funds the Block Management program. HB 140 increased the statutory allocation revenues from each nonresident big game and deer combination license sold from 25 percent to 28.5 percent. FWP indicated this will result in approximately \$600,000 more funding beginning with the 2017 Block Management program contract period.

As part of FWP's budget, HB 2 authorized funding for the Block Management program of approximately \$6.7 million for each year of the 2017 biennium. HB 2 also placed restrictions on the amount of money FWP can use for Hunting Access (i.e. Block Management) program administration. Specifically, FWP is authorized to use slightly more than \$1 million each year for program administration. This portion of the budget was also provided as one-time-only funding, meaning the 2017 Legislature will have to reauthorize this funding. The remainder of the program budget is restricted and can only be used for landowner contract payments or program field services to help manage hunting on BMAs. In response these requirements, FWP is changing how it tracks program costs. It will now require staff to charge their program activities to one of three categories: administration, contracts, and field services. FWP is making these changes to improve information it can report on program activities. FWP has also formally defined each of these categories to help ensure consistency in how staff record program costs. These are described below.

- **Hunting Access Program Administration:** Operations costs and personal services costs for time spent by program staff to prepare and manage program budgets, prepare and process contracts and BMA maps, prepare, print, and mail program materials, issue payments and cooperator licenses, prepare program reports, and attend program planning meetings.
- **Hunter Access Program Payments to Landowners:** Direct payments to landowners.
- **Field Services to Manage Block Management Areas:** Operations costs and personal services costs for time spent by program staff to set up and manage BMAs. This includes activities such as meeting with landowners to evaluate properties and establish BMA rules, installing BMA sign-in

boxes and boundary signs, providing BMA patrol presence, issuing BMA permission either on-site or from remote locations, distributing and collecting permission slips and dismantling BMAs after the hunting season ends.

HB 2 also requires FWP to report on hunting access landowner contracts to the Environmental Quality Council in terms of acres, costs, and services provided to manage hunting on BMAs 90 days after big game hunting season ends.

Recommendation #3

We recommend the Department of Fish, Wildlife & Parks address issues related to state and federal lands access by:

- A. Allowing public hunting access to state trust lands and federal lands, adjacent to Block Management Areas, which do not have access restrictions imposed by the appropriate land management agencies.**
- B. No longer requiring hunters to notify lessees of state trust lands prior to engaging in legal hunting activities.**
- C. Coordinating with the Department of Natural Resources and Conservation to restrict public hunting access to state trust lands when requested by Block Management program cooperators.**

Implementation Status – Not Implemented

This recommendation was not implemented because FWP did not concur with this recommendation. FWP's basis for disagreeing with the recommendation was because FWP believed it infringed on landowner private property rights. However, neither the report contents nor the recommendation questioned a landowner's right to request restrictions to adjacent lands. Instead, they discussed the need for FWP to coordinate with the appropriate land management agency to ensure processes required by administrative rule were followed to impose any requested access restrictions. We continue to stand by our recommendation. Follow-up work found nothing that changed our position on this issue.

Recommendation #4

We recommend the Department of Fish, Wildlife & Parks comply with administrative rule by:

- A. Obtaining and documenting approval from managing federal agencies when including federal lands in Block Management Areas.**
- B. Coordinating with the Department of Natural Resources and Conservation to include publicly accessible state trust lands within Block Management Areas.**
- C. Discontinuing the use of disclaimers which exclude state trust lands from Block Management Area access rules and restrictions.**

Implementation Status – Being Implemented

FWP partially concurred with this recommendation, agreeing with parts A and B, but disagreed with part C. However, our follow-up work found FWP has made changes and improvements in all three parts of this recommendation. FWP established policy that now requires signatures from the appropriate federal or state land management agency when federal lands or state trust lands are included within a BMA boundaries. For example, if state trust land is included within a BMA boundary, FWP should obtain a signature from a supervising official at the Department of Natural Resources and Conservation (DNRC). This includes when BMAs are renewed and if there are any changes to the acreage included within the BMA. During follow-up work, we reviewed four BMAs with state and federal land within the BMA

boundaries. All BMAs we reviewed had contracts signed off by the appropriate land management agency. Block Management program officials indicated this is an area where they are improving, but they are still not obtaining the required signatures in all cases. They said this is an area they will be continuing to work on to ensure field staff obtains required approval from land management agencies in the future.

While FWP did not concur with our recommendation regarding the use of disclaimers, FWP did make wording changes to disclaimers to make FWP's intentions more clear. Specifically, if a BMA contains state or federal lands that are legally accessible, such as by public road or watercourse, then the disclaimer now states BMA rules do not apply to these legally accessible lands. This is because the general public can legally access these properties without having to sign in to access the BMA. Interviews with department staff also found FWP, when possible, are no longer including publically accessible state or federal lands within BMA boundaries to help avoid any confusion.

Recommendation #5

We recommend the Department of Fish, Wildlife & Parks coordinate with the Department of Natural Resources and Conservation to amend administrative rules to define the process for including isolated state trust lands within Block Management Areas.

Implementation Status – Partially Implemented

FWP did not concur with this recommendation, mainly because they did not believe Administrative Rules of Montana changes were needed to define the process for including isolated partials of state trust land within BMAs. FWP did not coordinate with DNRC to amend administrative rules and has not taken specific steps to define the process for including isolated statute trust lands within BMAs. However, we do believe the changes made under recommendation #4 helped improve the process related to isolate state trust lands. While these changes have not formally defined the process, they may help address the regional process inconsistencies we identified during our audit work for including isolated state trust lands within BMAs. Block Management policy now requires FWP to obtain approval from DNRC when including state trust lands within a BMA. We would anticipate this will reduce or eliminate differences in the process used by regions to also include isolated state trust lands within BMA boundaries.

Recommendation #6

We recommend the Department of Fish, Wildlife & Parks not provide monetary compensation through the Block Management program for private acreage that is also in a department conservation easement.

Implementation Status – Not Implemented

This recommendation was not implemented because FWP did not concur. FWP stated this is because while FWP conservation easements do secure access for public hunting, the Block Management program helps landowners administer access and offset hunting impacts related to that access. However, property owners know when they enter into FWP conservation easements that public hunting will be required. While the main purpose of the conservation easement is to protect wildlife habitat, FWP also considers potential impacts when estimating annual hunting use when the conservation easement deed is developed. Our position continues to be that providing monetary compensation for private acreage also in FWP conservation easements is not an efficient use of the program's limited financial resources.

Recommendation #7

We recommend the Department of Fish, Wildlife & Parks use statutory criteria to implement a compensation method for the Block Management program that ensures accurate, equitable, and consistent payments to program cooperators.

Implementation Status – *Partially implemented*

This recommendation addressed the need for FWP to improve significant control weaknesses in its process to count hunter days and calculate cooperator payments. FWP partially concurred with this recommendation. Our audit work found problems for 36 of the 37 BMAs reviewed. This included missing and inconsistent information (permission slips, coupons, etc.) used to determine how much cooperators should be compensated. Audit work also found regional staff following varying procedures on what they considered appropriate documentation and errors in calculating total hunter days. We believed FWP needed to establish a more accurate and consistent method to compensate Block Management cooperators. Statute provides various factors that cooperator payments could be based on. This includes hunter impact, resident game populations, or access to adjacent public lands.

FWP's compensation system bases hunter impacts on the total number of hunter days a cooperator receives during the hunting season. FWP did not see a need for wholesale changes to this system. In an effort to improve its process for calculating cooperator payments, FWP clarified policies in a number of areas. For example, permission slips will be credited for compensation with no more than three hunter days per hunter unless actual use can be documented. In addition, in order to qualify as hunter use documentation, permission slips must include at minimum a hunters name and either a complete mailing address or the individuals automated licensing system (ALS) number. FWP has also formally defined what kind of BMA use qualifies for compensation. Specifically, in addition to hunting, individuals scouting or assisting in the retrieval of game are also considered to be engaged in the act of hunting. Any other access that occurs where hunting is a secondary activity, such as a contractor working on the property, cannot be counted towards compensation. Lastly, FWP is no longer incorporating hunter management service deductions into cooperator contracts. For example, cooperators will no longer be charged for services such as installing sign-in boxes at BMA access points. While these policy changes are an improvement, we do not believe they fully address what was needed to improve the accuracy and consistency for calculating payments for cooperators.